

MAHARASHTRA

THE BOMBAY NURSING HOMES REGISTRATON ACT, 1949

CONTENTS

PREAMBLE

SECTIONS

1. Short title, extent and commencement
2. Definitions
3. Prohibition to carry on nursing home without registration
4. Application for registration
5. Registration
6. Penalty for non-registration
7. Cancellation of registration
8. Notice of refusal or of cancellation of registration
9. Inspection of nursing homes
10. Income of local supervising authority
11. Expenses of local supervising authority
12. Penalty for offences under Act
13. Offences by corporations
14. Court competent to try offences under Act
15. Indemnity to persons acting under this Act
16. Rules
17. By-laws

BOMBAY ACT NO. XV OF 1949

[THE BOMBAY NURSING HOMES REGISTRATION ACT 1949]

[6th May 1949]

An Act to provide for the registration and inspection of nursing Homes in the Province of Bombay and for certain purpose Connected therewith.

WHEREAS it is expedient to provide for the registration and inspection of nursing homes in the Province of Bombay and for certain purposes connected therewith; It is hereby enacted as follows: -

1. (1) This Act may be called the Bombay Nursing Homes Registration Act, 1949.
 - (2) This section extends to the whole of the Province of Bombay. The remaining provisions of this Act extend in the first instance to the Greater Bombay and the areas within the limits of the Municipal Boroughs of Ahmedabad, Poona City, Poona Suburban and Sholapea and the Provincial Government may, by notification in the Official Gazette, direct that the said provisions shall extend to such other areas as may be specified in the notification.
 - (3) This section shall come into force at once. The Provincial Government may, by notification in the Official Gazette, direct that the remaining provisions of this Act shall come into force in any area to which the said provisions extend or may have been extended under sub-section (2) on such date as may be specified in the notification
2. In this Act, unless there is anything repugnant in the subject or context
 - (1) "By-laws" means by-laws made by the local supervising authority;
 - (2) "Local supervising authority" in the case of a municipal area means the municipality established for such area, and in the case of any other area a district local board established for the said area;
 - (3) "Maternity home" means any premises used, or intended to be used, for the reception of pregnant women or of women in or immediately after child birth;
 - (4) "Nursing home" means any premises used or intended to be used, for the reception of persons suffering from any sickness, injury or infirmity and the providing to treatment and nursing for them, and includes a maternity home; and the expression "to carry on a nursing home" means to receive persons in a nursing home for any of the aforesaid purposes and to provide treatment or nursing for them;
 - (5) "Prescribed" means prescribed by rules made under this Act;
 - (6) "Qualified medical practitioner" means a medical practitioner registered under the Bombay Medical Act, 1912, or any other law for the time being in force;

- (7) "Qualified midwife" means a midwife registered under the Bombay Nurses, Midwives and Health Visitors Registration Act, 1935
- (8) "Qualified nurse" means a nurse registered under the Bombay Nurses, Midwives and Health Visitors Registration Act, 1935.
- (9) "register" means to register under section 5 of this Act and the expressions "registered" and "registration" shall be construed accordingly;
- (10) "Rules" means rules made under this Act.

3. No person shall carry on a nursing home unless he has been duly registered in respect of such nursing home and the registration in respect thereof has not been cancelled under section 7:

Provided that nothing in the section shall apply in the case of a nursing home which, is in existence at the date of the commencement of this Act, for a period of three months from such date or if an application for registration is made within that period in accordance with the provisions of section 4 until such application is finally disposed of.

4. (1) Every person intending to carry on a nursing home shall make every year an application for registration or the renewal of registration to the local supervising authority:

Provided that in the case of a nursing home which is in existence at the date of the commencement of this Act an application for registration shall be made within three months from such date.

(2) Every application for registration or the renewal of registration shall be made on such date and in such form and shall be accompanied, by such fee, as may be prescribed.

5. (1) Subject to the provisions of this Act and the rules, the local supervising authority shall, on the receipt of an application for registration, register the applicant in respect of the nursing home named in the application and issue to him a certificate of registration in the prescribed form:

Provided that the local supervising authority may refuse to register the applicant if it is satisfied:

- (a) That he, or any person employed by him at the nursing home, is not a fit person, whether by reason of age or otherwise, to carry on or to be employed at a nursing home of such a description as the nursing home named in the application; or
- (b) That the nursing home is not under the management of a person who is either a qualified medical practitioner or a qualified nurse and who is resident in the home, or that there is not approver proportion of qualified nurses among the persons having the superintendence of or employed in the nursing of the patients in the home; or
- (c) That in the case of a maternity home it has not got on its staff a qualified midwife; or

