



DELTA STATE

A LAW TO ESTABLISH THE DELTA STATE CONTRIBUTORY HEALTH COMMISSION 2015 AND OTHERS MATTERS CONNECTED THERETO.

BE IT ENACTED by the Delta State House of Assembly as follows:

PART I - PRELIMIINARY

1. This law may be cited as the Delta state Contributory health commission Law, 2015 and shall be deemed to have come into force on the 9th day of December, 2015.
2. In this law, unless the context otherwise requires:

“Act” means National Health Act and the National Health Insurance Act;

“Actuary” means a statistician who calculates risk and probabilities for payment plan;

“Auditor General of the state” Auditor General of state;

“Benefit” means a benefit or advantage of any kind whatsoever derived from the Scheme;

“Board” means the Governing Board established under Section 4 of this law for the Commission;

“Capitation” means a payment to a health care provider in respect of covered services to be provided to an insured person registered with the health care provider, whether the person uses the services or not;

“Commission” means Delta State Contributory Health Commission;

“Contribution” means a premium payable to HMOs and Delta State Contributory Health Scheme Fund (DSCHSF) any other funds; under this law;

“Court” means Magistrate’s Court or State High Court;

“Directors” includes the Director General, Executive and non-Executive Directors appointed in this law;

“Director General” means the Director General of the Commission as appointed by the Governor;

“Employee” means any person who is ordinarily resident in Delta State and is employed in the public service or private sector or an apprenticeship with an employer whether the contract is express or implied, oral or in writing;

“Employer” means an employer with ten or more employees which includes the Federal, State and Local Government or any Extra-Ministerial Department or a person with whom an employee has entered into a contract of service or apprenticeship and who is responsible for the payment of the wages or salaries of the employee including the lawful representative, successor or assignee of that person;

“Fee-for-service” means payment made directly by HMOs, MHAs for completed health care services, not included in the capitation fees paid to health care providers following approved referrals and/or professional services (specialist consultation, pharmaceuticals, laboratory and radiological investigations, optometric services etc under the Health Scheme);

“Formal Sector” means the Public Sector and the organized Private Sector Workers;

“Governor” means the Governor of Delta State, Nigeria;

“Health Care Provider (HCP)” means any government or private health care facility, hospital, maternity centre, community pharmacies and all other service providers registered by the Commission for the provision of prescribed health services for insured persons and their dependents under this Scheme;

“Health Care Professional Associations” means pharmaceutical Society of Nigeria (PSN), Nigeria Medical Association (NMA), Nigeria Optometric Association (NOA), Association of Medical Laboratories, (AMLS), and National Association of Nigeria Nurses and Midwives (NANNM) etc;

“HMO” means a Health Maintenance Organization registered under Section 22 of this Law to ensure health care services are adequately provided by health care providers approved by the Commission;

“Informal Sector” means workers not part of the Formal Sector;

“Insured person” means any person and eligible dependent who pays the required contribution under this Scheme;

“Local Government Chairman” means the political head of a Local Government Council;

“Member of the Board” means any person, including the Chairman who serves on the Board;

“MHA” means a Mutual Health Association registered under Section 22 of this law to provide health care services through health care providers approved by the Commission;

“NHIS” means National Health Insurance Scheme as defined in the National Health Insurance Act of the Laws of the Federation of Nigeria;

“Persons” means any person corporate or individual.

“staff” means staff of the commission;

“State” Delta state of Nigeria;

“House” Delta State house of Assembly;

“Vulnerable” includes the following categories person: pregnant women, children under five (5), the elderly over 65years of age, the physically and mentally challenged, the less privileged and others falling within the group;

“Wage” means remuneration in money paid to an employee under his contract of service or apprenticeship, as the case may be; and whether agreed to be paid at fixed or determined intervals of time.

PART II

ESTABLISHMENT OF THE DELTA STATE CONTRIBUTORY HEALTH COMMISSION AND THE BOARD:

3. (1) There is hereby in the state established a body to be known as **DELTA STATE CONTRIBUTORY HEALTH COMMISSION** (in this Law referred to as "the COMMISSION").

Establishment of the Delta State Contributory Health Commission.

