

## MEGHALAYA ORDINANCE NO. 2 of 1994

Promulgated by the Governor on the 19th December, 1994

THE MEGHALAYA MEDICAL COUNCIL (AMENDMENT)  
ORDINANCE, 1994An  
Ordinance

to amend the Meghalaya Medical Council Act, 1987.

Whereas, the Legislative Assembly of Meghalaya is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action;

And, whereas, prior instruction of the President have been obtained;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution, the Governor of Meghalaya hereby promulgates in the Forty-fifth Year of the Republic of India the following Ordinance, namely,

Short title and commencement

1. (1) This Ordinance may be called the Meghalaya Medical Council (Amendment) Ordinance, 1994.

(2) It shall come into force at once.

Amendment of section 3 of Act 9 of 1987

2. In clause (c) of sub-section (1) of section 3 of the Meghalaya Medical Council Act, 1987 (Act 9 of 1987 and herein after referred to as the principal Act), for the words "the Director General of Health Services of the Government of India" the words "the Indian Medical Association" shall be inserted.

Amendment of section 10 of the principal Act.

(3) In sub-section (1) of section 10 of the principal Act, after the word "Treasurer" occurring at the end, the words "and approved by the Government" shall be added

Amendment of section 14 of the principal Act.

4. In section 14 of the principal Act between the words "qualifications" and "Shall" the words "included in the Schedules to the Indian Medical Council Act, 1956 and its amendment from time to time" shall be inserted.

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Substitution of  
section 16 of the  
principal Act.

5. For section 16 of the principal Act, the following shall be substituted, namely:

"16 Entry of new titles and qualifications and change of name in the Register. If any person whose name is entered in the Register obtains any title, diploma or other qualification for proficiency in sanitary science, public health or medicine which is a recognised medical qualification he shall, on application made in this behalf in the prescribed manner be entitled to have an entry stating such other title, diploma or other qualification made against his name in the Register either in substitution for or in addition to any entry previously made."

Omission of  
section 23 of the  
principal Act.

6. Section 23 of the principal Act shall be omitted.

Constitution of a  
Licensing and  
Registering  
Authority.

- (c) a clinic catering to radiological, biological and other diagnostic or investigative services with the aid of laboratory or other medical equipments.

4.(1) The State Government may, by notification in the Official Gazette, constitute an Authority to be called the Meghalaya Nursing Homes Licensing and Registering Authority consisting of the following persons, namely:-

**Chair-person**

- (i) The Director of Health Services (Medical Institutions) of the State;

**Vice-Chair-Person**

- (ii) the Additional Director of Health Services (in charge, Maternity and Child Health and Family Welfare) of the State;

**Members**

- (iii) the Chief Executive Member of the Autonomous District Council concerned or his representative.
- (iv) the chairman of the Municipal Board concerned or, if the office is vacant, the Chief Executive Officer thereof;
- (v) one medical expert and one environmental expert both of whom shall be appointed by the State Government; and
- (vi) the Joint Director of Health Services (Medical Institutions) of the State Government who shall be the Member-Secretary.

**Explanation:** The word 'concerned' in items (iii) and (iv) shall qualify the Autonomous District Council, or the Municipal Board, as the case may be, having jurisdiction over the area in which a nursing home is proposed to be set up.

(2) The Authority may, if it considers necessary, for dealing with any special issue before it, invite any person(s) to attend any meeting but such person shall not be deemed to be a member of the Authority nor shall he have a voting right.

(3) No act or proceeding of the Authority shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.

(4) Notwithstanding anything contained in this Act, the State Government may at any time reconstitute the Authority or replace any member thereof.

Jurisdiction and Quorum

5. (1) The jurisdiction of the Authority shall extend over the entire State of Meghalaya.

(2) The quorum for any meeting of the Authority shall be four including the Chairperson.

Powers, duties and functions of the Authority.

6. The Authority shall have an office and all correspondences and orders emanating from the office of the Authority shall be authenticated under the signature of the Member Secretary.

7. Without derogation to any law for the time being in force and without prejudice to the generality of its powers and functions the Authority shall-

- (a) receive applications for grant of licences or for registration of nursing homes;
- (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 application and pass orders; and
- (d) do such other things as are necessary or incidental for the purpose of this Act.

Restrictions in setting up Nursing Homes.