- (d) That for reasons connected with the situation, constriction, accommodation, staffing or equipment, the nursing home or any premises used in connection therewith are not fit to be used for a nursing home of such a description as the nursing home mentioned in the application or that the nursing home or premises are used or are to be used for purposes which are in any way improper or undesirable in the case of such nursing home.
- (2) A certificate of registration issue under this section shall, subject to the provisions of section 7, be in force and shall be valid until the 31st day of March next following the date on which such certificate was issued.
- (3) The certificate of registration issued in respect of nursing home shall be kept affixed in a conspicuous place in the nursing home.
6. Whoever contravenes the provisions of section 3, shall, on conviction, be punished with fine which may extend to five hundred rupees or, in the case of a second or subsequent offence, with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.
7. Subject to the provisions of this Act, the local supervising authority may at any time cancel the registration of a person in respect of any nursing home on any ground which would entitle ti to refuse an application for the registration of that person in respect of that home, or on the ground that that person has been convicted of an offence under this Act or that any other person has been convicted of such an offence in respect of that home.
8. (1) Before making an order refusing an application for registration or an order canceling any registration, the local supervising authority shall give to the applicant or to the person registered, as the case may be, not less than one calendar month's notice of its intention to make such an order, and every such notice shall state the ground on which the local supervising authority intends to make the order and shall contain an intimation that if within a calendar month after the receipt of the notice the applicant or pers on registered informs the authority in writing that he desires so to do, the local supervising authority shall, before making the order, give him (in person or by representative) an opportunity of showing cause why the order should not be made.
- (2) If the local supervising authority, after giving the applicant or the person registered an opportunity of showing cause as aforesaid, decides to refuse the application for registration or to cancel the registration, 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 or canceling any registration may, within a calendar month after the date on which the copy of the order was sent to him, appeal to the Provincial Government against such order of refusal. The decision of the Provincial Government on any such appeal shall be final.

(4) No such order shall come into force until after the expiration of a calendar month from the date on which it was made or, where notice of appeal is given against it, until the appeal has been decided or withdrawn.

9. (1) The Health Officer of the local supervising authority or the Civil Surgeon of the district in which a nursing home is situated or any other officer duly authorised by the local supervising authority or the Civil Surgeon, may, subject to such general or special orders as may be made by the local supervising authority, at all reasonable times enter and inspect and premises which are used, or which that officer has reasonable cause to believe to be used, for the purpose of nursing home, and inspect any records required to be kept in accordance with the provisions of this Act:

Provided that nothing in this Act shall be deemed to authorise any such officer to inspect any medical record relating to any patient in a nursing home.

- (2) If any person refused to allow any such officer to enter or inspect any such premises as aforesaid, or to inspect any such records as aforesaid or abstracts any such officer in the execution of his powers under this section, he shall be guilty of an offence under this Act.
10. Any fees received under this Act shall be paid into the fund of the local supervising authority.
11. Notwithstanding anything contained in any enactment in regard to any municipal or local fund, all expenses incurred by a local supervising authority under and for the purposes of this Act and the rules and by-laws may be paid out of the municipal or local fund, as the case may be.
12. Whoever contravenes any of the provisions of this Act or of any rule shall, if no other penalty is elsewhere provided in this Act or the rules for such contravention, on conviction, be punished with fine which may extend to fifty rupees and in the case of a continuing offence to a further fine of fifteen rupees in respect of each day on which the offence continues after such conviction.
13. Where a person committing an offence under this Act is a company or other body corporate or an association of persons (whether incorporated or not), every person who at the time of the commission of the offence was a director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.
14. No court other than that of a Presidency Magistrate or a Magistrate of the first class shall take cognizance of or try any offence under this Act.
15. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act, rules or by-laws.

16. (1) The Provincial Government may, by notification in the Official Gazette, make person for anything which is in good faith done or intended to be done under this Act, rules or by-laws.
 - (2) Without prejudice to the generality of the foregoing provisions such rules may prescribe -
 - (a) The form of the application to be made under section 4.
 - (b) The date on which an application for registration or renewal of registration to be made and the fees to be paid for such registration or renewal of registration,
 - (c) The form of the certificate of registration to be issued under section 5.
 - (d) For any other matter for which no provision has been made in this Act, and for which provision is, in the opinion of the Provincial Government, necessary.
 - (3) The power to make rules under this section shall be subject to the condition of previous publication in the Official Gazette.
17. (1) The local supervising authority may make by-laws not inconsistent with this Act or rules -
 - (a) Prescribing the records to be kept of the patients received into a nursing home, and in the case of the maternity home, of miscarriages, 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 home otherwise than to the custody or care of any parent, guardian relative.
 - (b) Requiring notification to be given of any death occurring in the nursing home.
 - (2) Any by-law made by a local supervising authority under this Act may provide that a contravention thereof shall be punishable:
 - (a) With fine which may extend to fifty rupees; or
 - (b) With fine which may extend to fifty rupees and in the case of a continuing contravention, with an additional fine which may extend to fifteen rupees for every day during which such contravention continues after conviction, for the first such contravention; or
 - (c) With fine which may extend to fifteen rupees for every day during which the contravention continues after the receipt of a notice from the local supervising authority by the person contravening the by-law requiring such person to discontinue such contravention.
 - (d) No by-law made by the local supervising authority shall come into force until it has been confirmed by the Provincial Government with or without modification.
 - (4) All by-means under this section shall be published in the official Gazette.

