

ASSAM HEALTH ESTABLISHMENTS ACT, 1993

Registered THE ASSAM GAZETTE EXTRAORDINARY PUBLISHED BY AUTHORITY 152 24
 füt5qq, 1993, 3 9f_Q, 1915 No. 152 Friday, 24 December, 1993, 3rd Pusa, 1915 GOVERN OF ASSAM
 ORDERS BY THE GOVERNOR LEGISLATIVE DEPARTMENT : LEGISLATIVE BRANCH
 NOTIFICATION The 24th December 1993 No.LGL.223/90/63.—The following Act of the Assam
 Legislative Assembly which received the assent of the Governor is hereby published for general
 information, •1178 THE "AssÅÅÅ GAZETTE, EXTRAORDINARY, DEC. 24, 1993 ASSAM ACT
 Ivo..xvlll OF 1993 (Received the assent of the Gove?nor on 24th December, 1923) THE ASSAM
 HÉÅLTH ESTABLISHMENTS ACT, 1993 AN ACT to regulate the health establish:ment to provide
 better provision with respect to medical-health care of the people through these establishments and for
 matters connected therewith or inc'deotal thereto. Preamble. Whereas it is expedient to regulate the health
 estab- lishments to •provide better provision with respect to medical,healthvo care of i the people thrugh
 these establiShfients and for intr,tets connected therewith or incidental thereto. it is hereby enacted in the
 F0ity-fourth Year (7t;p) Of Æie± Republic of India follows : -i 1. (1) This. Act may be called the Assam
 Health Short t itle, extent — and Establishmentö Act, 1993. commence— ment. (2) It shall extend to the
 whole or the State Definitions. req uires (a) Obf Asyam. Tt' Shall come into force •on such date as tire
 Sto.te Government may, by _notification iA ; the "Official -Gazette; appoint, this Act, T *Iless the context
 otherwise -c "Clinical Laboratr ry" meat's an establish- inent/awhere testy are carried out for biological,
 pathological, microbiological, biochemical; radiological or ; any other method •analogovs to anyæsts
 carried out for diagnosis of disease and health con- dition. THE ASSAM GAZETTE.
 EXTRAORDINARY. DEC. 24, 1993 1179 (b) "nursing hcmc" or "hospital'S or '(Re- search Institute"
 means<lnY) premises or establishment used or intended to be used for the reception andadmission of
 persons suffering from illness, injury or infirmity of body oroviding of i!reatment and nursing fur them
 anci includes a maternity home J or psyæI\$iao:icacare; (c) "health establishment" means a nursing home a
 research-institute, a hospital, a Central t 1956, Central Act, 48 of 1970 Central Act, 59 of 1973, magunity
 home, physical therapy eglab)isha ent, a clinical Laboratory, or an establishment, analogous! Ito any of
 them ; ' 'Hoaith Aélthcrity" means State Health (t) Authority ' constituted) under section 4; "Licensing
 Authority"? means l%ate Health (c) Authority or otter Aulhority authorised by *thev Sr.atecGovernment
 for •jissuontof licence ; (f) ' 'Maternity Home 'h Rieans,tatl; establish- ment or premises where; women,,
 are usually received or accommodatedn or both for providing antc-nataf Host" natai medical or ;cave
 services in connection wilhpregnancy and child birth; "Physical • thecapy Establishment" means (g) an
 estaLJishrgeni vvhere physical therapy electro thérapij hydyo therapy, remedial sill'ilar work is usually
 carried on for the purpose of treatment of Gisease infirvnty improvement of health or for the aurpose of
 relaxation or for any; whatsoever, whether or not analogous to the pur- pose i mentioned in this clause; "
 Medical, practitioner 't means a person who (h) possesses Medical Qualifications as prescri- bed in the
 Medical Council Act, 1956, Indian Medicine and Central Council Act, 1970 and the a-lomoeopathic
 Central Council Act, 1973 and who has Iren Registered as a medical practitioner in the Register as
 pfoyided Lin aforementioned Acts 1180 GAZETTE (i) " midwife " the law for registration
 ÉXfrRA01{DIÅARY_ DEC. 24, means a midwife registered under the time being in force, for the of
 midwife ; (j) nurse " means a nurse registered under any law for the time being in force, for 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, Health esta- 3. No person shall
 establish or maintain a blis hment not to be health establishment without being registered in established
 respect thereof and except under and in accordance or maintai- ned without with the terms of a licence
 granted therefor. registration and licence, Constitution ef State Health Au- thority and its term, (2) 4. (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. The Health Authority shall consist of seven members including the Chairman and shall be
 constituted in the following manner : 2, 3. Secretary, Health and Family Welfare/Come missioner, Health
 and Family Welfare/Spe- ciai Commissioner and Special Secretary, (whoever IS Health and Family
 Welfare- senior most)— Chairman. Director of Health Services— (DHS)— Meme. ber. Director of Health