(2) The Commission -

(a) Shall be a body corporate with perpetual succession and a common seal;

(b) May sue and be sued in its corporate name;

(c) May acquire, hold or dispose of any moveable or immovable property for the purpose of its functions under this Law.

(3) The general affairs of the Commission shall be administered by the Board.

4.(1) There is hereby established the Delta State Contributory Health Commission Governing Board (in this Law referred to as "the Board") which shall, subject to this Law, have general control of the Commission.

Establishment of the Board.

(2) The Board shall comprise:

(a) A Chairman;

(b) The Director-General of the Commission, who shall also be the Secretary to the Board;

(c) One representative each of-

(i) the Ministry of Health, not below the rank of a Director;

(ii) the Ministry of Economic Planning, not below the rank of a Director;

(iii) the Nigeria Employers Consultative Association, Delta State Branch;

(iv) the Nigerian Labour Congress, Delta State Chapter;

(v) Trade Union Congress, Delta State Chapter;

- (vi) the Civil Society Organizations;
- (vii) the Office of the Head of Service not below the Rank of a Director; and
- (viii) a representative of NHIS.

(3) The board members other than the Director-General shall be on part time and to be appointed by the Governor provided that the appointment of the chairman and Director-General shall be subject to the confirmation of the House.

(4) The Chairman shall be a person of integrity with a minimum qualification of first degree or its equivalent and a minimum of ten (10) years professional experience in the Health Services.

(5) The other members of the Board shall be persons of proven integrity.

5. (1) All members of the Board shall hold office for a term of four (4) years and may be re-appointed for another term of four (4) years only;

Tenure of office of Board members and cessation of membership of the Board.

(2) The office of a member of the Board shall become vacant if the member:

- a) resigns by notice in writing under his hand, addressed to the Governor and submitted through the secretary of the Board, which resignation shall take effect only on acknowledgement by the Governor;
- b) becomes bankrupt or enters into composition with creditors;
- c) is convicted of a criminal offence;
- d) becomes incapable of discharging duties assigned by reason of mental or bodily infirmity.

(3) A member of the Board may be removed from office by the Governor, if he is satisfied that it is in the interest of the

Commission or the interest of the public that the member should not continue in office.

(4) Where a vacancy occurs in the membership of the Board, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor, provided that the successor shall represent the same interest.

PART III

OBJECTIVES, FUNCTIONS AND POWERS

The Commission shall:

6. (a) Regulate, supervise, implement and ensure effective administration of the Delta State Contributory Health scheme.
- (b) ensure that every resident of the State has good access to good health care services;
- (c) Ensure that all residents of the State have financial protection, physical access to quality and affordable health care services;
- (d) protect families from the financial hardship of huge medical bills;
- (e) regulate the cost of healthcare services;
- (f) Ensure equitable distribution of health care costs across different income groups;
- (g) Maintain high standard of health care delivery services within the Health Scheme
- (h) Ensure efficiency in health care service delivery;
- (i) Improve and harness private sector participation in the provision of health care services;
- (j) Ensure adequate distribution of health facilities within the State;
- (k) Ensure appropriate patronage at all levels of the health care delivery system;
- (l) Ensure the availability of alternative sources of funding to the health sector for improved services;
- (m) In cases where residents do not have available medical and other health services, to take such measures as are necessary to plan, organize and develop medical and other health services commensurate with the needs of the residents.

Objectives of the Commission.

7. The Commission shall:

*Functions of
the
Commission.*

- (1) ensure the effective implementation of the policies and procedures of the health scheme;
- (2) issue appropriate regulations and guidelines, as approved by the board, to maintain the viability of the health scheme;
- (3) manage the health scheme in accordance with the provisions of this Law;
- (4) approve formats of contracts for the HMOs and all Health Care Providers;
- (5) carry out public awareness and education on the establishment and management of the health scheme;
- (6) promote the development of other programs for wider participation in the scheme including developing new Health Plans;
- (7) determine, after due consideration capitation, fee-for service and other payment mechanisms due to health care providers, by the Health Maintenance Organizations.
- (8) advise the relevant bodies on inter-relationship of the commission with other social security services;
- (9) coordinate research and statistics;
- (10) establish quality assurance for all stakeholders;
- (11) ensure the collection, collation, analysis, and reporting on quarterly returns from the HMOs;
- (12) exchange information and data with the National Health Insurance Scheme, State Health Management Information System, relevant financial institutions development partners, NGOs; and other relevant bodies;
- (13) ensure manpower development in the Commission;
- (14) receive and investigate complaints of impropriety leveled against any HMO, HCP, Enrollee and other relevant institutions and ensure appropriate sanctions are given.
- (15) carry out such other activities as are necessary or expedient for the purpose of achieving the objectives of the Commission under this Law;

