

The West Bengal Acupuncture System Of Therapy Act, 1996.

WEST BENGAL

India

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Act 8 of 1996

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The West Bengal Acupuncture System Of Therapy Act, 1996. West Bengal Act 8 of 1996 [11th June 1996.] Assent of the Governor was first published in the Calcutta Gazette Extraordinary dated the 11th June, 1996. An Act to provide for the development of the Acupuncture system of therapy, to regulate the teaching and practice thereof and to deal with certain other connected matters. Whereas it is expedient to provide for the development of the Acupuncture system of therapy, to regulate the teaching and practice thereof and to deal with certain other connected matters; It is hereby enacted as follows :-

1. Short title, extent and commencement. -

(1) This Act may be called West Bengal Acupuncture System of Therapy Act, 1996. (2) It extends to the whole of West Bengal. (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions. -

In this Act, unless the context otherwise requires. - (1) "Acupuncture" means the Acupuncture system of therapy recommended by the World Health Organisation and the Council of Acupuncture Therapy, West Bengal; (2) "Council" means the Council of Acupuncture Therapy, West Bengal, constituted under section 3; (3) "member" means a member of the Council; (4) "prescribed" means prescribed by rules; (5) "President" means the President of the Council; (6) "Register" means the Register of Acupuncture practitioners maintained under this Act; (7) "Registered Acupuncture practitioner" means an Acupuncture practitioner registered under the provisions of this Act; (8) "Registrar" means the Registrar of the Council; (9) "regulations" means the regulations made by the Council under this Act; (10) "rules" means the rules made by the State Government under this Act; (11) "teacher" means any person appointed by an Acupuncture institution affiliated to, or

recognised by, the Council to hold a teaching post;(12)"Vice-President" means the Vice-President of the Council.

3. Constitution of Council. -

As soon as may be after the commencement of this Act, the State Government shall, by notification in the Official Gazette, establish a body corporate with perpetual succession and a common seal named the Council of Acupuncture Therapy, West Bengal. The Council shall be entitled to acquire and hold movable and immovable property, to transfer such property, to contract and to do all things necessary for the purposes of this Act and shall by its name sue and be sued.

4. Composition of Council. -

(1)The Council shall consist of the following members:-(a)a President nominated by the State Government;(b)five members nominated by the State Government of whom three shall be registered Acupuncture practitioners;(c)one member nominated by the University of Calcutta;(d)one member nominated by the Jadavpur University;(e)the Director of Dr. B. K. Basu Memorial Institute of Acupuncture Training and Research, ex officio;(f)four members who are citizens of India, elected from such constituencies and in such manner as may be prescribed, by the registered Acupuncture practitioners from among themselves.(2)Notwithstanding anything contained in the foregoing sub-section or elsewhere in this Act, on the first constitution of the Council all the members of the Council shall be nominated by the State Government, and the State Government shall also nominate one of the members to be the Vice-President.

5. Power of State Government to nominate members in certain circumstances. -

If the nominating authority referred to in clause (c) and clause (d) of sub-section (1) of section 4, or the electoral body referred to in clause (f) of the said sub-section, fails by the prescribed date to nominate or elect the requisite number of member or members which such authority or body is entitled to nominate or elect, the State Government shall fill up the office of such member or members by nomination of a person or persons qualified to be nominated or elected by such authority or body. Any person so nominated by the State Government shall be deemed to have been duly nominated or elected a member by such authority or body.

6. Disqualification for nomination or election. -

A person shall be disqualified for being nominated or elected a member of the Council, if. -(1)he has been convicted of any offence involving moral turpitude;(2)he is an undischarged insolvent;(3)he has been adjudged by a competent court to be unsound mind;(4)he is an employee of the Council;(5)he has directly or indirectly any share or interest in any contract with, by or on behalf of the Council;(6)he has been dismissed from the service of the Central Government or a State Government or a local authority on a charge of gross misconduct or an offence involving moral

turpitude;(7)he is a person under the age of 25.

7. Publication of names of members. -

The name of every member nominated or elected under section 4 or section 5 shall be published by the State Government in the Official Gazette.

8. Cessation of membership. -

A person shall cease to be a member of the Council. -(1)if, without obtaining the permission of the Council, he is absent from three consecutive meetings of the Council; or(2)if, having been nominated or elected as a registered Acupuncture practitioner, he ceases to be such a registered practitioner; or(3)if he becomes subject to any of the disqualifications referred to in section 6.

