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NOTIFICATION

No. H. 12018/208/2010-LJD, the 23rd April, 2010. The following Act of the Mizoram Legislative Assembly, which received the assent of the Governor of Mizoram is hereby published for general information.

The Mizoram Medical Council Act, 2010

Act No. 4 of 2010

(Received the assent of the Governor of Mizoram on 8.4.2010)

AN

ACT

To provide for the Registration of Medical (Allopathic) Practitioner in the State of Mizoram and for matters connected therewith.

It is enacted by the Legislative Assembly of the State of Mizoram in the sixty-first year of the Republic of India as follows :-

1. Short title, extent and commencement.

- 1) This Act may be called the Mizoram Medical Council Act, 2010.
- 2) It shall extend to the whole State of Mizoram.
- 3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

- 1) In this Act, unless the context otherwise requires :-
 - (a) "Council" means the Mizoram State Medical Council constituted under this Act.
 - (b) "Government" means the Government of the State of Mizoram.
 - (c) "Institution" includes a hospital, or health centre where people report either as indoor or outdoor patients for investigation or for treatment.
 - (d) "Medical Council of India" means the Medical Council of India established and constituted under the Indian Medical Council Act, 1956.

- (e) "Medicine" means any modern scientific medicine (Allopathic) and includes surgery and obstetrics but does not include Veterinary Medicine or Veterinary Surgery or Dentistry or the Homoeopathic or the Ayurveda or the Siddha or the Unani system of medicines and the expression "medical" shall be construed accordingly.
- (f) "President" and "Vice President" means respectively the President and the Vice President of the Council.
- (g) "Prescribed" means prescribed by rules or regulations made under this Act.
- (h) "Recognized Medical Qualification" means any of the medical qualifications included in the schedules to the Indian Medical Council Act, 1956, as amended from time to time.
- (i) "Registrar" means the Registrar of the Council.
- (j) "Register" means the State Medical Register maintained by the Council under this Act.
- (k) "Registered Practitioner" means any person whose name is entered in the register under this Act.
- (l) "Section" means a section of this Act.

3. Constitution of Medical Council :

- 1) The State Government may constitute a Medical Council for the State to be called "the Mizoram State Medical Council" and the Council shall be a body corporate and shall have perpetual succession and a common seal and shall by the said name, sue and be sued. The Council shall consist of the following members, namely :
 - (a) Two members to be nominated by the State Government;
 - (b) Five members to be elected in the prescribed manner by the registered practitioners practising in the State from amongst themselves;
 - (c) One member to be nominated by the Director General of Health Services of the Government of India;
 - (d) One member to be nominated by the Medical Council of India;
 - (e) The Director of Health Services and the Director of Hospital & Medical Education, Mizoram (ex-officio);
- 2) The President and the Vice President shall be elected in the manner as may be prescribed by the members of the Council from amongst themselves.

4. Tenure of office of members :

A member of the Council shall hold office for a term of five years from the date of his election or nomination or until his successor shall have been duly elected or, as the case may be nominated, whichever is earlier, and shall be eligible for re-election or re-nomination. However, no member will be eligible to hold the office of President or Vice President for more than two consecutive terms.

5. Vacation of seat as member and filling up of the vacancy :

- 1) A member of the Council shall be deemed to have vacated his seat :
 - (a) On sending his resignation in writing to the President.
 - (b) On his absence from three consecutive meetings of the Council without its permission.
 - (c) On removal of his name from the register.
 - (d) On his being declared an insolvent by any competent court or on his becoming insane.
 - (e) On expiry of his term as member.
 - (f) On his absence out of India for six consecutive months without prior intimation to the Council.
- 2) A casual vacancy in the Council shall be filled up by nomination or election, as the case may be, and the person nominated or elected to fill the vacancy shall hold office only for the remaining part of the term for which the member whose place he takes over was nominated or elected.

6. Disqualification for being elected or nominated as a member :

A person shall be disqualified for being elected or nominated as a member of the Council if he :-

- (a) is not a registered practitioner under this Act or the Indian Medical Council Act, 1956.
- (b) does not possess any of the recognized medical qualification,
- (c) has been dismissed from service under Government, local or other authority for misconduct,
- (d) has been sentenced by a criminal court to imprisonment for any offence involving moral turpitude,
- (e) has been convicted by a court in India, whether before or after the commencement of this Act, for offence punishable under the protection of Civil Rights Act, 1955 unless a period of six years or such less period, as the Government may allow in any particular case, has elapsed from the date of such conviction.

