

THE PHARMACY ORDINANCE, 1976**CONTENTS**

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¹THE PHARMACY ORDINANCE, 1976

ORDINANCE NO. XIII OF 1976

[4th March, 1976]**An Ordinance to establish a Pharmacy Council to regulate the practice of pharmacy.**

WHEREAS it is expedient to establish a Pharmacy Council to regulate the practice of pharmacy and to provide for matters connected therewith and incidental thereto;

NOW, THEREFORE, in pursuance of the Proclamations of the 20th August, 1975, and 8th November, 1975, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

1. This Ordinance may be called the Pharmacy Ordinance, 1976. Short title

2. In this Ordinance, unless there is anything repugnant in the subject or context,- Definitions

- (a) “approved” means approved under section 18 or, as the case may be, section 19;
- (b) “Council” means the Pharmacy Council of Bangladesh established under section 3;
- (c) “medical institution” means an institution whose medical qualifications are recognised under the Medical Council Act, 1973 (XXX of 1973);
- (d) “pharmacist” means a person who, for a fee, salary or other consideration paid to him or to another person on his behalf, manufactures, prepares, distributes, sells, or serves any prescription for, any medicine, drug or pharmaceutical preparation.

3. (1) As soon as may be after the coming into force of this Ordinance, the Government shall, by notification in the *official Gazette*, establish a Council to be known as the Pharmacy Council of Bangladesh. Establishment of the Council

¹ The Ordinance was declared void and non est by the Appellate Division of the Supreme Court of Bangladesh in Civil Petition for Leave to Appeal Numbers 1044 and 1045 of 2009 and subsequently the Ordinance has been made effective as an Act of Parliament by ১৯৭৫ সালের ১৫ আগস্ট হইতে ১৯৭৯ সালের ৯ এপ্রিল তারিখ পর্যন্ত সময়ের মধ্যে জারীকৃত কতিপয় অধ্যাদেশ কার্যকরকরণ (বিশেষ বিধান) আইন, ২০১৩ (২০১৩ সনের ০৬ নং আইন), ধারা ৪।

(2) The Council shall be a body corporate having perpetual succession and common seal, with power, among others, to acquire, hold and dispose of property, and shall by its name sue and be sued.

Composition of
the Council

4. (1) The Council shall subject to the provisions of sub-section (2), consist of the following members, namely:—

- (a) Secretary, Ministry of Health, Population Control and Family Planning, *ex-officio*, who shall, unless the Government appoints any other officer to be the President, also be the President of the Council;
- (b) the officer, if any, appointed under clause (a) to be the President of the Council;
- (c) Directors of Health Services, *ex-officio*;
- (d) Head of the Department of Drug Administration, *ex-officio*;
- (e) Head of the Department of Pharmacy in the University of Dhaka, *ex-officio*;
- (f) four persons to be so nominated by the Government that one of them is a Professor of Medicine and one is a Professor of Pharmacology of medical institutions in Bangladesh ¹[and one is a qualified pharmacist];
- (g) one qualified pharmacist to be nominated by the Bangladesh Aushad Shilpa Samity;
- (h) one person to be nominated by the Bangladesh Medical Association;
- (i) one qualified pharmacist to be nominated by the Bangladesh Chemists and Druggists Samity;
- (j) three persons to be nominated by the Pharmaceutical Society of Bangladesh registered under the Societies Registration Act, 1860 (XXI of 1860).

(2) The Government may, by notification in the *official Gazette*, increase or decrease the number of persons to be nominated by it under ²[clause (f)] of sub-section (1):

¹ The words “and one is a qualified pharmacist” were inserted by section 2 of the Pharmacy (Amendment) Ordinance, 1978 (Ordinance No. XLII of 1978).

² The word, brackets and letter “clause (f)” were substituted, for the word, brackets and letter “clause (g)” by section 2 of the Pharmacy (Amendment) Ordinance, 1978 (Ordinance No. XLII of 1978).

Provided that the decrease in the number of members shall not affect the continuance in office of, and the performance of functions by, any member until the expiry of his term.

5. A person, other than a Professor of a medical institution, shall not be eligible for nomination as a member of the Council unless he is a registered pharmacist:

Disqualification
for membership

Provided that, for the purpose of the constitution of the first Council, a person who is qualified to be registered as a pharmacist under this Ordinance, shall be eligible for such nomination.

