

GUJARAT HOMEOPATHIC ACT, 1963

36 of 1963

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An Act to consolidate and amend the law relating to the registration of practitioners of the Homoeopathic system of medicine in the State of Gujarat. It is hereby enacted in the Fourteenth Year of the Republic of India as follows:-

CHAPTER 1

CHAPTER

1. Short title, extent and commencement :-

- (1) This Act may be called the Gujarat Homoeopathic Act, 1963.
- (2) It extends to the whole of the State of Gujarat.
- (3) It shall come into force on such day as the State Government may, by notification In the Official Gazette, appoint.

2. Definitions :-

In this Act, unless the context otherwise requires-

- (1) "appointed day" means the day on which this Act comes into force:
- (2) "Council" means the Council of Homoeopathic System of Medicine, Gujarat, constituted under section 3:
- (3) "enlisted practitioner" means a practitioner whose name is for the time being entered in the list:
- (4) "Homeopathy" means the system of medicine founded by Dr. Samuel Hahnemann which Includes the Biochemic therapy as propounded by Dr. Schussler, and the expression "Homoeopathic" shall be construed accordingly:
- (5) "Inspector" means an Inspector appointed by the Council:
- (6) "List" means the list of practitioners prepared and maintained under section 18 ;
- (7) "member" means a member of the Council:
- (8) "practitioner" means a person who practices the Homoeopathic

system of medicine as his principal occupation:

(9) "prescribed" means prescribed by rules under this Act:

(10) "President" means the President of the Council:

(11) "qualifying examination" means any examination specified by any university, institution, authority or body for obtaining any recognised qualification:

(12) "recognised institution" means any institution recognised by the Council under section 28 for giving Instructions in the courses leading to the examinations held by the Council:

(13) "recognised qualification" means a qualification, degree, diploma, certificate or any other like award specified in the First Schedule:

(14) "register" means the register of practitioners prepared and maintained or deemed to have been prepared and maintained, under Section 17:

(15) "registered practitioner" means a practitioner whose name for the time being entered in the register:

(16) "Registrar" means the Registrar appointed under section 16 ;

(17) "regulations" means the regulations made under section 37 ;

(18) "rules" means the rules made under section 36 ;

(19) "Schedule" means a Schedule appended to this Act.

CHAPTER 2

Constitution, Functions and Powers of the Council

3. Constitution and incorporation of Council :-

(1) With effect from such date as the State Government may, by notification in the Official Gazette, notify in this behalf, there shall be established for the purposes of this Act a Council to be called "the Council of Homoeopathic System of Medicine, Gujarat". The Council shall be a body corporate and have perpetual succession and common seal and may by the said name sue and be sued and shall be competent to acquire and hold property both movable and immovable and to contract and to do all, things necessary for the purposes of this Act.

(2) The Council shall consist of eleven members including the

President, and shall be constituted in the following manner, namely:-

(a) four members shall be nominated by the State Government out of whom at least three shall be registered practitioners;

(b) four members shall be elected by the registered practitioners holding any of the recognised qualifications from amongst themselves:

(c) three members shall be elected by the registered practitioners other than those mentioned in clause (b) from amongst themselves:

Provided that the council to be constituted for the first time under this Act shall consist of nine members, including the President, nominated by the State Government, seven members being persons from amongst registered practitioners.

(3) If at any election, the electors fail to elect the requisite numbers to the Council, the State Government shall nominate such registered practitioners as it deems fit, to fill the vacancies which remain unfilled after the election and the practitioners so nominated shall, for the purpose of sub-section (2), be deemed to have been duly elected under the said sub-section.

(4) The President of the Council shall be elected by the members of the Council from amongst themselves in the prescribed manner:

Provided that the President of the Council constituted for the first time under the proviso to sub-section (2) shall be nominated by the State Government from amongst the members of such Council.

4. Time, place and manner of election of members :-

(1) The election of members under section 3 shall be held at such time and at such place and in such manner as may be prescribed.

(2) The Registrar shall, at least three months before the date fixed for the election of the Council, cause to be printed and published a correct list of the names and qualifications of all practitioners for the time being entered in the register and the dates when such qualifications were acquired.

5. Term of office :-

(1) Save as otherwise provided by this Act, the term of office of the

members, whether elected or nominated shall be a period of five years commencing from the date on which the first meeting of the Council is held after the election of the members under section 3:

Provided that the term of office of the members of the Council constituted for the first time under the proviso to sub-section (2) of section 3 shall be a period of three years from the date on which the first meeting of the Council so constituted is held:

Provided further that the term of office of an outgoing member shall be deemed to extend to, and expire with, the day immediately before the day of the first meeting referred to in sub-section (1).

(2) An outgoing member shall be eligible for re-election or re-nomination.

6. Extension of period of Council :-

Notwithstanding anything contained in section 5, the State Government may, by a notification in the Official Gazette, extend the term of office of the members of the Council for a further period not exceeding one year in the aggregate.

7. Casual vacancies :-

(1) Any casual vacancy, previous to the expiry of the term, in the office of the President due to the death, resignation, removal, disability or disqualification of the President or any other reason shall be filled by nomination or election according as the President was nominated or elected.

(2) Any such vacancy in the office of a member of the Council nominated by the State Government shall be filled by nomination.

(3) Any such vacancy in the office of a member of the Council by the registered practitioners shall be filled by the State Government by nomination of a person from a panel of three registered practitioners recommended by a resolution of the Council passed by a majority of all the then members of the Council:

Provided that if the Council fails to pass such a resolution within such time as the State Government may fix, the State Government may appoint any registered practitioner to fill the vacancy and the practitioner so appointed shall, for purposes of this sub-section, be deemed to have duly nominated.

