

The Board and Court of Examiners of Homoeopathic and Biochemic Systems of Medicine (Election) Rules, 1961.

No. BHP. 1059-Unification. - In exercise of the powers conferred by clause (a) of sub-section (2) of section 33 of the Bombay Homoeopathic and Biochemic Practitioners' Act, 1959 (Born. XII of 1960), and of all other powers enabling it in that behalf, the Government of Maharashtra hereby, after previous publication, makes the following rules, namely:-

Preliminary

1. Short Title. :- These rules may be called the Board and Court of Examiners of Homoeopathic and Biochemic Systems of Medicine (Election) Rules, 1961.

2. Interpretation. - In these rules, unless the context requires otherwise,-

- a) "Act", means the Bombay Homoeopathic and Biochemic Practitioners' Act, 1959;
- b) "Election" in relation to part II only of these rules includes a by-election;
- c) "Electoral roll" means —
 - i) in relation to an election to the Board, the list printed and published by the Registrar under sub-section (2) of section 4; and
 - ii) in relation to an election to the Court, the electoral roll prepared under rule 14;
- d) "Form" means a form appended to these Rules;
- e) "Section" means the section of the Act.

Part I - Election of The Board

3. Returning Officer. :- The Registrar shall be the Returning Officer for every election held in pursuance of clause (b) of sub-section (2) of section 3.

4. Fixation of Dates for the election.:- Election under clause (b) of sub-section (2) of section 3 shall be held by postal ballot.

- 1) For purposes of the election the Returning Officer fix the dates for the following stages of election, namely:-
 - a) the last date and time for the receipt of nomination papers;
 - b) the date, time and place for the scrutiny of nomination papers, such date being not later than the fourth day from the last date for the receipt of nomination papers as the first day for the purpose;
 - c) the last date and time for the withdrawal of candidature such date being not later than third day from the day on which the scrutiny of nomination papers is completed, counting the day on which the scrutiny of nomination papers is completed as the first day for the purpose;

- d) the last date and time for the receipt of the voting papers by the Returning Officer from the electors; and
 - e) the date and time and place for the scrutiny and counting of votes.
- 2) The Returning Officer shall, as far as possible, fix the election programme in such a manner as to complete the whole election before the expiry of the term of the members:

Provided that no election shall be void merely on account of its not being completed before the expiry of the term of the members.

- 3) At least fifteen days before the date fixed under clause (a) of sub-rule (2) for the receipt of nomination papers, the Returning Officer shall publish in the Official Gazette and in at least four newspapers selected by the Returning Officer, a notice in Form "A" notifying the dates fixed under sub-rule (2) and calling upon the electors to elect new members and to make nomination therefor.

5. Nomination of Candidates.- Every practitioner whose name is entered in the electoral roll shall, unless disqualified under this Act, be qualified to be elected as a member under clause (b) of sub-section (2) of section 3.

- 1) Candidates qualified for being elected shall proposed or seconded by persons qualified as electors. No elector shall propose or second the nomination of more candidates than are required to fill up the vacancies.
- 2) No elector shall subscribe either as proposer or seconder more nomination papers than there are seats to be filled, and if he does so, such of the nomination papers so subscribed which were first received upto the number of seats to be filled in shall be deemed to be valid and any nomination papers received thereafter shall be deemed to be invalid.
- 3) The nomination paper shall be in Form 13'. The candidate shall sign the nomination paper declaring that he is willing to serve on the Board if elected. In the absence of such declaration the nomination paper shall be treated as invalid.
- 4) Every nomination paper duly completed and signed by the candidate, the proposer and the seconder shall be sent by post or otherwise so as to reach the Returning Officer at or before the time fixed under clause (a) of sub-rule (2) of rule 4. Any nomination paper received after the time so fixed shall be rejected. The Returning Officer shall immediately on receipt of a nomination paper record thereon the date and time of its receipt by him.
- 5) Every candidate shall, along with the nomination papers, deposit with the Returning Officer a sum of rupees one hundred. If the amount of deposit is remitted by a money order, the money order receipt shall be attached to the nomination paper. A nomination paper not accompanied by such deposit or such receipt shall not be accepted by the Returning Officer. The deposit shall unless it is forfeited to the Board under sub-rule (7) be returned to the candidate as soon as possible after the result of the election is declared.
- 6) If a candidate is not elected and if the number of valid votes recorded in his favour is less than 118th of the total number of votes recorded divided by the total number of members to be elected, the deposit shall be forfeited to the Board.

6. Scrutiny of nomination papers and withdrawal of Candidature.:- The nomination papers received by the Returning Officer at or before the time fixed under clause (a) of sub-rule (2) of rule 4 shall be scrutinized by the Returning Officer on the day, at the time and at the place appointed by the Returning Officer under clause (b) of sub-rule (2) of rule 4. A candidate or his representative duly authorised by him may be present at the time of scrutiny of nomination papers. The Returning Officer shall give reasonable facilities to all the candidates or their authorised representatives or to both to examine nomination papers which have been delivered to the Returning Officer within the time fixed under clause (a) of sub-rule (2) of rule 4.

