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Government of West Bengal
Department of Health and Family Welfare
M. A. Branch

NOTIFICATION

In exercise of the power conferred by section 33 of the Bengal Medical Act, 1914 (Ben. Act VI of 1914), and in supersession of the rules published with this department notification No. Medl-/5292/5M-10/54, dated the 17th July, 1954, the Governor is pleased hereby to make the following rules:

RULES

PART I

Definitions

1. In these rules, unless there is anything repugnant in the subject or context:
 - (a) "Council" means the West Bengal Medical Council;
 - (b) "form" means a form in the appendix to these rules;
 - (c) "member" means a member of the Council;
 - (d) "President" means the President of the Council;.
 - (e) "Registrar" means the Registrar appointed under section 14;
 - (f) "Returning Officer" means the Registrar and includes any officer deputed for the time being by the Registrar to perform, or assist him in, his duties under these rules;
 - (g) "registered practitioner" means a person borne on the register maintained by the Council under section 15; and "registration number" means serial number in the register maintained by the Council under Section 15;
 - (h) "rule" means a rule of these rules;
 - (i) "section" means a section of the Act;
 - (j) the expression "the Act" means the Bengal Medical Act, 1914 (Ben. Act VI of 1914);
 - (k) "Vice-President" means the Vice-President of the Council.

PART II

Appointment of members by nomination of the State Government.
 [Clause (a) of sub-section (1) of section 4.]

2. (1) At least sixty days before the expiry of the term of office of any nominated members the Registrar shall draw the attention of the President to the approaching vacancy, and the latter shall forthwith report it to the State Government for necessary action to fill the vacancy.

(2) In the case of a casual vacancy for which a fresh nomination will be necessary under clause (a) of sub-section (1) of section 10, the Registrar shall, on receiving the information that such a vacancy has occurred, report the vacancy to the President forthwith and the President shall intimate the same to the State Government for necessary action for a fresh nomination.

PART III

Election of members under clause (b) or clause (c) of sub-section (1) of section 4.

3. (1) In case of a general election, the Registrar shall, at least sixty days before the expiry of the term of office of the Council, request the Registrar of the University of Calcutta, the Registrar of the University of North Bengal and the Registrar of the University of Burdwan and the Secretary of the State Medical Faculty of West Bengal to arrange for election of members under clause (b) or clause (c) of sub-section (1) of section 4, in such manner as the members of the authorities of each of the Universities as are registered practitioners and from amongst themselves or the Governing Body of the State Medical Faculty, as the case may be, consider convenient, so as to complete the elections sufficiently before the end of the term of office of the Council.

(2) When the election have been completed, the names of the persons elected with their addresses, qualifications and registration numbers shall be forthwith reported to the President by the Registrar of the University of Calcutta, the Registrar of the University of North Bengal and the Registrar of the University of Burdwan in the case of the election under clause (b) of sub-section (1) of section 4 and by the Secretary of the State Medical Faculty in the case of the election under clause (c) of the said sub-section; and the President shall report the same to the State Government for publication of the names in the Official Gazette under section 7.

PART IV

Appointment of members, ex officio, under clause (d) or clause (e) or clause (f) of sub-section (1) of section 4.

4. (1) The Registrar shall draw the attention of the President to the approaching vacancy and the latter shall forthwith ask for the requisite name from the State Government under clause (d) or from the Secretary of the Indian Medical Association, West Bengal State Branch, under clause (e) or from the Registrar of the University of Calcutta, the Registrar of the University of North Bengal and the Registrar of the University of Burdwan under clause (f) to fill the vacancy.

(2) In the case of casual a vacancy, the Registrar shall, on receiving the information that such a vacancy has occurred, report the vacancy to the President forthwith and the latter shall intimate the same to the appropriate authority or authorities asking for the requisite name to fill the vacancy.

PART V

General election under clauses (g) and (h) of sub-section (1) of section 4.

The Electoral Roll

5. (1) (a) For the purpose of general election under clauses (g) and (h) of sub-section (1) of section 4, the Returning Officer shall cause to be prepared a draft electoral roll separately for the electorate under clause (g), and the electorate under clause (h), of sub-section (1) of the said section, in which shall be included the names and other requisite particulars of all persons appearing to be entitled to vote at such election up to the date appointed by the Returning Officer in that behalf.

(b) The electoral roll under clause (g) of sub-section (1) of section 4 shall be in Form I and the electoral roll under clause (h) of sub-section (1) of section 4 shall be in accordance with the list of the names for the time being entered in the register of registered practitioners referred to in sub-section (1) of section 32.

(2) The date appointed under sub-rule (1) shall be notified by the Returning Officer in the *Official Gazette* and in such other manner as he may think fit, together with the period (with dates) during which the draft electoral roll shall be kept open for public inspection under sub-rule (3).

(3) The draft electoral roll shall be kept open in the office of the Returning Officer for public inspection for a period of not less than fifteen days. Any claim for inclusion of a new name or any objection to any entry in the draft electoral roll shall be made in Form II(a) or Form II(b) or Form II(c), as the case may be. Such claim or objection shall be filed within the period as aforesaid and shall be examined and decided by the Returning Officer, and his decision shall be final.

