

The Orissa Ayurvedic Medicine Act, 1960

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The Orissa Ayurvedic Medicine Act, 1960 Statement of Objects and Reasons. - There is at present no law in force in this State to provide for the development of the Ayurvedic System of Medicine and to regulate its teaching and practice. The Government think that it is necessary and desirable in the public interest to organise the above system of medicine and bring it under control and to check practice of the said system of drugs by laymen and quacks. The proposed Bill contemplates the constitution of a Council and Faculty consisting among others, of practitioners of the Ayurvedic system of Medicine with authority to prescribe courses of training qualifications, etc. and to ensure the maintenance of an adequate standard of proficiency in the practice of this system of medicine. The Bill also contemplates to make the Ayurvedic practitioners registrable under a separate registering authority to be established under this Act which forms an integral part of the Bill. For Bill see Orissa Gazette, Extraordinary, No. 238-A of 1960. Published vide Notification 4432-Legislative, 1.7.1960, Orissa Gazette Extraordinary No. 583/11.7.1960. An Act to provide for the development of the Ayurvedic system of medicine, to regulate its teaching and practice, and to control the sale of indigenous medicinal herbs and drugs in the State of Orissa. Be it enacted by the Legislature of the State of Orissa in the Eleventh Year of the Republic of India as follows :

Chapter 1

Preliminary

1. Short title, extent and commencement.

(1) This Act may be called the Orissa Ayurvedic Medicine Act, 1960. (2) It extends to the whole of the State of Orissa. (3) It shall come into force on such [date] [The Act came into force w.e.f., 2. 9. 1960 vide Orissa Gazette Part III, 1960.] or dates as the State Government may, by notification, appoint, and different dates may be appointed for different provisions of this Act,

2. Definitions.

- In this Act, unless there is anything repugnant in the subject or context : (i) "Ayurvedic System of Medicine" or "Ayurvedic Medicine" means the Ayurvedic System of Medicine, including the Sidha System of Medicine whether supplemented or not by such modern medicines as Faculty may from time to time determine; (ii) "Bye-laws" means the bye-laws made by the Faculty under Subsection (3) of Section 20; (iii) "Chairman" means the Chairman of the Faculty; (iv) "Council" means, the Orissa State Council of Ayurvedic Medicine, established and constituted under Section 3; (v) "Faculty" means the State Faculty of Ayurvedic Medicine established under Section 4; (vi) "Government" means the State Government of Orissa; (vii) "Inspector" means the Inspector appointed by the Council under Clause (ix) of Section 19; (viii) "List" means the list of the Ayurvedic Practitioners prepared and maintained under Section 41; (ix) "Member" means a member of the Council or the Faculty, as the case may be; (x) "Midwife" means one who holds a diploma or certificate in Midwifery from an institution affiliated to or recognised by the Faculty; (xi) "Practitioner" means a person who practises the Ayurvedic system of medicine in the State of Orissa; (xii) "Prescribed" means prescribed by the rules framed under this Act; (xiii) "President" means the President of the Council; (xiv) "Qualifying Examination" means an examination specified in Section 29; (xv) "Recognised institution" means [the Gopabandhu Ayurveda Mahavidyalaya] [Substituted vide Act No. 29 of 1970, Section 2.], Puri and such other Ayurvedic teaching institution as may from time to time be recognised by the Faculty under this Act; (xvi) "Register" means the Register or practitioners maintained under Section 24; (xvii) "Registered practitioner" means a practitioner whose name is for the time being entered in the register; (xviii) "Registrar" means the Registrar appointed under Section 22; (xix) "Regulations" means the regulations made by the Council under Section 56; (xx) "Rules" means the rules made by the Governor under Section 67; (xxi) "Schedule" means the Schedule appended to this Act; (xxii) "Surgeon" means a "Vaidya" or "Kaviraj" who holds a diploma of surgery from an institution affiliated to or recognised by the Faculty; (xxiii) "Vaidya" or "Kaviraj" means a practitioner of Ayurvedic system of medicine.

Chapter II

Establishment and constitution of the Council and the Faculty

3. Establishment and constitution of the Council.

(1) The Government shall by notification in the Official Gazette, establish a Council to be called "The Orissa State Council of Ayurvedic Medicine". Such Council shall have perpetual succession and a common seal with power to acquire and hold property, both movable and immovable, and to transfer any such property subject to the prescribed conditions and may by the said name sue or to be sued. (2) The Council shall consist of the following members, namely (i) [the Director of Indian Medicine and Homoeopathic who shall be the President of the Council;] [Substituted vide Act No. 8 of 1974, Section 2.] (ii) four members qualified in the Ayurvedic system of medicine to be nominated by Government out of whom one shall be a woman; (iii) two members to be elected by the Orissa Legislative Assembly from amongst its members by means of a single transferable vote; (iv) one member to be elected in the manner as may be prescribed by the Faculty of Medicine of the

University from amongst its members;(v)one member to be elected, in the prescribed manner, by the Council of Orissa Association of Sanskrit Learning and Culture who shall be a practitioner;(vi)two members to be elected in the prescribed manner by the teachers of the Ayurvedic Institutions affiliated to the Faculty from amongst themselves;(vii)two members to be elected in the prescribed manner, from amongst themselves, by the registered diploma-holders of the Council and its predecessor, the Orissa Ayurvedic Examination Board;(viii)the members to be elected, in the prescribed manner from amongst themselves, by the registered practitioners;(ix)Principals of the Ayurvedic Institutions affiliated to the Faculty.

4. Establishment and constitution of Faculty.

- There shall be established by the Council for the purpose of this Act a State Faculty of Ayurvedic Medicine, consisting of-(i)the President of the Council who shall be the ex officio Chairman of the Faculty;(ii)the Principals of the Ayurvedic institution affiliated to the Faculty;(iii)three eminent Ayurvedic Physicians to be nominated by the Government;(iv)two members to be elected, in the prescribed manner, by the teachers of the Ayurvedic institutions affiliated to the Faculty from amongst themselves;(v)the member of the Council under Clause (iv) of Sub-section (2) of Section 3;(vi)the members of the Council elected under Clause (iii) of Subsection (2) of Section 3.

