

The Pharmacy Act, 1948

INTRODUCTION

In India there was no restriction to practice the profession of pharmacy. One could practise 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. 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. The Pharmacy Bill, 1947, having been passed by the legislature received its assent on 4th March, 1948. This act may be called the Pharmacy Act, 1948. It extends to the whole of India except the State of Jammu and Kashmir.

Salient Features

This act was enacted for the regulation of the profession and practice of pharmacy. The Pharmacy Act has been divided into 5 Chapters

and 46 Sections. The salient features are as follows:

1. The Pharmacy Council of India consists of a team for a period of 5 years.

The inter university board has members of different departments like pharmacy, pharmacology, pharmaceutical chemistry, etc. 6 members are nominated by the Central Government and one member from the Medical Council of India. Director General of Health Services, Drug Controller, Director of Central Drug Laboratory, and Chief Chemist (central revenues) are also members.

2. Central Council with approval of Central Govt. regulates education, period of study, practical training, equipments, facilities, and standard of examination.
3. The act approves formation of State Pharmacy Councils.
4. Registration of pharmacists is done with their name, age, sex, residential address, and qualification.

Any person more than 18 years holding degree or diploma in pharmacy or other field engaged in corresponding of drugs in hospital, dispensary or 10th class having 5 years of dispensary experience, can be registered. Special provision are given for displaced person who has been carrying on profession of pharmacy before March 1948 and Indian carrying pharmacy outside the India but satisfy the conditions of registration.

5. Removal of name after recommendation of executive committee of central or state body for infamous conduct, suppression or misrepresentation of fact.
6. Any person who is found guilty for violation of law can be punished with a fine of Rupees Five hundred–one thousand or 6 months imprisonment or both.

At present there are so many approved institutes imparting Diploma in Pharmacy (D. pharm) and Degree of Pharmacy (B. Pharm) and Master Degree of Pharmacy (M. pharm).

Aims and Objectives of the Pharmacy Act, 1948

It is desirable that, 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. It is further proposed to empower provincial governments to prohibit the dispensing of medicine on the prescription of a medical practitioner otherwise than by, or under the direct and personal supervision of, a registered pharmacist.

Aims

- The Pharmacy Act of 1948, which was later revised in 1959, 1976 and 1984, aims at regulating the profession of pharmacy in India.
- Since pharmacists deal with sale and even prescription of medicine, it is necessary to ensure that they have adequate knowledge of drugs and treatments.
- It should be noted that consuming a wrong medicine cannot only result in irreversible damage to the body, in grave cases it may result in loss of life as well.

Objectives

The Pharmacy Act has been passed:

- To regulate the profession of pharmacy. Whereas it is expedient to make better provision for the regulation of the profession and practice of pharmacy and for that purpose to constitute Pharmacy Councils.
- To provide uniform education and training for the prospective pharmacist.
- To maintain control over the person entering the profession of pharmacy, by providing for their registration in every state.

DEFINITIONS

- a. **“Agreement”** means an agreement entered into under section 20 (Inter-State Agreements).
- b. **“Approved”** means approved by the Central Council under section 12 (approved courses of study and examinations) or section 14 (qualifications granted outside the territories to which this act extends).
- c. **“Central Council”** means the Pharmacy Council of India constituted under Section 3 (constitution and composition of Central Council).
- d. **“Central Register”** means the register of pharmacists maintained by the Central Council under section 15 A (the Central Register).
- e. **“Executive Committee”** means the executive committee of the Central Council or of the State Council, as the context may require.
- f. **“Indian University”** means a university within the meaning of section 3 (constitution and composition of Central Council) of the University Grants Commission Act, 1956, and includes such other institutions, being institutions established by or under a central act, as the Central Government may, by notification in the official gazette, specify in this behalf.

- g. **“Medical Practitioner”** means a person:
- i. Holding a qualification granted by an authority specified or notified under section 3 (constitution and composition of Central Council) of the Indian Medical Degrees Act, 1916, or specified in the schedules to the Indian Medical Council Act, 1956.
 - ii. Registered or eligible for registration in a medical register of a state meant for the registration of persons practising the modern scientific system of medicine.
 - iii. Registered in a medical register of a state, who, although not falling within is declared by a general or special order made by the State Government in this behalf as a person practising the modern scientific system of medicine for the purposes of this act.
 - iv. Registered or eligible for registration in the register of dentists for a state under the Dentists Act, 1948.
 - v. Who is engaged in the practise of veterinary medicine and who possesses qualifications approved by the State Government.
- h. **“Register”** means a register of pharmacists prepared and maintained under the act.
- i. **“Registered Pharmacist”** means a person whose name for the time being is entered in the register of the state in which he for the time being is residing or carrying on his profession or business of pharmacy.
 - j. **“State Council”** means a State Council of Pharmacy constituted under section 19 (constitution and composition of State Councils), and includes a joint State Council of Pharmacy constituted in accordance with an agreement under Section 20 (Inter-State Agreements).
- k. **“University Grant Commission”** means the University Grants Commission established under section 4 (incorporation of Central Council.) of the University Grants Commission Act, 1956.

