

The M.P. Upcharika, Prasavika, Sahai Upcharika Prasavika Tatha Swasthya Paridarshak Registrakaran Adhiniyam, 1972

MADHYA PRADESH

India

The M.P. Upcharika, Prasavika, Sahai Upcharika Prasavika Tatha Swasthya Paridarshak Registrakaran Adhiniyam, 1972

Act 46 of 1973

- Published on 6 November 1973
- Commenced on 6 November 1973
- [This is the version of this document from 6 November 1973.]
- [Note: The original publication document is not available and this content could not be verified.]

The M.P. Upcharika, Prasavika, Sahai Upcharika Prasavika Tatha Swasthya Paridarshak Registrakaran Adhiniyam, 1972(M.P. Act No. 46 of 1973)[Dated 6th November, 1973]Received the assent of the President on the 6th November, 1973, assent first published in the "Madhya Pradesh Gazette Extraordinary" dated the 15th November, 1973.An Act to consolidate the laws relating to registration of Nurses, Midwives, Auxiliary Nurse-Midwives and Health Visitors in Madhya Pradesh and to make provision for the constitution of the Nurses Registration Council for the State and for matters connected therewith.Be it enacted by the Madhya Pradesh Legislature in the Twenty-third Year of the Republic of India as follows :-

Part I – Preliminary

1. Short title, extent and commencement.

(1)This Act may be called the Madhya Pradesh Upcharika, Prasavika, Sahai Upcharika-Prasavika Swasthya Paridarshak Registration Adhiniyam, 1972.(2)It shall come into force on such date as the State Government may, by notification, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires,-(a)"Council" means the Madhya Pradesh Nurses Registration Council established under Section 3;(b)"Nurse" includes a male nurse;(c)"recognised qualification" means any of the qualifications included in the Schedule to the Indian Nursing Council Act, 1947 (No. 48 of 1947);(d)"State register" means a register maintained under Section 14

Part II – The Madhya Pradesh Nurses Registration Council

3. Incorporation of Nurses Registration Council.

(1)The State Government shall, as soon as may be, establish, by a notification, a Nurses Registration Council with effect from such date as may be specified therein.(2)The Council shall be a body corporate by the name of the Madhya Pradesh Nurses Registration Council and shall have perpetual succession and a common seal with power to acquire and hold property both movable and immovable, and subject to the provisions made under this Act, to transfer any property held by it and to contract and do all other things necessary for the purposes of its constitution and may sue or be sued in its corporate name.

4. Constitution of Council.

(1)The Council shall consist of the following members, namely,-(a)The Director of Health Services, Madhya Pradesh ex-officio;(b)Two Superintendents of Hospitals approved and recognised by the Council under Section 24 nominated by the State Government by rotation;(c)The Assistant Director of Health Services (Nursing) and in the event of the said office being vacant, the Superintendent, Nursing Services ex-officio-;(d)The Principal, College of Nursing, Indore ex-officio;(e)Two Matrons from Medical College Hospitals nominated by the State Government by rotation;(f)Two sister tutors of schools of Nursing in Madhya Pradesh nominated by the State Government by rotation;(g)One nurse elected by the Madhya Pradesh Branch of trained Nurses Association from amongst the registered nurses residing in Madhya Pradesh;(h)Three nurses elected by registered nurses other than those who are members of the Madhya Pradesh Board of Trained Nurses Association from amongst themselves of whom one shall be male nurse;(i)One midwife elected by registered midwives from amongst themselves;(j)One auxiliary nurse-midwife elected by registered auxiliary nurse-midwives from amongst themselves;(k)One health visitor elected by registered health visitors from amongst themselves;(l)One member elected by the Madhya Pradesh Branch of the Red Cross Society from amongst its members residing in Madhya Pradesh;(m)One member elected by Mid-India Board of Examiners from amongst its members :Provided that no person shall at the same time serve as a member in more than one capacity.(2)The name of every person elected or nominated under sub-section (1) shall be notified in the Gazette.

5. President and Vice-President of the Council.

(1)The Director of Health Services, Madhya Pradesh, shall be ex-officio President of the Council.(2)The Vice-President of the Council shall be elected by the members of that Council from amongst themselves.

