

**Fifteenth Kerala Legislative Assembly**

**Bill No.76**

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**THE KERALA STATE MEDICAL PRACTITIONERS  
BILL, 2021**

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Kerala Legislature Secretariat  
2021

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[Translation in English of “2021-ലെ കേരള സംസ്ഥാന മെഡിക്കൽ പ്രാക്ടീഷണേഴ്സ് ബിൽ” published under the authority of the Governor.]

**THE KERALA STATE MEDICAL PRACTITIONERS BILL, 2021**

**A**

**BILL**

*to unify the existing enactments to regulate the qualification and to provide for the registration of practitioners of Modern Medicine, Indian Systems of Medicine and Homoeopathic Medicine in the State of Kerala and for matters connected therewith or incidental thereto.*

*Preamble.*—WHEREAS, to unify the existing enactments to regulate the qualification and to provide for the registration of practitioners of Modern Medicine, Indian Systems of Medicine and Homoeopathic Medicine in the State of Kerala and for matters connected therewith or incidental thereto;

BE it enacted in the Seventy-second Year of the Republic of India, as follows:—

**CHAPTER I**

**PRELIMINARY**

1. *Short title and commencement.*—(1) This Act may be called the Kerala State Medical Practitioners Act, 2021.

(2) It shall be deemed to have come into force on 24<sup>th</sup> day of February, 2021.

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

(a) “Council” means, in relation to matters pertaining to Modern Medicine, the Council of Modern Medicine, in relation to matters pertaining to Indian Systems of Medicine, the Council of Indian Systems of Medicine and

in relation to matters pertaining to Homoeopathic Medicine, the Council of Homoeopathic Medicine constituted under section 3 and the first Council starts from the date of the first meeting of each Council constituted under this Act;

(b) “Government” means the Government of Kerala;

(c) “Homoeopathy” means the system of Medicine founded by Dr. Hahnemann and the expression “Homoeopathic” shall be construed accordingly;

(d) “Hospitals” including Medical College Hospitals, other recognized Teaching Hospitals, “Dispensaries”, “Clinics”, “Sanatorium”, “Nursing homes”, “Panchakarma Hospitals”, “Ayurvedic Centres”, “Unani Rejumental Therapy Centres”, “Sidha Therapy Centres”, “Verma/Merma Therapy Centres” and other cognate expressions means, institutions where the method of treatments are carried on and are those approved by the appropriate Council;

(e) “Indian Systems of Medicine” means the Ayurvedic Medicine, the Siddha Medicine, the Unani Tibbi Medicine, Yoga and Naturopathy and such other types of medicines as the Council of Indian Systems of Medicine may, from time to time, recognize;

(f) “Medical Institution or Medical College” means, any recognized and approved institution where teaching or training are imparted in the art and science of healing of human ailments according to Modern Medicine, Homoeopathic Medicine or Indian Systems of Medicine;

(g) “Modern Medicine” means Modern Scientific System of Medicine including surgery and obstetrics;

(h) “Naturopathy” means a drugless, non-invasive system of therapy including the use of natural materials in its treatments based on the theory of vitality, the theory of toxemia, the theory of the self healing capacity of the body and the principles of healthy living;

(i) “Naturopathy Institution” means any recognized and approved,—

(i) Educational institution conducting the Bachelor of Naturopathy and Yoga Sciences (BNYS); or

(ii) Naturopathy hospitals with ten inpatient beds and an outpatient department; or

(iii) Naturopathy Clinic with outpatient department.

(j) “practitioner” means any person practising in the Modern Medicine or the Indian Systems of Medicine or the Homoeopathic Medicine, as the case may be, with a valid registration from the Kerala State Medical Councils;

(k) “President” means the President of the Council concerned;

(l) “qualified practitioner” means a practitioner holding a recognised qualification;

(m) “recognised qualifications” means the qualifications enumerated in the Schedule;

(n) “register” means a register of practitioners maintained under this Act;

(o) “registered practitioner” means a practitioner whose name is entered in the register maintained under this Act from time to time;

(p) “Registrar” means the Registrar of the Council concerned appointed under section 19;

(q) “regulations” mean the regulations made by the respective Council under this Act;

(r) “rules” mean the rules made by the Government under this Act;

(s) “Schedule” means the Schedule to this Act;

(t) “State” means the State of Kerala.

