

Chapter - 15

THE INDIAN MEDICINE CENTRAL COUNCIL ACT, 1970

The Indian Medicine Central Council Act, 1970 (hereinafter referred as the "Act") is an important legislation as regards maintenance of health care standards in the country. It provides for the constitution of a Central Council of Indian Medicine and deals with the maintenance of central and state registers of Indian medicine for the enrolment of medical practitioners. The power to constitute the Central Council lies with the central government. The significance of the Act for consumers is obvious from the fact that it regulates the standards of medical services in Indian medicine which are of primary importance to every human being. Matters regarding specification of professional qualifications in Indian medicine and enrolment of the professionals are accordingly being dealt with under the Act and it offers comprehensive schemes regarding the same.

Under the Act, only such a person can be enrolled as a practitioner of Indian medicine who possesses a recognised medical qualification. After enrolment, a practitioner can practice Indian medicine in any state in India and is 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.

To maintain the quality of teaching and training in Indian medicine, the Central Council can ask any university, board or medical institution in India which grants a recognised medical qualification, to furnish information about its courses of study and examination. The Council can withdraw the recognition of an institution if it appears to it that the required quality is not being maintained by a certain institution with respect to the courses of study, examinations, proficiency, efficiency of staff, equipments, accommodation and other facilities. The purpose of the Act, therefore, is to produce sufficiently qualified and skilled medical practitioners and to make qualitative health care available to the people of the country. The consumers can take advantage of the provisions of the Act and, to get rid of the quacks, insist upon the authorities to implement its provisions strictly. Under the Act penal provisions should be included for the punishment of unqualified or under qualified practitioners at the instance of the central council. Without any such provisions the quacks cannot be stopped from practising and exploiting people in an effective manner.

I. Constitution of the Central Council

According to section 3 of the Act, the Central Council is to consist of three categories of members. In the first category, there may be five or less than five members, as determined by the central government in accordance with the provisions of the first schedule of the Act, for each of the *ayurveda*, *siddha* and *unani* systems of medicine from each state in which a state register of Indian medicine is maintained.¹ They are to be elected from amongst the persons enrolled on that register as practitioners of these systems of medicine. In the second category, there has to be one member for each of the *ayurveda*, *siddha* and *unani* systems of medicine from each university to be elected amongst themselves by the members of the faculty or department of the respective system of medicine of that university. In the third category, there may be such number of other members, not exceeding thirty percent of the total number of members elected under the first two categories, as may be nominated by the central government, from amongst persons having special knowledge or practical experience in respect of Indian medicine.

So long the members in the first two categories remain unelected, the central government can nominate members in their place from the persons qualified to be such members as it may deem fit and they would have the same status as the elected members.²

The president of the Council is elected by its members from amongst themselves.³ There has to be a vice-president separately for *ayurveda*, *siddha* and *unani* systems of medicine, elected from amongst themselves by members representing that system of medicine.⁴ Any person is eligible for election to the Central Council only if he possesses any of the medical qualifications included in the second, third and fourth schedule of the Act and is enrolled on any state register of Indian medicine and resides in the state concerned.⁵ One single person cannot at the same time serve as a member in more than one capacity.⁶

According to section 7 of the Act, the Council is a body corporate, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable and to contract, sue and be sued.⁷ The president, vice-president or members of the Council hold office for a term of five years from the date of election or nomination, or until their successors have been duly elected or nominated, whichever is

1. See for the First Schedule of the Act Appendix IX.

2. The Indian Medicine (Central Council) Act, 1970, *Id.*, sec. 3(1).

3. *Id.*, sec. 3(2).

4. *Id.*, sec. 3(3).

5. *Id.*, sec. 5(1); the second, third and fourth schedules of the Act are given in Appendix IX.

6. *Id.*, sec. 5(2).

7. *Id.*, sec. 6.

longer.⁸ An elected or nominated member is deemed to have vacated his seat if he absents without excuse for three consecutive ordinary meetings of the council or, ceases to be enrolled on the concerned state register of Indian medicine or ceases to be a member of the faculty/department of Indian medicine of the university concerned, as the case may be.⁹

A casual vacancy in the Council can be filled by election or nomination, as the case may be, but the person elected or nominated to fill the vacancy can hold office only for the remainder of the term of the member whose place he takes.¹⁰ Members of the Council are eligible for re-election or nomination.¹¹ Where the term of five years is about to expire in respect of any member, a successor may be elected or nominated at any time within three months before the said term expires but he cannot assume office until the term of the predecessor has expired.¹²

