

**National Health Security Act, B.E. 2545 (2002)**

Translation

BHUMIBOL ADULYADEJ, REX;

Given on the 11th Day of November B.E. 2545

Being the 57th year of the Present Reign

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to have the law on national health security;

Some provisions of this Act may limit personal rights and liberties, which are imposed by Section 29, Section 35, and Section 48 of the Constitution of the Kingdom of Thailand to be enacted by virtue of law.

Be it, therefore, enacted by His Majesty the King, by and with the advice and consent of the National Legislative Assembly, as follows:

**Section 1**

This Act shall be cited as the "National Health Security Act, B.E. 2545 (2002)".

**Section 2**

This Act shall come into force from the day following the date of its promulgation in the Government Gazette.

**Section 3**

In this Act:

"Health service" means medical and public health services directly provided to a person aimed at promotive, preventive, and curative cares, diagnosis, rehabilitation, and the Thai traditional and alternative medicine pursuant to Medical Registration law.

"Health facility" means public and private health facilities, health facilities under the Red Cross Association, and such other health facilities as additionally prescribed by the Board.

"Health care unit" means enrolled health care unit under this Act.

"Network of health care units" means health care units merging and enrolling to be a network of health care units under this Act.

"Cost sharing" means copayment paid by beneficiaries to a Health care unit per visit for the Health service.

"Health service expenses" means any expense born by a Health service provided by a health care unit as follows:

- (1) prevention and promotion services;
- (2) diagnosis and investigation services;
- (3) ante-natal care;
- (4) therapeutic items or services;
- (5) drugs, biological, supplies, appliances, and equipment
- (6) delivery;
- (7) bed and board;
- (8) newborn care;

- (9) ambulance or transportation for patient;
- (10) transportation for a disabled person;
- (11) physical and mental rehabilitation;
- (12) other expenses necessary for the Health service as prescribed by the Board.

"Fund" means the National Health Security Fund.

"Board" means the National Health Security Board.

"Standard and Quality Control Board" means the board controlling the standard and quality of the Health service.

"Secretary General" means Secretary General of the National Health Security Office.

"Office" means the National Health Security Office or its subsidiary offices, as a case may be.

"Official" means any person appointed by the advice of the Board or Quality Control and Accreditation Board, as the case may be, to perform duties for the execution of this Act upon the promulgation in the Government Gazette.

"Minister" means the Minister in charge of the execution of this Act.

#### **Section 4**

The Minister of Public Health shall be in charge and control of the enforcement of this Act and shall have powers to enact the Ministerial Regulations or Notifications for the execution of this Act.

The foregoing Ministerial Regulations and Notifications shall come into force at the time of its promulgation in the Government Gazette.

### **Chapter 1**

#### **Right to Health service**

#### **Section 5**

The Thai population shall be entitled to a Health service with such standards and efficiency as prescribed in this Act.

The Board shall have beneficiaries jointly pay cost sharing as prescribed by the Board to the Health care unit per visit, except such persons as prescribed by the Board who shall be entitled to Health service without joint payment.

Types and limits of Health service for beneficiaries shall be as prescribed by the Board.

#### **Section 6**

Any person with the purpose of enjoying the rights pursuant to Section 5 shall request for an enrollment at the Office, the Office's subsidiaries, or such other offices as prescribed by the Office to select his personal Health care unit.

Enrollment request to select a personal Health care unit or to change personal Health care unit shall be pursuant to such regulations, procedures, and conditions as prescribed by the Board, having mainly regard to the personal convenience and necessity.

In the case where any person is entitled to select a Health care unit pursuant to other rules in receiving medical welfare or pursuant to his right under other laws, rules, regulations, notifications, resolutions of the Cabinet, or orders, he shall enjoy his right of Health service at a Health care unit pursuant to such rules in obtaining medical welfare or his personal rights.

## **Section 7**

Enrolled persons shall receive Health service at their personal Health care unit, primary care unit within the relevant network of Health care units, or other Health care unit, to which he is referred by his personal Health care unit or network of Health care units.

Except, in case of reasonableness, accident, or emergency illness, an enrolled person shall receive Health service at such other health facility as prescribed by the Board, having mainly regarded to their convenience and necessity. A health facility providing such service shall be entitled to the reimbursement from the Fund pursuant to such rules, procedures, and conditions as prescribed by the Board.

## **Section 8**

Any person entitled to the right pursuant to Section 5, who has not made an enrollment pursuant to Section 6, shall receive his first Health service at any Health care unit. A health care unit providing such service to the said person shall provide them the enrollment to select the personal Health care unit pursuant to Section 6 and notify such event to the Office within a period of thirty days from the first day of service. For this event, such a Health care unit shall be entitled to the reimbursement from the Fund pursuant to such regulations, procedures, and conditions as prescribed by the Board.

## **Section 9**

Limits of the right of Health service of the following persons shall be pursuant to such laws, rules, regulations, notifications, resolutions of Cabinet or other orders as prescribed for the public sector, local government organizations, state enterprises or other state agencies. The said right shall be enjoyed pursuant to this Act.

- (1) Government Official or employee of the public sector
- (2) Official or employee of local government organizations
- (3) Official or employee of state enterprises, persons working for other government agencies, or persons entitled to medical care service from the government budget
- (4) Parent, spouse, child or anyone entitled to medical care service under the right of persons pursuant to (1), (2) or (3).

In the case of paragraph one, the Board shall have duties to provide such a person the access to Health service pursuant to the agreement between the Fund and the government, local government organizations, state enterprises or other state agencies, as the case may be.

When a person pursuant to paragraph one shall enjoy the right of Health service pursuant to this Act, it shall be as prescribed by the Royal Decree.

