

MAHARASHTRA ACT No. XLVI OF 1965.<sup>1</sup>

[THE MAHARASHTRA MEDICAL COUNCIL ACT, 1965].

First published after having received the assent of the President in the *Maharashtra Government Gazette*, Pt. IV, on the 25th November 1965.

Amended by Mah. 30 of 1967.\*

" " " 3 of 1973.

" " " 12 of 1984.

**An Act to unify, consolidate and make better provision in the law regulating the registration of persons practising modern scientific medicine in the State of Maharashtra.**

WHEREAS it is expedient to unify, consolidate and make better provision in the law regulating the registration of persons practising modern scientific medicine in the State of Maharashtra and to provide for matters connected therewith; It is hereby enacted in the Sixteenth Year of the Republic of India as follows :—

## CHAPTER I.

## PRELIMINARY.

1. (1) This Act may be called the Maharashtra Medical Council Act, 1965. Short title, extent and commencement.
- (2) It extends to the whole of the State of Maharashtra.
- (3) This section shall come into force at once; and the remaining provisions of this Act shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.
2. In this Act, unless the context otherwise requires,— Definitions.
- (a) "appointed day" means the date on which the provisions of this Act other than section 1 come into force under sub-section (3) of section 1 ;
- (b) "Council" means the Maharashtra Medical Council constituted or deemed to be constituted under section 3 ;
- (c) "Executive Committee" means the Executive Committee of the Council constituted under section 11 ;
- (d) "medical practitioner" or "practitioner" means a person who is engaged in the practice of modern scientific medicine in any of its branches including surgery and obstetrics, but not including veterinary medicine or surgery or the Ayurvedic, Unani, Homœopathic or Biochemic system of medicine ;
- (e) "member" means a member of the Council ;
- (f) "prescribed" means prescribed by rules ;
- (g) "President" means the President of the Council ;
- (h) "register" means the register of medical practitioners prepared or deemed to be prepared and maintained under this Act ;
- (i) "registered practitioner" means a medical practitioner whose name is for the time being entered in the register, but does not include a person whose name is provisionally entered in the register ;
- (j) "Registrar" means the Registrar appointed under section 34 or 14, as the case may be ;

<sup>1</sup> For Statement of Objects and Reasons, see *Maharashtra Government Gazette*, 1965, Part V, Extraordinary, pages 311-312.

\* Section 5 of Mah. 30 of 1967 reads as follows :—

"5. Nothing in clause (b) of section 3 shall affect the constitution of any Executive Saving. Committee constituted and functioning immediately before the coming into force of this Act."

- (k) "rules" means rules made under section 30 ;  
 (l) "Schedule" means the Schedule appended to this Act ;  
 (m) "Vice-President" means the Vice-President of the Council.

## CHAPTER II

### CONSTITUTION, FUNCTIONS AND POWERS OF THE COUNCIL.

**Constitution and incorporation of the Council.** 3. (1) The State Government may, by notification in the *Official Gazette*, constitute a Council to be called "the Maharashtra Medical Council".

(2) The Council shall be a body corporate, having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract, and may by the name aforesaid sue and be sued.

(3) the Council shall consist of the following members, namely :—

{(ai) The Director of Health Services, *ex-officio* ;

{(aii) the Director of Medical Education and Research, *ex-officio* ;}

(a) five members to be nominated by the State Government, out of whom not more than one may be a person who is not a practitioner ;

(b) one member from each University established by law in the State which has a medical faculty, elected by members of the medical faculty of the University from amongst members thereof who are practitioners ;

(c) one member to be elected by members of the governing body of the College of Physicians and Surgeons, Bombay, from amongst members thereof, who are practitioners ; and

(d) nine members to be elected by registered practitioners from amongst themselves.

(4) The President and Vice-President shall be elected by the members from amongst themselves.

(5) The election of the members, and of the President and Vice-President, shall be held at such time, and at such place, and in such manner, as may be prescribed.

(6) If at any election, the electors fail to elect the requisite number of members, or the President or the Vice-President, the State Government shall nominate such registered practitioner or practitioners as it deems fit, to fill up the vacancy or vacancies ; and the practitioners so nominated shall be deemed to have been duly elected under this section.

(7) Where any dispute arises regarding any election of a member or the President or Vice-President, it shall be referred to the State Government, and the decision of that Government shall be final.

**Term of office.** 4. (1) The State Government shall, by notification in the *Official Gazette*, publish the names of the members, both elected and nominated.

(2) Save as otherwise provided by this Act, a member, whether elected or nominated, shall hold office for a term of five years from the date of publication of the notification under sub-section (1) :

Provided that, where a person is elected by members of a medical faculty of a University or governing body of the College of Physicians and Surgeons, he shall cease to hold office as a member if he ceases to belong to that faculty or body, as the case may be.

(3) Save as otherwise provided by this Act, the President and the Vice-President shall hold office from the date of his election upto the day on which his term of office as member expires.

(4) The term of office of an outgoing member shall, notwithstanding anything contained in sub-section (2), be deemed to extend to and expire with the day immediately preceding the day on which the names of the successor members are published under sub-section (1).

(5) The term of office of an outgoing President or Vice-President shall, notwithstanding anything contained in sub-section (3), be deemed to extend to and expire with the day immediately preceding the day on which the successor President or Vice-President, as the case may be, is elected.

(6) An outgoing member, President or Vice-President, shall be eligible for re-election or re-nomination.

(7) Leave of absence may be granted by the Council to any member for a period not exceeding six months.

5. (1) Any casual vacancy, previous to the expiry of the term, in the office of the President or the Vice-President or of a member elected under clause (b), (c) or (d) of sub-section (3) of section 3, caused by reason of death, resignation, disqualification or disability or any other reason, shall be filled by election : Casual vacancies.

