

Federal Law No. (10) of 2008
In respect of
Medical Liability

We, Khalifa Bin Zayed Al Nahyan, President of the United Arab Emirates,

After perusal of the Constitution;

Federal Law No. (1) of 1972 regarding ministries competencies, ministers' powers and laws amending thereto;

Federal Law No. (8) of 1974 in respect of regulating expertise before courts;

Federal Law No. (7) of 1975 regarding the practice of Human medicine and Laws amending thereto;

Federal law No. (8) of 1980 regulating the labor relationship and the laws amending thereto;

Federal law No. (27) of 1981 regarding prevention of communicable diseases;

Federal law No. (28) of 1981 regarding the detention and treatment of the mentally ill patients;

Federal Law No. (4) of 1983 regarding pharmacology profession and chemistry establishments;

Federal Law No. (5) of 1984 regarding the practice of some medical professions by pharmacists and non-physicians;

Federal Law No. (8) of 1984 regarding commercial companies and the laws amending thereto;

Civil Transactions Law promulgated by Federal Law No (5) of 1985 and the laws amending thereto;

Criminal Law promulgated by Federal Law No. (3) of 1987 and the laws amending thereto;

Law of Evidence in Civil and Commercial Transactions promulgated by Federal Law No. (10) of 1992 the laws amending thereto;

Criminal Procedure Law promulgated by Federal Law No. (35) of 1992 and the laws amending thereto;

Federal Law No. (15) of 1993 regulating the human organs transfer and transplant;

Federal Law No. (20) of 1995 regarding medicines and products derived from natural sources;

Federal Law No. (2) of 1996 regarding private health facilities;

Federal Law No. (21) of 2001 regarding civil service in the Federal Government and the laws amending thereto;

Federal Law No. (6) of 2007 regarding establishing the Insurance Authority and regulating its functions; and

According to the proposal of the Minister of Health, approval of the Cabinet, the Federal National Council and the certification of the Federal Supreme Council;

Have issued the following Law:

Article (1)

Unless the context requires otherwise, the following words and phrases shall have the following meanings:

"State"	United Arab Emirates (UAE)
"Government"	Federal and Local Government or any other affiliated bodies
"Ministry"	The Ministry of Health
"Minister"	The Minister of Health
"Health Entity"	Ministry of Health and any other Federal or local government bodies involve in health issues in the UAE
"Committee"	The Higher Medical Liability Committee
"Profession"	One of the medical professions or the professions associated thereto which shall be identified by a decision issued by the Minister.

Chapter One Medical liability

Article (2)

The provisions of this Law shall be applicable to all practitioners.

Article (3)

Individuals practicing medical professions in the UAE shall perform their duties accurately, honesty and in accordance with the recognized scientific and technical principles to provide the necessary care for patients, in addition they shall not make use of the patients' needs for illegal benefit to themselves or others and without discrimination between patients.

Article (4)

Physicians shall in particular:

1. Adhere to the rules, regulations and procedures related to practicing the profession according to their grade and specialization area.
2. Document the health condition of patients and their personal and family medical history before diagnosing and treating.
3. Prescribe the treatment, clearly instruct the patient of the doses and the method of use in writing, mention the name, signature and date in the medical prescription. The physician shall inform the patients or their families as the case may be to necessary adhere to the physician's instructions on the method of treatment and the important expected side effects of such medical or surgical treatment.
4. Inform the patients of the nature of their illness and acuteness, unless the interest of the patients requires otherwise or if their mental condition requires not to be informed, in this event the families of the patients should be informed as follows:
 - A- If the patients are incompetent or lack capacity; and
 - B- If the patients' health condition does not make informing them in person possible and their consent could not be obtained to inform their families.
5. Monitor complications resulting from medical or surgical treatment and treat them as soon as possible.
6. Cooperate with other physicians whom are involved with the patients' treatment, providing the necessary information on the patients' health condition, the performed treatment methods whenever requested and consulting a specialist colleague if the situation required so.

