BAYELSA STATE HEALTH BILL, 2023

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INTERPRETATIONS

SCHEDULES

GOVERNMENT OF BAYELSA STATE OF NIGERIA HEALTH BILL, 2023

A Bill for a Law to provide a framework for the regulation, development, delivery and management of a health system and set standards for rendering health services in the State, and for related matters.

PART 1

Responsibility for Health and Eligibility for Health Services and Establishment of the Bayelsa Health System

1. There is established for the law the Components and Structure of the Bayelsa Health System which shall define and provide a framework for standards and regulation of health services, without prejudice to extant professional regulatory laws and which shall –

(a) encompass public and private providers of health services.
(b) promote a spirit of cooperation and shared responsibility among all providers of health services in the STATE and any part thereof; -
(c) provide for persons living in Bayelsa State the best possible health services within the limits of available resources.
(d) Set out the rights and obligations of health care providers, health workers, health establishments and users; and
(e) protect, promote and fulfil the rights of the people of Bayelsa to have access to health care services.

2. The Health System shall include:

(a) the Ministry of Health;

(b) the Local Government Health Authorities;

(c) all parastatals and Institutions under the Ministry of health;

(d) the Constituency Health Committees;

(e) the ward health committees;

(f) the village health committees;

(g) the private health care providers;

(h) traditional, complementary and alternative medicine practitioners.

Functions of the State Ministry of Health

(I) The Ministry of Health shall –

(a) ensure the development of health policy and Issue guidelines for their implementation;

(b) collaborate with the local governments to ensure that appropriate mechanisms are set up for the implementation of health policies; "

(c) collaborate with international agencies;

(d) promote adherence to norms and standards for the training of human resources for health;

(e) ensure the continuous monitoring, evaluation and analysis of health status and performance of the functions of all aspects of the Health System;

(f) co-ordinate health and medical services delivery during disasters;

(g) participate in inter-sectoral and inter-ministerial collaboration;

(h) conduct and facilitate health systems research in the planning, evaluation and management of health services;

(i) ensure the provision of specialized hospital services;

(j) determine the minimum data required to monitor the status and use of resources;

(k) promote availability of good quality, safe and affordable essential drugs, medical commodities, hygienic food and water; and

(l) issue guidelines and ensure the continuous monitoring, analysis and good use of drugs and poisons including medicines and medical devices.

(2) Without prejudice to the foregoing functions, the Ministry of Health shall:

(a) prepare strategic, medium-term health and human resources plans annually for the exercise of its powers and the performance of its duties under this law;

(b) ensure that the state health plans including improvement plans referred to in paragraph (a) of this subsection shall form the basis of:

i. the annual budget proposal as required by the Ministry of Budget and Economic Planning; and

ii. other governmental planning exercises as may be required by any other law;

(c) ensure that the health plans shall comply with State health policy; and

(d) ensure the preparation and presentation of an annual report on the health of Bayelsans and the Health System to the Governor and the House of Assembly.

(3) The Ministry of Health shall, where necessary, provide to Local Government Health Authorities-

(a) technical assistance in the development of Local Government Health policies and plans;

(b) technical support for the implementation, monitoring and evaluation; and

(c) technical materials and other support

(4) The Commissioner of Health shall supervise the departments and parastatals of the Ministry to enable him carry out the functions assigned to the Ministry by this law or any other.

Eligibility for exemption from payment for health services in public health establishments

1) The Commissioner, in consultation with the State Council on Health, may prescribe conditions subject to which categories of persons may be eligible for exemption from payment for health care services at public health establishments.

2) In prescribing any condition under subsection (1), the Commissioner shall have regard to:

(a) the range of exempt health services currently available;
(b) the categories of persons already receiving exemption from payment for health services;
(c) the impact of any such condition on access to health services; and
(d) the needs of vulnerable groups such as women, children, older persons and persons with disabilities.

3) Without prejudice to the prescription by the Commissioner in section 3(1) of this , all Bayelsans shall be entitled to basic minimum package of health services.

Establishment and Composition of the State Council on Health.

(1) There shall be established the State Council on Health (in this referred to as "the Council") which shall consist of:

(a) the Commissioner, who shall be the Chairperson;

(b) the Directors of the Ministry of Health;

(c) the Heads of all Parastatals and Institutions, under the Ministry of Health

(d)Representative of the local government Chairmen

(e) Representative of the Traditional Rulers Council

(f) the Directors/HODs/Medical Officers of Health responsible for matters relating to Health in the Local Government Areas and

(g) Technical and Special Advisers to the Governor on Health

(h) Representative of the private sector

(2) The Permanent Secretary of the Ministry of Health shall be the Secretary to the Council.

(3) The Council shall meet at least once in a year.

(4) The Council shall have powers to regulate its proceedings.

(i) The Council, which is the highest policy making body in Bayelsa State on matters relating to health, shall –

(a) have responsibility for the protection, promotion, improvement and maintenance of the health of the citizens of Bayelsa, and the formulation of policies and prescription of measures necessary for achieving the responsibilities specified under this paragraph;

(b) offer advise to the State Government through the Commissioner, on matters relating to the development of guidelines on health and the implementation and administration of the Health Policies;

(c) ensure the delivery of basic health services to the people of Bayelsa and prioritize other health services that may be provided within available resources;

(d) advise the State Government on technical matters relating to the organization, delivery and distribution of health services;

(e) issue, and promote adherence to, norms and standards, and provide guidelines on health matters, and any other matter that affects the health status of people;

(f) identify health goals and priorities for the State as a whole and monitor the progress of their implementation;

(g) promote health and healthy lifestyles;

(h) facilitate and promote the provision of health services for the prevention, management, and control of communicable and non-communicable diseases;

i) ensure that children between the ages of zero and five years and pregnant women are immunized with vaccines against infectious diseases;

j) coordinate health services rendered by the Ministry with health, services rendered by the Local Governments, Wards, and private health care providers and provide such additional health services as may be necessary to establish a comprehensive health system;

(k) integrate the health plan of the Ministry of Health and Local Government Departments of Health annually; and

(l) perform such other duties as may be assigned to the Council by the Commissioner.

