

## **Bihar Development Of Ayurvedic And Unani System Of Medicine Act, 1951**

**31 of 1951**

### CONTENTS

#### **CHAPTER 1 :- PRELIMINARY**

1. Short title, extent and commencement
2. Definitions

#### **CHAPTER 2 :-CONSTITUTION OF THE COUNCIL AND ESTABLISHMENT OF THE FACULTY**

3. Constitution of the Council
4. Term of office of Members
5. XXX XXX XXX
6. Eligibility of Members
7. Publication of names of President and Members
8. Removal of President and Members from office
9. Resignation of President or Members
10. Casual vacancies
11. Eligibility of Members for re-election
12. Validity of proceedings
13. Allowance of Members
14. Quorum for a meeting of the Council
15. President of members
16. Meeting of the Council
17. Establishment of Faculty
18. Establishment of Advisory Committees

#### **CHAPTER 3 :- OFFICERS AND SERVANTS OF THE COUNCIL**

19. Registrar and other officers and servants of the Council
20. Powers and duties of Registrar and other officers and servants of the Council

#### **CHAPTER 4 :-REGISTRATION OF VAIDYAS, HAKIMS, SURGEONS AND MIDWIVES**

21. Maintenance of registers
22. Persons entitled to be registered
23. Amendment of Schedule
24. Arrangements for modifying Schedule for setting of a Scheme of reciprocity of medical qualifications in other States

25. Power to call for information from medical institutions
26. Information to be furnished by persons who apply to have their names entered in the register
27. Registrar to keep the register correct and up-to-date
28. Report of deaths to the Registrar and removal of names from register
29. Prohibition of entry in, or removal from, the register
30. Procedure in inquiries and appeals
31. Publication of names entered in the register
32. Penalty on unregistered person representing that he is registered
33. Examination before registration
34. Exemption from serving on inquest or as a juror or assessor
35. Privileges of registered practitioners
36. Right of registered practitioners to hold certain appointments and to grant or authenticate certificates

## **CHAPTER 5 :- OTHER POWERS OF THE COUNCIL**

37. Power of the Council to establish educational institutions, prescribe courses of study, etc

## **CHAPTER 6 :-LIST OF PERSONS PRACTISING THE AYURVEDIC AND UNANI SYSTEMS OF MEDICINE OTHER THAN REGISTERED PRACTITIONERS**

38. Power of the State Government to enforce the provisions of the Chapter
39. List of practitioners
40. Section 39 not to apply to certain persons

## **CHAPTER 7 :- CONTROL OF THE STATE GOVERNMENT**

41. Power of inspection by the State Government
42. Power to supersede the Council

## **CHAPTER 8 :- THE COUNCIL FUND**

43. Council Fund
44. Allotment of funds by the State Government
45. Objects to which Council Funds may be applied
46. Audit

## **CHAPTER 9 :- MISCELLANEOUS**

47. Appeals to State Government from decision of Council
48. Bar to suits and other legal proceedings
49. Mode of proof of Councils records
50. Restriction on the summoning of Councils servants to produce documents
51. Cognizance of offences
52. Conferring, granting or issuing diploma, licence etc., by

unauthorised person or institution

53. False assumption of degree, diploma or certificate to be an offence

54. Power to make regulations

55. Power to make Rules

56. Repeal of Act 7, of 1916 and Bihar Act 20, of 1949 in so far as they relate to the Ayurvedic and Unani systems of medicine

## **SCHEDULE 1 :- SCHEDULE**

### **Bihar Development Of Ayurvedic And Unani System Of Medicine Act, 1951**

**31 of 1951**

#### **PREAMBLE**

An Act to provide for the development of the Ayurvedic and Unani systems of the medicine, to regulate their teaching and practice and to control the sale of indigenous medicinal herbs and drugs in the State of Bihar.

Whereas it is expedient to provide for the development of the Ayurvedic and Unani systems of medicine, to regulate their teaching and practice, and to control the sale of indigenous medicinal herbs and drugs in the State of Bihar. It is hereby enacted as follows :-

1. Published in Bihar Gazette, Extra-ordinary of the 19th January, 1951.

#### **CHAPTER 1 PRELIMINARY**

##### **1. Short title, extent and commencement :-**

(1) This Act may be called the Bihar Development of Ayurvedic & Unani Systems of Medicine Act, 1951.

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

(3) It shall come into force on such date<sup>1</sup> or dates as the State Government may, by notification, appoint, and different dates may be appointed for different provisions of this Act.

1. The provisions of this Act except those contained in Chapters V and VI, came into force on the 18th January, 1952 vide notification no. 371-L.S.G., dated the 17th January, 1952.

##### **2. Definitions :-**

In this Act, unless there is anything repugnant in the subject or

context,-

- (a) "Chairman" means the Chairman of the Faculty;
- (b) "Council" means the Bihar State Council of Ayurvedic and Unani Medicines constituted under Section 3;
- (c) "Faculty" means the State Faculty of Ayurvedic and Unani Medicines established under Section 17;
- (d) "Hakim" means a practitioner of the Unani /Tibbi system of Medicine;
- (e) "Member" means a member of the Council or of the Faculty, as the case may be;
- (f) "midwife" means one who holds a diploma or certificate in midwifery from an institution affiliated to, or recognised by, the Faculty;
- (g) "Ordinance" means an ordinance made by the Faculty under Section 17;
- (h) "practitioner" means a person who practises for profit or gain the Ayurvedic or Unani system of medicine in the State of Bihar;
- (i) "prescribed" means prescribed by Rules made by the State Government under this Act;
- (j) "President" means the President of the Council;
- ( k ) "recognised Ayurvedic and Tibbi Colleges" means the Government Ayurvedic and Tibbi at Patna and include such Ayurvedic or Tibbi College in the State of Bihar as may from time to time be recognized by the Faculty under this Act;
- (l) "register" means the register of vaidyas and hakims, surgeons and midwives maintained under Section 21;
- (m) "registered practitioner" means a practitioner whose name is for the time being entered in the register;
- (n) "Registrar" means the Registrar appointed under sub-section (1) of Section 19;
- (o) "regulation" means a regulation made by the Council under Section 54;
- (p) "surgeon" means a vaidya or hakim who holds a diploma of surgery from an institution affiliated to, or recognised by, the Faculty; and
- (q) "vaidya" means a practitioner of the Ayurvedic system of Medicine.

