



DELHI LEGISLATIVE ASSEMBLY

Report of the Select Committee
on
'THE DELHI QUACKERY PROHIBITION BILL, 1997

Presented on 30th September, 1998

OLD SECRETARIAT, DELHI

C O N T E N T S

1. Composition - 1
2. Introduction - 2-3
3. Report - 4-6

COMPOSITION OF THE COMMITTEE

- | | | |
|----|---|----------|
| 1. | Shri Alok Kumar | Chairman |
| 2. | Dr. Harsh Vardhan
(Minister-in-charge) | Member |
| 3. | Shri Mewa Ram Arya | Member |
| 4. | Shri Bodh Raj | Member |
| 5. | Shri Sahab Singh Chauhan | Member |
| 6. | Shri Deep Chand Bandhu | Member |
| 7. | Shri Haroon Yusuf | Member |

ASSEMBLY SECRETARIAT

- | | | |
|----|------------------|-------------------|
| 1. | Shri P.N. Gupta | Secretary |
| 2, | Shri S.K. Sharma | Spl. Secretary |
| 3, | Shri K.L. Kohli | Committee Officer |

I N T R O D U C T I O N

I, Alok Kumar, Chairman of the Select Committee on The Delhi Quackery Prohibition Bill, 1997, having been authorised by the Committee to present its Report on their behalf, do present this Report.

The Committee was constituted on 17th October, 1997 and it held 10 sittings in all.

With a view to go into the various aspects of the Bill, the Committee heard views of concerned officials of Delhi Government such as Principal Secretary(Medical), Director(Health Services) and representatives of Homoeopathy Ayurvedic, Unani systems of medicines.

The Committee also called for evidence the representatives of organisations representing various sections of medical profession. These included the Delhi Medical Association, the National Integrated Medical Association, N.E.H.M., Delhi Ayurvedic Medical Association, All India Doctor Association of I.S.M., All Indian Medicines Graduate Association etc. Through public notice issued in various National dailies, the Committee also obtained the views of common citizens on various aspects of the Bill.

This Report is based on the information and the material furnished to the Committee by the various officials

and agencies of Delhi Government and replies to questions and queries posed by the Members during its meetings.

The Report was considered and adopted by the Committee at its meeting held on 28th September, 1998. The Committee also authorised Shri Alok Kumar to present the Report on their behalf.

The Committee is appreciative of the cooperation extended to it by the D.M.A. and other Associations representing medical profession as also by various departments of Delhi Government.

The Committee is also happy to place on record the services rendered by the officers and staff of the Assembly Secretariat in conducting the meeting and preparing and finalising this Report.



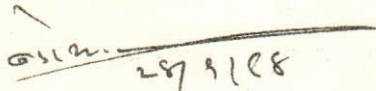
(ALOK KUMAR)
CHAIRMAN

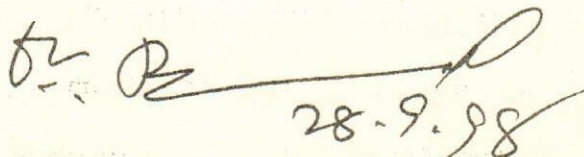
SELECT COMMITTEE ON

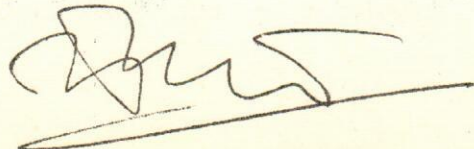
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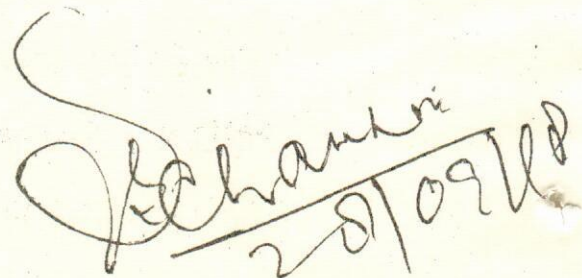
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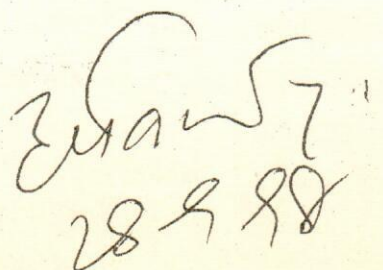
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CONSTITUTION OF THE COMMITTEE

