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Registered No.768/97

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THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT :: LEGISLATIVE BRANCH

NOTIFICATION

The 18th December, 1999

No.LGL.60/98/18.-- The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

(Received the assent of the Governor on 15th December, 1999)

THE ASSAM MEDICAL COUNCIL ACT, 1999

AN
ACT

to provide for the reconstitution of the Medical Council of Assam and the maintenance of a Medical Practitioner's Register for Assam and for matters connected therewith.

Preamble.

Whereas it is expedient to provide for the reconstitution of the Medical Council of Assam and the maintenance of a Medical Practitioner's Register for Assam and for matters connected therewith.

It is hereby enacted in the Fiftieth Year of the Republic of India as follows :-

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Assam Medical Council Act, 1999.

(2) It extends to the whole of Assam.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions.

In this Act, unless the context otherwise requires,

(a) "Council" means the Assam Medical Council constituted under section 3 ;

(b) "medicine" means modern scientific medicine in all its branches and includes surgery and obstetrics, but does not include veterinary medicine and surgery or the Homeopathic, the Ayurvedic or the Unani or any other system of medicine, and the expression 'medical' shall be construed accordingly ;

(c) "registered practitioner" means any person registered under the provisions of this Act,

(d) "recognised medical qualification" means any of the medical qualifications referred to in the Schedule ;

(e) "President" means President of the Council,

(f) "Registrar" means a Registrar appointed under section 13 ;

(g) "State Government" means the Government of Assam ;

(h) "University" means any University in India established by law and having a medical faculty ;

(i) the expression "legally qualified medical practitioner" and all other expressions importing a person recognised by law as a medical practitioner or a member of the medical profession, as used in any Assam Act or any Act of the Central Legislature in force in Assam, shall be deemed to mean a medical practitioner registered under this Act.

Constitution
and
composition
of the Coun-
cil.

3. (1) The State Government shall cause to be constituted a Council consisting of the following members, namely :-

(a) six members including the Director Medical Education and Research and the Principals of the three Medical Colleges in the State to be nominated by the State Government.

(b) one member from amongst the teaching members of each of the medical colleges of Assam as nominee of the concerned University of that College ;

(c) three members from amongst the members of the State Health Service to be nominated by the Director Health Services, Assam ;

(d) ten members to be elected directly by the medical practitioners registered with the Council.

(2) No registered practitioner shall be entitled to vote or stand as a candidate for election at an election of members or be nominated unless he -

(i) is a citizen of India and

(ii) either resides or carries on profession or is employed anywhere within the State of Assam.

(3) In making nomination as under clause (a) of sub-section (1) the State Government shall have due regard to the claims of women, of Medical Organisation and of other groups of parctitioners, representatives of whom have not been nominated or elected by the electorates referred to in clauses (b), (c) and (d) of sub-section (1).

(4) Director, Medical Education and Research, Assam shall be the President of the Council.

(5) One Vice President shall be elected by the members of the Council in its first meeting.

(6) No act done by the Council shall be questioned on the ground merely on the existence of any vacancy in or any defect in the constitution of the Council.

Qualification of members. 4. No person shall be eligible to be a member of the Council unless he is a registered practitioner.

Nomination of members in default of election etc. 5. In case the authorities concerned fail to nominate or elect, as the case may be, members as provided in clause (b), (c) and (d) of sub-section (I) of section 3, the Council shall be deemed to have been constituted with the members nominated by the State Government under the provisions of clause (a) of sub-section (I) of section 3.

In corporation of the Council. 6. The Council shall be a body corporated by the name of the Assam Medical Council having perpetual succession and a common seal with power to acquire and hold property both movable and immovable and to contract and shall by the said name sue and be sued.

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

Terms of office of Vice President and members. 8. (1) The Vice President of the Council shall hold office for a term not exceeding two years and not extending beyond the expiry of his term as member of the Council.

(2) Subject to the other provisions of this Act a member shall hold office for a term of five years from the date of his nomination or election or until his successor shall have been duly nominated or elected, whichever is longer.

(3) Members of the Council shall be eligible for re-nomination or re-election.