## **CHAPTER 2**      CONSTITUTION      OF      THE      COUNCIL AND ESTABLISHMENT OF THE FACULTY

### **3. Constitution of the Council :-**

- (1) The State Government shall by notification constitute a Council to be called the State Council of Ayurvedic and Unani Medicines consisting of a President and the following members :-
- (a) four members to be nominated by the State Government, of whom one shall be a woman;
  - (b) three members to be elected by the Bihar Legislative Assembly from amongst its members by means of a single transferable vote;
  - (c) one member to be elected in the prescribed manner by the Bihar Legislative Council from amongst its members;
  - (d) member to be elected in the prescribed manner by the Syndicate of the Patna University from amongst its members;
  - (e) one member, who shall be a vaidya, to be elected in the prescribed manner by the council of the Bihar Sanskrit Association from amongst its members;
  - (f) one member to be elected in the prescribed manner by the Provincial Vaidya Sammelan from amongst its members;
  - (g) one member to be elected in the prescribed manner by the Bihar Local Bodies Association from amongst its members;
  - (h) two members to be elected in the prescribed manner by the teachers of the Ayurvedic institution affiliated to the Faculty from amongst themselves;
  - (i) one member to be elected in the prescribed manner by the Tibbi institutions affiliated to the Faculty from amongst themselves;
  - (j) two hakims to be elected in the prescribed manner from amongst the registered practitioners;
  - (k) four vaidyas to be elected in the prescribed manner from amongst the registered practitioners;
  - (l) one member to be elected in the prescribed manner by the Anjuman Attiba Subai, Bihar from among its members;
  - (m) Principals of the recognised Ayurvedic and Tibbi Colleges in the State;
  - (n) the principal of the Dharma Samaj Sanskrit College, Muzaffarpur: Provided that for the first Council, the members representing the electorates specified in clauses (b) to (l) of sub-section (1) shall be nominated by the State Government from amongst such persons as are, or as are in the opinion of the State Government qualified to be, members of such electorates.
- (2) The President of the Council shall be an official to be nominated by the State Government.
- (3) The Council shall elect one of its members to be the Vice-President whose term of office shall be for one year.
- (4) The Council shall be a body corporate and shall have perpetual

succession and a common seal with power to acquire and hold property, both movable and immovable, and to transfer any such property subject to the prescribed conditions and shall, by the name mentioned in sub-section (1), sue or be sued.

#### **4. Term of office of Members :-**

(1) The term of office of Members of the first Council shall, save as otherwise provided in this Act, be three years from the date of publication of their names in the Official Gazette under Section 7 and shall include any further period which may elapse between the expiration of the said three years and the date of the first meeting of the second Council at which a quorum is present,

(2) The term of office of Members of the second and every subsequent Council shall, save as otherwise provided in this Act, be five years from the date of publication of their names in Official Gazette under Section 7 and shall include any further period which may elapse between the expiration of the said five years and the date of the first meeting of the next succeeding Council at which a quorum is present:

Provided that Members elected by the electorates specified in clauses (b) to (1) of sub-section (1) of Section 3 shall cease to be members of the Council as soon as they cease to be members to those electorates.

#### **5. XXX XXX XXX :-**

XXX XXX XXX

#### **6. Eligibility of Members :-**

No person shall be eligible for election or nomination as a member-

- (a) who is less than twenty-five years of age;
- (b) who is of unsound mind and stands so declared by a competent Court;
- (c) who is an employee of the Council;
- (d) who has applied for being adjudged an insolvent or is an undischarged insolvent;
- (e) who has been convicted of any offence under this Act;
- (f) who has been convicted of an offence involving moral turpitude which, in the opinion of the State Government, unfits him to hold office;
- (g) who has, on any previous occasion, been removed from office

under Section 8;

(h) whose name has been removed from the register;

(i) who has directly or indirectly any share or interest in any contract with, by, or on behalf, of the Council:

Provided that the State Government may in any particular case remove this disqualification.

## **7. Publication of names of President and Members :-**

The names of the President and of every Member nominated or elected under Sections 3, 6 or 10 shall be published by the State Government in the Official Gazette.

## **8. Removal of President and Members from office :-**

The Council may remove from office any Member who-

(a) absents himself without sufficient cause from three consecutive ordinary meetings of the Council;

(b) is or becomes subject to any of the disqualifications specified in Section 5;

(c) refuses to act or becomes incapable of acting; or

(d) being a legal practitioner, appears in any suit or proceeding, civil, criminal or revenue, against the Council:

Provided that before any Member is removed from office, the Council shall call for an explanation from him and record its findings.

(2) Any Member removed from office by the Council under sub-section (1) may, within thirty days from the date of his removal, appeal to the State Government and the order of the State Government on any such appeal shall be final.

(3) The State Government may remove the President from office on any of the grounds specified in sub-section (1), after calling for an explanation from him.

## **9. Resignation of President or Members :-**

(1) The President of the Council may at any time resign his office by a letter addressed to the State Government. Such resignation, when accepted, shall be published in the Official Gazette and shall take effect from the date notified therein.

