

## **Himachal Pradesh Medical Council Act, 2003**

**16 of 2003**

**[21 August 2003]**

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## **Himachal Pradesh Medical Council Act, 2003**

**16 of 2003**

**[21 August 2003]**

AN ACT to provide for the constitution of Himachal Pradesh Medical Council and the maintenance of a register of medical practitioners who are engaged in the practice of modern scientific system of medicine and all its branches in the State of Himachal Pradesh and for matters connected therewith. BE it enacted by the Legislative Assembly of Himachal Pradesh in the Fifty-fourth Year of the Republic of India, as follows:- 1. Passed in Hindi by the Himachal Pradesh Vidhan Sabha. For Statement of Objects and Reasons see R.H.P. Extra., dated 18.7.2003, p. 874 and 892.

### **CHAPTER 1 PRELIMINARY**

#### **1. Short Title :-**

This Act may be called the Himachal Pradesh Medical Council Act, 2003.

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

In this Act, unless the context otherwise requires,-

- (a) "casual vacancy" means a vacancy occurring otherwise than by efflux of time in any office filled by election or nomination;
- (b) "Council" means the Himachal Pradesh Medical Council constituted under section 3 of this Act;
- (c) "Executive Committee" means the Executive Committee of the Council constituted under section 11 of this Act;
- (d) "Government" means the Government of Himachal Pradesh;
- (e) "medical practitioner" or "practitioner" means a person who is engaged in the practice of modern scientific system of medicine and all its branches and has qualification as prescribed in the First, Second or Third Schedule to the Indian Medical Council Act, 1956 (102 of 1956);

- (f) "medicine" means the modern scientific system of medicine and includes surgery and obstetrics but does not include veterinary medicine or veterinary surgery or the Homoeopathic or the Ayurveda or the Siddha or the Unani System of Medicine and the expression "medical" shall be construed accordingly;
- (g) "member" means a member of the Council;
- (h) "Official Gazette" means the Rajpatra of Himachal Pradesh;
- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "President" means the President of the Council;
- (k) "Vice-President" means the Vice-President of the Council;
- (l) "register" means the register of medical practitioners prepared or deemed to be prepared and maintained under this Act;
- (m) "registered practitioner" means a medical practitioner having requisite qualification as prescribed in the Indian Medical Council Act, 1956 (102 of 1956) and 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; and
- (n) "Registrar" or "Deputy Registrar" means the Registrar or the Deputy Registrar, as the case may be, appointed under section 14 of this Act.

## **CHAPTER 2 ESTABLISHMENT OF COUNCIL**

### **3. Constitution And Composition Of The Council :-**

(1) With effect from such date as the Government may, by notification in the Official Gazette notify, there shall be constituted for the purpose of this Act, a Council to be called "The Himachal Pradesh 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 movable 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) four members having requisite qualification as prescribed in the Indian Medical Council Act, 1956,(102 of 1956) to be nominated by the Government;

(b) one member from each Government Medical College established by law in Himachal Pradesh having a medical faculty, elected by members of the medical faculty of that college from amongst its permanent members of teaching faculty;

(c) nine members to be elected by registered practitioners from

amongst themselves including one member elected by the Himachal Pradesh Medical Officers Association:

Provided that no registered practitioner shall be entitled to vote or stand as a candidate for election unless,-

(i) he is a citizen of India;

(ii) he either resides or carries on his profession or is employed in Himachal Pradesh ;

(d) Director of Medical Education, Himachal Pradesh as ex-officio member ;

(e) Principals of the Government Medical Colleges in Himachal Pradesh as ex-officio members; and

(f) Director of Health Services, Himachal Pradesh as ex-officio member.

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

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

(6) If at any election, the electors fail to elect the requisite number of members, or the President or the Vice-President, the Government shall nominate members from amongst persons qualified to be elected as members of the respective category, as it deems fit to fill in the vacancy or vacancies; and the persons so nominated shall be deemed to have been elected for the period till such time the vacancies are filled in on regular basis under this section.

