

Jammu and Kashmir Nursing Homes and Clinical Establishments (Registration and Licensing) Act, 1963

JAMMU & KASHMIR

India

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Act 39 of 1963

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Jammu and Kashmir Nursing Homes and Clinical Establishments (Registration and Licensing) Act, 1963(Act No. 39 of 1963)[Dated 17th October, 1963]An Act to introduce a system of registration and Licensing of Nursing Homes and Clinical Establishments.Be it enacted by the Jammu and Kashmir State Legislature in the Fourteenth Year of the Republic of India as Follows :-

Chapter 1

Preliminary

1. Short Title, extent and commencement.

(1)This Act may be called as the Jammu and Kashmir Nursing Homes and Clinical Establishments (Registration and Licensing) Act, 1963.(2)It extends to the whole state.(3)It shall come into force at once.

2. Definitions.

- In this Act, unless the context otherwise requires:-(a)"Clinical establishments " means a Medical Laboratory, a physio-establishment, a clinical , or an establishment analogous to any of them, by whatever means called;(b)" Hospital" means any premises used for the reception of the sick;(c)" Maternity Home" means an establishment where women are usually received and accommodated for the purpose of confinement and ante-natal and post-natal care in connection with childbirth or anything connected therewith;(d)"Medical Laboratory" means an establishment where-(i)biological,

bacteriological radiological, microscopic, chemical or other tests, examinations or analysis, or(ii)the preparation of cultures, vaccines, sera or other biological or bacteriological products, in connection with the diagnosis or treatment of diseases, are or is usually carried on;(e)"nursing homes " means any establishments or premises used or intended to be used, for the reception and accommodation of person suffering from any sickness, injury or infirmity whether of body or mind and the providing of treatment or nursing or both of them, and includes a maternity home, but does not include-(i)any hospital or other establishment or premises maintained or controlled by the Central or the State Government or any other Authority or body constituted by or under any law for the time being in force;(ii)any asylum established or licensed under the Lunacy Act, Samvat 1977;(f)"physio-therapy establishment " means an establishment where messaging , electrotherapy, hydrotherapy, remedial gymnastic or similar processes are usually carried on, for the purpose of treatment of diseases or of infirmity or for improvement of health or for the purpose of relaxation or for any other purpose whatsoever, whether or not analogous to the purpose herein before mentioned in this clause;(g)"prescribed" means prescribed by rules made under this Act;(h)"Qualified Medical Practitioner " means a medical practitioner registered in the state or any other state in India under any law for the time being in force for the registration of medical practitioners;(i)"qualified midwife" means a midwife or an auxiliary nurse-midwife who possesses the prescribed qualifications;(j)"Qualified nurse" means a person who possess the prescribed qualifications;(k)"register " means a register kept under this Act and the expression "registered" and "registration" shall be constructed accordingly;(l)" Supervising Authority" means the person or authority appointed by the Government by notification in Government Gazette to perform all or any of the functions of the supervising authority under this Act;

Chapter II

Registration and Licensing of Nursing Homes and Clinical Establishments

3. Nursing home or clinical establishment not to be opened kept or carried on without registration and License.

- No person shall open, kept or carry on a nursing home or clinical establishment without being registered in respect thereof and except under and in accordance with the terms of a license granted therefor.

4. Application for registration and License.

(1)Every person intending to open, keep or carry on a nursing home or clinical establishment shall make an application for registration in respect of the nursing home or the clinical establishment and for the grant of a license therefor to the supervising authority.(2)Notwithstanding anything contained in sub-section(1), a person already keeping or carrying on a nursing home or a clinical establishment on the commencement of this Act, shall apply for the registration to the supervising authority within three months from the aforesaid date.(3)Every application in registration in respect

