

## AYURVEDIC AND OTHER TRADITIONAL MEDICINES ACT

Act 37 of 1989 – 3 September 1990

### ARRANGEMENT OF SECTIONS

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## AYURVEDIC AND OTHER TRADITIONAL MEDICINES ACT

### 1. Short title

This Act may be cited as the Ayurvedic and Other Traditional Medicines Act.

### 2. Interpretation

In this Act—

“Ayurvedic medicine” means the system of Indian medicine, commonly known as the *Ashtang Ayurveda*, whether supplemented or not by such modern advances in medicine as the Board may declare by notification in the *Gazette* from time to time;

“Minister” means the Minister to whom responsibility for the subject of health is assigned;

“Permanent Secretary” means the Permanent Secretary of the Ministry;

“practitioner” means a person who practises traditional medicine;

“traditional medicine” means the practice of systems of therapeutics according to homeopathy, Ayurvedic and Chinese methods.

### **3. The Board**

(1) There shall be a Traditional Medicine Board which shall consist of—

- (a) the Permanent Secretary or his representative, who shall be the Chairperson of the Board;
- (b) the Chief Medical Officer of the Ministry;
- (c) the Solicitor-General or his representative;
- (d) a representative of the Prime Minister’s Office;
- (e) one registered medical practitioner;
- (f) not more than 3 persons having knowledge of traditional medicine;
- (g) not more than 3 members of the public.

(2) The composition of the Board shall be published in the *Gazette*.

### **4. Appointment and tenure of office of members**

(1) The members of the Board specified in section 3 (1) (e), (f) and (g) shall be appointed by the Minister for a period not exceeding 3 years and on such terms and conditions as he thinks fit.

(2) The Board may require any member referred to in subsection (1) to vacate his office if he has—

- (a) committed a misconduct, default or breach of trust in the discharge of his duties, as a member or otherwise, which in the opinion of the Board renders him unfit to be a member;
- (b) been incapacitated by prolonged physical, mental or nervous illness;
- (c) been convicted of an offence of such a nature as in the opinion of the Board renders him unfit to be member;
- (d) been arrested or prosecuted in respect of a criminal offence punishable by imprisonment;
- (e) been absent without leave of the Board from 2 consecutive meetings of the Board of which he has had notice;
- (f) been disqualified under this Act from practising his profession.

### **5. Meetings of Board**

(1) Five members of the Board including the Chairperson shall constitute a quorum.

(2) The Chairperson shall preside at every meeting of the Council and have a right to vote upon any question and, in the event of an equality of votes, have a casting vote.

(3) In case the Chairperson is absent from a meeting, the members present shall elect one of the practitioners present to chair the meeting.

(4) The validity of any decision, proceeding or act of the Board or act done on the authority of the Board shall not be affected by any vacancy among the members thereof, or by any defect in the appointment of a member thereof, or by any reason that some person who was not entitled to do so took part therein.

(5) The Board shall meet at least 3 times in each year.

(6) A special meeting of the Board—

- (a) may be convened by the Chairperson at any time;
- (b) shall be convened at the request of the Minister.

(7) The Board may set up such committee of 2 or more members for such purpose as it may determine.

## **6. Seal of Board**

The Board shall have a seal which shall bear such design as may be approved by the Board.

## **7. Validity of documents**

All deeds, instruments, contracts and other documents shall be deemed to be duly executed by or on behalf of the Board if signed by the Chairperson or any member authorised by the Board in that behalf.

## **8. Functions of Board**

(1) The functions of the Board shall be—

- (a) to exercise and maintain discipline in the practice of traditional medicine;
- (b) to advise the Minister on any matter governed by the provisions of this Act or any matter connected therewith or incidental thereto;
- (c) to establish a code of practice for the practitioners on standards of professional conduct or traditional medicine ethics;
- (d) to publish an annual list of practitioners.

(2) Pursuant to subsection (1) (a), the Board may, at the request of the Minister or otherwise, investigate a complaint against a practitioner, other than a visitor specified in section 15.

(3) Where the Board investigates a complaint—

- (a) it shall notify the practitioner, whose conduct, act or omission is under investigation, of the nature of the complaint and give him an opportunity to be heard and to be assisted by a legal representative of his choice;
- (b) it may summon and hear the witnesses;
- (c) it may call for relevant documents and make such extracts or copies thereof as it thinks fit.

(4) The Board shall keep a proper record of all its proceedings under subsection (3).

[S. 8 amended by Act 37 of 1992.]

## **9. Remuneration and immunity**

(1) The members and officers of the Board shall be paid such remuneration or allowance as the Minister may determine.

(2) No civil or criminal proceedings shall lie against a member in respect of any act or omission done by him in good faith in the performance or his duties under this Act.

## **10. Registrar**

(1) There shall be a Registrar to the Board who shall be a public officer of the Ministry, designated for that purpose by the Permanent Secretary.

(2) The Registrar shall also be the Secretary to the Board.

(3) If the Registrar is unable or unwilling to carry out his functions, the Permanent Secretary shall, at the request of the Chairperson, appoint another person to act as Registrar.

