

## **CHAPTER 107 - PRIVATE HOSPITALS**

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## **CHAPTER 107**

### **AN EDICT TO ESTABLISH REQUIREMENTS FOR PRIVATE HOSPITALS IN THE STATE**

[1 *July* 1985]

1. This Edict may be cited as the Private Hospitals Edict.
2. In this Edict unless the context otherwise requires:—

"the Chairman" means the Chairman of the Private Hospitals Committee established by section 3 of this Edict;

"commissioner" means the State Commissioner for Health;

"company" includes a company duly registered under the Companies Decree 1968 and any other company or association or partnership of any number of persons;

"health professional" means a person duly registered or recognized by the appropriate authority or statutory body in Nigeria as a health professional eligible to engage in private practice of his profession;

"infectious disease" shall have the same meaning as from time to time contained in the Public Health Law;

"in-patient" means a person who lives in hospital while receiving treatment;

"medical practitioner" means a person registered as a medical practitioner or a dentist under the law for the time being in force for the regulation of the medical or dental profession, but does not include a person provisionally registered as a medical practitioner or a dentist under such law;

"member" means a member of the Private Hospitals Committee appointed under section 4 of this Edict and includes the Chairman;

"midwife" means a person registered as a midwife under the law for the time being in force for the regulation of the midwifery profession;

"nurse" means a person registered as a nurse under the law for the time being in force for the regulation of the nursing profession;

"out-patient" means a person visiting a hospital for treatment but not lodged there;

"person" includes any company as well as an individual;

"prescribed" means prescribed by this Edict or Regulations made thereunder;

"private health establishment" includes any:-

(a) medical laboratory center operated by a specialist, pathologist, medical laboratory technologist or scientist;

(b) physiotherapy center operated by a physiotherapist;

(c) radiographic (X-ray) center operated by a specialist or a duly qualified radiographer;

(d) center or premises regulated by the Pharmacists Board of Nigeria; and

(e) other similar center operated by any duly qualified and registered health professional;

"private hospital" includes any hospital, convalescent home, nursing home, maternity home, clinic and any premises providing for inpatient or outpatient care under the control of, or

coverage by, a medical practitioner, but does not include:—

(a) a private health establishment; and

(b) any similar health establishment operated by the Federal or State Government through a Board, statutory body or State Government-owned or Federal Government-owned company;

"State" means the Gongola State of Nigeria.

3.(1) There is hereby established a body to be known as the State Private Hospitals Committee in this Edict referred to as "the Committee", which shall be a Division of the State Ministry of

(2) The Committee shall have a common seal.

4. The Committee shall consist of the following members all of whom shall be appointed to the Committee by the Commissioner:—

(a) the Chief Medical Officer as the Chairman;

(b) the Head of the Public Health Division in the State Ministry of Health;

(c) the State Chief Pharmacist;

(d) the State Chief Nursing Officer;

(e) one person representing the State Branch of the Nigeria Medical Association;

(f) one person representing a profession allied to medicine; and

(g) one person representing the public interest.

5. No person shall be qualified to be a member of the Committee who:—

(a) has been adjudged or otherwise declared:—

(i) bankrupt under any law in force in the State and has not been discharged;

(ii) to be of unsound mind;

(iii) to be suffering from chronic ill-health or

(b) has been convicted:-

(i) for an offence involving the security of the State, fraud, dishonesty or moral turpitude; or

(ii) for any other offence; or

(c) Is under sentence of death or other sentence of imprisonment imposed upon him by any Court.

6. Any member other than an *ex-officio* member shall cease to be a member if he is absent from three or more consecutive meetings of the Committee without sufficient reason.

7. (1) The members other than *ex-officio* members shall hold office for a period of two years.

(2) Any member other than an *ex-officio* member may resign his office by notice in writing addressed to the Commissioner.

(3) Where the office of a member other than an *ex-officer* member becomes vacant before the expiration of his term of office under subsection (1) of this section or by his death, the Chairman shall notify the Commissioner of the occurrence of such event and the Commissioner shall, subject to the provisions of this Edict, appoint another person in his place and to hold office for the unexpired portion of his term of office.