(2) The Council shall determine the time frames, guidelines and format for the formulation of the State and Local Government Health Plans. The Council shall be advised by the Technical Committee established under this .

Establishment and composition of the Technical Committee of the Council.

(1) There is established the Technical Committee of the Council on Health (in this referred to as "the Technical Committee").

(2) The Technical Committee shall consist of:

(a) the Permanent Secretary of the Ministry of Health who shall be the Chairperson;

(b) all Directors of the Ministry of Health;

(c) the representative of the Ministry of Justice;

(d) one representative each of the Armed Forces Medical Corps and Paramilitary Medical services

(e) one representative each of the parastatals and Institutions of the State Ministry of Health;

(f) the Medical Directors/CMD of Teaching and Specialist Hospitals and Federal Medical Centres;

h) one representative each of the registered health professional associations including traditional complementary and alternative medicine practitioners; and

(k) one representative of the leadership of private health care providers association in the state.

(l) Development partners in the state

(m) Local Government Health Authority Secretaries

(3) The Ministry of Health shall provide the Secretariat for the administrative activities of the Technical Committee.

(1) The Technical Committee shall advise the Council on its functions as contained in section 5(1) of this and any other matter that the Council may refer to it.

(2) The Technical Committee shall strive to reach its decisions by consensus but where a decision cannot be reached by consensus, the decision of the majority of the members shall prevail and be regarded as the decision of the Technical Committee.

(3) The Technical Committee may create one or more ad hoc committees of experts in health matters to advise it on any matter with which it is concerned.

(4) The Technical Committee shall determine the proceedings for its meetings, and the quorum for its meetings shall be not less than one-third of its membership, including the person presiding at any such meeting.

6. (1) There is established the Health Institutions Standards Committee.

(2) The committee shall consist of:

(a) the Chairperson who shall be a person in the health profession with vast knowledge and experience in health service delivery, planning and organization to be appointed by the Commissioner.

(b) a Representative of :

(i) Ministry of Finance,

(ii) Ministry of Education, and

(iii) Office of the Head of Service ;

(c) medical directors of state owned Tertiary Hospitals;

(d) the statutory representative of all health professions regulatory agencies or councils in Bayelsa;

(e) one representative each of private, medical and health care practitioners associations

f) Three persons appointed on merit by the Commissioner one from each Senatorial District to represent the public interest at least one of whom shall be a woman;

(g) one person to represent the organized private sector; and

(h) the Director, Department of Hospital Services, Ministry of Health who shall be a member and Secretary of the Committee.

(3) A member of the Committee other than an ex-officio member shall:

(a) hold office for a term of four (4) years and no more, on such terms and conditions as may be specified in his letter of appointment; and

(b) vacate his office if he resigns through a letter written under his hand.

(4)The Ministry of Health shall provide the secretariat for the administrative activities of the Committee.

(5) The Health Institutions Standards Committee shall meet not less than four times in a year.

(6)The Health Institutions Standards Committee shall regulate its own procedure and the quorum shall be two-third majority.

(1) The functions of the Committee shall be to:

(a) advise the Commissioner on matters affecting the establishment of state tertiary hospitals in Bayelsa;

(b) Prepare periodic master plans for the balanced and coordinated development of tertiary hospitals in Bayelsa;

(c) establish minimum standards to be attained by the various tertiary

(f) set standards and criteria for allocation of funds from health facilities in the state and also to inspect and accredit such facilities;

(g) make relevant investigations and recommendations to the Government on tertiary health care services in the state's interest;

(h) advise the state Government on the financial needs, both recurrent and capital, of state owned tertiary health services and in particular investigate and study the financial needs for training, research and services and make appropriate recommendations for these.

the Government to state owned tertiary health institutions and monitor their utilization, source for grants as laid down by the Committee

(i) collate, analyse and publish information in relation to tertiary health care services annually;

(j) lay down broad operational guidelines in all areas of management for use by the state Tertiary Hospitals;

(k) monitor and evaluate all activities and receive annual reports from the state tertiary hospitals and supervise annual peer reviews; and

l) carry out such other activities as are conducive for the discharge of its functions under this .

(2) The Commissioner may give the Committee directives of a general nature not relating to the particular matters with regard to the exercise by the Committee of its functions under this.

8. (1) There shall be established an Equity Fund (referred to in this Bill as The Fund).

(2) The sources of the Fund shall include:

a) The Fund for the Bayelsa Health Insurance Scheme (BHIS) as provided for in the Law establishing the BHIS

i) not **less than 5% of** the State internally generated revenue;

ii) not less than 2.5% of the internally generated revenue by the Local government areas of the state;

iii) Deduction from State Government employees and Private citizens

b) A fund shall be financed from not less than 1% of the state allocation. The fund shall be used to finance the following:

I) 30% of the fund shall be used to provide

i) Essential drugs, vaccines, and consummables for eligible primary health care facilities; and

ii) for the provision and maintenance of facilities, equipment, and infrastructure as may be required for eligible primary health care facilities;

iii) 10% of the fund shall be used for Monitoring and supervision of Primary health care facilities;

II) 15% of the Fund shall be used for the development of Human Resources for Primary Health care;

III) 5% of the Fund shall be used for community based maternal, perinatal deaths surveillance and response;

IV) 10% of the Fund shall be used for emergency medical treatment

V) 10% of the Fund shall be used for Public Health emergencies

VI) 10% of the Fund shall be used for Digital health

VII) 10% of the fund shall be used for Administration and Supportive Supervision

(2) There shall be established the Bayelsa healthcare investment fund (in this referred to as "the Fund"), Establishment of Bayelsa healthcare investment fund

(1) The Bayelsa healthcare investment fund shall be financed from:

(a) Not less than 5% of State Government approved health Budget.

