

NO. 9
PRIVATE HOSPITALS AND MATERNITY HOMES ACT, 1958

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AN ACT to make provision for the inspection, regulation and control of private hospitals and maternity homes.

Establishment of the Authority

1. Establishment of the Authority and the governing body

(1) For the purposes of this Act there is hereby established an Authority to be known as the Private Hospitals and Maternity Homes Authority, which shall be a body corporate with a common seal.

(2) The governing body of the Authority is a Board consisting of

- (a) the chief medical officer as the chairman,
- (b) the deputy chief medical officer,
- (c) the principal matron,
- (d) three medical practitioners appointed by the Minister,
- (e) one midwife not in the service of the Government appointed by the Minister,
- (f) one nurse not in the service of the Government appointed by the Minister, and
- (g) one registered pharmacist appointed by the Minister.

(3) The members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

(4) The members of the Board, other than the official members, shall be appointed for a term expiring on the thirty-first day of December of the year of appointment, but may be reappointed.

(5) A member, other than an official member of the Board may at any time and for a sufficient cause be removed from office by the Minister, although the term of office has not expired.

(6) Where a member resigns, dies, is removed from office or is for a reason unable to continue to act as a member of the Board, the President in consultation with the Council of State, may appoint a fit person to hold office for the unexpired portion of the term of office of that member, or as a temporary member of the Board.

(7) In the absence of the chairman, the deputy chief medical officer shall have all the powers of the chairman.

(8) The powers of the Board shall not be affected by a vacancy in its membership.

2. Meetings of the Board

(1) Meetings of the Board shall be held at the times and places as determined by the chairman.

(2) At a meeting four members including the chairman constitute a quorum.

(3) Matters before the Board at any meeting shall be decided by a majority of the members present.

(4) The chairman shall have a casting vote in the event of an equality of votes.

(5) Subject to this Act and to the Regulations for the conduct of its meetings, the Board may regulate its procedure.

3. Secretary to the Authority

The President in accordance with article 195 of the Constitution may appoint a fit person to be the secretary to the Authority.

4. Registrar of the Authority

(1) The Deputy Chief Medical Officer shall be the Registrar of the Authority.

(2) The Registrar shall perform the functions as the Board may direct for the purposes of registration under this Act.

Registration and Management

5. Registration of private hospitals

(1) A person shall not establish or conduct a private hospital or maternity home unless the private hospital or maternity home is registered under this Act.

(2) Despite the requirements of any other Act, this section shall extend and apply,

(a) to a Labour Health Area within the meaning of the Labour Act, 2003, (Act 651), and

(b) to a Mining Health Area within the meaning of the Mining Health Areas Act, 1925.2(2)

6. Management of private hospitals

(1) A private hospital shall not, unless exempted by this Act, be managed or conducted except under the supervision of a medical practitioner who shall be responsible for the observance of this Act in the private hospital.

(2) Where in a private hospital there is more than one medical practitioner associated or connected with the private hospital, the medical practitioners shall nominate one of their number as the medical practitioner in charge and give notice in writing to the Registrar of that fact.

7. Management of maternity homes

(1) A maternity home shall, unless exempted by this Act, be managed or conducted under the supervision of a midwife, who shall be responsible for the observance of this Act in the maternity home.

(2) Where in a maternity home there is more than one midwife associated or connected with the maternity home, the midwives shall nominate one of their number as the midwife in charge and give notice in writing to the Registrar of that fact.

8. Application for registration

An application for registration of a private hospital or maternity home under this Act shall be made to the Board in the form prescribed by the Regulations.

9. Requirements as to private hospitals

(1) The applicant for registration of a private hospital which is not otherwise exempted by subsection (2), shall satisfy the Board as to

- (a) the qualifications and suitability of the medical practitioner to be associated or connected with the private hospital,
- (b) the qualifications and suitability of the person in charge of the nursing staff,
- (c) the adequacy and compliance with the requirements of this Act of the nursing staff,
- (d) the location, buildings and equipment of the private hospital, and
- (e) any other matters that are prescribed by the Regulations.

(2) The Board may, with the consent of the Minister and for a period not exceeding one year, but renewable for the like period from time to time in the discretion of the Board, exempt, modify or relax the requirements of this section, other than the obligation to register a private hospital.