(4) Subject to the provisions of this Edict, where it appears to the Commissioner, on the recommendation of the Chairman, that any member is incapacitated by absence from the State or illness or any other sufficient cause from performing the duties of his office, the Commissioner shall appoint another person to hold office in his place until such time as the Commissioner is satisfied that the incapacity of that person has terminated or until the term of such member expires whichever first occurs.

(5) Subject to the provisions of section 6 of this Edict and subsection (6) of this section, every member on ceasing to be a member shall be eligible for re-appointment.

(6) No member shall be eligible for re-appointment on the expiration of his second term of office.

(7) Without prejudice to subsections (1) to (5) of this section, a member nominated by any authority as its representative on the Committee shall cease to be a member if the Commissioner, on the recommendation of the authority by writing addressed to him and

copied to the Chairman, revokes his appointment.

(8) Any member, other than an *ex-officio* member, appointed to the Committee under section 4 of this Edict as well as any person co-opted to the Committee under subsection (6) of section 8 of this Edict may be paid such remuneration as the Governor of the State may determine

8. (1) The Committee shall ordinarily meet for the dispatch of business at such times and at such places as the Committee may determine but shall meet at least once in every three months.

(2) A special meeting of the Committee shall be called upon a written request by the Chairman or by not less than three members addressed to the Secretary to the Committee.

(3) At every meeting of the Committee at which he is present the Chairman shall preside and in his absence a member elected by the members present from among their number shall preside.

(4) The quorum for any meeting of the Committee shall be four except that there shall be deemed to be no quorum unless at least one member who is not an *ex-officio* member is present.

(5) Every question before a meeting of the Committee shall be determined by a simple majority of the votes of the members present and voting, and in the event of any equality of votes the Chairman or other person presiding shall have a second or casting vote.

(6) The Committee may co-opt any person as an adviser to attend the meeting of the Committee so, however, that a person so co-opted shall not have the right to vote on any matter coming before the Committee for decision at that meeting.

(7) The validity of any proceedings of the Committee shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.

(8) Except as otherwise expressly provided under this section, the Committee shall prescribe the procedure for its meetings.

9. (1) The Committee shall have an officer to be designated as the Secretary of the Committee.

(2) The Secretary shall act as the Secretary of the Committee at its meetings and shall, subject to the direction of the Committee, arrange the business for and cause to be recorded and kept minutes of all meetings of that Committee.

(3) The Secretary shall also perform such functions as the Committee may by writing direct.

10. The use of the common seal of the Committee shall be authenticated by two signatures, namely:-

(a) the signature of the Chairman or some other member authorized by the Committee to authenticate the application of the seal; and

(b) the signature of the Secretary of the Committee or some other officer authorized by the Committee to act in the Secretary's place for that purpose.

11. Subject to the provisions of this Edict, the function of the Committee shall be the registration, renewal of such registration and regulation of all private hospitals and private health establishments in the State.

12.—(1) No person shall institute or conduct a private hospital or private health establishment in the State unless such hospital or establishment has been duly registered by the Committee under this Edict.

(2) All registered private hospitals and private health establishments in existence immediately before the commencement of this Edict shall be deemed to have been registered under and in accordance with the provisions of this Edict.

(3) Unless cancelled under section 21 of this Edict, the registration of any such hospital or establishment shall remain in force for a period of one year beginning on the date when it comes into force and may be renewed from time to time for periods not exceeding one year.

(4) The fee for the registration of such hospital or establishment shall be ₦ 1,000.00 for one year and an annual renewal fee with respect to such registration shall be ₦ 500.00.

13.—(1) Subject to the provisions of this Edict, every private hospital in the State shall be under the management, control and supervision of:-

(a) a medical practitioner in this Edict referred to as "the medical practitioner in charge"; or

(b) a nurse or midwife in this Edict referred to as "the nurse in charge" or "the midwife in charge,"

who shall be responsible for the carrying into effect of the provisions of this Edict in the private

hospital concerned.

