

## **GUJARAT MEDICAL COUNCIL ACT, 1967**

**10 of 1968**

**[April 15, 1968]**

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## **SCHEDULE 1 :- SCHEDULE**

### **GUJARAT MEDICAL COUNCIL ACT, 1967**

**10 of 1968**

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As amended subsequently by Gujarat Act No. 7 of 1995 and Schedule amended by Notfns. dated 25-4-1979 and 27-8-1992. An Act to Consolidate and amend the law regulating the registration of persons practising modern scientific medicine in the State of Gujarat. It is hereby enacted in the Eighteenth Year of the Republic of India as follows-

#### CHAPTER 1

#### PRELIMINARY

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

(1) This Act may be called the Gujarat Medical Council Act, 1967.

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

(3) This section shall come into force at once; and the remaining provisions of this Act shall come into force on such date as the State Government may, by notification in the [Official Gazette], appoint.

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

In this Act, unless the context otherwise requires,-

(a) "appointed day "means the date on which the provisions of this Act other than Section 1 come into force under sub-section (3) of section 1;

(b) "council" means the Gujarat Medical Council constituted under Section 3 ;

(c) "Executive Committee" means the Executive Committee of the Council constituted under section 11;

(d) "medical practitioner" or "practitioner" means a person who is engaged in the practice of modern scientific medicine in any of its branches including surgery and obstetrics, but not including veterinary medicine or surgery or the Ayurvedic, Unani or Homeopathic system of medicine:

(e) "member" means a member of the Council:

(f) "prescribed" means prescribed by rules;

(g) "President" means the President of the Council;

(h) "register" means the register of medical practitioners prepared or deemed to be prepared and maintained under this Act;

(i) "registered practitioner" means a medical practitioner whose name is for the time being entered in the register, but does not include a person whose name is provisionally entered in the register:

(j) "Registrar" means the Registrar appointed under Section 33 or Section 14 , as the case may be;

(k) "rules" means rules made under Section 31 ;

(l) "Schedule" means the Schedule appended to this Act;

(m) "Vice-President" means the Vice-President of the Council.

## CHAPTER 2

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

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

(1) With effect from such date as the State Government may, by notification in the [Official Gazette] notify, there shall be constituted for the purposes of this Act a Council to be called "the Gujarat Medical Council".

(2) The Council shall be a body corporate, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, whether moveable or immovable and to contract and to do all things necessary for the purposes of this Act,

and may by the name aforesaid sue and be sued.

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

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

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

(c) Six members to be elected by registered practitioners from amongst themselves.

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

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

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

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

(8) Notwithstanding anything contained in sub-section (3)

(i) in respect of the constitution of the Council for the first time under this Act, the members thereof shall be nominated by the State Government from amongst persons qualified to be elected or nominated as members of the respective class;

(ii) the members so nominated shall hold office for such period not exceeding three years in the aggregate as the State Government may, by notification in the [Official Gazette], specify.

#### **4. Terms of Office :-**

(1) The State Government shall, by notification in the [Official

Gazette], publish the names of the members, whether elected or nominated.

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

Provided that, where a person is elected by members of medical faculty of a University, he shall cease to hold office as a member if he ceases to belong to that faculty.

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

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

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

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

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

## **5. Casual vacancies :-**

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

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

(2) Any casual vacancy, previous to the expiry of the term, in the office of a member nominated under clause (a) of sub-section (3)

or sub-section (8) of Section 3 shall be reported forthwith by the Registrar to the State Government, and shall as soon as possible thereafter be filled by the State Government by nomination.

(3) Any person elected under sub-section (1) or nominated under sub-section (2) to fill a casual vacancy shall. Notwithstanding anything contained in sub-section (8) of Section 3 or Section 4 , hold office only so long as the person in whose place he is elected or nominated would have held office, if the vacancy had not occurred.

## **6. Resignation :-**

(1) The President or the Vice-president may at any time resign his office by a notice in writing addressed to the Council and delivered to the Registrar. The resignation shall take effect from the date on which it is accepted by the Council or on the expiry of sixty days from the date of the delivery of the notice, whichever event occurs earlier.

