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The Maharashtra State Council for Occupational Therapy and Physiotherapy Act, 2002

Act 2 of 2004

Keyword(s):
Council, Inspector, Occupational Therapist, Occupational Therapy, Physiotherapist, Physiotherapy, Profession, Recognised Institution, Recognized Occupational Therapy Qualification, Registrar

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THE MAHARASHTRA STATE COUNCIL FOR OCCUPATIONAL THERAPY AND PHYSIOTHERAPY ACT, 2002

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SCHEDULE II

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MAHARASHTRA ACT No. II OF 2004[1].

[THE MAHARASHTRA STATE COUNCIL FOR OCCUPATIONAL THERAPY AND PHYSIOTHERAPY ACT, 2002.]

(This Act received the assent of the Governor on the 7th January 2004; assent was first published in the *Maharashtra Government Gazette*, Part IV, on the 12th January 2004.)

An Act to provide for the constitution of the Maharashtra State Council for Occupational Therapy and Physiotherapy for the purpose of co-ordination and determination of standards of education in the field of Occupational Therapy and Physiotherapy and for the maintenance of a Register of Occupational Therapists and Physiotherapists for the State of Maharashtra and for matters connected therewith or incidental thereto.

WHEREAS, it is expedient to provide for the constitution of the Maharashtra State Council for Occupational Therapy and Physiotherapy, and for the purpose of co-ordination and for determination of standards of education in the field of Occupational Therapy and Physiotherapy and for the maintenance of a Register of Occupational Therapists and Physiotherapists for the State of Maharashtra and for matters connected therewith or incidental thereto; it is hereby enacted in the Fifty-third Year of the Republic of India as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Maharashtra State Council for Occupational Therapy and Physiotherapy Act, 2002.

(*2*) It extends to the whole of the State of Maharashtra.

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

Provided that, different dates may be appointed for different provisions of this Act; and reference in any such provisions to the date of commencement of this Act shall be construed as a reference to the date of coming into force of those provisions.

Definitions.

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

(*a*) "appointed day" means the date on which the provisions of this Act come into force under sub-section (*3*) of section 1;

(*b*) "Council" means the Maharashtra State Council of Occupational Therapy and Physiotherapy constituted under section 3;

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1. For Statement of Objects and Reasons, *see Maharashtra Government Gazette*, Extraordinary, Part V-A, dated the 23rd April 2002, p. 142.

* This Act not yet came into force.

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(*c*) " Government " or " State Government " means the Government of Maharashtra ;

(*d*) " Inspector " means an Inspector appointed by the Council under section 23 ;

(*e*) " member " means a member of the Council ;

(*f*) " Occupational therapist " means a person who possesses occupational therapy qualification obtained from a recognised institution specified in Schedule I and whose name has been enrolled in the Register of Occupational Therapists.

(*g*) " occupational therapy " means a branch of health care system which involves application of purposeful goal-oriented activity through latest technology with computerised system and the like in the valuation diagnosis or treatment of a person whose function is impaired due to acute and chronic physical illness or injury, psychological dysfunction, congenital or developmental disability or the ageing process in order to achieve optimum functioning, to prevent disability and to maintain health ; specific occupational therapy services which include education and traning in activities of daily living (ADL) ; the design, fabrication and application of or those (splints) ; guidance in the selection and use of adaptive equipment, therapeutic activities to enhance functional performances ; prevocational evaluation and training and consultation concerning the adaptation of physical environments which may be provided to individuals or groups and to both indoor and outdoor patients ;

(*h*) " physiotherapist " means a person who possesses physiotherapy qualification obtained from a recognised institution specified in Schedule II and whose name has been enrolled in the Register of Physiotherapists ;

(*i*) " physiotherapy " means a branch of modern medical science which includes examination, assessment, interpretation, physical diagnosis, planning and execution of treatment and advice to any person for the purpose of preventing, correcting, alleviating and limiting dysfunction, acute and chronic bodily malfunction including life saving measures via chest physiotherapy in the intensive care units, curing physical disorders or disability promoting physical fitness, facilitating healing and pain relief and treatment of physical and psychosomatic disorders through modulating physiological and physical response using physical agents, activities and devices including exercises, mobilisation, manipulations, therapeutic, ultrasound, electrical and thermal agents and electrotherapy for diagnosis, treatment and prevention ;

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(*j*) "prescribed" means prescribed by rules made under this Act ;

(*k*) "President" means the President of the Council ;

(*l*) "profession" means the profession of occupational or physiotherapy, as the case may be ;

(*m*) "recognised institution" means an institution specified in Schedule I which grants qualifications in occupational therapy or, as the case may be, an institution specified in Schedule II which grants qualification in physiotherapy ;

(*n*) "recogniseed occupational therapy qualification" or "recognised physiotherapy qualification" means qualification in occupational therapy or physiotherapy, as the case may be, obtained from recognised institution of Occupational therapy or Physiotherapy registered in Schedule I or Schedule II, respectively ;

(*o*) "Register" means the Register of Occupational Therapists or Physiotherapists, as the case may be, prepared and maintained by the Council under this Act ;

(*p*) "registered practitioner" means an occupational therapist or physiotherapist, as the case may be, whose name is entered and continues to remain on the tegister of the Council ;

(*q*) "Registrar" means the Registrar of the Council appointed under section 14 ;

(*r*) "regulations" means the rgulation made by the Council under section 40 ;

(*s*) "Rules" means rules made under this Act ;

(*t*) "Schedule" means Schedule I regarding Occupational Therapy or Schedule II regarding Physiotherapy appended to this Act ;

(*u*) "State" means the State of Maharashtra ;

(*v*) "Vice-President" means the Vice-President of the Council.