## CHAPTER II

## ESTABLISHMENT OF COUNCILS

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

- (a) the Council of Modern Medicine;
- (b) the Council of Indian Systems of Medicine; and
- (c) the Council of Homoeopathic Medicine.

(2) Each such Council shall be a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued:

Provided that the Councils function at the time of coming into force of this Act shall be deemed to have established under this Act and continue as such till Councils are constituted under this Act.

(3) The Council of Modern Medicine shall consist of the following fifteen members, namely:—

- (a) the Director, Medical Education Department (ex-officio);
- (b) the Director, Health Services Department (ex-officio);
- (c) one member having fifteen years teaching experience elected by the faculty members of Modern Medicine, Kerala University of Health Sciences from among themselves;
- (d) one member nominated from among the Principals of the Government Medical Colleges in the State, affiliated to the Kerala University of Health Sciences;
- (e) one member having fifteen years teaching experience elected from among the Principals of the Private Medical Colleges in the State, affiliated to the Kerala University of Health Sciences;

(f) Five members having fifteen years experience after registration, elected by the registered practitioners of Modern Medicine in the State from among themselves;

(g) Four members having fifteen years experience after registration, nominated by the Government from the medical practitioners, of whom, —

(i) one shall be a member of the scheduled caste or scheduled tribe; and

(ii) one shall be a woman.

(h) The Registrar of Kerala University of Health Sciences (ex-officio).

(4) The Council of Indian Systems of Medicine shall consist of the following fifteen members, namely: —

(a) the Director, Ayurveda Medical Education (ex-officio);

(b) the Director, Indian Systems of Medicine (ex-officio);

(c) one member elected by the faculty members of Ayurveda, Sidha, Unani, Yoga and Naturopathy affiliated to the Kerala University of Health Sciences from among themselves;

(d) one member nominated from among the Principals of the Government Ayurveda Medical Colleges in the State, affiliated to the Kerala University of Health Sciences;

(e) one member elected from among the Principals of the Private/Aided/Self Financing Medical Colleges of Ayurveda/Sidha/Unani and Yoga and Naturopathy institutions in the State, affiliated to the Kerala University of Health Sciences;

(f) one member elected by the registered practitioners of Ayurvedic Medicine in the State from among themselves;

(g) one member elected by the registered practitioners in the Siddha Medicine in the State from among themselves;

(h) one member elected by the registered practitioners of Unani Tibbi Medicine from among themselves;

(i) one member elected by the registered practitioners of Yoga and Naturopathy from among themselves;

(j) Five members nominated by Government from among the registered practitioners of Indian Systems of Medicine, of whom,—

(i) One each shall be from Sidha, Unani and Bachelor of Naturopathy and Yoga Science;

(ii) One shall be a member of the scheduled caste or scheduled tribe; and

(iii) One shall be a woman.

(k) The Registrar of Kerala University of Health Sciences (ex-officio).

(5) The Council of Homoeopathic Medicine shall consist of the following twelve members, namely:—

(a) the Principal and Controlling Officer, Homoeopathic Medical Education (ex-officio);

(b) the Director, Homoeopathic Department (ex-officio);

(c) one member elected by the faculty members of Homoeopathic Medicine, Kerala University of Health Sciences from among themselves;

(d) one member nominated from among the Principals to the Government Homoeopathic Medical Colleges in the State, affiliated to the Kerala University of Health Sciences;

(e) one member elected from among the Principals of the Private Homoeopathic Medical Colleges in the State, affiliated to the Kerala University of Health Sciences;

(f) three members elected by the registered practitioners of Homoeopathic Medicine in the State from among themselves;

(g) three members nominated by the Government, of whom,—

(i) one shall be a member of the scheduled caste or scheduled tribe;

and

(ii) one shall be a woman.

(h) The Registrar of Kerala University of Health Sciences (ex-officio).