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

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

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

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

(9) The Government shall, by notification in the Official Gazette, publish the names of the members.

#### **4. Term Of Office Of The President, The Vice-President And The Members :-**

(1) Save as otherwise provided in this Act, a member shall hold office for a term of five years from the date of publication of the notification under sub-section (9) of section 3 of this Act:

Provided that where a person is elected by the members of medical faculty of a Government Medical College, or is an ex-officio member, he shall cease to hold office as a member if he ceases to belong to that faculty, or as the case may be, ceases to hold office, before the expiry of his term.

(2) Save as otherwise provided in this Act, the President or the Vice-President shall hold office from the date of his election up to the day on which his term of office as member expires.

(3) The term of office of an outgoing member shall, notwithstanding anything contained in sub-section (1) be deemed to extend and to expire on the day immediately preceding the day on which the names of the successor members are published under sub-section (9) of section 3 of this Act.

(4) The term of office of an outgoing President or Vice-President shall, notwithstanding anything contained in sub-section (2), be deemed to extend and to expire on the day immediately preceding the day on which the successor President or Vice-President, as the case may be, is elected.

(5) An outgoing member, President or Vice-President, shall be eligible for re-election or renomination for one more consecutive term only.

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

## **5. Casual Vacancy :-**

(1) A casual vacancy in the office of the President or Vice-President or a member elected under clause (b) or clause (c) sub-section (3) of section 3, 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) A casual vacancy in the office of a member nominated under clause (a) of sub-section (3) or under sub-section (8) of section 3 shall be reported forthwith by the Registrar to the Government, and shall, as soon as possible thereafter, be filled by the 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 of this Act, hold office only so long as the person in whose place he may be elected or nominated, as the case may be, would have held office, if the vacancy had not occurred.

## **6. Section 6 :-**

## **7. Disqualifications :-**

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

(a) if he is an undischarged insolvent; or

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

(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; or

(e) if he has been convicted for an offence involving moral turpitude.

(2) If any member absents himself from three consecutive meetings of the Council, without leave of the Council granted under sub-section (6) 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 Government, and the Government, if satisfied about the disqualification, shall declare his seat vacant.

## **8. Meetings Of The 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 and if at any meeting the President is absent, the Vice-President, and in the absence of both, any other member elected by the members present from amongst themselves, shall preside at such meeting.

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

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

(5) Eight members including the President and the Vice-President shall form quorum. When a quorum is required but not present, the presiding authority shall, after waiting for not less than thirty minutes for such quorum, adjourn the meeting to such hour or 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 there at, 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 Meeting 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 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 direct such resolution also to be treated as confidential.

(2) No disqualification or defect in the election or nomination of any person as a member, or as the President, or as the Vice-President, or as the Presiding Authority of a meeting shall by itself be deemed to vitiate any act or proceedings of the Council in which such person has taken part, if the majority of the 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.

(4) Any act done by the Council shall not be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Council.

#### **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 live register and to provide for the registration of medical practitioners;

(b) to hear and decide appeals against 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 his name

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 receive complaints from public (including patients or their relatives) against misconduct or negligence by a medical practitioner, to proceed for inquest, take a decision on merits of the case and to initiate disciplinary action or award compensation and similarly to take action against frivolous complaints;

(f) to ensure that no unqualified person practices modern scientific system of medicine;

(g) to exercise such other powers, perform such other duties and discharge such other functions, as may be prescribed; and

(h) to provide protection to its members in discharging professional duties.

### **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 other members, elected by the Council from amongst its members, as may be prescribed.

(2) The term of office and the manner of filling casual vacancies 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 entrusted to it from time to time, by the Council.

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

### **12. Allowances Payable 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 travelling and other allowances, as may be prescribed.

### **13. Income And Expenditure Of The Council :-**

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

- (a) registration fees received from the practitioners;
- (b) grants received from the Government, if any; and
- (c) any other sums raised 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 appointed by the Council;
- (b) travelling and other 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 And Deputy Registrar, Their Duties And Functions :-**

(1) the Council shall, with the previous sanction of the Government, appoint a Registrar or Deputy Registrar who shall be a qualified medical graduate as prescribed in Schedule I, II or III of the Indian Medical Council Act, 1956 (102 of 1956).