(4) The draft electoral roll shall be corrected in accordance with the decision of the Returning Officer and the roll thus corrected shall be the final electoral roll for the election. In the preparation of the final electoral roll, registrations and restorations after the date appointed under sub-rule (1) or new qualifications or employment obtained after the date shall be disregarded. No person, whose name is not included in the final electoral roll for the election, shall be entitled to participate in the election. Changes of address after the final electoral roll has been prepared shall be disregarded.

(5) (i) As soon as the final electoral roll has been prepared under sub-rule (4), the Returning Officer shall notify the fact in the *Official Gazette* and in such other manner as he may think fit and request all electors generally to participate in the election. He shall, at the same time and in the same manner, appoint and notify such date or dates or latest date, as the case may be, and if necessary, such time and place as may be deemed suitable, for each of the following purposes, namely:

- (a) the receiving of nomination papers sent or delivered under sub-rule (5) of rule (6);
- (b) the scrutiny of nomination papers under sub-rule (9) of rule (6);
- (c) the latest date of sending of voting papers with the relative identification envelopes under clause (b) of sub-rule (3) of rule (7);
- (d) the latest date and hour of receiving voting papers under sub-rule (8) of rule (7);
- (e) the scrutiny of voting papers and counting of votes, under rule (8).

(ii) The Returning Officer shall, in the same notification, invite electors, who desire to nominate a candidate or to be nominated as such candidate, to obtain from him, on application, nomination papers in Form III(a) or Form III(b) according as the nomination is for election under clause (g), or clause (h), of sub-section (1) of section 4.

Nomination of Candidates for Election

6. (1) Any person, whose name is included in the final electoral roll prepared under sub-rule (4) of rule (5) for the electorate under clause (g) of sub-section (1) of section 4, may be nominated as a candidate for election under the said clause (g), and any person, whose name is included in the final electoral roll for the electorate under clause (h) of sub-section (1) of section 4, may be nominated as a candidate for election under the said clause (h):

Provided that the said person is not disqualified for election to the Council under section 6.

(2) Every such nomination shall be made in writing in Form III(a) or Form III(b), as the case may be, with complete and correct particulars as required therein, and shall be subscribed by a proposer and a seconder, qualified to do so under sub-rule (4), and the candidate shall make the sign the declaration specified in the form.

(3) No elector may subscribe, whether as proposer or as seconder, more nomination papers than the number of vacancy or vacancies to be filled at the election by the particular electorate. If more nomination papers are subscribed by the same elector, then only the permissible number of such nomination papers, first received by the Returning Officer and otherwise in order, shall be held to be valid, but if the Returning Officer is unable to determine the order in which such nomination papers were received by him, all such nomination papers shall be held to be invalid.

(4) The proposer and the seconder of a candidate under clause (g) of sub-section (1) of section 4 shall be persons whose names are included in the final electoral roll prepared for the said clause (g), and the proposer and the seconder of a candidate under clause (h) of sub-section (1) of section 4 shall be persons whose names are included in the final electoral roll prepared for the said clause (h); otherwise, the nomination paper shall be invalid.

(5) A nomination paper may be sent by post or delivered otherwise, but a nomination paper received by the Returning Officer after the latest date and hour notified therefor under sub-rule (5) of rule (5), shall be invalid.

(6) On receipt of each nomination paper the Returning Officer shall forthwith endorse thereon the date and hour of its receipt.

(7) The Returning Officer shall examine each nomination paper and shall record thereon his decision accepting or rejecting the same, and if a nomination paper is rejected, he shall state in brief the reason of such rejection, namely, that it does not comply with the requirements of any particular rule or the provision of any section of the Act, or that it has arrived after the latest date and time fixed for the receipt of nomination.

(8) Every nomination paper in respect of which requirements of these rules have not been complied with shall be invalid.

(9) On the date and at the time and place notified under sub-rule (5) of rule (5) for the scrutiny of nomination papers, the candidate and his proposer and seconder may attend, and the Returning Officer shall allow them to examine the nomination papers of all candidates which have been received by him and on which he has noted the result of his examination under sub-rule (7). He shall decide all objections to his decision under sub-rule (7) as well as any question which may be raised as to the validity of any nomination, and his decision shall be final.

(10) Any candidate may withdraw his candidature by notice in writing subscribed by him and delivered to the Returning Officer up to 3 O'clock in the afternoon on the first working day succeeding the date appointed for the scrutiny of nominations or, where an objection is decided under sub-rule (9), on the first working day succeeding the date of such decision. A candidate, who has withdrawn his candidature, shall not be allowed to cancel the withdrawal or to be re-nominated as a candidate for the same election. The candidature of any duly nominated candidate shall remain valid for all purposes of these rules unless withdrawn in accordance with this sub-rule.

Election and Voting

7. (1) In a general election under clause (g) of sub-section (1) of section 4, if the number of duly nominated candidates after any withdrawal of candidature under sub-rule (10) of rule (6), does not exceed seven including one member from each of the Universities outside Calcutta, the Returning Officer shall, without calling for a poll, declare such candidate or candidates to be elected, subject to the provisions of sub-section (2) of section 4; and if such number exceeds seven, he shall with a view to complying with the provisions of clause (g) of sub-section (1) of section 4, take steps to call for a poll in the manner hereinafter laid down.

