

THE KERALA MEDICAL PRACTITIONERS BILL

Preamble.—Whereas it is expedient to regulate the qualifications and provide for the registration of practitioners of modern medicine, homeopathic medicine indigenous medicine and traditional practitioners of Ayurvedic medicines with a view to encourage the study and spread of such medicines and to enact a law relating to medical practitioners generally in the Kerala State.

BE it enacted in the Fifty-ninth Year of the Republic of India as follows.—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Medical Practitioners Act, ____.

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

(3) It shall come in to force on such date as the Government may notify in the official Gazette.

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

(a) “Council” means, in relation to matters pertaining to modern medicine, ‘the Council of Modern Medicine’, in relation to matters pertaining to Homeopathic Medicine ‘the Council of Homeopathic Medicine’, and in relation to matters pertaining to indigenous medicine, ‘the Council of Indigenous Medicine’, established under Section 3.

(b) “Homeopathy” means the system of medicine founded by Dr. Hahnemann and the expression “homeopathic” shall be construed accordingly;

(c) “Hospitals”, “asylums”, “infirmaries”, “dispensaries”, “clinics”, “surgeries”, “lying-in-hospitals”, “sanatorium”, “nursing homes”, “vaidyasalas”, “dharmasalas”, and other cognate expressions means institutions where the methods of treatment approved by the appropriate council are carried out;

(d) “Indigenous medicine” means the ayurvedic medicine, the siddha medicine, Marma Chikitsa, the Unani tibbi and other kinds of indigenous medicine as the Council of Indigenous Medicine may, from time to time, recognize;

(e) “Medical School or College” means any institution where facilities for teaching or training in the art and science of healing for human ailments according to modern medicine, homeopathic medicine or indigenous medicine are provided;

(f) “Modern medicine” means the allopathic system of medicine;

(g) "Practitioner" means any person ordinarily engaged in the practice of modern medicine or homeopathic medicine or indigenous medicine, as the case may be, including traditional practitioners of Ayurvedic medicines specially included in indigenous medicines known as "Paramparya Vaidyans" and "Marma Chikitsakas" having at least five years of experience as on the date of commencement of this Act;

(h) "President" means the president of the appropriate council;

(i) "Qualified practitioner" means a person holding a recognized qualification;

(j) "Recognized qualifications" means the qualifications enumerated in the Schedule;

(k) "Register" means a register of practitioners maintained under this Act;

(l) "Registered practitioner" means a practitioner whose name is for the time being entered in the register maintained under the Act;

(m) "Registrar" means the authority constituted under Section 19 to function as Registrar;

(n) "Regulations" means regulations made by the appropriate council under this Act;

(o) "Rules" means the rules made by the Government under this Act;

(p) "Schedule" means the Schedule to this Act.

3. Establishment, incorporation and constitution of councils.—(1) The Government shall, by notification in the Gazette, establish the following three councils:—

(a) The Council of Modern Medicine;

(b) The Council of Homeopathic Medicine; and

(c) The Council of Indigenous Medicine.

Each 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.

(2) (i) The Council of Modern Medicine shall consist of the following nine members:-

(a) Director of Medical Education;

(b) One member elected by the Faculties of Medicines, University of Kerala, Kozhikode, Cochin, Kannur and Mahatma Gandhi University;

(c) One member elected by the teachers of the Medical Colleges of Tiruvananthapuram, Kottayam, Trissur and Kozhikode;

(d) Four members, elected by the registered practitioners of modern medicine of that district from among themselves; and

(e) Two members nominated by the Government.

(ii) in making nominations under clause (i) (e), the Government shall have due regard to the claims of women, of medical missions and of other groups of practitioners, representatives of whom have not been elected by the electorates referred to in clauses (i) (b), (i) (c) and (i) (d).

(3) The Council of Homeopathic Medicine shall consist of the following five members:—

(a) Four members, elected by the registered practitioners of Homeopathic Medicine from among themselves; and

(b) One member nominated by the Government.

(4) The Council of Indigenous Medicine shall consist of the following eleven members:—

- (a) One member elected by the Faculty of Ayurveda, University of Kerala, Kozhikode, Cochin, Kannur and Mahatma Gandhi University from among themselves;
- (b) Three members elected from among themselves by the teachers of—
 - (i) The Government Ayurveda College, Tiruvananthapuram;
 - (c) Four members, elected by the registered practitioners of Ayurvedic medicine from among themselves;
- (d) One member elected by the registered practitioners of the Ayurvedic grant-in-aid Vaidyans and Traditional practitioners known as Paramparyya Vaidyans and Marma Chikitsakas from among themselves;
- (e) Two members elected by the registered practitioners of Siddha medicine from among themselves.
- (f) One member elected by the registered practitioners of Unani tibbi medicine from among themselves;
- (g) One member nominated by the Government from among the registered practitioners of Indigenous medicines:

Provided that, if there are not at least twenty-five registered practitioners in the Ayurvedic medicine or the Siddha medicine or the Unani tibbi medicine, the Government shall nominate a member in respect of that medicine from among the registered practitioners of that medicine and the member so nominated shall, for the purposes of this sub-section, be deemed to have been duly elected.

(5) Notwithstanding anything contained in sub-section (4), the Government may, by notification in the Gazette, direct that the Council of Indigenous Medicine shall consist less than eleven members if there are no qualified registered practitioners in the Ayurvedic medicine or the Siddha medicine or the Unani tibbi medicine or registered traditional practitioners of Ayurveda Medicines known as Paramparyya Vaidyans and Marma Chikitsakas to be elected from among them.