(2) The Executive Committee may 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 the temporary vacancy in the office of the Registrar due to leave or any other reasons, the Deputy Registrar shall act as Registrar and in the absence of Registrar and Deputy Registrar, the Executive Committee may, with the previous sanction of the 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 Government.

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

(5) Save as otherwise provided in 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 and he shall attend all meetings of the Council, and of its Executive Committee, and shall keep minutes of the meetings and names of members present and of the proceedings of 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 prescribed..

(9) The Registrar shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860(45 of 1860).

### **CHAPTER 3** PREPARATION AND MAINTENANCE OF REGISTER

#### **15. Preparation Of Register :-**

(1) As soon as may be , after the commencement of this Act, the Registrar shall prepare and maintain register of medical practitioners for Himachal Pradesh in accordance with the provisions of this Act.

(2) The register shall be in such form, and may be divided in to such parts, as may be prescribed. The register shall provide for the full name, address and qualifications, with the name of College and University 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 Schedules I, II, and III to the Indian Medical Council Act, 1956 (102 of 1956), shall subject to any condition laid down by or under the said Act, at any time on an application made in the prescribed form to the Registrar and on payment of a prescribed fee and on presentation of proof of his qualification, be entitled to have his name entered in the register.

(4) Every person whose name was entered on a date prior to 1st May, 1961, in Indian Medical Council register and continued in such register on the day immediately preceding the date of commencement of this Act, shall be entitled to have his name continued in the register prepared under this Act.

(5) Within a period of three months from the commencement of this Act or such further period as the Government may allow, the Registrar shall publish a general notice in the Official Gazette and in such news papers, as the Council may select, in such form, as may be prescribed, calling upon every person to whom sub-section (4)

applies, to pay to the Registrar, in the prescribed manner, the prescribed fee if he desires to have his name entered in the register maintained under this Act, and shall also send individual notice for like 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 entered in the register.

(6) After the last date for payment of the prescribed fee under sub-section (5) has expired and the register prepared in accordance with foregoing provisions is ready, the Registrar, shall publish a notice in the Official Gazette and in such news papers as the Council may select, about the register having been prepared, and the register shall come in to force on the date of publication of such notice in the Official Gazette.

(7) No person though qualified in modern scientific system of medicine, shall practice in the State of Himachal Pradesh without having a certificate of registration. Any person serving or practising modern scientific system of medicine in Himachal Pradesh shall be registered with the Council under this Act.

(8) 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 practice and if he has more than one such place, in any one of them, such registration shall be valid for a period of three years.

(9) Any person who contravenes provisions of sub-section (7) shall on conviction, be punished with fine which may extend to five thousand rupees.

#### **16. 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 qualification specified in the Second or Third Schedule to the Indian Medical Council Act, 1956 (102 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 his degree, diploma, licence or certificate. The Council shall transmit the same to the Medical Council of India for

opinion and shall act according to their opinion.

### **17. Persons Who May Not Be Registered :-**

Notwithstanding anything contained in sections 15 and 16 of this Act, no person whose name has been removed whether before or after the commencement of this Act, 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 removed.

### **18. Fee For Provisional Registration :-**

(1) Any person who desires to be registered provisionally under section 25 of the Indian Medical Council Act, 1956(102 of 1956) shall make an application 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, and such certificate shall remain in force for such period, as may be specified therein.

### **19. Maintenance Register :-**

(1) It shall be the duty of the registrar to make entries in the register, and to issue certificate of registration in accordance with the provisions of this Act, and the rules made thereunder.

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

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

(4) 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 prescribed fee, be entitled to have such change in his name recorded in the register.

(5) Subject to the provisions of section 26 of the Indian Medical Council Act, 1956(102 of 1956), any person whose name is entered in the register and who subsequent to his registration obtains any additional qualification specified in any of the Schedules to the Indian Medical Council Act, 1956(102 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.

