

Sanatorium Act

B.S. 2541

BHUMIBOL ADULYADEJ, REX.

Given on 15th March, B.B. 2541;

Being the 53th year of the present Reign.

His Majesty King Bhuaibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to revise the laws on sanatorium, the restriction of the liberties to engage in an enterprise or an occupation and to undertake a fair and free competition which shall be imposed only by virtue of the law specifically enacted;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly as follows:

Section 1. This Act is called the "Sanatorium Act, B.E. 2541"

Section 2. This Act shall come into force as from the Day following the date of its publication in the Government Gazette¹

Section 3. The Sanatorium Act, B.B. 2504 (1961) shall be repealed.

Section 4. In this Act,

"sanatorium" means a place and including a vehicle which is provided for normally medical practice under the law on medical practice, medicine practice under the law on medicine practice, nursery and midwifery practice under the law on nursery and Midwifery practice, or the dentistry practice under the law on dentistry practice with no respect of any earned profit, but not a place for the sale of drugs under the law on drugs which particularly operates a drugs business;

"patient" means a person who requests for services in a sanatorium;

"licensee" means a person who receives a license to engage in a sanatorium business;

¹ published in the Government Gazette Vol. 115, Part 15 A, dated 24th March B.E. 2541 (1998)

"manager" means a person who receives a license to manage a sanatorium;

"practitioner" means a medical practitioner and a practitioner on medicine, nursing, midwifery, dentistry, pharmacy or other practitioners determined by the Minister in the Government Gazette;

"license" means a license to operate a sanatorium business or a license to manage a sanatorium;

"competent official" means a person appointed by the Minister for the execution of this Act;

"grantor" means the Permanent Secretary of the Ministry of Public Health or a person entrusted by the Permanent Secretary of the Ministry of Public Health;

"Committee" means the Sanatorium Committee;

"Minister" means the Minister having charge and control of the execution of this Act.

Section 5. This Act shall not apply to the sanatorium of the Ministry, Sub-Ministry, Department, Bangkok Metropolitan, Pattaya City, changwat Administrative Organization, Municipality, Sanitary, Local Administrative Organization, Thai Red Cross Society and other sanatoriums as notified by the Minister in the Government Gazette.

Section 6. The Minister of Public Health shall have charge and control of the execution of this Act and shall, for the execution of this Act, have the power to appoint competent officials, issue Ministerial Regulations prescribing fees not exceeding the rates annexed to this Act, exempting fees, and determining other activities and issue Notifications.

Such Ministerial Regulations and Notifications shall come into force upon their publication in the Government Gazette.

CHAPTER I

Sanatorium Committee

Section 7. There shall be a committee called the "Sanatorium Committee", consisting of the Permanent Secretary of the Ministry of Public Health as chairman/ the Director-General of the Department of Medical Service, the Director-General of the Department of Health, the Director-General of the Department of Communicable Disease Control, the Director-General of the Department of Medical Service, the Director-General of the Department of Mental Health, the Secretary-General of the Food and Drug Administration, the representative of the Office of the Council of State and the representative of the Office of the Consumer Protection

Board as the member ex officio, and the qualified members appoints by the Minister as follows:

1. three medical practitioners recommended by the Committee and one each recommended by the practitioner councils established under the laws on the controlling of such practitioner councils;
2. five other qualified members which at least one but not more than three shall be appointed from the managers.

The Director of the Medical Registration Division, the Office of the Permanent Secretary of the Ministry of Public Health is a member and secretary.

Section 8. The qualified member under section 7 holds office for a term of two years and may be reappointed.

In the case where an additional member is appointed during the term of the members already appointed, the appointee shall hold office for the remaining term of the members already appointed.

Section 9. Apart from vacating office at the expiration of the term under section 8, the qualified member under section 7 shall vacate office upon:

- (1) death;
- (2) resignation;
- (3) being retired by the Minister;
- (4) being a bankrupt;
- (5) being an incompetent or quasi-incompetent person;
- (6) ceasing being a medical practitioner, practitioner or manager, in the case he is appointed to be a member of the Committee because of being in such position;
- (7) being sentenced by a final judgment or legally order to a term of imprisonment, unless the punishment is for an offence committed through negligence or a petty offence.