(4) Any person nominated or elected to fill a casual vacancy under this section shall, notwithstanding anything contained in section 5, hold office only so long as the person in whose place he is nominated or elected would have held office, had the vacancy not occurred.

8. Resignation :-

(1) Any member may at any time resign his office by a notice in writing to the Council delivered to the Registrar. Such resignation shall take effect from the date on which it is accepted by the Council.

(2) The President, nominated by the State Government, may at any time resign his office by a notice in writing to the State Government. The resignation shall take effect from the date on which such resignation is accepted by the State Government. An elected President may at any time resign his office by a notice in writing to the Council delivered to the Registrar. The resignation shall take effect from the date on which such resignation is accepted by the Council at a special meeting convened by the Registrar. The Council may also elect the new President at the same meeting.

9. Disqualification and disability :-

(1) No person-

(a) who is an undischarged insolvent,

(b) who has been adjudged to be of unsound mind by a competent Court:

(c) whose name has been removed from the register, or

(d) who is a full time officer or servant of the Council, shall be eligible to be elected or nominated or to continue as a member.

(2) If any member,-

(a) absents himself from three consecutive ordinary meetings of the Council without such reasons as may, in the opinion of the State Government in the case of the President and in the opinion of the Council in the case of any other member, be sufficient, or

(b) becomes or is found to be subject to any of the disqualifications mentioned in sub-section (1),

(3) The State Government may, on the recommendation of the Council supported by at least two-thirds of the whole number of members, remove any member elected or nominated under this Act, if such member has been guilty of misconduct in the discharge of his duties as a member or of any disgraceful conduct or has become incapable of performing his duties as member:

Provided that no resolution recommending the removal of any member shall be passed by the Council unless the member to whom it relates has been given a reasonable opportunity of showing cause why such recommendation should not be made.

(4) The State Government may remove from office the President if he has been guilty of misconduct in the discharge of his duties under this Act, or of any disgraceful conduct, or has become incapable of performing his duties as the President:

Provided that no such action shall be taken unless the President is given a reasonable opportunity of showing cause why he should not be removed from office.

10. Meetings of Council :-

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

Provided that until rules prescribing such manner are made it shall be lawful for the President to convene a meeting of the Council at such time and place as he may deem fit by circulating a notice to each member.

(2) The President, if present shall preside at every meeting of the Council. In the absence of the President, the members present shall elect from amongst themselves one member to preside at the meeting.

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

(4) The President or the person presiding at a meeting shall have a second or casting vote in the case of an equality of votes.

(5) Six members including the President shall form a quorum. When a quorum is required but not present, the presiding authority shall, after waiting for not more than twenty minutes for such

quorum, adjourn the meeting to such hour on the same or the following or some other day as it may notify and the business which would have been brought before the original meeting had there been quorum threat, shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof, whether there be a quorum present or not.

11. Proceeding of meetings and validity of acts :-

(1) The proceedings of every meeting of the Council shall be treated as confidential and no person shall, without the previous permission 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 passed or considered by the Council unless the Council directs such resolution to be treated as confidential.

(2) No disqualification of, or defect in the election, nomination or appointment of, any person as a member or as the 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, 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 continuing members is not less than seven.

12. Fees and allowance to members of Council :-

There shall be paid to the members of the Council such fees and allowances for attendance and such reasonable traveling allowances as shall be prescribed.

13. Income and expenditure of Council :-

(1) The income of the Council shall consist of-

(a) fees received from the practitioner:

(b) fees received from the examinees:

(c) any other fees collected by the Council:

(d) grants received from the Government: and

(e) donations and other sums received by 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 other staff maintained by the Council:

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

(c) fees and allowances paid to the members of Examination Committee appointed under sub-section (2) of section 27 and to members of the boards of studies and of committees appointed under clause (p) of sub-section (1) of section 15 :

(d) salaries and allowances of Inspectors;

(e) remuneration paid to paper-setters, examiners, moderators and other persons appointed by the Council for the conduct of examinations:

(f) other expenses for the conduct of examinations: and

(g) such other expenses as are necessary for performing its duties and functions under this Act.

14. Budget and accounts :-

The budget and the accounts of the Council shall be prepared, maintained and presented before the Council by the Registrar in such manner as may be prescribed.

15. Powers, duties and function of Council :-

(1) 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-

(a) to maintain the register and the list and to provide for the registration of practitioners or the entry of their names in the list:

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

(c) to reprimand a registered or an enlisted practitioner or to suspend or remove him from the register or the list, as the case may be. or to take such other disciplinary action against him as may, in the opinion of the Council, be necessary or expedient;

(d) to hold examinations and to make all the necessary arrangements for such examinations;

(e) to prescribe the courses of the training and study, the

curriculum and the syllabus to the examinations held by the Council and to charge fees for such examinations;

(f) to grant degrees, diplomas and marks of honour;

(g) to award stipends, scholarships, medals, prizes and other rewards:

(h) to recognise institutions for the purpose of giving instructions for the courses leading to the examinations held by the Council or to cancel such recognition;

(i) to recommend the Inclusion of any degree, diploma, certificate or award in the First Schedule or to recommend the removal of any degree, diploma, certificate or award from the First Schedule:

(j) to prepare, publish and prescribe text books and to publish statements of prescribed courses of study;

(k) to provide for the maintenance of an adequate standard of proficiency for the practice of the Homoeopathic system of medicine;

(l) to found and maintain libraries:

(m) to recommend and promote schemes for postgraduate training and research in Homeopathy:

(n) to provide for the inspection of recognised institutions and to require such institutions to furnish such Information as the Council may deem necessary:

(o) to provide for the inspection of any other institution giving instructions for any of the qualifications included in the First Schedule:

(p) to appoint boards of studies and committees consisting of person who may or may not be members of the Council and to lay down the constitution, the duties and the functions of such boards and committees:

(q) to found Homoeopathic educational institutions or hospitals or dispensaries:

(r) to appoint the officers and servants of the Council, other than the Registrar, and the inspectors, moderators, examiners or visitors, and

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

(2) The members of boards of studies and committees appointed under clause (p) of sub-section (1) shall be paid such fees and allowances as may be prescribed.