THE PHARMACY COUNCIL OF INDIA

The Pharmacy Council of India (PCI), also known as Central Council, was constituted under section 3 of The Pharmacy Act, 1948. The pharmacy education and profession in India up to graduate level is regulated by the pharmacy council of India, a statutory body governed by the provisions of The Pharmacy Act, 1948 passed by the Indian Parliament.

The Pharmacy Act 1948 was enacted on 4 March 1948 with the following preamble- “An Act to regulate the profession of pharmacy. Whereas it is expedient to make better provision for the regulation of the profession and practice of pharmacy and for that purpose to constitute pharmacy councils”. The PCI was constituted on 9 August 1949 under section 3 of the pharmacy act. PCI is reconstituted every five years.

Objectives of the PCI

- Regulation of the pharmacy education in the country for the purpose of registration as a pharmacist under the Pharmacy Act.
- Regulation of profession and practice of pharmacy.

Functions and Duties

- To prescribe minimum standard of education required for qualifying as a pharmacist (under Section 10 {education regulations} of the pharmacy act).
- Framing of Education Regulations prescribing the conditions to be fulfilled by the institutions seeking approval of the PCI for imparting education in pharmacy (under Section 10).
- To ensure uniform implementation of the educational standards throughout the country (under Section 10).
- Inspection of pharmacy institutions seeking approval under The Pharmacy Act to verify availability of the prescribed norms (under Section 16 {inspection} of the Pharmacy Act).
- To approve the course of study and examination for pharmacists, i.e. approval of the

academic training institutions providing pharmacy courses (under Section 12 {approved courses of study and examinations} of the Pharmacy Act).

- To withdraw approval, if the approved course of study or an approved examination does not continue to be in conformity (under Section 13).

A. CONSTITUTION

- I. **Constitution and composition of Central Council:** The Central Government shall, as soon as may be, constitute a Central Council consisting of the following elected, nominated and ex-officio members, namely.

Elected Members

1. 6 members, among whom there shall be at least one teacher of each of the subjects, pharmaceutical chemistry, pharmacology and pharmacognosy elected by the University Grants Commission from among the teaching staff of an Indian university or a college affiliated there to 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.

Nominated Members

4. 6 members, of whom at least 4 shall be persons possessing a degree or diploma in, and practising pharmacy or pharmaceutical chemistry, nominated by the Central Government.
5. One member to represent each State nominated by the State Government, who shall be a registered pharmacist.
6. One member to represent each Union Territory, nominated by the Union

Territory Council, being eligible for registration under Section 31 (provisions related to the qualifications for entry on first register) of the act.

7. A representative of the University Grants Commission and a representative of the all India council for technical education.

Ex-officio Members

8. The Director General, Health Services, ex-officio member is unable to attend any meeting, a person authorized by him in writing can do so.
 9. The Drugs Controller, India, ex-officio member is unable to attend any meeting, a person authorised by him in writing can do so.
 10. The Director of the Central Drugs Laboratory, ex-officio member.
- II. **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 sued.
 - III. **President and Vice-President of Central Council:** The President and Vice-President of the Central Council shall be elected by the members of the said council from among themselves. The President or Vice-President shall hold office as such for a term not exceeding five years and not extending beyond the expiry of his term as member of the Central Council, but subject to his being a member of the central council, he shall be eligible for re-election.
 - IV. **Mode of elections:** Elections under this chapter shall be conducted in the prescribed manner, and where any dispute arises regarding any such election it shall be referred to the Central Government whose decision shall be final.

B. TERM OF OFFICE, VACANCIES, REMUNERATION AND ALLOWANCES

I. *Term of office and casual vacancies:*

Subject to the provisions of this section, a nominated or elected member shall hold office for a term of 5 years from the date of his nomination or election or until his successor has been duly nominated or elected, whichever is longer. A nominated or elected member may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall thereupon become vacant. A nominated or elected member shall be deemed to have vacated his seat if he is absent without excuse, sufficient in the opinion of the Central Council, from three consecutive meetings of the Central Council or if he ceases to be a member of the teaching staff, Medical Council of India or a registered pharmacist, as the case may be. A casual vacancy in the Central Council shall be filled by fresh nomination or election, as the case may be, and the person nominated or elected to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was nominated or elected. No act done by the Central Council shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Central Council. Members of the Central Council shall be eligible for re-nomination or re-election.

II. *Staff remuneration and allowances:* The Central Council shall appoint a registrar who shall act as the secretary to that council and if need, as its treasurer too. The Central Council shall appoint such other officers and servants to enable the council to carry out its functions under this act. The Central Council may require and take security from the registrar or any other officer or servant, for the due performance of his duties as that council

may consider necessary. The Central Council empowered to fix, the remuneration and allowances to be paid to the President, Vice-President, and other members of that council and the pay and allowances and other conditions of service of officers and servants of that council, with the previous sanction of the Central Government.