CHAPTER II

Constitution of the Council

Constitution and incorporation of a Council.

3. (*1*) The State Government may, by notification in the *Official Gazette,* as soon as may be, after the commencement of this Act, constitute a Council to be called the Maharashtra Council for Occupational Therapy and Physiotherapy.

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

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

(*a*) The Director of Medical Education and Research, *Ex officio* member.

(*b*) Two members from occupational therapists to be elected from amongst the registered practitioners in the Register of Occupational Therapists.

(*c*) Four members from physiotherapists to be elected from amongst the registered practitioners enrolled in the Register of Physiotherapists :

Provided that, the election of the members referred to in clauses (*b*) and (*c*) shall be held at such time and at such place and in such manner as may be prescribed :

Provided further that, pending the preparation of the Registers in accordance with the provisions of this Act, for holding election of those registered members on coming into force of this Act, the members referred to in clauses (*b*) and (*c*) may be nominated by the Government till the election and appointment of the elected members.

(*d*) One occupational therapist from the recognised teaching institutions in the State, to be nominated by the Government.

(*e*) One Physiotherapists from the recognised teaching institutions in the State, to be nominated by the Government.

(*f*) One person from the field of Occupational Therapy and one person from the field of Physiotherapy to be nominated by the Government.

(*g*) Registrar appointed under section 14 shall be the Member-Secretary.

(4) The President shall be elected by the members of the Council from amongst themselves.

(5) There shall be two Vice-Presidents, one representing. Occupational Therapists and another representing physiotherapists to be known as Vice-President (Occupational Therapy) and Vice-President (physiotherapy), respectively, elected by the members of the Council from amongst themselves.

(6) A person who holds or who has held, office as the President or Vice-President, as the case may be, shall subject to the other provisions of this Act, be eligible for re-election to that office.

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(7) If at any election under clause (*b*) or (*c*) of sub-section (*3*), the electors fail to elect the requisite number of members, the State Government shall nominate such registered practitioner or practitioners as it deems fit, to fill up the vacancy or vacancies; and the practitioners so nominated shall be deemed to have been duly elected under this section.

(*8*) Where any dispute arises regarding any election of a member or the President or the Vice-Presidents, it shall be referred to the State Government, and the decision of the State Government shall be final.

Term of office.

4. (1) The Government shall, by notification in the *Official Gazette*, publish the names of the members, both elected and nominated.

(2) Save as otherwise provided by this Act, a member whether elected or nominated, shall hold office for a term of five years from the date of publication of the notification under sub-section (*1*).

(3) Save as otherwise provided by this Act, the President and Vice-Presidents shall hold the office from the date of their election, till the day on which their term of office as members expires.

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

(5) The term of office of an outgoing President or Vice-Presidents shall, notwithstanding anything contained in sub-section (*3*), be deemed to extend to and expire with, the day immediately preceding the day on which the successor President or Vice-Presidents, as the case may be, is elected.

(6) An outgoing member shall be eligible for re-election or re-nomination.

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

Casual vacancies.

5. (*1*) Any casual vacancy, before the expiry of the term of the office of the President or the Vice-Presidents or of a member elected under clauses (*b*) and (*c*) of sub-section (*3*) of section 3, caused by reason of death, resignation, disqualification or disability or any other reason, shall be filled by election :

Provided that, any such vacancy in the office of an elected member occurring within six months prior to the date on which the term of office of all the members expires, shall not be filled.

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(*2*) Any casual vacancy, previous to the expiry of the term in the office of a member nominated under clauses (*d*), (*e*) and (*f*) of sub-section (*3*) of section 3 shall be reported forthwith by the Registrar to the State Government, and shall, as soon as possible thereafter, be filled by the State Government by nomination.

(*3*) Any person elected under sub-section (*1*) or nominated under sub-section (*2*) to fill a casual vacancy shall, notwithstanding anything contained of section 4, hold office only so long as the person in whose place he is elected or nominated, would have held office, if the vacancy had not occured.

Resignation.

6. (*1*) The President or any Vice-President may, at any time, resign his office by a notice in writing addressed to the Council and delivered to the Registrar. The resignation shall take effect from the date on which it is accepted by the Council.

(*2*) An elected member may at any time, resign his office by a notice in writing addressed to the President. A nominated member may at any time resign his office by a notice in writing addressed to the Government. Every such resignation shall take effect from the date on which it is accepted by the President or, as the case may be, the Government.

Disqualification.

