

The Bihar and Orissa Nurses Registration Act, 1935

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Act 1 of 1935

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The Bihar and Orissa Nurses Registration Act, 1935 Bihar and Orissa Act 1 of 1935 [Dated 3rd April, 1935] For statement of Objects and Reasons see the B. and O. Gazette, 1934, page 125. An Act to provide for the registration and better training of Nurses, Health Visitors, Midwives and dais in Bihar [* * *] [The words 'and Orissa' repealed by A. O.] Whereas it is expedient to provide for the registration of nurses, health visitors, midwives and dais in Bihar [* * *] [The words 'and Orissa' repealed by A. O.] and to secure their training: And Whereas the previous sanction of the Governor-General under subsection (3) of Section 80-A of the Government of India Act has been obtained to the passing of the Act; It is hereby enacted as follows:-

Chapter I Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Bihar and Orissa Nurses Registration Act, 1935. (2) It shall extend to the whole of the [State] [Substituted by ALO.] of Bihar [* * *] [The words 'and Orissa' repealed by AO.] including the Santhal Parganas. (3) It shall come into force on such date as the [State] [Substituted by ALO.] Government may, by notification, appoint.

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context,-(a) "Council" means the Bihar [* * *] [The words 'and Orissa' repealed by AO.] Nurses Registration Council established under Section 3, (b) "dai" means any person whether following a hereditary occupation or not, who ordinarily practises midwifery for gain and has not passed any of the examinations in midwifery recognised by the Council, (c) "health visitors" means a person who obtained the health visitor's certificate of a recognised health school or such other equivalent certificate as the [State]

[Substituted by ALO.] Government may notify in this behalf,(d)"Medical Council" means the Bihar [* * *] [The words 'and Orissa' repealed by AO.] Council of Medical Registration established under the Bihar and Orissa Medical Act, 1916,(e)"midwife" means a person who has been granted a diploma of midwifery recognised by the Council or who has been registered under clause (b) of sub-section (2) of Section 10;(f)"nurse" means a person who holds a certificate in nursing from any institution recognised in this behalf by the [State] [Substituted by ALO.]

Government,(g)"prescribed" means prescribed by Rules, regulations or by-laws made under this Act;(h)"register" means a register maintained under Section 11;(i)"registered" means registered in accordance with the provisions of Section 10;(j)"registered medical practitioner" means a person registered under the Bihar and Orissa Medical Act, 1916;(k)"trained dai" means a dai who has been granted a training certificate under the by-laws made by the Council or who has been registered on an application made under clause (d) of sub-section (1) of Section 10; and(l)"unregistered" means not registered in accordance with the provisions of Section 10.

Chapter II

Constitution of Council, Appointment of Office Bearers and the Making of Regulations

3. Constitution of Bihar Nurses Registration Council.

(1)There shall be established a Council, to be known as the Bihar [* *] [Substituted by Bihar Act 15 of 1947, for the original sub-section.] Nurses Registration Council, which shall be a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued.(2)[The Council shall consist of the following members, namely-(a)(i)the Inspector-General of Civil Hospitals, Bihar, ex-officio who shall be the President of the Council;(ii)the Director of Public Health, Bihar, ex-officio;(iii)the Superintendent of the Patna Medical College Hospital, ex-officio;(iv)the Professor of Midwifery, Prince of Wales Medical College, Patna ex-officio;(v)the Matron of the Patna Medical College Hospital, ex-officio;(vi)the Matron of the Darbhanga Medical College Hospital, ex-officio.(b)two registered medical practitioners, one of whom shall be a women, to be nominated by the [State] Government;(c)two Matrons of hospitals, other than the Matrons of the Patna Medical College and the Darbhanga Medical College Hospitals, to be nominated by the Medical Council;(d)two registered midwives and three registered nurses to be elected by the registered midwives and nurses in the manner prescribed: and(e)three non officials (of whom at least two shall be females), not belonging to any of the classes mentioned in clauses (b), (c), or (d), to be nominated by the [State] [Substituted by ALO.] Government:Provided that, if the registered nurses and registered midwives fail after the occurrence of any vacancy to elect a member under clause (d) within the prescribed period, the [State] [Substituted by ALO.] Government may fill such a vacancy by the appointment of a registered midwife or nurse, as the case may be.] [Substituted by Bihar Act 15 of 1947, for the original sub-section.](3)Every election and nomination of a member of the Council shall be notified by the [State] [Substituted by ALO.] Government in the [Official Gazette] [Substituted by AO for the word Gazette'.].

