

**Federal Decree-Law No. (4) of 2016**  
**Concerning Medical Liability**

**We, Khalifa bin Zayed Al Nahyan,      The President of the United Arab Emirates;**

**Having reviewed the Constitution;**

- Federal Law No. (1) of 1972 concerning the Competences of Ministries and the Powers of Ministers and the laws amending thereof;
- Federal Law No. (7) of 1975 concerning the Practice Of Human Medicine Profession, as amended;
- Federal Law No. (8) of 1980 Regulating Labour Relations, as amended;
- Federal Law No. (28) of 1981 regarding the Detention and Treatment of Mentally-ill Patients;
- Federal Law No. (4) of 1983 concerning the Profession of Pharmacy and Pharmaceutical Establishments;
- Federal Law No. (5) of 1985 Promulgating the Civil Code, as amended;
- Federal Law No. (3) of 1987 promulgating the Penal Code, as amended;
- Federal Law No. (10) of 1992 promulgating the Law of Proof in the Civil and Commercial Transactions, as amended;
- Federal Law No. (35) of 1992 promulgating the Criminal Procedure Law, as amended;
- Federal Law No. (15) of 1993 Regulating the Transfer and Transplant of Human Organs;
- Federal Law No. (20) of 1995 regarding Medicines and Products Derived from Natural

Sources;

- Federal Law No. (28) of 2005 regarding Personal Status;
- Federal Law No. (6) of 2007 concerning the Establishment of the Insurance Authority and the Regulation of the Insurance Operations, as amended;
- Federal Law No. (10) of 2008 concerning the Medical Liability;
- Federal Law No. (11) of 2008 on Licensing Fertility Centers in the UAE;
- Federal Decree-Law No. (11) of 2008 concerning the Human Resources in the Federal Government, as amended;
- Federal Law No. (7) of 2012 Regulating Expertise Profession before Judicial Authorities;
- Federal Law No. (14) of 2014 on the Control of Communicable Disease;
- Federal Law No. (2) of 2015 concerning the Commercial Companies Law;
- Federal Law No. (4) of 2015 on the Private Health Facilities; and

Based on the suggestions made by the Minister of Health and Prevention and approved by the Cabinet,

**Have issued the following Decree-Law:**

**Chapter I**  
**General Provisions**  
**Article (1)**

For the implementation of the provisions of this Decree-Law, and unless otherwise required by the context, the following words and expressions shall have the meanings assigned thereto:

- The State** : The United Arab Emirates.
- The Ministry** : The Ministry of Health and Prevention.
- The Minister** : The Minister of Health and Prevention.
- Health Authority** : The Ministry or any federal or local government authority concerned with the health affairs in the State.
- Profession** : Any of the medical professions or related professions set by a Ministerial Resolution.
- Practitioner of the Profession** : A practitioner of any of the medical professions or related professions set by a Ministerial Resolution.
- Sex change** : The change of a sex of a person whose sexual orientation is clear whether as a male or a female, whose physical sexual aspects are identical to his physiological, biological and genetic characteristics and there is no suspicion in his / her sexual identity as a male or a female. This definition shall also include the sex reassignment surgery against the sexual identity indicated by the medical analyses.
- Sex reassignment** : Medical intervention for the purpose of reassigning the sex of a person whose sexual orientation is ambiguous; there is a suspicion of whether he / she is a male or a female. For example, if such person has physical sexual aspects different from

the physiological, biological and genetic characteristics and his appearance indicate that he is a male while he is in a fact a female and vice versa.

**Cloning** : Means the creation of a human being by the transfer of a nucleus from a human body cell to an enucleated ovum. The resulting cells reproduce forming a fetus which is a genetic copy almost identical to the owner of the body cell.

### **Article (2)**

The provisions of this Law shall apply to any person who practices the profession in the State.

### **Article (3)**

Any person who practices the profession in the State must perform the duties of his job with the level of accuracy and honesty as required by the profession, in accordance with the recognized scientific and technical standards and in a way that guarantees the due care of the patient without exploiting the patient's need to achieve illegal interest whether for himself or for any other party and without discrimination between the patients and must comply with the statutes applicable in the State.