4. *Nomination of members in default of election.*—If any members mentioned in clauses (i) (b), (i) (c) or (i) (d) of sub-section (2) or in clause (a) of subsection (3) or in clause (a),(b),(c),(d),(e) or (f) of sub-section(4) of registered practitioner as they may deem fit and the practitioners so nominated shall, for the purposes of this Act be deemed to have been duly elected under clause (i) (b), (i) (c) or (i) (d) of sub-section (2) or clause (a) of sub-section (3) or clause (a), (b), (c), (d), (e) or (f) of sub-section (4) of Section 3, as the case may be.

5. *Qualification of members.*—Every member of a Council shall be a registered practitioner and the holder of a recognized qualification except in the case of Paramparyya and Marma Chikitsakas.

6. *Nomination of members of first Councils.*—Notwithstanding anything contained in Sections 3, 4 and 5, in the case of the first Councils, all the members other than the *ex-officio* member shall be nominated by the Government:

Provided that the members so nominated shall be holders of recognized qualifications.

7. *Disqualifications for membership.*—A person shall be disqualified for being elected or nominated as, and for being, a member of a council,—

- (a) if he has not attained the age of majority;
- (b) If he is an undischarged insolvent;
- (c) If he is of unsound mind and stands so declared by a competent court, a deaf-mute or a leper;
- (d) If he has been punished by an appropriate council or by the Travancore Medical Council in any manner for infamous conduct in the profession or if he is dismissed from service under any Government;
- (e) If his name has been removed from the appropriate register maintained under this Act and has not been reinstated;
- (f) If having been elected under clause (i) (b) of sub-section (2) of Section 3 ,he ceases to be a member of the Faculty of Medicine, University of Kerala, Kozhikode, Cochin, Kannur or Mahatma Gandhi University as the case may be.
- (g) If having been elected under clause (i) (c) of sub-section (2) of Section 3 , he ceases to be a teacher of the Medical Colleges of Thiruvananthapuram, Alappuzha, Trissur or Kozhikode as the case may be.
- (h) If having been elected under clause (a) of sub-section (4) of Section 3 , he ceases to be a member of the Faculty of Ayurveda, University of Kerala, Kozhikode, Cochin, Kannur or Mahatma Gandhi University as the case may be.
- (i) If having been elected under clause (b) of sub-section (4) of Section 3 he ceases to be a member of the teaching staff of the Ayurveda College in which he is a teacher.
- (j) If having been elected under clause (d) of sub-section (4) of Section 3 , he ceases to be an Ayurvedic grant-in-aid vaidyan.

8. *Term of office of members.*—(1) Save as otherwise provided in this Act, the term of office of the members other than the *ex-officio* member shall—

- (a) In the case of the first Councils, be for a period of two years commencing from the date on which the first meeting of such councils is held; and
- (b) In the case of any Council other than the first Council, be for a period of five years from the date on which the first meeting of such council is held.

(2) An outgoing member shall continue in office until the election or nomination, as the case may be, of his successor.

(3) An outgoing member shall be eligible for re-election or renomination, if otherwise qualified.

9. *President and Vice-President.*—(1) Each Council shall elect one of its members to be its President and also another member to be its Vice-President:

Provided that the President of the first Councils shall be nominated by the Government.

(2) The President shall be deemed to have vacated his office on resignation or on the expiry of his term of office as a member or on his otherwise ceasing to be a member.

(3) The Vice-President shall be deemed to have vacated his office- (a) On resignation or on the expiry of his term of office as a member or on his otherwise ceasing to be a member; and

(b) On his election as President.

(4) When the office of the President is vacant, the Vice-President shall exercise the functions of the President until a new President assumes office.

(5) When the office of the President is vacant or the President is incapacitated and there is either a vacancy in the office of the Vice-President or Vice-President is incapacitated, the Registrar shall, after giving notice of not less than seven clear days to the members of the Council, convene a meeting for the election of a President, if there is a vacancy in that office, and until a new President or Vice-President is elected and assumes office, or either the President or the Vice-President recovers from his incapacity, as the case may be, the Surgeon-General shall, notwithstanding anything contained in this Act, be *ex-officio* member and President of the council.

(6) An outgoing President or Vice-President is eligible for re-election if otherwise qualified.

Explanation.—A new President or Vice-President shall be deemed to have assumed office on his being declared elected as such.

10. *Vacancies.*—If vacancy occurs in the office of a member of a Council through death, resignation, removal or disability of such member or otherwise, previous to the expiry of the term of his office, the vacancy shall be filled in the manner prescribed by rule. Any person elected or nominated to fill the vacancy shall, notwithstanding anything contained in Section 8, hold office only so long as the member in whose vacancy he is elected or nominated would have held office if the vacancy had not occurred:

Provided that it shall be lawful for Council to exercise its powers under this Act, notwithstanding such vacancy.

11. *Appointments to be notified in the Gazette.*—All elections, nominations and the appointment of Registrar shall be notified in the Gazette.

12. *Cessation of membership.*—A member of a Council shall be deemed to have vacated his seat—

(a) On the expiry of the term of office;

(b) On resignation;

(c) On absence without sufficient cause in the opinion of the appropriate Council from three consecutive meetings of such Council; or

(d) On becoming subject to any of the disqualifications mentioned in Section 7.

13. *Resignation of Membership.*—Any member, President or Vice-President may at any time resign his office by giving notice in writing to the appropriate Council. Such resignation shall take effect in the case of a member, President or Vice-President from the date on which it is received by the President and in the case of the President from the date on which it is placed before the council.

14. *Validity of Proceedings.*—(1) No disqualification of or defect in the election or nomination of any person acting as a member of a Council or as President or Vice-President or presiding member of a meeting shall be deemed to invalidate any act or proceedings of such council in which such person has taken part.

(2) No act done by a Council shall be deemed to be invalid on the ground merely of the existence of any vacancy in or any defect in the constitution of such council.

