

# Bahrain's New Private Health Institutions Law: Raising the Standards of Medical Services in the Kingdom

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Law No. 23 of 1986 relating to Private Hospitals (the "Private Hospitals Law") has been repealed and replaced by the recently issued Legislative Decree No. 21 of 2015 relating to Private Health Institutions (the "New Law").

The changes introduced by New Law will cover licensing categorisations and requirements, operational standards and malpractice insurance requirements. The full effect of the New Law on the private healthcare sector is to be clarified upon the National Health Regulatory Authority ("NHRA") issuing the required board resolutions detailing the requirements, procedures, and obligations of private health institutions' licensing and operations. However, this article aims to highlight some of the main changes introduced by the New Law.

## **Wider Scope of Application**

By introducing a change in the terminology, the New Law now relates to "private health institutions" as opposed to "private hospitals" only. The definition of "private health institutions" encompasses hospitals, specialised hospitals, medical centres and complexes, clinics, and alternative medical centres. As a result, the New Law has now captured all types of private healthcare practices, thereby widening the scope of its application and regulating a wider segment of the private healthcare industry.

## **Classification and Licensing of Private Health Institutions**

The New Law provides that the categorisation of private health institutions and the licensing requirement and procedures of each category shall be determined by resolution of the NHRA's board of directors. The New Law also introduces the concept of a "restricted licence" which would limit the scope of practice of the particular private health care institution when providing health care services.

Unlike the previous licensing requirements and categorisations which were detailed in the Private Hospitals Law, the New Law has entrusted the NHRA with the task of detailing said categorisation and requirements from time to time. This provides the NHRA with the required flexibility to amend and add categorisations as it deems necessary to keep up with the pace of development in the healthcare sector and the evolution of medical services.

## **Responsibility of Private Health Clinics Licence Holder**

The New Law dictates that a private health clinic licence holder shall be the manager in charge of the technical and administrative functions of the clinic. Moreover, the NHRA board of directors shall issue the necessary decisions determining the procedures and regulations to be abided by in the event that the licensee is substituted or is unable to perform his duties. As such, the New Law aims to ensure that, whilst responsibility for the private health clinic will at all times be vested in the licence holder, measures will be put in place in the event of his absence in order to guarantee that

the level of medical services provided is not compromised.

## **Operational Aspects**

### **Premises Requirements**

Article (12) of the New Law requires that any private health institution establishment or site should be easily accessible and fully equipped with health and safety services. The specifics regarding the premises requirements will be further detailed in the NHRA board of directors' resolution yet to be issued. Further, any modifications or extensions made to the private health institution's premises shall be subject to the NHRA's approval.

### **Malpractice and Professional Liability Insurance**

According to Article (16) of the New Law, the NHRA shall specify the malpractice insurance requirements to be fulfilled by a private health institution to insure against professional errors, or errors made by any of the medical, technical, or nursing staff in the institution.

### **Advertising Standard**

Whilst the advertising standard introduced is quite generic, Article (18) of the New Law prohibits private health institutions from advertising in a manner conflicting with the New Law or which is contrary to the morals and customs of the medical profession and medical services provided.

### **Supervision of Private Health Institutions**

The most prominent changes introduced by the New Law relate to the wider supervision and establishment powers afforded to the NHRA as well as increased accountability of private health institutions and professionals. Given the competitive landscape of the private healthcare sector in Bahrain and the importance of reputation within the sector, the tight controls described below are expected to significantly increase the quality of the medical services delivered in Bahrain.

### **NHRA Quality Assessment and Control**

Article (19) of the New Law entrusts the NHRA with the duty to monitor the quality of medical services provided by private health institutions. Generally, the NHRA shall review and assess the quality of the medical services provided by the private health institution in accordance with the quality standards and key performance indicators issued by the NHRA board of directors' decisions from time to time. These standards are usually in line with the international medical standards.

The NHRA shall perform a general and thorough review and assess the performance and quality of the medical services provided by private health institution in accordance with the action plan set by the NHRA board of directors. The NHRA shall report the results to the private health institution who is subject of the review and provide it with its recommendations. Further, the reports shall be approved by the Council of Ministers, which may order the publication of the reports to ensure that they are readily available to the public.

### **Inspection and Judicial Officer**

Article (20) of the New Law widens the inspection powers of the inspectors authorized by the NHRA's CEO to inspect and monitor private health institutions' compliance with the applicable laws and regulations. Powers of those judicial officers now include the power to review files, medical records, documents, charts and all other required information available at the private health institution and may obtain any copy of the relevant information. The inspectors also have the power to hear any testimonies made by employees subject to any administrative investigation. NHRA

officials who are appointed as judicial officers by the Minister of Justice shall exercise such role in relation to criminal acts specified in the New Law.

### **Establishment of the Accountability Committee**

In a step to tighten controls on the healthcare practice and ensure compliance with professional standards, the New Law further provides for the establishment of the “Accountability Committee”. According to Article (22), this committee is entrusted with monitoring private health institutions and imposing the necessary sanctions required in relation to any breach of the New Law. The Accountability Committee is intended to be an independent and impartial committee separate from the licensing committee. To be formed by a ministerial decision, the Accountability Committee is to comprise of three members: a judge from the High Civil Court of Appeal assigned by the Supreme Judicial Council to chair the committee, a member representing the NHRA and a member representing the Bahrain Medical Society.

Furthermore, if the private health institution violates any of its licence conditions, the Accountability Committee is empowered to suspend or withdraw the private healthcare institution’s licence, impose a daily fine (not exceeding 1,000 BHD for first time offences and BHD 2,000 from repeated offence with a given three year period) to induce compliance and/or impose a fine not exceeding BHD 20,000.

### **Emergency Measures**

The New Law empowers the Accountability Committee – upon request from the NHRA’s CEO – to take emergency enforcement measures to ensure the safety and security of patients. Those emergency measures may include a decision to suspend the services provided by the private health institution for a period not more than three months.

### **Penalties**

The New Law provides for new and more stringent penalties which include imprisonments and heavy fines. For example, any illegal act undertaken by the applicant in the process of obtaining a licence shall be punishable, under Article (25) of the New Law, by imprisonment for a period not exceeding one year and a fine not less than BHD 1,000 and not exceeding BHD 20,000. Further, and without prejudice to the criminal liability of natural persons, the New Law provides that any corporate entity in whose name any of the criminal acts detailed in this law are committed shall be subject to twice the amount of fines decided.

### **Leniency Measures for First Time Offenders**

The New Law introduces a new measure to settle violations without the need to impose the above mentioned penalties. According to Article (27) of the New Law, a first time offender may pay the minimum fine determined by the New Law for the violation committed without recourse to imprisonment, provided that the fine is paid within seven days from the day that he has been presented with the fine. In the event that such payment is made within the prescribed time limit, the criminal penalties will not be imposed. As such, first time offenders are able to avoid criminal liability and its effects.