

The Union of Myanmar

The State Peace and Development Council

The Law Relating to Private Health Care Services

(The State Peace and Development Council Law No. 5/2007)

The 4th Waning Day of Hnaung Tahu, 1368 M.E.

(5 April , 2007)

The State Peace and Development Council hereby enacts the following

Law:

Chapter I

Title and Definition

1. This Law shall be called the Law Relating to Private Health Care Services.
2. The following expressions contained in this Law shall have the meanings given hereunder:
 - (a) Health care services mean any service with respect to knowledge, technology and expertise relating to health care, including promotion of knowledge and behaviour on health, prevention of disease, diagnosis of disease, treatment of disease, rehabilitation of health and

research;

- (b) **Health care** means the activities with respect to knowledge, technology and expertise relating to health, including promotion of physical, mental and social well-being, prevention of disease, diagnosis of disease, treatment of disease, rehabilitation of health and research;
- (c) **Private health care services** mean any health care services contained in section 7 carried out by any private organization or individual with the intention to or not to obtain profit;
- (d) **Private clinic** means the clinic established systematically in accordance with the stipulations to carry out health care services as a private service for out-patients;
- (e) **Private general clinic** means the private clinic where medical treatment is provided, using relevant knowledge and skill by the person who has obtained the general medical practitioner's licence issued by Myanmar Medical Council, or the person who has obtained dental and oral surgeon registration certificate or licence issued by the Dental and Oral Medical Council;
- (f) **Private specialist clinic** means private clinic where medical treatment is provided using relevant knowledge and skill by the person who has

obtained specialist medical practitioner's licence issued by the Myanmar Medical Council, or the person who has obtained specialist dental or oral surgeon registration certificate or licence issued by the Dental and Oral Medical Council for special treatment;

- (g) **Private hospital** means the hospital established systematically to carry out health care activities as a private service in accordance with the stipulations for out-patients and in-patients;
- (h) **Private general hospital** means the private hospital where health care is undertaken and provided by the health care personnel who has obtained general medical practitioner's licence or specialist medical practitioner's licence issued by the Myanmar Medical Council, or the person who has obtained dental and oral surgeon registration certificate or licence issued by the Dental and Oral Medical Council;
- (i) **Private specialist hospital** means the private hospital where health care is undertaken and provided by the person who has obtained one or more speciality's licence issued by the Myanmar Medical Council for specialist health care, or the person who has obtained specialist dental or oral surgeon registration certificate or licence for specialist

treatment issued by the Dental and Oral Medical Council;

- (j) **Private maternity home** means the maternity home established systematically in accordance with the stipulated characteristics to carry out ante-natal care, normal delivery and health care during and after child birth by admitting the pregnant women as a private service;
- (k) **Private diagnostic service** means provision of laboratory analysis of disease, radiological imaging and any other means of assistance in diagnosing and medical treatment as a private service;
- (l) **Private nursing home** means the premises established systematically in accordance with the stipulations to carry out nursing service after admission to persons suffering from physical or mental disease, persons in need of medical rehabilitation and aged persons as a private service;
- (m) **Private mobile health care service** means the health care services provided by the provider of health care as a mobile private service;
- (n) **Private health care agency** means the health care services for transportation of patient or undertaking local and foreign communication for health care as a private service;

- (o) **Private general health care service** means the health care service carried out by using or not using the electricity, heat, light, any kind of chemical or any instrument by any other means with respect to any physical or mental condition as a private service;
- (p) **Technician** means the person who has obtained the certificate, diploma, title or degree conferred by the training, school, institute, college or university established to teach the relevant technologies with respect to health care by any government department and organization or with the permission of any government department and organization. The said expression also includes the person who has obtained the certificate, diploma, title or degree conferred by a foreign country and also recognized by the Ministry of Health;
- (q) **Person-in-charge** means the person who has established, supervised or taken charge of the administrative duty of any private health care services;
- (r) **Health care service provider** means the person who has obtained medical practitioner's licence issued by the Myanmar Medical Council, dental and oral surgeon registration certificate or licence issued by the Dental and Oral Medical Council, nursing or midwifery licence issued by the Nurse and Midwifery Council and technicians;

(s) **Central Body** means the Central Body relating to private health care services formed under this Law;

(t) **Supervisory Committee** means the Supervisory Committee relating to private health care services formed under this Law.