9. Filling of casual vacancies. -

(1)If any member dies or resigns his office or ceases to be a member for any other reason, the vacancy shall be filled up within six months by a fresh nomination or election under section 4 or section 5, as the case may be, and the member so nominated or elected shall hold office for the unexpired period of the term of office of the member whose place he fills.(2)If any member referred to in clause (6), clause (c), clause (d), clause (e) or clause (f) of sub-section (1) of section 4 is nominated President, there shall be a vacancy in that membership which shall be filled up under subsection (1) of this section.

10. Term of office of members. -

(1)Subject to the provisions of section 9, the term of office of the members nominated or elected under section 4 or section 5 shall be for four years commencing from the date of the first meeting of the Council after its first constitution or any subsequent periodical reconstitution, as the case may be.(2)The term of four years referred to in sub-section (1) shall be held to include any period which may elapse between the expiry of the said period of four years and the date of the first meeting of the Council following its reconstitution at which a quorum is present.

11. Resignation. -

The President, the Vice-President or a member may resign his office by writing under his hand addressed to the State Government, of which he shall send a copy to the Council.

12. The President. -

(1)The President shall hold office for the period mentioned in section 10 or until his successor is nominated, whichever is later.(2)If the President dies or resigns his office or ceases to hold office, the State Government shall nominate another person as President and such President shall hold

office for the unexpired portion of the term of office of the former President in whose place he is so nominated.(3)In the event of the occurrence of any vacancy in the office of the President under sub-section (2), the Vice-President shall discharge the functions of the President until a new President is nominated.(4)When the President is unable to discharge the duties of his office owing to absence, illness or any other cause, the Vice-President shall discharge the functions of the President until the date on which the President resumes his duties.

13. The Vice-President. -

(1)The members of the Council shall, at the first meeting after every periodical reconstitution of the Council,elect a Vice-President from among themselves in such manner as may be prescribed.(2)The Vice-President shall hold office for the period mentioned in section 10 :Provided that a Vice-President shall cease to hold office if he ceases to be a member of the Council.(3)If the Vice-President dies or resigns his office or ceases to hold office, the members of the Council shall elect from among themselves another Vice-President in such manner as may be prescribed, and such Vice-President shall hold office for the unexpired portion of the term of the office of the former Vice-President whose office he fills.

14. Executive Committee. -

(1)The members of the Council shall constitute from among themselves an Executive Committee to perform such functions, discharge such duties and exercise such powers as may be delegated to it by the Council.(2)The Executive Committee shall consist of the President and the Vice-President, ex officio, and three other members elected by the members of the Council in the prescribed manner from among themselves.(3)The President and the Vice-President of the Council shall be the President and the Vice-President, respectively, of the Executive Committee.(4)The term of office of an elected member of the Executive Committee shall be two years from the date of his election, but, subject to his being a member of the Council, he shall be eligible for re-election to the Executive Committee.(5)No business shall be transacted at any meeting of the Executive Committee unless a quorum of three members be present.(6)The Council may, subject to the approval of the State Government, appoint from time to time one or more Committee consisting of members of the Council or outsiders or both, on such terms as may be approved by the State Government, for the purpose of advising it on such matters as it deems necessary, and may appoint, for any such Committee, a Chairman who shall convene and preside over the meetings of the Committee.

15. Meetings. -

(1)The Council shall hold its meetings at such intervals and at such places as may be provided by regulations.(2)No business shall be transacted at any meeting of the Council unless a quorum of five members be present.(3)Save as provided in clause (6) of sub-section (2) of section 21, all questions arising at any meeting shall be decided by votes of the majority of the members present and voting and, in the case of an equality of votes, by the casting vote of the President or, his absence, of the member presiding at the meeting.

16. Powers of Council. -

The Council shall have the following powers:-(1)with the approval of the State Government, to establish institutions teaching the Acupuncture system of medicine and to grant or refuse affiliation to such institutions or to withdraw, after giving the authority of an institution an opportunity to show cause against the action proposed to be taken, such affiliation;(2)to call on the authority of an institution affiliated to the Council or of an institution applying for affiliation to furnish, within such period as may be specified, such reports, returns or other information as the Council may require to judge the efficiency of the institution;(3)to hold examinations for persons who shall have pursued a course of study in institutions affiliated to the Council, and to confer degrees, diplomas and certificates on them on having passed the necessary examinations;(4)to provide by regulations courses of study for different examinations held by the Council;(5)to provide for instructions or for refresher courses in such branches of medical science as would be useful to persons studying the Acupuncture system of therapy;(6)to appoint examiners and to publish the results of the examinations held by it;(7)to confer honorary degree on Acupuncture practitioners of extraordinary merit;(8)to exercise general supervision over the residential and disciplinary arrangements made by the institutions affiliated to the Council and arrangements for promoting the health and general welfare of the students of such institutions;(9)to recommend to the State Government the sanction of a grant to an affiliated institution teaching the Acupuncture system to therapy or the withdrawal or suspension, after giving the institution concerned an opportunity of showing cause against the action proposed, of any such grant;(10)to appoint, on such terms as the Council may, with the previous sanction of the State Government, determine, such number of inspectors for the inspection of institutions teaching the Acupuncture system of therapy as the Council may deem fit;(11)to advise the State Government in the matter of research in Acupuncture system of therapy;(12)to perform such other functions as the State Government may direct or, on the recommendation of the Council, approve for carrying out the provisions of this Act.