In the case where the Royal Decree pursuant to paragraph three comes into force, the government, local government organizations, state enterprises, or other state agencies, as the case may be, shall allocate the budget of medical care services for such a person as prescribed in the Royal Decree to the Fund pursuant to regulations, procedures, and period under the agreement they make with the Board.

## **Section 10**

Limits of the right to Health service of beneficiaries pursuant to the Social Security Law shall be as prescribed by the Social Security Law. The extension of Health service pursuant to this Act to beneficiaries pursuant to the Social Security Law shall be pursuant to the agreement between the Board and Social Security Board.

The Board shall make Health service available for beneficiaries pursuant to the Social Security Law. After entering into an agreement on making Health service available with the Social Security Board, the Board shall submit recommendations to enact the Royal Decree defining the period of Health service provided by the Health care unit to beneficiaries under this Act to the government.

After the enactment of the Royal Decree pursuant to paragraph two, the Social Security Office shall provide the expenses of medical care services of the Social Security Fund to the Fund pursuant to such amount as agreed between the Board and the Social Security Board.

### **Section 11**

In the case where an employee, who is entitled to medical care service pursuant to the Workman's Compensation law, enjoys the right of Health service of a Health care unit pursuant to this Act, the Health care unit providing Health service shall notify such event to the Office. The Office shall be entitled to the reimbursement from the Workman's Compensation Fund, not exceeding such amount as prescribed in the Workman's Compensation Law, and shall submit such amount of reimbursement to the Fund in order to be transferred to the said Health care unit.

Spending Health service expense pursuant to this Section shall be deemed spending part of medical care expenses pursuant to the Workman's Compensation law.

### **Section 12**

In the case where a victim, caused by a motor vehicle under the Protection for Motor Vehicle Accident Victims Law, whenever, enjoys the right of Health service from a Health care unit pursuant to this Act, the said Health care unit shall notify such event to the Office. The office shall be entitled to the reimbursement from the Victim Compensation Fund, not exceeding such amount as prescribed in the Protection for Motor Vehicle Accident Victims Law, and shall submit such amount of reimbursement to the Fund in order to be transferred to the said Health care unit.

In the case where an insurance company or the Road Victims Protection Company is liable to pay the compensation to a motor vehicle accident victim who has enjoyed the right of Health service in accordance with paragraph one, the Office shall have powers to issue an order requesting the said company to pay such Health service expenses, not exceeding the amount in accordance with the conditions of the insurance policy.

Payment of Health service under this Section shall be deemed payment of the medical care compensation pursuant to the Protection for Vehicle Accident Victims Law.

## **Chapter 2**

### **National Health Security Board**

### **Section 13**

There shall be a board called the "National Health Security Board" made up of:

- (1) The Minister of Public Health as a Chairman;
- (2) The Permanent Secretary for Defense, Permanent Secretary for Finance, Permanent Secretary for Commerce, Permanent Secretary for the Interior, Permanent Secretary for Labor and Social Welfare, Permanent Secretary for Public Health, Permanent Secretary for University Affairs, and the Director of the Office of the Budget;
- (3) a representative of each Municipality, a representative of each local Provincial Administrative Organization, a representative of each local Tambon Administrative Organization, and a representative of other local government organizations elected by executives of its organization;
- (4) five representatives of, elected by, representatives each of which from a non-profit private organization implementing activities for the following groups:
  - (A) Children and adolescents

- (B) Women
  - (C) Elderly
  - (D) Disabled or mental health patients
  - (E) HIV or other chronic disease patients
  - (F) Labor
  - (G) Populous communities
  - (H) Agriculturists
  - (I) Minorities
- (5) Five representatives of health professionals each of which shall be from the Medical Council, the Thailand Nursing Council, the Pharmaceutical Council and the private hospital association;
- (6) Seven qualified persons appointed by the Cabinet each of which shall be experts from the fields of health insurance, medical science and public health, Thai traditional medicine, alternative medicine, finance, law and social sciences;

Private organizations pursuant to (4) shall be implemented not less than one year and shall make enrollment with the Office within fifteen days from the day of the event causing the appointment of the member. In the case where any organization has implemented more than one activity, it shall make enrollment for the election for only one activity.

Rules and procedures of electing members pursuant to (3) and (4) shall be as prescribed and promulgated by the Minister.

Members pursuant to (1), (2), (3), (4) and (5) shall search and elect qualified persons and submit to the cabinet for appointment to be members pursuant to (6).

Rules and procedures of searching and electing qualified members pursuant to paragraph four shall be as prescribed and promulgated by the Minister.

The Secretary General shall be the Secretary of the Board.

#### **Section 14**

Members of the Board holding office pursuant to Section 13 shall not hold office pursuant to Section 48 at the same time.

#### **Section 15**

Members pursuant to Section 13 paragraph one (3), (4), (5), and (6), shall hold office for a term of four years. A retiring member may be re-appointed, but shall not successively hold office more than two terms.

Upon the expiration of the term of office, if a new member is not elected pursuant to Section 13 paragraph one (3) (4) and (5) or a new member pursuant to Section 13 paragraph one (6) is not appointed, the member vacating office pursuant to a term of the office shall hold office to perform duties until the new member is elected or appointed, but not exceeding ninety days from the date of expiration of the term of office.

In the case where a member pursuant to paragraph one vacates office during the term of office, a new member of the same category shall be elected or appointed within thirty days from the day of vacating office, by an election or appointment of a replacement member, and the newly elected or appointed member shall hold office for a period equal to the remainder of the term of office of the member they replaced.

In the case where a member vacates office during the term of office and the remainder of term of office is less than ninety days, a new member may not be elected or appointed to be a replacement member. In this event, the Board shall be made up of the remainder of the members.

