

Kerala Ayurveda Health Centres (Issue Of Licence And Control) Act, 2007

28 of 2007

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short Title, Extent And Commencement
2. Definitions

CHAPTER 2 :- ISSUE OF LICENCE AND CONTROL

3. Issue Of Licence To Ayurveda Health Centres
4. Conditions For The Issue Of Licence
5. Powers And Duties Of The Director
6. Application For Licence And Fees
7. Cancellation Of Licence
8. Penalty
9. Offences By Companies
10. Cognizance Of Offence
11. Appeal

CHAPTER 3 :- MISCELLANEOUS

12. Power To Make Rules
13. Power To Remove Difficulties
14. Repeal And Saving

Kerala Ayurveda Health Centres (Issue Of Licence And Control) Act, 2007

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to provide for the issue of licence to Ayurveda Health Centres in the State and to control their function. WHEREAS, it is expedient to provide for the issue of licence to Ayurveda Health Centres in the State and to control their function; BE it enacted in the Fifty-eighth Year of the Republic of India as follows:-

CHAPTER 1
PRELIMINARY

1. Short Title, Extent And Commencement :-

- (1) This Act may be called the Kerala Ayurveda Health Centres (Issue of Licence and control) Act, 2007.
- (2) It extends to the whole of the State of Kerala.
- (3) It shall come into force from such date as the Government may by notification in the Gazette, appoint.

2. Definitions :-

In this Act, unless the context otherwise requires,-

- (a) "Ayurveda Health Centre" means an establishment or premises by whatever name be known to provide Ayurveda treatment but does not include the establishments under the direct ownership or management of the Government and the dispensaries conducted by the Ayurveda Medical Practitioner only for the mere diagnosis and distribution of medicines or the agencies selling the medicine;
- (b) "Director" means the Director of Department of Indian System of Medicine under the Government of Kerala;
- (c) "Government" means the Government of Kerala;
- (d) "Local Self Government Institution" means a Village Panchayat constituted under the Kerala Panchayat Raj Act, 1994 (13 of 1994), or a Municipality constituted under the Kerala Municipality Act, 1994 (20 of 1994);
- (e) "Manager" means the owner or the person responsible for the administration and management of an Ayurveda Health Centre ;
- (f) Masseur/Therapist means a person employed for the treatment as directed by a registered medical practitioner in an Ayurveda Health Centre and having recognised qualifications as prescribed;
- (g) "Nurse" means a person employed for nursing duty in an Ayurveda Health Centre and having equivalent qualification, as prescribed;
- (h) "Prescribed" means prescribed by rules made under this Act;
- (i) "Licence" means the licence issued by the Director after conducting necessary inspections as specified in this Act;
- (j) "Medical Practitioner" means an Ayurveda Medical Practitioner registered under the Travancore-Cochin Medical Practitioners Act, 1953 (9 of 1953) or Indian Medicine Central Council Act, 1970 (Central Act 48 of 1970);
- (k) "State" means the State of Kerala;
- (l) Treatment means all types of treatments provided as per Ayurveda system of treatment, for the cure of any particular disease or improving the health of any person.

CHAPTER 2

3. Issue Of Licence To Ayurveda Health Centres :-

(1) No person shall run any Ayurveda Health Centre within the jurisdiction of a local self Government institution after the commencement of this Act without a licence issued under section 6 of this Act in addition to the licence issued from the Local Self Government Institution.

(2) In the case of an Ayurveda Health Centre functioning, within the jurisdiction of any Local Self Government Institution, at the time of commencement of this Act, shall obtain licence under this Act within six months from the date of commencement of this Act and if fails to obtain such licence or to apply for such licence, such Centre shall not continue to function after the above said period of six months.

(3) The period of licence issued under section 6 shall be for three years from the date of its receipt and the same shall be renewed after every three years.

4. Conditions For The Issue Of Licence :-

(1) Based on the facilities of treatment in the Ayurveda Health Centres, they are classified into three as category (A), category (B) and category (C) and the facilities to be available there shall be as follows, namely:-

I Category (A)

(i) The patients shall have convenient accommodation facility in separate rooms or ward;

(ii) There shall be treatment rooms in the proportion one for fifteen beds;

(iii) The treatment room shall have an area of at least 100 Square feet and bathroom and toilet facilities shall be attached thereto;

(iv) There shall be a dhroni having at least 7 feet length and 2 1/2 feet width in the treatment room;

(v) Drinking water, air and light shall be available in the treatment room;

(vi) Stove and hygienic accessory equipments shall be available in the treatment room;

(vii) There shall be a Medical Practitioners consultation room with equipments such as examination tables, stethoscope and B.P apparatus;

(viii) Scientifically made Vasthi Yanthra and necessary utensils shall

be available ;

(ix) There shall be at least one registered Medical Practitioner of full time service;

(x) There shall be atleast two male therapists/masseurs and two female therapists/masseurs and the proportion of therapists/masseurs shall be increased according to the number of treatment room, as prescribed;

(xi) There shall be a nurse for full time service in an Ayurveda Health Centre and if it exceeds ten beds, there shall be nurses in the proportion one for ten;

(xii) Necessary employees shall be there for cleaning work, etc.,

(xiii) There shall be a responsible Manager in the treatment centre.