(3) The exemption, modification or relaxation shall be in writing under the seal of the Authority.

10. Requirements as to maternity homes

(1) The applicant for registration of a maternity home shall satisfy the Board as to

- (a) the qualifications and suitability of the midwife in charge or connected with the maternity home,
- (b) the location, buildings and equipment of the maternity homes, and
- (c) any other matters that are prescribed by the Regulations.

(2) The Board may, with the consent of the Minister and for a period not exceeding one year, but renewable for the like period in the discretion of the Board, exempt, modify or relax the requirements of this section other than the obligation to register a maternity home.

(3) The exemption, modification or relaxation shall be in writing under the seal of the Board.

11. Display of certificate of registration

A certificate of registration shall be in writing under the seal of the Authority, and shall, with the certificate of exemption, modification or relaxation, be displayed in a prominent place in the private hospital or maternity home accessible to the patients or intending patients.

11A. Appointment and composition of regional supervisory authorities

(1) The Board shall appoint regional supervisory authorities in each Region.

(2) A regional supervisory authority shall be composed of

- (a) the Regional Medical Officer of Health as the chairman,
- (b) the Regional Matron,
- (c) the Principal Public Health Nurse,
- (d) the Regional Public Health Engineer,
- (e) the Regional Health Superintendent,
- (f) one person nominated by the Ghana Medical Association,
- (g) one person nominated by the Nurses Association,

- (h) one person nominated by the Midwives Association, and
- (i) the Inspecting Pharmacist.

(3) The secretary to a regional supervisory authority shall be of the grade of at least a senior executive officer.

(4) A member of a regional supervisory authority, other than the official members, shall be appointed for a term expiring on the thirty-first day of December of the year of appointment and are eligible for re-appointment.

(5) A member of a regional supervisory authority, who is not an official member may be removed from office by the Board although the term of office has not expired.³⁽³⁾

11B. Functions of regional supervisory authorities

A regional supervisory authority shall perform the following functions:

- (a) the inspection and supervision of private hospitals and maternity homes,
- (b) the retention of the names of registered private hospitals and registered maternity homes on the register of private hospitals and maternity homes,
- (c) the submission of quarterly returns in respect of the retention of the names of registered private hospitals and maternity homes on the register of private hospitals and maternity homes, and
- (d) the collection of fees in respect of the performance of these functions and the payment of those fees into the Consolidated Fund.⁴⁽⁴⁾

11C. Meetings of regional supervisory authorities

(1) Meetings of a regional supervisory authority shall be held at the times and the places determined by the chairman.

(2) The chairman shall preside at the meetings of a regional supervisory authority and in the absence of the chairman a person nominated by the members present shall preside.

(3) The quorum at the meetings of a regional supervisory authority is five.

(4) All questions proposed at a meeting of a regional supervisory authority shall be determined by a majority of the members present and voting and in the event of an equality of votes the chairman or the person presiding shall have a casting vote.⁵⁽⁵⁾

12. Inspection and supervision

(1) Private hospitals and maternity homes shall be open at reasonable times for the purposes of supervision and inspection by regional supervisory authorities.

(2) A regional supervisory authority may call for the production of a record, register or any other document required to be kept by this Act, and the medical practitioner or midwife in charge, shall comply with the reasonable directions of a regional supervisory authority in the course of the supervision and inspection.

(3) This section shall not be construed as authorising the inspection of the medical record relating to a patient in a private hospital.⁶⁽⁶⁾

13. Suspension and cancellation of registration

(1) Where in a private hospital or maternity home registered under this Act it appears to the Board.

- (a) that the provisions of this Act are not being complied with to its satisfaction, or
- (b) that the private hospital is not conducted in the best interests or general well-being of the patients, or
- (c) that a medical practitioner or midwife is not a fit and proper person,

the Board may in writing fix a time not exceeding fourteen days and direct the medical practitioner in charge or the midwife in charge, to comply with the requirements of the Authority.

(2) A direction given under subsection (1) may include a suspension of the certificate of registration.

(3) If the medical practitioner in charge or the midwife in charge fails to satisfy the requirements of the Authority within the prescribed time the Board may cancel the certificate of registration.

