

PRIVATE HOSPITALS (REGULATION OF STANDARDS) BILL, 2019

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A BILL

FOR

AN ACT TO PROVIDE FOR THE REGULATION OF MEDICAL PRACTICE BY PRIVATE HOSPITALS, ESTABLISHMENT OF PRIVATE HOSPITALS ADVISORY BOARD WHICH SHALL PROVIDE CONDITIONS AND PERMIT FOR THE ESTABLISHMENT AND ADMINISTRATION OF PRIVATE HOSPITALS IN NIGERIA AND FOR OTHER RELATED MATTERS

Sponsored by Senator Stella Oduah

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

1 1. This Bill may be cited as the Private Hospitals (Regulation of
2 Standards) Bill, 2019. Citation

3 2. In this Act, unless the context otherwise requires: Interpretation

4 "approved organization" means an organization approved by the Minister
5 under section 6 to manage a private hospital in accordance with the
6 provisions of this Act;

7 "approved person" means a duly qualified medical practitioner or dentist
8 approved by the Minister pursuant to section 6 to manage a private hospital
9 in accordance with the provisions of this Act;

10 "the Board" means the Private Hospital Advisory Board established by this
11 Act;

12 "hospital" means any institution for the reception and medical treatment of
13 persons who are injured, infirm or suffering from illness, and includes a
14 dispensary, maternity home, clinic (whether mobile or not) and also any
15 place or premises used for purposes of medical treatment, whether regularly
16 or periodically;

17 "medical officer" means a medical practitioner in the employment of the
18 Government;

1 "medical practitioner" means a person for the time being authorized to practice
2 the medical profession by virtue of his being registered or licensed under the
3 provisions of the Medical and Dental Practitioners Act, Laws of the Federation
4 2004;

5 "medical treatment" includes dentistry, surgery, obstetrics, nursing, the
6 administration of medicine, health counselling and the provisions of any other
7 service or the supply of any other goods in connection with any of the matters
8 specified in this definition, but does not include veterinary surgery;

9 "Minister" means the Minister for the time being responsible for matters
10 relating to medical and health services;

11 "organization" includes any society, association or other body of person,
12 whether or not incorporated under any written law, and also a person
13 recognized as a corporation under the law for the time being in force relating to
14 corporations;

15 "private hospital" means any hospital other than a public hospital;

16 "public hospital" means any hospital which is within anyone of the following
17 descriptions-

18 (a) a hospital owned by the Government;

19 (b) a hospital owned by any corporation or company which is owned
20 by the Government, either alone or jointly with any person or organization, or
21 which is owned by any subsidiary of any corporation or company of that
22 description;

23 (c) a hospital owned by any organization, the management of which is
24 wholly or partly financed or materially aided from the public revenue;

25 (d) any other hospital which the Minister may, by notice published in
26 the Gazette, declare to be a public hospital for the purposes of this Act.

27 (2) The Minister may, if in his opinion it is in the public interest to do
28 so, by notice published in the Gazette, exempt from all or any of the provisions
29 of this Act either absolutely or subject to such conditions as he may think fit any
30 private hospital or any person.

1 (3) Notwithstanding any provision contained in this Act to the
 2 contrary, a medical practitioner shall not be deemed to be in contravention of
 3 any requirement prescribed by or under this Act in respect of any thing done
 4 by him anywhere for the purpose of rendering medical treatment, free of
 5 charge, to any person-

6 (a) in any emergency situation; or

7 (b) who is a member of his household or under his control.

8 (4) For the purpose of enabling members of the public to
 9 distinguish between private hospitals of approved organizations and public
 10 hospitals, the Minister shall give directions in writing requiring all private
 11 hospitals to be identified by such means as he may prescribe in the directions
 12 and every approved person or organization shall comply with those
 13 directions.

Restriction on
 Management
 and Private
 Hospitals

14 PART II

15 3.-(1) The Minister shall appoint a public officer to be a Registrar
 16 of private hospitals and may appoint any number of other public officers to
 17 be Assistant Registrars of private hospital as he may consider necessary.

