

THE JAMMU AND KASHMIR PARAMEDICAL COUNCIL Act, 2014

(Act No. VII of 2014)

[Received the assent of the Governor on 14th March, 2014 and published in the Government Gazette dated 14th March, 2014.]

An Act to provide for establishment of Paramedical Council in the State and to regulate the practice by Paramedical Practitioners and institutions.

Be it enacted by the Jammu and Kashmir State Legislature in the 65th Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Jammu and Kashmir Paramedical Council Act, 2014.

(2) It shall be deemed to have come into force with effect from 11th of November, 2013.

2. Definitions.— In this Act, unless the context otherwise requires,—

- (a) “Act” means the Jammu and Kashmir Paramedical Council Act, 2014 ;
- (b) “Council” means the paramedical council established under section 3 of the Act ;
- (c) “Government” means Government of Jammu and Kashmir ;
- (d) “paramedical” means any person qualified in paramedical subject and who helps in teaching or practice of,—
 - (i) medicine within the meaning of clause (f) of section 2 of the Indian Medical Council Act, 1956 (102 of 1956) ; or
 - (ii) medicine in Homeopathy within the meaning of clause (d) of section 2 of the Jammu and Kashmir Homeopathic Practitioners Act, 2003 (Act No. VIII of 2003) ; or
 - (iii) medicine in Ayurvedic System and Unani System within the meaning of clauses (2) and (3) respectively of section 2 of the Jammu and Kashmir Ayurvedic and Unani Practitioners Act, 1959 (Act No. XXVI of 1959) ;
- (e) “para-clinical establishment” means a place catering to pathological, bacteriological, genetic, radiological, biological investigations or other diagnostic services with the aid and assistance of devices and equipments established as an

- independent entity or part of an establishment such as a hospital, nursing home, polyclinic, sanatorium, maternity home, immunization or vaccination clinics, dispensary, special camps where physically or mentally sick, infirm, injured or disabled person is admitted as a person for treatment, observation care or examined as outpatient;
- (f) “paramedical institution” means any recognised Institution within or outside India which grants Degrees, Diplomas, Certificates or license in paramedical;
 - (g) “paramedical qualification” means the qualification relating the paramedical education mentioned in the schedule appended to the Act;
 - (h) “prescribed” means prescribed by rules made under the Act;
 - (i) “President” means the President of the Council;
 - (j) “recognised institution” means a Hospital, Health Centre or other such institution recognised by the Paramedical Council as an Institution in which the person may undergo a training, if any, required by his course of study before the award of any para-medical qualification to him;
 - (k) “recognised paramedical qualifications” means a Degree/Diploma or certificate conferred by any paramedical Institution established by law or any other Institution recognised by the Government in this behalf;
 - (l) “registered Medical practitioner” means a person registered as such under section 38 of the Act;
 - (m) “Registrar” means the Registrar appointed by the Council under section 32 of the Act;
 - (n) “regulation” means regulations made under section 54 of the Act;
 - (o) “rules” means the rules made under the Act;
 - (p) “schedule” means schedule appended to the Act;
 - (q) “State” means the State of Jammu and Kashmir; and
 - (r) “state register” means the register maintained under the Act and expression ‘registered’ and ‘registration’ shall be construed accordingly.

3. Establishment of Paramedical Council.— (1) The Government shall, as soon as may be, establish, by notification published in the Government Gazette, a Council with effect from such date as may be specified therein.

(2) The Council shall be a body corporate by the name of “the Jammu and Kashmir Paramedical Council”, and shall have perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract and to do all other things necessary for the purpose of the Act and may by the said name sue and be sued.

4. Constitution of Council.— (1) The Council shall consist of the

following Members, namely:—

(i) Ex-Officio Members:

(a)	Principal, Government Medical Colleges Srinagar/Jammu	President on rotational basis for a period of two years. The first President shall be the Senior-most Principal of Government Medical College, Srinagar/ Jammu and the other Principal shall act as Vice- President.
(b)	Mission Director, (NRHM)	(Member)
(c)	Principal, Nursing College, SKIMS, Srinagar	(Member)
(d)	Principal AMT School, Jammu/Srinagar	(Members)
(e)	Director Health Services Jammu/Kashmir and Directorate ISM, J&K	(Members)
(f)	Head of the concerned discipline of Indira Gandhi Government Dental College, Jammu and Government Dental College, Srinagar	(Members)

(ii) **Non-Official Members:**

Two representatives of registered Medical Practitioners one each from Kashmir and Jammu Division.