II Category (B)

(i) The treatment room shall have an area of at least 100 Square feet and bathroom and toilet facilities shall be attached thereto;

(ii) There shall be a dhroni having at least 7 feet length and 2 1/2 feet width in the treatment room;

(iii) Drinking water, air and light shall be available in the treatment room;

(iv) Stove and hygienic accessory equipments shall be available in the treatment room;

(v) There shall be a Medical Practitioners consultation room with equipments such as examination tables, stethoscope and B.P. apparatus etc.;

(vi) There shall be at least one male therapist/masseur and a female therapist/masseur and the proportion of therapists/masseur shall be increased according to the number of treatment rooms, as prescribed;

(vii) The service of a Registered Medical Practitioner shall be available during working hours.

III Category (C)

(i) The treatment rooms shall have an area of at least 100 sq. ft. and bathroom and toilet facilities shall be attached thereto;

(ii) There shall be a dhroni or long table having at least 7 feet in length and 2 1/2 feet width in the treatment room.;

(iii) Drinking water, air and light shall be available in the treatment room;

(iv) Stove and hygienic accessory equipments, shall be available in the treatment room;

(v) There shall be a Medical Practitioners consultation room with minimum equipments such as examination tables, stethoscope and B.P. apparatus;

(vi) There shall be at least one male therapist/masseur and a female therapist/masseur and the proportion of therapist/masseur shall be increased according to the number of treatment rooms, as prescribed;

(vii) The service of a Registered Medical Practitioner shall be available during working hours.

Explanation.- Independent Health Centres shall not include in category (C). But may include the Health Centres functioning along with other establishments.

(2) In-patient treatment shall not be carried out in Ayurveda Health Centres included in category (B). Complicated treatments and Panchakarma treatments such as, Vamanam Virechanam, Vasthy and Nasyam shall not be carried out in the Ayurveda Health Centres included in category (C) but massaging and Udvarthanam can be carried out.

(3) The following general conditions shall apply to all categories of Ayurveda Health Centres , namely:-

(i) The therapist/masseur shall wear uniform, as prescribed during working hours;

(ii) The treatment of male patients who come to a centre for treatment shall be done only by male therapist/masseur and the treatment of female patient shall be done only by female therapist/masseurs;

(iii) Only quality medicines shall be used in an Ayurveda Health Centre for treatment and the components of the medicines shall be convinced to the examiner;

(iv) The medicines and oils used for one patient shall not be used for another patient and arrangement shall be made in such Ayurveda Health Centre for the destruction and disposal of the same and other wastes in such a manner not harmful to the environment;

(v) Every Ayurveda Health Centre shall be established in healthy surroundings only and shall be free from sound pollution, as far as possible;

(vi) The name, licence number, details of the licence and working hours of each Ayurveda Health Centre shall be exhibited in the building or premises where it is established in a manner clearly visible from outside;

(vii) Registers and case sheet as prescribed shall be kept for recording details of the persons coming for treatment in an Ayurveda Health Centre;

(viii) Every Ayurveda Health Centre shall exhibit the details of

employees of that Centre, working hours, the methods of treatment provided therein and the fees fixed for each item of treatment etc. , as prescribed;

(ix) No Ayurveda Health Centre shall function in the vehicles used on land or in water.

5. Powers And Duties Of The Director :-

(1) The power to issue or renew licence to any Ayurveda Health Centre shall be with the Director.

(2) The licence shall only be given on the basis of the report of inspection and certification that the conditions specified under the provisions in section 4 has been complied with, by a Committee of three members consisting of the District Ayurveda Medical Officer of the district in which the establishment situates, a senior Ayurveda Medical Officer of the district concerned, as suggested by the Director and a doctor in the Department of Kaya Chikilsa-Panchakarma of any Government Ayurveda College as suggested by the Director of Ayurveda Medical Education and it shall be specified in the licence, under which category the Ayurveda Health Centre comes.