15. *Time and place of meeting of Council.*—Each Council shall meet at such time and place and every meeting of the Council shall be summoned by such person and in such manner as may be prescribed by regulations:

Provided that until such regulations are made, it shall be lawful for the President to summon a meeting at such time and place as he may deem expedient by notice addressed to each member.

16. *Presidency at meetings of Council and procedure thereat.*—(1) Every meeting of a Council shall be presided over by the President; in his absence by the Vice-President; and in the absence of both the President and the Vice-President, by a member chosen for the occasion.

(2) The President shall maintain discipline and shall decide all points of order at or in connection with meetings. There shall be no discussion on any point of order and the decision of the President on any point of order shall be final.

(3) The Vice-President or member presiding for the occasion shall, for that meeting and during the period that he presides over it, have all the powers of the President.

(4) All questions at a meeting of a Council shall be decided by the votes of the majority of the members present and voting at the meeting. Five members shall form a quorum except in the case of the Council of Homeopathic Medicine for which quorum shall be three. If within half an hour from the time appointed for the meeting there is no quorum, the meeting shall stand adjourned to the same day in the following week at the same time and place, and if at the adjourned meeting there is no quorum within half an hour from the time appointed for the meeting, the members present shall form a quorum.

(5) At every meeting of a Council, the President shall, in addition to his vote as a member of the council, have a second or casting vote in case of an equality of votes.

17. *Payment of fees and allowances.*—There shall be paid to the President, Vice-President and other members of each Council such fees and allowances for attendance in

connection with the meetings of the Council or of any committee thereof and such travelling allowances as shall, from time to time, be prescribed by rules.

18. *Executive Committee*.—Each Council shall have power to appoint an Executive Committee and other Committees from among its members and to delegate to such committee such of the powers and duties vested in the Council as the council may deem fit, other than those provided by Sections 19 and 21.

19. *Registrar*.—(1) The Government shall, after consulting each council, appoint a Registrar who shall be the Secretary to such Council. He shall also be the Secretary to the committee appointed under sub-section (1) of Section 21. The Registrar shall receive such salary and allowances as may be prescribed by rules. The Government may grant him leave and may appoint a person to act in his place.

(2) Subject to such rules as may be prescribed, each Council shall, have power to punish the Registrar. Any order of such Council punishing the Registrar shall not take effect without the previous approval of the Government.

(3) Each Council may appoint or employ such other officers and servants as it may deem necessary for the purposes of this Act:

Provided that the number and designations of such officers and servants and their salaries and allowances shall be subject to the previous approval of the Government.

(4) The method of recruitment and the conditions of service such as pay, allowances, promotions, leave, pension, gratuity and provident fund relating to the officers and servants appointed or employed under sub-section (3) shall be governed by the rules applicable to officers and servants of the Government of similar class/grade.

(5) All officers and servants appointed or employed under sub-section (3) shall be under the direct control and supervision of the Registrar. The powers of the Registrar to punish, dismiss, discharge and remove any such officer or servant shall be governed by such rules as may be framed by the Government in this behalf.

(6) All officers and servants appointed or employed under subsections (1) and (3) shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

20. *Duties of Registrar*.—(1) Subject to the provisions of this Act and subject to any general or special order of the appropriate Council, it shall be the duty of the Registrar to keep the registers.

(2) There are to be separate registers for modern medicine, homeopathic medicine, ayurvedic medicine, siddha medicine, unani tibbi medicine, traditional practitioners of

Ayurveda medicines known as 'Paramparya Vaidyans' and 'Marma Chikitasakas' and practitioner of modern medicine having minimum 20 years practice as such but not having any recognised qualifications. The registers shall be in such form and shall contain such particulars as may be prescribed by rules. Each register shall be divided into two parts, A and B, Part A containing the names of practitioners holding recognized qualifications and the names of practitioners holding appointments under the Government at the commencement of this Act, and Part B containing the names of those registered by virtue of clause (ii) of sub-section (1) of Section 23 and Section 39.

(3) The Registrar shall keep the registers up-to-date in accordance with the provisions of this Act and the rules and regulations made thereunder, and shall remove from the registers the names of registered practitioners who are dead or whose names are directed to be removed from the registers under Sections 28, 33 and 34.(4) For the purposes of this section, the Registrar may write by registered post to any registered practitioner at the address which is entered in his register to enquire whether he has ceased to practice or has changed his residence and if no reply is received to the said letter within a period of six months, the Registrar, may remove the name of the said practitioner from the register:

Provided that the appropriate Council may, on the application of the said practitioner, direct that his name be re-entered in the register, if it is satisfied that the said practitioner has not ceased to practice.

(5) The registers shall be deemed to be public documents under Section 74 of the Indian Evidence Act.

21. Framing of regulations and procedure for amendment thereof.—(1) As soon as the first Council is formed, the Council of Modern Medicine, the Council of Homeopathy Medicine and the Council of Indigenous Medicine shall each appoint a committee of three members. The Registrar and the Secretary to Government in charge of the Health Section shall be *ex officio* members of each committee. Three members shall form the quorum for each committee.

(2) The committee shall draw up the regulations under this Act. All regulations framed by the committee shall be placed before the appropriate Council for its consideration and with the modifications, if any, made by such Council, shall be submitted to the Government for approval.

(3) It shall be competent to each Council to delete, add to, modify or alter all or any of the regulations. A proposal for such deletion, addition, modification or alteration shall not be taken into consideration unless twenty-five or more registered practitioners petition to such Council and demand the same. Such changes shall not be deemed to have been effected by such Council unless not less than seventy-five per cent of the members present at the meeting of such Council vote in favour of the same.

