

# **The Maharashtra Acupuncture System of Therapy Act, 2015**

MAHARASHTRA

India

## **The Maharashtra Acupuncture System of Therapy Act, 2015**

### **Act 25 of 2017**

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The Maharashtra Acupuncture System of Therapy Act, 2015(Maharashtra Act No. 25 of 2017)[Dated 3.4.2017.]An Act to provide for the development of the acupuncture system of therapy, by regulating the teaching and practice thereof and to deal with certain other matters connected therewith or incidental thereto.Whereas it is expedient to provide for the development of the Acupuncture system of therapy, by regulating the teaching and practice thereof and for matters connected therewith or incidental thereto; it is hereby enacted in the Sixty-sixth Year of the Republic of India as follows :-

## **Chapter I Preliminary**

### **1. Short title, extent and commencement.**

(1)This Act may be called the Maharashtra Acupuncture System of Therapy Act, 2015.(2)It extends to the whole of the State of Maharashtra.(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,-(a)"Acupuncture" means the Acupuncture System of Therapy recommended by the World Health Organization and includes Cupping (an auxiliary method of creating vacuum on some particular Acu point or area with a cup like substance made of Bamboo or Glass or Plastic or Rubber), Pressure (applying pressure by any finger or blunt round object on Acu point where Needle puncture is not possible), Seven star needle (Seven or Five number of Acu needle embedded at an end of a stick to tap on Acu point or specific area or line), Acupuncture Electro Stimulation (applying low intensity electrical stimulation at Acu point), Acu

laser (applying low intensity laser at Acu point), Catgut Embedding (Implanting surgical Catgut at Acu point), and such other methods as may be notified, on the recommendation of the Maharashtra Council of Acupuncture, by the State Government ;(b)"Acupuncture institution" means any institution which conducts or offers courses of study and training in Acupuncture ;(c)"affiliated Acupuncture institution" means an Acupuncture institution affiliated to the Council ;(d)"Acupuncture practitioner" means a person who is engaged in the practice of Acupuncture System of Therapy;(e)"Acupuncture personnel" means persons engaged in assisting a registered Acupuncture practitioner in the practice of Acupuncture ;(f)"admission capacity" means the maximum number of students that may be fixed by the Council, from time to time, for being admitted to a course of study or training in Acupuncture conducted by an Acupuncture institution;(g)"Certificate" means a certificate awarded by the Council on completion of such course of study and training and of such duration as may be prescribed by the Council in accordance with the guidelines of the World Health Organization;(h)"Council" means the Maharashtra Council of Acupuncture constituted under section 3 ;(i)"Diploma" means a diploma awarded by the Council on completion of such course of study and training and of such duration, as may be prescribed by the Council in accordance with the guidelines of the World Health Organization ;(j)"Degree" means a degree awarded by the Maharashtra University of Health Sciences on completion of such course of study and training in Acupuncture and of such duration, not inconsistent with the guidelines of the World Health Organization issued in that behalf, as may be prescribed as per the provisions of the Maharashtra University of Health Sciences Act, 1998 (Maharashtra X of 1999);(k)"Eligibility test" means an examination in Acupuncture of such nature and standard as that of the examination held by the Council for the award of a diploma; held or caused to be held only once by the Council, for the purpose of registration under this Act, immediately after the commencement of this Act on such date as the Council may determine ;(l)"Government" or "State Government" means the Government of Maharashtra;(m)"Member" means a Member of the Council ;(n)"prescribed" means prescribed by rules ;(o)"President" means the President of the Council ;(p)"recognized Acupuncture qualification" means a qualification in Acupuncture system of therapy recognized by the Council ;(q)"recognized research institute" means an institute which conducts research in or related to Acupuncture and recognized by the Council ;(r)"Register" means the Registers of Acupuncture practitioners and Acupuncture personnel maintained under this Act ;(s)"Registered Acupuncture practitioner" means an Acupuncture practitioner registered under the provisions of this Act;(t)"Registered Acupuncture personnel" means an Acupuncture personnel registered under the provisions of this Act ;(u)"Registrar" means the Registrar of the Council appointed under section 13 ;(v)"regulations" means the regulations made by the Council under this Act ;(w)"rules" means the rules made by the State Government under this Act ;(x)"section" means a section of this Act ;(y)"Teacher" means any person appointed by an Acupuncture institution affiliated to, or recognized by, the Council to hold a post in teaching ;(z)"Vice-President" means the Vice-President of the Council.

