

MEGHALAYA ACT 9 OF 1994

THE MEGHALAYA MEDICAL COUNCIL ACT, 1987

As passed by the Meghalaya Legislative Assembly)

Received the assent of the President of India
on the 26th November, 1994.

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An

Act

to provide for the registration of medical (allopathic) practitioners in the State of Meghalaya and for matters connected therewith

Be it enacted by the Legislature of the State of Meghalaya in the Thirty-eighth Year of the Republic of India as follows:—

1. Short title, extent and commencement.— (1) This Act may be called the Meghalaya Medical Council Act, 1987.

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

(3) It shall come into force at once.

2. Definitions. In this Act unless the context otherwise requires.—

- (a) "Council" means the State Medical Council of Meghalaya constituted under this Act;
- (b) "Government" means the Government of the State of Meghalaya;
- (c) "Institution" includes a hospital, dispensary or health centre where people report either as indoor or outdoor patients for investigation or for treatment;
- (d) "Medical Council of India" means the Medical Council of India established and constituted under the Indian Medical Council Act, 1956;
- (e) "medicine" means any modern scientific medicine and includes surgery and obstetrics, but does not include veterinary medicine or dentistry or veterinary surgery or Homoeopathic, Ayurvedic or Unany system of medicines and the expression "medical" shall be construed accordingly;
- (f) "Prescribed" means prescribed by rules or regulations made under this Act;

- (g) "President" and Vice-President" means respectively the President and Vice-President of the Council;
- (h) "recognised medical qualification" means any of the medical qualifications included in the Schedules to the Indian Medical Council Act, 1956, as amended from time to time;
- (i) "Registrar" means the Registrar of the Council;
- (j) "Register" means the State Medical Register maintained by the Council under this Act;
- (k) "registered practitioner" means any person whose name is entered in the Register under this Act;
- (l) "section" means a section of this Act.

3. Constitution of Medical Council.- (1) The State Government may constitute a Medical Council for the State to be called "the State Medical Council of Meghalaya" and the Council shall be a body corporate and shall have perpetual succession and a Common Seal and Shall by the said name, sue and be sued. The Council shall consist of the following members, namely-

- (a) two members to be nominated by the State Government;
- (b) two members to be elected in the Prescribed manner by the registered practitioners, practising in the State from amongst themselves;
- (c) one member to be nominated by the Director General of Health Services of the Government of India;
- (d) two members to be nominated by the Medical Council of India.
- (e) Director of Health Services, Meghalaya (*Ex-officio*)

- (2) The President and Vice-President shall be elected in the prescribed manner by the members of the Council from amongst themselves.

4. Tenure of office of members:- A member of the Council shall hold office for a term of 5 years from the date of his election or nomination or until his successor shall have been duly elected or, as the case may be nominated, whichever is earlier, and shall be eligible for re-election or re-nomination.

5. Vacation of seat as member and filling up of the vacancy:- (1) A member of the Council shall be deemed to have vacated his seat-

- (a) on sending his resignation in writing to the President;

- (b) on his absence from three consecutive meetings of the Council without its permission;
 - (c) on removal of his name from the Register;
 - (d) on his being declared an insolvent by any competent Court or on his becoming insane;
 - (e) on expiry of his term as member; or
 - (f) on his absence out of India for six consecutive months without prior intimation to the Council;
- (2) A casual vacancy in the Council shall be filled up by nomination or election, as the case may be, and the person nominated or elected to fill the vacancy shall hold office only for the remaining part of the term for which the member whose place he takes was nominated or elected.

6. Disqualification for being elected or nominated as a member. - A person shall be disqualified for being elected or nominated as a member of the Council if he-

- (a) is not a registered practitioner under this Act or the Indian Medical Council Act, 1956;
- (b) does not possess any of the recognised medical qualification;
- (c) has been dismissed from service under Government, local or other authority for misconduct;
- (d) has been sentenced by a criminal court to imprisonment for any offence involving moral turpitude;
- (e) has been convicted by a court in India, whether before or after the commencement of this Act, for offence punishable under the Protection of Civil Rights Act, 1955 unless a period of 6 (six years or such less period, as the Government may allow in any particular case has elapsed from the date of such conviction).

7. Publication of names of members. - The name of every members of the Council, elected or nominated, shall be published by the Government in the Official Gazette.

8. Meeting of the Council. - (1) No business shall be transacted at a meeting of the Council unless at least four members are present. All questions, other than question of order, which may come before the Council, shall be decided by a majority of votes of the members present and voting at the meeting. In case of an equality of votes, the President or, in his absence, the Vice-President or, in the absence of both, the members presiding over the meeting, elected by the members present shall have a casting vote. The President or the Vice-President or the member presiding over the meeting as the case may be, shall decide all points of order which may arise and his decision shall be final.