When the qualified member vacates his office before the expiration of his term, the Minister may appoint another person to replace him, unless the remainder of the term of the qualified member is less than ninety days, and such person shall hold office for the remaining term of the member he replaces.

Section 10. In a meeting of the Committee, the presence of not less than one-half of the total members is required to constitute a quorum.

If the Chairman is not present at a meeting, or is unable to perform his duty, members who are present shall elect one among them to preside over the meeting.

Decision of the meeting shall be taken by majority of votes, In casting votes, each member of the Committee shall have one vote and in case of an equality of votes, the person who presides over the meeting shall have an additional vote as casting-vote.

Section 11. The Committee shall have the duty to give advice, opinion and recommendation to the Minister or the grant or concerning the following matters:

- (1) the issuance of a Ministerial Regulation or Notification for the execution of this Act;
- (2) the permission of the operation of a sanatorium business, the management of a sanatorium, the closure of a sanatorium or the revocation of a license;
- (3) the promotion of the development of service of a sanatorium;
- (4) the control or the consideration of petitions concerning the management of a sanatorium;
- (5) other matters as entrusted by the Minister or the grantor.

Section 12. The Committee shall have the power to appoint a sub-committee to consider and submit opinion concerning the matters within the authority of the Committee.

The provision of section 10 shall apply to the meeting of the sub-committee mutatis mutandis.

Section 13. In the performance of duties under this Act, the Committee and sub-committee appointed under section 12 shall have the power to issue an order in writing requiring any person to give statement or to submit documents or evidences concerned or other things for its consideration.

CHAPTER 2

Operation of a sanatorium business and Management of a sanatorium

Section 14. There are two types of sanatorium as follow:

- (1) an over-night sanatorium;
- (2) a non over-night sanatorium.

The qualifications of each type of sanatorium under paragraph one and its types of service shall be prescribed in the Ministerial Regulation.

Section 15. The Minister, with the advice of the Committee, shall have the power to issue a Notification prescribing the standard of service of a sanatorium.

Section 16. No person shall engage in a sanatorium business unless he has obtained a license from the grantor.

The application for and the issuance of license, and the type of the sanatorium shall be prescribed in the Ministerial Regulation.

Section 17. The person who apply for a license to operate the sanatorium business must possess the following qualifications and not be under the following prohibitions:

- (1) being not less than twenty years of age;
- (2) having his domicile in Thailand;
- (3) not having been sentenced by a final judgment or legal order to a term of imprisonment, unless the punishment is for an offence committed through negligence or a petty offence;
- (4) not suffering from the disease prescribed by the Minister in the Government Gazette;
- (5) not being a bankrupt;
- (6) not being an unsound-mind, incompetent or quasi-incompetent.

In the case the applicant is a Juristic person, its manager or representative must possess the qualifications and not be under any of the prohibitions under paragraph one.

Section 18. In the consideration of an issuance of a license of the grantor, it shall appear that the applicant has completely organized all the following cases:

- (1) an action plan for the establishment of a sanatorium which has been authorized under the rules, procedure and conditions as prescribed in the Ministerial Regulation;
- (2) a sanatorium which possesses the qualifications as prescribed in the Ministerial Regulation issued under section 14;
- (3) the instrument, things, medical supplies or vehicles which is necessary for that sanatorium in the same types and amount as described in the Ministerial Regulation;
- (4) the practitioners in a sanatorium in the branches and number as prescribed in the

Ministerial Regulation;

(5) the name of the sanatorium as prescribed in the Ministerial Regulation.

For the purpose of the protection of the consumer right in public health service, the Minister, with the advice of the Committee, shall have the power to issue the Notification prescribing the number of authorized sanatoriums or the type of medical services in the sanatorium in any area.

Section 19. The license to operate a sanatorium business shall be valid up to the last day of the tenth year from the year of issue.

A licensee who wished to renew his license must submit an application before the expiry date. After having applied for a renewal, he may continue his business until the grantor refuses to renew the license.

The application for and granting of renewal of a license shall be In accordance with the rules, procedure and conditions prescribed in the Ministerial Regulation.

