

**A LAW TO PROHIBIT SUBSTANCE ABUSE AND TO PROVIDE TREATMENT FOR SUBSTANCE ABUSERS AND ADDICTS, 2016**



Kaduna State of Nigeria

Law No. <sup>9</sup>..... 2016

( <sup>1st</sup> June 2016 )

Date of Commencement

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

Enactment

1. This Law may be cited as the Kaduna State Substance Abuse and Treatment Law, 2016.

Short Title

2. This Law shall come into operation on the <sup>1st</sup>..... day of <sup>June</sup>..... 2016.

Commencement

3. In this Law, unless the context otherwise requires:

Interpretation

“Bureau” means the Kaduna State Bureau for Substance Abuse Prevention and Treatment;

“Chairman” means the Chairman of the Governing Council;

“Controlled Substance” means all substances declared illegal under the NDLEA Act, Dangerous Drugs Act, Poison and Pharmacy Act, Prescription drugs and Over the Counter (OTC) drugs prone to abuse;

“Council” means the Governing Council of the Bureau established under section 6(1) of this Law;

"Court" means a Magistrate Court while exercising its jurisdiction as a substance abuse treatment court;

"Governor" means the Governor of Kaduna State;

"Law Enforcement Officer" means the police and any person vested with the power of arrest under this Law;

"Member" means the Chairman and members of the Governing Council;

"State" means Kaduna State of Nigeria;

"Minor" means a person who has not attained the age of 18 years;

"Substance Abuse" means the chronic, habitual, regular or recurrent use of alcohol, controlled substances and volatile substances, including narcotic and psychotropic substances, prescription and over-the-counter drugs for intoxication;

"Treatment" means clinical and related services rendered to a person who abuses or is addicted to controlled and volatile substances;

"Treatment facility" means a facility designated to provide care, lodging and treatment for persons undergoing substance abuse treatment;

"Volatile Substances" means glues, adhesives, cements, cleaning solvents, thinning agents and dyes, nail polish remover, petrol or other volatile products derived from petroleum, paint thinner, lacquer thinner, aerosol propellant or anaesthetic gas, etc.

4. The objectives of this Law are:

Objectives

- (a) to provide for the involuntary treatment of persons with severe substance dependence who are adjudged to have propensity to cause harm to themselves and others or lack the capacity to give consent with the aim of protecting their health and safety and that of others;

- (b) to facilitate a comprehensive assessment of those persons in relation to their dependency;
- (c) to facilitate the stabilisation of those persons through medical treatment, including for example, medically assisted withdrawal; and
- (d) to give those persons the opportunity to engage in voluntary treatment and restore their capacity to make decisions about their substance use and personal welfare.

**PART II**  
**ESTABLISHMENT OF THE KADUNA STATE BUREAU OF**  
**SUBSTANCE ABUSE PREVENTION AND TREATMENT**

- 5. (1) There is hereby established a body to be known as Kaduna State Bureau of Substance Abuse Prevention and Treatment; Establishment of Bureau
- (2) The Bureau shall be a body corporate with perpetual succession and a common seal; and
- (3) The Bureau may sue and be sued in its corporate name, and may acquire and hold movable and immovable property for the purpose of exercising its functions under this Law.
  
- 6. (1) There is hereby established a Governing Council for the Bureau which shall comprise of the following members to be appointed by the Governor: Establishment of Governing Council and Membership
  - (a) the Commissioner of Health, who shall be the Chairman;
  - (b) a representative not below a Director from:
    - (i) Ministry of Youth, Sports and Culture;
    - (ii) Ministry of Justice;

- (iii) Ministry for Local Governments and Chieftaincy Affairs;
  - (c) a representative of the Commissioner of Police, Kaduna State;
  - (d) a representative of the Controller of Prisons, Kaduna State;
  - (e) a representative of the Federal Neuro-Psychiatric Hospital, Kaduna, who shall be a substance abuse expert;
  - (f) a representative from the Nigerian Medical Association;
  - (g) a representative from the Network of Civil Society Organizations on drugs;
  - (h) three other members who must have professional or occupational expertise in substance abuse treatment services, at least one of whom shall be a woman;
  - (k) Director-General of the Bureau, who shall serve as the Secretary of the Council;
- (2) The Chairman and Members other than an ex-officio member shall hold office for a period of four (4) years and may be re-appointed for another term of four (4) years. Tenure of Office
- (3) The Chairman and members of the Board shall be paid such allowances as the Governor may determine. Allowances
- (4) A member shall not be personally liable to be sued for any act or omission to do any act or for any default of the Bureau as long as such act, omission or default is in the course of the operation of the Bureau.