- (2) If any question arises with reference to procedure in respect of any matter for which no provision is made in this Act, or the regulations made thereunder, the President or the Vice-President or the member presiding over the meeting, as the case may be, shall decide the same and his decision shall be final.
- (3) Until such time as the regulations referred to in sub-section (2) have come into operation, the President may, by a letter addressed to each member, summon a meeting at such time and place as to him shall seem expedient.
- (4) Subject to the provision of this Act or the regulation made thereunder no Act or proceedings of the Council shall be invalid merely by reason of the existence of any vacancy among the members of the Council.

9. Sitting fees and travelling expenses.- The members of the Council shall be entitled to such fees for attendance at meetings of the Council and such travelling expenses as may from time to time be allowed by the Council and approved by the Government.

10. Register and other Officers.- (1) The Council shall appoint a Registrar who shall act as Secretary of the Council and also as Treasurer, unless the Council appoints another person as Treasurer.

- (2) The Council may also employ such other persons, as it may deem necessary, for the purposes of the Council.
- (3) All persons appointed or employed under this section shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.

11. Duties of the Registrar.- (1) It shall be the duty of the Registrar to keep a register of medical practitioners in accordance with the provisions of this Act, and, from time to time, make all necessary alterations in register of the addresses, appointments, qualifications or titles of such practitioners and cause the name of any practitioner who is dead to be removed from the register. The Registrar shall also publish the Register in the Official Gazette after every five years ending 31st December.

- (2) Every registered practitioner shall send to the Registrar after every five years ending 31st December a renewal fee as may be prescribed with an intimation about alterations, if any, in the address, appointments, qualifications or titles. If the renewal fee is not paid by such date as may be prescribed, the Registrar may send through registered post a letter to such registered practitioner at his registered address and at any other address available with him enquiring whether such practitioner has ceased to practise or whether his residence or appointment has changed.

and if no answer is received within a period of six months from its despatch, the Registrar may remove the name of such registered practitioner from the Register.

provided that any name so removed may be re-entered in the register under the direction of the Council on payment of prescribed fee.

12. Register to be public document.—The register shall be deemed to be a public document within the meaning of the Evidence Act, 1872.

13. Privileges of registered practitioner.—Save as provided in section 25 and 27 of the Indian Medical Council Act, 1956, no person other than a registered practitioner shall—

- (a) hold office as physician or surgeon or any other office (by whatever designation called) in Government or in any institution maintained by a local or other authority;
- (b) practise medicine in the State;
- (c) be entitled to sign or authenticate medical or fitness certificate or any other certificate required by any law to be signed or authenticated by a duly qualified medical practitioner; or
- (d) be entitled to give evidence at any inquest or in any court of law as an expert under Section 45 of the Indian Evidence Act, 1872 on any matter relating to medicine.

14. Person who can be registered.—Every person possesses any of the recognised medical qualifications shall, subject to the provisions hereinafter contained and on payment of such registration fee as may be prescribed, be entitled to have his name entered in the Register:

Provided that the Council may refuse to permit the registration of any person who has been convicted of any offence involving moral turpitude or who after an inquiry at which opportunity to be heard has been given to him, was found guilty of professional misconduct:

Provided further that the above disqualification may be removed by the Medical Council of India in any particular case after sufficient reasons for doing so are communicated to the Council.

15. Information to be furnished to the Registrar with application.—(1) Every person who applies to have his name entered in the register shall:—

- (a) satisfy the Registrar that he possesses one or more of the titles or qualification referred to in the Schedules to the Indian Medical Council Act, 1956, as amended from time to time; and
- (b) correctly inform the Registrar of the dates on which he obtained the title or qualification which entitles him to claim registration under this Act.

- (2) Every application under this section shall be made in such form and on payment of such fee as may be prescribed.

16. Entry of new Titles and qualification and change of name in Register.- If any registered practitioner obtains any other title or qualification in addition to the title or qualification in respect of which he has been registered or if he changes his name he shall on payment of the prescribed fee, be entitled to have such additions or changes in title, qualification or name, as the case may be, to be made in the register.

17. Alteration or entry or removal of name from the Register by Council.- (1) The Council may, if it deems fit, and after giving notice to the person concerned and enquiring into his objections if any order that an entry in the Register which is proved to have been fraudulently or incorrectly made or brought about, be cancelled or corrected.

- (2) The Council may direct the removal, permanently or temporarily for any specific period, from the register the name of any registered practitioner who has been convicted of any such offence involving moral turpitude or who, after an enquiry at which opportunity to be heard has been given to him or his Advocate, is held by the Council to be guilty of professional misconduct. The Council may also direct that any name so removed shall be restored.