Cessation of membership. 9. (I) An elected or nominated member shall be deemed to have vacated his seat -

(a) on sending his resignation in writing to the President or the Vice President of the Council, or

(b) on his absence from three consecutive ordinary meetings

of the Council without excuse sufficient in the opinion of the Council, or

(c) in the case of a member nominated under clause (b) of sub-section (1) of section 3, on his ceasing to be a member of the Medical Faculty of the said College, or

(d) in case of a member nominated under clause (c) of sub-section (1) of section 3, on his ceasing to be a member of the staff of the Medical College concerned, or

(e) on his ceasing to be a person enrolled in the State Medical Registrar.

2) On the occurrence of any vacancy referred to in sub-section (1) the President shall forthwith report the fact of such vacancy to the State Government.

Filling up of vacancies.

10. (1) A vacancy in the Council shall be filled up by nomination or election, as the case may be, in accordance with the provisions of section 3, within two months of occurrence of the vacancy.

(2) Any person nominated or elected to fill the vacancy shall hold office only for the remaining term for which the member whose place he takes was nominated or elected.

Meeting of the Council.

11. (1) The Council shall meet for the transaction of business at such time and places as may be provided by regulations.

(2) The President or in his absence any member chosen by the members from amongst themselves shall preside at a meeting of the Council.

(3) Subject to the provisions of this Act, all questions which come before any meeting of the Council shall be decided by a majority of votes of the members present and in case of equality of votes, the President and in his absence any other person presiding over the meeting shall have a casting vote.

(4) Until such time as the regulations have been made and come into force, the President may convene a meeting at such time and place as he may deem necessary by a letter addressed to the members.

Payment of fees and travelling expenses to members.

12. There shall be paid to the members of the Council, such fees for attendance at meeting of the Council or of special Committees and such reasonable travelling expenses for such attendance and for journeys undertaken in the discharge of their duties under this Act, as may be provided by regulations.

Registrar and establishment of the Council.

13. The Council shall -

(1) appoint a Registrar, from amongst the registered practitioners who shall act as Secretary to the Council who may also if, deemed expedient act as Treasury ;

(2) grant leave to Registrar ;

(3) employ such other persons as the Council deems necessary to carry out the purposes of this Act ;

(4) with the previous sanction of the State Government, pay them such salary and allowances as the Council may determine and regulate the terms and conditions of the service of the employees of the Council by regulations.

Officers and employees of the Council to be public servants.

14. All officers and employees of the Council shall when to act or purporting to act in pursuance of the provisions of this Act or of any rules or regulations made thereunder be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1861. Central Act 45 of 1860

Register of registered practitioners.

15. The Council shall cause to be maintained in the prescribed manner a register of Registered Medical Practitioners which shall contain the names of (a) all persons who are now enrolled on the State Medical Register, and (b) those who possess any of the recognised medical qualifications referred to in the Schedule.

**Maintenance
of Register
by the
Registrar.**

16. (1) It shall be the duty of the Registrar of the Council to keep the register of registered practitioners in accordance with the provisions of this Act and of any orders made by the Council, and from time to time revise the register and publish in the Official Gazette and in such other manner as may be prescribed.

(2) Such register shall be deemed to be a public document within the meaning of the Indian Evidence Act, 1872 and may be proved by a copy published in the official Gazette. **Central Act-I of 1872**

**Enrolment in
the register of
the registered
practitioner
and refusal of
registration.**

17. Subject to the other provisions contained in this Act and on payment of such fees as may be prescribed in this behalf by regulations made under section 34 any of the medical qualifications referred to in the Schedule shall be recognised medical qualifications for enrolment in the register of registered practitioners :

Provided that the Council may refuse to permit the registration of the name of any person -

(a) who has been sentenced by any competent court for any offence or any offence involving moral turpitude, such sentence not having been subsequently reversed or quashed, and such persons, disqualification an account of such not having been removed by an order which the State Government is hereby empowered to make, if it thinks fit, in this behalf or

(b) whom the Council after due enquiry and after giving the person an opportunity of being heard in person or through his pleader, has found guilty, by a majority or two-third of the members present and voting, on the ground of any professional misconduct or on any offence involving moral turpitude.

Registration.

