

Chhattisgarh State Upacharyagriha Tatha Rogopchar Sambandhi Sthapanaye Anugyapan Adhiniyam, 2010

CHHATTISGARH

India

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Act 23 of 2010

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Chhattisgarh State Upacharyagriha Tatha Rogopchar Sambandhi Sthapanaye Anugyapan Adhiniyam, 2010(Act No. 23 of 2010)Last Updated 14th October, 2019[Dated 23.09.2010]An Act to provide for licensing of Nursing Home and Clinical Establishment and for matters connected therewith to ensure standardization and thereby achieving improvement of health care services.Be it enacted by the Chhattisgarh Legislature in the Sixty first year of the Republic of India, as follows :
-Chapter-I

1. Short title, extent and commencement.

(1)This Act may be called the Chhattisgarh State Upacharyagriha Tatha Rogopchar Sambandhi Sthapanaye Anugyapan Adhiniyam, 2010.(2)It extends to the whole State of Chhattisgarh.(3)It shall come into force from the date of its publication in the Official Gazette.

2. Definitions.

- In this Act, unless the context otherwise requires, -(a)"Act" means the Chhattisgarh State Upacharyagriha Tatha Rogopchar Sambandhi Sthapanaye Anugyapan Adhiniyam 2010.(b)"Clinical establishment" means a medical laboratory, a Physiotherapy establishment or clinic or a Hospital or any other establishment analogous to any of them, by whatever name called.(c)"Clinic" means any premise having facilities for treatment of sick and used for their reception and not stay.(d)"Hospital" means any premise having facilities for treatment of sick and used for their reception or stay.(e)"Maternity Homes" means any premise used or intended to be used for the reception of pregnant women or women for delivery or immediately after childbirth.(f)"Medical Laboratory" means an establishment manned by qualified pathologist and radiologist where Bio-Medical tests such as hematology, biochemistry, serological tests, bacteriological, cytology, histology genetic

investigations or any other diagnostic tests are carried out.(g)"Nursing Home" means a place where parties are treated as inpatients with facilities for admission as inpatients for treatment of illness without or with surgery or conduct of delivery and also includes other gynaecological operations where women are received or accommodated for the purpose of sterilization, hysterectomy, or medical termination of pregnancy etc. with or without overnight inpatient facilities. Nursing Home would include any inpatient medical clinic, nursing home, maternity home, hospital, old age homes and day care centers (any intervention which would require observation and on-going care/ monitoring).(h)"Physiotherapy Establishment" means an establishment where massaging, elector-therapy, hydro-therapy, medical gymnastics or any other similar processes are usually carried on, for the purpose of treatment of disease or of infirmity or for improvement whether by modern medicine or Indian system of medicine.(i)"Qualified Medical Practitioner" means a medical practitioner registered in any State in India under any law for the time being in force for the registration of medical practitioners.(j)"Qualified Dentist" means a person possessing qualification recognized by the Dental Council Act.(k)"Radiologist" means a medical practitioner that deals with the study and application of imaging technology like X-ray and radiation to diagnose and treat disease related therewith.(l)"Qualified Midwife" means a midwife or an auxiliary nurse-midwife who possesses any of the qualifications included in section B or C, as the case may be, of Part I of the Schedule to the Indian Nursing Council Act, 1947 (48 of 1947), and who is enrolled as a mid-wife or as an auxiliary nurse-midwife in a State.(m)"Qualified Nurse" means a person who possesses the qualifications included in Section A of Part I of the Schedule to the Indian Nursing Council Act 1947 (48 of 1947) and who is enrolled as a nurse.(n)"Register" means a register maintained under this Act and the expression "registered" and "registration" shall be construed accordingly.(o)"Supervisory Authority" means the person or authority appointed by the State Government by notification to perform all or any of the functions of the supervising authority as specified under this Act.(p)"Notifiable disease" means a disease which a Registered Medical Practitioner is required to notify to the Chief Medical and Health Officer of his area under the law for the time being in force.(q)"Trained Nurse" means nurses who have taken training of six months duration at government recognized institutions. She will only work under the supervision of qualified nurse as above defined.

Chapter II

3. Licence.

- Any person, company, corporate body or association/partnership firm who intend to set-up a nursing home or a clinical establishment as defined in this Act shall apply to the supervisory authority along with the details as may be prescribed. The supervisory authority shall grant licence to the nursing home or a clinical establishment as the case may be if it is satisfied that the eligibility norms for obtaining the licence are; fulfilled by the applicant: Provided further that all nursing homes or clinical establishments which are already in existence on the date of commencement of this Act, shall apply to supervisory authority within 90 days of commencement of this Act. The supervisory authority shall grant them licence if it is satisfied that the applicant fulfills the norms prescribed in this regard.

4. Penalty for failure to obtain licence.

- Whoever runs a nursing home or a clinical establishment as defined in this Act without obtaining a licence shall be punishable with a fine of Rs. 20,000.