The non-official Members shall be elected to the Council by the registered paramedical institutions/Para clinical establishments from amongst themselves in such a manner as may be prescribed by regulations:

Provided that in case of first constitution of the Council in the State after the commencement of the Act, the non- official members shall be nominated by the Government till the assumption of office by the elected Members.

(2) Registrar shall be the Secretary of the Council.

(3) No person shall at the same time serve as a member in more than one capacity.

5. Disqualifications for Membership.—A person shall be disqualified for being a non-official member, if,—

- (a) he is not a permanent resident of the State ; or
- (b) he is adjudged an insolvent ; or
- (c) he is of an unsound mind and is declared so by a competent Court ; or
- (d) he has been sentenced for an offence involving moral turpitude ; or
- (e) he is an employee of the Council and is paid salary or honorarium ; or
- (f) his name has been removed from the State Register or from the register of registered medical or paramedical practitioners maintained under any Act for the time being in force.

6. Term of office of the non-official Members of the Council.—(1) Save as otherwise provided in the Act, non- official members shall hold office for a term of two years from the date of first meeting of the Council.

(2) Notwithstanding the expiration of the term specified under subsection (1), an outgoing member shall continue to be in office until a new member is nominated or elected, as the case may be and assumes office.

7. Resignation by non-official Member.— (1) Any non-official member of the Council may resign from the office by writing a letter in this regard to the President of the Council.

(2) The resignation shall take effect from the date it is accepted by the President.

8. Disabilities for continuing as Member of the Council.— (1) If any non-official member of the Council during the period of his office,—

- (a) absents himself from three consecutive meetings of the Council without the permission of the Council; or
- (b) remains abroad for a period exceeding one year; or
- (c) attracts any disqualification as specified in section 5; or
- (d) ceases to be a registered medical practitioner under any law for the time being in force in the State,

the Council may declare his office as vacant:

Provided that the member shall be given an opportunity of being heard before his post is declared vacant.

(2) Any non-official member aggrieved by declaration under subsection (1) may prefer an appeal to the Government within ninety days from the date of such declaration and the decision of the Government thereon shall be final.

9. Filling of causal vacancies.— If a non-official member dies or resigns or otherwise ceases to be a member, the vacancy shall be filled as soon as may be, by election and the person so elected shall hold office for the remainder of the term of office of the member in whose place he becomes a member.

10. Meetings of the Council.— (1) The Council shall meet on such

time, date and place, as the President may fix in this behalf.

(2) The President may, whenever he thinks fit, call a special meeting, and shall be bound to do so within two weeks of the receipt of written requisition, signed by not less than eight members of the Council.

(3) The notice of every meeting specifying the time and place thereof and the business to be transacted thereof, shall be dispatched to every member at least fifteen days before an ordinary meeting and seven days before a special meeting.

(4) No business other than as specified in the notice shall be transacted at a meeting except with the permission of the Chair.

(5) Every meeting shall be presided over by the President and in his absence by the vice-President, and in the absence of both by any other member chosen by majority of the members present.

(6) Any meeting of the Council may, with the consent of majority of the members of the Council present, be adjourned from time to time to a later hour on the same day or to any other date, but no business other than left over business at the adjourned meeting shall be transacted at such meeting. A notice of adjournment pasted in the office of the Council or at the place of meeting, on the date on which the meeting is adjourned, shall be deemed sufficient notice of the next ensuing meeting.

(7) The quorum for the meeting of the Council shall be one-third of the total number of members of the Council.

(8) If at any time in a meeting, there is no quorum, the presiding authority shall adjourn it to such time or date as it thinks fit and the business set down for the meeting shall be transacted at the subsequent meeting, whether at such meeting there is a quorum or not.

(9) No business other than the business fixed for the meeting, shall be transacted at such subsequent meeting.

(10) A notice of adjournment shall be affixed in the office of the Council or at the place of meeting, on the day on which the meeting is adjourned.

11. Decision by majority of votes.— (1) Save as otherwise provided in the Act, all questions brought before any meeting of the Council, shall be decided by a majority of votes of the members present and in case of a tie, the presiding authority at the meeting shall have a second or casting vote.

12. Minutes of proceedings.— (1) The minutes of proceedings of each meeting of the Council shall be recorded in a book to be kept for the purpose and the names of members of the Council present thereat shall be entered in the minute book and shall be signed in after confirmation by the presiding authority in the same or next meeting.

(2) A copy of the minutes of proceedings of each meeting of the Council shall be forwarded to the Government within ten days from the date of confirmation.

13. Vacancies etc. not to invalidate proceedings.— No act or proceedings of the Council shall be invalid merely by reason of,—

- (a) any vacancy thereon or any defect in the constitution thereof; or
- (b) any defect in the election or nomination of a person as a member thereof; or
- (c) any irregularity in its procedure not affecting merits of the case.

