

The M.P. Upcharyagriha Tatha Rujopchar Sambandhi Sthapanaye (Registrikaran Tatha Anugyapan) Adhiniyam, 1973

MADHYA PRADESH

India

The M.P. Upcharyagriha Tatha Rujopchar Sambandhi Sthapanaye (Registrikaran Tatha Anugyapan) Adhiniyam, 1973

Act 47 of 1973

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The M.P. Upcharyagriha Tatha Rujopchar Sambandhi Sthapanaye (Registrikaran Tatha Anugyapan) Adhiniyam, 1973(M.P. Act No. 47 of 1973)[Dated 6th November, 1973]Received the assent of the President on the 6th November, 1973; assent first published in the "Madhya Pradesh Gazette" (Extraordinary), dated the 19th November, 1973.An Act to provide for registration and licensing of nursing homes and clinical establishments and for matters connected therewith.Be it enacted by the Madhya Pradesh Legislature in the Twenty-fourth Year of the Republic of India as follows :-

Chapter I Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Madhya Pradesh Upcharyagriha Tatha Rujopchar Samhandhi Sthapanaye (Registrikaran Tatha Anugyapan) Adhiniyam, 1973.(2)It extends to the whole of the State of Madhya Pradesh.(3)It shall come into force on such date and in such areas as the State Government may, by notification, appoint and different dates may be appointed for different areas.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a)["Appellate authority" means the person or authority appointed by the State Government by notification to perform all or any of the functions of the appellate authority under this Act;] [Inserted by M.P. Act No. 16 of 2008.](aa)["Clinical

establishment" means a medical laboratory a physiotherapy establishment, a clinic, or an establishment analogous to any of them, by whatever name called;] [Renumbered by M.P. Act No. 16 of 2008.](b)"Hospital" means any premises having facilities for treatment of sick and used for their reception or stay;(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 child-birth or anything connected therewith;(d)"medical laboratory" means an establishment where-(i)biological, pathological, 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 home" means any establishment or premises used or intended to be used, for the reception and accommodation of persons suffering from any sickness, injury of infirmity, whether of body or mind and the providing of treatment or nursing or both for them, and includes a maternity home or convalescent 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 statute of a competent legislature;(ii)[any psychiatric hospital or psychiatric nursing home establishment or licensed under the Mental Health Act, 1987 (No. 14 of 1987);] [[Substituted by M.P. Act No. 16 of 2008. Prior to substitution it read as under: '(ii) any hospital, establishment or any asylum established or licensed under the Indian Lunacy Act, 1912 (IV of 1912);']](f)"Physio-therapy establishment" means an establishment where massaging, electro-therapy, hydro-therapy, remedial gymnastics 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 purposes herein before mentioned in this clause;(g)"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;(h)"qualified mid-wife" means a mid-wife or an auxiliary nurse-midwife who possesses any of the qualifications included in Section B or C, as the case may be, of Part 1 of the Schedule to the Indian Nursing Council Act, 1947 (48 of 1947), and who is enrolled as a mid-wife or an auxiliary' nurse-midwife in a State;(i)"qualified nurse" means a person who possesses the qualifications included in Section A of Part I of (he Schedule to the Indian Nursing Council Act, 1947 (48 of 1947), and who is enrolled as a nurse;(j)"register" means a register maintained under this Act and the expression "registered" and "registration" shall be construed accordingly;(k)"supervising 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 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 licence.

- No person shall open, keep or carry on a nursing home or a clinical establishment without being registered in respect thereof and except under and in accordance with the terms of a licence granted therefor. Explanation. - The expression "carry on a nursing home" means to receive person in a nursing home for any of the purposes mentioned in clause (c) of Section 2 and to provide treatment or nursing or both for them.

