

The Nagaland Health Care Estts. Act, 1997 (Act No. 3 of 1997)

Received the assent of the Governor of Nagaland on 01/04/1997 and published in the Nagaland Gazette Extraordinary dated : 16th of April, 1997.

An
-Act -

To regulate the setting up of Private Hospitals, Nursing Homes, Clinics and other such Centres run by the voluntary organisations catering to diagnostic, investigative, operative and other health care services.

Be it enacted by the Legislature of the State of Nagaland in the forty eight year of the Republic of India as follows:

Short title extent commencement and application.

1. (i) This Act may be called the Nagaland Health Care Establishments Act, 1997
- (ii) It extends to the whole of the State of Nagaland
- (iii) It shall come into force on such date as the State Government may, by notification in the Official Gazette appoint.
- (iv) It shall apply to all Nursing Homes, Clinics including the ones run by the Voluntary organisations other than the Establishments set up by the Central government or the government of any State.

Definitions

2. In this Act, unless the context otherwise requires,
 - (a) "Act" means the Nagaland Health Care Establishments Act, 1997
 - (b) "Health Authority" means State Health Authority constituted under Section 4
 - (c) "Prescribed" means prescribed by rules;
 - (d) "Rules" means rules made under this Act;
 - (e) "Section" means a section of the Act;
 - (f) "State Government" means the Government of State of Nagaland.

- (g) "Medical Practitioner" means a person who possess medical qualification as prescribed in the Indian Medical Council Act, 1956, Indian Medicine & Central Council Act, 1970 and the Homoeopathic Central Council Act, 1973 and who has been registered as a medical practitioner in the Register as provided in the aforementioned Acts;
- (h) "Midwife" means a midwife registered under the law of the time being in force for registration of the midwife;
- (i) "Nurse" means a nurse registered under any law for the time being in force for the registration of the nurse.
3. For the purpose of the Act, the term Health Care Establishments shall include:
- (a) A General Hospital, a Maternity Hospital, a Nursing Home or a Clinic;
- (b) Any Institution or Centre by whatever name called where physically or mentally sick, injured or infirm persons are admitted either as in-patients or out-patients for treatment with or without the aid or operative procedures; and
- (c) A Clinic where patients are admitted for examination and treatment with or without the aid of operative procedures; it shall also mean a Centre catering the radiological, biological and other diagnostic or investigative service with the aid of laboratory or other medical equipments.
4. (i) The State Government may by notification in the Official Gazette, constitute an Authority to be called the Nagaland Health Care Establishment Authority consisting of nine members, namely:
- (a) Secretary, Health & Family Welfare: Chairman
- (b) Secretary, Justice & Law : Member Secretary
- Meaning of the term Health Care Establishment.
- Constitution of the Licensing and Registering Authority

- (c) Director Medical Service : Member
- (d) Additional director Health Service : Member
- (e) Additional Director Medical Service: Member
- (f) State Nursing Superintendent : Member
- (g) Representative from Administration : Member
- (h) Representative from Local body to
be nominated by Government : Member
- (i) Representative from Private : Member
Practitioner
- (ii) The Authority may, if it considers necessary for
dealing with any special issue before it invite
any person(s) to attend any meeting but such
persons(s) shall not be deemed to be member of
the Authority nor shall have a voting right.
- (iii) No Act or proceeding of the Authority be invalid
on the ground merely of the existence of any
vacancy or defect in the constitution of the
Authority.
- (iv) Notwithstanding anything contained in this
Act, the State Government may at any time
reconstitute the Authority or replace any
member thereof;
- (v) The first authority shall be constituted within
six months from the date of this Act coming into
force and the names of the members shall be
published in the Official Gazette and such
Authority shall function for a period of three
years which may be extended by the
Government from time to time.

Jurisdiction and
Quorum

- 5. (i) The Jurisdiction of the Authority shall extend
over the entire State of Nagaland.
- (ii) The quorum of any meeting of the Authority
shall be five including the Chairman.