5. Fee for obtaining licence.

- Every application for licence made to the supervisory authority, shall contain such particulars, information and shall be accompanied by such fee as may be prescribed in this regard.

6. Grant of licence or otherwise.

- On the basis of the examination of the application for licence, the supervisory authority, shall grant licence to the applicant or reject the application if it is found : -(a) That the applicant, or any person employed by him at the nursing home or the clinical establishment, is not a fit person, whether by reason of expertise qualification or otherwise to carry on or to be employed at the nursing home or the clinical establishments of such a description as the nursing home or clinical establishment named in the application; or (b) That the applicant or the nursing home or the clinical establishment does not fulfill the conditions which have been prescribed under this Act or any rule made thereunder; or (c) That the real object of the applicant is to use, or allow the nursing home or clinical establishment to be used, for anti-social/unlawful or immoral purposes or for both; or (d) In case of a nursing home other than a maternity home, that the nursing home is not or will not be under the charge of a qualified medical practitioner resident therein and that the nursing of persons received and accommodated therein is not or will not be under the superintendence of a qualified nurse resident therein; or (e) In the case of a maternity home that such maternity home is not or will not be under the charge of a qualified midwife 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 superintendence of a qualified midwife resident therein; or (f) That for reasons connected with the situation, constructions, accommodation, staffing or equipment, the nursing home or clinical establishment is not fit to be used for a nursing home or clinical establishment of such a description as the nursing home or the clinical establishment mentioned in the application, and shall in every case, where the application is rejected, record the grounds of rejection.

7. Conditions of licensing.

- Every licence granted under section 6 (a) shall be upon such terms as may be prescribed and such terms may, inter alia, require : -(a) Such precautions to be observed for safe guarding that the nursing home or the clinical establishment is not used for unlawful/anti-social or immoral purposes or both; (b) Such sanitary and hygienic measures to be taken and such accommodation to be provided as may be specified by the supervisory authority; (c) Such minimum equipment to be provided as may be specified by the supervisory authority in this behalf; (d) Every licensed nursing home shall maintain such records as may be prescribed and shall produce these records for inspection and examination to the supervisory authority or any other officer duly empowered by

him under this Act or Rules made thereunder. Apart from these periodical information in respect of births, deaths, miscarriages, (Medical Termination of Pregnancy) notifiable disease and any other information shall be submitted to the supervisory authority as and when required or prescribed.

8. Renewal of licence.

- Notwithstanding anything contained in this Act or any rules made thereunder, the licence granted under section (6) of this Act, shall have an initial validity of 5 years. After every five years this licence shall be put up for renewal before the supervisory authority, who may renew or otherwise the licence by following the procedure as may be prescribed.

9. Cancellation or Suspension of licence.

- If at any time, it is found by the supervisory authority that,--(1)A licensed nursing home or clinical establishment has contravened or not complied with any provision of this Act or any rule made thereunder or any condition specified at the time of licensing; or(2)A licensed nursing home or clinical establishment has been convicted of an offence punishable under this Act, he may after giving, the nursing home or a clinical establishment, a reasonable opportunity of being heard, cancel or suspend the licence.(3)Notice to be given before cancellation of licence. - Notwithstanding anything contained in this Act, the supervisory authority shall give a 30 days' notice to the nursing home or a clinical establishment whose licence is sought to be cancelled or suspended. The notice shall contain the reason and ground on the basis of which the licence is sought to be cancelled or suspended. If the notice so requests, a personal hearing may also be granted to hear the defence of the notice. If after following the above mentioned procedure and hearing the case of the noticee. the supervisory authority decide to cancel or suspend the licence, he shall pass a speaking order to this effect which shall contain the reasons for such cancellation or suspension of licence.

10. Appeal.

- Any person aggrieved by an order of the supervisory authority refusing, cancelling or suspending the licence may, within a period of 30 days after the date of such order may file an appeal to the State Government.(a)The State Government shall hear the appeal through an authority duly empowered by it in this regard.(b)Notwithstanding anything contained in this Act, no appeal shall lie in any court against the order of the State Government in this behalf.

11. Inspection of nursing homes or clinical establishment.

(1)Subject to the provisions of the rules made under this Act, any officer duly authorized by the State Government in this behalf 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 nursing home or clinical establishment.(b)Make examination of the place or establishment and inspect any equipment, article or document found therein and seize and take out there-from any such equipment, article or document, as he deems necessary for the purpose of examination, analysis, investigation or evidence

and retain them for such reasonable period as he thinks necessary.(c)Make such inquiries, and put such question 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 nursing home or clinical establishment or not.(2)Provided further that, if any person obstructs the lawfully empowered authority in discharge of their duties, it shall be punishable under the relevant section of the Indian Penal Code (No. 45 of 1860).