18. (1) Every person who applies to have his name entered in the Register of registered practitioners must satisfy the Registrar that :-

(a) he is possessed of the medical qualification granted by any University referred to in the Schedule or ;

(b) he is registered under any other Medical Registration Act and in that event

(i) must correctly inform the Registrar the date of such registration, and

(ii) must furnish the Registrar with a correct statement of the medical diplomas, titles or qualifications in respect of which he is so registered, and of the dates on which he obtained them, or

(c) he is not registered under any Medical Registration Act and in that event must correctly inform the Registrar of the dates on which he obtained the titles, Medical diplomas or qualifications which entitle him to claim registration under this Act and the reasons why he is not so registered.

(2) Once a practitioner has been granted registration by the Council, he shall be bound to quote his registration number in all correspondences made by him in connection with his medical profession.

Registration of additional qualifications.

19. If any person whose name is entered in the register of registered practitioners obtains any medical qualification other than the qualifications in respect of which he has been registered, he shall, on payment of such fee as may be provided by regulations made in this behalf under section 34, be entitled to have such qualifications entered against his name in the register, if such qualification be a qualification referred to in the Schedule, either in substitution for or in addition to any previously made.

Disposal of fees.

20. All fees received by the Council under this Act shall be utilised for the purpose of this Act in accordance with such rules as may be prescribed.

Appeal against the decision of the Registrar.

21. If any person is dissatisfied with the decision of the Registrar refusing to enter the name or qualifications of such person in the register of registered practitioners he may, at any time within three months from the date of such decision, appeal to the Council, whose decision thereon shall be final.

Erasure of fraudulent and incorrect entries.

22. Any entry in the register of registered practitioners which is proved to the satisfaction of the Council to have been fraudulently or incorrectly made may be erased under order, in writing, of the Council.

Removal or re-entry of the names from the register.

23. (1) The Council may direct the removal altogether or for a specific period from the register of the names of any registered practitioner for the same reasons for which registration may be refused by the Council under section 17 and the conditions mentioned in clause (b) of section 17 shall apply to any enquiry under this section.

(2) The Council may also direct that any names so removed shall be restored.

Effect of removal of names from register.

24. A registered practitioner whose name has been removed from the register under sub-section (1) of section 23 shall forthwith surrender his certificate of registration to the Registrar and the name so removed shall be published in the Official Gazette.

(2) If the name; of registered practitioner removed under sub-section (1) of section 23 is afterwards re-entered in the register as provided in sub-section (2) of that section the fact of such re-entry be published in the Official Gazette and the certificate of registration shall be returned to the registered practitioner.

Appeal against the decision of Council.

25. An appeal shall lie with the State Government against every decision of the Council under section 17 or section 23. Such appeal shall be preferred within three months from the date of the decision of the Council.

Protection of action taken in good faith.

26. No suit or other legal proceeding shall lie in respect of any act done in good faith in the exercise of any power conferred by this Act on the State Government or the Council or any Committee of the Council or the Registrar.

Notice of death and erasure of names from register.

27 (1) Every Registrar of Births and Deaths, who receives notice of death of any medical practitioner, shall forthwith transmit to the Registrar of the Council a certificate

of such death, signed by him and stating particulars of the time and place of death.

(2) On receipt of

(a) any such certificate, or

(b) any other reliable information regarding such death the Registrar of the Council shall erase the name of the deceased person from the register.

Penalty on unregistered person representing that he is registered.

28. If any person, whose name is not entered in the register of registered practitioners, falsely represents that it is entered, or uses in connection with his name or title any words or letters representing that his name is so entered, he shall, irrespective of whether any person is actually deceived by such representation or not, be punishable, on conviction by a Magistrate of the First Class, with fine which may extend to three hundred rupees in the first instance and in the case of a subsequent conviction with fine which may extend to three thousand rupees and imprisonment which may extend to three years.

Penalty for failure to surrender certificate of registration.

29 (1) If any registered practitioner whose name has been removed from the register under sub-section (1) of section 23 fails, without sufficient cause forthwith to surrender his registration, he shall be punishable with a fine which may extend to five hundred rupees.

(2) Cognizance of an offence punishable under this section shall not be taken except upon complaint made by or order of the Council.

Validity of medical certificate.

30. No certificate required to be given by any medical practitioner or Medical Officer under any Assam Act or any Act of the Central Legislature in force in Assam, shall be valid unless such practitioner or officer is registered under this Act.

