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THE ODISHA STATE COUNCIL FOR OCCUPATIONAL THERAPY AND PHYSIOTHERAPY ACT, 2019

AN

ACT

TO PROVIDE FOR THE CONSTITUTION OF A COUNCIL FOR THE PURPOSE OF CO-ORDINATION AND DETERMINATION OF STANDARDS OF EDUCATION IN THE FIELD OF OCCUPATIONAL THERAPY AND PHYSIOTHERAPY AND FOR THE MAINTENANCE OF A REGISTER OF OCCUPATIONAL THERAPISTS AND PHYSIOTHERAPISTS IN THE STATE OF ODISHA AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Legislature of the State of Odisha in the Seventieth Year of the Republic of India as follows:—

CHAPTER - I PRELIMINARY

Short title,
extent and
commencement.

1. (1) This Act may be called the Odisha State Council for Occupational Therapy and Physiotherapy Act, 2019.

(2) It extends to the whole of the State of Odisha.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act and reference in this Act to the date of commencement of this Act shall be construed as a reference to the date of coming into force of those

provisions.

Definitions.

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

- (a) "appointed day" means the date on which the provisions of this Act come into force under sub-section (3) of section 1;
- (b) "Chairperson" means the Chairperson of the Council;
- (c) "Council" means the Odisha State Council for Occupational Therapy and Physiotherapy constituted under section 3;
- (d) "Government" means the Government of Odisha;
- (e) "Inspector" means an Inspector appointed by the Council under section 18;
- (f) "member" means a member of the Council and includes the Chairperson;
- (g) "occupational therapist" means a person who possesses occupational therapy qualification obtained from a recognised institution whose name has been enrolled in the Register;
- (h) "occupational therapy" means a branch of health care system which involves application of purposeful goal oriented activity through latest technology with computerised system and the like in the evaluation diagnosis or treatment of a persons whose function is impaired due to acute and chronic physical illness or injury, psychological dysfunction, congenital or developmental disability or the ageing process in order to achieve optimum functioning, to prevent disability and to maintain health, specific occupational therapy services which includes education and training in activities of daily living (ADL), the design, fabrication and application of or those (splints) and guidance in the selection and use of adaptive equipment, therapeutic activities to enhance functional performances, prevocational evaluation and training and consultation concerning the adaptation of physical environments which may be provided to individuals or groups and to both indoor and outdoor patients;
- (i) "physiotherapist" means a person who possesses physiotherapy qualification obtained from a recognized institution whose name has

- been enrolled in the Register;
- (j) "physiotherapy" means a branch of modern medical science which includes examination, assessment, interpretation, physical diagnosis, planning and execution of treatment and advice to any person for the purpose of preventing, correcting, alleviating and limiting dysfunction, acute and chronic bodily malfunction including life saving measures via chest physiotherapy in the intensive care units, curing physical disorders or disability promoting physical fitness, facilitating healing and pain relief and treatment of physical and psychosomatic disorders through modulating physiological and physical response using physical agents, activities and devices including exercises, mobilisation, manipulations, therapeutic ultrasound, electrical and thermal agents and electrotherapy for diagnosis, treatment and prevention;
 - (k) "prescribed" means prescribed by rules made under this Act;
 - (l) "profession" means the profession of occupational therapy or physiotherapy, as the case may be;
 - (m) "recognised institution" means institutions which grants qualifications in occupational therapy or physiotherapy, as the case may be, notified under sub-section (8) of section 13 and sub-section (1) of section 16;
 - (n) "recognised occupational therapy qualification" or "recognised physiotherapy qualification" means qualification in occupational therapy or physiotherapy, as the case may be, obtained from recognised institution of occupational therapy or physiotherapy;
 - (o) "register" means the register of occupational therapists or physiotherapists, as the case may be, prepared and maintained by the Council under this Act;
 - (p) "registered practitioner" means an occupational therapist or physiotherapist, as the case may be, whose name is entered and continues to remain in the register;
 - (q) "Registrar" means the Registrar of the Council;
 - (r) "regulations" means the regulations made under section 34; and
 - (s) "rules" means rules made under section 33.

