



The Delhi Medical Council Act, 1996

Act 5 of 1997

Keyword(s):

College, Medicine, Recognised Medical Qualification

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31. आचरण और संहिता:—परिषद् भारतीय चिकित्सा परिषद् द्वारा समय-समय पर विनिर्धारित आचरण और चिकित्सा आचार संहिता का अनुवर्तन करेगी।
32. कठिनाइयां दूर करने की शक्ति :—इस अधिनियम के उपबंधों को प्रभावी बनाने में कठिनाइयां उत्पन्न होती हैं तो अवसरानुकूल आदेश द्वारा कठिनाइयां दूर करने के उद्देश्य से सरकार जिस प्रकार आवश्यक समझेगी, उसी प्रकार कार्रवाई कर सकती है।
परन्तु परिषद् के गठन के दो वर्ष की अवधि के बाद इस तरह के आदेश नहीं दिए जा सकते।

आर. टी. एल. डिसूजा,
अवर सचिव (विधायी कार्य)

DEPARTMENT OF LAW, JUSTICE AND LEGISLATIVE AFFAIRS
NOTIFICATION

Delhi, the 22nd August, 1997

No. F. 13 (5)/97-L.A-524:— The following Act of Legislative Assembly received the assent of the Lt. Governor of Delhi, on 11-2-1997 and is hereby published for general information:—

THE DELHI MEDICAL COUNCIL ACT, 1997
(DELHI ACT No 5 of 1997)

As passed by the Legislative Assembly of the National Capital Territory of Delhi.

AN

ACT

to provide for the constitution of the Delhi Medical Council, and the maintenance of a register of Medical Practitioners who are engaged in the practice of modern scientific system of medicine and all its branches in the National Capital Territory of Delhi and for matters connected therewith.

Be it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Forty-seventh year of the Republic of India as follows :—

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Delhi Medical Council Act, 1996;
- (2) It extends to the whole of the National Capital Territory of Delhi.
- (3) This section shall come into force at once, and the remaining provisions of this Act shall come into force on such date as the Government may, by notification in the official Gazette, appoint.
2. Definitions.— In this Act, unless the context otherwise requires
- (1) "appointed day" means the date on which the provisions of this Act other than section 1 shall come into force under sub-section (3) of section 1;
- (2) "casual vacancy" means a vacancy occurring otherwise than by efflux of time in any office filled by election or nomination;
- (3) "Council" means the Delhi Medical Council constituted under this Act;
- (4) "Delhi" means the National Capital Territory of Delhi;
- (5) "Executive Committee" means the Executive Committee of the Council constituted under section 11;
- (6) "Government" means the Government of National Capital Territory of Delhi;
- (7) "Medical practitioner" or "practitioner" means a person who is engaged in the practice of modern scientific system of medicine and all its branches and has qualifications as prescribed in the First, Second or Third Schedules to the Indian Medical Council Act, 1956 (Central Act 102 of 1956);

- (8) "Medicine" means the modern scientific system of medicine and includes surgery and obstetrics but does not include veterinary medicine or veterinary surgery or the Homœopathic or the Ayurveda or the Siddha or the Unani system of medicine and the expression "medical" shall be construed accordingly;
- (9) "member" means a member of the Council;
- (10) "prescribed" means prescribed by rules made under this Act;
- (11) "President" means the President of the Council;
- (12) "Vice-President" means the Vice-President of the Council;
- (13) "register" means the register of medical practitioners prepared or deemed to be prepared and maintained under this Act;
- (14) "registered practitioner" means a medical practitioner having registrable qualification as prescribed in the Indian Medical Council Act, 1956 (Central Act 102 of 1956) whose name is, for the time being, entered in the register, but does not include a person whose name is provisionally entered in the register;
- (15) "Registrar" or "Deputy Registrar" means the Registrar or the Deputy Registrar, as the case may be, appointed under section 14 of this Act;
- (16) "rules" means rules made under section 31 of this Act;
- (17) "section" means a section of this Act.