8. (1) (a) The Commission shall have powers to regulate, implement and issue guidelines for-

- (i) the registration of employers and employees liable to contribute under this Law.
- (ii) the registration of dependents of employees covered by the Commission;
- (iii) the compulsory payment of contributions by employers and employees,
- (iv) the amount of contributions an employer can deduct from an employee's salaries and wages under this Law.
- (v) the compulsory payment of contributions by self-employed persons and other persons and rates of such contributions.
- (vi) the maintenance of the records to be kept for the Commission and the records to be kept by employers in respect of contributions payable under this Law and in respect of their employees;
- (vii) the methods of receiving contributions under this Law;
- (viii) the imposition of surcharges in respect of late payment of contributions by employers or employees;
- (ix) the manner and circumstances under which contributions may be remitted and refunded;
- (x) negotiated fees and charges payable for medical, dental, pharmaceutical and all other health services provided under the scheme;
- (xi) the nature and amount of benefits to be provided under this Scheme, the circumstances and the manner under which the benefits shall be provided;
- (xii) the nature and amount of capitation, fee-for-service, per-diem or other payment options under this Scheme.
- (xiii) the reduction, suspension or withdrawal of any payment under this Scheme;
- (xiv) the submission of returns by employers regarding the employers and their employees;
- (xv) the procedure for assessment of contributions made under this Scheme;

(2) Any other matter whatsoever on which, in the opinion of the Commission, is necessary or desirable to make regulation and issue guidelines for giving effect to this Law.

(3) The guidelines issued under subsection (i) (iii) and (iv) of this Section may provide for different levels of contributions payable by different classes of persons.

(4) The guidelines issued under this section shall be published in the Gazette.

9. The Commission through her appointed Officers may enter, inspect and audit any premises, books, accounts and records of any Healthcare facility, HMOs that have received payments under this Law at any time and may require the health care provider to verify in a manner prescribed, any information submitted to the Commission. *Inspection of Audit and record books.*
10. Where a healthcare provider fails to keep the books, records and returns required under this Law or any Regulations made there under, the Commission may levy appropriate sanction against the healthcare provider including withholding payments due to it until the healthcare provider complies with the provisions of this Law and the Regulations made here under. *Failure to keep record books.*
11. For the purpose of carrying out the functions of the Commission, the Board shall, subject to the direction of the Governor, have powers to: *Functions and Powers of the Board.*
1. determine the organizational structure of the Commission;
 2. approve for the Commission, Private Health Maintenance Organizations;
 3. determine the overall policies of the Health Scheme, including the financial and operative procedures of the Scheme;
 4. ensure the effective implementation of the policies and procedures of the Scheme;
 5. regulate and supervise the Scheme established under this Law;
 6. establish standards, rules and guidelines for the management of the Health Scheme under this Law;
 7. approve, license, regulate and supervise Health Maintenance Organizations and other institutions relating to the Health Plan as the Commission may from time to time determine;
 8. issue guidelines and approval for the administration and release of funds under the Scheme;
 9. approve Health Plans as might be determined and put forward by the Commission from time to time;
 10. approve the recommendation of the Commission relating to research, consultancy and training in respect of the Scheme;
 11. keep and updates a State Data Bank (SDB);
 12. perform such other duties which, in the opinion of the Commission, are necessary or expedient for the discharge of its functions under this Law;
 13. determine the remuneration and allowances of all staff of the Commission;
 14. engage the various ministries and levels of government, stakeholders and the public during strategy development, policies and procedures of the health scheme;
 15. approve annual reports and statement of accounts of the Commission;
 16. appoint and approve fees for external consultants; and
 17. carry out such other activities connected with or incidental to the other functions of the Commission.;

PART IV

ADMINISTRATIVE STRUCTURE AND CONTROL

12.(1)

(i) The Director-General shall be the Chief Executive/Accounting officer of the Commission and responsible for the day to day management of the affairs of the Commission;

*Qualification
of the Director
General*

(ii) The Director-General shall be a person of integrity with relevant qualifications in Health Management or Health Economics or Public Health with a minimum of ten (10) years professional experience.