(4) Service of any process by or on behalf of the Board shall be sufficient if made by or on behalf of the Registrar.

## **11. Register of practitioners**

The Registrar shall—

- (a) keep such register as the Board may determine;
- (b) enter in the appropriate register—
  - (i) the names, addresses, qualifications and other particulars of every person who is registered as a practitioner or who is undergoing training in Mauritius;
  - (ii) any alterations in the names, addresses, qualifications and other particulars of such persons;
  - (iii) whether any such person has died, has been struck off as a practitioner, has been suspended from practising traditional medicine or has left Mauritius with the intention of settling abroad.

## **12. Application for registration**

(1) Every person who wishes to be registered as a practitioner may apply in writing to the Registrar and submit with the application—

- (a) his diploma in traditional medicine;
- (b) his birth certificate or other acceptable evidence of his identity;
- (c) evidence of any pre-registration training, as may be necessary;
- (d) such other particulars as the Board may reasonably require.

(2) Every application shall be in such form as the Board may determine.

(3) Where the Chairperson is satisfied that an applicant qualifies for registration as a practitioner under this Act, he shall register the applicant and inform the Board accordingly.

(4) In every other case, the Chairperson shall refer the application to the Board for consideration.

(5) Where the Board decides to register an applicant, the applicant shall be so registered.

(6) Where the Board refuses an application, it shall notify the applicant accordingly, stating the reasons for the refusal.

(7) No person shall be registered as a medical practitioner under this section except on payment of such registration fee as may be prescribed.

[S. 12 amended by Act 37 of 1992.]

## **13. Full registration of citizens of Mauritius**

Subject to section 18, every person who is a citizen of Mauritius shall be entitled to full registration as a practitioner if—

- (a) he holds a diploma in traditional medicine;
- (b) he is of good character and has not been convicted of a crime involving fraud or other dishonesty;
- (c) he is not under suspension under the laws of any country for or on account of any infamous conduct, professional negligence or other professional incompetence or malpractice;
- (d) he has not been struck off the list of persons entitled to practise traditional or other medicine in any country; and
- (e) he is not incapacitated by reason of any physical, mental or nervous health.

## **14. Temporary registration of non-citizens**

Every person who is not a citizen of Mauritius shall be entitled to be temporarily registered as a practitioner if—

- (a) he is the holder of a work permit or is otherwise entitled to engage in gainful occupation in Mauritius; and

- (b) he satisfies the requirements of section 15 (a) to (c).

#### **15. Temporary registration of visitors**

A person shall be entitled to be temporarily registered under this Act if he is a practitioner who—

- (a) is engaged in Mauritius in the implementation of a Government Scheme agreed upon by Government;
- (b) is visiting Mauritius and has been invited to offer his services in a hospital or other institution approved by the Board; or
- (c) is visiting Mauritius for the purpose of teaching traditional medicine or undertaking research or study therein under such scheme as may be approved by Government.

#### **16. Certificate of registration**

(1) The Registrar shall issue to every person registered under this Act a certificate of registration in such form as the Board may determine.

(2) The Registrar may issue to an applicant a duplicate certificate if he is satisfied that the applicant has lost his certificate of registration.

#### **17. Additional qualifications**

(1) Where a practitioner registered under this Act obtains, subsequent to such registration, other qualifications, he may apply to the Board to have such other qualifications entered in the register, in addition to the qualifications previously entered.

(2) The Board may refuse an application under subsection (1) where the Board is of the opinion that the new qualification is unrelated to the practice of traditional medicine.

(3) No practitioner shall make use of any qualification that has not been approved by the Board in relation to his practice of traditional medicine.

#### **18. Provisional registration**

(1) Where a person holds a diploma in traditional medicine but is required by the country or the medical institution where he qualified to complete a course of training being training without which he would not be entitled to be registered as a practitioner in that country or by that institution, he may be provisionally registered under this Act until he has completed that course of training in an institution approved for that purpose.

(2) Subsection (1) shall be deemed to apply to any experience prior to registration as a practitioner which may be required, in the country or by the institution of qualification, by way of training or in lieu of training.

(3) Every student who is undergoing pre-qualification training in Mauritius shall notify the Board in writing, giving such particulars as the Board may reasonably require.

### 18A. Annual list of practitioners

(1) The Board shall, not later than 31 January of every year, publish an annual list of practitioners.

(2) Notwithstanding section 24, no practitioner shall practise traditional medicine unless his name is in the annual list of practitioners.

(3) Every practitioner who wishes to have his name on the annual list of practitioners shall—

- (a) in the case of a newly registered medical practitioner, on registration;
- (b) in any other case, at the beginning of every year and in any case not later than 15 January,

pay to the Board such fee as may be prescribed.

(4) The Registrar shall, on receipt of the fee under subsection (3), enter the name of the practitioner in the annual list of practitioners.

[S. 18A inserted by Act 37 of 1992.]

### 19. Disciplinary measures

(1) Where, upon an investigation, the Board is satisfied of the veracity of a complaint and finds that the conduct, act or omission of the practitioner in question needs to be censured, it may—

- (a) administer a warning or a severe warning;
- (b) administer a reprimand or severe reprimand;
- (c) suspend the practitioner from his practice for a period not exceeding 3 months; or
- (d) remove the name of the practitioner from the register.