(2) Any member may at any time resign his office by a letter addressed to the President. Such resignation shall take effect from the date on which it is accepted by the Council.

## **10. Casual vacancies :-**

If the President or any Member of the Council is unable by reason of his death, resignation, removal or otherwise to complete his full term of office, the vacancy so caused shall be filled by nomination or election, as the case may be, of another person within the prescribed period and the person so nominated or elected shall fill such vacancy for the unexpired portion of the term for which the member in whose place the person is nominated or elected would otherwise have continued in office:

Provided that, in the case of an elected member, if the vacancy is for a period of six months or less, the Council may direct that the vacancy be left unfilled till next general election.

## **11. Eligibility of Members for re-election :-**

A Member shall on the expiry of his term of office be eligible for recombination or re-election:

Provided that no person shall hold office as President of the Council for more than two consecutive terms.

## **12. Validity of proceedings :-**

No disqualification of, or defect in the election or nomination of, any acting as the President or a Member of the Council or as the Presiding Authority of a meeting shall be deemed to vitiate any act or proceedings of the Council in which such person has taken part, if the majority of persons who took part in such act or proceedings were duly qualified Members of the Council.

## **13. Allowance of Members :-**

(1) There shall be paid to the President and Members of the Council such traveling and other allowances as may be prescribed.

(2) No person shall receive any pay or special pay as a Member or President of the Council.

## **14. Quorum for a meeting of the Council :-**

It shall be necessary for the transaction of any business that not less than one-third of the total number of members of the Council for the time being shall be present:

Provided that in an adjourned meeting, all business postponed for want of quorum at the original meeting may be transacted, if not



less than three members attend such meeting.

**15. President of members :-**

The President, or in his absence the Vice President, shall preside at every meeting of the Council. In the absence of both, the Members present shall elect one from amongst themselves to preside at the meeting.

**16. Meeting of the Council :-**

The Council shall have an office at Patna and shall meet at such time and place, and every meeting of the Council shall be summoned in such manner, as may be provided by regulations :  
Provided that until regulations are made, it shall be lawful for the President to summon a meeting of the Council at such time and place as he may deem expedient by a letter addressed to each member on a clear notice of fifteen days.

**17. Establishment of Faculty :-**

(1) There shall be established by the Council for the purposes of this Act a State Faculty of Ayurvedic and Unani Medicines consisting of a Chairman and the following members, namely :-

- (a) All Principals of recognised Ayurvedic and Tibbi Colleges in the State of Bihar, ex-officio;
- (b) one teacher of Ayurveda to be elected in the prescribed manner by the Bihar Sanskrit Association from amongst the teachers of Ayurvedic institutions recognised by the said Association;
- (c) two practitioners who, in the opinion of the Council, are eminent physicians and of whom one is a vaidya and the other a hakim;
- (d) three persons to be elected in the prescribed manner by the Council from amongst such of its members as are not vaidyas or hakims.

(2) Subject to the provisions of this Act and the Rules and Regulations made thereunder, it shall be the duty of the Faculty-

- (a) to prescribe courses of study and curricula for general instruction, or special refresher course, in institutions affiliated to the Faculty in such branches of Medical Sciences as the Council may, by notification, determine;
- (b) to hold examinations and grant certificates to, and confer degrees or diplomas on, persons who shall have pursued a course of study in the institutions affiliated to the Faculty;

- (c) to appoint examiners and publish the results of the examinations held by it;
- (d) to recognise educational or instructional institutions of the Ayurvedic and Unani systems of Medicine for purposes of affiliation;
- (e) to exercise general supervision over the residential and disciplinary arrangements made by the educational institutions affiliated to the Faculty and to make arrangements for promoting the health and general welfare of their students;
- (f) to suspend or withdraw the recognition of any institution which is not conducted in accordance with the conditions prescribed by or under this Act:

Provided that no such action shall be taken without affording the Committee of Management of the institution an opportunity of making such representation against the proposed action as it may deem fit; and

- (g) to discharge such other functions of academic nature as may be delegated to it by the Council with the previous sanction of the State Government.

(3) The Council shall have power to remove the Chairman or a member of the Faculty, other than an ex-officio member, from his office on any of the grounds specified in sub-section (1) of Section 8:

Provided that any such Chairman or Member so removed may, within thirty days from the date of the removal, appeal to the State Government and the order of the State Government on any such appeal shall be final.

(4) If the Chairman or a member dies or resigns from his office or is removed, the Secretary of the Faculty shall forthwith report the fact of the vacancy thereby caused to the Council and the vacancy shall be filled by the Council as soon as possible by a fresh appointment under sub-section (1).

(5) No act done by the Faculty shall be mentioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Faculty.

(6) There shall be paid to the Chairman and Members of the Faculty such travelling and other allowances as may be prescribed.

(7) (1) Subject to the provisions of this Act and the Rules and the Regulations made thereunder, the Faculty shall have power to make ordinance as to-

- (a) the conduct of business at meetings;
- (b) the notice to be given of meetings;
- (c) the quorum necessary for a meeting;

- (d) the procedure to be followed at any inquiry instituted by the Faculty;
  - (e) the custody of the common seal; and
  - (f) any other matter in respect of which the Faculty is by the provisions of the Act, either required or expressly or impliedly authorised to make ordinances.
- (2) Such ordinances shall be made after previous publication and shall not take effect until they have been approved and confirmed by the State Government.

