

The Odisha Gazette



EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 2203, CUTTACK, THURSDAY, DECEMBER 1, 2016 / MARGASIRA 10, 1938

LAW DEPARTMENT

NOTIFICATION

The 1st December, 2016

No.12097—I-Legis-31/2015/L.—The following Act of the Odisha Legislative Assembly having been assented to by the Governor on the 29th November, 2016 is here by published for general information.

ODISHA ACT, 16 OF 2016

THE ODISHA CLINICAL ESTABLISHMENTS (CONTROL AND REGULATION) AMENDMENT ACT, 2016

AN ACT TO AMEND THE ODISHA CLINICAL ESTABLISHMENTS
(CONTROL AND REGULATION) ACT, 1991.

BE it enacted by the Legislature of the State of Odisha in the Sixty-Seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Odisha Clinical Establishments (Control and Regulation) Amendment Act, 2016.

Amendment of section 1.

2. In the Odisha Clinical Establishments (Control and Regulation) Act, 1991 (hereinafter referred to as the principal Act), in section 1, in sub-section (4),—

Odisha Act, 8 of 1992.

(i) for clause (b), the following clause shall be substituted, namely:—

“(b) psychiatric hospital or psychiatric nursing home” established and licensed under the Mental Health Act, 1987.”; and

14 of 1987.

(ii) for clause (c), the following clause shall be substituted, namely:—

“(c) a clinical establishment established and maintained by a qualified Medical Practitioner only for treatment of outpatient care without any admission facility.”.

Amendment
of section 2.

3. In the principal Act, in section 2,—

(a) for clause (b), the following clause shall be substituted, namely:—

“(b)” ‘clinical establishment’ means —

- (i) an establishment by whatever name called, that offers services, facilities requiring diagnosis, examination, treatment or therapy or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicine;
- (ii) a place established as an independent entity or part of an establishment referred to in sub-clause (i), in connection with the diagnosis, examination, analysis or treatment of diseases where, biological, pathological, bacteriological, genetic, radiological, chemical, biochemical, investigations or other diagnostic or investigative services with the aid of laboratory or other medical equipment or the preparation of culture, vaccines, serum or other biological or bacteriological product are usually carried on;”;

(b) for clauses (c) and (d), the following clauses shall be substituted, namely: —

“(c) ‘emergency medical condition’ means a medical condition manifesting itself by acute symptoms of sufficient severity of such a nature that the absence of immediate medical attention could reasonably be expected to result in —

- (i) placing the health of the individual, or with respect to pregnant women, the health of the woman or her unborn child, in serious jeopardy; or
- (ii) serious impairment to bodily functions; or

- (iii) serious dysfunction of any organ or part of a body.
- (d) "Inspecting Authority" means such officer not below the rank of District Medical Officer, as may be appointed, or an Inspection team as may be constituted, by notification, by the State Government to carry out an inspection in accordance with the provisions of this Act;";
- (c) clauses (e) and (f) shall be omitted;
- (d) for clause (g), the following clause shall be substituted, namely:—
 - "(g) 'prescribed authority' means the authority as may be prescribed in the rules to hear the appeals under this Act;";
- (e) after clause (k), the following clause shall be inserted, namely: —
 - "(k-a) 'recognized system of medicine' means allopathic, yoga, Naturopathy, Ayurveda, Homeopathy, Siddha and Unani system of medicine or any other system of medicine as may be recognized by the Government;";
- (f) after clause (m), the following clause shall be inserted, namely:—
 - "(m-a) 'Standards' in relation to registration of clinical establishment, means the standard of facilities and services as may be prescribed;".

Insertion
of new
section 4-A.
"Power and
functions of
supervising
authority.

4. In the principal Act, after section 4, the following section shall be inserted, namely:—

4-A. without prejudice to generality powers and function of the supervising authority provided under this Act, he shall perform and following powers and functions namely:—

- (a) to compile and update register of clinical establishment;
- (b) to review and monitor implementation of the provisions of this Act and Rules.
- (c) to send report or return relating to activities of clinical establishment to the State Government and to such other authorities as required by or under any law for time being in force;

(d) to publish annual report on the State implementation of Standard; and

(e) any other powers and functions as may be prescribed.”.

Amendment
of section 5.

5. In the principal Act, in section 5, in sub-section (1),—

(a) in clause (d), for the words “with the situation” the words “with any standard as may be prescribed, the situation” shall be substituted; and

(b) after clause (d), the following clause shall be inserted namely:—

“(e) the clinical establishment has provided necessary fire prevention, life safety and such other measures in accordance with the provisions as provided by or under the provisions of any law for the time being in force”.

Amendment
of section 6.

6. In the principal Act, in section 6,—

(a) in sub-section (4), for the words “of two years”, the words “of five years” shall be substituted;

(b) after sub-section (4), the following proviso shall be added, namely:—

“Provided that the certificate holder who has been granted with certificate of registration before the commencement of the Odisha Clinical Establishments (Control and Regulation) Amendment Act, 2016, irrespective of the fact whether validity period has expired or not shall apply within six months from the date of such commencement for renewal of the certificate of registration for the remainder period on payment of such fee as may be prescribed.”; and

(c) in sub-section (5), for the words “not less than one month”, the words “not less than six months” shall be substituted.

Amendment
of section 9.

7. In the principal Act, in section 9, for the words “the State Government” wherever it occurs, the words “prescribed authority” shall be substituted.

Amendment
of section 10.