CHAPTER II

ESTABLISHMENT OF COUNCIL

3. Constitution, functions and powers of the Council.—Constitution and incorporation of the Council:

- (1) With effect from such date as the Government may, by notification in the Official Gazette notify, there shall be constituted for the purposes of this Act a Council to be called "the Delhi Medical Council".
- (2) The Council shall be a body corporate, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, whether movable or immovable, and to contract and to do all things necessary for the purposes of this Act, and may by the name aforesaid sue or be sued.
- (3) The Council shall consist of the following members namely:
 - (a) four members having registrable qualification as prescribed in the Indian Medical Council Act, 1956 (Central Act 102 of 1956) to be nominated by the Government;
 - (b) one member from each medical college established by law in Delhi having a medical faculty, elected by members of the medical faculty of that college from amongst its permanent members of teaching faculty;
 - (c) nine members to be elected by registered practitioners from amongst themselves including one member elected by the Delhi Medical Association;provided that no registered practitioner shall be entitled to vote or stand as a candidate for election, unless:
 - (i) he is a citizen of India; and
 - (ii) he either resides or carries on his profession or is employed in Delhi.
- (d) Dean of the Medical Faculty of the University of Delhi as ex-officio member; and
- (e) Director of Health Services of the Government as ex-officio member.
- (4) The President and Vice-President shall be elected by the members from amongst themselves.
- (5) The election of the members, and of the President and Vice-President, shall be held at such time, and at such place, and in such manner, as may be prescribed.
- (6) If at any election, the electors fail to elect the requisite number of members, of the President or the Vice-President, the Government shall nominate members from amongst persons qualified to be elected as members of the respective category, as it deems fit, to fill in the vacancy or vacancies; and the persons so nominated shall be deemed to have been elected for the period till such time the vacancies are filled in on regular basis

under this section.

- (7) Where any dispute arises regarding any election of a member or of the President or Vice-President, it shall be referred to the Government, and the decision of the Government shall be final.
- (8) Notwithstanding anything contained in sub-section (3)—
 - (a) in respect of the constitution of the Council for the first time under this Act, the members thereof shall be nominated by the Government from amongst persons qualified to be elected or nominated as members of the respective category; and
 - (b) the members so nominated shall hold office for such period not exceeding three years in the aggregate as the Government may, by notification in the Official Gazette, specify.

4. Term of office

- (1) The Government, shall, by notification in the Official Gazette, publish the names of the members.
- (2) Save as otherwise provided by this Act, a member, shall hold office for a term of five years from the date of publication of the notification under sub-section (1);
 Provided that where a person is elected by members of medical faculty of a medical college, or is an ex-officio member, he shall cease to hold office as a member if he ceases to belong to that faculty or, as the case may be, ceases to hold such office, before the expiry of his term.
- (3) Save as otherwise provided by this Act, the President or the Vice-President shall hold office from the date of his election upto the day on which his term of office as member expires.
- (4) The term of office of an outgoing member shall, notwithstanding anything contained in sub-section (2) be deemed to extend and to expire with the day immediately preceding the day on which the names of the successor members are published under sub-section (1).
- (5) The term of office of an outgoing President or Vice-President shall, notwithstanding anything contained in sub-section (3), be deemed to extend and to expire with the day immediately preceding the day on which the successor President or Vice-President, as the case may be, is elected.
- (6) An outgoing member, President or Vice-President, shall be eligible for re-election or renomination for one more consecutive term only.
- (7) Leave of absence may be granted by the Council to any member for a period not exceeding six months.

5. Casual vacancies

- (1) A casual vacancy in the office of President or the Vice-President or a member elected under clause (b) of sub-section (3) of section 3 or clause (c) of said sub-section, shall be filled by election;
 Provided that any such vacancy in the office of an elected member occurring within six months prior to the date on which the term of office of all the members expires, shall not be filled.
- (2) A casual vacancy in the office of a member nominated under clause (a) of sub-section (3) of section 3 or sub-section (8) of that section shall be reported forthwith by the Registrar to the Government, and shall, as soon as possible thereafter, be filled by the Government by nomination.
- (3) Any person elected under sub-section (1) or nominated under sub-section (2) to fill a casual vacancy shall, notwithstanding anything contained in sub-section (8) of section 3 or section 4, hold office only so long as the person in whose place he may be elected or nominated, as the case may be, would have held office, if the vacancy had not occurred.

6. Resignation

- (1) The President or the Vice-President may at any time resign his office by a notice in writing addressed to the Council and delivered to the Registrar. The resignation shall take effect from the date on which it is accepted by the Council or on the expiry of sixty days from the date of the delivery of the notice, whichever event occurs earlier.
- (2) An elected member may, at any time, resign his office by a notice in writing addressed to the President. A nominated member may at any time resign his office by a notice in writing addressed to the Government and delivered to the Registrar. Every such resignation shall take effect from the date on which it is accepted.

by the President or, as the case may be, the Government or on the expiry of sixty days from the date of the receipt of the notice, whichever event occurs earlier.

