

THE KARNATAKA MEDICAL REGISTRATION ACT, 1961

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STATEMENT OF OBJECTS AND REASONS

Act 34 of 1961.- There are different enactments in force in the several areas of the State governing the registration of practitioners of modern system of medicine. As a result of the adaptations made in these enactments, the Mysore Medical Council—constituted under the Mysore Medical Registration Act, 1931, as adapted—is empowered to perform the functions of a Medical Council throughout the State in respect of the several enactments, while the Medical Registers under each enactment are kept separate. Thus there is a single Medical Council and several Medical Registers.

Since under the Indian Medical Council Act, 1956 (Central Act No. 102 of 1956) one member has to be elected to the Medical Council of India by the members included in the State Medical Register, it is necessary to have one Medical Register for the entire State.

In the circumstances, it is proposed to have a uniform law relating to registration of practitioners practising the modern system of medicine throughout the State.

(Obtained from file LAW 12 LGN 60.)

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¹[KARNATAKA ACT]¹ No. 34 OF 1961

(First published in the ¹[Karnataka Gazette]¹ on the Thirtieth day of December, 1961.)

THE ¹[KARNATAKA]¹ MEDICAL REGISTRATION ACT, 1961

(Received the assent of the President on the Twenty-fifth day of December, 1961).

An Act to consolidate the laws for the registration of medical practitioners of modern scientific system of medicine in the ¹[State of Karnataka]¹.

WHEREAS it is expedient to consolidate the laws for the registration of medical practitioners of modern scientific system of medicine, surgery and obstetrics, other than veterinary medicine and surgery, in the ¹[State of Karnataka]¹;

BE it enacted by the ¹[Karnataka State]¹ Legislature in the Twelfth Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the ¹[Karnataka]¹ Medical Registration Act, 1961.

(2) It extends to the whole of the ¹[State of Karnataka]¹.

(3) It shall come into force on such ²[date]² as the State Government may, by notification, appoint.

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

(a) “Council” or “Medical Council” means the ¹[Karnataka Medical Council]¹ established under this Act;

(b) “notification” means a notification published in the official Gazette;

(c) “registered practitioner” means any person registered under the provisions of this Act;

(d) “regulations” means regulations made under section 32;

(e) “rules” means rules made under section 31.

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

2. Act came into force w.e.f. 22.08.1963 by notification.

3. Establishment, incorporation and constitution of Council.—(1)

The State Government shall by notification establish a Council to be called “the ¹[Karnataka Medical Council]¹ for the purposes of carrying out the provisions of this Act. Such Council shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract and may by the same name sue and be sued.

(2) The Council shall consist of the following fifteen members, namely:—

(a) six members to be elected from amongst themselves by the medical practitioners who are registered under this Act;

(b) two members to be elected from amongst themselves by the members of Faculties of Medicine of the Universities established by any law for the time being in force in the ¹[State of Karnataka]¹;

(c) two members to be elected from amongst themselves by such members of the staff of the medical colleges in the ¹[State of Karnataka]¹ as are medical practitioners who are registered under this Act; and

(d) five members to be nominated by the State Government, out of whom not more than one shall be from amongst those not registered under this Act.

(3) In making nomination under clause (d) of sub-section (2), the State Government shall have due regard to the claims of women and of other groups of practitioners, representatives of whom have not been elected under clauses (a), (b) and (c).

(4) The President and Vice-President of the Medical Council shall be elected by the members from amongst themselves.

(5) The election of the President and Vice-President and other members shall, subject to the provisions of this Act, be held at such time and place and in such manner as may be prescribed by rules.

4. Nomination of members in default of election.—If any of the electorates referred to in section 3 does not, by such date as may be prescribed by rules, elect a person to be a member of the Council, the State Government shall, by notification, nominate to the vacancy a person

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

qualified for election thereto; and the person so nominated shall be deemed to be a member of the Council as if he had been duly elected by the said electorate.

5. Term of Office.—The President, Vice-President and other members of the Medical Council shall, subject to the provisions of this Act, hold office for a term of five years from the date of their nomination or election or until their successors have been duly nominated, or elected, whichever is longer, and shall be eligible for re-nomination, or re-election, as the case may be.

6. Vacancies.—Upon the death, resignation or vacation of office of any member of the Medical Council, another person shall be appointed a member of the Medical Council in his place by nomination or election, as the case may be, in accordance with the provisions of sub-section (2) of section 3, and such person shall hold office for the remainder of the period for which the member in whose place he is appointed was nominated or elected.