(b) 5% of financial proceeds from BHIS investments.

(c) 1% of contract sums given out by Ministry of Health

(d) Donations

(e) Oil and gas companies levies including healthy air levy. Not less 1% of all taxes collected from oil companies operating in Bayelsa state

(3) Money from the Fund shall be used to finance the following:

(a) Trainings

b) Medical Outreaches

c) Health Promotion

d) Accreditation activities of Health Institutions

e) Operational Research

f) Inspectorate Activities

PART II

Bayelsa Healthcare Establishments and Technologies

(1) The Commissioner shall:

(a) classify all health establishments and technologies into such categories as may be appropriate, based on:

(i) their role and function within the health system,

(ii) the size and location of the communities they serve, Classification of health establishment and technologies

(iii) the nature and level of health services they are able to provide,

(iv) their geographical location and demographic reach,

(v) the need to structure the delivery of health services in accordance with norms and standards within an integrated and coordinated framework, and

(vi) in the case of private health establishments, whether the establishment is for profit or not.

(b) in the case of state-owned specialist hospitals, make recommendations to the Governor for the establishment of the hospital board and the management system of such specialist hospitals.

(2) Nothing in this section shall preclude the House of Assembly from making laws for the regulation and inspection of public, private and non-governmental health facilities in the State.

Certificate of Standards

(1) Without being in possession of a Certificate of Standards, a person, entity, government or organization shall not:

(a) establish, construct, modify or acquire a health establishment, health agency or health technology;

(b) increase the number of beds in, or acquire prescribed health technology at a health establishment or health agency;

(c) provide prescribed health services; or

(d) continue to operate a health establishment, health agency or health technology after the expiration of 24 months from the date this took effect.

(2) The Certificate of Standards referred to in subsection (1) of this section may be obtained by application in prescribed manner from the appropriate body of government where the facility is located.

(3) In the case of specialist institutions, the appropriate authority shall be the specialist Health Institutions Standards Committee, through the Ministry of Health.

Any person, entity, government or organisation who performs any under section 13(1) without a Certificate of Standards required by that section commits an offence and shall be liable on conviction to a fine of not less than N500,000.00 or, in the case of an individual, to imprisonment for a period not exceeding two years or both.

Provision of health services at public health establishments.

(1) The Commissioner, in respect of all public health establishments within the state, may:

a. determine the range of health services that may be provided at the relevant public health establishments; and

b. in consultation with the relevant treasury, determine the proportion of revenue generated by a particular public health establishment classified as a hospital that may be retained by that hospital, and how those funds may be used.

(2) The Commissioner, in consultation with the Council, may prescribe conditions subject to which categories of persons may be eligible for exemption from payment for health care services rendered by public health establishments.

(3) Without prejudice to any prescription made by the Commissioner under subsection (2) of this section, all citizens shall be entitled to a basic minimum package of health services.

HEALTH SERVICES AT NON HEALTH ESTABLISHMENTS AND PUBLIC HEALTH ESTABLISHMENTS OTHER THAN HOSPITALS

(1) The Commissioner may prescribe:

(a) minimum standards and requirements for the provision of health services in locations other than health establishments, including schools and other public places; and

(b) penalties for any contravention of, or failure to comply with, any such standards or requirements.

(2) The Commissioner may, subject to the provisions of any other law, prescribe conditions relating to traditional health practices to ensure the health and well-being of persons who are subject to such health practices.

2) Without prejudice to section 16 of this, the House of Assembly in the may make laws for the provision of health services at non- health establishments in the State.

REFERRAL FROM ONE HEALTH ESTABLISHMENT TO ANOTHER

7(1) Subject to this, a user may attend any health establishment for the purposes of receiving health services.

(2) If a health establishment is not capable of providing the necessary treatment or care, the health establishment in question shall refer the user concerned to an appropriate health establishment which is capable of providing the necessary treatment or care (in such manner or such terms as may be prescribed by regulation).

RELATIONSHIP BETWEEN PUBLIC AND PRIVATE HEALTH ESTABLISHMENTS

8 (1) The Commissioner shall prescribe mechanisms to ensure a coordinated relationship between private and public health establishments in the delivery of health services.

(2) The Ministry of Health, and any other MDA, Local Governments, or any public health establishment may enter into an agreement with any Private practitioner, private health establishment or nongovernmental organization in order to achieve any objective of this.

EVALUATION SERVICES OF HEALTH DEPARTMENT

9 (1) All health establishments shall comply with the quality requirements

(2) The quality requirements and standards stated in subsection (1) of this section may relate to human resources, health technology, equipment, hygiene, premises, the delivery of health services, business prices, safety and the manner in which users are accommodated and treated.

(3) The Health Institutions Standards Committee shall monitor and enforce compliance with the quality requirements and standards stated in subsection (l) as it relates to Hospitals. ‘;

Part III

Rights and Obligations of Users and Health Care Personnel

HEALTH CARE PERSONNEL

Emergency Treatment

(1) A health care provider, health worker or health establishment shall not refuse a person emergency medical treatment for any reason.

(2) Any person who contravenes this section commits an offence and is liable on conviction to a fine of N100, 000.00 or to imprisonment for a period not exceeding six months or to both.

Rights of health care personnel

(1) Subject to any applicable law, the head of the health establishment concerned may in accordance with any guideline determined by the Commissioner or any other appropriate authority, impose conditions on the services that may be rendered by a health care provider or health worker on the basis of health status except if the health personnel claims a conscientious exemption.

(2) Subject to any applicable law, every health establishment shall implement measures to minimise:

(a) injury or damage to the person and property of health care personnel working at that establishment; and

(b) disease transmission.

