Sri Lanka Legislative Drafting Workshops

Seidman, Robert B.

http://hdl.handle.net/2144/22400

Boston University
PRIVATE HOSPITALS STATUTE

A Statute to provide for the registration of private hospitals, for the specification of standards that private hospitals have to observe in dispensing health care, for the prescribing of charges that private hospitals may levy for their services, and for other relevant matters:

This statute is inconsistent with the Health Services Act, No. 12 of 1952 and the Nursing Homes (Control) Act, No. 16 of 1949.

Be it passed by the Provincial Council of the North Western Province of the Democratic Socialist Republic of Sri Lanka as follows:

<table>
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<th>Short title and date of operation.</th>
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<td>1. This statute may be cited as the Private Hospitals Statute, No. of 1998 and shall come into operation on the date the Minister may declare by a Notification published in the Gazzette.</td>
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Part 1

General objectives.

2. This statute has the purpose of promoting a degree of medical care in private hospitals equivalent to that in public hospitals by making their services more effective and efficient whilst conforming to the standards prescribed as to their quality.

Part 2

Registration, renewal and cancellation of private hospitals

3. (1) The Provincial Director shall permit only the registered private hospitals to function on and after the date of commencement of this statute.

   (2) A private hospital that is in existence at the commencement of this statute shall not comply with the preceding subsection for a period of three years from the commencement of this statute.

4. An owner of a private hospital shall comply with the following requirements in order to register his private hospital -

   (a) employ qualified and trained staff;
Application for registration.

(b) equip the hospital with number of rooms, wards, toilets and bathing facilities to meet the needs of the patients;

(2) provide an information and a reception center;

(3) employ full time medical staff, nursing staff, attendance, and labourers to attend to indoor and out door patient needs;

(4) provide maternity, indoor and out door patient facilities;

(5) provide a dispensary, pharmacy, and a drug store;

(6) provide stores to keep hospital items;

(7) to have an administrative office to keep the records, accounts of the hospital and the management of the hospital.

Issue of licence.

5. Where an owner of a private hospital has met with the requirements as specified in section 4, he may make an application to register the hospital in the prescribed form accompanied by the prescribed fee.

Duration of the licence.

6. On receipt of an application under section 5, the Provincial Director shall register the hospital and grant the licence subject to the provisions of section 4.

7. A licence granted under this part is valid for a period of three years unless cancelled earlier.

Periodic inspections.

8. (1) The Provincial Director shall make periodic inspections of private hospitals twice a year to ensure whether the private hospitals comply with the requirements of this statute.

   (2) Whether the Provincial Director finds that the hospital he inspected is not up to the standard specified by this statute, he shall direct the owner of the hospital to meet with that requirement within a period of three months.

   (3) If the owner of the hospital does not comply with The order given by the Provincial Director, the Provincial Director shall temporarily suspend the licence issued until The owner meet with that requirement.

Owner to enter into an agreement

9. The owner of the hospital shall enter into an agreement with the Provincial Director not later than one month after receiving the licence.
with the Provincial Director.

Renewal of Licence.

10. (1) The owner of the hospital shall make an application to renew the licence granted under this part to the Provincial Director not less than thirty days before the expiry of the licence.

(2) The Provincial Director shall renew the licence if-
   (a) the licensee has observed the terms and conditions of the licence;
   (b) the licensee has paid the prescribed fee for the renewal of the licence.

Cancellation of licence.

11. The Provincial Director shall cancel a licence granted by him under this part -

   (2) for a violation of which calls into question in relation to activities of hospital;
   (3) for a breach of the terms and condition of the licence.

Provincial Director to give a warning.

12. (1) Prior to the cancellation of a licence issued under this part, the Provincial Director shall warn the owner of the private hospital requesting him to meet with the requirements of the hospital within thirty days from the date of warning.

   (2) Where the licensee does not meet with the requirements within the period given, the Provincial Director may temporarily suspend the licence issued to him for a period of three months.

Provincial Director to Communicate the decision to the licensee together with reasons.

13. Where the Provincial Director refuses to grant or renew a licence or cancels a licence he may communicate the decision and the reasons therefore to the applicant or the licensee by registered post.
### Part 3

#### Appeals to the Minister

14. Where the Provincial Director has refused to renew a licence or cancels a licence issued under this part, the licensee shall appeal to the Minister within twenty one days of the date on which the decision was communicated to him.

15. (1) The Minister may within three months of the appeal either allow the appeal and direct the Provincial Director to renew the licence or disallow the appeal.

(2) The Provincial Director shall comply with the direction issued to him under subsection (1).

#### Decision on Appeal.

16. (1) The Minister shall appoint a person who has at least fifteen years experience in the field of medicine as the Health Ombudsman to entertain complaints of the private hospitals in relation to medical care.

(2) The Health Ombudsman shall make recommendations of the following and on other related matters -
   - (a) malpractice in the hospital service;
   - (b) neglecting patient care;
   - (c) over charging patients;
   - (d) over crowding patients.

(3) When the Ombudsman receives a complaint under the preceding subsection, he may decide to hold an inquiry into that complaint at which he may give an opportunity to provide oral and documentary evidence.

(4) At the end of the inquiry into the complaints the Health Ombudsman may make an order to which all parties shall abide.

#### Offences

17. (1) A person who contravenes the provisions of this statute or regulations made thereunder or fails to comply with a direction given to him by the Provincial Director or by the Ombudsman is guilty of an offence under this statute.

(2) A person who commits an offence under this statute shall on conviction after trial before a Judge of a Court of Appeal be liable to a fine of rupees

(3) The decision of the Judge of the Court of Appeal on an appeal is final and conclusive.