18. Nothing in this Act shall apply to -

- (i) any nursing home carried on by Government or a local authority or by any other body of persons approved by the Provincial Government in this behalf; and
- (ii) Any asylum for lunatics or patients suffering from mental diseases, within the meaning of the Indian Lunacy Act, 1912.

IN DEVELOPMENT, PUBLIC AND HOUSING DEPARTMENT

Sachivalaya, Bombay-32, 10th May 1973

BOMBAY NURSING HOMES REGISTRATION ACT, 1949

No. NHM. 1161/33950/39497-GII – In exercise of the powers conferred by sub-section (1) and clauses (a) to (d) of sub-section (2) of section of the Bombay Nursing Homes Registration Act, 1949 (Bomb. XV of 1949), and of all other powers enabling it in that behalf, the Government of Maharashtra hereby make the following rules, the same having been previously published as required by subsection (1) of the said section 16, namely: -

I-GENERAL

1. Short title – These rules may be called the Maharashtra Nursing Homes Registration Rules, 1973
2. Definitions – In these rules, unless the context requires otherwise -
 - (a) “Act” means the Bombay Nursing Homes Registration Act, 1949;
 - (b) “Form” means a form appended to the rules; and
 - (c) “Section” means a section of the Act.

II-MAINTENANCE OF REGISTER

3. Register – The local supervising authority shall maintain a register in Form ‘A’ showing the names of persons registered under section 5
4. Application for registration – Any person intending to carry on a nursing home shall make an application to the local supervising authority in Form ‘B’ at least one month before the date on which he intends to carry on such a nursing home. Such application shall be accompanied by a fee prescribed in sub-rule (1) of rule 7.
5. Grant of certificate of registration – the local supervising authority shall if satisfied that there is no objection to registration, register the applicant in respect of a nursing home and issue to him a certificate of registration in Form ‘C’
6. Renewal of registration – An application for the renewal of registration shall be made every year in advance in Form ‘B’ in the month of January, and shall be accompanied by the fee prescribed in sub-rule of rule 7.
7. Fees for registration and renewal of registration –
 - (1) The fees to be paid for registration shall be charged as under: -
 - (a) Rs. 20 in respect of a nursing home having not more than 10 beds;
 - (b) Rs. 50 in respect of a nursing home having more than 10 beds.
 - (2) The fees for the renewal of registration, shall in each case, be one-half of the amount payable for the first registration.

8. Transfer of ownership etc. of nursing home – Immediately the transfer of the ownership or management of nursing home the transferor and the transferee shall jointly communicate the transfer effected to the local supervising authority and the transferee shall make an application for registration in accordance with the provisions of rule 4
 16. Change of address – A person registered under the Act in respect of a nursing home shall communicate to the local supervising authority any change in his address or in the situation of the nursing home in respect of which he is registered not later than seventy-two hours after such change.
 17. Change in staff – Any change in the medical, nursing or midwifery staff together with the dates on which such changes has taken place shall be communicated to the local supervising authority immediately and in any case, not later than three days of such change.
 11. Lost certificate – In the event of certificate of registration being or destroyed, the holder may apply to the local supervising authority for a fresh certificate and the local supervising authority may, if it thinks fit, issue such certificate upon payment of a fee of Rs. 5 A certificate issued under this rule shall be marked “Duplicate”
-

MUNICIPAL CORPORATION OF GREATER BOMBAY
PUBLIC HEALTH DEPARTMENT
NOTIFICATION
MDA. 4029

The following by-laws framed in exercise of powers conferred by sub-sections (1) and (2) of section 17 of the Maharashtra (Bombay) Nursing Home Registration Act, 1949 and approved by the Municipal Corporation of Greater Bombay by their Resolution No. 374 of 4th August, 1955 and confirmed by the Government of Maharashtra (Bombay) vide letter No. NMH. 1057/49231-D dated 3rd February, 1968, from the Deputy Secretary to the Government of Bombay Local self-government and Public Health Department as required by Sub-section (3) of Section 17 of the said Act are published herewith as required by sub-section (4) of section 17 of the said act.

These bylaws shall come into force from the date of publication in the Government Gazette:

By-Laws

- I. Short title and extent: -
 - (1) These bylaws may be called the Bombay Municipal Corporation Nursing Homes Registration by-laws, 1954
 - (2) They extend to Greater Bombay
- II. Definitions: - In these by-laws, unless there be anything repugnant in the subject or context.
 - (a) "The Act" means the Bombay Nursing Homes Registration Act, 1949
 - (b) "Corporation" means the Municipal Corporation of Greater Bombay constituted under the Bombay Municipal Corporation Act, 1988 (here in after referred to as "The Municipal Act")
 - (c) "Infections disease" means any disease which a medical practitioner is required to notify to the Executive Health Officer of the Corporation as under Section 421 of the Municipal Act or any other law for the time being inforce;
 - (d) "Keeper of a nursing home" means a person who has been duly registered by the Corporation in respect of a Nursing home under section 5 of the Act and whose registration has not been cancelled under section 7 of the Act.

