

THE ANDHRA PRADESH ALLOPATHIC PRIVATE MEDICAL CARE
ESTABLISHMENTS (REGISTRATION AND REGULATION) ACT, 2002

ACT No. 13 OF 2002

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THE ANDHRA PRADESH ALLOPATHIC PRIVATE MEDICAL CARE
ESTABLISHMENTS (REGISTRATION AND REGULATION) ACT, 2002

ACT No. 13 OF 2002

[3rd May, 2002]

AN ACT TO PROVIDE FOR THE REGISTRATION AND REGULATION OF
¹[ALLOPATHIC PRIVATE MEDICAL CARE ESTABLISHMENTS] IN THE
STATE OF ANDHRA PRADESH AND FOR MATTERS CONNECTED
THEREWITH OR INCIDENTAL THERETO.

Be it enacted by the Legislative Assembly of the State of Andhra Pradesh in
the Fifty-third year of the Republic of India as follows:-

CHAPTER -1
PRELIMINARY

1. Short title extent and commencement - (1) This Act may be called
²[the Andhra Pradesh Allopathic Private Medical Care Establishments
(Registration and Regulation) Act, 2002].

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall come into force on such date as the Government
May, by notification, appoint.

2. Definitions - In this Act, unless the context otherwise requires:-

(a) "Authority" means the Andhra Pradesh Private Medical Care
establishments Registering Authority constituted under section 4;

(aa) ³['District Level Advisory Committee' means the Committee
constituted under section 5A];

(b) "Government" means the State Government of Andhra Pradesh.

(c) "Hospital" means any premises having facilities for treatment of
the sick and used for their reception or stay;

(d) "Maternity Home" means any premises 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;

(e) "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 usually carried on, and includes as diagnostic
centre;

(f) "Medical Treatment" means treatment in modern medicine of
"allopathic" treatment;

(g) "Modern Medicine" means western method and includes allopathic
medicine, obstetrics, surgery and dentistry;

(h) 'Notification' means a notification published in the Andhra Pradesh
Gazette and the word 'notified' shall be construed accordingly;

(i) "Nursing Home" means any premises used or intended to be used, for
the reception and accommodation of persons 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 or convalescent
home;

(j) "Physiotherapy Establishment" means an establishment where
massaging, electrotherapy, hydrotherapy, remedical gymnastics or similar,

¹. Substituted by the Act No. 37 of 2006, S.2.

². Substituted by the Act No. 37 of 2006, S.3.

³. Inserted by the Act No. 14 of 2006, S.2.

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 therapeutic relaxation;

(k) ¹["Private Medical Care Establishment" means a clinic, a consultation room, a hospital, a medical laboratory, a diagnostic centre, a maternity home, a nursing home, an infertility or fertility clinic, a physiotherapy establishment, a polyclinic and any other like establishment providing in-patient or day care procedures, including surgery facilities by whatever name called, and administered or maintained by a person or body of persons whether incorporated or not, other than the Central or the State Government or any local authority or any other authority or body constituted by or under any Statute of a competent Legislature];

(l) "Prescribed" means prescribed by rules made under this Act; and

(m) "Register" means a register maintained under this Act and the expression 'registered' and 'registration' shall be construed accordingly.

(n) ²['State Level Advisory Committee' means the Committee constituted under section 5A].

³[(o) Allopathy" means a system of medical practice that aims to combat disease by use of remedies (as drugs/surgeries) producing effect different from or incompatible with those produced by the disease being treated, and the words 'allopathic' shall be construed accordingly].

CHAPTER - II

REGISTRATION AND REGULATION OF PRIVATE MEDICAL CARE ESTABLISHMENTS.

3. Registration Of Private Medical Care Establishment - On and from the date of commencement of this Act, no person shall establish, keep or carry on any private medical care establishment unless it has been registered in accordance with the provisions of this Act;

Provided that an application for registration shall be made to the Authority within three months from such commencement in respect of any Private Medical Care establishment in existence immediately before such commencement.

Explanation: For the purpose of this section, 'person' includes a body, group of association of individuals, an organization of individuals, an organization, a firm or Company or Society or Trust whether registered or not.

4. Constitution of Registering Authority - The state Government may, by notification, constitute an Authority to be called the Andhra Pradesh Private Medical Care Establishments Registering Authority and the Government may constitute different authorities for different areas.