## Chapter II

### Constitution of the Council and its Incorporation.

### 3. Constitution of the Council and its incorporation.

(1)The State Government may, by notification in the Official Gazette, as soon as may be after the commencement of this Act, constitute the Council to be called the Maharashtra Council of Acupuncture.(2)The Council shall be a body corporate, having perpetual succession and a common seal, with power to acquire, hold, transfer or dispose of movable and immovable property, and to contract and may by the name aforesaid sue and be sued.(3)The Council shall consist of the following Members, namely :-(a)five Members, who are citizens of India, elected from such constituencies and in such manner as may be prescribed, by the Registered Acupuncture practitioners from amongst themselves ;(b)two Members nominated by the State Government from amongst the Registered Acupuncture practitioners, both of whom shall be a citizen of India;(c)one Member nominated by the Maharashtra University of Health Sciences ;(d)one Member nominated by the State Government from amongst the heads, called by any name, of the affiliated Acupuncture institutions ;(e)one Member nominated by the State Government from amongst the heads, called by any name, of recognized research institutes.(4)The election of the Members referred to in clause (a) of sub-section (3) shall be held at such time and at such place and in such manner, as may be prescribed.(5)If the nomination of a Member as per clause (c) of sub-section (3) is not made by the prescribed date, it shall be lawful for the State Government to nominate a Registered Acupuncture practitioner to fill up the vacancy.(6)If at any election under clause (a) of sub-section (3), the electors fail to elect the requisite number of Members, it shall be lawful for the State Government to nominate such Registered Acupuncture practitioner or practitioners as it deems fit, to fill up the vacancy or vacancies; and the practitioners so nominated shall be deemed to have been duly elected under this section.(7)[ Notwithstanding anything contained in the foregoing sub-sections or elsewhere in this Act, in case of constitution of the Council for the first time,-(i)the members referred to in clause (a) of sub-section (3) shall be nominated by the State Government;(ii)the members to be nominated by the State Government from various categories specified in clauses (b), (d) and (e) shall also be nominated by the State Government irrespective of the categories specified in said clauses:Provided that, the nomination of members referred to in clause (a) of subsection (3) by the State Government prior to the commencement of the Maharashtra Acupuncture System of Therapy (Amendment) Act, 2018 (Mah. LXXIV of 2018) on the first Council shall be deemed to have been made in accordance with the provisions of this sub-section, as amended by the said Act.] [Substituted by Maharashtra Act No. 74 of 2018, dated 17.12.2018.](8)The President and the Vice-President shall be elected by the Members of the Council from amongst themselves at its first meeting after its reconstitution, at which quorum is present:Provided that, the President and the Vice-President of the first Council shall be nominated by the State Government :Provided further that, a person, who holds or who has held the office as the President or Vice-President, as the case may be, shall, subject to the other provisions of this Act, be eligible for re-election to that office.(9)Where any dispute arises regarding any election of a Member or the President or the Vice-President, it shall be referred to the State Government, and the decision of the State Government shall be final.

#### **4. Term of office.**

(1)The Government shall, by notification in the Official Gazette, publish the names of the Members, both elected and nominated.(2)Save as otherwise provided by this Act, a Member whether elected or nominated, shall hold office for a term of five years from the date of publication of the notification under sub-section (1).(3)Save as otherwise provided by this Act, the President and the Vice-President shall hold the office from the date of their election, till the day on which their term of office as Member expires.(4)The term of office of an outgoing Member shall, notwithstanding anything contained in sub-section (2), be deemed to extend to and expire with, the day immediately preceding the day on which the names of the successor Members are published under sub-section (1).(5)The term of office of an outgoing President or Vice-President shall, notwithstanding anything contained in sub-section (3), be deemed to extend to and expire with, the day immediately preceding the day on which the successor President or Vice-President, as the case may be, is elected.(6)An outgoing Member shall be eligible for re-election or re-nomination.(7)Leave of absence may be granted by the Council to any Member for a period not exceeding six months.