### **Article (4)**

Without prejudice to the obligations prescribed in the applicable statutes, a physician shall, in particular:

1. Follow the rules, systems and procedures related to the practice of the profession

depending on his grade and field of specialization:

2. Register the patient's health condition and personal and family medical history before starting the diagnosis and treatment.
3. Use the available diagnosis and treatment methods necessary for the medical condition.
4. Use the necessary medical tools and devices required for the diagnosis and treatment of the patient with due care and attention and in accordance with the recognized scientific standards.
5. Keep the patient aware of the available treatment options.
6. Prescribe the medicine, its dose and usage in writing and clearly indicating his name, signature and date of the medical prescription and to notify the patient or his familiars, as appropriate, of the importance of the treatment method he prescribes.
7. Keep the patient informed of the nature of the medical condition and its level of seriousness unless otherwise required for his interest or unless his psychological condition does not allow. The patient's family, relatives or accompanying persons must be notified in the following two cases:
  - a) If the patient lacks legal capacity.
  - b) If his medical condition does not allow that he is personally informed and he did not specify a person to be informed.
8. Keep the patient or his familiars informed of the complications that may result from the diagnosis, medical treatment or surgical intervention before initiating the intervention and to identify and treat such complications if possible.

9. Cooperate with other physicians related to the patient's treatment and disclose the information available on the patient's medical condition and the method adopted in the treatment whenever so requested and to consult a specialized colleague if the condition so requires.

10. Cooperate with the profession practitioners who are related to the patient's medical condition.

11. Report any suspicion in the affection of any person by any of the communicable diseases in accordance with the procedures prescribed in the statutes regulating the control of communicable diseases.

### **Article (5)**

A physician shall not:

1. Treat a patient without his consent except in the cases requiring emergent medical intervention and where it is not possible to obtain the patient's consent for any reason or where the patient's disease is infectious or threatens the public safety or health. The consent of the patient lacking legal capacity shall be accepted for the examination, diagnosis and providing the first dose of treatment provided that any of the patient's relatives or accompanying persons should be informed of the treatment plan.

2. Abstain from treating the patient in emergent cases or interrupting his treatment in all the cases unless the patient violates the instructions of the doctor or if such abstention or interruption is due to reasons beyond the physician's control subject to the provisions of Articles (9) and (10) of this Decree-Law.

3. Abstain from the treatment of a patient or providing first aid to an injured person unless the case does not fall within the physician's specialization. In such case, the physician must provide the necessary first aid then refer the patient to the specialized physician or to the nearest health care facility if the patient so desires.

4. Use unauthorized or illegal methods in the treatment of the medical condition of the patient.

5. Prescribe any treatment before carrying out the clinical examination of the patient. The health authorities may set a system for providing distance health services subject to the terms and conditions set by the Executive Regulations of this Decree-Law.

6. Disclose the patient's secrets to which the physician has access while practicing the profession or as a result thereof whether the patient has disclosed or entrusted such secret to the physician or the physician had access thereto by his own. Such prohibition shall not apply in any of the following cases:

a) If the disclosure of the secret is upon the request of the patient or the accompanying person.

b) If the disclosure of the secret is for the interest of the husband/wife and it is disclosed personally to either of them.

c) If the purpose of disclosure of the secret is the prevention of any crime or reporting thereof. In such case, the disclosure shall be made only to the official competent authorities.

d) If the physician is appointed by a judicial authority or an official investigation authority of the State as an expert and if either authority calls the physician as a witness in

an investigation or criminal action.

e) If the physician is assigned to carry out the examination by an insurance company or by the employer and within the limits of the assignment purpose.

f) If the disclosure is made upon the request of the health authority and the purpose of which is the protection of public health subject to the terms and conditions set by the Executive Regulations of this Decree-Law.

g) If the purpose of the disclosure is for the self defence of the physician before the investigation authority or any judicial authority and as required for such defence.

7. Clinically examine a patient from the other sex without the attendance of a third party and without the prior consent of the patient unless otherwise required.

8. Accommodate the patients in places other than those assigned for such purpose and except in the emergency cases.

9. Conduct sex change surgeries.

10. Carry out unnecessary medical procedures or surgeries for the patient without his informed consent.

## **Article (6)**

A medical error is a error committed by the practitioner of the profession for any of the following reasons:

1. His ignorance of the technical issues that every practitioner of the profession of the same degree and specialization is supposed to be aware of.



