

THE ASSAM MEDICAL ACT 1916*

(Assam Act No. I of 1916)

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An Act to provide for the registration of medical practitioners in Assam

Whereas it is expedient to provide for registration of medical practitioner in Assam :

And whereas the sanction of the Governor-General has been obtained, under S. 5 of the Indian Councils Act, 1892, to the passing of this Act ;

It is hereby enacted as follows :

Preliminary

1. **Short title, extent and commencement.** (1) This Act may be called the Assam Medical Act, 1916.

(2) It extends to the whole of Assam including the Khasi and Jaintia Hills district.

(3) It shall come into force on the day on which it is published in the Gazette after having received the assent of the Governor-General :

Provided that S. 29, S. 30 and S. 31 shall not come into force until a date to be appointed in this behalf by the State Government by notification in the Gazette.

NOTES

Section 1. This Act has been extended in its application to the State of Meghalaya, *vide* the Meghalaya Adaptation of Laws Order (No. 1), 1974, to come into force on and from the appointed day, *i. e.*, 21-1-1972, whereby the sub-Ss. (2) and (3) of this section were omitted, including the proviso.

2. **Definitions.** In this Act, unless there is anything repugnant in the subject or context,—

- (a) "The Medical Acts" means the Medical Act, 1858 and the Acts amending the same ;
- (b) "The Council" means the Council established under S. 3 ;
- (c) "Registered practitioner" means any person registered under the provisions of this Act ;
- (d) "Medical Corporation" means any body other than a University, for the time being competent to grant a diploma or diplomas conferring on the holder thereof if he has passed a qualifying examination, the right of registration under the provisions of this Act ; and
- (e) "Medical diploma" means a diploma granted by a University or a medical corporation in respect of medicine, surgery and midwifery or any of these subjects or any branch of medicine or surgery.

The Assam Council of Medical Registration

3. **Establishment of the Assam Council of Medical Registration.** A Council shall be established and called "the Assam Council of Medical Registration" ; and such Council shall be a body corporate and have perpetual succession and a common seal, and shall by the said name sue and be sued.

4. Constitution of Council. The said Council shall consist of thirteen members, namely :

- (a) A president to be nominated by the State Government ;
- (b) Six members to be nominated by the State Government ;
- (c) Two members to be elected by registered practitioners who are qualified to be registered under the Medical Acts and are resident in Assam ;
- (d) Two members to be elected by registered practitioners who are graduates or licentiates in medicine or surgery of the University of Calcutta and are resident in Assam ; and
- (e) Two members to be elected by all other registered practitioners who are resident in Assam.

NOTES

Section 4. This section has been substituted for its application in the State of Meghalaya (*vide* the Meghalaya Adaptation of Laws Order (No. 1), 1974 to come into force on and from the appointed day *i. e.*, 21-1-1972 and the said S. 4 as applied to Meghalaya is as follows :

- "4. The said Council shall consist of seven members, namely ;
- (a) A President to be nominated by the State Government ;
 - (b) Three members to be nominated by the State Government ; and
 - (c) Three members to be elected from the graduates or licentiates in medicine, who are registered practitioners and who are permanent residents of Meghalaya".

5. Nomination of members in default of election. If any of the electoral bodies referred to in Cls. (c) to (e) of S. 4 does not, by such date as may be prescribed by rule made in that behalf under S. 33, elect a person to be a member of the Council, the State Government shall nominate a member in his place ; and any person so nominated shall be deemed to be a member as if he had been duly elected by such body.

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 registered under this Act ; or
- (b) has been sentenced by any court for any non-bailable offence, such sentence not having been subsequently reversed or quashed, and such person's disqualification on account of such sentence not having been removed by an order which the State Government is hereby empowered to make, if it thinks fit, in this behalf ; or
- (c) is an undischarged insolvent :

Provided that, in the case of first elections held and first nominations made under this Act, the persons electing the members referred to in Cl. (c), Cl. (d) and Cl. (e) of S. 4 and the members elected and nominated under that section shall be persons who are qualified to be registered under this Act.