5. Dissolution of the existing Board and savings of acts.

(1)On the date the first Council is constituted under the provisions of this Act, the existing "Orissa Ayurvedic Examination Board" shall cease to exist and its assets and liabilities shall devolve upon Council so constituted.(2)All acts begun whether pending or completed by the said Orissa Ayurvedic Examination Board by the date of the constitution of the first Council shall, in so far as they relate to the functions allotted to the Council under this Act, be deemed to have begun or performed by the Council constituted under this Act, and such acts may be carried on and completed by or under the authority of the Council so constituted.

6. Election of members.

- The election of the persons, entitled to the members of the Council or the Faculty shall be held at such time and place and in such manner as may be prescribed by the Government :Provided that when the Council and the Faculty are to be established for the first time, the members to be elected under Clauses (iii) to (viii) of Sub-section (2) of Section 3 and Clause (iv) of Section 4, as the case may be, shall be nominated by the Government and the Council and the Faculty so constituted for the first time shall hold office for a period of five years from the date of publication of the names in the official Gazette under Section 8 or for such further period as the Government may by notification fix in this behalf.

7. Term of office.

- Save as otherwise provided in this Act-(a)the term of office of the elected and nominated members

of the Council, shall be for five years from the date of publication of their names in the official Gazette under Section 8 and shall include any further period which may elapse between the expiration of the said period of five years and the date of the first meeting of the succeeding Council at which a quorum is present; (b) the term of office of the elected and nominated members of the Faculty shall expire on the same date on which the term of office of the members of the Council expires : Provided that members elected by the electorates specified in Clauses (iii) to (viii) of Sub-section (2) of Section 3, or under Clause (iv) of Section 4, shall cease to be member of the Council or the Faculty, as the case may be, as soon as they cease to be the members of these electorates : [Provided further that where any member is elected subsequent to the reconstitution of the Council or the Faculty, as the case may be, to fill up any seat allotted to any constituency due to the reason that such constituency was not in existence at the time of such reconstitution but came into existence subsequent thereto, the term of office of such member shall be co-terminus with the term of office of the existing members of the Council or the Faculty, as the case may be.] [Inserted vide Act No. 18 of 1972, Section 2.]

8. Notifications of elections, nominations and vacancies.

- The names of the President, the Chairman and of every member nominated or elected under Section 3, 4, 6, 9 or 10 shall be published in the official Gazette, by the Government : [Provided that the names of all the members who are nominated or elected for the purpose of reconstitution of the Council or Faculty, as the case may be, shall be published simultaneously.] [Added by vide Act No. 18 of 1972, Section 2., Section 4.]

9. Nomination of members in default of election.

- If on any election, any or the electorates referred to in Clauses (iii) to (viii) of Sub section (2) of Section 3 or Clause (iv) of Section 4, fails within such period as may be prescribed to elect a member or members referred to in the said clauses, or on the occurrence of any casual vacancy, to fill that vacancy as provided in Section 10, the Government shall nominate a person or person possessing the requisite qualifications to fill such a vacancy or vacancies, and the person or persons so nominated shall for the purposes of this Act be deemed to have been duly elected under Section 3 or 4, as the case may be.

10. Casual vacancies.

- If the President or the Chairman or any member of the Council or the Faculty is unable by reason of his death, resignation, removal or otherwise, to complete his full term of office, the vacancy so caused shall be filled by nomination or election, as the case may be, by another person within the prescribed period and the person so nominated or elected, shall till such vacancy for the unexpired portion of the term, for which the member in whose place such person is nominated or elected would otherwise have continued in office : Provided that, in the case of a member who is to be elected, if the vacancy is for a period of six months, or less, the Council may direct that the vacancy may remain unfilled till the next general election.

11. Resignation of President or members.

- Any member of the Council or the Faculty other than the President or the Chairman may, at any time, resign his office by a letter addressed to the President or the Chairman, as the case may be. Such resignation, after due verification, shall take effect from the date, on which it is accepted by the Council or the Faculty, as the case may be.

12. Disqualifications.

- No person shall be eligible for election or nomination as a member-(a)who is less than twenty-five years of age;(b)who is insane or of unsound mind;(c)who is an employee of the Council or the Faculty;(d)who has applied far being adjudged an insolvent or is an undischarged insolvent;(e)who has been convicted for any offence under this Act;(f)who has been convicted for an offence, involving moral turpitude which in the opinion of the Government renders him until to hold office;(g)who has, on the previous occasion, been removed from office under Section 13;(h)whose name has been removed from the register;(i)who has, directly or indirectly, or by himself or as a partner, any share or interest in any contract with, by or on behalf of the Council or the Faculty;(j)who has been appointed as Legal Adviser to the Council or the Faculty :Provided that the Government may in any particular case remove this disqualification.

13. Disabilities for continuing as a member.

(1)If any member during the period for which he has been nominated or elected-(i)absents himself, without such reasons as may, in the opinion of the Council or the Faculty be sufficient, from three consecutive ordinary meetings of the Council or the Faculty; or(ii)is or becomes subject to any of the disqualifications specified in Section 13; or(iii)refuses to perform or is incapable of performing any of the duties assigned to him under this Act; or(iv)being a legal practitioner, appears in any suit or proceeding whether civil, criminal or revenue, against the Council he shall be removed from membership :Provided that before removing a member from office of the Council or the Faculty, as the case may be, shall call for his explanation record its findings therein.(2)Any member removed from office by the Council or the Faculty under Sub-section (1), may, within thirty days from the date of his removal, appeal to the Government and the order of the Government on any such appeal shall be final.(3)The Government may remove the President or the Chairman from office on any of the grounds specified in Sub-section (1) after calling for an explanation from him.

14. Allowance of President, Chairman and members.

(1)There shall be paid to the President or the Chairman and the members of the Council and the Faculty, such travelling and other allowances as, may be prescribed.(2)No person shall receive any pay or special pay as President or Chairman or as a member of the Council or the Faculty.