#### **5. Casual vacancies.**

(1)Any casual vacancy, before the expiry of the term of the office of the President or the Vice-President or of a Member elected under clause (a) of sub-section (3) of section 3, caused by reason of death, resignation, disqualification or disability or any other reason, shall be filled by election :Provided that, any such vacancy in the office of an elected Member occurring within six months prior to the date on which the term of office of all the Members expires, shall not be filled.(2)Any casual vacancy, previous to the expiry of the term in the office of a Member nominated under clauses (b), (c), (d) and (e) of sub-section (3) of section 3 shall be reported forthwith by the Registrar to the State Government or the Maharashtra University of Health Sciences, as the case may be, and shall, as soon as possible thereafter, be filled by the State Government or the Maharashtra University of Health Sciences, as the case may be, by nomination.(3)Any person elected under sub-section (1) or nominated under sub-section (2) to fill a casual vacancy shall, notwithstanding anything contained in section 4, hold office only so long as the person, in whose place he is elected or nominated, would have held office if the vacancy had not occurred.

#### **6. Casual vacancy of President.**

(1)If the President dies or resigns his office or ceases to hold office, the Council shall elect another person from amongst themselves as a President and such President shall hold office for the unexpired period of the term of office of the former President.(2)Subject to the provisions of sub-section (1), in the event of the occurrence of any vacancy in the office of the President under sub-section (1), the Vice-President shall discharge the functions of the President until a new President is elected.(3)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.

## **7. Resignation.**

(1)The President or Vice-President may, at any time, resign his office by a notice in writing addressed to the Council and delivered to the Registrar. The resignation shall take effect from the date on which it is accepted by the Council.(2)An elected Member may at any time, resign his office by a notice in writing addressed to the President. A nominated Member may at any time resign his office by a notice in writing addressed to the Government or the Maharashtra University of Health Sciences, as the case may be. Every such resignation shall take effect from the date on which it is accepted by the Government or the Maharashtra University of Health Sciences, as the case may be.

## **8. Disqualification.**

(1)A person shall be disqualified for being elected or nominated as, and for continuing as, a Member, if, - (a)he is, or becomes of, unsound mind and stands so declared by a competent court ; or (b)he is, or has been, convicted of any offence involving moral turpitude, which in the opinion of the Government renders him unfit to be a Member of the Council ; or (c)he is, or at any time has been, adjudicated as an un-discharged insolvent ; or (d)his name has been removed from the register and has not been re-entered therein ; or (e)he is an employee of the Council ; or (f)he has directly or indirectly any share or interest in any contract with, by or on behalf of, the Council ; or (g)he has been dismissed from the service of the Union Government or a State Government or a Panchayat or a Municipality on a charge of gross misconduct or an offence involving moral turpitude ; or (h)he is a person under the age of 21 years. Explanation. - For the purposes of clause (g), the words "Panchayat" and "Municipality" shall have the same meaning as assigned to them in clause (d) of article 243 and clause (e) of article 243-P of the Constitution of India, respectively.(2)If any Member absents himself from three consecutive meetings of the Council, without leave of the Council or without such reason as may, in the opinion of the Council, be sufficient, the Council may declare his seat vacant and take steps to fill the vacancy.(3)If any Member becomes or is found to be subject to any of the disqualifications mentioned in sub-section (1), the Council shall submit a report to the Government, and the Government, if satisfied about the disqualification, shall declare his seat vacant.

## **9. Meetings of Council.**

(1)The meetings of the Council shall be convened, held and conducted in such manner as may be prescribed.(2)No business shall be transacted at any meeting of the Council unless a quorum of five Members is present.(3)The President, when present, shall preside at every meeting of the Council. If at any meeting the President is absent, the Vice-President, and in the absence of the President and the Vice-President, some other Member elected by the Members present from amongst themselves, shall preside at such meeting.(4)All questions at the meeting of the Council shall be decided by a majority of votes.(5)In case of an equality of votes, the presiding authority shall exercise a second or a casting vote.

## **10. Proceedings of meetings and validity of acts.**

(1)The proceedings of the discussion of every meeting of the Council, shall be treated as confidential; and no person shall, without the previous resolution of the Council, disclose any proceedings thereof :Provided that, nothing in this section shall prohibit a person from disclosing or publishing the text of a resolution adopted by the Council unless the Council directs such resolution also to be treated as a confidential.(2)No act or proceeding of the Council shall be invalid merely by reason of,-(a)any vacancy in or any defect in, the constitution of the Council ; or(b)any defect in the election or nomination of a person as a Member of the Council ; or(c)any irregularity in the procedure of the Council not affecting the merits of the case :Provided that, the question whether such irregularity in procedure of the Council affects the merits of the case or not, shall be decided by the President whose decision shall be final and binding.