18. Notice of death and removal of Name from Register.- Every Registrar of Birth and Deaths who receives notice of the death of any person whose name is known to have been entered in the Register shall forthwith inform the Registrar of such death stating the date, time and place of death,

- (2) on receipt of such information from the Registrar of Births and Deaths or from any other reliable source regarding such death, the Registrar shall remove the name of the deceased person from the Register.

19. Disposal of fees.- All fees received by the Council under this Act shall be applied for the purposes of this Act as may be prescribed.

20. Appeal against the decision of Registrar.- An appeal shall lie to the Council against any order passed by the Registrar under section 14, Section 15 or Section 16. The said appeal shall be preferred within three months from the date of communication of the order appealed against.

21. Appeal against the decision of Council.- An appeal shall lie to the Medical Council of India against any decision of the Council under section 14 and Section 17. Such appeal shall be preferred within three months from the date of communication of the decision of the Council.

22. Procedure of inquiries and appeal.- (1) The Council may at its discretion hold an inquiry under section 14 or section 17 in camera.

- (2) For the purpose of only such enquiry or appeal under section 20 of the Council shall be deemed to be a court within the meaning of Indian Evidence Act, 1872, and shall exercise all the powers of a Commissioner appointed under the Public Servants (Enquiries) Act, 1850, and such inquiries and appeals shall be conducted, as far as may be, in accordance with the provision of section 4 and section 5 to 18 of the said Act.
- (3) The procedure for conducting enquiry and disposing of appeal shall be as prescribed.

23. Control of Medical Council of India.-(1) In the performance of its functions under this Act the Council shall be under the control and Jurisdiction of the Medical Council of India.

- (2) If at any time it shall appear to the Medical Council of India that the Council has neglected, exceeded or abused the exercise of its power or the performance of any duty imposed upon it by this Act, the Medical Council of India may communicate the particulars of such neglect, excess or abuse to the Council and if the Council fails to remedy such neglect excess or abuse, within such time as may be fixed by the Medical Council of India in this behalf, the Medical Council of India may, for the Purpose of remedying such neglect, excess or abuse cause the powers and duties of the Council to be exercised and performed by such agency and for such period as it may think fit.

24. Prohibition to practise medicine by persons not registered.- No person, other than a registered practitioner or other medical practitioners whose names are borne in the Indian Medical Register, shall practise allopathic system of medicine in Meghalaya.

25. Penalty.-(1) Any person who contravenes the provisions of Section 13 or 24 shall be punishable with fine which may extend to rupee one thousand or with imprisonment for a period of six months or with both for the first offence and for every subsequent offence with fine which may extend to rupees two thousand or imprisonment for a term which may extend to one year or with both.

- (2) Whoever falsely assumes or uses any description or addition to his name implying thereby that he is qualified to practise the allopathic system of Medicine under the provision of this Act shall be punishable with fine which may extend to rupees one thousand or with imprisonment for a period of six months or with both for the first offence and for every subsequent offence with fine which may extend to rupees two thousand or imprisonment period of one year or with both.

or other legal proceeding shall lie against the Government, the Council, the Medical Council of India or any of their officers or servants for anything which is in good faith done or intended to be done under this Act.

27. Power to make rules.- (1) The Government may, in consultation with the Council, make rules for carrying out the purposes of this Act.

- (2) In particular and without prejudice to the generality of the foregoing power, such Rules may provide for all or any of the following matters, namely:-
- (a) the manner of election of the President and Vice-President and of filling up vacancies of member of the Council;
 - (b) the functions to be performed by the President and the Vice-President;
 - (c) the application of fees under section 19;
 - (d) the procedure to be followed by the Council in conducting any enquiry under this Act and disposing of appeals from the decision of the Registrar;
 - (e) the compilation and publication of the Register;
 - (f) any matter which is required to be provided for by rules.

28. Power to make Regulations:- The Council may, with the previous sanction of the Government, make regulations generally for carrying out the purposes of this Act and without prejudice to the generality of this power, such regulations may provide for:-

- (a) the form of application and fees chargeable therefor;
- (b) fees chargeable in respect of any registration under this Act;
- (c) keeping of accounts of such fees;
- (d) the provident fund and gratuity for the employees of the Council;
- (e) conditions of service of its employees;
- (f) convening of and conduct of business in meeting of the Council;
- (g) election of Council members by registered medical practitioners in the Medical Council; and
- (h) other matter which is required to be provided for by regulations.

29. Repeal of Assam Act 1 of 1916.- The Assam Medical Act 1916 in its application to Meghalaya is hereby repealed.