15. Time and place of meeting of Council and Faculty.

- The Council or the Faculty shall have an office at the headquarters of the Government and shall meet at such time and place and every meeting of the Council and the Faculty shall be summoned in such manner as may be prescribed by regulations or bye-laws, as the case may be ;Provided that until such regulations or bye- laws are made, it shall be Lawful for the President or the Chairman to summon a meeting of the Council, or the Faculty, as the case may be, at such time and place as may be deemed expedient, by letter addressed to each member on a clear notice of fifteen days.

16. Procedure at the meeting.

(1)The President shall preside at every meeting of the Council. In the absence of the President, the members present shall elect one of them to preside.(2)The Chairman shall preside at every meeting of the Faculty. In the absence of the Chairman the members present shall elect one of them to preside.(3)One-third of the members of the Council or the Faculty shall term a quorum. No quorum shall be necessary for a meeting adjourned for want of a quorum.(4)All questions at the meeting of the Council or the Faculty shall be decided by the votes of the majority or the members present at the meeting.(5)At every meeting of the Council or the Faculty, the person presiding, for the time being, shall, in addition to his vote as a member of the Council or the Faculty have a second or casting vote in case of an equality of votes.

17. Validity of proceedings.

- No disqualification or defect in the election or nomination of any person acting as a member or as the President or the Chairman or as the President of a meeting in the absence of the President or the Chairman, shall be deemed to vitiate any act or proceedings of the Council or the Faculty, as the case may be, in which such person has taken part, if the majority of the person took part in such act or proceedings were duly qualified members of the Council or the Faculty.

18. Establishment of Advisory Committee.

(1)The Council may subject to the rules made by the Government by a resolution in that behalf appoint an Advisory Committee which may consist of as many members of the Council and outsiders, if any, co-opted for any purpose as it deems fit. The said Committee shall discharge such duties, perform such functions and advise on such matters as may be assigned or referred to it by the Council:Provided that the total number of members of such Committee shall not be more than seven.(2)The Council may from amongst the members of the Committee appoint a Convener who shall preside at the meetings of such Committee, to the absence of the Convener the members present shall elect one amongst themselves to preside at the meeting.(3)All questions at a meeting of the Committee shall be decided by the votes of the majority of the members present at the time of voting at the meeting. In the case of equality of votes the member presiding shall have a second or casting vote.(4)No business shall be transacted at any meeting when less than three members constituting the Committee are present.(5)The term of office and allowance, if any, payable to the

members of such Committee, shall be determined by rules made by the Government in this behalf.

19. Powers and functions of the Council.

- Subject to the provisions of this Act or the rules made thereunder the Council shall have the following powers and functions, namely : (i) to advise the Government in matters relating to Ayurvedic System of Medicine including research and post-graduate education; (ii) to accord, suspend or withdraw recognition or affiliation of Ayurvedic Educational Institutions on the recommendation of the Faculty; (iii) to prescribe fees for admission to examinations conducted by the Faculty; (iv) to allot funds to the Faculty for carrying out its duties; (v) to provide for registration of practitioners and entry of their names in the register under this Act and to provide for the preparation of the list of practitioners under Section 41; (vi) to reprimand a registered practitioner whose name is entered in the list or suspend or remove him from the register or list and to take such other disciplinary action against him as may in the opinion of the Council be necessary or expedient : Provided that the Council shall, before taking action under this clause, give the practitioner concerned a reasonable opportunity of being heard; (vii) to hear and decide appeals from the decision of the Registrar; (viii) to endow chairs of Ayurvedic system of medicine and surgery in the institutions affiliated to the Faculty; (ix) to appoint Inspectors for the inspection of Ayurvedic institutions, dispensaries, hospitals, druggists' shops or firms in the State and to require institution giving instructions in the Ayurvedic system of medicine to furnish such information as may be necessary; (x) to register and issue licences to reliable firms for sale of genuine Ayurvedic drugs : Provided that no such licence shall be issued without the approval of the Government. (xi) to perform such other functions for the development of Ayurvedic system of medicine as may be consistent with the provisions of this Act ; and (xii) to exercise such other powers as may be specified by or under this Act.

20. Powers and functions of the Faculty.

(1) Subject to such conditions as may be prescribed by or under the provisions of this Act, the powers and functions of the Faculty shall be- (i) to prescribe the co-irip of training and the standard and subjects of qualifying examinations in institutions affiliated to the Faculty; (ii) to hold qualifying examinations and other examinations, to appoint examiners, to fix their fees and allowances and to declare and publish the results of the examinations; (iii) to grant certificates to and confer degrees, or diplomas on of grant licences to persons who shall have pursued a course of study in the institutions affiliated to the Faculty; (iv) to recommend award of scholarships, stipends, medals, prizes and other awards to the Council; (v) to prepare, publish and proscribe text books and to publish prescribed courses of study ; (vi) to provide for the maintenance of an adequate standard of proficiency for the practice of the Ayurvedic system of medicine; (vii) to recommend schemes for post-graduate training in Ayurvedic system of medicine; (viii) to appoint through the Council, with the previous sanction of the Government, officers and servants, as may be necessary ; (ix) to make recommendations to the Council for the affiliation of recognition or for suspension or withdrawal of recognition or affiliation of Ayurvedic institutions : Provided that no action of withdrawal or suspension of recognition shall be taken without affording the Committee of management of the institution an opportunity to improve the institution within a reasonable period or for making a representation against the