(3) Without prejudice to section 19(1) of this and, except for Psychiatric patients, a health care provider may refuse to treat a user who is physically or verbally abusive or who sexually harasses him or her, and in such a case the health care provider should report the incident to the appropriate authority.

INDEMNITY OF THE HEALTH CARE PROVIDER, OFFICER OR EMPLOYEE OF A HEALTH CARE ESTABLISHMENT

Subject to not being found negligent, a health care provider or other officers or employees of a health care establishment shall be indemnified out of the assets of the health care establishment against any liability incurred by him in defending any proceeding, whether civil or criminal in which judgment is given in his favour or is acquitted, if any such proceeding is brought against him in his capacity as a health care provider, an officer or employee of a health care establishment.

USER TO HAVE FULL KNOWLEDGE

(1) Every health care provider shall give a user relevant information pertaining to his state of health and necessary treatment relating to:

(a) the user's health status except in circumstances where there is substantial evidence that the disclosure of the user's health status would be contrary to the best interests of the user;

(b) the range of diagnostic procedures and treatment options generally available to the user;

(c) the benefits, risks, costs and consequences generally associated with each option; and

(d) the user's right to refuse health services and explain the implications, risks or obligations of such refusal.

(2) The health care provider concerned shall, where possible, inform the user in a language that the user understands and in a manner which takes into account the user's level of literacy.

DUTY TO DISSEMINATE INFORMATION

The Ministry of Health, every Local Government Health Authority and every private health care provider shall ensure that appropriate, adequate and comprehensive information is disseminated and displayed at facility level on the health 'services for which they are responsible, which shall include:

(a) the types of health services available

(b) the organisation of health services

(c) operating schedules and timetables of visits;

(d) procedures for laying complaints; and

(e) the rights and duties of users and health care providers.

OBLIGATION TO KEEP RECORD

Subject to applicable archiving legislation, the person in charge of a health establishment shall ensure that a health record containing such information as may be prescribed is created and available at that health establishment for every user of health services.

CONFIDENTIALITY

(1) All information concerning a user, including information relating to his or her health status, treatment or stay in a health establishment is confidential. (2) Subject to section 27 of this, no person may disclose any information contemplated in subsection (1) unless:

(a) the user consents to that disclosure in writing;

(b) a court order or any law requires that disclosure;

(c) in the case of a minor, with the request of a parent or guardian;

(d) in the case of a person who is otherwise unable to grant consent upon the request of a guardian or representative; or

(e) non-disclosure of the information represents a serious threat to public health.

ACCESS TO HEALTH RECORD

A health worker or any health care provider that has access to the health records of a user may disclose such personal information to any other person, health care provider or health establishment as is necessary for any legitimate purpose within the ordinary course and scope of his or her duties where such access or disclosure is in the interest of the user.

ACCESS TO HEALTH RECORD BY HEALTH CARE PROVIDER

(1) A health care provider may examine a user's health records for the purpose of:

(a) treatment with the authorisation of the user; and

(b) study, teaching or research with the authorisation of the user, head of the health establishment concerned and the relevant health research ethics committee.

(2) If the study, teaching or research under subsection (1)(b) of this section reflects or obtains no information as to the identity of the user

concerned, it is not necessary to obtain the authorisations contemplated in that subsection,

PROTECTION OF HEALTH RECORDS

(1) The person in charge of a health establishment who is in possession of a user's health records shall set up control measures to prevent unauthorised access to those records and to the storage facility in which, or system by which, records are kept.

(2) A person who:

(a) fails to perform a duty imposed on them under subsection (1) of this;

(b) falsifies any record by adding to or deleting or changing any information contained in that record;

(c) creates, changes or destroys a record without authority to do so;

(d) fails to create or change a record when properly required to do so; (e) provides false information with the intent that it be included in a record;

(f) without authority, copies any part of a record;

(g) without authority, connects the personal identification elements of a user's record with any element of that record that concerns the user’s condition, treatment or history;

(h) gains unauthorised access to a record or record-keeping system, including intercepting information being transmitted from one person, or one part of a record-keeping system, to another;

(i) without authority, connects any part of a computer or other electronic system on which records are kept to any:

(i) other computer or other electronic system; or

(ii) terminal or other installation connected to or Protection of health records forming part of any other computer or other electronic system; or

(j) without authority, modifies or impairs the operation of any:

(i) part of the operating system of a computer or other electronic system on which a user's records are kept; or

(ii) part of the programme used to record, store, retrieve or display information on a computer or other electronic system on which a user's records are kept,

Commits an offence and is liable on conviction to imprisonment for a period not exceeding two years or to a fine of N250,000.00 or both.

LAYING OF COMPLAINTS

10 (1) A person may lay a complaint about the manner in which he or she was treated at a health establishment and have the complaint investigated.

(2) The Commissioner or any other appropriate authority shall establish a procedure for the laying of complaints within the areas of health system for which the Ministry is responsible.

(3) The procedure for laying complaints shall

(a) be displayed by all health establishments in a manner that is visible for any person entering the establishment and the procedure shall be communicated to users on a regular basis;

(b) in the case of a private health establishment, allow for the laying of complaints with the head of the relevant establishment;

(c) include provisions for the acceptance and acknowledgment of every complaint directed to a health establishment, whether or not it falls within the jurisdiction or authority.

(d) allow for the referral of any complaint that is not within the jurisdiction or authority of the health establishment to the appropriate body or authority.

(4) In laying a complaint, a person shall follow the procedure established by the Commissioner or the head of Department for Health in the Case of Local Government Area.

Part IV

Bayelsa Health Information System and Health Research

ESTABLISHMENT, COMPOSITION AND TENURE OF STATE HEALTH RESEARCH COMMITTEES

1. (1) There shall be established by the Commissioner, the Bayelsa Health Research and ethics Committee (in this Law referred to as "the Research Committee" (HREC)").

2. (1) The membership of the Research Committee shall consist of not more than 13 members appointed by the Commissioner on the recommendation of the health research institutions and other related bodies in the State.