2. Failure to follow the recognized professional and medical standards.
3. Failure to act with necessary due diligence
4. Negligence and failure to act carefully and with precaution.

The Executive Regulations of this Decree-Law shall set the standards of gross medical errors.

### **Article (7)**

The sex reassignment surgeries may be conducted subject to the following conditions:

1. The person's sexual orientation shall be ambiguous and there is a suspicion of whether he / she is a male or a female.
2. His / her sexual aspects are different from the physiological, biological and genetic characteristics.
3. The provisions of the two paragraphs (1 and 2) of this Article shall be confirmed by medical reports and by the approval of a specialized medical committee formed by the health authority for the purposes of identifying the patient's sex and approving the reassignment surgery. Such committee must refer the issue to the psychologist to carry out the necessary mental adaptation.

### **Article (8)**

Save as in the emergent cases requiring necessary and immediate surgical intervention to save the life of the patient or the fetus and to avoid dangerous complications, the surgical procedures may not be carried out unless subject to the following:

- a. The physician carrying out the surgery must be qualified to conduct it in terms of his scientific specialization, practical experience and the surgery accuracy and importance.
- b. The necessary examinations and laboratory tests must be conducted to verify that the surgical intervention is necessary and suitable for the patient's treatment and to verify that the patient's medical condition allows the surgical procedure.
- c. The patient's written consent must be obtained if the patient is fully competent or from the spouse or any relative to the fourth degree if the patient lacks competency or if his consent could not be obtained for carrying out the surgical procedure or any other necessary surgery and after keeping the patient aware of the potential effects and medical complications resulting from the surgery. Whoever reaches the age of eighteen shall be competent to issue the consent unless he lacks legal capacity.
- d. In case it is not possible to obtain the consent of the patient, his spouse or relatives to the fourth degree, a report from the treating doctor and another doctor from the same health facility and its director shall be obtained to confirm the patient's need for surgical procedure unless the patient is fully competent and if any of such consent could not be obtained.
- e. The surgery must be carried out in a health facility sufficiently prepared for the intended surgery.

2. For the implementation of the provisions of this Article, and in accordance with such cases, the cases of treatment of special nature prescribed in the Executive Regulations of this Decree-Law shall be treated as surgical operations.

## **Article (9)**

Without prejudice to the provisions prescribed for the combating communicable diseases, the following shall be observed:

1. A patient may not be released from the health facility except in any of the following cases:

a) If his medical condition so allows according to the generally accepted medical standards.

b) Transportation of the patient to another facility to complete his treatment provided the sound and healthy transportation facilities are available and provided that the patient is not affected during the transportation process.

c) Upon the patient's request if he is fully competent and despite keeping him aware of the consequences of leaving the health facility without medical advice. A written acknowledgment must be taken from the patient that he assumes the responsibility.

d) A written approval from one of the health facility doctors if the patient is incompetent or lacks legal capacity and with the acknowledgment from his guardian or custodian who assumes the responsibility of transporting the patient to another health facility.

2. No person may unjustifiably stay in the health facility without his consent.

## **Article (10)**

1. The life of the patient shall not be terminated for any reason even if at his own request or at the request of his guardian or custodian.

2. The resuscitation apparatus shall not be lifted from the patient unless the heart and respiration completely stop or all the cerebral functions completely stop according to the accurate medical standard set by a Ministerial Resolution and the doctors decide that such stoppage is final.

### **Article (11)**

Natural death may be allowed by not providing cardiopulmonary resuscitation to a dying patient when the following conditions are met:

1. If the patient suffers from an irremediable medical condition.
2. If all the treatment methods have been tried.
3. If the treatment is proved to be useless in such medical condition.
4. If the treating doctor advises not to provide cardiopulmonary resuscitation to the patient.
5. At least three consulting doctors should decide that the patient's interest requires that the natural death is allowed and that the cardiopulmonary resuscitation is not provided. In this case, the consent of the patient, his guardian or custodian is not required.
6. Resuscitation may not be denied if the patient so request expressly even if the resuscitation is useless for the treatment.

### **Article (12)**

1. Human cloning operations may not be carried out. In addition, researches, experiments and applications intended for the cloning of human beings are prohibited.

2. No medical researches or experiments may be conducted on humans except after their consent and after obtaining written permission from such authority as decided by the Executive Regulations and subject to the conditions prescribed by such Regulations.