6. Mode of election.

(1)An election under clauses (h), (i), (j) and (k) of sub-section (1) of Section 4 shall be conducted by the Council and an election under clauses (g), (1) and (m) of sub-section (1) of Section 4 shall be conducted by the bodies referred to therein in the prescribed manner.(2)If any of the bodies referred to in clauses (g), (1) and (m) of sub-section (1) of Section 4 does not, by such date as may be prescribed, elect a person to be a member of the Council, the State Government shall, by order in writing, appoint to the vacancy a person qualified for election thereto; and the person so appointed shall be deemed to be a member of the Council as if he had been duly elected by the said body.(3)Where any dispute arises regarding any election to the Council, it shall be referred to the State Government within such period as may be prescribed and the decision of the State Government thereon shall be final.

7. Term of office of Vice-President and Members of Council.

(1)The Vice-President shall hold office for a term of one calendar year.(2)Every member of the Council other than an ex officio member shall hold office for a term of three years from the date, his election or nomination is notified in the Gazette under sub-section (2) of Section 4 :Provided that notwithstanding the expiry of his term, such member shall continue to hold office until the election or selection, as the case may be, of his successor is duly notified in the Gazette.

8. Casual vacancies.

(1)An elected or nominated member may at any time, resign his membership by tendering his registration in writing under his hand to the President, and his scat shall thereupon become vacant.(2)An elected or nominated member shall be deemed to have vacated his scat if,-(i)lie is absent without excuse sufficient in the opinion of the Council, from three consecutive ordinary meetings, of the Council; or(ii)he is absent out of India for a period exceeding six consecutive months; or(iii)his name is removed from the State Register under Section 17.(3)It any question, dispute or doubt arises whether a vacancy has occurred under sub-section (2), it shall be decided by the State Government and its decision shall be final.(4)A casual vacancy in the Council shall be filled by election or nomination, as the case may be, and the person elected or nominated to fill the vacancy shall hold office for the unexpired term of his predecessor.

9. Leave of absence to members.

- The Council may permit any member to absent himself from the meetings of the Council for any period not exceeding six months.

10. Meetings of the Council.

(1)The Council shall meet at least once in each year at such time and place may be appointed by the Council.(2)Five members of the Council shall form a quorum and all acts of the Council shall be

decided by the majority of the members present and voting. In the case of an equality of votes, the person presiding shall have a casting vote.

11. Vacancy not to invalidate proceedings, etc.

- No acts of the Council shall be invalid merely by reason of, - (a) any vacancy in, or defect in the constitution of the Council; or (b) any defect in the election or nomination of a person acting as member thereof; or (c) any irregularity in its procedure not affecting the merits of the case.

12. Payment of allowance to President, Vice-President and members of Council.

- There shall be paid to the President, Vice-President and members of the Council, such allowances for attending meetings as the Council may, by regulations, determine.

Part III – Registration

13. Registrar and other officers.

(1) The Council shall appoint a Registrar who shall also act as Secretary of the Council. (2) The Council shall appoint a Treasurer who shall exercise general control over the funds of the Council : Provided that pending the appointment of a Treasurer, the Registrar may, if so required by the Council, act as Treasurer for a period not exceeding one year. (3) The Council may employ such other persons as it may deem necessary to carry out the purposes of the Act. (4) The qualifications, the conditions of appointment and service and scale of pay as respects the Registrar and the Treasurer shall be such as may be prescribed and as respects the other employees shall be such as the Council may, with the previous sanction of the State Government determine. (5) The Council shall require and take from the Registrar, Treasurer or from any other employee such security for the due performance of his duties as the Council deems necessary. (6) The Registrar, the Treasurer and other employees appointed by the Council under this section shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (45 of 1860).

14. State Register.

(1) The Council shall cause to be maintained in the prescribed manner a register of, - (i) Nurses, (ii) Midwives, (iii) Auxiliary Nurse-Midwives, and (iv) Health Visitors, resident in Madhya Pradesh who are eligible for enrolment under Section 15 to be known as State Register. (2) It shall be the duty of the Registrar of the Council to keep the State Register in accordance with the provisions of the Act and of any orders made by the Council, and from time to time revise the register in the prescribed manner and publish it in the Gazette. (3) Such register shall be deemed to be a public document within the meaning of the Indian Evidence Act, 1872 (1 of 1872) and may be proved by a copy published in the Gazette.

