

Dept. of PharmTech



Pharmacy Act 1948

Manas Bhowmik



Introduction

- In India there was no restriction to practice the profession of pharmacy. One could practice this profession as any other profession. Persons, having no knowledge and having no education in pharmacy or pharmaceutical chemistry or pharmacology, were engaged in this profession.
- Hundreds of cases were brought to the notice of the Government wherein the compounding, mixing, or dispensing of medicines was being done by persons who were not adequately educated in this line.



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- The system was causing great harm to the health of people by wrong compounding, mixing or dispensing.
- It was found necessary to enact a law for the regulation of the profession and practice of pharmacy. To achieve this goal the Pharmacy Bill, 1947 was introduced in the Legislature which was later referred to the Select Committee. The recommendations of the Selection Committee were incorporated in the Bill.



Objectives

As in most other countries, only persons who have attained a minimum standard of professional education should be permitted to practice the Profession of Pharmacy. It is accordingly proposed to establish a Central Council of Pharmacy, which will prescribe the minimum standards of education and approve courses of study and examinations for Pharmacists, and Provincial Pharmacy Councils, which will be responsible for the maintenance of provincial registers of qualified pharmacists.



Dept. of PharmTech

The Act 8 of 1948

- The Pharmacy Bill, 1947, having been passed by the Legislature received its assent on 4th March, 1948.
- It came on the Statute Book as THE PHARMACY ACT, 1948 (8 of 1948).



List of Amending Acts and Orders

1. The Adaptation of Laws Order, 1950.
2. The Adaptation of Laws (No.3) Order, 1956.
3. The Pharmacy (Amendment) Act, 1959 (24 of 1959).
4. The Pharmacy (Amendment) Act, 1976 (70 of 1976).
5. The Pharmacy (Amendment) Act, 1982 (22 of 1982).
6. The Delegated Legislation Provisions (Amendment) Act, 1985 (4 of 1986).



Chapter 1

- Short title, extent and commencement:
 - (a) This Act may be called the pharmacy Act, 1948.
 - (b) It extends to the whole of India except the State of Jammu and Kashmir.
 - (c) It shall come into force at once, but Chapters III, IV and V shall take effect in a particular State from such date.



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- (d) As the State Government may, by notification in the Official Gazette, appoint in this behalf.
- (e) Provided that where on account of the territorial changes brought about by the reorganization of States on the 1st day of November, 1956, Chapters III, IV and V have effect only in a part of a State, the said Chapters shall take effect in the remaining part of that State from such date as the State Government may in like manner appoint.



Definition

- Registered Medical Practitioner (RMP): A person holding a qualification granted by an authority notified under Section 3 of the Indian Medical Degrees Act or specified in the Schedules to the Indian Medical Council Act.
- Registered Pharmacist: A person whose name is for the first time being entered in the register of the state in which he or she is for the time being residing or carrying on his profession or business of pharmacy.



Definition

- Central register: It means the register of pharmacists maintained by the Central Council under section 3.
- Executive Committee: It means the Executive Committee of the Central Council or of the State Council, as the context may require.
- Central Council: It means the Pharmacy Council of India under section 3.
- State Council: It means a State Pharmacy Council constituted under section 19, and includes a Joint State Pharmacy Council constituted in accordance with the agreement under section 20.



Chapter 2

In order to meet the objectives Central Council (PCI) and State Pharmacy Council were constituted. The PCI was constituted on 9th August 1949 under section 3 of the Pharmacy Act, 1948 by the Central Government. The council is reconstituted every 5 years.



Constitution of the PCI

Elected members:

1. Six members, among whom there shall be at least one teacher of each of the subjects, pharmaceutical chemistry, pharmacy, pharmacology and Pharmacognosy elected by the [University Grants Commission] from among persons on the teaching staff of an Indian University or a college affiliated thereto which grants a degree or diploma in pharmacy.
2. One member elected from amongst themselves by the members of the Medical Council of India.
3. one member to represent each State elected [from amongst themselves] by the members of each State Council, who shall be a registered pharmacist



Constitution of the PCI

Nominated members:

1. Six members, of whom at least 1 shall be persons possessing a degree or diploma in, and practicing pharmacy or pharmaceutical chemistry nominated by the Central Government.
2. A representative of the University Grants Commission and a representative of the All India Council for Technical Education.
3. One member from each State nominated by State Government/Union Territory, who shall be a registered Pharmacist.



Dept. of PharmTech

Constitution of the PCI

Ex-Officio member:

1. The Director General of Health Services.
2. The Drugs Controller of India.
3. The Director of the Central Drugs Laboratory.

Incorporation of Central Council: The Council constituted under section 3 shall be a body corporate by the name of the Pharmacy Council of India, having perpetual succession and a common seal, with power to acquire and hold property both movable and immovable, and shall by the said name sue and be used.