4. Application for registration and licence.

(1) Every person intending to open, keep or carry on a nursing home or a clinical establishment shall make every year on or before 30th April, an application to the supervising authority for registration in respect of the nursing home or the clinical establishment and for the grant of a licence therefor, or for the renewal of registration and the licence : Provided that nothing in this section or in Section 3 shall apply in the case of a nursing home or a clinical establishment which is in existence in any area at the date of the commencement of this Act in that area for a period of three months from such date or if an application for registration and the grant of a licence is made within that period in accordance with sub-section (2), until such application has been finally disposed of. (2) Every application for registration in respect of a nursing home or a clinical establishment and for the grant of licence therefor or for the renewal of the registration and the licence shall contain such particulars and shall be accompanied by such fees, as may be prescribed. (3) The supervising authority, if satisfied that the applicant and the nursing home or the clinical establishment, as the case may be, fulfils such conditions as may be prescribed, shall register the applicant in respect of such nursing home or clinical establishment and shall grant him a certificate of registration in relation to the nursing home or clinical establishment, as the case may be, and a licence therefor in such form as may be prescribed. (4) 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 clinical establishment named in the application; or (b) that the applicant or the nursing home or the clinical establishment does not fulfil the conditions prescribed under sub-section (3); or (c) that the real object of the applicant is to use, or allow the nursing home or clinical establishment to be used, for unsocial or immoral purposes or for both; or (d) in the 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 situations, constructions, accommodations, staffing or equipment, the nursing home or clinical establishment is not fit to be used for a nursing home or the clinical establishment of such 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 for rejection. (5) Every licence granted under sub-section (3) shall be upon such terms as may be prescribed and such terms may, inter alia, require, - (a) such precautions to be observed for safeguarding that the nursing home or the clinical establishment is not used for unsocial 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 supervising authority;(c)such minimum equipment to be provided as may be specified by the supervising authority in this behalf;(d)in the case of nursing homes, records to be kept of persons received and accommodated and intimation to be given to specified authorities of births, deaths and miscarriages therein, and such statistics shall be transmitted each month, besides an annual report, to the concerned Ministry of the Central Government and to such other authorities as may be prescribed;(c)in the case of clinical establishment, records to be kept of persons investigated or treated therein, and such statistics shall be forwarded each month to the State Government and to the concerned Ministry of the Central Government.(6)A certificate of registration and a licence issued under this section shall, subject to the provisions of Section 5, be in force and shall be valid until the 31st day of March, next following the date on which such certificate was issued.(7)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 licence.

- If at any time after any person has been registered in respect of any nursing home or clinical establishment and granted a licence therefor, the supervising authority is satisfied,-(i)that the terms of the licence are not being complied with; and(ii)that any of the grounds which would have entitled him to refuse the application for registration or licence, 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 establishment.he may cancel such registration and licence.

6. Notice of refusal or of cancellation of registration.

(1)Before making an order refusing an application for registration and licence in respect of a nursing home or a clinical establishment or an order cancelling any registration and licence in respect thereof, the supervising authority shall give to the applicant or to the person registered and licensed not less than one calendar month's notice of its intention to make such an order, and every such notice shall state the grounds on which the supervising authority intends to make the order and shall contain intimation to the effect that if within a calendar month of the receipt of the notice the applicant or the person registered informs the authority in writing that he desires so to do, the supervising authority shall, before making the order, give him an opportunity of showing cause (in person or by representative) why the order should not be made.(2)If the supervising authority after giving the applicant or the person registered an opportunity of showing cause as aforesaid, decides to refuse the application for registration and licence or to cancel the registration and the licence, as the case may be, it shall make an order to that effect and shall send a copy of the order by registered post to the applicant or the person registered.(3)Any person aggrieved by an order refusing an application for registration and licence, or cancelling any registration and licence may, within a period of a calendar month after the date on which the copy of the order was received by him, appeal to the [Appellate Authority] [Substituted for 'State Government' by M.P. Act No. 16 of 2008.] against such order.(4)[Omitted.] [[Omitted by M.P. Act No. 16 of 2008. Prior to omission

it was as under :'(4) The decision of the State Government on any such appeal shall be final and shall not be called into question in any Court.'](5)An appeal shall not operate as a stay of the order appealed against except so far as the [Appellate Authority] [Substituted for 'State Government' by M.P. Act No. 16 of 2008.] may order.(6)The [Appellate Authority] [Substituted for 'State Government' by M.P. Act No. 16 of 2008.] may, for sufficient cause order the stay of the order appealed against until further orders or until the disposal of the appeal whichever is earlier.(7)Where an application is made for stay of the order appealed against before the expiration of the time prescribed for appealing therefrom the supervising authority, which made the order may, on sufficient cause being shown, order the stay.