22. *Default of Council*—(1) If at any time it shall appear to the Government that a Council has failed to exercise or has exceeded or abused any of the powers conferred on it by or under this Act or has failed to perform any of the duties imposed upon it by or under this Act, the Government may, if it considers such failure, excess or abuse to be of a serious character notify the particulars thereof to such Council, and if such Council fails to remedy such default, excess or abuse, within such time as the Government may fix in this behalf, the Government may dissolve such Council and cause all or any of the powers and duties of such period as it may think fit, and thereupon the funds and property of such Council shall vest in the Government for the purposes of this Act until a new Council shall have been constituted under Section 3.

(2) When the Government have dissolved a Council under sub-section (1), it shall take steps as soon as may be to constitute a new Council under Section 3; and thereupon the property and funds referred to in sub-section (1) shall vest in the council so constituted.

REGISTRATION

23. *Eligibility for registration*.—(1) Subject to the provisions of subsections (2) and (5),—

(i) Every holder of a recognized qualification and every practitioner holding appointment under the Government at the commencement of this Act,

(ii) Every person who, within the period of one year or such other longer period as may be fixed by the Government from the date on which this Act comes into force, proves to the satisfaction of the appropriate Council that he has been in regular practice as a practitioner for a period of not less than five years preceding the date of commencement of this Act.

(iii) Every person who, within a period of 6 months from the commencement of this Act, proves to the satisfaction of the appropriate Council that he has been in regular practice as a practitioner of allopathic medicine barring the practice in Surgical Operation, Gynacology Obstetrics and Radiation Therapy for not less than 20 years preceding the date of commencement of this Act. Shall be eligible for registration under this Act:

Provided, however, that no practitioner shall be registered under sub-clauses (ii) and (iii) after the expiration of one year, or such other longer period as may be fixed by the Government, from the date on which this Act comes into force.

(2) Applicants for registration under clause (ii) of sub-section (1) shall produce a certificate in Form I as set forth in the Schedule. The certificate shall be from an officer of the Revenue Department not below the rank of a Tahsildar or any

other person authorized by the Government in this behalf:

Provided that in the case of traditional practitioners of Ayurvedic medicines known as 'Paramparya Vaidyans' and 'Marma Chikitsakas' the application for registration shall be in Form III as set forth in the schedule:

Provided further that in the case of unqualified practitioner of Allopathic Medicines referred to in sub clause (iii) of sub-section (1) the application for registration shall be in form accompanied by an affidavit containing an unconditioned undertaking that the applicant shall not practice in Surgical Operations, Gynacology, Obstetrics and Radiation Therapy and a Certificate of 20 years experience issued by a Registered Medical Practitioner having more 20 years practice and having direct knowledge about the professional experience the applicant is having in the practice of allopathic medicines.

(3) the Government may, after consulting the appropriate Council, permit the registration of any person who shall furnish to such Council proof that he is possessed of a medical degree, diploma or certificate of any University, medical school or college approved by such Council other than those mentioned in the Schedule.

(4) The Government shall have power to direct the registration of any practitioner who, at the time of registration under this Section, is employed in a Hospital, asylum, infirmary, clinic, surgery, lying-in-hospital, sanatorium, nursing home, dispensary, vaidyasala or dharmasala managed by any corporate body:

Provided, however, that no such practitioner shall be registered under this sub-section after the expiration of one year, or such other longer period as may be fixed by the Government from the date on which this Act comes into force.

(5) No person shall be eligible for registration under sub-section (1), subsection (3), or sub-section (4) if he is subject to any of the disqualifications mentioned in clauses (a) to (e) of Section 7.

(6) No application for registration as a practitioner under the Act shall be entertained from any person who does not possess less than five years experience on the date of commencement of this Act as a Paramparya Vaidya or as a Marma Chikitsaka or less than 20 years experience as a practitioner of modern medicine on the date of commencement of this Act exercising the enabling provisions under this Act.

24. *Registration fee.*—(1) An application for registration under this Act shall be in Form II as set forth in the Schedule accompanied by a fee of Rupees 20.

(a) An application for Registration under this Act from practitioners coming within sub clauses (ii) and (iii) of Section 23 shall be respectively in Form III and IV attached to the Schedule.

(2) Every registered practitioner who applies to the Registrar for registration in respect of any additional recognized qualification shall pay a fee of Rupees 5.

(3) If the appropriate council directs the registration of the applicant, the Registrar shall enter the name of the applicant in the appropriate register and issue to him a certificate in such form and containing such particulars as may be prescribed by rules.

(4) Nothing in sub-section (1) or sub-section (2) shall be deemed to apply to any person whose name has been registered for the primary or additional recognized qualification, as the case may be under any enactment for the registration of practitioners in modern medicine, homeopathic medicine or indigenous medicine for the time being in force in any State in India, if the said enactment provides for the registration of persons registered under this Act without payment of any fee or on payment of a smaller fee for the primary or additional recognized qualification, as the case may be.

(5) Any practitioner not registered under this Act or to whom sub-section (4) does not apply but registered in any other State in India shall obtain the previous permission of the appropriate Council for practicing as a medical practitioner in the State on payment of such fee as may be prescribed by rules.

25. List of practitioners as on a date to be notified by the Government under this Act.—

(1) The Registrar shall prepare and keep a list called "List of persons in practice as on the date to be notified by the Government under this Section.

(2) Every person not being a person qualified for or entitled to registration under this Act, who within a period of one year, or such other longer period as may be fixed by the Government from the commencement of this Act, proves to the satisfaction of the Registrar, that he has been in regular practice in the State on the date to be notified by the Government of modern medicine, homeopathic medicine, ayurvedic medicine, siddha medicine or unani tibbi medicine shall be entitled to have his name entered in the aforesaid list on payment of Rs.10:

Provided, however, that any person whose name has been removed from the registers maintained under the Travancore Medical Practitioners Act, 1119 or the registers maintained under any Act of a State Legislature in India or of the register of any country where he was formerly practicing for the in famous conduct in a professional respect, shall not be entitled to have his name entered in the list.