C. COMMITTEES

I. *The Executive Committees:* The Central Council shall, as soon as may be, constitute an executive committee consisting of the President (who shall be chairman of the executive committee) and Vice-President, ex-officio, and 5 other members elected by the Central Council from amongst its members. A member of the executive committee shall hold office as such until the expiry of his term of office as member of the central council, but, subject to his being a member of the Central Council, he shall be eligible for re-election. In addition to the powers and duties conferred and imposed upon it by this act the executive committee shall exercise and discharge such powers and duties as may be prescribed.

II. *Other Committees:* The Central Council may constitute from among its members other committees for such general or special purposes as that council may deem necessary and for such periods not exceeding five years as it may specify, and may co-opt for a like period persons, who are not members of the Central Council, as members of such committees. The remuneration and allowances to be paid to the members of such committees shall be fixed by the Central Council with the previous sanction of the Central Government. The business before such committees shall be conducted in accordance with such regulations as may be made under this act.

D. FUNCTIONS OF PCI

I. *Education regulations (Section 10):* The Education regulations are approved by the Central Government.

1. The Central Council may, subject to the approval of the Central Government, make regulations, to be called the Education Regulations, prescribing the minimum standard of Education Required for qualification as a pharmacist.
2. In particular and without prejudice to the generality of the foregoing power, the Education Regulations 1991 may prescribe:
 - a. The nature and period of study and of practical training (not less than 500 hours over a period of not less than 3 months provided that not less than 250 hours are devoted to actual dispensing of prescriptions in a recognized hospital or dispensary or pharmacy/chemist and druggist or licensed drug manufacturing unit) 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.
3. Copies of the draft of the education regulations and of all subsequent, amendments thereof shall be furnished by the Central Council to all State Governments, and the Central Council shall before submitting the education regulations or any amendment thereof, as the case may be, to the Central Government for approval take into consideration the comments of any State Government received within three months from the furnishing of the copies as aforesaid.
4. The education regulations shall be published in the official gazette and in

such other manner as the Central Council may direct.

5. The Executive Committee from time to time shall report to the Central Council on the efficacy of the education regulations and may recommend to the Central Council such amendments thereof as it may think fit.

Amendments in education regulations: The present education regulations is framed by PCI with the approval of Central Government.

Amendments to these regulations are first circulated to the State Governments for their comments. If the comments are received within 3 months, then they may be taken in consideration by the Central Council and then amendments are sent to central government for its approval. After approval by Central Government it is published in the official gazette. Executive Committee shall report to the council from time to time about the efficacy of regulations and may recommend amendments in the present regulation.

- II. *Application of education regulations to States:* At any time after the constitution of the State Council under this act and after consultation with the State Council, the State Government may, by notification in the official gazette, declare that the education regulations shall take effect in the state. Provided that where no such declaration has been made, the education regulations shall take effect in the state on the expiry of 3 years from the date of the constitution of the state council.
- III. *Approved courses of study and examination:* Any authority or institution in a state which conducts a course of study for pharmacists may apply to the Central Council for approval of the course, and the Central Council, if satisfied, after such enquiry as it thinks fit to make, that the said course of study is in conformity with the Education Regulations, shall declare the said course of study to be an approved course of study for the purpose

of admission to an approved examination for pharmacists.

Any authority or institution in a state which holds an examination in pharmacy may apply to the Central Council for approval of the examination, and the Central Council if satisfied, after such enquiry as it thinks fit to make, that the said examination is in conformity with the education regulations, shall declare the said examination to be an approved examination for the purpose of qualifying for registration as a pharmacist under this act.

Every authority in the state which conducts an approved course of study or holds an approved examination shall furnish such information as the Central Council may, from time to time, require as to the courses of study and training and examination to be undergone, as to the ages at which such courses of study and examination are required to be undergone and generally as to the requisites for such courses of study and examination.

IV. **Inspection:** The Executive Committee may appoint such number of inspectors.

Power of inspector: An inspector may:

- a. Inspect any institution which provides an approved course of study.
- b. Attend at any approved examination.
- c. Inspect any institution whose authorities have applied for the approval of its course of study or examination and attend, as it may deem requisite for the purposes of this act at any examination of such institution.

An inspector attending at any examination shall not interfere with the conduct of the examination, but he shall report to the executive committee on the sufficiency of every examination he attends and on any other matter in regard to which the executive committee may ask him to report. The executive committee shall forward a copy of every such report to the authority or institution concerned, and shall also forward a copy together with any comments there on which the said authority or institution

may have made, to the Central Government and to the Government of the State in which the authority or institution is situated.