Provided that, any such vacancy in the office of an elected member occurring within six months prior to the date on which the term of office of all the members expires, shall not be filled.

(2) Any casual vacancy, previous to the expiry of the term, in the office of a member nominated under clause (a) of sub-section (3) of section 3 shall be reported forthwith by the Registrar to the State Government, and shall as soon as possible thereafter be filled by the State Government by nomination.

(3) Any person elected under sub-section (1) or nominated under sub-section (2) to fill a casual vacancy shall, notwithstanding anything contained in section 4, hold office only so long as the person in whose place he is elected or nominated would have held office, if the vacancy had not occurred.

6. (1) The President or the Vice-President may at any time resign his office by a notice in writing addressed to the Council, and delivered to the Registrar. The resignation shall take effect from the date on which it is accepted by the Council. Resignation.

(2) An elected member may at any time resign his office by a notice in writing addressed to the President. A nominated member may at any time resign his office by a notice in writing addressed to the State Government. Every such resignation shall take effect from the date on which it is accepted by the President or, as the case may be, the State Government.

7. (1) A person shall be disqualified for being elected or nominated as, and for continuing as, a member,— Disqualification and disability.

(a) if he is an undischarged insolvent ;

(b) if he is of unsound mind and stands so declared by a competent Court ;

(c) if his name has been removed from the register and has not been re-entered therein ; or

(d) if he is a whole-time officer or servant of the Council.

(2) If any member absents himself from three consecutive meetings of the Council, without leave of the Council granted under sub-section (7) of section 4 or without such reasons as may, in the opinion of the Council, be sufficient, the Council may declare his seat vacant and take steps to fill the vacancy.

(3) If any member becomes or is found to be subject to any of the disqualifications mentioned in sub-section (1), the Council shall submit a report to the State Government, and the State Government, if satisfied about the disqualification, shall declare his seat vacant.

**Meetings of Council.** 8. (1) The meetings of the Council shall be convened, held and conducted in such manner as may be prescribed.

(2) The President, when present, shall preside at every meeting of the Council. If at any meeting the President is absent, the Vice-President, and in the absence of both, some other member elected by the members present from amongst themselves, shall preside at such meeting.

(3) All questions at a meeting of the Council shall be decided by a majority of votes.

(4) The presiding authority at a meeting shall have and exercise a second or a casting vote, in case of an equality of votes.

(5) Eight members including the President and the Vice-President shall form a quorum. When a quorum is required but not present, the presiding authority shall adjourn the meeting to such hour on some future day as it may notify on the notice board at the office of the Council; and the business which would have been brought before the original meeting had there been a quorum thereat, shall be brought before the adjourned meeting, and may be disposed of at such meeting or any subsequent adjournment thereof, whether there be a quorum present, or not.

**Proceedings of meetings and validity of acts.** 9. (1) The proceedings of the discussion of every meeting of the Council, shall be treated as confidential ; and no person shall, without the previous resolution of the Council, disclose any portion thereof :

Provided that, nothing in this section shall be deemed to prohibit any person from disclosing or publishing the text of any resolution adopted by the Council, unless the Council directs such resolution also to be treated as confidential.

(2) No disqualification of or defect in the election or nomination of any person as a member, or as the President, or as the Vice-President, or as a presiding authority of a meeting, shall of itself be deemed to vitiate any act or proceedings of the Council in which such person has taken part, whenever the majority of persons who are parties to such act or proceedings, were entitled to vote.

(3) During any vacancy in the Council, the continuing members may act, as if no vacancy had occurred :

Provided that, the number of vacancies shall at any time not exceed seven.

10. Subject to such conditions as may be prescribed by or under the provisions of this Act, the powers, duties and functions of the Council shall be—

Powers,  
duties and  
functions of  
the Council.

(a) to maintain the register, and to provide for the registration of medical practitioners :

(b) to hear and decide appeals from any decision of the Registrar ;

(c) to prescribe a code of ethics for regulating the professional conduct of practitioners :

(d) to reprimand a practitioner, or to suspend or remove him from the register, or to take such other disciplinary action against him as may, in the opinion of the Council, be necessary or expedient ;

(e) to exercise such other powers, perform such other duties and discharge such other functions, as are laid down in this Act, or as may be prescribed.

11. (1) The Council shall, as soon as may be, constitute an Executive Committee consisting of the President *ex-officio*, <sup>1</sup>[the Vice-President *ex-officio*,] <sup>2</sup>[the Director of Health Services, *ex-officio* and the Director of Medical Education and Research, *ex-officio*,] and such number of other members, elected by the Council <sup>3</sup>[from amongst its members in accordance with the system of proportional representation by means of the single transferable vote, as may be prescribed.]

Executive  
Committee.

(2) The term of office of, and the manner of filling casual vacancies among, and the procedure to be followed by, the members of the Executive Committee shall be such as may be prescribed.

(3) In addition to the powers, duties and functions conferred, imposed and entrusted by this Act, the Executive Committee shall exercise such powers, perform such duties, and discharge such functions, of the Council as may be delegated to it by rules or entrusted to it, from time to time, by the Council.

12. There shall be paid to the President, the Vice-President and other members of the Council, and to the members of its Executive Committee, such fees and allowances for attendance at meetings, and such reasonable travelling allowance, as shall from time to time be prescribed.

Fees and  
allowances to  
members of  
the Council  
and executive  
Committee.

13. (1) The income of the Council shall consist of—

(a) fees received from the practitioners,

(b) grants received from the State Government, if any, and

(c) any other sums received by the Council.