16. Registrar and other employees of Council :-

(1) The Council shall, with the previous sanctions of the State Government appoint a Registrar. The salary, allowances and other conditions of service of the Registrar shall be such as may be prescribed.

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

Provided that if the period of leave does not exceed two months, 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 Council 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 two months the appointment may be made by the President.

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

(5) The Registrar shall be the secretary, and the executive officer of the Council.

(6) The Council shall, with the previous sanction of the State Government, from time to time, prescribe by regulations the number and designations and the salaries, allowances and other conditions of service of other officers and servants as may be necessary for the purposes of carrying out its duties and functions under this Act:

Provided that the powers to appoint any such officer or servant shall vest in the President.

(7) The Registrar shall report all appointments made under subsection (6) to the Council at its earliest meeting held thereafter.

(8) The Registrar and any other officer or servant appointed under this section shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

CHAPTER 3

Registration and Enlistment

17. Preparation of register :-

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

(2) The register shall include the following particulars, namely:-

(a) the full name, nationality and residential address of the registered practitioner:

(b) the date of his admission to the register;

(c) the qualification for registration and the date on which he obtained his degree, diploma or any other like award in Homeopathy, if any, and the authority, which conferred or granted it:

(d) his professional address; and

(e) 'such further particulars as may be prescribed.

(3) Every person who possesses any of the qualifications specified in the First Schedule shall, at any time on an application made in the prescribed form to the Registrar and on payment of a fee of rupees twenty-five be entitled to have his name entered in the register.

(4) Notwithstanding anything contained in sub-section (3), the name of every person which was entered in Part A, B, or C of the register duly maintained under the Bombay Homoeopathic Act, 1951 (Bom XLVIII of 1951) and in force immediately before the appointed day in the Bombay area of the State of Gujarat shall, without further fee or charge, be entered in the register to be prepared and maintained under this Act, and shall continue thereon, for the period for which such registration was made or renewed, unless removed earlier under the provisions of this Act.

(5) Any person, other than a person whose name is entered in the register under sub-section (4), who proves to the satisfaction of the sub-committee appointed under sub-section (6), that he had been regularly practicing the Homoeopathic system of medicine as his principal occupation in any part of the State of Gujarat for a period of not less than twelve years immediately preceding the appointed day, shall, on an application, made in such form, and accompanied by such documents, as may be prescribed, ¹ [at any time before the end of the 31st October 1966] and on payment of a fee of rupees twenty-five be entitled to have his name entered in the register under this Act.

(6) All applications for registration under sub-section (5) shall be considered and decided by a sub-committee which shall consist of the President as chairman and two other members of the Council appointed by the State Government. Then sub-committee shall make an enquiry in respect of such applications in such manner as may be prescribed.

(7) Any person aggrieved by the decision of the sub-committee under sub-section (6) may, within a period of one month from the date on which such decision is communicated to him, appeal to the Council whose decision shall be final.

(8) When the register is prepared in accordance with the foregoing provisions, the Registrar shall publish in the Official Gazette and such newspapers as the council may select a notice stating that the register containing the names of practitioners entered therein up to the date specified in the notice has been prepared.

(9)

(a) Every registered practitioner shall be given a certificate of registration in the prescribed form.

(b) Such certificate shall be valid only up to the date specified therein or such extended date as may be specified in the renewal slip issued under section 23 .

1. Substituted by Gujarat 22 of 1965.

18. Preparation of list of persons in practice on the appointed day :-

(1) As soon as may be after the appointed day the Registrar shall, in accordance with the provisions of this Act, prepare and maintain a

list of persons not entitled to registration under section 17 but who

(2) The list shall include the following particulars, namely:-

(a) the full name, nationality and residential address of the enlisted practitioner:

(b) the date of his admission to the list;

(c) the qualification, if any, and the date on which he obtained such qualification and the authority which conferred or granted it;

(d) his professional address: and

(e) such further particulars as may be prescribed.

(3) Any person whose name is not entered in the register or who is not entitled to have his name entered in the register under section 17 but who proves to the satisfaction of- the sub- committee appointed under sub-section (6) of section 17 that he had been regularly practising Homoeopathic system of medicine as his principal occupation in any part of the State of Gujarat from a date prior to the 1st May 1960 shall, on an application made in such form and accompanied by such documents as may be prescribed, ¹ [at any time before the end of the 31st October 1966] and on payment of a fee of rupees twenty-five be entitled to have his name entered in the list.

(4) Every practitioner whose application for registration under sub-section (5) of section 17 , and an appeal. If any, under sub- section (7) thereof, are rejected shall, notwithstanding anything contained in sub-section (3), be entitled to have his name entered in the list without his being required to make an application or to pay any other fee, provided the sub-committee appointed under sub-section (6) of the said section is satisfied that such person has been practising regularly the Homoeopathic system of medicine in any part of the State of Gujarat from a date prior to the 1st May, 1960.

(5) Notwithstanding anything contained in sub-sections (3) and (4) no person whose name has been entered in the register under section 17 shall be entitled to have his name entered in the list.

(5) The sub-committee referred is in sub-section (3) shall make enquiry in respect of the applications received under sub-section (3) in such manner as may be prescribed.

(7) Any person aggrieved by the decision of the sub-committee

under sub-sections (3) or (4) may, within a period of one month from the date on which such decision is communicated to him, appeal to the Council whose decision shall be final.

(8) When the list has been prepared in accordance with the foregoing provisions the Registrar shall publish in the Official Gazette and in

(9)

(a) Every enlisted practitioner shall be given a certificate of enlistment in the prescribed form.