7. The Secretary of the Council shall:

Duties of the Secretary to  
the Council

- (a) issue notices of meetings of the Council;
- (b) keep records of the proceedings of the Council; and
- (c) carry out such duties as the Chairman or Council may direct from time to time.

8. Notwithstanding the provision of Section 6 (1) of this Law, a member of the Council shall cease to hold office if:

Cessation of Membership

- (a) he resigns his appointment as a member by notice in writing addressed to the Governor;
- (b) he has by reason of mental or physical infirmity becomes incapable of discharging his duties;
- (c) he has been convicted of an offence which involves dishonesty or fraud;
- (d) he has been involved in any act that may be considered inimical to the interest of the Bureau or the State;
- (e) he has become bankrupt or made a compromise with his creditors; and
- (f) he is removed by the Governor who is satisfied that it is in the public's interest to do so.

**PART III**  
**POWERS AND FUNCTIONS OF THE BUREAU**

9. The Bureau shall:

Functions of the  
Bureau

- (1) Develop a comprehensive State Plan for the prevention of substance abuse and provision of substance abuse treatment services;

- (c) appoint, as and when necessary, technical committees comprising of persons with the requisite technical competence from the private or public sector to advise the Bureau on such matters as may be determined from time to time;
- (d) make rules and regulations for carrying out the functions of the Bureau;
- (e) manage and control the property and funds of the Bureau; and
- (f) perform such other functions as may, from time to time, be necessary to achieve the objectives of the Bureau.

11. The Bureau shall have the power:

Powers of the Bureau

- (a) acquire, purchase, hold and construct any property movable or immovable required for or in connection with its functions;
- (b) enter into such contracts as may be necessary or expedient for the purpose carrying out its functions; and
- (c) carry on in association with other persons or bodies including governments and local governments, activities which are necessary or desirable in the discharge of its functions.

#### **PART IV MANAGEMENT AND STAFF OF THE BUREAU**

12. (1) There shall be a Director-General for the Bureau, who shall be appointed by the Governor.
- (2) The Director-General shall:

Director-General

- (a) be the Chief Executive and accounting officer of the Bureau;
- (b) hold office for a period of five (5) years in the first instance and may be re-appointed for another term of five (5) years;
- (c) be responsible to the Council for policy direction and day to day administration of the Bureau; and
- (d) be the Secretary of the Council.

13. (1) The Council shall employ for the Bureau such other number of staff as may in the opinion of the Council be expedient and necessary for the proper and efficient performance of the functions of the Bureau. Staff of the Bureau

(2) The Council shall have power to employ either on transfer or on secondment from within the State Civil Service, such number of staff as may be required to assist the Council discharge any of its function under this Law.

(3) The terms and conditions of service (including remuneration, allowances, benefit and pension) of the staff of the Bureau shall be determined by the Council after consultation with the State Civil Service Commission.

14. (1) The Council may make staff regulations relating generally to the conditions of service of the staff of the Bureau and without prejudice to the generality of the foregoing, such regulations may provide for: Staff Regulations

- (a) the appointment, promotion and disciplinary control (including dismissal) of staff of the Bureau; and
- (b) appeals by such staff against dismissal or other disciplinary measures.

- (2) Until such regulations are made, any instrument relating to the conditions of service of officers in the civil service of the State shall be applicable to the staff of the Bureau, with such modifications as may be necessary.
15. The Bureau shall grant pension and gratuities to the staff of the Bureau in accordance with the Pensions Law operating in the State.