## **Section 16**

In addition to vacating office upon expiration of the term of office pursuant to Section 15 paragraph one, a member pursuant to Section 13 paragraph one (3), (4), (5) and (6) shall vacate office upon:

- (1) death;
- (2) resignation;
- (3) becoming bankrupt;
- (4) becoming an incompetent or a quasi-incompetent person;
- (5) being sentenced to imprisonment by final judgment, except a penalty for an offense board in negligence of misdemeanor;
- (6) being convicted to vacate office by the Board's decision with the votes not less than two third of all members due to his/her improper behavior on performance of duties.

## **Section 17**

At a meeting of the Board, there shall be members present in a number not less than a half of the total number of members to constitute a quorum.

The Chairman shall preside over the meeting. If the Chairman is absent, the members present shall elect a member among themselves to preside over the meeting.

A decision of the meeting shall be by a majority of votes. One member shall have one vote. When voting is tied, the Chairman of the meeting shall give the casting vote.

In the meeting, a person who is an interested party shall have the right to express his opinion relating to an issue of the meeting but shall have no right to give his vote.

Procedure of the meeting and performance of the duties of the Board shall be pursuant to the rules prescribed by the Board.

## **Section 18**

The Board shall have powers and duties as follows:

- (1) to prescribe the Health service provided by a Health care unit and Network of health care units and to prescribe the standard of implementation, regarding national health security, to be effective;
- (2) to provide advice to the minister on the appointment of officers and the enactment of ministerial regulations and notifications on execution of this Act;
- (3) to prescribe limits and types of Health service necessary to health, sustainability, and the rate of Cost sharing pursuant to Section 5;
- (4) to prescribe the rules of fund management and implementation;
- (5) to prescribe rules, procedures, and conditions in discharging the Secretary General and to prescribe qualifications and forbidden qualifications of the Secretary General;
- (6) to issue rules on money receipt and payment, saving money, and making benefit of the Fund pursuant to Section 40;
- (7) to prescribe rules, procedures, and conditions on payment of preliminary assistance to reimburse a beneficiary who is subject to damage or injury caused by any service provided by a Health care unit where the wrongdoer is non-apparent or the wrongdoer is apparent but such beneficiary can not be reimbursed within a period deemed appropriate in accordance with section 41;
- (8) to encourage and cooperate with local government organizations in implementing and managing the health security system in local areas by

- considering their readiness, reasonableness, and need, in order to establish national health security residents of such areas as prescribed in Section 47;
- (9) to encourage and prescribe rules making it possible that nonprofit community organizations, nonprofit private organizations and nonprofit private sectors implement and manage local funds by considering their readiness, reasonableness, and need, by means and encouraging procedures of participation in order to establish national health security residents of such areas as prescribed in Section 47;
  - (10) to prescribe rules in hearing opinions of providers and beneficiaries in order to improve the quality and standard of Health service;
  - (11) to prescribe rules on the punishment of administrative fines and revocation of enrollment.
  - (12) to create reports on implementation and obstacles to implementation of the Board, and all accounts and finances of the Board in order to annually submit to the Cabinet, the House of Representatives, and the Senate within 6 months from the last day of the fiscal year;
  - (13) to hold an annual meeting to make it possible that the Board hears general opinions of providers and beneficiaries;
  - (14) to perform such other duties as prescribed by this Act, the Minister, or other laws;

#### **Section 19**

The Board shall have powers and duties to control and supervise the Office to be implemented in accordance with the prescribed objectives as follows;

- (1) to prescribe the policy of management and consent of the Office's implementation;
- (2) to approve the financial plan of the Office;
- (3) to control the implementation and general management, to issue rules, by-laws, notifications, or provisions concerning general and personnel management, budgeting, finance and properties, to monitor and evaluate, and other implementations of the Office.

#### **Section 20**

The Board shall have powers to appoint Sub-boards to perform duties pursuant to this Act or such duties as prescribed by the Board.

Section 17 shall apply *mutatis mutandis* to the meeting, procedure of the meeting, and performance of Sub-boards or their members.

#### **Section 21**

The Board shall appoint an Inspection Sub-board to have powers and duties to inspect fund management and implementation of the Office in order to enable the implementation to comply with the relevant laws, rules, and regulations, and to be effective and transparent, where accountability shall be taken hereto. This shall be as prescribed by the Board.

Members of Sub-board pursuant to paragraph one shall be deemed office-bearers, forbidden to have personal interests conflicting with the public interests pursuant to the Organic Act of the National Counter Corruption Commission.

#### **Section 22**

In performing duties under this Act, the Board or a Sub-board, as the case may be, shall have powers to summon any state agency or any person to testify to submit statements or to furnish an object, document or evidence for its consideration.

### **Section 23**

In performing duties, members of the Board and a Sub-board shall earn the allowance of the meeting, traveling allowance, and such other expenses as prescribed by the Minister.

## **Chapter 3**

### **National Health Security Office**

### **Section 24**

There shall be a "National Health Security Office" to be the state agency as the juristic person under control and supervision of the Minister.

Affairs of the Office are not under the Labor Protection, Labor Relations, Social Security, and Workman's Compensation laws. Officers and employees of the Office shall be paid consideration and other benefits not less than such rates as prescribed by the Labor Protection, Social Security, and Workman's Compensation laws.

### **Section 25**

The Office shall be situated in Bangkok or in a vicinity province.

The Board shall have powers to establish, merge, or liquidate the Office's subsidiaries by promulgating in the Government Gazette.

In establishing the Office's subsidiaries, the necessity and worthiness of the implementation after comparing with the expenses shall be considered. In this regard, the Board shall have powers to assign any state or private agency to perform duties as the Office's subsidiary by being paid for the expenses of implementation pursuant to such regulations as prescribed by the Board.