4. Term of office of members.

(1) Except as otherwise provided in Section 3 and in this Section, the term of office of a member of the Council, other than an ex-officio member, shall be of three years, and shall commence from the date of the notification of his election or nomination under sub-section (3) of Section 3. (2) The term of office of an ex-officio member shall continue as long as he holds the office in virtue of which he is such a member. (3) Notwithstanding anything contained in this Act, an outgoing member shall, unless the [State] [Substituted by ALO.] Government otherwise directs, continue in office until the election or nomination of his successor is notified under sub-section (3) of Section 3. (4) An outgoing member may, if otherwise qualified, be re-elected or renominated.

5. Cessation of membership.

- A member of the Council shall be deemed to have vacated his seat-(a) if he submits his resignation in writing to the President of Council; (b) if he has, in the opinion of the Council, without sufficient excuse, been absent from three consecutive meetings of the Council; (c) if he is sentenced by any Court for any non-bailable offence and such sentence is not subsequently reversed or quashed: Provided that the [State] [Substituted by ALO.] Government may, in any case in which it deems fit, direct that the provisions of this clause shall not apply, and on such direction the member shall be deemed not to have vacated his seat; (d) if in case of a member referred to in clauses (b), (c), [or (d)] [Substituted by Bihar Act 15 of 1947, for the words '(d) or (e)'.] of subsection (2) or Section, 3 he ceases to hold post specified or to be a registered medical practitioner or a registered nurse or registered midwife, as the case may be.

6. Casual vacancies how to be filled.

(1) Subject to the proviso to subsection (2) or Section 3, when the seat of an elected member becomes vacant under the provisions of Section 3 or by death, resignation or otherwise, a new member shall be elected in accordance with the provisions of this Act and the Rules made thereunder. (2) When the seat of a nominated member becomes vacant under the provisions or Section 5 or by death, resignation or otherwise, the Medical Council or the [State] [Substituted by ALO.] Government, as the case may be, shall appoint another member in his place.

7. Registrar and establishment for the Council.

(1) With the previous sanction of the [State] [Substituted by ALO.] Government, the Council-(a) shall appoint a Registrar, (b) may grant leave to such Registrar and appoint a person to act in his place; and (c) shall pay to the Registrar and to the person (if any) appointed to act in his place such salary and such allowances (if any) as the Council may determine. (2) The Council may appoint such other officers and such clerks and servants as they may consider necessary for the purpose of this Act, and shall pay them such salary and allowances (if any) as the Council may determine. (3) The Registrar shall act as Secretary to the Council. (4) Every person appointed under sub-section (1) or sub-section (2) shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal

Code.

8. Power to make Regulations.

(1)The Council may make Regulations consistent with this Act and with the rules made thereunder to provide for all or any of the following matter, namely;(a)the time and place of meetings;(b)the manner in which notice of a meeting shall be given;(c)the conduct of business at a meeting, the record of proceedings and adjournment of meetings;(d)the quorum necessary for the transaction of business at a meeting;(e)the appointment and constitution of sub-committees for any purpose relating to any matter with which the Council is empowered to deal and co-option of person who are not members of the Council and who are specially qualified to advise on any particular matter;(f)the payment of fees and travelling allowances to members for attendance at meeting of the Council;(g)the custody of the common seal and the purposes for which it shall be used;(h)the person by whom receipts shall be granted on behalf of the Council for money received under this Act;(i)the appointment, duties, powers, leave, suspension and removal of its officers and servants.(2)Regulations made under sub-section (1) shall not take effect until they have been confirmed by [State] [Substituted by ALO.] Government and published in the [Official Gazette] [Substituted by AO for Gazette].

9. Vacancies and irregularities not to invalidate proceedings.

- No act or proceeding of the Council shall be invalid by reason only of the existence of any vacancy in the Council or on account of any defect or irregularity not effecting the merits of the case.

Chapter III

Registration of Nurses, Health Visitors, Midwives, Trained Dais and Dais

10. Registration of nurses, health visitors, midwives, trained dais and dais.

(1)Any person who complies with such condition and restrictions as may be prescribed by the Council and who,-(a)has undergone the course of training or passed the examination, if any, prescribed for nurses, health visitors, midwives or trained dais, or(b)is registered as a nurse or midwife by any association which is recognised by the [State] [Substituted by ALO.] Government, or(c)is able to satisfy the Council that he has anywhere in India undergone a course of training or passed an examination similar to the course of training and examination referred to in Clause (a) and recognised by [State] [Substituted by ALO.] Government, or(d)is, on the date on which by any bye-laws or notification made or issued under Section 14 comes into force employed or practising in Bihar [* * *] [The words 'and Orissa' repealed by A. O.] as a dai or doing the same work as a nurse, health visitor, midwife or trained dai, in the area to which such bye-laws or notification application apply, may apply to the Registrar to have his name registered:Provided that an application from a person who claims to be registered under clause (d) shall not be entertained unless it is received

within one year from the date on which the bye-laws or the notification, as the case may be come into force.

