

Uttar Pradesh Homoeopathic Medicine Act, 1951

8 of 1952

[05 May 1952]

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SCHEDULE 1 :- THE SCHEDULE

Uttar Pradesh Homoeopathic Medicine Act, 1951

8 of 1952

[05 May 1952]

An Act to provide for the development and expansion of the Homoeopathic system of medicine in Uttar Pradesh Whereas it is expedient to provide for the development and expansion of the homoeopathic system of medicine in Uttar Pradesh; It is hereby enacted as follows : 1. Received the assent of the President on May 5, 1952, published in the Uttar Pradesh Gazette (Extra.), dated May 19, 1952.

CHAPTER 1 PRELIMINARY

1. Short Title, Extent And Commencement :-

(i) This Act may be called the Uttar Pradesh Homoeopathic Medicine Act, 1951.

(ii) It extends to the whole of Uttar Pradesh.

(iii) Part I of this Act¹ shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint. Part II shall come into force on such date after the expiry of two years from the date on which Part I comes into force as the State Government may notify under Section 59.

1. Part I of the Act came Into force in the whole of Uttar Pradesh on August 15, 1952, vide Notification No. U.O.-1113-B/V--1226-52. dated July 26, 1952, published in Gazette dated August 2, 1952, Pt. I, p. 729.

2. Definitions :-

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

(a) "Board" means the Board of Homoeopathic Medicine, Uttar Pradesh, constituted under the provisions of this Act;

(b) "Chairman" means the Chairman of the Board; (bb) 1(***)

(c) "Homoeopathy" means the homoeopathic system of medicine and includes allied branches of Biochemistry, minor surgery and midwifery;

(d) "Member" means a members of the Board;

(e) "Prescribed" means prescribed by rules framed under this Act;

(f) "State Government" means Government of Uttar Pradesh;

(g) "Register" means the register of homoeopaths, maintained under Section 29;

(h) "Registered Homoeopath" means a homoeopathic medical practitioner registered under the provisions of this Act;

(i) "Registrar" means the registrar appointed under this Act.

1. Inserted by U. P. Act No. I of 1975. Section 2 (w.e.f. 17-1-1975) and omitted by Section 2 of U. P. Act Mo. 14 of 1977 retrospectively (w.e.f. 8-8-1977).

CHAPTER 2

ESTABLISHMENT AND CONSTITUTION OF BOARD

3. Establishment Of Board :-

The State Government shall, by notification in the Official Gazette, establish¹in the manner provided hereafter, a Board to be called the Uttar Pradesh Homoeopathic Medicine Board, for the purpose of carrying out the provisions of this Act. The Board shall be a body corporate having a perpetual succession and a common seal and may sue or be sued in its corporate name.

1. For the establishment of a Board, see Notification Mo. 88-BH/V--1226-52, dated August 15, 1952, in Official Gazette dated August 16, 1952, Pt. 1, p. 941.

4. Constitution Of The Board :-

1[The Board shall consist of the following members, namely--

(a) seven members to be nominated by the State Government from the amongst the registered homoeopaths;

(b) three members to be elected in the manner prescribed by the teachers of the recognised homoeopathic institutions of Uttar Pradesh from amongst themselves;

- (c) five members who have put in at least ten years practice in homoeopathy to be elected in the manner prescribed by the registered homoeopaths of the State from amongst themselves;
- (d) one member to represent the Kanpur University to be elected by the members of the Board of the Faculty of Homoeopathy, if constituted, and for so long as such Board is not constituted, by the members of the Academic Council of the said University;
- (e) the Deputy Director, Homoeopathy, Uttar Pradesh ex officio;
- (f) the Principal, national Homoeopathic College, Lucknow, ex officio :)

2[Provided that for so long as the members referred to in clause (b) or clause (c) are not elected, the State Government may nominate members belonging to the class of persons mentioned in that clause, and the members so nominated shall hold office until the due election of members under that clause.)

1. Substituted by U. P. Act Mo. 1 of 1975, Section 3 (w.e.f. 17-1-1975).

2. Inserted by U. P. Act Mo. 25 of 1975. Section 2 (w.e.f. 18-8-1975).

5. Election Of Chairman And The Vice-Chairman :-

1[(1) There shall be a Chairman of the Board who shall be appointed by the State Government from amongst the members of the Board.