14. Proceedings of meeting to be valid.— Unless the contrary is proved, every meeting of the Council shall be deemed to have been duly convened when the minutes of the meeting have been signed in accordance with the provisions of the Act.

15. Allowances of the non-official members of the Council.— The non-official members of the Council shall receive such travelling and other allowances, as may be prescribed.

16. Power of Council to invite any person having knowledge or experience in para-medicine.— (1) The Council may, if it thinks necessary, invite any person having special knowledge or experience in para-medicine to its meeting, to hear his views on the subject and such person shall have a right to take part in the discussion on the subject but shall not have the right to vote in the meeting(s) of the Council.

(2) The invitee shall be entitled to receive such allowances as are admissible to the non-official member of the Council.

17. Appointment of Committee.— (1) The Council may appoint, from time to time and for such period, a committee consisting of such number of its members, as it think fit and may refer to such committee for enquiry and report or opinion any matter under the Act.

(2) The committee appointed under sub-section (1) shall at its first meeting elect one of its members to be its Chairman.

(3) The mode of appointment of such committee, the summoning and holding of meetings and the conduct of business of such committee shall be such as may be prescribed by regulations.

18. Powers and functions of the Council.— (1) Subject to the provisions of the Act and as may be prescribed, the Council shall exercise such powers and perform such functions as may be necessary for carrying out the purposes of the Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, the powers and functions of the Council shall be,—

- (a) to maintain the State Register of para-medical practitioners;
- (b) to hear and decide appeals from the decision of the Registrar in such manner, as may be prescribed by regulations;
- (c) to prescribe by regulations, a code of ethics for regulating the professional conduct of registered para-medical practitioners;

- (d) to reprimand a registered para-medical practitioner; or to suspend or remove the name from the State Register or to take such other disciplinary action against him, as may, in the opinion of the Council, be necessary or expedient;
- (e) to permit any member to be absent from three consecutive meetings of the Council;
- (f) to promote innovations, research and development in establishment of new para-medical subjects;
- (g) to formulate schemes for promoting para- medical education;
- (h) to promote an effective link between para- medical education, Medical Education and Ayurvedic System of Medicine and to promote research and development in these subjects;
- (i) to lay down norms and standards for courses, curricula, physical and instructional facilities, staff pattern, staff qualification, quality instructions, assignment, examination and continuing medical education;
- (j) to fix norms and guidelines for charging tuition and other fees;
- (k) to advise the Government in respect of grant of charter to any para-medical body or institutions in the field of education;
- (l) to provide guidelines for admission of students of para-medical institutions and Universities imparting para-medical education;
- (m) to inspect or cause to be inspected any para- medical institution;
- (n) to constitute or authorise a Board for conducting the examination and to maintain uniformity of standards ;
- (o) to register para-clinical establishments;
- (p) to prescribe minimum standards for the establishment of para-clinical establishments;
- (q) to perform such other functions, as may be prescribed; and/or to conduct the election of non-official members of the Council.

19. Permission for admission or establishment of new para-medical institution.—(1) Notwithstanding anything contained in the Act no person shall establish a para-medical institution and no para-medical institution shall,—

- (a) open a new or higher course of study or training which would enable a student of such course or training to qualify himself for the award of any recognised para-medical qualification; or

- (b) increase its admission capacity in any course of study or training, except with the previous permission of the Government obtained in accordance with the provisions of this section.

Explanation:—For the purposes of this section, the expression ‘person’ includes any University or a trust but doesn’t include the Government.

(2) Every person or para-medical Institution shall, for the purpose of obtaining permission under sub-section (1) submit to the Council a scheme in accordance with the provisions of sub-section (3).

(3) The schemes referred to in sub-section (2) shall be in such form, contain such particulars, preferred in such manner and accompanied with such fee as may be prescribed.

(4) On receipt of a scheme by the Council under sub- section (2), the Council may obtain such other particulars as may be considered necessary by it from the person or the para-medical institution concerned and thereafter, it may,—

- (a) if the scheme is defective and doesn’t contain any necessary particulars, give a reasonable opportunity to the person or institution concerned for making a written representation and it shall be open to such person or para-medical institution to rectify the defects, if any, specified by the Council; and
- (b) consider the scheme, having regard to the factors referred to in sub-section (8) and submit the scheme together with its recommendation(s) thereon to the Government.

