

# The Assam Health Establishments Act, 1993

ASSAM

India

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### Act 18 of 1993

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The Assam Health Establishments Act, 1993 Assam Act No. 18 of 1993 Last Updated 12th February, 2020 (Received the assent of the Governor of 24th December, 1993) An Act to regulate the health establishment to provide better provision with respect to medical-health care of the people through these establishments and for matters connected therewith or incidental thereto. Preamble. - Whereas it is expedient to regulate the health establishments to provide better provision with respect to medical-health care of the people through these establishments and for matters connected therewith or incidental thereto. It is hereby enacted in the Forty-fourth Year of the Republic of India as follows :-

### 1. Short title extent and commencement.

(1) This Act be called the Assam Health Establishments Act, 1993. (2) It shall extend to the whole of the State of Assam. (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

### 2. Definition.

- In this Act, unless the context otherwise requires- (a) "Clinical Laboratory" means an establishment where tests are carried out for biological, pathological, microbiological, biochemical, radiological or any other method analogous to any tests carried out for diagnosis of disease and health condition. (b) "nursing home" or "hospital" or "Research Institute" means any premises or establishment used or intended to be used for the reception and admission of persons suffering from illness, injury or infirmity of body and providing of treatment and nursing for them and includes a maternity home or psychiatric care ; (c) "health establishment" means a nursing home a research-institute, a hospital, a maternity home, a physical therapy establishment, a clinical Laboratory, or an establishment analogous to any of them excluding those establishment which are established and maintained by the State Government, Central Government, Defence, Railway, Public Sector Undertakings and Local Authorities ; (d) "Health Authority" means State Health

Authority constituted under section 4;(e)"Licensing Authority" means State Health Authority or other Authority authorised by the State Government for issue of licence ;(f)"Maternity Home" means an establishment or premises where women are usually received or accommodated or both for providing ante-natal or post-natal medical or health care services in connection with pregnancy and child birth ;(g)"Physical therapy Establishment" means an establishment where physical "therapy electro therapy, hydro therapy, remedial gymnastics, or similar work is usually carried on for the purpose of treatment of disease or infirmity for improvement of health or for the purpose of relaxation or for any other purpose whatsoever, whether or not analogous to the purpose here-in-before mentioned in this clause;(h)"Medical practitioner" means a person who possesses Medical Qualifications as prescribed in the Indian Medical Council Act, 1956, Indian Medicine and Central Council Act, 1970 and the Homoeopathic Central Council Act, 1973 and who has been Registered as provided in the aforementioned Acts ;(i)"midwife" means a midwife registered under the law for the time being in force, for the registration of midwife ;(j)"nurse" means a nurse registered under any law for the time being in force, of the registration of nurse ;(k)"rules" means rules made under this Act;(l)"prescribed" means prescribed by rules made under this Act ;(m)"Government" means the Government of Assam(n)"regulation" means the regulations made by the Health Authority under Section 27 of the Act.

### **3. Health establishment not to be established or maintained without registration and licence.**

- No person shall establish or maintain a health establishment without registration and a licence granted therefor under this Act; Provided that health establishment already in existence prior to commencement of this Act shall have to be registered and a licence shall be obtained therefor under this Act.

### **4. Constitution of State Health Authority and its term.**

(1)The Government may, by notification constitute an authority to be called the State Health Authority. The Health Authority shall be a body corporate having perpetual succession and common seal and may sue and be sued.(2)The Health Authority shall consist of seven members including the Chairman and shall be constituted in the following manner :-

**1. Secretary, Health and Family Welfare/Commissioner/Health and Family Welfare/Special Commissioner and Special Secretary, Health and Family Welfare-(whoever is senior most)-Chairman.**

**2. Director of Health Services-(DHS)-Member.**

**3. Director of Health Services, (DHS), (FW),-Member.**

**4. Director of Medical Education-Member.**

**5. Principal-Cum-Chief Superintendent of one of the Medical Colleges of Assam (by rotation)-Member.**

**6. Two eminent medical professional to be nominated by the Government-Members.**

(3)The first Health Authority shall be constituted within six months from the date of this Act comes 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.(4)Term of subsequent Health Authority shall be three years from the date of its first meeting :Provided that such subsequent Health Authority shall sit within forty-five days from the date of its constitution.(5)The Government may, by notification for sufficient reasons to be stated therein from time to time, extend, the term of the Health Authority by such period not exceeding one year at a time, as may be specified in the notification :Provided that the total period of such extension shall not exceed two years.