(2) There shall also be a Vice-chairman of the Board who shall be elected by the Board from its members.]

1. Substituted by U. P. Act 4 of 1956. Section 2.

6. Term Of Office Of Members :-

The term of office of a member 1[including a member appointed as Chairman or elected as Vice-Chairman) of the Board shall be three years from the date of his election or nomination as a member. An outgoing Chairman or member, if otherwise qualified, shall be eligible for 2[re-appointment or re-nomination] as Chairman or member.

1. Substituted by ibid.

2. See Notification No. 88--BH/V--1226-52, dated August 15. 1952, in the Official Gazette, dated August 16, 1952. Pt. I, p. 944.

7. First Board To Be Nominated By The Government :-

Notwithstanding anything contained in this Chapter, the first Board including the Chairman constituted after the enforcement of Part I, shall be nominated¹ by the State Government and shall hold office for a period of two years from its constitution or such further period as the State Government may, by order, direct.

8. Resignation Of Office :-

(i) The Vice-Chairman or any member may, at any time resign his office by letter addressed to the Chairman of the Board. Such resignation shall take effect from the date on which it is accepted by the Board.

(ii) A Chairman of the Board wishing to resign may forward his written resignation to the State Government.

(iii) Such resignation shall take effect from the date on which its acceptance is notified in the Official Gazette by the State Government.

9. Filling Of Casual Vacancies In The Office Of A Member Or Chairman :-

(i) If a member or Chairman of the Board dies or resigns or from any cause whatsoever ceases to be a member or Chairman, as the case may be, the vacancy so created shall be filled by a 1(fresh appointment) or nomination, as the case may be, within such period as may be prescribed, for the residuary term.

(ii) The term of office of a member or Chairman 1(appointed) or nominated to fill up the vacancy mentioned in sub-section (i) shall be the remainder of term of office of the member or Chairman in whose place he has been so1(appointed) or nominated :

Provided that in the case of an 1(appointed) or nominated member, if the vacancy is for a period of six months or less, the Board or the State Government respectively may direct that the vacancy be left unfilled for the residuary term.

1. Substituted by U. P. Act, IV of 1956, Section 2.

10. Removal Of 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 disqualifications mentioned in

Section 17, 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 the State Government acquired directly or indirectly by himself or by a partner any share or interests in any contract with by or on behalf of the Board--

the Board may remove him from membership.

(2) Provided that when the Board proposes to take action under the foregoing provisions of this section, an opportunity of explanation shall be given to the member concerned, and when such action is taken the reasons therefor shall be placed on record.

11. Removal Of Chairman :-

(1) The State Government may remove a Chairman or member who, in its opinion, has so flagrantly abused in any manner his position as such as to render his continuance detrimental to the public interest or who has been guilty of a habitual failure in the performance of his duties :

Provided that when the State Government proposes to take action under this section it shall give the Chairman or member an opportunity of explaining his conduct on account of which it is proposed to remove him and shall, in the event of taking such action, place on record the reasons therefor, and the decision of the State Government thereon shall not be questioned in any Court of law.

(2) The State Government may place under suspension a member or Chairman against whom an enquiry relating to the abuse of his position as a member or Chairman is pending in a court of law, or under the orders of the State Government or the Board, till final orders have been passed on the legal proceedings of the enquiry, as the case may be. Such member or Chairman shall take part in any proceedings of the Board during the period of suspension.

12. Duties Of Chairman :-

It shall be the duty of the Chairman--

(a) unless provided otherwise by this Act or prevented by reasonable cause;

(i) to convene and preside over all meetings of the Board;

(ii) otherwise to control in accordance with any regulation to be made in this behalf, the transaction of business at all meetings of

the Board;

(b) to superintend and control the financial and executive administration of the Board and bring to its notice any defect therein;

(c) to perform such other duties as are required of or imposed on him by or under this Act, or rules framed thereunder.

13. Power Of The Board To Require Reports, Etc. From Chairman :-

(1) The Board may require the Chairman to furnish it with-- (a) any return, statement, estimate, statistics or other information regarding any matter appertaining to the administration of the Board;

(b) a report or explanation on any such matter; and

(c) a copy of any record, correspondence or plan or other document which is in his possession or control as Chairman or which is recorded or filed in the office of any servant of the Board.

(2) The Chairman shall comply with every requisition made under sub-section (1) without unreasonable delay.