Chapter II

Aims

3. The aims of this Law are as follows:

- (a) to develop private health care services in accordance with the national health policy;
- (b) to participate and carry out systematically by private health care services in the national health care system as an integral part;
- (c) to enable utilizing effectively the resources of private sector in providing health care to the public;
- (d) to enable the public to choose as desired in fulfilling their needs for health by establishing private health care services;
- (e) to enable provision of quality service at fair cost and to take responsibility.

Chapter III

Formation of the Central Body relating to Private Health Care Services

4. The Government:

- (a) shall form the Central Body relating to private health care services with not more than 21 persons consisting of the Minister for the Ministry of Health as Chairman, the Deputy Minister for the Ministry of Health as Deputy Chairman, the Director General of the Department of Health as the Secretary, the heads and representatives of the relevant government departments and organizations and representatives of the non-governmental organizations as members;
- (b) in forming under sub-section (a), may, if necessary, determine and assign duty to a suitable person out of the members as Joint Secretary;
- (c) may reorganize the Central Body formed under sub-section (a) as may be necessary.

Chapter IV

Duties and Powers of the Central Body

5. The duties and powers of the Central Body are as follows:

- (a) giving guidance in accordance with the national health policy relating to the private health care services;
- (b) giving guidance to maintain and promote the quality of private health care services by the relevant responsible persons in conformity with the stipulated standards and criteria;
- (c) granting or refusing to grant prior permission in respect of application to obtain prior permission to build new building or renovate a building to establish any private health care services other than private mobile health care service, private health care agency and private general clinic service;
- (d) determining the types of private hospital and kinds of curable disease;
- (e) issuing or refusing to issue licence in respect of application to grant the operation of any private health care services other than application for the operation of private general clinic service;
- (f) inspecting and supervising the private health care services as to whether or not they comply with the prescribed terms and conditions;

- (g) forming the necessary bodies comprising suitable persons to perform special matters and assigning duty thereto in respect of private health care services;
- (h) issuing directives for the private health care services to comply with and exercise the modern and developed medical technologies and methods;
- (i) determining necessary characteristics and requirements for private health care services;
- (j) forming supervisory committees relating to private health care services at the State, Divisional, District and Township levels and assigning functions and duties thereto;
- (k) giving decision on matters submitted by the different levels of supervisory committees;
- (l) forming the working committees for implementation of its duties and powers effectively;
- (m) revising or setting aside any decision of the State and Divisional Supervisory Committees;

- (n) determining the term of licence, licence fee and renewal fee of private health care services;
- (o) submitting, if necessary, to the Government through the Ministry of Health on matters relating to private health care services.

6. The Central Body may, if necessary, delegate its duties and powers to the working committee or the different levels of supervisory committee or any organization or department.

Chapter V

Private Health Care Services

7. The private health care services are as follows:
- (a) private clinic service:
 - (1) private general clinic service;
 - (2) private specialist clinic service;
 - (b) private hospital service:
 - (1) private general hospital service;
 - (2) private specialist hospital service;
 - (c) private maternity home service;
 - (d) private diagnostic service;

- (e) private nursing home service;
- (f) private mobile health care service;
- (g) private health care agency;
- (h) private general health care service.

Chapter VI

Characteristics of the Private Hospital

7. The private hospital shall be in conformity with the following characteristics:
 - (a) having sufficient specific land area and constructing at the place permitted;
 - (b) the structural design and partition of rooms being in conformity with stipulated standards;
 - (c) having arrangement to keep the interior, exterior and premises of the hospital clean and tidy in conformity with health;
 - (d) having arrangement to carry out 24 hours duty by the stipulated health care service providers;
 - (e) having arrangement to provide 24-hour health care service to emergency out-patients and in-patients;

- (f) enabling to provide emergency life-saving health care service to patients;
- (g) having disinfected and well-equipped operation theatre for operating out-patient or in-patient;
- (h) having equipment and medicines in conformity with stipulated standard;
- (i) enabling diagnosis of disease according to the class and type of hospital;
- (j) having patient referral system;
- (k) having arrangement for the safe blood transfusion;
- (l) maintaining the systematic medical record;
- (m) having accountable supervisory and administration system according to the class and type of hospital;
- (n) carrying out for not affecting the environment, non-dissemination of infectious disease and systematic disposal of wastes according to the stipulated standard;

- (o) having arrangement for obtaining safe drinking water and water for domestic use sufficiently;
- (p) constructing a systematic water supply and sewerage system;
- (q) having systematic arrangements for preventive measures for disasters and emergency rescue;
- (r) having good communication system;
- (s) having arrangement to obtain 24 hours electricity;
- (t) having stipulated arrangement for deceased patients;
- (u) carrying out other requirements stipulated by the Central Body from time to time.