On 28.8.1997 Dr. Harsh Vardhan, Minister of Health introduced in the House the Delhi Quackery Prohibition Bill. ^{When the Bill} was taken up for clause by clause consideration, Shri Mewa Ram Arya moved the following amendment:

"That the Delhi Quackery Prohibition Bill, 1997 be referred to the Select Committee of the House consisting of 7 members to examine all aspects of the Bill." Accordingly, the Bill was referred to the Select Committee which was constituted by the Hon'ble Speaker on 17.x.1997 with Shri Alok Kumar as Chairman and the following as members:

1. Dr. Harsh Vardhan
(Minister Incharge of the Bill)
2. Shri Mewa Ram Arya
3. Shri Bodh Raj
4. Shri Sahab Singh Chauhan
5. Shri Deep Chand Bandhu
6. Shri Haroon Yusuf

ELICITING PUBLIC OPINION ON THE BILL

At its first meeting held in 19th November, 1997, the Committee desired that in view of the importance and ramifications of the Bill, a public notice be issued in various newspapers for purposes of eliciting public opinion. Accordingly, a public notice inviting suggestions/opinions of people on various aspects of the Bill, was published in the following national dailies:

ENGLISH

Hindustan Times

Indian Express

Times of India

HINDI

Dainik Jagran

Punjab Kesari

Nav Bharat Times

Hindustan

Rashtiya Sahara

URDU

Kaumu Ekta

Pratap

Milap

In response to the aforesaid public notice, thousands of

letters and communications were received in the Assembly Secretariat. The suggestions and opinion contained in these communications were documented through the computer and a copy of the computer print-out was placed before the Committee.

INVITING REPRESENTATIVES OF VARIOUS
ORGANISATIONS/ASSOCIATIONS

The representatives of the following organisations/associations were invited by the Committee to express their views on various aspects of the Bill:

- i) Delhi Medical Association
- ii) National Integrated Medical Association
- iii) NEHM
- iv) Delhi Ayurvedic Medical Association
- v) President, All India Doctors Association
- vi) All India Medicine Graduates Association

Besides the above, the Committee also heard the views of Shri Martin Ahmed, MLA, who had sent a written communication to the Assembly Secretariat in this regard and Shri Jag Parvesh Chandra, MLA, who had proposed a number of amendments in the Bill.

DELIBERATIONS BY THE COMMITTEE

In all, the Committee held 10 sittings on the subject and after taking into consideration the views expressed before the Committee by various sections as also the officers of the concerned departments of Delhi Government, the Committee has finalised the Bill in its existing form.