(3) The provisions of Sub-sections (3) and (4) of Section 20, Section 27 and Section 33 shall *mutatis mutandis* apply to the list referred to in sub-section (1).

26. Practitioners registered under the Travancore-Cochin Medical Practitioners Act, 1953.—(1) Every practitioner registered under the Travancore-Cochin Medical

Practitioners Act, 1953, shall be and all practitioners deemed to have been registered under that Act, be deemed to be a practitioner registered under this Act, if at the commencement of this Act, his name stands entered in the appropriate register maintained under the said Act; and every certificate of registration issued to every such practitioner shall be deemed to be a certificate of registration issued under this Act.

(2) The Registrar shall, as soon as may be after the commencement of this Act, enter in the appropriate registers the names of all such practitioners as are referred to in sub-section (1) without an application and without payment of any fee.

27. Application for registration.—(1) All applications for registration under Section 23 shall be sent direct to the Registrar.

(2) The Registrar shall place all applications under this section before the committee of the appropriate Council appointed for the purpose for its report.

(3) The report of the committee under sub-section (2) shall be placed before the appropriate Council for its decision.

28. Removal from registers by Council.—(1) The name of any person who becomes subject to any of the disqualifications mentioned in clauses (b) to (d) of Section 7 shall be liable to be removed altogether or for a period from the register.

Provided that the appropriate Council may, on sufficient cause being, shown, direct that the name of the practitioner so removed shall be re-entered in the register.

(2) The name of a practitioner shall not be removed from the register on the ground of his association with an unregistered practitioner if such unregistered practitioner is possessed of recognized qualification:

Provided that the registered practitioner shall not be relieved of any obligations or compliance with any rules of conduct which may be imposed upon registered practitioners generally by the appropriate Council.

29. Removal from registers on application.—(1) Any practitioners registered under this Act may make an application to the appropriate council for the removal of his name from the register of practitioners and the Council may on such application direct such removal:

Provided that no application from such practitioner for the removal of his name from the register shall be considered during the pendency of any disciplinary proceedings against him or in cases where disciplinary proceedings are contemplated against him, until such proceedings are dropped or concluded:

Provided further that if any such applications is made with a view to enable the applicant to pursue a course of conduct which would have brought him under the disciplinary jurisdiction of the appropriate Council, had his name continued to remain on the register, it shall be rejected.

(2) A practitioner whose name has been removed from the register under sub-section (1) may, on application being made and on payment of such fees as may be prescribed by rules, get himself re-registered, if he is at that time eligible for registration under this Act.

30. *Annual list of practitioners.*—(1) the Registrar shall in every year on a date to be fixed by the appropriate council, cause to be published in the Gazette a full or supplementary list of the names and qualifications of all practitioners registered under this Act and the dates on which such qualifications were acquired except in the case Paramparya Vaidyas, Marma Chikitsakas and unqualified practitioners of modern medicine with 20 years practice as on the date of commencement of this Act.

(2) The Registrar shall, from time to time, cause to be published in the Gazette the names of such practitioners which have been duly removed under any of the provisions of this Act.

(3) In any proceeding it shall be presumed that every person whose name is entered in the list published under sub-section (1) is a registered practitioner and that any person whose name is 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 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.

31. *Disability.*—(1) No registered practitioner, other than a qualified registered practitioner, who has not undergone a course of practical training in surgery or obstetrics under modern medicine to the satisfaction of the appropriate council shall practice surgery or obstetrics.

(2) No registered practitioner shall follow any other profession without the sanction of the appropriate council so long as his name continues in the register.

32. *Privileges.*—(1) Notwithstanding anything contained in any law for the time being in force.—

(i) The words “legally qualified medical practitioner” or “duly qualified medical practitioner” or any word or words importing a person recognized by law as a medical

practitioner or a member of the medical profession when used in any enactment for the time being in force in the State shall be construed to mean a qualified registered practitioner;

(ii) No certificate required by law to be given by a medical practitioner shall be valid unless it is signed by a practitioner registered in Part A of the Register.

(iii) No person other than qualified registered practitioner shall be eligible to hold, after one year from the commencement of this Act, any appointment as a physician, surgeon, vaidhyan, or other medical officer of any dispensary, hospital, infirmary, clinic, surgery, lying-in-hospital, sanatorium, nursing home, vaidhysala, dharmasala or other similar institution:

Provided that this clause shall not be deemed to operate against a registered practitioner, not being the holder of a recognized qualification, who at the commencement of this Act holds any such appointment.

(2) Any person who, not being eligible to hold any appointment referred to in clause (iii) of sub-section (1), holds any such appointment shall, on conviction be punishable with fine which may extend to five thousand rupees.

(3) Whoever, after having been convicted under sub-section (2), continues to hold any such appointment shall, on conviction be punished for each day after the previous date of conviction during which he continues to hold the appointment with fine which may extend to five thousand rupees.

33. Appeal to the Council from the action of the Registrar.—(1) Any person aggrieved by the action of the Registrar regarding any entry in the register may appeal to the appropriate Council within 2 months from the date of decision of the Registrar.

(2) Such appeal shall be heard and decided by the Council in the manner prescribed by regulations.

(3) The appropriate Council may, of its own motion or on the application of any person, after such inquiries as the Council may deem fit to make and after giving an opportunity to the person concerned of being heard, correct such entry in the register, if in the opinion of the Council, such entry was fraudulently or incorrectly made.