CHAPTER II CONSTITUTION OF THE COUNCIL

3. (1) The Government shall constitute a Council to be called the Odisha State Council for Occupational Therapy and Physiotherapy.

(2) The Council constituted under sub-section (1) shall be a body corporate having perpetual succession and a common seal, with powers to acquire, hold or dispose of property, both movable and immovable, and to contract, and may sue or be sued in its corporate name.

(3) The Council shall consist of the following members, namely:—

- (a) The Director of the Directorate of Medical Education and Training, Odisha – Chairperson;
- (b) Additional Secretary to Government, Health and Family Welfare Department, Odisha – Member;
- (c) Joint Director, Directorate of Medical Education and Training, Odisha - Registrar & Member Convener;
- (d) Deputy Director, Directorate of Medical Education and Training, Odisha - Deputy Registrar; and
- (e) Two members, one from occupational therapist and one from physiotherapists to be nominated by the Government on the recommendation of chairperson from amongst the registered practitioners:

Provided that the nomination of the member referred to in clause (e) shall be made within a period of one year from the date of commencement of this Act.

Term of
Office.

4. (1) Save as otherwise provided in this Act, a nominated member shall hold office for a term of five years from the date of assumption of office.

(2) The term of office of an outgoing member shall, notwithstanding anything contained in sub-section (1), be deemed to extend to and expire with, the day immediately preceding the day on which the names of the successor members are notified by the Government.

(3) An outgoing member shall be eligible for re-nomination.

(4) Leave of absence may be granted by the Council to any member for a period not exceeding six months.

Casual
vacancies.

5. (1) Any casual vacancy, before the expiry of the term of the office of the member nominated under clause (e) of sub-section (3) of section 3, caused by reason of death, resignation, disqualification or disability or any other reason, shall be reported forthwith by the Registrar to the Government and shall, as soon as possible

thereafter, be filled by the Government by nomination.

(2) Any person nominated under clause (e) of sub-section (3) of section 3 to fill a causal vacancy shall hold office for the unexpired period of the term for which his predecessor in office would have held office if such vacancy had not arisen.

(3) During any temporary vacancy in the office of the Registrar, due to leave or any other reason, the Deputy Registrar shall act as Registrar and in case of non-availability of Registrar and Deputy Registrar, the Chairperson may, with the previous sanction of the Government, appoint any other person to act in his place and any person so appointed shall, for the period of such appointment, be deemed to be the Registrar for the purposes of this Act:

Provided that when the period of such vacancy does not exceed one month, the appointment may be made by the Chairperson, who shall forthwith report such appointment to the Government.

(4) The nominated members may, at any time, resign from his office by a notice in writing addressed to the Council and delivered to the Registrar and the resignation shall take effect from the date on which it is accepted by the Council.

Disqualification.

6. (1) A person shall be disqualified for being nominated as, and for continuing as, a member, if,—

- (a) he is, or becomes of, unsound mind and stands so declared by a competent Court; or
- (b) he is, or has been, convicted of any offence involving moral turpitude, which, in the opinion of the Government, renders him unfit to be a member of the Council; or
- (c) he is, or at any time has been, adjudicated as an un-discharged insolvent; or
- (d) his name has been removed from the register and has not been re-entered therein; or
- (e) he is a whole-time officer or servant of the Council.

(2) If any member absents himself from three consecutive meetings of the Council, without leave of the Council, granted under sub-section (4) of section 4 or without such reason as may, in the opinion of the Council, be sufficient, the Council may declare his seat vacant and take steps to fill the vacancy.

(3) If any member becomes disqualified or is found to be subject to any of the disqualifications mentioned in sub-section (1), the Council shall submit a report to

the Government, and the Government, if satisfied that the person incurs any of the disqualifications, shall declare his seat vacant.

7. (1) The meetings of the Council shall be convened, held and conducted in such manner as may be prescribed.

(2) The Chairperson, when present, shall preside at every meeting of the Council and if at any meeting the Chairperson is absent, a member, elected from among the members present at the meeting, shall preside.

(3) All questions at a meeting of the Council shall be decided by a majority of votes.