### **Section 26**

The Office shall have powers and duties as follows:

- (1) to be responsible for the administration of the Board, the Standard and Quality Control Board, and Sub-boards of the Board and Standard and Quality Control Board;
- (2) to collect, gather, analyze information concerning the implementation of the Health service;
- (3) to create the records of beneficiaries, Health care units, and Networks of health care units;
- (4) to manage the Fund for the execution of such rules prescribed by the Board;
- (5) to provide the expenses of such Health service as prescribed by the Board to Health care units and Networks of health care units pursuant to Section 46.
- (6) to inspect documents and evidence of claims submitted by Health care units for Health service expenses;
- (7) to have people obtain personal Health care units or change personal Health care units, upon their request, and to launch public relations to make it possible that people have access to information about Health care units;
- (8) to control and supervise Health care units and Networks of health care units in providing Health service to gain such standard of services as prescribed by the Board and to facilitate the lodging of complaints;
- (9) to be entitled to ownership, possession, and other realty;
- (10) to create the rights, to enter into the juristic act or any agreement concerning property;

- (11) to charge fees or service charges for operation of the Office;
- (12) to assign other organizations or other persons to act under the powers and duties of the Office;
- (13) to create an annual report as to the performance and obstacles in implementation of the Board and the Standard and Quality Control Board;
- (14) to perform other duties for the execution of this Act or other laws, or other duties assigned by the Board or Standard and Quality Control Board;

### **Section 27**

Properties of the Office shall not be subject to the execution.

### **Section 28**

The Office shall be entitled to the ownership of immovable properties donated to the Office, purchased by the Office, or acquired by means of exchanging.

The Office shall have powers to administrate, supervise, maintain, exercise, and supply the interest from properties of the Office.

### **Section 29**

The Board shall submit a request for the budget of annual expenditure to the Cabinet to spend for the administration of the Office.

### **Section 30**

The Office shall save and spend budget of the Office pursuant to such rules as prescribed by the Board.

Accountancy of the Office shall be set up pursuant to such forms and regulations as prescribed by the Board and shall be subject to an internal inspection on finance, accountancy, and inventories of the Office. Result of such inspection shall be annually reported to the Board at least once per year.

### **Section 31**

There shall be a Secretary General of the Office to be in charge of the Office's administration for the execution of laws, rules, by-laws, provisions, policies, resolutions, and notifications of the Board and to be the commander of all officers and employees of the Office.

The board shall appoint and discharge the General Secretary.

In employing and appointing the General Secretary, the Board shall elect five members of an Election Committee with qualifications and without forbidden qualifications as prescribed by Section 32 (1), (3), (4), (5), (6), (9), (10), (11), and (12).

The Election Committee shall have duties to select persons who have appropriate knowledge and expertise for the position of Secretary General, with qualifications and without forbidden qualifications as prescribed by Section 32 (1), (3), (4), (5), (6), (9), (10), (11), and (12).

The selected persons shall not be one of members of the Board and shall not be over 60 years of age on the day of submitting an application to the Board for consideration to enter into an employment contract to be appointed to be the Secretary General. The Election Committee may select and nominate more than such one appropriate person.

Members of Election Committee shall not be nominated to be the Secretary General.

Members of Election Committee shall elect a member among themselves to be a Chairman and shall elect another member among themselves to be a Secretary.

The Office shall have duties to be the Administrative Unit in searching and electing Secretary General.

### **Section 32**

Secretary General shall have qualifications and shall not have forbidden qualifications as follows;

- (1) be Thai nationality;
- (2) be able to work full time for the Office;
- (3) not be insane or mentally infirmed;
- (4) not be bankrupt;
- (5) not have been imprisoned by a final judgment to a term of imprisonment, except for an offence committed through negligence or a petty offence;
- (6) not have been subject to a judgment or court order to nationalize his property due to irregular opulence or getting tremendous property;
- (7) not be an executive or an official of another state enterprise or other profit transaction;
- (8) not be a government official, an official, or an employee who has position and regular salary from the central public sector, local public sector, or other state agency;
- (9) not be a political official, a member of the House of Representatives, senator, a member of a local assembly, or a local executive;
- (10) not be a committee member or consultant of a political party or not be an official of a political party;
- (11) never having been dismissed or discharged or expelled from a state agency, a state enterprise, or a public limited company due to bad faith on duties;
- (12) not be or not have been, in the past 1 year before appointment, a committee member, an executive, or an authorized person in managing or being interested in a juristic person who is a contractual party or a coworker or a juristic person who is interested in the affairs of the Office;
- (13) such other qualifications and forbidden qualifications as prescribed by the Board.

### **Section 33**

The Secretary General shall vacate office upon:

- (1) death;
- (2) resignation;
- (3) lacking in qualifications or having forbidden qualifications pursuant to Section 32;
- (4) being imprisoned by a final judgment to a term of imprisonment, except for an offence committed through negligence or a petty offence;
- (5) being absent from the meeting for more than 3 consecutive times without reasonable excuse;
- (6) being discharged due to defective performance, misconduct, or inefficiency;
- (7) employment contract being terminated.

### **Section 34**

The Secretary General shall hold office for a term of four years. The retiring Secretary General may be re-appointed, but shall not successively hold office more than two terms.

In the case where the Secretary General vacates office or is temporary not able to perform duties, the Board shall appoint one of the Office's officers to be in charge of his/her functions.

Such appointed official being in charge of the functions of the Secretary General shall have the same powers and duties as Secretary General's.

### **Section 35**

The Secretary General shall be a government official, who is deemed an office-bearer, and forbidden to have personal interests conflicting with the public interests pursuant to Organic Act of the National Counter Corruption Commission.