Section 20. The licensee shall pay fee under the rules, procedure and at the rate prescribed in the Ministerial Regulation during the period of the operation of his business. If the fee is not paid within the specified period, the licensee shall have to be charged at the rate of five per cent per month. If he still resists to pay fee and charge, after the period of six months the grantor shall have the power to further implement all the measures provided in section 49

Section 21. The transfer of a license to operate a sanatorium business to a person who possesses the qualifications and is not under any prohibitions as prescribed in section 17 shall be made only after having obtained a permission from the grantor.

The application of the transfer of a license and the permission shall be in accordance with the rules, procedure and conditions prescribed in the Ministerial Regulation.

Section 22. In the case the licensee is dead and there is a person who proposes his view to the grantor within thirty days frost the death of the licensee that he will continue operating the business of the dead licensee, the grantor, after having checked that such person possesses all qualifications and is not under any prohibitions under section 17, shall have the power to

permit such person to operate the business until the expiry of the license. In this case, it shall be deemed that such person is the licensee under this Act since the date the licensee is dead.

The proposal of view and the checking of qualifications shall be under the rules, procedure and conditions prescribed in the Ministerial Regulation.

Section 23. The licensee must arrange for a manager who shall control, supervise and be responsible for the management of the sanatorium.

Section 24. No person shall manage a sanatorium unless he has obtained a license from the grantor.

The application for and the issuance of a license shall be under the rules, procedure and conditions prescribed in the Ministerial Regulation.

Section 25. In the consideration of the issuance of a licence to manage a sanatorium of the grantor, it shall appear that the licensee:

- (1) is a medical practitioner, medicine practitioner, midwifery practitioner, nursery and midwifery practitioner, or dentistry practitioner, but the type of management to be permitted or the type of services to be available in a sanatorium shall be prescribed in the Ministerial Regulation;
- (2) is not the manager of two previous sanatorium. In the case he is a manager of an over-night sanatorium, he shall not be permitted to be a manager of another over-night sanatorium;
- (3) is able to closely supervise a sanatorium business.

Section 26. In the case the manager is out of or not able to perform his duties for a period longer than seven days, the licensee may entrust the person who possesses the qualifications under section 25 to replace him for a period not longer than ninety days. The person who replaces shall inform the grantor in writing within thirty days from the date he replaces.

The person who is entrusted to be liable to the management under paragraph one shall have the same power and duty as the manager.

Section 27. The licensee, the manager and the practitioner in a sanatorium may be the same person.

Section 28. The license to manage a sanatorium shall be valid up to the last day of the second year from the year of issue.

A licensee who wished to renew his license must submit an application before the expiry date. After having applied for a renewal, he may continue his management of a sanatorium until the grantor refuses to renew the license.

The application for and granting of renewal of a license shall be in accordance with the rules, procedure and conditions prescribed in the Ministerial Regulation.

Section 29. In the case where the grantor refuses to issue or renew a license, the applicant has the right to appeal to the Minister within thirty days from the date of receipt of notice informing him of the refusal to issue or renew the license.

The decision of the Minister shall be final,

In the case where the grantor refuses to renew the license, the Minister, before the making of a decision under paragraph two, shall have the power to order the applicant to continue operating a sanatorium business or managing a sanatorium as requested by the applicant.

Section 30. In the case where the license is lost or materially damaged, the licensee or the manager, as the case may be, shall inform and apply to the grantor for its substitution within thirty days from the date of knowledge of such loss or damage.

The application for and the issuance of a substitution shall be in accordance with the rules, procedure and conditions prescribed in the Ministerial Regulation.

Section 31. The licensee shall display a license at an open and conspicuous place at the sanatorium.

Section 32. The licensee shall display the following details at an open and conspicuous place at the sanatorium:

- (1) the name of the sanatorium;
- (2) the details of the practitioners on medicine, nursery, midwifery, dentistry, pharmacy or the practitioners who practice in that sanatorium;

(3) the rate of medical treatment, service charge and the right of patient which the sanatorium must exhibit under section 33 paragraph one.

The display of the details under paragraph one shall be in accordance with the rules, procedure and conditions prescribed in the Ministerial Regulation.