proposed action;(x)to appoint through the Council any Committee or Board of Studies, as may be necessary, with the previous approval of the Government and to lay down their constitutions, duties and functions. Such Committee or Board may have members who are not members of the Faculty; and(xi)to discharge such other functions of academic nature as may be delegated to it by the Council with the previous sanction of the Government.(2)No act done by the Faculty shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Faculty.(3)(i)Subject to the provisions of the Act and the rules and regulations made thereunder, the Faculty may, with the previous sanction of the Government, make bye-laws for the following matters, namely :(a)the courses of study for training and qualifying examination;(b)the language in which the examinations shall be conducted and instruction shall be given;(c)the admission of students to the recognised institutions;(d)the conditions under which students shall be admitted to degrees, diplomas, licence or certificate courses and to the qualifying examinations of the Faculty and shall be eligible for degrees, diplomas and certificates;(e)the conditions and mode of appointment and duties of Examiners and the conduct of examinations;(f)the conditions for the recognition of teachers in recognised institutions;(g)the number and qualifications of teachers of the educational institutions affiliated to the Faculty, with a view to secure high standard of proficiency in teaching and training at those institutions;(h)the conditions and requirements for the affiliation or the recognition of teaching institutions;(i)the procedure to be followed at an inquiry instituted by the Faculty;(j)the custody of the common seal; and(k)any other matter in respect of which the Faculty is by the provisions of this Act either required or expressly or impliedly authorised to make bye-laws.(ii)All bye-laws shall be published in the official Gazette, and shall not take effect until they have been approved and confirmed by the Government.(iii)The Government may, by notification in the official Gazette, cancel any bye-law.

21. Disagreement between the Council and the Faculty.

- In the event of disagreement between the Faculty and the Council on any matter, a reference shall be made by the Council to the Government and the decision of the Government shall be final.

Chapter III

Officers and servants of the Council

22. Appointment and conditions of service of Registrar and other officers and servants of the Council.

(1)The Government shall appoint a Registrar who shall be the Secretary to the Council as well as the Secretary to the Faculty.(2)The salary, allowances and other conditions of service of the Registrar shall be such as may be determined by the Government.(3)(i)The Council may, from time to time, appoint such other officers and servants as may be necessary for carrying out the purposes of this Act:Provided that the number and designation of such officers and servants, their salaries and allowances shall be subject to the previous approval of the Government.(ii)The punishment, dismissal, discharge and removal of any such officer or servant shall be subject to rules made by the Government in this behalf.(4)All questions of pay, allowances, promotions, leave, pension and

provident fund relating to the officers and servants other than the Registrar of the Council shall be governed by rules generally applicable to the servants of the Government of similar category and rank.(5)The Registrar or any other officer or servant appointed under this section shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code, Act 45 of 1860.(6)All officers and servants of the Council or the Faculty shall be under the direct control and supervision of the President or the Chairman, as the case may be.

23. Powers and duties of Registrar and other officers and servants of the Council.

(1)The Registrar and other officers and servants of the Council shall exercise such powers and perform such duties as may, from time to time, be conferred or imposed on that under this Act or under any rules framed thereunder or under any general or special orders of the Council.(2)The Registrar may take part in the discussions before the Council or the Faculty, but shall not be entitled to vote.

Chapter IV

Registration of Ayurvedic Practitioner

24. Maintenance of registers and the list.

(1)Subject to any general or special order, which may, from time to time, be made by the Council, the Registrar shall maintain a register or registers of Ayurvedic practitioners practising the Ayurvedic system of medicine in the State of Orissa in the Prescribed form and it shall be the duty of the Registrar to keep the register correct and up-to-date, as far as practicable, in accordance with the provisions made by or under this Act, The Registrar shall also maintain the list of practitioners in accordance with the provisions contained in Section 41.(2)(i)The Registrar shall, with a view to keep the register correct and up-to-date, as far as possible, from time to time, enter therein any material alterations or remove the names of the practitioners, who die or whose names are directed by the Government to be removed from the register under Section 32 :Provided that the Government may direct that any alteration in the entries as respects additional qualifications shall not be made unless payment of such fees as may be prescribed is made.(ii)For purposes of this sub-section the Registrar may write to any registered Practitioner at the address which is entered in the register to enquire whether he has ceased to practise or has changed his residence and if no reply is received to the said letter within three months the Registrar may issue a reminder by registered post and in case no reply is received to the reminder within two months from the date of issue he may remove the name of this said practitioner from the register :Provided that the Council may if it thinks fit, direct that the name of the said practitioner be re-entered in the register on payment of the fees.(3)The register shall be in such form as may be prescribed and shall contain the name, residence and qualification of every practitioner registered together with the date on which such qualification was acquired.

25. Report of deaths to the Registrar and removal of names from register.

(1) Every Registrar of deaths who receives notice of the death of person whose name is likely to have been entered in the register shall forthwith transmit by post or otherwise to the Registrar of the Council a certificate of such death, signed by him and stating particulars of the time and place of death. (2) On receipt of such certificate or other reliable information regarding such death, the Registrar shall remove the name of the deceased person from the register.

26. Persons entitled to be registered.

(1) Every person who is not less than eighteen years of age and who passes a qualifying or possesses any of the other qualifications mentioned in the Schedule, or belongs to any of the categories of persons specified therein, shall, subject to the provisions contained in or made under this Act and upon payment of such fees, as may be prescribed, have right to have his name entered in the register subject to such conditions as the Council may impose. When the name of a person has been registered in accordance with the provisions, aforesaid, he shall be granted a certificate in the form as may be prescribed: Provided that an application for entry of the name in the register of a person whose case is not clearly governed by the provisions of this Act or by the rules and regulations made thereunder shall be referred to the Council for such decision as it may deem fit. (2) The registration of any person made under Sub-section (1) shall be communicated by the Registrar to such person, who may, if he is aggrieved by the decision, prefer an appeal to the Council within ninety days of such communication. (3) Such appeal shall be heard and decided by the Council in the prescribed manner. (4) The Council may, on its own motion or on the application of any person, cancel or alter any entry in the register, if in the opinion of the Council after making such enquiry as it may deem fit it is found that such entry was fraudulently or incorrectly made or obtained on account of misrepresentation: Provided that such cancellation or alteration shall not be effected without giving the person affected a reasonable opportunity of being heard.