7. Disqualifications.—A person shall be disqualified for being chosen as and for being a member of the Medical Council,—

(a) if he has been sentenced by a criminal court for an offence involving moral turpitude and punishable with imprisonment for a term exceeding three months, such sentence not having been subsequently reversed, quashed or remitted, unless he has, by order, which the State Government is hereby empowered to make in this behalf, been relieved from the disqualification arising on account of such sentence;

(b) if he is an undischarged insolvent;

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

(d) if he is a whole time officer or servant of the Council.

8. Disabilities for continuing as member.—If any member, during the period for which he has been nominated or elected,—

(a) absents himself, without excuse, sufficient in the opinion of the Medical Council, from three consecutive ordinary meetings of the Council; or

(b) in the case of a member elected under clause (b) of sub-section (2)

of section 3, ceases to be a member of the Faculty of Medicine of the University concerned; or

(c) in the case of a member elected under clause (a) or (c) of sub-section (2) of section 3, ceases to be a registered practitioner; or

(d) becomes subject to any of the disqualifications mentioned in section 7,

-the State Government shall declare his office to be vacant.

9. Time and place of meeting and procedure at meetings of Council.—The Medical Council shall make such regulations as may be necessary with respect to the time and place of the meeting of the Medical Council and the mode of summoning the same. In the absence of any regulation as to the summoning of a meeting of the Medical Council, it shall be lawful for the President to summon a meeting at such time and place as to him shall seem expedient by letter addressed to each member; and at every meeting, in the absence of the President, the Vice-President and in the absence of both, some other member to be chosen from the members present, shall act as President; and all acts of the Medical Council shall be decided by the votes of the majority of the members present at any meeting the total number present being not less than eight, and at all such meetings the President for the time being shall, in addition to his vote as a member of the Medical Council, have a casting vote in case of any equality of votes.

10. Validity of proceedings.—(1) No disqualification, or defect in the election or nomination of any person acting as a member of the Medical Council or as the President or Vice-President or presiding authority of a meeting shall be deemed to vitiate any act or proceeding of the Medical Council in which such person has taken part.

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

11. Registrar and officers.—(1) The Medical Council shall appoint a Registrar, and may from time to time grant leave to the Registrar and appoint a person to act in his place. Any order of the Medical Council appointing or dismissing a Registrar or appointing to act as Registrar for a period which exceeds or is likely to exceed the period which the State

Government may, from time to time direct, shall be subject to the previous approval of the State Government. The Registrar and any person appointed to act as Registrar shall be paid by the Medical Council such salary and allowances as it may from time to time determine. Any person duly appointed to act as Registrar shall be deemed to be Registrar for all the purposes of this Act. The Medical Council may also appoint such other officers and servants as may be necessary for the purposes of this Act.

(2) The Registrar or any other officer or servant appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

12. Register.—The Registrar shall keep a register of medical practitioners in such form as may be prescribed by rules, in accordance with the provisions of this Act. It shall be the duty of the Registrar under the orders of the Medical Council to keep the register correct and from time to time to enter any necessary alterations in the addresses of persons registered and to enter any additional qualifications which any registered person may have obtained subsequent to his registration, and to strike off the names of all registered persons who have died.

13. Registration of Medical Practitioners.—(1) Every person who holds any of the medical qualifications included in the Schedules to the Indian Medical Council Act, 1956 (Central Act 102 of 1956), may apply to the Registrar giving a correct description of his qualifications, with the dates on which they were granted, and present his degree, diploma or licence along with a fee of fifteen rupees for being registered under this Act. The Registrar shall if satisfied that the applicant is entitled to be registered, enter his name in the register:

Provided that the Registrar shall on application and on payment of a fee of two rupees enter the names of medical practitioners registered under any of the enactments repealed by section 34 and included in the registers maintained in accordance with the provisions of the said repealed enactments as adapted by the Mysore Adaptation of Laws Order, 1956.

(2) The Medical Council may refuse to permit the registration of any person who has been convicted of a cognizable offence as defined in the Code of Criminal Procedure, 1898 (Central Act V of 1898), or any other law for the time being in force, or who after due inquiry has been held guilty

by the ¹[Karnataka Medical Council]¹ or by the Medical Council of any other State in India of infamous conduct in any professional respect.

14. Appeals against decision of Registrar.—(1) An appeal against the decision of the Registrar respecting a first registration or any subsequent alteration shall be heard and determined by the Medical Council in accordance with rules made by the State Government.

(2) Any entry in the register which shall be proved to the satisfaction of the Medical Council to have been fraudulently or incorrectly made may be deleted from the register under the orders of the Medical Council.