(b) Such certificate shall be valid only up to the date specified therein or such extended date as may be specified in the renewal slip issued under section 23 .

1. Substituted by Gujarat 22 of 1965.

19. Undertaking to be given for entering name in register or list :-

(1) Notwithstanding anything contained in section 17 and Section 18 . the name of a practitioner shall not be entered in the register or the list unless he gives an undertaking in writing executed in such manner as may be prescribed-

(i) to the effect that he shall not use any degree, diploma or licence which is not granted by, or which is identical with or is a colourable imitation of any degree, diploma or licence granted by, a body or institution authorised under the Indian Medical Degrees Act. 1916 (VII of 1916) the Indian Medical Council Act, 1956 (VII of 1956) the Bombay Medical Act, 1912 (Bom VI of 1912) or the Bombay Medical Practitioner's Act, 1938, (Born XXVI of 1938) or under this Act or under any law corresponding to any of these enactments, for the time being in force in any part of the State of Gujarat, and

(ii) in the case of a practitioner other than a practitioner whose name is entered in the register under the provisions of sub-section 17, also to the effect that he shall not practice any system of medicine other than Homeopathy, unless he is duly qualified and entitled under any law for the time being in force to practice that system.

(2) It shall be lawful for a practitioner whose name is entered in the register or the list to use after his name the words "Registered Homoeopathic Practitioner" or "Enlisted Homoeopathic Practitioner".

as the case may be, in full to indicate that his name has been entered in the register or the list, as the case may be under this Act.

20. Removal of names from register or list :-

(1)

(a) If a registered practitioner has been, after due inquiry held by the Council in the prescribed manner, found guilty of any misconduct, the Council may-

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

(ii) direct the name of such practitioner either to be removed from the register for such period as may be specified in the direction, or to be removed from the register permanently.

Explanation.-For the purposes of this section, "misconduct" shall mean-

(i) a cognizable offence by a registered practitioner which involves moral turpitude and for which he is convicted by a criminal court, or

(ii) a cognizable offence by a registered practitioner subject to military law for which he is convicted under the Army Act, 1950 (XLVI of 1950) or

(iii) any conduct which, in the opinion of the Council, is infamous in relation to the profession.

(b) The Council may, on sufficient cause being shown, direct at any time that the name of the practitioner so removed shall re-entered in the register on such conditions and on payment of such fees as may be prescribed and on such further conditions as the Council may impose.

(2) If the name of any practitioner is entered in-

(a) the register maintained under the Bombay Medical Act, 1912, (Bom. VI of 1912) or any corresponding law for the time being in force in any part of the State of Gujarat, or

(b) the register or list maintained under the Bombay Medical Practitioners" Act, 1938, (Bom XXVI of 1938) or any other corresponding law, it shall be the duty of the Council 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 list, the Council shall also remove his name from the register under this Act.

(4) The Council may, on its own motion or on the application of any person after due and proper enquiries 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.

(5) When the name of a registered practitioner is removed from the register under sub-sections (1), (3) or (4), the certificate of registration and the renewal slip or slips relating thereto issued to such practitioner shall be deemed to have been cancelled and such practitioner shall forthwith surrender his certificate together with the renewal slip or slips relating thereto, if any, to the Registrar. The cancellation of the certificate of registration shall be notified by the Registrar in the Official Gazette and such newspaper as the Council may select.

(6) In holding inquiries under this section, the Council shall have the same powers as are vested in civil courts under the Code of Civil Procedure, 1908, (V of 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; and

(c) issuing of commissions for the examination of witnesses.

(7) All inquiries under this section shall be deemed to be judicial proceedings within meaning of section 193, 219 and 228 of the Indian Penal Code, (XLV of 1860).

(8)

(a) For the purpose of advising the Council on questions of law arising in any inquiry before it, there may be appointed by the Council an assessor, who on the date of appointment is-

(i) an advocate enrolled under the Indian Bar Councils Act, 1926, (XXXVIII of 1926) or the Advocates Act, 1961, (XXV of 1961), or

(ii) an attorney of a High Court, and has practiced as such advocate or attorney for not less than ten years.

(b) In every inquiry under this section, the advice to be tendered by the assessor to the Council on any question of law shall be tendered by him in the presence of the registered practitioner whose misconduct is under inquiry or the person representing him at the Inquiry, and if the advice is tendered after the Council has begun to deliberate as to its findings, such practitioner or person shall be informed what advice the assessor has tendered. Such practitioner or person shall also be informed, if in any case the Council 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 Inquiry or class of inquiries and shall be paid such remuneration as may be prescribed.

(9) The provisions of sub-sections (1) to (8) shall apply mutatis mutandis to the removal of the name of any practitioners from the list maintained under section 18 or the cancellation or alteration of any entry in such list.

21. Persons not entitled to registration or enlistment :-

Notwithstanding anything contained in section 17 and Section 18 , no person whose name has been removed for infamous conduct in a professional respect from any register or list kept under the Bombay Homoeopathic Act, 1951 (Bom XLVIII of 1951) or under any law for the time being In-force in India or any part thereof regulating the registration of practitioners of medicine, shall be entitled to have his name entered in the register or the list prepared under section 17 and Section 18 respectively, unless his name is duly restored to the register or the list from which it was removed.

22. Maintenance of register and list :-

(1) It shall be the duty of the Registrar to make entries in the register or, as the case may be, the list and from time to time, to revise the same and to issue the certificates of registration or enlistment and renewal slips in accordance with the provisions of this Act, the rules made thereunder and the orders of the Council.

(2) The names of registered practitioners or enlisted practitioners who die or whose names are directed to be removed from the

register or list under sub-section (1) or sub-section (9) of section 20 shall be removed therefrom.