(3) Nothing in this section or in any other provision of this Act shall be deemed to prevent the Board from making regulations authorising the asking of questions by members at its meetings, subject to such conditions and restrictions as may be prescribed in the rules or regulations.

14. Delegation By Chairman Of His Powers And Duties To A Vice-Chairman :-

(1) A Chairman may empower, by general or special order, the Vice-Chairman to exercise under his control anyone or more of his powers, duties or functions except those specified in clauses (a) and (b) of Section 12.

(2) An order by the Chairman under sub-section (1) may prescribe any condition, and impose any restriction, in respect of the exercise of any power, the performance of any duty or the discharge of any function.

(3) In particular such order may prescribe the condition that any order by Vice-Chairman in the exercise of a power conferred on him by sub-section (1) shall be liable to rescission or revision by the Chairman upon appeal to the Chairman within specified time.

15. Duties Of Vice-Chairman :-

A Vice-Chairman shall--

(a) in the absence of the Chairman from a meeting of the Board and unless prevented by reasonable cause, preside, regulate the conduct of business, and maintain and enforce order at the meeting;

(b) during the vacancy in the office of Chairman or the incapacity or temporary absence of the Chairman, perform any other duty or power of the Chairman;

(c) at any time perform any duty and exercise, when occasion arises, any power delegated to him by the Chairman under Section 14.

16. Nomination Of Members In Default Of Election :-

If any electoral body referred to in Section 4 fails, by such date as may be prescribed, to elect the requisite number of members or to fill up any vacancy, the State Government shall fill up such vacancy or vacancies by nomination of a person or persons qualified to be elected by the appropriate electoral body.

17. Disqualification For Membership :-

A person shall be disqualified for being elected or nominated or for being a member of the Board, if--

(a) he has been sentenced by a court to imprisonment for an offence involving moral turpitude and indicating in the opinion of the Board, such a defect in character as would render the entry or continuance of his name in the register undesirable, the sentence not having been subsequently reversed in appeal or revision, or remitted by an order which the State Government is empowered to make, if it thinks fit in this behalf;

(b) the Board, after inquiry (at which an opportunity has been given to such person to be heard in his defence either personally or through a representative) has found him guilty by a majority of two-thirds of the members present and voting at the meeting of infamous conduct in any professional respect;

(c) he is an undischarged insolvent;

(d) he has been adjudged by a competent court to be of unsound mind;

1[(f) he is debarred from practising in Homoeopathy by order of any competent authority; or)

2[(g) he holds any office of profit or accepts any employment under

the Board) :

3[Provided that the disqualifications referred to in clauses (e) and (f) may be removed by an order of the State Government.)

1. Substituted by U. P. Act No. 1 of 1975, Section 4 (i) (w.e.f. 17-1-1975).

2. Substituted by U. P. Act No. 1 of 1975, Section 4 (ii) (w.e.f. 17-1-1975).

3. Substituted by U. P. Act No. 1 of 1975, Section 4 (iii) (w.e.f. 17-1-1975).

18. Notifications Of Elections, Nominations And Vacancies :-

Every election or nomination of a member or Chairman of the Board and every vacancy in the office of member or Chairman shall be notified in the Official Gazette.

19. Payment Of Allowance To Members And Chairman :-

(1) There shall be paid to the member of the Board such travelling and daily allowances not exceeding those payable to the members of the State Legislature as may be prescribed.

(2) No member shall receive any pay :

Provided that the Chairman may receive such pay, allowances or emoluments as may be prescribed by rules.

CHAPTER 3

CONDUCT OF BUSINESS

20. Meeting Of The Board :-

(1) The Board shall meet at the headquarters of its office which shall be located at Lucknow or at such other place and at such time and the meeting shall be convened in such manner as may be provided by regulations made by the Board.

(2) No business shall be transacted at any meeting or the Board unless five members are present :

Provided that when it is necessary to postpone any business at a meeting for want of quorum, the Chairman shall adjourn the meeting to another date and the business postponed for want of quorum shall be transacted on such date or in the event of a further adjournment of the meeting to a subsequent date, on such subsequent date notwithstanding any deficiency in the number of members present.

21. Chairman Of Meeting :-

If at a meeting neither the Chairman nor the Vice-Chairman is present, the members present shall elect one of their members to be the Chairman of the meeting and such Chairman shall perform all the duties and may exercise all the powers of the Chairman of the Board when presiding at the meeting.