(2) In a general election under clause (h) of sub-section (1) of section 4:

(a) if, amongst the number of duly nominated candidates after any withdrawal of candidature under sub-rule (10) of rule 6, there be not more than nine candidates of whom not less than five are graduates and not less than two are Licentiates in Medicine, the Returning Officer shall forthwith declare them to be elected, subject to the provisions of sub-section (2) of section 4; and if, amongst the number of the duly nominated candidates after any withdrawal of candidature under sub-rule (10) of rule 6, there be not more than five who are graduates or not more than two who are Licentiates in Medicine, the Returning Officer shall also declare them to be elected without calling for a poll, subject to the provisions of sub-section (2) of section 4, and if, in such cases, the number of the remaining duly nominated candidates be more than four in the case of Licentiates in Medicine and more than seven in the case of graduates in Medicine, the Returning Officer shall proceed to take steps to call for a poll in the manner hereafter laid down for election to fill up four seats or seven seats, as the case may be;

(b) if, amongst the duly nominated candidates after any withdrawal of candidature under sub-rule (10) of rule 6 there be more than seven who are graduates or more than four who are Licentiates in Medicine, the Returning Officer shall proceed to take steps to call for a poll for the election of nine members of whom not less than five shall be graduates and not less than two shall be Licentiates in Medicine:

Provided that if, in such case, the total number of duly nominated candidates after any withdrawal of candidature under sub-rule (10) of rule 6, including graduates or Licentiates in Medicine and those who are not so, be not more than nine, the Returning Officer shall, without calling for a poll, declare all of them to be elected, subject to the provision of sub-section (2) of section 4.

(3) When in pursuance of sub-rules (1) and (2), polling is required to be taken, the Returning Officer shall:

(a) cause to be prepared serially numbered voting papers in Form IV(a) or Form IV(b) according as the election is to be held under clause (g) or clause (h) of sub-section (1) of section 4; and,

thereupon, he shall publish in the *Official Gazette* and in such other manner as he may think fit the said names, classified according as they come under clause (g) or clause (h) of sub-section (1) of section 4 and arranged in alphabetical order of their surnames;

- (b) proceed to issue ~~under certificate of posting~~ * to each elector, whose name is included in the final electoral roll of the electorate under clause (g) of sub-section (1) of section 4, one voting paper in Form IV(a) with one identification envelope in Form V to his address as mentioned in the final electoral roll; he shall also send to each elector, whose name is included in the final electoral roll under clause (h) of sub-section (1) of section 4, one voting paper in Form IV(b) with one identification envelope in Form V to his address as mentioned in the final electoral roll:

Provided that such voting paper and identification envelope shall also be issued to an elector to whom a voting paper has not already been sent, on his applying in writing to the Returning Officer for the same at any time before the latest date and time notified under clause (d) of sub-rule (5) of rule 5 for receiving voting papers. In no other case shall a voting paper be issued after the latest date notified under clause (c) of sub-rule (5) of rule 5 for sending voting papers, nor shall a voting paper not delivered to a voter by the office be re-issued to him on its return to the office of the Returning Officer.

(4) No election shall be invalidated by reason of the non-receipt by any elector of a voting paper.

(5) When poll is taken under sub-rule (1) of rule (7) an elector whose name is borne on the final electoral roll of the electorate under clause (g) of sub-section (1) of section 4, may vote for a maximum number of seven candidates under that clause; and an elector, whose name is borne on the final electoral roll of the electorate under clause (h) of sub-section (1) of section 4, may vote:

- (i) for a maximum of four candidates when the poll is taken for election of four candidates and for a maximum of seven candidates when the poll is taken for election of seven candidates under clause (a) of sub-rule (2), or
(ii) for a maximum number of nine candidates when the poll is taken for election of nine candidates under clause (b) of sub-rule (2):

Provided that he shall not vote for more than four candidates who are not graduates and shall not vote for more than seven candidates who are not Licentiates in Medicine. A voting paper in which votes are given for more candidates than what is permissible under the rule shall be rejected.

(6) An elector, whose name is borne on the final electoral roll and who is desirous of recording votes, shall mark the voting paper issued to him with a single cross (X) mark (and no other mark) in the proper column against the name or names of the candidate or candidates (not exceeding the number of members to be elected) for whom he intends to vote and no elector shall record more than one vote or put more than one cross (X) mark against the name of any one candidate. A voting paper on which a vote or votes are marked otherwise than by a cross (X) mark as laid down in this sub-rule, or on which more than one such cross mark or other kind of mark is put against name of any one candidate, shall be rejected.

(7) A vote recorded otherwise than on the voting paper is sent to the elector, shall be rejected; and every voting paper in respect of which any requirement of these rules has not been complied with or on which a mark is placed in such manner as to make it doubtful to which candidate the vote is given or on which the elector has placed any mark whereby he may be afterwards identified or on which an alteration or erasure occurs indicating a change of vote or which is not received by the Returning Officer on or before the latest day or time notified under clause (d) of sub-rule (5) of rule 5 for the receiving of voting papers, shall be invalid.