(4) This section shall not be construed in derogation of the powers of a Medical Officer under the Infectious Diseases Act, 1908.7(7)

14. Further powers of the Board

The exercise by the Board of its powers under section 13 shall not operate to preclude the institution of proceedings for failure to comply with the requirements of this Act or for the recovery of a penalty under this Act.

15. Effect of suspension or cancellation of registration

(1) If the certificate of registration of a private hospital or maternity home is suspended or cancelled under this Act the private hospital or maternity home shall be closed; and the Board shall arrange for the discharge or transfer of the patients.

(2) In any special case the Board may direct a patient to remain in the private hospital or maternity home and continue to receive the necessary treatment.

(3) This section shall not operate to create an offence against this Act where a patient continues to receive treatment at the direction of the Board in a private hospital or maternity home closed under this section.

Miscellaneous

16. Disciplinary decisions

(1) A decision of a disciplinary nature by the Board shall not have effect without the approval of the Minister.8(8)

(2) For the purposes of section (1), “**decision of a disciplinary nature**” includes a decision involving the suspension or cancellation of a certificate of registration.

17. Penalties

(1) A person who contravenes a provision of this Act or fails to comply with a requirement of this Act commits an offence and is liable on summary conviction to a fine not exceeding two hundred and fifty

penalty units or, except in the case of a body corporate, to a term of imprisonment not exceeding twelve months.

(2) If the offence is a continuing one the offender shall in addition incur a penalty of fifteen penalty units for every day during which the offence continues.

(3) For the purposes of subsection (2) “**day**” includes a part of a day.

18. Regulations

(1) The Minister may, after consultation with the Board, make Regulations by legislative instrument, in respect of the institution, conduct, supervision and inspection of private hospitals and maternity homes and generally for the carrying into effect the purposes of this Act.

(2) Without prejudice to subsection (1), in particular Regulations may be made

- (a) prescribing a matter or thing required for the purposes of this Act;
- (b) prescribing the standards of sanitary arrangements;
- (c) regulating the accommodation for patients and nursing staff;
- (d) regulating the accommodation and equipment for operating theatres, laboratories, sterilisation and disinfection, pharmacies and other similar purposes;
- (e) prescribing the qualifications and training of the nursing staff and the number of qualified nurses to be employed in proportion to the number of beds available;
- (f) regulating the preparation and storage of food and drugs and, where drugs are dispensed in a private hospital, the number of qualified pharmacists to be employed;
- (g) regulating the arrangements for disinfections and the prevention of the spread of infection;
- (h) prescribing the arrangements to be made for the prevention and control of fire and for the safety of patients and staff in the event of fire;
- (i) prescribing the records and statistics to be kept and the mode of keeping them;
- (j) prescribing the registers and records to be kept in respect of patients;
- (k) prescribing the notification of deaths, births, still-births, miscarriages and abortions;
- (l) regulating the admission and discharge of patients;
- (m) prescribing the hours of work and working conditions for the nursing staff;
- (n) regulating general medical and domestic arrangements;
- (o) prescribing the records to be kept when a child born in a private hospital or maternity home is discharged or removed from that hospital or home;
- (p) prescribing the fees to be paid for the registration of private hospitals and maternity homes under this Act;
- (q) prescribing the mode of execution of instruments;
- (r) prescribing the fees to be paid for the supervision and inspection of private hospitals and maternity homes;
- (s) prescribing fees to be paid for the retention of the names of registered private hospitals and maternity homes on the Register of Private Hospitals and Maternity Homes.⁹⁽⁹⁾

(3) *Omitted.*10(10)

19. Interpretation

In this Act, unless the context otherwise requires,

“**Authority**” means the Private Hospitals and Maternity Homes Authority established under this Act;

“**Board**” means the governing body of the Authority;

“**Chief Medical Officer**” means the Chief Medical Officer of the Ministry of Health;

“**functions**” includes powers and duties;

“**Government institution**” includes any maternity home, hospital, convalescent home, nursing home, or health centre wholly maintained out of the public funds by the Government or by a mission on behalf of the Government;

“**infectious disease**” means a disease within the meaning of the Infectious Diseases Act, 1908;11(11)