### **Article (13)**

No artificial organs may be fixed to the person's body unless after verifying their suitability and that they do not cause damage to such person and after adaptation of the body to accept such organs.

### **Article (14)**

Assisted reproductive technologies may not be used in a woman nor a fetus transplanted in her womb except from the same couple and subject to their written consent and provided that this shall only be allowed during legal marriage.

### **Article (15)**

No procedure or intervention may be carried out for the purpose of birth control unless upon the request of both husband and wife or with their consent. In addition, no procedure or intervention may be carried out for the woman for the purpose of pregnancy interruption unless based on the opinion of a specialized medical committee consisting of at least three doctors that the pregnancy or birth may endanger the mother's life and subject to the wife's written consent and notification of the husband.

## Article (16)

A doctor may neither conduct any abortion operation nor prescribe anything that may cause the abortion of a pregnant woman unless in the following two cases:

1. If the continuity of the pregnancy endangers the pregnant woman's life subject to the following conditions:

a) There should not be any methods to save the pregnant woman's life other than the abortion.

b) The abortion must be carried out by an obstetrician/gynecologist and must be approved by the doctor treating the medical condition justifying the abortion.

c) A report shall be issued by the competent doctors with the impossibility of the natural delivery and indicating the reason justifying the abortion. Such report shall be signed by the pregnant wife and her husband or custodian in case her consent to carry out the abortion operation could not be obtained. Each concerned party shall keep a copy of the report and their consent shall not be a condition in the emergent cases requiring immediate surgical intervention.

2. If the fetus deformation is proved subject to the following conditions:

a) The abortion must be carried out upon the written consent of the husband and wife.

b) One hundred and twenty days have not passed from the beginning of the pregnancy.

c) The deformation must be confirmed by a report of a medical committee consisting

of obstetricians, gynecologists, pediatric consultants, and radiologists.

d) The committee report must be based on medical examinations and using the internationally recognized technologies.

e) The fetus must be seriously and incurably deformed so that if the child is born alive, his life would be bad and causing pains to him and his family.

### **Article (17)**

The medical liability shall not be established in any of the following cases:

1. If the damage is not a result of any of the reasons set forth in Article (6) of this Decree-Law and its Executive Regulations.
2. If the damage happens as a result of an act committed by the patient himself or due to his refusal to undergo the treatment or to follow the medical instructions issued by the treating doctors or as a result of an external reason.
3. If the doctor follows certain medical method in the treatment that is different from the methods followed by the other doctors of the same specialization as far as the followed treatment method conforms to the generally accepted medical standards.
4. If the medical recognized or unexpected effects and complications occur in the field of medical practice and do not result from medical error.

**Chapter II**  
**Medical Liability Committees and the Supreme Committee of Medical Liability**  
**Article (18)**

Upon a resolution to be issued by the Minister or the health authority, as appropriate, a committee of experienced doctors specialized in all the medical fields shall be created and titled "Medical Liability Committee". The Executive Regulations shall set the way such committee is formed and the rules and procedures of its work.

Such committees shall be exclusively in charge of settling the complaints referred thereto by the health authority, the Public Prosecution or by the Court and shall decide whether or not a medical error has been committed and seriousness of such error. In case of several liabilities, the Committee shall decide the percentage of every person who contributed in such error indicating its reasons, resulting damages, the relation between the error and the damage and the percentage of disability in the affected organ, if any. The Committee may seek the assistance of the experts and of whomever it deems fit to perform its duties.

This Committee shall be subject to the provisions of Federal Law No. (7) of 2012 referred to above as far as they do not conflict with the provisions of this Decree-Law.

The indemnification claims filed as a result of the medical liability shall not be accepted unless after their referral to the Medical Liability Committees under the provisions of this Decree-Law,



## **Article (19)**

All the complaints in the occurrences related to medical error shall be presented or referred to the health authority subject to the rules prescribed in the Executive Regulations.

The health authority shall refer the complaints to the Medical Liability Committee referred to in this Decree-Law. The Medical Liability Committee must issue a justified report with its opinion in every case presented thereto based on the facts proved by the examination and after reviewing the medical file as well as the other facts and information available to the Committee as a result of its investigations, discussions and technical study of the case and shall issue a report to the health authority within thirty days from the referral date. Such period may be extended to a similar period(s) subject to the approval of the health authority upon the Committee request.