5. Powers, duties and functions of the Authority - (1) The Authority shall exercise all powers and perform all duties and functions necessary and expedient for carrying-out all or any of the purposes of this Act.

(2) without prejudice to the generality of such powers, duties and functions, the authority shall-

(a) receive applications for registration of private medical care establishments;

(b) scrutinize the applications and call for further information or particulars from the applicants and from any other persons or authority

¹. Substituted by the Act No. 14 of 2006, S.2.

². Added by the Act No.14 of 2006, S.2.

³. Added by the Act No. 37 of 2006, S.4.

as may be required;

(c) consider the applications and pass orders; and

(d) do such other things as are necessary or incidental for the purposes of this Act.

¹ [5A. Constitution of State Level and District Level Advisory Committees - (1) There shall be constituted at State Level, a State Level Advisory Committee with the following members, namely:-

(i) Special Chief Secretary / Principal Secretary / Secretary to Government, dealing with the subject in Health, Medical & Family Welfare Department...Chairman Ex-officio;

(ii) Four officers not below the rank of Deputy Secretary to Government, to be nominated by the Government representing one from each of Departments of Law, Women Development, Child Welfare and Disabled Welfare, Social Welfare, Tribal Welfare and Backward Classes Welfare.....Members;

(iii) The Director of Medical Education....Member Convener; and

(iv) Ten Members to be nominated by the Government of whom,-

(a) two from the Indian Medical Association;

(b) two from the Andhra Pradesh Private Nursing Homes Association;

(c) two from related medical professional organisations and eminent doctors;

(d) two from consumer forums and social activists; and

(e) two eminent professionals from health related areas and representatives of women welfare organisations.

(2) There shall be constituted at each district level, a District Level Advisory Committee with the following members, namely:-

(i) The District Collector.....Chairman Ex-officio;

(ii) the District Medical and Health Officer....Member Convener; and

(iii) ten Members to be nominated by the District Collector of whom,-

(a) two from the Indian Medical Association;

(b) two from the Andhra Pradesh Private Nursing Homes Association;

(c) two from reputed Non-Governmental Organisations working in the area of health and related activities;

(d) two from Zilla Samakhya; and

(e) two from legal professionals and consumer organisations.

5B. Powers and functions of the State Level Advisory Committee - The State Level Advisory Committee shall,-

(a) review the progress made in the registration process and give timely advice to the various authorities constituted for the purpose, for the proper and effective implementation of the Act;

(b) monitor the implementation of the provisions of the Act and rules in the State;

(c) monitor, review and recommend to Government regarding the implementation of the conditions by those private medical care establishments who availed tax concessions or as the case may be, customs duty exemption from the Central Government on importing

¹. Sections 5A, 5B, 5C and 5D along with the marginal headings inserted by the Act No. 14 of 2006, S.3.

medical equipment, or obtained land or being recognised as a referral hospital by the State Government as the case may be, for the treatment of Government employees regarding giving free medical treatment of both in-patient and out-patient to the poor patients, white ration card holders or other categories as may be notified by the Government from time to time;

(d) recommend to the Government, any modifications required in the rules in accordance with changes in technology or social conditions;

(e) order random inspections of the Private Medical Care Establishments without prior notice; and

(f) the other powers, functions and the procedure in constitution of the Committee shall be in such manner as may be prescribed.

5C. Powers and functions of the District Level Advisory Committee - The District Level Advisory Committee shall,-

(a) review the progress made in the registration process and give timely advice to the registration authority for the proper and effective implementation of the Act in the District concerned;

(b) monitor the implementation of the provisions of the Act and rules in the District concerned;

(c) monitor, review and recommend to State Level Advisory Committee regarding the implementation of the conditions by those private medical care establishments who availed tax concessions or as the case may be, customs duty exemption from the Central Government on importing medical equipment, or obtained land or being recognised as a referral hospital by the State Government as the case may be, for the treatment of Government employees regarding giving free medical treatment of both in-patient and out-patient to the poor patients, white ration card holders or other categories as may be notified by the Government from time to time;

(d) bring it to the notice of the State Level Advisory Committee any modifications required in the rules in accordance with changes in local needs or social conditions;

(e) nominate persons for the inspection teams and to review the contents of the inspection reports as per the need; and

(f) the other powers, functions and the procedure in constitution of the Committees shall be in such manner as may be prescribed.