Article (5):

Physicians are prohibited to:

1. Treat patients without their consents, except for cases requiring emergency medical treatment where it is impossible to obtain the consent for any reason, or if the patients illness is contagious or considered as threat to the public health or safety.
2. Refrain treating patients in emergency cases or discontinue the treatment in all cases, unless patients did not follow the physicians' instructions or for reasons beyond the physicians' control.
3. Use unauthorized or illegal methods of treatment on patients.
4. Prescribe a treatment before performing the proper clinical examination to patients.)
5. Disclose any confidential information relating to patients, as such physicians become aware of during the course of treatment or due to treatment process, whether the patients entrusted the physicians with such secrets or the physicians reviewed such secrets by themselves. This prohibition shall not be applied as follows:
 - A. If the disclosure was upon patients' request;
 - B. If the disclosure was for the best interest of the husband or the wife and the physicians informed any of them personally;
 - C. If the disclosure was to prevent a criminal act or to report about it. In this event, disclosure shall be reported to the official authorities only;
 - D. If the physicians were assigned by a judicial authority or a official investigation authority in the State as an expert, or if such physicians were notified to attend as a witness in an investigation or criminal proceedings; and
 - E. If the physicians were assigned to carry out an examination by a life insurance companies or by their employers. The task of the physicians shall be within the scope of their assignment.
6. Unless the situation necessity requires otherwise, examine patients clinically from the opposite gender without the presence of a third person and without obtaining a prior consent of patients.

Article (6):

If a physician suspected that a patient is suffering a contagious disease, then such physician must immediately inform the concerned health authority. The said authority shall notify the Ministry within no more than twenty four hours to take the precautions from the time of suspecting. In case a physician suspected that a patient is suffering a condition requires quarantine according to the World Health Organization standards, the patient's address must be verified and the case should be reported immediately upon discovering if keeping the patient in the clinic was impossible.

Article (7):

1. Save for the emergency situations which require an immediate surgery to save a patient's life or the fetus, surgeries may not be performed unless the following are observed:
 - A. The physicians who are performing surgery must be qualified, according to their scientific specialization, experience, the degree of accuracy and the importance of such surgery.
 - B. The surgery is performed at a health facility sufficiently equipped to perform such surgery.
 - C. Conduct the necessary clinical examinations and laboratory tests to ensure that the surgery is necessary and appropriate for the patient treatment and ensure that the health condition of the patient allows the performance of such surgery.
 - D. A written consent shall be taken from patients, if the patients have full capacity or from their relatives up to the fourth degree, if the patients lack the capacity, or if obtaining their consent was impossible to carry out the surgery or any other necessary surgery, and after explaining to the patient the effects and potential medical complications that might arise from the surgery.

Patients shall be considered having full capacity for such approvals as they completed eighteen years old.

2. The cases of special treatment nature as set out in the executive regulation shall be treated as surgeries in respect of enforcing the provisions of Clause (1) of this Article, as deemed appropriate for such cases.

Article (8)

Patients are not allowed to be discharged from a health care facility where they receive treatment unless their health condition allows discharge them

according to the common medical principles or as they desire to be discharged although the consequences were explained to them. A written acknowledgement should be signed by the patients or one of their relatives up to the second degree if the patients lack the capacity or their approval was not possible to be obtained, and it should be documented in the patient's medical record.

Article (9)

Patients' life may not be ended for whatsoever reason even upon their request or their guardians or custodians'.

Article (10):

1. Human cloning is prohibited as well as researches, experiments and applications in order to clone a human being.
2. Researches or medical experiments on human beings are prohibited without obtaining the proper approval of the concerned authority as set out in the executive regulation and in accordance with the conditions provided under the said regulation.

Article (11):

Prosthesis may not be fixed on the body of the patients, unless after ensuring that such prosthesis are suitable, cause no harms and after adapting such prosthesis to suit the body.

Article (12):

Any technique supporting women to get pregnant or implanting a fetus in their wombs may not be used, unless from the spouses and upon their written consent, provided that the couple is legally married.

Article (13):

First: No act or interference relating to birth control shall be carried out without the request or the consent of the spouses, nor any act or intervention related to women sterilization shall be made without the proper advice of a specialized medical committee consisting of not less than three physicians agreed that there is a serious threat to the mother's life in case of pregnancy or delivery and after obtaining the wife's written consent and notifying the husband.