## **11. Executive Committee and other committees.**

(1)The Council shall, as soon as may be, constitute from amongst its Members an Executive Committee and other committees to perform such functions, discharge such duties and exercise such powers as may be delegated by the Council.(2)The Executive Committee shall consist of the President and the Vice- President as ex-officio Members and three other Members elected by the Council in the prescribed manner from amongst 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 Registrar shall act as the secretary to the Executive Committee.(5)No business shall be transacted at any meeting of the Executive Committee unless a quorum of three Members is present.(6)A Member of the Executive Committee shall hold office until the expiry of his term of office as a Member of the Council and he shall be eligible for re-election.(7)A Member may resign his Membership of the Committee by writing under his hand addressed to the President of the Committee and the consequent vacancy shall be filled by the Council by electing from amongst themselves another Member, who shall not already be a Member of the Committee.(8)The Executive Committee shall exercise such powers and perform such functions and discharge such duties as may be prescribed.

## **12. Income and expenditure of Council.**

(1)The income of the Council shall consist of,-(a)fees received from the practitioners;(b)any other sums, including donations, received by the Council :Provided that, no donation shall be received by the Council from a foreign national, body, agency, institution or Government without the previous approval of the State Government.(2)It shall be competent for the Council to incur expenditure for the following purposes, namely :-(a)salaries and allowances of the Registrar and other staff maintained by the Council ;(b)fees and allowances paid to the Members of the Council and the Executive Committee ;(c)remuneration paid to the assessors ; and(d)such other expenses as are necessary for exercising powers, performing functions and discharging duties under this Act.

### **13. Registrar.**

(1)The Council shall, with the previous sanction of the State Government, appoint a Registrar possessing such qualifications as may be prescribed.(2)The Executive Committee may, from time to time, grant leave to the Registrar :Provided that, if the period of leave does not exceed 30 days, the leave may be granted by the President.(3)During any temporary vacancy in the office of the Registrar, due to leave or any other reason, the Deputy Registrar shall act as Registrar. If the Registrar and the Deputy Registrar both are not available, the Executive Committee may, with previous sanction of the State Government, appoint any other person to act in his place, and any person so appointed shall, for the period of such appointment, be deemed to be the Registrar for the purposes of this Act :Provided that, when the period of such vacancy does not exceed 30 days, the appointment may be made by the President, who shall forthwith report such appointment to the Executive Committee and the State Government.(4)The Council may with the previous sanction of the Government, suspend, dismiss or remove any person appointed as Registrar, or impose any other penalty upon him :Provided that, before passing any order under this sub-section, the Registrar shall be given reasonable opportunity of being heard.(5)Save as otherwise provided by this Act, the salary and allowances and other conditions of service of the Registrar shall be such as may be prescribed.(6)The Registrar shall be the ex-officio secretary and executive officer of the Council. He shall also act as the secretary to other committees, if any, constituted by the Council.(7)He shall attend all meetings of the Council, Executive Committee and other committees and shall keep minutes of the meetings and names of the Members present and of the proceedings of such meetings.(8)The accounts of the Council shall be kept by the Registrar in the prescribed manner.(9)The Registrar shall have such supervisory powers over the staff as may be prescribed and may perform such other functions and discharge such other duties as may be specified in this Act or as may be prescribed.(10)The Registrar shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

### **14. Other employees of Council.**

(1)Apart from the Registrar, the Council may appoint one or more Deputy Registrars and such other officers and servants as it may deem necessary and expedient for performing functions and discharging duties under this Act:Provided that, the number and designation of such officers and servants and their salaries and allowances shall be determined by the Council, with the previous sanction of the Government.(2)Notwithstanding anything contained in sub-section (1) but subject to such financial limit as may be laid down in this behalf by the Council, it shall be competent for the Executive Committee to create posts of clerks and servants, and to make appointments thereto, for such periods as may be prescribed to meet any temporary increase in work, or to carry out any work of seasonal character.(3)The other conditions of service of officers and servants shall be such as may be prescribed.(4)Officers and servants appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