### **Section 36**

The Secretary General shall have powers and duties as follows;

- (1) to appoint or promote officers and employees of the Office, to reduce or cut down salaries or wages of officers and employees of the Office, to dismiss the officers and employees of the Office pursuant to such bylaws prescribed by the Board but to consider the opinions of the Inspection Sub-board in the case where officers or employees perform duties in the Bureau of Inspection;
- (2) to issue rules or notifications, not contrary to rules, bylaws, notifications, provisions, policies, or resolutions of the Board, on implementation of the Office.

For affairs concerning a third party, the Secretary General shall be a representative of the Office or may authorize any official of the Office to perform specific duties in his stead pursuant to such bylaws as prescribed by the Board.

### **Section 37**

There shall be a Bureau of Inspection to be the Office of the Secretary to the Inspection Sub-board which shall be under the command of the Inspection Sub-board and shall report to the Secretary General pursuant to such rules as prescribed by the Board.

## **Chapter 4**

### **National Health Security Fund**

### **Section 38**

There shall be a fund in the National Health Security Office called the "National Health Security Fund" aimed at expenditures to promote and encourage the arrangement of the Health service of Health care units.

To encourage access by persons to universal and efficient Health service, money of the Fund shall be spent by considering the development of the Health service in local areas, in which Health care units are insufficient or Health care units are not appropriate distributed.

### **Section 39**

The Fund shall be made up of:

- (1) money from the annual expenditure budget;
- (2) money from local government organizations as prescribed by law;
- (3) money earned by providing Health service pursuant to this Act;
- (4) administrative fines pursuant to this Act;
- (5) money or property donated to the Fund;
- (6) interest or benefit earned by money or property of the Fund;
- (7) other money or property earned by affairs of the Fund;
- (8) other contributions as prescribed by law.

Money and property of the Fund shall not be submitted to the Ministry of Finance to be national income pursuant to the Treasury Balance and Budgetary Procedure Law.

In submitting a request for the annual expenditure budget pursuant to (1), the Board shall submit the application to the Cabinet by considering the report of Standard and Quality Control Board's opinions, accounts, finance, and property of the Office at the time of application.

#### **Section 40**

Money receipt and payment, saving money, and making benefit of the fund shall be pursuant to such rules as prescribed by the Board.

#### **Section 41**

The Board shall earmark an amount of money, not exceeding 1 percent of money to be paid to Health care units, as preliminary assistance to reimburse beneficiaries who are subject to damage or injury caused by any service provided by the Health care unit and the wrongdoer is non-apparent or the wrongdoer is apparent but such beneficiaries can not be reimbursed within a period deemed appropriate.

This shall be pursuant to such rules, procedures, and conditions as prescribed by the Board.

#### **Section 42**

In the case where a beneficiary is subject to damage or injury caused by any service provided by the Health care unit and the wrongdoer is non-apparent or the wrongdoer is apparent but such beneficiary can not be reimbursed within a period deemed appropriate pursuant to Section 41, after payment of preliminary assistance to the said beneficiaries, the Office shall exercise a right of recourse against such wrongdoer.

#### **Section 43**

Within three months from the last day of the fiscal year pursuant to the Treasury Balance and Budgetary Procedure Law, the Board shall submit last-years balance sheet and report on money receipt and payment of the Fund of which shall be certified by Office of the Auditor-General to the Cabinet for acknowledgement.

The Minister shall submit the foregoing balance sheet and report on money receipt and payment to the House of Representatives and the Senate for acknowledgement and to be promulgated in the Government Gazette.

### **Chapter 5**

#### **Health Care Unit and Standard of Health service**

#### **Section 44**

The Office shall organize the enrollment of Health care units and Networks of health care units and set up public relations to people in order that they shall make enrollment to select personal Health care unit pursuant to Section 6.

The enrollment of Health care units and Networks of health care units and procedure of public relations pursuant to paragraph one shall be in accordance with such regulations, procedures, and conditions as prescribed by the Board.

#### **Section 45**

The Health care unit shall have duties as follows:

- (1) to provide qualified and standard vaccines, medicines, medical supplies, and medical equipment with equity and facilitation of the necessary Health service as well as respect for personal rights in dignity of humankind and religious beliefs;

- (2) to provide health information requested by beneficiaries, and pursuant to any notification concerning patient and beneficiary rights on procedures, alternatives, and result of diagnosis as well as side-effects which may occur without distortion so that beneficiaries can make their decision to utilize the Health service or to be referred;
- (3) to provide sufficient information, concerning names of physicians, sanitarian, or person responsible for physical health and society, to relatives or close persons of beneficiaries before discharging;
- (4) to strictly keep confidence of beneficiaries known by performing duties pursuant to (1) and (2) except disclosing to government officers performing duties pursuant the law;
- (5) to set up a Health service information system to facilitate a quality and service inspection as well as a request for Health service expense;

Health care units shall provide Health service to beneficiaries and set up an information system of Health service information pursuant to such regulations as prescribed by the Board and Standard and Quality Control Board.

#### **Section 46**

Health care units and Networks of health care units pursuant to Section 44 and Health care units taking referral shall earn Health service expenses from the Fund pursuant to such regulations, procedures, and conditions as prescribed by the Board.

Opinions in Section 18 (13) shall be considered for the issuance of regulations prescribing Health service expenses and such issuance of regulations shall be at least pursuant to the following conditions;

- (1) to be based on the Standard Prices of all diseases pursuant to the proposal of Standard and Quality Control Board;
- (2) to cover expenses of Health care units in salaries and considerations for personnel;
- (3) to consider the differences of Health care units' missions
- (4) to consider the differences of beneficiaries and the differences of the sizes of Health care units' responsible areas;

#### **Section 47**

To set up national health security for people in local areas by encouraging the process of participation according to the readiness, reasonableness, and need of people in such areas, the Board shall support and cooperate with local government organizations determining regulations so that the said organizations shall implement and manage the national health security system in local areas by earning expenses from the Fund.

