

The B.P. Koirala Memorial Cancer

Hospital Act, 2053(1997)

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Amendments:

1. Income Tax Act, 2058 (2002) 2058.12.19
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2. B.P. Koirala Memorial Cancer Hospital
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3. Republic Strengthening and Some Nepal Laws
Amendment Act, 2066 (2010) 2066.10.7
(21 Jan., 2010)

Act number 34 of the year 2053 (1997)

An Act Made to Provide for the establishment and management of B.P.

Koirala Memorial Cancer Hospital

Preamble:

Whereas, it is expedient to establish and operate a cancer hospital in order to enable the cancer patients to spend humane life by providing, in an easily available manner, necessary high standard health services for the diagnosis and treatment of cancer diseases and rehabilitation of cancer patients and to prepare such human resources as may be required for high standard study and research

works on cancer diseases, with a view to eternally commemorate people's leader late Mr. Bisheswor Prasad Koirala;

Now, therefore, be it enacted by the Parliament in the Twenty fifth year of the reign of His Majesty King Birendra Bir Bikram Shah Dev.

1. Short title and commencement:

- (1) This Act may be called as the "B.P. Koirala Memorial Cancer Hospital Act, 2053(1997)".
- (2) This Act shall come into force on such date as the Government of Nepal may appoint, by a Notification in the Nepal Gazette.¹

2. Definitions:

Unless the subject or the context otherwise requires, in this Act:

- (a) "Hospital" means the B. P. Koirala Memorial Cancer Hospital established under Section 3.
- (b) "Board" means the².....Board of Directors of the Hospital formed pursuant to Section 7.
- (c) "Chairperson" means the chairperson of Board.
- (d)³ "Member" means the member of the Board, and this term includes the chairperson of the Board.
- (e) "Executive Director" means the Executive Director appointed pursuant to Section 12.
- (f) "Prescribed" or "as prescribed" means prescribed or as prescribed in the⁴Rules framed under this Act.

¹ Specified as to come into force on 2054.2.21(3 June 1997) (Nepal Gazette dated 2054.2.21(3 June 1997).

² Omitted by the First Amendment.

³ Amended by the First Amendment

⁴ Amended by the First Amendment

3. Establishment of B. P. Koirala Memorial Cancer Hospital:

- (1) The B. P. Koirala Memorial Cancer Hospital is hereby established as a national referral Hospital in order to enable the cancer patients to spend humane life by providing, in an easily available manner, necessary high standard health services for the prevention of cancer disease, diagnosis and treatment of cancer diseases of persons who are suffering from the said disease and to prepare such human resources as may be required for high standard study and research works on cancer diseases and make this sector self-reliant.
- (2) The Hospital shall be established in *Bharatpur* of *Chitwan* District, and a branch and unit of the Hospital may also be established in another District, as per necessity.

4. Hospital to be autonomous body:

- (1) The Hospital shall be an autonomous body corporate with perpetual succession.
- (2) The Hospital shall have a separate seal of its own.
- (3) The Hospital may, like an individual, acquire, use, sell and dispose of, or otherwise deal with, any movable and immovable property.
- (4) The Hospital may, like an individual, sue by its name and be also sued by the same name.

5. Objectives of Hospital:

The objectives of the Hospital shall be as follows:

- (a) To enable the cancer patients to spend humane life by providing, in an easily available manner, necessary high standard health services for the prevention, diagnosis, treatment of cancer diseases of the patients,

- (b) To have self-reliance in this sector by preparing such human resources as may be required in the field of treatment of cancer diseases, and do or cause to be done high standard study and research works on cancer diseases,
- (c) To develop such systems on the use, storage, replacement of radioactive materials for and process of operation of equipment used in and other safety measures on the prevention, diagnosis and treatment of cancer diseases as are not contrary to the international norms and practices.
- (d) To launch national cancer disease control programme.

6. Functions, duties and powers of Hospital:

In addition to the functions, duties and powers mentioned elsewhere in this Act, the functions, duties and powers of the Hospital shall be as follows:

- (a) To provide high standard health services for the prevention, diagnosis and treatment of cancer diseases,
- (b) To launch a national cancer disease control program for the prevention, diagnosis and treatment of cancer diseases,
- (c) To prepare necessary human resources for the prevention, diagnosis and treatment of cancer diseases,
- (d) To do, or cause to be done, study and research works on cancer diseases,
- (e) For the prevention, diagnosis and treatment of cancer diseases, to maintain contact and coordination with native and foreign, governmental and non-governmental organizations, and prepare national policies, plans and programs thereon and submit the same to the Government of Nepal,

- (f) To provide technical assistance to the agencies involved in prevention, diagnosis and treatment of cancer diseases,
- (g) To pursue safety measures and techniques in using, storing, replacing radioactive materials to be used in the acts of prevention, diagnosis and treatment of cancer diseases,
- (h) To provide scholarship, medal and prizes on prevention, diagnosis and treatment of cancer diseases,
- (i) To develop refer system of cancer diseases and expand services through network hospitals and associated agencies,
- (j) To prescribe and collect fees for the health services to be provided by the Hospital,
- (k) To manage the Hospital,
- (l) To build, expand and repair the Hospital,
- (m) To arrange for such equipment and facilities as required for the improvement in and expansion of the services of the Hospital,
- (n) To submit the annual report of the Hospital to the Government of Nepal, through the Board,
- (o) To give information of the policy decisions made by the Hospital and of the implementation thereof to the Government of Nepal in a periodic manner,
- (p) To carry out, or cause to be carried out, such other functions as may be required to the accomplishment of the objectives of the Hospital.