V. **Withdrawal of approval:** Where the executive committee reports to the Central Council that an approved course of study or an approved examination does not continue to be in conformity with the education regulations, the Central Council shall give notice to the authority concerned of its intention to take into consideration the question of withdrawing the declaration of approval accorded to the course of study or examination. As the case may be, and the said authority shall within 3 months from the receipt of such notice forward to the Central Council through the State Government such representation in the matter as it may wish to make. After considering any representation which may be received from the authority concerned and any observations there on which the State Government may think fit to make, the council may declare that the course of study or the examination shall be deemed to be approved only when completed or passed, as the case may be, before a specified date.

VI. **Approval of other qualifications:** The Central Council may approve any qualification granted by an authority outside India to be an approved qualification for the purpose of qualifying for registration under this act if a sufficient guarantee of the requisite skill and knowledge is afforded. It may also declare at anytime that such qualification shall be deemed additional, to be approved only when granted before or after a specified date. Provided that the state or country in which a qualification is granted permits citizens of India to enter and practice the profession of pharmacy. Thus foreign qualifications are approved on a reciprocal basis.

Approval of courses of study and examinations, withdrawal of approval and approval of foreign qualifications are declared by making a

resolution at a meeting of the Central Council and are effective as soon as they are published in the official gazette.

- VII. **Mode of declarations:** All declarations shall be made by resolution passed at a meeting of the Central Council, and shall come into effect as soon as they are published in the official gazette.
- VIII. **The central register of pharmacist:** According to the provisions of the Pharmacy (Amendment) Act, 1976, the Central Council shall cause to be maintained in the prescribed manner a register of pharmacists to be known as the Central Register, which shall contain the names of all persons for the time being entered in the register for a state. Each State Council shall supply to the Central Council five copies of the register for the state as soon as may be after the 1st day of April of each year, and the registrar, of each State Council, shall inform the Central Council, without delay, all additions to, and other Amendments in, the register for the State made from time to time. It shall be the duty of the registrar of the Central Council to keep the central register in accordance with the orders made by the Central Council, and from time to time to revise the central register and publish it in the gazette of India. The central register shall be deemed to be public document within the meaning of the Indian Evidence Act, 1872 and may be proved by the production of a copy of the register as published in the gazette of India.
- IX. **Registration in the central register:** The registrar of the Central Council shall, on receipt of the report of registration of a person in the register for a State, enter his name in the central register.
- X. **Information to be furnished:** The Central Council shall furnish copies of its minutes and minutes of the Executive Committee and annual report of its activities to the Central Government. The Central Government may publish in such manner as it may think fit any report, furnished to it under the provision related to the Inspection.
- XI. **Accounts and audit:** The Central Council shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, in accordance with such general directions as may be issued and in such form as may be specified by the Central Government in consultation with the Comptroller and Auditor-General of India. The accounts of the Central Council shall be audited annually by the Comptroller and Auditor-General of India or any person authorized by him in this behalf and any expenditure incurred by him or any person so authorized in connection with such audit shall be payable by the Central Council to the Comptroller and Auditor-General of India. The Comptroller and Auditor-General of India and any person authorized by him in connection with the audit of the accounts of the Central Council shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of government accounts, and in particular, shall have the right to demand the production of books of accounts, connected vouchers and other documents and papers. The accounts of the Central Council as certified by the Comptroller and Auditor-General of India or any person authorized by him in this behalf together with the audit report thereon shall be forwarded annually to the Central Council which shall forward the same with its comments to the Central Government.
- XII. **Power to make regulations:** The Central Council may, with the approval of the Central Government make regulations consistent with this act to carry out the purposes of this act.

STATE PHARMACY COUNCILS

State Pharmacy Council is a statutory body constituted by the State Government under the provisions of the Pharmacy Act of 1948.

Objective: The main objective of the State Pharmacy Council is to regulate the profession of pharmacy in the State.

Function: The prime function of the State Pharmacy Council is to grant registration to the eligible pharmacists possessing requisite qualification as per the Pharmacy Act and to enforce the necessary provisions of the Pharmacy Act, 1948. In addition to task of registration, they are also responsible for the maintenance of the register of pharmacists of the whole State and also exercise such other controls over the practicing pharmacists, as be necessary.

A. CONSTITUTION

I. **Constitution and composition of State Councils:** under the act the State Government shall constitute a State Council (under Section 19) consisting of the following members, namely:

Elected and Nominated Members

1. 6 members, elected from amongst themselves by registered pharmacists of the state.
2. 5 members, of whom at least 3 shall be persons possessing a prescribed degree or diploma in pharmacy or pharmaceutical chemistry or registered pharmacists, nominated by the State Government.
3. One member elected from amongst themselves by the members of each Medical Council or the Council of Medical Registration of the State.

Ex-officio Members

4. 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.
5. The officer-in-charge of Drugs Control Organization of the 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.