(2) The membership of the Research Committee established under this section shall be selected from amongst persons who have the requisite skills and experience in Health research and related matters.

(3) There shall be for the committee:

(a) a Chairman who shall be an acknowledged health researcher and be accomplished and renowned in a health discipline.

(4) a secretary who shall be the Director of Health Planning and Research in the Ministry of Health.

(5) The Chairman shall:

(a) hold office for a term of three years in the first instance and may be re-appointed for another term of three years and not more; and

(b) vacate his office if he resigns through a letter written under his hand or in case of permanent incapacitation or death.

(6) The Research Committee shall have the responsibility to –

(a) promote health research to be carried out by public and private health authorities.

(b) ensure that health research agenda and research resources focus on priority health problems.

(c) develop and advise the commissioner on the application and implementation of an integrated strategy for health research; and

(d)collate and document information on the research activities of public and private health establishments.

(7) A member of the Research Committee who is not employed on full-time basis in the public service shall, in respect of his service as member, be paid such remuneration as may be determined by the Commissioner.
(8) There is established by the Commissioner, the Health Research Ethics Committee (in this Law referred to as "the Ethics Committee").

(1) The membership of the Ethics Committee shall consist of not more than 12 persons (Who have requisite experience in health research Ethics and related matters) which shall include:

(a) a Chairman, who shall be an acknowledged health researcher;

(b) a medical doctor

(c) a legal practitioner;

(d) a pharmacist;

(e) a nurse;

f) one representative each of the Christian and Islamic faith;

(g) a community health worker;

(h) a medical laboratory scientist

(i) a health record officer;

(j) a radiographer;

(k) a physiotherapist; and

(l) three other persons, at least one of whom shall be a woman, who, in the opinion of the Commissioner are of unquestionable integrity.

(2) A member of the Ethics Committee shall be appointed for a term of three years in the first instance and may 'be reappointed for another term of three years and no more under such terms and conditions as may be specified in his letter of appointment.

(3) A member of the Ethics Committee shall vacate his office if he resigns or is requested in the public interest by the Commissioner to do so.

(4) If a member of the Ethics Committee vacates his office or dies, the Commissioner may fill the vacancy by appointing a person in accordance with subsection (2) of this section for the unexpired term of office of his predecessor.

(6) The Ethics Committee shall have power to determine the guidelines to be followed for the functioning of institutional health research ethics committees, and, for the avoidance of any doubt, shall:

(a) set norms and standards for conducting research on humans and animals, including clinical trials;

(b) determine the extent of health research to be carried out by public and private health authorities;

(c) receive and adjudicate over complaints about the functioning of health research ethics committees, including complaints by a researcher who believes that he has been discriminated against by any of the health research ethics committees;

(d) register and audit the activities of health research ethics committees;

(e) refer to the relevant statutory health regulatory body, matters involving the violation or potential violation of an ethical or professional role by a health care provider;

(f) recommend to the appropriate regulatory body such disciplinary action as may be prescribed or permissible by law against any person found to be in violation of any norm, standard, or guideline, set for the conduct of research under this Law ; and

(g) advise the Ministry of Health and Commissioner of Health on any ethical issue concerning research on health.

RESEARCH OR EXPERIMENTATION WITH HUMAN SUBJECTS

(7) For the purposes of subsection (6)(a), of this section, "clinical trials" means a systematic study, involving human subjects that aims to answer specific questions about the safety or efficacy of a medicine or method of prevention and treatment.

3. (1) notwithstanding anything to the contrary in any other law, every research or experimentation on a living person shall only be conducted

(a) in the manner prescribed by the relevant authority; and

(b) with the written consent of the person after he shall have been informed of the objects of the research or experimentation and any possible effect on his health.

(2) Where research or experimentation is to be conducted on a minor for a therapeutic purpose, the research or experimentation may only be conducted:

(a) if it is in the best interest of the minor;

(b)) in such manner and on such conditions as may be prescribed by the Health Research Ethics Committee; and

(c) with the informed written consent of the parent or guardian of the minor.

(3) Where research or experimentation is to be conducted on a minor for a non-therapeutic purpose, the research or experimentation may only be conducted:

(a) in such manner and on such conditions as may be prescribed by the Ethics Committee; and

(b) with the informed written consent of the parent or guardian of the minor

ESTABLISHMENT AND FUNCTIONS OF HEALTH RESEARCH ETHICS COMMITTEE

4. (1) Every institution, health agency and health establishment at which health research is conducted, shall establish or have access to a health research ethics committee, which is registered with the Ethics Committee.

(2) A health research ethics committee shall:-

(a) review research proposals and protocols in order to ensure that research conducted by the relevant institution, agency or establishment will promote health, contribute to the prevention of communicable or

non-communicable diseases or disability or result in cures for communicable or non- communicable diseases;

(b) grant approval for research by the relevant institution, agency or establishment in instances where research proposals and protocol meet the ethical standards of that health research ethics committee, and Establishment and functions of health research ethics committees

(c) perform other functions that may be referred to it by the Commissioner.

COORDINATION OF STATE HEALTH MANAGEMENT INFORMATION SYSTEM (SHMIS)

4. (1) The Ministry of Health shall facilitate and co-ordinate the establishment, implementation and maintenance by Local Government Health Authorities and the private health sector of the health information systems at the local government levels in order to create a comprehensive Health Management Information System (BSHMIS).

5. (1) The Commissioner may, for the purpose of creating, maintaining or adapting databases within the national health information system desired in subsection (1) of this section, prescribe categories or kinds of data for submission and collection and the manner and format in which and by whom the data is to be compiled or collated and shall be submitted to the Federal Ministry of Health.

(3) The Commissioner shall publish annual reports of the health of the citizenry and the health system of the State including the local government thereof.