27. Amendment of Schedule.

(1) If at any time the Council is satisfied on the recommendation of the Faculty, that a title or degree granted, or qualification certified by a University, examining body or other Institutions in India is a sufficient guarantee that persons holding such a title or qualification possess the knowledge or skill requisite for the efficient practice of medicine, surgery and midwifery, it may, subject to the approval of the Government, direct that the possession of such title, degree or qualification shall, subject to the provisions contained in this Act and payment of the prescribed fee, entitle a person to have his name entered in the register. (2) If the Council on the recommendation of the Faculty, is not so satisfied in respect of any title, degree or qualification, it may subject to the approval of the Government direct that the possession of such title, degree or qualification shall not entitle a person to have his name entered in such register. (3) When the Council issues a direction under Sub-section (1) or (2) such title, degree or qualification shall be deemed to be covered by or, as the case may be, to be excluded from the Schedule.

28. Arrangements for modifying Schedule for setting of a scheme of reciprocity of medical qualifications in other States.

(1) At any time after the date of commencement of this Act, the Council may enter into negotiations with the authority in any other State which is entrusted by the law of such State with the maintenance of a register of practitioners of the Ayurvedic System of Medicine, Surgery and Midwifery for the settling of a scheme of reciprocity for the recognition of medical qualifications and in pursuance of any such scheme, the Government, may by notification, amend the Schedule so as to include therein any medical qualifications which the Council on the recommendation of the Faculty decide to recognise, (2) Where the Council has refused to recognise on the recommendation of the Faculty any medical qualification which has been proposed for recognition by any such authority, that authority may apply to the Government and the Government, after considering such application and after consulting the Council, may by notification amend the Schedule so as to include such qualification therein.

29. Qualifying examination.

(1) The Faculty shall, by bye-laws, prescribe the course of training and qualifying examinations including the preliminary qualifications for admission into the institutions. (2) A qualifying examination shall be an examination in the Ayurvedic System of Medicine including the subjects of Medicine, Surgery and Midwifery held by the Faculty (or its predecessor the Orissa Ayurvedic Examination Board) for the purpose of granting a degree or diploma conferring the right of registration under this Act and specified in the Schedule, and such other examination as may, on the recommendation of the Faculty, be included in the Schedule by the Council by a notification in the Official Gazette from and after the date specified in the notification.

30. Power to call for information from Medical Institution.

(1) It shall be the duty of the Faculty—(a) to secure the maintenance of an adequate standard of proficiency for the practice of Ayurvedic System of Medicine including the subjects of Medicine, Surgery and Midwifery. For the purpose of securing such standard, the Faculty may call upon the Governing Body or authorities of the Ayurvedic teaching Institutions, Examining Bodies or other Institutions as are included in, or are desirous of being included in the Schedule;—(b) to furnish such reports, returns or other informations as the Faculty may require of any course of study prescribed by bye-laws or examination held by such body or institution with reference to grant of any qualification to enable it to judge the efficiency of the institution given therein in the Ayurvedic or any of its subjects or branches; and (c) to provide facilities to enable Inspectors or any member or visitor appointed and deputed by the Faculty for the purposes to attend and be present at all or any of the qualifying examinations conducted by such Ayurvedic institution or examining bodies or other institutions. (2) The Inspectors, members or visitors shall not interfere with the conduct of any examination, but it shall be their duty to report to the Faculty their opinion as to the sufficiency or insufficiency of every examination which they attend and any other matters in relation to such examinations on which the Faculty may require them to report. (3) Every qualifying examination

held by the bodies or institutions authorised under this section shall be inspected by Inspectors, members or visitors, at least once in five years and more frequently if the Faculty so directs.(4)The Faculty shall forward a copy of every such report to the body which held the examination in respect of which the said report was made and shall also forward a copy of such report, together with any observations by the said body, to the Council.(5)An Inspector, a member or a visitor shall receive such remuneration to be paid as part of the expenses of the Faculty as the faculty with the permission of Government may determine.

31. Informations required of applicants for registration.

- Every person who applies to have his name entered in the registers must satisfy the Registrar that he is possessed of some degree, title or qualification specified in the Schedule; and he must inform the Registrar of the date on which he obtained the degree, title or qualification which entitled him to claim registration under this Act, and shall furnish any further information required by the Registrar in order to enable such person to discharge the duties imposed upon him by or under this Act.

32. Prohibition of entry in or removal from the register.

(1)The Council may prohibit the entry in, or order the removal from the register, the name of any practitioner-(a)who has been sentenced by a Criminal Court to imprisonment for an offence declared by the Government to involve such moral turpitude as would render the entry or continuance of his name in the register undesirable; or(b)whom the Council after inquiry has found guilty of professional misconduct or other infamous conduct by a majority of at least two-third of the members present at a voting in the meeting specially convened for the purpose :Provided that the Council may entrust such inquiry to a special Committee which shall submit a report to the Council regarding the conduct of practitioner concerned.(2)The enquiry referred to in Clause (b) of Sub-section (1) may, in the discretion of the Council or the Committee, as the case may be held in camera and an opportunity shall be given to the practitioner concerned to be heard in his defence whether personally or through an authorised agent.(3)The Council may direct that the name of any person against whom an order has been made under Sub-section (1) shall be entered or reentered, as the case may be, after having satisfied itself that due to the lapse of time or otherwise, the disability mentioned in Sub-section (1) has ceased to have any effect.

33. Procedure in inquiries and appeals.

- For the purpose of any enquiry held under Clause (b) of Sub-section (1) of Section 32, the Council or the Committee as the case may be, shall exercise the powers of a Commissioner appointed under the Public Servants (Inquiries) Act 37 of 1850, and the provisions of Sections 5, 8 to 10, 14 to 16, 19 and 20 of the said Act shall, so far as may be, apply to every inquiry and appeal.