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

## **7. Disqualification and disability :-**

(1) A person shall be disqualified for being elected or nominated as, and for continuing as, a member,

(a) if he is an un-discharged insolvent;

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

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

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

(2) If any member absents himself from three consecutive meetings of the Council, without leave of the Council granted under sub- section (7) of Section 4 or without such reasons as may, in the

opinion of the Council, be sufficient, the Council may declare his seat vacant and take steps to fill the vacancy.

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

## **8. Meetings of Council :-**

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

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

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

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

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

## **9. Proceedings of meetings and validity of acts :-**

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

Provided that, nothing in this section shall be deemed to prohibit any person from disclosing or publishing the text of any resolution

adopted by the Council, unless the Council directs such resolution also to be treated as confidential.

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

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

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

#### **10. Powers, duties and functions of the Council :-**

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 to provide for the registration of medical practitioners:

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

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

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

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

#### **11. Executive Committee :-**

(1) The Council shall, as soon as may be, constitute an Executive Committee consisting of the President as [ex-officio] member and such number of other members, elected by the Council from amongst its members, as may be prescribed.

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

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

(4) The President shall be the [ex-officio] Chairman of the Executive Committee.

**12. Fees and allowances to members of the Council and Executive Committee :-**

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

**13. Income and expenditure of the Council :-**

(1) The income of the Council shall consist of

- (a) fees received from the practitioners,
- (b) grants received from the State Government, if any, and
- (c) any other sums received by the Council.

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

- (a) salaries and allowances of the Registrar and the staff maintained by the Council;
- (b) fees and allowances paid to the members of the Council and the Executive Committee;
- (c) remuneration paid to the assessors; and
- (d) such other expenses as are necessary for performing the duties and discharging the functions under this Act.

**14. Appointment of Registrar of the Council, his duties and functions :-**

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

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

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

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

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

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

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

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

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

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

(9) The Registrar shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, 1860 .

### **15. Other employees of the Council :-**

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

Provided that, the number and designations of such officers and

servants and their salaries and allowances shall be determined by the Council, with the previous sanction of the State Government.

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

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

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

### CHAPTER 3

#### PREPARATION AND MAINTENANCE OF REGISTER

#### **16. Preparation of register :-**

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

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

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

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

(4) The name of every person

(a) who, being entered, on or after the 1st May 1961 in the register duly kept under S.6 of the Bombay Medical Act, 1912 (Bom. VI of 1912) as in force in the Bombay area of the State (hereinafter referred to as "the Bombay area Register") stands entered in the said register on the day immediately preceding the appointed day, or

(b) who stands entered in the register duly kept under S.6 of the Bombay Medical Act, 1912 (Bom. VI of 1912) as adapted and applied to the Saurashtra area of the State, on the day immediately preceding the appointed day,

(5)

(a) Every person, whose name was entered on a date prior to the 1st May 1961 in the Bombay Area Register and continued in such register on the day immediately preceding the appointed day, shall be entitled to have his name continued in the register prepared under this Act in accordance with provisions of clause (b).

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

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

(6) After the last date for payment of the fee of five rupees under clause (b) of sub-section (5) has expired and the register prepared in accordance with the foregoing provisions is ready, the REgistrar shall publish a notice in the [Official Gazette] and such newspapers as the Council may select, about the register having been prepared, and the register shall come into force from the date of the publication of such notice in the [Official Gazette].

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

1. Substituted By Gujarat 7 of 1995

### **17. Special procedure for registration in certain cases :-**

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

(2) Any person, who holds any such medical qualification may apply to the Council for registration by giving a correct description of his qualification, with the date on which it was granted, and by presentation of his degree, diploma, licence or certificate. The Council shall transmit to the Central Government the application with its opinion whether the medical qualification possessed by the applicant should be included in Part II of the Third Schedule to the Indian Medical Council Act, 1956 (CII of 1956). If the medical qualification is so include in pursuance of the provisions of sub-section (4) of Section 13 of that Act the Council may, subject to the provisions of that Act and on payment of [the prescribed fee] enter his name in the register under Section 16 .