7. Publication of names of members. The name of every member elected or nominated under S. 4 or S. 5 shall be published by the State Government in the official Gazette.

8. Leave of absence to members. The Council may permit any member to absent himself from meetings of the Council for any period not exceeding six months.

9. Cessation of membership. (1) A member of the Council shall be deemed to have vacated his seat—

- (a) on his absence without excuse sufficient in the opinion of the Council from three consecutive meetings of the Council ; or
- (b) on his absence out of India for any period exceeding six consecutive months ; or
- (c) on his becoming disqualified for election or nomination as a member for any of the reasons mentioned in S. 6.

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

10. Filling of vacancies. If any member dies, or resigns his membership, or ceases to be a member as provided in S. 9, sub-S. (1) the vacancy shall be filled, within one month, by a fresh election or nomination, as the case may be, under S. 4.

11. Term of office of members. (1) The term of office of the first members elected or nominated under S. 4 or S. 5 shall commence on such day as may be appointed by the State Government.

(2) Subject to the provisions of S. 9, sub-S. (1), the term of office of members shall be three years. But when a member is elected or nominated in a seat vacated under S. 10, the term of office of such member shall be the unexpired term of the office of the member in whose place he is nominated or elected

(3) Any member shall, if not disqualified for any of the reasons mentioned in S. 6, be eligible for re-election or re-nomination at the end of his term of office.

12. Meetings. (1) The Council shall make regulations to regulate—

- (a) the times and place at which their meetings shall be held ;
- (b) the issue of notices conveying such meetings ; and
- (c) the conduct of business thereat :

Provided that—

- (i) no business shall be transacted at any meeting unless a quorum of four members be present ; and
- (ii) save as a provided in S. 17 and S. 25 all questions arising at any meeting shall be decided by the votes of the majority of the members present and voting or, in case of equality of votes by the casting vote of the President, or in his absence, of the member presiding at the meeting.

(2) Until such time as the regulations referred to in sub-S. (1) have come into operation, it shall be lawful for the President to summon a meeting at such time and place as to him shall seem expedient, by letter addressed to such member.

13. The members of the Council shall be entitled to such fees for attendance at meetings of the Council and such reasonable travelling expenses, as may, from time to time, be allowed by the Council and approved by the State Government.

14. (1) With the previous sanction of the State Government the Council—

(a) shall appoint a Registrar ;

(b) may grant leave to such Registrar and appoint a person to act in his place ; and

(c) shall pay to the Registrar and to the person if any appointed to act in his place such salary and such allowances if any as the Council may determine.

(2) The Council may appoint such other officers and such clerks and servants as they may consider necessary for the purposes of this Act, and shall pay them such salary and such allowances, if any, as the Council may determine.

(3) The Registrar shall act as Secretary to the Council.

(4) Every person appointed under sub-S. (1) and sub-S. (2) shall be deemed to be a public servant within the meaning of S. 21 of the Indian Penal Code.

The Register of registered practitioners

15. Order by the Council for maintenance of register of registered practitioners. (1) The Council shall, as soon as conveniently may be after the commencement of this Act, and from time to time, as occasion may require, make orders for regulating the maintenance of a Register of registered practitioners.

(2) The said register shall be kept in such form as may be prescribed by rules made under S. 33.

16. Maintenance of register by Registrar. (1) The Registrar shall keep the register of registered practitioners in accordance with the provisions of this Act and of any orders made by the Council, and shall, from time to time, make all necessary alterations in the registered addresses or appointments and the registered qualifications or titles of such practitioners, and erase the names of any practitioners who have died.

(2) To enable the Registrar to fulfil the duties imposed upon him by sub-S. (1), he may send through the post a letter to any registered practitioner, addressed to him according to his registered address or appointment, to enquire whether he has ceased to practise or whether his residence or appointment has been changed ; and if no answer to any such letter is received within a period of six months from its despatch, the Registrar may erase the name of such registered practitioner from the register :

Provided that any name erased under the sub-section may be re-entered in the register under the direction of the Council.