6. The Secretary/Medical officer for Health/Head of Department responsible for Health shall by this establish a committee for the Local government council to maintain, facilitate and implement the health information system under section 35(1) of this Law, at Local Government Area Council levels.

Each Area Council, which provides health services shall establish and maintain a health information system -as part of the health information system as specified under section 35(1) of this Law.

7.(1) All private health care providers shall: -

(a) establish and maintain a health information system as part of the State health information system as specified under section 35(1) of this Law; and

(b) ensure compliance with the provision of sub-section (1)(a) of this section as a condition necessary for the grant or renewal of the Certificate of Standards.

DUTIES OF PRIVATE HEALTH CARE PROVIDERS

(1) all private health care providers shall:

a) establish and maintain the health information system as part of the state health information system as specified under section 35(1) of this Act; and

b) ensure compliance with the provision of subsection(1)(a) of this section as a condition necessary for the grant or renewal of the certificate of standard

2)Any private health-care provider that neglects or fails to comply with the provision of subsection (1) of this section commits an offence and is liable on conviction to imprisonment for a term of six months or a fine of N200,000 or both.

3) nothing in this section precludes state Assembly from making laws with regards to health information system and the local government areas and the private health sector within Bayelsa state.

4) the Ministry of Health shall prescribe guidelines and modalities for the ownership and joint management of public health facilities in collaboration with the private sector, faith based organisations, community based organisations and IOCs.

STATE DRUGS FORMULARY AND ESSENTIAL DRUGS LIST

8. (1) There shall be a compendium of drugs approved for use in health facilities throughout the State- (in this Law referred to as the "Essential Drugs List") which shall be under the periodic review of the Essential Drugs List Review Committee.

(2) Indigenous and local manufacture and production of as many items in the formulary as practicable shall be encouraged.

Part V

HUMAN RESOURCES FOR HEALTH IN BAYELSA

1. Development and provision of human resources in the health system
2. Appropriate distribution of healthcare providers
3. Management of human resources in the health system
4. Institutions and programmes for training of the healthcare workforce
5. Industrial disputes and resolution mechanisms

6. Medical treatment abroad

1. (1) The Council shall develop policy and guidelines for, and monitor the provision, distribution, development, management and utilisation of human resources within the State health system.

(2) The policy and guidelines d in subsection (1) of this section shall amongst other things, facilitate and advance:

(a) the adequate distribution of human resources;

(b) the provision of appropriately trained staff at all levels of the State health system to meet the population's health care needs; and

(c) the effective and efficient utilisation, functioning, management and support of human resources within the health system,

2. The Commissioner, with the concurrence of the Council, shall determine guidelines that will enable the Ministries and Local Governments to implement programmes for the appropriate distribution of health care providers and health workers.

3. The Commissioner shall make regulations with regard to human resources management within the State health system in order to:

(a) ensure that adequate resources are available for the education and training of health care personnel to meet the human resources requirements of the State health system;

(b) ensure the education and training of health care personnel to meet the requirements of the State health system, including the prescription of a re-certification programme through a system of continuing professional development;

(c) identify shortages of key skills, expertise and competence within the health system, and prescribe strategies which are not in conflict with any other existing legislation, for the education and training of health care providers or health workers in the State to make up for any shortfall in respect of any skill; expertise and competence;

(d) prescribe strategies for the recruitment and retention 'of health care personnel within the health system and from anywhere outside the State;

(e) ensure the existence of adequate structures for human resources planning, development and management at state and local government levels of the health system in conjunction with the Council on Health;

(f) ensure the availability of institutional capacity at State and local governments levels of the health system to plan for, develop and manage human resources

(g) Appropriate distribution of health care providers;

(h) Make Regulations relating to management of Human Resources in the Health System;

(i) Plan for manpower development, Industrial dispute and Medical Treatment Abroad; and

(j) ensure the definition and clarification of the roles and functions of the Ministry of Health, and local government health authorities with regard to the planning, production and management of human resources in conjunction with the Council on Health.

4. The Council shall ensure that there is adequate plan for manpower development throughout the State or any part thereof to keep pace with evolving trends of expansion and improvement in health care delivery.

5. (1) Without prejudice to the right of all cadres and all groups of health professionals to demand for better conditions of service, health services shall be classified as Essential Service, and subject to the provisions of the relevant law.

PART VI

CONTROL OF THE USE OF BLOOD, BLOOD PRODUCTS, TISSUE AND GAMETES AND ALTERNATIVE MEDICINES IN HUMANS

6. (1) The Commissioner shall establish the Blood Transfusion Service for the State.

(2) The Commissioner shall make regulations for the establishment and maintenance of the Blood Transfusion Service.

(3) Without prejudice to the provision of sub-section (1) of this section, the Local Governments may set up Blood Transfusion Service as they find it appropriate within their jurisdiction.

8. (1) Subject to the provision of section 53, a person shall not remove tissue, blood or blood product from the body of another living person for any purpose except:

(a) with the informed consent of the person from whom the tissue, blood or blood product is removed granted in the prescribed manner;

(b) that the consent clause may be waived for medical investigations and treatment in emergency cases; and

(c)In accordance with prescribed protocols by the appropriate authority

(2) (a) A person shall not remove tissue which is not replaceable by natural processes from a person younger than 18 years;

(b) A tissue, blood or a blood product shall not be removed from the body of another living person for purpose of merchandise, sale, or commercial purposes.

(3) a person who contravenes or fails to comply with the provisions of this section commits an offence and is liable on conviction in the case of:

(a) tissue, to a fine of N1,000,000 or imprisonment of not less than two years or both; and

(b) blood or blood products, to a fine of N1,000,000 or imprisonment for a term not exceeding one year or both;

9. (1) Subject to the provision of section 52 of this Law, a person shall use tissue removed or blood or a blood product withdrawn from a living person only for such medical or dental purposes as may be prescribed.