6. The Government shall publish in the *official Gazette* the names or the official titles of the members of the Council.

Publication of
names

7. (1) Subject to the provisions of sub-section (2), a member other than an *ex-officio* member shall hold office for a period of three years commencing on the day on which he assumes office and shall be eligible for re-nomination:

Term of office

Provided that, notwithstanding the expiry of his term, a member shall continue to function until his successor assumes office.

(2) Where the Government, upon the recommendation of a majority of the members of the Council, is satisfied that a member other than *ex-officio* member of the Council is negligent in the discharge of his duties or is guilty of any professional or dishonourable conduct or is otherwise not competent to perform the functions of a member, it may, by notification in the *official Gazette*, remove such member; and upon the publication of such notification the office of the member shall become vacant.

8. A casual vacancy caused by the death, resignation or removal of a member shall be filled for the remainder of the term of such member, not being less than six months, by nominating another person in his place in the same manner in which such member was nominated.

Filling of casual
vacancy

9. No act or proceedings of the Council shall be invalid merely on the ground of the existence of any vacancy in, or any defect in the composition of, the Council.

Vacancy, etc.,
not to invalidate
the proceedings
of the Council

Election of
Vice-President

10. (1) The Council shall elect every year one of its members other than an *ex-officio* member to be the Vice-President of the Council and the Vice-President so elected shall hold office for a period of one year and shall be eligible for re-election:

Provided that the Vice-President shall, notwithstanding the expiry of his term, continue to function until his successor is elected and assumes office.

(2) The Vice-President shall perform such functions as may be entrusted to him by the Council and, in the absence of the President, also the functions of the President.

Committees of
the Council

11. (1) The Council may constitute such Committees as it deems fit for the purpose of advising it in the performance of its functions.

(2) A Committee constituted under sub-section (1) may co-opt as its member any person whose assistance or advice it may consider necessary for the efficient performance of its functions.

Meetings of the
Council

12. (1) The Council shall meet at such time and place, and a meeting of the Council shall be summoned and conducted in such manner, as may be laid down by its regulations:

Provided that, until such regulations are made, the President of the Council may, by notice addressed to each member, summon and conduct a meeting at such time and place and in such manner as he may deem expedient.

(2) The President or, in his absence, the Vice-President shall preside at every meeting of the Council and, in the absence of both the President and the Vice-President, the members present shall elect one amongst them to preside at the meeting.

Appointment of
Secretary,
Officers and
Staff of the
Council

13. (1) The Council shall, with the approval of the Government, appoint a Secretary from amongst persons eligible for registration as pharmacists on such terms and conditions as it may deem fit.

(2) The Council may also appoint such officers and staff as may be necessary for the efficient performance of its functions.

14. The funds of the Council shall consist of the fees received by it under this Ordinance and of such moneys as may be placed at its disposal by the Government. Finance

15. (1) The Council shall maintain proper accounts and prepare annual statement of accounts in such form as may be prescribed by regulations. Accounts and audit

(2) The accounts of the Council shall be audited by the Comptroller and Auditor-General of Bangladesh or any officer authorised by him in such manner as the Comptroller and Auditor-General may think fit.

16. As soon as may be, after the close of every financial year, the Council shall submit to the Government, an annual report giving an account of its proceedings together with a statement of moneys received and expenses incurred by it during that year. Annual report

17. The functions of the Council shall be- Functions of the Council

- (a) to approve examinations in Pharmacy for the purpose of qualifying persons for registration as pharmacists;
- (b) to prescribe the subjects in which approved examinations shall be held;
- (c) to approve the courses of study and practical training in pharmacy for the purpose of admission to approved examinations;
- (d) to prescribe the conditions and procedure for admission of candidates to an approved examination;
- (e) to lay down the standard of teaching to be maintained by institutions conducting the approved courses of study;
- (f) to prescribe the equipment and facilities to be made available to the students;
- (g) to recognise degree or diploma in Pharmacy for the purpose of registration as pharmacists;

- (h) to cause inspection of institutions which conduct any course of study in Pharmacy and of the teachings imparted and examinations held by them;
- (i) to prepare and maintain Registers of pharmacists and apprentices in pharmacy;
- (j) to register pharmacists and grant certificates of registration;
- (k) to hold examinations for the purpose of registration as pharmacists; and
- (l) to do such other acts and things as it may be empowered or required to do by or under this Ordinance.