### **Chapter 6**

#### **Standard and Quality Control Board**

#### **Section 48**

There shall be a board called the "Standard and Quality Control Board" consisting of:

- (1) The Director General of Department of Medical Services, the Secretary General of the Food and Drug Administration, the President of the Hospital Development and Accreditation Institute, and the Director of Division of Medical Registration;
- (2) a representative of the Medical Council, a representative of the Thailand Nursing Council, a representative of the Pharmacy Council, and a representative of the Law Society of Thailand;

- (3) a representative of private hospitals who is a member of the Private Hospital Association;
- (4) a representative of the Municipality, a representative of the Provincial Administrative Organization, a representative of the Tambon Administrative Organization, and a representative of other local government organizations elected by executives of its organization;
- (5) a representative of professional nurses, a representative of midwives, a representative of dentists, and a representative of pharmacists;
- (6) representatives of the Royal College of Medical Specialty, each of which is from the field of obstetrics and gynaecology, surgery, internal medicine, and paediatrics;
- (7) three representatives elected by, among, representatives of health care professionals, each of which is from the field of applied traditional medicine, physical therapy, medical technique, radiological technology, occupational therapy, cardio-thoracic therapy, and communicative disorders;
- (8) five representatives of, elected by, representatives each of which is from a non-profit private organization implementing activities for the following groups:
  - (A) Children and adolescents
  - (B) Women
  - (C) Elderly
  - (D) Disabled or mental health patients
  - (E) HIV or other chronic disease patients
  - (F) Labor
  - (G) Populous communities
  - (H) Agriculturists
  - (I) Minorities
- (9) six qualified persons appointed by the Minister, each of which, at least, is a qualified person in tropical family medicine, a qualified person in mental health, and a qualified person in Thai traditional Medicine;

Private Organizations pursuant to (8) must have implemented their activities for more than one year and shall make enrollment with the Office within 15 days from the day of the event causing election of a member of the Standard and Quality Control Board. If any organization implements several activities, it shall make enrollment to be elected for only one activity.

Regulations and procedures of election shall be pursuant to (3), (4), (5), (6), (7) and (8) and shall be as prescribed and promulgated by the Minister.

Members pursuant to (1), (2), (3), (4), (5), (6), (7) and (8) shall search and elect qualified persons and submit to the Minister for appointment pursuant to (9).

Regulations and procedures of searching and election pursuant to paragraph four shall be as prescribed and promulgated by the Minister.

Members pursuant to paragraph one shall elect a member among themselves to be the chairman of Standard and Quality Control Board.

The Secretary General shall be the secretary of Standard and Quality Control Board.

#### **Section 49**

Section 14, Section 15, Section 16, and Section 17 shall apply *mutatis mutandis* to office holding, office vacation, and the meeting of the Standard and Quality Control Board.

## **Section 50**

The Standard and Quality Control Board shall have powers and duties as follows:

- (1) to control the standard and quality of Health care units and Networks of health care units pursuant to Section 45;
- (2) to monitor the Health service provided by Health care units to meet the standard and quality in the case where such Health care units provide a level of services higher than the Health service pursuant to Section 5;
- (3) to prescribe the measurement, controlling, and encouraging of quality and standard of Health care units and Networks of health care units;
- (4) to submit standard prices of all diseases to the Board to set up regulations prescribing expenses of Health service to Health care units pursuant to Section 46;
- (5) to prescribe rules, procedures, and conditions for the complaint of a person if their right is violated due to the Health service, procedures for such complaint, and rules and procedures for assisting a person if their right is violated due to the Health service, as well as to determine a Complaint Unit to facilitate people in freely submitting complaints, irrespective of the person who is complaining;
- (6) to report the results of inspecting and controlling quality and standard of Health care units and Networks of health care units to the Board, and notify such result to Health care units or their authorizing agency in order to improve, modify, monitor, and evaluate the effect of quality and standard improvement;
- (7) to encourage people' participation in inspecting and controlling Health care units and Networks of health care units;
- (8) provide payment of preliminary assistance to a beneficiary who is subject to damage or injury caused by any service provided by a Health care unit and the wrongdoer is non-apparent or the wrongdoer is apparent but such beneficiary can not be reimbursed within a period deemed appropriate pursuant to such regulations, procedures, and conditions as prescribed by the Board;
- (9) to encourage establishing of an information system for decision making of people to get health service;
- (10) to perform other duties for the execution of this Act and other laws or such duties as prescribed by the Board.

## **Section 51**

The Standard and Quality Control Board shall have powers to appoint a Sub-Standard and Quality Control Board to perform duties as assigned by Standard and Quality Control Board.

Section 17 shall apply *mutatis mutandis* to the meetings, procedures of the meetings, and procedures for performing the duties of Sub-Standard and Quality Control Board.

## **Section 52**

The Standard and Quality Control Board or Sub-Standard and Quality Control Board shall have powers to summon any state agency or any person to testify, to submit statements or to furnish an object, document or evidence for its consideration.

## **Section 53**

In performing duties, members of the Standard and Quality Control Board and Sub-Standard and Quality Control Board shall earn the allowance of the meeting, traveling allowance, and such other expenses as prescribed by the Minister.

## **Chapter 7**

### **Officers**

#### **Section 54**

In performing duties on execution of this Act, an official appointed by the Board or Standard and Quality Control Board shall have powers to enter the premises of Health care units or Networks of health care units during official times to interrogate for the fact, inspect property, documents, and evidence, to photograph or to copy relevant document for inspection, and to do other reasonable matters to obtain the fact for execution of this Act.

For the implementation pursuant to paragraph one, if an offence pursuant to paragraph one is detected, the official shall have powers to sequester documents, property, or belongings for consideration.