(6) 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 prescribed fee, and on furnishing an indemnity bond, issue a duplicate certificate after due confirmation and approval of the Executive Committee.

## **20. Publication Of List Of Registered Practitioners :-**

(1) At such time after the publication of the notice under sub-section (6) of section 15 of this Act, as the Council deems fit and thereafter every three years, the Registrar shall cause to be printed and published a corrected list of all persons for the time being entered in the register but not later than three months of the start of election process.

(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 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 name have since been removed on account of any reason whatsoever from, and not re-entered in the register; and

(c) any other amendment 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 published under sub-section (1) shall be conclusive evidence in all courts and in all judicial or quasi-judicial proceedings that the persons therein specified are registered according to the provision 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 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.

## **21. Disciplinary Committee :-**

There shall be a Disciplinary Committee comprising of, -

- (i) a Chairman to be nominated by the Council;
- (ii) a member of Legislative Assembly of the Himachal Pradesh nominated by the Speaker;
- (iii) a Legal Expert to be nominated by the Council;
- (iv) an eminent public man nominated by the Government;
- (v) an eminent medical specialist in the relevant speciality to which the complaint pertains, to be nominated by the Council; and
- (vi) a member nominated by the Medical Association of Himachal Pradesh with minimum ten years standing.

## **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, 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 aforesaid 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; or
- (b) 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 (102 of 1956), in this behalf.

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

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

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

(4) 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 Court under the Code of Civil Procedure, 1908 (5 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.

(5) All the inquiries under this section shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code, 1860 (45 of 1860).

(6) 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 Advocate Act, 1961 (25 of 1961); or

(ii) an attorney of a High Court.

Explanation.- For the purpose of this sub-section, 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 Council Act, 1926 (25 of 1926).

(7) Where an assessor advises the Council, or the Executive Committee, as the case may be, 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.

(8) Any assessor under this section may be appointed either generally, or to any particular inquiry, and shall be paid the prescribed remuneration.

### **23. Renewal Of Registration :-**

(1) Notwithstanding anything contained in sections 15 and 20 of this Act, on such date, after the date of publication of the notice under sub-section (6) of section 15, as the Executive Committee may, with the previous sanction of the Government, decide, and every three years thereafter, the Registrar shall cause a notice in the prescribed form to be published in the Official Gazette calling upon all registered practitioners to make an application within a period of 45 days from the date of publication of the notice to the Registrar for the continuance of their names on the register together with such proof of having attended approved Medical Education Programme, as may be prescribed.

(2) If the application is not made on or before the date fixed by the Registrar, he 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 of removal of name from the register, the name so removed may be re-entered in the register on payment of prescribed fee.

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

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

(2) Save as otherwise provided in the Indian Medical Council Act, 1956(102 of 1956), the 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 Himachal Pradesh and all the Central Acts (in their application to the State of Himachal Pradesh) in so far as such Acts relate to any matter with respect to which the Legislative Assembly has powers to make laws, under clause (3) of article 239-AA of the Constitution, include a

practitioner whose name is entered in the register under this Act;  
and

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

## **26. General Provisions :-**

The provisions of this Act are in addition to, and not in derogation of the provisions of the Indian Medical Council Act, 1956(102 of 1956), containing general provisions applicable to all medical practitioners.

## **27. 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 thousand rupees.

## **28. False Assumption Of Medical Practitioner Or Practitioner To Be An Offence :-**

Any person who falsely assume that he is a medical practitioner or practitioner as defined in clause (e) of section 2 of this Act and practises the modern scientific system of medicine, shall be punished with rigorous imprisonment which may extend upto three years, or with fine which may extend upto twenty thousand rupees or with both.

Explanation.- Under this section, punishment can be awarded only to medical practitioners or practitioner as defined in clause (e) of section 2 of this Act and no punishment may be awarded to any one practising Veterinary Medicine or Veterinary Surgery or Homoeopathic or the Ayurvedic or the Siddha or the Unani System of Medicine or those holding Bachelor of Ayurvedic Medicine and Surgery or Bachelor of Indian Medicine and Surgery degree.