7. Disqualification and disability

- (1) A person shall be disqualified for being elected or nominated as, and for continuing as, a member—
 - (a) if he is an undischarged insolvent; or
 - (b) if he is of unsound mind and stands so declared by a competent court; or
 - (c) if his name has been removed from the register and has not been re-entered therein; or
 - (d) if he is a whole-time officer or servant of the Council; or
 - (e) if he has been convicted for an offence involving moral turpitude.
- (2) If any member absents himself from three consecutive meetings of the Council, without leave of the Council granted under sub-section (7) of section 4 or without such reasons as may, in the opinion of the Council, be sufficient, the Council may declare his seat vacant and take steps to fill the vacancy.
- (3) If any member becomes, or is found to be, subject to any of the disqualifications mentioned in sub-section (1), the Council shall submit a report to the Government, and the Government, if satisfied about the disqualifications, shall declare his seat vacant.

8. Meetings of Council

- (1) The meetings of the Council shall be convened, held and conducted in such manner as may be prescribed.
- (2) The President, when present, shall preside at every meeting of the Council. If at any meeting the President is absent, the Vice-President, and in the absence of both, some other member elected by the members present from amongst themselves, shall preside at such meeting.
- (3) All issues at a meeting of the Council shall be decided by a majority of members present and voting.
- (4) The presiding authority at a meeting shall have and exercise a second or casting vote, in case of an equality of votes.
- (5) Eight members (including the President and Vice-President) shall form a quorum. When a quorum is required but not present, the presiding authority shall, after waiting for not less than thirty minutes for such quorum, adjourn the meeting to such hour or some future day as it may notify on the notice board at the office of the Council; and the business which would have been brought before the original meeting had there been a quorum thereat, shall be brought before the adjourned meeting, and may be disposed of at such meeting or any subsequent adjournment thereof, whether there be a quorum present, or not.

9. Proceedings of meetings and validity of acts

- (1) The proceedings of every meeting of the Council, shall be treated as confidential; and no person, shall, without the previous resolution of the Council, disclose any portion thereof;

Provided that nothing in this section shall be deemed to prohibit any person from disclosing or publishing the text of any resolution adopted by the Council, unless the Council directs such resolution also to be treated as confidential.

- (2) No disqualification or defect in the election or nomination of any person as a member, or as the President, or as the Vice-President, or as a presiding authority of a meeting shall by itself be deemed to vitiate any act or proceedings of the Council in which such person has taken part, if the majority of persons who are parties to such act or proceedings, were entitled to vote.
- (3) During any vacancy in the Council, the continuing members may act, as if no vacancy had occurred.
- (4) Any act done by the Council shall not be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Council.

10. Powers, duties and functions of the Council

Subject to such conditions as may be prescribed by or under the provisions of this Act, the powers, duties and functions of the Council shall be—

- (a) to maintain the live register, and to provide for the registration of medical practitioners;

- (b) to hear and decide appeals against any decision of the Registrar;
- (c) to prescribe a code of ethics for regulating the professional conduct of practitioners;
- (d) to reprimand a practitioner, or to suspend or remove his name from the register, or to take such other disciplinary action against him as may, in the opinion of the Council be necessary or expedient;
- (e) to exercise such other powers, perform such other duties and discharge such other functions, as are laid down in this Act, or as may be prescribed;
- (f) to receive complaints from public (including patients and their relatives) against misconduct or negligence by a medical practitioner, to proceed for inquest, take a decision on the merits of the case and to initiate disciplinary action or award compensation and similarly to take action against frivolous complaints;
- (g) to provide protection to its members in discharging professional duties;
- (h) to ensure that no unqualified person practices modern Scientific System of Medicine.

11. Executive Committee

- (1) The Council shall, as soon as may be, constitute an Executive Committee consisting of the President as ex-officio member and such other number of other members, elected by the Council from amongst its members, as may be prescribed.
- (2) The term of office of, and the manner of filling casual vacancies among, and the procedure to be followed by, the members of the Executive Committee shall be such as may be prescribed.
- (3) In addition to the powers, duties and functions conferred, imposed and entrusted by this Act, the Executive Committee shall exercise such powers, perform such duties, and discharge such functions of the Council as may be delegated to it by rules or entrusted to it from time to time, by the Council.
- (4) The President shall be the ex-officio Chairman of the Executive Committee.