The Council is required to meet at least once in each year and one-third of the total members of the Council form the quorum. All the decisions of the Council are taken on the basis of the opinion of the majority of members present and voting. However, no decision of the Council in relation to any Indian medicine is effective unless three members representing *ayurveda*, *siddha*, or *unani* system of medicine, as the case may be, are present at the meeting and support the decision.¹³

II. Committees to Deal with Specific Matters

Section 9 of the Act has empowered the Central Council to constitute three committees each for *ayurveda*, *siddha* and *unani* medicines and each such committee is to consist of members elected or nominated, representing the concerned system of medicine.¹⁴ The vice-president for each of the systems of medicine is the chairman of the committee for respective medicine.¹⁵ The committees are authorised to take decisions subject to such general or special directions as the Council may give from time to time. Each such committee is competent to deal with any matter relating to the respective system of medicine – *ayurveda*, *siddha* or *unani*.¹⁶

The Central Council can constitute from amongst its members such other committees for general or special purposes as are deemed necessary.¹⁷

8. *Id.*, sec. 7(1).

9. *Id.*, sec. 7(2).

10. *Id.*, sec. 7(3).

11. *Id.*, sec. 7(4).

12. *Id.*, sec. 7(5).

13. *Id.*, sec. 8.

14. *Id.*, sec. 9(1).

15. *Id.*, sec. 9(2).

16. *Id.*, sec. 9(3).

17. *Id.*, sec. 10.

The committees so constituted are supposed to meet at least once in a year and one third of the total number of members of a committee constitute the quorum. Decisions are to be taken by the committees on the basis of the opinion of the majority of the members present and voting.¹⁸

III. Recognition of Medical Qualification and Enrolment

The recognised medical qualifications for the purpose of this Act are the medical qualifications granted by any university, board or other medical institutions in India which are included in the second schedule of the Act.¹⁹ Any university, board or other medical institution in India which grants a medical qualification not included in second schedule may apply to the central government to have such qualification recognized, and that may, after consulting the Central Council amend the second schedule to include such qualification therein. Any such notification may also direct that an entry be made in the last column of the second schedule against such medical qualification declaring that it would be a recognised medical qualification only when granted after a specified date.²⁰ The medical qualifications included in the third schedule granted to a citizen of India before August 15, 1947 by any medical institution in any area which was then within India, as defined in the Government of India Act, 1935, is a recognised medical qualification.²¹

The recognised medical qualifications granted by medical institutions outside India have been included in the fourth schedule of the Act.²²

The Central Council is authorised to enter into negotiations with any respective authority in any state or country outside India, which by the law of such state or country has been entrusted with the task of maintaining a register of practitioners of Indian medicine, for setting up a scheme of reciprocity for the recognition of medical qualifications in Indian medicine. In pursuance of any such negotiations and settlements, the central government may amend the fourth schedule of the Act to include in that any medical qualification which the Central Council may have decided to be recognised. It may also direct that an entry be made in the last column of the fourth schedule against such medical qualification declaring such a qualification to be a recognised medical qualification only when granted after a specified date.²³

18. *Id.*, sec. 11.

19. *Id.*, sec. 14(1).

20. *Id.*, sec. 14(2).

21. *Id.*, sec. 15.

22. *Id.*, sec. 16(1).

23. *Id.*, sec. 16(2).

Enrolment as medical practitioner

Section 17 of the Act dealing with the enrolment of qualified persons in Indian medicine on any state register provides that any claimant who possesses any medical qualification included in the second, third or fourth schedule of the Act should be enrolled on such register.²⁴ Only an enrolled person can hold office as *vaid*, *siddha*, *hakim* or physician or any other office in government or in any institution maintained by a local or other authority.²⁵ Anyone so enrolled can practice Indian medicine in any state and they are 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.²⁶ They are also entitled to give evidence at any inquest or in any court of law as an expert under section 45 of the Indian Evidence Act, 1872, on any matter relating to Indian medicine.²⁷ The right to practice of any person who had been practising Indian medicine in a state before the commencement of this Act or who was then entitled to that privilege is not affected by these requirements under section 17.²⁸

If any person acts in contravention of any of these provisions, he can be punished with imprisonment for a term, which may extend to one year, or with fine which may extend to one thousand rupees, or with both.²⁹ It may be pointed out that the provision of fine so prescribed is very small and cannot have any deterrent effect.

IV. Regulatory Measures for Maintaining Standards of Medical Institutions

Interpretation about courses of study and examinations in the discipline of medicine

Section 18 of the Act authorises the Central Council to require every university, board or medical institution in India, which grants a recognised medical qualification, to furnish information about its courses of study and examinations. It can also call information about the age at which such courses of study and examinations are required to be undergone and the qualification conferred. The Council can ask for detailed information about the requirements to be fulfilled for obtaining such a qualification.