Appointment of
 Officers

18 (2) The Registrar shall perform the duties prescribed in relation to
 19 his office by or under this Act and shall discharge such other functions and
 20 duties as the Minister or the Board may direct or prescribe by Regulations
 21 made under this Act.

22 (3) Every Assistant Registrar shall assist Registrar in the
 23 performance of his duties under this Act and may, under the direction of
 24 Registrar, exercise any of the functions of the Registrar.

25 4.-(1) No individual shall manage or cause to be managed any
 26 private hospital unless-

Restriction and
 Management of
 Private Hospitals

27 (a) he does so on behalf of an approved organization; or

28 (b) he is an approved person.

29 (2) No individual or organization shall manage any private hospital
 30 unless he is an approved person or approved organization and there is

1 existing in respect of the hospital and the individual valid registration made in
2 accordance with the provisions of this Act.

3 (3) Any person who contravenes or fails or refuses to comply with the
4 provisions of this section is guilty of an offence and shall be liable on
5 conviction to a fine of Two Million Naira or to imprisonment for a term of three
6 years or to both that fine and imprisonment.

Establishment
of Private
Hospitals
Advisory Board

7 5.-(1) There is hereby established a Board to be known as the Private
8 Hospitals Advisory Board.

9 (2) The Board shall consist of-

10 (a) the Chairman who shall be appointed by the Minister;

11 (b) a State Attorney nominated by the Attorney General in the
12 Attorney General's Chambers;

13 (c) not more than five other members appointed by the Minister; and

14 (d) the Registrar who shall be the Secretary.

15 (3) In appointing members of the Board the Minister shall have regard
16 to the need to appoint persons with such qualifications and experience in
17 medicine and the conduct or management of public affairs as would enable
18 them to contribute fully and effectively to the discharge
19 of the functions of the Board.

20 (4) The Minister shall, by Regulations to be published in the Gazette,
21 provide for the constitution and proceedings of and other matters in relation to
22 the Board.

Tenure of Office
for Board Members

23 6.-(1) A member of the commission shall hold office for a period not
24 exceeding five years and is on the expiration of the period not eligible for re
25 appointment, no member shall hold office for more than one term.

26 (2) Where a member of the commission resigns, dies, is removed
27 from office or is for any reason unable to act as a member of the Commission,
28 the Minister shall notify the President of the vacancy and the President shall on
29 advice of the nominating authority where applicable, appoint another person to
30 hold office of the unexpired portion or the member's term of office.

1 (3) A member of the commission may at anytime resign his office
2 in writing addressed to the President through the Minister.

3 (4) The Board shall meet for the dispatch of business at such times
4 and at such places as the Chairman may determine but shall meet at least
5 once every three months.

6 (5) The Chairman shall at the request in writing of not less than one
7 third of the membership of the Board to convene an extra ordinary meeting
8 of the Board at such place and time as he/she may determine.

9 (6) Every meeting of the Board shall be presided ever by the
10 Chairman and in his absence by a member of the Board elected by the
11 members present from among their number.

12 (7) A member of the Board who has interest in any contract or other
13 transaction proposed to be entered into with the Board or any application
14 before the Board shall disclose in writing the nature of his interest and shall
15 be disqualified from participating in any deliberations of the Board in
16 respect of the contract, application or other transaction.

17 (8) A member who infringes subsection (7) of this section is liable
18 to be removed from the Board.

19 (9) There shall be paid to the members of the commission such
20 traveling and other allowances as may be approved by the Board.

21 7.-(1) The functions of the Board shall be-

22 (a) to receive, consider and decide on all applications for approval
23 made by individuals and organizations;

24 (b) to issue a permit for the establishment of a private hospital by
25 individuals or organizations after having fulfilled all the requirements;

26 (c) to provide conditions for the establishment of private hospitals;

27 (d) to supervise the implementation of conditions of the
28 establishment of the private hospitals;

29 (e) to advise the Minister on the implementation of the provisions
30 of this Act; and

Functions of the
Private Hospitals
Advisory Board

1 (f) to do any other function as may be conferred upon the Board by the
2 Minister.