(iii) The Director-General and the Directors shall hold office for a term of four years in the first instance and may be re-appointed for another term of four years only.

(2)

(i) There shall be appointed by the commission Six (6) Directors for (6) departments established in section 13(1) of this Law.

(ii) The Directors shall be persons of integrity with minimum qualification of first degree or its equivalent and a minimum of five (5) years professional experience.

(3) The Directors shall be responsible for the running of the departments and to perform all such other duties assigned to them by the Director-General or the Board through the Director-General.

*Duties
of the
Director*

(4) The Director-General and Directors shall each hold office on such terms and conditions as may be specified in their letters of appointment.

Tenure

13. (1) There shall be established for the Commission, the following departments:

*Departments
of the
Commission.*

- a) Department of Health Services, Standards and Quality Control;
- b) Department of Administration and Human Resources;
- c) Department of Planning, Research and Statistics and ICT;
- d) Department of Business Development and Marketing;
- e) Department of Finance and Investments; and;
- f) Department of Legal Services;

(2) The Commission shall have the power to establish and maintain such offices, subsidiary divisions, sections and units and make other administrative arrangements as may, in its opinion, be necessary or expedient for the performance of its functions.

14. (1) without prejudice to extant Laws and subject to the approval of the Governor, the Commission shall have the power to appoint or employ such contract or permanent employees whether professional or non-professional, including reputable and competent external consultants, as it may require to carry out its functions;

Employees of the Commission.

(2) The Commission shall determine the remuneration, allowances, grading and other terms and conditions of service of staff as it applies to other Commissions of equal status.

15. (1) Employment in the Commission shall be scheduled service for purposes of the Pensions Law

Pensions.

(2) Employees of the Commission shall be entitled to pensions and other retirement benefits in accordance with the Pension Reform Law of 2008 of Delta State as amended or any other Law for the time being in force.

16. (1) The Director-General, Members of the Board, Offices or other employees of the Commission shall;

Confidentiality and Non-disclosure.

(a) Not make use of any information which has come to his knowledge in the exercise of his powers or is obtained by him in the ordinary course of his duty for his personal gain or otherwise under this Law;

(b) treat as confidential any information which has been obtained by him in the performance of his functions under this Law;

(c) not disclose any information referred to under paragraph (a) of this subsection except when required to do so by an Arbitration, litigation or similar panel of the court or in such other circumstances as may be prescribed by the Board, from time to time.

(2) Any person who contravenes the provisions of subsection (1) of this section, commits an offence and is liable on conviction to penalties contained in Section 40 subsection (3) of this Law.

PART V

ESTABLISHMENT OF THE DELTA STATE CONTRIBUTORY HEALTH SCHEME

17. There is hereby established a Delta State Contributory Health Scheme (in this Law referred to as the “Scheme”)

Establishment of the Delta State Contributory Health Scheme.

18. (1) The Delta State Contributory Health Scheme shall comprise of four components:

Components of the Delta State Contributory Health scheme.

- a. The Delta State Equity Health Plan (EHP)–This shall be a plan for vulnerable groups as defined in this law. Other criteria for eligibility into the health plan shall be as approved by the State Executive Council on the recommendation of the Commission. The point of entry shall be designated Primary Health Care Facilities who shall refer, if necessary, to designated Secondary and Tertiary health facilities.
- b. The Informal Health Plan (IHP) – This shall be an ‘affordable’ Plan providing a prescribed package of healthcare services at prescribed contributions accessible to all residents. The point of entry shall be designated Public and Private health facilities;
- c. The Formal Health Plan (FHP) – This shall be a contributory plan for all public and organized private formal sector employees wherein the employer and employees shall make contributions as determined by the Board.
- d. The Delta State Private Health Plan (PHP)- This shall consist of a variety of packages providing extra healthcare services in direct proportion to the contribution made by the individual;
- e. Any other component as may be developed by the Commission with the approval of the Board.

(2) The operational guideline shall explicitly define the content of each Health plan

(3) The Scheme shall be compulsory and apply to all residents of the state except those already covered by the National Health Insurance Scheme (NHIS).