(2) A medical practitioner shall provide professional coverage for a nurse or midwife in charge of such hospital.

(3) The Committee shall be notified in writing of any change of:-

(a) a medical practitioner in charge of such hospital;

(b) a nurse or midwife in charge of such hospital;

(c) the medical practitioner providing professional coverage for such nurse or midwife.

14. Subject to the provisions of this Edict, every private health establishment shall be under the management, control and supervision of a health professional in this Edict referred to as "the health professional in charge" who shall be responsible for the carrying into effect of the provisions of this Edict in the private health establishment concerned and the Committee shall be notified in writing of any change of such professional.

15. (1) where more than one medical practitioner is connected with a private hospital one of such practitioners shall be nominated as the medical practitioner in charge.

(2) Where more than one nurse or midwife is connected with a private hospital one of such nurses or midwives shall be nominated as the nurse in charge or the midwife in charge.

(3) Where more than one health professional is connected with a private hospital or private health establishment one of such professionals shall be nominated as the health professional in charge.

(4) The Committee shall be notified in writing of the nomination of:-

(a) the medical practitioner in charge under subsection (1) of this section;

(b) the nurse in charge or midwife in charge under subsection (2) of this section;

(c) the health professional in charge under subsection (3) of this section.

(5) For the avoidance of doubt:-

(a) a medical practitioner or nurse or midwife in charge:-



(i) shall not be connected with more than three private hospitals for outpatients in an urban area; and

(ii) Shall not live within a radius exceeding twenty-five kilometers of each of such hospitals;

(b) a medical practitioner or nurse or midwife in charge of any private hospital for inpatients shall not live within a distance exceeding ten kilometers from such hospital;

(c) a health professional in charge:—

(i) shall not be connected with more than one private hospital for inpatients and shall not live within a distance exceeding ten kilometers from such hospital; and

(ii) shall not be connected with more than two private health establishments and shall not live within a radius exceeding twenty-five kilometers of each of such establishments.

**16.(1)** Application for the registration of a private hospital or private health establishment shall be made in the prescribed form and in the prescribed manner.

(2) Upon receipt of such application, the Committee shall grant a certificate of registration within a period not exceeding two months from the date of receipt of such application to the private hospital or the private health establishment concerned.

(3) No certificate of registration shall be granted by the Committee unless the prescribed fee has been paid.

**17.** A certificate of registration shall be displayed in the private hospital or the private health establishment concerned in a prominent place accessible to all patients or intending patients.

**18.(1)** Subject to the provisions of this Edict, a private hospital or private health establishment shall not be registered unless the Committee is satisfied:—

(a) that the medical practitioner or nurse or midwife in charge of, or any other medical practitioner or nurse or midwife connected with, the private hospital or any part thereof is duly registered and qualified to practice his profession; and

(b) that the health professional in charge of, or any other health professional connected with a private health establishment or any part of the private hospital or any part thereof is duly registered or recognized by the appropriate authority;

(c) and staff of the private hospital or the private health establishment is adequate and in conformity with the provisions of any Regulations made hereunder; and

(d) That the equipment is suitable and sufficient to meet the requirements of such hospital or establishment; and

(e) that the private hospital with inpatient facilities contains not less than the minimum or more than the maximum number of beds in conformity with any Regulations made hereunder; and

(f) That the private hospital or the private health establishment in all other respects complies with the Public Health Law and the provisions of any Regulations made hereunder.

(2) Where the Committee under the provision of section 19 of this Edict exempts any private hospital or private health establishment from or otherwise relaxes or modifies the provisions of this Edict in respect of any particular private hospital or private health establishment the provisions of subsection (1) of this section may be construed accordingly in relation to:—

(a) such hospital or establishment; and

(b) such exemption, relaxation or modification.

**19.—**(1) The Committee may, after consultation with the Commissioner, exempt any particular private hospital or private health establishment from any of the provisions of this Edict other than the requirement to register and may in like manner relax or otherwise modify any of such provisions in respect of any particular private hospital or private health establishment.