2. (a) If the Registrar is satisfied that any nurse, health visitor, midwife or trained dai applying under clause (a) or clause (b) of sub-section (1) is eligible to be registered, he shall, on payment of the prescribed fees, enter the name of such nurse, health visitor, midwife or trained dai in the prescribed register.

(b) If the Registrar is satisfied that any person applying under clause (c) or (d) of sub-section (1) is eligible to be registered as a nurse, health visitor, or midwife, or trained dai as the case may be, he shall lay the application before the Council with a recommendation that he be permitted to enter the name of such person in the prescribed register, and shall not make any entry in the prescribed register, in respect of such person until the entry is permitted by the Council to be made: Provided that—(i) the Registrar on receiving application under clause (a) or clause (b) of the sub-section (1) from any person in respect of whom he considers that the Council may wish to exercise its powers of refusal under clause (ii) of this proviso, may refer the said application to the Council or to any sub-committee appointed by the Council for that purpose, and shall not make any entry in the register in respect of such a person until the entry is permitted to be made by the Council or by the subcommittee, as the case may be; (ii) the Council may refuse to permit the registration of any person who has been convicted of any such offence as implies in the opinion of the Council any defect of character such as would render him unfit for duty or who, after an enquiry has been held by the Council to have been guilty of any professional misconduct or, in the case of a person applying under clause (c) or clause (d) or sub-section (1), is held by the Council not to possess satisfactory professional qualifications: Provided further that any person aggrieved by an order passed under clause (ii) of the first proviso may within one month of the despatch to him by registered post of a notice informing him of such order prefer an appeal from such order to the [State] [Substituted by A.L.O.] Government. (3) If the Registrar is not satisfied that a person applying for registration under sub-section (1) is eligible to be registered he shall reject the application of such person: Provided that any person aggrieved by an order of the Registrar rejecting such an application may, within one month of the despatch to him by registered post of a notice informing him of such order, prefer an appeal from such order to the Council.

11. Register to be maintained.

(1) The Registrar shall maintain the following registers, namely, (a) a register showing the name and address of each registered nurses in Bihar [* *] [Words 'and Orissa' repealed by A. O.]; (b) a register showing the name and address of each registered health visitor in Bihar [* *] [Words 'and Orissa' repealed by A. O.]; (c) a register showing the name and address of each registered trained dai in Bihar [* *] [Words 'and Orissa' repealed by A. O.]; (d) a register showing the name and address of each registered dai in Bihar [* *] [Words 'and Orissa' repealed by A. O.]. (2) The Registrar shall keep the register in accordance with the provisions of this Act and of any rules or bye-law made thereunder, and shall from time to time all necessary alterations in the names and addresses of registered

persons and remove the names of any such person who is dead.(3)The Registrar may for the purpose of carrying out the duties imposed upon him by sub-sections (1) and (2) by registered letter sent to the registered addresses of any registered person require such person to state whether he has ceased to practise or whether his residence or address has been changed and if no answer to any such letter is received within a period of six months from the date of its despatch, the Registrar may remove the name of such person from the prescribed register:Provided that any name removed under this sub-section may be re-entered in the register under the direction of the Council.(4)The Council may by resolution order to be removed or corrected any entry in a register if it is satisfied that such an entry was fraudulently or incorrectly made.

12. Removal of names from registers for misconduct, etc.

- The Council may, by resolution, order to be removed from any register the name of any person who is convicted of any such offence as implies in the opinion of the Council any defect of character such as would render him unfit for duty, or, who, after an enquiry, is held by the Council to have been guilty of professional misconduct:Provided that any person aggrieved by an order under this section may, within one month of the date of the despatch to him by registered post of a notice informing him of such order prefer an appeal from such order to the [State] [Substituted by ALO.] Government.

13. Annual lists of nurses, health visitors, midwives and trained dais.

(1)The Register shall, from time to time, on or before a date to be fixed in this behalf by the Council, cause to be printed and published correct lists of the names for the time being entered in the registers setting forth:(a)the names entered in the respective register arranged in alphabetical order,(b)the registered address of each person whose name is entered in any register, and(c)the registered qualification of each such person and the date on which such qualification was certified.(2)In every year in which such lists have not been published, the Registrar shall cause to be printed and published on or before a date to be fixed as aforesaid supplementary lists setting forth.(a)the particulars specified in clauses (a) to (c) of sub-section (1) in the manner therein laid down in regard to persons whose names have been entered in any register during the year to which such supplementary lists appertain; and(b)the names of any persons which have been removed from the registers during the said year.(3)Every Court shall presume that any person whose name is entered in the latest of such lists published under sub-section (1) as modified by any supplementary lists published under sub-section (2) is duly registered under this Act and that any person whose name is not so entered is not registered under this Act:Provided that in the case of any person whose name does not appear in any such list, a certified copy signed by the Registrar, of the entry of the name of such person in any register shall be conclusive evidence that such person is registered under this Act:Provided further that a certificate purporting to be signed by the Registrar stating that the name of a person has been removed from any register and specifying the date of such removal shall be conclusive evidence of the fact and date of such removal.

