

SIKKIM CLINICAL ESTABLISHMENT (LICENSING AND REGISTRATION) ACT, 1985

GOVERNMENT SIKKIM 9 EXTRAORDINARY GAZETTE No. 181 PUBLISHED BY AUTHORITY Gangtok Monday 13th November, 1995 GOVERNMENT OF SIKKIM LAW DEPARTMENT GANGTOK. No. 8[LD/1995, Dated: Gangtok, the 30th October, 1995. NOTIFICATION The following Act of the Sikkim Legislative Assembly Secretariat having received the assent of the Governor on 11th day of October, 1995 is hereby' published for general information :— THE SIKKIM CLINICAL ESTABLISHMENTS (LICENSING AND REGISTRATION) 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17

18. ACT, 1995.(ACT NO. 8 OF 1995) ARRANGEMENT OF SECTIONS Short title, extent, commencement and application. Definitions Constitution of a licensing and Registering Authority. Jurisdiction and quorum. Powers, duties and functions of the Authority. Restriction in setting up clinical establishments. Application for licence and for registration. Renewal of a licence and certificate of registration. Processing of application. Directions. Inspection. Cancellation or suspension of a licence, Appeals. Offences and Penalties. Offence by a Company. Taking cognizance of any offence. Chairman, Member of the authority and officers and persons to be public servants. Power to remove diff0111tipq 2 THE SIKKIM CLINICAL ESTABLISHMENTS (LICENSING AND REGISTRATION) ACT NO.' g OF 1995 ACT to provide {or regulating the setting up of private hospitals, nursing homes and other centres caiering to diagnostic, investigative and other health care services and for matters ecaucted therewith. Be it ey%ictec] by the Legislature of Sikkim as in the Forty-sixth Year of the Republic India as follows:- Short title, extent cornm- encement and application. Definitions. 1. 2. (1) (2) (3) (4) (a) (b) (i) This Act may be Calked theSikkim Cl'inical Establishments (Licensing and RegisiyaGon) Act, 1995. extends to the whole of Sikkin. It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint. ft shall apply to all clinical establishments other than clinical establi- shments set up by the Central Government or the Government of any State. In this Act, unless the context otherwise requires,- "Authority" means the Sikkim Licensing and Registering Authority constituted under section .3; "Clinical esiablishment" means and includes- a general hospital, a maternity hospital and a dispensary; (ii) an institution or centre by PA-latever name called where physically oc menially sick, injured or infirm persons are admitted either as in-patients or out-patients for treatment with or without the aid of operative and (iii) a clinic catering to radiological, biological and other diagnostics or Constitution Of 3. a licensing and Registering Authority. (c) (d) (e) (f) (2) investigative services with the aid of laboratory or other medical equipment.s ; ' 'licence" means a licence referred to in section 7; "notification" means a notification published in the Official Gazette. ' 'prescribed" means presmibed by rules made under the Act • ' 'State Government'" the Government of the State of Sikkim, The State Coverriment may, by notification, constitute an authority to be called the S}kkim Clinical Establishments Licensing and Registering A uihcrity consiising of the following persons, namely:- (i) Director of Health and Family Welfare, Govrn- ment of Sikkim. (ii) Licensing Authority under the Drugs and Cos- metics Act, 1940, Health and Family Welfare, Government of Sikkim. (iii') members medical profession of the Government of (iv) Jc;iüt Director, kie•aüh and Family Welfare, Government of Sikkim. Chairman - Mem ber - Member - Member- Secretary. considers necessary, for dealing with any The Atithcri(y special i% sue it, invite any person to attend any meeting but such Shai) no! Be deemed to be a member of the Authority Jurisdiction and quorum. Powers, duties and, functions of the Authority. Restrictions in setting clinical estab- lish meats. Application or licence and for reg tion. Reneyal of a licence and certificate OJ registration. Processing of application. Directions. Inspection. 4. 5. without shall- 6, (5) (1) (2) 3 Notwithstanding anything contained in this Act, the State Government may, at any time, reconstitute the Authority or replace any member thereof. The jurisdiction of the Authority shall extend over the entire State of Sikkim. The quorum for any meeting of the Authority shall be four including the Chairman, Without derogation to any law for the time being in force and prejudice to the generality of its powers and functions, the Authority (a) receive applications for grant of licence and for registration of clinical establishments; (b) scrutinize the applications and call for further information or particulars from the applicants or from any other person or authority as may be required; (c) consider the applications and pass orders; and (d) do such other things as are necessary or incidental for the purpose of this Act. On and from