## Chapter III

# Powers, Functions and Duties of the Council

### 15. Powers, functions and duties of Council.

(1) Subject to the conditions as may be prescribed by or under the provisions of this Act, the powers, functions and duties of the Council shall be, - (a) to maintain the register of Acupuncture practitioners and Acupuncture personnel under this Act ; (b) to hear and decide appeals from any decision of the Registrar ; (c) to prescribe a code of ethics for regulating the professional conduct of Acupuncture practitioners and Acupuncture personnel ; (d) to regulate the conditions for grant of permission to establish an Acupuncture institution and to start a new course of study or training leading to the award of any recognized qualification by the Council, or to increase the intake capacity of such a course ; (e) to grant or refuse permission to establish an Acupuncture institution, start a new course of study and training leading to the award of any recognized qualification by the Council, or increase the intake capacity of such a course ; (f) to regulate the conditions for grant of affiliation to Acupuncture institutions ; (g) to grant or refuse affiliation to Acupuncture institutions or to withdraw such recognition, after affording the authority of the institution a reasonable opportunity of being heard ; (h) to regulate the conditions for grant of recognition of qualifications in Acupuncture and of research institutions ; (i) to grant or refuse recognition to research institutions and qualifications in Acupuncture or to withdraw such recognition, after affording the authority of the institution a reasonable opportunity of being heard ; (j) to provide for the inspection of affiliated and recognized institutions ; (k) to reprimand a registered or an enlisted Acupuncture practitioner or Acupuncture personnel, or to suspend or remove him from the register or to take such other disciplinary action against him as may, in the opinion of the Council, be necessary or expedient ; (l) 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 ; (m) to prescribe by regulations the courses of study and training in Acupuncture system of therapy, not inconsistent with the recommendations of the World Health Organization issued in that behalf, leading to the award of Diploma or Certificate by the Council ; (n) to prescribe by regulations the scheme and syllabus, not inconsistent with the recommendations of the World Health Organization issued in that behalf, of the Eligibility Test held or caused to be held by the Council for the purpose of registration of Acupuncture practitioners and Acupuncture personnel ; (o) to hold examinations for the students of affiliated institutions and to make all necessary arrangements for such examinations ; (p) to exercise general supervision and control over the institutions affiliated to the Council and give such institutions such directions as may be necessary and expedient in the opinion of the Council ; (q) to appoint, on such terms as the Council may determine, such number of Inspectors for the inspection of institutions teaching the Acupuncture system of therapy as the Council may deem fit ; (r) to advise the State Government in matters of research in Acupuncture ; (s) to exercise such other powers, perform such other functions and discharge such other duties as laid down in this Act or as may be prescribed or as the State Government may direct, by a general or special order published in the Official Gazette, in furtherance of the objectives of this Act ; (t) to confer honorary Diplomas on such persons as those who, in the opinion of the Council, are Acupuncture practitioners of repute ; (u) to



receive donations and to determine the conditions of acceptance of donations.(2)The Council may conduct Certificate and Diploma courses of study and training in Acupuncture.

## **16. Permission for establishment of new institutions, new course of study, etc.**

(1)Notwithstanding anything contained in this Act or any other law for the time being in force, with effect from such date as may be notified by the State Government,-(a)no person shall establish an Acupuncture institution; or(b)no Acupuncture institution shall,-(i)open a course of study or training leading to the award of any recognized qualification by the Council; or(ii)increase its admission capacity in any course of study or training; except with the previous permission of the Council obtained in accordance with the provisions of this Act.(2)The Council shall, as soon as may be, after the commencement of this Act, by regulations prescribe the procedure for applying for obtaining permission, affiliation and recognition of the Council and also for grant of such permission, affiliation and recognition or refusal thereto.Explanation. - For the purposes of this section "person" shall include any University or trust or society or an institution but shall not include the State Government or Central Government or the Council.

## **17. Nonrecognition of qualification in certain cases.**

(1)Where after the coming into force of this Act, any Acupuncture institution is established without obtaining the previous permission of the Council in the prescribed manner, no qualification in Acupuncture granted to any student of such institution shall be a recognized Acupuncture qualification for the purposes of this Act.(2)Where any Acupuncture institution opens a new course of study or training without the previous permission of the Council obtained in the prescribed manner, then no qualification granted to any student of such institution on the basis of such study or training shall be a recognized qualification in Acupuncture for the purposes of this Act.(3)Where any Acupuncture institution increases its admission capacity in any course of study or training without the previous permission of the Council obtained in the prescribed manner, then no Acupuncture qualification granted to any student of such institution on the basis of the increase in its admission capacity shall be a recognized qualification in Acupuncture for the purpose of this Act.Explanation. - For the purposes of this section, the criteria for identifying a student who has been granted an Acupuncture qualification on the basis of such unauthorized increase in the admission capacity shall be such as may be prescribed.