(3) The Director or the Inspection Committee referred to in sub-section (2) shall have the power to enter in any Ayurveda Health Centre, on complaint or suo motu and to inspect whether that Centre is following the conditions under section 4.

(4) For the purpose of inspection under sub-section (2) or sub-section (3), such officers shall have the power to require articles, registers, documents and to discover them and to conduct necessary search.

(5) The Manager of an Ayurveda Health Centre shall have the duty and responsibility to render all necessary assistance to the officers mentioned in sub-section (2) to conduct inspection or search under this Act.

(6) Any person who does not render lawful assistance or obstructs the officers mentioned in sub-section (2), for conducting inspection or search under this Act in an Ayurveda Health Centre, shall be deemed to have committed an offence under this Act.

6. Application For Licence And Fees :-

(1) Every application for licence or renewal of an Ayurveda Health Centre shall be submitted to the Director in the prescribed form along with the fees as prescribed.

(2) The Director shall take decision on the application for licence or renewal within the prescribed time.

7. Cancellation Of Licence :-

(1) If it is found on any inspection conducted under sub-section (3) of section 5, that an Ayurveda Health Centre is not complying or violating the conditions, the Director or the Medical Officer authorised by him shall issue a notice specifying such default or defects to the Manager of such Ayurveda Health Centre requiring him to rectify the same within the time limit specifically mentioned therein.

(2) The Ayurveda Health Centre concerned shall rectify any defaults or defects specified in the notice issued under sub-section (1) within the time limit specified in that notice and the fact of such rectification shall be communicated by the Manager of such Ayurveda Health Centre to the Officer, in writing, who issued the notice under sub-section (1).

(3) On receipt of an intimation under sub-section (2) that any defaults or defects specified in the notice under sub-section (1) has been rectified within the time limit specified in the notice, the officer mentioned in sub-section (1) shall re-inspect such centre and confirm that the rectification has been carried out as per the information.

(4) If it is proved that the concerned Ayurveda Health Centre has not rectified the defaults or defects specified in the notice under sub-section (1) or rejects such notice, the Director shall suspend the licence of such Ayurveda Health Centre for a specified period and if it is found on inspection that the defects are not rectified even after the said period, the Director shall cancel the licence of such centre.

8. Penalty :-

(1) Any person who establishes or conducts any Ayurveda Health Centre without licence, in contravention of the provisions of this Act shall on conviction, be punished with imprisonment not less than six months and with fine which may extend to one lakh rupees.

(2) Any person who commits an offence under this Act, except those mentioned in sub-section (1), shall, on conviction, be punished with fine, which may extend to fifty thousand rupees.

9. Offences By Companies :-

(1) Where the offence committed under this Act is a company, any person, who at the time of commission of the offence was in charge of, and was responsible to the company for the conduct of its business, shall be deemed to be guilty of the offence together with the company and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge, or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the connivance or neglect on the part of any Director or Manager or Secretary or any other officer of the company, such Director or Manager or Secretary or any other officer of the Company also shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.- For the purpose of this sub-section:-

(a) Company means a body corporate and includes a firm or other association of persons or an organisation or Co-operative Society.

(b) Director in relation to a firm means a partner in the firm.

10. Cognizance Of Offence :-

No court shall take cognizance of an offence punishable under this Act except on a report specifying the facts constituting such offence, made by the Director or an officer not below the rank of the District Medical Officer of Indian Systems of Medicine in this behalf.

11. Appeal :-

(1) Any person aggrieved by an order of the Director, passed under this Act, may prefer an appeal before the Government within thirty days from the date of receipt of such order, and the Government shall, after giving the appellant an opportunity of being heard, pass an order confirming, modifying or canceling the order subjected to appeal, as they deem fit.

(2) The order passed by the Government under sub-section (1) shall be final.

12. Power To Make Rules :-

(1) The Government may, by notification in the Gazette, make rules, either prospectively or retrospectively to carryout all or any of the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:-

(a) all matters expressly required or permitted by this Act to be prescribed.

(b) any other matter which is to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in Session for a total period of fourteen days which may be comprised in one Session, or in two successive Sessions, and if, before the expiry of the Session in which it is so laid or the Session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

13. Power To Remove Difficulties :-

(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, as the occasion may require, by order, do anything not inconsistent with the provisions of this Act which appear to them necessary or expedient for removing the difficulty: Provided that no such order shall be passed after two years from the date of commencement of this Act.

(2) Every order issued under this section shall be laid before the Legislative Assembly as soon as may be after it is made.

14. Repeal And Saving :-

(1) The Kerala Ayurveda Health Centres (Issue of Licence and Control) Ordinance, 2007 (43 of 2007) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance shall be deemed to have been done or

taken under this Act.