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PART II



SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 1084/Legn. 1/2007/Leg. *Dated, Thiruvananthapuram, 12th June, 2007.*

The Kerala Paramedical Council Bill, 2007 together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

DR. N. K. JAYAKUMAR,
Secretary,
Legislative Assembly.

Twelfth Kerala Legislative Assembly

Bill No. 61

[Translation in English of the “2007-ലെ കേരള പാരാമെഡിക്കൽ കൗൺസിൽ ബിൽ” published under the authority of the Governor]

THE KERALA PARAMEDICAL COUNCIL BILL, 2007

A

BILL

to provide for the constitution of a Paramedical Council for the registration of Paramedical Technicians, and for the registration of Institutions imparting training to such Technicians in the State and for regulating their qualifications and for matters connected therewith or incidental thereto;

Preamble.— WHEREAS, the Law-Reforms Committee appointed by the Government of Kerala have recommended to bring in a legislation to provide for the constitution of Paramedical Council for the registration of Paramedical Technicians, and for the registration of Institutions imparting training to such Technicians in the State and for regulating their qualifications etc.;

AND WHEREAS, it is expedient to provide for the constitution of a Paramedical Council for the registration of Institutions imparting training to such Technicians in the State and for regulating their qualifications and for matters connected therewith or incidental thereto;

BE it enacted in the Fifty-eighth year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Paramedical Council Act, 2007.

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

(3) It shall come into force on such date as the Government may, by notification in the Gazette, appoint.

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

(a) “Cardio Vascular Technician” means a person who has passed the ECG technician test or EEG technician test or EMG technician test, as the case may be, conducted by a recognized Institution or having the qualifications recognized as equivalent qualifications;

(b) “Council” means the Kerala Paramedical Council constituted under section 3;

(c) “equivalent qualification” means a qualification recognized as equivalent by any law for the time being in force in the State or any qualification declared as such and notified by the Government as equivalent qualification;

(d) “Executive Committee” means the Executive Committee of the Council;

(e) “Government” means the Government of Kerala;

(f) “hospital” means any establishment or premises used for treating the patients with qualified persons and having infrastructure facilities;

(g) “Medical Council” means the Council of Modern Medicine constituted under the Travancore-Cochin Medical Practitioners’ Act, 1953;

(h) “medical laboratory” means an establishment where,—

(i) microbiological, pathological or biochemical investigations, examinations, analysis; or

(ii) the preparation of cultures, vaccines, sera or other biological products are usually carried on in connection with the diagnosis or the treatment of any disease;

(i) “Medical Laboratory Technician” means a person who has acquired a degree or diploma in medical laboratory science from a recognized institution or having the qualification recognized as equivalent qualification;

(j) “Ophthalmic Assistant” means a person who has acquired a diploma in ophthalmic science such as vision testing, diagnosing and treating minor ocular ailments from a recognized institution or having the qualification recognized as equivalent qualification;

(k) “Paramedical Course” means a course of study for awarding any degree or diploma or certificate for practicing as Paramedical Technician;

(l) “Paramedical Technician” means a Cardio Vascular Technician including ECG Technician, EEG Technician, EMG Technician, X-ray Technician, Medical Laboratory Technician or Ophthalmic Assistant and includes such other technicians, as may be specified and notified by the Government as Paramedical Technicians from time to time;

(m) “President” means the President of the Council;

(n) “prescribed” means prescribed by the rules made under this Act;

(o) “recognized institution” means an institution recognized under this Act;

(p) “recognized qualification” means,—

(i) in relation to Medical Laboratory Technician, the Bachelors Degree or Masters Degree in Laboratory Technology awarded by any University in Kerala or an equivalent qualification;

(ii) in relation to Ophthalmic Assistant, a diploma in ophthalmic science granted by a recognized institution or an equivalent qualification;

(iii) in relation to Cardio Vascular Technician, a pass in ECG Technician or EEG Technician or EMG Technician test conducted by a recognized institution or an equivalent qualification;

(iv) in relation to X-ray Technician, a pass in X-ray Technician course conducted by a recognized institution or an equivalent qualification;

(v) in relation to any other Paramedical Technician the concerned Technician Course conducted by a recognized institution or an equivalent qualification.