17. Registrar and staff. -

(1)The Director of the Dr. B. K. Basu Memorial Research and Training Institute of Acupuncture shall act as the Registrar of the Council in addition to his own duties. The officers and staff of the said Institute shall also function under the Registrar in addition to their own duties.(2)The Registrar shall act as the Secretary to the Council and the Executive Committee.

18. Registration of Acupuncture practitioners. -

(1)The Council shall maintain a Register of Acupuncture practitioners in such form as may be prescribed.(2)The Registrar shall from time to time make necessary entries in the Register in respect of the persons whose names are to be registered, their qualifications and their addresses and may also from time to time make such alterations or modifications therein as may be required in consequence of any orders passed by the Council.

19. Persons entitled to be registered. -

Every person who possesses a qualification recognised by the Council shall, subject to the provisions of this Act, be entitled to have his name entered in the Register.

20. Application for registration. -

Every person who desires to have his name entered in the Register shall submit to the Registrar an application in the prescribed form stating. -(a)the particulars of his qualifications, and(b)his address which shall be his registered address.

21. Power of Council to refuse registration or to remove name from Register in certain cases. -

(1)The Council may, on being satisfied that a person is qualified for registration under section 19, direct that his name be entered in the Register, and the Registrar shall thereupon make necessary entries in the Register and grant him a certificate of registration.(2)The Council may refuse to permit the registration, or direct the removal from the Register, of the name of any person. -(a)who has been convicted of any offence involving moral turpitude; or(b)who has been found guilty of infamous conduct in his professional capacity by a majority of at least two-thirds of the members of the Council after a due enquiry into his conduct at which he has had an opportunity of being heard in person or of being duly represented.(3)Any refusal or removal under sub-section (2) may be rescinded if the conduct on the basis of which refusal or removal was directed is condoned for good and sufficient reasons.

22. Cancellation of fraudulent and incorrect entries. -

Any entry in the Register, which is proved to the satisfaction of the Council to have been fraudulently or incorrectly made, may be cancelled under an order in writing of the Council.

23. Appeal. -

An appeal shall lie to the State Government against any decision or order of the Council refusing to enter the name of a person in the Register or removing his name from the Register, if filed within three months of the date of decision or order, and the decision of the State Government shall be final.

24. Notice of death and removal of name from Register. -

The Council may, on receipt of reliable information regarding the death of a person whose name is entered in the Register, and on making such enquiry as it may think fit, direct the removal of his name from the Register and thereupon the Registrar shall cancel the entry relating to such person.

25. Penalty on unregistered person representing that he is registered. -

If any person, whose name is not entered in the Register, falsely pretends that it is so entered or uses, in connection with his name, any words or letters representing that his name is so entered, he shall, whether any person is actually deceived by such representation or not, be punishable, on conviction by a Metropolitan Magistrate or a Magistrate of the First Class having jurisdiction, with imprisonment which may extend to six months or with fine which may extend to five hundred rupees.

26. Penalty for failure to surrender certificate of registration. -

(1) If any person, whose name has been removed from the Register under sub-section (2) of section 21, fails, without sufficient cause, forthwith to surrender his certificate of registration, he shall be punishable with fine which may extend to fifty rupees. (2) No cognisance of an offence punishable under this section shall be taken except upon complaint made by an order of the Council.

27. Prohibition of unauthorised conferments of degree, diploma, etc. and penalty for such conferment. -

(1) Except the Council, no person, association or institution, not recognised by the Council, shall confer, grant or issue, or hold himself or itself out as entitled to confer, grant or issue, any degree, diploma, licence, certificate or any other document stating or implying that the holder, grantee or recipient thereof is qualified to practise the Acupuncture system of therapy. (2) Any contravention of the provisions of sub-section (1) shall be punishable with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both; and if an association or institution is guilty of such contravention, every member thereof, who knowingly or wilfully authorises or permits the contravention, shall be punishable with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

28. Penalty for improper assumption of Acupuncture qualifications. -

(1) No person shall use any letters or figures after his name indicating or implying that he possesses any degree, diploma, licence, or certificate as an Acupuncture practitioner unless such degree, diploma, licence or certificate has been conferred by the Council, or is recognised by it with the approval of the State Government. (2) Whoever contravenes the provisions of sub-section (1) shall be punishable, on first conviction, with fine which may extend to two hundred rupees, and, on any subsequent conviction, with fine which may extend to five hundred rupees.