(4) In case of equality of votes, the presiding authority at a meeting of the Council shall have a second or a casting vote.

(5) Four members shall form a quorum.

(6) If at the time appointed for the meeting or within thirty minutes, a quorum is not present, the meeting shall stand adjourned to some future date to be appointed by the Presiding Authority and three days' notice of such adjourned meeting shall be given and the Members present at such adjourned meeting shall form the quorum whatever their number may be and the business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting.

Proceedings
of the
Meetings.

8. (1) The proceedings of the discussion of every meeting of the Council shall be treated as confidential and no person shall, without the previous resolution of the Council, disclose any proceedings thereof.

(2) No act or proceeding of the Council shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in, the constitution of the Council; or
- (b) any defect in the nomination of a person as a member of the Council.

Income and
expenditure
of the
Council.

9. (1) The income of the Council shall consist of—

- (a) fees received from the practitioners and applicants for opening new institutions as inspection fees;
- (b) grants received from the Government, if any; and
- (c) any other sum received by the Council.

(2) The Council shall have power to incur expenditure for the following purposes, namely:—

- (a) salaries and allowances of the employees of the Council;
- (b) remunerations or allowances paid to the members of the Council for

attending different meetings;

(c) remuneration and allowances paid to the assessors, inspectors or members; and

(d) such other expenses as are necessary for carrying out the purposes of this Act.

(3) All incomes of the Council shall be deposited and maintained in the following manner, namely:—

(a) A separate account in a nationalised bank in the name of “Occupational therapy & Physiotherapy Council, DMET, Odisha” shall be opened and all the receipts and incomes of the council shall be deposited in the same account.

(b) A Cash Book shall be maintained by the Assistant Registrar of the Council on day-to-day basis and he shall be the custodian of it.

(c) The account shall be jointly operated by the Chairperson and the Registrar of the Council.

Duties and responsibilities of Registrar and Deputy Registrar.

10. (1) The Registrar shall have such supervisory powers over the staff as may be prescribed and shall perform such other duties and discharge such other functions as specified in this Act, or as may be prescribed.

(2) In the temporary absence of the Registrar, the Deputy Registrar shall manage the duty of the Registrar and shall perform such other duties and discharge such other functions as may be prescribed.

Officers and other employees of the Council.

11. (1) The Council may appoint such officers and other employees, as it may deem necessary for efficient functioning of its duties and discharging its functions under this Act:

Provided that the number and designation of such officers and other employees shall be determined by the Council with the approval of the Government.

(2) The salaries and allowances payable to, and the other terms and conditions of services of, the officers and other employees appointed for the purpose of the Council shall be such as may be prescribed.

(3) Notwithstanding anything contained in sub-section (1), but subject to such financial limit as may be laid down in this behalf by the Council, it shall be competent for the Chairperson to create temporary posts of other employees and to make appointments thereto, for such period as may be prescribed to meet any temporary increase in work, or to carry out any work of seasonal character.

(4) Officers and other employees of the Council appointed under this Act shall be deemed to be the public servants within the meaning of section 21 of the Indian Penal Code 1860.

CHAPTER III POWERS AND FUNCTIONS OF THE COUNCIL

Powers and functions of the Council.

12. Subject to such conditions as may be prescribed, the powers and functions of the Council shall be —

- (a) to determine and co-ordinate the standards of occupational therapy and physiotherapy education at all levels;
- (b) to recommend to the Government, the grant of permission to open new institutions or to open new courses of study or, training, under section 13;
- (c) to maintain the registers and to provide for the registration of occupational therapists and physiotherapists in the State;
- (d) to prescribe a code of ethics for regulating the professional conduct of practitioners in occupational therapy or physiotherapy;
- (e) to advise the Government in matters relating to the requirement of manpower in the field of occupational therapy and physiotherapy;
- (f) to hear and decide appeals from any decision of the Registrar;
- (g) to reprimand a practitioner, or to suspend or to remove him from the register or to take such other disciplinary action against him as may, in the opinion of the Council, be necessary or expedient;
- (h) to recommend names for nomination before the expiry of the term of the members of the Council or in any case within a period of six months after the date of expiry of such term; and
- (i) to exercise such other powers and perform such other functions as may be prescribed.