Approval of
examinations

18. (1) Any institution or authority, other than the Council, which holds an examination in Pharmacy, may apply to the Council for approval of the examination for the purpose of qualifying a person for registration as a pharmacist under this Ordinance.

(2) The Council, if it is satisfied after such enquiry as it may think fit that the examination for the approval of which an application has been made under sub-section (1) is in conformity with the provisions of this Ordinance and the regulations, shall approve the examination and, by notification in the *official Gazette*, declare it to be an approved examination for the purpose of qualifying a person for registration as a pharmacist under this Ordinance.

Approval of
courses of study

19. (1) Any institution or authority which conducts a course of study in Pharmacy may apply to the Council for approval of such course of study for the purpose of admission to an approved examination.

(2) The Council, if it is satisfied after such enquiry as it may think fit that the course of study for the approval of which an application has been made under sub-section (1) is in conformity with the provisions of this Ordinance and the regulations, shall submit the application together with its recommendation to the Government and shall, upon the approval of the course of study by the Government, declare it, by notification in the *official Gazette*, to be an approved course of study for the purpose of admission to an approved examination.

20. Every institution or authority which applies for the approval of an examination under section 18 or a course of study under section 19, or holds an examination or conducts an approved course of study shall furnish to the Council such information as the Council may, from time to time, require relating to-

Furnishing of information

- (a) the course of study conducted and training given;
- (b) the examination held;
- (c) the ages at which the students may undergo the course of study;
- (d) the equipments and facilities provided for the students; and
- (e) matters generally pertaining to the course of study, training and examinations and standard of teaching.

21. (1) The Council may appoint such Inspectors for the inspection of institutions as it may consider necessary.

Inspectors

(2) An Inspector may, if he is so authorised by the President of the Council,—

- (a) inspect any institution which holds an approved examination or conducts an approved course of study and may attend any such examination held by such institutions;
- (b) inspect any institution which has applied for the approval of the examination held, or course of study conducted, by it and attend any examination held by such institution.

(3) An Inspector who attends any examination shall not interfere with the conduct thereof but shall submit to the Council a report on the sufficiency or otherwise of such examination and on any other matter in regard to which the Council may require him to report.

22. (1) Where, upon a report by an Inspector, it appears to the Council that an approved course of study or an approved examination does not continue to be in conformity with the provisions of this Ordinance and the regulations, the Council shall give notice to the institution or authority concerned calling upon it to explain in writing why the approval of its course of study or examination should not be withdrawn.

Withdrawal of approval

(2) The Institution or authority to whom a notice has been given under sub-section (1) shall, within sixty days from the receipt of such notice, comply with the notice and may also make such representation to the Council as it may wish to make.

(3) The Council, after considering the explanation given and any representation made under sub-section (2), may, by notification in the *official Gazette*, declare that its approval of the course of study or examination conducted or held by the institution or authority concerned shall stand withdrawn with effect from such date as may be specified in the notification; and every such declaration shall state that the course of study or examination conducted or held by such institution or authority shall be deemed to be approved only when completed or passed, as the case may be, before the date so specified.

Preparation and
maintenance of
Registers

23. (1) The Council shall prepare and maintain or cause to be prepared and maintained the following Registers of pharmacists and apprentices, namely:—

- (a) *Register A*—in which shall be registered the persons specified in clause (a) of sub-section (1) of section 24 and paragraphs (i), (ii), (iii) and (iv) of the proviso to that sub-section;
- (b) *Register B*—in which shall be registered the persons specified in clauses (b) and (c) of sub-section (1) of section ¹[24] and paragraphs (v), (vi), (vii) and (viii) of the proviso to that sub-section; and
- (c) *Register C*—in which shall be registered the apprentices in pharmacy:

Provided that the Council may, with the previous approval of the Government, discontinue the registration of apprentices in pharmacy and may, with like approval, re-open such registration after it has been discontinued and shall, upon discontinuance or re-opening, publish in the *official Gazette* a notice thereof specifying the date of such discontinuance or re-opening.