Income and  
expenditure  
of the  
Council.

(2) It shall be competent for the Council to incur expenditure for the following purposes, namely :—

(a) salaries and allowances of the Registrar and the staff maintained by the Council ;

(b) fees and allowances paid to the members of the Council and the Executive Committee :

(c) remuneration paid to the assessors ; and

(d) such other expenses as are necessary for performing the duties and discharging the functions under this Act.

<sup>1</sup> These words were inserted by Mah. 30 of 1967, s. 3(a).

<sup>2</sup> These words were substituted for the words "and Surgeon General with the Government of Maharashtra, *ex-officio*," by Mah. 3 of 1973, s. 3, Sch.

<sup>3</sup> These words were substituted for the words "from amongst its members as may be prescribed" by Mah. 30 of 1967, s. 3(b).

Appointment  
of Registrar  
of the  
Council, his  
duties and  
functions.

14. (1) The Council shall, with the previous sanction of the State Government appoint a Registrar.

(2) The Executive Committee may from time to time grant leave to the Registrar :

Provided that, if the period of leave does not exceed one month, the leave may be granted by the President.

(3) During any temporary vacancy in the office of the Registrar due to leave or any other reason, the Executive Committee may, with the previous sanction of the State Government, appoint another person to act in his place, and any person so appointed shall, for the period of such appointment, be deemed to be the Registrar for the purposes of this Act :

Provided that, when the period of such vacancy does not exceed one month, the appointment may be made by the President, who shall forthwith report such appointment to the Executive Committee, and the State Government.

(4) The Council may, with the previous sanction of the State Government, suspend, dismiss or remove any person appointed as the Registrar, or impose any other penalty upon him.

(5) Save as otherwise provided by this Act, the salary and allowances and other conditions of service of the Registrar shall be such as may be prescribed.

(6) The Registrar shall be the Secretary and the Executive officer of the Council. He shall attend all meetings of the Council, and of its Executive Committee, and shall keep minutes of the names of members present and of the proceedings at such meetings.

(7) The accounts of the Council shall be kept by the Registrar, in the prescribed manner.

(8) The Registrar shall have such supervisory powers over the staff as may be prescribed, and may perform such other duties and discharge such other functions as may be specified in this Act, or as may be prescribed.

(9) The Registrar appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

XLV  
of  
1860.

Other  
employees of  
the Council.

15. (1) The Council may appoint such officers and servants, other than the Registrar, as it may deem necessary for performing its duties and discharging its functions under this Act :

Provided that, the number and designation of such officers and servants and their salaries and allowances shall be determined by the Council, with the previous sanction of the State Government.

(2) Notwithstanding anything contained in sub-section (1), but, subject to such financial limit as may be laid down in this behalf by the Council, it shall be competent for the Executive Committee to create temporary posts of clerks or servants and to make appointments thereto, to meet any temporary increase in work, or to carry out any work of a seasonal character.

(3) The other conditions of service of the officers and servants of the Council shall be such as may be prescribed.

XLV (4) The officers and servants of the Council appointed under this section shall be of deemed to be public servants within the meaning of section 21 of the Indian Penal 1860. Code.

### CHAPTER III

#### PREPARATION AND MAINTENANCE OF REGISTER.

16. (1) As soon as may be after the appointed day, the Registrar shall prepare and maintain thereafter a register of medical practitioners for the State, in accordance with the provisions of this Act. Preparation of register.

(2) The register shall be in such form, and may be divided into such parts, as may be prescribed. The register shall include the full name, address, and qualifications of the registered practitioner, the date on which each qualification was obtained, and such other particulars as may be prescribed.

CII of 1956. (3) Any person who possesses any of the qualifications specified in the Schedule to this Act or in the First, Second or Third Schedule to the Indian Medical Council Act, 1956, shall, subject to any conditions laid down by or under the Indian Medical Council Act, 1956, at any time on an application made in the prescribed form to the Registrar and on payment of <sup>1</sup>[a fee of rupees one hundred and fifty] and on presentation of his degree, diploma, licence or certificate, be entitled to have his name entered in the register :

Provided, that the name of an applicant who is unable to present his degree, diploma, licence or certificate may be entered in the register, if he satisfies the President that he holds such degree, diploma, licence or certificate but cannot for sufficient cause present the same with his application.

(4) The name of every person—

Bom. VI of 1912. (a) who on the day immediately preceding the appointed day stands entered in the register duly kept under section 6 of the Bombay Medical Act, 1912, as in force in the Bombay area of the State ; or

C. P. and Berar I of 1916. (b) who, on or after the 1st November, 1956, being entered in the register duly kept under section 11 of the Central Provinces and Berar Medical Registration Act, 1916, as in force in the Vidarbha region of the State and stands entered on the day immediately preceding the appointed day,

shall be entered in the register prepared under this Act, without such person being required to make an application, or to pay any fee for this purpose.

C. P. Berar I of 1916. Hyd. I of 1348 Fasli. (5) (a) The name of every person who on the day immediately preceding the appointed day stands entered in the register duly kept under section 11 of the Central Provinces and Berar Medical Registration Act, 1916, as in force in the Vidarbha region of the State (other than that of any person already covered by paragraph (b) in the last preceding sub-section), or under section 10 of the Medical Registration Act, as in force in the Hyderabad area of the State, shall, subject to the provisions of clause (b), be entered in the register prepared under this Act, without such person being required to make an application or to pay any fee for this purpose.