Procedures in performing duties shall be pursuant to such regulations as prescribed by the Board or Standard and Quality Control Board, as the case may be.

#### **Section 55**

In performing duties, an official shall display an identification card to the relevant person.

The identification card of the official shall be as prescribed by the Minister by promulgating in the Government Gazette.

Relevant persons shall reasonably facilitate the official on duties.

#### **Section 56**

On the execution of this Act, the official shall be an official pursuant to the Criminal Code.

## **Chapter 8**

### **Health Care Unit Standard Control**

#### **Section 57**

In the case where the Office inspects and observes that any Health care unit fails to comply with the prescribed Health service standard, it shall report such inspection to the Standard and Quality Control Board to appoint an Investigation Committee for consideration.

The Investigation Committee pursuant to paragraph one shall have a reasonable number of members, made up of representatives of state agencies in the fields of medical science, public health, and law, representatives of private organizations, or other qualified persons not interested in such investigation to conduct investigation and provide opinions to Standard and Quality Control Board.

The Standard and Quality Control Board may appoint several Investigation Committees in advance to conduct investigation in a short time.

The investigation shall be completed within 30 days and can be extended to thirty more days. If the investigation can not be completed within the extended period, it shall be reported to the Standard and Quality Control Board to be considered and ordered extending to another more reasonable period.

In performing the execution of this Act, the Investigation Committee shall be official pursuant to the Criminal Code and shall have powers to summon Health care units, complainants, or any relevant persons to testify, to submit statements, or to furnish an object, documents or evidence for its consideration.

After completing the investigation, the Investigation Committee shall submit such account and its opinions to the Standard and Quality Control Board for consideration.

The Standard and Quality Control Board shall issue orders pursuant to Section 58 or Section 59, as the case may be, within 30 days from the date of receiving such account from the Investigation Committee.

### **Section 58**

In the case where the result of investigation indicates that the Health care unit fails to comply with the prescribed standard, the Standard and Quality Control Board shall

- (1) issue an order advising such Health care unit to comply with the Standard and Quality Control Board, in the case of an unintentional act;
- (2) issue an order for such Health care unit to be liable to an administrative fine not exceeding one hundred thousand Baht per act,  
in case of an intentional act and to apply provisions concerning administrative enforcement pursuant to public administrative procedure;  
in the case of the lack of an official for the enforcement of the order, the Secretary General has the power to enter an action in the court to enforce the fine and the Administrative Court has the power to sentence and enforce seizing and attaching property to be sold by auction to pay the penalty;
- (3) notify relevant agencies to investigate and judge the allegation or incrimination to health professionals who may be partly liable for an offence of the Health care unit and to proceed with disciplinary procedures in the case of a public official;

### **Section 59**

A beneficiary who is not provided reasonable facilitation or facilitation pursuant to his or her right under this Act from a Health care unit, being overcharged fees for service exceeding the rate as prescribed by the Board, being charged fees for service by a Health care unit without authority, or can not be reimbursed for damage or injury caused by the Health service provided by the Health care unit within a period deemed appropriate, shall lodge his complaint to the Office for investigation and Section 57 shall apply *mutatis mutandis*.

If the result of investigation indicates that the Health care unit has not committed an offence as it was complained, the Secretary General shall notify the complainant of the result of the investigation within 15 days from the date of issuing such result.

If the result of investigation indicates that the Health care unit has committed an offence as it was complained, the Standard and Quality Control Board shall have powers to

- (1) advise the Health care unit in writing to treat the complainant properly complying with his or her rights and benefits, in the case of the complaint for facilitation or benefit pursuant to the complainant's right.
- (2) to issue an order in writing requesting the Health care unit to return monies exceeding Cost sharing or unjust money with 15% per year interest from the date of charging to the date of return.

### **Section 60**

In the case where the Health care unit's offence pursuant to Section 58 or Section 59 is serious or re-committed, the Secretary General shall report to the Standard and Quality Control Board in order to consider proceeding to

- (1) issue an order revoking the enrollment of such Health care unit;
- (2) notify the Minister in charge of the execution of Health Facility Law to consider proceeding pursuant to such law;

- (3) notify the controlling and monitoring Minister to proceed disciplinary procedure against executives of the Health care unit, in the case of a Health care unit;
- (4) notify relevant agencies to investigate and judge such allegation or incrimination to health professionals who may be partly liable for such offence of the Health care unit and to proceed disciplinary procedures in the case of a public official;

### **Section 61**

The complaint or Health care unit receiving an order of the Standard and Quality Control Board pursuant to this Chapter, shall have the right to appeal such order to the Board within 30 days from the date of receiving or acknowledging the said order, as the case may be.

The decision of the Board shall be final.

Rules and procedures of appeal pursuant to paragraphs one shall be as prescribed by the Board.

### **Section 62**

After the Appeal Committee adjudicates an appeal lodged against the order pursuant to Section 61, the Secretary General shall report such adjudication of appeal to the Standard and Quality Control Board to be acknowledged.

## **Chapter 9**

### **Penalties**

### **Section 63**

Any person who violates or fails to comply with an order of the Board, Standard and Quality Control Board, Sub-board, Standard and Quality Control Sub-Board, Investigation Committee, or Official pursuant to Section 22, Section 52, Section 54, or Section 57 shall be liable to imprisonment for a term not exceeding six months or a fine not exceeding ten thousand Baht, or both.

### **Section 64**

Any person who obstructs or does not provide reasonable facilitation to an official to perform duties pursuant to Section 55 paragraph three shall be liable to imprisonment for a term not exceeding six months or a fine not exceeding ten thousand Baht, or both.

## **Transitory Provision**

### **Section 65**

On the commencement of this Act, Section 6, Section 7, Section 8, Section 11, and Section 12 shall not apply unless preparation for the availability of Health service provision has already been set out.