- III. Record of patients received into or of children born in the Nursing Home: -
The keeper of a Nursing Home shall keep and maintain.
- (a) In the form appended to these by-laws a register of patients received into the Nursing Home;
 - (b) A correct alphabetical index of the names of the patients admitted to the nursing home;
 - (c) A daily record of health of every patient who may be suffering from acute illness;
 - (d) A daily record of health of every woman admitted to the nursing
 - (e) home for delivery and of every child born to such woman in nursing home; and
 - (f) A daily and weekly record of health of other patients.
2. The Keeper of nursing home shall keep and maintain a register special form, of maternal and infant deaths occurring in the nursing home, and submit monthly returns thereof to the Executive Health Officer.
3. Where the register referred to in sub clause (1) relates to a woman who has been admitted for delivery and where a child b orn to such woman is removed with the consent of the keeper of a nursing hope and of the parents or mother, to the care of a person other than its father, guardian or relative, the keeper of such nursing home shall, in addition to the particulars specified in clause (1) also specify in the register the name and address of such person and the date on which and the consideration for which the child was so removed.
- IV. Notice of death occurring in Nursing Home: -
- (1) If any death occurs in a nursing home, the keeper of the nursing home shall within 24 hours from the occurrence of the death given in writing the notice of such death to the Executive Health Officer of the Corporation or he Registrar of Births and Deaths for the District, appointed under section 442 of the Municipal Act, within whose jurisdiction the nursing home is situated.
 - (2) The notice may be sent by pre-paid post or in any other effective manner
 - (a) The notice shall contain the particulars required to be entered in a register sheet under Section 451 of the Municipal Act.
 - (b) Within twenty-four hours of the conclusion of the inquest, if any, held on the death of any patient admitted into a nursing home, the keeper of such home shall forward a report to the Executive Health Officer of the Corporation or the Registrar of Births and Deaths for the District concerned, containing the following particulars, namely: -
 - (c) Date of inquest;
 - (d) Cause of death as found by the authority by which the inquest was held.

- (e) Penalty: - Any person who contravenes the provisions of any of these bye- laws, shall, on conviction, be punished: -
- (f) With fine which may extend to fifty rupees, or
- (g) With fine which may extend to fifty rupees and in the case of a continuing contravention with an additional fine which may extend to fifteen rupees for every day during which such contravention after conviction for the first such contravention, or
- (h) With fine Which may extend to fifteen rupees for every day during which the contravention continues after the receipt of a notice from the Corporation by the person contravening the by-laws, requiring such person to discontinue such contravention.

Registration Rules, 1973
Amendment to -

GOVERNMENT OF MAHARASHTRA
Urban Development and Public Health Department
Resolution No. MNH/1173/30748 (349) PH – 10
Sachivalaya, Bombay – 32
Date: 19TH November 1976

READ: Government Resolution, Urban Development & Public Health Department No. Mnh-1173/30748/(349) PH-10 dated the 15th April 1976.

RESOLUTION: The accompanying notification should be published in part IV-B of the Maharashtra Government Gazette.

By order and in the name of the Governor of Maharashtra

Sd/-(S.V.Abhyankar)
Desk Officer

To,

The Municipal Commissioner, Bombay

Urban Development & Public Health Department
Sachivalaya, Bombay 400032 dated the 9th November 1976

BOMBAY NURSING HOMES REGISTRATION ACT, 1949

No. MNH-1173/30748-(349)-PH-10: - Inexercise of the powers conferred by sub-section (2) of section 4 and clause (b) of sub-section (2) of section 16 of the Bombay Nursing Homes Registration Act, 1949 (Bom. XV of 1949) and of all other powers enabling it in that behalf; the Government of Maharashtra hereby makes the following rules, further to amend the Maharashtra Nursing / Homes Registration Rules 1973, the same having been previously published as required by sub-section (3) of the said section 16 namely:

RULES

1. These rules may be called the Maharashtra Nursing Homes Registration (Amendment) Rules, 1976
2. In rule 7 of the Maharashtra Nursing Homes Registration Rule 1973: -
 - (a) In sub-rule (1)
 - (i) In clause (a) for the figures "20" the figures "50" shall be substituted;
 - (ii) In clause (b) for the figures "50" the figures "100" shall be substituted.
 - (b) In sub-rule (2) for the words "one half of" the words "equal to" shall be substituted

By order and in the name of the Governor of Maharashtra,

Sd/-(S.V.Abhyankar)
Desk Officer

(These rules are amended by this notification for the first time).

.....

No. HO/39039/R-I of 30.11.76

Copy forwarded to A.H.O. I to IV, M.Os. (H) & Sr.S.Is. A to T wards for information attention and necessary action. Revised fees should be effective from 1.4.1977 and therefore applications received from Jan. 77 renewal should accompany the revised fees.

Sd/-
D.E.H.O.

Sd/-
H.O.

No. HO/45026/RI of

Copy recalculated to A.H.O. I to IV, M.OS. (H) & Sr. S.Is. A to T wards for information, attention and necessary action please.