(2) Any such exemption, relaxation or modification shall be expressed to be for a period not exceeding one year, but the Committee may in like manner from time to time renew any such exemption, relaxation or modification for periods not exceeding one year.

(3) Any such exemption, relaxation or modification shall be in writing signed by the Chairman, and shall be displayed with the certificate of registration in the private hospital or private health establishment concerned in a prominent place accessible to all patients or intending patients.

**20.—**(1) For the purpose of this Edict, the Committee shall in writing appoint inspectors.

(2) An inspector appointed under this Edict shall carry out such functions for the purpose of

giving effect to this Edict as the Committee may determine.

(3) Without prejudice to subsection (2) of this section, an inspector appointed under this Edict may at all reasonable times enter a private hospital or private health establishment for the purpose of inspection and may require to be produced to him all or any of the records, registers, log books and other documents required to be kept under the provisions of this Edict and the medical practitioner or nurse or midwife or health professional in charge shall take such steps as may be necessary to facilitate such inspection.

(4) Nothing in this section shall be deemed to authorize the inspection of any medical record relating to a patient in a private hospital or private health establishment.

**21.—(1)** where it appears to the Committee:—

(a) that the provisions of this Edict or any of them are not being carried into effect in a private hospital or private health establishment; or

(b) that a private hospital is not being conducted in the best interests of the health or well-being of the patients admitted thereto; or

(c) that a medical practitioner or nurse or midwife or health professional connected with a private hospital or private health establishment has been suspended by the appropriate body responsible for the registration or recognition of such practitioner or nurse or midwife or professional; or

(d) that the name of a medical practitioner or nurse or midwife or health professional connected with such hospital or establishment has been removed from the register of the appropriate body responsible for the registration or recognition of such practitioner or nurse or midwife or professional,

the Committee may, by order, suspend the registration of such hospital or establishment until the conditions which caused the order of suspension to be issued have been rectified or cancel the registration of such hospital or establishment.

(2) No such order of suspension or cancellation shall be made until the conditions in respect of which such order is contemplated have been conveyed in writing to the medical practitioner or nurse or midwife or health professional in charge of such hospital or establishment and such practitioner or nurse or midwife or professional has had an opportunity of making

representations either personally or in writing to the Committee within fourteen days.

(3) When an order of suspension or cancellation of the registration of a private hospital or private health establishment has been made under the provisions of subsection (1) of this section such hospital or establishment shall thereupon be closed by the Committee and no new patients shall be admitted and, in the case of a private hospital, the remaining inpatients shall, in the discretion of the Committee:—

(a) be discharged or transferred to another hospital or private hospital; or

(b) be retained in the private hospital which has been closed until, in the opinion of the Committee, they are fit so to be discharged or transferred and such retention of inpatients shall not be deemed to constitute an offence under subsection (1) of section 12 or subsection (2) of section 22 of this Edict.

(4) A medical practitioner or nurse or midwife or health professional in charge or any other person aggrieved by an order of suspension or cancellation made under the provisions of this section may appeal to the High Court, but the order of suspension or cancellation shall not be stayed by reason of the lodging of any such appeal.

(5) Any order of suspension or cancellation made under the provisions of this section shall be in addition to any proceedings which may be instituted in respect of any contravention or failure to comply with the provisions of this Edict and to any penalties which may be imposed on conviction in such proceedings.

(6) Except in the case of a serious infectious disease or other grave public danger the Committee shall give to the person concerned twenty-one days notice of the Committee's intention to suspend or cancel a registration.