Chapter VII

Characteristics of the Private Clinic

9. The private clinic shall be in conformity with the following characteristics:

- (a) being a building or room having suitable area;
- (b) providing treatment only to out-patient, having no permission to admit in-patient;

- (c) having arrangement to keep the interior and exterior of the clinic clean and tidy in conformity with health;
- (d) having patient referral system;
- (e) maintaining the systematic medical record;
- (f) carrying out for not affecting the environment, non-dissemination of infectious disease and systematic disposal of wastes according to the stipulated standard;
- (g) having arrangement for obtaining safe drinking water and water for domestic use sufficiently;
- (h) constructing a systematic water supply and sewerage system;
- (i) providing health care services by stipulated health care service providers;
- (j) carrying out other requirements stipulated by the Central Body from time to time.

Chapter VIII

Characteristics of the Private Maternity Home

10. The private maternity home shall be in conformity with the following

characteristics:

- (a) having specific premises and specific building;
- (b) having arrangement to provide 24-hour health care for maternity patients and new-born children;
- (c) arranging to keep the interior, exterior and premises of the maternity home clean and tidy in conformity with health;
- (d) enabling to provide emergency life-saving health care service to patients;
- (e) having disinfected well-equipped operation theatre for operating the out-patient or in-patient;
- (f) having equipment and medicines in conformity with stipulated standard;
- (g) having patient referral system;
- (h) having arrangement for the safe blood transfusion;
- (i) maintaining the systematic medical record;
- (j) carrying out for not affecting the environment, non-dissemination of infectious disease and systematic disposal of wastes according to the

stipulated standard;

(k) having arrangement for obtaining safe drinking water and water for domestic use sufficiently;

(l) constructing a systematic water supply and sewerage system;

(m) having systematic arrangement for preventive measure for disasters and emergency rescue;

(n) having good communication system;

(o) having arrangement to obtain 24 hours electricity;

(p) providing health care services by stipulated health care service providers;

(q) carrying out other requirements stipulated by the Central Body from time to time.

Chapter IX

Prior Permission for Private Health Care Services

11. A person desirous of constructing a new building or renovating the existing building for establishing any private health care services other than private mobile health care service and private health care agency shall, to obtain prior permission,

apply to the relevant Township Supervisory Committee together with the recommendation of the relevant development committee or development body in accordance with the stipulations mentioning the following facts:

- (a) the health care service to be established;
- (b) location, area and address of the service to be established;
- (c) land and buildings surrounding the location;
- (d) constitution of building and rooms;
- (e) health care programme;
- (f) other requirements stipulated by the Central Body from time to time.

12. The relevant Township Supervisory Committee shall, after scrutinizing the application made under section 11, submit to the District Supervisory Committee, and the District Supervisory Committee shall submit to the State and Divisional Supervisory Committee stage by stage together with remarks.

13. The State and Divisional Supervisory Committee, in respect of the application made under section 11:

- (a) shall, if it is of matter for prior permission to construct a new

building or renovate the existing building for establishing any private health care services other than private general clinic services, submit to the Central Body together with remarks;

- (b) may, after scrutiny, if it is of matter for prior permission to construct a new building or renovate the existing building for establishing private general clinic services, issue the prior permission together with the stipulated terms and conditions or refuse to issue the prior permission.

14. The Central Body may, after scrutinizing the application for the prior permission submitted by the State and Divisional Supervisory Committee to construct a new building or renovate the existing building for establishing any private health care services under sub-section (a) of section 13, issue the prior permission together with the stipulated terms and conditions or refuse to issue the prior permission.

Chapter X

Licence for Private Health Care Services

15. A person desirous of establishing any private health care services shall:

- (a) apply to the relevant Township Supervisory Committee in accordance with the stipulations to obtain licence for private health care services

which he desires to carry out ;

- (b) if it is an application of licence for any private health care services other than private mobile health care service and private health care agency, submit together with the prior permission issued under sub-section (b) of section 13 or section 14.

16. The Township Supervisory Committee shall, after scrutinizing the application made under sub-section (a) of section 15 in accordance with the stipulations, submit to the District Supervisory Committee and the District Supervisory Committee shall submit to the State and Divisional Supervisory Committee stage by stage together with remarks.

17. The State and Divisional Supervisory Committee:

- (a) shall submit the application of licence to carry out any private health care services other than private general clinic service to the Central Body together with remarks.
- (b) may, after scrutinizing the application of licence to carry out private general clinic services, issue the licence together with the stipulated terms and conditions or refuse to issue the licence.