7. Inspection of nursing homes and clinical establishment.

(1)Subject to the provisions of the rules made under this Act, any officer authorised 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 a clinical establishment;(b)make examination of the place or establishment and inspect any equipment, articles or documents found therein [x x x] [Words 'and seize and take out therefrom any such equipment, article or documents, as he deems necessary for the purpose of examination, analysis, investigation, or evidence and retain them for such reasonable period as he thinks necessary' Omitted by M.P. Act No. 16 of 2008.];(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)No person shall obstruct an officer authorised under sub-section (1) in the exercise of any power conferred by that sub-section or make any false or reckless statement in answer to a question put by such officer in exercise of the powers conferred on him under clause (c) of that sub-section.

Chapter III

Penalties

8. Penalties for offences under the Act.

- Any person,-(a)who contravenes the provisions of Section 3; or(b)who contravenes the provisions of sub-section (2) of Section 7; or(c)who, being the holder of a licence 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 or both;shall be guilty of an offence and shall-(i)on conviction for a first offence be punishable with fine which may extend to [fifty thousand rupees] [Substituted for 'five hundred rupees' by M.P. Act No. 16 of 2008.]; and(ii)on conviction for a second or subsequent offence be punishable with rigorous imprisonment for a term which may extend to three months and shall in addition be liable to fine which may extend to [one thousand rupees] [Substituted for 'twenty-five rupees' by M.P. Act No. 16 of 2008.] for every day for which the offence continues after conviction.

8A. [Penalty for deficiencies. [Inserted by M.P. Act No. 16 of 2008.]

- Any person who contravenes any provision of this Act or rule made thereunder resulting in deficiencies that do pose any imminent danger to the health and safety of any patient which can be rectified within a reasonable time, shall be punishable with fine which may extend to ten thousand rupees.]

9. Offences by Companies.

(1)Where an offence under this Act has been committed by a company, the company as well as every person incharge of, and responsible to the company for 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 sub-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 in sub-section (3), where an offence under this Act has been committed by a company 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.Explanation. - For the purposes of this section,-(a)"company" means any body corporate and includes a firm or other association of individuals, and(b)"director" in relation to a firm means a partner in the firm.

10. 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 punishable with fine which may extend to [five thousand rupees] [Substituted for 'five hundred rupees' by M.P. Act No. 16 of 2008.].

Chapter IV Miscellaneous

11. Offences under the Act to be [non-cognizable] [Substituted for 'cognizable' by M.P. Act No. 16 of 2008.].

- All offences under this Act shall be [non-cognizable] [Substituted for 'cognizable' by M.P. Act No. 16 of 2008.].

12. Courts competent to try offences under this Act.

- Notwithstanding anything contained in the Code of Criminal Procedure, 1899 (V of 1899), no Court inferior to that of a Magistrate of the First Class shall try an offence punishable under this Act.

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

14. Power to make rules.

(1) The State Government, may, by notification and subject to the 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 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 particulars which an application under Section 4 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 fulfil under sub-section (3) of Section 4 and the form of certificate of registration and licence; (d) the fees to be paid for an appeal under sub-section (3) of Section 6 and the procedure of such appeal; (e) the form of the register to be maintained under this Act; (f) the form and the terms of the licence to be issued under Section 4; (g) the records to be kept of the patients received in a nursing home and in the case of the maternity home of miscarriage, abortions or still-births occurring in the nursing home and of the children born therein and of the children so born who are removed from the nursing home otherwise than to the custody or care of any parent, guardian or relative; (h) the intimation required to be given of any death occurring in the nursing home; (i) the conditions regarding accommodation, sanitary and other facilities and minimum equipments; (j) the conditions subject to which an officer authorised under sub-section (1) of Section 7 may exercise his powers under that sub-section; (k) any other matter which has to be, or may be, prescribed. (3) All rules made under this Act shall be laid on the table of the Legislative Assembly.

15. Act not to apply to certain establishments.

- Nothing in this Act shall apply to, - (i) any nursing home or clinical establishment administered by the Central or the State Government or any local authority; and/or (ii) [any psychiatric hospital or psychiatric nursing home establishment or licensed under the Mental Health Act, 1987 (No. 14 of 1987); or] [[Substituted by M.P. Act No. 16 of 2008. Prior to substitution it read as under: '(ii) any

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asylum established or licensed under the Indian Lunacy Act, 1912 (4 of 1912); or']](iii)any leper
asylum appointed, established or maintained under the Lepers Act, 1893 (3 of 1893).

16. Repeal.

- The Madhya Pradesh Nursing Homes Registration Act, 1954 (28 of 1954), is hereby repealed.