22. Section 22 :-

1[***]

1. Omitted by U. P. Act No. 1 of 1975, Section 5 (w.e.f. 17-1-1975).

23. Power Of Chairman Of Meeting To Maintain Orders :-

Where, at a meeting of the Board, any member or other person refuses to comply with any direction of the Chairman ruling any business, discussion or matter out of order or otherwise regulating the conduct of members or of business, or where any member or person wilfully disturbs the meeting, the Chairman may require that member or person to withdraw from the meeting and, in the event of his omitting to do so, may employ against him such force as is necessary, or as in good faith he believes to be necessary, for the purpose of removing or excluding him from the meeting.

24. Decision By Vote :-

(1) All questions which may come before a meeting of the Board shall be decided by a majority of the votes of the members present and voting.

(2) In case of an equality of votes, the Chairman of the meeting shall have a second or casting vote.

25. The Minute Book And Resolutions :-

(1) The names of the members present, and all the proceedings held and resolutions passed at a meeting of the Board shall be entered in a book to be called the minute book.

(2) The minutes shall be read out at the meeting, or the next ensuing meeting, and, after being passed as correct by the members (or a majority of them) present at the reading shall be certified as passed by the signature of the Chairman of the meeting at which they are passed.

(3) Every resolution passed by the Board at a meeting shall be

given due publicity.

(4) A copy of the proceedings of every meeting of the Board shall, within 15 days from the date of the meeting, be forwarded to the State Government or any other authority appointed by the Government in this behalf.

26. Establishment Of Advisory Committee :-

(1) Subject to the rules made by the State Government for this purpose, the Board may, by a resolution in that behalf, appoint an advisory committee which may consist of as many members or outsiders co-opted for that purpose, or both, as it may decide, for any purpose provided for in this Act, and may appoint a convener who shall preside over the meetings of such committee. In the absence of the convener, the committee may elect any of its members for this purpose.

(2) All questions at a meeting of the committee shall be decided by a majority of the votes of the members present and voting at the meeting. In case of equality of votes, the person presiding shall have a 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.

(4) Proceedings of every committee shall be laid before the Board which may take any action on them, it deems necessary and such committee shall comply with directions of the Board.

27. Validity Of Proceedings :-

(1) No vacancy in the Board or in a committee of the Board shall vitiate any act or proceeding of the Board or such committee.

(2) No disqualification of, or defect in the election or nomination of, any person acting as a member of the Board or as the Chairman 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.

CHAPTER 4

STAFF AND MEDICAL REGISTRATION

28. Registrar And Other Officers And Servants Of The Board :-

(1) The Board shall, with the previous approval of Government, appoint a Registrar who shall be the Secretary to the Board. The Registrar shall receive such salary and allowances as may be prescribed. The Chairman 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 or 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, designations, pay and allowances of such officers and servants shall be fixed with 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 rules and regulation.

(4) All questions of recruitment, promotions, leave, provident fund and other conditions of service relating to staff shall be governed by rules.

(5) The registrar or any other 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.

29. Orders By Board For Maintenance Of Register :-

(1) The Board shall, as soon as conveniently may be after the commencement of this Act, and from time to time as occasion may require, make orders regulating the maintenance of a register of homoeopaths.

(2) The register shall be kept in such form as may be prescribed.

30. 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 practitioner be re-entered in the register.

31. Persons Entitled To Be Registered :-

(1) Every person possessing the qualification mentioned in the Schedule shall, subject to the provisions contained in the Act, and on payment of such fees as may be prescribed in this behalf, be entitled to have his name entered in the register subject to such conditions as the Board may prescribe :

Provided that an application for entry in the register made by a person whose case is not clearly governed by the provisions of the Act or by the rules and regulations made thereunder, shall be referred to the Board for such decision as it may deem fit.

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

(3) Such 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 and after calling for an explanation from the person concerned and considering the same, cancel or alter any entry in the register if in the opinion of the Board, such entry was fraudulently or incorrectly made or obtained.