## **18. Time for seeking permission for certain existing Acupuncture institutions.**

(1)Any person, who has established an Acupuncture institution before the date of coming into force of this Act, shall seek, within such period as the Government may, by notification in the Official Gazette, specify, the permission of the Council in the prescribed manner.(2)If such person fails to seek the permission under sub-section (1), the provisions of section 17 shall apply, so far as may be, as if, permission of the Council under section 16 has been refused.

## **Chapter IV**

### **Preparation and Maintenance of Register**

#### **19. Preparation of Register.**

(1)The Council shall maintain a register of Acupuncture practitioners and Acupuncture personnel 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 and modifications therein as may be required in consequences of any orders passed by the Council.

#### **20. Persons entitled to be registered.**

(1)As soon as may be after the day on which this Act comes into force, the Registrar shall prepare and maintain thereafter a Register of Acupuncture practitioners and Acupuncture personnel.(2)The register shall be divided into three parts namely Part A, Part B and Part C. Part A and Part B shall consist of the names of and other information about Acupuncture practitioners and Part C shall consist of the names of and other information about Acupuncture personnel.(3)Every person who,-(a)possesses a degree or diploma in Acupuncture awarded by a statutory University in India and whose name is entered in a State Register of Acupuncture practitioners on the day on which this Act comes into force ; or(b)possesses a degree in Acupuncture awarded by the Maharashtra University of Health Sciences ; or(c)is a registered medical practitioner and possesses a diploma awarded by the Council ; or(d)is a registered medical practitioner and possesses any recognized Acupuncture qualification;shall be entitled to have his name registered in Part A of the register maintained under this Act.(4)Every person who,-(a)possesses a diploma in Acupuncture awarded by any statutory State Council or University in India and whose name is entered in the State Register of Acupuncture practitioners maintained by that respective Council on the day on which this Act comes into force ; or(b)possesses a diploma awarded by the Council ; or(c)has been conferred an honorary diploma by the Council ; or(d)who possesses any qualification awarded by an institution within or outside India and which is a recognized Acupuncture qualification, but whose name is not entered in any State Register of Acupuncture practitioners ; or(e)has qualified the Eligibility Test held or caused to be held by the Council for registration as Acupuncture practitioner ;shall be entitled to have his name registered in Part B of the Register maintained under this Act.(5)Every person who,-(a)has qualified the Eligibility Test held or caused to be held by the Council for registration as Acupuncture personnel ;(b)possesses a diploma or a certificate in Acupuncture awarded by the Council;shall be entitled to have his name registered in Part C of the register maintained under this Act.

#### **21. Application for registration.**

(1)Every person who desires to have his name entered in the register shall submit to the Registrar an application in the prescribed form in the prescribed manner.(2)The Council may, on being satisfied that a person is qualified for registration under section 20, 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.

## **22. Power of Council to refuse registration or to remove name from Register in certain cases.**

(1)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 an 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 :Provided that, no such refusal or removal shall be made without affording such person a reasonable opportunity of being heard :Provided further that, any refusal or removal under this sub-section may be rescinded by the Council, if the conduct on the basis of which refusal or removal was directed is condoned by it for good and sufficient reasons :Provided also that, if any person, whose name has been removed from the register, such person shall forthwith surrender his certificate of registration to the Council.(2)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.(3)In holding any enquiry under clause (b) of sub-section (1), the Council shall have the same powers as are vested in Civil Courts under the Code of Civil Procedure, 1908 (V of 1908), when trying suits in respect of the following matters, namely :-(a)enforcing the attendance of any person and examining him on oath ;(b)compelling the production of documents ; and(c)issuing of commissions for the examination of witnesses.(4)All enquiries under this section shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code (XLV of 1860).(5)For the purpose of advising the Council on any question of law arising in any enquiry under this section, there may, in all such enquiries, be an assessor who has been for not less than ten years an Advocate enrolled under the Advocates Act, 1961 (25 of 1961).(6)Any assessor under sub-section (5) may be appointed either for general enquiries or for any particular enquiry or class of enquiries, and shall be paid the prescribed remuneration.