8. On and from the appointed date no person shall set up any nursing home except under a valid licence granted by the Authority and no nursing home shall run without it having been registered in accordance with the provisions of this Act:

Provided that in the case of a nursing home in existence immediately before the appointed date the person who has set it up or otherwise is the proprietor or owner of such a nursing home shall, within a period of three months therefrom, apply to the Authority for a licence and for registration of the nursing home.

**Explanation-** For the purpose of this section 'person' includes a body, group or association of individuals, an organisations, a firm or society whether registered or not, and a company.

Application for a licence and for registration

9. An application for grant of a licence and for registration of a nursing home shall be made in such form and manner as may be prescribed.

Renewal of a licence and certificate of registration

10. The licence and the certificate of registration shall renewed in such manners as may be prescribed.

Processing of application

11. (1) 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, as the case may

be, register a nursing home or, for reasons to be recorded in writing, refuse to grant a licence or to register a nursing home:

Provided that no order refusing to grant a licence or to register a nursing home shall be passed unless the applicant has been given an opportunity of being heard.

(2) In cases where grant of a licence is refused it shall not be necessary for the nursing home to be registered.

Directions

12. The Authority may, from time to time, give directions in regards to matters pertaining to nursing homes and the licensee as also the person referred to in the proviso to section 8 shall comply with such directions.

Inspection

13. The authority may, from time to time, cause inspection of nursing homes and the record kept therein to satisfy itself that the nursing home is run in accordance with terms and conditions of the licence and that its directions are complied with and the licensee and the officer in charge of the nursing home, by whatever name called, shall afford all reasonable opportunity to the Authority or to any person deputed by it to conduct the inspection and shall furnish all information as may be called for.

Cancellation or suspension of licence

14. (1) If the Authority is satisfied that a licensee has violated any of the terms and conditions of the licence or any of the directions it has given or has contravened any of the provisions of this Act or the rules the Authority may order cancellation or suspension of the licence for such period as it may think fit and on such cancellation the certificate of registration shall stand withdrawn:

Provided that before a licence is cancelled the licensee 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 nursing home either as an in-patient or an out-patient;

Provided that a person already admitted in a nursing home before the licence is cancelled or, as the case may be, suspended shall continue to be treated therein until he is discharged and on the discharge of the last of such persons the nursing home shall be closed down.

Appeals.

15. (1) Any person aggrieved by an order of the Authority refusing to grant a licence or to register a nursing

home under section 11 or cancelling or suspending a licence under section 14 may make an appeal to a Board (herein after referred to as the Appellate Board) consisting of the Commissioner and Secretary, Health and Family Welfare 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 Board shall, after considering the appeal and, if necessary, after hearing the aggrieved person, pass orders and its orders shall be final and binding.

Offences and penalties

16. 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 but which may extend upto one lakh of rupees and in the case of a continuing contravention with an additional fine which may extend upto one thousand of rupees for every day the contravention continues; and

(b) a minor offence, with a fine which shall not be less than five hundred but which may extend upto two thousand of rupees and in the case of a continuing contravention with an additional fine which may extend upto fifty of rupees for every day the contravention continues.

**Explanation:** 'Major offence' and minor offence' shall have the meanings as may be prescribed for them.

Offence by a company.

17. Where an offence has been committed by a company every person who at the time the offence was committed were directly in charge of or were 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.

Taking cognizance of any offence.

18. No court shall take cognizance of any offence punishable under this Act except on a complaint made by the Authority or by an officer or person authorised by it in this behalf.

Public  
Servant.

19. The Chairperson and every member of the Authority and every officer or person exercising his functions on its behalf shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, 1860.

Power to  
remove  
difficulties.

20. If any difficulty arises in giving effect to the provisions of this Act or in the interpretation of any of its provisions the State Government may, within the ambit of the Act, by order remove the difficulty or interpret the provision and such order shall be final and binding.

Power to  
make  
rules.

21. (1) The State Government may, by notification in the Official Gazette and subject to the conditions of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing 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 nursing home;
- (b) the terms and conditions of a licence;
- (c) the form of application for a licence and for registration of a nursing home;
- (d) the form of the periodical returns and statistics to be submitted by the licensee to the Authority;
- (e) the mode of holding meetings and the conduct of business by the Authority;
- (f) the fees payable for applying for a licence and for registration of a nursing home and for renewal of the same; and
- (g) any other matter which is required to be prescribed.