4. *Nomination of members in default of election.*— If any of the members mentioned in clause (c), (d), (e) or (f) of sub-section (3) or clause (c), (d), (e), (f), (g), (h) or (i) of sub-section (4) or clause (c), (d), (e) or (f) of sub-section (5) of section 3 is not elected within six months, the Government may nominate such qualified registered practitioners 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 (c), (d), (e) or (f) of sub-section (3) or clause (c), (d), (e), (f), (g), (h) or (i) of sub-section (4) or clause (c), (d), (e) or (f) of sub-section (5) of section 3, as the case may be.

5. *Qualification of members.*—Every member of a Council shall be a registered practitioner and holder of a recognized qualification.

6. *Nomination of members of first Councils.*—Notwithstanding anything contained in sections 3 and 4, 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 registered practitioners and holders of recognized qualifications.

7. *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 members shall 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 his successor is elected or nominated, as the case may be.

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

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

Provided that the President of the first Council 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 the 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, Director of Medical Education, Director of Ayurveda Medical Education, Principal and Controlling Officer, Department of Homoeopathic Medical Education, shall, notwithstanding anything contained in this Act, be ex-officio member and President of the respective 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.

9. *Vacancies.*—If any vacancy occurs in the office of a member of a Council through death, resignation, removal or disqualification of such member or otherwise, prior 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 the Council to exercise its powers under this Act, notwithstanding such vacancy.

10. *Appointments to be notified in the Gazette.*—All elections, nominations and the appointments of the President, Vice-President, members of each Council and the Registrar shall be notified in the Gazette.

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

(a) if he is an undischarged insolvent;

(b) if he is of unsound mind and stands so declared by a competent court;

(c) if he has been punished by the Council concerned in any manner for infamous conduct in the profession or if he is dismissed from service under any Government;

(d) if his name has been removed from the register concerned maintained and has not been reinstated under this Act;

(e) if having been elected under clause (c) of sub-section (3), clause (c) of sub-section (4) or clause (c) of sub-section (5) of section 3, he ceases to be a member of the Faculty of Modern Medicine, Homoeopathic Medicine or Indian Systems of Medicine of Kerala University of Health Sciences, as the case may be;

(f) if having been elected under clause (d) of sub-section (3), clause (d) of sub-section (4) or clause (d) of sub-section (5) of section 3, he ceases to be a Principal of the Government Medical College, Government Homoeopathic Medical College or Government Ayurveda Medical College in the State, as the case may be; or

(g) if having been elected under clause (e) of sub-section (3), clause (e) of sub-section (4) or clause (e) of sub-section (5) of section 3, he ceases to be a Principal of the Private Medical College, Private Homoeopathic Medical College or Private Ayurveda Medical College in the State, as the case may be.

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 Council concerned from three consecutive meetings of such Council; or

(d) on becoming subject to any of the disqualifications mentioned in section 11.

13. *Resignation of Membership.*— Any member or Vice-President of a Council may at any time resign his office by giving notice in writing to the President. The President may resign his office by giving notice in writing to the Council concerned. Such resignation shall take effect in the case of a member, 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 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 thereto.*—(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 by the meeting to preside for the occasion.

(2) The President shall preserve order 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 in which 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. Two third of the members will form a quorum. 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, unless a place, date and time are decided otherwise 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 votes being equal.

17. *Payment of fee and allowances.*—There shall be paid to the President, Vice-President and other members of each Council such fees and allowance 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 and other committees.*—Each Council shall have power to appoint an Executive Committee, Ethics 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, 20 and 21.

19. *Registrar.*—(1) The Government shall, appoint a Registrar common to all the Councils who shall be a Member Secretary to such Councils. He shall also be the Secretary to the committee appointed under section 18. 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) The appointment of Registrar shall be made from the senior most Additional Law Secretary to Government from Law Department with two years of administrative experience, at any level in this field or similar other field as Registrar of the Councils.

20. *Duties of Registrar.*—(1) The Registrar shall be Chief Executive of all the three Councils and also the Head of the office of the Council.

(2) Subject to the provisions of this Act and subject to any general or special order of the Council concerned, it shall be the duty of the Registrar to keep the registers.

(3) There shall be separate registers for Modern Medicine, Homoeopathic Medicine, Ayurvedic Medicine, Siddha Medicine, Unani Tibbi Medicine, Yoga and Naturopathy. The registers shall be in such form and shall contain such particulars as may be prescribed by rules.