Under section 19, of the Act, the Central Council can appoint the requisite number of medical inspectors to inspect any medical college, hospital or other institution imparting instruction in Indian medicine or to

24. *Id.*, sec. 17(1).

25. *Id.*, sec. 17(2)(a).

26. *Id.*, sec. 17(2)(b) & (c).

27. *Id.*, sec. 17(2).

28. *Id.*, sec. 17(3).

29. *Id.*, sec. 17(4).

inspect the conduct of any examination held by any such university, board or medical institution for the purposes of recommending recognition of medical qualifications granted by them. The recognition can be granted by the central government on such a recommendation.³⁰ A medical inspector cannot interfere with the conduct of any training, examination or programme, but report to the Central Council facts about the adequacy of standards of education including staff, equipment, accommodation, training and other facilities prescribed for giving education in Indian medicine or on the satisfactoriness of every examination which they attend for inspection.³¹ The Central Council has to forward a copy of any such report to the institution concerned and a copy of it with the remarks of the institution thereon to the central government.³²

Visitors may be appointed by the Central Council to inspect any institution where education of Indian medicine is being imparted or any examination for the purpose of granting recognized medical qualifications.³³ Any person, whether he is a member of the Central Council or not, may be appointed as a visitor under this section, but a person who is appointed as an inspector for any of the examinations shall not be appointed as a visitor for the same inspection or examination.³⁴ Such visitors cannot interfere, like a medical inspector mentioned above, with the conduct of any training or examination but only report to the president of the Central Council on the adequacy of the standards of education, facilities for giving education, and the sufficiency of every examination which they attend.³⁵ The report of a visitor is treated as confidential unless, in any particular case, the president of the Central Council otherwise directs. If, however, the central government asks for a copy of the report of a visitor, the Central Council would have to furnish the same.³⁶

Withdrawal of recognition

When upon report by the inspector or the visitor, it appears to the Central Council that the courses of study and examination undergone or the proficiency required from candidates or the staff, equipment, accommodation, training and other facilities for instruction provided in an institution do not conform to the standards prescribed by the Central Council, the council has to make a representation, to that effect to the central government.³⁷ After considering such representation, the central

30. *Ibid.*

31. *Id.*, sec. 19(3).

32. *Id.*, sec. 19(3).

33. *Id.*, sec. 20(1).

34. *Id.*, sec. 20(2).

35. *Id.*, sec. 20(3).

36. *Id.*, sec. 20(4).

37. *Id.*, sec. 21(1).

government shall send it to the government of the concerned state. The state government is required to forward it along with its remarks to the institution, with an intimation of the period within which the university, board or medical institution may submit its explanation to the state government.³⁸ On the receipt of the explanation or, where no explanation is submitted within the period fixed, on the expiry of that period, the state government has to make its recommendations to the central government.³⁹

The central government may, after making necessary inquiry, cause an entry be made in the appropriate schedule against the said medical qualification, declaring any qualification granted by a particular institution to be recognised only when granted before a specified date.⁴⁰

Regulation of minimum standards of medical education

The Central Council is empowered to prescribe the minimum standards of education in Indian medicine, for the purpose of granting recognised medical qualifications by universities, boards or medical institutions in India.⁴¹ Copies of the draft regulations and of all subsequent amendments thereof are to be furnished by the Council to all state governments. The regulations should be sanctioned by the central government. Before submitting them to the central government for sanction, the Council should take into consideration the comments of any state government received within three months of furnishing them the copies thereof.⁴² The committees for *ayurveda*, *siddha* and *unani* medicines have also to report to the Central Council their observations on the efficacy of the regulations and may even recommend necessary amendments thereof.⁴³

V. Maintenance of Central Register of Indian Medicine

Section 23 of the Act provides for maintenance of a register of practitioners by the Central Council in separate parts for each of the system of Indian medicine to be known as the Central Register of Indian Medicine which should contain the names of all persons who are for the time being enrolled on any state register of Indian medicine and who possess any of the recognised medical qualifications.⁴⁴ It is the duty of the registrar of the Central Council to keep and maintain the central register in accordance with the requirements of the Act and directions of the Central Council. It should be revised and published, from time to time, in the prescribed manner.⁴⁵

38. *Id.*, sec. 21(2).

39. *Id.*, sec. 21(3).

40. *Id.*, sec. 21.

41. *Id.*, sec. 22(1).

42. *Id.*, sec. 22(2).

43. *Id.*, sec. 22(3).

44. *Id.*, sec. 23(1).

45. *Id.*, sec. 23(2).