Chapter III

12. Penalties and Fine.

- (A) (1) Whoever contravenes the provision made with regard to licensing under this Act or any rules made thereunder, shall be punishable with a fine of Rs. 20,000.(2)If a nursing home or a clinical establishment does not fulfill the eligibility norms as prescribed in this Act or rules made thereunder, it shall be punishable with a fine of Rs. 20,000.(3)If a nursing home or a clinical establishment fails to submit records or information which are lawfully required to be submitted under this Act or rules made thereunder, it shall be punishable with a fine of Rs. 5000, for each offence.(B)Conviction for offence under this Act. - If a nursing home or a clinical establishment commits an offence under Section 12 (A), shall be punishable with prescribed fine only for the first offence :Provided further that, if a nursing home or a clinical establishment is convicted of an offence under Section 12 (A) for the second time, it shall be liable for the imprisonment up to three years, or with fine of Rs. 50,000, or with both.

13. Provision as to wilful negligence by Nursing Home/Clinical Establishment.

- (A) If any act of wilful negligence is committed by any Nursing Home/Clinical Establishment it shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years, and shall also be liable to fine which shall not be less than Ten Thousand rupees but which may extend to Fifty Thousand rupees.(B)A person aggrieved by the Act of wilful negligence by Nursing Home/Clinical Establishment with respect to the treatment/admission of a patient may make a complaint to the appellate authority/committee constituted under section 7 (1) of the Chhattisgarh Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2010 (No. 11 of 2010) in the manner as may be prescribed.(C)The Appellate Authority/Committee on receipt of such a complaint shall proceed to examine it and after giving both the parties, a reasonable opportunity of being heard, shall submit its findings also with recommendations to the Director of Health Services, Government of Chhattisgarh.(D)The Director of Health Services on receipt of such a report from the Appellate Authority shall examine it and if he is satisfied that an act of wilful negligence has been established against the Nursing Home/Clinical Establishment, shall proceed to initiate legal action against Nursing Home/Clinical Establishment as prescribed under Section 13 (A).

14. Offences by Registered Society.

(1)Where an offence under this Act has been committed by a company or a corporate society or association as well as every person incharge or responsible to, the conduct of its business at the time of the commission of the offence 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 section shall render any such person liable to any punishment provided in this Act. If he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.(2)Notwithstanding anything contained above, where an offence under this Act has been committed by a company or society and it is proved that the offence has been committed with the consent or connivance of or that the commission of the offence 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 that offence and shall be liable to be proceeded against and punished accordingly.

15. Court competent to try offences under this Act.

- Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (No. 2 of 1974), no court inferior to that of a Magistrate of the first class shall try an offence punishable under this Act.

16. Nature of offence.

- All offences under this Act shall be cognizable and bailable.Chapter-IV

17. Protection of action taken in good faith.

(1)No suit or other legal proceeding shall lie against the Government in respect of any loss or damage caused or likely to be caused by anything which is done in good faith done or intended to be done in pursuance of the provisions of this Act or any rule made thereunder.(2)No suit, prosecution or other legal proceeding shall lie against any authority or any officer authorized in this behalf by the State Government in respect of anything which is done in good faith or intended to be done in pursuance of the provisions of this Act or any rule made thereunder.

18. Power to make rules.

(1)The State Government may, by notification and subject to condition of previous publication 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 form of the application to be made under Section 3 the date on which such application is to be made and the fees to be paid for such licence or renewal of licence.(b)The particulars which an application under section 5 shall contain and the fee with which such application shall be accompanied.(c)The conditions, which an applicant and a nursing home or a clinical establishment shall fulfill under section 3 and the form of certificate of licence.(d)The fees to

be paid for an appeal under section 10 of the Act and procedure for appeal.(e)The form of the register or registers to be maintained under this Act.(f)The records to be kept of the patients received in a nursing home and in the case of the maternity home miscarriage, abortions or still-births occurring in the nursing home and of the children born therein and of the children so born who are discharged from the nursing home otherwise than to the custody or care of any parent, guardian or relative.(g)The conditions regarding accommodation, sanitary and other facilities and minimum equipments.(h)Any other matter which has to be, or may be prescribed.(3)Every rule made under this Act shall be laid as soon as may be after it is made, before the State Legislature.

19. Institution deemed to be licenced under this Act.

(a)Any nursing home or clinical establishment administered by the Central or the State Government or any local authority, and/or(b)Any asylum established or licensed under the Indian Lunacy Act, 1912 (4 of 1912), or(c)Any leper asylum appointed, established or maintained under the Lepers Act, 1893 (No. 3 of 1893), shall be deemed to be licensed under this Act.

20. Repeal.

- The Chhattisgarh Upcharyagriha Tatha Rujopchar Sambandhi Sthapanaye (Registration Tatha Anugyapan) Adhiniyam, 1973 (No. 47 of 1973) is hereby repealed.