### **18. Persons who may not be registered :-**

Notwithstanding anything contained in Section 16 and Section 17 , no person, whose name has been removed whether before or after the appointed day, from any register kept under this Act or any other law for the time being in force in India regulating the registration of medical practitioners on the ground of professional misconduct, shall be entitled to have his name entered in the

register, unless his name is duly ordered to be restored to the register from which it was so removed.

**19. Fee for and certificate of provisional registration. :-**

(1) Any person who desires to be registered provisionally under Section 25 of the Indian Medical Council Act, 1956 (CII of 1956), shall make an application in the prescribed form to the Registrar and shall pay [ the prescribed fee].

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

**20. Maintenance of register :-**

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

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

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

(4) Subject to the provisions of Section 26 of the Indian Medical Council Act, 1956 (CII of 1956), any person whose name is entered in the register and who subsequent to his registration obtains any additional qualification specified in the Schedule to this Act or in any of the Schedules to the Indian Medical Council Act, 1956, (CII of 1956) shall on an application made in this behalf, and on payment of the prescribed fee, be entitled to have an entry stating such additional qualification made against his name in the register.

(5) Where it is shown to the satisfaction of the Registrar that a certificate of registration has been lost or destroyed, the Registrar may, on payment of the prescribed fee, issue a duplicate certificate.

## **21. Publication of list of registered practitioners :-**

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

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

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

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

(c) any other amendments to the subsisting list.

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

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

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

## **22. Removal of names from the register :-**

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

- (a) issue a letter of warning to such practitioner, or
- (b) direct the name of such practitioner
- (i) to be removed from the register for such period as may be specified in the direction, or
- (ii) to be removed from the register permanently.

Explanation.- For the purpose of this section a registered practitioner shall be deemed to be guilty of misconduct if

- (a) he is convicted by a criminal court for an offence which involves moral turpitude and which is cognisable within the meaning of the Code of Criminal of Procedure, 1898 (V of 1898), or
- (b) he being subject to military law is convicted under the Army Act, 1950 (XLVI of 1950) for an offence which is cognisable within the meaning of the Code of Criminal Procedure 1898 (V of 1898), or
- (c) in the opinion of the Council his conduct is infamous in relation to the medical profession particularly under any Code of Ethics prescribed by the Council or by the Medical Council of India constituted under the Indian Medical Council Act, 1956 (CII of 1956) in this behalf.

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

- (a) the register or the list maintained under the Gujarat Medical Practitioners, Act, 1963, (Gujarat 6 of 1964) or
- (b) the register or the list maintained under the Gujarat Homeopathic Act 1963 (XXXVI of 1963).

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

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

(5) The Council may, of its own motion, or on the application of any

person, after due and proper inquiry and after giving an opportunity to the person concerned of being heard, cancel or alter any entry in the register, if in the opinion of the Council, such entry was fraudulently or incorrectly made.

(6) In holding any inquiry under this section, the Council or the Executive Committee, as the case may be, shall have the same powers as are vested in Civil Courts under the Code of Civil Procedure, 1908 (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;
- (c) issuing of commissions for the examination of witnesses.

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

(8)

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

(i) an advocate enrolled under the Advocates Act, 1961, (XXV of 1961), or

(ii) an attorney of a High Court.

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

(b) Where an assessor advises the Council, or the Executive Committee, on any question of law as to evidence, procedure or any other matter, he shall do so in the presence of every party or person representing a party, to the inquiry who appears thereat or if the advice is tendered after the Council or the Executive Committee has begun to deliberate as to its findings, every such

party or person as aforesaid shall be informed what advice the assessor has tendered. Such party or person shall also be informed if in any case the Council or the Executive Committee does not accept the advice of the assessor on any such question as aforesaid.

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

**23. Renewal of registration.-Notwithstanding anything contained in sections 16 and 21 :-**

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

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

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

Provided that, if an application for continuance of the name so removed is made within a period of six months from the date fixed

by the said notice sent by registered post under clause (b), the name so removed may be re-entered in the register on payment of [the prescribed fee].