According to section 23 of the Act, the register is deemed as a public document within the meaning of the Indian Evidence Act, 1872.⁴⁶

Each state board is supposed to supply to the Central Council three printed copies of the state register of Indian medicine after the first day of April of each year. Accordingly, the Central Council should be informed, without delay, about all additions to and other amendments in the state register of Indian medicine whenever these take place.⁴⁷ All the persons registered on state registers are also entitled to be registered on the central register.⁴⁸

The Central Council is empowered to regulate and prescribe standards of professional conduct and etiquette and a code of ethics for practitioners of Indian medicine.⁴⁹ In the regulations, the Central Council may specify the violations, which constitute professional misconduct. Such provision would have effect even if there is anything contrary to that contained in any other law in force.⁵⁰

If the name of any person enrolled on a state register has been removed therefrom under any law, the Central Council has also to direct the removal of the name of such person from the central register.⁵¹ However, there can be an appeal against the removal of the name of any person from the state register. On the removal of the name from the state register, he can appeal, subject to prescribed conditions, to the central government whose decision, taken after consulting the Central Council, would be binding.⁵² This right would not be available if his name has been removed on the ground that he is not possessed of the requisite medical qualifications or where any application by the said person for restoration of his name to the state register has been rejected.

The courses of study to be undergone for obtaining a recognised medical qualification in Indian medicine include a period of training/ internship after a person has passed the qualifying examination. In such a situation the Act provides that, before such qualification is conferred on

46. *Id.*, sec. 23(3); according to section 23 of the Indian Evidence Act, 1872 the following documents are public documents:

- (1) documents forming the acts or records of the acts –
 - (i) of the sovereign authority
 - (ii) of official bodies and tribunals, and
 - (iii) of public officer, legislative, judicial and executive, (of any part of the India or of the Commonwealth) or of a foreign country;
- (2) public records kept (in any state) of private documents.

47. *Id.*, sec. 24.

48. *Id.*, sec. 25.

49. *Id.*, sec. 26(1).

50. *Id.*, sec. 26(2).

51. *Id.*, sec. 27(1).

52. *Id.*, sec. 27(2).

him, any such person can be granted provisional registration in a state register of Indian medicine by the concerned authority or board to enable him to practice Indian medicine in any approved institution for the purpose of such training and for no other purpose.⁵³

As regards the privileges of persons enrolled on the Central Register of Indian Medicine, every enrolled person is entitled to practice Indian medicine in any part of India. Such a privileges would, however, be subject to the conditions and restrictions laid down in this regard according to his qualifications. He can also recover in respect of such practice any expenses and charges in respect of medicaments or other appliances or any fees to which he may be entitled.⁵⁴

If any person whose name has been entered in the central register, obtains after such enrolment any title, diploma or other qualification for proficiency in Indian medicine which is a recognised medical qualification, he is entitled to have an entry to that effect in the said register either in substitution for or in addition to the entry previously made.⁵⁵ The entries in respect of any such person in a state register of Indian medicine are to be altered in accordance with the alterations so made in the central register.⁵⁶

Section 13 requires an enrolled person to communicate any change of place of residence or practice to the Central Council and the board concerned within a period of ninety days. If such an enrolled person fails to do so, his right to participate in the election of the members of the Central Council or the board can be forfeited permanently or for a specified period, as the central government may decide.

VI. Commission of Inquiry

Section 33 of the Act makes certain provisions to maintain vigil on the functioning of the Central Council also. In this respect, the central government can, on finding that the Central Council is not complying with any of the provisions of the Act, refer the matter to a three member commission of inquiry. Two members of the commission are appointed by the central government, one being a judge of a high court, and the third member can be appointed by the Central Council. The committee is required to inquire in a summary manner as to the truth of the matter charged. In case any charge of default or of improper action is found by the commission, it can recommend the necessary remedies.⁵⁷

53. *Id.*, sec. 28.

54. *Id.*, sec. 29.

55. *Id.*, sec. 30(1).

56. *Id.*, sec. 30(2).

57. *Id.*, sec. 33(1).

The central government may require the Central Council to adopt appropriate remedies within a specified period of time. If the Central Council fails to comply with any such requirements, the central government may amend the regulations of the Central Council or make such provision or order or take such other steps as may seem necessary to give effect to the recommendations of the commission.⁵⁸

Under clause (3) of section 33 of the Act, the commission of inquiry has been empowered to administer oath to enforce the attendance of witnesses and the production of documents, and has been given such other powers which may be necessary for the purpose of any enquiry conducted by it as are exercised by a civil court under the CPC.

58. *Id.*, sec. 33(2).