Permission for establishment of new institutions and opening of new courses of study.

13.(1) Notwithstanding anything contained in this Act or any other State law for the time being in force, with effect from such date as may be notified by the Government,—

- (a) no person shall establish an institution; or
- (b) no institution shall,—
 - (i) open a new or higher course of study or training including a

postgraduate course of study or training, which would enable a student for such course or training to qualify himself for the award of any recognised occupational therapy or physiotherapy qualification; or

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

Explanation I.— For the purposes of this section, "person" shall include any University or a trust or a society or an institution but shall not include the Central Government or the State Government

Explanation II.— For the purposes of this section, "admission capacity", in relation to any course of study or training (including post-graduate course of study or training) in an institution, means the maximum number of students that may be fixed by the Government from time to time, for being admitted to such course or training.

(2) Every person shall, for the purpose of obtaining permission under sub-section (1), submit to the Government an application with a scheme in such manner and with such fees as may be prescribed and on receipt of such application the Government shall refer the scheme to the Council for its recommendations.

(3) 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, by conducting inspection by Inspectors and report of Inspectors and any other particulars evaluated by the Council for the purpose and thereafter, it may,—

- (a) if the scheme is defective and does not contain any necessary particulars, give a reasonable opportunity to the person concerned for making a written representation and it shall be open to such person to rectify the defects, if any, specified by the Council;

- (b) consider the schemes having regard to the factors referred to in sub-section (6) and submit the scheme together with its recommendations thereon to the Government.

(4) The Government may, after considering the scheme and the recommendations of the Council under sub-section (3) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the person concerned and having regard to the factors referred to in sub-section (6),

approve the scheme (with such conditions, if any, as it may consider necessary) and the approval so granted shall be deemed to be permission under sub-section (1):

Provided that where the Government consider to disapprove the scheme, it shall give opportunity to the applicant to represent for the objection, if any, made by the Government and the Government shall, after considering the representation, either pass order for approval or disapproval.

(5) Nothing in this section shall prevent any person whose scheme has not been approved by the Government, to submit a fresh scheme with fresh fees 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 Council, while making its recommendations under clause (b) of sub-section (3) and the Government while passing an order, either approving or disapproving the scheme under sub-section (4), shall have due regard to the following factors, namely :—

- (a) whether the proposed institution or the existing institution seeking to open a new or higher course of study or training, would be in a position to offer the minimum standard of education as may be prescribed by the Council;
- (b) whether the person seeking to establish an institution or the existing 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 staff, equipment, accommodation, training and other facilities to ensure proper functioning of the 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 any arrangement has been made or programme drawn to impart training to students likely to attend such institution or course of study or training by persons having the recognised occupational therapy or physiotherapy qualification, as the case may be;
- (e) whether necessary arrangement has been made or programme drawn to meet the requirement of manpower in the field of practice of

occupational therapy or physiotherapy, as the case may be; and

(f) any other factors as may be prescribed.

(7) Where the Government passes an order either approving or disapproving a scheme under this section, a copy of the order shall be communicated to the person concerned.

(8) After approval of the scheme by the Government, a letter of permission shall be issued in the name of the institution and a list of institutions whose scheme has been approved, shall, by notification, be published in the Official Gazette.

(9) After the issue of letter of permission for a new course or for increased intake capacity, every year the institution shall be inspected by the inspecting team and basing on the report and opinion of such inspection team, renewal of letter of permission may be recommended to the Government and the Government may issue the renewal of permission but in the final year of examination of the batch for which letter of permission was issued basing on the recommendation of the Council, a letter of recognition shall be issued by that Government.

(10) In case of non-recommendation, institution may be intimated regarding the reasons thereof with instruction to comply the deficiencies within three months from the date of such intimation along with such fees as may be prescribed and after conducting a compliance inspection, the Council shall recommend to the Government for approval or disapproval.

(11) The Government, on receipt of the recommendation of the Council, shall issue a letter of such approval or disapproval as the case may be, to the concerned institution.