#### **24. Appeals :-**

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

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

#### **25. Rights of registered practitioners :-**

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

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

(ii) every registered practitioner shall be exempt, if he so desires, from serving on an inquest.

#### **26. General provisions applicable to medical practitioners :-**

The provisions of the Indian Medical Council Act, 1956 (CII of 1956), and of Chapter V of the Gujarat Medical Practitioners Act, 1963 (Gujarat 6 of 1964), containing general provisions applicable to all medical practitioners.

#### **CHAPTER 4**

#### **MISCELLANEOUS**

#### **27. Council authorised to call for information and attend examinations :-**

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

(a) to furnish such particulars as the Council shall require of any

course of study prescribed or examination held by such body or authority or in such school or college with reference to the grant of any medical or surgical qualification, and

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

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

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

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

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

Provided further that, before making any recommendation to the State Government, under this section to remove any degree, diploma, licence, certificate or award, from the Schedule, the

Council shall require the University, college, body or institution to take steps as may be directed by the Council, and within such reasonable time as the Council may prescribe, to bring the course of study or examination for such degree, diploma, licence, certificate or award to the required standard.

**29. Penalty for falsely claiming to be registered :-**

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

**30. Control of State Government :-**

(1) If at any time it appears to the State Government that the Council or its President or Vice- President has failed to exercise or has exceeded or abused any of the powers conferred upon it or him by or under this Act, or has ceased to function, or has become incapable of functioning, the State Government may, if it considers such failure, excess, abuse or Incapacity to be of a serious character, notify the particulars thereof to the Council or the President or the Vice- President, as the case may be. If the Council or the President or the Vice-President, as the case may be fails to remedy such failure, excess, abuse or Incapacity within such reasonable time as the State Government may fix in this behalf, the State Government may remove the President or Vice-President or dissolve the Council, as the case may be, and in case of dissolution of the Council cause all or any of the powers, duties and functions of the Council to be exercised, performed and discharged by such person or persons 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, or in the rules made thereunder, if at any time it appears to the State Government that the Council or any other authority empowered to exercise any of the powers or to perform any of the duties or functions under this Act, has not been validly constituted or appointed, the State Government may cause any of such powers, duties or functions to be exercised or performed by such person or persons, in such manner and for such period not exceeding six months and subject to such conditions, as it thinks fit.

### **31. Rules :-**

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

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

(a) for the whole or any part of the State, and

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

(3) 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 Legislature or to such modifications as the Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modifications so made by the Legislature shall be published in the [Official Gazette] and shall thereupon take effect.

#### CHAPTER 5

#### REPEAL AND TRANSITIONAL PROVISIONS

### **32. Repeal and Saving :-**

(1) Subject to the provisions of this Chapter, with effect on and from the date on which the Council is constituted under this Act under sub-section (8) of Section 3 (hereinafter in this Chapter referred to as "the specified date")

(a) the Bombay Medical Act, 1912 (Bom. VI of 1912), as in force in the Bombay area of the State,

(b) the Bombay Medical Act, 1912 (Bom. VI of 1912), as adapted and applied to the Saurashtra area of the State, and

(c) the Bombay Medical Act, 1912 (Bom. VI of 1912), as applied to the Kutch area of the State, shall stand repealed.

(2) With effect on and from the specified date,

(a) the Gujarat (Bombay Area) Medical Council constituted under Section 2 read with S.2B of the Bombay Medical Act, 1912 (Bom.

VI of 1912), as in force in the Bombay area of the State, and

(b) the Saurashtra Medical Council constituted under S.2 of the Bombay Medical Act, 1912 (Bom. VI of 1912), as adapted and applied to the Saurashtra area of the State, shall stand dissolved and all the members thereof shall vacate office.

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

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

Provided that the rules made under the Bombay Medical Act, 1912, (Bom. VI of 1912), as in force in the Bombay Area of the State and in force immediately before the specified date shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to be rules made in relation to the whole of the State of Gujarat and continue in force accordingly until they are superseded by anything done or any action taken under this Act.