3 (2) The Board in exercising its functions shall have its own working
4 and meeting procedures.

5 (3) The Board shall have powers to cancel any permit issued in
6 contravention of the provision of this Act.

7 (4) The Board through the Registrar shall keep and maintain all
8 records of private hospitals.

Procedure of
Appeal

9 8.-(1) Any organization or person who applied for a permit to the
10 Board in accordance with the provisions of this Act, aggrieved by the decision
11 of the Board shall have the right of appeal to the Minister.

12 (2) The appellant shall submit his memorandum of appeal before the
13 Minister within one month from the date of receiving the decision from the
14 Board.

15 (3) The Minister shall hear both parties and give his decision within
16 three months from the date of hearing such an appeal.

17 (4) The Minister may, in deciding the appeal, or any part thereof, seek
18 advice or assistance of any person or office he deems appropriate but shall not
19 be bound by such advice or assistance.

20 (5) The decision of the Minister on the point of fact shall be final and
21 binding to the parties.

22 (6) Where the issue in dispute is on point of law any party aggrieved
23 by the decision of the Minister may appeal to the court of competent
24 jurisdiction and on hearing the appeal, the court shall not be prevented from
25 varying or quashing any finding of the Minister on either point of fact or law.

Entitlement to
Practice for fees

26 9. Every approved person and every approved organization shall,
27 subject to this Act, be entitled to demand, sue for, and recover in any court of
28 competent jurisdiction with full costs of suit, reasonable charges for
29 professional aid, advice and visits, and the value of any medicine or any
30 medical or surgical or dental appliances rendered or supplied.

1 10. No person or organization shall be entitled to recover any
2 charge in any court by way of claim, counter claim, set off or otherwise for
3 any medical or surgical advice or attention or for the performance of any
4 operation as or by a medical practitioner or dentist or for any medicine
5 prescribed or supplied unless he or it is at the time approved as such under
6 this Act.

No fees recoverable
unless persons or
organizations
approved

7 11.-(1) The Registrar shall keep a register in the prescribed form in
8 which he shall enter the name of every approved organization and such other
9 particulars relating to the organization as he may consider relevant, and shall
10 delete or amend any of those particulars as circumstances may require.

Particulars of
approved
organizations to
be registered and
published

11 (2) At least once each year the Registrar shall publish in the Gazette
12 or in any national newspapers a list of all approved organizations whose
13 approval is still in force.

14 12. The Minister may at any time revoke any approval or its
15 renewal given under section 6 if he is satisfied-

Revocation of
approval

16 (a) that the approved organization has ceased to be eligible for
17 approval in the terms of section 6 (2);

18 (b) that the approved organization is managing a private hospital
19 for one or more of the purposes specified in section 6 (3); or

20 (c) that the approved organization is no longer fit to manage a
21 private hospital.

22 PART III - REGISTRATION OF PRIVATE HOSPITALS

23 13.-(1) No approved organization or person shall manage any
24 private hospital unless the hospital is registered under this section.

Registration of
Private Hospitals

25 (2) An application for registration of a private hospital shall be
26 made to the Board in writing specifying the hospital in respect of which the
27 application is made and setting out such other particulars relating to the
28 approved organization or to the hospital as may be prescribed by regulations
29 made under this Act.

30 (3) There shall be separate registration in respect of every private

1 hospital managed by an approved organization.

2 (4) The registration of a private hospital under this section shall
3 become void upon the expiration of thirty days from the date of any change in
4 the ownership or management of the hospital.