7. (*1*) A person shall be disqualified for being elected or nominated as, and for continuing as, a member, if—

(*a*) he is, or becomes of, unsound mind and stands so declared by a competent court ; or

(*b*) he is, or has been convicted of any offence involving moral turpitude, which, in the opinion of the Government renders him unfit to be a members of the Council ; or

(*c*) he is, or at any time has been, adjudicated as an undischarged insolvent ; or

(*d*) his name has been removed from the register and has not been re-entered therein ; or

(*e*) he is a whole-time officer or servant of the Council.

(*2*) If any member absent himself from three consecutive meetings of the Council, without leave of the Council granted under sub-section (*7*) of section 4 or without such reason as may, in the opinion of the Council, be sufficient, the Council may declare his seat vacant and take steps to fill the vacancy.

(*3*) If any member becomes or is found to be subject to any of the disqualifications mentioned in sub-section (*1*), the Council shall submit a report to the Government, and the Government, if satisfied about the disqualification, shall declare his seat vacant.

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Meetings of Council.

8. (*1*) The meetings of the Council shall be convened, held and conducted in such manner as may be prescribed.

(*2*) The President, when present, shall preside at every meeting of the Council. If at any meeting the President is absent, any of the Vice-Presidents, and in absence of the President and the Vice-Presidents, some other member elected by the members present from amongst themselves, shall preside at such meeting :

Provided that, the Vice-Presidents shall preside over meeting in the absence of the President, by rotation.

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

(*4*) The presiding authority at a meeting of the Council shall have and exercise a second or a casting vote, in case of an equality of votes.

(*5*) Eight members (including the President and Vice-Presidents) shall form a quorum. When a quorum is required but not present, the presiding authority shall, after waiting for not less than thirty minutes for such quorum, adjourn the meeting to such hour on some future day as it may notify on the notice board at the office of the Council, and the business which would have been brought before the original meeting had there been a quorum threat, shall be brought before the adjourned meeting, and may be disposed of a such meeting or any subsequent adjournment thereof, whether there be a quorum present, or not.

Proceedings of meetings.

9. (*1*) The proceedings of the discussion of every meeting of the Council shall be treated as confidential ; and no person shall, without the previous resolution of the Council, disclose any proceedings thereof :

Provided that, nothing in this section shall be deemed to prohibit any person from disclosing or publishing the text of any resolution adopted by the Council, unless the Council directs such resolution also to be treated as confidential.

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

(*a*) any vacancy in or any defect in, the constitution of the Council ; or

(*b*) any defect in the election or nomination of a person as a member of the Council ; and

(*c*) any irregularity in the procedure of the Council not affecting the merits of the case.

(*3*) During any vacancy in the Council, the continuing member may act, as if no vacancy had occured :

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Provided that, the number of vacancies shall at no time exceed seven.

Executive Committee and other Committees.

10. (*1*) The Council shall, as soon as may be, constitute from amongst its members as provide in sub-section (*2*), an Executive Committee and other Committees for such general or special purposes and for such tenure as the Council considers necessary for carrying out its functions under this Act.

(*2*) The Executive Committee shall consist of the following members, namely :—

(*a*) The President of the Council.

(*b*) The two Vice-Presidents of the Council.

(*c*) Two members of the Council, one representing Occupational Therapists and another representing Physiotherapists nominated by the President of the Council.

(*d*) The Director of Medical Education and Research.

(*3*) The President and the Vice-Presidents of the Council shall be the Chairman and Vice-Chairman, respectively, of the Executive Committee.

(*4*) A member of the Executive Committee shall hold office until the expiry of his term of office as a member of the Council and he shall be eligible for re-nomination.

(*5*) A member may resign his membership of the Committee by writing under his hand addressed to the President of the Committee and the vacancy shall be filled in the same manner as provided in sub-section (*2*) of section 5.

(*6*) The Executive Committee shall exercise and discharge such powers and duties as may be prescribed.

Equivalence and Registration Committee.

11. (*1*) There shall be two separate Committees for the purposes of recommending the recognition of degrees and diplomas granted by institutions imparting training of Occupational Therapy and Physiotherapy and to consider matters relating to registration of Occupational Therapists and Physiotherapists, respectively. The recommendations of these committees shall be subject to approval by the Executive Committee and the Council unless otherwise provided in this Act.

(*2*) The Vice-President concerned with the subject shall be the Chairman of each such Committee. There shall be such other members as may be nominated by the President of the Council from among the members of the Council, representing educationists and specialists in different branches of Occupational Therapy or Physiotherapy, as the case may be.

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Fees and allowance to members of Council, Executive Committee and Equivalence and Registration Committee.

12. Such fees and allowances for attendance at meetings, as prescribed from time to time, shall be paid to the President and Vice-Presidents and other members of the Council, and to the members of its Executive Committee, and Equivalence and Registration Committees.

Income and Expenditure of Council.

13. (*1*) The income of the Council shall consists of—

(*a*) fees received from the practitioners ;

(*b*) grants received from the State Government, if any ; and

(*c*) any other sums received by the Council.

(*2*) It shall be competent for the Council to incur expenditure for the following purposes, namely :—

(*a*) salaries and allowances of the Registrar and the staff maintained by the Council ;

(*b*) fees and allowances paid to the members of the Council and the Executive Committee ;

(*c*) remuneration paid to the assessors ; and

(*d*) such other expenses as are necessary for performing duties and discharging the functions under this Act.

