

# *The Bihar and Orissa Medical Act, 1916*

## *Bihar and Orissa Act 2 of 1916*

bh438

[Dated 19th January, 1916]

### **LEGISLATIVE HISTORY** ▼

For Statement of Objects and Reasons, see Bihar and Orissa Gazette, 1915, Part 5. page 9 and 10.

An Act to provide for the Registration of medical practitioners in the Province of Bihar and Orissa.

*Preamble.* - *Whereas it is expedient to provide for the registration of medical practitioners in the Province of Bihar* [\* \* \*];

And, Whereas, the sanction of the Governor General has been obtained, under Section 5 of the Indian Council Act, 1892, to the passing of this Act;

It is hereby enacted as follows:-

### **Preliminary**

**1. Short title, local extent and commencement.** - (1) This Act may be called the Bihar and Orissa Medical Act, 1916;

(2) It extends to the whole of the [State] of Bihar [\* \* \*]; and

(3) It shall come into force on the [day] on which it is published in the [Official Gazette] after having received the assent of the [Governor-General];

[Provided that Section 29, Section 30 and Section 31 shall not come into force until a date] to be appointed in this behalf by the [State] Government by [Notification] in the [Official Gazette],

**2. Definitions.** - In this Act,-

(a) the expression "*the Medical Acts*" means the Medical Act, 1858 and the Acts amending the same;

(b) the expression "*the Council*" means the Council established under Section 3; and

(c) the expression "*registered practitioner*" means any person registered under the provisions of this Act.

### **The Bihar [\* \* \*] Council of Medical Registration**

**[3. Establishment of the Bihar Medical Council.** - A Council shall be established as The "Bihar Council of Medical Registration and such council shall be a body corporate and have perpetual succession and a common seal and may, by the said name sue and be sued.

**4. Constitution of Council.** - (1) The said council shall consist of ten members, namely:-

(a) Three members to be nominated by the Government.

(b) Two members to be nominated by Aryabhata Knowledge University from medical faculty.

- (c) one female member to be elected by and from such registered practitioners residing in the State.
- (d) Two members to be elected by and from the registered practitioners residing in the State of Bihar; and
- (e) Two members to be elected by and from the members of the Bihar Branch of the Indian Medical Association.

(2)(i) The President of the Council shall be elected by the members of the council from amongst them and shall hold office for a term for which the members of the council will be elected.

(ii) No act done by the Council shall be questioned on the Ground merely of the existence of any vacancy in, or any defect in the constitution of the Council.

(iii) No act of the Council or its officers shall be deemed to be invalid by reason only that the number of members did not, at the time of the performance of such act, amount to the number specified in this section.]

**5. Nomination of members in default of election.** - If any of the electoral bodies referred to in [Clauses (b) to (d) of sub-section (1) of Section 4] does not, by such date as may be prescribed by Rule made in that behalf under Section 33, elect a person to be a member the Council, the [State] Government shall nominate a member in his place; and any person so nominated shall be deemed to be a member as if he had been duly elected by such body.

**6. Disqualifications for being elected or nominated as a member.** - A person shall be disqualified for election or nomination as a member of the Council, if he-

(a) is not registered under this Act; or

(b) has been sentenced by any Court for any non-bailable offence, such sentence not having been subsequently reversed, quashed, and such person's disqualification on account of such sentence not having been removed by an order which the [State] Government are hereby empowered to make, if they think fit, in this behalf; or (c) is an undischarged insolvent.

[X X X X X]

**7. Publication of names of members.** - The name of every member elected or nominated under [sub-section (1) of Section 4 or under] Section 5 shall be published by the [State] Government in the [Official Gazette].

**8. Term of office of members** - (1) The term of office of a member elected or nominated under [sub-section (1) of Section 4 or under] Section 5 shall commence from the date of the publication of his name under Section 7 and shall, subject to the provisions of Sections 10 and 11, extend to a period of three years from such date [and shall include any further period which may elapse between the expiration of the said period of three years and the date of the first meeting of the newly constituted Council at which a quorum is present],

(2) A member shall, if not disqualified for any of the reasons mentioned in Section 6 be eligible for re-election or re-nomination at the end of his term of office.