REHABILITATION ASPECT OF THE PERSONS AFFECTED

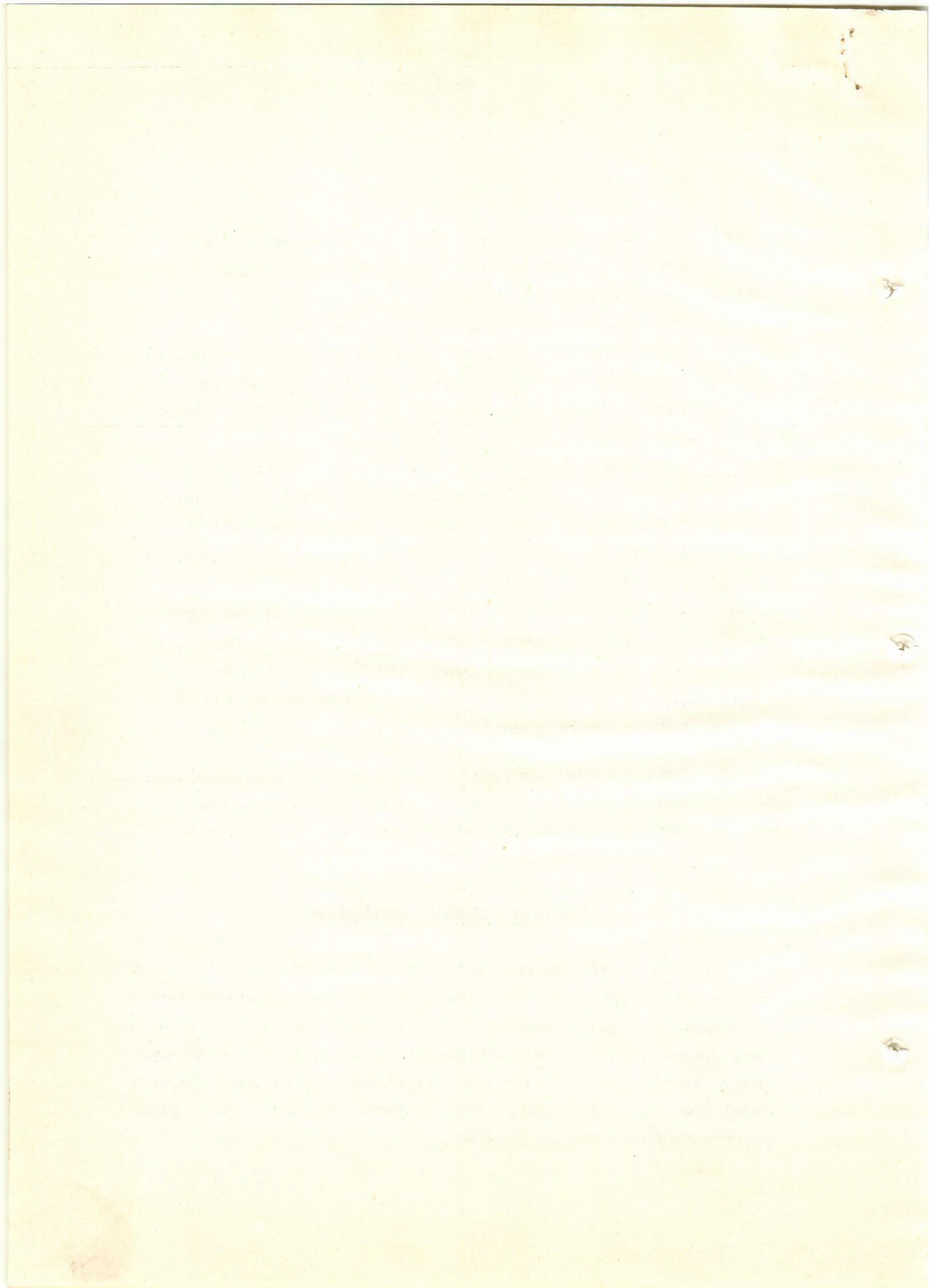
The Committee was deeply concerned with the rehabilitation aspects of the persons likely to be affected with the proposed legislation. For this purpose, the Committee also requested the various professional bodies to send their suggestions and views. The Committee therefore recommends the following rehabilitative measures for all such persons likely to be affected:

- i) The training and services of these people may be utilised in various systems such as:
 - a) Government jobs (if necessary by undertaking revision of recruitment rules)

- b) Private Sector
- c) through self employment.
- ii) All such persons may also be given soft loans at cheaper interest rates to start their own business.
- iii) They can also be considered for grant of land at concessional rates for establishing themselves.
- iv) Considering the overall shortage of trained manpower, Government of Delhi should utilise the services of these persons as medical professionals in various institutions - private or government.
- v) Depending upon their experience, preference and inclination, such persons may be trained for different disciplines like radiology, operation, theatre, ophthalmology, ENT, ec. and to assist senior medical officers.
- vi) They may be offered vocational training for development of skills in various vocations for even medical and para medical like computer operator, maintenance, Lab Technicians, dressers, etc. Admission in all such courses may be given to them on preferential basis.
- vii) Their services can also be made use of in national and state health programmes to create awareness among the people regarding various diseases and facilities being provided by the government.