**5. Maintenance of Register of health establishment.**

(1)The first Health Authority shall, as soon as may be after its constitution and not later than six months from the coming into force of this Act, make orders for maintenance of a Register for the health establishment.(2)The Register referred to in sub-section (1) shall contain the names of all the health establishments and shall be published in the Official Gazette.(3)The Register shall be maintained in such form as may be prescribed.

**6. Appointment of Register and staff.**

- The Government shall appoint a Register who shall be the Secretary to the Health Authority and also appoint the staff necessary for carrying out the purposes of this Act.

**7. Qualification, function, salary duties and allowances of the Registrar and staff.**

- The Qualification, function, duties, salary and allowances an such other matters relating to the Register and the staff shall be such as may be prescribed from time to time.

**8. Establishment and maintenance of health establishment.**

- The Health Authority may, in any part of Assam within its jurisdiction, allow to establish or maintain health establishment for reception, admission, treatment and care of physically ill persons, pregnant woman and carry-out laboratory procedure for diagnosis of health and disease at such places as it thinks fit.

## **9. Application for registration and licence.**

(1) Every application for registration in respect of any health establishment and of the grant of a licence, therefore shall be made to Health Authority. The application shall contain such particulars and shall be accompanied by such fees as may be prescribed. (2) The Health Authority, if satisfied that the applicant and the health establishment fulfill the conditions specified under section 10, shall register the applicant in respect of such establishment and shall grant a licence therefore within 45 days from the date of application for registration and licence. The registration and the licence shall be valid for a period of one year. (3) The Health Authority shall reject an application within forty-five days from the date of receipt of the application, if it is satisfied that-(a) the applicant or the health establishment does not fulfil the conditions specified under section 10 ;(b) the real object of the applicant is to use or allow the health establishment to be used for immoral purposes ;(c) there is no adequate provisions for maintaining hygienic/sanitary condition to the detriment of the locality in which the health establishment is proposed to be established ;(d) in the case of nursing home other than maternity home that such nursing home is not or will not be under the charge of a medical practitioner resident therein round the clock and that the nursing of persons received, admitted and accommodated therein is not or will not be under the superintendence of a nurse resident therein round the clock; or(e) in the case of a maternity home that such maternity home is not or will not be under the charge of a medical practitioner resident therein round the clock and that the attendance on every woman before at, or after child-birth or on any child born is not or will not be under the superintendence of a midwife resident therein round the clock. (4) Where the application is rejected under sub-section (3) the Health Authority shall record the reason for such rejection and no application shall be rejected unless the applicant has been given an opportunity of showing cause in support of his application.

## **10. Terms and conditions for granting licences.**

- Every licence granted under sub-section (2) section-9 shall be subject to the following terms and conditions, namely :-(a) that the health establishment shall not be used for immoral purpose ;(b) that adequate measure shall be taken to keep the health establishment in perfectly hygienic and sanitary condition ;(c) that adequate measures shall be taken to dispose of the garbages including disposable syringes, needles, etc. (cc) (i) that the health establishment shall have its own specialist Doctors for respective disciplines recognised by Medical Council of India as required ;(ii) that the health establishment shall have Clinical Laboratory with requisite infrastructure for necessary laboratory examinations for diagnosis and treatment of different ailments ;(iii) that the health establishment fulfils the criteria as regards to specialist Doctors for different disciplines recognised by Medical Council of India with atleast three resident Doctors upto thirty beds and proportionate nursing staff, equipment and other staffs :Provided that the number of resident Doctors, nurses, equipments and other staffs shall be increased proportionately by the health establishment having more than thirty beds ;(iv) that for establishing and maintaing a Clinical Laboratory for carrying out biological, pathological and biochemical test for diagnostic purposes, atleast one fulltime pathologist with required number of laboratory technician and required staff shall be appointed having requisite qualifications like degree/diploma from the Government recognised institutions :Provided that an M.B.B.S. Doctor, who establishes or maintains a Clinical Laboratory for carrying out biological,