(12) On disapproval, the institution shall not admit any student from the disapproved year but, the institution shall have the liberty to apply afresh alongwith the prescribed fees.

14.(1) Where, any institution is established without obtaining the previous permission of the Government as provided under section 13, no occupational therapy or physiotherapy qualification granted to any student of such institution shall be a recognised qualification for the purposes of this Act.

(2) Where any institution opens a new or higher course of study or training including a post-graduate course of study or training without the previous permission of the Government as provided under section 13, no qualification granted to any student of such institution on the basis of such study or training shall be recognized qualification for the purposes of this Act.

Non-
recognition of
qualifications
in certain
cases.

(3) Where any institution increases its admission capacity in any course of study or training without the previous permission of the Government as provided under section 13, no occupational therapy or physiotherapy qualification granted to any student of such institution on the basis of the increase in its admission capacity shall be a recognised occupational therapy or physiotherapy qualification for the purposes of this Act.

Explanation.— For the purpose of this section, the criteria for identifying a student who has been granted a occupational therapy or physiotherapy qualification on the basis of such unauthorised increase in the admission capacity shall be such as may be prescribed.

Time for seeking permission for certain existing institutions.

15. (1) Any person who has established an institution immediately before the appointed day shall seek, within a period of six months from the said date, the permission of the Government as provided in section 13.

(2) If such person fails to seek the permission under sub-section (1), the provisions of section 14 shall apply, so far as may be, as if, permission of the Government under section 13 has been refused.

Recognition of occupational therapy or physiotherapy qualifications granted by other Universities in India.

16.(1) Any University or other institution in India, which grants qualifications in occupational therapy or physiotherapy, may apply to the Government as provided under sub-section (1) of section 15, for the purpose of recognition of such qualification granted by other University in India and the Government, after consulting the Council, may, by notification in the *Official Gazette*, declare that it shall be a recognised University or institution, as the case may be, for the purpose of this Act, only after a specified date.

(2) The qualifications, granted by any University or other institution in India, relating to occupational therapy or physiotherapy notified under sub-section (1) shall be recognised qualifications for the occupational therapists and physiotherapists for the purposes of this Act.

Effect of recognition .

17. (1) Any qualification in occupational therapy or physiotherapy granted by a University or an institution, published under sub-section (8) of section 13 and sub-section (1) of section 16 shall be sufficient qualification for enrolment in the register of occupational therapists or physiotherapists, as the case may be.

(2) No person shall, after the date of commencement of this Act, be entitled to be enrolled in the register as an occupational therapist or a physiotherapist unless he

holds a recognised qualification:

Provided that in case of a dispute as to whether a person is entitled to be enrolled, the matter shall be referred to the Council which shall consider the reference whose decision shall be final.

(3) Notwithstanding anything contained in the preceding sub-section,—

(a) a citizen of India holding a qualification which entitles him to be registered with any Council of occupational therapy or physiotherapy, recognised by any State Government may, with the approval of the Council, be enrolled temporarily as an occupational therapist or physiotherapist, in the Register till the said qualification is notified in accordance with the provisions of this Act:

(b) a person not being a citizen of India who is employed as a occupational therapy or physiotherapy teacher in any hospital or institution in India where such hospital or institution is recognised by the Governments of the concerned State or Union Territory, for the purpose of teaching, research or charitable work in Odisha, may, with the approval of the Council, be enrolled temporarily in the Register, for such period as may be specified in this behalf, in the order issued by the Council:

Provided that, such person shall not be allowed to practise as a general occupational therapist or physiotherapist and such teaching or work shall be limited to the hospital or institution to which he is attached:

Provided further that, no such enrolment under clause (a) shall be permitted, unless the Council is satisfied that such person possesses the requisite knowledge and skill to practise occupational therapy or physiotherapy by conducting a screening test or such other test or examination as may be prescribed.

Inspector .

18.(1) The Council may, subject to the regulations, if any, framed in this behalf, appoint such number of Inspectors as it may deem necessary to inspect any institution where education or training in occupational therapy or physiotherapy is imparted, and attend any examinations held for the purpose of granting any recognized qualification or recognised higher qualification.