(5) The Government may, after considering the scheme and the recommendation(s) of the Council under sub-section (4) and after obtaining, wherever necessary, such other particulars as may be considered necessary by it from the person or institution concerned, and having regard to the factor referred to in sub-section (1), either approve such conditions, if any, as it may consider necessary or disapprove the scheme and any such approval shall be a permission under sub-section (1):

Provided that no scheme shall be disapproved by the Government except after giving the person or institution concerned a reasonable opportunity of being heard:

Provided further that nothing in this sub-section shall prevent any person or para-medical institution whose scheme has not been approved by the Government to submit a fresh scheme and the provisions of this section shall apply to such scheme as if such scheme has been submitted for the first time under sub-section (2).

(6) The Government shall, within a period of three months from the date of receipt of the scheme from the Council, pass an order either to approve or disapprove the scheme with grounds specified therein.

(7) The Council, while making its recommendation(s) under clause (b) of sub-section (4) and the Government while passing an order either approving or disapproving the scheme under sub-section (5) shall have due regard to the following factors, namely:—

- (a) whether the proposed para-medical institution or the existing para-medical institution seeking to open a new or higher course of study or training, shall be in a position to offer the minimum standards of para-medical education as prescribed by the Council under section 26 of the Act;
- (b) whether the person seeking to establish a para-medical institution or the existing para-medical institution seeking to open a new or higher course of study or training or to increase its admission capacity has adequate financial resources;
- (c) whether necessary facilities in respect of the staff, equipment, training or other facilities to ensure proper functioning of the para-medical institution or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time limit specified in the scheme;
- (d) whether adequate hospital facilities having regard to the number of students likely to attend such para-medical institution, or course of study or training or as a result of the increased admission capacity have been provided or shall be provided within the time limit specified in the scheme;
- (e) whether any arrangement has been made or programme drawn to impart proper training to students likely to attend such para-medical institution or course of study or training by persons having the recognised para-medical qualifications;
- (f) the requirement of manpower in the field of practice of medicine; and
- (g) any other factor(s) as may be prescribed.

(8) Where the Government passes an order either approving or disapproving the Scheme under sub-section (5), it shall communicate a copy of the order to the person or para-medical institution concerned, as the case may be.

20. Non-recognition of para-medical qualification in certain cases.— Where any para-medical institution is established or any para-medical institution opens a new or higher course of study or increases its admission capacity without the previous permission of the Government in contravention of the provisions of the Act, para-medical qualification so given to any student by such para-medical institution, shall not be recognised as para-medical qualification for the purpose of the Act.

21. Time for seeking permission for certain existing paramedical institutions.— Any person who has already established or is running a paramedical institution or any paramedical institution has opened a new or higher course of study or training or increases the admission capacity, such person or paramedical institution, as the case may be, shall seek within a period of one year from the commencement of the Act, the permission of the Government under the provisions of the Act.

22. Recognition of paramedical qualifications granted by certain paramedical institutions whose qualifications are not included in the Schedule.— Any para-medical institution in India, which desires a para-medical qualification granted by it to be included in the Schedule, may apply to the Government with such application fee as may be prescribed to have such qualification recognised and the Government, after consulting the Council, may by notification in the Government Gazette, amend the Schedule so as to include such qualification therein, and any such notification may also direct that an entry shall be made in the last column of the Schedule against such para-medical qualification declaring that it shall be a recognised para-medical qualification only when granted after specified date.

23. Power to require information as to courses of study and examinations.— Every University or para-medical institution in India which grants a recognised para-medical qualification, shall furnish such information as the Council may, from time to time, require as to the courses of study and examinations to be undergone in order to obtain such qualification as to the age at which such courses of study and examinations are required to be undergone and such qualifications conferred and generally as to the requisite fee for obtaining such qualification.

24. Inspection of paramedical institution.— The Council shall cause all paramedical institutions to be inspected as and when deemed necessary.

25. Withdrawal of recognition.— (1) If it appears to the Council,—

- (a) that the courses of study and examination to be undergone in or the proficiency required from candidates at any examination held by any University or para-medical institution do not conform to the standards prescribed by regulations by the Council; or
- (b) that the staff, equipments, accommodation, training and other facilities for instruction and training provided in such University or para-medical institution or in any college or other institution affiliated to that University do not conform to the standards prescribed by regulations by the Council, the Council shall take action for the withdrawal of recognition.

(2) Before withdrawal of recognition, the Council shall issue a

show cause notice to the para-medical institution or University specifying the period within which the reply shall be submitted.

(3) On receipt of the reply or where no reply is submitted within the period specified in the show cause notice then on expiry of that period the Council shall take decision in the matter.

26. Minimum standards of para-medical education.— The Council may prescribe by regulations the minimum standards of paramedical education required for granting recognised para-medical qualifications (other than post-graduate para-medical qualification) by the para-medical institution(s) in India.