5 (5) On receipt of an application, together with the prescribed fees (if
6 any) for the registration of a private hospital under this section, the Board may
7 approve or refuse to approve the application. Where the Board approves the
8 application it shall direct the Registrar to register the private hospital specified
9 in the application and issue to the applicant a certificate of registration in the
10 prescribed form either without conditions or upon such conditions as the Board
11 may prescribe.

12 (6) Every certificate of registration issued under this section in respect
13 of a private hospital shall be displayed in a conspicuous position within the
14 premises of the hospital.

15 (7) Without prejudice to the general power conferred upon the Board
16 by subsection (5) to refuse to approve an application under this section, the
17 Board may refuse to register a private hospital if he is satisfied-

18 (a) that the applicant is not an approved organization or is not an
19 organization which is eligible for approval in the terms of section 6 (2); or

20 (b) that the private hospital specified in the application is not under
21 the charge of a medical practitioner or other person who is fit to manage a
22 hospital or a hospital of the description given in the application; or

23 (c) that for reason connected with the situation, construction,
24 accommodation, staffing or equipment of the private hospital or of any
25 premises used in connection with the hospital, it is not in the public interest to
26 register the hospital.

27 (8) Any person who manages any private hospital which is not
28 registered under this Act or any private hospital the registration of which has
29 been cancelled or has ceased to have effect for any other reason shall be guilty
30 of an offence and shall be liable on conviction to a fine of less than Two

1 Hundred Thousand Naira or to imprisonment for a term not less than three
2 years or to both that fine and imprisonment.

3 14.-(1) The Registrar shall keep a register in the prescribed form in
4 which he shall enter the name of every private hospital approved by the
5 Board for registration under section 13 and such other particulars relating to
6 the hospital as he may consider relevant, and shall delete or amend any of
7 those particulars as circumstances may require.

Duties of
Registrar in
relation to
registered hospital

8 (2) At least once each year the Registrar shall publish in the Gazette
9 or in any national newspaper a list of all private hospitals the registration of
10 which is still in force.

11 15.-(1) Where, in respect of any registered private hospital, the
12 Board is satisfied-

Cancellation of
registration of
Hospitals

13 (a) that the premises of the hospital are no longer fit to be used as a
14 hospital by reason of their being kept in an unclean or unsanitary condition;

15 (b) that provision made for the medical treatment of persons
16 attending the hospital is inadequate; or

17 (c) that the approved organization or person responsible for the
18 management of the hospital has failed to comply with any Regulations made
19 under this Act relating to the staff, accommodation or equipment to be
20 provided at a private hospital or prescribing minimum standard of diet to be
21 provided to persons, admitted to the hospital as in patients, the Board may,
22 by notice in writing, require the approved organization to remedy to the
23 satisfaction of the Board defects specified in the notice within such period as
24 he may specify in the notice.

25 (2) If the approved organization fails to comply with the
26 requirements of a notice under subsection (1) within the specified period,
27 the Board may, after calling upon the approved organization to show cause
28 why the Registration of the hospital should not be cancelled, cancel the
29 registration.

1 PART IV - CONTROL OF FEES CHARGEABLE BY PRIVATE HOSPITALS IN
2 RESPECT OF MEDICAL TREATMENT

Definition of
"Price"

3 16. In this Act, the term "price", when used in relation to medical
4 treatment, means any fee or other payment of any description charged or
5 chargeable by any private hospital in respect of medical treatment rendered to
6 any person.

Power of Minister
to determine Price
structures

7 17.-(1) The Minister may, from time to time, determine and review, in
8 accordance with the provisions of this Act, the price structure of medical
9 treatment rendered by private hospitals either on a national basis or in relation
10 to any particular area or areas.

11 (2) In the exercise of the power conferred upon him by subsection (1)
12 to determine price structure in relation to medical treatment the Minister shall
13 have power to fix maximum prices of any type of medical treatment rendered
14 by private hospitals and to prescribe the manner in which the maximum prices
15 shall be ascertained.