Appointment of Registar, his duties and functions.

14. (*1*) The Council shall, with the previous sanction of the State Government, appoint a Registrar, possessing such qualification as may be prescribed.

(*2*) The Executive Committee may, from time to time, grant leave to the registrar :

Provided that, if the period of leave does not exceed one month, the leave may be granted by the President.

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

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

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(*4*) The Council may, with the previous sanction of the Government, suspend, dismiss or remove any person appointed as the Registrar, or impose any other penalty upon him :

Provided that, before passing any order under this sub-section, the Registrar shall be given reasonable opportunity of being heard by the Council.

(*5*) Save as otherwise provided by this Act, the salary and allowances and other conditions of service of the Registrar shall be such as may be prescribed.

(*6*) The registrar shall be the *exofficio* Secretary and the Executive Officer of the Council. He shall attend all meetings of the Council, and of its Executive Committee and Equivalence and Registration Committee and shall keep minutes of the meetings and names of members present and of the proceedings of such meetings.

(*7*) The accounts of the Council shall be kept by the registrar, in the prescribed manner.

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

(*9*) The registrar appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

Other employees of Council.

15. (*1*) The Council may appoint such officers and servants, other than the Registrar, as it may deem necessary for perfoming its duties and discharging its functions under this Act :

Provided that, the number and designation of such officers and servants and their salaries and allowances shall be determined by the Council, with the previous sanction of the Government.

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

(*3*) The other conditions of service of the officers and servants of the Council shall be such as may be prescribed.

(*4*) Officers and servants of the Council appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1860.

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CHAPTER III

Functions Of The Council

Powers, duties and functions of Council.

16. Subjects to such conditions as may be prescribed by or under the provisions of this Act, the powers, duties and functions of the Council shall be —

(*a*) to determine and co-ordinate the standards of occupational therapy and physiotherapy education at all levels ;

(*b*) to recommend to the Government, the grant of permission to open new institutions or to open new courses of study or, training, under section 17 ;

(*c*) to maintain the registers, and to provide for the registration of occupational therapists and physiotherapists in the State ;

(*d*) to prescribe a code of ethics for regulating the professional conduct of practitioners in occupational therapy or physiotherapy ;

(*e*) to advise the Government in matters relating to the requirement of manpower in the field of occupational therapy and physiotherapy ;

(*f*) to hear and decide appeals from any decision of the Registrar ;

(*g*) to reprimand a practitioner, or to suspend or to remove him from the register, or to take such other disciplinary action against him as may, in the opinion of the Council, be necessary or expedient ; and

(*h*) to hold elections before the expiry of the term of office of the members of the Council or in any case with in a period of six months after the date of expiry of such term ;

(*i*) to exercise such power, perform such other duties and discharge such other functions, as are laid down in this Act, or as may be prescribed.

Permission for establishment of new institutions, new course of study, etc.

17. (*1*) Notwithstanding anything contained in this Act or any other law for the time being in force, with effect from such date as may be notified by the State Government :—

(*a*) no person shall establish an institution ; or

(*b*) no institution shall,—

(*i*) open a new or higher course of study or training (including a post-graduate course of study or training) which would enable a student of such course or training to qualify himself for the award of any recognised occupational therapy or physiotherapy qualification ; or

(*ii*) increase its admission capacity in any course of study or training (including a post-graduate course of study or training),

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except with the previous permission of the State Government obtained in accordance with the provisions of this section.

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

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

(*2*) (*a*) Every person or institution shall, for the purpose of obtaining permission under sub-section (*1*), submit to the State Government a scheme ;

(*b*) On receipt of such application the State Government shall, refer the scheme to the Council for its recommendations.

(*3*) On receipt of a scheme by the Council under sub-section (*2*), the Council may obtain such other particulars, as may be considered necessary by it, from the person or the institution concerned, and thereafter, it may ,—

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

(*b*) consider the scheme having regard to the factors referred to in sub-section (*5*), and submit the scheme together with its recommendations thereon to the State Government.

(*4*) The State Government may, after considering the scheme and the recommendations of the Council under sub-section (*3*), and after obtaining, where necessary, such other particulars as may be considered necessary by it from the person or an institution concerned, and having regard to the factors referred to in sub-section (*5*), may approve (with such conditions, if any, as it may consider necessary), the scheme. The approval granted shall be deemed to be a permission under sub-section (*1*).

In case of disapproval of the scheme, the reasons for such disapproval shall be recorded in writing and such decision with such reasons shall be conveyed to the applicant :

Provided that, the applicant may represent to the Government with clarifications for the objections raised by the Government and Government may, after considering those clarifications, grant the permission :

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Provided further that, nothing in this sub-section shall prevent any person or an institution, whose scheme has not been approved by the State Government, to submit a fresh scheme and the provisions of this section shall apply to such scheme, as if, such scheme has been submitted for the first time under sub-section (*2*).