27. Registration of para-medical establishments.— No person shall open, keep or carry on a para-clinical establishment without being registered as such under the Act and except in accordance with the terms of registration granted under the Act:

Provided that nothing in this section shall apply to a para-clinical establishment which is in existence on the date of commencement of the Act, for a period of six months from such date or where an application is made within that period in accordance with provisions of section 28 of the Act, till such time as, the application is disposed of.

28. Application for registration.— (1) Every person intending to carry on a para-clinical establishment shall make an application to the Council for registration of the clinical establishment within a period of three months from the date of commencement of the Act.

(2) Every application for registration of para-clinical establishment under sub-section (1) or for renewal of the registration under sub-section (6) shall contain such particulars and shall be accompanied by such fees, as may be prescribed by regulations.

(3) The Council, if satisfied that the applicant and the para-clinical establishment fulfils such terms and conditions as may be prescribed, shall register the applicant and such para-clinical establishment and shall grant him in relation to the para-clinical establishment a certificate of registration in such form as may be prescribed within a specified period.

(4) The Council may reject an application if it is satisfied that the applicant or the para-clinical establishment does not fulfil the conditions prescribed under sub-section (3) and in every case where the application is rejected, reasons therefore shall be recorded in writing.

(5) A certificate of registration issued under this section, subject to the provisions of section 29 of the Act shall be in force and shall be valid for a period of five years from the date on which it is granted under sub-section (3) unless cancelled earlier as per provisions of the Act.

(6) An application for renewal of a registration shall be made within a period of six months before the expiry of validity of registration certificate issued under sub-section (3).

29. Cancellation of registration.— At any time after a para-clinical

establishment is registered under section 28 of the Act, the Council may cancel such registration if it is satisfied,—

- (a) that the terms and conditions of registration are not being complied with ; or
- (b) that the person in whose name the para-clinical establishment is registered has been convicted of an offence punishable under the Act; or
- (c) that any other person including a juristic person who has been convicted of an offence under the Act is associated with another juristic person or other para-clinical establishment.

30. Minimum standards of para-clinical establishment.— (1) Every para-clinical establishment shall have such minimum standards of buildings, space, facility, equipment and manpower as are prescribed by the Council by regulations.

(2) Every para-clinical establishment shall maintain and keep records of all persons attended or admitted or treated in the manner prescribed and such records or extracts thereof shall be made available to the Council or the authorised technical officer of the Government not below the rank of the Chief Medical Officer on demand.

(3) On demand an authenticated copy of the record of admission, consultation, tests, diagnosis and treatment shall be made available by the clinical establishment to the patient or any of his family members or any other person specifically authorised by the patient to this effect.

31. Inspection of para-clinical establishment.— (1) The Council or any authorised technical officer of the Government, not below the rank of a Chief Medical Officer, subject to general or special order as may be made by the Government, enter and inspect any premises which are used or for which the Council, or the officer of the Government so authorised has reasonable cause to believe that these are being used for the purpose of para-clinical establishment.

(2) If the Council or the officer authorised under sub- section (1) has any reason to believe that any article or class of articles or any records are liable to be seized for the contravention of the provisions of the Act, he may seize any article or record which in his opinion is useful or relevant for initiating any proceeding under the Act and give receipt for articles or records so seized.

(3) The provision of the Code of Criminal Procedure, Samvat 1989 relating to searches and seizures shall, as far as may be appropriate, apply to such every search or seizure made under the Act.

32. Registrar and other officers and servants of the Council.— (1) The Council shall, with the prior approval of the Government, appoint a Registrar who shall act as Secretary of the Council.

(2) The Council may, with the prior approval of the Government, employ such other officers and servants as it may deem necessary for

carrying out the provisions of the Act.

(3) The qualifications, conditions of service and pay scales of the Registrar and other officers and servants shall be such as the Council may determine by regulations, with the prior approval of the Government.

(4) The Registrar or any other officer or servant appointed by the Council under this section shall be deemed to be a public servant within the meaning of section 21 of the State Ranbir Penal Code.

33. Duties of Registrar.— (1) It shall be the duty of the Registrar to keep and maintain the State Register in accordance with the provisions of the Act and any order made by the Council to revise it from time to time in such manner as may be prescribed by regulations, to publish it in the Government Gazette and to discharge such other functions as are or may be required to be discharged by him under the Act and the rules and regulations made thereunder.

(2) It shall be the duty of the Registrar to ensure that the State Register is as far as possible correct at all times and may from time to time enter therein any material alteration in the address or qualifications of the registered para- medical practitioners.

