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Guyana.

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The following Bill which was introduced in the National Assembly is published for general information.

F. A. NARAIN,
Clerk of the National Assembly.



GUYANA.

BILL No. 15 of 1971.

PRIVATE HOSPITALS BILL, 1971.

Arrangement of Sections.

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SCHEDULE

A BILL

Intituled

AN ACT to make provision for the Licensing of Private Hospitals and for purposes connected therewith.

A.D. 1971

Enacted by the Parliament of Guyana:—

Short title
and com-
mencement.

1. This Act may be cited as the Private Hospitals Act, 1971, and shall come into operation on such day as the Minister may appoint by order.

Interpretation.

2.(1) In this Act, unless the context otherwise requires—

“building” means a house or other structure, whether permanent or temporary, intended for human habitation; and where two or more buildings are situate on adjacent pieces of land and are occupied by the same person, they shall be deemed to constitute a single building for the purposes of this Act;

“Inspector” means an inspector appointed under section 15

“licence” means a licence issued under this Act to operate a private hospital, and “licensee” shall be construed accordingly

“maternity home” means any building used or intended to be used for the reception, treatment and confinement of pregnant women or for the care and treatment of women immediately after childbirth;

“medical practitioner” means a person who is registered as a duly qualified medical practitioner under any law for the time being in force in Guyana;

“midwife” means a person who is duly registered as a midwife in the Register of Nurses kept by the General Nursing Council of Guyana;

“nurse” means a person who is registered as a nurse in the general part of the Register of Nurses kept by the General Nursing Council for Guyana;

“patient” means a person admitted to a private hospital for the purpose of treatment;

“private hospital” means a building where beds are available for the admission for not less than twenty-four hours of persons suffering from any sickness, injury or infirmity, who are given medical or surgical treatment and nursing care, and includes a maternity home, convalescent home or nursing home, but does not include a hospital or other establishment or institu-

tion for the care and treatment of persons suffering from any sickness, injury or infirmity, operated or maintained by the Government or by a Local Authority;

“regulations” means regulations made under this Act;

“superintendent” means the person who has for the time being the direct and actual superintendence and charge of a private hospital;

“treatment” means the maintenance, observation, nursing and medical care and supervision of a patient.

(2) Where under this Act any member of the staff of a private hospital is required to be resident, it shall not be necessary that such person actually reside within the hospital, provided he is on call and readily available.

3.(1) The Minister may, subject to the provisions of this Act, grant a licence for the use of any building as a private hospital.

Licensing of private hospitals.

(2) Save as otherwise provided by this Act, no building shall be used by any person as a private hospital except under the authority of a licence issued by the Minister.

(3) Where a building is used as a private hospital in contravention of subsection (2), the occupier and every person concerned in the management of the building or in the admission thereto or treatment of any patient therein shall be severally guilty of an offence.

(4) The occupier of any building which at the commencement of this Act is being used as a private hospital shall, if he proposes to continue using that building as a private hospital, make application within three months after the commencement of this Act for the grant of a licence:

Provided that pending the determination of the application the hospital shall be deemed to be duly licensed.

4.(1) No person shall use the term “hospital” in connection with the use of any building in which he has an interest as a place of care or treatment for sick persons unless such building is licensed as a private hospital under this Act.

Term “hospital” not to be used for unlicensed building.

(2) Every person who contravenes subsection (1) shall be guilty of an offence.

5.(1) Every application for a licence to operate a private hospital shall be submitted in writing to the Minister containing the particulars specified in the schedule together with a fee of five hundred dollars:

Application for licence.

Provided that no fee shall be payable in respect of a private hospital where no charge is made for medical or surgical treatment or nursing care rendered thereat.

(2) Every such application shall be verified by the applicant under oath and the fee shall be refunded to the applicant if the application is rejected.

(3) The Minister may, by order, alter or vary the schedule by adding thereto, or deleting therefrom, any particulars specified therein, or he may substitute a new schedule in place thereof.

Conditions for grant of licence.

6. No licence shall be granted unless the building, its location with regard to neighbouring premises and its proposed facilities and equipment are approved by an inspector as suitable for the purpose indicated in the application and the Minister is satisfied as to the character and fitness of the applicant.

Classes of private hospitals.