8. PROCEDURE FOR GRANT OF CERTIFICATE OF REGISTRATION FOR NURSING HOME

LEGAL PROVISION

The nursing homes in Greater Bombay are controlled under the provision of the Bombay Nursing Home Registration Act, 1949, the Bombay Nursing Homes Registration Rules, 1973 and the Bombay Municipal Corporation Nursing Homes Registration Bylaws, 1954. Section 3 to 5 and 7 and 8 of the Act and rules 4 to 11 deal with registration of nursing homes. Section 3 of the Act lays down that no person shall carry on a nursing home unless he has been duly registered in respect of such nursing home. Section 6 of the Act prescribed penalty with fine to the extent of Rs. 500/- for non-registration and in the case of second or subsequent offence with imprisonment to the extent of 3 months or with fine to the extent of Rs. 500/- or with both. Section 12 of the Act prescribes penalty for contravention of any other provisions of the Act or any provisions of the rules.

The Bombay Municipal Corporation Nursing Homes Registration Bylaws, 1954 govern nursing homes in regard to the records to be kept of the patients received into nursing homes or children born therein, etc. The Bylaws also provide for penalty for the breach of their provisions.

The terms “Maternity Home” and “Nursing Home” have been defined under section 2 of the Act as under: -

“Maternity Home” means any premises used or intended to be used, for the reception of pregnant women or of women in or immediately after childbirth. “Nursing Home” means any premises used or intended to be used, for the reception of persons suffering from any sickness, injury or infirmity and the providing of treatment and nursing for them, and includes a maternity home, and the expression to carry on a “nursing home” means to receive persons in a nursing home for any of the aforesaid purposes and to provide treatment or nursing h/ for them.

The Municipal Corporation of Greater Bombay is the ‘Local Supervising authority’ as per the definition of the term given in the Act and is responsible for the enforcement of the legal provisions within its jurisdiction. The Corporation has, by its Resolution No. 596 dated 13.8.19.64 authorised the Municipal Commissioner, Deputy Municipal Commissioner, Executive Health Officer, Deputy Municipal Commissioner, Executive Health Officer, Deputy Executive Health Officers, Medical Assistant in charge Sections and Sanitary Inspectors to execute the provisions of the Bombay Nursing Homes Registration Act, 1949, and Rules and by-laws framed there under in Greater Bombay.

Any person carrying on or intending to carry on a nursing home has to apply in the prescribed form (Form ‘B’) to the Medical Officer of Health of the ward concerned. The form of application is available on payment of rupee one from the office of the Medical Officer of Health a specimen form of the application is in the rules.

On receipt of the application, the premises where the nursing home is carried on or is intended to be carried on is inspected and a report about its suitability for registration is submitted to the higher authority.

The suitability is determined in the following considerations (Section 5):

1. Fitness of the applicant or his agent to carry on the nursing home.
Management under qualified medical practitioner or qualified nurse and resident in the home.

Proper portion of qualified nurses among those superintending or nursing the patients in the home. (Please see Sec. 5(1) (a) & item 14(b) of the application form).

4. If a maternity home is a qualified nurse on its staff
5. Fitness of the premises in regard to situation, construction, accommodation, staffing or equipment
6. Use of the premises for any improper or undesirable purposes.

ISSUE OF CERTIFICATE OF REGISTRATION

If the premises are found suitable, the applicant is informed in writing to pay the necessary fees for registration in the office of the Medical Officer of Health.

On receipt of the fees for registration, the application is registered in the office of the M.O.H. in a register in Form 'A' as required under Rule 3 of the Rules and a certificate of registration duly signed is issued to the applicant. A specimen form of the certificate of Registration is in the rules.

PERIOD OF VALIDITY OF THE CERTIFICATE

A certificate of registration issued is valid until the 31st day of March next following the date on which it was issued.

The certificate must be displayed in a conspicuous place in the nursing home. (Please see Sec. 5(3)).

RENEWAL OF REGISTRATION

An application for renewal is to be made in January accompanied by the renewal fee. If the M.O.H. is satisfied that the application is in order, he will issue a fresh certificate of registration (Rule 6)

REFUSAL OR CANCELLATION OF REGISTRATION

The M.O.H. has the discretion to refuse to register an application for the reasons given in Section 5 of the Act and to cancel the registration as provided under Section of the Act.

However, the M.O.H. has to give to the applicant or/to the person registered, not less than one calendar month notice of his intention to make an order of refusal or cancellation giving reasons therefore. The notice should also contain intimation that the applicant or the person registered will be given in person or by a representative, an opportunity within one calendar.

LOST CERTIFICATE

If a certificate of registration is lost or destroyed, the holder may apply to the M.O.H. for a fresh certificate. A certificate marked as "Duplicate" will be issued on payment of Rs. 5/- (Rule 11).

Bylaws : Copy of Bylaws attached.