(8) After recording his vote or votes on the voting paper, the elector shall enclose it in the relative identification envelope, close the envelope and sign the declaration printed on the envelope furnishing correctly all the particulars required therein. The identification envelope shall then be either delivered personally by the elector or sent singly by post, to the Returning Officer.

(9) Only one voting paper shall be enclosed in one identification envelope; and if two or more voting are enclosed in the same identification envelope, the identification envelope and the voting papers therein shall be rejected.

(10) No voting paper shall be accepted unless it is enclosed in the identification envelope supplied with it, and any defect, namely, incompleteness in the entries required on the identification envelope or its receipt after the latest day and time notified under clause (d) of sub-rule (5) of rule 5 for its receipt with the proper voting paper, shall invalidate both the envelope and the voting paper enclosed.

(11) On receiving the identification envelopes, the Returning Officer shall divide them in two batches, namely, one for those relating to election under clause (g) of sub-section (1) of section 4 and the other for whom relating to election under clause (h) of sub-section (1) of that section; he shall examine the envelopes in each batch, and where he rejects any of them for non-fulfilment of the requirements of

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sub-rules (8) and (10), he shall record his decision "rejected", noting thereon in which respect it does not fulfil these requirements, make a separate bundle of the rejected envelopes in each batch and deal with them under sub-rules (3) to (5) of rule 8. The Returning Officer shall place the identification envelopes, which he provisionally accepts, in a separate bundle for each electorate without opening the envelopes, and deal with them under sub-rules (3) to (5) of rule 8.

Scrutiny and Counting of Votes

8. (1) The Returning Officer shall, for the purpose of scrutiny and counting of votes, attend on the date and at the time and place notified under clause (e) of sub-rule (5) of rule 5 and on any subsequent date or dates as may be necessary to complete the scrutiny and counting.

(2) A candidate may be present in person or may send a representative, duly authorised by him in writing, to watch the process of scrutiny and counting.

(3) The Returning Officer shall show all identification envelopes, whether accepted or rejected, to the candidates or their representatives for examination of the propriety of their acceptance or rejection. Any objection taken to his decision of acceptance or rejection of any identification envelopes shall be decided at once by the Returning Officer, and his decision shall be final.

(4) The rejected identification envelopes shall be placed in separate bundles for the two electorates, namely, the electorate under clause (g) of sub-section (1) of section 4 and the electorate under clause (h) of sub-section (1) of that section. The bundles then be sealed and kept in safe custody under rule (10).

(5) The accepted identification envelopes shall be opened in the presence of the candidates or their representatives appearing under sub-rule (2), and the voting papers, separated from the covers, shall be kept aside from view.

(6) As the voting papers are separated from the envelopes, the Returning Officer shall proceed to examine the voting papers in convenient batches to see whether the votes have recorded in accordance with sub-rules (6) to (10) of rule 7. He shall record his decision "rejected" on every voting paper which is found to be defective in any respect and which he rejects, and shall indicate thereon the ground of rejection very briefly. The remaining voting papers shall be deemed as accepted.

(7) If any objection is taken to the decision of acceptance or rejection of any voting paper, such objection shall be decided by the Returning Officer at once, and his decision shall be final.

(8) The Returning Officer shall separate or cause to be separated the accepted papers from those that have been rejected and kept them in separate bundles.

Declaration of the Names of Candidates Elected

9. (1) (a) When the counting of votes of each electorate has been completed in one or more days as may be necessary, the Returning Officer shall, subject to the provisions of sub-section (2) of section 4 (vide rule 11) and the provisions of sub-rule (2) of this rule, forthwith declare, in the case of an election under clause (g) of sub-section (1) of section 4, the first seven candidates to whom the largest number of valid votes have been given to be elected.

(b) In the case of an election under clause (h) of sub-section (1) of section 4, if the poll has been taken for the election of five members under clause (a) of sub-rule (2) of rule 7, the Returning Officer shall declare the first five candidates to whom the largest number of valid votes have been given to be elected, subject to the provisions of sub-section (2) of section 4 (vide rule 11) and the provisions of sub-rule (2) of this rule; and if the poll has been taken for the election of nine members under clause (b) of sub-rule (2) of rule 7, he shall first separate the names of the candidates who are graduates and Licentiates in Medicine and declare the first two Licentiates in Medicine and the first five graduates amongst them, to whom the largest number of valid votes have been given, to be elected, subject to the provisions of sub-section (2) of section 4 (vide rule 11) and the provisions of sub-rule (2) of this rule; thereafter he shall declare the first two candidates amongst the remaining duly nominated candidates (including graduates or Licentiates in Medicine and the other duly nominated candidates who are not so), to whom the largest number of votes have been given, to be elected, subject to the provisions of sub-section (2) of section 4 and sub-rule (2) of this rule.

(2) When an equality of votes is found to exist between any candidates and the addition of a vote entitles any of them to be declared elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by a lot to be drawn in the presence of the Returning Officer and in such manner as he may determine.

(3) The Returning Officer shall immediately report the results of the elections to the President, and the President shall forward the report to the State Government.