7. Publication of names of member :

The name of every member of the Council, elected or nominated, shall be published by the Government in the official Gazette.

8. Powers, duties and functions of the Council :

Subject to such conditions as may be prescribed by or under the provisions of this Act, the powers, duties and functions of the Council shall be -

- (a) To grant registration of Medical Practitioners and to maintain a live register of Medical Practitioners.
- (b) To hear and decide appeals against any decision of the Registrar.
- (c) To prescribe a Code of ethics for regulating the professional Conduct of practitioners.
- (d) To reprimand a practitioner, or to suspend or remove his name from the register, or to take such other disciplinary action against him as may, in the opinion of the Council be necessary or expedient.
- (e) To receive complaints from public (including patients and their relatives) against misconduct or negligence by a medical practitioner, to proceed for inquest, take a decision on the merits of the case and to initiate disciplinary action or award compensation and similarly to take action against frivolous complaints.
- (f) To provide protection to its members in discharging professional duties.
- (g) To ensure that no unqualified person practise the modern system of medicine.

9. Meeting of the Council :

- (1) The President, when present, shall preside at every meeting of the Council. If at any meeting the President is absent, the Vice President and in the absence of both, some other member elected by the members present among themselves, shall preside at such meeting.
- (2) No business shall be transacted at a meeting of the Council unless at least five members are present. All questions, other than question of order, which may come before the Council, shall be decided by a majority of votes of the members present and voting at a meeting. In case of an equality of votes, the President or, in his absence, the Vice President or, in the absence of both, the member presiding over the meeting elected by the members present, shall have a casting vote. The President or the Vice President or the member presiding over the meeting, as the case may be, shall decide all points of order which may arise and his decision shall be final.
- (3) If any question arises with reference to procedure in respect of any matter for which no provision is made in this Act or the regulations made thereunder, the President or the Vice President or the member presiding over the meeting, as the case may be, shall decide the same and his decision shall be final.

- (4) Until such time as the regulations referred to in sub-section (3) have come into operation, the President may, by a letter addressed to each member, summon a meeting at such time and place as to him seem expedient.
- (5) Subject to the provision of this Act or the regulations made there under no Act or proceedings of the Council shall be invalid merely by reason of the existence of any vacancy among the members of the Council.

10. Sitting fees and traveling expenses :

The member of the Council shall be entitled to such fees for attendance at the meeting of the Council and such traveling expenses as may from time to time be allowed by the Council and approved by the Government.

11. Registrar and other officers :

- (1) The Council shall, with the previous sanction of the Government, appoint a Registrar from amongst the registered medical practitioners who shall act as Secretary of the Council and also as Treasurer, unless the Council appoints another person as Treasurer.
- (2) The Council, in consultation with the Government, may also employ such other persons, as it may deem necessary, for the purposes of the Council.
- (3) All persons appointed or employed under this section shall be deemed to be public servants within the meaning of S. 21 of the Indian Penal Code, 1860. (Act No. 45 of 1860)

12. Duties of the Registrar :

- (1) It shall be the duty of the Registrar to keep a register of medical practitioners in accordance with the provisions of this Act, and, from time to time, to make all necessary alterations in the register of the addresses, appointments, qualifications or titles of such practitioners and cause the name of any practitioners who are dead to be removed from the register. The Registrar shall also publish the register in the official Gazette after every five years ending 31st December.
- (2) Every registered practitioner shall send to the Registrar after every five year ending 31st December, a renewal fee as may be prescribed with an intimation about alterations, if any, in the address, appointments, qualifications of titles. If the renewal fee is not paid by such dates as may be prescribed, the Registrar may send through registered post a letter to such registered practitioner at his registered address and at any other address available with him enquiring whether such practitioner has ceased to practise or whether his residence or appointment has changed and if no answer is received within a period of six months from its despatch, the registrar may remove the name of such registered practitioner from the register :

Provided that any name so removed may be re-entered in the register under the direction of the Council on payment of fees as may be prescribed.