## **PART V SUBSTANCE ABUSE TREATMENT**

16. (1) The Bureau shall establish by all appropriate means, including contracting for services, a comprehensive and coordinated discrete programme for the treatment of substance abusers and addicts. Programme for Substance Abuse Treatment
- (2) The programme shall include, but not necessarily be limited to:
- (a) Detoxification;
  - (b) Residential treatment; and
  - (c) Outpatient treatment.
17. (1) The Bureau shall adopt rules establishing standards for approved treatment programmes. The standards may concern the health standards to be met and standards of services and treatment to be afforded patients. Standards for Treatment Programmes
- (2) The Bureau shall maintain and periodically publish a current list of approved treatment centres in the state.
18. (1) A person in need of treatment or anyone engaging in substance abuse may request voluntary treatment from a designated treatment facility. Voluntary Admission



- (2) Within the financial and space capability of the treatment facility, a person should not be denied treatment when sufficient evidence exists that the person is suffering from substance abuse and the medical and behavioural conditions are not beyond the management capabilities of the treatment provider.
  - (3) The treatment provider must emphasize admission to the treatment component that represents the least restrictive setting that is appropriate to the person's treatment needs.
  - (4) If the applicant is a person who is incompetent or a minor, a parent or legal guardian shall make the request for voluntary treatment and give written consent for treatment.
  - (5) A parent or legal guardian of a minor may give written consent to a treatment facility for voluntary treatment for non-residential treatment.
  - (6) If a voluntary patient requests or attempts to leave a treatment facility against the advice of the treatment team and administrator of the facility, the facility may initiate involuntary treatment procedures as provided for under this Law. If the patient is a minor or is incompetent, the request for discharge against advice shall be made by a parent, legal guardian or other appropriate legal representative, and the provisions of this subsection shall apply as if the patient had made the request.
19. A person meets the criteria for involuntary admission if he is suffering from substance abuse and because of such substance abuse:
- (1) Has lost the power of self-control with respect to substance use;

- (2) Has inflicted, or threatened or attempted to inflict, or unless admitted is likely to inflict physical harm on himself or another; or
- (3) Is in need of substance abuse treatment and by reason of substance use, his judgment has been impaired that the person is incapable of appreciating his need for such treatment and of making any rational decision in regard thereto.

20. (1) A person in need of treatment shall be involuntarily admitted to a designated residential treatment facility or outpatient treatment programme upon a written request for involuntary treatment that provides a factual basis for the request by anyone with knowledge that an individual may be a person in need of treatment and the written certification by an accredited substance abuse treatment practitioner that the individual is a person in need of treatment as provided for in this Law.

Request for Involuntary  
Treatment to Include  
Factual Basis

- (2) The request for involuntary treatment shall:
  - (a) concisely provide the observations, circumstances and knowledge of the requestor regarding the requestor's belief that a particular individual is in need of treatment;
  - (b) the request shall also contain the written certificate of a substance abuse treatment practitioner stating that he has reviewed the request and examined the patient and concluded that in his medical opinion the particular individual is a person in need of treatment and is either incapable of or unwilling to consent to treatment; and
  - (c) If the individual is incapable of consenting to treatment, the certificate shall state with particularity the substance abuse treatment practitioner's findings regarding why the individual is incapable of providing voluntary informed consent to treatment.

- (4) The refusal to undergo treatment does not in itself constitute evidence of lack of judgment as to the need for treatment.
  - (5) Any law enforcement officer or designated personnel may lawfully transport an individual whom they reasonably believe is a person in need of treatment without the consent of said individual, to or from a hospital, accredited treatment substance abuse practitioner or designated treatment facility for the purpose of carrying out the provisions of this Law. Admission to treatment is however on the basis of the judgment of the medical practitioner and not the law enforcement officer
  - (6) Upon admission of the person in need of treatment, the facility shall evaluate and treat the individual as medically necessary and appropriate for a period not exceeding 2 working days.
21. (1) Not more than 2 working days after the date a patient is admitted to a designated treatment facility or programme under a request for involuntary treatment, the administrator of the treatment facility, shall file a petition for involuntary commitment to a designated treatment facility, supported by affidavit in the Court.
- (a) The affidavit shall state that the administrator, as petitioner, based upon an evaluation by a physician or accredited treatment practitioner, reasonably and in good faith believes that the involuntary patient (who shall be named as respondent) is a person in need of treatment who should be continued as a patient at the facility pursuant to this Law until the patient is determined no longer to be in need of treatment at the treatment facility or programme.
  - (b) The petition shall also state that the involuntary patient has been advised of the patient's procedural and substantive rights under this Law.

Petition to Court and  
Content for Involuntary  
Admission

- (c) A copy of supporting certificates by an examining physician or accredited treatment practitioner shall be attached to the petition.
- (d) Upon the filing of a petition, the facility may continue to treat the patient as medically necessary and appropriate on an involuntary basis pending a judicial hearing on the petition.
- (e) The petition shall indicate the facility's reasonable belief, based upon investigation, as to whether the involuntary patient is able to afford a counsel and an independent expert witness.