32. Amendment Of Schedule :-

If the Board is satisfied--

(a) that title or degree, granted or qualification certified by a University, Medical Corporation, examining body or other institution in or outside India, is sufficient guarantee that persons holding such title, degree or qualification possess the knowledge and skill requisite for efficient practice or homoeopathy, or

(b) that such a title, degree or qualification is not a sufficient guarantee as aforesaid, it may direct--

(i) in case (a) that the possession of such title, degree or qualification shall, subject to the provisions contained in the Act, and on payment of such fee as may be prescribed, entitle a person to have his name entered in the register of homoeopaths, or

(ii) in case (b) that the possession of such title, degree or qualification shall not entitle a person to have his name entered in the said register; and the Schedule attached hereto shall thereupon be deemed to be altered accordingly.

33. Power Of Board To Call For Information From Medical Institution :-

The Board shall have power to call upon the governing body or authorities, of a Medical Corporation, examining body or other institution included 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 the efficiency of the instructions given therein in homoeopathy; 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.

34. Information Required From Applicants For Registration :-

Every person who applies to have his name entered in the register of homoeopaths, must satisfy the Board 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.

35. Entry Of New Titles And Qualifications In Register :-

If a person whose name is entered in the register of homoeopaths obtains any title, degree or qualification other than the title, degree or qualification in respect of which he has been registered, he shall, on payment of such fee as may be prescribed, be entitled to have an entry stating such other title, degree or qualification made against his name in the register, either in substitution for, or in addition to, any entry previously made.

36. 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 homoeopath--

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

(b) whom the Board or a Committee specially authorized 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 disability mentioned in sub-section (1) above has ceased to have any force.

37. Notice Of Deaths, And Erasure Of Names From Register :-

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

(ii) On receipt of such certificate or other reliable information regarding such death the Board shall erase the name of the deceased person from the register.

38. Penalty On Unregistered Person Representing That He Is Registered :-

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

39. Procedure In Inquiries And Appeals :-

For the purpose of any enquiry held under clause (b) of sub-section (1) of Section 36, 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, 19 and 20 of the said Act shall, so far as may be, apply to every such inquiry and appeal.

40. Publication Of Names Entered In The Register Of Homoeopaths :-

(1) The Registrar shall, in every year and from time as occasions 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, degree and qualifications of each such person and the date on which each such title or degree was granted or qualifications certified :

Provided that the Registrar shall from time to time get published in the Official Gazette the names of such practitioners whose name 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 :

Provided that in the case of a person whose name has been entered in the register after the last publication of the list, a certified copy

signed by the Registrar, of the entry of the name of such person in the register shall be evidence that such person is registered under this Act. Such certificate shall be issued free of charge.

CHAPTER 5

FUNCTIONS AND FINANCE OF THE BOARD

41. Powers Of The Board :-

The Board shall have the following 1(Powers and duties), namely,--
2[(1) to recognise homoeopathic educational or instructional institution for purposes of affiliation and to suspend or withdraw such recognition;

(2) to prescribe courses of study and curricula for general instruction or special or refresher courses in institutions affiliated to the Board in such branches of the Medical Science of Homoeopathy as the Board may think fit;

(3) to hold examinations, and to grant diplomas to persons who shall have successfully pursued a course of study in the institutions affiliated to the Board;

(3-A) to exercise general supervision over the residence and disciplinary arrangements made by the educational institutions affiliated to the Board and to make arrangements for promoting the health and general welfare of their students;)

(4) to institute exhibitions and award medals thereat and also to grant scholarships and medals to those who obtain high position at the Boards examinations or are poor and deserving, and with the sanction of the State Government, to grant to students domiciled in this State, scholarships for special study in research and manufacture of homoeopathic medicine in any medical institution or a reputed firm that the Board may think fit, whether in India or abroad and to endow Chairs of Homoeopathy in institutions affiliated to the Board;

(5) to demand and receive from students such fees as may be prescribed for admission to the Boards examinations;

(6) (*****)3

(7) (*****)3

(8) (*****)3

4((9) to regulate by licence or permits the preparation and dispensing of homoeopathic medicines, and to appoint with the previous sanction of the State Government, inspectors who shall be qualified homoeopathic doctors, for the inspection of homoeopathic dispensaries, hospital and educational institutions in Uttar

Pradesh;)

(10) to establish or aid research institutions and to arrange for post-graduate study in the science of homoeopathy and to encourage scientific manufacture of homoeopathic medicine in the State;

(11) to publish homoeopathic journals;

(12) to do such acts, not inconsistent with the provisions of this Act, as may be necessary for the furtherance of the objects of the Act.