Applicability of the Scheme.

- 19.(1)** The Board shall appoint for the Commission, a licensed actuary on such terms and conditions as the Board should determine. *Appointment of Licensed Actuary for the Commission.*
- (2) The actuary shall review the services package and evaluate it actuarially, including the rates of contributions payable for the service and make appropriate recommendation to the Board.
- (3) If having regard to the review and evaluation carried out by the actuary under subsection (2) of this Section, the Board considers that the rates of contributions have not retained their value in relation to the general level of earning in Nigeria, the Board shall in consultation with the actuary modify the rates to the extent considered appropriate and bring the new rates to the notice of the persons affected by the modification.
- 20.(1)** Subject to such guidelines and regulations as may be made under this Law, all residents of the State shall be registered under the Scheme. *Registration of all Delta State Residents.*
- (2) All employers and their employees (public and private) shall register with the Commission and obtain a Corporate Identification Number (CIN).
- 21.(1)(a)** without prejudice to the extant Laws regulating the Professional Practices of Health Care Providers, the accreditation and registration of participating health care providers under the Scheme shall be in accordance with guidelines as the Commission shall issue under the Law. *Registration and services of health care providers.*
- (b) only the health care providers registered with the Ministry of Health shall be accredited and registered to participate under this Scheme.
- (2) A health care provider so registered in subsection (1) shall, in consideration for an approved capitation payment or fee for service and any other form of payment, to the extent and manner prescribed herein, provide services in accordance with-
- (a) the approved Health Plan as shall be actuarially determined and reviewed annually by the Board;
- (b) Treatment Guideline and
- (c) Commission Drugs Formulary

22. (1) The Commission shall register NHIS accredited Health Maintenance Organization (HMO)

Registration of Health Maintenance organizations.

(2) approval for the registration of a HMO under the Commission shall be in accordance with guidelines issued by the Board, requiring the HMO to

- (a) be financially viable before and after registration;
- (b) have a track record of sustained relationship with private healthcare providers;
- (c) make a complete disclosure of the ownership structure and composition of the organization;
- (d) have account(s) with one or more banks approved by the Commission;
- (e) comply with relevant insurance requirements through insurance companies accredited by the Commission;
- (f) give an undertaking that the organization shall manage funds allocated to it from contributions received pursuant to this Law in accordance with the guidelines to be issued, by the Commission.
- (g) the HMO must be registered with the corporate Affairs commission (CAC) with extant Laws.

(3) Registration of HMO shall be renewed annually.

23. (1) The Commission may refuse to issue a license to any applicant pursuant to an application made under Section 22 of this Law if it is satisfied that-

Refusal of License.

- (a) the information contained in the application for a license is false in any material particular; or
- (b) the application does not meet the requirements prescribed by the Commission for grant of a license;

(2) Where the Commission refuses to register any organization, it shall forthwith notify the applicant in the prescribed form, specifying the reasons for such refusal if need be. However, such an organization may reapply at a time it has fulfilled all the necessary conditions for registration.

24.(1) The Commission may revoke a license issued to an organization, if-

Revocation of License.

- (a) it discovers after the grant of license that a statement was made in connection with the application thereof which the applicant knew to be false in any material particular;
- (b) the organization is subject to any insolvency proceedings or is to be wound up or otherwise dissolved;
- (c) the conduct of affairs of the organization does not conform with the provisions of this Law or any regulations made pursuant to or any directive issued under this Law;
- (d) any event occurs which renders the organization ineligible to perform its duties;
- (e) the organization is in breach of any condition attached to its license, and
- (f) the organization fails or neglects to disclose the accurate data of its private health plan enrollee to the Commission.

(2) The Commission shall, before revoking the license of an organization give the organization at least 30 days' notice of its intention and shall consider any representations made to it in writing by the organization within that period before the revocation.

25.(1) The organization referred to in subsection (1) of section 22 of this Law this shall have responsibility for-

Functions of HMOs.