8. In the principal Act, for section 10, the following section shall be substituted, namely:—

“10.(1) Every clinical establishment registered or deemed to be registered under this Act shall comply with such requirements in relation to patient treatment, location, accommodation, equipment, instruments, personnel as may be prescribed;

(2) The clinical establishment shall provide for such minimum standard of services as may be prescribed including but not limited to minimum standard of accommodation, number and norms for service providers (like registered medical practitioner, registered nurse, other paramedical staff and other categories of staff with such qualification as may be prescribed), norms for emergency and referral care, norms for use of prescribed equipment, disposal of biomedical wastes and maintenance of such records and registers as may be prescribed:

Provided that the clinical establishments which have not maintained the fire prevention and life safety measures and the standards to be prescribed after the date of commencement of the Odisha Clinical Establishments (Control and Regulation) Amendment Act, 2016 shall, within six months of the date of commencement of such prescription, comply with such standard and the fire prevention and life safety measures:

Provided further that for compliance of fire prevention and life safety measures, a further period not exceeding six months shall be allowed by the authority as may be prescribed.

(3) The certificate holder shall maintain the fire prevention and life safety and such other measures in good condition at all times in accordance with the provisions as provided by or under the provisions of any law time being in force.

(4) Every clinical establishment shall undertake to provide within the Staff and facilities available, such medical examination and treatment as may be required to stabilize the emergency medical condition of any individual who comes or is brought to such clinical establishment and gives an undertaking by himself or by his attendant to be treated in the said clinical establishment.

Explanation. — For the purpose of this section, the expression “to stabilize” with its grammatical variations and cognate expression, means with respect to an emergency medical condition, to provide such medical treatment for improvement of the condition as may be necessary.

(5) The clinical establishment to which Government land has been provided such clinical establishment shall provide free treatment to persons Below Poverty Line as indoor and outdoor patients with such proportion as may be decided by the State Government, from time to time.”.

Amendment
of section 11.

9. In the principal Act, in section 11,—

- (a) in sub-section (1), for the words “any officer empowered by it in that behalf” and for the words “the officer empowered by it”, the words “the Inspecting Authority” shall be substituted;
- (b) sub-section (2) shall be omitted;
- (c) in sub-section (3), for the words “the supervising authority” wherever it occurs, the words “the supervising authority or the Inspecting Authority, as the case may be,” shall be substituted; and
- (d) in sub-section (4), for the words “the supervising authority”, the words “the supervising authority or the Inspecting Authority, as the case may be,” shall be substituted.

Amendment
of section 12.

10. In the principal Act, in section 12, for the words “not later than seven days”, the words “not later than fifteen days” shall be substituted.

Amendment
of section 14.

11. In the principal Act, for section 14 including the marginal heading the following section shall be substituted, namely:—

“Maintenance
of register,
records and
furnishing
information.

14. (1) There shall be maintained by the owner, proprietor or the management of every clinical establishment such register and records in such form and manner as may be prescribed:

Provided that the owner, proprietor or the management of every clinical establishment which requires to give free treatment to the persons belonging to Below Poverty Line under this Act and Rules, shall maintain separate register therefor.

(2) The supervising authority or any officer empowered by it may require any owner, proprietor or the management of any clinical establishment to furnish to it any register, record and other information within such period as specified in this behalf and such owner, proprietor or the management of the clinical establishment shall be bound to do so.”.

Insertion of
new sections
14-A and 14-B.

12. In the principal Act, after section 14, the following sections shall be inserted, namely:—

“Penalty for
disobedience
of direction,
obstruction
and refusal of
information.

14-A (1) Whoever refuses to allow the supervising authority or Inspecting Authority to enter or inspect any premises or to inspect any record, register or obstructs such authority in exercise of his power under sub-section (1) of section 11 or willfully disobeys any direction of such authority or does not furnish the register and records or withhold any information required to be supplied under section 14 or gives information which he knows to be false, he shall be liable to pay fine which may extend to twenty-five lakhs rupees:

Provided that where any such person after being penalized under this sub-section (1), commits it for the second or subsequent occasion, he shall be punishable with imprisonment for a term which may extend to six months and fine which may extend to twenty-five lakhs rupees.

(2) For the purpose of imposing fine, the supervising authority shall hold an inquiry in the prescribed manner after giving the person concerned a reasonable opportunity of being heard.

(3) While determining the quantum of fine the supervising authority shall take into account the category, size and type of clinical establishment and local conditions of the area in which the establishment is situated.

(4) The fine imposed under sub-section (1) shall, if the offender fails to pay the same, be recovered as if it were an arrear of land revenue and the fine so imposed and realized shall be credited to such account as the State Government may, by order, specify in this behalf.

(5) Any person aggrieved by the decision of the supervising authority may prefer an appeal to the Prescribed Authority within a period of sixty days from the date of the said decision.

Temporary
sealing of the
Clinical
Establishment.

14-B (1) During the time of inspection, if the Inspecting Authority finds any contraventions of the provision of this Act and Rules made thereunder, the Inspecting Authority shall have the power to seal the clinical establishment partially or fully, till the deficiencies are complied to the satisfaction of the Inspecting Authority.

(2) In case the clinical establishment is having admission facility, during such sealing, the provisions of sub-section (2) of section 8 shall apply *mutatis mutandis*. "

Amendment
of section 16.

13. In the principal Act, in section 16,—

(a) in sub-section (1), for the words "ten thousand rupees" and the words "twenty thousand rupees", respectively, the words "five lakhs rupees" and the words "twenty-five lakhs rupees" shall be substituted; and

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

" (2) Any person who contravenes any of the provisions of this Act, other than those mentioned in sub-section (1) and section 14-A, shall, on conviction be punishable with fine which may extend to five lakhs rupees and in case, where any such person, after conviction, under this sub-section for any offence, continues to commit the offence, he shall, on conviction, be punishable with further fine of one lakh rupees for every day after the first day during which the contravention is continued".

By Order of the Governor

B. P. ROUTRAY

Principal Secretary to Government