34. Publication of name entered in the register.

(1)The Registrar shall, in every year and from time to time as occasion may require, on or before a date to be fixed in this behalf by the Council, publish in the official Gazette and in such other manner as the Council may direct a correct statement of names for the time being entered in the register containing-(a)all names entered in the register arranged in alphabetical order;(b)the registered address or appointment of each person whose name is entered in the register ; and(c)the registered titles and qualifications of each such person and the date on which each such title was granted or each such qualification was certified.(2)In every year in which such statement has not been published, the Registrar shall cause to be printed and published on or before a date fixed as aforesaid, a supplementary statement containing-(a)the particulars specified in Clauses (a) to (c) of Sub-section (1), in the manner therein laid down, in regard to the persons whose names have been entered in the register 'during the year to which such supplementary statement appertains and(b)the names of any person removed from the register under any of the provisions of this Act during the said year.(3)In any proceeding, it shall be presumed that every person entered in such statement is a registered practitioner and that any person entered is not a registered practitioner :Provided that in the case of a person whose name has been entered in the register the list publication of the statement, a certified copy, signed by the Registrar, of the entry of the name of such person in the register shall be evidence that such person is registered under this Act. Such copy shall be issued free of charge.

35. Penalty on unregistered persons representing that he is registered.

- If a person whose name is not entered in the register falsely by represents that it is so entered or uses in connection with his name or title any words or letters representing that his name is so entered, he shall, whether any person is actually deceived by such representation or not, be punishable on conviction by a Magistrate of the first class with fine which may extend to two hundred rupees.

36. Examination before registration.

- Notwithstanding anything contained in any other provision, on and after the expiry of one year from the date from which Chapter V comes into force a person shall not be entered in the register unless he has passed a qualifying examination recognised by the Council.

37. Exemption from serving on inquests or as a juror or assessor.

- Notwithstanding anything contained in any other law for the time being in force every registered practitioner shall be exempt, if he so desires, from serving on any inquest or as a juror or assessor under the Code of Criminal Procedure, Act 5 of 1898.

38. Privilege of registered Practitioners.

- The registered practitioners shall have the same privileges as the medical practitioners registered under the Bihar and Orissa Excise Act, 2 of 1915, or under any other law for the time being in force.

39. Right of registered practitioners to hold certain appointment and to grant or authenticate certificates.

(1)Notwithstanding anything contained in any law for the time being in force, the expression legally qualified medical practitioner or duly qualified medical practitioner and all other expressions importing that a person is recognised by law as a medical practitioner or a member of the medical profession shall, in all enactments for the time being in force in the State of Orissa in so far as such enactments relate to any of the matters specified in the State List or the Concurrent List of the Seventh Schedule to the Constitution of India, be deemed to include a registered practitioner.(2)A registered practitioner shall be eligible to hold an appointment as a member of the teaching staff of any recognised Ayurvedic College or as a physician, surgeon or other Medical Officer in any Ayurvedic Dispensary, Hospital, Infirmary or Lying-in-Hospital supported by or receiving a grant from the Government or in any public establishment, body or institution dealing with the Ayurvedic system of medicine.(3)A registered practitioner shall be entitled to-(a)grant a certificate required under any law or rule having the force of law to be granted by any medical practitioner or medical officer;(b)sign or authenticate a birth or death certificate required by any law or rule to be signed or authenticated by a duly qualified Practitioner;(c)sign or authenticate a medical or physical fitness certificate of such description as may be prescribed : and(d)give evidence at any inquest or any Court of law as an expert under Section 45 of the Indian Evidence Act, 1 of 1872 on any matter relating to [the Ayurvedic system or medicine.] [Substituted vide Orissa Act No. 28 of 1963, Section 2.]

Chapter V

List of Persons Practising the Ayurvedic system of medicine other than registered practitioners

40. Power of the Government to enforce the Provisions of this Chapter.

- The Government may, at any time, by notification apply the provisions of this Chapter to the whole or any part of the State from such date as may be specified in the notification :Provided that the Government shall give wide publicity of the notification in such other manner also as they deem proper.

41. List of practitioners.

(1)After the publication of the notification referred to in Section 40, the Government may, by order published in the official Gazette, direct that a list of persons practising the Ayurvedic system of

medicine or any of its branches in the State on the date mentioned in the said notification, not being persons qualified for registration under this Act, shall be prepared and maintained by the Registrar, in such manner, within such period and on payment of such fee as may be prescribed.(2)The Government may make rules prescribing-(a)the manner and the form in which, and the period within which, such persons shall make applications for entry of their names in the list and the fee which shall accompany such applications;(b)the procedure to be followed by the Registrar in dealing with such applications and calling for information, if any, from applicants;(c)the conditions subject to which and circumstances under which persons other than a practitioner registered under Chapter IV or a person whose name is entered in the list prepared and maintained under this section may practise in any specified area or areas or on any specified occasion and the penalty which shall be imposed on any person who practise in contravention of such provisions.

42. Section 41 not to apply to certain persons.

- Nothing in Section 41 or rules made thereunder shall apply to any person-(a)who limits his practice to dentistry ; or(b)who being a nurse registered under the Orissa Nurses and Midwives Registration Act, Orissa Act 7 of 1938, or a Health Visitor or a Dai attends on a case of labour.

Chapter VI

Control of the Government

43. Power of inspection by the Government.

- Any person authorised by the Government in this behalf may enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by, or under the control and administration of the Council, or any work and its progress under their direction ; and may call for and inspect any document which may be for the purposes of this Act, in the possession or under the control of the Council or the Faculty.

44. Power to supersede the Council or the Faculty.

(1)If at any time it shall appear to the Government that the Council or the Faculty has made default in the performance of a duty imposed on it by or under this Act or has exceeded or abused its power, the Government may after giving the Council or Faculty, as the case may be, a reasonable opportunity of being heard if they consider such default, excess or abuse to be of a serious character communicate the particulars thereof to the Council or the Faculty, as the case may be, and issue necessary directions in respect of such default, excess or abuse to the Council or the Faculty, as the case may be, and if the Council or the Faculty fails to comply with such directions within such time as may be fixed by the Government in this behalf, the Government may by notification specifying the reason for so doing, declare the Council or the Faculty, as the case may be, to be in default or to have exceeded or abused its power, as the case may be, and-(a)direct that on a date to be specified in the notification, the office of the members of the Council or the Faculty shall be deemed to be vacant, and require a fresh election to be held on or before the said date ; or(b)direct that the