13. Register to be public document :

The register shall be deemed to be a public document within the meaning of the Indian Evidence Act, 1872. (Act No. 1 of 1872).

14. Privileges of registered practitioners :

Save as is provided in Ss, 25 and 27 of the Indian Medical Council Act, 1956, no person other than a registered practitioner shall -

- (a) Hold office as Physician or Surgeon or any other office (by whatever designation called) in Government or in any institution maintained by a local or other authority.
- (b) Practise medicine within the State of Mizoram.
- (c) Be entitled to sign or authenticate a medical or fitness certificate or any other certificate required by any law to be signed or authenticated by a duly qualified medical practitioner: or

- (d) Be entitled to give evidence at any inquest or in any court of law as an expert under S. 45 of the Indian Evidence Act, 1872 on any matter relating to medicine.

15. Persons who can be registered :

Every person who possesses any of the recognized medical qualifications shall, subject to the provision hereinafter contained and on payment of such registration fee as may be prescribed, be entitled to have his name entered in the register:

Provided that the Council may refuse to permit the registration of any person who has been convicted of any offence involving moral turpitude or who after an inquiry at which opportunity to be heard has been given to him, was found guilty of professional misconduct:

Provided further that the above diaqualification may be removed by the Medical Council of India in any particular case after sufficient reason for doing so is communicated to the Council.

16. Information to be furnished to the Registrar with application :

- (1) Every person who applies to have his name entered in the register shall -
- (a) Satisfy the Registrar that he possesses one or more of the titles or qualifications referred to in the schedules to the Indian Medical Council Act, 1956, as amended from time to time; and
 - (b) Correctly inform the Registrar of the dates on which he obtained the title or qualification which entitles him to claim registration under this Act.
- (2) Every application under this section shall be made in such form and on payment of such fee as may be prescribed.

17. Entry of additional qualification and change of name in register :

If any registered practitioner obtains any other qualification specified in any of the Schedules to the Indian Medical Council Act, 1956, in addition to the qualification in respect of which he has been registered or if he changes his name, he shall, on payment of the prescribed fee, be entitled to have such additions or changes in title, qualification or name, as the case may be, to be made in the register.

18. Alteration of entry or removal of name from the register by Council :

- (1) The Council may, if it deems fit, and after giving notice to the person concerned and inquiring into his objections, if any, order that an entry in the register which is proved to have been fraudulently or incorrectly made or brought about, be cancelled or corrected.
- (2) The Council may direct the removal, permanently or temporarily for any specific period, from the register the name of any registered practitioner who has been convicted of any such offence involving moral turpitude or who, after an enquiry at which opportunity to be heard has been given to him or his Counsel, is held by the Council to be guilty of professional misconduct. The Council may also direct that any name so removed shall be restored.

19. Notice of death and removal of name from register :

- (1) Every Registrar of Births and Deaths who receives notice of death of any person whose name is known to have been entered in the register shall forthwith inform the Registrar of the Council of such death stating the date, time and place of death.
- (2) One receipt of such information from the Registrar of Births and Deaths or from any other reliable source regarding such death, the Registrar of the Council shall remove the name of deceased person from the register.

20. Disposal of fees :

All fees received by the Council under this Act shall be applied for the purpose of this Act as may be prescribed.

21. Appeal against the decision of the Registrar :

An appeal shall lie to the Medical Council of India against any decision of the Registrar under S. 15, S. 16 or S. 17. Such appeal shall be preferred within three months from the date of communication of the order appealed against.

22. Appeal against the decision of the Council :

An appeal shall lie to the Medical Council of India against any decision of the council under S. 15, or S. 18. Such appeal shall be preferred within three months from the date of communication of the decision of the Council.

23. Procedure of Inquiries and Appeal :

- (1) The Council may, at its discretion, hold an inquiry under S. 15 or S. 18 *in camera*.
- (2) For the purpose of only such inquiry or appeal under S. 21, the Council shall be deemed to be a court within the meaning of Indian Evidence Act, 1872, and shall exercise all the powers of a Commissioner appointed under the Public Servants (Enquiries) Act, 1850, and such inquiries and appeals shall be conducted, as far as may be, in accordance with the provisions of S. 5 and Ss. 9 to 19 of the said Act.