pathological and biochemical tests for diagnostic purposes, in his own name, shall be competent to carry out such routine examinations, as may be specified by regulations;(v)that for a Clinical Laboratory having radiological facilities at least one qualified Radiologist and such other Radiographer and staffs shall be appointed as required for the purpose :Provided that an M.B.B.S. Doctor, who establishes or maintains a Clinical Laboratory having Radiological facilities shall be competent to carryout basic radiological investigations as may be specified by regulations;(vi)that there shall be dietician in such category of hospitals as may be specified in the regulations ;(vii)that the health establishment shall have adequate parking place for vehicles and arrangement of Ambulance ;(viii)that the health establishment has made provisions for concession or rebate or free treatment to the economically weak patient whose annual family income from all sources does not exceed rupees twenty five thousand or such amount as may be specified by the Government, by order, from time to time, as well as for the patient of the families belonging to the Below Poverty line of the Society, as the case may be."(d)that every person keeping or carrying on a health establishment shall submit an immediate report to the Health Authority as soon as it comes to his notice that any person who has been admitted as an outdoor or indoor patient in the health establishment is suffering from or has been attacked with tetanus, gas gangrene, small pox, cholera, encephalities, Acquired Immune Deficiency Syndrome (AIDS) or any other infectious or dangerous disease specified by the Government in this behalf by notification published in the Official Gazette;(dd)(i)that the licence shall clearly state names of the Departments for which the permission has been granted in respect of a particular health establishment ;(ii)opening of new Department maybe allowed by the Health Authority, subject to fulfilment of such terms and conditions as may be prescribed;(iii)starting of or operating any new Department by any health establishment without permission and without an endorsement to that effect in the licence from the Health Authority shall be illegal and for such unauthorised activities the erring health establishment or any person responsible, as the case may be, shall be liable to all or any actions under the provisions of this Act.(e)that for every health establishment records shall be kept in such form and report submitted to the Health Authority in such form, in such manner and at such intervals, as may be prescribed, containing-(i)the name and other particulars of each person who is received, admitted or accommodated at the health establishment as an outdoor or indoor patient:(ii)that name of any of the prescribed diseases for which such person is treated ;(iii)the name and other particulars of the medical practitioner who attends, him;(iv)the amount paid by each person admitted and treated towards cost of-(a)boarding and lodging,if any, and(b)treatment;(v)birth, death and miscarriage, if any, that takes place in the health-establishment during the period to which the report relates; and(f)any other terms and conditions which may be prescribed.

## 11. Renewal.

- A licence may be renewed from time to time on an application made to the Health Authority in such form and accompanied by such fees as may be prescribed and every such application be made-(a)in case of nursing home, maternity home or Hospital not less than, ninety days in advance ;(b)in case of clinical laboratory, physiothera-pay establishment, thirty days in advance ;(c)in case of any other health establishment, not less than sixty days in advance:Provided that the renewal of a licence my be refused if the Health Authority is satisfied that-(i)the licensee is not in a position to provide the minimum facilities prescribed for the admission, treatment or care and diagnostic

services therein of patients, pregnant women ; or(ii)the licence is not in a position to provide in medical a medical practitioner who is qualified to take charge of the nursing home or Hospital, maternity home, clinical laboratory and physiotherapy establishment; or(iii)the licence has contravened any of the provisions of this Act or any rules made thereunder.

## **12. Cancellation or suspension of registration and licence.**

(1)The Health Authority may, suo moto or on complaint for any breach of the provisions of the Act, the rules or the regulations by any health establishment, issue notice to it to show cause within fifteen days as to why its registration and licence should not be suspended or cancelled for the reasons mentioned in the notice.(2)On receipt of the show cause and after giving a reasonable opportunity of being heard to the health establishment if the Health Authority is satisfied that there has been a breach of the provisions of the Act, or the rules or the regulations it may, without prejudice to the criminal action that it may take against such health establishment, suspend its registration and licence for such period as it may think fit, or cancel its registration or licence, as the case may be."Provided that no cancellation of any registration and licence shall be made unless such health establishment has been given an opportunity of showing cause as to why such registration and licence should not be cancelled.

## **12A. Power of Inspection and enquiry by the Health Authority.**

- The Health Authority, in its own motion or on receipt of any complaint, shall have the power to carry out any inspection and/or conduct any enquiry as the case may be, in respect of any health establishment, whether registered or un-registered or licenced or unlicenced under this Act,by itself or through any of its members or such other person capable of carrying out or conduct of the same, in presence of the Inspecting Officer concerned, as may be required for smooth performance of the functions of the Health Authority and for carrying out the purposes of this Act or the rules or regulations made thereunder, in such manner and following such procedure as may be determined by regulations.(2)During any inspection or enquiry, as the case may be, under sub-section (1), the concerned health establishment or any person in charge or responsible to, it shall allow free entry of the persons connected with such inspection or enquiry, as the case may be, into any such place or places of the health establishment as may be required, to facilitate inspection of any premises, machineries, equipments, stores, tools, furniture and other places and articles, etc. and produce such information and documents as may be necessary for the purpose.(3)To facilitate the smooth conduct of enquiry or the inspection as the case may be, the Health Authority may take any such help from any competent authority as may be required for the purpose.(4)After completion of the inspection or the enquiry as the case may be, the person or persons conducting the same shall submit a report before the Health Authority containing such materials in such form and in such manner as may be determined by regulations.(5)On receipt of the report, if the Health Authority considers that any action against the health establishment or any person in charge or responsible to it is called for the Health Authority shall, after giving the health establishment or the person or persons concerned a reasonable opportunity of being heard, passed necessary order or take such action against the concerned health establishment or the person or persons, as may be required under the Act or the rules.