(4) When forwarding the report of the Returning Officer under sub-rule (3) to the State Government, the President shall report, for action under section 5, what seats, if any, could not be filled by election by any

of the electoral bodies with the reasons why the seats could not be so filled, and shall also report whether the same person has been elected in more than one seat as a result of the elections under clauses (g) and (h) of sub-section (1) of section 4 and any other clause of sub-section (1) of that section.

Disposal of Election Papers

10. On the completion of the election proceedings, the Returning Officer shall make into convenient bundles the nomination papers, the voting papers and the identification envelopes, seal each bundle, and make over the sealed bundles and all other papers relating to the elections to the Registrar, who shall keep them in safe custody in his office till the next general election.

Reporting to Government about information of choice under sub-section (2) of section 4 and consequent vacancies.

11. (1) If any person is elected a member under more than one clause of sub-section (1) of section 4, the period within which he is required by sub-section (2) of that section to inform the Registrar under which of the clauses he desires to be treated as elected, shall be up to 5 p.m. of the third day after the completion of all the elections under sub-rule (1) of rule 3 and sub-rules (1) and (2) of rule 9. If the third day as aforesaid be a holiday, the next working day shall be deemed to be the third day for the purposes of this rule. A choice once made by such person shall be final, and he shall not be permitted to withdraw or modify it later; when he has not informed the Registrar of his choice before 5 p.m. on the date as aforesaid he shall not be permitted to do so after that time.

(2) On the expiry of the period mentioned in the foregoing sub-rule, the Registrar shall report to the President whether the person has informed him of his choice or not within the said period, and the President shall forward the same to the State Government for taking the same into consideration, while notifying in the *Official Gazette* under rule 11 the names of the candidates elected and nominated under sub-section (1) of section 4.

(3) While forwarding the Registrar's report to the State Government, the President shall state what vacancies occur in terms of the provisions of sub-section (2) of section 4 and shall obtain the orders of the State Government for taking action for filling up such vacancies in accordance with the provisions of Parts V and VI of these rules.

Publication of the Names of Members Elected or Nominated or Ex Officio Member

12. The names of the members elected or nominated or of the ex officio members under sub-section (1), read with sub-section (2), of section 4 shall be published by notification in the *Official Gazette* under section 7 as soon after receipt of the report of the President under sub-rules (2) and (3) of rule 11 as possible.

13. A register shall be maintained in Form VI showing the names of the members elected or nominated and of the ex officio members constituting the Council under these rules.

PART VI

Filling up of casual vacancies amongst members elected under clause (b) or clause (c) or clause (g) of sub-section (1) of section 4.

14. (1) When the office of a member elected under clause (b) or clause (c) of section 1 of section 4 becomes vacant by his resignation or death or under sub-section (2) of section 4 or sub-section (1) of section 9, the Registrar shall forthwith report the vacancy to the President and thereupon the President shall direct the Registrar to request the Registrar of the University of Calcutta or the Registrar of the University of North Bengal or the Registrar of the University of Burdwan or the Secretary of the State Medical Faculty of West Bengal, as the case may be, to elect a member in the vacancy within two months from the date on which the vacancy occurs. The Registrar shall as soon as the election is held, intimate to the President the name of the person elected with his qualification, registration number and address.

Thereupon the President shall report the same to the State Government for notification in the *Official Gazette*.

(2) When the office of a member elected under clause (g) of sub-section (1) of section 4 becomes vacant by his resignation or death or under sub-section (2) of section 4 or sub-section (1) of section 9, an election shall be held in accordance with the provisions of Part V of these rules for general election, except that the period of publication of draft electoral roll [vide sub-rule (3) of rule 5.] shall not be more than 7 days, and the election shall be completed within two months from the date of occurrence of the vacancy.

PART VII

Filling up of casual vacancy amongst members elected under clause (h) of sub-section (1) of section 4.

15. (1) When the office of a member elected under clause (h) of sub-section (1) of section 4 becomes vacant by his resignation or death or under sub-section (2) of section 4 or sub-section (1) of section 9, the Registrar shall forthwith report the vacancy to the President and the President shall thereupon determine in accordance with the provisions of clause (c) of sub-section (1) of section 10 the candidate who should be deemed to have been elected in the place of such member.

(2) If there be only one such candidate, he shall be deemed to have been elected in the place of the outgoing member; and the President shall forthwith report the same to the State Government for notification in the *Official Gazette*.

(3) If there be more than one such candidate having the same maximum number of votes at the preceding election, the President shall appoint a time and place for making a selection by drawing lot and cause notices to be issued under certificate of posting to all such candidates, inviting them to be present, either personally or by a duly authorised agent, at the time and place appointed by the President for the purpose, and the President shall cause the lot to be drawn in the presence of the candidates invited or their duly authorised agents as may be present in such manner as he thinks proper. The candidate thus selected by lot shall be deemed to have been elected, and the President shall report the election to the State Government for notifying the same in the *Official Gazette*.

(4) If a contingency mentioned in the proviso (iii) to clause (c) of sub-section (1) of section 10 arises, the vacancy shall be filled up in accordance with the provisions laid down therein.

PART VIII**Election of Vice-President under Section 11 B**

16. (1) The election of the Vice-President shall be held at the first meeting of the Council at which the President shall preside.