18. The Central Body may, after scrutinizing the application of licence submitted by the State and Divisional Supervisory Committee under sub-section (a) of

section 17, issue the licence together with the stipulated terms and conditions, or refuse to issue the licence .

19. A person who obtains a licence for any private health care services shall:

- (a) comply with the terms and conditions of the licence;
- (b) comply with the notifications, orders and directives issued by the Central Body, Ministry of Health and Department of Health from time to time;
- (c) perform the duties assigned by the Ministry of Health when necessary in case of emergency situation of health.

20. (a) A person who obtains a licence for any private health care services shall, when desirous of continuing his services after the expiry of the term of licence, apply before the expiry of the term of licence at least 60 days in advance to the relevant Township Supervisory Committee to extend the term of licence, in accordance with the stipulations.
- (b) The Central Body and the different levels of the supervisory committee shall perform in accordance with the stipulations in respect of the application to extend the term of licence under sub-section (a).

21. A person who obtains the licence for any private health care services shall, if desirous of transferring or leasing the licence to another person, apply in accordance with the stipulations to the relevant Central Body or State and Divisional Supervisory Committee which is authorized to issue the licence.

Chapter XI

Control and Promotion of the Quality of Private

Health Care Services

22. The Central Body may, in order to control and promote the quality of private health care services, form the Private Health Care Quality Control and Promotion Bodies comprising suitable experts.

23. The Private Health Care Quality Control and Promotion Bodies shall, after scrutinizing the following facts in accordance with the directive of the Central Body in respect of private health care services, submit to the Central Body:

- (a) the number of health care service providers and whether their qualification and equipment are sufficient or not;
- (b) whether or not performing in accordance with the practices prescribed by the World Health Organization and relevant interna-

tional organizations of respective subjects for each services:

- (c) whether or not the measures are arranged to promote the quality in performing the health care services in accordance with the stipulations;
- (d) whether or not strict measures have been taken so that health hazard may not occur and infectious disease may not spread to the health care service provider, patient, public and environs.
- (e) whether or not the health care users are satisfied with the provision of health care service;
- (f) whether or not the working condition of the health care service providers is satisfactory;
- (g) whether or not the terms and conditions prescribed by the Central Body from time to time are complied with.

24. The Private Health Care Quality Control and Promotion Bodies and the different levels of supervisory committees may direct the relevant person-in-charge and health care service providers as may be necessary to maintain and promote the quality of private health care services.

Chapter XII

Duties and Obligations of Person-in-Charge and Health Care Service Provider

25. The duties and obligations of the person-in-charge and health care service provider are as follows:

- (a) providing health care mainly for the requirement of patient's health;
- (b) complying in accordance with the notifications, orders and directives issued by the Central Body, the Ministry of Health and Department of Health;
- (c) complying in accordance with the existing laws, rules, notifications, orders and directives relating to health;
- (d) complying with and exercising the modern and developed medical technology and methods in accordance with the directives issued by the Central Body;
- (e) complying in accordance with the directives relating to the highly infectious disease and criminal cases stipulated by the Ministry of Health, from time to time;
- (f) if necessary, referring in time to the relevant specialist, department and hospital aiming for the benefit of the patient;
- (g) providing life-saving treatment to any emergency patient and mak-

ing referral if necessary;

- (h) providing high quality service to the public at fair service charge;
- (i) complying with the directives of the Private Health Care Quality Control and Promotion Body and the different levels of supervisory committee;
- (j) laying down plans to be able to appease the dissatisfaction of health care user;
- (k) forming the administrative sub-body, the sub-body for quality control and promotion and other necessary sub-bodies as may be required according to the size and type of hospital;
- (l) keeping confidential of the patient's personal health matter except on official request of the relevant government department and organization;
- (m) obtaining permission of the Ministry of Health, if it is required to do research by making use of patients;
- (n) paying stipulated taxes and revenues regularly .
- (o) avoiding from performing any other services without permission or licence, in carrying out private health care services permitted under

the relevant licence.

Chapter XIII

Taking Administrative Action

26. If the private health care services licence holder fails to comply with any duty contained in section 19 or has been convicted for committing any offence contained in this Law or if the person-in-charge fails to comply with the duties and obligations contained in section 25, the Central Body and the State and Divisional Supervisory Committees authorized to issue licence for relevant private health care service, may pass any of the following administrative orders on the relevant licence holder:

- (a) warning;
- (b) imposing the stipulated fine;
- (c) suspension of the licence for a limited period;
- (d) cancellation of the licence.