12. Fee and allowances to members of the Council and of the Executive Committee

There shall be paid to the President, the Vice-President and other members of the Council, and to the members of its Executive Committee, such fees and allowances for attendance at meetings, and such reasonable travelling allowance, as shall from time to time be prescribed.

13. Income and expenditure of the Council

- (1) The income of the Council shall consist of—
 - (a) registration fees received from the practitioners;
 - (b) grants received from the Government, if any; and
 - (c) any other sums raised by the Council.
- (2) It shall be competent for the Council to incur expenditure for the following purposes, namely:—
 - (i) salaries and allowances of the Registrar and the staff maintained by the Council;
 - (ii) fees and allowances paid to the members of the Council and of the Executive Committee;
 - (iii) remuneration paid to the assessors; and
 - (iv) such other expenses as are necessary for performing the duties and discharging the functions under this Act.

14. Appointment of Registrar and/or Deputy Registrar of the Council, their duties and functions

- (1) The Council shall, with the previous sanction of the Government, appoint a Registrar and/or a Deputy Registrar. He shall be a qualified medical graduate as prescribed in Schedules I, II and III of the Indian Medical Council Act, 1956 (Central Act 102 of 1956).
- (2) The Executive Committee may, from time to time, grant leave to the Registrar:
Provided that, if the period of leave does not exceed one month, the leave may be granted by the President.
- (3) During the temporary vacancy in the office of the Registrar due to leave or any other reasons, the Deputy Registrar shall act as Registrar. In case of non-availability of Registrar and Deputy Registrar, the Executive

Committee may, with the previous sanction of the Government, appoint another person to act in his place, and any person so appointed shall for the period of such appointment, be deemed to be the Registrar for the purposes of this Act;

Provided that, when the period of such vacancy does not exceed one month, the appointment may be made by the President, who shall forthwith report such appointment to the Executive Committee, and the Government.

- (4) The Council may, with the previous sanction of the Government, suspend, dismiss or remove any person appointed as the Registrar, or impose any other penalty upon him in the manner as may be prescribed.
- (5) Save as otherwise provided by this Act, the salary and allowances and other conditions of service of the Registrar shall be such as may be prescribed.
- (6) The Registrar shall be the Secretary and the Executive Officer of the Council. He shall attend all meetings of the Council, and of its Executive Committee, and shall keep minutes of the meetings and names of members present and of the proceedings of such meetings.
- (7) The accounts of the Council shall be kept by the Registrar, in the prescribed manner.
- (8) The Registrar shall have such supervisory powers over the staff as may be prescribed, and may perform such other duties and discharge such other functions as may be specified in this Act, or as may be prescribed.
- (9) The Registrar shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

CHAPTER III

PREPARATION AND MAINTENANCE OF REGISTER

15. Preparation of Register

- (1) As soon as may be after the appointed day, the Registrar shall prepare and maintain thereafter a register of medical practitioners for Delhi, in accordance with the provisions of this Act.
- (2) The register shall be in such form, and may be divided into such parts, as may be prescribed. The register shall include the full name, address and qualifications with the name of college and university of the registered practitioner, the date on which each qualification was obtained, and such other particulars as may be prescribed.
- (3) Any person who possesses any of the qualifications in the First, Second or Third Schedule to the Indian Medical Council Act, 1956 (Central Act 102 of 1956) shall subject to any condition laid down by or under the Indian Medical Council Act, 1956, at any time on an application made in the prescribed form to the Registrar and on payment of a prescribed fee and on presentation of proof of his registrable qualification, be entitled to have his name entered in the register.
- (4) (a) Every person, whose name was entered on a date prior to 1st May, 1961 in Indian Medical Council Register and continued in such register on the day immediately preceding the appointed day, shall be entitled to have his name continued in the register prepared under this Act.
(b) Within a period of three months from the appointed day or such further period as the Government may allow, the Registrar shall publish a general notice in the Official Gazette and in such newspapers as the Council may select, in such form as may be prescribed, calling upon every person to whom clause (a) applies, to pay to the Registrar in the prescribed manner the prescribed fee if he desires to have his name on the register under this Act, and shall also send individual notice for a like purpose by registered post to every such person at his last known address in such form as may be prescribed. The name of every such person who pays such fee before the expiry of the period of two months from the date of publication of the general notice in the Official Gazette shall be enlisted on the register.
- (5) After the last date for payment of the prescribed fee under clause (b) of sub-section (4) has expired and the register prepared in accordance with foregoing provisions is ready, the Registrar, shall publish a notice in the Official Gazette and such newspapers as the Council may select, about the register having been prepared, and the register shall come into force from the date of the publication of such notice in the Official Gazette.
- (6) Any person servicing or practising modern scientific system of medicine in Delhi shall be registered with the Council under this Act. Without registration with Council any person though qualified in modern scientific system of medicine, shall be liable for action as specified by the Council.