### **18. Establishment of Advisory Committees :-**

- (1) The Council may, subject to the Rules made by the State Government for this purpose, by resolution in that behalf, appoint an Advisory Committee which may consist of as many of its own members or outsiders co-opted for that purpose, or both, as it may decide, for any purpose it deems fit:  
Provided that the total number of members of such Committee shall not be more than eleven.
- (2) The Council may appoint a Convener who shall preside at the meetings of such Committee. In the absence of the Convener, the members present shall elect one from amongst themselves to preside at the meetings.
- (3) All questions at a meeting of the Committee shall be decided by the votes of the majority of the members present and voting at the meeting. In case of equality of votes, the member presiding shall have a second or casting vote.
- (4) No business shall be transacted at any meeting of the Committee when either less than two members or less than one-fourth of the members constituting the Committee, whichever is more, are present.
- (5) The term of office of, and the allowances, if any, payable to the members of Committee shall be determined by Rules made by the State Government in this behalf.

## **CHAPTER 3 OFFICERS AND SERVANTS OF THE COUNCIL**

### **19. Registrar and other officers and servants of the Council :-**

- (1) The State Government shall appoint a Registrar who shall be the Secretary to the Council as well as the Secretary to the Faculty.
- (2) The salary, allowances and other conditions of service of the

Registrar shall be such as may be determined by the State Government.

(3) (i) The Council may, from time to time, appoint such other officers and servants as may be necessary for carrying out the purposes of this Act:

Provided that the number and designation of such officers and servants, their salaries and allowances shall be subject to the previous approval of the State Government.

(ii) The punishment, dismissal, discharge and removal of any such officer or servant shall be subject to Rules made by the State Government in this behalf.

(4) All questions of pay, allowances, promotions, leave, pension and provident fund relating to the officers and servants other than the Registrar of the Council shall be governed by Rules generally applicable to the servants of the State Government of similar status.

(5) The Registrar or any other officer or servant appointed under this Section shall be deemed to be public servant within the meaning of Section 21 of the Indian Penal Code.

(6) All officers and servants of the Council shall be under the direct control and supervision of the President.

## **20. Powers and duties of Registrar and other officers and servants of the Council :-**

(1) The Registrar and other officers and servants of the Council shall exercise such powers and perform such duties as may, from time to time be conferred or imposed on them under this Act or under any Rules framed thereunder or any general or special orders of the Council.

(2) The Registrar may take part in the discussions before the Council or the Faculty, but shall not be entitled to vote.

## **CHAPTER 4 REGISTRATION OF VAIDYASHAKIMS, SURGEONS AND MIDWIVES**

### **21. Maintenance of registers :-**

Subject to any general or special order, which may from time to time be made by the Council, the Registrar shall maintain a register or registers of vaidyas, hakims, surgeons and midwives practicing the Ayurvedic, Unani, systems of Medicine in the State of Bihar in the prescribed form and it shall be the duty of the Registrar to keep

the register correct and up-to-date, as far as practicable, in accordance with the provisions made by or under his Act.

## **22. Persons entitled to be registered :-**

(1) Every person possessing any of the qualifications specified in the Schedule shall, subject to the provisions contained in this Act and on payment of the prescribed fees, be entitled to have his name entered in the register subject to such conditions as the Council may impose:

Provided that an application for entry of the name in the register of person whose case is not clearly governed by the provisions of this Act or by the Rules and Regulations made thereunder shall be referred to the Council for such decision as it may deem fit.

(2) Any person aggrieved by the decision of the Registrar regarding the registration of any person or the making of any entry in the register may within ninety days of such registration or entry, appeal to the Council.

(3) Such appeal shall be heard and decided by the Council in the prescribed manner.

(4) The Council may, on its own motion or on the application of any person, cancel or alter any entry in the register if, in the opinion of the Council, such entry was incorrect or was made on account of misrepresentation.

## **23. Amendment of Schedule :-**

(1) If at any time the Council is satisfied that a title or degree granted, or qualification certified, by a University, examining body or other institutions in India is a sufficient guarantee that persons holding such a title or degree or qualification possess the knowledge or skill requisite for the efficient practice of Medicine, surgery or midwifery, it may direct that the possession of such title, degree or qualification shall subject to the provisions contained in this Act and on payment of the prescribed fee, entitles a person to have his name entered in the register.

(2) If the Council is not so satisfied in respect of any title, degree or qualification, it may direct that the possession of such title, degree or qualification shall not entitle a person to have his name entered in such register.

(3) When the Council issues a direction under sub-section (1) or (2), such title, degree or qualification shall be deemed to be covered by or, as the case may be, to be excluded from the

Schedule.

**24. Arrangements for modifying Schedule for setting of a Scheme of reciprocity of medical qualifications in other States :-**

(1) At any time after the commencement of this Act, the Council may enter into negotiation with the authority in any State outside Bihar which is entrusted by the law of such State with the maintenance of a register of practitioners of the Ayurvedic and Unani systems of medicine, surgery, or midwifery, for the setting of a scheme of reciprocity for the recognition of medical qualifications and in pursuance of any such scheme the State Government may by notification, amend the Schedule so as to include therein any medical qualifications which the Council has decided to recognise.

(2) Where the Council has refused to recognise any medical qualification which has been proposed for recognition by any such authority, that authority may apply to the State Government and the State Government, after considering such application and after consulting the Council, may, by notification, amend the Schedule so as to include such qualification therein.

**25. Power to call for information from medical institutions :-**

The Council may call upon the Governing Body or Authorities of medical institutions, examining bodies or other institutions as are included in, or are desirous of being included in, the Schedule-

(a) to furnish such reports, return or other information as the Council may require to enable it to judge of the efficiency of the instruction given therein in medicine, surgery or midwifery and other subjects; and

(b) to provide facilities to enable a member of the Council deputed for the purpose to be present at the examinations held by such medical institutions, examining bodies or other institutions.