(3) No alteration in the entries as respects additional qualifications or change of name of the practitioner shall be made except on payment of such fees as may be prescribed.

(4) For the purpose of this section, the Registrar may at any time enquire of a registered practitioner or enlisted practitioner by writing to him a registered letter at the address which is entered in the register or list whether he has ceased to practice or has changed his residence, and if no answer is received within six months after the delivery of the letter to him, the Registrar may remove the name of such practitioner from the register or list, as the case may be. Such inquiry shall be made at least once not less than one year before the term of office of the members of the Council is due to expire.

23. Renewal fee :-

(1) Every registered or enlisted practitioner shall be liable to pay to the Council a renewal fee of such amount and on such date or at such interval as may be prescribed.

(2) At least three months before the date by which the renewal fee is due to be paid under sub-section (1). the Registrar shall by registered post address a letter to each registered or enlisted practitioner at either the residential or the professional address entered in the register or the list, as the case may be, calling upon him to pay the renewal fee on or before the due date.

(3)

(a) If the renewal fee is paid on or before the due date, the Registrar shall issue to the practitioner a renewal slip in the prescribed form specifying the date up to which the validity of his certificate of registration or enlistment, as the case may be, has been extended.

(b) If the renewal fee is not paid by the due date, the Registrar shall remove the name of the defaulting practitioner from the register or the list, as the case may be. On such removal the certificate of registration or enlistment, as the case may be, issued to the practitioner shall be deemed to have been cancelled:

Provided that the name so removed may be re-entered in the

register or the list, as the case may be, on payment of the renewal fee and such additional fee as may be prescribed. On receipt of such fee the Registrar shall Issue a renewal slip as provided in clause (a).

24. No refund of fees :-

Fees paid under section 17 , Section 18 , 22 and 23 shall not be refunded.

25. Right of registered practitioner :-

Notwithstanding anything contained in any law for the time being in force-

(i) a registered practitioner or an enlisted practitioner shall not be entitled to practice any system of medicine other than Homeopathy, unless he is duly qualified and entitled under any law for the time being in force to practice that system:

Provided that nothing in this clause shall apply to a practitioner whose name is entered in the register under the provisions of sub-section (4) of section 17:

(ii) the expression "legally qualified medical practitioner" or "duly qualified medical practitioner" or any word importing a person recognised by law as medical practitioner or member of the medical profession shall, in all Acts of the State Legislature in force in the State of Gujarat and in all Central Acts (in their application to the State of Gujarat) in so far as such Acts related to any matter 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:

(iii) a certificate required by any Act from any medical practitioner shall be valid if such certificate has been signed by a practitioner whose name is entered in the register under this Act;

(iv) a practitioner whose name is entered in the register shall be eligible to hold any appointment as a physician or order medical officer in any Homoeopathic dispensary, hospital or infirmary supported by or receiving a grant from the State Government and treating patients, according to Homoeopathic system of medicine or in any public establishment, body or institution dealing with such system of medicine;

(v) every registered practitioner shall be exempt, if he so desires,

from serving on an inquest.

26. Notice of death :-

Every Registrar of Deaths on receiving notice of the death of a registered practitioner shall forthwith transmit, by post, to the Registrar, a certificate under his own hand together with the particulars of the time and place of death and may charge the cost of transmission of such certificate as an expense of his office.

CHAPTER 4

Examinations held by the Council, Courses of Studies, Recognition of Institutions and Recognition of Qualifications

27. Examination held by Council and courses of studies :-

(1) The Council shall by regulations under section 37 prescribe the examinations to be held by it, qualifications for admission to such examinations, the standard of passing, the degree, diploma certificate or any other like award to be conferred on persons who pass the examinations, and such other matters in respect of such examinations as may be necessary or expedient.

(2) The Council may appoint, under the chairmanship of the President, an Examination Committee, consisting of five persons of whom four shall be members of the Council possessing any of the recognised qualifications, and one shall be a person, whether a member of the Council or not possessing a medical qualification which is recognised as sufficient for entitling a person to be registered under any law for the time being in force in the State or any part thereof, relating to the registration of medical practitioners.

(3) Subject to such conditions as may be prescribed by regulations, the functions of the Examination Committee shall be-

(i) to consider applications for recognition of institutions made under section 28 and to make recommendations thereon:

(ii) to make recommendations as respects appointment of examiners:

(iii) to scrutinise applications of candidates for appearance at an examination:

(iv) to make arrangements for holding the examinations of the Council including the appointment of supervising staff, fixation of dates, centres and programmes of examinations and reading of

question papers;

(v) to prepare the results of examinations held by the Council and submit them to the Council: and

(vi) to do all such acts and things, whether incidental to the functions aforesaid or not, in connection with examinations as the Council may determine or direct.

28. Recognition of Institutions :-

(1) Every institution recognised under this section shall be entitled to train students for the examinations of the Council for which it is recognised.

(2) Any institution desirous of recognition under this Act shall send an application giving full information in respect of the following matters, to the Registrar, so as to reach him at least two months before the commencement of the first term of study preparatory to the examination for which recognition is sought namely:-

(a) the constitution and personnel of the managing body:

(b) subjects and courses in which it gives or proposes to give instruction and examination for which it seeks recognition;

(c) accommodation, equipment and the number of students for whom provision has been or is proposed to be made;

(d) the strength of the staff, their salaries, and the research work carried out by them:

(e) fees levied or proposed to be levied and the financial provision made for capital expenditure on buildings and equipment and for continued maintenance and efficient working of the institution:

(f) facilities for clinical training and the number of beds maintained for the purpose: and

(g) such other particulars as the Council may specify by regulations:

Provided that no application shall be entertained by the Registrar unless the institution agrees in writing to give all facilities to any inspector, member, visitor or any other person authorised by the Council to make an inspection or enquiry or to attend any examination under sub-sections (3) to (7).

