

## **United Provinces Indian Medicine Act, 1939**

**10 of 1939**

**[12 September 1939]**

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### **SCHEDULE 1 :- THE SCHEDULE**

## **United Provinces Indian Medicine Act, 1939**

**10 of 1939**

**[12 September 1939]**

An Act to provide for the development of the Indian systems of medicine and to regulate their practice in the United Provinces Whereas it is expedient to provide for the development of the Indian systems of medicine 2[and] to regulate the practice thereof

3[\* \* \*]; It is hereby enacted as follows: 1. Received the assent of the Governor on September 12, 1939. For S.O.R. See Gazette, 1938, Pt. VIII, p.1231; For R.S. Com. See Gazette 1939,Pt. VII (b), pp 114-117; For discussion, See L.A. Pro, dated February 24.1939 in Vol. Xm, p. 792, dated March 31, 1939 in Vol. XVI, pp. 49--47 and dated May 8,10,15 and 16, 1939, Vol. XVIII, pp. 211, 291, 356, 357 and 425-491, respectively and dated July 21, 1939, Vol. XIX, pp. 805, 806 and L.C. Pro, dated May 25, and July 5 and 6, 1939, in Vol. V, pp. 334,542-598 and 607-645, respectively. 2. The word "and" substituted by Section 2 (a) of U. P. Act No. 7 of 1956. 3. The words "and to control the sale of medicine herbs and drugs" omitted by U. P. Act No. 7 of 1956.

#### CHAPTER 1 PRELIMINARY

### **1. Short Title, Extent And Commencement :-**

(i) This Act may be called the United Provinces Indian Medicine Act, 1939. (ii) It extends to the whole of 1[Uttar Pradesh] except the Jaunsar-Bawar Pargana of the Dehra Dun District and the portion of the Mirzapur District, south of the Kaimur Range. (iii) Parts I and II of this Act shall come into force on such date as the 1[State Government] may, by notification in the Official Gazette, appoint. Part III shall come into force on such date after the expiry of one year from the date on which parts I and II come into force, as the 1[State Government] may notify under Section 49. 1. Substituted by the A. O.1950.

#### CHAPTER 2 PART II

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

In this Act, unless there is anything repugnant in the subject or context-- (i) "Board" means the Board of Indian Medicine. 1[Uttar Pradesh] constituted under Section 3. (ii) "Indian system of medicine" means the Ayurvedic or the Unani Tibbi system of medicine, whether supplemented or not by such modern advances as the Board may, from time to time, have determined. (iii) "Chairman" means the Chairman of the Board. 2[(iii-a) "State Government" means the Government of Uttar Pradesh. (iii-b) "Faculty" means "Faculty of Ayurvedic and Unani Tibbi systems of medicine" constituted under Section 36-A.] (iv) "Member" means member of the Board. 3[(iv-a) "Para-medical course" means a course of study approved by the Board for the training of

compounders, nurses and mid-wives in the Ayurvedic of Unani-Tibbi System of medicine and surgery; (v) "Practitioner" means a practitioner of an Indian system of medicine. (vi) "Prescribed" means prescribed by rules framed by the 1[State Government] in accordance with the provisions of this Act. (vii) "Register" means the register of Vaid and Hakims, surgeons and midwives maintained under Section 25. (viii) "Registered practitioner means a practitioner whose name is for the time being entered in the register. (ix) "Registrar means the Registrar appointed under Section 24. (x) "Vaidya means a practitioner of Ayurvedic system of medicine4[and Surgery]. (xi) "Hakim means a practitioner of Unani Tibbi system of medicine4[and Surgery] (xii) 5[\* \* \*] (xiii) 5[\* \* \*] 1. Substituted by A. O.1950. 2. Inserted by U. P. Act No. 7 of 1956. 3. Inserted of U. P. Act No. 35 of 1975, Section 2 (w.e.f. 13-8-1975). 4. The words and surgery Inserted by U. P. Act No. 7 of 1956. 5. Omitted by U. P. Act No. 7 of 1956.

### **3. Establishment Of The Board :-**

(1) The 1[State Government] shall, by notification in the Official Gazette, establish in the manner provided in subsection (1) of Section 5 a Board to be called the Board of Indian Medicine, 1[Uttar Pradesh] for the purpose of carrying out the provisions of this Act. Such Board shall be a body corporate and have perpetual succession and a common seal and may by the said name sue or be sued. 1. Substituted by A. O.1950.

### **4. Savings For Acts Done By The Existing Board And Its Dissolution :-**

(1) On the date the first Board is constituted under the provisions of this Act, the existing Board of Indian Medicine shall cease to exist and all its assets and liabilities shall devolve upon the Board so constituted. (2) All acts begun or completed by the Board of Indian Medicine in existence on the date of constitution of the first Board shall, in so far as they relate to the functions allotted to the Board constituted under this Act, be deemed to have been begun or performed by the Board constituted under this Act, and such act, may be carried on and completed by or under the authority of the Board so constituted.