- (1) sensitization of the populace on the scheme;
- (2) management of their Private Health Plan;
- (3) remittance of 1% of total collection from their Private Health Plan to the State Contributory Health Scheme Fund;
- (4) the payment approved by the HMOs, Health care providers shall be in accordance with operational guidelines release by the Scheme;
- (5) rendering to the Commission, returns on its activities as may be required by the Board;
- (6) contracting only with the health care providers approved under the Scheme for the purpose of rendering health care services as provided by this Law;
- (7) ensuring that all monies received from the commission, are kept in accordance with guidelines issued by the Board;
- (8) establishing and maintaining of a quality assurance system.

- 26.** Notwithstanding anything contained in this Law, HMOs shall not be involved in the direct delivery of health care services. *Direct delivery of health care services.*
- 27.** Contributions payable under the Commission shall be inalienable and shall not be assets for the benefit of creditors in the event of the bankruptcy or insolvency of a contributor or an organization. *Contribution to be inalienable.*
- 28.** Where, under Section 591 of the Companies and Allied Matters Act 1990, an order is made by a court under subsection (3) of that section of mergers which include the transfer to the company of the whole or any part of acquisitions, etc. the undertaking and of the property and liabilities of a transferor company, the order shall include provisions for the taking over, as from such date as may be specified in the order, of any liability for any contribution which has become due and payable under this Law (together with any accrued interest thereon) in respect of the employees concerned in the undertaking, property or liability transferred. *Provisions of the CAMA on liabilities.*
- 29.** The State Government shall collaborate with relevant Federal Government agencies in the realization of the set objective of this Law. *Provisions of the Trustee Investment Act.*
- 30.** A health care provider shall be required to take professional indemnity cover from a list of insurance companies approved by the Board. *Professional indemnity.*

PART VI

FINANCIAL PROVISIONS

- 31.** (1) There is hereby established the **Delta State Contributory Health Scheme Fund** (hereinafter referred to as 'the Fund') *Establishment of the Delta State Contributory Health Scheme Fund (DSCHSF)*
- (2) The fund shall consist of-
- (a) the initial take- off grant from the Delta State Government;
 - (b) Equity fund contribution of not less than 0.5% of the consolidated revenue of the State Government on behalf of vulnerable persons;
 - (c) such money as may be due from HMOs and contributions received from the formal and informal enrolees;
 - (d) Funds from NHIS;
 - (e) fees, fines and commission charged by the Commission;
 - (f) Donations or Grants-in-Aid from private organizations, philanthropists, International donor organizations and Non-Governmental organizations;
 - (g) dividends and interests on investments and stocks and;
 - (h) all other monies which may accrue to the Commission.
- 32.** (1) The Commission shall disburse funds to the healthcare providers from the fund through the registered HMOs with the approval of the Governing Board. *Disbursement of Fund.*
- (2) The Commission shall on approval of the Governing Board, apply the funds at its disposal-
- (a) for and in connection with the objectives of the Commission under this Law;
 - (b) to the cost of administration of the Commission;
 - (c) to the payment of fees, allowances and benefits of members of the Board;
- 33.** All contributions not immediately required shall be invested by the commission with the objectives of safety and maintenance of fair returns on amount invested and in accordance with the regulations and guidelines issued by the Commission, *Investment of Funds.*
- 34.** Subject to guidelines issued by the Commission, the fund shall be invested in any of the following: - *Modes of Investment of Funds.*
- (1) bonds, bills and other securities issued or guaranteed by the Federal Government and the Central bank of Nigeria;
 - (2) bonds, bills and other securities issued by the State and Local Governments;

- (3) bonds, debentures, redeemable preference shares and other debt instruments issued by corporate entities and listed on a Stock Exchange registered under the Investment and Securities Act;
- (4) ordinary shares of public limited companies listed on a securities exchange registered under the Investment and Securities Act;
- (5) bank deposits and bank securities;
- (6) investments certificates of closed-end investments fund or hybrid investments funds listed on a securities exchange registered under the Investment and Securities Act with good earning;
- (7) units sold by open-end investment funds or specialist open-end investment funds registered under Investment and Securities Act;
- (8) real estate development investment; or
- (9) specialist investment funds and such other financial investment as the Commission may approve.

35.(1) The Commission may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person or organization making the gift. *Powers to accept gifts.*

(2) The Commission shall not accept any gift if the conditions attached by the person or organization offering the gift are inconsistent with the objectives and functions of the Commission under this Law.