5D. The term of office of the Advisory Committee members - (i) The term of office of a nominated member, both in State Level Committee or in District Level Committee, other than the ex-officio members, shall be three years;

(ii) If a casual vacancy occurs in the office of nominated members, whether by reason of death, resignation or inability to discharge functions owing to illness or any other incapacity, such vacancy shall be filled by the Government in respect of State Level Committee, or as the case may be, the District Collector in the case of the District Level Committee by making a fresh nomination and the member so nominated shall hold office for the remaining term of office of the person in whose place he is so nominated;

(iii) The Member-Convener shall perform such functions as may be assigned to him by the Chairman from time to time;

(iv) The intervening period between any two meetings of Advisory Committees constituted under the Act shall not exceed six months].

6. Application for Registration - An application for registration or for renewal of registration of a private medical care establishment shall be made to the authority in such form and in such manner and accompanied by such fee as may be prescribed.

7. Certification of Registration - (1) On receipt of an application made under section 6, the Authority may, if satisfied after causing such enquiry as may be considered necessary to be made and in accordance with such criteria as may be prescribed, issue a certificate of registration to the private medical care establishment subject to such terms and conditions as may be prescribed or, for reasons to be recorded in writing, refuse to register the private medical care establishment:

Provided that no order refusing to register a private medical care establishment shall be passed unless the applicant has been given an opportunity of being heard;

Provided further that an application for registration shall be disposed of by the Authority within such time as may be prescribed;

(2) Every certificate of registration shall be valid for a period of five years and may be renewed for a further period of five years at a time.

(3) The Authority may refuse to register a private medical care establishment, if it is satisfied that,-

(a) ¹[the applicant in the event of having been convicted of an offence; or].

(b) the private medical care establishment does not have.-

(i) The financial capability to maintain the institution for which the registration is sought; or.

(ii) The infrastructure including buildings, facilities for disposal of medical waste, essential medical equipment, including protection measures from radiation, and such other facilities as may be prescribed; or,

(iii) The qualified personnel medical paramedical and other staff, as may be prescribed; or

(iv) the standards of sanitation and hygiene as may be prescribed; or.

(v) Any other matter which may be prescribed by the Rules.

(c) the private medical care establishment is likely to be used for purposes other than the purposes for which the registration is being sought.

(4) In case of an application for renewal of registration, in addition to any of the grounds specified in sub-section (3), the Authority may refuse to renew such registration if the applicant has not complied with the terms and conditions under which any concessions have been extended to and availed by the private medical care establishment under any scheme formulated by the Government of India or the Government of Andhra Pradesh.

8. Inspection or Enquiry - (1) The Authority may cause an inspection or enquiry in respect of any private medical care establishment, its buildings, laboratories and equipment and also the work conducted or done by such establishment, to be made by any team of at least two officers, one of whom will be a Medical Officer, duly authorized by the Authority in this behalf.

(2) Any such team, upon receipt of a complaint or information in any form with due authorization by the Authority in this behalf may enter any private medical care establishment at any time with or without giving notice, examine and inspect any equipment, articles or documents and seize and take out there from and retain the same as long as may be necessary for the purposes of examination, analysis, investigation or evidence.

¹. Substituted by the Act No. 14 of 2006, S.4.

(3) The Authority shall communicate to the private medical care establishments its view with reference to the results of such inspection or inquiry and direct the establishment to under take such steps within such period as it may deem necessary and the said establishment shall comply with the said directions:

Provided that no such directions shall be given without providing the said establishment an opportunity of making a representation.

9. Cancellation or Suspension of Registration - (1) If the Authority is satisfied suo motu or on a complaint that a private medical care establishment has violated any of the terms and conditions of the registration or any of the directions it has given or has contravened any of the provision of this Act or the rules made thereunder, the Authority may order cancellation or suspension of the registration for such period as it may think fit:

Provided that before a registration is cancelled the private medical care establishment shall be given an opportunity of making a representation.

Provided further that where the Authority is of the opinion that it is necessary or expedient so to do in the public interest, it may, for reasons to be recorded in writing, suspend the registration of any private medical care establishment without issuing any notice.

(2) On the cancellation or suspension of the Registration under sub-section (1) no person shall be thereafter admitted in the said establishment either as an in-patient or out-patient:

Provided that a person already admitted in the said establishment before the registration is cancelled or, as the case may be, suspended, shall continue to be treated therein until he is discharged and on the discharge of the last of such persons, the said establishment shall be closed.