### **5. Constitution Of The Board :-**

(1) The Board shall consist of the following members (including the President)-- (i) a President to be nominated by the State Government; (ii) five members to be nominated by the State

Government; 1[(iii) one member each from a University established by law in Uttar Pradesh and having a faculty concerned with the Ayurvedic or Unani-Tibbi Systems of medicine to be elected in the prescribed manner by such Faculty; (iv) two members representing Ayurvedic Educational Institutions of Uttar Pradesh to be elected, in the prescribed manner by the teachers of such Institutions as are affiliated to a University established by law in Uttar Pradesh; (v) one member representing Unani Educational Institution of Uttar Pradesh to be elected in the prescribed manner, by the teachers of such institutions as are affiliated to a University established by law in Uttar Pradesh;] (vi) nine members (six Vaid and three Hakims) to be elected in the prescribed manner by the registered Vaid and Hakims, respectively of Uttar Pradesh: Provided that the President and every member to be elected or nominated, as the case may be, under clauses (ii), (iv) and (v) shall be from amongst the registered practitioners. (2) The Board shall elect one of its members to be Vice-President. 1. Substituted by U. P. Act No. 35 of 1975, Section 3 (w.e.f. 13-8-1975).

#### **6. Nominations Of Members In Default Of Election :-**

If any electoral body referred to in sub-section (1) of Section 5 fails, by such date as may be prescribed to elect the requisite number of member or members which it is entitled to elect, the State Government shall fill up the vacancy or vacancies by nomination of a person or persons qualified to be elected by the particular electoral body concerned.

#### **7. Disqualification For Membership :-**

No person shall be qualified to be elected or nominated as a member of the Board-- (a) who is an undischarged insolvent; (b) who has been adjudicated by competent court to be insane or of unsound mind; (c) who has been convicted of an offence declared by 1[State Government ] to involve moral turpitude; or (d) whose name has been removed from the register; (e) who is an employee of the Board or has directly or indirectly or by himself or a partner any share or interest in any contract with by, or on behalf of the Board, unless in the latter cases 1[State Government] remove the disqualification. 1. Substituted by A. 0.1950.

#### **8. Notifications Of Elections, Nominations And Vacancies :-**

Every election or nomination of a member of 1[President] of the Board and every vacancy in the office of member or 1[President] shall be notified in the Official Gazette. 1. Substituted by U. P. Act

No. 7 of 1956.

**9. General Elections :-**

1[There shall be general election of members of the Board before the expiry of their term or extended term, as the case may be, under Section 14 on such date or dates as the State Government may, by notification in the Official Gazette appoint in that behalf.]

1. Substituted by U. P. Act No. 12 of 1955.

**10. Disabilities For Continuing As Member :-**

(1) If any member, during the period for which he has been nominated or elected-- (a) absents himself without sufficient cause from three consecutive ordinary meetings of the Board, or (b) becomes subject to any of the disqualification mentioned in Section 7, or (c) being a legal practitioner, appears in any suit or proceeding, civil or criminal, against the Board, or (d) obtains any employment under the Board or has without the previous sanction of 1[State Government] acquired directly or indirectly by himself or by a partner any share or interest in any contract with, by or on behalf of the Board, the Board may remove him from membership: Provided that before removing a member under this sub-section the Board shall call for his explanation and record its finding thereon.

2[(2) Notwithstanding anything contained in sub-section (1) the President or any members nominated under sub-section (1) of Section 5 shall, after such notice as may be prescribed, be removable by the State Government alone.]

1. Substituted by A. 0.1950. 2. Substituted by U. P. Act No. 7 of 1956. Section

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- Powers of the Government to appoint Controller 1[(1) where the number of members of the Board for the time being is, for any reason whatsoever, reduced to less than the quorum provided in Section 18, the State Government may, by notification, supersede the Board and appoint a Controller for such period not exceeding two years as may be specified in the notification or up to the date of notification under sub-section (4) whichever is earlier. (2) Upon the appointment of the Controller under sub-section (1),-- (a) all members of the Board including the President and the Vice-President shall, cease to be such members, President or Vice-President; (b) the advisory Committee, if any, appointed under sub-section (1) of Section 17 shall stand dissolved; (c) all members (including the Chairman) of the Faculty, except the Director of Ayurvedic and Unani Services, Uttar Pradesh shall cease to hold office and the Controller, together with the aforesaid director shall constitute the Faculty; (d) all powers, functions and duties of the

Board, the President and the Vice-President shall be vested in and be exercised, performed and discharged by the Controller and the Controller shall be deemed to be the Board, the President or the Vice-President as the occasion may require. (3) As soon as may be after the appointment of the Controller, the State Government shall take steps to nominate a President and other members under clauses (1) and (2) of sub-section (1) of Section 5 and to hold elections of members under clauses (3), (4), (5) and (6) of that sub-section. (4) As soon as the elections or nominations, as the case may be, of at least such number of members as is required under Section 18 for the quorum (including the President) are notified under Section 8, the State Government may, by notification declare that the Board is reconstituted and thereupon the Controller shall cease to function.] 1. Inserted by U. P. Act No. 22 of 1991, Section 2 (w.e.f. 28-8-1990).

### **11. Power Of The State Government To Remove A Member And Chairman Of The Board :-**

Any member removed by the Board under the provision of Section 10, may, within ninety days from the date of his removal, appeal to the State Government and the order of the State Government on any such appeal shall be final.