27. The Central Body or the State and Divisional Supervisory Committee that takes action under section 26, shall inform the relevant Myanmar Medical Council, Dental or Oral Medical Council or Nursing and Midwifery Council to take necessary action if the health care service provider fails to comply with any of the

duties and obligations contained in section 25.

Chapter XIV

Appeal

28. Any person dissatisfied with an administrative order passed by the State and Divisional Supervisory Committee under section 26 or any other order passed under this Law may file an appeal to the Central Body within 60 days from the date of passing such order.

29. The Central Body may, in an appeal under section 28, revise, set aside, or confirm the decision passed by the State and Divisional Supervisory Committee.

30. The order or decision passed by the Central Body under this Law shall be final and conclusive.

Chapter XV

Offences and Penalties

31. Whoever carries out the private hospital service without licence may, on conviction, be punished with imprisonment for a term which may extend from a minimum of 1 year to a maximum of 5 years and may also be liable to a fine.

32. Whoever carries out the private maternity home service or private clinic service without licence shall, on conviction, be punished with imprisonment for a term which may extend from a minimum of 6 months to a maximum of 3 years

and may also be liable to a fine.

33. Whoever performs any other Health Care Services except private hospital service, private maternity home service and private clinic service without licence shall, on conviction, be punished with imprisonment for a term which may extend from a minimum of 3 months to a maximum of 1 year and may also be liable to a fine.

34. Whoever has obtained licence:

- (a) in carrying out services at the place permitted under relevant licence, by virtue of the private health care services, carries out any other services without permission or licence with the exception of the matter prohibited under any existing law shall, on conviction, be punished with imprisonment for a term which may extend from a minimum of 1 year to a maximum of 5 years and may also be liable to a fine;
- (b) in carrying out services at the place permitted under relevant licence by virtue of the private health care services, violates the matter prohibited under any existing law shall, on conviction, be punished under relevant existing law.

35. Whoever transfers or hires a licence that he has obtained under this Law to another person without the permission of the Central Body or State and

Divisional Supervisory Committee authorized to issue the relevant licence shall, on conviction, be punished with imprisonment for a term not exceeding 3 years or with fine or with both.

Chapter XVI

Miscellaneous

36. The Ministry of Health shall:

- (a) bear the expenses of the Central Body and other bodies formed by the Central Body under this Law;
- (b) make arrangement to enable the Central Body and different levels of supervisory committee to perform the office work.

37. If a person who has carried out the private health care clinic registered under the Union of Myanmar Public Health Law, 1972 before this Law has come into force is desirous of continuing his services, he shall apply for a temporary licence in accordance with the stipulations within 90 days commencing from the date of coming into force of this Law and:

- (a) if he carries out private hospital service, or private maternity home service, he shall, after fulfilling the relevant characteristics and requirements prescribed under this Law, apply for a licence in accordance with the provisions of this Law, within a year commencing

from the date of coming into force of this Law.

- (b) if he carries out private specialist clinic service or private diagnostic service, he shall, after fulfilling the relevant characteristics and requirements prescribed under this Law, apply for a licence in accordance with the provisions of this Law, within 9 months commencing from the date of coming into force of this Law.
- (c) if he carries out any other private health care services, with the exception of services contained in sub-section (a) and sub-section (b), he shall, after fulfilling the relevant characteristics and requirements prescribed under this Law, apply for a licence in accordance with the provisions of this Law, within 6 months commencing from the date of coming into force of this Law.

38. The Central Board may exempt any private health care services from all or part of the provisions contained in this Law, subject to time limit if it is in public interest.

39. (a) The person injured due to the negligent act of the person-in-charge or health care service provider at any private health care services, may sue the relevant person-in-charge or health care service provider under the Law of Tort to obtain damages for his injury;

- (b) The person-in-charge or health care service provider, sued under subsection (a), shall not be exempted from administrative action taken under any relevant existing law.

40. In respect of private clinics before this Law has come into force, the notifications, orders and directives issued by the Ministry of Health and Department of Health under the Union of Myanmar Public Health Law, 1972 may continue to be applicable in so far as they are not inconsistent with this Law.

41. The provisions of this Law shall not apply to the private traditional hospital and private traditional clinic which conduct treatment by the traditional medicine.

42. For the purpose of implementing the provisions of this Law:

- (a) The Ministry of Health may, with the approval of the Government, issue such rules as may be necessary;
- (b) The Central Body and the Ministry of Health may issue such procedures, notifications, orders and directives, and the Department of Health may issue such orders and directives as may be necessary.

(Sd) Than Shwe

Senior General

Chairman

The State Peace and Development Council