## **Article (20)**

The complainant and the profession practitioner against whom the complaint is filed, as appropriate, may challenge the report of the Medical Liability Committee through a grievance to be submitted to the competent health authority within thirty days from the date they are legally notified of the report conclusions as set forth in the Executive Regulations.

The competent health authority shall refer the report and all the related papers and documents attached to the grievance to the Supreme Committee of Medical Liability referred to in Article (21) of this Decree-Law.

The Committee report shall be final if no grievance is submitted within the period specified

in first paragraph of the present Article. In such case, the challenge against the medical report issued by the Committee shall not be accepted before any authority.

### **Article (21)**

Upon a Cabinet Resolution, a permanent technical committee titled (Supreme Committee of Medical Liability) shall be formed upon a proposal by the Minister of Health and Prevention after coordination with the other health authorities. Such Resolution shall set the way of formation of such Committee, the rules and procedures of its work, term of membership and remuneration of its members.

Such Committee shall be exclusively in charge of settling the grievances against the reports of the Medical Liability Committees referred to herein, and shall issue a justified report of its opinion in every grievance subject to the rules and procedures set by the Cabinet Resolution referred to above.

The Supreme Committee may support the report and dismiss, amend or cancel the grievance, and its decision shall be final. No challenge may be accepted against the medical reports issued by such Committee before any authority.

## **Chapter III**

### **Investigation with the Profession Practitioners**

#### **Article (22)**

The Undersecretary of the Director in charge of the other health authorities, as appropriate, shall be notified of any investigation conducted with the profession practitioners reporting to any of them and in the occurrences related to their work regardless of the authority

conducting the investigation subject to the conditions set by the Executive Regulations.

### **Article (23)**

The health authority may temporarily suspend the license until the Medical Liability Committee deposits its report in the occurrences related to the medical error. It may take the same action when investigating any other violation against the provisions of this Decree-Law. Such suspension shall be for a period of not more than thirty days renewable to similar periods.

### **Article (24)**

The interested parties may file complaints before the Public Prosecution in the occurrences related to medical error. The Public Prosecution shall refer such complaints directly to the competent health authority to take the necessary actions as set in this Decree-Law.

In all cases, no investigation may be conducted with the profession practitioners nor may they be arrested or imprisoned on temporary basis as a result of a complaint against them unless after receiving the final medical report from the health authority confirming the gross medical error subject of the complaint.

## **Chapter IV**

### **Insurance against Civil Liability for Medical Errors**

### **Article (25)**

The profession may not be practiced in the State without an insurance against civil liability for medical errors at an insurer licensed in the State.

The health authority receiving a visiting doctor shall assume the responsibility of indemnification against his medical error towards the affected party without prejudice to its right to claim indemnification from the person who commits the error.

The Executive Regulations of this Decree-Law shall set the necessary regulations for the implementation of the provisions of this Article.

### **Article (26)**

The facility owner shall provide insurance for the profession practitioners working for him against civil liability for medical errors and shall get them insured against the risks resulting from the practice of the profession or by reason thereof. The facility owner shall be responsible for the payment of all the premiums in both cases.

### **Article (27)**

The insurance companies shall subrogate the health facilities and the insured persons in their rights and obligations.

## **Chapter V**

### **Penalties**

### **Article (28)**

1. Whoever violates any of the provisions of Articles (12/1) and 14) of this Decree-Law shall be punished with imprisonment for a period of not less than two years and not more than five years and / or a fine of not less than AED (200,000) two hundred thousand and not more than (500,000) five hundred thousand.

2. Whoever violates any of the provisions of Articles (12/2) and (15) of this Decree-Law shall be punished with imprisonment for a period of not less than six months and / or a fine of not less than AED (100,000) one hundred thousand and not more than AED (200,000) two hundred thousand.

### **Article (29)**

Whoever violates the provision of Article (13) of this Decree-Law shall be punished with imprisonment for a period of not more than three months and / or a fine of not less than AED (50,000) fifty thousand and not more than (100,000) one hundred thousand.

### **Article (30)**

Without prejudice to the principles of the Islamic Sharia, whoever violates the provision of Article (10) of this Decree-Law shall be punished with imprisonment for a period of not less than ten years.

