

The Maharashtra Medical Practitioners (Inquiry into Misconduct) Rules, 1969

MAHARASHTRA

India

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Rule

THE-MAHARASHTRA-MEDICAL-PRACTITIONERS-INQUIRY-INTO-MISCONDUCT **of 1969**

- Published on 20 June 1969
- Commenced on 20 June 1969
- [This is the version of this document from 20 June 1969.]
- [Note: The original publication document is not available and this content could not be verified.]

The Maharashtra Medical Practitioners (Inquiry into Misconduct) Rules, 1969 Published vide Notification No. G.N., U.D., P.H. and H.D., No. MMP 1064/16091-H, dated 20th June, 1969 (M.G., Part 4-B, page 81) In exercise of the powers conferred by sub-section (1) and clause (da), (i), (j) and (k) of sub-section (2) of section 30 of the Maharashtra Medical Practitioners' Act, 1961 (Maharashtra XXVIII of 1961), and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules, the same having been previously published as required by sub-section (1) of the said section 30, namely :-

1. Short Title.

- These rules may be called the Maharashtra Medical Practitioners (Inquiry into Misconduct) Rules, 1969.

2. Definitions.

- In these rules unless the context otherwise requires -(a)"Act" means the Maharashtra Medical Practitioners' Act, 1961 (Maharashtra XXVIII of 1961);(b)"Executive Committee" means the Executive Committee of the Board constituted by the Board under sub-section (1) of section 16-A;(c)"Form" means a form appended to these rules;(d)"Section" means a section of the Act.

3. Complaints against registered practitioners.

(1)The Board may suo-motu or on any complaint made to it in that behalf hold an inquiry as respects the misconduct of any registered practitioner for the purpose of section 20 of the Act.(2)Any complaint or information received in the office of the Board about the misconduct of any registered practitioner shall be submitted by the Registrar to the President.(3)No complaint shall be entertained unless it is in writing addressed to the Board and signed by the person making it, and shall state the grounds of the complaint, and shall be accompanied by declarations as to the facts of the case. All anonymous complaints may be disregarded.(4)Every declaration shall state the description and true place of abode of the declarant, and where a fact stated in a declaration is not within his personal knowledge the source of the information, and grounds for the belief of the declarant in its truth shall be accurately and fully stated. Any declaration or part thereof which is made in contravention of this rule shall not be accepted as evidence.(5)If the president has reason to believe that a complaint is pseudonymous, he may call upon the complainant to furnish further particulars, for ascertaining if the complaint is genuine.

4. Procedure for submission of complaint to Executive Committee.

(1)Subject to the provisions of rule 3, the President may, on going through the complaint and all the papers submitted by the complainant instruct the Registrar to ask the practitioner by means of a registered letter for any explanation he may have to offer.(2)All the documents pertaining to the complaint including any explanation forwarded by the registered practitioner shall then be referred to the Executive Committee along with the remarks of the president, if any.

5. Power of executive Committee to refer complaint to Board.

(1)The Executive Committee shall consider the complaint, and may cause further investigation to be made and may take such legal advice by consulting any legal practitioner as it may deem fit.(2)If the Committee is of opinion that a prima facie case is not made out and that the case should therefore be filed or that the circumstances of the case suggest that a warning to the practitioner would be adequate, or that the case is one where the name of the practitioner should be removed from the register, the Committee shall record its findings accordingly and direct the Registrar to take steps for having the case heard and determined by the Board.

6. Procedure for referring the case to Board.

(1)Where the Executive Committee is of opinion that the case should be filed or that a warning would be adequate, the Committee may require the Registrar to call by a letter sent by registered post for the explanation of the registered practitioner, if any, within fifteen days of the date of receipt of that letter.(2)After the expiry of the time limit referred to in sub-rule (1) all the papers of the case including the explanation, if any, of the registered practitioner, shall be referred to the Board.(3)On receipt of the papers under sub-rule (2), the Board shall consider the case and may decide(a)to file the papers;(b)to exonerate the registered practitioner of the charge; or(c)to

direct an inquiry to be held as held as laid down in rules 7 to 14.

7. Cases in which Board to hold inquiry.

- Power of Board to appoint assessors - (1) In all cases in which an inquiry for purposes of clause (b) of sub-section (1) of section 20 is necessary, an inquiry shall be held by the Board in accordance with the procedure prescribed in rules 8 to 14 and for that purpose the Board may appoint an assessor to advise it as provided in sub-section (8) of section 20 of the Act; Provided that, such inquiry shall not be necessary in cases where a registered practitioner has been convicted for misconduct within the meaning of clauses (i) and (ii) of the Explanation to sub-section (1) of section 20. In such cases, the president shall obtain and place before the Board a copy of the Court's judgement and the Board shall thereupon decide upon the penalty to be imposed under rule 15 read with section 20 of the Act. (2) An Assessor appointed shall be paid remuneration of Rs. 150 per day for attendance at an enquiry.