(*5*) The Council, while making its recommendations under clause (*b*) of sub-section (*3*) and the State Government while passing an order, either approving or disapproving the scheme under sub-section (*4*), shall have due regard to the following factors, namely :—

(*a*) whether the proposed institution or the existing institution seeking to open a new or higher course of study or training, would be in a position to offer the minimum standard of education as prescribed by the Council under section 16 ;

(*b*) whether the person seeking to establish an institution or the existing institution seeking to open a new or higher course of study or training or to increase its admission capacity has adequate financial resources ;

(*c*) whether necessary facilities in respect of staff, equipment, accommodation, training and other facilities to ensure proper functioning of the institution or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme ;

(*d*) whether any arrangement has been made or programme drawn to impart training to students likely to attend such institution or course of study or training by persons having the recognised occupational therapy or physiotherapy qualification, as the case may be ;

(*e*) whether necessary arrangement has been made or programme drawn to meet the requirement of manpower in the field of practice of occupational therapy or physiotherapy, as the case my be ; and

(*f*) any other factors as may be prescribed.

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

(7) After approval of the scheme by the State Government, the name of the institution, shall be included in Schedule I, or as the case may be, in Schedule II.

Non-recognition of qualifications in certain cases.

18. (*1*) Where after the coming into force of the Act, any institution is established without obtaining the previous permission of the State Government as provided under section 17, no occupational therapy or physiotherapy qualification granted to any student of such institution shall be a recognised qualification for the purposes of this Act.

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(*2*) Where any institution opens a new or higher course of study or training (including a post-graduate course of study or training) without the previous permission of the State Government as provided under section 17, no qualification granted to any student of such institution on the basis of such study or training shall be a recognised qualification for the purposes of this Act.

(*3*) Where any institution increases its admission capacity in any course of study or training without the previous permission of the State Government as provided under section 17, no occupational therapy or physiotherapy qualification granted to any student of such institution on the basis of the increase in its admission capacity shall be a recognised occupational therapy or physiotherapy qualification for the purposes of this Act.

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

Time for seeking permission for certain existing institutions.

19. (*1*) Any person who has established an institution before the date of coming into force of this Act, shall seek, within a period of six months from the said date, the permission of the State Government, as provided in section 17.

(*2*) If such person fails to seek the permission under sub-section (*1*), the provisions of section 18 shall apply, so far as may be, as if, permission of the State Government under section 17 has been refused.

Recognition of qualification granted by Universities, etc. in India for occupational therapy or physiotherapy professionals.

20. (*1*) Any University or other institution in India, which grants qualifications in Occupational Therapy or Physiotherapy and the name of which University or, as the case may be, institutions is not included in the Schedules, may apply to the State Government as provided under sub-section 19 (*1*) to have their names included in the Schedules and the State Government, after consulting the Council, may, by notification in the *Official Gazette,* amend the Schedule so as to include the names of the University or institutions in the relevant Schedule and any such notification may also direct that an entry shall be made in the last column of the relevant Schedule against the name of such University or institution declaring that it shall be a recognised University or institution, as the case may be, for the purposes of this Act, only after a specified date.

(*2*) The qualifications, granted by any University or other institution in India, specified in Schedule I relating to Occupational therapy or specified in Schedule II relating to Physiotherapy shall be recognised qualifications for the Occupational Therapists and Physiotherapists for the purposes of this Act.

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Effect of recognition.

21. (*1*) (*a*) Any qualification in Occupational Therapy or Physiotherapy granted by a University or an institution included in Schedule I and Schedule II, respectively, shall be sufficient qualification for enrolment in the register of Occupational Therapists or Physiotherapists, as the case may be ;

(*b*) No person shall, after the date of commencement of this Act, be entitled to be enrolled in the Register as a Occupational Therapist or Physiotherapist unless he holds a recognised qualification :

Provided that, in case of a dispute as to whether a person is entitled to be enrolled, the matter shall be referred to the respective equivalence and Registration Committee which shall consider the reference and make recommendations to the Executive Committee whose decision shall be final.

(*2*) Notwithstanding anything contained in sub-section (*1*),—

(*a*) a citizen of India holding a qualification which entitles him to be registered with any Council of Occupational Therapy or Physiotherapy in any foreign country, recognised by the Government of that country may, with the approval of the Council, be enrolled temporarily as an occupational therapists or as the case may be, physiotherapist, in the Register till the said qualification is included in the respective Schedule ;

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

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

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

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Power to require information as to courses of study and training and examination.

22. Every authority or institution or University in Maharashtra which grants any recognised qualification, or a recognised higher qualification shall furnish such details and information as the Council may, from time to time, require as to the courses of study and training and examinations to be undergone in order to obtain such qualification, and generally as to the requisites for obtaining such qualification.

Inspector.

23. (*1*) The Executive Committee may subject to the regulations, if any, framed in this behalf, appoint such number of Inspectors as it deems necessary to inspect any institution where education or training in occupational therapy or physiotherapy is imparted, and attend any examinations held for the purpose of granting any recognised qualification or recognised higher qualification.

(*2*) The Inspectors appointed under this section shall not interfere with the course of any examinations but they shall report to the Executive Committee on the suitability of the institution for the purposes of training and on the adequacy of the training therein, or as the case may be, on the sufficiency of the standard of examinations, and on any other matters with regard to which the Executive Committee may require them to report.

