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THE MADHYA PRADESH UPCHARYAGRIHA TATHA RAJOPCHAR SAMBANDI STHAPANAYE (RAGISTRIKARAN TATHA ANUGYAPAN) ADHINIYAM, 1973.

(No. 47 of 1973)

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NOTE

The Madhya Pradesh Nursing Homes Registration Act. 1954 (28 of 1954) is at present in force in this State. This contains provision for registration of nursing homes and for purpose connected herewith. It, however, does not

contain provisions for registration of clinical establishment. It is, therefore, proposed to repeal the Madhya Pradesh Nursing Homes Registration act, 1954, and to re-enact a fresh legislation in Hindi in its place containing provisions for registration and licensing for nursing homes and clinical establishments and for purposes connected therewith.

1 In the section 10 of chapter IV of table of contents of the principal Act, for the words "cognizable" , the words " non-cognizable" has been substituted vide Madhya Pradesh Upcharyagriha tatha Rujopchar Sambandhi Sthapnaye (registrikaran tatha Anugyapan) Sanshodhan Adiniyam 2008 (No. 16 of 2008) published in the M.P.Gazette (Extraordinary_ no. 473 dated 6th August, 2008 vide Deaprtment of Law & Legislative affairs, govt. of Madhya Pradesh No: 5005-261-bDdhl&v¼izk-½, dated 06 August 2008.

***THE MADHYA PRADESH UPCHARYAGRIHA TATHA RUJOPCHAR SAMABANDI STHAPNAYE (RAGISTRIKARAN TATHA ANUGYAPAN) ADHINIYAM, 1973.**

(No.47 of 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: –

Short	1.	(1)	This act may be called the Madhya Pradesh Upcharyagriha
title,		(2)	Tatha Rujopchar Samabandi Sthapnaye (Registrikaran Tatha
extent			
and			
commen			
cement			
			Anugyapan) Adhiniyam, 1973.
			It extends to the whole of the state of Madhya Pradesh.

(3) It shall come into force on such date and in such means as the State Government may, by notification, appoint and different dates may be appointed for different means.

Definitions	2.	In this Act, unless the context otherwise requires , –
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1(a) "appellate authority" means the person or authority appointed by the State Government by notification to perform all or any of the functions of appellate authority under this Act;

2(aa) "clinical establishment" means a medical laboratory, a physio-therapy establishment, a clinic, or an establishment analogous to any of them, by whatever name called;

* Madhya Pradesh Upcharyagriha tatha Rujopchar Sambandhi Sthapnaye (Registrikaran Tatha Anugyapan) Sanshodhan Adhiniyam , 2005 (No. 9 of 2006) has been published in M.P.Gazette (Extraordinary) dated 20.2.2006 by Madhya Pradesh Govt. Law & Legislative Affairs Deptt. Notification no. 1206-69-bDdhl&v¼izk-½ dated 20-2-2006.

1 New Clause (a) is inserted vide amendment dated 06.08.2008, published in M.P.Gazztte (Extraordinary) no. 473 dated 6th August 2008.

2 Clause (a) of principal Act has been re-numbered as clause (aa) vide amendment dated 06.08.2008 (supra)

(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 disease, 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 or infirmity, whether of body, of 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; 1(ii) any psychiatric hospital or psychiatric nursing home established or licensed under the Mental Health Act, 1987 (No 14 of 1987).

1 The original sub-clause (ii) of Clause (e) has been substituted vide amendment dated 6.8.2008 published in M.P.Gazztte (Extraordinary) no. 473 dated 6th August 2008.

(f) "Physiotherapy 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 midwife" means a midwife or an auxiliary nurse- midwife who possess any of the qualification included in section B or C, as the case may be, of part I of the Schedule of the Indian Nursing Council Act, 1947 (48 of 1947), and who enrolled as a mid-wife or any auxiliary nurse mid wife in a state;

(i) "qualified nurse" means a person who possesses the qualifications included in section A of Part I of 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 function of the supervising authority under this Act.

CHAPTER II

Registration and Licensing of Nursing Homes and Clinical Establishment

3.	
nursing home or clinical establishment not to be opened kept centered on without registration and license	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 license granted therefore. Explanation: – The expression carry on a nursing home means to receive person in a nursing home for any of the purpose mentioned

in clause (e) of section 2 and to provide treatment of nursing or both for them.

Applicati on for registrati on and license	4. (1)	Every person intending to open keep or carry on a nursing home or a clinical establishment shall make * an application
		to the supervising authority for registration in respect of the
		nursing home or the clinical establishment and for the grant
		of a license therefore, or for the renewal of registration and

the license;

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 such date or if an application for registration and the grant of a license is made within that period in accordance with sub-section (2) until such application has been finally dispose of.

(2) Every application for registration in respect of a nursing home or a clinical establishment and for the grant of license therefore or for the renewal of the registration and the license shall contain such particular and shall be accompanied by such fees, as may be prescribed.

* In section 4 sub section rule (1) the words & figures “every year on or before 30th April” has been omitted wide amended act published in the M.P. Government gazette (extra-ordinary) dated 20th February, 2006.(See foot note on page 2)

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(3) The supervising authority, if satisfied that the applicant and the nursing home or the establishment, as the case may be fulfill 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 license therefore 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 fulfill the condition 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 purpose 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 there in; or

(e) In the case of a maternity home that such maternity home is not or will not be under the charge of 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, construction, accommodation, 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 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 for rejection.