### **12. Resignation Of A Member Or President :-**

1[(1) Any elected member may, at any time, resign his office by a letter addressed to the President such resignation after due verification shall take effect from the date on which accepted by the Board. (2) A President or a member nominated under sub-section (1) of Section 5 wishing to resign may tender his resignation to the State Government under intimation to the Board. Such resignation when accepted shall be published in the Official Gazette and shall take effect from the date notified therein.] 1. Substituted by U. P. Act No. 7 of 1956.

### **13. Filling Of Casual Vacancies In The Office Of A Member Or President :-**

(1) If a member or 1[President] of the Board dies or resigns or from any cause whatsoever ceases to be a member or 1[President], as the case may be, the vacancy so created shall be filled by a fresh election or nomination as the case may be within such period as may be prescribed. (2) The term of office of a member or 1[President] elected or nominated to fill up the vacancy mentioned in sub-section (1) shall be the remainder of term of office of the member or 1[President] in whose place he has been so elected or appointed: Provided that in the case of an elected member, if the vacancy is for a period of six months or less, the Board may direct

that the vacancy be left unfilled until the next general election. 1. Substituted for the word "Chairman" by U. P. Act No. 7 of 1956.

#### **14. Term Of Office Of A Member :-**

Save as otherwise provided in this part, the term of office of the 1[President] or a member of the Board shall be three years: 2[Provided that the State Government may, by notification in the Official Gazette, extend, from time to time, the term of the President and all members of the Board so, however, that the total extension does not in the aggregate exceed two years ]; and 3[\* \* \*] Provided also that members elected by any Chamber of the Uttar Pradesh Legislature, and the local authorities shall hold office for so long only as they continue to be members of those electoral bodies. 1. Substituted for the word "Chairman" by U. P. Act No. 7 of 1956. 2. Inserted by U. P. Act No. 12 of 1955. 3. The second proviso Omitted by U. P. Act No. 7 of 1956.

#### **15. Eligibility For Re-Election Of Members :-**

A member shall, on the expiry of his term of office, be eligible for re-nomination or re-election. 1[\*\*\*]. 1. The proviso Omitted by U. P. Act No. 7 of 1956.

#### **16. Validity Of Proceedings :-**

No disqualification of, or defect in the election or nomination of any person acting as a member of the Board or as the 1[President] or presiding authority of a meeting shall be deemed to vitiate any act or proceedings of the Board in which such person has taken part, if the majority of persons who took part in such act or proceedings were duly qualified members of the Board. 1. Substituted for the word "Chairman" by U. P. Act No. 7 of 1956.

#### **17. Establishment Of Advisory Committees :-**

(1) The Board may, subject to the rules made by State Government for this purpose, by a resolution in that behalf, appoint an Advisory Committee which may consist of as many of its own members or outsiders co-opted for that purpose, or both as it may decide, for any purpose it deems fit, and may appoint a convenor, who shall preside over the meetings of such Committee. In the absence of the convenor, the Committee may elect any of its members for this purpose. (2) All questions at a meeting of the Committee shall be decided by the votes of the majority of the members present and voting at the meeting. In case of equality of votes, the person presiding shall have casting vote. (3) No business shall be transacted at any meeting of a Committee when either less



than two members or less than one-fourth of the members constituting the Committee, whichever is more, are present.

**18. Quorum For A Meeting Of The Board :-**

1[The quorum of the Board shall be 8 members but subject thereto the Board may act notwithstanding any vacancy in their numbers: Provided that in an adjourned meeting all business postponed at the original meeting for want of quorum may be transacted, if not less than five members are present.] 1. Substituted by U. P. Act No. 7 of 1956.

**19. Procedure At Meetings Of Board :-**

(1) The 1[President] or in his absence the 1[Vice-President] shall preside at every meeting of the Board. In the absence of both, the members present shall elect one among themselves for this purpose. (2) All questions at a meeting of the Board shall be decided by the votes of the majority of the members present and voting at the meeting. In case of equality of votes the member presiding shall have in addition to his vote as a member of the Board a second or casting vote. 1. Substituted for the word "Chairman" by U. P. Act No. 7 of 1956.

**20. Time And Place Of Meeting Of The Board :-**

The Board shall meet at such time and place and every meeting of the Board shall be summoned in such manner, as may be provided by the regulations: Provided that until regulations are made, it shall be lawful for the 1[President] to summon a meeting of the Board at such time and place as he may deem expedient, by a letter addressed to each member on a clear notice of fifteen days. 1. Substituted for the word "Chairman" by U. P. Act No. 7 of 1956.

**21. Section 21 :-**

1[\*\*\*]. 1. Omitted by U.P. Act No. 7 of 1956, Section 11.

**22. Payment Of Expenses :-**

(1) There shall be paid to the members of the Board, such travelling and other expenses as may be prescribed. (2) No member shall receive any pay or special pay: Provided that the 1[President] may receive pay, allowance, or emoluments, sanctioned by the State Government according to prescribed rules. 1. Substituted for the word "Chairman" by U. P. Act No. 7 of 1956.