Education Regulations

- I. The Central Government, make regulations, to be called the Education Regulations, prescribing the minimum standard of education required for qualification as a pharmacist.
- II. The Education Regulations may prescribe
 - a) the nature and period of study and of practical training to be undertaken before admission to an examination;
 - b) the equipment and facilities to be provided for students undergoing approved courses of study;
 - c) the subjects of examination and the standards therein to be attained;
 - d) any other conditions of admission to examinations.



Dept. of PharmTech

Chapter 3

State Pharmacy Council

Constitution and Composition of State Councils.-Except where a Joint State Council is constituted in accordance with an agreement made under section 20, the State Government shall constitute a State Council consisting of the following members namely:



Composition of State Pharmacy Council

- (a) Six members, elected from amongst themselves by registered pharmacists of the State;
- (b) Five members, of whom at least three shall be persons possessing a prescribed degree or diploma in pharmacy or pharmaceutical chemistry or registered pharmacists, nominated by the State Government;
- (c) One member elected from amongst themselves by the members of each Medical Council or the Council of Medical Registration of the State, as the case may be;



Composition of State Pharmacy Council

- (d) The chief administrative medical officer of the State ex officio or if he is unable to attend any meeting, a person authorized by him in writing to do so;
- (e) The officer-in-charge of drugs control organization of the State under the 7[Drugs and Cosmetics Act, 1940, of 1940, ex officio or if he is unable to attend any meeting, a person authorized by him in writing to do so;
- (f) The Government Analyst under the [Drugs and Cosmetics Act, 1940 (23 of 1940)], ex officio, or where there is more than one, such one as the State Government may appoint in this behalf.



Composition of Joint State Council

- (1) A Joint State Council shall consist of the following members, namely:
 - (a) such number of members, being not less than three and not more than five as the agreement shall provide elected from amongst themselves by the registered pharmacists of each of the participating States;
 - (b) such number of members, being not less than two and not more than four as the agreement shall provide, nominated by each participating State Government;
 - (c) one member elected from amongst themselves by the members of each Medical Council or the Council of Medical Registration of each participating State as the case may be;



Composition of Joint State Council

- d) the chief administrative medical officer of each participating State, ex officio, or if he is unable to attend any meeting, a person authorized by him in writing to do so;
- e) the officer-in-charge of drugs control organization of each participating State under the Drugs and Cosmetics Act, 1940, ex officio, or if he is unable to attend any meeting, a person authorized by him in writing to do so;
- f) the Government Analyst under the Drugs and Cosmetics Act, 1940, of each participating State, ex officio, or where there is more than one in any such State, such one as the State Government may appoint in this behalf.



Composition of Joint State Council

(2) The agreement may provide that within the limits specified in clauses (a) and (b) of sub –section- 1, the number of members to be elected or nominated under those clauses may or may not be the same in respect of each participating State.

(3) Of the members, nominated by each State Government under clause (b) of subsection (1), more than half shall be persons possessing a prescribed degree or diploma in pharmacy or pharmaceutical chemistry or registered pharmacists.



Chapter IV: Registration of Pharmacists

Preparation and maintenance of register:

1. As soon as may be after this chapter has taken effect in any State, the State Government shall cause to be prepared in the manner hereinafter provided a register of pharmacists for the State.
2. The State Council shall as soon as possible after it is constituted assume the duty of maintaining the register in accordance with the provisions of this Act.
3. The register shall include the following particulars, namely;



Chapter IV: Registration of Pharmacists

4. The full name and residential address of the registered person;
5. The date of his first admission to the register;
6. His qualifications for registration;
7. His professional address, and if he is employed by any person, the name of such person;
8. Such further particulars as may be prescribed.



Preparation of first register

1. For the purpose of preparing the first register, the State Government shall by notification in the Official Gazette constitute a Registration Tribunal consisting of three persons, and shall also appoint a Registrar who shall act as Secretary of the Registration Tribunal.
2. The State Government shall, by the same or a like notification, appoint prescribed fee, shall be made to the Registration Tribunal.
3. The Registration Tribunal shall examine every application received on or before the appointed date, and if it is satisfied that the applicant is qualified for registration under section 31, shall direct the entry of the name of the applicant on the register.



Preparation of first register

1. The first register so prepared shall thereafter be published in such manner as the State Government may direct, and any person aggrieved by a decision of the Registration Tribunal expressed or implied in the register as so published may, within sixty days from the date of such publication, appeal to an authority appointed by the State Government in this behalf by notification in the Official Gazette.
2. The Registrar shall amend the register in accordance with the decisions of the authority appointed under sub-section (4) and shall thereupon issue to every person whose name is entered in the register a certificate of registration in the prescribed form.
3. Upon the constitution of the State Council, the register shall be given into its custody, and the State Government may direct that all or any specified part of the application fees for registration in the first register shall be paid to the credit of the State Council.