(2) The President shall invite the members present at the meeting to make their nomination for the office of the Vice-President in such manner as the President considers fit. Every nomination shall be supported by another member present at the meeting as seconder, provided that no one member shall nominate or second more than one person.

(3) If there be only one person so nominated, he shall be declared as duly elected Vice-President.

(4) If there be more than one such person, the President shall proceed to take ballot in the following manner, namely:

- (i) A slip of paper shall be given to every member present who shall write on it the name of the person he votes for, fold the slip and hand it over to the President.
- (ii) The President shall then count the number of votes secured by each nominee and declare the member who secures the largest number of votes as the duly elected Vice-President.
- (iii) If the largest number of votes be secured by two or more nominees, the President may either give his casting vote for any of them who shall then be declared as the duly elected Vice-President, or the President may make the selection by lot drawn in such manner as he thinks fit and the person so selected by lot shall be declared as the duly elected Vice-President.

PART IX**Election of the Members of the Executed Committee under Section 11 C**

17. (1) The election of five members of the Executive Committee, as required by section 11 C, shall be held at meeting of the Council at which the President or, in his absence, the Vice-President shall be the Chairman.

(2) The procedure for nomination shall be the same as laid down in sub-rules (2) to (4) of rule 16 for the election of the Vice-President, except that a member may nominate or second as many as five persons.

(3) If there be only five persons so nominated, all these five persons shall be declared as duly elected members of the Executive Committee.

- (4) If there be more than five persons so nominated, the Chairman shall proceed to take ballot in the following manner, namely:
- (i) A voting paper with the names of the candidates nominated shall be given to every member present who shall put a cross mark against the name of the person he votes for, fold the slip and hand it over to the Chairman.
 - (ii) The Chairman shall then count the number of votes secured by each candidate in the voting paper and declare the five securing the largest number of votes as duly elected members of the Executive Committee.
 - (iii) When an equality of votes is found to exist between any candidates and the addition of a vote entitles any of the said candidates to be declared elected, the determination of the person or persons to whom such an additional vote shall be deemed to have been given shall be made by a lot to be drawn in the presence of the Chairman and in such manner as he may determine.

PART X

Manner of Recommendation of Names for the Nomination of the President

18. (1) The President shall convene the first meeting of the Council after the date of the notification referred to in sub-section (1) of section 11 within one month from the said date for recommending names under sub-section (1) of section 11A.

(2) In the case of a vacancy in the office of the President due to any of the reasons referred to in sub-section (6) of section 11A, a special meeting of the Council shall be called for recommending names under that sub-section within one month of the vacancy by the Vice-President, who shall also act as the Chairman of such meeting.

19. The President or the Chairman, as the case may be, shall invite the members present at a meeting referred to the rule 18 to propose the names of three persons for the purpose of sub-section (1) or sub-section (6), as the case may be, of section 11A in such manner as he may consider fit. Every name proposed by a member shall be seconded by another member present at the meeting, provided that no member shall propose or second more than three names.

20. (1) Where names of three persons only are duly proposed and seconded, all such names shall be reported to the State Government for nomination of the President under sub-section (1) or sub-section (6), as the case may be, and for publication of his name under sub-section (3), of section 11A.

(2) Where names of more than three persons are duly proposed and seconded the President or the Chairman, as the case may be, shall proceed to take ballot in the following manner, namely:

- (i) A voting paper with the names of persons proposed and seconded shall be given to every member present who shall put cross marks against the names of not more than three persons he votes for, fold the paper and hand it over to the President or the Chairman, as the case may be.
- (ii) The President or the Chairman, as the case may be, shall then count the number of votes secured by each person and select the names of three persons securing the largest number of votes for nominating one of them by the State Government.
- (iii) When an equality of votes is found to exist between any persons proposed and seconded and the addition of one vote entitles any of the said persons to be selected for nomination by the State Government, the determination of the person or persons to whom such additional vote is to be given shall be made by lot to be drawn in the presence of the President or the Chairman, as the case may be, and in such manner as he may determine. The names of the three persons so selected shall thereupon be recommended to the State Government for nomination of the President under sub-section (1) or sub-section (6), as the case may be, and for publication of his name under sub-section, of section 11A.

(3) Where names of less than three persons are duly proposed and seconded, all such names shall be rejected and the President or the Chairman, as the case may be, shall proceed *de novo* under sub-rule (1).

Functions of the President and the Vice-President under sub-section (8) of section 11A and sub-section (4) of section 11B.

21. The President shall perform such functions as are required to be done by the President under the provisions of the Act and the rules and the regulations made thereunder. He shall also perform such other functions as he may consider necessary for carrying out the purposes of the Act.

22. If the office of the President is vacant or if, for any reason, the President is unable to perform the functions of his office, the Vice-President shall act in his place and shall perform the functions of the President.

APPENDIX

FORM I

[Vide rule 5 (1)]

Form of electoral roll for an election under clause (g) of sub-section (1) of section 4 of the Bengal Medical Act, 1914.

Serial No.	Name	Academic qualifications	Name of the Medical College or attached hospital, where employed	Name of the University	Capacity in which employed	Registration number, if a registered medical practitioner

FORM II (a)

[Vide rule 5 (3).]