Section 33. The Minister, with the advice &f the Committee, shall have the power to issue a Notification prescribing types or categories of medical treatment, other services of a sanatorium or the rights of the patient which a licensee must display under section 32(3).

No licensee shall demand or give a consent for a demand of medical treatment fee or other service charges other than those displayed. The services shall be served in accordance with the rights of the patient displayed.

Section 34. The manager shall have the duties and responsibilities as follows:

1. to control and supervise the practitioners in the sanatorium not to practice in the branch level or plan other than those the licensee has notified In the application of license, or allow any person who is not a practioner to practice in the sanatorium;
2. to control and supervise the practitioners in the sanatorium to perform their duties under the law on medical practice, the law on medicine practice, the law on nursery and midwifery practice, the law on dentistry practice or the law on pharmacy practice, as the case may be.
3. to control and supervise not to accept over-night patient in a number larger than that of beds specified in the license, except in the emergency case that the refusal shall cause danger to the patient;

(4) to control and supervise the sanatorium to be clean, tidy, safe and possesses appropriate qualifications for a sanatorium.

Section 35. The licensee and the manager shall have the joint duties and responsibilities as follows:

1. to provide for the practitioners in the sanatorium in the branch and number as prescribed in the Ministerial Regulation during the office hours;

2. to provide for the equipment, instrument, drugs and medical product necessary for the sanatorium in the type prescribed in the Ministerial Regulation;
3. to provide for and report the evidences concerning the practioner in the sanatorium and patients and other documents concerning the medical treatment under the rules, procedure and conditions prescribed in the Ministerial Regulations which shall be available In the condition suitable for the review for the period not shorter than five years from the date of preparation;
4. to control and supervise the sanatorium business to be in accordance with the standard of services prescribed by the Minister under section 15.

Section 36. The licensee and the manager shall have charge and control for the medical care of patient who is in the injury condition and need immediately medical treatment in order to release him from danger in accordance with the standard of practice relating to the type of such sanatorium.

After the medical treatment under paragraph one, if it is necessary to transfer the patient or it is the aspiration of the patient to be treated in any other sanatorium, the licensee and the manager shall provide for the transfer thereof as appropriately.

Section 37. The licensee and the manager shall control and supervise for the non utilization or non allowance of any person the utilization of the sanatorium for the wrong type of business or services as prescribed in the license.

Section 38. No licensee or manager shall advertise, notify or allow any person to advertise or notify any name, location or business of the sanatorium or the qualification or capability of the persons who practice in the sanatorium in order to invite customer by a statement which is false or exaggerated or may cause the materially misunderstanding in the business of the sanatorium.

The grantor may issue a Notification prescribing the rules, procedure or conditions for the advertisement under paragraph one.

Section 39. In the case there is any advertisement or notice which violate section 38, the grantor shall have the power to issue written order demanding the person who advertises or notifies to cease the said performance.

Section 40. In the case where the licensee, for the purpose of the operation of a sanatorium business, want to modify the sanatorium business from that specified in the license or construct a new building or modify the building other than the limit specified in the Ministerial Regulation, he shall be authorized to do only when he has received a permission from the grantor.

The application for and granting of permission shall be in accordance with the rules, procedure and conditions prescribed in the Ministerial Regulation.

Section 41. In the case where the licensee want to move the sanatorium to any other places, the processes shall be proceeded in the same manner as those provided for the new application.

Section 42. Any licensee who wishes to change any of the practitioners in his sanatorium under section 18(4) shall inform the grantor within thirty days form the date of the change.

Section 43. Subject to section 18(5), the change of the sanatorium name shall made only upon the permission of the grantor.

Section 44. The licensee who intent to cease his sanatorium business shall, notify in writing and provide a report on the treatment of patients to the grantor in advance period of not less than fifteen days; provided that the rules and procedure shall be prescribed in the Ministerial Regulation.

After having been notified under paragraph one, the grantor shall have the power to order the licensee to perform any actions before the date of cessation thereof; provided that the grantor shall consider the benefit and interest of the patient as the main issue.

