

CHAPTER 551

NURSING HOMES (REGULATION)

Acts AN ACT TO PROVIDE FOR THE REGISTRATION OF NURSING HOMES AND GENERALLY
 Nos.16of 1949, FOR THF REGULATION, SUPERVISION AND INSPECTION OF NURSING HOMES SO
 12 of 1952, REGISTERED.
 29 of 1953.

[26th March. 1949.]

Short title. **1.** This Act may be cited as the Nursing Homes (Regulation) Act.

Nursing homes to be registered. **2.** (1) On and after the 1st day of October, 1949, no premises shall be used for the purpose of a nursing home unless such premises are for the time being registered under this Act as a nursing home, and the person carrying on a nursing home at such premises is for the time being registered as the proprietor thereof.

(2) Where any premises are used as a nursing home in contravention of the provisions of subsection (1), the occupier of the premises and the person for the time being in charge of the nursing home shall each be guilty of an offence under this Act.

Registration, renewal of registration, &c. **3.** (1) Every application for the registration of any premises as a nursing home shall be made in writing to the Director.

(2) Every such application shall be in the prescribed form, shall be signed by the person maintaining or proposing to establish and maintain the nursing home, and shall be accompanied by a fee of one hundred rupees.

(3) Save as otherwise provided in section 4, the Director shall on receipt of an application under the preceding provisions of this section—

- (a) register the premises as a nursing home and register the applicant as the proprietor of the home ; and
- (b) issue to the applicant a certificate of registration in the prescribed form.

(4) The registration of any premises as a nursing home shall, unless earlier

cancelled as hereinafter provided, be effective for a period of twelve months commencing on such date as may be specified therein ; but such registration may, from time to time, be renewed by the Director for further periods of twelve months, upon payment in respect of each such renewal of a fee of fifty rupees. Where such registration is so renewed the Director shall issue a certificate of renewal in the prescribed form in respect of the nursing home.

(5) It shall be the duty of the person for the time being registered as the proprietor of a nursing home to cause the certificate of registration or the certificate of renewal issued in respect of that home to be kept affixed in a conspicuous place in the home.

4. (1) The Director may, by order, refuse to register any premises as a nursing home, if satisfied—

Power to refuse or cancel registration.

(a) that the applicant or any person employed or proposed to be employed by him at the nursing home is not a fit person, whether by reason of infirmity or otherwise, to maintain or to be employed at a nursing home of the description specified in the application ; or

(b) that for reasons connected with situation, construction, accommodation, staffing or equipment, the premises used or proposed to be used for the purposes, of the home or in connexion therewith, are not fit to be used for a nursing home of the description specified in the application, or that such premises are used or are to be used for purposes

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which are in any way improper or undesirable in the case of such a nursing home; or

(c) in the case of a nursing home, other than a maternity home,—

(i) that the home is not or will not be under the charge of a person who is either a duly qualified medical practitioner or a registered nurse and is resident in the home, or

(ii) that there is not or will not be a proper proportion of registered nurses among the persons employed in the nursing of patients in the home; or

(d) in the case of a maternity home,—

(i) that the nursing of patients in the home is not or will not be under the superintendence of a person who is either a registered nurse or a registered midwife and is resident in the home, or

(ii) that any person, who is not either a duly qualified medical practitioner or a registered nurse or a registered midwife, is or will be employed in attendance on women in the home in childbirth or in nursing any patient in the home.

(2) Subject to the provisions of subsection (3), the Director may, by order, cancel the registration of any nursing home or refuse to renew such registration—

(a) on any ground on which an order refusing to register a nursing home is authorized by subsection (1) to be made; or

(b) if the proprietor of the home or any person employed at the home is convicted of an offence under this Act committed in or in respect of that home;

Provided that any such order of cancellation or refusal shall not take effect until the expiry of a period of one month from the date on which it is made, or in the event of an appeal being duly preferred against the order under section 5, unless and until the order is confirmed in appeal.