(4) 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, 29, 33 and 34.

(5) For the purposes of this section, the Registrar may enquire whether any registered medical practitioner has ceased to practice or has changed his residence and if no reply is received 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 practitioner has not ceased to practice.

(6) The registers shall be deemed to be public documents under section 74 of the Indian Evidence Act, 1872 (Central Act 1 of 1872).

21. *Appointment/Recruitment.*—(1) A joint sitting of all the three Councils may appoint or employ such other officers and servants as it may deem necessary for the purposes of this Act. The Registrar shall be the appointing authority of all office staff of the Councils and he shall also be the disciplinary authority:

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.

(2) 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 (1) shall be governed by the rules applicable to officers and servants of the Government of similar class/grade.

(3) All officers and servants appointed or employed under sub-section (1) 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 prescribed by the Government in this behalf.

(4) All officers and servants appointed or employed under sub-sections (1) and (2) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Act 45 of 1860).

(5) All actions taken in good faith by the Councils and staff members shall not constitute an offence.

22. *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 Indian Systems of Medicine and the Council of Homoeopathic Medicine shall make regulations consistent with this Act and rules made thereunder by notification with the previous approval of Government.

(2) 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.

23. *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 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 Council to be exercised and performed by such a person and for such a 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.

## CHAPTER III

## REGISTRATION, POWERS AND RESPONSIBILITIES

24. *Eligibility for registration.*—(1) Every holder of a recognized qualification acquired by a regular mode of education attending both theory and sufficient number of days of practical training from recognized institution, is eligible to be registered as medical practitioner under this Act;

(2) No person shall be eligible for registration under sub-section (1), if he is subject to any of the disqualifications mentioned in clauses (a) to (d) of section 11;

(3) Every practitioner shall renew his registration in every ten years as prescribed by rules.

25. *Registration.*—(1) All applications for registration under section 24 shall be sent direct to the Registrar.

(2) An application for registration under this Act shall be in the prescribed form and accompanied by a fee as prescribed by rules.

(3) Every registered practitioner who applies to the Registrar for registration in respect of any additional recognized qualification shall pay a fee as fixed by the Council from time to time.

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

(5) The report of the committee under sub-section (4) shall be placed before the appropriate Council for its decision.

(6) If the Council concerned allows the registration of the applicant, the Registrar shall enter the name of the applicant in the appropriate register and issue him a certificate in such form and containing such particulars as may be prescribed by rules.

(7) In the case of transfer of registration of 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, Indian Systems of Medicine or Homoeopathic Medicine for the time being in

force in any State in India, shall apply for such a registration in the prescribed form accompanied by such a fee as fixed by Council from time to time and registration may be given subject to the scrutiny of documents and the certification from the State Councils concerned.

(8) Any practitioner not registered under this Act or to whom sub-section (7) does not apply but registered in any other State in India shall obtain the registration of the Council concerned for practicing as a medical practitioner for specific period in the State on payment of such fee as may be prescribed by rules.

26. *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 registered as per Travancore-Cochin Medical Practitioners Act, 1953 (Act IX of 1953) shall be deemed to be registered under this Act:

Provided however that any person whose name has been removed from the registers maintained under the Travancore-Cochin Medical Practitioners Act, 1953 (Act IX of 1953) or the registers maintained under any Act of a State Legislature in India or of the register of any country where he was formerly practising, for professional misconduct, 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).

27. *Practitioners registered under the Travancore-Cochin Medical Practitioners Act, 1953.*—(1) Every practitioner registered under the Travancore-Cochin Medical Practitioners Act, 1953 and all practitioners deemed to have been registered under that Act, shall 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 Bachelor of Naturopathy and Yoga Science degree holders provisionally registered in this Council as per G.O.(P) No.361/2009/H&FWD dated 19-10-2009 shall be deemed

to be registered under this 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) on an application and without payment of any fee:

Provided that this section shall not be applicable in the case of renewal of registration.