(3) The Registrar shall place the application before the Council, and if an Examination Committee has been appointed, before the said Committee, and the Council or the said Committee, as the case, may direct the Registrar to call for any further information which it may deem necessary. The Council or the said Committee may also direct a local inquiry to be made by a competent persons authorised by it in this behalf.

(4) After receiving the report of such local inquiry or the Examination Committee, as the case may be, and after making such further inquiry as may be necessary, the Council shall forward the application together with its report to the State Government with its opinion whether the recognition asked for should or should not be granted. The State Government may thereupon grant or refuse the recognition or may grant it subject to such conditions as it deems fit. The decisions of the State Government shall be final.

(5) It shall be the duty of the Council to secure the maintenance of an adequate standard of proficiency for the practice of the Homoeopathic system of medicine. For the purpose of securing such standard, the Council shall have authority to call on the governing body or authorities of any recognised institution to permit inspectors or any member or visitor appointed by the Council in this behalf to inspect the recognised institution and the hospital attached to them and to attend and be present at all or any of the examinations held by the institution. Every recognised Institution shall comply with any reasonable direction issued by the Council from time to time.

(6) The inspectors, members or visitors shall not interfere with the conduct of any examination but it shall be their duty to report to the Council their 'opinion as to the sufficiency or insufficiency of every examination which they attend and any other matters in regard to such institution on which the Council may require them to report.

(7) Every recognised institution and every examination held by such Institution shall be inspected by the Council through Its inspectors or visitors at least once in five years and more frequently if the Council so desires.

(8) The Council shall forward a copy of every such report to the authorities of the institution in respect of which the said report was made and shall also forward a copy of such report, together with

any observation thereon made by the said body, to the State Government.

(9) An inspector, a member or a visitor shall be paid by the Council such remuneration as may be prescribed.

29. Withdrawal of recognition of institutions :-

If it appears to the State Government on the report of the Council or otherwise that any institution recognised under section 28 is not maintaining an adequate standard of training according to the requirements of the Council, the State Government may at any time withdraw the recognition granted to such institution:

Provided that before any direction for the withdrawal of the recognition is made under this section, the institution shall be given a reasonable opportunity and time to come upto the required standard by the Council if a report has been made by the Council and in any other case by the State Government.

30. Amendment of First Schedule :-

(1) If it appears to the State Government on the report of the Council or otherwise that the course of study and examinations prescribed by any university, body or institution conferring a degree, diploma, certificate or any other like award not entered in the First Schedule are such as to secure the possession, by persons obtaining such degree, diploma, certificate or award, of the requisite knowledge and skill for the efficient practice of the Homoeopathic system of medicine it shall be lawful for the State Government, from time to time, by notification in the Official Gazette, to amend the First Schedule and to include therein any such degree, diploma, certificate or award, subject to such conditions, if any, as may be specified in respect thereof.

(2) Any university, body or institution of the inclusion in the First Schedule of any degree, diploma, certificate or award in the Homoeopathic system of medicine conferred by it may apply to the Council in the manner prescribed in sub-section (2) of section 28 and for the purposes of this section the Council shall have all the powers specified in sub-section (3) to (9) of section 28 as if the university, body or institution had applied for recognition under section 28 .

(3) If it appears to the State Government at any time on the report of the Council or otherwise that the course of study or the

examinations prescribed by any university, body or institution for any degree, diploma, certificate or award which is included in the First Schedule under this section, are not such as to secure the maintenance of an adequate standard of proficiency for the practice of the Homoeopathic system of medicine, it shall be lawful for the State Government at any time to remove, by notification in the Official Gazette, any such degree, or, as the case may be, diploma, certificate or award from the First Schedule:

Provided that before any such direction for the removal of any such degree, diploma, certificate or award from the First Schedule is made under this sub-section, the Council shall require the university, body or institution to take steps within such times as the Council may fix, to bring the courses of study examinations to the required standard.

(4) The State Government may, on the recommendation of the Council and after making such inquiry as it thinks fit, by notification in the Official Gazette include in, or exclude from, the First Schedule, any degree, diploma, certificate or award qualifying a person to practice the Homoeopathic system of medicine given by any university, body, institution or other authority outside the State of Gujarat, subject to such conditions, if any. as may be specified in respect thereof, and the said Schedule shall upon the publication of such notification, be deemed to have been so amended from the date specified in the notification.

CHAPTER 5

Offences and Penalties

31. Prohibition of unauthorised conferment of degrees etc :-

(1) No person other than an authority authorised to hold a qualifying examination shall confer, grant or issue, or hold himself out as entitled to confer, grant or issue -any degree, diploma, certificate, licence or any other like award.

(i) which states or implies that the holder, grantee or recipient thereof qualified to practice the Homoeopathic system of medicine, or

(ii) which is identical with, or is a colourable imitation of, any degree, diploma, licence, certificate or award granted by an authority authorised to hold a qualifying examination.

1 [(2) No person shall be entitled to establish or maintain a teaching institution for imparting training or knowledge in the Homoeopathic system of medicine, other than an institution for imparting training or knowledge in a course of study leading to an examination prescribed under sub-section (1) of section 27 and held by the Council].

(3) Any person who contravenes the provisions of sub-sections (1) or (2) and where any such contravention is committed by an association every member of such association who knowingly or wilfully authorises or permits the contravention shall on conviction be punished-

(i) for a first offence with fine which may extend to one thousand rupees, and

(ii) for a subsequent offence with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both.