1. Substituted by U. P. Act 25 of 1975.

2. Substituted by U. P. Act 14 of 1977 (w.e.f. 8-8-1977).

3. Omitted by U. P. Act 1 of 1975.

4. Substituted by U. P. Act IV of 1956, Section 5.

41A. Section 41A :-

[***]1

1. Sections 41-A, 41-B and 41-C inserted by U. P. Act 1 of 1975 and omitted by U. P. Act 14 of 1977 (w.e.f. 8-8-1977).

41B. Section 41B :-

[***]1

1. Sections 41-A, 41-B and 41-C inserted by U. P. Act 1 of 1975 and omitted by U. P. Act 14 of 1977 (w.e.f. 8-8-1977).

41C. Section 41C :-

[***]1

1. Sections 41-A, 41-B and 41-C inserted by U. P. Act 1 of 1975 and omitted by U. P. Act 14 of 1977 (w.e.f. 8-8-1977).

42. Budget :-

(1) The Board shall have prepared and laid before it at a meeting to be held in every year before such date, as may be fixed by rules in this behalf, a complete account of the actual and abstracted receipts and expenditure for the year ending on the 31st day of March next following such date together with a budget estimate of the income and expenditure of the Board for the year commencing on the first day of April next following.

(2) The Board shall, at such meeting decide upon the appropriations and the ways and means contained in the budget estimate and sanction the budget which shall be submitted to the State Government or to such authority as the State Government may, by order direct within fifteen days from the date of the

meeting in which the budget is passed.

(3) Subject to the like provisions, the Board may vary or alter from time to time, as circumstances may render desirable, the budget sanctioned under sub-section (2).

43. Revised Budget :-

As soon as may be, after the first day of October, the revised budget for the year shall be framed and such revised budget shall, so far as they be, be subject to all the provisions applicable to a budget made under Section 42.

44. Homoeopathic Fund :-

There shall be established a Homoeopathic Fund and there shall be placed to the credit thereof--

- (a) grants and loans received from the State Government;
- (b) all fees received by the Board on account of registration of homoeopaths and admission to the Boards examinations;
- (c) contributions received from any local authority or any Homoeopathic Medical Association; and
- (d) all sums received by or on behalf of the Board from sources other than those mentioned in the foregoing clauses.

45. Custody And Investment Of Homoeopathic Fund :-

The Homoeopathic Fund shall be kept in the (State Bank of India)¹ or with the previous sanction of the State Government, in any other bank.

1. Substituted by U. P. Act 25 of 1975.

CHAPTER 6

PRIVILEGES OF PRACTITIONERS

46. Qualified Practitioners Certificates :-

Notwithstanding anything contained in any other 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 Uttar Pradesh and in all Acts of the Central Legislature (in their application to Uttar Pradesh) in so far as such Acts relate to any of the matters specified in List II

or List III of the Seventh Schedule to the Constitution of India, 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 Homoeopathic 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 in any court of law as an expert under Section 45 of the Indian Evidence Act, 1872, or any matter relating to medicine, surgery or midwifery.

47. Exemptions From Serving On Inquests :-

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.*

* Now Code of Criminal Procedure, 1973.

48. Privileges Under The United Provinces Excise Act, 1910 :-

The registered practitioner shall have the same privileges as the medical practitioners registered under the United Provinces Medical Act, 1917, have under the United Provinces Excise Act, 1910, or any other Act for the time being in force.

CHAPTER 7

MISCELLANEOUS

49. 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 communication of such order.

50. 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 Chairman or 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.

51. Mode Of Proof Of Boards Records :-

A copy of any proceeding, 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 authorized 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 matter 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.

52. 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 ordered by the court for special reasons.

53. Temporary Provisions Regarding Administration Of The Board :-

1[(1) With effect from the date of commencement of the Uttar Pradesh Homoeopathic Medicine (Amendment) Act, 1977, all members of the Board including the Chairman and the Vice-

Chairman shall vacate their offices as such and for a period of 2(Fifteen years) from the said date such person as the State Government may, from time to time, appoint in that behalf as controller, shall exercise and perform, so far as may be, the powers and duties of the Board and shall be deemed to be the Board for all purposes :

Provided that the State Government may by notification extend the said period by one year.

(2) The State Government may appoint an Examination Committee to aid the Controller in the matters of holding examinations and appointing examiners and performing such other functions as may be notified.