### **Article (31)**

Whoever violates the provision of Article (5/9) of this Decree-Law shall be punished with imprisonment for a period of not less than three years and not more than ten years.

### **Article (32)**

Whoever violates the provision of Article (5/2) and (5/10) of this Decree-Law shall be punished with a fine of not less than AED (10,000) ten thousand unless the violation affect the safety of the patient's body.

### **Article (33)**

Subject to the provisions of Article (16) of this Decree-Law, any physician who intentionally conducts abortion for a pregnant woman by giving her medicine, using methods leading to abortion or by guiding her for abortion whether with her consent or otherwise shall be punished with imprisonment for a period of not more than four years. If the abortion leads to death of the victim, he shall be punished with imprisonment for a period of not less than five years and not more than ten years.

### **Article (34)**

Whoever proved to have committed a gross medical error as set forth herein shall be punished with imprisonment for a period of not more than one year and / a the fine of not more than AED two hundred thousand.

The penalty shall be the imprisonment for not more than two years and / or a fine of not more than AED five hundred thousand if the gross medical error results in the death of any person.

The penalty shall be the imprisonment for not more than two years and a fine of not more than AED one million if the crime referred to the first paragraph of this Article under the influence of alcohol or drugs.

### **Article (35)**

The victim, her attorney, his heirs or their attorney may request the reconciliation with the accused person before the health authority in the crimes penalized under Article (34) hereof.

The health authority shall refer the reconciliation request to the Public Prosecution. In addition, reconciliation may be requested before the Public Prosecution. In all cases, the complaint shall be held based on such reconciliation.

The reconciliation may be applied for regardless of the status of the action and after the judgment becomes final.

The reconciliation shall result in the forfeiture of the criminal action, and the Public Prosecution shall order with the suspension of execution of the penalty if the reconciliation is reached during the execution of the penalty.

In all cases, the reconciliation shall not affect the victim's right to resort to civil courts to claim indemnification.

The reconciliation shall not be valid if the same acts set forth in Article (34) hereof are repeated.

### **Article (36)**

The penalties set forth in any other law shall not apply to the acts penalized under the provisions hereof.

### **Article (37)**

The profession practitioners shall have the same liabilities as the physician to the extent possible.

The Executive Regulations shall set the disciplinary system for those practicing professions related to the medical professions.

### **Article (38)**

The disciplinary penalties set under the applicable statutes shall apply to the violations for which no penalty is set under this Decree-Law. The penal liability shall not affect the disciplinary liability of the breaching profession practitioner according to this Decree-Law.

### **Article (39)**

The private health facilities shall be subject to the provisions set forth in the applicable statutes which apply to the private health facilities in the field of disciplinary actions and penalties related thereto in respect of the violations committed by such facilities against this Decree-Law and its Executive Regulations which require disciplinary actions.

## **Chapter VI**

### **Closing Provisions**

### **Article (40)**

The officers set by a resolution from the Minister of Justice in consultation with the Minister or the health authorities shall have the capacity of judicial officers in the detection of violations against the provisions of this Decree-Law or the resolutions issued in implementation thereof.

### **Article (41)**

The Cabinet shall issue the Executive Regulations of this Decree-Law within six months from the date of its publishing.



### **Article (42)**

Federal Law No. (10) of 2008 concerning Medical Liability shall be repealed while the Cabinet Resolution No. (33) of 2009 regarding the Executive Regulations of Federal Law No. (10) of 2008 concerning the Medical Liability and the resolutions issued by virtue of said Law shall remain in force until the Executive Regulations of this Decree-Law are issued and without prejudice to the provisions hereof.

### **Article (43)**

Any provision which contradicts or violates the provisions of this Decree-Law shall be repealed.

### **Article (44)**

The Supreme Committee of Medical Liability referred to in above mentioned Federal Law No. (10) of 2008 shall continue to settle the files referred thereto till the date of forming the Medical Liability Committee.

### **Article (45)**

This Decree-Law shall be published in the Official Gazette and shall come into force from the publishing date.

**Khalifa bin Zayed Al Nahyan**

**President of the United Arab Emirates**

**Issued in the Presidential Palace, Abu Dhabi**

On 28 Shawwal 1437 AH

Corresponding to 2 August 2016 AD