Section 45. The licensee shall provide the competent official for the regularly supervision of the qualifications of the sanatorium and the operation of a sanatorium business under this Act. In the case where the competent official fides that the sanatorium and including its equipment, things, drugs and medical instrument possess the qualifications which shall cause an injury to the persons who stay in or close to that sanatorium, the grantor shall have the power to order the licensee to improve as appropriately within the period specified.

The provisions of section S3 and section 54 shall apply mutatis mutandis

CHAPTER THREE

Competent Official

Section 46. In the performance of duty, the competent official shall have the following powers:

1. to enter a building or vehicle which he reasonably believes that it is not the authorized sanatorium under this Act;
2. to enter a sanatorium during office hours to inspect and control the compliance of this Act;
3. to issue a summons requiring the licensee, the manager, the practitioner in the sanatorium or the official of the sanatorium to give statement or explanation, or forward documents or evidences concerned for supplementing his consideration;
4. to seize or attach all the documents or anything concerning an offence under this Act.

In the performance of duties of the competent official under paragraph one, a licensee, manager, practitioner in the sanatorium or the person who stays in the sanatorium shall provide him with appropriate facilities.

Section 47. In the performance of duties, the competent official shall produce his identity card. An identity card of a competent official shall be in accordance with the form prescribed in the Ministerial Regulation.

Section 48. In the execution of this Act, the competent official shall be official under the Penal Code.

CHAPTER 4

Closure of Sanatorium and Revocation of License

Section 49. When it appears that the licensee or the manager fails to comply with this Act, the competent official shall have the power to order the licensee or the manager, as the case may be, to stop or act correctly within the appropriate period; provided that this shall not eradicate an offence under this Act.

Section 50. In the case where the licensee or the manager commits or omits any performance which causes serious danger, injury or troublesome to the person who stays in or lives next to

the sanatorium, or resist to perform in accordance with the order of the grantor under section 45 or of the competent official under section 49, the grantor shall have the power to close a sanatorium for temporary period until the licensee has completes the correctly performance within the specified period.

Section 51. In the case the licensee or the manager is lack of qualifications or under any prohibitions under section 17 or section 25, as the case may be, if the licensee or the manager does not perform any correction within the period determined by the grantor under section 50, the grantor, with the advice of the Committee, shall have the power to issue an order revoking the license to operate a sanatorium business-.

If the licensee or the manager is sentences by a final judgment for an offence under this Act and the grantor is of the opinion that the seriousness of the case shall effect the medical treatment of patient, the grantor, with the advice of the Committee, shall have the power to revoke his license.

Section 52. For the purpose of the protection of the rights of patient in a sanatorium, in the case where:

1. the licensee is dead and no person propose his view to operate the sanatorium business or the person who propose his view to operate the sanatorium business is lack of qualifications or under any prohibitions as prescribed in section 22;
2. the grantor issue an order of temporary closure under section 50 or of revocation of license under section 51.

The grantor may Issue an order demand that such sanatorium to be under the supervision of the Committee for any appropriate management.

Section 53. The order of the competent official under section 49 or of the grantor under section 50 or section 51 shall be made in wringing and sent by registered mail to the licensee or the manager, as the case may be, at his domicile. If he is not seen or refuses to accept the said order, such order shall be posted in an open and conspicuous place at the sanatorium and it shall be deem that such person has acknowledged that order since the date the order has been posted.

The order of the grantor under paragraph one may additionally be advertised be published in a newspaper or by any other methods.

Section 54. No person whose license has been revoked shall apply for a new license during the period of two years since the date his license is revoked.

Section 55. The licensee who accepts an order of the competent official under section 49 or of the grantor under section 50 or section 51 shall have the right to appeal to the Minister within thirty days from the date of acknowledgement of the order.

The decision of the Minister shall be final.

CHAPTER 5

Penalties

Section 56. Whoever fails to comply with the order of the Committee or sub-committee under section 13 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding two thousand Baht or to both.

Section 57. Whoever violates section 16 paragraph one or section 24 paragraph one shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding sixty thousand Baht or to both, and the court may issue a judgment confiscating all the things used in the sanatorium business.

Section 58. Whoever fails to comply with the order of the grantor under section 39 or section 45 or of the competent official under section 49 shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding ten thousand Baht or to both.