The following Act of the Bombay Legislature, having been assented to by the Governor on the 15th September 1959 is hereby published for general information

N. K. DRAVID
Secretary to the Government of Bombay,
Legal Department

BOMBAY ACAT No. XLII OF 1959

(First published, after having received the ascent of the Governor in the
“Bombay Government Gazette” on the 19th September, 1959

An Act to extend the Bombay Nursing Homes Registration Act, 1949, to
the rest of the State of Bombay and to amend that Act

WHEREAS the Bombay Nursing Homes Registration Act, 1949, extends only to
the pro-Reorganisation State of Bombay, excluding the transferred territories;

AND WHEREAS no corresponding law exists in the rest of the State of Bombay;

AND WHEREAS it is expedient that the Bombay Nursing Homes Registration
Act, 1949 be extended to the rest of the State of Bombay and in its application to the
whole of the State be amended for certain purposes hereinafter appearing; It is hereby
enacted in the Tenth Year of the Republic of India as follows: -

1. This Act may be called the Bombay Nursing Homes Registration (Extension and Amendment) Act, 1959
2. The Bombay Nursing Homes Registration Act, 1949, is hereby extended to that part of the State of Bombay to which, immediately before the commence month of this Act, it did not extend
3. In the Bombay Nursing Homes Registration Act, 1949, in its application to the whole of the State of Bombay (hereinafter referred to as “the principal Act”) in the long title, for the words “Province of Bombay” the words “State of Bombay” shall be substituted.

4. In section 1 of the principal Act, for sub-section (2) the following shall be substituted namely: -
 - (2) This section extends to the whole of the State of Bombay. The remaining provisions of this Act extend to Greater Bombay, the Cities Poona and Ahmedabad as constituted under section 3 of the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur as constituted under the City of Nagpur Corporation Act, 1918 and the Municipal Borough of Solapur. The State Government may by notification in the Official Gazette, direct that the said provisions shall extend to such other areas as may be specified in the notification.

5. In section 2 of the principal Act: -
 - (1) After clause (1), the following clause shall be inserted, namely: -

“(1-a) ‘district’ local board’ in relation to any area other than a municipal area, means a district local board, district board, district Panchayat or Janapada Sabha or similar local authority established under any law for the time being in force relating to the constitution of such authorities and having jurisdiction over such area;”
 - (2) After clause (3), the following clause shall be inserted, namely: -

“3-a) ‘municipality’ means a municipal corporation, municipality, municipal committee, town committee or similar local authority established under any law for the time, being in force relating to the constitution of such authorities and ‘municipal area’ means the local area within the jurisdiction of a municipality;”
 - (3) For clauses (7) and (8), the following clauses shall be substituted, namely: -

“(7) ‘Qualified midwife’ means a midwife registered or deemed to be registered under the Bombay Nurses, Midwives and Health Visitors Act, 1954 or any other corresponding law for the time being in force;

THE BOMBA NURSING HOMES REGISTRATION ACT 1949

CONTENTS

FREAMBLE

SECTIONS.

1. Short title, extend and commencement
2. Definitions
3. Prohibition to carry on nursing home without registration
4. Application for registration
5. Registration
6. Penalty for non-registration
7. Cancellation of registration
8. Notice of refusal or of cancellation of registration
9. Inspection of nursing homes
10. Income of local supervising authority
11. Expenses of local supervising authority
12. Penalty for offences under Act
13. Offences by corporations
14. Court competent to try offences under Act
15. Indemnity to persons acting under this Act
16. Rules
17. By-laws
18. Saving

- (2) “Local supervising authority” in the case of a municipal area means the municipality established for such area, and in the case of any other area a district local board established for the said area;
- (3) “Maternity home” means any premises used, or intended to be used, for the reception of pregnant women or of women in or immediately after child birth;
- ¹[(3a) “Municipality” means a Municipal Corporation, municipality, Municipal Committee, Town Committee or similar local authority established under any law for the time being in force relating to the constitution of such authorities and “Municipal Area” means the local area within the jurisdiction of a municipality;]
- (4) “Nursing Home” means any premises used or intended to be used, for the reception of persons suffering from any sickness, injury or infirmity and the providing of treatment and nursing for them, and includes a maternity home; and the expression “To carry on a nursing home” means to receive persons in a nursing home for any of the aforesaid. Purposes and to provide treatment or nursing for them;
5. “Prescribed” means prescribed by rules made under this Act;
6. “Qualified Medical Practitioner” means a medical practitioner registered under the Bombay Medical Act 1912, or any other law for the time being in force;
- ²7. “Qualified midwife” means a midwife registered or deemed to be registered under the Bombay Nurses, Midwives and Health Visitors Act 1954 or any other corresponding law for the time being in force;
8. “Qualified Nurse” means a nurse registered or deemed to be registered under the Bombay Nurses, Midwives and Health Visitors Act 1954, or any other corresponding law for the time being in force;]
9. “Register” means to register under section 5 of this Act and the expressions “Registered” and “Registration” shall be construed accordingly;
10. “Rules” means rule made this Act

Prohibition to carry on nursing home without registration

3. No person shall carry on a nursing home unless he has duly registered in respect of such nursing home and the registration in respect thereof has not been cancelled under section 7:

Provided that nothing in this section shall apply in the case of a nursing home ³[which is in existence in any area at the date of the coming into force of section 3 in that area] for a period of three months from such date or if an application for registration is

made within that period in accordance with the provisions of section 4 until such application is finally disposed of.