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

**10. Cessation of membership** - A member shall be deemed to have vacated his seat-

(a) on his absence without excuse sufficient in the opinion of the Council from three consecutive meetings of the Council, or

- (b) on his absence out of India for any period exceeding six consecutive months, or
- (c) on his becoming disqualified for election or nomination as a member for any of the reasons mentioned in Section 6.

**11. Filling of vacancies.** - (1) If any member dies, or resigns his membership, or ceases to be a member as provided in Section 10, the President shall forthwith report the fact of the vacancy thereby caused to the [State] Government and the vacancy shall be filled, as soon as possible, by a fresh election or nomination, as the case may be, under [sub-section (1) of Section 4 or under],

(2) The person so elected or nominated shall fill such vacancy for the unexpired remainder of the term for which such member would otherwise have continued in office.

**12.** (1) The Council shall make Regulations to regulate -

- (a) the times and places at which their meetings shall be held,
- (b) the issue of notices convening such meeting, and
- (c) the conduct of business there at:

Provided that-

- (i) no business shall be transacted at any meeting unless a quorum of [four] members be present; and
- (ii) save as provided in Section 17 and Section 25, all questions arising at any meeting shall be decided by the votes of the majority of the members present and voting, or, in case of an equality of votes, by the casting vote of the President, or, in his absence, of the members presiding at the meeting.

(2) Until such time as the Regulations referred to in sub-section (1) have come into operation, it shall be lawful for the President to summon a meeting at such time and place as to him shall seem expedient, by letter addressed to each member.

**13. Payment of travelling expenses to members.** - There shall be paid to the members of the Council such reasonable travelling expenses for attendance at meetings of the Council as may from time to time be allowed by the Council and approved by the [State] Government.

**14. Registrar and establishment for the Council.** - (1) With the previous sanction of the [State] Government, the Council-

- (a) shall appoint a Registrar,
- (b) may grant leave to such Registrar and appoint a persons to act in his place, and
- (c) shall pay to the Registrar and to the person (if any) appointed to act in his place such salary and such allowances (if any) as the Council may determine.

(2) The Council may appoint such other officers and such clerks and servants as they may consider necessary for the purposes of this Act, and shall pay them such salary and allowances (if any) as the Council may determine.

[(3) The Registrar shall act as Secretary to the Council and shall have the right to speak in, and otherwise take part in the proceedings of, the Council or any Committee thereof, but shall not have the right to vote.]

(4) Every person appointed under sub-section (1) and sub-section (2) shall be deemed to be a public servant within the meaning of Section 21 of the India Penal Code.

### The Register of Registered Practitioners

**15. Orders by Council for maintenance of register of Registered Practitioners.** - (1) The Council shall, as soon as conveniently may be after the commencement of this Act and from time to time as occasion may require, make orders for regulating the maintenance of a register of Registered Practitioners.

(2) The said register shall be kept in such form as may be prescribed by Rule made under Section 33.

**16. Maintenance of register by Registrar.** - (1) The Registrar shall keep the register of registered practitioners in accordance with the provisions of this Act and of any orders made by the Council, and shall from time to time make all necessary alterations in the registered addresses or appointments and the registered qualifications or titles of such practitioners, and erase the name of any practitioner, who has died.

(2) To enable the Registrar to fulfil the duties imposed upon him by subsection (1), he may send through the post a letter to any Registered Practitioner, addressed to him according to his registered address or appointment, to inquire whether he has ceased to practise or whether his residence or appointment has been changed; and, if no answer to any such letter is received within a period of six months from its despatch, the Registrar may erase the name of such Registered Practitioner from the register:

Provided that any name erased under this sub-section may be re-entered in the register under the direction of the Council.

**17. Persons referred to in Schedule entitled to be registered.** - Every person referred to in the Schedule shall, subject to the provisions hereinafter contained, and on payment of such fee as may be prescribed in this behalf by Regulation made under Section 33, be entitled to have his name entered in the register of Registered Practitioners:

Provided that the Council may refuse to permit the registration of the name of any person-

(a) who has been sentenced by any Court for any non-bailable offence, such sentence not having been subsequently reversed or quashed, and such person's disqualification on account of such sentence not having been removed by an order which the [State] Government are hereby empowered to make, if they think fit, in this behalf, or

(b) whom the Council, after due inquiry (at which an opportunity has been given to him to be heard in his defence and to appear either in person or by counsel, vakil, pleader or attorney, and which may, in the discretion of the President, be held in camera), have 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. Amendment of Schedule.** - If at any time the Council are satisfied.