Section 59. Any licensee who fails to comply with section 21, section 31, section 32, section 40 or section 43 shall be liable to a fine not exceeding ten thousand Baht.

Section 60. Any licensee who operate a sanatorium business without a manager under section 23 shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding forty thousand Baht or to both.

Section 61. Whoever has the duty to inform the grantor does not inform him within the period under section 26, section 30, section 42 or section 44 paragraph one shall be liable to a fine not exceeding ten thousand Baht.

Section 62. Any licensee who violates section 33 paragraph two shall be liable to a fine not exceeding twenty thousand Baht.

Section 63. Any manager who fails to perform his duties in order to comply with section 34(1) shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding four thousand Baht or to both.

Section 64. Any manager who fails to perform his duties in order to comply with section 34(3) or (4) shall be liable to a fine not exceeding ten thousand Baht.

Section 65. Any licensee or manager who violates or fails to comply with section 34(2) or section 35 shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand Baht or to both.

Section 66. Any licensee or manager who violates section 36 shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding forty thousand Baht or to both.

Section 67. Any licensee or manager who violates section 37 shall be liable to a fine not exceeding twenty thousand Baht.

Section 68. Any licensee or manager who violates section 58 shall be liable to a fine not exceeding twenty thousand Baht, and a fine not exceeding ten thousand Baht per day during the violating period until the cessation of such advertisement.

Section 69. Any licensee who fails to comply with the order of the grantor under section 44 paragraph two shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding twenty thousand Baht or to both.

Section 70. Any licensee, manager, practitioner in a sanatorium, official of a sanatorium or person who stays in sanatorium who does not facilitate the competent official in his performance of his duties under section 46 shall be liable to a fine not exceeding two thousand Baht.

Section 71. Whoever operates a sanatorium business under the temporary closure order under section 50 shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding forty thousand Baht, and to a fine not exceeding one thousand Baht per day during the violation period.

Section 72. Whoever prevents or does not facilitate the Committee in the implementation under section 52 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding two thousand Baht or to both.

Section 73. Any licensee, manager, practitioner in a sanatorium or official of a sanatorium who prepares or agreed with the preparation of false evidences of medical treatment fee, service charge on diagnosis, the result of medical treatment of a sanatorium or other documents concerning medical treatment shall be liable to imprisonment for a term not exceeding two month or to a fine not exceeding forty thousand Baht or to both.

Section 74. In the case the offender who must be liable to the punishment under this Act is a juristic person, the General Manager or its representative shall be liable to the punishment specified for such offence unless he can prove that the juristic person has committed without his acknowledgement or consent.

Section 75. The Minister shall have the power to appoint as appropriate the Bangkok Metropolitan and provincial Case Settlement Committee with consist of three qualified member with at least one of them is a qualified person in laws.

All the offenses under this Act which are punishable only with fine or with imprisonment for a term of not exceeding one year shall be settled with a fine by the Case Settlement Committee, if the Case Settlement Committee is of the opinion that the offender should not be sued or imprisoned. * In this case, the Case Settlement Committee may entrust the inquiry official to settle the case by fixing a fine for the case with the punishment of only a fine as appropriately.

When the offender has paid a fine as settled within thirty days from the date of settlement, the case shall be deemed to be settled under the Penal Procedure Code.

In the case where the inquiry official find that any person who commits an offence with the punishment under paragraph two, and that person agrees to be fined as settled, the inquiry

official shall submit the matter to the comparative committee within seven days from the date such person agrees to be fined as settled.

Transitory Provisions

Section 76. The license to establish a sanatorium and the license to operate a sanatorium which is issue under the Sanatorium Act, B.E. 2504 shall be deemed to be the license to operate a sanatorium business or the license to manage a sanatorium issued under this Act and shall be valid until the last day of the calendar year which this Act come into force.

Section 77. All the Ministerial Regulations or Notifications issued under the Sanatorium Act, B.E. 2504 and being effective on the date this Act comes into force, shall continue effective as long as they are not inconsistent with this Act; provided that until there is a Ministerial Regulation or Notification Issued under this Act.

Counter signed by

Chuan Leekpai
Prime Minister