(2) The Inspectors appointed under this section shall not interfere with the course of any examinations but they shall report to the Council on the suitability of

the institution for the purposes of training and on the adequacy of the training therein, on the sufficiency of the standard of examinations and on any other matters with regard to which Council may require them to report.

(3) The Council, after examination of the inspection report and other informations contained in the scheme or application of the applicant institution, may recommend or not recommend for approval to the Government.

Withdrawal
of
recognition.

19. (1) When upon the report by the Inspectors, it appears to the Council that, -

(a) the courses of study, training and examinations to be undergone to obtain a recognised qualification from any University or institution in the State or the conditions for admission to such courses or the standards of proficiency required from candidates at such examinations; or

(b) the staff, equipment, accommodation, training and other training provided in such University or Institution, are not in conformity with the regulations made under this Act or fall short of the standard prescribed by the Council, the Council shall issue a direction to that effect to the University or institution concerned with an intimation of the period within which the University or institution may submit its explanation to the Council.

(2) On receipt of the explanation or, where no explanation is submitted within the period fixed, then on the expiry of that period, the Council may, after making such further inquiry, as it may think fit, recommend the Government to derecognise such University or institution by notification in the Official Gazette, and the notification so issued under sub-section (8) of section 13 and sub-section (1) of section 16 shall also be modified accordingly and the qualifications conferred by such institution or University, as the case may be, shall be a recognized qualification only when granted before a specified date.

Professional
conduct.

20.(1) The Council may, with the previous approval of the Government, by regulations, prescribe standards of professional conduct and etiquette and a Code of Ethics for occupational therapists or physiotherapists.

(2) Regulations made under sub-section (1) may specify which of the

violations thereof shall constitute professional misconduct and such provision shall have effect notwithstanding anything contained in any law for the time being in force.

(3) Whenever the Council, after such inquiry as it thinks fit, recommends that the name of any person enrolled in the register of occupational therapists or physiotherapists be removed therefrom due to professional misconduct, it shall as it may deem fit, by order, direct the removal of the name of such person from the said register either permanently or for such period as may be specified in the order.

Information
to be
furnished .

21. The Council shall furnish copies of its minutes, reports, abstracts of its accounts and other information to the Government whenever called for.

CHAPTER IV PREPARATION AND MAINTENANCE OF REGISTER

Preparation
and
maintenance
of register.

22. (1) As soon as may be, after the appointed day, the Registrar shall prepare and maintain a register of occupational therapists or physiotherapists in the State of Odisha in accordance with the provisions of this Act.

(2) The register shall be in such form, and may be divided into such parts and contain such particulars, including the full name, address, date of birth and the qualifications of the registered occupational therapists or physiotherapists and the date on which each qualification was obtained, as may be prescribed.

(3) Any person who possesses the qualifications from the recognized institutions desires to continue his practice as occupational therapist or physiotherapist shall, on an application made in the prescribed Form to the Registrar and on payment of such fee as may be prescribed which shall not be less than one thousand rupees to the Council and on presentation of his degree, diploma, licence or certificate, be entitled to have his name entered in the register for a period of five years from the date on which his name is entered in the register.

(4) Every registered practitioner shall, on an application made in the prescribed Form to the Registrar and on payment of such fee as may be prescribed which shall not be less than five hundred rupees to the Council, be entitled to have his registration renewed for a further period of five years from the date on which his registration is issued or, as the case may be, renewed:

Provided that every renewal application shall be made at least three months

before the expiry of the registration:

Provided further that the application for renewal of registration made within a period of one month after the date of expiry of the registration may be renewed after charging such additional late fee as may be prescribed which shall not be less than two hundred rupees.

(5) The applications for renewal of registration received after one month from the date of expiry of the registration shall be treated as a fresh application under subsection (3).

(6) Every registered practitioner shall be given a certificate of registration or renewal of registration in the prescribed Form and the registered practitioner shall display the certificate of registration or renewal of registration at a conspicuous place in his dispensary, clinic or place of practice, and if he has more than one such place, in each of them.