24. Control of Medical Council of India :

- (1) In the performance of its function under this Act, the Council shall be under the control and jurisdiction of the Medical Council of India.
- (2) If at any time it appears to the Medical Council of India that the Council has neglected, exceeded or abused the exercise of its power or the performance of any duty imposed upon it by this Act, the Medical Council of India may communicate the particulars of such neglect, excess or abuse to the Council and if the Council fails to remedy such neglect, excess or abuse, within such time as may be fixed by the Medical Council of India in this behalf, the Medical Council of India may, for the purpose of remedying such neglect, excess or abuse, cause the power and duties of the Council to be exercised and performed by such agency and for such period as it may think fit.

25. Prohibition to practise medicine by persons not registered :

No person, other than a registered practitioner or other medical practitioners whose names are borne in the Indian Medical Register, shall practise allopathic system of medicine in Mizoram.

26. Penalty :

- (1) Any person who contravenes the provisions of S. 14 or S. 25 shall be punishable with fine which may extend to rupees one thousand or with imprisonment for a period of six months or with both for the first offence and for every subsequent offence with fine which may extend to Rupees Two thousand or imprisonment for a term which may extend to one year or with both.
- (2) Whoever falsely assumes or uses any description or addition to his name implying thereby that he is qualified to practise the allopathic system of medicine under the provisions of this Act shall be punishable with fine which may extend to rupees one thousand or with imprisonment for a period of six months or with both for the first offence and for every subsequent offence with fine which may extend to rupees two thousand or with imprisonment for a period of one year or with both.

27. Protection of the action taken in good faith :

No suit, prosecution or other legal proceeding shall lie against the Government, the Council, the Medical Council of India or any of their officers or servants for anything which is done or intended to be done in good faith under this Act.

28. Power to make rules :

- (1) The Government shall, in consultation with the Council, make rules for carrying out the purposes of this Act,
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:
 - (a) The manner of election of the President and the Vice President and of filling up vacancies of members of the Council.
 - (b) The functions to be performed by the President and the Vice President.
 - (c) The application of fees under S. 20.
 - (d) The procedure to be followed by the Council in conducting any enquiry under this Act and disposing of appeals from decision of the Registrar.
 - (e) The compilation and publication of the Register.
 - (f) Any other matter which is required to be provided for by rules.
- (3) Every rule made under this section shall be laid as soon as may be after it is made before the Legislative Assembly of Mizoram while it is in session for a total period of seven days which may be comprised in one or in two successive sessions and if before the expiry of the session in which it is laid, the Legislative Assembly of Mizoram makes any modification in the rule or decided that rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or amendment shall be without prejudice to the validity of anything previously done under that rule.

29. Power to make regulations :

The Council may, with the previous sanction of the Government make regulations generally for carrying out the purpose of this Act and without prejudice to the generality of the foregoing paras, such regulations may provide for:

- (a) the form of application and fees chargeable thereof.
- (b) fees chargeable in respect of any registration under this Act.
- (c) keeping of accounts of such fees.
- (d) the provident fund and gratuity for the employees of the Council.
- (e) conditions of services of its employees.
- (f) convening of and conduct of business in meeting of the Council.
- (g) election of Council members by registered medical practitioners in the Medical Council, and
- (h) other matters which is required to be provided for by regulations.

30. Income and Expenditure of the Council :

- (1) The income of the Council shall consist of;
 - (a) Registration fees received from the practitioners
 - (b) Grants received from the Government, if any
 - (c) Any other sums raised by the Council
- (2) It shall be competent for the Council to incur expenditure for the following purposes, namely:
 - (a) Salary and allowances of the Registrar and the staff maintained by the Council.
 - (b) Fees and allowances paid to the members of the Council.
 - (c) Remunerations paid to the assessors.
 - (d) Such other expenses as are necessary for performing the duties and discharging the functions under this Act.

31. Power to remove difficulties:

If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty.

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.

32. Repeal of Assam Act of 1916 and saving clause :

The Assam Medical Act, 1916 in its application to Mizoram is hereby repealed provided that any order made or action taken under this Act so repealed shall be deemed to have been made or taken under the corresponding provisions of this Act.

Sd/-
Commissioner/Secretary,
Law & Judicial Department,
Govt. of Mizoram.