## **23. 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 by an order of the Council.

## **Chapter V**

### **Offences and Penalties**

## **24. Penalty on unregistered person pretending to be registered.**

- If any person, whose name is not entered in the register, falsely represents that it is so entered or uses in connection with his name or title any words or letters reasonably calculated to suggest 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 one thousand rupees or both.

## **25. Penalty for failure to surrender certificate of Registration.**

(1) If any person, whose name has been removed from the register under section 22, fails, without sufficient cause, to forthwith surrender his certificate of registration, he shall be punishable with fine which may extend to one thousand rupees. (2) No cognizance of an offence punishable under this section shall be taken except upon a complaint made by an order of the Council.

## **26. Prohibition of unauthorized conferment of degree, diploma, etc. and penalty for such conferment.**

(1) Except the Maharashtra University of Health Sciences, no person, association or institution, called by any name, shall confer grant or issue, or hold himself or itself out as entitled to confer, grant or issue, any degree, or any other document stating or implying that the holder, grantee or recipient thereof is qualified to practice the Acupuncture system of therapy. (2) Except the Council, no person, association or institution, called by any name, shall confer grant or issue, or hold himself or itself out as entitled to confer, grant or issue, any diploma, license, certificate or any other document stating or implying that the holder, grantee or recipient thereof is qualified to practice the Acupuncture system of therapy. (3) Any person contravening the provisions of sub-section (1) or (2) shall, on conviction, be punished with imprisonment which may be extend to one year or with fine which may extend to ten thousand rupees or with both; and if an association or institution is guilty of such contravention, every Member thereof, who knowingly or willfully authorizes or permits the contravention, shall, on conviction, be punished with imprisonment which may extend to one year or with fine which may extend to ten thousand rupees or with both.

## **27. 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 in Acupuncture system of therapy, unless such degree has been conferred by the Maharashtra University of Health Sciences. (2) No person shall use any letters or figures after his name indicating or implying that he possesses any diploma, license or certificate in Acupuncture system of therapy, unless such diploma, license or certificate has been conferred or recognized by the Council. (3) Whoever contravenes the provisions of sub-section (1) or (2) shall, on conviction, be punishable, on first conviction, with fine which may extend to five thousand rupees, and, where such contravention continues after the first conviction, with fine which may extend to ten thousand rupees for each such contravention.

## **28. Publication and use of registration list.**

(1)The Registrar shall, from time to time, as the 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 and Acupuncture personnel arranged in alphabetical order according to surname ;(b)the registered address of each such person ; and(c)the registered qualification 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 alteration in the register since the publication of the list under sub-section (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 the latest list supplementary thereto, if any, printed and published under sub-section (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.

## **29. Cognizance of offences.**

(1)Offences under sections 24, 25, 26 and 27 shall be cognizable and non-bailable.(2)Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), no Court shall take cognizance of an offence punishable under this Act except upon a complaint, in writing, made by a person authorized in this behalf by the Council.

## **Chapter VI**

### **Miscellaneous**

## **30. Certain privileges of persons enrolled on Parts A and B of the Register.**

(1)No Acupuncture practitioner, other than a registered Acupuncture practitioner whose name is entered in Parts A and B of the Register, shall be competent to hold any appointment as a medical officer in Acupuncture 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 Affiliated Acupuncture institution.(2)An Acupuncture practitioner registered in Part A of the Register shall be entitled to give an opinion in any matter relating to Acupuncture system of therapy at any inquest or in any court of law as expert under section 45 of the Indian Evidence Act, 1872 (I of 1872).

### **31. Control of manufacture, storage and sale of Acupuncture instruments.**

- Subject to the provisions of any other law for the time being in force relating to instruments, the State Government shall have the power to regulate and control, by a general or special order published in the Official Gazette, the manufacture, storage or sale of Acupuncture instruments by the grant of licenses to manufactures, stockiest and sellers on such conditions as may be prescribed.

### **32. Bar of suit or other legal proceedings.**

- No suit, prosecution or other legal proceeding shall lie in respect of any act or things 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. Appeal.**

(1)Any person or institution aggrieved by any decision or any order of the Council under section 22 of this Act may prefer an appeal before the Cognizance of State Government in such form and manner, within such time, on such conditions and on payment of such fees as may be prescribed.(2)On receipt of such appeal, the State Government may, after giving the person concerned an opportunity of being heard and after consulting the Council, pass an order which shall be final and binding.