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 11 shall after obtaining an explanation and after affording an opportunity of being heard, be liable to be removed altogether or for a specific period from the register:

Provided that the Council concerned may, on sufficient cause being shown, direct that the name of the practitioners so removed shall be re-entered in the register:

Provided further that the removal altogether or for a specific period from the register shall be done only after affording an opportunity of being heard. However, the Council can suspend the registration of a medical practitioner forthwith in case of his/her conviction by a competent criminal court for any criminal offence, unsoundness of mind, removal or dismissal from Government service or violation of medical ethics of serious nature. An enquiry shall be instituted by the Council or through its Ethics Committee, soon after the suspension of registration and final decision of removal shall be based on the enquiry report.

(2) The name of a practitioner shall not be removed from the register on the ground of his association in any professional respect with an unregistered practitioner for consultation, 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 Council concerned.

29. *Removal from registers on application.*—(1) Any practitioner registered under this Act may make an application to the Council concerned 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 application 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 Council concerned, 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 website a full or supplementary list of the names and qualification of all practitioners registered under this Act and the dates on which such qualifications were acquired.

(2) The Registrar shall, from time to time, cause to be published in the website 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 the evidence that such person is registered under this Act.

31. *Disabilities*.—(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 practise 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 concerned.

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 imparting 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 as prescribed by rules.

(iii) no person other than qualified registered practitioner shall be eligible to hold any appointment as a teacher, teaching or other hospital physician, surgeon, specialist, super specialist or other medical officer in any dispensary or any clinic, sanatorium, nursing home or other similar institutions.

(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 rupees five lakh.

(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 of rupees ten thousand for each day.

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 Council concerned within thirty days from the date of receipt of the decision of the Registrar.

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

(3) The Council concerned 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 cancel or alter such entry in the register, if in the opinion of the Council, such entry was fraudulently or incorrectly made.

(4) The Council or its members or authorized officer may suo moto or on a complaint visit and inspect such places referred under clause (iii) of sub-section (1) of section 32 and report to the respective Council for its consideration for further action, if any.

34. *Alteration of register by Government.*—The Government may after, giving due notice to the person concerned and to the Council concerned 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 25, 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, by notification in the Gazette, 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 contesting for election as members and the conditions under which such deposits may be forfeited:

Provided that the deposit required shall not exceed ten thousand rupees;

(c) as to the manner in which vacancies shall be filled under section 9;

(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 Registrar to punish, dismiss, discharge and remove any such of the officers and servants appointed or employed under section 21;

(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 fees and other amounts received under this Act;

(i) as to the application form and fee under section 25(2);

(j) as to the form of the certificate to be issued under section 25 and the particulars which it shall contain;

(k) procedure for renewal of registration under section 24;

(l) as to the procedure relating to appeal to the Government from the decisions of each Council under section 35;

(m) all other matters which may be necessary for the purpose of carrying out the objects of this Act;

(n) welfare scheme for doctors on cessation of practice;

(o) salary of Registrar and Staff; and

(p) method of appointment of staff under Registrar.

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 under section 15;

(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 purpose of carrying out the objects of this Act;

(d) welfare scheme under section 49.

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

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

#### CHAPTER IV

#### 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 26 shall practise or hold himself out, whether directly or by implication, as practising modern medicine, homoeopathic medicine or ayurvedic medicine, siddha medicine or unani tibbi medicine, yoga and naturopathy or hold any post including teaching posts in any of the medical institutions in Government, public or private sector and no person who is not a registered practitioner of any such medicine shall practise any other branch of medicine unless he is also a registered practitioner of that medicine.

39. *Penalty.*—(1) Any person who acts in contravention of section 38 shall, on conviction be punishable with fine which may extend to two lakh rupees for the first offence and five lakh rupees for every subsequent offence after his conviction for such first offence.

(2) Any qualified person without a valid registration under this Act who practises in the branch of his qualification or other branches and any death or invalidity to a human life causes, he shall be liable on conviction for a penalty of rupees five lakh or imprisonment for a term of one year or both.

(3) Any person without qualification or valid registration practises in any system of medicine and his practice causes death or permanent invalidity, on conviction, he shall be liable for a fine of rupees five lakh or imprisonment for a term of two years or both and on subsequent offence double the fine and term of imprisonment and also the offences affecting human body under Chapter XVI of Indian Penal Code, 1860 (Act 45 of 1860) shall, appropriately be applicable, according to the nature of gravity affected human body by such an unlawful activity.