## **12B. Power to summon persons and production of documents.**

- The Health Authority may, at any time, call for any records or documents or any other information in respect of any health establishment and/or require any person or persons in charge or responsible to it to appear personally before it to answer on any matter which may be necessary for carrying out of purpose of this Act and for this purpose issue such notices and follow such procedures as may be determined by regulations.

## **12C. Validity of orders and decisions of the Health Authority and communication thereof.**

- (i) The decisions and orders of the Health Authority are fully binding on the health establishments;(ii)no, order, decision, act or proceeding of the Health Authority shall be invalid merely on the ground of existence of any vacancy or any defect in the constitution of the Health Authority;(iii)all orders and decisions of the Health Authority shall be authenticated by the Secretary of the Health Authority and shall be issued or communicated by him.

## **12D. Classification of health establishments.**

- The Health Authority may, on consideration of number of beds available in and the amenities like air-conditioning and similar other amenities and the services in the form of medicines, facilities of electro cardiogram, sonoscaning, x-rays and similar other facilities provided health establishments, classify them into such categories and in such manner as may be determined by regulations.

## **13. Appeal.**

(1)Any person aggrieved by an order of the Health Authority refusing to grant or renew a licence or cancelling licence or otherwise may in such manner and within and within such period as may be prescribed prefer an appeal to the Government:Provided that the Government may entertain an appeal after the expiry of the prescribed period if its is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.(2)Every appeal under sub-section (I) shall be made in such form and be accompanied by such fee as may be prescribed.(3)Any order passed on appeal shall be final and shall not be questioned in any Court.

## **13A. Order for closure of the Health establishment.**

- If the appeal preferred under section 13 is rejected by the Government in respect of any health establishment, the Health Authority shall thereafter issue order for closure of the Health Establishment with the approval of the Government and the health establishment shall remain close for such period till the suspension order is withdrawn or a fresh registration and licence is granted in respect of that establishment.

#### **14. Appointment of inspecting officer and his power of entry, Inspection.**

(1)The Government shall appoint Chief Medical and Health Officer (District concerned) as Inspecting Officer for the purposes of inspecting the Health Establishment,(2)Subject to such rules as may be prescribed, the Inspecting Officer may,-(a)enter at any time by night or by day, with or without notice, any place or establishment which he has reason to believe is being used as a health establishment;(b)make such examination of the place or establishment and inspect any equipments, articles or documents found therein and seize and take out therefrom any such equipments, articles or documents, as he may deem necessary for the purpose of examination, analysis, investigation or evidence and retain them as long as he thinks it necessary to do so for such purpose ;(c)make such enquiries and put such questions to any person found in such place or establishment as he deems necessary in order to ascertain whether the place or the establishment is being used as a health establishment or not;(d)enter any health establishment and, with the assistance of a police officer not below the rank of Sub- Inspector, seize any document, equipment or other materials which such establishment is not authorised to keep or maintain under this Act or rules or regulations or under any law for the time being in force, in accordance with such procedure as may be prescribed ;(e)on receipt of the report of the Inspecting Officer, the Government may take such action against the health establishment or persons concerned as may be required under this Act or any other law for the time being in force or direct the Health Authority to take such action as may be required under this Act.(3)No person shall obstruct the Inspecting Officer in exercising his powers and functions under sub-section (2), contravention of which shall be punishable under the provisions this Act.

#### **15. Penalty for establishment or maintenance of health establishment in contravention of the provision of this Act and the rules made thereunder.**

(1)Any person who knowingly establish or maintains a health establishment which is not duly registered and licensed under this Act and is in contravention of the provisions of this Act or rules made thereunder shall, on conviction be punishable with imprisonment for a term which may extend to one year or with fine which may extend to twenty thousand rupees or with both and in the case of a second or subsequent offences with imprisonment for one year or fine which may extend to fifty thousand rupees or with both.(2)Whoever after conviction under sub-section (1) continues to maintain a health establishment shall on conviction be punishable with fine which may extend to one thousand rupees for every day for which the offence continues after conviction.

#### **16. General provision for punishment of other offences.**

- Any person who contravene 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 ten thousand rupees.



## **17. Penalty for serving in an unlicensed and and un-registered health establishment.**

- Any person who knowingly serves in a health 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.

## **18. Offences by companies.**

(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 sub-section 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 sub-section (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 means partner in the firm.