34. Alteration of register by Government.—The Government may after, giving due notice to the person concerned and to the appropriate Council and after inquiry into his objections, if any, order that any entry in the register which shall be proved to the satisfaction of the Government to have been fraudulently or incorrectly made or brought about be cancelled or amended.

35. *Appeal to Government from the decision of the Council.*—An appeal shall lie to the Government from every decision of a Council under Sections 24, 27, 28 and 33. Such appeal shall be preferred within three months from the date on which notice of the order of the Council was issued in such manner and subject to such conditions as may be prescribed by rules.

36. *Rules.*—(1) The Government may, after previous publication, make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules—

(a) with reference to all matters expressly required or allowed by this Act to be prescribed by rules;

(b) With reference to the elections of President and Vice-President or members including election petitions, deposits to be made by candidates standing for election as members and the conditions under which such deposits may be forfeited:

Provided that the deposit required shall not exceed fifty rupees;

(c) As to the manner in which vacancies shall be filled under Section 10;

(d) As to the fees and other allowances payable to the President, Vice-President and the other members of each council under Section 17;

(e) As to the salary, allowances and other conditions of service of the Registrar under Section 19;

(f) As to the powers of the Registrars to punish the officers and servants appointed or employed under Section 19;

(g) As to the form and contents of the Registers and the particulars to be entered therein under Section 20;

(h) As to the application of the fees and other amounts received under this Act;

(i) As to the form of the certificate to be issued under Section 24 and the particulars which it shall contain;

(j) As to the procedure relating to appeal to the Government from the decisions of each Council under Section 35;

(k) As to the furtherance of any of the objects of each Council.

(3) All rules made under this Section shall be published in the Gazette.

37. *Regulations.*—(1) Each council may, with the previous sanction of the Government, make regulations not inconsistent with this Act or the rules made thereunder for all or any of the following matters, namely:—

(a) The time and place at which the council shall hold its meetings and the manner in which such meeting shall be convened and held;

(b) The procedure relating to appeals against the action of the Registrar under Section 33;

(c) All other matters which may be necessary for the purposes of carrying out the objects of this Act.

(2) All regulations made under this section and duly confirmed by the Government shall be published in the Gazette.

(3) The Government may, by notification in the Gazette, cancel any such regulations.

PART III MEDICAL PRACTITIONERS GENERALLY

38. Persons not registered under this Act, etc., not to practice.—No person other than (i) a registered practitioner or (ii) a practitioner whose name is entered in the list of practitioners published under Section 30 or (iii) a practitioner whose name is entered in the list mentioned in Section 25 shall practice or hold himself out, whether directly or by implication, as practicing modern medicine, homeopathic medicine or ayurvedic medicine, siddha medicine or unani tibbi Paramparyya Vaidya or Marma Chikitsaka and no person who is not a registered practitioner of any such medicine shall practice any other branch of medicine unless he is also a registered practitioner of that medicine:

Provided that the Government may, by notification in the Gazette, direct that this section shall not apply to any person of class or persons practicing medicine in the State while none of the three classes of practitioners mentioned above carried on medical practice:

Provided further that this section shall not apply to a practitioner eligible for registration under this Act who, after having filed the application for registration, is awaiting the decision of the appropriate Council or of the Government in case of appeal:

Provided also that this section shall not apply to a practitioner eligible for registration under this Act until the period prescribed for application under Section 23 expires.

39. Penalty.—Any person who acts in contravention of Section 38 shall, on conviction, be punishable with fine which may extends to Rs.500 for the first offence, and to Rs.1000 for every subsequent offence after his conviction for such first offence.

40. Authority to confer title.—The right of conferring, granting or issuing in the State of Kerala degrees, diplomas, licenses, certificates or other documents stating or implying that the holder, grantee or recipient thereof is qualified to practice modern medicine, homeopathic medicine or ayurvedic medicine, siddha medicine, or unani tibbi medicine as the case may be shall be exercisable only by an authority, body or institution mentioned in the Schedule.

41. Prohibition of conferment, etc., of degree, etc.—(1) Save as provided by Section 40, no person shall confer, grant or issue or hold himself out as entitled to confer, grant or issue any degree, diploma, license, certificate or other document stating or implying that the holder, grantee or recipient thereof is qualified to practice modern medicine,

homeopathic medicine or ayurvedic medicine, siddha medicine, or unani tibbi medicine, as the case may be.

(2) Whoever contravenes the provisions of sub-section (1) shall, on conviction, be punishable with fine which may extend to Rs.1000, and if the person, so contravenes is an association, every member of such association who knowingly or willfully authorizes or permits the contravention shall, on conviction, be punishable with fine which may extend to Rs.1000.

42. Penalty for unauthorized use of titles, etc., implying medical qualifications.—(1) No person shall add to his name any title, letters or abbreviations which imply that he holds a degree, diploma, license or certificate as his qualification to practice modern medicine, homeopathic medicine or ayurvedic medicine, siddha medicine or unani tibbi medicine, unless—

- (a) He actually holds such degree, diploma, license or certificate, and
- (b) Such degree, diploma, license or certificate—
 - (i) Is recognized by any law for the time being in force in the State of Kerala;
 - (ii) Has been conferred, granted or issued by an authority referred to in the Schedule; or
 - (iii) Has been recognized by the Medical Council of India.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable, in the case of a first conviction, with fine, which may extend to Rs. 2500 and in the case of a subsequent conviction, with fine which may extend to Rs.5000.