**23. Presidents Power Of Control :-**

All officers and servants of the Board shall be under direct control

and supervision of the 1[President] and shall abide by his orders. 1. Substituted for the word "Chairman" by U. P. Act No. 7 of 1956.

## **24. Registrar And Other Officers And Servants Of The Board**

**:-**

(1) The Board shall, with the previous approval of State Government, appoint a Registrar who shall be the Secretary to the Board. The Registrar shall receive such salary and allowance as may be prescribed by rules. The 1[President] may, from time to time, grant him leave and may temporarily appoint a person to act in his place. Any person duly appointed to act as Registrar shall be deemed to be the Registrar for all purposes of this Act. (2) Any order of the Board appointing, punishing and removing the Registrar from his office shall be subject to the approval of the State Government. (3) The Board may appoint such other officers and servants as may be necessary for carrying out the purposes of this Act: Provided that the number and designation of such officers and servants, their salaries and allowances shall be subject to the previous approval of the State Government. Provided also that the powers of the Board to punish, dismiss, discharge and remove any officer or servant of the Board shall be subject to any rules framed by the State Government in this behalf. (4) All question of pay, allowances, promotions, leave, pension and provident fund relating to the Staff shall be governed by rules generally applicable to servants of the State Government of similar status. (5) The Registrar or any officer or servant appointed under this section shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code. 1. Substituted for the word "Chairman" by U. P. Act No. 7 of 1956.

## **25. Maintenance Of Register :-**

The 1[Registrar] shall maintain a register of Vaidyas 2[and] Hakims, 3[\* \* \*] practising in the Uttar Pradesh in the prescribed form. 1. Substituted for the word "Board" by U. P. Act No. 7 of 1956. 2. Inserted by U. P. Act No. 7 of 1956. 3. Omitted by U. P. Act No. 7 of 1956.

## **26. Duties Of Registrar :-**

(1) Subject to the provisions of this Act and subject to any general and special orders of the Board, it shall be the duty of the Registrar to keep the register and discharge such other functions as are required to be discharged by him under this Act or by any rules framed by the State Government. (2) The Registrar shall, so far as

practicable, keep the register correct and up-to-date and may, from time to time, enter therein any material alteration in the addresses or qualifications of the practitioners. He shall also remove from the register, the names of the registered practitioners who die or who cease to be qualified as such. (3) The State Government may direct that no alteration in the entries in respect of additional qualifications shall be made, unless such fee as may be prescribed, is paid. (4) For the purpose of this section the Registrar may write to any registered practitioner at the address which is entered in the register to inquire whether he has ceased to practise or has changed his residence, and if no answer is received to the said letter within three months, the Registrar may issue a registered reminder, and in case no reply is received to the reminder within one month from the date of its issue, he may remove the name of the said practitioner from the register: Provided that the Board may if it thinks fit direct that the name of the said practitioner be re-entered in the register.

## **27. Persons Entitled To Be Registered :-**

1[(1) Every person possessing the qualifications mentioned in the Schedule shall, subject to the provisions contained in or made under this Act and upon payment of such fees, whether in a lump sum or periodically, as may be prescribed, be entitled on an application made to the Registrar, to have his name entered in the Register. When the name of a person has been registered in accordance with the provision aforesaid he shall be granted a certificate in the prescribed form. (2) Any person aggrieved by the order of the Registrar refusing to enter his name in the Register or to make any entry therein may, within ninety days of such refusal, appeal to the Board. (3) The appeal shall be heard and decided by the Board in the prescribed manner. (4) The Board may on its own motion or on the application of any person cancel or alter any entry in the Register if in the opinion of the Board such an entry was fraudulently or incorrectly made or obtained, or an application was wrongly refused.] 1. Substituted by U. P. Act No. 7 of 1956.

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

If the Board is satisfied-- (a) that a title or degree granted or qualification certified by a University, Medical Corporation, Examining Body or other institution in India is a sufficient guarantee that persons holding such a title or degree or qualification possess the knowledge or skill requisite for the efficient practice of 1[ Ayurvedic or Unani Tibbi Systems of

medicine, or] (b) that such a title, degree or qualification is not a sufficient guarantee as aforesaid, it may direct-- (i) in the case mentioned in Clause (a), that the possession of such title, degree or qualification shall, subject to the provisions contained in this Act, and on payment of such fee as may be prescribed in this behalf, entitle a person to have his name entered in this register or Vaidyas, Hakims, as the case may be, or (ii) in the case mentioned in Clause (b), that the possession of such title, degree or qualification shall not entitle a person to have his name entered in such register, and the Schedule annexed hereto shall thereupon be deemed to have been altered accordingly. 1. Substituted by U. P. Act No. 7 of 1956.

### **29. Power Of Board To Call For Information From Medical Institutions :-**

The Board shall have power to call upon the governing body or authorities of a Medical Corporation, examining body or other institutions included in or desirous of being included in the Schedule-- (a) to furnish such reports, returns or other information as the Board may require to enable it to judge of the efficiency of the instruction given therein in medicine, surgery or midwifery; and (b) to provide facilities to enable a member of the Board deputed by the Board in this behalf to be present at the examinations held by such Medical Corporation, examining body or other institutions.