(*3*) The Executive Committee, after consulting the respective Equivalence and Registration Committee, shall forward a copy of such report to the authority or institution concerned, and shall also forward copies with the remarks, if any, of the authority or institution concerned, thereon, to the State Government and the Council.

Withdrawal of recognition.

24. (*1*) When upon the report by the Executive Committee, it appears to the Council that,—

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

(*b*) the staff, equipment, accommodation, training and other training provided in such University or Institution ;

are not in conformity with the regulations made under the Act, or fall short of the standard prescribed by the Council, the Council shall make a representation to that effect to the State Government. After considering such representation, the State Government shall forward it, alongwith such remarks, as it may think fit, to the University or institution concerned with an intimation of the period within which the University or institution may submit its explanation to the State Government.

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(*2*) On the receipt of the explanation or, where no explanation is submitted within the period fixed, then on the expiry of that period, the State Government may, after making such further inquiry, if any, as it may think fit, by notification in the *Official Gazette,* direct that an entry shall be made in the Schedule I or II, as the case may be, against the names of the said University or Institution and the qualifications conferred by them declaring that the qualification conferred by the said University or institutions shall be a recognised qualification only when granted before a specified date.

Professional conduct.

25. (*1*) The Council may, with the previous approval of the State Government, by regulations, prescribe standards of professional conduct and etiquette and a code of ethics for occupational therapists and physiotherapists.

(*2*) Regulations made under sub-section (*1*) may specify which violations thereof shall constitute professional misconduct and such provision shall have effect notwithstanding anything contained in any law for the time being in force.

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

(*4*) Any person aggrieved by an order of the Council may prefer an appeal against that order to the State Government in such form and manner, within such time, on such conditions and on payment of such fees as may be prescribed.

(*5*) On receipt of such appeal, the State Government may, after giving the person concerned an opportunity of being heard and after consulting the Council, pass an appropriate order which shall be final and binding.

Information to be furnished.

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

CHAPTER IV

Preparation and Maintenance of Register

Preparation of register.

27. (*1*) As soon as and may be after the apponited day, the Registrar shall prepare and maintain thereafter a register of occupational therapists and physiotherapists in the State of Maharashtra in accordance with the provisions of this Act.

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

(*3*) Any person who possesses the qualifications from the institutions specified in the Schedules and desires to continue his practice as occupational therapist or physiotherapist shall, on an application made in the prescribed Form to the Registrar, and on payment of a fee of rupees one thousand to the Council and on presentation of his degree, diploma, licence or certificate, be entitled to have his name entered in the register for a period of five years from the date on which his name is entered in the register.

(*4*) Every registered practitioner shall, on an application made in the prescribed Form to the Registrar and on payment of a fee of rupees five hundred to the Council be entitled to have his registration renewed for a further period of five years from the date on which his registration is issued or, as the case may be renewed :

Provided that, every renewal application shall be made at least three months before the expiry of the registration :

Provided further that, the application for renewal of registration made within a period of one month after the date of expiry of the registration may be renewed after charging additional late fee of rupees two hundred. The applications for renewal of registration received after one month from the date of expiry of the registration shall be treated as a fresh application under sub-section (*3*).

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

(*6*) Where it is shown to the satisfaction of the Registrar that a certificate of registration or renewal of registration has been defaced, lost or destroyed, the Registrar may, on payment of rupees five hundred, issue a duplicate certificate in such Form as may be prescribed.

Removal of names from Register.

28. (*1*) If a registerd practitioner has been, after due inquiry held by the Council or by the Executive Committee in the prescribed manner, found guilty of any misconduct, the Council may,—

(*a*) issue a letter of warning to such practitioner, or

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(*b*) direct the name of such practitioner,—

(*i*) to be removed from the register for such period as may be specified in the direction ; or

(*ii*) to be removed from the register permanently.

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

(*i*) the conviction of a registered practitioner by a criminal court for an offence which involves moral turpitude ; or

46 of 1950. (*ii*) the conviction under the Army Act, 1950, of a registered practitioner subject to military law for an offence which is cognizable within the meaning of the Code of Criminal Procedure, 1973 ; or

2 of 1974.

(*iii*) any conduct which, in the opinion of the Council, is in famous in relation to the medical profession particularly under any Code of Ethics prescribed by the Council constituted under this Act, in this behalf.

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

5 of 1908.

(*a*) enforcing the attendance of any person and examining him on oath ;

(*b*) compelling the production of documents ; and

(*c*) issuing of commissions for the examination of witnesses.

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

45 of 1860.

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

25 of 1961. (*i*) an Advocate enrolled under the Advocates Act, 1961 ; or

(*ii*) an Attorney of a High Court.

(*b*) Any assessor under this sub-section may be appointed either for general enquiries or for any particular enquiry or class of enquiries, and shall be paid the prescribed remuneration.

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Appeal against order of removal of names from the register.

29. (*1*) Where the name of any person has been removed from the Register on the ground of professional misconduct or any other ground except that he is not possessed of the requisite occupational therapy and physiotherapy qualifications, he may appeal to the State Government in the prescribed manner with the prescribed fee, whose decision thereon shall be final.