7.(1) Every licence for a private hospital shall specify the nature of the service that may be provided, and without limiting the generality of the foregoing, may be issued in respect of—

- (a) a medical or surgical hospital;
- (b) a medical, surgical and maternity hospital;
- (c) a maternity hospital;
- (d) a home for the care and accommodation of convalescent or chronically ill persons;
- (e) a hospital for the care of any specified class of patients suffering from any specified disease, disorder or illness.

(2) Subsection (1) shall not prevent the carrying out at a private hospital in a case of emergency of such surgical treatment as may in the opinion of a medical practitioner be necessary:

Provided that if such treatment is not within the terms of the licence relating to such hospital, a report shall be made to the Minister by the superintendent within forty-eight hours after the treatment has been administered showing the nature of the treatment and the names of the medical practitioners who recommended and rendered the treatment.

(3) Every licence shall state the maximum number of patients which may be accommodated in the hospital at any time and may be limited to any particular class or classes of patients.

(4) Subject to this Act, every licence shall remain in force until the 31st December of the year in which it is issued; thereafter, the licence may, subject to this Act, be renewed annually on payment of the fee of five hundred dollars which shall be due and payable on 1st January in each year and shall be paid on or before the last day of February in each year:

Provided that no fee shall be charged for a licence in respect of a hospital where no charge is made for medical or surgical treatment or nursing care rendered thereat.

Revocation of licence and refusal of renewal of a licence.

8.(1) The Minister may refuse to renew the licence of any private hospital, if in his opinion, the hospital is managed in a manner that contravenes any provision of this Act.

(2) A licence may at any time be revoked by the Minister—

- (a) if the licensee or superintendent has been convicted of an offence against this Act, or wilfully neglects or refuses to comply with any of the provisions thereof, or obstructs, impedes or hinders any person carrying out any duties or responsibilities thereunder; or
- (b) if in the opinion of the Minister the premises of the private hospital are insanitary or without proper fire protection, or the private hospital is managed or conducted in a manner contrary to this Act or in such manner that the revocation of the licence is required in the public interest.

(3) Where the renewal of a licence is refused or where a licence has been revoked, the licence shall not be displayed in a manner that may induce a person to believe that it is still in force, and every person who so displays a licence shall be guilty of an offence.

9.(1) Before the Minister refuses to grant or renew a licence, or revokes a licence, he shall—

- (a) give notice to the applicant for the licence or the licensee, as the case may be, of the grounds on which he proposes to refuse the grant or renewal of the licence or to revoke the licence; and
- (b) refer the matter to the Central Board of Health with a request for the advice of the Board, but he shall not be obliged to act in accordance with the advice of the Board.

Opportunity to make representations before refusal to grant or renew a licence or before revocation of a licence.

(2) The Minister shall afford to the applicant for a licence or the licensee, as the case may be, an opportunity of showing cause to the satisfaction of the Minister why the licence should be granted or renewed or should not be revoked, and may give to the applicant or the licensee an opportunity to remedy any default within such period as may be specified by the Minister.

10.(1) Where a licence has been issued to two or more persons jointly and any of such persons dies leaving the other or others surviving during the currency of the licence, the licence shall remain in force and shall have the same effect as if it had been issued to the survivor or survivors.

Death of licensee.

(2) Where a licensee or the sole surviving licensee of a private hospital dies, the Minister may, after considering the representation of the Public Trustee or of the executors or administrators of the deceased licensee and of other interested parties, transfer the licence to such person as to him shall seem proper, and pending the transfer of such a licence, the Minister may grant to such person as he shall think fit a temporary licence to operate such private hospital for such period not exceeding six months at a time and subject to such terms and conditions as he thinks fit.

Transfer of
licence.

11. On the application in writing signed by the licensee and by any person to whom he desires that his licence be transferred, the Minister may, if satisfied as to the character and fitness of such person, by endorsement on the licence or otherwise in writing, transfer the licence to that person, and thereupon that person shall become the licensee of the private hospital with the same rights and obligations as if the licence had been issued to him in the first instance.

Resident
superintendent.

12.(1) Every private hospital shall have at all time two persons designated by the licensee as the superintendent and deputy superintendent thereof, respectively, and the superintendent shall be resident thereat.

(2) A superintendent and a deputy superintendent shall possess such qualifications as may be prescribed, and the licensee of a private hospital may, if so qualified, be designated as the superintendent or deputy superintendent thereof.