### **30. Information Required Of Applicants For Registration :-**

Every person who applies to have his name entered in the register of Vaidyas<sup>1</sup>[or] Hakims, must satisfy the <sup>1</sup>[Registrar], that he is possessed of some degree, title or qualification, specified in the Schedule; and he must inform the Registrar of the date on which he obtained the degree, title or qualification which entitles him to claim registration under this Act, and shall furnish any other information required by the Registrar in order to enable him to discharge his duties under the Act. 1. Substituted by U. P. Act No. 7 of 1956.

### **31. Powers Of Board To Prohibit Entry In Or, To Direct Removal From, The Register, Etc. :-**

(1) The Board may prohibit the entry in, or order the removal from the register of the name of any Vaidya or Hakim-- (a) who has been sentenced by a Criminal Court in British India to imprisonment for an offence declared by Government to involve such moral turpitude as would render the entry or continuance of

his name in the register undesirable, or (b) whom the Board or a Committee specially authorised for the purpose after enquiry (at which opportunity has been given to him to be heard in his defence and to appear either in person or by counsel, Vakil, pleader or attorney, and which may, in the discretion of the Board, be held, in camera, has found guilty of professional misconduct or other infamous conduct by a majority of at least two-thirds of the members present and voting at the meeting. (2) The Board may direct that the name of any person against whom an order has been made under sub-section (1) shall be entered or re-entered, as the case may be, after having satisfied itself that due to lapse of time or otherwise the disability mentioned in sub-section (1) above has ceased to have any force.

### **32. Notice Of Deaths And Erasure Of Names From Register :-**

(1) Every Registrar of Deaths who receives notice of the death of a person whose name he knows to be entered in the register of Vaidyas and Hakims, shall forthwith transmit by post or otherwise to the Registrar of the Board, a certificate of such death, signed by him and stating particular of the time and place of death. (2) On receipt of such certificate, or other reliable information regarding such death the Registrar shall remove the name of the deceased person from the register.

### **33. Penalty On Unregistered Person Representing That He Is Registered :-**

If a person whose name is not entered in the register of Vaidyas and Hakims falsely pretends that it is so entered or uses in connexion with his name or title any words or letters representing that his name is so entered, he shall, whether any person is actually deceived by such representation or not, be punishable, on conviction by a Magistrate of the First Class, 1[with imprisonment which may extend to six months or with fine which may extend to two hundred rupees or with both]. 1. Substituted by U. P. Act No. 7 of 1956.

### **34. Procedure In Inquiries And Appeals :-**

For the purpose of any inquiry held under Clause (b) of sub-section (1) of Section 31, the Board or the Committee, as the case may be, shall exercise the powers of a Commissioner appointed under the Public Servants (Inquiries) Act, 1850 and the provisions of Sections 5, 8 to 10, 14 to 16 and 20 of the said Act shall, so far as may be,

apply to every such inquiry and appeal.

### **35. Publication Of Names Entered In The Register Of Vaidyas And Hakims :-**

(1) The Registrar shall, in every year and from time to time, as occasion may require, on or before a date to be fixed in this behalf by the Board, cause to be published in the Official Gazette and in such other manner as the Board may prescribe, a full or supplementary list of the names for the time being entered in the register and setting forth-- (a) all names entered in the register arranged in alphabetical order; (b) the registered address and appointment held by or actual employment of each person whose name is entered in the register; and (c) the registered titles and qualifications of each such person: Provided that the Registrar shall, from time to time, get published in the Official Gazette the names of such practitioners whose names have been duly removed under any of the provisions of this Act. (2) In any proceeding, it shall be presumed that every person entered in such list is a registered practitioner and that any person not so entered is not a registered practitioner. 1[\* \* \*]. 1. The Proviso Omitted by U. P. Act No. 7 of 1956.

### **36. Powers And Duties Of The Board :-**

1[The Board shall have the following powers and duties, namely,-- (1) to advise the State Government in matters relating to Ayurvedic and Unani Tibbi systems of medicine including research and post graduate education; 2[(2) to recind, suspend or withdraw, on the recommendations of the Faculty, recognition to training centres imparting instruction in para-medical courses;] (3) to publish the result of the examinations conducted by the Faculty; 3[(4) to grant diplomas or certificates to candidates who are successful at the Boards examination;] (5) to levy fees laid down in regulations for admission to Boards examinations; (6) to allot adequate funds to the Faculty for carrying out its duties; 4[(7) to perform such functions for the development of Ayurvedic and Unani Systems of medicine and surgery as may be consistent with the provisions of the Act;] (8) to exercise such other powers as may be specified by or under this Act; and (9) to grant scholarships and medals to deserving students of institutions affiliated to the Board and with the sanction of State Government, to grant to students domiciled in this State, scholarship for research or special study in any Medical institution that the Board may think fit, whether in India or abroad, and to endow chairs of Ayurvedic and Unani Tibbi

Systems to Medicine and Surgery in Institutions affiliated to the Board.] 1. Substituted by U. P. Act No. 7 of 1956, Section 19. 2. Substituted by U. P. Act No. 35 of 1975, Section 4 (a) (w.e.f. 13-8-1975). 3. Substituted by U. P. Act No. 35 of 1975, Section 4 (b) (w.e.f. 13-8-1975). 4. Substituted by U. P. Act No. 35 of 1975, Section 4 (c) (w.e.f. 13-8-1975). Section