¹ The figure “24” was substituted, for the figure “23” by section 3 of the Pharmacy (Amendment) Ordinance, 1978 (Ordinance No. XLII of 1978).

(2) Every Register prepared and maintained under sub-section (1) shall contain the following particulars relating to a person so registered, namely:—

- (a) full name;
- (b) residential address;
- (c) professional address;
- (d) father's name;
- (e) date and place of birth;
- (f) nationality;
- (g) qualifications;
- (h) date on which registered; and
- (i) such other particulars as may be prescribed by regulations.

24. (1) The following persons shall, subject to the provisions of sub-section (3), be qualified for registration as pharmacists under this Ordinance, namely :—

- (a) persons who hold a degree in pharmacy conferred by a University or an institution affiliated thereto, where the degree is recognised by the Council;
- (b) persons who hold a diploma in Pharmacy recognised by the Council;
- (c) persons who pass the examination in Pharmacy held or approved by the Council:

Qualifications
for registration
as a pharmacist
or as an
apprentice in
pharmacy

Provided that during the period of two years from the coming into force of this Ordinance, the following persons shall also be deemed to be qualified for registration, namely:—

- (i) graduates in Pharmacy from a University or an institution affiliated thereto;
- (ii) graduates in science from a University or an institution affiliated thereto, with Chemistry ¹[or Bio-Chemistry] or

¹ The words “or Bio-Chemistry” were inserted by section 4 of the Pharmacy (Amendment) Ordinance, 1978 (Ordinance No. XLII of 1978).

Pharmaceutical Chemistry or Pharmacology or Micro Biology as the principal subject, who are engaged for at least two years in the manufacture or test and analysis of drugs and medicines in any drug manufacturing concern licensed under the Drugs Act, 1940 (XXIII of 1940), or in any Government institution or laboratory;

- (iii) Inspectors of Drugs appointed under the Drugs Act, 1940 (XXIII of 1940), and Government Analysts so appointed;
- (iv) teachers in any subject related to pharmacy in any institution conducting courses of study in Pharmacy;
- (v) persons who hold diploma in Pharmacy recognised for registration under the Pharmacy Act, 1967;
- (vi) persons who had been approved by the licensing authority on or before the 30th November, 1974, as “qualified persons” within the meaning of rule 24 of the Drugs Rules, 1946;
- (vii) persons engaged in compounding or dispensing medicine in a Government Hospital; and
- (viii) persons certified as qualified compounders and dispensers of medicine by a Government Hospital.

(2) A person shall, subject to the provisions of sub-section (3), be qualified to be registered as an apprentice in pharmacy if he has been taken as a student or apprentice in pharmacy by, and produces a certificate to that effect from, a pharmacist registered under this Ordinance and approved for the purpose, by notification in the *official Gazette*, by the Council.

(3) No person shall be qualified for registration as a pharmacist or as an apprentice in pharmacy-

- (a) if he is of unsound mind and stands so declared by a court ; or
- (b) if he has been convicted by a court of any offence which in the opinion of the Council involves moral turpitude.

Procedure for
registration

25. (1) As soon as may be after the opening of the Registers under section 23, the Council shall, by notification in the *official Gazette*, invite applications from persons desirous of being registered as pharmacists or as apprentices in pharmacy.

(2) An application for registration shall contain such particulars and be made in such form as may be specified by the Council and shall be accompanied by such fees as may be prescribed by regulations.

(3) The Council shall examine every application received by it and, if it is satisfied that the applicant is qualified for registration under section 24, direct the entry of the name of the applicant in the appropriate Register.

(4) The Council shall, if it rejects the application of any person, inform the applicant in writing of such rejection within ninety days from the date of receipt of the application, and the applicant may, within sixty days of the receipt of the information, appeal against such rejection to the Government whose decision thereon shall be final.

(5) [Omitted by section 5 of the Pharmacy (Amendment) Ordinance, 1978 (Ordinance No. XLII of 1978).]