NEED FOR FINANCIAL MEMORANDUM

It was brought to the notice of the Committee that in view of the incorporation of new Clause 17 relating to rehabilitation of quacks, the Bill shall involve financial implication and the same cannot be considered and passed by the Legislative Assembly under Section 22 (3) of the Government of National Capital Territory of Delhi Act, 1991 without obtaining the prior recommendation of the Lt. Governor.



DELHI QUACKERY PROHIBITION BILL, 1997

BILL No. 12 OF 1997

(As Recommended by the Select Committee)

THE UNIVERSITY OF CHICAGO

1911

THE UNIVERSITY OF CHICAGO

BILL NO. 12 OF 1997

THE DELHI QUACKERY PROHIBITION BILL, 1997

A

BILL

to provide for the constitution of a Quackery Prohibition Committee and to provide protection from the health hazards caused by quacks, in the National Capital Territory of Delhi and for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the Forty-ninth Year of the Republic of India as follows:-

CHAPTER I
PRELIMINARY

Short title, 1. (1) This Act may be called the Delhi Quackery
extent and Prohibition Act, 1997.
commencement.

(2) It extends to the whole of the National Capital Territory of Delhi.

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

Definitions

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

(a) "approved institutions" means a health care institution, nursing home, hospital, dispensary, clinic or any other organisation or institution (by whatever name called) run by a non-government body-

(i) where a registered medical practitioner practises in a medicinal system and such an institution has been approved by the Government; or

(ii) where medical education, teaching or training is imparted and such an institution is affiliated to a University or a Board constituted under any law for the time being in force for regulating medical education in any medicinal system;

(b) "Board" includes

(i) Board of Ayurvedic and Unani Systems of Medicine;

(ii) Board of Homoeopathic System of Medicine.

(c) "Central legislation" means the Indian Medical Council Act, 1956 (102 of 1956); the Indian Medicine Central Council Act, 1970 (48 of 1970); and the Homoeopathy Central Council Act, 1973 (59 of 1973);

(d) "Committee" means the Delhi Quackery Prohibition Committee Constituted under section 6 of this Act;

(e) "Council" includes -

- (i) The Medical Council of India constituted under the Medical Council Act, 1956 (102 of 1956);
- (ii) The Central Council of Indian Medicine constituted under the Indian Medicine Central Council Act, 1970 (48 of 1970);
- (iii) The Central Council of Homoeopathy constituted under Homoeopathy Central Council Act, 1973 (59 of 1973);
- (iv) The Delhi Bhartiya Chikitsa Parishad constituted under the Delhi Bhartiya Chikitsa Parishad Adhinium, 1998 (Delhi Act of 1998);
- (v) The Delhi Medical Council constituted under the Delhi Medical Council Act, 1996 (Delhi Act of 1996).