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- (7) Every registered practitioner shall be given a certificate of registration in the prescribed form. The registered practitioner shall display the certificate of registration in a conspicuous part in the place of this practice and if he has more than one such place in any one of them.

16. Special procedure for registration in certain cases

- (1) No person who possesses a medical qualification granted by any authority in any place outside the territory of India (other than the qualification specified in the Second Schedule or the Third Schedule to the Indian Medical Council Act, 1956), shall be registered under this Act, unless the procedure specified in sub-section (2) has been followed.
- (2) Any person, who holds any such medical qualification may apply to the Council for registration by giving a correct description of his qualification, with his degree, diploma, licence or certificate. The Council shall transmit the same to the Medical Council of India for opinion and shall act according to the opinion.

17. Persons who may not be registered

- (1) Notwithstanding anything contained in sections 15 and 16, no person whose name has been removed whether before or after the appointed day, from any register kept under this Act or any other law for the time being in force in India regulating the registration of medical practitioners on the ground of professional misconduct shall be entitled to have his name entered in the register, unless his name is duly ordered to be restored to the register from which it was so removed.

18. Fee for and certificate of provisional registration

- (1) Any person who desires to be registered provisionally under section 25 of the Indian Medical Council Act, 1956 (Central Act 102 of 1956), shall make an application in the prescribed form to the Registrar and shall pay the prescribed fee.
- (2) Every person whose name is entered in the register under sub-section (1) shall be given a certificate of provisional registration in the prescribed form. Such certificate shall remain in force for such period as may be specified therein.

19. Maintenance of register

- (1) It shall be the duty of the Registrar to make entries in the register, from time to time, to revise the same and to issue a certificate of registration in accordance with the provisions of this Act, and the rules made thereunder.
- (2) (a) Every Registrar of Deaths on receiving notice of the death of a medical practitioner registered under this Act shall forthwith transmit by post to the Registrar appointed under this Act a certificate under his own hand of such death with the particulars of time and place of death and may charge the cost of such certificate and transmission as an expense of his office.
- (b) The names of registered practitioners, who die or whose names are directed to be removed from the register under section 22 shall be removed therefrom.
- (3) Any person whose name is entered in the register and who subsequent to his registration desires to record in the register any change in his name shall, on an application made in this behalf and on payment of prescribed fee be entitled to have such change in his name recorded in the register.
- (4) Subject to the provisions of section 26 of the Indian Medical Council Act, 1956 (Central Act 102 of 1956), any person whose name is entered in the register and who subsequent to his registration obtains any additional qualification specified in any of the Schedules to the Indian Medical Council Act, 1956, shall on an application made in this behalf, and on payment of the prescribed fee, be entitled to have an entry stating such additional qualification made against his name in the register.
- (5) Where it is shown to the satisfaction of the Registrar that a certificate of registration has been lost or destroyed, the Registrar may, on payment of prescribed fee and on furnishing an indemnity bond issue a duplicate certificate after due confirmation and approval of the Executive Committee.

20. Publication of list of registered practitioner

- (1) At such time, after the publication of the notice under sub-section (5) of section 15 as the Council deems fit, and thereafter every five years, the Registrar shall cause to be printed and published a correct list of all persons for the time being entered in the register but not later than three months of the start of election process.
- (2) The Registrar shall cause to be printed and published annually on or before a date to be decided by the Executive Committee, an addendum and a corrigendum to the list published under sub-section (1) showing:—

- (a) The names of all persons for the time being entered or re-entered in the register, and not included in any subsisting list already printed and published ;
 - (b) the names of all practitioners included in any subsisting list, whose names have since been removed on account of any reason what-so-ever from, and not re-entered in, the register ; and
 - (c) Any other amendments to the subsisting list.
- (3) The form of the list published under sub-section (1), the particulars to be included therein, and the manner of its publication, shall be such as may be prescribed.
- (4) A copy of the list referred to in sub-section (1) shall be conclusive evidence in all Courts, and in all judicial or quasi-judicial proceedings, that the persons therein specified are registered according to the provisions of this Act, and the absence of the name of any person from such copy shall be evidence, until the contrary is proved, that such person is not registered according to the provisions of this Act :

Provided that in the case of any person whose name does not appear in such copy, a certified copy under the hand of the Registrar of the entry of the name of such person on the register shall be evidence that such person is registered under the provisions of this Act.