Council or the Faculty shall be superseded for such period not exceeding six months as may be specified in the notification.(2)The members of the Council or the Faculty who vacate office by reason of a declaration made under Sub-section (1) shall not, unless the Government otherwise direct be deemed disqualified for re-election or renomination.(3)Where an order of supersession has been passed under Clause (b) of Sub-section (1), the following consequences shall ensue, namely : (a)all the members of the Council or the Faculty shall, from a date to be specified in the order, vacate their offices as such members ; (b)all the powers and duties, which under the provisions of this Act are to be exercised and performed by the Council or the Faculty, as the case may be, shall, during the period of supersession, be exercised and performed by such person or persons as the Government may direct; (c)all property vested in the Council or Faculty, shall, during the, period of supersession, vest in the Government ; and (d)before the expiration of the period of supersession, election shall be held and nominations made for the purpose of reconstituting the Council and the Faculty.

Chapter VII

The Council Fund

45. Council Fund.

(1)There shall be formed a fund to be called the Council Fund and there shall be placed to the credit thereof- (a)all sums received by the Council and the Faculty as donations and grants including allotments from the Consolidated Fund of the State; (b)all sums received as fees on account of registration of practitioners and admission to the Faculty's examinations and licensing of firms for sale of Ayurvedic drugs under this Act and any other fees received under any of the provisions of this Act or rules or regulations or bye-laws made thereunder; and (c)all sums received or recovered by the Council and the Faculty on any other account.(2)All funds of the Council shall be deposited in the State Bank of India.

46. Allotment of funds by Government.

- The Government may place such sums at the disposal of the Council every year as they think necessary for distribution according to rules made by the Government to the Ayurvedic dispensaries, hospitals and educational institutions in the State and for other suitable purposes consistent with the aims and objects of this Act.

47. Objects to which Council Fund may be applied.

- The Council Fund shall be applicable to the following objects, namely : (a)to the payment of debts incurred by the Council for the purposes of this Act; (b)to the payment of the salaries and allowances of the Registrar and of the establishments employed by the Council and the Faculty for the purposes of this Act and to the payment of any Provident Fund contributions to the Registrar and to the members of such establishments; (c)to the payment of the travelling and other allowances of the President and members of the Council and the Chairman and members of the Faculty; (d)to the

payment of the travelling and other allowances of the members of the Committees of Boards appointed by the Council or by the Faculty;(e)to the payment of the cost of audit of the Council Fund;(f)to the expenses of any suit or proceeding to which the Council is a party;(g)to any object, which may be declared by the Council at a meeting specially convened for the purpose, by a resolution, in favour of which not less than two-thirds of the members present at such meeting shall have voted, to be an object to which the Council Fund may be applicable; and(h)to the payment of any other expense incurred by the Council or the Faculty in carrying out the provisions of this Act.

43. Audit.

- The accounts of the Council shall be subject to audit under the Orissa Local Fund Audit Act, 5 of 1948 and for the purposes of the said Act the Council shall be deemed to be a Local authority whose accounts have been declared by the Government to be subject to audit under Section 3 of the said Act and the Funds in the hands of the Council shall be deemed to be a local fund.

Chapter VIII

Miscellaneous

49. Appeals to Government from decision of Council.

(1)An appeal shall lie to the Government from every decision of the Council under this Act, except a decision made by the Council as an appellate authority.(2)Every appeal under Sub-section (1) shall be preferred within three months from the date of such decision.

50. Bar to suits and other legal proceedings.

(1)No suit or other legal proceedings shall lie against the Government in respect of an act done in exercise of the powers conferred by this Act or the rules or regulations or bye-laws made thereunder.(2)No suit or other legal proceedings shall be maintainable against the Council or the Faculty or any officer or servant of the Council or any person acting under the direction of the Council or the Faculty in respect of anything in good faith done or intended to be done under this Act or the regulations or bye-laws made thereunder.

51. Mode of proof of Council's records.

- A copy of any proceedings plan, notice, order, entry in a register or other document in the possession of the Council or the Faculty shall, if duly certified by the Registrar or other person authorised by the Council in this behalf, be received as prima facie evidence of the existence of the entry of document and of the matters therein recorded in every case, where and to the same extent as the original entry or document, would, if produced, have been admissible to prove such matters.

52. Restriction on the summoning of Council's servants to produce documents.

- No member or officer or servant of the Council or the Faculty shall in any legal proceeding to which the Council or the Faculty is not a party be required to produce any register or document or to appear as a witness to prove the matters recorded therein, except in accordance with an order of the Court made for special reasons.

53. Cognizance of offences.

(1) No Court inferior to the Court of a Magistrate of the second class shall take cognizance of or try an offence under this act or the rules or regulations made there-under. (2) No Court shall take cognizance of any offence under this Act or the rules or regulations made thereunder except on a complaint in writing of an officer empowered by rules made in this behalf.

54. Conferring, granting or issuing diploma licence etc., by unauthorised person or institution.

(1) No person other than an association or institution recognised or authorised by the Faculty under this Act shall confer, grant or issue, or hold himself out as entitled to confer, grant or issue any degree, diploma, licence, certificate or other document stating or implying that the holder, grantee or recipient is qualified to practise the Ayurvedic system of medicine. (2) Whoever contravenes the provisions of this section shall, on conviction, be punishable with fine which may extend to five hundred rupees and, if the person so contravening is an association, every member of such association who knowingly and wilfully authorises or permits the contravention shall, on conviction, be punishable with fine which may extend to two hundred rupees.

54A. [University to hold examination and confer degrees etc., in certain cases. [Inserted vide Act No. 8 of 1974, Section 3.]

- Notwithstanding anything contained in any other provision of this Act, where any Ayurvedic Teaching Institution is affiliated to any University established by law in the State-(a) such University shall hold qualifying examinations and other examinations of the student of that institution confer degrees or diplomas on the successful candidates and do all such acts as may be necessary for the said purposes; and (b) the faculty shall cease to perform the functions and exercise the powers as aforesaid in respect of any such institution.]