6. The Government Analyst under the Drugs and Cosmetics Act, 1940, ex-officio.

II. *Inter-State Agreements (Section 20):*

1. When two or more State Government enter into an agreement may decide:
 - a. For the constitution of a Joint State Council for all the participating states.
 - b. That the State Council of one state shall serve the needs of the other participating states, such agreement is called Interstate Agreement.
2. Under this act such an agreement may:
 - a. Provide for the apportionment between the participating state of the expenditure in connection with the State Council or Joint State Council.
 - b. Determine which of the participating State Governments shall exercise the several functions of the State Government under this act, and the references in this act to the State Government shall be construed accordingly.
 - c. Provide for consultation between the participating State Governments either generally or with reference to particular matters arising under this act.
 - d. Make such incidental and ancillary provisions, not inconsistent with this act, as may be deemed necessary or expedient for giving effect to the agreement.
3. An agreement under this section shall be published in the official gazettes of the participating states.

III. *Constitution/composition of Joint State Councils (Section 21):*

Joint State Council: Two or more states may agree to form a Joint State Pharmacy Council

for definite or indefinite period of time. By this agreement, the State Pharmacy Council of one state is to serve the needs of other state or states. A Joint State Council consists of the following members:

Elected and Nominated Members

1. Not less than 3 and not more than 5 members elected amongst themselves by the registered pharmacists of each of the participating states.
2. One member elected from amongst themselves by the members of each Medical Council or the Council of Medical Registration of each participating state.
3. Not less than 3 but not more than 4 members nominated by each participating State Government.

Ex-officio Members

4. The Chief Administrative Medical Officer of each participating state or his authorised person.
5. The officer in-charge of Drugs Control Organization of each Participating State or his authorised person.
6. The Government Analyst of each participating state under Drug and Cosmetic Act, 1940.

Functions of Joint State Council: The State Pharmacy Council of one State is to serve the needs of the other State or States. The council has to prepare annual accounts statement and the amount of expenditure is to be shared by all the states. According to registration of pharmacist and maintenance of the register every year after 1st April, the State Council shall supply 5 copies of the register to PCI with updated amendments.

- IV. **Incorporation of State Councils:** Every State Council shall be a body corporate by such name as may be notified by the State Government in the official gazette or, in the case of a Joint State Council, as may be

determined in the agreement, having perpetual succession and a common seal, with power to acquire or hold property both movable and immovable and shall by the said name sue and be sued.

V. **President and Vice-President of State Council:**

The President and Vice-President of the State Council are elected by the members from amongst themselves. Provided that for 5 years from the first constitution of the State Council the President shall be a person nominated by the State Government who shall hold office at the pleasure of the State Government and where he is not already a member, shall be a member of the State Council. The President or Vice-President shall hold office as such for a term not exceeding 5 years and not extending beyond the expiry of his term as a member of the State Council, but subject to his being a member of the State Council, he shall be eligible for re-election.

- VI. **Mode of Elections:** Elections under this act shall be conducted in the prescribed manner, and where any dispute arises regarding any such election, it shall be referred to the State Government whose decision shall be final.

B. TERM OF OFFICE, VACANCIES, REMUNERATION AND ALLOWANCES

- I. **Term of office and casual vacancies:** Under this act, a nominated or elected member, other than nominated president, shall hold office for a term of 5 years from the date of his nomination or election or until his successor has been duly nominated or elected, whichever is longer. A nominated or elected member may at any time resign his membership by writing under his hand addressed to the President, and the seat of such member shall thereupon become vacant. A nominated or elected member shall be deemed to have vacated his seat

if he is absent without excuse sufficient in the opinion of the State Council from three consecutive meetings of the State Council, or if he is elected, if he ceases to be a registered pharmacist or causes to be a member of the Medical Council or Council of Medical Registration of the State, as the case may be. A casual vacancy in the State Council shall be filled by fresh nomination or election, as the case may be, and the person nominated or elected to fill the vacancy shall hold office only for the remainder of the term for which the member whose place he takes was nominated or elected. No act done by the State Council shall be called in question on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the State Council. Members of the State Council shall be eligible for re-nomination or re-election.

- II. **Staff, remuneration and allowances:** With the previous sanction of the State Government the State Council may appoint a Registrar who shall also act as secretary and also a treasurer of the State Council. The State Council may also appoint such other officers and servants to carry out its functions. Fix the salaries and allowances and other conditions of service of the secretary and other officers and servants of the State Council and also fix the rates of allowances payable to members of the State Council.

C. INSPECTION

- I. **Inspection by State Councils:** A State Council may, appoint inspectors having the prescribed qualifications.

Power of Inspector: An inspector may:

- a. Inspect any premises where drugs are compounded or dispensed and submit a written report to the registrar.
- b. Enquire whether a person who is engaged in compounding or dispensing of drugs is a registered pharmacist.
- c. Investigate any complaint made in writing in respect of any contravention of this act and report to the registrar.
- d. Institute prosecution under the order of the executive committee of the State Council.
- e. Exercise such other powers as may be necessary.