Form for filing claim for inclusion of name in the electoral roll under clause (g) of sub-section (1) of section 4.

To
The Returning Officer,
West Bengal Medical Council

Sir,

I beg to file under rules 4(3) of the rules for the election under clause (g) of section 4(1) of the Bengal Medical Act, 1914 (Bengal Act IV of 1914), this claim for inclusion of my name in the electoral roll for the ensuing election to the West Bengal Medical Council:

Name (in block letters).....
Academic qualifications.....
Name of the Medical College or attached hospital in which employed,
.....
Capacity in which employed.....
Grounds for the claim

I, declare that I am a citizen of India and that I reside/carry on my profession/am employed in West Bengal.

Dated at.....
The.....19

.....
Signature of claimant (in full)

FORM II (b)

[Vide rule 5(3).]

Form for filing claim for inclusion of name in the electoral roll under clause (h) of sub-section (1) of section 4.

To
The Returning Officer,
West Bengal Medical Council

Sir,

I beg to file under rule 5(3) in Part III of the rules for the election under clause (h) of section 4(1) of the Bengal Medical Act, 1914 (Bengal Act IV of 1914), this claim for inclusion of my name in the electoral roll for the ensuing election to the West Bengal Medical Council:

Name (in block letters).....

Qualifications.....

Registration Number.....

Address.....

.....
Grounds for the claim

I also declare that I am a citizen of India and that I reside/carry on my profession/am employed in West Bengal.

Dated at.....
The.....19

.....
Signature of claimant (in full)

FORM II (c)

[Vide rule 5(3).]

Form filing objection to any entry in the draft electoral roll under clause (g) or clause (h) of sub-section (1) of section 4.

To
The Returning Officer,
West Bengal Medical Council

Sir,

I beg to file under rules 5(3) of the rules for the election under clause (g)/clause (h) of section 4(1) of the Bengal Medical Act, 1914 (Bengal Act IV of 1914), this objection to the following entry in the draft electoral roll under clause (g)/clause (h) of section 4(1) for the ensuing election to the West Bengal Medical Council:

Name of the person to whom the entry objected to relates.....

.....

Particulars of the entry objected to.....

.....

The ground of objection to the entry.....

.....

Dated at.....

The..... 19

.....

Signature of the objector (in full)

Address.....

.....

.....

FORM III (a)

[Vide rule 5 (5) (ii), 6 (2).]

NOMINATION PAPER

Form for nomination of a candidate under clause (g) of sub-section (1) of section 4.

1. Name of candidate (in full)
2. Registration number of the candidate.....
3. Serial number of the candidate in the final electoral roll under clause (g) of section 4(1),.....,with serial I, (name in full).....,in the final electoral roll under clause (g) of sub-section (1) of section 4, hereby propose the above named candidate for election under that clause, and I declare that I am a citizen of India and that I, reside/carry on my profession/am employed in West Bengal.

Dated at.....
The.....19 Signature of proposer

I, (name in full).....,with serial no.....in the final electoral roll under clause (g) of sub-section (1) of section 4, hereby second the above proposal and I declare that I reside/carry on my profession/am employed in West Bengal.

Dated at.....
The.....19 Signature of seconder

Declaration by the Candidate

I,.....(name in full) hereby declare that I agree to this nomination, that the particulars stated above about myself are correct, that I am a citizen of India and reside/carry on my profession/am employed in West Bengal and that I have no intention of changing my residence/place of practice/employment outside West Bengal in the near future.

Dated at.....
The.....19.....
.....
Signature of the candidate

N.B.—Nomination papers which are not received by the Returning Officer in his office at.....
before.....on..... day of199...., shall be invalid.

See also copies of section 4 (1), clause (g) and section 6 of the Act, and of sub-rules (1) to (10) of rule 6 annexed herewith.

(To be filled in by Returning Officer)

Certificate of Delivery

This nomination paper was delivered to me at my office at (date & hour).....
.....
.....
Returning Officer

Certificate of Scrutiny

Rejected as time-barred or for breach of rule.....,or I have scrutinised the eligibility of the candidate, the proposer and the seconder, and find that they are respectively qualified to stand for election, to propose and to second the nomination.

.....
Returning Officer

FORM III B

[Vide rules 5(5)(ii), 6(2)]

Form for nomination of a candidate under clause (h) of sub-section (1) of section 4.

1. Name of the candidate (in full).....
2. Registration number of the candidate
3. Registered qualification of the candidate.....
4. Whether the candidate is a Graduate or Licentiates in Medicine of the University of Calcutta/University of Burdwan/University of North Bengal and if so, the year in which such qualification was obtained.....

I, (name in full)....., hereby propose the above mentioned candidate for election under clause (h) of sub-section (1) of section 4, and state that my name is borne on the final electoral roll and I declare that I am a citizen of India and that I reside/carry on my profession/am employed in West Bengal.

Signature of proposer.....
 Registered qualifications of
 the proposer

Dated at
 The 19....

Registration No. of the proposer

I, (name in full)....., hereby second the above proposal and state that my name is borne on the final electoral roll and I declare that I reside/carry on my profession/am employed in West Bengal.