(3) No order of cancellation of the registration of any nursing home shall be made under paragraph (a) of subsection (2) unless—

(a) the Director has, by written notice sent by registered post to the proprietor of that nursing home, informed the proprietor that an order of cancellation will be made upon the expiry of a period specified in the notice if such measures as are specified by the Director in the notice are not taken by the proprietor before the expiry of such period ; and

(b) the proprietor has failed to take such measures before the expiry of the period so specified.

5. (1) Where any order is made under section 4 refusing any application for the registration or the renewal of the registration of any nursing home, or cancelling the registration of any nursing home, a copy of the order—

Appeal against refusal or cancellation of registration.

(a) shall be sent by the Director by registered post to the applicant or the proprietor; and

(b) such applicant or proprietor, if aggrieved by such order may, before the expiry of a period of fourteen days from the date of the receipt of the copy of the order, appeal against the order to the Magistrate's Court having jurisdiction in the area in which the nursing home is or is proposed to be maintained.

(2) Upon the hearing of any appeal preferred under subsection (1), the court shall after hearing any representations or

evidence that may be made or adduced by or on behalf of the appellant or of the Director, give such decision upon the appeal as to the court may seem just.

(3) The decision of the Magistrate's Court on any appeal preferred under subsection (1) shall be final and conclusive, and in any case where such decision is that an application for the registration or the renewal of the registration of a nursing home shall be allowed, it shall be the duty of the Director to register the nursing home or to renew the registration of the nursing home.

6. (1) The Director, or any medical practitioner or registered nurse authorized in writing in that behalf by the Director, may at any reasonable time enter any registered nursing home and may inspect the home and the premises appertaining thereto and the records required by any regulation to be maintained thereat, for the purpose of ascertaining whether the nursing home is being maintained with due regard to the health, safety and proper care and treatment of patients and whether the provisions of any regulations applicable in the case of nursing homes of the class to which the home belongs are being complied with.

(2) The Director may, if he has reasonable grounds for suspecting that any premises, not being a registered nursing home, have been or are being used for the purposes of a nursing home, by writing authorize any medical practitioner to enter and inspect such premises for the purposes of ascertaining whether or not a contravention of the provisions of section 2 has been or is being committed in respect of such premises.

(3) Nothing in the preceding provisions of this section shall be deemed or construed to authorize any person to inspect any medical record relating to any patient in a nursing home.

(4) Any person who resists or obstructs the Director or any other officer or person in the exercise of the powers conferred by the preceding provisions of this section shall be guilty of an offence under this Act.

7. (1) The Minister may make all such Regulations. regulations as may be necessary for the purpose of securing the proper maintenance and administration of nursing homes, and generally for securing the health, safety and proper care and treatment of patients in such homes.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters:—

- (a) all matters stated or required by this Act to be prescribed;
- (b) the forms to be used for the purpose of applications for the registration of nursing homes under this Act, the forms of certificates issued under this Act, and the form of registers to be maintained for the purposes of this Act by the Director;
- (c) the records and books which shall be maintained in registered nursing homes and the particulars to be entered therein;
- (d) the conditions which shall be complied with in relation to registered nursing homes, including conditions as to—
 - (i) the construction, maintenance and cleanliness of all buildings and premises,
 - (ii) the minimum size of wards or rooms and the minimum floor space which shall be allotted for each patient,
 - (iii) the provision of adequate latrine and bathing facilities for patients and persons employed in such homes,
 - (iv) equipment, furnishing and staffing of such homes,
 - (v) the circumstances in which cases of infectious diseases may be admitted for treatment and the precautions to be taken in such cases,