21. Disciplinary action including removal of names from the Register

(1) The Council shall have a disciplinary Committee comprising of :

- (i) a Chairman to be nominated by the Council ;
- (ii) a Member of Legislative Assembly of the National Capital Territory of Delhi, nominated by the Speaker ;
- (iii) a Legal Expert to be nominated by the Council ;
- (iv) an eminent publicman nominated by the Government ;
- (v) an eminent medical specialist in the relevant speciality to which the complaint pertains, to be nominated by the Council ; and
- (vi) a member nominated by Medical Association of Delhi with minimum ten years standing.

(2) If a registered practitioner has been, after due inquiry held by the Council or by the Executive Committee in the prescribed manner, found guilty of any misconduct by the Council or the Executive Committee, the Council may —

- (a) issue a letter of warning to such practitioner; or
- (b) direct the name of such practitioner—
 - (i) to be removed from the register for such period as may be specified in the aforesaid direction; or
 - (ii) to be removed from the register permanently.

Explanation —For the purpose of this section a registered practitioner shall be deemed to be guilty of misconduct if—

- (a) he is convicted by a criminal court for an offence which involves moral turpitude and which is cognizable within the meaning of the Code of Criminal Procedure, 1974 (Central Act 2 of 1974), or
 - (b) in the opinion of the Council his conduct is infamous in relation to the medical profession particularly, under any Code of Ethics prescribed by the Council or by the Medical Council of India constituted under the Indian Medical Council Act, 1956 (Central Act 102 of 1956) in this behalf.
- (3) The Council may, on sufficient cause being shown, direct on any subsequent date that the name of a practitioner removed under the sub-section (1) shall be re-entered in the register on such conditions, and on payment of the prescribed fee, as the Council may deem fit.
- (4) The Council may, of its own motion, or on the application of any person, after due and proper inquiry and after giving an opportunity to the person concerned of being heard, cancel or alter any entry in the register, if in the opinion of the Council, such entry was fraudulently or incorrectly made.
- (5) In holding any inquiry under this section, the Council or the Executive Committee, as the case may be, shall have the same powers as are vested in Civil Courts under the Code of Civil Procedure 1908 when trying a suit, in any one or more of the following matters, namely:—
- (a) enforcing the attendance of any person, and examining him on oath;
 - (b) compelling the production of documents;

- (c) issuing of commissions for the examination of witnesses.
- (6) All the inquiries under this section shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal code.
- (7) (a) For the purpose of advising the Council or the Executive Committee, as the case may be, on any question of law arising in any inquiry under this section, there may in all such inquiries be an assessor, who has been for not less than ten years—

- (i) an advocate enrolled under the Advocates Act, 1961, or
- (ii) an attorney of a High Court.

Explanation— For the purpose of this sub-section, in computing the period during which a person has been enrolled as an Advocate, there shall be included any period during which he was enrolled as an Advocate under the Indian Bar Council Act, 1926.

(b) Where an assessor advises the Council, or the Executive Committee, as the case may be, on any question of law as to evidence, procedure or any other matter, he shall do so in the presence of every party or person representing a party to the inquiry who appears thereat or if the advice is tendered after the Council or the Executive Committee has begun to deliberate as to its findings, every such party or person as aforesaid shall be informed what advice the assessor has tendered. Such party or person shall also be informed if, in any case, the Council or the Executive Committee does not accept the advice of the assessor on any such question as aforesaid.

(c) Any assessor under this section may be appointed either generally, or to any particular inquiry, and shall be paid the prescribed remuneration.