Services, (DHS) (FW),— Member. ASSAM EXTRAORDINARY, DEC. 24, 1993 J i8i 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 professionals 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 Maintenance of Register of health establishment. (2) (3) 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. 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. 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. The Register shall be maintained in such form as may be prescribed. ASSAM GAZETTE, EXTRAORDINARY, DEC 24.1993 Appoint- 6. The Government shall appoint a Registrar and who shall be the Secretary to the Health Authority and also appoint the staff necessary for carrying out the purposes of this Act. Qualification, function, salary, 7. The qualification, function, duties, salary and allowances and such other matters relating to the Registrar and staff shall be such as may be prescribed from time to time.

8. The Health Authority may, in any part of Assam—and, maintenance of Assam within its jurisdiction, allow to establish health establishment or maintain health establishment for reception, admission, application for registration and licence, 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. (1) Every application for registration in respect of any health establishment and for the grant of a licence, therefor 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 fulfil conditions specified under Section 10 shall register the applicant in respect of such health establishment and shall grant him a licence therefor and the registration and the licence shall be valid for a period of:— (a) 5 years in case of nursing home, Hospital, maternity home and Research Institute • (b) 3 years in case of clinical laboratory, physiotherapy establishment. (3) The Health Authority shall reject an application if it is satisfied that— (a) the applicant or the health establishment does not fulfil the conditions specified under section 10; THE ASSAM DEC. 24 1993 1183 (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 provision for maintaining hygienic condition to the detriment of the locality in which the health establishment is proposed to be established ; (d) in the case of a nursing home other than a maternity home that nursing home is not or will not be under the charge of a medical practitioner resident therein round the clock and that the nursing 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) When 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. Terms and 10. Every licence granted under conditions for grant- licences. Of section-9 shall be subject to the following terms and conditions, namely : (a) that the health establishment shall not be used for immoral purposes , (b) that adequate measures shall be taken to keep the health establishment in perfectly hygienic and sanitary condition ; 1184 THE ASSAM GAZETTE, EXTRAORDINARY, DEC. 24, 1993 (c) that adequate measures shall be taken to dispose of the garbage including disposable syringes, needles, etc. (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 acquired encephalities, cholera, pox, 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 ; (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) the 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 costs 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 THE ASSAM-GAZETTE, EXTRAORDINARY, DEC. 24, 1993 1 1 85 Renemal (f) any other terms and conditions which may be prescribed, 11. 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, physiotherapy 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 may 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 licensee is not in a position to provide 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 licensee has contravened any of the provisions of this Act or any rules made thereunder. Cancellation 12. If at any time after any health establishment of registration is granted a licence therefor, the Health Authority is satisfied that the terms of the licence are not complied with, it may cancel such registration and licence: j 186 ASSAM GAZETTE, EXTRAORDINARY, DEC. 24, 1993 Appeal. 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. 13. (1) Any person aggrieved by an order of the Health Authority refusing to grant or renew a licence or cancelling licence, may in such manner and within such period as may be prescribed present an appeal to the Government Provided that the Government may entertain an appeal after the expiry of the prescribed period if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time. (2) Every appeal under sub-section (1) 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. Appointment— appoint Chief 14. The Government' shall mention of inspecting Medical and Health Officer (District concerned) as and Inspecting Officer for the purpose of inspecting his power of entry, the Health Establishment, Inspection etc. Penalty for 15. (1) Any person who knowingly establishes or maintains a health establishment which is not duly mentioned or maintenance of registered and licensed under this Act and is in contravention of the provisions of this Act or rules contravened thereunder shall, on conviction, be punishable with imprisonment for a term which Act and may extend to one year or with fine which the rules extend to five thousand rupees or with both and made there— in the case of a second or subsequent offences under. with imprisonment for one year or fine which may extend to ten thousand rupees or with both. (2) Whoever after conviction under sub-section (1) continues to maintain a health establishment THE ASSAM GAZETTE, EXTRAORDINARY, DEC. 24, 1993 11 87 shall on conviction be punishable with fine which may extend to one thousand rupees for every day for which the offence continues after conviction. General provision— 16. Any person who contravenes any of the provision for punishment provision of this Act or of any rule or regulation— of other provision, made thereunder for the contravention of offences. 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. Penalty for 17. Any person who knowingly serves in a health establishment which is not duly registered and licensed— an unlicensed and un-licensed under this Act or which is used for immoral registered health purposes shall be guilty of an offence and shall be punishable with fine which may extend to five hundred rupees. Offences by 18 (1) Where an