17. Persons referred to in Schedule entitled to be registered. Every person referred to in the Schedule shall subject to the provisions hereinafter contained, and on payment of such fee as may be prescribed in this behalf by regulation made under S. 33, be entitled to have his name entered 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 court for any non-bailable offence such sentence not having been subsequently reversed or quashed, and such person's disqualification on account of such sentence not having been removed by any order which the State Government is hereby empowered to make, if it thinks fit, in this behalf ; or
- (b) whom the Council after due inquiry at which an 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 President, to be held in camera have found guilty by a majority of two-thirds of the members present and voting at the meeting, of infamous conduct in any professional respect.

18. Amendment of Schedule. If the State Government on the report of the Council or otherwise is satisfied—

- (a) that any medical diploma or title granted or qualification certified by any University, Medical Corporation, examining body or other institution is a sufficient guarantee that persons possessing such medical diploma, title or qualification possess the knowledge and skill requisite for the efficient practice of medicine, surgery and midwifery, or
- (b) that any medical diploma, title or qualification referred to in Art. 3 of the Schedule is not a sufficient guarantee as aforesaid,

it may be directed by notification,—

- (i) in case (a)—that the possession of such medical diploma, title or qualification shall, subject to the provisions hereinafter contained and on payment of such fee as may be prescribed in this behalf by regulation made under S. 33, entitle any person to have his name entered in the register of registered practitioners, or
- (ii) in case (b)—that the possession of such medical diploma, title or qualification shall not entitle any person to have his name entered in the said register ;

and the Schedule shall thereupon be deemed to be altered accordingly.

19. Power of Council to call for certain information from authorities of Medical College or School included or wishing to be included in Schedule. The Council shall have power to call on the governing body or authorities of any Medical College or School included in or desirous of being included in the Schedule—

- (a) to furnish such reports, returns, or other information as the Council may require to enable them to judge of the efficiency of the instructions given therein in medicine, surgery and midwifery ; and
- (b) to provide facilities to enable any member of the Council deputed by the Council in this behalf to be present at examination to be held by such college or school.

20. Information to be furnished to Registrar with application for registration. Every person who applies to have his name entered in the register of registered practitioners —

- (a) must satisfy the Registrar that he is possessed of some title, medical diploma or qualification referred to in the Schedule, as altered by notification, if any, issued under S. 18 ; and
- (b) if he is registered under the Medical Act—
 - (i) must correctly inform the Registrar of 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) if he is not registered under the Medical Acts—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, if he is qualified to be registered under the Medical Acts, of the reasons why he is not so registered.

21. Entry of new titles and qualifications in register. If any person whose name is entered in the register of registered practitioners obtained in title, medical diploma or qualification other than the title, medical diploma or qualification in respect of which he has been registered, he shall on payment of such fee as may be prescribed in this behalf by regulation made under S. 33, be entitled to have an entry stating such other title, medical diploma or qualification made against his name in the register, either in substitution for, or in addition to, any entry previously made.

22. Disposal of fees. All fees received by the Council under this Act shall be applied for the purpose of this Act, in accordance with such rule, as may be made by the State Government under S. 33.

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

24. Erasure of fraudulent and incorrect entries. 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 an order in writing of the Council.

25. Power of Council to direct removal of names from register and re-entry of names therein. The Council may direct—

(a) that the name of any registered practitioner—

- (i) who has been sentenced by any court for any non-bailable offence, such sentence not having been subsequently reversed, or quashed and such person's disqualification on account of such sentence, not having been removed by an order which the State Government is hereby empowered to make, if it thinks fit, in this behalf, or
- (ii) whom the Council after due inquiry as provided in Cl (b) of S. 17, have found guilty, by a majority of two-thirds of the members present and voting at the meeting, of infamous conduct in any professional respect,

be removed from the register of registered practitioners, and

(b) that any name so removed be afterwards re-entered in the register.