Secondly: With the exception of the following cases, physicians are not allowed to perform any abortions or to prescribe anything that would lead to abortion:

- 1 - If the continuity of such pregnancy may threaten the pregnant woman's life according to the following conditions:

- (A) Abortion shall be done by a specialized physician in gynecology and obstetrics and the approval of the treating physician for the justified abortion.
 - 2 Prepare a report stating the abortion justifications by the concerned physicians, provided that such report shall be signed by the pregnant woman and her husband or her guardian if it is impossible to obtain her approval in a way indicating such approval for abortion. Each of the concerned parties shall keep a copy of the report. The consent of the husband is not required in emergency cases requiring immediate surgery.
- 2 - If the fetus is suffering malformation according to the following conditions:
- a. Abortion is upon parent's request.
 - b. Pregnancy period shall not exceed one hundred and twenty days.
 - c. Malformation is proved by a report of a medical committee consisting of medical consultants in gynecology, obstetrics, children and radiology.
 - d. The medical committee report shall be based on medical examinations and the use of accepted common scientific techniques.
 - e. The fetus is suffering serious malformation which is incurable that leads, if born alive, to a miserable and painful life to the fetus and its family.

Article (14)

- 1. The malpractice is an error occurs due to the unfamiliarity of a practitioner with the technical aspects which each practitioner is assumed to be familiar with, due to negligence or paying insufficient efforts.
- 2. The following shall not be considered medical liability in the following events:
 - a) If the damage was sustained due to the action of the patient, refuse receiving treatment, failed to follow the medical instructions issued by the persons supervising the patient treatment, or due to an external reason.

All the above-mentioned shall be pursuant to the Sub clause (d) of Clause (1) of Article (7) in this Law.

- b) If the physician followed certain medical method in treatment other than the method followed in the same field of specialty as long as the used treatment method is consistent with the recognized medical principles.
- c) If the medical side effects and complications known in the medical practice which are not resulting from malpractice according to Clause (1) in this Article.

Chapter Two Medical Liability Higher Committee

Article (15)

Upon the proposal of the Minister, a permanent technical medical committee shall be formed by a resolution issued by the Cabinet shall be called "Medical Liability Higher Committee" consists of consultant physicians from the following:

1. The Ministry of Health;
2. The Forensic Medicine Department - Ministry of Justice;
3. Health Authority Abu Dhabi;
4. Dubai Health Authority;
5. Collage of Medicine and Health Science at the Emirates University (to professors only);
6. Medical Services Directorate- Armed Forces;
7. Department of Medical Services– Ministry of Interior;
8. Emirates Medical Association; and
9. Private Medical Sector.

The Cabinet may add other medical entities to the Committee.

The chairman and the vice chairman shall be mentioned in the above-mentioned resolution.

The regulations and procedures of the committee's tasks including the membership period and remunerations granted to its members shall be issued under Cabinet resolution.

Article (16)

The Committee shall be assigned to give its opinion upon the request of the Public Prosecution, the competent court or the health entity:

1. Whether malpractice occurred or not in addition to set out its causes, resulting damages, if any, causality relationship between the error and damage and other requested issues.
2. Profession risks related to medical practices.

Article (17)

The Committee shall prepare a report justifying its opinion of each presented case for the results arising from its examination, if possible, after reviewing the medical file, the other available facts and information due to its investigations, discussions and studies to the case.

The Committee may call any person who it may deem necessary to discuss with him/her the presented case to attend. The Committee may also appoint any person to provide it with papers and documents for review.

The Committee may form specialized subcommittees among its members or others to give their professional opinion in a certain case.

Article (18)

The Committee shall submit its report to the referring entity in respect of the cases presented within thirty days from the date of referring the case.

The above-mentioned period may be extended for similar period(s) after obtaining the approval of the referring entity according to the Committee's request.

Article (19)

The Committee shall meet by an invitation of its chairman or vice chairman in the event of his absence to consider the cases referred to it. The meeting shall not be valid unless two thirds of the members are present including the chairman or vice chairman.

The decision of the Committee shall be taken by the majority of the present members' votes and in the event of parity, the chairman shall have a casting vote.

Article (20)

The members of the Committee shall be subject to the provisions related to experts, provided that such provisions shall not contradict the provisions of this Law. Before practicing their duties in the Committee, legal oath shall be

taken once from each member of the Committee before one of the federal appeal departments where each member domicile is within their jurisdiction.