15. Persons who may be registered and registration fee.

- Every person possessing recognised qualification shall be eligible for enrolment on the State Register on furnishing to the Registrar proof of such qualification and on payment of such fee as may be prescribed and different fee may be prescribed for different persons mentioned in Section 14.

16. Privileges of registration.

(1) Subject to the conditions and restrictions laid down in this Act regarding practicing as nurse, midwife, auxiliary nurse-midwife, or health visitor by person possessing certain recognised qualifications every person whose name is for the time being borne on the State Register shall be entitled, according to his qualifications to practice in the State as a nurse, midwife, auxiliary nurse-midwife or health visitor, as the case may be, and to recover in due course of law in respect of such practice any fees to which he may be entitled. (2) No person other than a registered nurse, midwife, auxiliary nurse-midwife or health visitor shall be eligible to hold any appointment as nurse, midwife, auxiliary nurse-midwife or health visitor in any hospital, asylum, infirmary, dispensary, maternity or child welfare centre or any other medical or public health institution.

17. Power of Council to prohibit the entry or to direct removal from State Register.

- The Council may, upon reference from the Registrar or otherwise prohibit the entry in, or order the removal from the State Register the name of any person;-(a) who has been sentenced by a Criminal Court to imprisonment for an offence indicating in the opinion of the Council such a defect in the character as would render the enrolment or continuance of his name in the register undesirable; OR (b) whom the Council after inquiry, at which opportunity has been given to him to be heard in person or by counsel and which may at the discretion of Council be held in camera, found guilty by a majority of two-thirds of the members present and voting at the meeting of infamous conduct in any professional respect.

18. Alteration of State Register by Council.

(1) The Council may, if it considers it so to do, and after giving due notice to the person concerned and enquiring into his objections, if any, order that any entry in the State Register which shall be proved to the satisfaction of the Council to have been fraudulently or incorrectly made or brought about, be cancelled or amended. (2) The Council may direct the removal altogether, or for a specified period from the State Register of the name of any registered nurse, midwife, auxiliary nurse-midwife or health visitor for the same reasons for which registration may be prohibited by the Council under Section 17. (3) The Council may direct that any name removed under sub-section (2) shall be restored subject to such conditions, if any, which the Council may deem fit to impose.

19. Procedure in enquiries.

- For the purpose of any enquiry under Section 15 or Section 17, the Council or any committee authorised by rules made, under Section 33 shall be deemed to be a Court within the meaning of the Indian Evidence Act, 1872 (1 of 1872), and shall exercise all the powers of a Commissioner appointed under the Public Servants (Inquiries) Act, 1850 (37 of 1850), and such enquiries shall be conducted, as far as may be, in accordance with the provisions of Section 5 and Sections 8 to 20 of the said Public Servants (Inquiries) Act, 1850 (37 of 1850).

20. Appeal against the decision of Council.

(1)An appeal shall lie to the State Government against every decision of the Council under Section 15 or Section 17 and the decision of the State Government thereon shall be final.(2)Every appeal under sub-section (1) shall be preferred within three months from the date of the receipt by the party concerned of a copy of such decision.

21. Disposal of fine.

- All fines realised under this Act and all moneys received by the Council under this Act shall be applied for the purposes of this Act or the rules or the regulations made thereunder.

22. Maintenance of list of persons in practice other than those eligible for registration or deemed to be enrolled on State register.

(1)The Council shall cause to be prepared a list of persons practising as nurse, midwife, auxiliary nurse-midwife, health visitor or dai in the State immediately before the date specified under sub-section (1) of Section 3 (hereinafter in this section referred to as the "specified date") as are not eligible for registration under the Act or are not deemed to be enrolled on the State Register under clause (c) of Section 35.(2)Any practitioner falling under sub-section (1) and desirous of getting his or her name incorporated in the list referred to therein, shall submit an application in the prescribed form together with the prescribed fee to the Registrar within six months from the specified date :Provided that the State Government may, by notification, for reasons to be specified therein, extend the aforesaid period by a further period not exceeding three months.(3)The Council, after making such enquiry as it deems fit to make and on being satisfied that the applicant was practising as a nurse, midwife, auxiliary nurse-midwife, health visitor or dai immediately before the specified date, shall incorporate the name of the applicant in the list.(4)The provisions of Section 20 shall apply to any order passed by the Council, under sub-section (3) as they apply to an order under Section 15 or Section 17.(5)The person whose name is included in the list prepared under this section shall be entitled to all the privileges of a registered person specified in Section 16.(6)The Registrar shall, as soon as may be, after the expiry of the period specified in sub-section (2) or such further period as may be extended thereunder, publish the list of persons prepared under sub-section (1) in the Gazette and the publication of such list shall be the conclusive evidence of the eligibility of the person included therein to practice as a nurse, midwife, auxiliary nurse-midwife, health visitor or

dai, as the case may be, in pursuance of the provisions of this section.