(f) "damage" means damage opined by the Committee, whether simple or serious;

(g) "Government" means the Lieutenant Governor of the National Capital Territory of Delhi referred to in clause (1) of Article 239 AA of the Constitution;

(h) "Inspector" means a person appointed under section 7 by the Government to inspect the qualification, registration certificate, premises of a person practising medicine, etc.;

(i) "Lieutenant Governor" means the Lieutenant Governor of the National Capital Territory of Delhi referred to in clause (1) of Article 239 AA of the Constitution;

(j) "medical register" means the register maintained by a Council or a Board;

- (k) "medicinal system" means the Modern or Western Scientific System of Medicine, Indian Systems of Medicines, that is to say, Ayurvedic, Unani/Siddha or Homoeopathy (including use of biochemic remedies);
- (l) "practice" means prescribing or dispensing of medicines or providing any medical treatment;
- (m) "prescribed" means prescribed by rules made under this Act;
- (n) "quackery" means the pretensions or practice of a quack, especially in medicine;
- (o) "quack salver" or "quack" means a boastful pretender to knowledge and skill, especially in medicine that he does not possess, and includes (i) a pretender of skill especially in medicine or surgery; or (ii) one who offers wonderful remedies or devices;
- (p) "recognised medical qualification" means a medical qualification included in the relevant Schedule of a Central legislation;
- (q) "registration" means registration of a person with a Council or a Board as per provisions of law for the time being in force;
- (r) "rule" means a rule made by the Government under this Act, by notification in the official Gazette;
- (s) "University" means any University established by law and recognised under the University Grants Commission Act, 1956 (No. 3 of 1956).

Setting up of
new
institutions

3. Notwithstanding anything contained in any law for the time being in force, no Trust, Society, Association or Organisation (by whatever name called) or person shall establish an institution for the purpose of imparting teaching or training or admitting students thereto in any medicinal system which is recognised under any Central legislation or for the purpose of

offering treatment in any such medicinal system unless the provisions of clause (a) of section 2 of this Act are fulfilled by it, in the manner as prescribed:

Provided that the institutions which have been in operation before the commencement of this Act shall also be bound to follow the provisions of this Act within a period of twelve months from such commencement:

Provided further that nobody (by whatever name called) or person shall run or conduct by correspondence or otherwise any course of teaching and training in any medicinal system which is not recognised under a Central legislation.

**Practising
medicine.**

4. No person who does not possess a recognised medical qualification, or medical degree as per the provisions of Central legislation or is not registered with a Council or a Board, shall practice in any medicinal system or render medical attendance to anyone.

**Ban on unauthorised
use of titles.**

5. No person shall add to his name any title, description, letters, or abbreviation which may imply that he holds a degree, diploma, licence, or certificate as his qualification to practise any system of medicine unless -
 - (a) he actually holds such degree, diploma, licence, or certificate; and
 - (b) such degree, diploma, licence, or certificate, -
 - (i) is recognised under any law for the time being in force in India; or
 - (ii) has been conferred, granted or issued by an approved institution.

Provided that every person practising any medicinal system in the National Capital

Territory of Delhi shall display his certificate of registration awarded to him by the Council of Board of the system to which the practitioner belongs.

Constitution

6. (1) The Government shall, by notification in the official Gazette, constitute for the purpose of this Act, the Delhi Quackery Prohibition Committee (hereinafter called "the Committee") under the Chairmanship of the Administrative Secretary in the Department of Health of the Government. The Committee shall include such representatives of the Medical Council of India, the Central Council of Indian Medicine, the Delhi Medical Council, the Central Council of Homoeopathy, the Delhi Bhartiya Chikitsa Parishad, the Directorate of Indian System of Medicine and Homoeopathy, an officer of the Department of Law and Justice of the Government, as the Government, may, by order from time to time specify. The Director of Health Services of the Government shall be the Member-Secretary of the Committee.
- (2) The Committee shall meet, atleast, once in three months at such time and at such place as may be decided by the Chairman.
- (3) The remuneration, honorarium and allowances to be paid to the Chairman, members, member-secretary and the conditions of service of employees appointed to assist the Committee shall be such as may be prescribed.
- (4) The Committee shall be competent to decide the nature and extent of damage caused by a quack.

Power of
Government to appoint
officers to act
under this Act.