55. False assumption of degree, diploma or certificate to be an offence.

- Whoever voluntarily and falsely assumes or uses any title or description or any addition to his name implying that he holds a degree, diploma, licence or certificate conferred or authorised by the Council under this Act or that he is qualified to practise the Ayurvedic System of medicine under the provisions of this Act shall, on conviction, be punishable with fine which may extend to fifty rupees

for the first offence and with fine which may extend to two hundred rupees for every subsequent offence.

56. Power to make regulations.

(1) Subject to the provisions of this Act and to the rules made by the Government thereunder, the Council may make regulations for regulating the following matters, namely : (a) the conditions of residence of the students in the educational institutions affiliated to the Faculty and the levying of fees for such residence ; (b) the fees to be charged for courses of study in such institutions and for admission to the examinations, degrees, diplomas and certificates of the Faculty : Provided that in making regulations the Council shall take into consideration the financial and other existing conditions of the institutions generally ; (c) the time and place at which and the manner in which the meetings of the Council shall be summoned ; (d) the issue of notices convening such meetings ; (e) the conduct of the business at such meetings ; (f) the salaries, allowances and other conditions of service of officers and servants of the Council other than the Registrar ; and (g) all other matters which may be necessary for the purposes of carrying out the objects of this Act. (2) Such regulations shall be made after previous publication and shall not take effect until they are approved and confirmed by the Government.

57. Power to make rules.

(1) The Government may, after previous publication make rules not inconsistent with the provisions of this Act for carrying out its purposes. (2) In particular, and without prejudice to the generality of the foregoing power, [such rules] [The Orissa Ayurvedic Medicine Rules, 1960.] provide for all or any of the following matters, namely : (a) the conditions subject to which the Council may transfer any property under Sub-section (1) of Section 3 ; (b) regulations of elections under this Act ; (c) the time and the place at which, the period within which, and the manner in which elections shall be held under Section 6 ; (d) the conduct and maintenance of correct minutes of meeting of the Council ; (e) the period within which vacancies shall be filled under Section 10 ; (f) allowances payable to the President or Chairman and the members of the Council or the Faculty, as the case may be, under Section 14 ; (g) the term of office and allowances payable to members of an Advisory Committee under Sub-section (5) of Section 18, the Committee or Board of Studies appointed under Clause (x) of Sub-section (1) of Section 20 ; (h) the punishment, dismissal, discharge and removal of servants of the Council or the Faculty other than the Registrar under Clause (ii) of Sub-section (3) of Section 22 ; (i) the form of register of Ayurvedic Practitioners to be maintained under Section 24 ; (j) the manner in which appeals against the decision of the Registrar shall be heard by the Council under Section 26 ; (k) regulating the conditions, restrictions and exceptions subject to which Ayurvedic practitioners being residents of Orissa but having obtained qualifications from medical institutions in States outside Orissa, whether or not medical institutions in such States have been included in any scheme of reciprocity as provided in Section 28 may practise ; (l) distribution of funds placed by the Government at the disposal of the Council under Section 46 ; (m) reservation for registered practitioners of certain appointments in Ayurvedic Hospitals, Infirmarys, dispensaries, or lying-in-hospitals maintained by or under the control of the Government or a local authority ; (n) fees chargeable under this Act and their application ; (o) the furtherance of any other objects of

the Faculty as a teaching or examining body ; and(p)the furtherance of any other objects of the Council.

58. Repeal of Act 7 of 1916 in so far as it relates to the Ayurvedic system of medicine.

- The Indian Medical Degrees Act, 7 of 1916 in so far as it relates to the Ayurvedic system of medicine, is hereby repealed.

59. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order do anything which appears to them necessary for the purpose of removing the difficulty.

Schedule

[See Section 26]

1. Qualifications for eligibility for registration-

(i)Degrees or diplomas in Ayurvedic system of medicine supplemented by modern medicine, of any University established by law in India, and recognised by the Governments of the States in which the Universities are located;(ii)Degrees or diplomas in Ayurvedic system of medicine, supplemented by modern medicine, of the Orissa State Council of Ayurvedic Medicine, constituted under this Act or its predecessor the Orissa Ayurvedic Examination Board;(iii)Degrees or diplomas in Ayurvedic system of medicine, supplemented by modern medicine, of any Government Ayurvedic College or school in India outside the State, whose course of training for granting the said degrees or diplomas is not less than four years; or of any examining body duly appointed by the State or Central Government and the Ayurvedic teaching institutions affiliated to these bodies which provide regular training for not less than four years :Provided that such institutions or bodies recognised by the Government on the recommendation of the Faculty;(iv)Ayurvedacharya or Ayurvedasastris of the Orissa Association, of Sanskrit Learning and Culture;(v)Degrees, diplomas, or titles in Ayurvedic system of medicine granted by Government Ayurvedic Teaching Institutions or Government recognised Ayurvedic Teaching Institutions or recognised Ayurvedic Institutions affiliated to Government appointed Boards or Bodies, outside the State where the course of training extends for not less than three years, and are recognised by the Government on the recommendation of the Faculty.

2. Persons eligible to be registered-

(a)Practitioners of the Ayurvedic system of medicine who do not hold any of the qualifications noted above but are of sufficient reputation and eminence and well known for their skill in the profession

and have been practising the Ayurvedic system of medicine, as whole-time practitioners for a period of not less than ten years and are granted special recognition by the Government on their applications being duly recommended by the Faculty for the purpose. The registration of such practitioners shall cease at the [expiry of ten years] [Substituted vide Act No. 25 of 1967, Section 2.] from the date of this Act comes into force;(b)Practitioners of Ayurvedic system of medicine who do not possess of the qualifications noted above and are not accorded the recognition as aforesaid but who can prove to the satisfaction of the Council that they are well known, eminent regular whole-time practitioners of Ayurvedic system of medicine of not less than ten years' standing. The registration of such practitioners shall cease at the [expiry of ten years] [Substituted vide Act No. 25 of 1967, Section 2.] from the date of this Act comes into force.]