29. Publication and use of registration list. -

(1) The Registrar shall, from time to time as occasion may require, on or before the date to be fixed in this behalf by the Council, cause to be printed and published (provided that at least twelve months shall have elapsed from the date of the last publication) a correct list of the names for the time being

entered in the Register setting forth therein. -(a)names of all registered Acupuncture practitioners arranged in alphabetical order according to surname;(b)the registered address of each such person; and(c)the registered qualifications of each such person and the date on which each qualification was obtained.(2)The Registrar shall, from time to time as occasion arises, cause to be printed and published a list supplementary thereto, containing additions and alterations in the Register since the publication of the list under subsection (1).(3)Every court shall presume that any person whose name is entered in the latest list printed and published under sub-section (1), read with the latest list supplementary thereto, if any, printed and published under sub-section (2), is duly registered under this Act, and that any person whose name is not so entered is not registered under this Act:Provided that in the case of any person whose name does not appear in the latest list printed and published under sub-section (1), read with latest list supplementary thereto, if any, printed and published under subsection (2), a certified copy of the entry of the name of such person in the Register, signed by the Registrar, shall be evidence that such person is registered under this Act.

30. Acupuncture practitioners, other than those registered under the Act, not eligible for certain appointments. -

Except with the special sanction of the State Government, no Acupuncture practitioner, other than a registered Acupuncture practitioner whose name is entered in the Register, shall be competent to hold any appointment as a medical Officer or teacher in any Acupuncture hospital, asylum, infirmary, dispensary or lying-in-hospital set up under any law for the time being in force or in any Acupuncture educational institution which is recognised by the Council.

31. Control of manufacture, storage and sale of Acupuncture instruments. -

Subject to the provisions of any law for the time being in force relating to instruments, the State Government shall have the power to regulate and control manufacture, storage or sale of Acupuncture instruments by the grant of licences to manufacturers, stockists and sellers on such conditions as may be prescribed.

32. Bar of suit or other legal proceedings. -

No suit, prosecution or other legal proceedings shall lie in respect of any act or thing done or omitted to be done in the exercise or purported exercise of any power conferred by or under this Act on the State Government or the Council or the Executive Committee or any Committee appointed by the Council or on the Registrar.

33. Validation. -

No act or thing done by the Council, the Executive Committee or a Committee appointed by the Council shall be invalid merely on the ground of any vacancy in or defect in the composition of, the Council, the Executive Committee or such Committee.

34. Power to make rules. -

(1)The State Government may, from time to time, make rules for carrying out the purposes of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:-(i)the election of members of the Council and the Executive Committee, and the election of the Vice-President;(ii)the functions to be performed by the resident and the Vice-President;(iii)the conditions for the grant of licences under section 31;(iv)the procedure to be followed by the Council i. -(a)conducting an enquiry under clause (b) of sub-section (2) of section 21;(b)disposing of appeals from the decision of the Registrar preferred under section 23;(c)any other matter which may be, or is required to be, prescribed under this Act.

35. Power to make regulations. -

(1)The Council may, with the previous approval of the State Government, make regulations, not inconsistent with the provisions of this Act or the rules made thereunder, for discharging its functions under this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters:-(i)the conduct of business of the Executive Committee and of Committee appointed by the Council;(ii)the time and place at which each meeting shall be held;(iii)the issue of notices convening such meeting;(iv)the conduct of business thereat;(v)any matter for which power to make regulations is conferred expressly or by implication on the Council by this Act.

36. Publication of rules and regulations. -

All rules and regulations shall be published in the Official Gazette.

37. Control on Council by State Government. -

If, at any time, it appears to the State Government that the Council has failed to exercise or has exceeded or abused a power conferred upon it by or under this Act or has failed to perform a duty imposed upon it by this Act, the State Government may, if it considers such failure, excess or abuse to be of a serious character, after giving the Council an opportunity of being heard, notify the particulars thereof to the Council, and if the Council fails to remedy such failure, excess or abuse within such time as may be fixed by the State Government 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 agency and for such period as it may think fit.