1. Substituted by U. P. Act 14 of 1977 (w.e.f. 8-8-1977).

2. Substituted by U. P. Act 25 of 1991, Section 2 (w.e.f. 17-8-1991), for "Fourteen years".

53A. Power Of State Government To Issue Direction, Etc. :-

1[(1) The State Government shall have power to communicate its views in writing to the Board in respect of anything done or purporting to be done by the Board or any other such matter as may concern the Board and to advise the Board regarding the action to be taken.

(2) The Board shall communicate to the Government the action, if any, taken or proposed to be taken on such advice.

(3) Whether the Board fails to take necessary action to the satisfaction of the State Government within a reasonable time, the State Government may, after considering any explanation furnished or representation made by the Board, issue such directions consistent with the provisions of this Act, as it may think fit and the Board shall comply with such directions.

(4) Where in the opinion of the State Government, immediate action is required to be taken for proper functioning of the Board in respect of any matter concerning the Board, the State Government may suo motu and without prior consultation with the Board, take such action consistent with the provisions of this Act as may be necessary and the same shall be communicated to the Board.)

1. Inserted by U. P. Act 1 of 1975.

53B. Additional Power Of The State Government :-

1[(1) The State Government may, by notification, authorise any of the following Universities namey the University of Agra and the Kanpur University, to hold examination for, and grant diplomas in. Homoeopathy.

(2) The State Government may, by notification authorise such University to take over the function of holding of examinations for courses prescribed by the Board with effect from such date as may be specified in the notification, and thereupon the powers and functions of the Board in that behalf shall cease.

(3) The State Government may, for giving effect to the notifications referred to in sub-section (1), or sub-section (2), by notified order make such adaptations in this Act as it may think fit.)

1. Inserted by U. P. Act 14 of 1977 (w.e.f. 8-8-1977).

54. Court Competent To Try Offences Under This Act And

Take Cognizance Of Offences :-

- (1) No court other than the court of a 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.

55. Making Of Regulations :-

Subject to the provisions of this Act and the rules framed by the State Government thereunder, the Board may frame regulations for regulating the following matters, namely :

- (1) (a) conditions on which institutions may be affiliated or recognized for the purposes of registration under Section 31;
- (b) the admission of students to the educational or instructional institutions affiliated to the Board;
- (c) the conditions under which students shall be admitted to the degree or diploma or certificate course and to the examinations of the Board and shall be eligible for degrees, diplomas and certificates;
- (d) the conditions of residence of the students in the educational or instructional institutions affiliated to the Board and the levying of fees for such residence;
- (e) the number, qualifications and emoluments of teachers of the educational or instructional institutions affiliated to the Board;
- (f) the fees to be charged for courses of study in such institutions and for admission to the examinations, degrees, diplomas and certificates of the 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 institutions generally;

1(***)

- (2) (a) the time and place at which the meeting 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 objects of this Act;

- (3) all such regulations shall be published in the Official Gazette;
- (4) the State Government may, by notification in the Official Gazette, cancel or modify any regulation.
1. Second Proviso inserted by U. P. Act 25 of 1975 and omitted by U. P. Act 14 of 1977 (w.e.f. 8-8-1977).

56. Rules :-

- (1) The State Government may, 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) 1(***)
 - (b) regulation of elections under this Act;
 - (c) the conduct and the maintenance of correct minutes of meeting of the Board;
 - (d) the manner in which vacancies shall be filled under Section 9;
 - (e) the privileges, salary and allowances and other conditions of service of the Registrar and other staff;
 - (f) the accounts to be kept by Boards, the manner in which accounts shall be audited and published, and the power of auditors in respect of disallowance and surcharge;
 - (g) the date before which a meeting shall be held for the sanction of the budget;
 - (h) the method and forms to be adopted in the preparation of budget;
 - (i) the returns, statement and reports, to be submitted by Boards;
 - (j) the form of the register of homoeopaths to be maintained under this Act and the classification of practitioners into two or more classes according to their qualifications;
 - (k) fees chargeable under this Act and their application;
 - (l) the manner in which appeals against the decision of the Registrar shall be heard by the Board under Section 49;
 - (m) allowances payable to members of the Board and its Chairman;
 - (n) remuneration to be paid to the Chairman;
 - (o) the furtherance of any objects of the Board as a teaching or examining body;
 - (p) maintenance of a patient register by practitioner in the prescribed form;
 - (q) delegation of power by State Government and by the Board;
 - 2((qq) *** *)

(qqq) the conditions for the grants of licence, the renewal of licence and the fees payable therefor ;

(r) the furtherance of any other objects of the Act.