26. (1) The Council shall issue a certificate of registration to a person who has been registered under section 25. Certificate of registration

(2) A certificate of registration issued under sub-section (1) shall bear a number and the official seal of the Council and be signed by the President and the Secretary and shall contain the following, namely:—

- (a) a passport size photograph of the person registered;
- (b) the full signature of the person registered; and
- (c) such other particulars as may be prescribed by regulations.

(3) A copy of the certificate with all the particulars specified in sub-section (2) shall be kept in the official records of the Council.

(4) A person to whom a certificate of registration has been issued may, if the original is lost, defaced or mutilated or for any other reason, obtain a duplicate thereof on payment of the same fee as was paid for the original.

¹[(5) A certificate of registration issued under this section shall remain valid for a period of five years from the date of its issue and shall, upon an application made in this behalf, be renewed on payment of the same fee as was paid for the original.]

Revocation of
certificate

27. (1) The Council may, after giving the person concerned an opportunity to make representation and of being heard, revoke the certificate of registration issued to him, if such person—

- (a) incurs any disqualification specified in sub-section (3) of section 24; or
- (b) contravenes any of the provisions of the Poisons Act, 1919 (XII of 1919), the Dangerous Drugs Act, 1930 (II of 1930), the Drugs Act, 1940 (XXIII of 1940), or this Ordinance or of the rules made under any of these Acts; or
- (c) fails or neglects to comply with any directive in respect of the profession of a pharmacist which the Government may, from time to time, issue; or
- (d) is guilty of such professional misconduct as may be laid down by the Council in this behalf.

(2) Where any certificate of registration is revoked under sub-section (1), the name of the person whose certificate has been so revoked shall, after he has been given a notice in writing of such revocation, be struck off the Register in which his name was entered and his registration shall thereupon stand cancelled.

(3) The Council may, of its own motion, and shall, upon an application made in this behalf within thirty days of the receipt of the notice under sub-section (2) by the person concerned, review its decision regarding revocation of the certificate of registration; and the decision of the Council upon such review shall be final.

¹ Sub-section (5) was inserted by section 6 of the Pharmacy (Amendment) Ordinance, 1978 (Ordinance No. XLII of 1978).

28. (1) For the purpose of registration as pharmacists, the Council may after giving notice in this behalf, hold examinations ¹[* * *] in every year. Examination for registration as pharmacists

(2) An examination under sub-section (1) shall be held at least at three places in Bangladesh.

(3) Notice of an examination shall be published for ²[at least two days] in at least one newspaper in English and one newspaper in Bengali, each having wide circulation in Bangladesh.

(4) Every application for admission to an examination shall be made in such manner and in such form as may be specified by the Council and shall be accompanied by—

- (a) such fee as may be prescribed by regulations;
- (b) a certificate of good moral character from a respectable person; and
- (c) such other papers or particulars as may be required by the Council.

29. An applicant for admission to an examination under section 28,— Qualification for admission to an examination

- (a) shall not be below seventeen years of age on the date fixed for the examination;
- (b) must have passed the matriculation examination or an equivalent examination with general science as one of the subjects; and

¹ The word “twice” was omitted by section 7 of the Pharmacy (Amendment) Ordinance, 1978 (Ordinance No. XLII of 1978).

² The words “at least two days ” were substituted, for the words “a continuous period of not less than one week” by section 7 of the Pharmacy (Amendment) Ordinance, 1978 (Ordinance No. XLII of 1978).

- (c) must have been registered as an apprentice in pharmacy for a period of not less than two years before the date fixed for the examination:

Provided that clause (c) shall not apply during any period during which registration of apprentices in pharmacy, remains discontinued under the proviso to sub-section (1) of section 23 and the period of two years thereafter.

Prohibition of
practice
without
registration

30. (1) Subject to the provisions of sub-section (4), no person shall, after the expiry of two years from the coming into force of this Ordinance, or such later date as the Government may, by notification in the *official Gazette*, specify in this behalf, practice as a pharmacist unless he is a registered pharmacist and displays his certificate of registration in a conspicuous place within the premises in which he so practises.

(2) Whoever employs any pharmacist for the purpose of any business in pharmacy shall ¹[cause] the certificate of registration of the pharmacist so employed to be displayed in a conspicuous place within the premises in which such business is carried on.