### 36A

- Faculty of Ayurvedic and Unani Tibbi Systems of Medicine 1[(1) For the proper discharge of its duties and functions as a teaching and examining body in the Ayurvedic and Unani Tibbi Systems of Medicine, the Board shall appoint a Faculty of Ayurvedic and Unani Tibbi Systems of Medicine which shall consist of the following: (i) the President of the Board who shall be ex-officio Chairman of the Faculty; (ii) members of the Board elected under Clauses (iii), (iv) and (v) of sub-section (1) of Section 5, who shall be ex-officio members of the Faculty; (iii) one member to be elected by the members of the Board from amongst themselves; and 2[(iv) the Director of Ayurvedic and Unani Services, Uttar Pradesh;] (2) The Faculty may, with the previous approval of or at the requisition of the State Government, co-opt not more than two members for a specified duration and a specific purpose. (3) The Faculty shall elect a Vice-Chairman from amongst its members. 3[(4) A member referred to in clause (iii) of sub-section (1) shall cease to be a member of the Faculty upon his ceasing to be a member of the Board.] 1. Inserted by U. P. Act No. 7 of 1956, Section 20. 2. Substituted by U. P. Act No. 35 of 1975, Section 5 (a) (w.e.f. 13-8-1975). 3. Substituted by U. P. Act No. 35 of 1975, Section 5 (b) (w.e.f. 13-8-1975). Section

### 36B

- Powers and duties of the Faculty 1[(1) The Faculty shall have the following powers and duties-- 2[(a) to prescribe courses of study in Ayurvedic and Unani-Tibbi Systems of medicine for imparting instructions in training centres recognised by the Board; (b) to hold examinations of persons who shall have pursued a course of study in a training course recognised by the Board; (c) to exercise general supervision over the residential and disciplinary arrangements made by the training centres recognised by the Board and to make arrangement for promoting the health and general welfare of their students;] (d) to appoint examiners; 3[(e) to cause inspection of training centres recognised by the Board; and (f) to make recommendations to the Board for the accord of recognition to or the suspension or withdrawal of recognition of training centres.] (g) 4[\*\*\*\*\*] 5[(2) The Registrar shall function as the Secretary of the Faculty.] 1. Renumbered as sub-section (1) by U. P. Act No. 35 of 1975, Section 6 (b) (w.e.f. 13-8-1975). 2. Substituted by U. P. Act No. 35 of 1975, Section 6 (a) (i) (w.e.f.

13-8-1975). 3. Substituted by U. P. Act No. 35 of 1975, Section 6 (a) (ii) (w.e.f. 13-8-1975). 4. Omitted by U. P. Act No. 35 of 1975, Section 6 (a) (iii) (w.e.f. 13-8-1975). 5. Inserted by U. P. Act No. 35 of 1975, Section 6 (w.e.f. 13-8-1975). Section

36C

- Section 36C 1[In the event of disagreement between the Faculty and the Board on any matter referred to in Section 36-B, a reference shall be made by the Board to the State Government and the decision of the State Government shall be final.] 1. Substituted by U. P. Act No. 35 of 1975, Section 7 (w.e.f. 13-8-1975).

### **37. Making Of Regulations :-**

Subject to the provisions of this Act and to the rules framed by the State Government thereunder, the Board may 1[after previous publication] frame regulations for regulating the following matters namely,-- 2[(1) (a) conditions on which institutions may be recognised for the purposes of registration under Section 28; (b) the admission of trainees to the training centres recognised by the Board; (c) the conditions under which trainees shall be admitted to the diploma and certificate courses and to the examinations of the Board, and shall be eligible for the grant of such diploma and certificates; (d) the conditions of residence of the trainees in the training centres recognised by the Board and the levying of fees for such residence; (e) the number, qualification and emoluments of teachers of the training centres recognised by the Board , (f) the fees to be charged for courses of study in such training centres and for admission to the examinations, diplomas and certificates of the Board; (g) the conditions and mode of appointment and duties of examiners and the conduct of examinations: Provided that in framing regulations, the Board shall take into consideration the financial and other existing conditions of the training centres generally: Provided further that no regulation shall be framed under any of the sub-clauses (a) to (g) except upon the recommendations to be made in such manner as may be prescribed by the Faculty.] (2) (a) the time and place at which the meetings shall be held; (b) the issue of notices convening such meetings; (c) the conduct of business thereat; (d) the salary, allowances and other conditions of service of officers \_\_\_\_\_and servants of the Board other than the Registrar; (e) all other matters which may be necessary for the purposes of carrying out the object of this Act; (3) all such regulations shall be published in the Official Gazette 1[and shall not be taken effect until they have been confirmed by the State Government]. (4) the State Government by notification in



the Official Gazette 3[cancel or modify] any regulation. 1. Inserted by U. P. Act No. 7 of 1956. 2. Substituted by U. P. Act No. 35 of 1975, Section 8 (w.e.f. 13-8-1975). 3. Substituted for the word "cancel" by U. P. Act No. 7 of 1956.