(*2*) No appeal under sub-section (*1*) shall be admitted if it is preferred after the expiry of a period of thirty days from the date of the order :

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

Rights and privileges of the registered members.

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

(*a*) hold office as occupational therapist or physiotherapist or any other office (by whatever designation called) in the State Government or in any institution maintained by a local or other authority ;

(*b*) practice occupational therapy or physiotherapy as the case may be, anywhere in the State of Maharashtra and recover in respect of such practice any expenses or fees to which he may be entitled ;

(*c*) be entitled to sign or authenticate any certificate required by any law to be signed or authenticated by an occupational therapist or physiotherapist, as the case may be ;

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

CHAPTER V

Offences And Penalty

Conferring, granting or issuing post-graduate diploma, licence, etc. by un-authorised person or institution.

31. (*1*) No person other than an institution recognised or authorised under this Act shall confer, grant or issue or hold himself out as entitled to confer, grant, or issue any degree, diploma, licence, certificate or any other like award or which states or implies that the holder, grantee or recipient thereof is qualified to practice the occupational therapy or physiotherapy, as the case may be.

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

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Penalty for act in contravention of provision of section 31.

32. (*1*) Any person who contravenes the provisions of sub-section (*1*) of section 31, and if the person so contravening is an institution ; the proprietor of the institute or the Chairperson and members of the Managing Board of the institute who, knowingly or wilfully authorises or permits the contravention shall, on conviction, be punished,—

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

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

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

(*2*) Any person who acts in contravention of the provisions of sub-section (*2*) of section 31, shall, on conviction, be punished,—

(*a*) for the first offence, with imprisonment for a term which may extend to three years and with fine which shall not be less than five thousand rupees but which may extend to ten thousand rupees ; and

(*b*) for a second or subsequent offence, with imprisonment for a term which may extend to ten years and with fine which may extend to twenty-five thousand rupees :

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

Cognizance of offences.

33. (*1*) All offences under section 32 shall be cognizable and non-bailable.

2 of 1974

(*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, no Court shall take cognizance of an offence punishable under this Act except upon a complaint, in writing, made by a person authorised in this behalf by the Council.

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Misuse of title.

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

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

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

Failure to surrender certificate of registration.

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

CHAPTER VI

MISCELLANEOUS.

Directions by Government.

36. (*1*) The Council shall carry out such directions as may be issued from time to time, by the State Government, for the efficient administration of this Act.

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

Power to supersede Council.

37. (*1*) If at any time it appears to the State Government that the Council or its President or Vice-President has failed to exercise, or has persistently made default in the performance of the duties imposed on it by or under this Act, or has exceeded or abused any of the powers conferred upon it or him by or under this Act, or has wilfully or without sufficient cause failed to comply with any direction issued by the State Government under section 36, the State Government may, by notification in the *Official Gazette,* supersede the Council for such period as may be specified in the notification :

Provided that, before issuing a notification under this sub-section, the Government shall give a reasonable time to the Council to show cause why it should not be superseded and shall consider the explanation and objections, if any, of the Council.

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(2) Upon the publication of a notification under sub-section (1) superseding the Council,—

(a) all the members of the Council shall, notwithstanding that their term of office had not expired on the date of supersession, vacate their offices ;

(b) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Council shall, during the period of supersession, be exercised and performed by such person or persons as the State Government may direct ;

(c) all property vested in the Council shall, during the period of supersession, vest in the State Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-secion (1), the State Government may,—

(a) extend the period of supersession for such further period as it may consider necessary but which period shall not in the aggregate be more than two years ; or

(b) take steps to constitute a new Council in the manner provided.

Protection of action taken in good faith.

38. No suit, prosecution or other legal proceeding shall lie against the State Government, the Council, President, Vice-President, Member, Secretary or any officer or other employee of the Council or of the Government as aforesaid for anything which is done or intended to be done in good faith under this Act.

Power to make rules.

39. (1) The State 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 of the matters expressly required or allowed by this Act to be prescribed by rules.

(2) Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the *Official Gazette,* the rule shall form the date of publication of a notification in the *Official Gazette*, of such decision have effect only in such modified from 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 or omitted to be done under that rule.

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Power to make regulations.

40. (*1*) The Council may, with the previous sanction of the State Government, make regulations not inconsistent with this Act and the rules made thereunder, for enabling it to perform its functions under this Act and generally to carry out the purposes of this Act, by notification in the *Official Gazette*.

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

(*a*) the management of the property of the Council ;

(*b*) the maintenance and audit of the accounts of the Council ;

(*c*) the registration of Occupational Therapists and Physiotherapists ;

(*d*) the rules of procedure for the transaction of business of the Council and its committees ;

(*e*) the procedure for appointing Committees, their functions and duties ;

(*f*) the qualifications, procedure for appointment of Inspectors, their powers and duties ;

(*g*) the courses and period of study or of training, to be undertaken, the subjects of examination and standards of proficiency therein to be obtained in any university or in any institution for grant of recognised occupational therapists or physiotherapists qualification ;

(*h*) the standards of staff, equipment, accommodation, training and other facilities for study or training of the occupational therapists or physiotherapists ;

(*i*) the conduct of examinations, qualifications of examiners and the conditions of the admission to such examinations ;

(*j*) the standard of professional conduct and etiquette and code of ethics to be observed by occupational therapists and physiotherapists professionals under section 25 ;

(*k*) the manner in which and the conditions subject to which an appeal may be preferred under section 29 ;

(*l*) the fees to be paid for applications and appeals under this Act ;

(*m*) any other matter which is to be, or may be, made by regulation.