offence under this Act has companies, 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. 1188 THE ASSAM GAZETTE, EXTRAORDINARY, DEC. 24 1993 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. No Court other than that Of a Magistrate Court competent to try offence of the First Class shall take cognizance of or try or this Actan offence under this Act.and take cognizance of offences. Offences "n- 20. All offences punishable under this Act except under this Act offences under sections 16 and 17 shall be cognizable. tions 16 and 17 to be Cognizable. Saving . 21. (1) For a period of three months from the commencement of this Act, the provisions of sections 13, 14, 15, 16, 17, shall not apply to -any health establishment in existence on the date (f such commencement. (2) (i) Nothing contained In sub-section (1) shall apply to health establishment, established, maintained by the State Government, Central Govern- ment, Defence. Railway, Public, Sector Undertakings and Local authority ; (ii) any Psychiatric Hospital, nursing Central home licenced under the Indian Mental act 14 of 1987 Health Act, 1987. 22. (1) No suit, prosecution or other legal Indemnity . 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 or 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 TRE ASSAM GAZETTE. EXTRAORDINARY DEC. 24, 1993 this Act or any rules, regulations or orders made thereunder. Credit of 23. Any fees- received or fines paid under this fees and fines. Act and rules framed thereunder shall be credited to the Consolidated Fund of the State

24. All expenses incurred by the Health Authority- Expenses of the Health rity under this Act end rules made thereunder shall Authority.be met out of the Consolidated Fund of the State. Submission 25. (1) Any person in charge of the health establishment shall as soon as may be, after any disease Authority, which is included under the notifiable disease of the Government, cases of burns, poisoning or any other cases suspected to be of 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, still birth as per the rules laid down by the Assam Births and Death Registration Act, 1935, (Assam Act 11 of 1935). 26• (1) The Government may make rules for Power to make rules. 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 and 11 ; (ii) a licence may be granted for the health establishment under section 9 ; (c) the manner in which an order refusing to 1190 THE ASSAM GAZETTE. EXTRAORDINARY, DEC. 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 (i.âi) establishment ; space requirement; equipment ; the manner; in which and the condition subject to which nursing home, and Hospital, clinical laboratory, physiotherapy centre shall be maintained; 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; the form and the manner: in which records shall be maintained under clause (f) of section -no ; the qualification of Person who may be appointed as Inspecting Officer and his function, -salary, etc. any other matter which is

required to be or may be prescribed. LASKAR, Secretary to the Govt. of Assam, Legislative Department.
by the Dy. (P) Directorate Of styl, Assam, Guwahati-2i (Ex-Gazette) No.