of a nursing home or a clinical establishment and for the grant of License therefor or for the renewal of the registration and the license shall contain such particulars and shall be accompanied by such fees, as may be prescribed.(4)The supervising authority shall if satisfied that the applicant and the nursing home or the clinical establishment, as the case may, fulfill such conditions as may be prescribed, registered the applicant in respect of such nursing home or clinical establishment and shall grant him a license in the prescribed form therefor.(5)The Supervising authority may reject an application if he is satisfied-(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 age or otherwise to carry on, or to be employed at, the nursing home or the clinical establishment of such a description as the nursing home or the clinical establishment named in the application ; or(b)that the applicant or the nursing home or the clinical establishment does not fulfill the prescribed conditions; or(c)that the real object of the applicant is to be used, or allow the nursing home or clinical establishment to be used, for unsocial or immoral purposes;(d)that the nursing home, other than the maternity home, is not under the charge of the 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 under the charge of a qualified midwife and that the attendance on every women thereon ;(f)that for reasons connected with situation, construction, accommodation, staffing or equipment, the nursing home, or clinical establishment, is not fit to be used for a nursing home or clinical establishment mentioned in the application.(6)Every license granted under sub-section (4) shall be upon such terms as may be prescribed and such terms may, inter-alia, require-(a)such precautions to be taken for safe guarding that the nursing home or the clinical establishment is not used for unsocial or immoral purposes;(b)such sanitary and hygienic measures to be taken and such accommodation to be provided, as may be specified by the supervising authority;(c)such minimum equipment to be possessed as may be specified by the supervising authority in this behalf;(d)the nursing homes to keep records of persons received and accommodated and intimate to specified authorities all births, deaths and miscarriages happening therein. Such statistics shall be transmitted each month, besides an annual report, to such authorities as may be prescribed;(e)the clinical establishments to keep records of persons investigated or treated therein. Such statistics shall be forwarded each month to such authorities as may be prescribed.(7)A certificate of registration and license issued under this section, shall subject to the provisions of section 5, be in force and shall be valid until the 31st of March next following the date on which such certificate was issued.(8)A certificate of registration issued in respect of nursing home or a clinical establishment shall be kept affixed in a conspicuous place in the nursing home or the clinical establishment, as the case may be.

5. Cancellation of Registration and License.

- If at any time after any person has been registered in respect of any nursing home or clinical establishment and granted a license therefor, the supervising authority is satisfied :-(i)that the terms of the license are not being, complied with, or(ii)that any of the grounds which would have entitled him to refuse the application for registration or license, exist, or(iii)that the person registered and licensed has been convicted of an offence punishable, under this Act, or(iv)that any other person who has been convicted of an offence under this Act is materially interested in the nursing home or

the clinical; establishments.

Chapter III

Penalties

6. Penalties.

- Any person who -(a)Who contravenes the provisions of section 3, or(b)Who contravenes the provisions of subsection(2) of section 5;(c)Who, being the holder of a license granted under this Act in respect of any nursing home or clinical establishment, uses or allows such nursing home or clinical establishment to be used for unsocial or immoral purposes,Shall be guilty of an offence and shall,-(i)on conviction of a first offence shall be punishable with fine which may extend to five hundred rupees, and(ii)on conviction for a second or subsequent offences, be punishable with imprisonment for a term which may extend to one thousand rupees, or both.

7. Offences by Corporations.

- Where a person committing an offence under this Act is a company or other body corporate or an association of persons, every person who, at the time of the commission of the offence, was a director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offences was committed without his knowledge, be deemed to be guilty of such offence.

8. Penalty for serving in an unlicensed and unregistered nursing home or clinical establishment.

- Any person who knowingly serves in a nursing home or clinical establishment which is not duly registered and licensed under this Act or which is used for unsocial or immoral purposes, shall be guilty of an offence and shall be punishable with fine which may extend to five hundred rupees.

Chapter IV

Miscellaneous

9. Offences under this Act to be cognizable.

- All offences under this Act shall be cognizable.

10. Courts competent to try offences under this Act.

- Notwithstanding anything contained in the Code of Criminal Procedure, Samvat, 1989, no court inferior to that of the first class shall try an offence punishable under this Act.

11. Protection of Action taken in good faith.

(1) No suit, prosecution or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act. (2) No suit or other legal proceeding shall lie against Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

12. Credit of fees and fine.

- Any fees received or fines paid under this Act shall be credited to the Consolidate Fund of the state.

13. Expenses of supervising Authority.

- All expenses incurred by the supervising authority under and for the purposes of this Act and the rules made thereunder shall be paid out of the Consolidate Fund of the state.

14. Power to make rules.

(1) The Government, may by notification in the Government Gazette, make rules for carrying out all or any of the purposes of this Act. (2) 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 4, the date on which such application is to be made and the fees to be paid for such registration or renewal of registration; (b) the authority to whom an application under section 4 shall be made and the particulars which such application 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 sub-section (3) of section 4; (d) the form of the register to be maintained under this Act; (e) the forms and the terms of the license to be issued under section 4; (f) the notifications required to be given of any death occurring in the nursing home; (g) any other matters which has to be, or may be prescribed.