Powers, duties and functions of the Authority.

6. Without derogation to any law for the time being in force and without prejudice to the generality of its powers and functions the Authority shall:-

- (i) Receive applications for grant of licences or registration of Nursing Homes, Clinics;
- (ii) Scrutinize the applications and call for further information or particulars from the applicants or from any other person or authority as may be required;
- (iii) Consider the applications and pass orders;
- (iv) and do such other things as are required or incidental for the purpose.

Application for Registration and Licence.

7. (i) Every application for registration in respect of any Health Care Establishment and for grant of licence thereof shall be made to the Authority. The application shall contain such particulars and shall be accompanied by such fees as may be prescribed.

- (ii) The authority, if satisfied that the applicant and the health care establishment fulfill conditions specified under the Act, shall register the applicant in respect of such health care establishment and shall grant him a licence thereof and the registration and the licence shall be valid for a period of 3 years.

Terms and conditions for granting licence.

8. (i) Every licence granted shall be subject to the following terms and conditions:

- (a) That adequate measures shall be taken to keep the health care establishment in perfectly hygienic and sanitary conditions;
- (b) That adequate measures shall be taken to dispose off the garbage and waste such as dressing materials, syringes and needles etc.
- (c) That no doctors, nurses or any paramedics or any other employees in the employment of the of the State Government shall be employed in such health care establishment.

- (ii) The Authority shall reject an application if it is satisfied that:-
 - (a) The applicant of the health care establishment does not fulfill the conditions as specified;
 - (b) There is no adequate provisions for maintaining hygienic and sanitary conditions to the detriment of the health of the locality in which the Health Establishment is proposed to set up;
 - (c) If such Nursing Homes, Clinics are not or will not be under the charge of a Medical Practitioner resident therein round the clock;
 - (d) Such Nursing Homes, Clinics do not employ registered nursing personnel to receive, admit and provide nursing care to such patients admitted to render health care.

Restriction in setting up Nursing Home, Clinics

9. On and from the appointed date no person shall set up any Nursing Home, Clinic including the ones run by the Voluntary Organisation except under a valid licence granted by the Authority and no Nursing Home or Clinic and the ones run by Voluntary Organisation shall run without it having been registered in accordance with the provisions of this Act;

Provided that in the case of a Nursing Home or Clinic in existence immediately before the appointed date the person who has set it up or otherwise is the proprietor or owner of such a Nursing Home or Clinic shall within a period of three months therefrom, apply to the Authority for a licence and for registration of the Nursing Home or Clinic as the case may be.

Explanation :

For the purpose of this section "person" include a Body, Group or Association or individuals, and Organisation, a Firm or a Society whether registered or not and a Company.

Direction.

10. The Authority may, from time to time give directions in regard to matters pertaining to

nursing Homes or Clinics and the licensee as also the person referred to in Provision to section 9 shall comply with such directions.

Inspection

11. The authority may, from time to time cause inspection of the Health Care Establishments and the records kept therein to satisfy itself that the Health Care Establishment is run in accordance with the terms and condition of the licensee and that its directions are complied with and the licensee and the officer in charge of the Nursing Home or Clinic or by whatever name called, shall afford all reasonable opportunity to the Authority or to any person deputed by it to conduct the inspection and shall furnish all information as may be called for.

Cancellation.

12. If the Authority is satisfied that a licensee has violated any of the terms and conditions of the licensee or any of the directions it has given or has contravened any of the provisions of this Act or the rules, the authority may order cancellation or suspension of the licence for such period as it may think fit and on such cancellation the certificate of registration shall stand withdrawn. Provided that before a licence is cancelled the licensee shall be given an opportunity to be heard.

Appeal.

