



सत्यमेव जयते

महाराष्ट्र शासन राजपत्र

असाधारण भाग आठ

वर्ष १, अंक ५६। बुधवार, फेब्रुवारी १७, २०१०/माघ २८, शके १९३१।पृष्ठे ६, किंमत : रुपये १९.००

असाधारण क्रमांक २

प्राधिकृत प्रकाशन

महाराष्ट्र विधानमंडळाचे अधिनियम व राज्यपालांनी प्रख्यापित केलेले अध्यादेश व केलेले विनियम आणि विधि व न्याय विभागाकडून आलेली विधेयके (इंग्रजी अनुवाद).

In pursuance of clause (3) of article 348 of the Constitution of India, the following translation in English of the Maharashtra Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Ordinance, 2010 (Mah. Ord. I of 2010), published under the authority of the Governor.

By order and in the name of the Governor of Maharashtra,

H. B. PATEL,
Secretary to Government,
Law and Judiciary Department.

(Translation in English of the Maharashtra Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Ordinance, 2010 (Mah. Ord. I of 2010), published under the authority of the Governor.)

LAW AND JUDICIARY DEPARTMENT

Mantralaya, Mumbai 400 032, dated the 17th February 2010.

MAHARASHTRA ORDINANCE No. I OF 2010.

AN ORDINANCE

to provide for the prevention of violence against Medicare Service Persons and prevention of damage or loss of property of Medicare Service Institutions in the State of Maharashtra and for matters connected therewith or incidental thereto.

WHEREAS acts of violence of causing injury or danger to life of Medicare Service Persons and damage or loss to the property of Medicare Service Institutions are on increase in the State creating unrest in Medicare Service Persons and professionals resulting in total hindrance of such services in the State ;

AND WHEREAS it had become necessary to provide for the prevention of violence against Medicare Service Persons and prevention of damage or loss of property of Medicare Service Institutions from such violent activities ;

AND WHEREAS both Houses of the State Legislature are not in session ;

AND WHEREAS the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to make necessary provisions, for the purposes aforesaid ;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Maharashtra is hereby pleased to promulgate the following Ordinance, namely :—

Short title,
extent and
commence-
ment.

1. (1) This Ordinance may be called the Maharashtra Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Ordinance, 2010.

(2) It extends to the whole of the State of Maharashtra.

(3) It shall come into force at once.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(a) " Medicare Service Institution " means an institution, providing medicare service to people either in Medicare Service Institution or through Mobile Medicare Unit or by arranging medical check up camps, under the control of the State Government or the Central Government, or a local body including any private hospital having facilities for treatment of the sick and used for their reception or stay in any private maternity home, where women are usually received and accommodated for the purpose of confinement and ante-natal and post-natal care in connection with the child birth or anything connected therewith and any private nursing home used or intended to be used for the reception and accommodation of person suffering from any sickness, injury or infirmity, whether of body or mind, and providing of treatment or nursing or both of them and includes convalescent home ;

(b) " Medicare Service Person", in relation to Medicare Service Institution, shall include,—

(i) Registered Medical Practitioner, Practitioner or Registered Practitioner (including a person having provisional registration) working in a Medicare Service Institution other than the public servant within the meaning of section 21 of the Indian Penal Code ;

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(ii) Registered Nurse, registered under the Maharashtra Nurses Act, 1966, other than the public servant within the meaning of section 21 of the Indian Penal Code ;

(iii) Medical Student ;

(iv) Nursing Student ; and

(v) Para-Medical Workers and other member staff or worker directly or indirectly employed by a Medicare Service Institution for providing required services other than the public servant within the meaning of section 21 of the Indian Penal Code.

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Explanation.—For the purpose of this Ordinance, the expression Registered Medical Practitioner, Practitioner or Registered Practitioner, Nurse, shall have the same meanings, as assigned to them in the Maharashtra Medical Practitioners' Act, 1961, the Maharashtra Medical Council Act, 1965, the Bombay Homoeopathic Practitioners' Act, 1959 and the Maharashtra Nurses Act, 1966 ;

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(c) "Medical Student" means a student, who is undergoing training or studies in medical profession ;

(d) "Mobile Medical Unit" means an ambulance equipped with medical equipment, used for providing medicare services ;

(e) "Nursing Student" means a student, who is undergoing training or studies in nursing profession ;

(f) "Offender" means any person, who either by himself or as a member or leader of a group of persons or organization commits or attempts to commit or abets or incites the commission of violence under this Ordinance ;

(g) "Para-Medical Worker" means a person, who assists the Medicare Service Person providing medicare services ;

(h) "Property" means any property, movable or immovable or medical equipment or medical machinery owned by or in possession of, or under the control of any Medicare Service Person or Medicare Service Institution ;

(i) "Violence" means an act which causes or may cause any harm, injury or endangering the life or intimidation, obstruction or hindrance to any Medicare Service Person in discharging his duty in a Medicare Service Institution or causing damage or loss to the property in a Medicare Service Institution.

3. Any act of violence against a Medicare Service Person or damage or loss to the property in a Medicare Service Institution, shall be prohibited. Prohibition of violence.

