**A BILL**

**entitled**

# BERMUDA HEALTH COUNCIL AMENDMENT ACT 2026

WHEREAS it is expedient to amend the Bermuda Health Council Act 2004 to prohibit the implementation of a material change to Bermuda's health care system without the prior written approval of the Minister responsible for health, and to make consequential amendments;

Be it enacted by The King's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

**Citation**

1 This Act, which amends the Bermuda Health Council Act 2004, may be cited as the Bermuda Health Council Amendment Act 2026.

**Amends section 2**

2 Section 2 of the Bermuda Health Council Act 2004 is amended by inserting the following definitions in their proper alphabetical order—

" "essential health services" means health care services necessary to protect life, prevent serious deterioration in health, or safeguard public health including emergency medical services, dialysis, maternity care, urgent diagnostics, mental health crisis services, and essential medication supply;

"material change" has the meaning given in section 16EB;".

**Inserts Part IIIAB**

3 The Bermuda Health Council Act 2004 is amended by inserting the following Part after section 16E—

"**PART IIIAB**

**MATERIAL CHANGES IMPACTING HEALTH CARE SYSTEM**

**Material change prohibited**

16EA (1) No person shall effect a material change or cause a material change to be effected unless the material change has been approved by the Minister in accordance with Regulations made under section 16EE.

(2) Any person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of $50,000.00 and on conviction on indictment to a fine of $100,000.00.

(3) A person who, in relation to a request made for approval of a material change, provides false or misleading documents or information in a material respect commits an offence; and is liable on summary conviction to a fine of $20,000 and on conviction on indictment to a fine of $30,000.

**Meaning of material change**

16EB (1) Material change means a change in the system of health care that is likely to impact—

(a) patient access to care;

(b) affordability of services;

(c) continuity of care;

(d) workforce;

(e) health service provider viability;

(f) essential health services and the delivery of such services;

(g) the protection of public health and patient safety;

(h) the wider system of health care.

(2) For the avoidance of doubt, a material change does not include routine operational, administrative or clinical decisions unless such decisions are reasonably likely to have a significant impact on the wider system of health care.

(3) In this section, "system of health care" means the persons, organizations, services, facilities, health service providers, health insurers, approved schemes, financing and payment arrangements, workforce, medicines, health technologies, information systems and other infrastructure involved in the financing, administration, provision, regulation or support of health services in Bermuda.

**Inspections: material change**

16EC (1) The Minister may designate public officers as inspectors and may, from time to time, engage the services of persons as inspectors who have subject-matter expertise.

(2) Where a request has been made to the Minister for the approval of a material change, an inspector may at all reasonable times enter and inspect the premises of a person, where the inspector has reasonable cause to believe that records relating to the material change are kept at those premises.

(3) Any person who obstructs an inspector in carrying out his functions or fails to produce any record reasonably required by an inspector commits an offence and is liable on summary conviction to a fine of $20,000.00 or on conviction on indictment to a fine of $30,000.00.

**Guidance**

16ED The Council may publish guidance documents in respect of matters it considers appropriate, including matters relating to the criteria for determining material changes, notification and assessment requirements, decision-making processes and safeguards to ensure transparency, consistency and proportionality.

**Regulations**

16EE (1) The Minister, after consultation with the Council, may make regulations—

(a) governing requests for review and approval of a material change;

(b) prescribing fees to accompany requests for approval of a material change;

(c) prescribing different fees for different categories of requests for approval of a material change, and the criteria by which fees may be reduced or waived;

(d) governing the publication of requests for approval of a material change;

(e) governing inspections, their management and conduct;

(f) governing the review of a decision by the Minister to—

(i) approve a material change with conditions;

(ii) approve a material change with modifications; or

(iii) deny a request for approval of a material change;

(g) necessary or convenient to be prescribed for the better carrying out of this Part.

(2) When prescribing the amount of any fee under subsection (1)(b), the Minister shall take into account the performance of that function by the Council and any matter incidental thereto.

(3) Regulations made under subsection (1) are subject to the negative resolution procedure.".

**Consequential amendment**

4 The Health Insurance Act 1970 is amended—

(a) in section 1 by inserting the following definition in its proper alphabetical order—

" "material change" has the meaning given in section 16EB of the Bermuda Health Council Act 2004;";

(b) by inserting the following after section 30—

"**Material change**

30A A licensed insurer and an approved scheme shall comply with the requirements concerning material changes under Part IIIAB of the Bermuda Health Council Act 2004 and any regulations made under that Part.".

**Commencement**

5 This Act comes into operation on such day as the Minister responsible for health appoints by notice published in the Gazette.

## BERMUDA HEALTH COUNCIL AMENDMENT BILL 2026

## EXPLANATORY MEMORANDUM

This Bill seeks to amend the Bermuda Health Council Act 2004 ("the principal Act") by prohibiting the implementation of a material change to Bermuda's health care system without the prior written approval of the Minister responsible for health, and to make consequential amendments.

Clause 1 is self-explanatory.

Clause 2 amends the principal Act in section 2 ("Interpretation") by inserting definitions for "essential health services" and "material change".

Clause 3 inserts Part IIIAB ("Material Changes Impacting Health Care System") as follows—

Section 16EA ("Material change prohibited") makes it an offence for a person to effect a material change unless the change has been approved by the Minister responsible for health, and such person is liable to a fine of $50,000 on summary conviction and a fine of $100,000 on conviction on indictment. A person who provides false or misleading information in a material respect when requesting approval of a material change commits an offence and is liable to a fine of $20,000 on summary conviction and a fine of $30,000 on conviction on indictment.

Section 16EB ("Meaning of material change") provides the meanings of "material change" and "system of health care", and also sets out matters which are not considered a material change.

Section 16EC ("Inspections: material change") provides for the Minister to designate public officers or to engage persons with subject-matter expertise to inspect the records of persons in relation to a request for approval of a material change; and for it to be an offence for a person to obstruct an inspector in carrying out his functions or to fail to produce records reasonably required by the inspector.

Section 16ED ("Guidance") provides for the Council to publish such guidance as it considers appropriate, including guidance relating to the criteria for determining a material change and the decision-making process.

Section 16EE ("Regulations") provides for the Minister to make regulations subject to the negative resolution procedure following consultation with the Council, including regulations prescribing fees and governing inspections.

Clause 4 makes a consequential amendment to the Health Insurance Act 1970 in section 1 ("Interpretation") by inserting a definition for "material change". Clause 4 also inserts a new section 30A ("Material change") which requires a licensed insurer and an approved scheme to comply with the requirements under the new Part IIIAB of the Bermuda Health Council Act 2004 regarding material change and any regulations made under Part IIIAB.

Clause 5 provides for this Act to be brought into operation by the Minister responsible for health by notice published in the Gazette.