### **34. Finance and audit.**

(1)All fees payable under this Act shall be paid to the Council.(2)An account of all assets and liabilities of the Council and of all fees, sums, donations, gifts and endowments received by it and of all expenses and disbursements incurred or made by it shall be maintained in the prescribed manner.(3)The account shall be audited annually by such officer of the State Government as may be deputed in this behalf by the State Government and the report of such audit shall be sent to the State Government and the Council by such officer.

### **35. Power to make rules.**

(1)The State Government may, by notification in the Official Gazette, and subject to the condition of previous publication, 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, namely :-(a)the election of Members of the Council and the Executive Committee, and the election of the Vice-President ;(b)the manner of conducting meetings of the Council ;(c)the functions to be performed by the President and Vice-President ;(d)the powers and functions of the Executive Committee ;(e)the qualifications of the Registrar, salary and allowances and other conditions of service, the manner of keeping of accounts of the council by the Registrar, supervisory powers and functions and duties of the Registrar and other conditions of service of

officers and servants ;(f)the Form of Register of Acupuncture Practitioners and Acupuncture Personnel, the Form and the manner for submitting the application for entering the name in the Register ;(g)the procedure to be followed by the Council in,-(i)conducting an enquiry under sub-section (3) of section 22 ;(ii)disposing of appeals from the decision of the Registrar ;(h)the conditions for the grant of licences under section 31 ;(i)any other matter which may be, or is required to be, prescribed under this Act.(3)Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the Official Gazette, the rule shall from the date of publication of a notification in the Official Gazette, of such decision have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

### **36. 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 performing its functions and discharging its duties 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, namely :-(a)the conduct of business of the Executive Committee and of Committee appointed by the Council ;(b)the time and place at which each meeting shall be held ;(c)the issue of notices convening such meeting ;(d)the conduct of business thereat ;(e)the procedure for obtaining permission, affiliation and recognition of the Council ; or(f)any other matter for which power to make regulations is conferred expressly or by implication on the Council by this Act.

### **37. Power to make regulations.**

- All regulations framed under this Act shall be published in the Official Gazette.

### **38. Furnishing reports and information to Government.**

- The Council shall furnish copies of its minutes, reports, abstracts of its accounts and other information to the State Government, whenever called for.

### **39. Directions by Government.**

(1)The Council shall carry out such directions as may be issued, from time to time, by the State Government for the efficient administration of this Act.(2)If any dispute arises between the Council and the State Government, in connection with the exercise of its powers, performance of its functions and discharge of its duties, under this Act, the decision of the State Government on such

dispute shall be final and binding on the Council.

#### **40. Power to supersede the Council.**

(1) If at any time it appears to the State Government that the Council or its President or Vice-President has failed to exercise or has persistently made default in the performance of the duties imposed on it or him by or under this Act or has exceeded or abused any of the powers conferred upon it or him by or under this Act, or has willfully or without sufficient cause failed to comply with any direction issued by the State Government under section 39, the State Government may, by a notification in the Official Gazette, supersede the Council for such period as may be specified in the notification : Provided that, before issuing a notification under this sub-section, the Government shall give a reasonable time to the Council to show cause as to why it should not be superseded and shall consider the explanation and objection, if any, of the Council. (2) Upon the publication of a notification under sub-section (1) superseding the Council, - (a) all the Members of the Council shall, notwithstanding that their terms of office had not expired on the date of supersession, vacate their offices; (b) all the powers and duties which may by order under the provisions of this Act, be exercised or performed by or on behalf of the Council shall, during the period of supersession, be exercised and performed by such person or persons as the State Government may direct; (c) all property vested in the Council shall, during the period of supersession, vest in the State Government. (3) On the expiration of the period of supersession, specified in the notification, issued under sub-section (1), the State Government may, - (a) extend the period of supersession for such further period as it may consider necessary but which period shall not in the aggregate be more than two years; or (b) take steps to constitute a new Council in the manner provided.

#### **41. Removal of difficulties.**

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion arises, by order do anything not inconsistent with such provisions of this Act, which appears to it to be necessary or expedient for the purpose of removing the difficulty : Provided that, no such order shall be made after the expiry of a period of two years from the date of commencement of this Act. (2) Every order made under sub-section (1) shall be laid, as soon as may be, after it is made, before each House of the State Legislature.