Article (21)

A member of the Committee shall be prohibited to attend its meetings or give his opinion in respect of any matter presented to the Committee if he or any member of his family up to relatives of the fourth degree has personal interest therein.

Chapter Three Investigating Practitioners

Article (22)

The practitioners of the Ministry of Health shall be notified to investigate them of the incidents related to their work through the Director General of the Ministry. As for the practitioners of the other health entities, they shall be notified through the manager in charge of the entity they are affiliated.

Article (23)

Upon the request of the investigation authority, the Minister may temporary suspend the license of a practitioner for investigating the incidents related to medical malpractice for no more than thirty days. The said period may be extended by the investigation authority for similar period.

Article (24)

Physicians may not be arrested or detained protectively pending investigation in incidents related to medical malpractice. However, physicians may be arrested or detained protectively if the interest of the investigation required so according to the order of the Public Prosecutor.

Chapter Four Medical Malpractice Liability Insurance

Article (25)

It is prohibited to practice a medical profession without procuring medical malpractice insurance with any licensed insurance companies.

The health facility which receives a visiting physician shall be responsible to compensate the damaged party for the medial malpractice of the said physician, without prejudicing its right to claim damages from the physician who committed medical malpractice.

The entities which are subject to this Article shall adjust their position within six months from the effective date of this Law.

The executive regulation of this Law shall specify the required criteria to enforce the provisions of this Law.

Article (26)

The owner of the facility shall procure insurance to the practitioners working in the facility for the medical malpractice liability insurance. The owner of the facility shall bear 80% at least of the annual premium and the practitioner shall bear the balance of the premium.

The owner of the facility shall also procure insurance against risks resulting from or due to practicing the profession and the owner of the facility shall bear the full premium for his/its employees in this respect.

Article (27)

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

Chapter Five Penalties

Article (28)

1. Any person violates any of the provisions of the Articles 1.10 and 12 of this Law shall:
 - a) be imprisoned for at least two years and shall not exceed five years; and
 - b) pay a fine at least AED 200,000 (AED two hundred thousands) and shall not exceed AED 500,000 (AED five hundred thousands).
 - c) or any of the penalties.
2. Any person violates any of the provisions of the Article 2.10 of this Law shall:
 - a) be imprisoned for at least six months; and
 - b) pay a fine at least AED 100,000 (AED one hundred thousands) and shall not exceed AED 200,000 (AED two hundred thousands).
 - c) or Any of the penalties.

Article (29)

Any person violates any of the provisions of the Article 11 and Clause (First) of Article 13 of this Law shall:

- a) be imprisoned for at least three months; and
- b) pay a fine at least AED 50,000 (AED fifty thousands) and shall not exceed AED 100,000 (AED one hundred thousands).
- c) or any of the penalties.

Article (30)

Subject to Islamic Shari'a provisions, any person violates the provision of Article (9) of this Law shall be imprisoned for at least ten years.

Article (31)

Article (29) of the Federal Law No. 7 of 1975 in respect of the practice of human medicine shall be applied to any person violates Article 13.2 of this Law.

Article (32)

The penalties provided under this Law shall not prejudice any severer penalty provided under any other law.

Article (33)

The practitioners shall have the same liabilities of physicians, as applicable.

The Executive Regulation shall set out the disciplinary regulation of the professionals related to medicine profession.

Article (34)

The disciplinary penalties provided under the law shall be applied to violations which no penalty is provided under this Law.

The criminal liability resulting from this Law shall not prejudice the disciplinary penalties of the violating practitioners.

Article (35)

Provisions of Articles 16 and 17 of Federal Law No. 2 of 1996 shall be applied to the private health facilities that violate the provisions of this Law.

Chapter Six Miscellaneous

Article (36)

Officers whom a decision issued by the Minister of Justice to appoint them in liaising with the health authorities shall be the law enforcement officers to establish the violations of the provisions of this Law or the resolutions issued in application thereunder.

Article (37)

The Cabinet shall issue the Executive Regulation of this Law.

Article (38)

Any provision violates or contradicts the provisions of this Law shall be void.

Article (39)

This Law shall be published in the official Gazette and shall come into effect as of the date of issue thereof.

**Khalifa bin Zayed Al Nahyan
President of the UAE**

Issued by us at the President Palace in Abu Dhabi on 16 Dec 2008.