40. *Authority to confer title.*—The right of conferring, granting or issuing in the State of Kerala degrees, diplomas, licences, certificates or other documents stating or implying that the holder, grantee or recipient thereof, is qualified to practice Modern Medicine, Homoeopathic Medicine or Ayurvedic Medicine, Siddha Medicine, Unani Tibbi Medicine or Yoga and Naturopathy, as the case may be, shall be on the authority approved by the State Government or Central Government.

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 documents stating or implying that the holder, grantee or recipient thereof is qualified to practise Modern Medicine, Homoeopathic Medicine or Ayurvedic Medicine, Siddha Medicine, Unani Tibbi Medicine or Yoga and Naturopathy, 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 two lakh rupees and if the person, so contravenes is an association, every member of such association who knowingly or willfully authorises or permits the contravention shall on conviction, be punishable with fine which may extend to five lakh rupees.

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 practise Modern Medicine, Homoeopathic Medicine or Ayurvedic Medicine, Siddha Medicine, Unani Tibbi Medicine or Yoga and Naturopathy, or any other kind of treatment unless,—

(a) he actually holds a registered degree, diploma, license or certificate under this Act, 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; and

(iii) has been recognized by the National Medical Commission, Central Council of Indian Systems of Medicine and Central Council of Homoeopathy, as the case may be.

(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 two lakh rupees and in the case of a subsequent conviction, with fine which may extend to five lakh rupees.

43. *Penalty for falsely assuming or using medical title.*— 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 National Medical Commission, the Central Council of Indian Medicine and Central Council

of Homoeopathy or that he is qualified to practice Modern Medicine, Homoeopathic Medicine, Indian System of Medicine, Siddha Medicine, Unani Tibbi Medicine or Yoga and Naturopathy, shall be punishable with fine which may extend to two lakh rupees for the first offence and to fine which may extend to five lakh rupees 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 the institution of such prosecution either through police or launching prosecution direct to the courts of competent jurisdiction by the Council.

45. *Jurisdiction of Magistrate.*—(1) No court inferior to that of 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 authorized by the Council in this behalf.

46. *Protection of action taken in good faith.*—No suit, prosecution, penal action or other legal proceedings shall lie against any person for anything which is done in good faith or intended to be done under this Act or any rule or regulations made thereunder.

47. *Repeal and saving.*—(1) The Travancore-Cochin Medical Practitioners Act, 1953 (Act IX of 1953) and Kerala State Medical Practitioners Ordinance, 2021 (115 of 2021) are hereby repealed:

Provided that such repeal shall not affect,—

(a) the previous operations of the said enactments or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred or certificate issued under the said enactments; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said enactments; 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 enactment has not been passed; or

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

(2) The Madras Medical Registration Act, 1914 which was in force in the erstwhile Malabar State became inoperative with effect from the 1<sup>st</sup> November 1956, when the State of Kerala formed under the State Reorganisation Act, 1956 (Central Act 37 of 1956) and the Malabar State became the status of the district of newly formed State of Kerala and the Travancore-Cochin Medical Practitioners Act, 1953 (Act IX of 1953) became operational in this district also as Travancore-Cochin Medical Practitioners Act, 1953 was in place.

48. *Overriding effect.*—The provisions of this Act and any rules and regulations made thereunder shall have effect notwithstanding anything contained in any other law for the time being in force in the matter of registration of medical practitioner in the State.

49. *Welfare scheme for doctors.*—A scheme for welfare of registered practitioners may be constituted as prescribed.

## THE SCHEDULE

## RECOGNISED QUALIFICATIONS

A. Qualification for Modern Medicine: All qualifications recognized under the National Medical Commission Act, 2019 (No. 30 of 2019) formerly Indian Medical Council Act, 1956 (Act No.102 of 1956) and those qualifications which are deemed to have been recognized thereunder by virtue of Acts of Parliament.