8. Notice of charges on registered practitioner.

(1) The President shall cause to be served on the registered practitioner a notice in Form 'A' subject to such variations as the circumstances of the case may require. Such notice shall specify the nature and particulars of the charge and shall inform him of the day on which the Board intend to deal with the case, and shall call upon the practitioner to put in his written statement of his defence within a period of not less than fifteen days of such other period not exceeding sixty days as may be permitted by the Board, and to attend before the Board on such day. The notice shall be sent three weeks before the date of enquiry. Such charge shall be drawn clearly and precisely. (2) The notice shall be accompanied by a statement of allegations on which each charge is based. The relevant allegations as to facts, the inferences which they lead to, and the circumstances supporting such inferences shall be, clearly mentioned along with any other circumstances proposed to be considered while passing orders on the case. (3) Copies of the relevant documents, if any (including any document given or sent to the Board by or on behalf of the other party which such other party shall be entitled on proper proof to use at the hearing as evidence in support of or in answer to the charge specified in the notice of enquiry) shall also be supplied to the registered practitioner along with the notice and statement of allegations. (4) Copies of any other documents or statements required by such practitioner to prepare his defence may also be supplied to him on request or he may be allowed to take copies.

9. Reply to Notice.

- The registered practitioner shall, within the time specified in the notice as such extended period as is permitted by the president, put in written statement of his defence, and state whether he desires to be heard in person by the Board.

10. Board and complainant, if any, to be supplied with copies of documents.

(a) Copies of all material documents including the written statement of defence, if any, which is placed before the Board as evidence in regard to the case shall be supplied to all members of the Board before the hearing of the case commences. (b) The complainant may, on application in writing, obtain copies of any explanation, statement or other documents put forth in his defence by the registered practitioner.

11. Legal assistance at inquiry.

- At the hearing of the case by the Board, the Board may be represented by any legal practitioner and the complainant, if any and the practitioner may also be represented or assisted by their legal practitioner; Provided that, where any advice is tendered to the Board by an assessor appointed under section 20 on any question of law, as to evidence, procedure or any other matter, such advice shall be subject to the provisions of section 20 of the Act.

12. Procedure of inquiry.

(1) Where a complainant appears personally or by a legal practitioner, the following procedure shall be followed namely: (a) The Registrar will read to the Board the notice of inquiry addressed to the practitioner. (b) The Complainant will then be invited to state his case by himself or his legal practitioner and to produce his evidence in support of it. At the conclusion of the evidence of the complainant, his case will be closed. (c) The practitioner will then be invited to state his case by himself or by his legal practitioner and to produce his evidence in support of it. He may address the Board either before or at the conclusion of his evidence, but only once. (d) At the conclusion of the practitioner's case, the Board shall if, the practitioner has produced evidence, hear the complainant in reply on the case generally, but will hear no further evidence except in any special case in which the Board may think it right to receive such further evidence. If the practitioner produces no evidence, the complainant will not be heard in reply except by special leave of the Board. (e) Where a witness is produced by any party before the board, he will be first examined by the party producing him, and be cross-examined by the adverse party, and then re-examined by the party producing him. The Board reserves to itself the right to decline to admit in evidence any declaration where the declarant is not present or declines to submit to cross-examination. (f) The President and assessor, if any appointed under section 20 may put questions to the complainant and the registered practitioner including any of their witnesses; and members of the Board, through the President, may likewise put questions to them. (2) Where there is no complainant or no complainant appears, the following procedure shall be followed, namely: - (a) The Registrar shall read to the Board the notice of inquiry addressed to the practitioner, and will state the facts of the case and produce before the Board the evidence by which it is supported. (b) The practitioner shall then be invited to state his case by himself or by his legal practitioner and to produce his evidence in support of it. He may address the Board either before or at the conclusion of his evidence, but only once. (c) The legal practitioner of the Board, if any, may be heard in reply if the Board so desires.

13. Record of Proceedings at inquiry.

- The President shall keep a record of proceedings at the inquiry held under rule 12 including the evidence of each witness.