1 Clause (3a) was inserted by Bom. Of 1959, s 5(2)

2 Clause (7) and (8) were substituted for the original by Bom. 42 of 1959, s 5(3)

3 These words were substituted for the words “which is in existence at the date of the commencement of this Act”, ibid, s 6

BOMBAY ACT No. XV OF 1949¹

[THE BOMBAY NURSING HOMES REGISTRATION ACT 1949]^Ψ
[6th May 1949]

Adapted and modified by the Adaptation of Laws Order, 1950

Adapted and modified by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order 1956

Amended by Bom. 42 of 1959

Adapted and modified by the Bombay Adaptation of Laws (State and Concurrent Subjects) Order 1960

An Act to provide for the registration and inspection of nursing home in he ²[State of Bombay] and for certain purposes connected therewith

WEHREAS it is expedient to provide for the registration and inspection of nursing homes in the Province of Bombay and for certain purposes connected herewith; It is hereby enacted as follows: -

Short title extent and commencement

1. (1) This Act may be called the Bombay Nursing Homes Registration Act, 1949
- ³(2) This section extends to the whole of the ⁴[State of Maharashtra.] The remaining provisions of this Act extend to Greater Bombay, the ⁵[City of Poona] as constituted under section 3 of the Bombay Provincial Municipal Corporations Act, 1949, the City of Nagpur as constituted under the City of Nagpur Corporation Act, 1948 and the Municipal Borough of Solapur. The State Government may, by notification in the Official Gazette, direct that the said provisions shall extend to such other areas as may be specified in the notifications.]
- (3) This section shall come into force at once. The ⁶[State] Government may by notification in the Official Gazette, direct that the remaining provisions of this Act shall come into force in any area to which the said provisions extend or may have been extended under sub-section (2) on such date as may be specified in the notification.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context
 - (1) "Bylaws" means made by the local supervising authority;
 - 7[(1a) "District local board" in relation to any area other than a Municipal Area , means a district local board, district board, district Panchayat or Janapada abha or similar local authority established under, any law for the time being in force relating to the constitution of such authorities and having jurisdiction over such area;]
-
- 1 For Statement of Objects and Reasons, see Bombay Government Gazette, 1949, Part V, page 84
 - Ψ This Act was extended to that part of the State of Bombay to which immediately before the commencement of Bom. 42 of 1959, it did not extend (Vide Bom. 42 of 1959, s. 27)
 - 2 These words were substituted for the words "Province of Bombay" by Bom. 42 of 1959, s. 3
 - 3 This sub-section was substituted for the original by Bom. 42 of 1959, s.4
 4. These words were substituted for the words "State of Bombay" by the Maharashtra Adaptation of Laws (State and Concurrent Subjects) Order, 1960
 5. These words were substituted for the words "Cities of Poona and Ahmedabad" ibid.
 6. This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
 7. Clause (1-a) was inserted by Bom. 42 of 1959, s. 5(1)
-

Application for registration

4. (1) Every person intending to carry on a nursing home shall make every year an application for registration or the renewal of registration to the local supervising authority:

Provided that in the case of a nursing home *[which is in existence in any area at the date of the coming into force of section 3 in that area] an application for registration shall be made within three months from such date.
- (2) Every application for registration or the renewal of registration shall be made on such date and in such form and shall be accompanied by such fee as may be prescribed.

Registration

5. (1) Subject to the provisions of this Act and the rules, the local supervising authority shall, on the receipt of an application for registration, register the applicant in respect of the nursing home named in the application and issue to him a certificate of registration in the prescribed form:

* These words were substituted for the words "which is in existence at the date of the commencement of this Act" by Bom. 42 of 1959, s. 7

Provided that the local supervising authority may refuse to register the applicant if it is satisfied --

- (a) That he, or any person employed by him at the nursing home, is not a fit person, whether by reason of age or otherwise to carry on or to be employed at a nursing home of such a description as the nursing home named in the application; or
 - (b) That the nursing home is not under the management of a person who is either a qualified medical practitioner or a qualified nurse and who is resident in the home, or that there is not a proper proportion of qualified nurses among the persons having the superintendence of or employed in the nursing of the patient in the home; or
 - (c) That in the case of a maternity home it has not got on its staff a qualified midwife; or
 - (d) That for reasons connected with situation, construction, accommodation, staffing or equipment, the nursing home or any premises used in connection therewith are not fit to be used for a nursing home or premises are used or are to be used for purposes which are in any way improper or undesirable in the case of such nursing home.
- (2) If any person refuses to allow any such officer to enter or inspect any such premises as aforesaid, or to inspect any such records as aforesaid or obstructs any such officer in the execution of his powers under this section, he shall be guilty of an offence under this Act.

Income of local supervising authority

10. Any fees received under this Act shall be paid into the fund of the local supervising authority.

Expenses of local supervising authority

11. Notwithstanding anything contained in any enactment in regard to any municipal or Local fund, all expenses incurred by a local supervising authority under and for the purposes of this Act and the rules and bylaws may be paid out of the municipal or local fund, as the case may be.