(b) Notwithstanding anything contained in clause (a), within a period of three months from the appointed day or such further period as the State Government

<sup>1</sup> These words were substituted for the words "a fee of rupees fifty" by Mah. 12 of 1984, s. 2.

may allow, the Registrar shall publish a general notice in the *Official Gazette* and in such newspapers as the Council may select, in such form as may be prescribed, and send individual notice by registered post to every such person at his last known address in such form as may be prescribed, calling upon every such person to pay to the Registrar in the prescribed manner a fee of rupees two if he desires to continue his name on the register under this Act. The name of every such person who pays such fee before the expiry of the period of two months from the date of publication of the general notice in the *Official Gazette* shall be continued on the register, without such person being required to make an application or to pay any other fee for this purpose. If such fee is not paid within time, the Registrar shall remove the name of the defaulter from the register :

Provided that, if any application for continuance of the name so removed is made to the Registrar within a period of six months from the last date on which such fee should have been paid, the name so removed may be re-entered in the register on payment of a fee of five rupees.

(6) After the last date for payment of the fee of rupees two under clause (b) of the last preceding sub-section has expired and the register prepared in accordance with the foregoing provisions is ready, the Registrar shall publish a notice in the *Official Gazette* and such newspapers as the Council may select, about the register having been prepared, and the register shall come into force from the date of the publication of such notice in the *Official Gazette*.

(7) Every registered practitioner shall be given a certificate of registration in the prescribed form. The registered practitioner shall display the certificate of registration in a conspicuous part in the place of his practice and if he has more than one such place in any one of them.

Special procedure for registration in certain cases. 17. (1) No person who possesses a medical qualification granted by any authority in any place outside the territory of India (other than the qualifications specified in the Second Schedule or Part II of the Third Schedule to the Indian Medical Council Act, 1956), shall be registered under this Act, unless the procedure specified in sub-section (2) has been followed. CII of 1956.

(2) Any person who holds any such medical qualification may apply to the Council for registration by giving a correct description of his qualification, with the dates on which they were granted, and by presentation of his degree, diploma, licence or certificate. If the Council is satisfied that the degree, diploma, licence or certificate held by the applicant is such as to secure the possession by the applicant of the requisite knowledge and skill for efficient practice as a medical practitioner, the Council may, with the previous approval of the Executive Committee of the Medical Council of India constituted under the Indian Medical Council Act, 1956 and on payment of [a fee of rupees one hundred and fifty] enter his name in the register if the applicant is a citizen of India, and if the applicant is not such a citizen enter his name in the register, subject to such conditions as the Council may deem fit to impose. CII of 1956.

Persons who may not be registered. 18. Notwithstanding anything contained in sections 16 and 17, no person, whose name has been removed from any register kept under this Act or any other law for the time being in force in India regulating the registration of medical practitioners on the ground of professional misconduct, shall be entitled to have his name entered in the register, unless his name is duly ordered to be restored to the register from which it was so removed.

1 These words were substituted for the words "a fee of fifty rupees" by Mah. 12 of 1984, s. 3.



CII of  
1956.

19. (1) Any person who desires to be registered provisionally under section 25 of the Indian Medical Council Act, 1956, shall make an application in the prescribed form to the Registrar and shall pay <sup>1</sup>[a fee of rupees ten.]

Fee for and  
certificate of  
provisional  
registration.

(2) Every person whose name is entered in the register under sub-section (1) shall be given a certificate of provisional registration in the prescribed form. Such certificate shall remain in force for such period as may be specified therein.

20. (1) It shall be the duty of the Registrar to make entries in the register, from time to time, to revise the same and to issue certificates of registration in accordance with the provisions of this Act and the rules made thereunder.

Maintenance  
of register.

(2) The names of registered practitioners who die or whose names are directed to be removed from the register under section 22, shall be removed therefrom.

(3) Any person whose name is entered in the register and who subsequent to his registration desires to record in the register any change in his name, shall on an application made in this behalf and on payment of the prescribed fee be entitled to have such change in his name recorded in the register.

CII of  
1956.

(4) Subject to the provisions of section 26 of the Indian Medical Council Act, 1956, any person whose name is entered in the register and who subsequent to his registration obtains any additional qualification specified in the Schedule to this

CII of  
1956.

Act or in any of the Schedules to the Indian Medical Council Act, 1956, shall on an application made in this behalf, and on payment of the prescribed fee, be entitled to have an entry stating such additional qualification made against his name in the register.

<sup>2</sup>[(5) The Registrar may, on an application made in that behalf and on payment of the prescribed fee, issue a duplicate certificate.]

21. (1) At such time after the publication of the notice under sub-section (6) of section 16 as the Council deems fit, and thereafter every five years, the Registrar shall cause to be printed and published a correct list of all persons for the time being entered in the register.

Publication  
of list of  
registered  
practitioners.

(2) The Registrar shall cause to be printed and published annually on or before a date to be decided by the Executive Committee, an addendum and a corrigendum to the list published under sub-section (1) showing—

(a) the names of all persons for the time being entered or re-entered in the register, and not included in any subsisting list already printed and published ;

(b) the names of all practitioners included in any subsisting list, whose names have since been removed on account of any reason whatsoever from, and not re-entered in, the register ; and

(c) any other amendments to the subsisting list.

(3) The form of the list published under sub-section (1), the particulars to be included therein, and the manner of its publication, shall be such as may be prescribed.

1 These words were substituted for the words "a fee of five rupees" by Mah. 12 of 1984, s. 4.

2 Sub-section (5) was substituted by Mah. 30 of 1967, s. 4.

(4) A copy of the list referred to in sub-section (1) shall be evidence in all Courts, and in all judicial or quasi-judicial proceedings, that the persons therein specified are registered according to the provisions of this Act, and the absence of the name of any person from such copy shall be evidence, until the contrary is proved, that such person is not registered according to the provisions of this Act :

Provided that, in the case of any person whose name does not appear in such copy, a certified copy under the hand of the Registrar of the entry of the name of such person on the register shall be evidence that such person is registered under the provisions of this Act.