1. Substituted by Gujarat 6 of 1967.

32. Penalty for falsely assuming or using medical title, etc :-

Whoever-

(a) contravenes the provisions of clause (i) of section 25 or

(b) falsely assumes or uses any title, description, letters, abbreviations or any addition to his name, implying that he holds a degree diploma, licence or certificate conferred, granted or issued by an authority authorised to hold a qualifying examination or that he is qualified to practice the Homoeopathic system of medicine, shall, on conviction, be punished-

(i) for a first offence with fine which may extend to five hundred rupees, and

(ii) for a subsequent offence with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

33. Prohibition against practice by unregistered or unlisted practitioner :-

(1) No person other than registered practitioners or an enlisted practitioner shall practice the Homoeopathic system of medicine.

(2) Any person who contravenes the provisions of sub-section (1) shall, on conviction, be punished-

(i) for a first offence, with fine which may extend to five hundred rupees, and

(ii) for a second offence, with imprisonment for a term, which may extend to six months and with fine which extend to five hundred rupees, and

(iii) for a third and subsequent offences, with imprisonment for a term which may extend to years and with fine which may extend to two thousand rupees.

(3) The foregoing provisions of this section shall take effect in the Saurashtra area and Kutch area of the State from such date not later than one year from the appointed day as the State Government may, by notification in the Official Gazette, specify.

34. Jurisdiction of Magistrates :-

No court inferior to that of a Magistrate of the First Class shall take cognizance of, or try, any offence under this Act.

35. Cognizance of offences :-

No court shall take cognizance of any offence under this Act except on a complaint in writing by the Council or by a person authorised by the State Government in this behalf.

CHAPTER 6

Miscellaneous

36. Power of Government to make rules :-

(1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made-

(a) for the whole or any part of the State of Gujarat.

(b) to provide for all or any matters expressly required or allowed by this Act to be prescribed by rules.

(3) The power to make rule conferred by this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after

they are made and shall be subject to rescission by the State Legislature or such notifications as the State Legislature may make during the session in which they are so laid, or the session immediately following.

(5) Any rescission or modification so made by the State Legislature shall be published in the Official Gazette and shall thereupon take effect.

37. Regulations :-

(1) The Council may, with the previous sanction of the State Government, make regulations not inconsistent with this Act or the rules made thereunder, for the following matters namely:-

(a) the number and designations, salaries, allowance and other conditions of service of its officers and servants other than the Registrar;

(b) the examinations to be held by it:

(c) the qualifications for admission to, and courses of studies for, the examinations:

(d) the standard of passing:

(e) the degree, diploma, certificate or any other like award to be conferred upon those who pass the examinations, and the manner of conferring such degree, diploma, certificate or award:

(f) the language in which the examinations shall be conducted;

(g) the conditions of appointment of examiners, paper-setters, moderators and other persons appointed and fees to be paid to them:

(h) the conduct of examinations and the fees to be charged for the conduct of examinations;

(i) the minimum requirements for recognition of institutions under this Act:

(j) the conditions for the recognitions of teachers in recognised institutions;

(k) the number of students to be admitted to recognised institutions;

(l) directions to be followed by a recognised institution as to teaching and training;

(m) the language in which instructions and training shall be imparted in recognised institutions:

(n) the recommendation of text-books to be used by recognised institutions:

(o) the number of terms in each year and their periods to be observed by recognised institutions:

(p) the duration of the courses, number of hours, lectures and period of terms to be devoted to practical and clinical studies in different subjects of the qualifying examinations by recognised institutions:

(q) the qualifications for examiner ship;

(r) the instructions to examiners in respect of examinations:

(s) the forms of the degree, diploma, or certificate to be awarded to successful students:

(t) the replica of the seal of the Council:

(u) the details of inspection to be carried out by inspectors unrecognized institutions:

(v) awarding of stipends and scholarships, medals, prizes or other awards: and

(w) such other matters as may be necessary for the exercise of the power and performance of duties and functions by the Council under this Act.

(2) The State Government on receiving the draft regulations may sanction or refuse to sanction the same or sanction them subject to such modifications as it may think fit or return them to the Council for further consideration.

(3) All regulations, when sanctioned, shall be published in the Official Gazette.

(4) The state Government may, by notification in the Official Gazette, cancel any regulation.

38. Control of Government :-

(1) If at any time it appears to the State Government that the Council has failed to exercise or has exceeded or abused any of the powers conferred upon it, by or under this Act. or has otherwise ceased to function or has become incapable or functioning the State Government may notify the particulars thereof to the Council and if the Council fails to remedy such failure, excess or abuse within such time as the State Government may fix in this behalf, the State Government may, after giving the Council an opportunity to render an explanation, dissolve the Council and cause all or any of the powers or duties of the Council to be exercised and performed by such person and for such period not exceeding two years as it may think fit and shall take steps to constitute a new Council.

(2) Notwithstanding anything contained in this Act, rules or regulations, 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 functions under this Act, has not been validly constituted or appointed, the State Government may cause any of such powers or functions to be exercised or performed by such person, in such manner, for such period not exceeding six months and subject to such conditions as it thinks fit.

39. Indemnity to persons acting under the Act :-

No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is, in good faith, done or intended to be done under this Act or under the rules or regulations made thereunder.