(3) The Registrar may remove from the State Register the name of the registered paramedical practitioner who dies or whose name is directed by the Council to be removed from the State Register or who ceases to be the registered paramedical practitioner.

(4) On an application made by the registered para- medical practitioner, if the Council is satisfied that the such practitioner has not ceased to practise, then the Council may direct the Registrar to restore the name of such practitioner in the State Register and the Registrar shall comply with such directions.

34. Funds of Council.—The Council shall establish a fund to be called the 'Fund of the Council' to which shall be credited,—

- (a) any contribution or grant by Centre or the Government ;
- (b) the income of the Council from all sources including income from fees and fines ;
- (c) the trust, donations, endowment and other grants, if any ; and
- (d) all other sums as may be received by the Council.

35. Objects to which fund of the Council shall be applied.— The fund of the Council shall be applied,—

- (a) to the repayments of debts incurred by the Council for the purpose of the Act and the rules and regulations made thereunder;
- (b) to the expenses of any suit or legal proceedings to which the Council is a party;
- (c) to the payment of salaries and allowances to the officers and servants of the Council;

- (d) to the payment of allowances to the office bearers of the Council;
- (e) to the payment of any expenses incurred by the Council in carrying out the provisions of the Act and the rules and regulations made thereunder; and
- (f) to any other expenses incurred for the promotion and development of paramedical education, research and training, declared by the Council to be in the general interest of para-medical profession.

36. Accounts and Audit.— (1) The accounts of the Council shall be prepared before such date and at such intervals and in such manner, as may be prescribed by regulations.

(2) The accounts of the Council shall be audited by a registered chartered accountant.

(3) The audit fee of the chartered accountant shall be such, as may be fixed by the Council, by regulations.

(4) As soon as the accounts of the Council are audited, the Council shall send a copy thereof, to the Government, in such manner, as may be prescribed by regulations.

37. Budget.— (1) The Registrar shall cause to be prepared in such form as may be prescribed by regulations, a budget for the financial year, showing the estimated receipts and expenditure and shall cause it to be laid before the Council at such time, in such manner, as may be prescribed by regulations.

(2) Within fifteen days from the date of meeting in which the budget is passed, it shall be forwarded to the Government.

(3) If the Government is of the opinion that provisions of the budget so forwarded to it are not adequate for carrying out the purposes of the Act, it shall return the budget to the Council for such modification as may be suggested by the Government.

(4) The Council shall be competent to re-appropriate such amount as may be necessary from one head to another head and minor heads.

(5) The Council may, as and when required, pass a supplementary budget in such form as may be prescribed by regulations and the provisions of sub-sections (2), (3) and (4) shall apply to such supplementary budget.

38. Registration renewal and State Register.— (1) No person shall be registered on the State Register as para- medical practitioner unless he possesses a recognised qualification and has not paid such fee, as may be prescribed and different fee may be prescribed for different qualifications.

(2) The Council shall cause to be maintained a State Register of paramedical practitioners in such form, as may be prescribed by regulations.

(3) The Register shall be deemed to be public document within the

meaning of Evidence Act, Samvat 1977.

(4) Every registered paramedical practitioner registered under sub-section (1) shall renew his registration after every three years on payment of such fee as may be prescribed.

39. Prohibition of collection of capitation fee, donation etc.— No person or paramedical institution who is in charge of, or is responsible for the management of any para- medical institution, shall,—

- (a) accept, either directly or indirectly, any donation, gift or other payment (by whatever name called), whether in cash or in kind, or any amount by way of capitation fee ; or
- (b) receive any fee or amount in excess of scale of fees presented by the Council.

40. Power of Council to prohibit entry to or to order removal from State Register.—The Council may, upon a reference from the Registrar or otherwise, by order, 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 which involves moral turpitude; or
- (b) whom the Council, after enquiry, has found guilty of professional misconduct by passing a resolution of majority of two third of the members of the Council present and voting at the meeting:

Provided that no order shall be passed under this section without giving a reasonable opportunity of being heard to the person concerned.

41. Alteration of State Register.— (1) The Council may, after giving the person concerned a reasonable opportunity of being heard, order that any entry in the State Register which in the opinion of the Council, has been fraudulently or incorrectly made or brought, be cancelled or amended.

(2) The Council may direct the removal forever, or for a specified period from the State Register, of the name of any registered paramedical practitioner on the grounds for which registration may be prohibited by the Council under section 40 of the Act.

(3) The Council may direct that the name removed under sub-section (2) shall be restored subject to such condition, if any, which the Council may deem fit to impose.