7. The Government may, by notification in the official Gazette, appoint one or more officers as Inspector who shall be competent to act under this Act:

Provided that one or more Inspectors may be appointed on the basis of prescribed medical qualifications in one or more medicinal systems as the Government may consider appropriate.

Power to search

8. When any Inspector has reason to believe that any person is practising unauthorisedly without being registered with the Council or a Board at any place, he may enter that premises and search or cause to be searched that premises.

Power to examine
a person.

9. Any Inspector, authorised by the Government by general or special order, may, during the course of any inquiry in connection with the medical practice-

- (a) require any person to produce or deliver any document or material relevant to the enquiry;
- (b) examine any person acquainted with the facts and circumstances of the case.

Power to summon
persons to give
evidence and produce
documents.

10. (1) The Inspector referred to in section 9 shall have power to summon any person whose attendance he considers necessary either to give evidence or to produce a document or any other material in any inquiry which such officer is making in connection with the medical practice.

- (2) A summon to produce documents or other material may be for the production of a certain specified document or material or for the production of all documents or material of a certain description which are connected with the inquiry and are in the possession

or under the control of the person summoned.

- (3) A person so summoned shall be bound to attend either in person or through an authorised agent, as such Inspector may direct and the person so summoned shall be bound to state the truth with respect to the subject upon which he is examined or he makes a statement or produces a document or other material:

Provided that the exemption under section 132 of the Code of Civil Procedure, 1908 (5 of 1908) shall be applicable to any requisition for attendance under this section.

- (4) Every such inquiry as aforesaid shall be deemed to be a judicial proceedings within the meaning of section 193 and section 208 of the Indian Penal Code (45 of 1860).

Penalties and Punishments

11. (1) Any person who without being registered with the Councilⁱ or the Board prescribes a medicine or renders any medical treatment to any one, shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to thirty thousand rupees or with both.
- (2) Where the medical treatment as is referred to in sub section (1) of this section results in any simple damage to the health and life of a person, such medical practitioner shall be punishable with imprisonment which may extend to five years, or with fine which may extend to fifty thousand rupees or with both.

- (3) Where such medical treatment results in serious damage to the health and ^llife of a

Person, such medical practitioner shall be punishable with imprisonment which shall not be less than one year and may extend upto seven years and with fine which may extend to One Lac rupees.

Explanation - For the purposes of sub-section (2) and (3), it shall be for the Committee to determine, in accordance with the criteria prescribed, whether the medical treatment has resulted in "simple damage" or "serious damage" to the health and life of the person and such determination shall be final.

- (4) Where such medical treatment results in the death of a person, such medical practitioner shall be punishable with imprisonment which shall not be less than three years and may extend upto ten years and with fine which may extend to Two Lac rupees. The fine so imposed shall be payable to the heirs of the deceased.

- (5) In case any trust, society and association (by whatever name called) or any person establishes an institution or college which is not an approved institution under clause (a) of section 2 of this Act for the purpose of imparting ^cteaching or training in any medicinal system, the said trust, society, association or person connected therewith, shall be punishable with imprisonment which may extend to ten years and with fine which may extend to ten lakh rupees.

- (6) Any person who does not possess a recognised medical qualification but is found practising in any medical system or rendering medical treatment shall be punishable with imprisonment which may extend to six months or with fine which may extend to ten thousand rupees or with both:

Provided that in the case of a second or subsequent contravention of any provision of this Act, such person shall be punishable with imprisonment for a minimum term of six months but which may extend upto three years and a minimum fine of ten thousand rupees, but which may extend upto fifty thousand rupees subsequent to first conviction.

- (7) Any person who is found guilty of contravening the provisions of section 5, shall be punishable with imprisonment which may extend to two months, or fine which may extend to five thousand rupees or with both:

Provided that in case of a continuing contravention such person shall be punishable with imprisonment for a minimum term of three months but which may extend to one year and a minimum fine of two thousand rupees but which may extend to ten thousand rupees subsequent to first conviction.