Any person wilfully obstructing an inspector in the exercise of his powers under this act or any rules made there under shall be punishable with imprisonment up to 6 months, or with fine not exceeding 1,000 rupees, or with both. Every inspector shall be deemed to be a public servant under section 21 of the Indian Penal Code 1860.

- II. **Information to be furnished:** The State Council shall furnish such reports, copies of its minutes and of the minutes of the executive committee, and abstracts of its accounts to the State Government as the State Government may from time to time require and copies thereof shall be sent to the Central Council. The State Government may publish, in such manner as it may think fit, any report, and copy, abstract or other information furnished to it under this section.

D. COMMITTEE

The executive committee of State Councils:

1. The State Council shall constitute an executive committee consisting of the President (who shall be Chairman of the Executive Committee) and Vice-President, ex-officio and such number of other members elected by the State Council from amongst them as may be prescribed.
2. A member of the executive committee shall hold office as such until the expiry of his term of office as member of the state council, but, subject to his being a member of the State Council, he shall be eligible for re-election.
3. In addition to the powers and duties conferred and imposed upon it by this act, the executive committee shall exercise and

discharge such powers and duties as may be prescribed.

E. FUNCTIONS OF STATE PHARMACY COUNCIL

Registration of pharmacists: The Pharmacy Act provides for the registration of pharmacists to regulate the entry of persons in this profession. It ensures that only those persons having requisite qualifications training and experience relating to the compounding dispensing and handling, storage, etc. of the drugs are allowed to enter the practice of pharmacy. Name of registered pharmacists are entered in the registers maintained by the State Councils and the Central Council.

I. Preparation and maintenance of register:

In every State, the State Government shall cause to be prepared a register of pharmacists for the state. The State Council shall maintain the register in accordance with the provisions of this act.

The register shall include the following particulars, namely:

- a. The full name and residential address of the registered person.
- b. The date of his first admission to the register.
- c. His qualifications for registration.
- d. His professional address, and if he is employed by any person, the name of that person.
- e. Such further particulars as may be prescribed.

II. Preparation of first register: For the purpose of preparing the first register, the State Government shall constitute a registration tribunal consisting of three persons and shall also appoint a registrar who shall act as secretary of the registration tribunal. The State Government shall appoint a date on or before which applications for registration, which shall be accompanied by the prescribed fee, shall be made to the registration tribunal. 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. 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 60 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. The registrar shall amend the register in accordance with the decisions of the authority appointed and shall thereupon issue to every person whose name is entered in the register a Certificate of Registration in the prescribed form. 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.

III. Qualifications for entry on first register:

(section 31) A person who has attained the age of 18 years shall be entitled on payment of the prescribed fee, be entitled to have his name entered in the first register if he resides, or carries the business or profession of pharmacy, in the state and if he:

- a. 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.
- b. 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 3 years.

- c. Has passed an examination recognised as adequate by the State Government for compounders or dispensers.
- d. 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 by the State Government for receipt of applications for entry of names on the first register to the registration tribunal.

IV. **Qualifications for subsequent registration**

(Section 32): After the date appointed by the State Government for receiving the applications for registration by the registration tribunal and before the education regulations have taken effect in the state, a person who has attained the age of 18 years shall be entitled to have his name entered in the register on payment of the prescribed fee, if he resides or carries 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, and has passed a matriculation or an equivalent examination.
- b. Is a registered pharmacist in another state.
- c. Possesses a qualification granted by an authority outside India, but approved by the Central Council and has passed a matriculation or an equivalent.

After the education regulations have 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:

- a. Attained the age of 18 years.
- b. Resides, or carries the business or profession of pharmacy, in the state.
- c. Passed an approved examination or possesses a qualification approved by the Central Council.

- d. Is a registered pharmacist in another State.

V. **Special provisions for registration of certain persons:** The Pharmacy (Amendment) Act of 1959 made special provisions for the registration.

1. Notwithstanding anything contained in the provision related to the qualifications for subsequent registration. 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 in the first register of the state.
 - 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 registrations in the first register of the state.
 - c. The names of persons who is resided in an area which has subsequently become a territory of India and who satisfy the conditions for registration in the first register of the state.
 - 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, on the date appointed, 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 this act for a total period of not less then 5 years prior to the date appointed.

