

URGENT

<p>भारतीय भेषजी परिषद् (स्वास्थ्य एवं परिवार कल्याण मंत्रालय के अंतर्गत सांविधिक निकाय) भारत सरकार एन बी सी सी सेंटर, तृतीय तल, प्लॉट नम्बर 2, कॉमुन्युटी सेंटर, मां आनन्दमयी मार्ग, ओखला, फेस-1, नई दिल्ली-110020 दूरभाष: 011-61299900-03 ईमेल registrar@pci.nic.in</p>	 <p>कामधे नु खलनादम जलिनानमार्त्तनानम</p>	<p>PHARMACY COUNCIL OF INDIA (Statutory body under Ministry of Health & Family Welfare) Government of India NBCC Centre, 3rd Floor, Plot No. 2, Community Centre, Maa Anandmai Marg, Okhla, Phase-I, New Delhi-110020 Telephone No. 011-61299900-03 E-mail: registrar@pci.nic.in</p>
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Public Notice

Ref. No. 19-1/2023-PCI / 1742

09 JUL 2024

Sub.: Invite Comments on Regulations framed by PCI in terms of provisions contained in Jan Vishwas (Amendment of Provisions) Act, 2023

Ref.: Council's Circular No. 19-1/2023-PCI/3854-56 dt. 25.10.2023

Sir/Madam,

This has a reference to the subject cited above.

The Jan Vishwas (Amendment of Provisions) Act, 2023 is already passed by the Parliament and published by Ministry of Law and Justice (legislative department) in the Gazette of India, Extraordinary, Part II, Section 1, No. 21, on August 11, 2023.

As per the direction of Health Ministry the PCI has framed the Regulations in terms of provisions contained in Jan Vishwas (Amendment of Provisions) Act, 2023, a copy of which is enclosed herewith as **Anneuxre-1**.

Kindly forward your comments on the said Regulations on the email Id as given below by 10.8.2024 -

pci-policy@pci.nic.in

This is for your urgent necessary action.

Yours faithfully



(PRATIMA TIWARI)
Deputy Secretary

भारतीय भेषजी परिषद्
(स्वास्थ्य एवं परिवार कल्याण मंत्रालय के अंतर्गत सांविधिक निकाय)
भारत सरकार
एन बी सी सी सेंटर, तृतीय तल, प्लॉट नम्बर 2,
कॉम्युनिटी सेंटर, मां आनन्दमयी मार्ग,
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Regulations framed by PCI in accordance with the provisions contained in Jan Vishwas (Amendment of Provisions) Act, 2023

1. BACKGROUND:

1.1. Introduction:

The Pharmacy Council of India (“PCI”) is a statutory body operating under the Ministry of Health and Family Welfare, Government of India, as mandated by the Pharmacy Act of 1948 (“Act”). PCI’s primary function is to oversee pharmacy education, regulate the profession and practice of pharmacy, and facilitate the registration of Pharmacists under the provisions of the Act. Each State in India has its own State Pharmacy Council, functioning within the regulatory framework established by the Act. The State Pharmacy Councils regulate pharmacy practices within their respective jurisdictions and ensure adherence to professional standards by pharmacists.

1.2. Current Position:

1.2.1. We are given to understand that PCI is in receipt of an email dated 31st May, 2024 from the Ministry of Health and Family Welfare (“MoHFW”) in relation to the framing of regulations in terms of the provisions of the Jan Vishwas (Amendment of Provisions), Act, 2023 (“Jan Vishwas Act”) notified on 11th August, 2023.

1.2.2. In the current circumstances, the MoHFW has notified the Jan Vishwas Act and has amended the following provisions of the Act (defined hereinafter):

(a) In section 18, in sub-section (2), after clause (h), the following clauses shall be inserted, namely: —

"(i) the manner of holding inquiry and imposing penalty under sub-section (1) of section 43A;

(j) the form and manner of preferring appeal under sub-section (2) of section 43A."

(b) In section 26A, in sub-section (3), for the words "punishable with imprisonment for a term which may extend to six months, or with fine not exceeding one thousand rupees, or with both", the words "liable to penalty which may extend to one lakh rupees" shall be substituted.

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(c) In section 41, for sub-section (1), the following sub-section shall be substituted, namely: —

“(1) If any person whose name is not for the time being entered in the register of the State falsely pretends that it is so entered or uses in connection with his name or title any words or letters reasonably calculated to suggest that his name is so entered, he shall be punishable on first conviction with fine which may extend to one lakh rupees and on subsequent conviction with imprisonment which may extend to three months or with fine not exceeding two lakh rupees, or with both: Provided that it shall be a defence if the name of the person is entered in the register of another State and that at the time of claim, an application for registration in the State had been made.”

(d) In section 42, in sub-section (2), for the words "imprisonment for a term which may extend to six months, or with fine not exceeding one thousand rupees or with both", the words "imprisonment for a term which may extend to three months, or with fine which may extend to two lakh rupees, or with both" shall be substituted.