Removal of names from the register.

22. (1) If a registered practitioner has been, after due inquiry held by the Council (or by the Executive Committee) in the prescribed manner, found guilty of any misconduct by the Council, the Council may—

(a) issue a letter of warning to such practitioner, or

(b) direct the name of such practitioner—

(i) to be removed from the register for such period as may be specified in the direction, or

(ii) to be removed from the register permanently.

*Explanation.*—For the purposes of this section, “misconduct” shall mean—

(i) the conviction of a registered practitioner by a criminal court for an offence which involves moral turpitude, and which is cognizable within the meaning of [the Code of Criminal Procedure, 1973] ; or

II of 1974.

(ii) the conviction under the Army Act, 1950, of a registered practitioner subject to military law for an offence which is cognizable within the meaning of [the Code of Criminal Procedure, 1973] ; or

XLVI of 1950.  
II of 1974.

(iii) any conduct which, in the opinion of the Council, is infamous in relation to the medical profession particularly under any Code of Ethics prescribed by the Council or by the Medical Council of India constituted under the Indian Medical Council Act, 1956, in this behalf.

CII of 1956.

(2) If the name of any such practitioner is also entered in—

(a) the register or the list maintained under the Maharashtra Medical Practitioners Act, 1961 ; or

Mah. XXV-III of 1961.  
Bom. XII of 1960.

(b) the register or the list maintained under the Bombay Homoeopathic and Biochemic Practitioners' Act, 1959 ;

it shall be the duty of the Registrar to give intimation of such removal to the authority entitled to maintain the said register or the said list.

(3) If the name of a registered practitioner is also entered in the register or the list, as the case may be, maintained under any of the laws referred to in sub-section (2) and it is removed from the said register or the said list, the Council shall if such removal comes or it brought to its notice, also remove the name of such registered practitioner from the register under this Act.

1 These words and figures were substituted for the words and figures “the code of Criminal Procedure 1898” by Mah. 12 of 1984, s. 5.

(4) The Council may, on sufficient cause being shown, direct at any subsequent date that the name of a practitioner removed under sub-section (1) or (3) shall be re-entered in the register on such conditions, and on payment of such fee, as may be prescribed.

(5) The Council may, of its own motion, or on the application of any person, after due and proper inquiry and after giving an opportunity to the person concerned of being heard, cancel or alter any entry in the register if, in the opinion of the Council, such entry was fraudulently or incorrectly made.

(6) In holding any inquiry under this section, the Council or the Executive Committee, as the case may be, shall have the same powers as are vested in Civil Courts under the Code of Civil Procedure, 1908. when trying a suit, in respect of the following matters, namely :—

- (a) enforcing the attendance of any person, and examining him on oath ;
- (b) compelling the production of documents ;
- (c) issuing of commissions for the examination of witnesses.

XLV of 1908. (7) All inquiries under this section shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

(8) (a) For the purpose of advising the Council or the Executive Committee, as the case may be, on any question of law arising in any inquiry under this section, there may in all such inquiries be an assessor, who has been for not less than ten years—

- XXV of 1961. (i) an advocate enrolled under the Advocates Act, 1961 ; or
- (ii) an attorney of a High Court.

XXV of 1926. *Explanation.*—For the purposes of this clause, in computing the period during which a person has been enrolled as an Advocate, there shall be included any period during which he was enrolled as an Advocate under the Indian Bar Councils Act, 1926.

(b) Where an assessor advises the Council, or the Executive Committee, on any question of law as to evidence, procedure or any other matter, he shall do so in the presence of every party or person representing a party, to the inquiry who appears thereat or if the advice is tendered after the Council or the Executive Committee has begun to deliberate as to its findings, every such party or person as aforesaid shall be informed what advice the assessor has tendered. Such party or person shall also be informed if in any case the Council or the Executive Committee does not accept the advice of the assessor on any such question as aforesaid.

(c) Any assessor under this section may be appointed either generally, or for any particular inquiries or class of inquiries, and shall be paid the prescribed remuneration.

23. Notwithstanding anything contained in sections 16 and 21,—

(a) on such date after the date of publication of the notice under sub-section (6) of section 16, as the Executive Committee may with the previous sanction of the State Government decide, and every five years thereafter, the Registrar shall cause two notices in the prescribed form to be published, at an interval of not less than thirty days, in the *Official Gazette* calling upon in the manner provided in clause (b) all registered practitioners to make an application to the Registrar for the continuance of their names on the register ;

Renewal of registration.

(b) the Registrar shall, after the publication of the first notice under clause (a), send a notice by registered post enclosing therewith the prescribed form of application to the registered practitioners at their address as entered in the register, calling upon them to return the application to the Registrar for the continuance of their names on the register within forty-five days of the date of the notice, <sup>1</sup>[together with a fee of rupees ten]. If any of the registered practitioners fails to return such application within the time specified, the Registrar shall issue a further notice to such registered practitioner by registered post after the publication of the second notice under clause (a) enclosing therewith the prescribed form of application calling upon him to return the application to the Registrar for the continuance of his name on the register within thirty days of the date of the further notice, together with <sup>2</sup>[a fee of rupees fifteen:]

(c) if the application is not made on or before the date fixed by the further notice sent by registered post under clause (b), the Registrar shall remove the name of the defaulter from the register and shall inform him of such removal by registered post :

Provided that, if an application for continuance of the name so removed is made within a period of six months from the date fixed by the said notice sent by registered post under clause (b), the name so removed may be re-entered in the register on payment of <sup>3</sup>[a fee of rupees fifty].