(a) that any title granted or qualification certified by any University, Medical Corporation, examining body or other Institution is a sufficient guarantee that persons possessing such title or qualification possesses the knowledge and skill requisite for the efficient practice of medicine, surgery and midwifery, or

(b) that any title or qualification referred to in Article 3 of the Schedule is not a sufficient guarantee as aforesaid, they may make a report to that effect to the [State] Government who may, if they think fit, [thereupon direct by notification] in the [Official Gazette]-

(i) in case (a)-that the possession of such title or qualification shall, subject to the provision hereinafter contained and on payment of such fee as may be prescribed

in this behalf by Regulation made under Section 33, entitle any person to have his name entered in the Registered Practitioners, or

- (ii) in case (b)-that the possession of such title or qualification shall not entitle any person to have his name entered in the said register;

and such title or qualification shall thereupon be deemed, in case (a), to be covered by, or, in case (b), to be excluded from, the Schedule.

**19. Power to Council to call for certain information from authorities of Medical College or School included or wishing to be included in Schedule.** - The Council shall have power to call on the governing body or authorities of any Medical College School, or other Institution included in or desirous of being included in the Schedule-

- (a) to furnish such reports, returns, or other information as the Council may require to enable them to judge of the efficiency of the instruction given therein in medicine, surgery, and midwifery; and
- (b) to provide facilities to enable any member of the Council (deputed by the Council in this behalf) to be present at the examinations to be held by such College or School.

**20. Information to be furnished to Registrar with application for registration.** - Every person who applies to have his name entered in the register of Registered Practitioners-

- (a) must satisfy the Registrar that he is possessed of some title or qualification referred to in the Schedules, as altered by notifications (if any) issued under Section 18; and
- (b) if he is registered under the Medical Acts-
  - (i) must correctly inform the Registrar of the date of such registration, and
  - (ii) must furnish the Registrar with a correct statement of the titles or qualifications in respect of which he is to be registered, and of the dates on which he obtained them, or
- (c) if he is not registered under the Medical Acts-Must correctly inform the Registrar of the dates on which he obtained the titles or qualifications which entitle-him to claim registration under this Act.

**21. Entry of new titles and qualifications in register.** - If any person whose name is entered in the register of registered practitioners obtains any title or qualification other than the title or qualification in respect of which he has been registered, he shall, on payment of such fee as may be prescribed in this behalf by Regulation made under Section 33, be entitled to have an entry stating such other title or qualification made against his name in the register, either in substitution for, or in addition to, any entry previously made.

**22. Disposal of fees.** - All fees received by the Council under this Act shall be applied for the purposes of this Act, in accordance with such Rules as may be made by the [State] Government under Section 33.

**23. Appeal to Council from decisions of Registrar.** - If any person is dissatisfied with any decision of the Registrar refusing to enter the name or any title or qualification of such person in the register of registered practitioners, he may, at any time within three months from the date of such decision, appeal to the Council, whose decision shall be final.

**24. Erasure of fraudulent and incorrect entries.** - Any entry in the register of Registered Practitioners, which is proved to the satisfaction of the Council to have been fraudulently or incorrectly made, may be erased under an order in writing of the Council.



**25. Power to Council to direct removal of names from register, and reentry of names therein.** - The Council may direct-

(a) that the name of any Registered Practitioner-

(i) who has been sentenced by any Court for any non-bailable offence, such sentence not having been subsequently reversed or quashed and such person's disqualification on account of such sentence not having been removed by an order which the<sup>1</sup> [State] Government are hereby empowered to make, if they think fit, in the behalf; or

(ii) whom the Council, after due inquiry as provided in Clause (b) of Section 17, have found guilty, by a majority of two-thirds of the members present and voting at the meeting, of infamous conduct in any professional respect, be removed from the register of registered practitioners; and

(b) that any name so removed be after ward re-entered in the register.

**26. Appeal to State Government from decision of Council.** - (1) An appeal shall lie to the [State] Government from every decision of the Council under Section 17 or Section 25.

**27. Bar of the suits and other legal proceedings.** - No suit or other legal proceeding shall lie in respect of any act done in the exercise of any power conferred by this Act on the [State] Government or the Council or the Registrar.