(q) “Register” means,-

(i) in relation to Medical Laboratory Technicians, the register of medical laboratory technicians’ maintained under this Act;

(ii) in relation to Ophthalmic Assistants, the register of Ophthalmic Assistants maintained under this Act;

(iii) in relation to ECG Technicians and EEG Technicians and EMG Technicians the register of ECG Technicians, EEG Technicians and EMG Technicians maintained under this Act; and

(iv) in relation to any other Paramedical Technicians, the register maintained under this Act in respect of that category of Paramedical Technician.;

(r) “regulations” means the regulations made by the Council with the approval of the Government under this Act;

(s) “Secretary” means the Secretary of the Council appointed under this Act;

(t) “State” means the State of Kerala;

(u) “X-ray Technician” means a person qualified for taking X-ray films from any institution recognized by the Director of Radiation Safety or an institution accredited by BARC, Mumbai or having the qualification recognized as equivalent qualification;

CHAPTER II

PARA MEDICAL COUNCIL

3. *Establishment, incorporation and constitution of the Council.*— (1) The Government may, by notification in the Gazette establish with effect from such date as may be specified in such notification, a Council to be called the Kerala Paramedical Council.

(2) The Council shall be a body corporate by the name aforesaid, having perpetual succession and a common seal and shall by the said name sue and be sued.

(3) The head quarters of the Council shall be at Thiruvananthapuram.

4. *Powers and duties of the Council.*—(1) Subject to the provisions of this Act and such conditions as may be prescribed, the Council shall exercise the following powers and perform the following duties, namely:-

(a) to fix the criteria for the establishment of Paramedical Institutions;

(b) to recognize Paramedical Institutions;

(c) to grant temporary recognition to any institution established before the commencement of this Act;

(d) to withdraw the recognition granted to Paramedical Institutions under this Act;

(e) to maintain registers under this Act;

(f) to remove the names of persons under section 23;

(g) to restore the names removed from the register under section 24;

(h) to recognize qualification for the purpose of this Act;

(i) to frame regulations;

(j) to delegate its powers to the Executive Committee;

(k) to conduct inspection in Paramedical institutions;

(l) to fix the fees to be levied under this Act;

(m) maintenance of the fund;

(n) do such other acts and things, whether incidental to the powers aforesaid or not as may be required in furtherance of the objects of this Act.

(2) It shall be the duty of the Council to uphold the highest technical, professional and ethical standards both in its working and in the institutions of paramedical education, training and practice.

(3) The Council shall work towards constant improvement and updating of standards by encouraging institutions to get it accredited by national institutions like the National Accreditations Board of Laboratories under the Department of Science and Technology of the Government of India.

5. *Composition of the Council.*—The Council shall consist of the following ex-officio, professional and other members, namely:-

I *Ex-officio Members*

(a) Director of Medical Education;

(b) Director of Health Department;

(c) Director of Radiation Safety;

(d) Director, Public Health Laboratory, Thiruvananthapuram;

(e) Secretary to the Council.

II *Professional Members.*—The following members shall be nominated by the Government in such manner as may be prescribed, namely:-

(a) one member from among the registered Medical Laboratory Technicians of the State who shall possess a Degree in Medical Laboratory Technician Course;

(b) one member from among the registered Ophthalmic Assistants;

(c) one member from among the registered Cardio Vascular Technicians;

(d) one member from among the registered X-ray Technicians;

(e) one member from among the registered Dialysis Technicians;

(f) one member from among the registered Operation Theatre Technicians;

(g) one member from among the registered Hospital Assistants;

(h) one member from among the registered Health Inspector Diploma Holders;

(i) three members from among the qualified Medical Practitioners Association, Kerala.

III *Other Members.*—Three members nominated by Government from among the Non Governmental Organizations in the field of public health.

6. *Qualifications of Members.*—Every member of the Council except the *ex-officio* members shall possess the qualifications for registration as a Paramedical Technician under this Act and shall have minimum ten years standing in the respective branch of Paramedical Course.

7. *Disqualifications for membership.*— A person shall not be qualified for being nominated as and for being a member of the Council, if:-

(a) he has not attained the age of majority ; or

(b) he is an undischarged insolvent; or

(c) he is of unsound mind and stands so declared by a competent Court; or

(d) he has been punished by the Council in any manner for infamous conduct in the profession; or

(e) he has been dismissed from any service under the Government; or

(f) his name has been removed from the registers maintained under this Act and has not been restored; or

(g) he has been convicted for any offence involving moral turpitude.