14. Power to prohibit unregistered person from practising.

(1)A local authority may make bye-law prohibiting unregistered persons from practising as nurses, health visitors, midwives, trained dais within the area subject to its authority, and may in such bye-laws provide that any person practising in contravention of such bye-laws or any person committing, or abetting the commitment of, a breach of any such bye-laws shall be punishable with fine not exceeding fifty rupees for a first offence and not exceeding two hundred and fifty rupees for a second or subsequent offence.

15. Power of Council to make bye-laws.

- The Council may, after previous publication, make bye-laws-[Clause (a) repealed by Act 15 of 1947](a)[to prescribe the conditions of, and restrictions on, the entry of the names of persons in the registers, the form of application for such admission, and the fees for registration and the re-entry of names removed from any register;] [Clause (a) repealed by relettered clauses (a) to (f) respectively.](b)[to regulate the issue of certificate;] [Clause (a) repealed by relettered clauses (a) to (f) respectively.](c)to regulate the maintenance of the registers;(d)to prescribe the uniform or badge to be worn by registered nurses, registered midwives and registered trained dais while on duty;(e)regulate the publication of lists of registered nurses, registered health visitors, registered midwives or registered trained dais; and(f)to regulate any matter required or authorised by this Act to be prescribed.

16. Confirmation and publication of bye-laws.

(1)Bye-laws made under sub-section (1) of Section 14 shall not come into force until six months after they have been confirmed by the [State] [Substituted by ALO] Government and published in the [Official Gazette] [Substituted by ALO for 'Gazette'.] and a notification issued by the [State] [Substituted by ALO] Government under sub-section (2) of the said section shall not come into force until six months after it has been published in the [Official Gazette] [Substituted by ALO for 'Gazette'.](2)The [State] [Substituted by ALO] Government may cancel any bye-law which it has confirmed, and thereupon the bye-law shall cease to have effect.

17. Power of Government to make Rules.

(1)The [State] [Substituted by ALO] Government may, after previous publication, make Rules to carry out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, the [State] [Substituted by ALO] Government may make Rules-(a)to regulate election under Section 3;(aa)[to prescribe the course of training and examination for nurses, health visitors, midwives or trained dais and the qualifications for their registration; and to provide for the recognition of institutions competent to give such training under Section 10;)] [Inserted by Bihar Act 14 of 1937](b)to prescribe the form of register to be maintained under Section 1;(c)to regulate and control the practice of registered nurses, registered health visitors, registered midwives or registered trained dais;(d)to regulate the procedure to be followed by the Council-(i)in making a

re-entry in any register of the name of any person removed from such register,(ii)in disposing of appeals from the decision of the Registrar made under sub-section (3) of Section 10, and(iii)in regulating the application of fees levied under this Act and of other moneys received by the Council for the purposes of this Act; and(e)to regulate the expenditure of the Council and to provide for the audit of its accounts.

18. Bar to suits in respect of acts done under this Act.

- No act done in the exercise of any power conferred by this Act on the [State] [Substituted by ALO] Government or the Council or the Registrar shall be questioned in any Civil Court.

19. Exemption of registered medical practitioners from provisions of this Act.

- Nothing in this Act shall apply to registered medical practitioners.

20. Penalty for dishonest use of certificates, etc.

- Any person who-(a)dishonestly makes use of any certificate issued under the provisions of this Act to him or to any other person, or(b)procures or attempts to procure registration under the provision of this Act by making or procuring to be made or produced any false or fraudulent declaration, certificates or representation whether in writing or otherwise, or(c)wilfully makes or causes to be made any falsification in any matter relating to the registers maintained, or the certificates issued, under the provisions of this Act,shall on conviction by a magistrate of the first Class be punishable with fine not exceeding three hundred rupees.

21. Penalty for unlawful assumption of the title of registered nurse, health visitor, midwife or trained dai.

- Any person who not being a registered nurse or a registered health visitor or a registered midwife or a registered trained dai assumes or uses the name of title of a registered nurse or a registered health visitor or a registered midwife or a registered trained dai or uses any name, title, addition, description or signboard implying that such person is a registered trained dai, as the case may be, shall, on conviction by a magistrate of the first class, be punishable with fine not exceeding one hundred rupees for a first offence and not exceeding three hundred rupees for a second or subsequent offence.

22. Bar to prosecution under the Act.

- No Court shall take cognizance of any offence punishable under this Act except on complaint made with the previous sanction of the Council.