40. Repeal and savings and dissolution of Board of Homoeopathic System Medicine :-

(1) Subject to the provisions of this section, with effect on and from the date notified under sub-section, 3 (hereinafter referred to as the notified day)-

(a) the Bombay Homoeopathic Act. 1951 (Bom XLVIII of 1951) in Its application to the Bombay area of the State of the Gujarat, shall be repealed:

(b) the Board of Homoeopathic system of Medicine constituted for the Bombay area of the State of Gujarat under section 3-A of the Act so repealed shall stand dissolved and all the member of the said Board shall vacate office and on such dissolution the following consequences shall ensue, that is to say.-

(i) all rights of the said Board (hereinafter in this section referred to as the 'dissolved Board'), shall vest in the Council constituted under section 3 of this Act (hereinafter in this section referred to as 'the Council');

(ii) all the property, movable or immovable which on the day immediately preceding the notified day vested in the dissolved Board shall, subject to all limitations and conditions as were in force on the day immediately preceding the notified day, rest in the Council:

(iii) all sums due to the dissolved Board on any account shall be recoverable by the Council which shall be competent to take any measure or institute any proceeding which it would have been open to the dissolved Board to take or Institute if this Act if this Act had not come into operation;

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

(v) all proceedings and matters pending before any authority or officer immediately before the notified day under the Act so repealed shall be deemed to be transferred to, and continue before, the authority competent under this Act to entertain such proceedings and matters:

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

(vii) all officers and servants in the employ of the dissolved Board immediately before the notified day, shall be officers and servants employed by 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, which they were entitled or subject to immediately before the notified day:

Provided that-

(i) the service rendered by the officers and servants before the notified day shall be deemed to be service rendered under the Council:

(ii) the conditions of service of any such officer or servant as applicable immediately before the notified day shall not be varied to his disadvantage by the Council except with the previous approval of the State Government:

(iii) if in the opinion of the Council the services of any officer or servant are not necessary or suitable to the requirements of service under it, it may, with the previous approval of the State Government, discontinue the service of any such officer or servant and any officer or servant whose services are to be discontinued shall be entitled to receive from the Council such leave, pension, gratuity or other retirement benefits as he would have, had this Act not been passed, been entitled to receive on being invalidated out of service, and may receive such additional sum by way of compensation as the Council may, with the sanction of the State Government, determine.

(2) Part A, Part B, and Part C of the register duly maintained under the Bombay Homoeopathic Act, 1951 (Bom XLVIII1951) (hereinafter in this section referred to as the "repealed Act") and in force immediately before the notified day in the Bombay area of the State shall be deemed to be the register prepared and maintained under this Act, until the register is prepared under section 17.

(3) Anything done or action taken and any right, liability or obligation acquired, accrued or incurred by any person or authority under the repealed Act and not covered by the foregoing provisions of this section shall, in so far as it is not inconsistent with the provisions of this Act, be deemed respectively to have been done, taken, acquired, accrued or incurred by the person or authority entitled thereto or liable therefor, as the case may be under the corresponding provisions of this Act.

(5) The rules and regulations made under the repealed Act and in force immediately before the appointed day shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to be made under this Act In relation to the whole of the State of Gujarat and shall continue in force accordingly until they are superseded by anything done or any action taken under this Act.

41. Repeal of Bom.XII of 1960 :-

The Bombay Homoeopathic and Bio-chemic Practitioners Act, 1959 (Bom XII of 1960), is hereby repealed.

42. Power to remove difficulties :-

If any difficulty, arises in giving effect to the provisions of this Act. the State Government may, as occasion requires by order do anything which appears to it necessary or expedient for the purpose or removing the difficulty.

43. Amendment of Bombay XXVI of 1938 and that Act as applied to Saurashtra and Kutch areas of the State :-

The provisions of the Bombay Medical Practitioner's Act, 1938 (Bom XXVI of 1938), and of the said Act as adapted and applied to the Saurashtra area of the State of Gujarat and as extended to the Kutch area of the State of Gujarat specified in column I of the Second Schedule shall be amended in the manner and to the extent specified in column 2 of the said Schedule.

SCHEDULE 1

Recognised Qualification

1. . :-

Licentiate of the Court of Examiners in Homoeopathic (L.C.E.H.) constituted under the Bombay Homoeopathic Act, 1951.

2. . :-

Graduate of the Court of Examiners in Homeopathy (G.C.E.H.) constituted under the Bombay Homoeopathic Act, 1951.

3. . :-

Fellow of the Court of Examiners in Homeopathy (F.C.E.H.) constituted under the Bombay Homoeopathic Act, 1951.

4. . :-

Any degree, diploma, certificate or like award in Homeopathy granted by the Council constituted under this Act.

5. . :-

Diploma-in Medicine and Surgery (D.M.S.) of general Council and State Faculty of Homoeopathic Medicine, West Bengal.

6. . :-

Diploma known as the Bachelor of Homoeopathic Medicine granted by the Regular Homoeopathic College, Calcutta, and the Calcutta Homoeopathic Medical School, Calcutta, prior to 1940.

7. . :-

Diploma known as the Bachelor of Homoeopathic Medicine and Surgery granted by the Bengal Allan Homoeopathic College, Calcutta, prior to 1945.

8. . :-

Diploma known as the Master of Homoeopathic Medicine and Surgery granted by the Bengal Allan Homoeopathic College, Calcutta, prior to 1945.

9. . :-

Diploma known as the Bachelor of Homoeopathic Medicine and Bachelor of Surgery granted by the Calcutta Homoeopathic Medical College, prior to 1945).

10. . :-

Diploma in Homoeopathic Medicine (D.H.M.) awarded by the Board of Examiners in Homeopathy nominated by the Government of Kerala.

11. . :-

Diploma in homeopathy and Biochemistry (D.H.B.) recognised by the Government of Maharashtra].

12. . :-

Diploma of Licentiate of the Court of Examiners of Homoeopathic and Bio-chemic System of Medicine, Bombay (L.C.E.H.) constituted under the Bombay Homoeopathic and Bio-chemic Practitioners' Act, 1959.

13. 13 :-

Diploma of Medicine and surgery (D.M.S.) granted by the Council of Homoeopathic Medicine, West Bengal constituted under the West Bengal Homoeopathic System of Medicine Act, 1963].

SCHEDULE 2

SCHEDULE

PART

Amendments of the Bombay Medical Practitioners Act, 1938

PART

Amendments of the Bombay Medical Practitioners Act, 1938

PART

Amendments of the Bombay Medical Practitioners Act, 1938