7.⁵ Formation of Board:

(1) There shall be formed a Governing Board (Board of Directors) consisting of the chairperson and members, as follows, for the operation, looking after and management of the Hospital by performing and exercising all the functions, duties and powers conferred to the Hospital pursuant to this Act or the Rules framed hereunder:

- (a) A person nominated by the Government of Nepal from amongst the senior doctors who have obtained at least master's degree in medical sciences from a recognized educational institute and gained at least Fifteen years of experience in the field of cancer disease or who have obtained at least master's degree in medical sciences from a recognized educational institute and gained at least Twenty years of experience in the field of health -Chairperson
- (b)⁶ -Member
- (c) Secretary at the Ministry of Health and Population or at least gazetted first class officer at that Ministry as designated by him or her -Member

⁵ Amended by the First Amendment.

⁶ Deleted by the Republic Strengthening and Some Nepal Laws Amending Act, 2066.

- (d) Secretary at the Ministry of Finance or such gazetted first class officer at the Ministry of Finance as designated by him or her -Member
- (e) Mayor, *Bharatpur* Municipality -Member
- (f) Four persons nominated by the Government of Nepal from amongst the doctors involved in the field of cancer disease, consisting at least two women, and in a manner to represent the *Dalits*, nationalities and *Madhesi* -Member
- (g) A total of two persons consisting of one concerned specialist representative each from the Bir Hospital and Tribhuvan University Teaching Hospital -Member
- (h) Two persons nominated by the Board, consisting of one woman to the extent of availability, from amongst the doctors in service in the Hospital -Member
- (i) Two persons nominated by the Government of Nepal, consisting of at least one woman, from the renowned person involved in the field of social service -Member
- (j) Representative, National Health Research Council -Member

(k) Executive Director -Member
Secretary

- (2) The term of office of the members nominated pursuant to Sub-section (1) shall be Three years.
- (3) Notwithstanding anything contained in Sub-section (2), if a nominated member does not discharge duties honestly or perform the duties of his or her office or suffers from incompetency, the Government of Nepal may, at any time, remove such a member from the office.

Provided that, he or she shall not be deprived of an opportunity to defend himself or herself, prior to so removing him or her.

- (4) If the Board thinks it necessary, it may invite any expert to attend its meeting as an observer.
- (5) The procedures relating to the meeting of the Board shall be as prescribed.

8. Cessation of membership:

- (1) The chairperson and members of the Board, other than the *ex officio* member, shall cease to hold their office in the following circumstances:
 - (a) If the member dies;
 - (b) If the term expires;
 - (c) If resignation tendered before the Board is accepted;
 - (d) If the member, without giving a notice, absents himself/herself from eight consecutive meetings of the Board.

(e) ⁷

- (2) If the post of chairperson or any member falls vacant pursuant to Sub-section (1), another chairperson or member shall be nominated for the remaining term.

9. Act and action not to be invalid:

Notwithstanding that any act or action has been done or taken following any error in the formation of the Board or vacancy in office of any member, such act or action shall not be invalid merely on such ground.

10.⁸ Functions, duties and powers of chairperson:

- (1) The functions, duties and powers of the chairperson shall be as follows:
- (a) To formulate and implement such plans and programmes as may be required to operate the Hospital effectively,
 - (b) To implement, or cause to be implemented, the decisions made by the Board,
 - (c) To get the annual programmes of the Hospital prepared and submit the same to the Board.
- (2) The other functions, duties and powers of the chairperson shall be as prescribed.

11. Functions, duties and powers of member secretary of Board:

The functions, duties and powers of the member secretary shall be as prescribed.

⁷ Deleted by the First Amendment.

⁸ Amended by the First Amendment.

12. Executive Director, adviser and other employee:

- (1) The Board shall appoint one Executive Director for the operation of the day-to-day administration of the Hospital.
- (2) The Hospital may, as per necessity, appoint other advisers and employees.
- (3)⁹ The facilities of the members and advisers of the Board shall be as prescribed.
- (3a)¹⁰ The qualification, appointment, remuneration and terms and conditions of service of the Executive Director and employees shall be as prescribed.

13. Functions, duties and powers of Executive Director of Board:

The functions, duties and powers of the Executive Director shall be as prescribed.

14.¹¹ Restriction on member and employee of Hospital:

No member, Executive Director, adviser and employee of the Hospital shall be entitled to take part directly or indirectly in any transaction or contract (*Thekka Patta*) with the Hospital.