10. Appeals - (1) Any person aggrieved by an order of the Authority refusing to register a private medical care establishment under section 7 or cancelling or suspending the registration under section 9, may file an appeal in such manner and within such period as may be prescribed before the Appellate Board constituted by the Government, by notification, in such manner as may be prescribed.

(2) The Appellate Board shall after giving an opportunity of hearing to the appellant, consider the appeal and pass such orders as it deems fit and such orders shall be final.

CHAPTER - III

PENALTIES

11. Offences and Penalties- (1) Any person,-

(a) who contravenes the provisions of this Act or rules made there-under;

(b) being the holder of license granted under this Act in respect of any private medical care establishment, uses or allows such establishment to be used for illegal purposes in contravention of terms and conditions shall be guilty of an offence and shall-

¹[(i) on conviction for a first offence be punishable with a fine which may extend to twenty thousand rupees; and

(ii) on conviction for a second or subsequent offence, be punishable with a fine which may extend to forty thousand rupees];

and shall in addition be liable to a fine which may extend to five hundred rupees for every day for which the offence continues after

¹ . Substituted by the Act No. 37 of 2006, S.5.

conviction.

¹[(2) Any person who contravenes any of the provision of this Act or any rules made under this Act shall be guilty of an offence provided for in this Act and shall on conviction be punishable with a fine, which may extend to one thousand rupees.]

(3) Any person who knowingly serves in a medical care 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 a fine, which may extend to one thousand rupees.]

(4) ²[XXXX]

12. Offences by companies - (1) Where any offence against any of the provisions of this Act or the rules made there-under 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 conduct of its business, as well as 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 any such offence was committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, they 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 a body corporate and includes a firm, association of persons or body of individuals whether incorporated or not; and

(b) 'Director' in relation to a firm, means a partner in the firm and in relation to any association of persons or body of individuals, means any member controlling the affairs thereof.

CHAPTER-IV

MISCELLANEOUS

13. Court competent to try offences under this Act - No court inferior to that of a Metropolitan Magistrate or a judicial Magistrate of the First Class shall try an offence punishable under this Act.

14. Protection of action taken in good faith - No suit, prosecution or other legal proceedings shall lie against the Government or any person in respect of any person in respect of anything which is in good faith done or intended to be done under this Act or any rules made there-under.

15. Cognizance of offences - No court shall take cognizance of any offence punishable under this Act except on a complaint made by the Authority or by an officer of person authorized by it in this behalf.

16. Public servant - The Authority and every officer or person exercising his functions on its behalf shall be deemed to be a public servant within the meaning or section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

¹. Substituted by the Act No. 37 of 2006, S.5.

². Omitted by the Act No. 37 of 2006, S.5.

17. Power to remove doubts and difficulties - If any doubt or difficulty arises in giving effect to the provisions of this Act or in the interpretation of any of its provisions the Government may by order, make provision or give such direction, not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for the removal of the doubt or difficulty.

18. Power to make rules - (1) The Government may, by notification, make rules for carrying out any of the purposes of this Act.

(2) In particular and without, prejudice to the generality of the foregoing powers, such rule may provide for all or any of the following matters, namely:-

(a) Composition and procedure of the Authority and the Appellate Board;

(b) the principles, criteria and minimum standards for registration of a private medical care establishment;

(c) the terms and conditions for registration of a private medical care establishment;

(d) the form of application for registration of a private medical care establishment;

(e) the form of the periodical returns and statistics to be submitted by the private medical care establishment to the authority;

(f) the mode of holding meetings and the conduct of business by the authority and the appellate Board;

(g) the fees payable for registration of a private medical care establishment and for renewal of the same;

(h) the principles and criteria for discharge of national/ social obligations;

(i) any other matter which is required to be prescribed;

(3) Every rule made under this Act shall, immediately after it is made, be laid before the Legislative Assembly of the State if it is in session, and if it is not in session, in the session, immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiration of the session in which it is so laid or the session immediately following the Legislative Assembly agrees in making any modification in the rule or in the annulment of the rule, the rule shall from the date on which the modification or annulment is notified have effect only in such modified form or shall stand annulled, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

19. Savings - Nothing in this Act shall apply to

(i) any medical care establishment established or administered or maintained by the Central or the State Government or any local authority or body constituted by or under any statute of a competent Legislature; and

(ii) any psychiatric Hospital or psychiatric nursing home established or maintained under the Mental Health Act, 1987 (Central Act 14 of 1987).