Penalty for offences under Act

12. Whoever contravenes any of the provisions of this Act or of any rule shall if no other penalty is elsewhere provided in this Act or the rules for such contravention, on conviction, be punished with fine which may extend to fifty rupees and in the case of a continuing offence to a further fine of fifteen rupees in respect of each day on which the offence continues after such conviction.

* These words were substituted for the words "which is in existence at the date of the commencement of this Act" by Bom. 42 of 1959, s. 7

Offences by corporations

13. Where a person committing an offence under this Act is a company or other body corporate or an association of persons (whether incorporated or not), every person who at the time of the commission of the offence was a director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.
14. No court, other than that of a Presidency Magistrate or a Magistrate of the first class shall take cognizance of or try any offence under this Act
15. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act, rules or bylaws.
16. (1) The ¹[State] Government may by notification in the Official Gazette, make rules to carry out all or any of the purposes of this Act.
(2) Without prejudice to the generality of the foregoing provisions such rules may prescribe --
 - (a) the form of the application to be made under section 4.
 - (b) the date on which an application for registration or renewal of registration to be made and the fees to be paid for such registration or renewal of registration
 - (c) the form of the certificate of registration to be issued under section 5,
 - (d) for any other matter for which no provision has been made in this Act, and for which provision is, in the opinion of the * [State] Government, necessary
(3) The power to make rules under this section shall be subject to the condition of previous publication in the Official Gazette
17. (1) The local supervising authority may make bylaws not inconsistent with this Act or rule: -
 - (a) Prescribing the records to be kept of the patients received into a nursing home and in the case of the maternity home, of miscarriages, 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 home otherwise than to the custody of care of any parent, guardian or relative;

* The word was substituted of the Word "Provincial" by the Adaptation of Laws Order, 1950

- (2) A certificate of registration issued under this section shall, subject to the provisions of section 7, be in force and shall be valid until the 31st date of March next following the date on which such certificate was issued.

- (3) The certificate of registration issued in respect of a nursing home shall be kept affixed in a conspicuous place in the nursing home

Penalty for non registration

6. Whoever contravenes the provisions of section 3, shall, on conviction be punished with fine which may extend to five hundred rupees, or, in the case of a second or subsequent offence, with imprisonment, for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Cancellation of registration

7. Subject to the provisions of this Act, the local supervising authority may at any time cancel the registration of a person in respect of any nursing home on any ground which would entitle it to refuse an application for the registration of that person in respect of that home, or on the ground that that person has been convicted of an offence under that Act or that any other person has been convicted of such an offence in respect of that home

Notice of refusal or cancellation of registration

8. (1) Before making an order refusing an application for registration or an order canceling any registration, the local supervising authority shall give to the applicant or to the person registered, as the case may be, 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 local supervising authority intends to make the order and shall contain an intimation that if within a calendar month after the receipt of the notice the applicant or person registered informs the authority in writing that he desires so to do, the local supervising authority shall, before making the order, give him (in person or by a representative) an opportunity of showing cause why the order should not be made.
- (2) If the local supervising authority, after giving the applicant or the person registered an opportunity of showing cause as aforesaid, decides to refuse the application for registration or to cancel the registration, 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 or canceling any registration may, within a calendar month after the date on which the copy of the order was sent to him, appeal to the * [State] Government against such order of refusal. The decision of the *[State] Government on any such appeal shall be final.
- (4) No such order shall come into force until after the expiration of a calendar month from the date on which it was made or, where notice of appeal is given against it, until the appeal has been decided or withdrawn.

* This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

Inspection of nursing homes.

9. (1) The Health Officer of the local supervising authority or the Civil Surgeon of the district in which a nursing home is situated or any other officer duly authorised by the local supervising authority or the Civil Surgeon may, subject to such general or special orders as may be made by the local supervising authority, at all reasonable times enter and inspect any premises which are used, or which that officer has reasonable cause to believe to be used for the purpose of nursing home and inspect any records required to be kept in accordance with the provisions of this Act:
- (a) Provided that nothing in this Act shall be deemed to authorise any such officer to inspect any medical record relating to any patient in a nursing home
 - (b) Requiring notification to be given of any death occurring in the nursing home.
- (2) Any by-law made by a local supervising authority under this Act may provide that a contravention thereof shall be punishable ---
- (a) with fine which may extend to fifty rupees; or
 - (b) with fine which may extend to fifty rupees and in the case of continuing contravention with an additional fine which may extend to fifteen rupees for every day during which such contravention continues after conviction for the first such contravention
 - (c) with fine which may extend to fifteen rupees for every day during which the contravention continues after the receipt of a notice from the local supervising authority by the person contravening the by-law requiring such person to discontinue such contravention
- (3) No by-law made by the local supervising authority shall come into force until it has been confirmed by the *[State] Government with or without modification
18. Nothing in this Act shall apply to --
- (i) Any nursing home carried on by Government or a local authority or by any other body of persons approved by the *[State] Government in this behalf; and
 - (ii) Any asylum for lunatics or patients suffering from mental diseases, within the meaning of the Indian Lunacy Act 1912

* This word was substituted for the word "Provincial" by Adaptation of Laws Order, 1950