43. Penalty for falsely assuming or using medical titles.—Whoever willfully and falsely assumes or uses any title or description or any addition to his name implying that he holds a degree, diploma, license or certificate conferred, granted or issued by any authority referred to in Section 40 or recognized by the Medical Council of India or that he is qualified to practice Modern medicine, Homeopathic medicine or Ayurvedic medicine, Sidha medicine or Unani Tibbi medicine shall be punishable with fine which may extend to Rs. 2500 for the first offence, and to fine which may extend to Rs.5000 for every subsequent offence.

44. Prosecution.—Whenever a council is of the opinion that the prosecution of any person for breaches of any of the provisions of this Act is necessary, such council may, by resolution, recommend to the Government the institution of such prosecution, and the Government may thereupon authorize in writing any officer to initiate such prosecution.

45. Jurisdiction of Magistrate.—(1) No court inferior to that of a Magistrate of the First Class shall try any offence punishable 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 the Government in this behalf.

46. *Jurisdiction of civil courts barred.*—No act done in the exercise of any power conferred by or under this Act on the Government a Council, the executive committees, or the Registrar shall be questioned in any civil court.

PART IV MISCELLANEOUS

47. *Alteration of list of recognized qualifications mentioned in the Schedule.*—If it shall appear to the Government, on the report of the appropriate council or otherwise, that the course of study and examinations prescribed by any of the medical schools or colleges or bodies conferring the qualifications described in the Schedule are not such as to secure the possession by persons obtaining such qualifications of the requisite knowledge and skill for the efficient practice of their profession or if it shall appear to the Government, on the report of the appropriate Council or otherwise, that the course of study and examinations prescribed by any medical school or college or body conferring a qualification not entered in the Schedule are such as to secure the possession by persons obtaining such qualification of the requisite knowledge and skill for the efficient practice of their profession, it shall be lawful for the Government, from time to time by notification in the Gazette, to direct that the possession of any qualification entered in the Schedule shall not entitle any person to registration under this Act, or to direct that the possession of any qualification not entered in the Schedule shall, subject to the provisions of this Act, entitle a person to be registered, as the case may be, and the Schedule shall thereupon be deemed for all purposes to be altered accordingly.

48. *Repeal.*—The Travancore-Cochin Medical Practitioners Act, 1953 is hereby repealed and The Madras Medical Registration Act 1914 (Act IV of 1914) as in force in the Malabar District referred in sub-section (2) of Section 5 of the State Re-organization Act, 1956 (Central Act 37 of 1956) is hereby repealed:

Provided that such Repeal shall not affect,—

- (a) The previous operations of the said enactment or anything duly done or suffered thereunder;
- (b) Any right, privilege, obligation or liability acquired, accrued or incurred under the said enactment;
- (c) Any penalty, forfeiture or punishment incurred in respect of any offence committed against the said enactment; or
- (d) Any investigation, legal proceedings or remedy in respect of any such right, privilege, liability, forfeiture or punishment as aforesaid and any such investigation, legal proceedings or remedy may be instituted, continued or enforced and any such penalty, forfeiture, or punishment may be imposed as if this amendment Act has not been passed.

(e) Any appointment or rules, bye laws or regulation made, any notification, notice, order, declaration or direction issued under the repealed Act to the extend they are not inconsistent with the provisions of this Act.

THE SCHEDULE RECOGNIZED QUALIFICATIONS

A. Qualification for Modern Medicine

1. Any medical degree or diploma granted by:
 - (i) The University of Travancore or the University of Kerala, Kozhikode, Cochin, Kannur and Mahatma Gandhi University.
 - (ii) Universities established by an Act of Parliament.
 - (iii) Any other University in India recognized by the Government.
 - (iv) State Medical Faculty of Bengal.
 - (v) College of Physicians and Surgeons of Bombay.
 - (vi) Board of Examiners, Medical College, Madras.
2. All qualifications recognized under Indian Medical Council Act, 1956.
3. D.M.S. Kerala.

B. Qualification for Homeopathic Medicine:

1. Certificate of Diploma granted by,
 - (i) The Calcutta Homeopathic College and Hospital.
 - (ii) The Bengal Allen Homeopathic Medical College and Hospital.
 - (iii) Pratap Chandran Memorial Homeopathic Medical Hospital and College.
 - (iv) The Dunham Homeopathic Medical College and Hospital.
 - (v) Herring Homeopathic Medical College and Hospital (upto 1943).
 - (vi) The Standard Homeopathic Medical College (upto 1943).
 - (vii) The Regular Homeopathic Medical College (Upto 1943).
 - (viii) The Central Homeopathic College (Upto 1943).
2. All qualifications which may be recognized by the Government of Kerala or the Government of any State in India for purposes of registration.
3. Diploma granted by General Council and State Faculty of Homeopathic Medicine, West Bengal.
4. L.M & S. (M) of the College of Physicians and Surgeons, Calcutta (Upto 1920).
5. Diploma awarded by the Board of Examiners in Homeopathic Medicine (D.H.M) Kerala.
6. L.R.C.H.P. of the Royal College of Homeopathic Physicians, Ernakulam from 1952-53 to 1966-67.

C. Qualifications for Ayurveda and Siddha Medicines

1. Certificate or Diplomas granted by:
 - (i) The University of Travancore or the University of Kerala, Kozhikode, Cochin, Kannur and Mahatma Gandhi University.
 - (ii) His Highness The Maharaja's Ayurveda College, Trivandrum, or the

Government of Travancore-Cochin.

- (iii) The Government Ayurveda College, Tripunithura.
- (iv) The Benares Hindu University, Benares.
- (v) The Mysore Government Ayurvedic Vidyalaya, Mysore.
- (vi) The Madhava Ayurveda College, Ernakulam.