- (8) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of

the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

- (9) Notwithstanding anything contained in sub-section (8), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of, or is attributable to any neglect on the part of the director, manager, secret ary or other officers of the company, such director, manager, secretary or other officers shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation - For the purposes of sub-section (8) and (9) of this section-

- (a) "Company" means any body corporate, and includes a firm or other association of individuals; and
- (b) "director" in relation to a firm means a partner of the firm.

Power of Court
to publish name,
place of business,
etc. of persons
convicted under
this Act.

12. (1) Where any person is convicted under this Act for the contravention of any of the provisions thereof, it shall be competent for the Court convicting the person to cause the name and place of business or residence of such person, nature of the contravention, the fact that the person has been so convicted and such other particulars as the Court may consider to be appropriate in the circumstances of the case, to be published at the expense of such person, in such newspapers or in such manner as the Court may direct.

(2) No publication under sub-section (1) shall be made until the period for preferring an appeal against the orders of the Court has expired without any appeal having been preferred, or such an appeal, having been preferred, has been disposed of.

(3) The expenses of any publication under sub-section (1) shall be recoverable from the convicted person by the Court.

Prosecution

13. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) all offences under the provisions of this Act shall be cognizable and non-bailable.

Searches how
to be made.

14. All searches made under this Act or any rules made thereunder, shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches made under that Code.

Protection of
of action taken
under the Act.

15. (1) Subject to the provisions of sub-section (2), no suit, prosecution or other legal proceedings shall lie against the Government or any officer of the Government or any person duly authorised or appointed to act under the provisions of this Act, for anything which is done, or intended to be done, in good faith, in pursuance of this Act or any rule made thereunder.

(2) No proceeding, other than a suit, shall be commenced against the Government or any officer of the Government or any person duly authorised or appointed to act under the provisions of this Act, for anything done or purported to have been done in pursuance of this Act or any rule made thereunder, without giving the Government or such officer previous notice of not less than sixty clear days in writing of the intended proceeding and of the cause thereof.

Punishment for
attempting to
commit offence.

16. Whoever attempts to commit an offence punishable under this Act or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence shall be punished with imprisonment for a term which may extend to one half of the longest term of imprisonment provided for the offence, or with such fine as is provided for the offence, or with both.

Rehabilitation of
Quacks.

17. (1) The Government shall formulate appropriate scheme to rehabilitate Quacks who are rendered jobless on account of coming into force of this Act.

(2) Such of the affected quacks as need assistance for rehabilitation shall be registered by the Government within a period of three months from the date of coming into force of this Act. The Government may verify about the fact that the quack was actually engaged in the practice of medicine.

(3) The scheme may provide for the following -

(a) to impart such training as to equip them with such skills which may enable them to start new vocations.

(b) to extend necessary assistance in the form of loan *for self employment*.

(c) to extend such help as to enable them to get employment as para-medical staff with Nursing Homes etc.

(d) to provide employment in such jobs under the Government where their services can be suitably utilized.

(e) any other assistance deemed appropriate.

Rules.

18.

The Government may, by notification in the official Gazette, and subject to the condition of previous publication, make rules to carry out the purposes of this Act. Such rules may be made to provide for all or any matters expressly required or allowed by this Act to be prescribed by rules.

Power to remove
difficulties

19.

If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order, as occasion requires, do anything which appears to it to be necessary for the purpose of removing the difficulty.

Provided that no such order shall be made after the expiration of two years from the commencement of this Act.

Laying of rules
made under
section 18 and
orders issued
under section
19 before the
Legislative
Assembly.

20. Every rule made under section 18 and every order made under section 19, of this Act, shall be laid as soon as may be after it is made, before the Legislative Assembly of the National Capital Territory of Delhi while it is in session, for a total period of 30 days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, the House agrees in making any modification in the rule or order or the House agrees that the rule or order shall not be made, the rule or order 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 or order.