Unregistered persons not to hold certain appointment and practice medicine etc. and penalty for contravention thereof.

31. (1) No person other than a Medical Practitioner enrolled in the register of registered practitioners maintained by the Council -

(a) shall 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) shall practise medicine ;

(c) shall be entitled to sign or authenticate a medical or fitness certificate or any other certificate required by any law to be signed or authenticated by a duly qualified medical practitioner ; and

(d) shall 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 or any matter relating to medicine. **Central Act. I, 1872.**

(2) Any person who acts in contravention of any provision of sub-section (1) shall be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Publication and use of annual medical list.

32. (1) The Registrar shall, after the expiry of every five years, on or before a date to be fixed in this behalf by the Council, cause to be printed and published a correct list of the names for the time being entered in the register of registered practitioners and setting forth -

(a) all names entered in the register arranged in alphabetical order according to the surnames ;

(b) the registered address or appointment of each person whose name is entered in the register ; and

(c) the qualifications of each such person represented by the abbreviations therefor and the year in which each such qualification was obtained.

(2) The Registrar shall, on the expiry of every year other than the year in which a list is printed and published under sub-section (1), on or before a date to be fixed in this behalf by the Council, cause to be printed and published a list supplementary thereto, containing additions and alterations in the register of registered practitioners since the publication of the list under sub-section (1) or the supplementary list under sub-section (2).

(3) Every Court shall presume that any person whose name is entered in the latest list printed and published under sub-section (1) read with the list supplementary thereto, if any, printed and published under sub-section (2) is duly registered under this Act, and that any person whose name is not so entered is not registered under this Act :

Provided that, in the case of any person whose name does not appear in the latest list printed and published under sub-section (1) read with the lists supplementary thereto, if any, printed and published under sub-section (2), a certified copy signed by the Registrar of the entry of the name of such person in the register of registered practitioners, shall be conclusive evidence that such person is registered under this Act.

**Power to
make rules.**

33. (1) The State Government may make rules to carry out the purposes of this Act.

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

(a) to regulate nomination under clauses (b), (c) and election under clause (d) of sub-section (1) of section 3;

(b) the manner of election of Vice President under sub-section (5) of section 3;

(c) to prescribe the form of the register of registered practitioners to be maintained under this Act;

(d) to regulate the utilisation of fees under section 20 and

audit thereof; and

(e) to regulate the procedure to be followed by the Council in --

(i) conducting any enquiry referred to in clause (b) of section 17, or section 23; and

(ii) disposing of appeals against the decision of the Registrar preferred under section 21.

2. Every rule made under this section shall be laid as soon as may be after it is made, before the State Legislature while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislature agrees in making any modification in the rule or that the rule should not be made, the rule shall thereafter have effect only in such modified form or to be of effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**Powers to
make
regulations.**

34.(1) The Council may, with the previous sanction of the State Government, make regulations not inconsistent with this Act or the rules made thereunder, for carrying out the functions under this Act.

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

(a) the time and places of the meeting of the Council under sub-section (1) of section 11;

(b) the procedure and conduct of business at the meetings of the Council;

(c) the constitution and functions of the Special Committees and the procedure for transaction of business at the meetings of such committees;

(d) the allowances and fees to be paid to the President, Vice President or members of the Board or members of the Special Committees;

(e) the terms and conditions of the services of the officers and other employees of the Council under sub-section (4) of section 13;

(f) the fees chargeable in respect of any registration under this Act;

(g) to regulate the keeping of accounts of such fees;

(h) to specify guidelines for professional conduct;

(i) any other matter which has to be or may be provided by regulations.

3. All regulations made under this section shall be published in the Official Gazette and shall have effect from the date of such publication.

Repeal and saving.

35.(1) The Assam Medical Act, 1916 and if immediately before the commencement of this Act, there is in force in Assam any law or order regulating the matters provided in this Act, shall stand repealed. **Assam Act 1 of 1916**

(2) Notwithstanding such repeal, anything done or any action taken under the Act, law or order so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act.

The Schedule

(See sections 15,17 and 18)

Medical qualifications as laid down or to be laid down from time to time in the first Schedule of the Indian Medical Council Act, 1956. **Central Act II of 1956**

M.K. DEKA,
Secretary to the Govt. of Assam,
Legislative Deptt.