(7) Where it is shown to the satisfaction of the Registrar that a certificate of registration or renewal of registration has been defaced, lost or destroyed, the Registrar may, on payment of such fee as may be prescribed which shall not be less than five hundred rupees, issue a duplicate certificate in such Form as may be prescribed.

Removal of
names from
register.

23. (1) If a registered practitioner has been, after due inquiry, held by the Council in the prescribed manner, found guilty of any misconduct, the Council may,—

- (a) issue a letter or warning to such practitioner; or
- (b) direct the name of such practitioner—
 - (i) to be removed from the register for such period as may be specified in the direction; or
 - (ii) to be removed from the register permanently.

Explanation.—For the purpose of this section, "misconduct" shall mean—

- (i) the conviction of a registered practitioner by a criminal Court for an offence which involves moral turpitude; or
- (ii) the conviction under the Army Act, 1950, of a registered practitioner subject to military law for an offence which is cognizable within the meaning of the Code of Criminal Procedure, 1973; or

46 of 1950.

2 of 1974.

- (iii) any conduct which, in the opinion of the Council, is infamous in

relation to the medical profession particularly under any Code of Ethics prescribed by the Council under this Act.

(2) In holding any inquiry under sub-section (1), the Council shall have the same powers as are vested in Civil Courts under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely:—

- (a) enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents; and
- (c) issuing of commissions for the examination of witnesses.

(3) All inquiries under this section shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code, 1860.

(4) For the purpose of advising the Council on any question of law arising in any inquiry under this section, there may, in all such enquiries, be an assessor, who has been for not less than ten years,—

- (a) an Advocate enrolled under the Advocates Act, 1961; or
- (b) an Attorney of a High Court.

(5) Any assessor under sub-section (4) may be appointed either for general enquiries or for any particular enquiry or class of enquiries and shall be paid such remuneration as may be prescribed.

Appeal.

24. Where the name of any person has been removed from the Register on the ground of professional misconduct or any other ground except that he is not possessed of the requisite occupational therapy or physiotherapy qualifications, he may appeal to the Government within a period of thirty days from the date of order for removing the name of the appellant from the register in the prescribed manner with the prescribed fee whose decision thereon shall be final:

Provided that, an appeal may be admitted after expiry of the said period of thirty days, if the appellant satisfies the Government that he had sufficient reasons for not preferring the appeal within the said period.

Rights and
privileges of
the registered
Practitioners.

25. No person, other than a registered practitioner shall,—

- (a) hold office as occupational therapist or physiotherapist or any other office by whatever designation called in the Government or in any institution maintained by a local or other authority; or
- (b) practise occupational therapy or physiotherapy as the case may be,

anywhere in the State of Odisha and recover in respect of such practice any expenses or fees to which he may be entitled; or

(c) be entitled to sign or authenticate any certificate required by any law to be signed or authenticated by occupational therapist or physiotherapist; or

(d) be entitled to give any evidence at any inquest or in any Court as an expert under the Indian Evidence Act, 1872 on any matter relating to occupational therapy or physiotherapy.

CHAPTER V OFFENCES AND PENALTIES

Conferring, granting or issuing post-graduate diploma, license, etc. by unauthorized person or institution.

26. (1) No person other than an institution recognised or authorised under this Act shall confer, grant or issue or hold himself out as entitled to confer, grant, or issue any degree, diploma, licence, certificate or any other like award or which states or implies that the holder, grantee or recipient thereof is qualified to practise the occupational therapy or physiotherapy, as the case may be.

(2) No person other than an occupational therapist or physiotherapist whose name is entered in the register prepared and maintained under this Act shall practise occupational therapy or physiotherapy system of medical science.

Misuse of the title.

27. If any person not being a registered practitioner takes or uses the description of occupational therapist or physiotherapist or consultant in occupational therapy or physiotherapy or not possessing a recognised occupational therapy or physiotherapy qualification, uses a degree or a diploma or an abbreviation indicating or implying such occupational therapy or physiotherapy qualification, shall, on conviction, be punished,—

(a) for a first offence, with fine which may extend to five thousand rupees; and

(b) for a subsequent offence with imprisonment which may extend to one year or with fine which may extend to ten thousand rupees, or with both.

Failure to surrender the certificate of registration.