36.(1) The Board shall cause to be prepared, not later than 30th day of September in each year, an estimate of the income and expenditure of the Commission during the next succeeding year and when prepared, they shall be submitted to the Ministry of Economic Planning. *Annual estimates, Accounts and audit.*

(2) The Board shall cause to be kept proper accounts of the Commission and proper records in relation thereto and when certified by the Board, the accounts shall be audited by auditors appointed by the Board from the list and in accordance with the guidelines supplied by the office of Auditor-General of the State.

37. The Board shall not later than six (6) months immediately following the end of a year- *Annual Report.*

(1) submit to the Governor through the Director-General, a report on the activities and the administration of the Commission during the preceding year and shall include in the report the audited accounts of the Commission and the auditor's report on the accounts; and

(2) present and publish the audited annual accounts, auditor's report on the accounts and reports on the activities of the Commission Annual Meeting comprising all Stakeholders.

38.(1) The Delta State Contributory Health Scheme Fund (DSCHSF) shall be administered through carefully selected banks as approved by the Board, for the pooling of all contributions derived from the public and private sector.

*Pooling of
Contribution
Under the
Scheme.*

(2) The Commission shall cause HMOs to establish accounts with the Delta State Contributory Health Scheme Fund (DSCHSF) approved Banks for the agreed remittable percentage of the contribution received for the private health plans under this Law.

(3) The Commission shall cause HMOs to produce, in a recognized format and subject to guidelines to be issued by it performance/security bond from accredited banks or insurance companies.

PART VII

MISCELLANEOUS

DISPUTE RESOLUTIONS, OFFENCES AND PENALTIES, PROCEEDINGS IN COURT, PROCEEDINGS OF THE BOARD ETC

39.(1) Whenever there is a dispute amongst parties under this Law, it shall first be referred to Arbitration, Mediation or Conciliation before resorting to litigation. *Dispute Resolution.*

(2) The parties shall by mutual consent appoint a 3-man panel of arbitrators (herein after referred to as “the Panel”).

(3) The membership of the panel and the applicable Arbitral procedure shall be as provided for in the Multi-Door Courthouse Law, 2012 of Delta State.

(4) The venue of the Arbitration, Mediation or Conciliation shall be Delta State Multi-Door Court House.

40.(1) Any person who produces to an admitting official of a healthcare facility or a Medical Practitioner or a member of his staff or to a person authorized by Law to provide other health services or a member of his staff, a registration certificate- *Offences and Penalties.*

(a) knowing that the person named therein is at the time of the production thereof, not covered under the Law commits an offence and is liable on conviction to a fine of not less than Fifty Thousand Naira (~~₦~~50,000.00) or imprisonment for a term not exceeding two years or both.

(b) knowing that the person on behalf of whom and to facilitate whose treatment it is produced is not the person named therein or a dependent of that person; commits an offence and shall on conviction pay a fine of fifty thousand naira (N50,000.00) or such sum as may be specified by the Board, in addition to the bills incurred.

(2) Any member or agent of the Commission who fails, without reasonable cause, to comply with a requirement of an auditor under Section 36 (2) of this Law, commits an offence and is liable on conviction to a fine not exceeding ₦100,000 or imprisonment for a term not exceeding three months or both.

(3) A person guilty of an offence under subsection (1) of Section 16 of this Law is liable on conviction-

(a) in the case of a first offender, to a fine of not less than One Hundred Thousand Naira (~~₦~~100,000.00) or imprisonment for a term not exceeding two years or both; and

(b) in the case of a second or subsequent offender, to a fine of not less than Two Hundred and Fifty Thousand Naira (~~₦~~250,000.00) or imprisonment for a term not exceeding five years or less than two years or both.

41.(1) Where an offence under this Law has been committed by a body corporate or firm or other association of individuals, a person who at the time of the offence- *Offences by Bodies.*

(a) was an officer of the body corporate, firm or other association; or

(b) was purporting to act in the capacity of an officer or the body corporate, firm or other association, is deemed to have committed the offence and liable to be prosecuted and punished for the offence in like manner as if he had himself committed the offence.

(2) In this section, "officer" includes

(a) in the case of Ministries, Departments and Agencies (MDAs) the accounting officer;

(b) in the case of a body corporate, Chief Executive, a Director, by whatever name called, Manager and Secretary of the body corporate;

(c) in the case of a firm, a partner, manager and secretary of the firm; and

(d) in the case of any other association of individuals, a person involved in the management of the affairs of the association.