(3) Save as otherwise provided by subsection (4), no person other than a licensee shall be designated as the superintendent or deputy superintendent thereof until his name and qualifications have been furnished to the Minister and the Minister has approved of the person being so designated.

(4) During temporary absence, illness or incapacity of the superintendent the deputy superintendent shall perform the functions of the superintendent; during the temporary absence, illness or incapacity of the superintendent and the deputy superintendent, the licensee may, without giving notice to the Minister, designate as acting superintendent any other person possessing the prescribed qualifications, and every person so designated shall, while he so acts, be deemed for the purposes of this Act to be the superintendent, but he shall not so act, whether under the same or successive appointments, for a longer continuous period than twenty-eight days.

(5) Where at any time a private hospital is used as such without there being a superintendent and a deputy superintendent designated as required by this section, the licensee shall be guilty of an offence.

Register of
patients, and
of other
particulars.

13.(1) There shall be kept in every private hospital a register of patients in which shall be recorded—

- (a) the name, age, sex and usual place of abode of each patient, and the date of his admission to the hospital;
- (b) each patient's diagnosis and surgical operation, if any;
- (c) the name of the medical practitioner attending each patient;
- (d) the date on which each patient left the hospital and, if transferred to another hospital, the name of the other hospital or, in the event of death of a patient in hospital, the date of his death;
- (e) all purchases of drugs by the licensee for the use at the private hospital indicating the name of each drug and the quantity, strength and date of purchase thereof;
- (f) the quantity and type of drugs prescribed for the use of every patient by the medical practitioner attending him and the quantity of the drugs administered to every such patient pursuant to such prescription; and
- (g) such other particulars as may be prescribed,

and the particulars required by the foregoing provisions of this subsection to be recorded in the register shall be so recorded as soon as practicable after the occurrence of the act or event to which the entry relates.

(2) The superintendent shall within twenty-four hours after the death of any patient make a report thereof to the Minister giving the name of the patient, the cause of death, and the name of the attending medical practitioner.

(3) The superintendent shall, within twenty-four hours after its occurrence, report to the Coroner the death of any patient occurring within six hours after the admission of the patient to the private hospital or within twenty-four hours after the patient has undergone surgery or after childbirth or anaesthesia, and for the purposes of this subsection, any such death shall be deemed to be an unnatural death within the meaning of the Coroner's Ordinance.

Cap 13.

(4) Any person who contravenes or fails to comply with any of the foregoing provisions of this section shall be guilty of an offence and, in the case of a contravention of, or failure to comply with, any of the provisions of subsection (1) the licensee and the superintendent shall be severally guilty of the same offence.

Approval to be obtained for structural alterations.

14.(1) No structural alteration or addition to any private hospital shall be made unless a plan the proposed alteration or addition has been submitted to and approved by the Minister.

(2) Where any alteration or addition is made in contravention of subsection (1), the licensee of the private hospital shall be guilty of an offence.

Provision for inspection of private hospitals.

15.(1) The Minister may appoint one or more medical practitioners to be inspectors for the purpose of this Act, and shall furnish every such inspector with a certificate of his appointment.

(2) Every private hospital shall be inspected at least once annually and such hospital, the operation thereof, and its registers and records shall at all times be open to inspection by an inspector.

(3) Where an inspector has reasonable grounds to believe or to suspect that any building is used as a private hospital without being licensed he may, upon presentation of his certificate of appointment, at any time and from time to time by himself or with such assistance as he may require, enter and inspect such building and every part thereof.

(4) The Minister may designate teams consisting of a medical practitioner and a midwife which shall be authorised to make an inspection and examination of any private hospital or hospitals or any aspects of the administration, operation or management thereof as may be specified, and which shall make a report thereon to the Minister.

(5) Any person who prevents or obstructs the entry, inspection or examination of any private hospital by any inspector or any team so designated to any member thereof shall be guilty of an offence.

Hospital restricted to purposes for which licence is granted.

16.(1) Except as otherwise provided by section 7(2), a private hospital shall not be used for any purpose other than the purposes for which the licence is issued and for purposes incidental thereto.

(2) Where a private hospital is used in any manner contrary to subsection (1), the licensee and the superintendent shall be severally guilty of an offence.