26. Appeal to the State Government from decision of Council. (1) An appeal shall lie to the State Government from every decision of the Council under S. 17 or S. 25.

(2) Every appeal under sub-S. (1) shall be preferred within three months from the date of such decision.

27. Bar to parts and other legal proceedings. No suit or other legal proceeding shall lie in respect of any action done in the exercise of any powers conferred by this Act on the State Government or the Council of the Registrar.

28. Notice of deaths and erasure of names from register. (1) Every Registrar of Deaths who receives notice of the death of any person whose name he knows to be entered in the register of registered practitioners shall forthwith transmit by post 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—

- (i) any such certificate, or
- (ii) any other reliable information regarding such death, the Registrar of the Council shall erase the name of the deceased person from the register.

29. Penalty on unregistered person representing that he is registered. If any person whose name is not entered in the register of registered practitioners falsely pretends that it is so entered or uses in connection with his name or title any words or letters representing that his name is so entered, he shall, whether any person is actually deceived by such representation or not, be punishable on conviction by a Magistrate of the first class, with fine which may extend to three hundred rupees.

30. Construction of reference in Acts to medical practitioner. The expression "legally qualified medical practitioner" or "duly 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 Act in force in Assam, shall be deemed to mean a medical practitioner registered under the Medical Acts or this Act; and no certificate required to

be given by any medical practitioner or Medical Officer under any Act in force in Assam shall be valid unless such practitioner or officer is registered under the Medical Acts or this Act.

31. Unregistered person not to hold certain appointments. Except with the special sanction of the State Government no person other than a registered practitioner shall be competent to hold any appointment as Medical Officer of health or as physician, surgeon or other medical officer in any hospital, asylum, infirmary, dispensary or lying-in-hospital which is supported partially or entirely by public or local funds.

Annual Medical list

32. Publication and use of annual medical list. (1) The Registrar shall in every year 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 registered titles and qualifications of each such person and the date on which each such title was granted or each such qualification was certified.

(2) Every court shall presume that any person whose name is entered in the latest of such lists 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 such list, a certified copy, signed by the Registrar, of the entry of the name of such person in the register of registered practitioners shall be evidence that such person is registered under this Act.

33. Regulations. (1) The State Government may, from time to time, make rules 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—

- (a) to regulate elections under Cls. (c) to (e) of S. 4 ;
- (b) to prescribe the form of the register of registered practitioners to be maintained under this Act ;
- (c) to regulate the application of fees under S. 22 ; and
- (d) to regulate the procedure to be followed by the Council in—
 - (i) conducting any enquiry referred to in proviso (b) to S. 17 or Cl. (d) of S. 25 ; and
 - (ii) disposing of appeals from the decision of the Registrar preferred under S. 23.

(3) In addition to the power conferred by S. 12 ; the Council may, with the previous sanction of the State Government, make regulations—

- (a) to prescribe the fees chargeable in respect of any registration under this Act, and
 - (b) to regulate the keeping of accounts of such fees.
- (4) All such rules and regulations shall be published in the official Gazette.

34. [Omitted].

THE SCHEDULE

[See Sections 17, 18, 19 and 20]

Persons who are entitled to have their names entered in the register of registered practitioners

1. Every person who is for the time being registered or qualified to be registered under the Medical Acts.
2. Every Doctor, Bachelor or Licentiate of Medicine or Master of Obstetrics or Master, Bachelor or Licentiate of Surgery of Universities established by Central Acts, Provincial Acts or State Acts.
3. Every person who has been trained in a Government Medical College or School in India, Pakistan or Burma, not maintained, but recognised by Government, for the purposes of this Schedule, by notification and holds a medical diploma or certificate, granted by the Government concerned or granted by a Medical School not maintained by any Government, but recognised as aforesaid, declaring him to be qualified—
 - (a) to practice medicine, surgery or midwifery, or
 - (b) to perform the duties of a Military Assistant Surgeon, Hospital Assistant or Sub-Assistant Surgeon.