Qualifications for entry on first register

A person who has attained the age of eighteen years shall be entitled on payment of the prescribed fee to have his name entered in the first register if he resides, or carries on the business or profession of pharmacy, in the State and if he

1. holds a degree or diploma in pharmacy or pharmaceutical chemistry or a chemist and druggist diploma of an Indian University or a State Government as the case may be, or a prescribed qualification granted by an authority outside India,



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2. holds a degree of an Indian University other than a degree in pharmacy or pharmaceutical chemistry and has been engaged in the compounding of drugs in a hospital or dispensary or other place in which drugs are regularly dispensed on prescriptions of medical practitioners for a total period of not less than three years,
3. has passed an. examination recognized as adequate by the State Government for commoners or dispensers,
4. has been engaged in the compounding of drugs in a hospital or dispensary or other place in which drugs are regularly dispensed on prescriptions of medical practitioners for a total period of not less than five years prior to the date notified under subsection (2) of section 30.



Qualifications for subsequent registration

1. After the date appointed under sub-section (2) of section 30 and before the Education Regulations have, by or under section II, taken effect in the State, a person who has attained the age of eighteen years shall on payment of the prescribed fee] be entitled to have his name entered in the register if he resides or carries on the business or profession of pharmacy in the State and if he—
 - (a) satisfies the conditions prescribed with the prior approval of the Central Council, or where no conditions have been prescribed, the conditions entitling a person to have his name entered on the first register as set out in section 31, or



Qualifications for subsequent registration

2. Is a registered pharmacist in another State, or
3. Possesses a qualification approved under section 14; Provided that no person shall be entitled under clause (a) or clause (c) to have his name entered on the register unless he has passed a matriculation examination or an examination prescribed as being equivalent to a matriculation examination.



Qualifications for subsequent registration

4. After the Education Regulations have been made by or under section 11 taken effect in the State, a person shall on payment of the prescribed fee be entitled to have his name entered on the register if he has attained the age of eighteen years, if he resides, or carries on the business or profession of pharmacy, in the State and if he has passed an approved examination or possesses a qualification approved under section 14 or is a registered pharmacist in another State.



Special provisions for registration of certain persons

1. Notwithstanding anything contained in section 32, a State Council may also permit to be entered on the register-
 - (a) The names of displaced persons who have been carrying on the business or profession of pharmacy as their principal means of livelihood from a date prior to the 4th day of March, 1948, and who satisfy the conditions for registration as set out in section 31.



Special provisions for registration of certain persons

- (b) The names of citizens of India who have been carrying on the business or profession of pharmacy in any country outside India and who satisfy the conditions for registration as set out in section 31.
- (c) The names of persons who resided in an area which has subsequently become a territory of India and who satisfy the conditions for registration as set out in section 31.



Special provisions for registration of certain persons

(d) The names of persons who carry on the business or profession of pharmacy in the State and (i) would have satisfied the conditions for registration as set out in section 31, on the date appointed under sub-section (2) of section 30, had they applied for registration on or before that date; or (ii) have been engaged in the compounding of drugs in a hospital or dispensary or other place in which drugs are regularly dispensed on prescriptions of medical practitioners as defined in sub clause (iii) of clause (f) of section 2 for a total period of not less than five years prior to the date appointed under subsection (2) of section 30



Special provisions for registration of certain persons

(e) The names of persons who were qualified to be entered in the register for a State as it existed immediately before the 1st day of November, 1956, but who, by reason of the area in which they resided or carried on their business or profession of pharmacy having become part of a State as formed on that date, are not qualified to be entered having in the register for the latter State only by reason of their not having passed either a matriculation examination or an examination prescribed as being equivalent to a matriculation examination or an approved examination or of their not possessing a qualification approved under section 14.



Special provisions for registration of certain persons

(f) The names of persons (i) who were included in the register for a State as it existed immediately before the 1st day of November, 1956; and (ii) who, by reason of the area in which they resided or carried on their business or profession of pharmacy having become part of a State as formed on that date, reside or carry on such business or profession in the latter State;



Special provisions for registration of certain persons

(g) The names of persons who reside or carry on their business or profession of pharmacy in an area in which this Chapter takes effect after the commencement of the Pharmacy (Amendment) Act, 1959 (24 of 1959), and who satisfy the conditions for registration as set out in section 31.



Dept. of PharmTech

Special provisions for registration of certain persons

(2) Any person who desires his name to be entered in the register in pursuance of subsection (1) shall make an application in that behalf to the State Council, and such application shall be accompanied by the prescribed fee.