(3) Whoever contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable, on first conviction, with fine which may extend to Taka five hundred, and, on each subsequent conviction with imprisonment for a term which may extend to three months, or with fine which may extend to Taka five hundred, or with both.

(4) Nothing in sub-section (1) shall apply to—

- (a) a registered medical practitioner as defined in the Medical Council Act, 1973 (XXX of 1973), or a

¹ The word “cause” was substituted, for the word “cease” by section 8 of the Pharmacy (Amendment) Ordinance, 1978 (Ordinance No. XLII of 1978).

person authorised to prescribe antibiotic and dangerous drugs under the Allopathic System (Prevention of Misuse) Ordinance, 1962 (LXV of 1962), who dispenses medicine to his own patients or serves his own prescriptions;

- (b) a person who deals in non-poisonous household remedies in original and unopened container at any store or place or prepares non-poisonous household remedies in accordance with the rules made under the Drugs Act, 1940 (XXIII of 1940);
- (c) a person who manufactures, sells or distributes drugs and medicines which fall exclusively under the *unani*, *ayurvedic*, bio-chemic or homeopathic system of medicine;
- (d) a person engaged as a health or veterinary technician in a Government Hospital or institution ; and
- (e) a foreign pharmacist who is engaged, with the approval of the Council, for the purposes of consultation, advice or instruction.

31. No court shall take cognizance of an offence under this Ordinance except upon a complaint in writing made by an Inspector appointed under the Drugs Act, 1940 (XXIII of 1940), or an officer especially empowered in this behalf by the Government.

Cognizance of offences, etc.

32. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Ordinance.

Indemnity

33. (1) The Council may, with the previous approval of the Government, make regulations for carrying out the purposes of this Ordinance.

Power to make regulations

(2) In particular and without ¹[prejudice] to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) the procedure for the meeting of the Council and its committees;
- (b) the management of the property of the Council;
- (c) maintenance and audit of the accounts of the Council;
- (d) the procedure for election of the Vice-President;
- (e) the powers and duties of the President, Vice-President and members of the Council;
- (f) the terms and conditions of service of the Secretary and other officers and staff of the Council;
- (g) fees to be prescribed under this Ordinance;
- (h) such other matters as are required by this Ordinance to be provided for by regulations or are considered necessary for the efficient performance of the functions of the Council.

(3) Until such time as the regulations are made, the President of the Council may issue such instructions as he may consider necessary to regulate all or any of the matters specified in sub-section (2); and any such instructions shall stand rescinded upon the making of the regulations by the Council.

Repeal and savings

34. (1) The Pharmacy Act, 1967 (XI of 1967), hereinafter referred to as the said Act, is hereby repealed.

(2) Upon the repeal of the said Act,—

¹ The word “prejudice” was substituted, for the word “prejudice” by section 9 of the Pharmacy (Amendment) Ordinance, 1978 (Ordinance No. XLII of 1978).

- (a) all assets, rights, powers, authorities and privileges, and all propertis, movable and immovable, cash and bank balances, funds and all other interests in, or arising out of, such property of the Pharmacy Council of Pakistan in Bangladesh and of the Pharmacy Council of East Pakistan, hereinafter referred to as the Pharmacy Councils, shall stand transferred to, and vest in, the Council;
- (b) all debts, liabilities and obligations of whatever kind of the Pharmacy Councils subsisting immediately before the establishment of the Council shall, unless the Government otherwise directs, be the debts, liabilities, and obligations of the Council;
- (c) all officers and staff of the Pharmacy Councils shall stand transferred to and become officers and staff of the Council and shall hold office on the same terms and conditions as were enjoyed by them immediately before the establishment of the Council and shall continue to do so until their terms and conditions are duly altered by the Council:

Provided that an officer or staff so transferred shall have the option not to continue in the service of the Council;
- (d) all suits and other legal proceedings instituted by or against the Pharmacy Councils immediately before the establishment of the Council shall be deemed to have been instituted by or against the Council; and
- (e) notwithstanding the repeal of the said Act under sub-section (1), the *ad hoc* Committee constituted

by the Government under Notification No. S-IV/2C-31/72-332, dated the 5th August, 1972, shall continue in office until such time as the Council is constituted under section 4 of this Ordinance.