42. Any person who contravenes any of the provisions of this Law shall be prosecuted by the Attorney-General of the State. *Prosecution by the Attorney-General.*

- 43.**(1) The Magistrate Court and where appropriate the State High Court shall have- *Jurisdiction.*
- (a) jurisdiction to try offenders under this Law; and
 - (b) power, notwithstanding anything to the contrary in any other enactment, to impose the penalties provided for the offence in this Law
- 44.** Proceedings for an offence under this Law may be commenced at any time after the commission of the offence. *Commencement of Proceedings.*
- 45.**(1) Subject to the provisions of this Law, the provisions of the Public Officers Protection Law shall apply in relation to any suit instituted against any officer or employee of the Commission. *Limitation of Suits against the Commission.*
- (2) No suit shall be commenced against the Commission, a member of the Board, the Director-General, officer or employee of the Commission before the expiration of a period of one month after written notice of intention to commence the suit shall have been served upon the Commission by the intending plaintiff or his agent(s).
- (3) The notice referred to in subsection (2) of this Section shall clearly and explicitly state the cause of the action, the particulars of the claims, the name and place of abode of the intended plaintiff and the relief which he claims.
- 46.** Every Member and Employee of the Commission shall be indemnified.
- 47.** The Court before which a person is convicted of an offence under this Law may, without prejudice to any civil remedy, order a person to pay to the fund of the Scheme the amount of any contributions together with interest and penalty thereon, certified by the Commission to be due and payable at the date of the conviction and such amount shall be paid into the Fund. *Court Order*
- 48.** A notice, summons or other document required or authorized to be served on the Commission under the provisions of this Law or any other enactment of law may be served by delivering it to the Director-General or by sending it by registered post and addressed to the Director-General at the principal office of the Commission. *Notices, summons and other documents.*
- 49.**(1) In any action or suit against the Commission no attachment of process in the nature thereof shall be issued against the Commission unless 90 days of notice of intention to execute or attach has been given to the Commission. *Restriction of Execution on the Property of the Commission.*

(2) Any sum of monies which may by the judgment of any court be awarded against the Commission shall, subject to any directions given by the court where notice of appeal of the said judgment has been given, be paid from the general reserve fund of the Commission.

PART VIII

SUPPLEMENTARY PROCEEDINGS RELATING TO THE BOARD

1. (1) Subject to this Law and Section 27 of the Interpretation Act, the Commission may make standing orders regulating its proceedings and those of any of its committees.

(2) The quorum of the Board shall be the Chairman or the member presiding at the meeting and five (5) other members and the quorum of any Committee of the Board shall be determined by the Board. *Quorum*

2. (1) The Board shall meet not less than three (3) times in a year and subject thereto, the Board shall meet whenever it is summoned by the Chairman and if the Chairman is required to do so, by notice given to him by not less than seven other members, he shall summon a meeting of the Board to be held within fourteen days from the date on which the notice is given. *Meetings of the Board.*

(2) At any meeting of the Board, the Chairman shall preside but if he is absent, the members present at the meeting shall appoint one of their members to preside at the meeting.

3. Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him to the Board for such period as it thinks fit; but a person who is in attendance by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum. *Power to Co-opt*

4. (1) The Board may constitute one or more committees to carry out, on behalf of the Board such of its functions as it may determine. *Committees*

(2) A committee appointed under this Paragraph shall consist of such number of persons (not necessarily members of the Board as may be determined by the Board) and a person other than a member of the Board shall hold office on the Committee in accordance with the terms of his appointment.

5. (1). The seal of the Commission shall be authenticated by the signature of the Chairman or the Director-General or of any other person authorized to act for that purpose by the Board.

Miscellaneous

(2) That any contract or instrument, which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Board by the Chairman or any person authorized to for the purpose by the Board.

(3) Any document purporting to be a document duly executed under the seal of the Commission shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be so executed.

(4) The validity of any proceeding of the Board or of a committee thereof shall not be adversely affected by any vacancy in the membership of the Board or committee, or by reason that a person not entitled to do so took part in the proceedings of the Board or committee.