### **38. Disposal Of Fees :-**

All fees received by the Board on account of registration of Vaidyas and Hakims 1[ \* \* \*] and admission to the Boards examinations 1[\* \* \*] under this Act, shall be credited to the Board and shall be applied for the purposes of this Act in accordance with the rules. 1. Omitted by U. P. Act No. 7 of 1956.

### **39. Qualified Practitioners Certificates :-**

Notwithstanding anything contained in any law for the time being in force: (1) The expression "legally qualified medical practitioner" or "duly qualified medical practitioner" or any word importing that a person is recognized by law as a medical practitioner or member of medical profession shall, in all Acts in force in the Uttar Pradesh and in all Acts of the Central Legislature (in their application to the Uttar Pradesh) in so far as such Acts relate to any of the matters specified in List II or List III in the Seventh Schedule to the Government of India Act, 1935, be deemed to include a registered practitioner. (2) A certificate required under any law or rule having the force of law from any medical practitioner or medical officer shall be valid, if such certificate has been granted by a registered practitioner. (3) A registered practitioner shall be eligible to hold any appointment as a physician, surgeon or other medical officer in any Ayurvedic or Unani dispensary, hospital, infirmary or lying--in hospital supported by or receiving a grant from the State Government or in any public establishment, body or institution dealing with such systems of medicine. (4) A registered practitioner shall be entitled to-- (a) sign or authenticate a birth or death certificate required by any law or rule to be signed or authenticated by a duly qualified medical practitioner; (b) sign or authenticate a medical or physical fitness certificate required by any law or rule to be signed or authenticated by a duly qualified medical practitioner; (c) give evidence at any inquest or any Court of Law as an expert under Section 45 of the Indian Evidence Act, 1872, on any matter relating to medicine, surgery or midwifery.

### **40. Section 40 :-**

1[ Except with the special sanction of the State Government, no person other than a Vaidya or Hakim who has qualified himself or

herself from an institution affiliated to the Board who holds a degree in Ayurvedic or Unani-Tibbi Systems of medicine from a University established by law in Uttar Pradesh, and is a domiciled resident of this State, shall be competent to hold an appointment as medical officer of health or as physician or other medical officer in an Ayurvedic or Unani hospital, infirmary, dispensary or lying-in hospital maintained by or under the control of the State Government or a local authority: Provided that Vaidya and Hakims in the employ of the State Government or a local authority specified above on the date on which this Act comes into force shall continue to hold the said appointment.] 1. Substituted by U. P. Act No. 35 of 1975, Section 9 (w.e.f. 13-8-1975).

#### **41. Exemption From Serving On Inquest :-**

(1) Notwithstanding anything in any other law for the time being in force, every registered practitioner shall be exempt, if he so desires, from serving on any inquest or as a juror or assessor under the Code of Criminal Procedure, 1898 (2) The registered practitioners shall have the same privileges as the medical practitioner registered under the Uttar Pradesh Medical Act, 1917, have under the Uttar Pradesh Excise Act, 1910, or any other Act for the time being in force. See Now Code of Criminal Procedure, 1973 (2 of 1974).

#### **42. Rules :-**

(1) The State Government may, after previous publication from time to time, make rules consistent with this Act, to carry out the purposes of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, the State Government may make rules for any of the following matters: (a) the time at which and the place and manner in which election shall be held under Section 5; (b) regulation of elections under this Act; (c) the conduct of and the maintenance of correct minutes of meetings of the Board; (d) the manner in which vacancies shall be filled under Section 13; (e) the salary and allowances and other conditions of service of the Registrar; (f) the form of the register of Vaidyas and Hakims, surgeons and midwives to be maintained under this Act and the classification of practitioners into two or more classes according to their qualifications; (g) fees chargeable under this Act and their application; (h) the manner in which appeal against the decision of the Registrar shall be heard by the Board under Section 27; (i) expenses payable to members of the Board and its Chairman; (j) remuneration to be paid to the Chairman; (k) the

furtherance of any objects of the Board as a teaching or examining body; and (l) the furtherance of any other objects of the Board. (3) All such rules shall be published in the Official Gazette.

**43. Appeals To State Government From Decision Of Board :-**

(1) An appeal shall lie to the State Government from every decision of the Board under this Act except a decision made by the Board as an appellate authority. (2) Every appeal under sub-section (1) shall be preferred within three months of the date of such decision.

**44. Bar To Suit And Other Legal Proceedings :-**

(1) No suit or other legal proceeding shall lie against the State Government, in respect of an act done in the exercise of the powers conferred by this Act. (2) No suit or other legal proceeding shall be maintainable against the Board or any member or any officer or servant of the Board or any person acting under the direction of the Board or of the 1[President], or of any officer or servant of the Board in respect of anything done under this Act lawfully and in good faith and with reasonable care and attention. 1. Substituted for the word "Chairman" by U. P. Act No. 7 of 1956.