13. (i) Any person aggrieved by an order of the Authority refusing to grant a licence or to register a Nursing Home or Clinic under section 8 or canceling or suspending a licence under section 12 may make an appeal to a Board (herein after referred to as the Appellate Board) consisting of Chief Secretary and two other experts in the field of Medical Science, to be nominated by the State Government within such period as may be prescribed.
- (ii) The Appellate Board shall, after considering the appeals and, if necessary after hearing the aggrieved person, pass orders and its orders shall be final and binding.

Offences and penalties.

14. (1) Any person who knowingly establish or maintain a health care establishment which is not duly registered and licensed under this Act and which is in contravention of the provisions of this Act or Rules made there under shall on conviction, be punishable with imprisonment for a term which may extend to one year or with fin which may extend to five thousand rupees or with both and in case of a second or subsequent offences, with imprisonment for one year or with fine which may extend to ten thousand rupees.
- (2) Whoever after conviction under sub-section (1) continues to maintain a health care establishment shall on conviction be punishable with fine which may extend to one thousand rupees for everyday for which the offence continues after conviction.
15. Any person who contravenes any of the provision of this Act or of any rule or regulation made thereunder for the contravention of which no penalty is expressly provided in this Act, shall on conviction, be punishable with imprisonment which may extend to six months and with fine which may extend to five thousand rupees.
16. Any person who knowingly serves in a health care establishment which is not duly registered and licensed under this Act or which is used for immoral purposes shall be guilty of an offence and shall be punishable with fine which may extend to five hundred rupees.

Offences by Companies

- 17 (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of and was responsible to the company for the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this subsection shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in subsection (1) where an offence under this Act has been committed with consent or connivance of or is attributable to any neglect on the part of any Director, manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against accordingly.

Explanation:

- (a) For the purpose of this section, Company means a body corporate and includes a firm or other association of individuals; and
- (b) "Director" in relation to a firm mean partner in the firm.

Taking cognizance
of any offense

18. No court shall take cognizance of any offence punishable under this Act except on a complaint made by the Authority or by an officer or person authorized by it on its behalf.

Public
Servant.

19. The Chairman and every member of the Authority and every officer or person exercising his functions on its behalf shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

Indemnity

20. (1) No suit prosecution or other legal proceeding shall against any person for anything which in good faith done or intended to be done in pursuance of this Act or any Rules, Regulations or Orders made there under.
- (2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused for anything which is in

good faith done or intended to be done in pursuance of this Act or Rules, Regulations or orders made there under.

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| Credit of fees and fines. | 21. | Any fees received or fines paid under this Act and Rules framed thereunder shall be credited to the consolidated Fund of the State. |
| Expenses of the Health Authority | 22. | All expenses incurred by the Health Authority under this Act and Rules made there under shall be met out of the consolidated Fund of the State. |
| Power to remove difficulties | 23. | If any difficulty arises in giving effect to the provisions of this Act or in the interpretation of any of its provisions, the State Govt may, within the ambit of the Act, by order remove the difficulty or interpret the provisions and such order shall be final and binding. |
| Power to make Rules | 24 | <p>(1) The State Government may by Notification in the Official Gazette and subject to the condition of previous publications, make rule for carrying out the purposes of this Act.</p> <p>(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide for all or any of the following matters, namely,</p> <p>(a) the principles and criteria for granting a licence or for registration of Health Care Establishment;</p> <p>(b) the terms and conditions of a licence; The minimum facilities required for treatment of patients in the health care establishment including:</p> <p>(i) Doctor-patient relation;</p> <p>(ii) Other medical and paramedical staff eligible for rendering services in the health establishment;</p> <p>(iii) Space requirement;</p> <p>(iv) Treatment facilities;</p> |

- (v) Equipments;
- (vi) The qualification or person who may be appointed as inspecting officer and his functions etc.
- (c) the form of application for a licence and for registration;
- (d) the form of the periodical returns and statistics to be submitted by the licensee to the Authority;
- (e) the mode of holding meetings and the conduct of business by the Authority;
- (f) the fees payable for applying for a licence and for registration of Health Care Establishment and for renewal fo the same; and
- (g) any other matter which is required to be prescribed.