**26. Information to be furnished by persons who apply to have their names entered in the register :-**

Every person who applies to have his name entered in the register must satisfy the Council that he is possessed of some degree, title or qualification specified in the Schedule as altered by the direction (if any) issued under Section 23 or 24, and he must inform the

Registrar of the date on which he obtained the degree, title or qualification which entitled him to claim registration under this Act, and shall furnish any further information required by the Registrar in order to enable him to discharge the duties imposed upon him by or under this Act.

**27. Registrar to keep the register correct and up-to-date :-**

The Registrar may with a view to keeping the register correct and up-to-date, from time to time, remove from the register names of such registered practitioners as are dead or write to any registered practitioner at the address which is entered in the register to enquire whether he has ceased to practice or has changed his residence, and if no reply is received to the said letter within three months, the Registrar may issue a reminder by registered post and, in case no reply is received to the reminder within two months from the date of its issue, he may remove the name of the said practitioner from the register:

Provided that the Registrar may, if he thinks fit, direct that the name of the said practitioner be re-entered in the register on payment of the prescribed fee.

**28. Report of deaths to the Registrar and removal of names from register :-**

(1) Every Registrar of Deaths who receives notice of the death of a person whose name he knows to be entered in the register shall forthwith transmit by post or otherwise to the Registrar of the Council a certificate of such death, signed by him and stating particulars of the time and place of death.

(2) On receipt of such certificate, or other reliable information regarding such death, the Registrar shall remove the name of the deceased person from the register.

**29. Prohibition of entry in, or removal from, the register :-**

(1) The Council may prohibit the entry in, or order removal from, the register, the name of any vaidya or hakim or surgeon or midwife-

(a) who has been sentenced by a Criminal Court in any of the States of India to imprisonment for offence declared by the State Government to involve such moral turpitude as would render the entry or continuance of his name in the register undesirable; or

(b) whom the Council after inquiry has found guilty of professional misconduct or other infamous conduct by a majority of at least two-thirds of the members present and voting in the meeting specially convened for the purpose:

Provided that the Council may entrust such enquiry to a Special Committee which shall submit a report to the Council regarding the conduct of the vaidya, hakim, surgeon or midwife concerned.

(2) The inquiry referred to in clause (b) of sub-section (1) may, in the discretion of the Council or the Committee, as the case may be held in camera and an opportunity shall be given to the vaidya, hakim, surgeon or midwife concerned to be heard in his or her defence either personally or through an authorised agent.

(3) The Council may direct that the name of any person against whom an order has been made under sub-section (1) shall be entered or re-entered as the case may be, after having satisfied itself that due to the lapse of time or otherwise, the disability mentioned in sub-section (1) has ceased to have any force.

### **30. Procedure in inquiries and appeals :-**

For the purpose of any inquiry held under clause (b) of sub-section (1) of Section 29, the Council or the Committee, as the case may be, shall exercise the powers of a Commissioner appointed under the Public Servants (Inquiries) Act, 1850 and the provisions of Sections 5, 8, to 10, 14 to 17, 19 and 20 of the said Act, shall, so far as may be, apply to every such inquiry and appeal.

### **31. Publication of names entered in the register :-**

(1) The Registrar shall, in every year and from time to time, as occasion may require, on or before a date to be fixed in this behalf by the Council, publish in the official Gazette and in such other manner as the Council may direct a correct list of names for the time being entered in the register and setting forth-

- (a) all names entered in the register arranged in alphabetical order;
- (b) the registered address or appointment of each person whose name is entered in the register; and
- (c) the registered titles and qualifications of each such person and the date on which each such title was granted or each such qualification was certified.

(2) In every year in which such list has not been published, the Registrar shall cause to be printed and published on or before a date fixed as aforesaid, a supplementary list setting forth-



(a) the particulars specified in clauses (a) to (b) of sub-section (1), in the manner therein laid down, in regard to the persons whose names have been entered in the register during the year to which such supplementary list appertains, and

(b) the names of any person whose names have been removed from the register under any of the provisions of this Act, during the said year.

(3) In any proceeding, it shall be presumed that every person entered in such list is a registered practitioner and that any person not so entered is not a registered practitioner:

Provided that in the case of a person whose name has been entered in the register after the last publication of the list, a certified copy, signed by the Registrar of the entry of the name of such person in the register shall be evidence that such person is registered under this Act. Such certificate shall be issued free of charge.

### **32. Penalty on unregistered person representing that he is registered :-**

If a person whose name is not entered in the register falsely pretends that it is so entered or uses in connection with his name or title any words or letters representing that his name is so entered, he shall, whether any person is actually deceived by such representation or not, be punishable, on conviction by a Magistrate of the first class, with fine which may extend to two hundred rupees.

### **33. Examination before registration :-**

Notwithstanding anything contained in any other Section, on and after the expiry of one year from the date from which Chapter VI comes into force, a person shall not be entered in the register unless, he has passed a qualifying examination recognised by the Council.

### **34. Exemption from serving on inquest or as a juror or assessor :-**

Notwithstanding anything contained in any other law for time being in force, every registered practitioner shall be exempt, if so desires, from serving on any inquest or as a juror or assessor under the [Code of Criminal Procedure, 1898]<sup>1</sup>

1. Now see, Cr. P.C., 1973.

### **35. Privileges of registered practitioners :-**

The registered practitioners shall have the same privileges as the medical practitioners registered under the Bihar and Orissa Medical Act, 1916 have under the Bihar and Orissa Excise Act, 1915 or any other law for the time being in force.