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

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Power to remove difficulties.

41. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for the purposes of removing the difficulty :

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

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

SCHEDULE I

(See Section 17*)*

Serial No.	Name of College/ School	Name of University	Degree/ Diploma
(1)	(2)	(3)	(4)
1	Seth G.S. Medical College, Department of Occupational Therapy, Parel, Mumbai 400 012.	(1) Maharashtra University of Health Sciences, Nasik. (2) Mumbai University, Mumbai.	B.O.Th. B.Sc. (O.T)
2	T. N. Medical College, Department of Occupational Therapy, Mumbai Central, Mumbai 400 008.	(1) Maharashtra University of Health Sciences, Nasik. (2) Mumbai University, Mumbai.	B.O.Th. B.Sc. (O.T)
3	Occupational Therapy School and Centre, L.T.M. Medical College, Sion, Mumbai 400 022.	(1) Maharashtra University of Health Sciences, Nasik. (2) Mumbai University, Mumbai.	B.O.Th. B.Sc. (O.T)
4	Dr. D. Y. Patil Pratishthan's College of Physiotherapy and Occupational Therapy, Kasba Bawda, Kolhapur.	Maharashtra University of Health Sciences, Nasik.	B.O.Th.

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(1)	(2)	(3)	(4)
5	Government Medical College, Department of Occupational Therapy, Nagpur 440 001.	(1) Maharashtra University of Health Sciences, Nasik. (2) Nagpur University, Nagpur.	B.O.Th. B.Sc. (O.T)
6	Physiotherapy and Occupational Therapy College, Aurangabad.	Maharashtra University of Health Sciences, Nasik.	B.O.Th.
7	Navalbhau Pratishthan's College of Physiotherapy and Occupational Therapy, Dhule.	Maharashtra University of Health Sciences, Nasik.	B.O.Th.

SCHEDULE II

(*See* Section 17)

Serial No.	Name of College/ School	Name of University	Degree/ Diploma
(1)	(2)	(3)	(4)
1	Seth G.S. Medical College, Parel, Mumbai 400 012.	(1) Maharashtra University of Health Sciences, Nasik. (2) Mumbai University, Mumbai.	B.P.Th. B.Sc. (P.T)
2	Topiwalas National Medical College, Mumbai Central, Byculla, Mumbai 400 008.	(1) Maharashtra University of Health Sciences, Nasik. (2) Mumbai University, Mumbai.	B.P.Th. B.Sc. (P.T)
3	Physiotherapy Teaching and Treatement Centre, L. T. M. Medical College, Vir Laxmibai Kelkar Marg, Sion, Mumbai 400 022.	(1) Maharashtra University of Health Sciences, Nasik. (2) Mumbai University, Mumbai.	B.P.Th. B.P.Th.

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(1)	(2)	(3)	(4)
4	Physiotherapy School and Centre, Government Medical College, Nagpur.	(1) Maharashtra University of Health, Sciences, Nasik. (2) Nagpur University, Nagpur.	B.P.Th. B.Sc. (P.T.)
5	V.S.P.M.'s College of Physiotherapy, Hingna Road, Nagpur.	(1) Maharashtra University of Health Sciences, Nasik. (2) Nagpur University, Nagpur.	B.P.Th. B.Sc. (P.T.)
6	Sancheti College of Physiotherapy, Shiwaji Nagar, Pune.	(1) Maharashtra University of Health Sciences, Nasik. (2) Pune University, Pune.	B.P.Th. B.Sc.(P.T.)
7	College of Physiotherapy, Nagadi, Pune.	(1) Maharashtra University of Health Sciences, Nashik. (2) Pune University, Pune.	B.P.Th. B.Sc.(P.T.)
8	Dr. D. Y. Patil's Chaitanya College of Physiotherapy, Pimpari, Pune.	(1) Maharashtra University of Health Sciences, Nasik. (2) Pune University, Pune.	B.P.Th. B.Sc.(P.T.)
9	Pravara College of Physiotherapy, Loni (BK), Ahamednagar.	(1) Maharashtra University of Health Sciences, Nasik. (2) Pune University, Pune.	B.P.Th. B.Sc.(P.T.)
10	Ravi Nair Physiotherapy, College, Sawangi (Meghe), Wardha.	Maharashtra University of Health Sciences, Nasik.	B.P.Th.
11	DYPES'S Medical College, Kasba Bawda, Kolhapur.	Maharashtra University of Health Sciences, Nasik.	B.P.Th.
12	Physiotherapy, and Occupation Therapy College, Aurangabad.	Maharashtra University of Health Sciences, Nasik.	B.P.Th.
13	Ramrao Adik Education Society's, Dr. D. Y. Patil College of Physiotherapy, New Mumbai.	Maharashtra University of Health Sciences, Nasik.	B.P.Th.