## **29. Court Competent To Try Offence And Take Cognizance Of Offence :-**

(1) No court other than the court of the Chief Judicial Magistrate shall take cognizance of, or try any offence, under this Act.

(2) No court shall take cognizance of any offence under this Act

except on a complaint in writing made by an officer empowered by rules made in this behalf.

### **30. Control Of Government :-**

(1) If at any time it appears to the Government that the council or the President or the 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 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.

(2) 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 Government may fix in this behalf, the Government may remove the President or the Vice-President or dissolve the Council for a specified period, 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 registered practitioners or practitioner as the Government may appoint in that behalf:

Provided that a new Council shall be constituted before the expiration of a period of two years from the date of its dissolution.

(3) Notwithstanding anything contained in this Act or in the rules made thereunder, if at any time it appears to the Government that the Council or any other authorities 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 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. Powers To Make Rules :-**

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

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

(a) the time and place at which and the manner in which the

- election of the members and of the President and the Vice-President shall be held under sub-section (5) of section 3 of this Act;
- (b) the manner in which the meeting of the Council shall be convened, held and conducted under sub-section (1) of section 8 of this Act;
- (c) the powers, duties and functions of the Council, the conditions subject to which they shall be exercised and performed; and regulation of professional conduct of practitioners by a code of ethics in accordance with section 10 of this Act;
- (d) number of elected members who shall be elected by the Council from amongst its members for constituting the Executive Committee of the Council; and 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 and also the powers and duties and functions of the Council, as may be delegated by the Council to be exercised, performed and discharged by the Executive Committee, under the provisions of section 11 of this Act;
- (e) allowances payable to the President, the Vice-President and other members of the Council, and to the members of its Executive Committee under section 12 of this Act;
- (f) the salary and allowances and other conditions of service of the Registrar, manner of maintenance of the account of the Council by the Registrar, supervisory powers of the Registrar over the staff and the duties and functions, as may be specified in this Act, which may be performed and discharged by the Registrar;
- (g) the conditions of service of the officers and staff of the Council;
- (h) preparation and maintenance of register of medical practitioners, the form of such register, particulars including the name, address and qualifications etc. of the registered practitioners to be entered in the register, prescription of the form of application and of notice to be published in the Official Gazette and news papers to have names registered, prescription of fees to be paid for such entry and the manner of payment and prescription of form for sending individual notices prescription of the form of certificate which shall be given to registered Practitioners under section 15 of this Act;
- (i) prescribing the form of application for provisional registration, fee payable for such registration and prescribing form of certificate of provisional registration under section 18 of this Act;
- (j) prescription of fee for recording change of name in the register,

prescription of the fee payable for entering additional qualification in the register and prescription of fee payable for issue of duplicate certificate of registration under section 19 of this Act;

(k) the form of the list of registered medical practitioners and manner of the publication of the list under section 20 of this Act;

(l) manner of taking disciplinary action etc, against registered practitioners by the Council or by the Executive Committee, conditions for re-entering the name of a practitioner in the register and fee to be charged in this behalf; and the remuneration to be paid to an assessor, under section 22 of this Act;

(m) form of notice and form of application for renewal of registration by registered medical practitioners, proof of having attended approved Medical Education Programme and fee payable for re-entry of name which is removed from the register due to non-renewal under section 23 of this Act;

(n) the manner in which appeals against the decision of the Registrar shall be heard by the Council under section 24 of this Act;

(o) officers who are empowered to make a complaint under sub-section (2) of section 29 of this Act; and

(p) any other matters which is to be, or may be, prescribed under this Act.

(3) All rules made under this Act shall be laid before the Legislative Assembly, as soon as may be, after they are made.

### **32. Code Of Conduct And Ethics :-**

The Council shall follow the code of conduct and medical ethics as prescribed by the Medical Council of India from time to time.