**22.—**(1) Any person who institutes or conducts a private hospital or private health establishment without first registering such hospital or establishment under subsection (1) of section 12 of this Edict or contravenes any provision other than the provision of subsection (3) of section 21 of this Edict in respect of which an offence has not been prescribed commits an offence and on summary conviction is liable in respect of:—

(a) a first offence to a fine not exceeding ₦ 2,000.00 or to imprisonment for a term not exceeding six months or to both; and, in the case of a continuing offence, to an additional fine not exceeding ₦ 200.00 in respect of each day on which the offence continues;

(b) a subsequent offence to a fine not exceeding ₦ 4,000.00 or to imprisonment for a term not exceeding one year or to both; and, in addition, such hospital or establishment shall be closed by the Committee and shall accordingly cease to operate;

(c) a first offence, in the case of a company, to a fine not exceeding ₦ 6,000.00; and, in the case of a continuing offence, to an additional fine not exceeding ₦ 500.00 in respect of each day on which the offence continues;

(d) a subsequent offence, in the case of a company, to a fine not exceeding ₦ 10,000.00; and, in addition, the private hospital or the private health establishment shall be closed by the Committee and shall accordingly cease to operate.

(2) Any person who conducts a private hospital or private health establishment after the closure of such hospital or establishment commits an offence under this Edict and on summary conviction is liable to imprisonment for a term not exceeding three years without the option of a fine; and, in the case of a company to a fine not exceeding ₦20,000.00 and, in the case of a continuing offence, to an additional fine not exceeding ₦1,000.00 in respect of each day on which the offence continues.

(3) Where the offence is committed under subsection (2) of this section by a person who is a medical practitioner or nurse or midwife or health professional, the Committee shall, in addition, furnish the appropriate body responsible for the regulation of the professional conduct of such person with such conviction and sentence for disciplinary action to be taken against such person.

**23.** The provisions of the Penal Code Law relating to abetment of an offence and conspiracy to commit or abet an offence shall apply *mutatis mutandis* to every offence under this Edict as they apply to offences under that Law.

**24. (1)** Where an offence is committed under this Edict or under Regulations made thereunder by a body of persons, then:–

(a) in the case of a company, other than a partnership, every medical practitioner or nurse or midwife or health professional in charge or manager or director or secretary or similar officer of the body; and

(b) in the case of a partnership every partner or officer of that body,

commits an offence.

(2) No person commits an offence by virtue of subsection (1) of this section if he proves to the satisfaction of the Court:—

(a) that the offence was committed without his knowledge or consent; and

(b) that he exercised all due care and diligence to prevent the commission of the offence having regard to all the circumstances.

**25.** The Commissioner may, after consultation with the Committee, make Regulations in respect of the institution, conduct, supervision and inspection of private hospitals and private health establishments and generally for the carrying into effect of the purposes of this Edict and, without prejudice to the generality of the power so conferred, in particular for:—

(a) varying the fee for registration and renewal of such registration;

(b) prescribing any matter or thing required to be prescribed under the provisions of this Edict;

(c) prescribing the standards of sanitary arrangements

(d) regulating the accommodation for patients and nursing staff;

(e) regulating the accommodation and equipment for operating theatres, laboratories, sterilization and disinfection, pharmacies and other similar purposes;

(f) prescribing the qualifications and training of the nursing staff and the number of qualified nurses or midwives to be employed in proportion to the number of beds available;

(g) regulating the preparation and storage of food and drugs and, where drugs are dispensed in a private hospital, the number of qualified pharmacists or pharmacy technicians or assistants to be employed;

(h) regulating the arrangements for disinfection and the prevention of the spread of infection;

(i) prescribing the arrangements to be made for the prevention and control of fire and for the safety of patients and staff in the event of fire;

(j) prescribing the records and statistics to be kept and the mode of keeping them as well as the provision of records and statistics to the Committee;

(*k*) prescribing the registers and records to be kept in respect of patients as well as biannual returns of such records to the Committee;

(*l*) prescribing the monthly notification of deaths, births, stillbirths, miscarriages and abortions and weekly notification of infectious diseases;

(*m*) prescribing the records to be kept when a child born in a private hospital is discharged or removed therefrom;

(*n*) Prescribing penalties for offences against any of the Regulations made hereunder.

**26.—**(1) The Private Hospitals Law is hereby repealed.

(2) Notwithstanding the repeal of the Private Hospitals Law any Regulation or other instrument made under that Law and in force immediately before the commencement of this Edict shall continue in force as if made under section 25 of this Edict and may accordingly be amended or revoked under that section.