Appals. 24. (1) Any person aggrieved by any decision of the Registrar under this Act may, within a period of one month from the date on which the decision is communicated to him, appeal to the Council, which shall hear and determine the appeal in the prescribed manner.

(2) Save as otherwise provided in the Indian Medical Council Act, 1956, every decision of the Council under this Act shall be final. CII of 1956.

Rights of registered practitioners. 25. Notwithstanding anything contained in any law for the time being in force—

(i) the expression "legally qualified medical practitioner" or "duly qualified medical practitioner" or any word imposing a person recognised by law as a medical practitioner or member of the medical profession shall, in all Acts of the State Legislature and in all Central Acts (in their application to the State) in so far as such Acts relate to any matters specified in List II or List III in the Seventh Schedule to the Constitution of India, include a practitioner whose name is entered in the register under this Act :

(ii) every registered practitioner shall be exempt, if he so desires, from serving on an inquest. <sup>4</sup>[under the Code of Criminal Procedure, 1973]. II of 1974.

General provisions applicable to all medical practitioners. 26. The provisions of this Act are in addition to, and not in derogation of, the provisions of the Indian Medical Council Act, 1956, and of Chapter VI of the Maharashtra Medical Practitioners Act, 1961, containing general provisions applicable to all medical practitioners. CII of 1956. Mah. XXV-III of 1961.

<sup>1</sup> These words were inserted by Mah. 12 of 1984, s. 6(a); (a).

<sup>2</sup> These words were substituted for the words, "a fee of rupees two" *ibid.*, s. 6(a), (b).

<sup>3</sup> These words were substituted for the words "a fee of rupees five" *ibid.*, s. 6(b)).

<sup>4</sup> These words and figures were substituted for the words, "or as a juror under the code of Criminal procedure, 1973," *ibid.*, s. 7.

## CHAPTER IV

## MISCELLANEOUS.

27. The Council shall have authority to call on the governing body or authorities of any Medical College or School and on any examining body included in or desirous of being included in the Schedule—

Council authorised to call for information and attend examinations.

(a) to furnish such particulars as the Council shall require of any course of study prescribed or examination held by such body or authority or in such School or College with reference to the grant of any medical or surgical qualification, and

(b) to permit such person or persons as is or are, in the opinion of the Council, specially qualified for the purpose, to attend and be present at any such examination.

28. (1) If it shall appear to the State Government, on the report of the Council or otherwise, that the course of study and examination prescribed by any University, College, body or institution, conferring a degree, diploma, licence or certificate or any other like award, not entered in the Schedule to this Act or in any of the Schedules to the Indian Medical Council Act, 1956, is such as to secure the possession by persons obtaining such degree, diploma, licence, certificate or award of the requisite knowledge and skill for the efficient practice of their profession as medical practitioners, it shall be lawful for the State Government from time to time by notification in the *Official Gazette*, to amend the Schedule and to direct the inclusion therein of any such qualification, subject to such conditions (if any), as may be specified in respect of that qualification.

Amendment of Schedule.

CII of 1956.

(2) If at any time it appears to the State Government, on the report of the Council or otherwise, that the course of study or the examinations prescribed by any University, College, body or institution, for any degree, diploma licence, certificate or award, which is included in the Schedule to this Act are not such as to secure the possession by persons obtaining such qualification of the requisite knowledge and skill for the efficient practice of their profession, as medical practitioners or to secure the maintenance of an adequate standard of proficiency for such practice, it shall be lawful for the State Government from time to time to direct the removal of any such qualification from the said Schedule or to impose such further conditions therefor as it deems fit :

Provided that, no notification for amendment of the Schedule under sub-section (1) or sub-section (2) shall be issued by the State Government, without consulting the Council :

Provided further that, before making any recommendation to the State Government under this section to remove any degree, diploma, licence, certificate or award from the Schedule, the Council shall require the University, College, body or institution to take such steps as may be directed by the Council, and within such reasonable time as the Council may prescribe, to bring the course of study or examination for such degree, diploma, licence, certificate or award, to the required standard.

29. If any person whose name is not for the time being entered in the register falsely represents that it is so entered, or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, he shall, on conviction, be punished with fine which may extend to five hundred rupees.

Penalty for falsely claiming to be registered.

Rules. 30. (1) The State Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) under section 3, the time, place and manner of holding elections of members, the President and the Vice-President ;

(b) under section 8, the manner of convening, holding and conducting meetings of the Council ;

(c) under section 10, the other powers, duties and functions of the Council ;

(d) under section 11, the number of members of the Executive Committee, their term of office, the manner of filling casual vacancies, the procedure to be followed and the other powers, duties and functions of that Committee ;

(e) under section 12, the fees and allowances to members ;

(f) under section 14, the salary, allowances and other conditions of service of the Registrar, the manner of keeping accounts and the supervisory powers and other duties and functions of the Registrar ;

(g) under section 15, the other conditions of service of the staff of the Council ;

(h) under section 16, the form of register, the parts into which it shall be divided and the other particulars it shall include, the forms of application and of general and individual notices, the manner of paying fee of rupees two, the form of certificate of registration ;

(i) under section 19, the form of application for provisional registration and of certificate for such registration ;

(j) under section 20, the fee for recording change of name or additional qualification in the register or for issue of duplicate certificate of registration ;

(k) under section 21, the form of list of registered practitioners, the particulars to be included and the manner of its publication ;

(l) under section 22, the manner of holding inquiries and the conditions and fee payable for re-entering a name in the register and the remuneration to be paid to an assessor ;

(m) under section 23, the forms of notices and of application for continuance of names on the register ;

(n) under section 24, the manner of hearing and determining appeal by the Council ;