the date of commencement of this Act, no person shall set up any clinical establishment except under a valid licence granted by the Authority and no clinical establishment shall run without it having been registered in accordance with the provisions of this Act; Provided that in the case of a clinical establishment, in existence immediately before the date of commencement of this Act, the person who has set it up or otherwise is the proprietor or owner of such a clinical establishment shall, within a period of three months thereafter, apply to the Authority for a licence and for registration of the clinical establishment. Explanation: For the purpose of this section 'person' includes a body, group or association of individuals, an organisation, a firm or society (whether registered or not) or a company registered under the law for the time being in force in the State of Sikkim. An application for grant of a licence, and for registration of a clinical establishment shall be made in such form and manner as may be prescribed. The licence and the certificate of registration shall be renewed in such manner as may be prescribed. On receipt of an application, the Authority may, if it is satisfied after causing such enquiry as may be necessary to be made and after following the criteria as may be prescribed, grant a licence or register a clinical establishment, as the case may be, or use, for reasons to be recorded in writing, to grant a licence or to register a clinical establishment. Provided that no order refusing to grant a licence or to register a clinical establishment shall be passed unless the applicant has been given an opportunity of being heard. The Authority may, from time to time, give directions in regard to the matters pertaining to clinical establishments and the licensee as also the person referred to in the proviso to section 6 shall comply with such directions. The Authority may, from time to time, cause inspections of clinical establishments and the person therein to satisfy itself that the clinical establishment is run in accordance with terms and conditions of the licence and that its appeals, offences and penalties. Offence by a Company. Taking cognizance of any offence. Chairman, 4 Provided that before a licence is cancelled that licence shall be given an opportunity to be heard. (2) On the cancellation or suspension of the licence under sub-section (1) no person shall be freshly admitted in the clinical establishment either as an in-patient or an out-patient: Provided that a person already admitted in a clinical establishment before the licence is cancelled or suspended as the case may be, shall continue to be treated until he is discharged and on the discharge of the last of such persons the clinical establishment shall be closed down. 13. (1) Any person aggrieved by an order of the Authority refusing to grant a licence or to register a clinical establishment under section 9 or cancelling or suspending a licence under section 12, may prefer an appeal to the Appellate Authority consisting of the Secretary to the Government of Sikkim in the Health and Family Welfare Department and two other experts in the field of medical science to be nominated by the State Government within such period as may be prescribed. (2) The Appellate Authority shall, after considering the appeal and, if necessary, after hearing the aggrieved person, pass orders and its orders shall be final and binding.

14. Whoever contravenes any of the provisions of this Act or the rules framed thereunder shall be guilty of an offence and in addition to his licence being cancelled or suspended shall be punishable for- (a) a major offence, with a fine which shall not be less than twenty thousand rupees; but which may extend upto one lakh rupees and in the case of a continuing contravention with an additional fine which may extend upto one thousand rupees for every day the contravention continues, and member of the Authority and persons to be public servants. Power to remove difficulties. (b) a minor offence, with a fine which shall not be less than five hundred rupees but which may extend upto two thousand rupees and in the case of a continuing contravention with an additional fine which may extend upto fifty rupees for every day contravention continues. Explanation: 'Major offence' and 'minor offence' shall have the meanings as may be prescribed. Where an offence has been committed by a company every person who at the time the offence was committed was directly in charge of or was responsible to the company for the conduct of its business shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly. Explanation: For the purpose of this section 'company' includes a firm, society, association or group of persons by whatever name called. No court shall take cognizance of any offence punishable under this Act except a complaint made by the Authority or by an officer or person authorised by it in this behalf. The Chairman and every member of the Authority and every officer or person exercising his functions on its behalf shall be a public servant within the meaning of section 21 of the Indian Penal Code, 1860. 45 of 1860. If any difficulty arises in giving effect to the provisions of this Act, the State Government take such steps or issue such orders not inconsistent with the provisions of the Act as may appear to it to be necessary or expedient for the purpose of removing such

difficulty : Provided that no such order shall be made after the expiry of a 5 (z) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely . (a) the principles and criteria for granting a licence or for registration of a clinical establishment; (b) the terms and conditions of a licence; (c) the form Of application for a licence and for registration of a clinical establish. ment; (d) the form of the periodical returns and statistics to be submitted by the licensee to the Authority; (e) the mode of holding meeting and the conduct of business by the Authority; (f) the fees payable for applying for a licence and for registration of a clinical establishment and for renewal of the same; and (g) any other matters which are to be and may be prescribed. By Order of the Governor, B.R. PRADHAN, Secretary to the Govt. Of Sikkim, Law Department. F. NO. 16 (82) LD/79-95 PRINTED AT THE SIKKIM GOVERNMENT PRESS, GANGTOK.