(5) Every license 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 safe guarding that the nursing home or the clinical establishment is not used for unsocial or immoral purpose or both;

(b) such sanitary and hygienic measures 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 authority 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;

(e) 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 license 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 of the third year next following the date of which such certificate of registration and license 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.

**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, –

5.	(i)	that the terms of the license are not being complied with ;
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and

(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

*This sub section (6) of section 4 has been substituted in place of original sub section (6) of section 4 vide amendment in the M.P. Upcharayagriha Tatha Rujopachar Sambandhi Sthapanaye (Registrikaran Tatha Anugyapan) Rules, 1997 published in the Madhya Pradesh Gazette (extra-ordinary) dated 20th February, 2006. (See foot note on page 2)

(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 license.

6. (1) Before making an order refusing an application for

**Notice of
refusal or of cancellation of
registration**

clinical establishment or an order canceling any registration and license in respect thereof, the supervising authority shall give to the applicant or to the person registered and licensed registration and license in respect of a nursing home or a 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 in 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 license or to cancel the registration and the license, 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 license, or canceling any registration and license 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, against such order.

1 In subsection (3), of section 6 of principal Act, for the words "State Government", the words "appellate authority" has been substituted vide amendment dated 06.08.2008, published in the MP Gazette (Extraordinary) no. 473 dated 6th August 2008.

1(4) Deleted.

(5) An appeal shall not operate as a stay of the order appealed against except so far as the 2appellate authority, may order.

(6) 3The appellate authority 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 there from the supervising authority, which made the order may, on sufficient cause being shown, order the stay .

Inspection of Nursing Homes and Clinical Establish ment	7. (1) Subject to the provisions of the rules made under this Act, any officer authorized by the State Government in this behalf may, –	
	(a)	enter, 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;

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(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.

1Subsection (4) of Section 6 has been deleted vide amendment dated 06.08.2008 published in M.P.Gazztte (Extraordinary) no. 473 dated 6th August 2008.

2 & 3 In subsection (5) and (6) of Section 6 of Principal Act, the words "State Government", the words "appellate authority" has been substituted by amendment dated 06.082008 published vide Supra

4 In Clause (b) of subsection (1) of section 7 of Principal Act, the 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 " has been omitted by amendment dated 6.8.08. puyblished vide supra.

(2) No person shall obstruct an officer authorized 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

Penalties	8.	Any person. –
for		

**offences
under the**

Act	(a) Who contravenes the provisions of section 3; or
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(b) Who contravenes the provisions of sub-section (2) of section 7 or;

(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 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 **1** fifty thousand rupees ; 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 **2** one thousand rupees for every day for which the offence continues after conviction.

1 In second paragraph of section 8 of principal Act, in clause (i), for the words " five hundred rupees", the words " fifty thousand rupees" has been substituted vide amendment dated 06.08.2008 published in M.P.Gazette (Extraordinary) no. 473 dated 6th August 2008.

2 In second paragraph of section 8 of principal Act, in subclause (ii), for the words " twenty five rupees, " the words " one thousand rupees" has been substituted by amendment dated 06.08.2008, published vide supra.

1 8A. Any person who contravenes any provision of this Act or rule made thereunder resulting in deficiencies that do not pose any imminent danger or 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.

Offence by Companies	9. (1) Where an offence under this Act has been committed by a company, the company as well as every person in charge of;
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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 the 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 purpose 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.

1 After section 8 of the principal Act, a new subsection 8A has been inserted vide amendment dated 06.08.2008, published in the M.P.Gazette (Extra-ordinary) no. 473 dated 6th August 2008.

Penalty for serving in an unlicensed an unregistered nursing home or clinical establishment	10. Penalty for serving in an unlicensed an unregistered nursing home or clinical establishment.– Any person who knowingly serves in 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 1five thousand rupees.
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CHAPTER - IV

Miscellaneous

under the Offences 11. Offences under the Act to be 2non- cognizable .&

Act to be

non-cognizable	All Offences under this Act shall be 3non-cognizable.	
Courts competent to try offences under this Act	12. Not with standing 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.	
Protection of action taken In good faith	13. (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 there under.

(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 in god faith done or ntended to be done in pursuance of this Act or any rule made there under.

1 In section 10 of the principal Act, for the words " five hundred rupees', the words " five thousand rupees" has been substituted vide amendment dated 06.08.2008 published in M.P.Gazztte (Extraordinary) no. 473 dated 6th August 2008.

2 & 3 In the marginal heading and text of Section 11 of the principal Act, for the words "cognizable" , the words " non-cognizable" has been substituted vide amendment dated 06.08.2008, published vide supra.

Power to make rules	14. (1) The Stage 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 or 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 license;
- (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 license 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 authorized 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.

Act not to apply to certain establishment	15. Act not to apply to certain establishment. & 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

1(ii) any psychiatric hospital or psychiatric nursing home established or licensed under the Mental Health Act, 1987 (No 14 of 1987); or

(iii) any leper asylum appointed, established or maintained under the Lepers Act, 1893 (3 of 1893).

Repeal	16. The Madhya Pradesh Nursing Homes Registration Act, 1954 (28
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of 1954) is hereby repealed.

1 In Section 15 of the principal Act, for clause (ii), this subclause (ii) has been inserted vide amendment dated 6.8.2008, pulished in M.P.Gazette (Extra-ordinery) no. 473, dated 6th August, 2008.