22. (1) Upon the filing of the petition the court shall promptly:

Procedure at Hearing of  
Petition

- (a) schedule a hearing to determine based on clear and convincing evidence whether the patient is a person in need of treatment and that cause exists for the involuntary treatment of the patient, and if unable to afford a counsel, to appoint a counsel to represent the involuntary patient. Such hearing shall be held as soon as practicable, but no later than 8 working days from the filing of the petition;
- (b) direct that notice of the hearing and copies of pleadings be supplied to the involuntary patient and the patient's counsel. In the case of a minor, copies of the pleading will be supplied to the patient's parents or legal guardian;
- (c) enter such other orders as may be appropriate, including an order authorizing the continued involuntary treatment of the patient until further order of the court;
- (d) if the court determines after a hearing that the patient is not a person in need of treatment or that such patient does not need involuntary treatment,

the patient shall be discharged in accordance with the court's order; and

- (e) if the court determines that the patient is a person in need of treatment who is unwilling to accept or incapable of accepting voluntary treatment, it may order continued treatment for an additional period not exceeding 30 days. Thereafter, the court shall schedule an additional hearing within 30 days to review the need for continued involuntary treatment unless the court is informed the patient is under voluntary treatment or has been appropriately discharged from treatment. If continued involuntary treatment is warranted beyond the 30 days, the court shall hold hearings to determine the necessity for continued involuntary treatment at intervals of not more than 6 months.

- (2) A patient involuntarily receiving treatment, if represented by counsel, may waive, orally or in writing, any hearing under this section. The waiver must be submitted in writing to the court or be orally presented in open court.

Patient May Waive  
Hearing of Petition

- (3) The court shall order in respect to judicial proceedings involving a minor that:

Petitions Against Minors to  
be Treated as in a Juvenile  
Court

- (a) no person other than the law enforcement officer, substance abuse treatment expert, the parent or legal guardian of the minor and counsel to the minor shall be allowed to be present at the hearing; and

- (b) no person shall publish the name, address, school, photograph or anything that is likely to lead the identification of a minor before a court.

- (4) Any person who contravenes the orders under subsection (3) of this section shall be guilty of an offence and liable

to imprisonment for one month or fine of ₱20,000.00 or both and if it is a corporation to a fine of ₱500,000.00.

23. An individual whom the staff of a facility has determined to be a person in need of treatment shall be entitled to:

Procedural Rights of Patients

- (1) Notice (including a written statement) of the factual grounds upon which the proposed treatment is predicated and the reasons for the necessity of involuntary treatment and confinement;
- (2) Judicial review and determination of:
  - (a) Whether the involuntary patient's confinement is based upon sufficient cause;
  - (b) Whether the involuntary patient is a person in need of treatment; and
  - (c) Whether a less restrictive placement such as non-residential treatment is more appropriate. Such hearings shall not be open to the public and shall be preceded by adequate notice to the involuntary patient, and the involuntary patient shall be entitled to be present at all such hearings.
- (3) Representation by counsel at all judicial proceedings, such counsel to be court-appointed if the involuntary patient cannot afford to retain counsel;
- (4) Examination by an independent, licensed professional in the area of substance abuse and treatment and to have such persons testify as a witness on the patient's behalf, such witness to be court-appointed if the involuntary patient cannot afford to retain such witness.
- (5) Reasonable discovery, the opportunity to summon and cross-examine witnesses, to present evidence on the person's own behalf and to all other procedural rights afforded litigants in civil causes. The privilege against self-incrimination shall be applicable to all proceedings under this Law and the patient's testimony, if any, shall

not otherwise be admissible in any criminal proceedings against the patient.

- (6) To have a full record made of the proceedings, including findings adequate for review. All records and pleadings shall remain confidential unless the court for good cause orders otherwise.