28. If any person whose name has been removed from the register fails without sufficient cause, forthwith to surrender his certificate of registration or renewed certificate of registration or both, he shall, on conviction, be punished with fine which may extend to five hundred rupees per month of such failure.

Penalty for act in contravention of the provisions of section 26.

29. (1) Whoever contravenes the provisions of sub-section (1) of section 26 and if the person so contravening is an institution, the proprietor of the institution or the Chairperson and members of the Managing Board of such institution who, knowingly or wilfully authorises or permits the contravention shall, on conviction, be punished,—

- (a) for the first offence, with imprisonment for a term which may extend to three years and with fine which shall not be less than one lakh rupees but which may extend to twenty-five lakh rupees; and
- (b) for a second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine which shall not be less than twenty-five lakh rupees but which may extend to fifty lakh rupees:

Provided that when the contravention is continued after the order of conviction, a further fine which may extend to five thousand rupees, for each day of continuation of such contravention, may be imposed.

(2) Any person who acts in contravention of the provisions of sub-section (2) of section 26, shall, on conviction, be punished,—

- (a) for the first offence, with imprisonment for a term which may extend to three years and with fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees; and
- (b) for a second or subsequent offence, with imprisonment for a term which may extend to ten years and with fine which may extend to twenty-five thousand rupees:

Provided that, when the contravention is continued after the order of conviction, a further fine which may extend to five hundred rupees, for each day of continuation of such contravention, may be imposed.

Cognizance of offence

30. (1) All offences under section 29 shall be cognizable and non-bailable.

(2) No Court shall take cognizance of an offence punishable under this Act except upon a complaint, in writing, made by a person authorised in this behalf by the Council.

(3) No Court inferior to that of a Magistrate of the First Class shall try any offence punishable under this Act.

CHAPTER VI MISCELLANEOUS

Directions by
the
Government.

31. (1) The Council shall carry out such directions as may be issued, from time to time, by the Government, for the efficient administration of this Act.

(2) If any dispute arises between the Council and the Government, in connection with the exercise of its authority and in the discharge of its functions by the Council under this Act, the decision of the Government on such dispute shall be final.

Protection of
action taken
in good faith.

32. No suit, prosecution or other legal proceeding shall lie against the Government, the Council, or any officer or other employee of the Council or of the Government for anything which is done or intended to be done in good faith under this Act.

Power to
make rules.

33. The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act and such rules may be made to provide for all or any of the matters expressly required or allowed by this Act to be prescribed by rules.

Power to
make
regulations.

34.(1) The Council may, with the previous approval of the Government, make regulations by notification in the Official Gazette, not inconsistent with this Act and the rules made thereunder, for enabling it to perform its functions under this Act and generally to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:-

- (a) the management of the property of the Council;
- (b) the maintenance and audit of the accounts of the Council;
- (c) the registration of occupational therapists or physiotherapists;
- (d) the rules of procedure for the transaction of business of the Council and its committees;
- (e) the qualifications, procedure for appointment of Inspectors, their powers and duties;
- (f) the courses and period of study or of training, to be undertaken, the subjects of examination and standards of proficiency therein to be

obtained in any university or in any institution for grant of recognised occupational therapist or physiotherapist qualification;

- (g) the standards of staff, qualification of faculties, equipment, accommodation, training and other facilities for study for training of the occupational therapists or physiotherapists;
- (h) the conduct of examinations, qualifications of examiners and the conditions of the admission to such examinations;
- (i) the standard of professional conduct and etiquette and the Code of Ethics to be observed by occupational therapist or physiotherapists professionals;
- (j) the manner in which and the conditions subject to which an appeal may be preferred under section 24;
- (k) the fees to be paid for applications and appeals under this Act; and
- (l) any other matter which is to be, or may be, made by regulation.

(3) The Government may, by notification, rescind or modify any regulation made under this section and thereupon, the regulation shall cease to have effect or be modified accordingly.

Power to
remove
difficulties.

35.(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purposes of removing the difficulty:

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

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before the State Legislature.

By Order of the Governor

SASHIKANTA MISHRA
Principal Secretary to Government