14. Power of Board to give further opportunity to practitioner to make statement.

- Notwithstanding anything contained in rule 13, after completion of the inquiry the registered practitioner shall be given a further opportunity of making any oral or written statement. Copies of each evidence as are required by the registered practitioner for making such statement shall be supplied to him.

15. Decision of Board and implementation.

- As soon as the hearing of the case is over and the registered practitioner has made his oral or written statement, if any, the Board shall deliberate thereon in private and at the conclusion of the deliberation, the President shall pronounce its decision immediately or at any time thereafter in terms of clause (a) or (b) of subsection (1) of section 20; and thereupon the President shall direct the Registrar to implement the decision after the parties concerned are informed of the same by the Registrar.

16. Re-entry of name of practitioner in register or list.

(1) Every application for re-entry of name in the register or as the case may be the list, shall be in Form 'B' and specify the grounds on which the application is made. The application shall be accompanied by a certificate from any Gazetted Officer of the state Government or from a Justice of the peace as to the applicant's good character since the removal of his name from the register or as the case may be the list, and in case the applicant is a registered practitioner also by his certificate of degree, diploma or licence, if any. (2) The President shall cause such inquiries to be made as he deems fit in respect of the application and place it before the Board at its next meeting for decision. (3) The decision of the Board shall be communicated to the applicant, and if the Board agrees to re-enter the name in the register, a fee of ten rupees shall be paid by the practitioner before his name is re-entered in the register or in the list by the Registrar.

17. Applications of rules to enlisted medical practitioners.

- The provisions of these rules shall mutatis mutandis apply to inquiry into the misconduct of an enlisted practitioner and for reentry of his name in the list. Form 'A' (Rule 8) Notice On behalf of the Maharashtra Board of Ayurvedic and Unani Systems of Medicine I,(Name) the Registrar, give you notice that on the examination of the materials available, it is found that a prima facie case exists for holding an inquiry into your conduct in the matters hereafter mentioned and do hereby charge you(here mention specific charges) as under: -

2. A statement of allegations and a statement of evidence are appended.

3. You are called upon to put in your written statement of defence along with such documents as you intend to rely on in your defence in answer to the above charges within days from the date hereof and to state at the same time whether you desire to be heard in person by the Board. If you desire to examine any witnesses in your defence, you are called upon to furnish at the same time the names and addresses of your witnesses. On your failure to put in your statement or to furnish the name and addresses of your witnesses within the time allowed to you, it will be presumed that you do not wish to make a statement or to furnish any witnesses.

4. You are further called upon to state why the above charges or any of them if held proved, should not be considered as good and sufficient ground for imposing upon you any of the penalties specified in sub-section (1) of section 20 of the Maharashtra Medical practitioners Act, 1961.

5. A copy of section 20(1) of the Maharashtra Medical Practitioner's Act 1961, together with the Maharashtra Medical Practitioners' (Inquiry into misconduct) Rule, 1969 is enclosed for your information. Your attention is particularly invited to rule 8. You may, if you so desire, apply for copies of the relevant documents.

Date:Place:Registrar,Maharashtra Board of Ayurvedicand Unani Systems of Medicine.Form 'B'(Rule 16)Application for re-entering Name in the [Register] [Strike off the alternative not applicable.]/ListToThe Registrar,[Maharashtra Board of Ayurvedic and Unani of Medicine.] [[Here enter full address of the Board.(i)Insert full name.(ii)Insert qualifications, if any.(iii)Insert date.(iv)Insert name and address of complainant, if any.(v)Insert charge on which name was removed.(vi)These blanks must be filled in according to circumstances.(vii)Insert particulars as to proposed further professional occupation.(viii)All facts and grounds on which the application is made should be clearly and concisely stated.(ix)Insert name of Gazetted Officer or J.P. giving the certificate.]](1)I, the undersigned (i) Now holding the qualification (ii) apply for re-entry of my name in the [Register [Strike off the alternative not applicable.]/List].(2)By the order dated (iii) the Maharashtra Board of Ayurvedic and Unani Systems of Medicine directed my name to be removed from the [Register] [Strike off the alternative not applicable.]/List on a complaint made by (iv) and the misconduct for which the board directed the removal of my name was (v)(3)Since the removal of my name from the [Register] [Strike off the alternative not applicable.]/List. I have been residing at (vi) and my occupation has been (vi)(4)It is my intention if my name is re-entered in the [Register] [Strike off the alternative not applicable.]/List to

(vii)(5)The grounds of application are (viii)(6)I forward herewith
-(a)the degree/ diploma/ licence of (ii) in original.(b)a certificate of good character
from (ix)Signature of the Registered/ Enlisted Practitioner.