8. *Term of Office of Members.*—(1) The term of office of the members other than the *ex-officio* members shall be three years from the date on which the first meeting of the Council is held or till he holds the pleasure of the Government:

Provided that an outgoing member of the Council shall continue in office until his successor assumes charge.

(2) An outgoing member shall be eligible for re-nomination, if otherwise qualified.

9. *President and Vice-President.*—(1) The Government shall appoint one of the members to be its President and another member to be its Vice-President.

(2) The President or the Vice-President as the case may be, shall be deemed to have vacated his office, on his resignation being accepted by the Government or on the expiry of his term of office as a member or on otherwise ceased to be a member.

(3) When the office of the President is vacant, the Vice-President shall exercise the powers and functions of the President until a new President assumes office.

(4) When the office of the President is vacant or the President is incapacitated and also there is a vacancy in the office of the Vice-President or the Vice-President is incapacitated, the Director of Medical Education shall exercise the powers and perform the functions of the President until a new President or Vice-President is appointed and assumes office or the President or Vice-President recovers from his incapacity.

(5) An outgoing President or Vice-President shall be eligible for reappointment for another term, if otherwise qualified.

10. *Casual Vacancies.*—(1) Any casual vacancy of a member arising in the Council by his death, resignation, removal or disability or otherwise, before the expiry of his term of office, shall be filled up in the manner provided in this Act and rules made thereunder within a period of six months.

(2) Any person nominated under sub-section (1) shall hold office only for the remaining period of the term of the member in whose vacancy he has been nominated.

11. *Cessation of membership.*— A member other than an *ex-officio* member of the Council shall be deemed to have vacated his office,—

- (a) on his resignation;
- (b) on his absence from three consecutive meetings of the Council without sufficient reason in the opinion of the Council;
- (c) on becoming subject to any of the disqualifications mentioned in section 7;
- (d) on his ceasing to be member of the Association or category from which he has been nominated as the case may be;
- (e) on the expiry of the term of his office.

12. *Resignation of membership.*— (1) Any member other than an *ex-officio* member may at any time resign his office by giving notice in writing to the President and such resignation shall take effect from the date on which it is accepted by the President.

(2) The President or the Vice-President may resign his office by giving notice in writing to the Government and such resignation shall take effect from the date on which it is accepted by the Government.

13. *Validity of Proceedings.*—No act done or proceedings taken by the Council shall be invalidated merely on the ground,—

- (a) of any vacancy or defect in the constitution of the Council ; or
- (b) of any defect or irregularity in such act or proceedings not affecting the merits of the case.

14. *Meetings of the Council*—(1) The Council shall meet once in six months and the Executive Committee shall meet as and when it is necessary.

(2) The meeting of the Council, the proceedings for the conduct of business, and such other matters shall be as provided for in the regulations made by the Council in this behalf.

(3) The Council shall meet at such time and place, and every meeting shall be convened by the Secretary at such time and place as may be decided by the President.

(4) Every meeting of the Council shall be presided over by the President, and in his absence by the Vice-President and in the absence of both the President and the Vice President by the Director of Medical Education and in his absence by a member chosen from among the members present at the meeting, shall preside over the meeting.

(5) All questions at a meeting of the Council shall be decided by the majority of members present and voting.

(6) The quorum of the meeting of the Council shall be one third of the total members.

15. *Executive Committee.*—(1) The Council may constitute an Executive Committee from among its members, as may be necessary for performing such purposes in the manner, as may be provided by regulations.

(2) The Executive Committee shall consist of the President and Vice-President, who shall be members *ex-officio* and three members elected by the Council from among themselves.

(3) The Executive Committee shall exercise and discharge such powers and duties of the Council as may confer or impose upon it by any regulations which may be made in this behalf.

16. *Payment of Fees and Allowance.*—The President, the Vice-President and other members of the Council shall be paid such sitting fees and allowances or travelling allowance for their attendance in connection with the meetings of the Council or of any Committee thereof, as may be prescribed.

17. *Secretary and Other Officers and Employees of the Council.*— (1) The Government may, by notification in the Gazette, appoint a Secretary who shall act as Secretary to the Council and to the Committee appointed under this Act.