23. Prohibition from practice except as provided in the Act.

(1) Save as provided in this Act, no person shall practise or hold himself out, whether directly or indirectly as practising habitually or for personal gain as a nurse, midwife, auxiliary nurse-midwife, health visitor or dai within the State. (2) Any person who contravenes the provision of sub-section (1) shall be punished with fine which may extend to rupees five hundred.

Part IV – Training Institutions

24. Training Institutions.

(1) The institutions which are approved and recognised by the Council after inspection by its representative shall be competent to train nurses, midwives, auxiliary nurse-midwives or health visitors, and to send them for examination for the qualifying certificates of the Council. (2) The Council may withdraw recognition from any such institution after its inspection by a representative of the Council. The order of such withdrawal shall be in writing and shall be served in the prescribed manner; Provided that no recognition shall be withdrawn without giving an opportunity to the authorities in-charge of the institution from being heard. (3) No school, hospital or other institution which is not approved and recognised under this section shall issue to any person a certificate or enter the name of any person in any document purporting to show that such person is qualified by reason of his having passed any examination or undergone any course of training to practise as a nurse, midwife, auxiliary nurse-midwife or health visitor, unless his name is registered or entered in the list under this Act. (4) Any person who contravenes the provisions of sub-section (3) shall on conviction, be punished with fine which may extend to Rs. 500. (5) Where a person committing an offence under this section is a company or other body corporate or an association of persons (whether incorporated or not), every person who at the time of the commission of the offence was a director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

25. Appeal against refusal to recognise institution.

- Any person aggrieved by the refusal of the Council to approve and recognise any institution as competent to train nurses, midwives, auxiliary nurse-midwives or health visitors may appeal, within three months from the date of such refusal, to the State Government against such order of refusal. The decision of the State Government, on any such appeal, shall be final.

Part V – Miscellaneous

26. Removal of names from register on notice of death.

- Every Registrar of Births and Deaths who receives notice of the death of any person whose name he knows to be or has reason to believe is entered in any register, shall forthwith transmit by post to the Council a certificate or registration of such death signed by him and stating the time and place of death, and thereupon the name of such person shall be removed from the register.

27. Penalty for dishonest use of certificate.

- Any person who, - (a) dishonestly makes use of any certificate of registration issued under the provisions of this Act to him or to any other person; (b) procures or attempts to procure registration under the provisions of this Act by making or producing or causing to be made or produced any false or fraudulent declaration, certificate or representation whether in writing or otherwise; or (c) wilfully makes or causes to be made any false representation in any matter relating to the register or certificate issued under the provisions of this Act; shall, on conviction, be punished with fine which may extend to Rs. 250 for the first offence and for any subsequent offence with fine which may extend to Rs. 500 or with simple imprisonment for a term which may extend to six months or with both.

28. Penalty for unlawful assumption of title of registered nurse, midwife, auxiliary nurse-midwife or health visitor.

- Any person who not being a registered nurse, midwife, auxiliary nurse-midwife or health visitor, takes or uses the name or title of registered nurse, midwife, auxiliary nurse-midwife or health visitor, or uses any name, title, description, prescribed uniform, object or sign-board with the intention that it may be believed, or with the knowledge that it is likely to be believed that such person is a registered nurse, midwife, auxiliary nurse-midwife or health visitor shall, on conviction, be punished with fine which extend to Rs. 100 for the first offence and for any subsequent offence with fine which may extend to Rs. 200 or with simple imprisonment for a term which may extend to three months or with both.

29. Cognizance of offence.

(1) No Court shall take cognizance of an offence punishable under this Act, except upon complaint in writing made by the Registrar or any other officer authorised by the Council in this behalf by general or special order. (2) No Court inferior to that of a Magistrate of First Class shall try any offence punishable under this Act.