### **33. Provision regarding Registrar :-**

The Registrar appointed under S.5 of the Bombay Medical Act, 1912 (Bom. VI of 1912), by the Gujarat (Bombay Area) Medical Council constituted under S.2B of the Indian Penal Code, 1860 of the said Act, and holding office immediately before the specified date shall as from the said date be deemed to be appointed as the Registrar of the Council constituted under this Act, on the same terms and conditions as were applicable to him immediately before that date and until they are duly varied by a competent authority under this Act. The service rendered by such Registrar before the specified date shall be deemed to be service rendered under the Council.

### **34. Vesting of rights, duties, etc. :-**

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

(1) all rights of the Medical Councils dissolved under Section 32 (hereinafter in this section referred to as "the dissolved Councils") shall on the specified date vest in the Council constituted under Section 3 (hereinafter in this section referred to as "the Council"),

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

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

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

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

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

(7) all officers and servants (except the Registrar for whom provision has been made in Section 33 ) in the employ of the dissolved Councils and holding office immediately before the specified date shall be deemed to be the officers and servants appointed to serve the Council and shall, until provision is otherwise made in accordance with the provisions of this Act, receive salaries and allowances and be subject to the conditions of

service or retirement benefits to which they were entitled to or subject to on the day immediately preceding the specified date:

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

Provided further that if in the opinion of the Council the services of any such officer or servant are not necessary or such officer or servant is not suitable to the requirement of service, the Council may, with the previous approval of the State Government, terminate the services of such officer or servant and any officer or servant whose services are so terminated shall be entitled to receive from the Council such leave, pension, gratuity or other benefits as he would have had this Act not been passed, been entitled to receive on being Invalided out of service of the respective dissolved Councils, and shall be entitled to receive such additional amount by way of compensation as the Council may, with the sanction of the State Government, determine.

#### SCHEDULE 1

##### SCHEDULE

(Section 16(3), Section 27 AND Section 28 .) The qualifications in addition to those specified in the Schedules to the Indian Medical Council Act, 1956, the possession of which entitled a person for registration under this Act. 1. Fellowship of the College of Physicians and Surgeons, Bombay, in Medicine, Pathology, Surgery or Dermatology granted before the 1st April, 1954. 2. Fellowship of the College of Physicians and Surgeons, Bombay, in any subject other than Medicine, Pathology, Surgery or Dermatology. 3. Member of the College of Physicians and Surgeons, Bombay (admitted before the 30th April, 1944). 4. Diploma of Ayurvediya Visharad in Allopathy of the Tilak Maharashtra Vidyapeeth of Poona, conferred during the years 1921 to 1936 (both inclusive). 5. Fellow and Member of the State Medical Faculty of Bengal prior to the 15th August, 1947. 6. Fellow of the State Medical Faculty of West Bengal on or after 15th August, 1947. 7. Fellow and Member of the State Medical Faculty, Punjab. 8. Diploma in Allopathy (1) of the National Medical College or the National College of Physicians and Surgeons of India, Calcutta, (2) of the College of Physicians and Surgeons of Calcutta and (3) of the International College of Physicians and Surgeons of India, Calcutta, during the years 1912 to 1916 (both inclusive). 9. Licenced Medical Practitioner of the University of Mysore. 10. Diploma of Licenced Medical Practitioner of the State Medical Faculty of Gujarat (L.M.P. Gujarat). 11. Any person trained in a Government Medical College or School in India who holds a diploma or certificate granted by any Government in India directing him to be qualified to practise Medicine, Surgery and Midwifery or to be qualified for the duties of a Military Assistant Surgeon, Hospital Assistant or Sub- Assistant Surgeon. 12. Diploma in Nature-Cure and Hygiene conferred by Faculty of Nature Cure and Hygiene Gujarat State. 13. Degree in Bachelor of Medicine and Bachelor of Surgery (M.B.B.S.) conferred by the Sardar Patel University from the Pramukhaswami Medical College, Karamsad.]