**45. Mode Of Proof Of Boards Records :-**

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

**46. Restriction On The Summoning Of Boards Servants To Produce Documents :-**

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

**47. Control Of Board By The State Government :-**

If at any time it shall appear to the State Government that the Board has failed to exercise or has exceeded or abused a power conferred upon it under this Act or has failed to perform a duty

imposed upon it by this Act, the State Government may, if it considers such failure, excess, or abuse to be of a serious character, notify the particulars thereof, to the Board; and if the Board fails to remedy such default, excess or abuse within such time as may be fixed by the State Government in this behalf, the State Government may dissolve the Board and cause all or any of the powers and duties of the Board to be exercised and performed by such agency and for such period as it may think fit: Provided that it shall take steps within six months to constitute a new Board under the provisions of this Act.

**48. Court Competent To Try Offences Under This Act And Cognizance Of Offences :-**

(1) No court other than the court of Magistrate of the First class shall take cognizance of, or try an offence under this Act. (2) No court shall take cognizance of any offence under this Act except on a complaint in writing of an officer empowered by rules made in this behalf.

CHAPTER 3  
PART III

**49. Power Of The State Government To Enforce The Provisions Of Part Iii :-**

The State Government may at any time after the expiry of one year from the date on which Parts I and II come into force, by notification published in the Official Gazette, apply the provisions of this Part or any portion thereof to the whole or any part of the State from such date as is notified therein: Provided that the State Government shall give wide publicity to the notification in such other manner also as it deems proper.

**50. List Of Practitioners :-**

(1) After the publication of the notification mentioned in Section 49, the Registrar shall prepare and keep a list called a "List of persons in practice belonging to the indigenous system", on such date as is mentioned in the said notifications. (2) Every person, not being a person qualified for registration under this Act, who within a period of one year from the date from which this Part comes into force proves to the satisfaction of the Registrar that he has been in regular practice of the 1[Ayurvedic and Unani Tibbi System of medicine] or surgery or midwifery or any of their branches, in the State, on the date mentioned in the notification under sub-section (1) shall be entitled to have his name entered in the aforesaid list

on payment of five rupees. (3) The provisions of sub-sections (2) and (4) of Section 20, sub-sections (2), (3) and (4) of Section 27, and sub-section (1) of Section 31, shall, so far as may be, apply to this list. 1. Substituted by U. P. Act No. 7 of 1956.

**51. Prohibition To Practise Of Persons Not Listed :-**

No person other than a practitioner registered under Part II of the Act or a person whose name is entered in the list mentioned in Section 50 shall practise or hold himself out, whether directly or by implication as practising or as being prepared to practise the 1[Ayurvedic and Unani Tibbi Systems of medicine), surgery or midwifery: Provided that the State Government may, by notification in the Official Gazette, direct that the provisions of this section shall not apply to any class of persons or in a specified area. 1. Substituted by U. P. Act No. 7 of 1956.

**52. Penalty :-**

Any person who acts in contravention of the provisions of Section 51 shall, on conviction for each offence be punishable with fine, which may extend to two hundred rupees.

**53. Section 53 :-**

1[ \* \* \* \* \*] 1. Omitted by U. P. Act No. 7 of 1956.

**54. Section 54 :-**

1[ \* \* \* \* \*] 1. Omitted by U. P. Act No. 7 of 1956.

**55. Confering, Granting Or Issuing Diploma, Licence, Etc. By Unauthorized Person Or Institution :-**

(1) No person other than an association or institution recognized or authorized by the Board under this Act shall confer; grant or issue or hold itself out as entitled to confer, grant or issue any degree, diploma, licence, certificate or other document stating or implying that the holder, grantee, or recipient is qualified in or otherwise entitled to practise in 1[Ayurvedic and Unani Tibbi system of medicine]. (2) Whoever contravenes the provisions of this section shall, on conviction be punishable 1[with imprisonment not exceeding six months or with fine which may extend to five hundred rupees or with both] and if the person so contravening is an association, every member of such association who knowingly and wilfully authorizes or permits the contravention shall, on conviction, be punishable 1[with imprisonment not exceeding three months or with fine which may extend to two hundred rupees or with both]. 1. Substituted by U. P. Act No. 7 of 1956.

## **56. False Assumption Of Degree, Diploma Or Certificates To Be An Offence :-**

Whoever voluntarily and falsely assumes or uses any title or description or any addition to his name implying that he holds a degree, diploma, licence or certificate conferred, granted or issued by any association or institution recognized or authorized by the Board under this Act or that he is qualified to practise the Indian system of medicine under the provisions of this Act, shall, on conviction, be punishable with fine which may extend to fifty rupees for the first offence under this section, and to fine which may extend to two hundred rupees for every subsequent offence.

### **SCHEDULE 1**

#### **THE SCHEDULE**

[See Sections 27,28,29 and 30]

Persons who are entitled to have their names entered in the register of Vaidyas and Hakmis:-

1. Vaidyas or Hakims who hold a degree or certificate of any Government Ayurvedic or Unani college or school within the Uttar Pradesh or outside it, or a degree in Indian medicine or surgery or midwifery of any University established by law in India.

2[2. Vaidas and Hakims who hold a degree or diploma granted by the Board].

3. Vaidyas or Hakims who have passed an examination from any Ayurvedic or Unani Institution in the Uttar Pradesh or outside it recognized by the Board for purposes of registration.

4. 1[\*\*\* ]

1. Omitted by U. P. Act No. 7 of 1956.

2. Substituted by U. P. Act No. 7 of 1956.