Signature of the seconder.....
 Registered qualification
 of the seconder.....
 Registration No. of the seconder.....

Dated at
 The 19....

Declaration by the Candidate

I,.....(name in full) hereby declare that I agree to this nomination that the particulars stated above about myself are correct, that I am a citizen of India and reside/carry on my profession/am employed in West Bengal and that I have no intention of changing my residence/place of my profession/employment in the near future.

Dated at
The.....19....

Signature of the candidate

N.B.—Nomination papers which are not received by the Returning Officer in his office at beforeon the day ofshall be invalid.

See also copies of section 4 (1), clause (h) and section 6 of the Act and of sub-rules (1) to (10) of rule 6 annexed herewith.

(To be filled in by the Returning Officer)

Certificate of Delivery

This nomination paper was delivered to me at my office at (date and hour)

.....
Returning Officer

Certificate of Scrutiny

Rejected as time-barred or for other breach of rules.....
or.....I have scrutinised the eligibility of the candidate, the proposer and the seconder, and find that they are respectively qualified to stand for election, to propose and to second the nomination.

.....
Returning Officer

FORM IV (a)

[Vide rule 7 (3)(a), 7 (3)(b).]

Voting paper for an election under clause (g) of section 4 (1) of the Act.

Serial No.

Subject to rules, extracts from which are given herewith, seven members of which at least one shall be from each of the Universities outside Calcutta are to be elected by the electorate under clause (g) of sub-section (1) of section 4, to the West Bengal Medical Council, by persons whose names are included in the final electoral roll of this electorate. The latest date and hour for receiving voting papers areand any voting received by the Returning Officer after that time will be rejected [Vide rule 7(8)]

Serial No. of candidate duly nominated	Names, registered qualifications, registration numbers and addresses of the candidates duly nominated	Name of the Medical College or institution or attached hospital in which the candidate is employed and the capacity in which employed	Column for the voter's mark (X)

Extracts from the relevant rules:

Rule 7(5)***an elector whose name is borne on the final electoral roll of the electorate under clause (g) of sub-section 4, may vote for a maximum number of seven candidates under that clause;

* * * * *

A voting paper in which votes are given for more candidates than what is permissible under this rule, shall be rejected, sub-rule (6) to (10) of rule 7, to be reproduced.

FORM IV (b)

[vide rules 7 (3)(a), 7 (3)(b)]

Voting paper for an election under clause (h) of section 4 (1) of the Act.

Serial No.

Subject to the rules, extracts of which are given herewith, five/nine members (of whom not less than five shall be Graduates and not less than two shall be Licentiates in Medicine) are to be elected by the electorate under clause (h) of sub-section (1) of section 4 of the Act, to the West Bengal Medical Council, by persons whose names are included in the final electoral roll of this electorate. The latest date and hour for receiving voting papers, are: and any voting paper received by the Returning Officer after that time will be rejected [vide rule 7(8)].

Serial No. of candidate duly nominated	Names, registration numbers, registered qualification and addresses of candidates duly nominated	Column for the voter's mark X

N.B.—Candidates marked with asterisk (*) are Graduates or Licentiates in Medicine.

Extracts from the relevant rules:

Rule 7(5) ****an elector whose name is borne on the final electoral roll of the electorate under clause (h) of sub-section (1) of section 4, may vote:

- (i) [for a maximum number of four candidates when the poll is taken for election of four candidates and for a maximum of seven candidates when the poll is taken for election of seven candidates under clause (a) of sub-rule (2).]*, or for a maximum number of nine candidates when the poll is taken for election of nine members under clause (b) of sub-rule 2, provided that he shall not vote for more than four candidates who are not graduates and shall not vote for more than seven candidates who are not Licentiates in Medicine.+

A voting paper in which votes are given for more candidates than what is permissible, under the rule shall be rejected.
Sub-rules (6) to (10) of rule 7 to be reproduced.

*Omit when nine candidates are being elected.

+Omit when four candidates or seven candidates, as the case may be, are being elected.

FORM-V**Identification Envelope**

[Vide rule 7 (3)(b).]

Obverse.

To
The Returning Officer,
West Bengal Medical Council

.....
.....

Reverse.

No.....

I,.....,hereby declare that I am the person to whom the enclosed voting paper was addressed : that I have not marked any other voting paper of this electorate for this election:

And I further declare that I am a citizen of India and that I reside/carry on my profession/am employed in West Bengal.

Dated, the.....19.....

Signature

FORM VI

[Vide rule 13.]

Register showing particulars of the members of the Council

Columns.

1. Name
2. Address
3. Clause of section 4 (1) under which the person is a member. [In case of clause (h), whether elected as a Graduate or Licentiates in Medicine].
4. If any of the clauses of section 10 (1) has been applied, state the clause.
5. Number and date of Government notification under section 7 and rule 12.
6. The date of commencement of the term of the office of the member.
7. The date on which the term of the office of the member is to expire.
8. If the office terminates before the due date mentioned in column 7, then the date and reason of earlier termination.
9. Remarks.

By order of the Governor,
Sd/- L. Chakraborti,
Secy. to the Govt. of West Bengal.

Calcutta:
The 20th Feb., 1991

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