### **36. Right of registered practitioners to hold certain appointments and to grant or authenticate certificates :-**

(1) Notwithstanding anything contained, in any law for the time being in force, the expression "legally qualified medical practitioner" or "duly qualified medical practitioner" and all other expressions importing that a person is recognised by law as a medical practitioner or a member of the medical profession shall, in all enactments for the time being in force in the State of Bihar in so far as such enactments relate to any of the matters specified in the State List or the Concurrent List of the Seventh Schedule to the Constitution of India, be deemed to include a registered practitioner.

(2) A registered practitioner shall be eligible to hold any appointment as a member of the teaching staff of any recognised Ayurvedic or Tibbi College or as a physician, surgeon or other medical officer in any Ayurvedic or Unani dispensary, hospital, infirmary or lying in hospital supported by or receiving a grant from the State Government or in any public establishment, body or institution dealing with the Ayurvedic or Unani system of medicine.

(3) A registered practitioner shall be entitled to-

(a) grant a certificate required under any law or rule having the force of law from any medical practitioner or medical officer;

(b) sign or authenticate a birth or death certificate required by any law or rule to be signed or authenticated by a duly qualified medical practitioner;

(c) sign or authenticate a medical or physical fitness certificate required by any law or rule to be signed or authenticated by a duly qualified medical practitioner; and

(d) give evidence at any inquest or in any court of law as an expert under Section 45 of the Indian Evidence Act 1872 on any matter relating to medicine, surgery or midwifery.

## **CHAPTER 5 OTHER POWERS OF THE COUNCIL**

**37. Power of the Council to establish educational institutions, prescribe courses of study, etc :-**

Subject to such Rules as may be prescribed by the State Government in this behalf, the Council may :-

- (a) establish educational or instructional institutions of the Ayurvedic and Unani systems of Medicine;
- (b) grant scholarships and medals, on the recommendation of the Faculty, to the poor and deserving students of institutions affiliated to the Faculty and, with the sanction of the State Government, grant to students pursuing studies or carrying on research in the State of Bihar scholarships for research or special study in any medical institution in India or abroad that the Council may think fit;
- (c) endow chairs of the Ayurvedic or Unani systems of medicine and surgery in institutions affiliated to the Faculty;
- (d) prescribe fees for admission to examination conducted by the Faculty;
- (e) adopt such measures and do such acts as may be necessary for the furtherance of the objects of this Act, and not inconsistent with the provisions thereof;
- (f) appoint inspectors for the inspection of Ayurvedic and Unani dispensaries, hospitals, or druggists shops or firms and educational institutions giving training in the Ayurvedic or Unani system of medicine in the State of Bihar;
- (g) establish and finance dispensaries, hospitals and educational institutions of the Ayurvedic or Unani system of medicine in the State and subject to Rules framed by the State Government, distribute grants out of the funds at the disposal of the Council to such dispensaries, hospitals and educational institutions;
- (h) establish or aid teaching or research institutions of the Ayurvedic and Unani, systems of medicine and surgery and pharmaceutical laboratories and herbariums;
- (i) encourage the manufacture or production of medicines or herbs used in the Ayurvedic and Unani systems of medicine;
- (j) devise and carry out a co-ordinated schemes of public health in the State on the lines of the Ayurvedic and Unani systems of medicine; and
- (k) register and issue licences to reliable firms for sale of genuine Ayurvedic and Unani drugs:

Provided that no such licence shall be issued without the approval of the State Government.

**CHAPTER 6** LIST OF PERSONS PRACTISING THE AYURVEDIC AND UNANI SYSTEMS OF MEDICINE OTHER THAN REGISTERED PRACTITIONERS

**38. Power of the State Government to enforce the provisions of the Chapter :-**

The State Government may at any time, by notification, apply the provisions of this Chapter to the whole or any part of the State from such date as may be specified in the notification:

Provided that the State Government shall give wide publicity to the notification in such other manner also as it deems proper.

**39. List of practitioners :-**

(1) After the publication of the notification referred to in Section 38, the State Government may, by order published in the Official Gazette, direct that a list of persons practising the Ayurvedic and Unani systems of medicine or surgery or midwifery or any of their branches in this State on the date mentioned in the said notification, not being persons qualified for registration under this Act, shall be prepared and maintained by such authority, in such manner, within such period and on payment of such fee as may be prescribed.

(2) The State Government may make Rules prescribing-

(a) the manner and the form in which, and the period within which, such persons shall make applications for entry of their names in the list and the fee which shall accompany such applications;

(b) the authority by which the list shall be prepared and maintained and the procedure to be followed by it in dealing with such applications including the hearing of applications and calling for information, if any, from applicants;

(c) the conditions subject to which and circumstances under which persons other than a practitioner registered under Chapter IV or a person whose name is entered in the list prepared and maintained under this Section may practise in any specified areas or on any specified occasion and the penalty which shall be imposed on any person who practises in contravention of such provisions, and

(d) any other matter in respect of which the State Government is by the provisions of this Section either required or expressly or impliedly authorised to make Rules to give effect to the provisions thereof.

#### **40. Section 39 not to apply to certain persons :-**

Nothing in Section 39 or Rules made thereunder shall apply to any person :-

- (a) who limits his practice to the art of dentistry; or
- (b) who being a nurse registered under the Bihar and Orissa Nurses Registration Act, 1935, a health visitor or a dai attends on a case of labour; or
- (c) who is entitled to registration after passing the qualifying examination referred to in Section 33.

### **CHAPTER 7 CONTROL OF THE STATE GOVERNMENT**

#### **41. Power of inspection by the State Government :-**

Any person authorised by the State Government in this behalf may enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by or under the control and administration of, the Council or any work in progress under their direction; and may call for and inspect any document which may be, for the purposes of this Act, in the possession or under the control of the Council.