(2) Subject to the general superintendence and control by the Council, the Secretary shall be responsible for the performance of the day-today affairs of the Council and such other functions as may be assigned to him by the Council from time to time.

(3) The Secretary shall be paid such salary and allowances as may be fixed by the Government from time to time, from the fund of the Council.

(4) The method of appointment and other terms and conditions of service of the Secretary shall be such as may be prescribed:

Provided that Government may appoint an officer not below the rank of a Secretary to Government as the first Secretary of the Council.

(5) The Council may with the previous approval of the Government appoint such other officers and employees, as it may deem necessary for assisting it in the administration.

(6) The method of appointment, salary and allowances discipline and other terms and conditions of service of officers and other employees appointed by the Council shall be as provided in the regulations.

18. *Maintenance of Registers.*—(1) There shall be maintained separate registers for Medical Laboratory Technicians and such other Paramedical technicians declared as such by the Government.

(2) The registers shall be in such form and shall contain such particulars as may be prescribed.

(3) The Secretary shall keep the registers in accordance with the provisions of this Act and the rules and regulations made thereunder.

(4) The registers shall be deemed to be public documents within the meaning of section 74 of the Indian Evidence Act, 1872 (Central Act 1 of 1872).

19. *Dissolution of the Council.*—(1) If at any time it appears to the Government that the Council has failed to exercise or has exceeded or abused any of the powers conferred on it by or under this Act or has failed to perform any of the duties imposed on it by or under this Act, the Government may, if they consider that such failure, excessive exercise or abuse of power is of a serious nature, the particulars thereof shall be communicated to the Council and if the Council fails to rectify such defects, excessive exercise or abuse of power, within such time limit as the Government may fix in this behalf, the Government may dissolve the Council and cause all or any of the powers and duties of the Council to be exercised and performed by such persons and for such period, as they may think fit, and thereupon the funds and properties of the Council shall vest in the Government for the purposes of this Act until a new Council is constituted as provided under section 3.

(2) Where the Government have dissolved a Council under sub-section (1) the Government shall take steps for the constitution, of a new Council under section 3 within six months from the date of such dissolution and on the constitution of such Council the properties and funds referred to in sub-section (1) shall re-vest in that Council.

20. *Eligibility for registration.*—(1) Every Paramedical Technician in the service of the Government on the date of commencement of this Act shall be eligible for registration under this Act.

(2) Every person who, within the period of one year from the date of commencement of this Act or within such other longer period, as may be fixed by the Government proves that he had been in regular practice as a Paramedical Technician for a period not less than two years preceding the date of coming into force of this Act and passes the examination conducted for the purpose by the Council shall be eligible for registration under this Act.

(3) No person shall be eligible for registration under sub-sections (1) and (2), if he is subjected to any of the disqualifications under clause (a) to (g) of section 7.

21. *Registration.*—(1) Every person qualified for registration under sub-section (1) of section 20 shall apply for registration within three months from the date of commencement of this Act or within such extended time as may be fixed by the Government, by notification in the Gazette.

(2) Every person eligible for registration under sub-section (2) of section 20 shall apply for registration within thirty days from the date on which he became eligible for registration as provided for in the said sub-section.

(3) An application for registration under this Act shall be in such form and shall be accompanied by such fee as may be prescribed.

(4) Every Paramedical Technician who applies to the Secretary for registration in respect of any additional recognized qualification shall pay fee, as may be prescribed.

(5) An application for registration shall be addressed to the Secretary and if the Secretary is satisfied that the applicant is entitled to have his name entered in the register, he shall enter thereon the name of the applicant and issue him a certificate in such form as may be prescribed.

(6) Any person whose application for registration is rejected, may within three months from the date of such rejection, file an appeal to the Council and the decision of the Council there on shall be final.

22. *Renewal of Registration.*—(1) Every registration made under section 20 shall be renewed before the 31st March of every year on payment of such fees as may be prescribed.

(2) Where the renewal is not made before the due date, the Secretary shall remove the name of the defaulter from the register:

Provided that a name so removed may be restored to the register on payment of the renewal fee together with such fine as prescribed.

(3) On payment of the renewal fee and the fine, if any, the Secretary shall, in the manner prescribed, issue a Certificate of Registration to the person concerned and where the name of the person has been removed from the register under sub-section (2) he shall re-enter his name in the register.