- 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 reside or carried on their business or profession of pharmacy have become part of a state as formed on that date, are not qualified to be entered having in the register for the later 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 do not possess qualification obtained from outside India and recognized by the Central Council.
- 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.
 - 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.
- g. The names of persons who reside or carry on their business of profession or pharmacy in an area in which this chapter takes effect after the commencement of The Pharmacy (Amendment) Act, 1959, and who satisfy the conditions for registration in the first register of the state.
2. Any person who desires his name to be entered in the register shall make an application in that behalf to the State Council, and such application shall be accompanied by the prescribed fee.
 3. The provisions of this section shall remain in operation for a period of 2 years from the commencement of The Pharmacy (Amendment) Act, 1959.
- VI. *Special provisions for registration of displaced persons, repatriates and other persons:*
1. The Pharmacy (Amendment) Act, 1976 provide for the registration of the following categories of person for a period of 2 years from the commencement of this Amendment Act:
 - a. Person who possess degree or diploma in pharmacy or pharmaceutical chemistry or chemists and druggists diploma of an Indian University or State Government, or have passed an examination recognized adequate for compounders and dispensers by the State Government and who were eligible for registration between the closing of the first register and the date when the education regulations came into effect.
 - b. The names of persons approved as "qualified persons" before 31st December, 1969 for compounding or dispensing of medicines under The Drugs and Cosmetics Act, 1940 and the Rules made thereunder.
 - c. The names of "displaced person" from Bangladesh who left that country after 14th April, 1957 but before 25th March 1971, and "repatriates" from Burma, Sri Lanka, Uganda or any other country who left or were displaced from such countysies after 14th April 1957 who were carrying on business or profession of pharmacy as their principal means of livelihood in any country outside India for a total period of not less than 5 years from a date prior to the date of application for registration.
 2. The last provisions have been misused and a large number of unqualified persons are reported to have been registered in some states.

VII. *Scrutiny of applications for registration:*

After the date appointed, applications for registration shall be addressed to the registrar of the State Council and shall be accompanied by the prescribed fee. If upon such application the registrar is of opinion that the applicant is entitled to have his name entered in the register under the provisions of this act for the time being applicable, he shall enter the name of the applicant in the register. Any persons, whose application for registration is rejected by the registrar, may within three months from the date of such rejection appeal to the State Council, and the decision of the State Council thereon shall be final. Upon entry in the register of a name under section, the registrar shall issue a certificate of registration in the prescribed form.

No person whose name has been removed from the register of any state shall be entitled to have his name entered in the register except with the approval of State Council. Any person, whose application for registration has been rejected by the registrar, may within 90 days from the date of such rejection, appeal to the state council whose decision shall be final. Registration is valid up to 31st December of the year of registration.

VIII. *Renewal fees:* The State Government may direct that for the retention of a name on the register after the 31st day of December of the year following the year in which the name is first entered on the register, there shall be paid annually to the State Council such renewal fee as may be prescribed, and where such direction has been made, such renewal fee shall be due to be paid before the first day of April of the year to which it relates. When a renewal fee is not paid by the due date, the registrar shall remove the name of the defaulter from the register. On payment of the renewal fee, the registrar shall issue a receipt therefore and such receipt shall be a proof of renewal of registration.

IX. *Entry of additional qualifications:* A registered pharmacist shall on payment of the prescribed fee be entitled to have entered in the register any further degrees or diplomas in pharmacy on pharmaceutical chemistry which he may obtain.

X. *Removal of name from register:*

1. 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, on the following grounds:

- i. If his name has been entered into the register by error or on account of misrepresentation or suppression of a material fact, or
- ii. If 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.
- iii. If 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). 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 connived at by the registered pharmacist.
 - b. That the registered pharmacist at any time during the period or twelve months immediately preceding the date on which the offence

- or infamous conduct took place has committed a similar offence or been guilty of similar infamous conduct.
- c. That any person employed by the registered pharmacist for the purposes 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.
 - 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.
 - e. That where the offence is an offence under the Drugs and Cosmetics Act, 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.
2. An order 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.
 3. An order shall be subject to confirmation by the State Council and shall not take effect until the expiry of three month from the date of such confirmation.
 4. A person aggrieved by an order 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.
 5. A person whose name has been removed from the register under this section shall forthwith surrender his certificate or registration to the registrar, and the name so removed shall be published in the official gazette.
- XI. **Restoration to register:** The State Council may at any time for reasons appearing to it sufficient order that upon payment of the prescribed fee the name of a person removed from the register shall be restored thereto. Provided that where an appeal against such removal has been rejected by the State Government, an order under this section shall not take effect until it has been confirmed by the State Government.
 - XII. **Bar of other jurisdiction:** No order refusing to enter a name on the register or removing a name from the register shall be called in question in any court.
 - XIII. **Issue of duplicate certificate of registration:** Where it is shown to the satisfaction of the registrar that a certificate of registration has been lost or destroyed, the registrar may, on payment of the prescribed fee, issue a duplicate certificate in the prescribed form.
 - XIV. **Printing of register and evidentiary value of entries therein:** As soon as may be after the 1st day of April subsequent to the commencement of The Pharmacy (Amendment) Act, 1959, the registrar shall cause to be printed copies of the register as it stood on the said date. The registrar shall thereafter cause to be printed as soon as may be after the 1st day of April in each year copies of the annual supplement to the register referred to in above sub-section, showing all additions to and other amendments in, the said register. The register shall be brought up-to-date 3 months before

ordinary elections to the State Council are held and copies of this register shall be printed. The same copies referred to in above sub-section shall be made available to persons applying therefor on payment of the prescribed charge and shall be evidence that on the date referred to in the register or annual supplement, the persons whose name are entered therein were registered pharmacists.