2. The L.I.M. Diploma in Ayurveda granted by the School of Indian Medicine, Madras.
3. The qualification 'Ayurveda Siromani' awarded by the University of Madras.
4. The Ayurveda Bhooshana Certificate granted by the Board of Public Examination of the erstwhile State of Cochin from 114 M.E. onwards.
5. The Vaidya Padan Diploma granted by the Keraleeya Ayurveda Mahapatasala, Shornur.
6. The Arya Vaidya Diploma granted by the Arya Vaidya Patasala, Kottakkal.
7. The Vaidya Vibhooshaom Diploma granted by the Madhava Memorial Ayurveda College, Cannanore.
8. The Certificate 'High Proficiency in Ayurveda' (H.P.A.) granted by the post Graduate Training Centre in Ayurveda Jamnagar.
9. The Certificate 'Visha Vaidya Training' granted by the erstwhile Government of Cochin.
10. The Certificate 'Sastra Bhooshana-Ayurveda' of the Government Ayurveda College, Tripunithura.
11. The D.I. M & S. diploma granted by the Board of Indigenous Medicine constituted by the Government of Ceylon.
12. Diploma or certificate in Siddha Medicine recognized by the Government of Madras.
13. Diploma or certificate in Siddha Medicine granted by the All Travancore Siddha Vaidya Sanghom Munchira upto the last day of May, 1947.
14. Certificate of competence—Visha Vaidya awarded by the Government of Kerala.

D. Qualification for Unani Tibbi Medicine:

Certificate or Diploma in Unani Tibbi Medicine granted by:

- (i) Government of Madras.
- (ii) The Tibbi College, Delhi.
- (iii) The Aligarh University.

(Sd.)

Superintendent

FORMS

FORM No.I

Certificate of Five Years Practice Referred to in Section 23(2)

Office of the.....

Dated.....20.....

On the basis of the records in this Office or facts known after due inquiry

I certify that Sri..... Has been shown or proved as following the occupation of

a practitioner of themedicine for not less than five years as shown below:—

(a) at 1 (b) from.....to.....

2 from.....to.....

3 from.....to.....

1. The date of birth of the applicant

2. Present occupation of the applicant

3. Father's name and occupation

4. Other occupations (if any) of the applicant

Signature

Designation

(a) Here enter the name or names of the place or places where the applicant is shown of practicing or having practiced.

(b) Here enter the dates showing the beginning and termination of practice in each place.

N.B.—(1) The certificate should bear the date stamp of the office of issue, if any.

(2) The printed wording in the certificate should not be altered.

(3) Other occupations to be noted in this column are other occupations followed during the periods of practice noted above.

FORM II

Application for Registration Referred to in Section 24 (1)

Professional address

Dated20....

To

The Registrar,

The Council of Modern Medicine/ The Council of Homoeopathic Medicine/

The Council of Indigenous Medicine,

Travancore-Cochin,

Trivandrum.

Sir,

I have the honour to request that my name may be registered under The Kerala Medical Practitioners Act, 2008 and that I may be furnished a certificate of registration.

2. The information necessary for registration is specified below.

3. The diploma which I possess is forwarded herewith in original which please return when no longer required.

4. The registration fee of Rs. 20 is herewith sent.

Yours faithfully,

(Signature)

Applicants name in full (the full signification of the initials which stand before the name should be given)

Date of birth

Father's name

Medical qualifications of which registration is required College or school where each was obtained and Year of Diploma

Any remarks

FORM III

Application for Registration Referred to in Section 24 (1A) Professional address

Dated20....

To

The Registrar,

The Council of Modern Medicine/ The Council of Homoeopathic Medicine / The Council of Indigenous Medicine,
Travancore-Cochin,
Trivandrum.

Sir,

I have the honour to request that my name may be registered under The Kerala Medical Practitioners Act, 2008 and that I may be furnished a certificate of registration.

2. The information necessary for registration is specified below.

3. The registration fee of Rs. 20 is herewith sent.

Yours faithfully,

(Signature)

Applicants name in full (the full signification of the initials which stand before the name should be given)

Date of birth

Father's name

Details of the Certificate obtained under Section 23.

Any remarks

FORM IV

Application for Registration Referred to in Section 24 (1A)

Professional address

Dated20....

To

The Registrar,

The Council of Modern Medicine/ The Council of Homoeopathic Medicine / The Council of Indigenous Medicine,
Travancore-Cochin, Trivandrum.

Sir,

I have the honour to request that my name may be registered under The Kerala Medical Practitioners Act, 2008 and that I may be furnished a certificate of registration.

2. The information necessary for registration is specified below.

3. The registration fee of Rs. 20 is herewith sent.

Yours faithfully,

(Signature)

Applicants name in full (the full signification of the initials which stand before the name should be given)

Date of birth

Father's name

Place or Places of Practice conducted

during the past 20 years

Place of Practice at present

Other occupations of the applicant if any

Statement of objects and reasons

It is said that Medicine is a science and that making a practice of it is a sacred duty. This sacred duty can be performed only by those who are fully equipped for the job. They need to possess the prescribed qualifications and knowledge in the respective system of medicine which they intend to practice and possess the right type of aptitude to deal with the patients who seek their help. Various systems of medicine are now in vogue like Modern Medicine-(Allopathy), Ayurveda, Homeopathy, indigenous medicine (Parambarya and Marma Chikitsa) etc. at present, there is no unified law on the subject. The Commission, therefore, felt that it is necessary to propose a comprehensive law to regulate all matters connected with the practice of medicine to ensure that those entrusted with the duty to treat the patients discharge their duties diligently and faithfully. Negligence is an offence under the general law of the land. Doctors these days have been frequently accused of negligent conduct in the discharge of their duties. It is also necessary to prevent frivolous litigation against them various provisions are made in the Bill to regulate the practice of this noble provision. The Commission feels that the Bill will help the profession to a great extent in meeting the felt needs of the times