(3) All such rules shall be published in the Official Gazette.

1. Omitted by U. P. Act 1 of 1975.

2. Omitted by U. P. Act 14 of 1977 (w.e.f. 8-8-1977).

57. Rules And Regulations :-

1[(1) All rules made under this Act shall, as soon as may be after they are made, be laid before each House of the State Legislature, while it is in session for a total period of not less than thirty days comprised in its one session or more than one successive sessions and shall unless some later date is appointed take effect from the date of their publication in the Gazette, subject to such modifications or annulments as the two Houses of the Legislature may, during the said period, agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

(2) No regulations made by the Board under this Act shall have effect until they are confirmed by the State Government and published in the Gazette).

1. Substituted by U. P. Act 1 of 1975.

58. Savings :-

Unless it is under this Act otherwise expressly provided no provisions of this Act shall affect a medical practitioner other than a homoeopathic medical practitioner registered under this Act.

Part : II - Part II

59. Power Of The State Government To Enforce The Provisions Of Part Ii :-

The State Government may at any time after the expiry of two years from the date on which Part I comes 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 seems proper.

60. List Of Practitioners :-

(1) After the publication of the notification mentioned in Section 59, the Registrar shall prepare and keep a list called a "List of persons in practice, belonging to the homoeopathic system on such date as is mentioned in the said notification.

(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 homoeopathic system of medicine for ten years in this 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 30, sub-sections (2), (3) and (4) of Section 31 and sub-section (1) of Section 36, shall, so far as may be, apply to this list.

61. Prohibition To Practice By Persons Not Listed :-

No person other than a practitioner registered under Part 1 of the Act or a person whose name is entered in the list mentioned in Section 60 shall practice or hold himself out, whether directly or by implication as practising or as being prepared to practice the homoeopathic system 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.

62. Penalty :-

Any person who acts in contravention of Section 61 shall, on conviction for each offence, be punishable with fine, which may extend to two hundred rupees.

63. Examination Before Registration :-

1[Notwithstanding anything contained in any other section of this Act, no person shall on or after the expiry of one year from the date on which Part II or any section thereof comes into force be entered in the register as a registered practitioner unless he has passed a qualifying examination recognized by the Board.)

1. Substituted by Section 7. of U. P. Act IV of 1956.

64. Savings :-

Nothing in Sections 61 and 62 shall apply to any person--

(a) who limits his practice to the art of dentistry, or

(b) who, being a nurse or midwife or health visitor registered under the United Provinces nurses, Midwives, Assistant Midwives and Health Visitors Registration Act, 1934, or a dai attends on a case of labour, or

(c) who is entitled to registration under Section 63 of this Act.

65. Conferring, 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 to practice the homoeopathic system of medicine.

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

66. False Assumption Of Degree, Diploma, Or Certificate To Be An Offence :-

Whoever voluntarily and falsely assumes or uses any title or description or any addition to his name implying that he holds a degree, diploma, licence or certificate conferred, granted or issued by any association or institution recognized or authorized by the Board under this Act or that he is qualified to practice the homoeopathic system of medicine under the provisions of this Act, shall 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 31, 32, 33 and 34)

Persons who are entitled to have their names entered in the Register of Homoeopaths

1 . Homoeopaths who have passed the final examinations 1(held under the provisions of this Act.)

2. Homoeopaths who have passed an examination from a homoeopathic institution in the State or outside it :

Provided that for purposes of registration, such an institution is recognized by the Board subject to any limitations as the Board may consider proper.

2[3. Homoeopaths who have been practising as such whole-time for the last five years at the time of making applications and are certified in the prescribed manner as fit persons for being registered as homoeopaths.

Explanation.--A person shall not be deemed to be practising homoeopathy whole-time if he is a salaried servant (otherwise than as a homoeopath of the State Government, the Central Government, a local authority or a commercial or industrial undertaking or other establishment.

3[***]

1. Substituted by U. P. Act 25 of 1975.

2. Substituted by U. P. Act IV of 1956, Section 8.

3. Inserted by *ibid*.