MISCELLANEOUS

A. Offences and Penalties

- I. *Penalty for falsely claiming to be registered:* 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 or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, he shall be punishable on first conviction with fine which may extend to 500 rupees and on any subsequent conviction with imprisonment extending to 6 months or with fine not exceeding 1,000 rupees or with both.

The use of the description "Pharmacist", "Chemist", "Druggist", "Pharmaceutist", "Dispenser", "Dispensing Chemist", or any combination of such words or of any such word with any other word 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. The onus of proving that the name of a person is for the time being entered in the register of a State shall be on him who asserts it.

Cognizance of an offence punishable under this section shall not be taken except upon complaint made by order of the State Government or any officer authorized in this behalf by the State Government or by order of the executive committee of the State Council.

- II. *Dispensing by unregistered persons:* On or after such date as the State Government

may by notification in the official gazette appoint in this behalf, no person other than a registered pharmacist shall compound, prepare, mix, or dispense any medicine on the prescription of a medical practitioner. Provided that this shall not apply to dispensing by a medical practitioner of medicine for his own patients, or with the general or special sanction of the State Government, for the patients of another medical practitioner.

Whoever contravenes the provisions of above sub-section shall be punishable with imprisonment for a term which may extend to 6 months, or with fine not exceeding 1,000 rupees or with both. Cognizance of an offence punishable under this section shall not be taken except upon complaint made by order of the State Government or any officer authorized in this behalf by the State Government or by order of the executive committee of the State Council.

Provided further that where no such date is appointed by the Government of a State, these provisions shall take effect in that State on the expiry of a period of 8 years from the commencement of The Pharmacy (Amendment) Act, 1976 (1st September 1984).

- III. *Failure to surrender certificate of registration:* If any person whose name has been removed from the register fails without sufficient cause forthwith to surrender his certificate of registration he shall be punishable with fine which may extend to 50 rupees. Cognizance of an offence punishable under this section shall not be taken except upon complaint made by an order of the executive committee.

- IV. *Payment of part of fees to Central Council:* The State Council before the end of June in each year shall pay the central council a sum equivalent to one-fourth of the total fees realized by the State Council under this Act during the period of 12 months ending on the 31st day of March of that year.

B. Enquiry

Appointment of commission of enquiry: Whenever it appears to the Central Government that the Central Council is not complying with any of the provisions of this act, the Central Government may appoint a commission of enquiry consisting of three persons, two of whom shall be appointed by the Central Government one being the judge of a high court, and one by the council and refer to it the matters on which the enquiry is to be made.

The commission shall proceed to enquire in such manner as it may deem fit and report to the Central Government on the matters referred to it together with such remedies, if any, as the commission may like to recommend. The Central Government may accept the report or remit the same to the commission for modification or reconsideration. After the report is finally accepted, the Central Government may order the Central Council to adopt the remedies so recommended within such time as may be specified in the order and if the council fails to comply within the time so specified, the Central Government may pass such order or take such action as may be necessary to give effect to the recommendations of the commission. Whenever it appears to the State Government that the state council is not complying with any of the provisions of the act, the State Government may likewise appoint a similar commission of enquiry and pass such order or take such action.

C. Rules

Power to make rules:

1. The State Government may, by notification in the official gazette, make rules to carry out the purposes of this act.
2. In particular and without prejudice to the generality of the foregoing power such rules may provide for:
 - a. The management of the property of the State Council and the maintenance and audit of its accounts.
 - b. The manner in which elections shall be conducted.
 - c. The summoning and holding of meetings of the State Council, the times and places at which such meetings shall be held, the conduct of business thereat and the number of members necessary to form a quorum.
 - d. The powers and duties of the President and Vice-President of the State Council.
 - e. The constitution and function of the executive committee, the summoning and holding of meetings thereof, the times and places at which such meetings shall be held, and number of members necessary to constitute a quorum.
 - f. The qualifications, the term of office and the powers and duties of the registrar and other officers and servants of the State Council including the amount and nature of the security to be given by the treasurer.
 - g. The qualifications, powers and duties of an inspector.
 - h. The particulars to be stated and the proof of qualifications to be given in application for registration under this act.
 - i. The conditions for registration under the provision related to the qualifications for subsequent registration.
 - j. Fees payable under this act and the charge for supplying copies of the register.
 - k. The form of certificates of registration.
 - l. The maintenance of a register.
 - m. The conduct of pharmacists and their duties in relation to medical practitioners the public and the profession of pharmacy.
3. Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before the State Legislature.