Offences by body corporate.

17. Where a person committing an offence against this Act, is a body corporate, every person who at the time of the commission of the offence was a director or officer of that body shall be guilty of the same offence unless he proves that the act or commission constituting the offence took place without his knowledge or that he exercised all due diligence to prevent the commission thereof.

Onus of proof.

18. In a prosecution for an offence against this Act, the burden of proving that—

- (a) a person found in a building and there receiving medical treatment is not a patient within the meaning of this Act;

- (b) a licence is in force, and its terms;
- (c) a person apparently having the charge, control or management of a private hospital is not the superintendent thereof within the meaning of this Act,

shall be upon the person charged.

19. The Minister may make such regulations with respect to private hospitals either generally or as regards any particular class of private hospital as may be deemed necessary for the carrying out of the purposes of this Act, and, without limiting the generality of the foregoing, may provide for:—

Regulations.

- (a) the construction, establishment, licensing, alteration, safety, equipment, maintenance and repair of private hospitals;
- (b) the classification, grades and standards of private hospitals;
- (c) the inspection, control, government, management, conduct, operation and use of private hospitals;
- (d) the qualifications of superintendents, deputy superintendents and other professional and administrative staff of private hospitals including their powers and duties;
- (e) prescribing the powers and duties of Inspectors;
- (f) prescribing or restricting the type and amount of surgery, gynaecology or obstetrics that may be performed in any class of private hospital and the facilities and equipment that shall be provided for such purposes;
- (g) the admission, treatment, care and discharge of patients and for the control of the admission of any class of patients;
- (h) the records, books, reports and returns to be made and kept in respect of private hospitals;

- (i) the establishment and operation of periodic medical audits of the work performed in private hospitals;
- (j) the reports and returns to be submitted to the Minister by private hospitals;
- (k) prescribing anything authorised or required to be prescribed by this Act.

Restrictions on number of patients.

20. Where, except in the case of emergency, not exceeding seven days or such further time as may be authorised by the Minister, a private hospital is used at any time for the treatment of a greater number of patients than is permitted by the licence, or where a patient of a class not permitted by the licence is admitted, the licensee and the superintendent shall be severally guilty of an offence.

Penalties.

21. Any person guilty of an offence against this Act shall be liable on summary conviction—

- (a) to a fine of five hundred dollars and to imprisonment for twelve months;
- (b) in the case of a continuing offence, to an additional fine of twenty-five dollars for every day during which the offence continues subsequent to the date to which the conviction relates.

Repeal of certain provisions. Cap. 145.

22. Sections 56 and 57 of the Public Health Ordinance are hereby repealed.

SCHEDULE

Section 5.

1. The full name and address of the applicant and, in the case of an individual, his qualifications and occupation.
2. A statement of the interest of the applicant in the building in respect of which the licence is desired.
3. A description of the situation of the building.
4. A statement of the number of patients proposed to be admitted to the building and to each room or apartment of the building.

5. A plan of the building on a scale of not less than one-eighth of an inch to the foot showing the intended use of each room.
6. A statement of the sanitary arrangements, ventilation, and water supply of the building.
7. A statement as to the arrangements for feeding patients.
8. A full description of the fire escapes of the building and the facilities provided for use in case of fire.
9. A statement as to the classes of patients proposed to be admitted;
10. If it is proposed to offer services in surgery, gynaecology or obstetrics, a statement as to the type of surgery, gynaecology or obstetrics to be performed and as to the facilities and equipment which are to be provided in the building for these purposes including facilities for anaesthesia;
11. The number of the professional and administrative staff of the proposed private hospital and the qualification of each member of such staff.

EXPLANATORY MEMORANDUM.

This Bill is designed to provide a measure of control over private hospitals by the introduction of a system of licensing. The effect of this will be that a private hospital must obtain a licence as a prerequisite to providing medical facilities for the public. Before a hospital is granted a licence the person applying for the licence must satisfy the Minister that the hospital will conform to the standards required by the law. The annual licence fee will be five hundred dollars and is renewable annually. Provision is contained in clause 8 empowering the Minister to refuse the renewal of a licence or to revoke a licence on the grounds specified in that provision. Clause 15 seeks to provide for the inspection of private hospitals by inspectors appointed for the purpose.

S. E. TALBOT,
Minister of Health.