15. Restriction on making claim for compensation against Hospital:

If a patient admitted to the Hospital for the treatment of cancer disease sustains any kind of adverse physical impacts, as a result of the use by a doctor or health worker of the Hospital, of radioactive materials and other drugs in the prescribed dosage by following the prescribed procedures in the course of medical treatment of such patient, such patient shall not be

⁹ Amended by the First Amendment.

¹⁰ Inserted by the First Amendment.

¹¹ Amended by the First Amendment.

entitled to make a claim for pecuniary or any other kind of compensation against the Hospital and a doctor or health worker of the Hospital.

Provided that, where a patient sustains any kind of adverse physical impacts as a result of the use, by a doctor or health worker of the Hospital of radioactive materials and other drugs in deviation of the prescribed dosage and procedures in reckless or negligent manner, this section shall not be deemed to bar the making of claims for compensation against such doctor or health worker.

16. Powers to examine dead body for study and research:

- (1) If a patient admitted to the Hospital for the treatment of cancer disease gives consent to have his/her dead body examined for study and research on such disease following his/her death, the Hospital may examine the dead body accordingly prior to cremation of that dead body.
- (2) If any patient admitted to the Hospital dies prior to giving consent for study or research pursuant to Sub-section (1), nothing shall be deemed to prevent the Hospital from examining the body of such deceased for any study or research on cancer diseases.
- (3) The other procedures and terms on giving and taking consent for examination of dead body pursuant to Sub-section (1) shall be as prescribed.

17. Fund of Hospital:

- (1) The fund of the Hospital shall consist of the following amounts; and the expenditures of the Hospital shall be chargeable on the fund:
 - (a) Amounts received from the Government of Nepal for the Hospital,

- (b) Amounts received from any foreign government or international organization,
 - (c) Amounts received from the services rendered by the Hospital,
 - (d) Grant amounts received from various persons,
 - (e) Amounts received from other sources.
- (2) The amounts received from the Government of Nepal, foreign governments or international organizations shall be spent on that programme or act for which such amounts have been received by the Hospital.
- (3) The fund of the Hospital shall be operated as prescribed.

18. Exemptions and facilities for Hospital:

- (1) The Hospital shall be exempted from customs, sales tax,¹² and registration fees on the following matters:
- (a) Necessary construction materials, machineries and tools imported from abroad for the building and operation of the Hospital,
 - (b) Scholarship, fellowship and reward to be provided by the Hospital,
 - (c) Gifts, donations, grants received by the Hospital, and its other sources of income and properties of the Hospital,
 - (d) Registration of indenture of immovable property to be purchased by the Hospital.

¹² Deleted by the Income Tax Act, 2058.

- (2) Prior to importing the goods as referred to in Clause (a) of Sub-section (1), the Hospital shall submit a price list and quantity of such goods to the Ministry of Finance, through the Ministry of Health.

19. Accounts and audit:

- (1) The accounts of the incomes and expenditures of the Hospital shall be maintained as prescribed.
- (2) The audit of the incomes and expenses of the Hospital shall be performed by the Office of the Auditor General.

20. Powers to form technical committee:

- (1) The Board may form a technical committee, as required, for the provision of such technical service and assistance as may be required for the Hospital.
- (2) The functions, duties, powers and procedures of the technical committee formed pursuant to Sub-section (1) shall be as specified by the Board.

21. Delegation of powers:

The Board may, as per necessity, delegate any of the powers conferred to it under this Act or the Rules framed thereunder this Act to any member of the Board, Executive Director of the Hospital or any officer employee of the Board.

22. Powers to give direction:

The Government of Nepal may give direction to the Hospital on such policy matters as deemed necessary to implement the objectives of this Act; and it shall be the duty of the Hospital to observe such direction.

23. Liaison with the Government of Nepal:

Where the Hospital has to make contact with the Government of Nepal on policy matters relating to the treatment and prevention of cancer diseases, it shall do so through the Ministry of Health and Population¹³; and on other matters, the Hospital may directly contact with any Ministry of the Government of Nepal and bodies under that Ministry.

24. Powers to frame Rules:

The Board may frame necessary Rules for the implementation of the objectives of this Act.

Provided that, consent of the Government of Nepal shall be obtained while making Rules on matters involving financial burden on the Government of Nepal.¹⁴

25. Powers to make manuals:

- (1) The Hospital may so make and enforce such manuals as may be required for the implementation of the Rules and norms fixed by international organizations in respect of the use, storage and replacement radioactive materials to be used in the treatment of cancer diseases that such manuals are not contrary to this Act and the Rules framed under this Act.
- (2) Pending the making of the manuals as referred to in Sub-section (1), the Board may pursue, or cause to be pursued, the Rules and norms fixed by the international organizations in this respect.
- (3) It shall be the duty of all the concerned to observe the manuals enforced pursuant to Sub-section (1) and the Rules and norms pursued pursuant to Sub-section (2).

¹³ Amended by the First Amendment.

¹⁴ Inserted by the First Amendment.