15. Removal of Medical Practitioner's name from register for misconduct.—(1) If a medical practitioner has been, after due inquiry by the Medical Council, found guilty of any misconduct, the Medical Council may,-

- (a) issue a letter of warning addressed to such medical practitioner, or
- (b) direct the name of such medical practitioner,-

(i) to be removed from the register for such period as may be specified in the direction, or

(ii) to be removed from the register without specifying the period of such removal.

Explanation.—For the purposes of this section “misconduct” shall mean,-

(a) the conviction of the medical practitioner by a criminal court for an offence which involves moral turpitude and which is cognizable as defined in the Code of Criminal Procedure, 1898 (Central Act V of 1898), or any other law for the time being in force;

(b) any conduct which, in the opinion of the Medical Council is infamous in relation to the medical profession.

(2) The Medical Council may, at any subsequent date, if it thinks fit, and shall on a decision to that effect of the Central Government under sub-section (2) of section 24 of the Indian Medical Council Act, 1956, direct that any name so removed shall be re-entered.

16. Medical Council to have powers of Civil Courts.—In holding

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

inquiries under this Act, the Medical Council shall have the same powers as are vested in Civil Courts under the Code of Civil Procedure, 1908 (Central Act V of 1908), when trying a suit, in respect 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.

17. Inquiries to be deemed to be judicial proceedings.—All inquiries under this Act shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code.

18. Assessor to Medical Council.—(1) For the purpose of advising the Medical Council on questions of law arising in inquiries before it, there shall, in all such inquiries, be an assessor to the Medical Council who has been for not less than ten years an advocate of a High Court.

(2) Where an assessor advises the Medical Council on any question of law, 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 Medical Council has begun to deliberate as to their 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 Medical Council does not accept the advice of the assessor on any such question as aforesaid.

(3) Any assessor under this section may be appointed either generally or for any particular inquiry or class of inquiries and shall be paid such remuneration as the Medical Council with the approval of the State Government may determine.

19. Renewal of registration.—(1) Notwithstanding anything contained in section 13, each medical practitioner shall pay to the Medical Council on or before the thirty-first day of December of every year, a renewal fee of two rupees for the continuance of his name in the register.

(2) If the renewal fee is not paid before the due date, the Registrar shall remove the name of the defaulter from the register:

Provided that the name so removed may be re-entered in the register on payment of the renewal fee in such manner and subject to such

conditions, as may be prescribed by rules.

20. Qualified Practitioners Certificate.—(1) The expression “legally qualified medical practitioner”, or “duly qualified medical practitioner”, or any words importing a person recognized by law as a medical practitioner or member of the medical profession, shall mean a medical practitioner registered under this Act or a medical practitioner whose name is for the time being borne on the Indian Medical Register maintained under the Indian Medical Council Act, 1956 (Central Act 102 of 1956).

(2) A certificate required by any Act from any medical practitioner or medical officer shall be valid, if the person signing the same shall have been registered under this Act or his name shall have been borne on the Indian Medical Register referred to in sub-section (1).

21. Persons entitled to hold certain appointments.—A person whose name is for the time being borne on the Indian Medical Register maintained under the Indian Medical Council Act, 1956 (Central Act 102 of 1956), shall be eligible to hold any appointment as a physician, surgeon or other medical officer in any dispensary, hospital, infirmary or lying-in-hospital, or in any public establishment, body or institution, where the modern scientific system of medicine is practised.

22. Notice of death.—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.

23. Exemption from serving on inquests, etc.—Notwithstanding anything in any other law for the time being in force, every person who shall be registered under this Act shall be exempt, if he so desires, from serving on any inquest or as a juror under the Code of Criminal Procedure, 1898 (Central Act V of 1898).

24. Fees payable to members.—There shall be paid to the members of the Medical Council such fees for attendance and such reasonable travelling expenses as shall from time to time be allowed by the Medical Council and approved by the State Government.

25. Disposal of fees.—All moneys received by the Medical Council as

fees under this Act shall be applied for the purposes of this Act in accordance with such rules as may be made in this behalf by the State Government.

26. Publication of list of practitioners.—(1) The Registrar shall every year on or before the thirtieth day of June publish in the Official Gazette a correct list of the names and qualifications of all practitioners entered in the register on the first day of January of that year.

(2) A copy of the list published under sub-section (1) shall be evidence in all courts and in 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.

27. Elections to be held by distributive vote.—All elections under this Act shall be held according to the distributive system of voting.