16 (3) In determining the price structures of any type of medical
17 treatment the Minister shall have regard to-

18 (a) the types of medical treatment essential to the community
19 available at private hospitals and at public hospitals;

20 (b) the need to prevent unduly rapid or frequent variations in prices;

21 (c) the need to maintain reasonable standards of service rendered by
22 private hospitals;

23 (d) the need to promote the continued ability of private hospitals to
24 maintain efficiency and expand their services to supplement services rendered
25 by public hospitals;

26 (e) the need to ensure the availability of adequate medical and health
27 services in rural as well as urban areas.

28 (4) In addition to the factors specified in subsection (3), in
29 determining the maximum price of medical treatment the Minister shall take
30 into account the cost of material (if any) used, the direct and overhead costs of

1 providing the service and the level of any duties or taxes collected from
 2 private hospitals and such other factors as the Minister may consider
 3 relevant.

4 (5) In the exercise of his powers under this section, the Minister
 5 shall have power-

6 (a) to receive and review applications for determination or
 7 variation of maximum prices from approved organizations;

8 (b) to receive and review applications of representations in respect
 9 of prices from any person or organization or from any public authority;

10 (c) to refer to any public authority any matter relating to prices of
 11 medical treatment for the purposes of obtaining advice on the matter;

12 (d) notwithstanding any written law to the contrary, to secure
 13 access to relevant data concerning the provision of medical treatment from
 14 any person or organization or from any public authority.

15 (6) The Minister may, by notice in writing, require any approved
 16 person or organization responsible for the management of any private
 17 hospital to produce to him, within such period as he may specify in the
 18 notice-

19 (a) books of account or other records relating to the management of
 20 the hospital;

21 (b) a return of income made by the approved organization in
 22 respect of any year for the purposes of assessment of income tax or other
 23 similar taxes;

24 (c) such other information as the Minister may consider relevant.

25 18. No decision of the Minister made in accordance with the
 26 provisions of this Act relating to prices shall be subject to review by any
 27 court on any ground.

Decisions of
 subject to review
 by courts

28 19.-(1) Where the Minister has fixed the maximum price of any
 29 type of medical treatment he shall issue a notice setting out a description of
 30 the type of medical treatment and the maximum price fixed in relation to it.

Publication of
 maximum prices

1 (2) A notice issued under subsection (1) may be published in any
2 manner as will, in the opinion of the Minister, ensure that its contents come to
3 the notice of members of the public who will or are likely to be affected by the
4 contents of the notice.

5 (3) With effect from the date of the publication of any notice under
6 this section or any subsequent date specified in the notice the maximum price
7 of the type of medical treatment described in the notice shall be the price
8 described in relation to it.

9 (4) Any person who renders medical treatment at any private hospital
10 at a price in excess of the maximum price fixed in relation to that type or
11 medical treatment shall be guilty of an offence and shall be liable on conviction
12 to a fine not exceeding One Hundred Thousand Naira or to imprisonment for a
13 term not exceeding three years or to both that fine and imprisonment.

Display of
maximum prices

14 20.-(1) The Minister may by order published in the Gazette, require
15 any approved organization or person responsible for the management of any
16 private hospital to display in a prominent manner and in conspicuous position
17 so that it may be easily read and is clearly legible to patients in those parts of the
18 premises of the hospital where medical treatment is rendered, a list of the
19 current maximum prices of such types of medical treatment as are mentioned in
20 the order which the approved organization may render.

21 (2) An order under this section may provide for the form in which the
22 list of maximum prices which it requires to be displayed shall be arranged.

23 (3) Any person responsible for the management of any private
24 hospital who fails to display at the hospital a list of current maximum prices
25 fixed in relation to medical treatment, shall be guilty of an offence and shall be
26 liable on conviction to a fine not exceeding Fifty Thousand Naira or
27 imprisonment for a term not exceeding twelve months or to both that fine and
28 imprisonment

Books of account
and other records

29 21.-(1) Every approved organization or person responsible for the
30 management of a private hospital rendering medical treatment in respect of

1 which maximum prices have been fixed under this Act, shall keep books of
2 account or other records in respect of the medical treatment prescribed by
3 Regulations made under this Act.