(1) A person shall not:

(a) manipulate any genetic material, including genetic material of human gametes, zygotes or embryos; or

(b) engage in any activity including nuclear transfer or embryo splitting for the purpose of the cloning of human being;

(c) import or export human zygotes or embryos.

(2) A person who contravenes or fails to comply with the provision of this section commits an offence and is liable on conviction to imprisonment for a minimum of five years with no option of fine.

(1) A person shall not remove tissue from a living person or carry out the transplantation in another living person of such tissue except:

(a) in a hospital authorised for that purpose; and

(b) on the written authority of;

(i) the medical practitioner in charge of clinical services in that hospital or any other medical practitioner authorised by him or her; or

(ii) in the case where there is no medical practitioner in charge of the clinical services at that hospital, a medical practitioner authorised by the person in charge of the hospital.

(2) The medical practitioner in subsection (1)(b) of this section shall not be the lead participant in a transplant for which he has granted authorisation under that subsection.

(3) For the purpose of transplantation, there shall be an independent tissue transplantation committee within any health establishment that engages in the act and practice of transplantation as prescribed.

2. (1) Only a registered medical practitioner or dentist may remove any tissue from a living person, use tissue so removed for any of the purposes in this Law or transplant tissue so removed into another living person.

(2) Only a registered medical practitioner or dentist, or a person under the supervision or on the instructions of a medical practitioner or dentist, may administer blood or a blood product to, or prescribe blood or a blood product for a living person.

(3) (1) It is an offence for a person:-

(a) who has donated tissue, blood or a blood product to receive any form of financial or other reward for such donation, except for the reimbursement of reasonable costs incurred by him or her to provide such donation; and

(b) to sell or trade in tissue, blood, blood products except for reasonable payments made in appropriate health establishment for the procurement of tissues, blood or blood products.

(2) A person who contravenes subsection (1) of this section commits an offence and is liable on conviction to a fine of N100,000 or imprisonment for a period not exceeding one year or both.

4 (1) Human organs obtained from deceased persons for the purpose of transplantation or treatment, or medical or dental training or research, shall only be used in the prescribed manner.

(2) Human organs obtained under subsection (1) of this section shall be allocated as prescribed.

(3) The State Health Institutions Standards Committee shall prescribe:

(a) criteria for the approval of organ transplant facilities; and

(b) procedural measures to be applied for such approval.

(4) A person who contravenes or fails to comply with any provision of this section or who charges a fee for a human organ commits an offence and is liable

on conviction to imprisonment for a minimum of five years without option of fine.

5. (a) A person who is competent to make a will may:

(i) in the will,

(ii) in a document signed by him and at least two competent witnesses, or

(iii) in a written statement made in the presence of at least two competent witnesses, donate his or her body or any specified tissue thereof to be used after his or her death, or give consent to the post mortem examination of his or her body, for any purpose provided for in this bill.

(b) A person who makes a donation as stated in paragraph (a) of this section may nominate an institution or a person as done.

6. (1) A donation under section 55 of this Bill may only be made for the purposes of:

(a) training of students in health sciences.

(b) health research.

(c) advancement of health sciences.

(d) therapy, including the use of tissue in any living person; or

(e) production of a therapeutic, diagnostic or prophylactic substance.

(2) This Bill does not apply to the preparation of the body of a deceased person for the purposes of embalming it, whether or not such preparation involves the:

(a) making of incisions in the body for the withdrawal of blood and the replacement by a preservative; or

(b) restoration of any disfigurement or mutilation of the body before its burial.

7. A donor may, prior to the removal for transplantation of the relevant organ into the donee, revoke a donation in the same way in which it was made or, in the case of a donation by way of a will or other document, also by the intentional revocation of that will or codicil or document.

8. (1) Subject to subsection (2) of this section, a post mortem examination of the body of a deceased person may be conducted if:

(a) the person, while alive, gave consent thereto;

(b) the spouse, child, parent, guardian, brother or sister of the deceased not below the age of 18 years in the specific order mentioned, gave consent thereto; or

(c) such an examination is necessary for determining the cause of death.

(3) A post mortem examination may not take place unless:

(a) the medical practitioner in charge of clinical services in the hospital or authorised institution or of the mortuary in question, or any other medical practitioner authorised by such practitioner, has authorised the post mortem examination in writing and in the prescribed manner; or

(b) In the case where there is no medical practitioner in charge of clinical services, a medical practitioner authorized by the person in charge of such hospital or authorized institution, has authorized the post mortem examination in writing and in the prescribed manner.

PART VII

REGULATIONS AND MISCELLANEOUS PROVISIONS

(1) The Commissioner may, after consultation with the State Council, establish such number of advisory and technical committees as may be necessary to achieve the objects of this Law.

(2) When establishing an advisory or technical committee, the Commissioner may determine by notice or circular:

(a) its composition, functions and working procedure; and

(b) any incidental matter relating to that advisory or technical committee.

STATE HEALTH CONSULTATIVE FORUM

(1) The Commissioner shall establish the state consultative health Forum.

(2) The state consultative health Forum shall promote and facilitate interaction, communication and the sharing of information on State health issues between representatives of the State Ministry of Health and other significant MDAs, State organisations and Community based organisations identified by the Commissioner.

Assignment of Duties and Delegation of Powers

(1) The Commissioner may assign any duty and delegate any power imposed or conferred upon him by this Bill, except the power to make regulations with regards to any:

(a) person in the employment of the State Government; or

(b) council, board or committee established under this Bill.

(2) In the absence of a Commissioner, the Permanent Secretary of Ministry of Health shall act in the place of a Commissioner.

(3) The Permanent Secretary of the State Ministry of Health may assign any duty and delegate any power imposed or conferred upon him or her under this Law to any official in the State Ministry of Health, Including its Parastatals and Committees, Councils and Boards established under this Law.

(4) In the absence of the Permanent Secretary, the most Senior Director in the Ministry of Health takes the place of the Permanent Secretary.