#### Part 4

#### Monitoring and Evaluation

18. At the end of a calendar year the owner of a private hospital shall prepare a report in the prescribed form in
to prepare a report. relation to the medical care carried out in that hospital during that year and shall forward the report to the Provincial Director within one month of the expiry of the calendar year.

Provincial Director to ensure that he receives reports from hospitals in the Province.

19. The Provincial Director shall ensure that he receives reports under the preceding section from the owners of the private hospitals in the province.

Provincial Director to prepare an Annual report.

20. Within four months of the expiration of the calendar year the Provincial Director shall prepare an Annual Report relating to the activities of the private hospitals in the province and forward the report to the Minister.

Minister to refer the Report to the Board.

21. On receipt of the Annual Report of the Provincial Director, the Minister shall refer the report to the Private Hospitals Advisory Board as referred to in section 21.

Private Hospitals Advisory Board.

22. (1) The Minister shall appoint a Private Hospitals Advisory Board consisting of five members as specified in the schedule hereto. (2) A person may disqualify from becoming or continuing as a member of the Private Hospitals Advisory Board - (a) if he is or becomes a member of a Provincial Council; (b) if he is not or cease to be a citizen of Sri Lanka. (3) A member of the Private Hospitals Advisory Board shall, unless he earlier vacates office earlier, hold office for a period of five years and shall become eligible for reappointment. (4) If a member of the Private Hospitals Advisory Board is temporarily unable to discharge the duties of his office due to ill health or absence from Sri Lanka or for some other cause, the Minister shall appoint some other person to act in his place. (5) The Private Hospitals Advisory Board shall monitor the implementation of the statute.

Functions

23. The functions and responsibilities of the Private Hospitals
Advisory Board -

(a) to advise the Minister on all matters relating to the management, regulation and development of the private hospitals in the province;
(b) to advise the Minister on matters which the Minister may refer to the Advisory Board for advice;
(c) to advise the Provincial Director on all matters relating to the administration of this statute, as he may refer to the Advisory Board for advice.

Minister to give advice to the owners when required.

24. The Minister shall table in the Provincial Council an Annual Report on the implementation of the statute during that calendar year and shall attach the Annual Reports of the Provincial Director of Health Services, the Annual Report of the Private Hospitals Board and the Annual Report of the Health Ombudsman along with his report.

Part 5

Miscellaneous

25.(1) Whenever an owner of a private hospital needs advice in relation to the management of the private hospitals, he may request the Provincial Director to advice.

(2) Whenever an owner of a private hospital seeks advice from the Provincial Director in relation to the dispensing of medical activities in that private hospital, the Provincial Director shall give the advice.

Regulations.

26.(1) The Minister may make regulations required for the purpose of promoting medical care in private hospitals by making their services more effective and efficient.

(2) Without prejudice to the generality of the powers conferred by subsection (1) the Minister may make regulations for all or any of the following matters:
(a) all matters that this statute may require;
(b) the forms used for the purpose of applications for registration of private hospitals;
(c) the forms of registers to maintain the purpose of this statute;
(d) the records and books to maintain in registered private hospitals and the particulars to enter therein;
(e) the conditions to comply with in relation to registered private hospitals including -
   (i) the construction, maintenance and cleanliness of all buildings and premises,
   (ii) the minimum size of rooms, wards and minimum floor space allotted to each patient,
   (iii) adequate toilet and bathing facilities for patients and other persons in the hospital,
   (iv) equipment, furnishing and staffing of the private hospital,
   (v) the circumstances in which cases of infectious diseases, infections admitted to hospital for treatment and precautions to take,
   (vi) minimum standards on all aspects of medical care,
   (vi) building facilities for the patients, visitors and other staff,
   (vii) specifying the number of full time doctors and the qualifications they should possess,
   (viii) standards for equipping operation theatres, laboratories, and labour rooms,

(b) specifying the visiting hours for the
teachers, doctors to see patients,
(x) standards for the provision of drugs to patients,
(xi) the immunization against diseases that may be specified,
(xii) fixing of rates and charges, doctors fees that may be charged in a private hospital,
(xiii) remuneration of the Health Ombudsman and the members of the Private Hospital Advisory Board,
(xiv) the procedures, forms and other matters connected with the discharge of the obligations of the Health Ombudsman,
(xv) the procedures that may be adopted by the Private Hospital Board in the discharge of its obligations and other matters that may be necessary in relation to the Board,
(xvi) the conduct of inquiries and investigations against a person or institute on matters required under this statute or regulations made thereunder,

(3) The regulations made under this statute shall be placed before the Provincial Council for approval and shall be published in the Gazette when approved.

25. In this statute-

"Minister" means the Minister on the Board of members in charge of the subject of Health,
"Owner" means whoever is managing the affairs of the private hospital and may include the proprietor, the General Manager, the officer in charge.
"prescribed" means prescribed by regulations.
"private hospital" means a premises used or intended to use for the reception and providing of medical care to a person suffering from a sickness, injury or infirmity and includes a maternity home but does not include an institution managed or owned by the Provincial Council or by a Government Department,
"Provincial Director" means the Provincial Director of Health appointed under the provisions of the Health Services Statute, No 10 of 1989.
Schedule

The Private Hospitals Advisory Board shall consist of the following members-

(a) Provincial Director of Health Services;
(b) a representative of a trade union representing Nurses;
(c) a person to represent the interests of the private hospitals;
(d) a representative of a Non Governmental Organization working in the field of Health.