4 (2) The approved organization or person shall, after the last entry in
5 every book or account or record kept under this section, preserve the book or
6 record for a period of two years or such longer period as may be prescribed
7 by Regulations made under this Act.

8 22.-(1) Every person in charge of a private hospital which render to Issue of receipts
9 any person medical treatment in respect of which a maximum price has been
10 fixed under this Act and for which a price is paid or is to be paid shall, as soon
11 as possible after the treatment is rendered, supply to the person a receipt or
12 an invoice describing the type of treatment rendered and showing the price
13 which has been or is to be paid for the treatment.

14 (2) Every person who issues a receipt or an invoice under this
15 section shall retain in the records of the private hospital a duplicate copy of
16 the receipt or invoice.

17 (3) Any person in charge of any private hospital who fails to
18 comply with the provisions of subsection (1) or of subsection (2) shall be
19 guilty of an offence and shall be liable on conviction to a fine not exceeding
20 One Hundred Thousand Naira or to imprisonment for a term not exceeding
21 twelve months or to both such fine and imprisonment.

22 PART V - GENERAL PROVISION

23 23.-(1) The Registrar of Private Hospitals, an Assistant Registrar Inspection and
24 of Private Hospitals, a medical officer or any other public officer authorized search
25 by the Minister in writing for that purpose, may if he has reasonable cause to
26 believe that medical treatment is being given on any premises used as a
27 private hospital demand that the person in charge of those premises shall
28 allow him free entry to the premises and afford him all reasonable facilities
29 to ascertain whether the medical treatment is being rendered in accordance
30 with the provisions of this Act or of the Regulations made under it.

1 (2) If the officer after producing proof of his authority to any person
2 who may reasonably require that proof, is unable to gain entry to the premises
3 without unreasonable delay or inconvenience, he may enter the premises
4 without warrant and inspect them to ascertain the matter specified under
5 subsection (1).

6 (3) Any person who prevents or obstructs any officer acting under this
7 section in the performance of his duties shall be guilty of an offence and shall
8 be liable on conviction to a fine not exceeding Fifty Thousand Naira or to
9 imprisonment for a term not exceeding twelve months or to both that fine and
10 imprisonment.

Offences by
organizations

11 24. Where any offence under this Act or any Regulations made under
12 it is committed by an organization, every person charged with, or concerned or
13 acting in the control or management of the affairs or activities of the
14 organization, shall also be guilty of that offence and shall be liable to be
15 proceeded against and punished accordingly, unless the person proves to the
16 satisfaction of the court that, through no act or omission on his part, he was not
17 aware that the offence was being or was intended or about to be committed, or
18 that he took all reasonable steps to prevent its commission.

Regulations

19 25. The Minister may make Regulations generally for the better
20 carrying out of the purposes and provisions of this Act, and, without prejudice
21 to the general regulations-

22 (a) prescribing forms to be used for the purposes of this Act;

23 (b) prescribing fees which shall be payable in respect of any matters
24 specified in any Regulations made under this section;

25 (c) providing for submission of audited balance sheets and other
26 records, returns and particulars of approved organizations or persons;

27 (d) providing for procedures of appeal;

28 (e) prescribing minimum standards of diet to be provided to persons
29 admitted to private hospital as in patients;

30 (f) requiring approved organizations to provide facilities for the

- 1 welfare of patients admitted to private hospital;
- 2 (g) regulating the staff, accommodation and equipment to be
- 3 provided at private hospitals;
- 4 (h) relating to any matter which is required or permitted to be
- 5 prescribed under this Act.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the regulation of medical practice by Private Hospitals, establishment of Private Hospitals Advisory Board which shall provide conditions and permit for the establishment and administration of Private Hospitals in Nigeria and also charged with the responsibility of collating, analyzing and publishing information relating to private hospitals and health care delivery in Nigeria.