23. *Removal from the Register.*—(1) Subject to the provisions of this section, where the Council is satisfied after giving the person concerned a reasonable opportunity of being heard and after making such further enquiry, as it may think fit, to make an order that the name of that person shall be removed from the register if,—

(a) his name has been entered in the register by error or on account of misrepresentation or suppression of any material fact; or

(b) he has been convicted of any offence under this Act or has been guilty of any infamous conduct in any profession which in the opinion of the Council render him unfit to be on the rolls of the register.

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

(3) A person aggrieved by an order under sub-section (1) may prefer an appeal before the Principal District Court, Thiruvananthapuram within thirty days from the date of order and the decision of District Court on such appeal shall be final.

(4) A person whose name has been removed from the register under this section shall forthwith surrender his Certificate of Registration to the Secretary.

24. *Restoration of Registration.* - Notwithstanding anything contained in this Act, the Council may at any time, for reasons to be recorded in writing order that the name of a person removed from the register under sub-section (1) of section 23 shall be restored on remittance of such fee as may be prescribed.

CHAPTER III

RECOGNITION OF PARAMEDICAL EDUCATIONAL AND TRAINING INSTITUTIONS

25. *Recognition of Institutions.*— (1) Subject to the provisions contained in section 26, no person shall establish or conduct any Paramedical Institution or conduct any Paramedical Course for preparing students to obtain any recognized qualification, without the recognition by the Council.

(2) An application for recognition of a Paramedical Institution shall be made to the Secretary of the Council in such form and shall be accompanied by such fee as may be prescribed.

(3) For the purpose of ascertaining whether recognition may be given or not, the Council shall conduct enquiry as may be prescribed and shall, by order grant recognition or reject the application.

(4) The Educational and Training Institutions conforming to the standards fixed by the Council by regulation made under this Act alone shall be given recognition under this Act.

(5) Notwithstanding anything contained in sub-section (1), all institutions conducting Paramedical courses as on the date of commencement of this Act shall apply for recognition to the Council within three months from the date of commencement of this Act. If the institutions applying for recognition does not conform to the standards fixed by the Council in this regard, recognition may be granted to the institutions subject to the condition that the facilities in accordance with the standards fixed by the Council shall be provided within a period of two years from the date of commencement of this Act.

(6) If the institutions does not provide the facilities in accordance with the standards fixed by the Council within the period specified in sub-section (5), the recognition granted, under sub-section (3) shall be withdrawn forthwith.

26. *Withdrawal of recognition.*— (1) Where, on the basis of a report of a Committee appointed by the Council in this behalf it is satisfied that an institution recognized under this Act,—

(i) has failed to comply with the conditions of recognition; or

(ii) there exists any of the grounds which would have entitled to reject the application for recognition, the Council may by order withdraw such recognition:

Provided that before such withdrawal of recognition the Council shall give an opportunity to the person managing that institution for making his representation.

(2) Any person aggrieved by an order of rejection of the Council to recognize any Paramedical Institution under sub-section (3) of section 25 or by an order of the Council withdrawing recognition under sub-section (1), may file an appeal to the Government within three months from the date of service of notice of such rejection or withdrawal, as the case may be, in such manner and subject to such conditions and payment of such fees as may be prescribed and the decision of the Government on such appeal shall be final .

27. *Recognition of qualification.*—(1) The Council on representation or otherwise may recognize any Degree, Diploma or Certificate awarded by any University, Board or Institution established under any law for the time being in force to be the recognized qualification for the purposes of this Act.

(2) Where a qualification is recognized under sub-section (1) the Government shall, by notification in the Gazette, declare the same as equivalent qualification for the purpose of this Act.

28. *Inspections of Institutions.*—(1) The Council may appoint either on a regular or adhoc basis, such number of officers as it may deem necessary, to inspect any institution for the purposes of granting recognition under this Act.

(2) The officers mentioned in sub-section (1) shall also be empowered to conduct periodical inspection of the recognized institutions to ensure that they are maintaining the required standards.

(3) The Secretary or any person authorized by the Council may enter into the premises of any recognized institution to make any inquiry or inspections authorized by the provision of this Act or any rules or regulation or order made thereunder.