30. Protection of action taken in good faith.

- No suit, prosecution or other legal proceeding shall lie against the State Government, the Council or any committee thereof, or any officer or servant of the Government or the Council for anything which is in good faith done or intended to be done under this Act.

31. Control 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 any of the powers conferred upon it by or under this Act, or has failed to perform any of the duties conferred upon it by or under this Act, the State Government may, if it considers such failure, excess or abuse to be of a serious character, notify the particulars thereof to the Council and if the Council fails to remedy such failure, excess or abuse within such time as the State Government may fix in this behalf, the State Government may dissolve the Council and cause all or any of the powers and duties of the Council to be exercised and performed by such person and for such period not exceeding two years as it may think fit and shall take steps to bring into existence a new Council.

32. Information to be furnished by Council and publication thereof.

- The Council shall furnish such reports, copies of its minutes, abstracts of its accounts, and other information to the State Government as the State Government may prescribe.

33. Power to make rules.

(1)The State Government may, make rules to carry out the purposes of this Act.(2)All rules made under this section shall be laid on the table of the Assembly.

34. Power to make regulations.

- The Council may, with the previous sanction of the State Government and subject to rules made under Section 33, make regulations generally to carry out the purposes of this Act, and, without prejudice to the generally of this power, such regulations may provide for,-(a)the management of the property of the Council and the maintenance and audit of its accounts;(b)the summoning and holding of meetings of the Council, the times and places where such meetings are to be held, the conduct of business thereat;(c)the resignation of members of the Council;(d)the powers and duties of the President and Vice-President;(e)the mode of appointment of Committees, the summoning and holding of meetings, and the conduct of business of such Committees;(f)the tenure of office, and the powers and duties and other conditions of service of the Registrar and other officers and servants of the Council;(g)the particulars to be stated, and the proof of qualifications to be given in application for registration under this Act;(h)the form in which State register shall be maintained;(i)any matter for which under this Act provision may be made by regulations.

35. Consequences to ensure on establishment of Council under Section 3.

- As from date specified for the establishment of the Council in the notification under sub-section (1) of Section 3, the following consequences shall ensue, namely,-(a)the Mahakoshal Nurses Registration Council, the Madhya Bharat Nurses, Midwives and Health Visitors Council and the Madhya Bharat Dais Registration Board shall stand dissolved;(b)all assets and liabilities of the

Councils/Board referred to in clause (a) shall belong to and be deemed to be the assets and liabilities of the Council established under Section 3;(c)all such registered nurses, midwives, auxiliary nurse-midwives, health visitors and dais registered under any of the Acts, repealed under Section 36 and possessing recognised qualifications on the commencement of this Act, shall be deemed to be enrolled as registered nurse, midwife, auxiliary nurse-midwife or health visitor, as the case may be, in the State Register under this Act;(d)all employees belonging to or under the control of the Councils/Board referred to in clause (a) immediately before the date aforesaid shall be deemed to be employees of the Council established under Section 3 and shall, until other provision is made in accordance with the provisions of this Act, receive salary and allowances and be subject to conditions of service to which they were entitled or subject immediately before such date :Provided that it shall be competent to the Council, subject to the previous sanction of the State Government, to discontinue the service of any employee, who in its opinion, is not necessary or suitable to the requirement of the Council after giving such employee such notice as is required to be given by the terms of his employment and every such employee shall be entitled to such leave, pension, provident fund and gratuity as he would have been entitled to take or receive on being invalidated out of service as if the Councils/Board in the employ of which he was, had not ceased to exist :Provided further that if the terms of employment of such employee do not contain any such requirement, he shall, if he has put in more than one year's continuous service in the Councils/Board be entitled to recover from the Council established under Section 3 by way of compensation a sum equal to his existing pay and allowances for one month;(e)all records and papers belonging to the Councils/Board referred to in clause (a) shall vest in and be transferred to the Council established under Section 3.

36. Repeal.

- As from the date specified for the establishment of the Council under sub-section (1) of Section 3, the Central Provinces and Berar Nurses Registration Act, 1936 (No. 23 of 1936), and the Madhya Pradesh Statutory Bodies (Regional Constitution) Act, 1956 (No. 17 of 1956), in so far as it relates to the said Act, the Madhya Bharat Dais Registration Act, 1953 (No. 22 of 1953), and the Madhya Bharat Nurses, Midwives and Health Visitors Registration Act, 1955 (No. 2 of 1955), shall stand repealed.