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- (vi) the immunization against typhoid fever, smallpox or any other specified disease of persons employed in such homes,
 - (vii) the prohibition or restriction of the admission of tuberculosis cases and of suspected carriers of any specified disease,
 - (viii) the prohibition of the admission of midwifery cases, except to maternity homes or other nursing homes having separate blocks set apart for the treatment of such cases, and
 - (ix) the prohibition or restriction of the admission of cases other than midwifery cases into maternity homes or separate blocks set apart for midwifery cases;
- (e) the returns to be furnished, from time to time, in respect of registered nursing homes and the particulars to be contained therein, including particulars as to the number and description of cases admitted or treated and as to the staff employed therein; and
- (f) the fixation of the rates of fees and charges which may be made at nursing homes generally, or at nursing homes of any specified class or description or at any specified nursing home.
- (3) Every regulation shall be brought before Parliament for approval; and every such regulation which is approved by Parliament shall come into effect on the date of its publication in the Gazette or on such later date as may be specified therein and be deemed to be as valid and effectual as though it were herein enacted.
- (4) Every person who contravenes or fails to comply with the provisions of any regulation shall be guilty of an offence under this Act; and the person for the time

being registered as the proprietor of the nursing home in or in relation to which such offence was committed, as well as the person for the time being in charge of the nursing home, shall each be guilty of an offence under this Act unless he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the said offence.

8. (1) Every offence under this Act shall be punishable with a fine not exceeding fifty rupees and in the case of a continuing offence to a further fine not exceeding twenty rupees in respect of each day on which the offence continues after conviction. Penalty for offences.

(2) Where the person convicted of an offence under this Act is a body corporate, every person who, at the time of the commission of the offence, was a director or officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge, or that he exercised all due diligence to prevent the commission of the said offence.

9. (1) There shall be, for the purposes of this Act, a Nursing Homes Advisory Board (hereinafter referred to as "the board") consisting of— Nursing Homes Advisory Board.

(a) the Director as chairman; and

(b) six other persons appointed by the Minister to be members of the board.

(2) It shall be the function of the board to advise the Minister and the Director upon matters affecting the administration of this Act and the exercise of the powers and functions conferred by this Act.

(3) Three of the persons appointed by the Minister under subsection (1) to be members of the board shall be chosen for such appointment by the Minister from among persons recommended for the purpose by the Independent Medical Practitioners' Association. A person shall not be eligible for such recommendation unless he is a member of that association.

(4) Every member of the board shall, unless he earlier vacates office by resignation, or by removal from office by the Minister or otherwise, hold office for a period of two years from the date of his appointment. Any member who vacates office by resignation or by effluxion of time shall be eligible for reappointment.

(5) In the absence of the Director from any meeting of the board, the Deputy Director of Health (Medical Services) shall preside at that meeting, and shall be deemed for the purposes of that meeting to be a member of the board.

(6) Regulations may be made under section 7 prescribing the procedure to be followed at meetings of the board. In the absence of any such regulations, the board may regulate its own procedure.

Approval of nurses pending the coming into operation of provision for registration of nurses.

10. Until the date of the coming into operation of any written law by which provision is made for the registration of nurses* in Ceylon, the Director may, from time to time, and either generally or specially, recognize persons practising nursing as qualified nurses for the purposes of this Act; and any person so recognised shall, until the date aforesaid, be deemed to be a registered nurse within the meaning of this Act.

Interpretation.

11. In this Act, unless the context otherwise requires—

" Director " means the Director of Health Services,

" maternity home " means any premises used or intended to be used for the reception of pregnant women for delivery or of women for treatment immediately after childbirth;

" nursing home" means any premises (howsoever described) used or intended to be used for the reception of and the providing of nursing and treatment for persons suffering from any sickness, injury or infirmity, and includes a maternity home, but does not include a house of observation, mental hospital, or any premises maintained or controlled by a Government department or local authority or by any other prescribed body or authority;

" registered midwife " means a person for the time being registered under the Medical Ordinance as a midwife ;

" registered nurse " means a person for the time being registered as a nurse under the provisions of any written law in that behalf,* and includes a person who is under the provisions of section 10 of this Act deemed to be a registered nurse ;

" regulation " means a regulation made by the Minister under section 7.

* See section 20 (I) (e) of the Medical Ordinance.