(4) The manager and other employees of a recognized institution shall be bound to offer to the officers and persons aforesaid, such access at all reasonable times, to the premises of such institutions and to make available all documents and materials as may, in the opinion of such officers, be necessary to enable them to discharge their duties under this section.

29. *Alteration may be made in register by Government.*—The Government may, after giving due notice to the person concerned and to the Council and after conducting inquiry into his objections, if any, order that any entry in the

register, which shall be proved to the satisfaction of the Government to have been fraudulently or incorrectly made or brought about, be cancelled or amended.

30. *Appeal to Government from the decision of the Council.*—Subject to the other provisions of this Act, an appeal shall lie to the Government from every decision of the Council under sections 21, 22, 23 and 25, such appeal shall be preferred within three months from the date on which the notice of the order of the Council was issued in such manner and subject to such conditions as may be prescribed.

CHAPTER IV

FINANCE

31. *Fund of the Council.*—(1) All fees received, all income such as rent and profits derived from properties and deposits vested in the Council, all grants and loans received from the Government, all endowments and donations received from any source whatsoever, all other miscellaneous receipts of the Council and all remittances received in connection with the affairs of the Council shall form the Fund of the Council which shall be utilized for the purposes, laid down in this Act and the rules, regulations and orders made thereunder.

(2) The fund of the Council shall be deposited in a Scheduled Bank as defined in the Reserve Bank of India Act, 1934 (Central Act 2 of 1934) or in the Government Treasury as may be decided by the Council.

(3) The custody of the Fund, the payment of money thereto, the withdrawal of money therefrom and all other ancillary matters shall be regulated by such rules as may be prescribed in this behalf.

32. *Annual accounts and audit.*—(1) The annual reports and accounts of the Council shall be approved by it and shall be got audited before the end of September of the next year;

(2) The Audit may be done by any chartered auditor appointed by the Council from a panel approved by the Government and the Council shall bear the cost of the audit.

(3) The account of the Council as certified by the auditor together with the audit report thereon shall be forwarded annually to the Government.

(4) The Government shall cause the account of Council together with the audit report thereon forwarded to them under sub section (3) to be laid annually before the Legislative Assembly.

CHAPTER V

GENERAL PROVISIONS

33. *Persons not registered under this Act not to practice.*—(1) No person other than a person registered under this Act shall practice as a Medical Laboratory Technician, Ophthalmic Assistant, ECG technician, EEG Technician, EMG Technician, Cardio Vascular Technician, X-ray Technician or as such other Technician declared by the Government as Para Medical Technicians from time to time.

(2) Any person who acts in contravention of this section shall on conviction be punishable,—

(a) in the case of a first offence with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees; and

(b) in the case of second or subsequent offence, with imprisonment for a term which may extend to one year, but which shall not be less than three months and with fine which may extend to five thousand rupees but shall not be less than two thousand rupees.

34. *Offences by Hospitals, Institutions etc.*—(1) No dispensary, hospital, infirmary, lying-in-hospital, sanatorium, operation theatre, nursing home, blood bank, medical laboratory or other similar institutions shall employ any person as a Paramedical Technician unless such person is registered as a Paramedical Technician under this Act.

(2) Whoever contravenes the provisions of sub-section (1) shall on conviction, be punishable with fine which may extend to five thousand rupees.

35. *Prohibition against unauthorized conferment of degree etc.*—(1) Save as provided by this Act or the rules made there under, no person shall confer, grant or issue or hold himself out as entitled to confer, grant or issue any diploma certificate or other document stating or implying that the holder, grantee or recipient thereof is qualified to practice as a Paramedical Technician.

(2) Whoever contravenes the provision of sub-section (1) shall, on conviction, be punishable with fine which may extend to five thousand rupees and if the person so contravenes is an Association, every member of such Association who knowingly or willfully authorizes or permits the contravention shall, on conviction, be punishable with fine which may extend to three thousand rupees.

36. *Penalty for unauthorized use of titles.*—(1) No person shall add to his name any title, letters or abbreviations which imply that he holds a degree or diploma, licence or certificate as his qualification to practice as a Paramedical Technician, unless,—

(a) he has actually received such degree, diploma, licence or certificate, and

(b) such degree or diploma, licence, or certificate is recognized by any law for the time being in force in the State, or has been conferred or granted or issued by an authority appointed under this Act.