22. Renewal of registration

- (1) Notwithstanding anything contained in section 15 and 20, on such date, after the date of publication of the notice under sub-section 5 of section 15, as the Executive Committee may, with the previous sanction of the Government, decide, and every five years thereafter, the Registrar shall cause two notices in the prescribed form to be published, at an interval of not less than thirty days, in the official Gazette calling upon in the manner provided in sub-section (2) all registered practitioners to make an application to the Registrar for the continuance of their names on the register.
- (2) The Registrar shall, after the publication of the first notice under sub-section (1), send a notice by registered post enclosing therewith the prescribed form of application to the registered practitioners at their addresses as entered in the register, calling upon them to return the application to the Registrar for continuance of their names on the register within forty-five days of the date of the notice. If any of the registered practitioners fails to return such applications within the time specified, the Registrar shall issue a further notice to such registered practitioner by registered post after the publication of the second notice under sub-section (1) enclosing therewith the prescribed form of application to the Registrar for the continuation of his name on the register within thirty days of the date of the further notice together with a fee as may be prescribed from time to time.
- (3) If the application is not made on or before the date fixed by further notice sent by registered post under sub-section (2), the Registrar shall remove the name of the defaulter from the register and shall inform him of such removal by registered post.

Provided that if an application for continuance of the name so removed is made within a period of six months from the date fixed by the said further notice by registered post under sub-section (2), the name so removed may be re-entered in the register on payment of a prescribed fee.

Appeals

- 23 (1) Any person aggrieved by any decision of the Registrar under this Act may, within a period of one month from the date on which the decision is communicated to him, appeal to the Council which shall hear and determine the appeal in the prescribed manner.
- (2) Save as otherwise provided in the Indian Medical Council Act, 1956 (Central Act 102 of 1956), the decision of the Council under this Act shall be final.

Rights of Registered practitioners

24. Notwithstanding anything contained in any law for the time being in force—

- (i) the expression "Legally qualified medical practitioner" or "duly qualified medical practitioner" or any word importing a person recognised by law as a medical practitioner or member of the medical profession shall in all Acts of the Legislative Assembly of Delhi and all the Central Acts (in their application to Delhi) in so far as such Acts relate to any matter with respect to which the Legislative Assembly has powers to make laws, under Clause (3) of article 239AA of the Constitution, include a practitioner whose name is entered in the register under this Act.
- (ii) every registered practitioner shall be exempt, if he so desires, from serving on an inquest.

General Provision applicable to medical practitioners

25. The provisions of this Act are in addition to, and not in derogation of the provisions of the Indian Medical Council Act, 1956 (Central Act 102 of 1956) containing general provisions applicable to all medical practitioners.

Penalty for falsely claiming to be registered

26. If any person whose name is not for the time being entered in the register, falsely represents that it is so entered, or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, he shall, on conviction, be punished with fine which may extend to five thousand rupees.

False assumption of Medical Practitioner or Practitioner under this Act to be an offence

27. Any person who falsely assumes that he is a medical practitioner or practitioner as defined in clause (7) of section 2 and practises the modern scientific system of medicine, shall be punishable with rigorous imprisonment which may extend up to three years or with fine which may extend up to Rs. 20,000 or with both.

Explanation : Under this section, punishment can be awarded only to medical practitioners as defined in section 2(7) of this Act and no punishment may be awarded to any one practising Veterinary medicine or Veterinary surgery or Homoeopathic or the Ayurvedic or the Siddha or the Unani System of Medicine or those holding BAMS or BIMS degree.

Court competent to try offence, under this Act and take cognizance of offence

28. (1) No court other than the court of a Metropolitan Magistrate shall take cognizance of, or try an offence, under this Act.
- (2) No Court shall take cognizance of any offence under this Act except on a complaint in writing by an officer empowered by rules made in this behalf.

Control of Government

- 29 (1) If at any time it appears to the Government that the Council or this President and Vice-President has failed to exercise or has exceeded or abused any of the powers conferred upon it or him by or under this Act, or has ceased to function, or has become incapable of functioning, the Government may, if it considers such failure, excess, abuse or incapacity to be a serious character, notify the particulars thereof to the Council or the President or the Vice-President, as the case may be. If the Council or the President, or the Vice President, as the case may be, fails to remedy such failure, excess, abuse or incapacity within such reasonable time as the Government may fix in this behalf, the Government may remove the President or Vice-President or dissolve the Council for a specified period, as the case may be, and in case of dissolution of the Council, cause all or any of the powers, duties and function of the Council to be exercised, performed and discharged by such registered practitioners or practitioners as the Government may appoint in that behalf;

Provided that a new Council shall be constituted before the expiration of a period of two years from the date of its dissolution.