After preparation for the availability of Health service provision pursuant to paragraph one, the Minister shall prescribe and promulgate the starting time of Health service in the Government Gazette, not exceeding one hundred and eighty days from the effective date of this Act.

In spending Health service expenses pursuant to Section 46 for Health care units under the Ministry of Public Health, the Office shall provide prior such expenses to the Ministry of Health for three years from the starting date of the Health service pursuant to paragraph two.

## **Section 66**

Royal decrees pursuant to Section 9 and Section 10 shall be enacted within one year from the effective date of this Act.

If this cannot be done, such period shall be extended to one more year at a time. The Office and the Social Security Office, as the case may be, shall report the reason why the investigation cannot be completed within the extended time to the Minister for acknowledgement and shall distribute such report to the public.

## **Section 67**

The Ministry of Public Health shall elect and appoint members pursuant to Section 13 (3), (4), (5) and (6) and shall search and elect the Secretary General to set up the National Health Security Board pursuant to this Act within one hundred and eighty days from the effective date of this Act.

While the Board pursuant to paragraph one is not set up, there shall be a committee consisting of the Minister as Chairman, Permanent Secretary for Defense, Permanent Secretary for Finance, Permanent Secretary for Commerce, Permanent Secretary for the Interior, Permanent Secretary for Labor and Social Welfare, Permanent Secretary for University Affairs, the Director of Office of the Budget, and five other qualified persons, four of which shall be representatives of the Consumers.

The Minister shall appoint a Deputy Permanent Secretary for Public Health to temporarily perform duties as Secretary General until the inauguration of the Secretary General appointed in accordance with this Act.

A person appointed by the Minister pursuant to paragraph three shall be the secretary of the Committee pursuant to paragraph two. The Minister shall appoint two government officers of the Ministry of Public Health to be assistant secretaries.

## **Section 68**

The Minister shall arrange electing and appointing the Standard and Quality Control Board pursuant to Section 48 (2), (3), (4), (5), (6) (7) (8) and (9) within one hundred and eighty days from the effective date this Act.

While the Board pursuant to paragraph one is not set up, there shall be a committee consisting of the Director General of the Department of Medical Services, Secretary General of the Food and Drug Administration, President of the Health Facility Development and Accreditation Institute, Director of the Division of Medical Registration, Secretary of the Dental Council, Secretary of the Medical Council, Secretary of the Thailand Nursing Council, Secretary of the Pharmaceutical Council, President of the Law Society of Thailand, and seven other qualified persons appointed by the Cabinet, three of which shall be representatives of private organizations implementing consumer protection activities, and four qualified persons in medical science and public health, as members.

Members pursuant to paragraph two shall have a meeting electing a member among themselves to be Chairman and the elected Chairman shall appoint a secretary from assistant secretaries pursuant Section 67 and appoint two government officers of the Ministry of Public Health to be assistant secretaries.

## **Section 69**

The ownership of businesses, properties, rights, obligations, liabilities, and budget of the Ministry of Public Health relevant to health security pursuant to this Act, as well as the revolving fund of the Health Insurance Card Project shall be assigned to the Office on the effective date of this Act.

## **Section 70**

Any government official or employee of the public sector, who voluntarily to become an official or employee of the Office shall apply in writing to the Commander and shall be required to be elected and evaluated by such rules as prescribed by the Board.

A government official who becomes an official of the Office pursuant to paragraph one shall be deemed to have resigned from the public sector because of the termination or dissolution of his position pursuant to Gratuity and Pension for Officers Law or Gratuity and Pension for Official Fund Law, as the case may be.

An employee who becomes an employee of the Office pursuant to paragraph one shall be deemed to have resigned from the public sector because of the dissolution of his position by the public sector or the termination of employment without liability and shall be entitled to gratuity pursuant to the Rule of the Ministry of Finance on Employee's Gratuity.

For the calculation of benefit pursuant to bylaws of the Office, a government official or an employee of public sector, who becomes an official or an employee of the Office pursuant to this Section shall not successively count his public working period or working time when he was a government official or employee of public sector, as the case may be, into his working period at the Office unless waiving his right of gratuity or pension.

Waiving gratuity or pension shall be performed within thirty days from the date of transference of the official or employee. In the case of a government official, his or her waiving of gratuity or pension shall be as prescribed by the law of Gratuity and Pension for Officers or the law of Gratuity and Pension for Official Fund, as the case may be. In the case of an employee, his or her waiving of gratuity or pension shall be performed in writing with his or her signature and submitted to the employer in order to be passed on to the Ministry of Finance for acknowledgement.

Countersigned by

Pol.Lt.Col. Thaksin Shinnawattana

Prime Minister

**Remarks:** The reasons for the promulgation of this Act are as follows: Whereas Section 48 of the Constitution of the Kingdom of Thailand provides that the Thai population shall enjoy an equal right to receive standard Health service and the indigent shall have the right to receive free medical treatment from Health centers of the State, as provided by law. Health service by the State shall be provided thoroughly and efficiently and, for this purpose, participation by local government organizations and the private sector shall be promoted insofar as it is possible. Section 82 of the Constitution of the Kingdom of Thailand also provides that the State shall thoroughly provide and promote standard and an efficient Health service. For this ground, a Health service system essential to health and sustainability shall be organized to meet the medical treatment standard.

There shall be a control and monitoring organization implemented with the participation of public and civil sectors in order to establish an efficient medical treatment system throughout the country. In addition, the Thai population shall have the right to receive the standard Health service. At present, there are several systems of medical treatment assistance, thus rendering a recurring payment. Therefore, it is essential to enact this Act to merge such medical treatment assistance in order to reduce expenses in general health preventing the said recurring payment and to reorganize the Health system for more efficiency.

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