Special provisions for registration of certain persons

(3) The provisions of this section shall remain in operation for a period of two years from the commencement of the Pharmacy (Amendment) Act, 1959 (24 of 1959). Provided that the State Government may, by notification in the Official Gazette, extend the period of operation of clause (a), clause (b) or clause (c) of subsection (I) by such further period or periods, not exceeding two years in the aggregate, as may be specified in the notification.



Removal of names from register

(1) Subject to the provisions of this section, the Executive Committee may order that the name of a registered pharmacist shall be removed from the register, where it is satisfied, after giving him a reasonable opportunity of being heard and after such further inquiry, if any, as it may think fit to make:

- (i) That his name has been entered into the register by error or on account of misrepresentation or suppression of a material fact, or
- (ii) That he has been convicted of any offence or has been guilty of any infamous conduct in any professional respect which in the opinion of the Executive Committee, renders him unfit to be kept in the register,



Removal of names from register

or

(iii) That a person employed by him for the purposes of his business of pharmacy [or employed to work under him in connection with any business of pharmacy has been convicted of any such offence or has been guilty of any such infamous conduct as would, if such person were a registered pharmacist, render him liable to have his name removed from the register under clause (ii)



Removal of names from register

Provided that no such order shall be made under clause (iii) unless the Executive Committee is satisfied:

- (a) That the offence or infamous conduct was instigated or connected with the registered Pharmacist, or
- (b) That the registered pharmacist has at any time during the period of twelve months immediately preceding the date on which the offence or infamous conduct took place committed a similar offence or been guilty of similar infamous conduct,



Removal of names from register

or

(c) That any person employed by the registered pharmacist for the purpose s of his business of pharmacy [or employed to work under him in connection with any business of pharmacy] has at any time during the period of twelve months immediately preceding the date on which the offence or infamous conduct took place, committed a similar offence or been guilty of similar infamous conduct, and that the registered pharmacist had, or reasonably ought to have had, knowledge of such previous offence or infamous conduct, or



Removal of names from register

- (d) That where the offence or infamous conduct continued over a period, the registered pharmacist had, or reasonably ought to have had, knowledge of the continuing offence or infamous conduct, or
- (e) That where the offence is an offence under the Drugs and Cosmetics Act, 1940 (23 of 1940), the registered pharmacist has not used due diligence in enforcing compliance with the provisions of that Act in his place of business and by persons employed by him [or by persons under his control].



Removal of names from register

(2) An order under sub-section (1) may direct that the person whose name is ordered to be removed from the register shall be ineligible for registration in the State under this Act either permanently or for such period as may be specified.



Removal of names from register

- (3) An order under sub-section (1) shall be subject to confirmation by the State Council and shall not take effect until the expiry of three months from the date of such confirmation.
- (4) A person aggrieved by an order under sub-section (1) which has been confirmed by the State Council may, within thirty days from the communication to him of such confirmation, appeal to the State Government, and the order of the State Government upon such appeal shall be final.



Removal of names from register

(5) A person whose name has been removed from the register under this section or under sub-section (2) of section 34 shall forthwith surrender his certificate or registration to the Registrar, and the name so removed shall be published in the Official Gazette. The name of the registered pharmacist can be removed from the register by the Executive Committee, if it is found that (i) his name has been entered by error or on account of misrepresentation or suppression of material fact, or (ii) he has been convicted of any offence or has been guilty of any infamous conduct in any professional respect; or (iii) a person employed by him for the purposes of his business of pharmacy or employed.



Chapter 5: Miscellaneous

Penalty for falsely claiming to be registered:-

(I) If any person whose name is not for the time being entered into the register of the State falsely pretends that it is so entered, he shall be punishable on first conviction with fine which may extend to five hundred rupees and on any subsequent conviction with imprisonment extending to six months or with fine not exceeding one thousand rupees or with both.



Chapter 5: Miscellaneous

- (2) For the purposes of this section
- a. it shall be immaterial whether or not any person is deceived by such pretense or use as aforesaid;
 - b. the use of the description "pharmacist", "chemist", "druggist" "Pharmaceuticst", "dispenser", "dispensing chemist", or any combination of such words shall be deemed to be reasonably calculated to suggest that the person using such description is a person whose name is for the time being entered in the register of the State;



Chapter 5: Miscellaneous

(3) Cognizance of an offence punishable under this section shall not be taken except upon complaint made by order of the State Government or I [any officer authorized in this behalf by the State Government or by order of] the Executive Committee of the State Council.

A person who falsely pretends that his name is entered in the register shall be punishable on first conviction with fine up to five hundred rupees or on any subsequent conviction with imprisonment up to six months or with fine up to one thousand rupees or with both.