#### **42. Power to supersede the Council :-**

(1) If at any time it shall appear to the State Government that the Council has made default in the performance of a duty imposed on it by or under this Act or has exceeded or abused its power, the State Government may, if it considers such default, excess or abuse to be of a serious character, communicate the particulars thereof to the Council and issue necessary directions in respect of such default, excess or abuse to the Council and if the Council fails to comply with such directions within such time as may be fixed by the State Government in this behalf, the State Government may, by notification specifying the reason for so doing, declare the Council to be in default or to have exceeded or abused its power, as the case may be, and-

- (a) direct that on a date to be specified in the notification, the office of the members of the Council shall be deemed to be vacant, and require a fresh election to be held on or before the said date; or
- (b) direct that the Council shall be superseded for such period not exceeding six months, as may be specified in the notification.

(2) The members of the Council who vacate office by reason of a declaration made under sub-section (1) shall not, unless the State Government otherwise directs, be deemed disqualified for re-election or renomination.

(3) Where an order of supersession has been passed under clause (b) of sub section (1), the following consequences shall ensue, namely;-

(a) all the members of the Council shall, from a date to be specified in the order, vacate their offices as such members;

(b) all the powers and duties which under the provisions of this Act, are to be exercised and performed by the Council shall, during the period of supersession, be exercised and performed by such person or persons as the State Government may direct;

(c) all property vested in the Council shall, during the period of supersession, vest in the State Government; and

(d) before the expiration of the period of supersession, election shall be held and nominations made for purpose of re-constituting the Council.

## **CHAPTER 8 THE COUNCIL FUND**

### **43. Council Fund :-**

There shall be formed a fund to be called the Council Fund and there shall be placed to the credit thereof-

(a) all sums received by the Council and the Faculty as donations and grants including allotments from the Consolidated Fund of the State;

(b) all sums received as fees on account of registration of vaidyas, hakims, surgeons and midwives and admission to the Faculty's examinations and licensing of firms for sale of Ayurvedic and Unani drugs under this Act or any other fees received under any of the provisions of this Act or Rules or regulations or ordinances made thereunder; and

(c) all sums received or recovered by the Council and the Faculty on any other account.

### **44. Allotment of funds by the State Government :-**

The State Government may place such sum at the disposal of the Council every year as it thinks necessary for distribution according to Rules made by the State Government to the Ayurvedic and Unani dispensaries, hospitals and educational institutions in the

State and other suitable purposes consistent with the aims and objects of this Act.

**45. Objects to which Council Funds may be applied :-**

The Council Funds shall be applicable to the following objects, and in the following order:-

- (a) to the repayment of debts incurred by the Council for the purposes of this Act;
- (b) to the payment of the salaries and allowances of the Registrar and of the establishments employed by the Council and the Faculty for the purposes of this Act and to the payment of any provident fund contributions to the Registrar and to the members of such establishments;
- (c) to the payment of the travelling and other allowances of the President and Members of the Council and the Chairman and Members of the Faculty;
- (d) to the payment of the travelling and other allowances of the members of the Committee appointed by the Council;
- (e) to the payment of the cost of audit of the Council Funds;
- (f) to the expenses of any suit or proceeding to which the Council is a party;
- (g) to any object which may be declared by the Council at a meeting specially convened for the purpose, by a resolution in favour of which not less than two-thirds of the members present at such meeting shall have voted to be an object to which the Council Fund may be applicable; and
- (h) to the payment of any other expense incurred by the Council or the Faculty in carrying out the provisions of this Act.

**46. Audit :-**

The accounts of the Council shall be subject to audit under the Bihar and Orissa Local Fund Audit Act, 1925, and for the purposes of the said Act the Council shall be deemed to be a local authority whose accounts have been declared by the State Government to be subject to audit under Section 3 of the said Act and the funds in the hands of the Council shall be deemed to be a local fund.

**CHAPTER 9 MISCELLANEOUS**

**47. Appeals to State Government from decision of Council :-**

- (1) An appeal shall lie to the State Government from every decision

of the Council under this Act, except a decision made by the Council as an appellate authority.

(2) Every appeal under sub-section (1) shall be preferred within three months of the date of such decision.

#### **48. Bar to suits and other legal proceedings :-**

(1) No suit or other legal proceedings shall lie against the State Government in respect of an act done in the exercise of the powers conferred by this Act or the Rules made thereunder.

(2) No suit or other legal proceeding shall be maintainable against the Council or any member or any officer or servant of the Council or any person acting under the direction of the Council in respect of anything in good faith done or intended to be done under this Act or the Rules or regulations made thereunder.

#### **49. Mode of proof of Councils records :-**

A copy of any proceeding, receipt, application, plan, notice, order, entry in a register or other document in the possession of the Council or the Faculty shall, if duly certified by the Registrar or other person authorised by the Council in this behalf, be received as prima facie evidence of the existence of the entry or document and of the matters therein recorded in every case where, and to the same extent as the original entry or document would, if produced, have been admissible to prove such matters.

#### **50. Restriction on the summoning of Councils servants to produce documents :-**

No member or officer or servant of the Council shall in any legal proceeding to which the Council is not a party be required to produce any register or document or to appear as a witness to prove the matters recorded therein, except in accordance with an order of the Court made for special reasons.

#### **51. Cognizance of offences :-**

(1) No Court inferior to the Court of a Magistrate of the second class shall take cognizance of, or try an offence under this Act or the Rules or regulations made thereunder.

(2) No Court shall take cognizance of any offence under this Act or the Rules or regulations made thereunder except on a complaint in writing of an officer empowered by Rules made in this behalf.



**52. Conferring, granting or issuing diploma, licence etc., by unauthorised person or institution :-**

(1) No person other than an association or institution recognised or authorised by the Faculty under this Act shall confer, grant or issue, or hold himself as entitled to confer, grant or issue, any degree, diploma, licence, certificate or other document stating or implying that the holder, grantee or recipient is qualified to practise the Ayurvedic or the Unani systems of medicine.