(2) Whoever contravenes the provision in sub-section (1) shall on conviction be punishable in the case of first offence with fine which may extend to one thousand rupees and in the case of a second or subsequent offences with fine which may extend to two thousand rupees.

37. *Power to enter, search and prosecution for offences.*—A Police Officer not below the rank of a Deputy Superintendent of Police having jurisdiction may, on the request of the Secretary or any person authorized by the Council in this behalf, enter and search at any time between sunrise and sunset any place in which he has reason to believe that an offence under this Act has been committed or is being committed and may, if he deems proper, arrest any person found in such place whom he is believed to be committed an offence under this Act:

Provided that every person arrested shall be released on bail by the Deputy Superintendent of Police if sufficient security is tendered for his appearance before the Court.

38. *Trial of offence.*—(1) All offences under this Act shall be cognizable and triable by a Judicial Magistrate of First Class;

(2) Notwithstanding anything contained in sub-section (1) no court shall take cognizance of an offence punishable under this Act except with the previous sanction of the Council or of an officer authorized by the Council in this behalf.

39. *Members of Council, Secretary, Officers etc. to be public servants.*—Every member of the Council, the Secretary, all officers and employees appointed under this Act shall deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860)

40. *Bar of Jurisdiction of Civil Courts.*—Any act done or any action taken, in exercise of any of the powers conferred by or under this Act, by the Government or the Council or the Executive Committee or the Secretary shall not be called in question in any Civil Court.

41. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceedings shall lie against the Government or the Council or its members or officers or other persons in respect of anything which is done in good faith or intended to be done under this Act or the rules made thereunder.

42. *Compounding of offences.*—The Council or the Secretary may, compound any offence punishable under this Act before cognizance by the Court, on payment of a sum which may not be less than the minimum of the fine stipulated for such offence by way of compounding of offence:

Provided that no such compounding shall be permitted in the case of a second or subsequent offence.

43. *Power to take evidence on oath etc.*—The Council or the Secretary or any officer exercising powers under this Act shall for the purposes of such functioning have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act 5 of 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) requiring the discovery and production of documents;
- (c) receiving evidence on affidavit;
- (d) issuing commissions for the examination of witnesses;
- (e) such other matters as may be prescribed.

44. *Directions by Government.*—(1) The Government may, after consultation with the Council, issue general directions to be followed by the Council.

(2) In the exercise of its powers and performance of its duties under this Act the Council shall not depart from any general directions issued under sub-section (1), except with the previous permission of the Government.

45. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, do anything not inconsistent with such provisions, which appear to them to be necessary or expedient for the purpose of removing the difficulty.

(2) No order under sub-section (1) shall be made after the expiration of a period of two years from the commencement of this Act.

46. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules either prospectively or retrospectively to carry out all or any of the purposes of this Act, not inconsistent with any of the provisions contained therein.

(2) In particular and without prejudice to the generality of the foregoing power, Government may make rules providing for,—

(i) the fees and other allowance payable to the President, Vice president and other members of the Council under section 16;

(ii) the method of appointment, qualifications, salary and allowance and other conditions of service of the Secretary under section 17;

(iii) the form of the registers and the particulars to be entered therein under section 18;

(iv) the forms of applications and the fees to be remitted under section 21;

(v) the form of the certificate to be issued under sub-section (5) of section 21 and the particulars contained therein;

(vi) the payment of renewal fee and fine under section 22;

(vii) the fee to be levied under section 24;

(viii) the form and fees under section 25;

(ix) the custody of the Fund of the Council and of the ancillary matters under section 31;

(x) prescribe any other matter under clause (e) of section 43;

(xi) any other matter which has to be or may be prescribed by rules made under this Act.

(3) Every rule made under this Act shall be laid, as soon as may be, after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule, or decides that the rule shall not be made, the rule shall

thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

47. *Power to make Regulations.*—The Council may with the previous approval of the Government make regulations not inconsistent with this Act or the rules made thereunder for all or any of the following matters namely:-

(i) The time and place at which the Council shall hold its meeting and the manner in which such meeting shall be convened and held;

(ii) The courses and period of study and of practical training to be undertaken, the subjects of examination and standards of recognized qualifications;

(iii) The recognition of any Institution for the purpose of such training and the awarding of Degree, Diploma etc. to candidates who pass the examinations;

(iv) The minimum criteria to be fulfilled for admission to these courses and the procedure to be followed in the selections of candidates;

(v) The standards of staff, equipments, accommodation, training and other facilities for education in the Institution;

(vi) The conduct of professional examinations, qualifications of examiners and the conditions for admission to such examinations;

(vii) The standards of professional conduct and etiquette and code of ethics to be observed by Paramedical Technicians;

(viii) The procedure and conditions for recognition of qualification.