(o) any reasonable fees which may be levied by the Council in addition to those expressly provided for in this Act ;

(p) any other matter which is to be or may be prescribed under this Act ;

(q) the furtherance of any of the objects of this Act.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall from the date

of publication of a notification in the *Official Gazette*, of such decision have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

31. (1) If at any time it appears to the State Government that the Council or its President or Vice-President has failed to exercise or has exceeded or abused any of the powers conferred upon it or him by or under this Act, or has ceased to function, or has become incapable of functioning, the State Government may, if it considers such failure, excess, abuse or incapacity to be of a serious character, notify the particulars thereof to the Council or the President or the Vice-President, as the case may be. If the Council or the President or the Vice-President fails to remedy such failure, excess, abuse or incapacity within such reasonable time as the State Government may fix in this behalf, the State Government may remove the President, or Vice-President or dissolve the Council, as the case may be, and in case of dissolution of the Council cause all or any of the powers, duties and functions of the Council to be exercised, performed and discharged by such persons and for such period not exceeding two years, as it may think fit, and shall take steps to constitute a new Council.

Control of  
State  
Government.

(2) Notwithstanding anything contained in this Act, or in the rules made thereunder, if at any time it appears to the State Government that the Council or any other authority empowered to exercise any of the powers or to perform any of the duties or functions under this Act, has not been validly constituted or appointed, the State Government may cause any of such powers, duties or functions to be exercised or performed by such persons, in such manner and for such period not exceeding six months and subject to such conditions, as it thinks fit.

## CHAPTER V

### REPEAL AND TRANSITIONAL PROVISIONS

32. (1) Subject to the provisions of this Chapter, on the appointed day,— Repeal and  
saving.

(a) the Bombay Medical Act, 1912, in its application to the Bombay area of the State ;

(b) the Central Provinces and Berar Medical Registration Act, 1916, in its application to the Vidarbha region of the State ; and

(c) the Medical Registration Act, in its application to the Hyderabad area of the State,

shall stand repealed.

(2) Unless the State Government otherwise directs, any rule or regulation made under any of the Acts repealed by sub-section (1) shall from the appointed day cease to be in force.

(3) The registers kept or maintained or deemed to be kept or maintained under the Acts so repealed which are in force immediately before the appointed day, shall be deemed to be the registers prepared under this Act, until the register prepared under section 16 comes into force under sub-section (6) thereof.

Bom.  
VI of  
1912.

C. P.  
and  
Berar  
I of  
1916.

Hyd. I  
of  
1348  
Fasli.

(4) Anything done or any action taken (including any appointment or application made, notification, order or direction issued or fee levied or certificate or notice given) under any of the Acts so repealed and subsisting immediately before the appointed day shall, in so far as it is not inconsistent with the provisions of this Act, and unless the State Government otherwise directs, be deemed to have been made, issued, levied or given under the relevant provisions of this Act, and be in force accordingly, unless and until superseded by anything done or any action taken under this Act.

Dissolution  
of Councils  
constituted  
under the  
repealed  
Acts and  
constitution  
of new  
Council.

33. (1) With effect from the appointed day—

(a) the Medical Council constituted under sub-section (2A) of section 2A of the Bombay Medical Act, 1912, in its application to the Bombay area of the State; and

(b) the Vidarbha Medical Council constituted under section 5 of the Central Provinces and Berar Medical Registration Act, 1916, read with the Madhya Pradesh Statutory Bodies (Regional Constitution) Act, 1956.

Bom.  
VI of  
1912.

C. P.  
and  
Berar  
I of  
1916.  
M. P.  
XVII  
of  
1956.

shall be dissolved and all the members of the aforesaid Councils shall vacate office.

(2) Notwithstanding anything contained in section 3, the State Government shall on the appointed day, by a notification in the *Official Gazette*, constitute a Council in the manner specified in sub-section (3) of section 3 :

Provided that, the members to be elected under clause (b), (c) and (d) of that sub-section shall also be nominated by the State Government from among the persons qualified to be elected under the relevant clause of that sub-section.

(3) The President and the Vice-President of the Council constituted under sub-section (2) shall, notwithstanding anything contained in sub-section (4) of section 3, be nominated by the State Government.

(4) The Council constituted under this section shall be deemed to be a Council constituted under section 3 and the President, the Vice-President and the members of the Council shall, notwithstanding anything contained in section 4, hold office for a period of three years from the date of publication of the notification under sub-section (2) or till a Council is duly constituted in accordance with the provisions of section 3, whichever is earlier :

Provided that, the period of three years may be extended by the State Government by a further period not exceeding one year at a time, and two years in the aggregate.

(5) If a vacancy previous to the expiry of the term occurs in the office of the President, the Vice-President or a member of the Council constituted under sub-section (2) by reason of death, resignation, removal, disqualification or disability of such President, Vice-President or member or due to any other reason, the vacancy shall be filled by the State Government by nomination of any other person qualified to fill the vacancy under the relevant clause of sub-section (3) of section 3, and the person so nominated shall hold office for the unexpired portion of the term of the member in whose place he is nominated.



## 34. (1) The Registrars appointed under—

Provision  
regarding  
Registrars.

(a) section 5 of the Bombay Medical Act, 1912; and

(b) section 10 of the Central Provinces and Berar Medical Registration Act, 1916, read with the Madhya Pradesh Statutory Bodies (Regional Constitution) Act, 1956;

Bom.  
VI of  
1912.C. P.  
and  
Berar  
I of  
1916.  
M. P.  
XVII  
of  
1956.

and holding office immediately before the appointed day shall cease to hold office on that day.