Explanation.—Distributive system of voting means a system of voting in which every voter shall be entitled to give as many votes as there are seats to be filled:

Provided that no voter shall give more than one vote to any one candidate:

Provided further that no voting paper shall be deemed to be valid unless the voter has recorded all the votes which he is entitled to give.

28. Penalties.—Whoever falsely pretends to be registered under this Act or not being registered under this Act uses in connection with his name or title any words or letters representing that he is so registered shall, whether any person is actually deceived by such pretence or representation or not, be punished in the case of a first conviction with fine which may extend to three hundred rupees and in the case of subsequent conviction with fine which may extend to one thousand rupees.

29. Protection of action taken in good faith.—No suit or other legal

proceeding shall lie against the State Government or the Medical Council or any officer or servant of the State Government or Medical Council for anything which is in good faith done or intended to be done under this Act.

30. Jurisdiction of civil courts.—No act done in the exercise of any power conferred by or under this Act on the State Government or the Council or the Registrar shall be questioned in any civil court.

31. Power to make rules.—(1) The State Government, after previous publication, may by notification make rules to carry out the purposes of this Act.

(3) Every rule made under this section shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

32. Regulations.—(1) Subject to the provisions of this Act and of the rules made under section 31, the Medical Council may, with the previous approval of the State Government, make regulations generally to carry out the provisions of this Act.

(2) All regulations made by the Medical Council under this Act shall be published in the official Gazette.

(3) It shall be lawful for the State Government by notification to cancel or alter any regulation made under this Act.

33. Control.—(1) If at any time it shall appear to the State Government that the Council has failed to exercise, or has exceeded or abused any of the powers conferred upon it by or under this Act, or has failed to perform any of the duties imposed upon it by or under this Act, the State Government may, if it considers such failure, excess or abuse to be of a serious character, notify the particulars thereof to the Council, and if the Council fails to remedy such default, excess or abuse, within such time as the State Government may fix in this behalf, the State Government may

dissolve the Council and cause all or any of the powers and duties of the Council to be exercised and performed by such person and for such period as it may think fit and thereupon the funds and property of the Council shall vest in the State Government for the purpose of this Act until a new Council shall have been constituted under section 3.

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

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

34. Repeal and savings.—The Bombay Medical Act, 1912 (Bombay Act VI of 1912), as in force in the ¹[Belgaum Area]¹, the Medical Registration Act, 1348F. (Hyderabad Act I of 1348 Fasli), as in force in the ¹[Gulburga Area]¹ the Madras Medical Registration Act, 1914 (Madras Act IV of 1914), as in force in the ¹[Mangalore and Kollegal Area]¹ and the Mysore Medical Registration Act, 1931 (Mysore Act V of 1931), as in force in the Mysore Area, are hereby repealed:

Provided that until the constitution of the Medical Council in accordance with the provisions of this Act, the body functioning as the ¹[Karnataka Medical Council]¹ immediately before the commencement of this Act shall exercise the powers and perform the duties conferred by the provisions of this Act on the Medical Council and casual vacancies in the seats of the members of the Medical Council so functioning shall be filled and all matters in connection with the filling up of such vacancies shall be regulated in accordance with the provisions governing the filling of such vacancies and regulating such matters in force immediately before the commencement of this Act subject to such modifications of the said provisions as the State

1. Adapted by the Karnataka Adaptations of Laws Order, 1973 w.e.f. 01.11.1973.

Government may by notification make in the said provisions:

Provided that section 6 of the ¹[Karnataka]¹ General Clauses Act, 1899 (¹[Karnataka]¹ Act III of 1899), shall be applicable in respect of such repeal and sections 8 and 24 of the said Act shall be applicable as if the said enactments had been repealed and re-enacted by this Act.

35. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the Acts in force immediately before the commencement of this Act, the State Government, may by notification make such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) Every notification issued under sub-section (1) shall, as soon as may be after it is issued, be laid before both Houses of the State Legislature.

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NOTIFICATION

Bangalore, dated 19th August, 1963 [No. PLM 251 MDA 61]

In exercise of the powers conferred by sub-section (3) of Section 1 of the Mysore Medical Registration Act, 1961 (Mysore Act 34 of 1961), the Government of Mysore hereby appoints the 22nd August 1963 as the date on which the provisions of the said Act shall come into force.

By Order and in the name of the
Governor of Karnataka,

(L.G. DESAI)
Under Secretary to Government,
P.H., L. & MI. A.D.

(Published in the Karnataka Gazette, Part IV-2C(ii), dated 5th September, 1963 at page. 656.)

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