(2) Whoever contravenes the provisions of this Section shall, on conviction, be punishable with fine which may extend to five hundred rupees and, if the person so contravening is an association, every member of such association who knowingly and willfully authorises or permits the contravention shall, on conviction, be punishable with fine which may extend to two hundred rupees.

**53. False assumption of degree, diploma or certificate to be an offence :-**

Whoever voluntarily and falsely assumes or uses any title or description or any addition to his name implying that he holds a degree, diploma, licence or certificate conferred or authorised by the Council under this Act or that he is qualified to practise the Ayurvedic or the Unani systems of medicine under the provisions of this Act, shall, on conviction, be punishable with fine which may extend to fifty rupees for the first offence and with fine which may extend to two hundred rupees for every subsequent offence.

**54. Power to make regulations :-**

(1) Subject to the provisions of this Act and the Rules made by the State Government thereunder, the Council may make Regulations for regulating the following matters, namely :-

- (i) (a) conditions on which institutions may be affiliated or recognized for the purpose of registration under Section 23;
- (b) the admission of students to the educational or instructional institutions affiliated to the Faculty;
- (c) the conditions under which students shall be admitted to the degree, diploma or certificate course and to the examinations of the Faculty and shall be eligible for degrees, diplomas and certificates;
- (d) the conditions of residence of the students in the educational or instructional institutions affiliated to the Faculty and the levying of fees for such residence;

(e) the number, qualifications and emoluments of teachers of educational or instructional institutions affiliated to the Faculty;  
(f) the fees to be charged for courses of study in such institutions and for admission to the examinations, degrees, diplomas and certificates of the Faculty;

(g) the conditions and mode of appointment and duties of examiners and the conduct of examinations :

Provided that in making regulations the Council shall take into consideration the financial and other existing conditions of the instructions generally:

(ii) (a) the time and place at which and the manner in which the meetings of the Council shall be summoned;

(b) the issue of notices convening such meetings;

(c) the conduct of business thereat;

(d) the salaries, allowances and other conditions of service of officers and servants of the Council other than the Registrar; and

(iii) all other matters which may be necessary for the purposes of carrying out the objects of this Act. (2) Such regulations shall be made after previous publication and shall not take effect until they are approved and confirmed by the State Government.

### **55. Power to make Rules :-**

(1) The State Government may, after previous publication, make Rules not inconsistent with this Act, for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, the State Government may make Rules for any of the following matters :-

(a) the time and the place at which, the period within which, and the manner in which elections shall be held under Section 3 or Section 17;

(b) regulation of elections under this Act;

(c) the conditions subject to which the Council may transfer any property under sub-section (4) of Section 3;

(d) the conduct of and the maintenance of correct minutes of meetings of the Council;

(e) the period within which vacancies shall be filled under Section 10;

(f) allowances payable to the President and members of the Council under Section 13 and to the Chairman and members of the Faculty under sub-section (6) of Section 17;

- (g) the term of office and allowances payable to members of an Advisory Committee under sub-section (5) of Section 18;
- (h) the punishment of dismissal, discharge and removal of servants of the Council other than the Registrar under clause (ii) of sub-section (3) of Section 19;
- (i) the form of the register of vaidyas, hakims, surgeons and midwives to be maintained under Section 21 and the classification of practitioners into two or more classes according to their qualifications;
- (j) the manner in which appeals against the decision of the Registrar shall be heard by the Council under Section 22;
- (k) distribution of funds placed by the State Government at the disposal of the Council under Section 44;
- (l) reservation to registered practitioners of certain appointments in Ayurvedic or Unani hospitals, infirmaries, dispensaries, or lying-in-hospitals maintained by or under the control of the State Government or a local authority;
- (m) regulating the conditions, restrictions and exceptions subject to which vaidyas and hakims, being residents of Bihar but having obtained qualifications from medical institutions in States outside Bihar, irrespective of whether or not medical institutions in such States have been included in any scheme of reciprocity as provided in Section 24, may practise;
- (n) fees chargeable under this Act and their application;
- (o) the furtherance of any objects of the Faculty as a teaching or examining body;
- (p) the furtherance of any other objects of the Council.

**56. Repeal of Act 7, of 1916 and Bihar Act 20, of 1949 in so far as they relate to the Ayurvedic and Unani systems of medicine :-**

The Indian Medical Degrees Act, 1916, and the Indian Medical Degrees (Bihar Amendment) Act, 1949, in so far as the said Acts relate to the Ayurvedic and Unani systems of medicine, are hereby repealed.

**SCHEDULE 1**

**SCHEDULE**

(See Sections 22, 23, 24, 25 and 26)

Persons who are entitled to have their names entered in the register of registered practitioners:-

1. Every vaidya or hakim who holds degree, diploma or certificate of any recognised Ayurvedic or Unani college or school within the State or a degree in the Ayurvedic or Unani systems of medicine or surgery or midwifery conferred by any

University established by law in India.

2. Every vaidya or hakim who has passed the final examination held by the Faculty or by any institution affiliated to the Faculty.

3. Every vaidya or hakim who in the opinion of the Council possesses sufficient knowledge and skill requisite for the efficient practice of medicine, surgery or midwifery and enjoys a certain amount of eminence in the medical science and who fulfils the conditions imposed by regulations made by the Council as to length of practice.

4. Every vaidya who has passed the Ayurvedacharya examination of the Sanskrit Association, Bihar.

5. Every practitioner or class of practitioners whom the Council with the previous approval of the State Government considers fit for registration under this Act.