(2) The State Government shall, notwithstanding anything contained in sub-section (1) of section 14, on the appointed day appoint the Registrar on such terms and conditions as the State Government may determine :

Provided that, nothing contained in this section shall affect the powers of the Council to fill the subsequent vacancies of Registrar under sub-section (1) of section 14.

(3) Any Registrar who ceases to hold office under sub-section (1) and who is not appointed as Registrar under sub-section (2) shall be entitled to receive from the Council such provident fund and gratuity or other retirement benefits as he would have been entitled to receive, if he had retired from the service of the respective dissolved Council and such additional benefits (if any), as the Council may, with the previous approval of the State Government sanction :

Provided that, if no provision for payment of any provident fund, gratuity or any other retirement benefit, was made by or under the relevant Act repealed by sub-section (1) of section 32, such Registrar shall be entitled to receive from the Council such reasonable amount by way of compensation as the Council may with the previous approval of the State Government determine.

35. Save as otherwise provided by or under this Act and unless there is anything repugnant in the subject or the context—

Vesting of  
rights, duties,  
etc.

(1) all rights of the Medical Councils dissolved under section 33 (herein after in this section referred to as "the dissolved Councils") shall on the appointed day vest in the Council constituted under section 33 (hereinafter in this section referred to as "the Council"),

(2) all the property moveable or immovable which on the day immediately preceding the appointed day vested in the dissolved Councils shall subject to all limitations and conditions as were in force on the day immediately preceding the appointed day vest in the Council,

(3) all sums due to a dissolved Council on any account, shall be recoverable by the Council which shall be competent to take any measure or institute any proceedings which it would have been open to the dissolved Council to take or institute if this Act had not come into operation,

(4) all debts, liabilities and obligations incurred by or on behalf of a dissolved Council, immediately before the appointed day and subsisting on the said day, shall be deemed to have been incurred by the Council in exercise of the powers conferred on it by this Act and shall continue in operation accordingly,

(5) all proceedings and matters pending before any authority or officer immediately before the appointed day under any of the Acts repealed under section 32 shall be deemed to be transferred to and continued before the corresponding authority under this Act, competent to entertain such proceedings and matters,

(6) all prosecutions instituted by or on behalf of or against a dissolved Council and all suits and other legal proceedings instituted by or on behalf of or against any dissolved Council or any officer of such Council on behalf of the dissolved Council, pending on the appointed day, shall be continued by or against the Council,

(7) all officers and servants other than the Registrar of the Medical Council dissolved under clause (a) of sub-section (1) of section 33 and officers and servants other than the Registrar of the Vidarbha Medical Council dissolved under clause (b) of sub-section (1) of section 33 holding office immediately before the appointed day shall be deemed to be the officers and servants appointed to serve the Council and shall, until provision is otherwise made in accordance with the provisions of this Act, receive salaries and allowances and be subject to the conditions of service or retirement benefits to which they were entitled to or subject to on the day immediately preceding the appointed day :

Provided that, the service rendered by such officers and servants before the appointed day shall be deemed to be service rendered under the Council :

Provided further that, nothing in this clause shall be deemed to prevent the Council, after the appointed day, from passing in relation to any such officer or servant any order terminating his service on payment of such reasonable amount by way of compensation as it may, with the previous approval of the State Government, determine.

Power to remove difficulties. 36. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion requires but not later than two years from the appointed day, by order do anything which appears to it necessary or expedient for the purpose of removing the difficulty.

## THE SCHEDULE

[Sections 16 (3), 27 and 28]

*The qualifications in addition to those specified in the Schedules to the Indian Medical Council Act, 1965, the possession of which entitles a person for registration under this Act.*

1. Fellowship of the College of Physicians and Surgeons, Bombay, in Medicine, Pathology, Surgery or Dermatology granted before the 1st April 1954.
2. Fellowship of the College of Physicians and Surgeons, Bombay, in any subject other than Medicine, Pathology, Surgery or Dermatology.

3. Member of the College of Physicians and Surgeons, Bombay (admitted before the 30th April 1944).
4. Ayurvediya Visharad of the Tilak Maharashtra Vidyapeeth of Poona, during the years 1921 to 1935 (both inclusive).
5. Fellow and Member of the State Medical Faculty of Bengal prior to the 15th August 1947.
6. Fellow of the State Medical Faculty of West Bengal on or after 15th August 1947.
7. Fellow and Member of the State Medical Faculty, Punjab.
8. Diploma in Allopathy (1) of the National Medical College or the National College of Physicians and Surgeons of India, Calcutta, (2) of the College of Physicians and Surgeons of Calcutta, and (3) of the International College of Physicians and Surgeons of India, Calcutta, during the years 1912 to 1916 (both inclusive).
9. Licensed Medical Practitioner of the University of Mysore.
10. Any person trained in a Government Medical College or School in India who holds a diploma or certificate granted by any Government in India directing him to be qualified to practise Medicine, Surgery and Midwifery or to be qualified for the duties of a Military Assistant Surgeon, Hospital Assistant or Sub-Assistant Surgeon.
11. A diploma or certificate of having passed the Medical and Health Assistants Course granted by—
  - (a) the Madhya Pradesh Medical Examination Board, or
  - (b) the Vidarbha Medical Examination Board.
12. A diploma in Medical Practice granted by the Vidarbha Medical Examination Board.
13. Bachelor of Medicine and Bachelor of Surgery of the Marathwada University.
14. Diploma in Medicine and Surgery ["D.M.S. (Madras)"] of the Stanley Medical College, Madras.
15. Bachelor of Medicine and Bachelor of Surgery of the Shivaji University].

1 Entry 15 was added by GN UD, P.H. and HD No. MMC/1067/57304/H, dated 27th October 1967.