## **19. Court competent to try offence under his Act and take cognizance of offences.**

- No Court other than that of a Magistrate of the First Class shall take cognizance of or try offence under this Act.

## **20. Offences under this Act except sections 16 and 17 to be cognizable.**

- All offences punishable under this Act except offences under sections 16 and 17 shall be cognizable.

## **21. Saving.**

- Nothing contained in this Act, rules and regulations framed thereunder shall apply to health establishment established mainly by the State Government, Central Government, Defence, Railway, public Sector Undertakings an local authority.

## **22. Indemnity.**

(1)No suit, presecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rules, regulations, orders

made thereunder.(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 any rules, regulations or orders made thereunder.

### **23. Credit of fees and fines.**

- Any fees received or fines paid under this Act under rules framed thereunder shall be credited to the Consolidated Fund of the State.

### **24. Expenses of the Health Authority.**

- All expenses incurred by the Health Authority under this Act and rules made thereunder shall be met out of the Consolidated Fund of the State.

### **25. Submission of report to the Health Authority.**

(1)Any person in charge of the health establishment shall as soon as may be, after any disease which is included under the notifiable disease of the Government, cases of burns, poisoning or any other cases suspected to be medico-legal nature make a report in respect of the cases to the Health Authority.(2)Any person in charge of the health establishment shall report all death and birth, till birth as per the rules laid down by the Assam Birth and Death Registration Act, 1935. (Assam Act II of 1935).

### **26. Power to make rules.**

(1)The Government may make rules for carrying out the purposes of this Act.(2)In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-(a)The nature or type of patients or person to whom the health establishment shall render services ;(b)the form in which-(i)an application may be made for grant or renewal of a licence and a fee payable in respect thereof under sections 9 shall 11 ;(ii)a licence may be granted for the health establishment under section 9 ;(c)the manner in which an order refusing to grant or cancelling a licence shall be communicated under section 9 or, as the case may be under section 12;(d)the manner in which a report may be made to the Health Authority under clause (e) of section 10 ;(e)the minimum facilities required for treatment of patients in the health establishment including;(i)Doctor-patient relation ;(ii)other medical and paramedical staff eligible for rendering services in the health establishment;(iii)space requirement;(f)the form and manner in which and the period within which an aggrieved person can appeal against the refusal to grant licence or renewal of licence or the fee payable in respect of thereof under section 13;(g)the form and the manner in which records shall be maintained under clause (f) of section 10 ;(h)the qualification of person who may be appointed as inspecting Officer and his function, salary, etc.(i)any other matter which is required to be or may be prescribed.

## **27. Power to make regulations by the Health Authority.**

(1) Subject to the previous sanction of the Government, the Health Authority shall from time to time, frame regulations consistent with the provisions of this Act and the rules for regulating its procedure and disposal of its business. (2) In particular and without prejudice to the generality of the foregoing powers such regulations may provide for all or any of the following matters, namely :-(a) manner and procedure to be followed in respect of inspection and enquiry under sub-section (1) of section 12A ;(b) form and manner of submission of report under sub-section (4) of section 12A ;(c) form and procedure for service of notices and procedure to be followed for the purposes of section 12B ;(d) office of the Health Authority and sitting of members ;(e) meetings of the Health Authority, its summoning, quorum and details of procedure ;(f) procedure for disposal of hearing under section 12 and 12A (5) ;(g) maintenance of records and registered of the Health Authority ;(h) the minimum requirement of machineries and equipments for treatment in each categories of health establishment established for the purpose of treatment of different categories of disease/patients including minimum facilities and other amenities required therefor ;(i) the manner in which and the condition subject to which Nursing Home and Hospital, Clinical Laboratory, Psychotherapy Centre and other health establishment shall be maintained ;(j) classification of health establishments as required under section 12D ;(k) any other matter consistent with this Act and the rules which are required to be provided in the regulations. (3) The regulations made under the this section shall be published in the official Gazette of Assam and shall have effect from the date of such publication ;(4) If it appears to the State Government that it is necessary or desirable for carrying out the purposes of this Act or the rules to make any regulations under sub-section (1) and (2) or to amend any regulations made under those sub-sections, it may call upon the Health Authority to make such regulations or amendment within such time as it may specify. If the Health Authority fails to make such regulations or amendment within the time specified, the State Government may, itself make such regulations or amendment and the regulations or the amendment so made shall be deemed to have been made by the Health Authority under sub-section (1) and (2).

## **28. Interpretation of rules and regulations.**

- If any difficulty arises in respect of interpretation of any provisions of rules or regulations the decision of the Government or the interpretation thereof made by the Government shall be final.