B. Qualifications for Ayurveda, Siddha, Unani Tibbi medicine, Yoga and Naturopathy: All qualifications recognized under the Indian Medicine Central Council Act, 1970 (No. 48 of 1970). In case of Yoga and Naturopathy all qualifications recognised by the Central Government or State Government, as the case may be, from time to time.

C. Qualification for Homoeopathic Medicine: All qualifications recognized under the Homoeopathic Central Council Act, 1973 (No. 59 of 1973).

## STATEMENT OF OBJECTS AND REASONS

The Law Reform Committee and the Law Reform Commission recommended the Government to unify the Travancore-Cochin Medical Practitioners Act, 1953 and the Madras Medical Registration Act, 1914, which is applicable to the Malabar region, to enact a law which is applicable to the whole State. The Government have examined the said recommendation, and the Government have decided to enact a legislation for the registration of practitioners in the field of Modern Medicine, Indian Systems of Medicine and Homoeopathic Medicine in the State and to regulate the qualifications required for such registration by unifying the Travancore-Cochin Medical Practitioners Act, 1953 and the Madras Medical Registration Act, 1914 applicable to the Malabar region.

2. As the Legislative Assembly of the State of Kerala was not in session and as the said proposal had to be given effect immediately, the Kerala State Medical Practitioners Ordinance, 2021 (43 of 2021) was promulgated by the Governor of Kerala on the 23<sup>rd</sup> day of February, 2021 and the same was published in the Kerala Gazette Extraordinary No.946 dated 24<sup>th</sup> February, 2021.

3. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in and passed by the Kerala Legislative Assembly during its session which commenced on the 24<sup>th</sup> day of May, 2021 and ended on the 10<sup>th</sup> day of June, 2021.

4. In order to keep alive the provisions of the said Ordinance, the Kerala State Medical Practitioners Ordinance, 2021 was promulgated by the Governor of Kerala on the 1<sup>st</sup> day of July, 2021 and the same was published as Ordinance No.73 of 2021 in the Kerala Gazette Extraordinary No.1945 dated 3<sup>rd</sup> July, 2021.

5. A Bill to replace the said Ordinance by an Act of the State Legislature could not be introduced in and passed by the Kerala Legislative Assembly during its session which commenced on the 22<sup>nd</sup> day of July, 2021 and ended on the 13<sup>th</sup> day of August, 2021.

6. In order to keep alive the provisions of the said Ordinance, the Kerala State Medical Practitioners Ordinance, 2021 (115 of 2021) was promulgated by the Governor of Kerala on the 23<sup>rd</sup> day of August, 2021 and the same was published in the Kerala Gazette Extraordinary No.2478 dated 25<sup>th</sup> August, 2021.

7. The Bill seeks to replace Ordinance No. 115 of 2021 by an Act of the State Legislature.

#### FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any recurring or non-recurring, additional expenditure from the Consolidated Fund of the State.

#### MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 3 of the Bill empowers the Government to issue notification to establish the Council of Modern Medicine and the Council of Indian Systems of Medicine, the Council of Homoeopathic Medicine.

2. Clause 4 of the Bill empowers the Government to nominate the members mentioned in clause (c), (d), (e) or (f) of sub-section (3) or clause (c), (d), (e), (f), (g), (h) or (i) of sub-section (4) or clause (c), (d), (e) or (f) of sub-section (5) of section 3, if said members were not elected within six months.

3. Clause 6 of the Bill empowers the Government to nominate all the members other than the ex-officio member in the case of the first Councils.

4. Proviso to sub-clause (1) of Clause 8 of the Bill empowers the Government to nominate the President to the first Council.

5. Sub-clause (1) of clause 36 of the Bill empowers the Government to make rules required for the implementation of the provisions of this Act, by notification in the Gazette.

6. Sub-clause (1) of clause 37 of the Bill empowers the respective Councils to make regulations with the previous approval of the Government, for the implementation of the provisions of this Act.

7. Sub-clause (1) of clause 37 of the Bill empowers the respective Councils to notify the regulations made under sub-clause (2) of clause 37.

8. Sub-clause (3) of clause 37 of the Bill empowers the Government to cancel any such regulations, by notification in the Gazette.