(e) After section 43, the following section shall be inserted, namely: —

"43A. Adjudication of penalties—

- (1) For the purposes of adjudging the penalties under section 26A, the Central Government shall authorise the President of the State Council, where the alleged violation is committed, to be the adjudicating officer for holding an inquiry and impose penalty in the manner as may be prescribed under section 18, after giving any person concerned a reasonable opportunity of being heard.
- (2) Whoever is aggrieved by any order of the adjudicating officer may prefer an appeal to the President, Central Council, within a period of forty-five days from the date of receipt of such order in such form and manner as may be prescribed under section 18.
- (3) The President, Central Council may entertain an appeal after the expiry of forty-five days, if it is satisfied that the appellant was prevented from sufficient cause for filing the appeal within the said period.
- (4) No appeal shall be disposed of unless the appellant has been given a reasonable opportunity of being heard.

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(5) An appeal under sub-section (2) shall be disposed of within ninety days from the date of filing.

(6) The amount of penalty imposed under sub-section (1), if not paid, may be recovered as an arrear of land revenue."

2. APPLICABLE STATUTORY PROVISIONS

2.1. The Pharmacy Act, 1948 (the “Act”);

2.2. Regulations of the Pharmacy Council of India (“PCI Regulations”); and

2.3. Jan Vishwas (Amendment of Provisions), Act, 2023 (“Jan Vishwas Act”).

3. REGULATIONS

In view of the aforementioned amendments in the Jan Vishwas Act, we hereby suggest that a new chapter “**Part XII**” pertaining to the “**Manner of Enquiry and Preferring Appeal**” should be inserted after Part XI in the PCI Regulations and the same shall be read as follows:

Part XII

Manner of Holding Enquiry, Imposing Penalty and Preferring Appeal

74. In accordance with the section 18 (2) (i) the manner of holding inquiry and imposing penalty under sub-section (1) of section 43A shall be as follows:

(1) **Initiation of Inquiry:** Upon receipt of a complaint against any person whose name is not entered in the register of the State Council but who falsely pretends it is so entered or uses in connection with their name or title any words or letters reasonably calculated to suggest that their name is so entered in the register, the President of the State Council, shall be the adjudicating officer, and authorize the appointment of such number of Inspectors as may be deemed necessary for conducting the inquiry.

(2) **Inspector’s Report:** The authorized Inspectors, as directed in accordance with Regulation 74(1), shall conduct the inquiry and prepare a detailed report. This report, along with all relevant documents, shall be submitted to the Registrar/Secretary of the State Council within fourteen (14) days from the formation of the inquiry committee.

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- (3) **Registrar/Secretary's Preliminary Review:** Upon receipt of the inquiry report, the Registrar/Secretary shall review the findings:
- a. If case the Registrar/Secretary determines that the complaint is frivolous, it shall dismiss the complaint.
 - b. In the event Registrar/Secretary finds sufficient grounds supporting the complaint, they shall prepare a detailed report with relevant evidentiary proofs and submit it to the adjudicating officer (President of the State Council) within seven (7) days.
- (4) **President of State Council (Adjudicating Officer)'s Decision:** Upon receiving the report from the Registrar/Secretary, the adjudicating officer shall review the findings:
- a. In the event adjudicating officer is satisfied with the findings and concludes that the accused is guilty of the offense, it may impose a penalty in accordance with Section 41(1) of the Act. The penalty shall not exceed one lakh rupees for the first conviction and for subsequent convictions, an amount not exceeding two lakh rupees for each conviction.
 - b. In case the adjudicating officer concludes that the complaint is false and frivolous, they shall dismiss the complaint.
- (5) **Notification of Decision:** The decision of the adjudicating officer (i.e., President of the concerned State Council) shall be documented in writing and communicated to the accused, the complainant, and other relevant parties within a specified period.
- (6) **Record Keeping:** All records pertaining to the inquiry, including the complaint, inspector's report, Registrar/Secretary's findings, and the adjudicating officer (i.e., President of the concerned State Council)'s decision, shall be maintained in a secure manner by the State Council for future reference.
- (7) **Monitoring and Compliance:** The State Council shall periodically review the implementation of penalties and compliance with the decisions made under this section to ensure adherence to the Act.

75. In accordance with the section 18 (2) (j) the form and manner of preferring appeal under sub-section (2) of section 43A shall be as follows:

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- (1) Any person aggrieved by the decision of the adjudicating officer (i.e., President of State Council) pursuant to Section 43A (1) of the Act, as read with Regulation 74(4), shall have the right to appeal to the President of the Central Council (i.e., the appellate authority).
- (2) The appeal must be filed within forty-five (45) days from the date of receipt of the adjudicating officer (i.e., President of the concerned State Council)'s order.
- (3) The appeal shall be submitted in the form of a petition. This petition must clearly set forth the facts and issues pertaining to the matter, and must be accompanied by the order issued by the adjudicating officer (i.e., President of the concerned State Council) and any other relevant documents necessary for the adjudication of the appeal.
- (4) The appellant shall submit the petition and supporting documents to the designated office of the Central Council.
- (5) Upon receipt of the appeal, the office of the Central Council shall acknowledge receipt of the petition and provide a reference number for tracking purposes.
- (6) The President of the Central Council, or a designated official, shall conduct a preliminary examination to ensure that the appeal is in proper form and within the stipulated timeframe.
- (7) If the appeal is found to be in order, a hearing date shall be scheduled. The appellant and any other relevant parties shall be notified of the hearing date and the process to be followed during the hearing.
- (8) After considering the appeal, the President of the Central Council shall issue a written decision. This decision shall be communicated to the appellant and other relevant parties within 90 (ninety) days from the date of filing.

(PRATIMA TIWARI)

Deputy Secretary