- Penalty. 4. Any offender, who commits or attempts to commit or abets or incites the commission of any act of violence in contravention of the provisions of section 3, shall be punished with imprisonment which may extend to three years and with fine, which may extend to fifty thousand rupees.
- Cognizance of offence. 5. Any offence committed under this Ordinance, shall be cognizable and non-bailable and triable by the Court of Judicial Magistrate of the First Class.
- Liability to pay compensation for loss or damage caused to property. 6. (1) In addition to the punishment specified in section 4, the offender shall be liable to pay compensation of twice the amount of damage or loss caused to the property, as may be determined by the Court referred to in section 5.
(2) If the offender has not paid the compensation imposed under sub-section (1), the same sum shall be recovered as if it were an arrear of land revenue.
- Authority to aid and advice victims of medical negligence. 7. (1) The State Government shall, by notification in the *Official Gazette*, establish the Authority for the area as may be specified in such notification, to hear grievances of victims of medical negligence or mismanagement and to aid and advice such victims for taking recourse to an appropriate forum for suitable relief.
(2) The Authority shall consist of experts one each from the field of medical, law, consumer movement and health management.
(3) The conditions of service of the experts mentioned in sub-section (2), and the procedure to be followed by the Authority shall be such as may be specified by the State Government by an order in this behalf.
- Ordinance not in derogation of any other law. 8. The provisions of this Ordinance shall be in addition to and not in derogation of, the provisions of any other law for the time being in force.

STATEMENT.

On account of the rampant increase in the attacks on Medicare Service Persons by some patients, their relatives and caretakers causing injury or danger to life of Medicare Service Persons and damage or loss to property of Medicare Service Institutions, which at times result in total hindrance of such services, there was a strong demand from the All India Medical Association and many other State Level Associations to check the recurrence of such incidents. In order to effectively curb the occurrences of such incidents in the State and to protect and safeguard the Medicare Service Persons and property of Medicare Service Institutions, the Government of Maharashtra had considered it expedient to enact a special law. It was proposed to punish the offenders, who indulge in violence against Medicare Service Persons or damage or loss to the property of Medicare Service Institutions with punishment of imprisonment which may extend to three years and also with fine which may extend to fifty thousand rupees. It was also proposed to recover compensation for damage or loss caused to the property of the Medicare Service Institution twice the amount of damage or loss caused. It was also proposed to establish an Authority consisting of experts one each from the field of medical, law, consumer movement and health management to hear grievances of victims of medical negligence or mismanagement and to aid and advice such victims for taking recourse to an appropriate forum for suitable relief.

2. The Maharashtra Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Bill, 2008 (L.A. Bill No. LVIII of 2008), was introduced in the Winter session of the State Legislature on the 17th December 2008, however, the said Bill could not be passed by the State Legislature, as the session of the State Legislature was prorogued on the 30th December 2008. The Government, therefore, felt it necessary to have such law immediately.

3. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make necessary provisions, for the purposes aforesaid, the Maharashtra Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Ordinance, 2009 (Mah. Ord. V of 2009), was promulgated by the Governor of Maharashtra on the 30th March 2009.

4. Thereafter, upon re-assembly of the State Legislature on the 1st June 2009, a Bill to convert the said Ordinance into an Act of the State Legislature was introduced in the Maharashtra Legislative Assembly as L. A. Bill No. III of 2009, on the 1st June 2009 and passed by the Maharashtra Legislative Assembly on the 16th June 2009. However, the same could not be transmitted to the Maharashtra Legislative Council for consideration, as the session of the Maharashtra Legislative Council was already prorogued on the 16th June 2009, before the said Bill was passed by the Maharashtra Legislative Assembly. As both Houses of the State

Legislature had re-assembled on the 1st June 2009, as provided by article 213 (2) (a) of the Constitution of India, the said Ordinance ceased to operate at the expiration of six weeks from the re-assembly of the State Legislature that is after the 12th July 2009.

5. As both Houses of the State Legislature were not in session and the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make necessary provisions, for the purposes aforesaid, the Maharashtra Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Ordinance, 2009 (Mah. Ord. XIII of 2009), was promulgated by the Governor of Maharashtra on the 11th August 2009.

6. Thereafter, the regular session of the State Legislature was convened by the Hon'ble Governor on the 8th December 2009, and a Bill for converting the said Ordinance into an Act of the State Legislature was introduced in the Maharashtra Legislative Council as L. C. Bill No. X of 2009, on the 8th December 2009 and passed by the Maharashtra Legislative Council on the 21st December 2009. The said Bill was transmitted to the Maharashtra Legislative Assembly for consideration, however, it could not be passed as the session of the Maharashtra Legislative Assembly was prorogued on the 23rd December 2009. In the meanwhile, as the Maharashtra Legislative Assembly was reassembled on the 9th November 2009 and the Maharashtra Legislative Council was reassembled on the 11th November 2009, as provided by the *Explanation* to clause (2) of article 213 of the Constitution of India, the said Ordinance has ceased to operate at the expiration of six weeks from the 11th November 2009, that is, after the 22nd December 2009.

7. As both Houses of the State Legislature are not in session and the Governor of Maharashtra is satisfied that circumstances exist which render it necessary for him to take immediate action to make necessary provisions, for the purposes aforesaid, this Ordinance is promulgated.

Mumbai,

K. SANKARANARAYANAN,

Dated the 16th February 2010.

Governor of Maharashtra.

By order and in the name of the Governor of Maharashtra,

M. N. GILANI,

Principal Secretary and
Remembrancer of Legal Affairs
to Government.