42. Procedure in inquires.— For the purpose of any inquiry under the provisions of the Act, the Council or any committee appointed under sub-section (1) of section 17 shall be deemed to be a court within the meaning of the Evidence Act, Samvat 1977 and the Code of Civil Procedure, Samvat 1977 and shall exercise all powers of a Commissioner appointed under the Public Servants (Inquiries) Act,

Samvat 1977 and such inquiries shall be conducted, as far as may be, in accordance with the provisions of section 5 and sections 8 to 20 of the Public Servants (Inquiries) Act, Samvat 1977.

43. Appeal against the order of the Council.— Any person,—

- (a) whose application for registration in the State Register is rejected under section 38 or 41 of this Act; or
- (b) whose entry in the State register is prohibited under section 40 of the Act; or
- (c) whose name, from the State Register is removed, may, within ninety days of the order of rejection, prohibition or removal, as the case may be, appeal to the Government in Health and Medical Education Department and the decision of the Government thereon shall be final.

44. Prohibition on practice except as provided in the Act.—(1) Save as otherwise provided in the Act, no person shall practise or hold himself out, whether directly, as practising habitually for personal gain as a paramedical practitioner within the State.

(2) Any person who contravenes the provisions of sub-section (1) shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees or with both.

45. Prohibition of awarding degree in certain cases.— (1) Where the Council on its own motion or on any representation received or otherwise is satisfied that any person or paramedical institution has contravened all or any of the provisions of the Act or the rules or regulations made or orders issued thereunder, it may, with the previous approval of the Government, and subject to such conditions as it may think fit,—

- (a) in the case of the first contravention, prohibit the paramedical institution concerned from presenting such students in relation to which the contravention has been made to any University or medical institution for taking any examination which would enable such students to qualify themselves for the award of any recognised medical qualification ; and
- (b) in the case of any second or subsequent contravention take such action under the Act as it may consider necessary including action to prohibit the paramedical institution concerned from making any further admission of students:

Provided that no such order shall be passed by the Council unless the paramedical institution and the students concerned have been given a reasonable opportunity of being heard.

(2) A copy of any order passed by the Council under sub-section (1), shall be communicated to the paramedical institution and the student

concerned and a copy thereof shall simultaneously be forwarded to the University or para- medical institution concerned.

(3) Notwithstanding anything contained in any other law for the time being in force, an order passed by the Council under sub-section (1) and communicated to the University or paramedical institution under sub-section (2) shall be final and binding on the said University or paramedical institution.

(4) Any paramedical qualification granted to any student of such paramedical institution on the basis of any examination or other test held after the date of communication of the order to the University or paramedical institution under sub-section (2) shall cease to be a recognised paramedical qualification in relation to such student for the purposes of the Act.

(5) Where an order has been passed by the Council under sub-section (1) in relation to any paramedical institution, the Government may on its own motion or on any representation received by it, if it is of the opinion that it is necessary or expedient so to do in the interest of the students of such paramedical institution, take such steps as may be considered necessary to safeguard the interest of students studying in such paramedical institutions.

46. Offences and penalties.— (1) Notwithstanding anything contained in the Act or any other law for the time being in force, any paramedical institution established or courses started or increases the admission capacity without prior permission of the Government as required under section 19 of the Act, shall not be regularised by any authority whatsoever including the Government.

(2) Whoever contravenes the provisions of sub-section (1) shall not be eligible for any permission under section 19 of the Act and this disqualification shall remain in force for a period of five years from the date on which the violation of section 19 of the Act is established.

(3) In case any approved or recognised paramedical institution starts a course and admits students without the prior permission of the Government, the approved admission capacity of such institution in all its approved courses shall be reduced by twenty-five percent and such institution shall not be allowed to admit any student against the management or Non Resident Indian quota in the next academic year.

47. Penalty for contravention of sections 19, 20, 21, 27 or 39.— (1) Whoever contravenes the provisions of sections 19, 20, 21, 27 or 39 of the Act shall without prejudice to the provisions of section 45 of the Act be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and with fine which may extend to five lacs rupees but shall not be less than fifty thousand rupees.

(2) Where a conviction is made under sub-section (1), the Court may in addition to awarding any punishment under that sub-section, by order in writing, require the para- medical institution or any other person

convicted to refund the money so collected in excess to the person from whom it was collected within such period as may be specified in the order.

48. Offences by companies.— (1) Where an offence under the Act has been committed by a company, every person who at the time the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under the Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, as the case may be, such director, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

- (a) “company” means any body corporate and includes a firm, institution, a society, a trust or other association of individuals; and
- (b) “Director” in relation to a firm means partner in the firm.