**28. Notice of deaths, and erasure of names from register.** - (1) Every Registrar of Deaths who receives notice of the death of any person whose name he knows to be entered in the register of Registered Practitioners shall forthwith transmit by post 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-

(i) any such certificate, or

(ii) any other reliable information regarding such death, the Registrar of the Council shall erase the name of the deceased person from the register.

**29. Penalty on unregistered person representing that he is registered.** - If any person whose name is not entered in the register of Registered Practitioners falsely pretends that it is so entered, or uses in connection with this 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 three hundred rupees.

**30. Construction of references in Acts to medical practitioners.** - The expression "legally qualified medical practitioner," or "duly qualified medical practitioner," and all other expressions importing person recognized by law as a medical practitioner or a member of the medical profession as used in any Act which is in force in the [State] Bihar [\* \* \*] shall be deemed to mean a medical practitioner registered under the Medical Acts or this Act; and No certificate required to be given by any medical practitioner or medical officer under any Act which is in force in the [State] of Bihar [\* \* \*] shall be valid unless such practitioner or officer is registered under the Acts or this Act.

**31. Unregistered persons not to hold certain appointments.** - Except with the special sanction of the [State] Government, no person other than a registered practitioner shall be competent to hold any appointment as medical officer of health, or as physician, surgeon or other medical officer in any hospital asylum, infirmary, dispensary or lying-in-hospital which is

supported partially or entirely by public or local funds, or which is under the supervision of the [State] Government.

### [Medical Lists]

**32. Publication and use of Medical Lists.** - (1) The Registrar shall, [from time to time] on or before a date to be fixed in this behalf by the Council, cause to be printed and published a correct list of the names for the time being entered in the register of registered practitioners, and setting forth-

- (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 list has not been published, the Registrar shall cause to be printed and published, on or before a date fixed as aforesaid, a supplementary list setting forth-

- (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 list appertains, and
- (b) the names of any persons which have been removed from the register during the said year],

[(3) Every Court shall presume that any person whose name is entered in the [latest list published under sub-section (1) as modified by any supplementary list published under sub-section (2)] is duly registered under this Act, 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 such list, a certified copy, signed by the Registrar, of the entry of the name of person in the register of Registered Practitioners shall be evidence that such person is registered under this Act.]

### Rules and Regulation

**33. Rules and Regulations.** - (1) The [State] Government may from time to time make [Rules] to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, [State] Government may make Rules-

- (a) to regulate electors under [Clauses (b) to (e) of sub-section (1) and sub-section (2) of Section 4];
- (b) to prescribe the form of the register of registered practitioners to be maintained under this Act;
- (c) to regulate the application of fees under Section 22; and
- (d) to regulate the procedure to be followed by the Council in-
  - (i) conducting any inquiry referred to in proviso (b) to Section 17, or Clause (a) of Section 25; and
  - (ii) disposing of appeals from the decision of the Registrar preferred under Section 23.

(3) In addition to the power conferred by Section 12 the Council may with the previous sanction of the [State] Government make Regulations-

- (a) to prescribe the fees chargeable in respect of any registration under this Act; and
- (b) to regulate the keeping of accounts of such fees.

[(4) The power conferred by this Section to make Rules and Regulations is subject to the condition of the Rules and Regulations being made after previous publication.]

(5) All such Rules and Regulations shall be published in the [Official Gazette].

34. (Saving for provisions of the Government of India Act, 1935.) Repealed by the A.L.O.].

### **The Schedule**

#### **Persons who are entitled to have their names entered in the Register of Registered Practitioners**

(See Sections 17, 18, 19 and 20)

1. Every person who is for the time being registered or qualified to be registered under the Medical Acts.

2. Every Doctor, Bachelor of Licentiate of Medicine, or Master of Obstetrics or Master, Bachelor or Licentiate of Surgery of the University of Calcutta, Bombay, Madras, Allahabad or Lahore.

Every person who has been trained in a Government Medical College or School in India or in a Medical School in India [or Burma] not maintained but recognized by the [State] Government, for the purpose of this Schedule, by notification in the [Official Gazette], and holds a diploma or certificate, granted [by the Government concerned] or granted by a Medical School not [maintained by any Government] but recognized as aforesaid, declaring him to be qualified-

- (a) to practise medicine, surgery and midwifery, or
- (b) to perform the duties of a Military Assistant Surgeon, Hospital Assistant or Sub-Assistant Surgeon.