(2) All regulations made under this section shall be published in the Gazette.

(3) The Council may, with the previous approval of the Government, by notification in the Gazette, at any time, modify, amend or cancel any such regulations.

STATEMENT OF OBJECTS AND REASONS

Modern medical care cannot be undertaken without the help of the allied health professionals like the Medical Laboratory Technicians, ECG Technicians, EEG Technicians, EMG Technicians, Ophthalmic Assistants, X-ray Technicians etc. The Paramedical Technicians Services thus have a vital role in the health care system. Though they form a vital link in the hospital service, there is no law or machinery to control the various paramedical technicians' courses conducted by the various agencies in the State and also there is no control by the State over the Laboratory and Diagnostic services in the private sector. In order to evolve a uniform standards in the practice of these Paramedical Technicians' profession it is absolutely essential that persons who have attained a minimum standard of professional education are only be permitted to practice such professions. Therefore Government have decided to establish a Paramedical Technicians Council for fixing the minimum educational standards of Paramedical Technicians and for giving approval to the courses of study and examinations and for granting approval to the institutions those conducting for such courses and for maintaining a register of the qualified Paramedical Technicians in the State.

2. The Bill seeks to achieve the above object

FINANCIAL MEMORANDUM

The main object of this legislation is to constitute a Paramedical Technicians Council in the State. Clause 17 of the Bill provides that the Council has a Secretary and other officers and employees for the administration of the Council. The expenditure for the proper functioning of the Council and the payment of salary for its staff will have to be met from the income of the Council such as fees, rent etc., received by the Council. Since the Paramedical Council is operating a separate fund and such expenses can be met from the above-mentioned fund. Since the Council have enough money Government will not have any additional burden in this regard.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill seeks to empower the Government to prescribe the manner of choosing professional members

2. Sub-Clause (1) of clause 14 of the Bill envisages the making of the regulations by the Council for fixing the time and place of the meeting of the Council.

3. Clause 16 of the Bill seeks to empower the Government to make rules to prescribe the sitting fees and allowances payable to the members of the Council in connection with the meeting of the Council.

4. Sub-Clause (4) of clause 17 of the Bill seeks to empower the Government to frame rules for the condition of service of the Secretary. Sub clause (6) of clause 17 of the Bill seeks to empower the government to make rules to prescribe the method of recruitment, salary, allowance and other terms and conditions of service of the officers and employees of the Council

5. Sub-clause (2) of clause 18 of the Bill seeks to empower the Government to make rules to prescribe the form of the registers and the particulars, which may be entered in the Register.

6. Clause 21 of the Bill seeks to empower the Government to prescribe the form of certificates, application and the fee payable.

7. Clause 22 of the Bill seeks to empower the Government to prescribe the fee for renewal of registration and fine, and the manner to issue certificates.

8. Clause 24 of the Bill seeks to empower Government to make rules for prescribing the fee for restoration of registration.

9. Clause 26 of the Bill seeks to empower the Government to prescribe the procedure for filing an appeal.

10. Clause 31 of the Bill seeks to empower the Government to prescribe the Custody of the fund and other ancillary matters.

11. Clause 45 of the Bill seeks to empower the Government to issue order for removing difficulty in giving effect to the provisions of this Act.

12. Clause 46 of the Bill seeks to empower the Government to make rules either prospectively or retrospectively to carry out the purpose of the Act.

13. Clause 47 of the Bill seeks to empower the Council to make regulations with the previous approval of the Government and to modify, amend or cancel such regulations.

The matters to be prescribed or the orders or notifications to be issued are matters of procedure and are of routine and administrative in nature. Further the rules are subject to the scrutiny of the Legislative Assembly after issue. The delegation of legislative power is, therefore, of normal character.

P. K. SREEMATHI TEACHER.