Savings and transitional provisions.

(1) Anything done before the commencement of this Law under a provision of any other relevant Law or regulation which could have been done under a provision of this Law shall be regarded as having been done under the corresponding provision of this Law.

Interpretation

In this Law:

"*appropriate authority*" means any other authority apart from Commissioner, Executive Secretary, Chairmen of Boards or Agencies;

"*basic minimum package*" means the set of health services as may be prescribed from time to time by the Commissioner after consultation with the State Council on Health;

"*blood product*" means any product derived or produced from blood, including circulating progenitor cells, bone marrow progenitor cells and umbilical cord progenitor cells;

"*certificate*" means the certificate of standards specified under section 13 of this Act:

"*Commissioner*" means the Commissioner responsible for health;

"*communicable disease*" means a disease resulting from an infection due to pathogenic agents or toxins generated by the infection, following the direct or indirect transmission of the agents from the source to the host;

"*Constitution*" means the Constitution of the Federal Republic of Nigeria, 1999 as amended;

Constituency Development Committee: shall comprise of The House of Assembly member representing the Constituency, The Commissioner representing the constituency, the Technical or Special Adviser from the Constituency, all First Class or second Class Traditional Rulers from the constituency, representatives of Faith and Community based Organisations etc. To be assigned roles in the law

" *death*" means brain death;

“Donee” means any one who receives a tissue, blood, or organ

"*embryo*" means a human offspring within the first eight weeks from conception;

"*gamete*" means either of the two generative cells essential for human reproduction;

"*gonad*" means a human testis or human ovary;

"*health agency*" means any person or entity other than a health . establishment:

(a) whose business involves the supply of health care personnel to users or health establishments;

(b) who employs health care personnel for the purpose of providing health services; or

(c) who procures health care personnel or health services for the benefit of a user, and includes a temporary employment service involving health workers or health care providers;

"*health care personnel*" means health care providers and health workers;

"*health care provider*" means a person providing health services under this Law or any other relevant law;

"*health establishment*" means the whole or part of a public or private institution, facility, building or place, whether for profit or not, that is operated or designed to provide inpatient or outpatient treatment, diagnostic or therapeutic interventions, nursing, rehabilitative, palliative, convalescent, preventative or other health service under section 12 of this Law;

"*health research*" includes any research which contributes to knowledge of:

(a) the biological, clinical, psychological or social processes in human beings;

(b) improved methods for the provision of health services;

(c) human pathology;

(d) the causes of disease;

(e) the effects of the environment on the human body;

(f) the development or new application of pharmaceuticals, medicines and related substances; and

(g) the development of new applications of health

technology;

"*Health Research Ethics Committee*" means committee established under section 34 of this Law;

"*health services*" means health care services that are preventive, protective, promotive, curative and rehabilitative in respect of physical mental and social well being;

"*health technology*" means machinery or equipment that is used in the provision of health services, but does not include medicine as defined in the Drugs and Related Products Registration etc Act. No. 19 of 1993;
"*health worker*" means any person who is involved in the provision of health services to a user, but does not include a health care provider;

"*hospital*" means a health establishment which is classified as a hospital by the Commissioner under section 12 of this Law;

"*State Council on Health*" means the Council established by section 4 of this Law;

"*State Health Research Committee*" means the Committee established under section 31;

"*State Health Research Ethics Committee*" means the Committee established under section 33 of this Law;

"*non-communicable disease*" means a disease or health condition that cannot be contracted from another person, an animal or directly from the environment;

"*norm*" means a statistical normative rate of provision or measurable target outcome over a specified period of time;

"*SPHCDA*" means the State Primary Health Care Development Agency;

"*oocyte*" means a developing human egg cell;

"*organ*" means any part of the human body adapted by its structure to perform any particular vital function, including the eye and its accessories, but does not include skin and appendages, flesh, bone, bone marrow, body fluid, blood or a gamete;

"*Permanent Secretary*" means the administrative head of the State Ministry of Health;

"*premises*" means any building, structure or tent together with the land on which it is situated and the adjoining land used in connection with it

and includes any land without any building, structure or tent and any vehicle, conveyance or ship;

"*prescribed*" means prescribed by regulation made under section 59 of this Law;

"*private health establishment*" means a health establishment that is not owned or controlled by an organ of state;

"*public health establishment*" means a health establishment that is owned or controlled by a government body;

"*rehabilitation*" means a goal-orientated and time-limited process aimed at enabling impaired persons to reach an optimum mental, physical or social functional level;

"*reproductive cloning of a human being*" means the manipulation of genetic material in order to achieve the cloning of a human being and includes nuclear transfer or embryo splitting for such purpose;

"*Statutory Health Professional Council*" means a professional regulatory body established by any Act or Law,

"*Technical Committee*" means the Technical Committee of the State Council on Health established under section 6 of this Law;

'*therapeutic cloning*" means the manipulation of genetic material from adult, zygotic or embryonic cells in order to alter, for therapeutic purposes, the function of cells or tissues;

"*this Law*" includes any regulation made thereunder;

"*tissue*" means human tissue, and includes flesh, bone, a gland, an organ, skin, bone marrow or body fluid, but excludes blood or a gamete; "*use*", in relation to tissue, includes preserve or dissect;

"*user*" means the person receiving treatment in a health establishment, including receiving blood or blood products, or using a health service, and if the person receiving treatment or using a health service is:

(a). below the majority age,

"*user*" includes the person's parent or guardian or another person authorised by law to act on the first mentioned person's behalf; or incapable of taking decisions,

"*user*" includes the person's spouse or;

(b). in the absence of such spouse, the person's parent, grandparent, adult child, brother, sister, or another;

(c) person authorised by law to act on the first mentioned person's behalf; and

"*zygote*" means the product of the union of a male and a female gamete.

Citation

This Law may be cited as the Bayelsa State Health Law, 2021.