24. Notwithstanding the pendency of the action or any order previously entered by the court, if at any time after the petition is filed the staff of the facility determines that the involuntary patient is no longer in need of involuntary treatment, the facility may so certify in writing and discharge the patient, and shall promptly notify the court of its discharge, and the court may dismiss the action. Discharge by Treatment Facility
  
25. An involuntary patient is entitled to change his own status to that of a voluntary patient if a member of the staff of the facility certifies that:
  - (1) The patient is reasonably capable of understanding the nature of the decision to change status; and
  - (2) Such a change is in the patient's best interest. If such a change in status is challenged within 2 days by the patient's next of kin or legal representative, the court will schedule a hearing to finally determine the matter.Patient May Change Status to Voluntary
  
26. The court may enlarge the time for performance for a reasonable period upon showing of good cause. Court may Enlarge Time
  
27. The Magistrate Court judge shall declare a sitting of the court to be a sitting of the Substance Abuse Treatment Court for the purposes of this Law. Substance Abuse Treatment Court

## **PART VI OFFENCES**

28. Any person that willingly causes or conspires with or assists another to cause:
  - (1) The unwarranted involuntary confinement of any person in a substance abuse treatment facility under this Law; orOffences

- (2) The denial to any person of any of the rights accorded to said person under this Law;

shall be liable for punishment to a fine not exceeding ₱50,000.00 or imprisonment not exceeding 1 year, or both.

## **PART VII FINANCIAL PROVISIONS**

29. (1) There is established for the Bureau a fund from which shall be defrayed all expenditure incurred by the Bureau for the discharge of its daily activities. Funds of the Bureau
- (2) There shall be paid and credited to the fund:
- (a) such sums as may be appropriated to the Bureau by an appropriation law of the State;
  - (b) all such moneys paid to the Bureau by way of grants, donations, gifts, subsidies, charges, fees, subscriptions, interests and royalties;
  - (c) monies raised by way of loans under the power to borrow, vested in the Bureau under this Law;
  - (d) all moneys which will vest in the Bureau under any Law; and
  - (e) all other sums which may in any manner become payable to the Bureau in respect of any matter incidental to its powers or functions under any Law.
29. The Bureau shall manage and apply its finances strictly in compliance with the budgetary provision approved for the Bureau. Management of Finances

Acceptance of Gifts



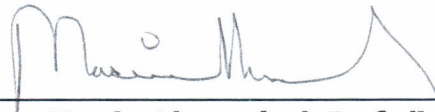
30. The Bureau may accept gifts from willing individuals and organisations.
31. The Bureau may borrow such sum of money with the approval of the Governor on such terms and conditions as the Governor may determine. Power to Borrow
32. The Bureau shall prepare and submit to the Governor not later than the 30<sup>th</sup> day of September of each year, an estimate of income and expenditure of the Bureau for the next succeeding year. Estimates
33. (a) The Bureau shall cause to be kept proper books of accounts and other records in respect of its functions. Books of Accounts to be kept
- (b) The Bureau shall prepare in respect of each financial year statement of accounts in such forms as the Governor may approve.
- (c) The said Annual Statement of Accounts shall be fair and accurate statement of the financial position and of the result of the operations of the Bureau for the financial year to which it relates.
34. (a) The Bureau shall cause the Annual Statement of Accounts required under section 34 of this Law to be audited not later than four months after the end of each financial year by the Auditor-General of the State, or by any other person authorised by him. Audit of Accounts
- (b) As soon as the Annual Statement of Accounts has been audited the Bureau shall forward to the Governor a copy of the statement of accounts together with a copy of the report made by the Auditors.

**PART VIII**  
**MISCELLANEOUS AND TRANSITIONAL PROVISIONS**

35. (1) The Governor may give the Bureau directions of a general nature in relation to matters appearing to the Governor to affect public interest and the agency shall give effect to such directions.
- (2) The Governor may after consultation with the Bureau, give the Bureau specific directions for the purpose of remedying any defect which may be disclosed in the general operations of the Bureau and the Bureau shall give effect to such directions.

Powers of Governor  
to Give Directions

**DATED AT KADUNA** this ..... 21<sup>st</sup> ..... day of ..... May ..... 2016.

  
**Malam Nasir Ahmad el-Rufa'i,**  
Governor, Kaduna State.

**EXPLANATORY NOTE**

(This note does not form part of this Law and has no legal effect)

The purpose of this Law is to provide for measures to prevent and control volatile substance abuse, provide for the treatment of substance abusers and addicts and to establish the Kaduna State Bureau for Substance Abuse Prevention and Treatment.

This printed impression has been carefully compared with the Bill which has passed the Kaduna State House of Assembly and found to be true and correctly printed copy of the said Bill.

**HON. AMINU ABDULLAHI SHAGALI**  
(Speaker)

  
**UMMA ALIYU HIKIMA Esq.**  
(Clerk to the Legislature)