(2) The decision of the Board under subsection (1) or section 20 shall be communicated to the practitioner in question as soon as practicable and at any rate not later than 15 days from the date of such decision.

### 20. Disciplinary measures following conviction

(1) Where a person has been convicted of a criminal offence involving infamous conduct in the exercise of his calling as a practitioner, the Board may take against such person any of the disciplinary measures specified in section 19.

(2) Where a practitioner has been convicted of a criminal offence involving fraud or dishonesty in the exercise of his calling, the Board may, after giving him an opportunity to show cause why disciplinary measures should not be taken against him, take against him any of the disciplinary measures specified in section 19.

## **21. Duty of disclosure**

Every member of the Board who is closely related to a practitioner whose conduct, act or omission is under investigation, and every member who has any pecuniary or other personal interest in the subject-matter of any such investigation shall disclose his relationship or interest, as the case may be, and refrain from participating in the investigation.

## **22. Appeals**

(1) Any practitioner who is aggrieved by a decision of the Board under section 19 or 20 may, within 21 days of being notified of such decision, appeal to the Supreme Court.

(2) An appeal under subsection (1) shall be made in such a manner as may be provided by rules made by the Supreme Court.

## **23. Restoration of name to register**

(1) Subject to any order which may be made by the Supreme Court on an appeal, where the name of any person has been removed from the register in accordance with the provisions of this Act, the name of that person shall not be restored therein except by order of the Board.

(2) Where the name of a person has been removed from the register, the Board may, after the expiry of 6 months from the date of such removal, either of its own motion or on the application of the person concerned, and after holding such inquiry as it thinks fit, cause the name of such person to be restored to the register.

## **24. Illegal practice of traditional medicine**

(1) No person shall be entitled to practise traditional medicine in Mauritius and to demand, sue for and recover in any Court any charge by way of claim, counterclaim, set-off or otherwise for any advice, attention, or for the provision of any treatment, of any medicine which he shall have prescribed or supplied unless he is registered as a practitioner under this Act or exempted from such registration.

(2) No person shall, unless he is duly registered under this Act, take or use any name, title, addition or description implying a qualification to practise traditional medicine in Mauritius or implying or tending to the belief that he is a practitioner registered under this Act or, by any wilful act or omission, cause or induce any person to believe that he is a practitioner registered under this Act.

(3) For the purpose of this section, the performance of any single act relating to the practice of traditional medicine may be held to be sufficient evidence of such practice.

(4) No person who has been suspended from the practice of traditional medicine shall practise such medicine during the period of suspension.



(5) No person whose name has been removed from the register under section 19 or 20 shall practise traditional medicine.

(6) Where a person is convicted of an offence under this section, any drug, poison, medicine or any surgical, medical or diagnostic instrument or appliance used by him or belonging to him or found in his possession may be forfeited, destroyed or otherwise disposed of as the Court thinks fit.

## **25. Authorised titles**

No person who is registered under this Act shall, in relation to his practice, make use of any title other than the one authorised by the Minister.

## **26. Funds and audit**

(1) All fees payable under any regulations made under this Act shall form part of the revenue of the Board and any expenses incurred in carrying out the provisions of this Act shall be paid out of such revenue.

(2) The Board shall keep proper accounts of all sums received or paid and the accounts for each financial year shall be audited by a qualified auditor appointed by the Board.

## **27. Regulations**

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Without prejudice to subsection (1), the Minister may—

- (a) prescribe—
  - (i) the basic qualifications required for the study of traditional medicine;
  - (ii) the terms and conditions on which any person may practise traditional medicine in Mauritius;
  - (iii) the terms and conditions on which any traditional medicine may be imported;
  - (iv) the university or other institution whose qualifications will be recognised in Mauritius;
- (b) in the public interest, restrict the practice of any particular aspect of any traditional medicine.

## **28. Powers of Minister**

The Minister may give to the Board such directions of a general nature, not inconsistent with this Act, as he thinks fit and the Board shall comply with such directions.

### **28A. Franking of letters**

The Board is authorised to frank letters or postal packets free of charge.

[S. 28A inserted by Act 37 of 1992.]

**29. Offences**

(1) Every person who fraudulently procures or attempts to procure his registration under this Act shall commit an offence.

(2) Every person who, being required in writing by the Board to attend as a witness or to produce any document for the purposes of section 19 or 20, fails to do so without any reasonable excuse shall commit an offence.

(3) Every person who obstructs the proceedings of the Board during any investigation or proceedings by the Board under section 19 or 20 shall commit an offence.

(4) Every person who molests any member of the Board in the course or on account of any investigation or proceedings under section 19 or 20 shall commit an offence.

(5) Every person who contravenes any provision of this Act or any regulations made under this Act shall commit an offence.

(6) Every person who commits an offence under this Act shall, on conviction, be liable to a fine not exceeding 10,000 rupees or to imprisonment for a term not exceeding 12 months.

[S. 29 amended by Act 37 of 1992.]

**30. —**

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