- (2) Notwithstanding anything contained in this Act, or in the rules made thereunder, if at any time it appears to the Government that the Council or any other authorities empowered to exercise any of the powers or to perform any of the duties or functions under this Act, has not been validly constituted or appointed, the Government may cause any of such powers, duties or functions to be exercised or performed by such person or persons, in such manner and for such period not exceeding six months and subject to such conditions, as it thinks fit.

- Rule 30. (1) The Government may, by notification in the official Gazette, and subject to the condition of previous publication, make rules to carry out the purposes of this Act. Such rules may be made to provide for all or any matters expressly required or allowed by this Act to be prescribed by rules.

- (2) In particular, and without prejudice to the generality of the foregoing power, the Government may make rules for all or any of the following matters, namely :—
- (a) the time and place at which and the manner in which the election of the members, and of the President and the Vice-President shall be held under sub-section (5) of section 3;
 - (b) the manner in which the meeting of the Council shall be convened, held and conducted under sub-section (1) of section 8;
 - (c) the powers, duties and functions of the Council, the conditions subject to which they shall be exercised and performed; and regulation of professional conduct of practitioners by a code of ethics in accordance with section 10;
 - (d) number of elected members who shall be elected by the Council from amongst its members for constituting the Executive Committee of the Council; and the term of office of, and the manner of filling casual vacancies among, and the procedure to be followed by, the members of the Executive Committee and also the powers and duties and functions of the Council as may be delegated by the Council to be exercised, performed and discharged by the Executive Committee, under the provisions of section 11;
 - (e) the fees and allowances payable to the President, the Vice-President and other members of the Council, and to the members of its Executive Committee under section 12;
 - (f) the salary and allowances payable to the Registrar and other conditions of service of the Registrar, manner of maintenance of the accounts of the Council by the Registrar, supervisory powers of the Registrar over the staff and the duties and functions as may be specified in the Act, which may be performed and discharged by the Registrar;
 - (g) the conditions of service of the officers and staff of the Council under sub-section (3) of section 15;
 - (h) preparation and maintenance of register of medical practitioners, the form of such register, particulars including the name, address and qualifications, etc. of the registered practitioners to be entered in the register, prescription of the form of application and of notice to be published in the official Gazette and newspapers to have names registered, prescription of fees to be paid for such entry and the manner of payment, prescription of form for sending individual notices, prescription of the form of certificate which shall be given to registered practitioner under section 15;
 - (i) prescribing the form of application for provisional registration, fee payable for such registration and prescribing form of certificate of provisional registration under section 18;
 - (j) prescription of fee for recording change of name in the register, prescription of the fee payable for entering additional qualification in the register and prescription of fee payable for issue of duplicate certificate of registration under section 19;
 - (k) the form of the list of registered Medical Practitioners and manner of the publication of the list under section 20;
 - (l) manner for taking disciplinary action, etc., against registered practitioners by the Council or by the Executive Committee, conditions subject to which and the fee for re-entering the name of a practitioner in the register and the remuneration to be paid to an assessor under section 21;
 - (m) form of notices and form of application for renewal of registration by registered medical practitioners, fee payable for re-entry of name which is removed from the register due to non-renewal under section 22;
 - (n) the manner in which appeals against the decision of the Registrar shall be heard by the Council under section 23;
 - (o) officers who are empowered to make a complaint under sub-section (2) of section 29;
 - (p) any other matter which is to be, or may be, prescribed under this Act.
- (3) All rules made under this section shall be laid for not less than thirty days before the Legislative Assembly of Delhi as soon as possible after they are made and shall be subject to rescission by the Legislative Assembly or to such modifications the Legislative Assembly may make during the session in which they are so laid or the session immediately following.
- (4) Any rescission or modifications so made by the Legislative Assembly of Delhi shall be published in the official Gazette and shall thereupon take effect.

Code of Conduct and Ethics

31. The Council shall follow the conduct and code of medical ethics as prescribed by the Medical Council of India from time to time.

Power to remove difficulties

32. If any difficulty arises in giving effect to the provisions of this Act, the Government may by order as occasion requires, do anything which appears to it to be necessary for the purpose of removing the difficulty: Provided that no such order shall be made after the expiration of two years from the constitution of the Council.

R.T.L. D'SOUZA, Under Secy. (L.A.).