“**maternity home**” means a building or any other premises where provision is made for medical attention or nursing facilities before, during, or after childbirth and whether gratuitously or for reward but does not include a Government institution;

“**medical attention**” includes surgical attention;

“**medical officer**” includes a medical practitioner in the service of the Government and any other medical practitioner duly authorised in writing by the Chief Medical Officer for the purposes of this Act,

“**medical practitioner**” means a medical practitioner duly registered under the Medical and Dental Act, 1972;12(12)

“**medical practitioner in charge**” means the supervising medical practitioner in a private hospital;

“**midwife**” means a midwife duly registered under the Nurses and Midwives Act;

“**midwife in charge**” means the supervising midwife in a maternity home;

“**Minister**” means the Minister responsible for Health;

“**nurse**” means a person duly registered under the Nurses and Midwives Act, 1972;13(13)

“**nursing officer**” means a nurse or midwife in the service of the Government;

“**principal matron**” means the principal matron of the Ministry of Health;

“**private hospital**” means a building or any other premises where provision is made for medical attention or nursing facilities gratuitously or for reward, and used or intended to be used for the reception of persons suffering from any sickness, infirmity or injury or used or capable of being used for purpose of or incidental to childbirth, but does not include a maternity home or a Government institution;

“**Registrar**” means the registrar of the Authority;

“**Regulations**” mean Regulations made under this Act;

“**Secretary**” means the secretary of the Authority.

Endnotes

1 (Popup - Footnote)

1. The Act was assented to on the 27th day of June, 1958 and is [No. 9 of 1958](#).

2 (Popup - Footnote)

2. [Cap. 150](#) of the 1951 Edition of the Laws of the Gold Coast.

3 (Popup - Footnote)

3. [Sections 11A, 11B](#) and [11C](#) inserted by section 1 of the Private Hospitals and Maternity Homes (Amendment) Decree, 1969 (N.L.C.D. 395).

4 (Popup - Footnote)

4. Substituted by section 2 of the Private Hospitals and Maternity Homes (Amendment) Decree, 1969 (N.L.C.D. 395).

5 (Popup - Footnote)

5. Inserted by section 1 of the Private Hospitals and Maternity Homes (Amendment) Decree, 1969 (N.L.C.D. 395) as section 13C.

6 (Popup - Footnote)

6. Substituted by section 2 of the Private Hospital and Maternity Homes (Amendment) Decree, 1969 (N.L.C.D. 395) as [section 14](#). The original section reads as follows:

- “(1) Private hospitals and maternity homes shall be open for the purposes of supervision and inspection at reasonable times by a person authorised under this section. The person authorised may direct the production to that person of a record, register or any other document required by this Act to be kept, and the medical practitioner in charge or the midwife in charge, shall comply with the reasonable directions of the Board in the course of the supervision and inspection.
- (2) This section shall not be construed to authorise the inspection of a medical record relating to a patient in a private hospital.
- (3) For the purposes of this section, ‘**person authorised**’ includes a principal medical officer or regional matron and the chief medical officer, the deputy chief medical officer and the principal matron or a person duly authorised by the Board in writing signed by the secretary.”

7 (Popup - Footnote)

7. [Cap. 78](#) of the 1951 Edition of the Laws of the Gold Coast.

8 (Popup - Footnote)

8. This subsection continued with the words, “and where a decision is approved by the Minister it shall be final”. Those words have been omitted in view of [clause \(3\)](#) of [article 125](#) of [the Constitution](#).

9 (Popup - Footnote)

9. Added by section 3 of the Private Hospitals and Maternity Homes (Amendment) Decree, 1969 (N.L.C.D. 395).

10 (Popup - Footnote)

10. As offending [clause \(7\)](#) of [article 11](#) of [the Constitution](#). The section provides that, “Regulations made under this section shall come into force on the date of publication in the *Gazette*, and be laid before Parliament as soon as practicable after they have been made.”

11 (Popup - Footnote)

11. [Cap. 78](#) of the 1951 Edition of the Laws of the Gold Coast.

12 (Popup - Footnote)

12. [N.R.C.D. 91](#).

13 (Popup - Footnote)

13. [N.R.C.D. 117](#).