9. The matters in respect of which rules or regulations may be made or notifications or orders issued are matters of procedure and are of routine and administrative in nature. Further, the rules are subject to the scrutiny of the Legislative Assembly. The delegation of legislative power is therefore of a normal character.

VEENA GEORGE.

## NOTES ON CLAUSE

*Clause 2.*—This clause seeks to define certain words and phrases used in the Bill.

*Clause 3.*—This clause seeks to provide for the establishment, incorporation and constitution of Councils.

*Clause 4.*—This clause seeks to provide for the nomination of members in default of election.

*Clause 5.*—This clause seeks to provide for the qualification of members.

*Clause 6.*—This clause seeks to provide for the nomination of members of first Councils.

*Clause 7.*—This clause seeks to provide for the term of office of members.

*Clause 8.*—This clause seeks to provide for the vacancy and election of President and Vice-President .

*Clause 9.*—This clause seeks to provide for filling the vacancies of the members in the Council.

*Clause 10.*—This clause seeks to provide for notifying all appointments in the Gazette.

*Clause 11.*—This clause seeks to provide for the disqualification for membership in the councils.

*Clause 12.*—This clause seeks to provide for the cessation of membership.

*Clause 13.*—This clause seeks to provide for the resignation of membership.

*Clause 14.*—This clause seeks to provide for the validity of proceedings.

*Clause 15.*—This clause seeks to specify the time and place of meeting of Council.

*Clause 16.*—This clause seeks to provide for the presidency at meetings of Council and procedure thereto.

*Clause 17.*—This clause seeks to provide for the payment of fee and allowances.

*Clause 18.*—This clause seeks to provide for the appointment of Executive Committee and other committees.

*Clause 19.*—This clause seeks to provide for the appointment of Registrar.

*Clause 20.*—This clause seeks to provide for the duties of Registrar.

*Clause 21.*—This clause seeks to provide for the Appointment and recruitment.

*Clause 22.*—This clause seeks to provide for the framing of regulations and procedure for its amendment.

*Clause 23.*—This clause seeks to specify the default of Council.

*Clause 24.*—This clause seeks to provide for the eligibility for registration.

*Clause 25.*—This clause seeks to provide for the Registration.

*Clause 26.*—This clause seeks to provide the List of practitioners as on a date to be notified by the Government under this Act.

*Clause 27.*—This clause seeks to provide for the practitioners registered under the Travancore-Cochin Medical Practitioners Act, 1953.

*Clause 28.*—This clause seeks to provide for the removal from the registers by Council.

*Clause 29.*—This clause seeks to provide for the removal from registers on application.

*Clause 30.*—This clause seeks to provide the Annual list of practitioners.

*Clause 31.*—This clause seeks to provide the disabilities.

*Clause 32.*—This clause seeks to specify the privileges.

*Clause 33.*—This clause seeks to provide for the appeal to the Council from the action of the Registrar.

*Clause 34.*—This clause seeks to provide for the alteration of register by Government.

*Clause 35.*—This clause seeks to provide for the appeal to Government from the decision of the Council.

*Clause 36.*—This clause seeks to provide for the power to make rules.

*Clause 37.*—This clause seeks to provide for the power to make regulations.

*Clause 38.*—This clause seeks to specify the persons not registered under this Act, etc., not to practice.

*Clause 39.*—This clause seeks to provide for the penalty.

*Clause 40.*— This clause seeks to provide for the authority to confer title.

*Clause 41.*—This clause seeks to provide for the Prohibition of conferment, etc., of degree, etc.

*Clause 42.*—This clause seeks to provide for the penalty for unauthorized use of titles, etc., implying medical qualifications.

*Clause 43.*—This clause seeks to provide for the penalty for falsely assuming or using medical title.

*Clause 44.*—This clause seeks to provide for the provisions for prosecution.

*Clause 45.*—This clause seeks to provide for the provisions for jurisdiction of Magistrate.

*Clause 46.*—This clause seeks to provide for the protection of action taken in good faith.

*Clause 47.*—This clause seeks to provide for the repeal and saving.

*Clause 48.*—This clause seeks to provide for the overriding effect.

*Clause 49.*—This clause seeks to provide for the welfare scheme for doctors.

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