49. Punishment for dishonest use of certificate.— Any person who,—

- (a) dishonestly makes use of any certificate of registration granted under the Act; or
- (b) procures or attempts to procure registration under the provisions of the 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 cause to be made any false representation in any matter relating to the certificate of registration issued under the provisions of the Act, shall on conviction, be punished with imprisonment which may extend to six months or with fine which may extend to twenty thousand rupees but shall not be less than five thousand rupees or with both.

50. Information to be furnished by the Council.— The Council shall furnish such reports, copies of minutes, abstracts of accounts and other information to the Government, as it may require.

51. Cognizance of offence.— (1) No court shall take cognizance

of an offence punishable under the Act except upon a complaint, in writing, made by the Registrar or any other officer authorised by the Council in this behalf, by a general or special order.

(2) No court inferior to that of a Magistrate of the first class shall try any offence punishable under the Act.

52. Control by Government.— If at any time it appears to the Government that the Council has failed to exercise or has exceeded or abused any of the powers conferred, or has failed to perform any of the duties imposed, upon it by or under the Act, the Government may, if it considers such failure, excess or abuse to be of a serious character, notify the particulars thereof to the Council, requiring it to remedy such failure, excess or abuse within such period as may be specified in the notice and if the Council fails to remedy such failure, excess or abuse within specified period, the Government may dissolve the Council and cause all or any of the powers and duties of the Council to be exercised and performed by any other officer authorised by it in this behalf, by order for such period not exceeding six months and shall take steps to bring in to existence a new Council.

53. Power to make rules.— The Government may, by notification in the Government Gazette and after previous publication, make rules for carrying out the purposes of the Act.

54. Power to make regulations.— (1) The Council may, with the previous approval of the Government make regulations, not inconsistent with the provisions of the Act, and the rules, for any of the following matters, namely:—

- (a) the management of the property of the Council and the maintenance and audit of its account;
- (b) the manner of election of members of the Council;
- (c) the powers and duties of the President and Vice-President;
- (c) the mode of appointment of committees, the summoning and holding of meetings and the conduct of business of such committees;
- (d) the travelling and other allowances payable to the non-official members of the Council;
- (e) the manner to hear and decide appeals from the decision of the Registrar under clause (b) of sub-section (2) of section 18 of the Act;
- (f) the code of ethics for regulating the professional conduct under clause (c) of sub-section (2) of section 18 of the Act;
- (g) the qualifications, the conditions of service and pay scales of the Registrar and other officers and servants under sub-section (3) of section 32 of the Act;
- (h) the manner of revision of the State Register under sub-section (1) of section 33 of the Act; and

(i) the form of State Register under sub-section(2) of section 38 of the Act.

(2) The regulations shall be published in the Government Gazette.

(3) The Government may, by notification in the Government Gazette, cancel any regulation.

55. Repeal and saving.—(1) The Jammu and Kashmir Paramedical Council Ordinance, 2013 (Ordinance No.III of 2013) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance shall be deemed to have been taken under the Act.

SCHEDULE

[See Section 2(p)]

1. X-ray Technician.
2. Anesthesia Assistant.
3. FMPHW.
4. MMPHW.
5. Medicinal Assistant /Pharmacist.
6. Lab. Assistant.
7. OTT-Operation Theatre Tech.
8. EEG Tech.
9. Sanitary Inspector
10. Dental Assistant.
11. D-Pharmacy.
12. B-Pharmacy.
13. (BLT) Bachelor Lab. Tech.
14. Physiotherapist.
15. Physiotherapy/Occupational Therapy Course.
16. Speech Therapy Course.
17. Audiologist.
18. Laboratory Technician (Various types).
19. X-Ray Technician/Radiographer.\
20. BCG Technicians.
21. Cyto Technicians.
22. Ortho Technicians.
23. Mould room Technicians.
24. Gamma Camera Technicians.
25. Orffiotic Technicians.
26. Optonicrist.
27. Orthotic and contact lens.
28. ECG Technicians.
29. Ultra Sound.

30. Angiography.
31. Operation theatre Technicians.
32. Degree, Diploma and certificate in Human Nutrition.
33. Dialysis Technicians.
34. Insulation therapy Technicians.
35. Health Inspector Course.
36. Hospital Medical record Science.
37. Compounder (Allopathy, Ayurvedic Unani & Homoeopathy)
38. Compounder in Biochemic system of Medicine.
39. Diploma in Clinical Bio chemistry.
40. Microbiology.
41. Pathology.
42. Optonicui refraction.
43. Paramedical ophthalmic assistant.
44. Perfusionist/Cardiac Surgery Technicians.
45. Cath. Lab. Technician.

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