- 1) The Returning Officer shall examine the nomination papers, and may, on his own motion, or on an objection raised by any person present at the time of scrutiny of nomination papers and after such summary enquiry, if any, as he may think necessary, treat as invalid any nomination paper for any of the following reasons, namely :-
 - a) that the nomination paper does not comply with the requirements of sub-rules (2) and (4) of rule 5;
 - b) that the candidate or his proposer or his seconder is not an elector;
 - c) that the nomination paper has been proposed or seconded by an elector who has subscribed either as proposer or seconder more nomination papers than there are seats to be filed in and such nomination paper cannot be considered as valid under sub-rule (3) of rule 5;
 - d) that the candidate is disqualified for being elected under section 9;
 - e) that the candidate has failed to deposit a sum of rupees one hundred as required by sub-rule (6) of rule 5;
 - f) that the signature of the candidate or his proposer or his seconder is not genuine or has been obtained by fraud, coercion or misrepresentation; or
 - g) failure to comply with any of the provisions of the Act or these rules.
- 2) The Returning Officer shall endorse on each nomination paper his decision whether the nomination paper has been accepted or rejected and in case the nomination paper has been rejected the reasons therefore.
- 3) Any candidate may withdraw his candidature by sending to the Returning Officer a notice in writing signed by him, so as to reach the Returning Officer at or before the time fixed for withdrawal of candidature under clause (c) of sub-rule (2) of rule (4).
- 4) On completion of the scrutiny of the nomination papers and after the expiry of the period within which a candidate may withdraw his candidature under sub-rule (4), the Returning Officer shall forthwith publish on the notice Board at the office of the Board the names of all the Contesting Candidates.

Explanation. - In these rules, "contesting candidate" means a candidate whose nomination paper is held to be valid and who has not withdrawn his candidature under sub-rule (4).

- 5) If the number of contesting candidates is equal to the number of seats to be filled in the Returning Officer shall forthwith declare all such candidates to be duly elected to fill such seats and report the names of such candidates to the State Government for publication in the Official Gazette.
- 6) If the number of contesting candidates is less than the number of seats to be filled in the Returning Officer shall forthwith declare all such candidates to be duly elected and report to the State Government—
 - a) the names of such candidates for publication in the Official Gazette, and
 - b) the number of vacancies left for being filled by nomination under sub-section (3).
- 7) If the number of contesting candidates is more than the number of seats to be filled the Returning Officer shall forthwith publish names and address of the contesting candidates in the Maharashtra Government Gazette and on the notice board at the office of the Board in such manner as he may deem fit.

7. Printing of Voting papers. - The Returning Officer shall arrange for the printing of voting papers in Form 'C' with the names of the contesting candidates entered therein in alphabetical order, the alphabetical order being settled according to Devnagri alphabets. The particulars on the voting papers and directions on the back of the outer foil of the voting paper shall be printed in English, Hindi (in Devnagri Script), and Marathi.

8. Dispatch of Voting Papers to electors. :- (1) As soon as possible after the names and addresses of contesting candidates are published in the Maharashtra Government Gazette under sub-rule (8) of rule 6 but not later than thirty days before the date fixed for the receipt of voting papers from the electors under clause (d) of sub-rule (2) of rule 4, the Returning officer shall send to every elector by post under certificate of posting –

- a) a voting paper in Form 'C';
 - b) a smaller cover in Form 'D';
 - c) a larger cover addressed to himself in Form 'E'.
- 1) An elector, who has not received his voting paper and other connected papers as provided in sub-rule (1) or whose papers, before they are returned to the Returning Officer have been inadvertently spoilt in such a manner that they cannot be conveniently used, or who has lost his papers, may on his transmitting to the Returning Officer a declaration to that effect signed by himself and when the papers have been spoilt such spoilt papers, require the Returning Officer to send him duplicate papers in place of those not received, spoilt or lost. In every case, when duplicate papers are issued, a record thereof shall be kept by the Returning Officer and a mark "Duplicate" shall be placed on the larger cover which shall bear the same serial alphabetical number as was originally given on the larger cover sent to the elector. The voting paper issued in such cases shall also be marked "Duplicate". The Returning Officer shall cancel any spoilt papers from the elector.

- 2) When a voting paper is returned undelivered, and the elector to whom it was sent applied in person for such voting paper within the time specified in sub-rule (1), the Returning officer may if he is satisfied of the identity of the elector deliver such voting paper to the elector after obtaining an acknowledgement from the elector.
- 3) The Returning Officer shall in the electoral roll place a mark against the name of every elector to whom a voting paper and other connected papers specified in sub-rule (1) have been sent. Such marked copy of the electoral roll and the counterfoils of the voting papers sent to the electors shall be kept in a packet and the packet shall be sealed immediately after the last date and the time fixed for the receipt of voting papers from the electors. This packet shall not be opened except for the purpose of an election petition.

9. Recording of Votes by Electors. :- (1) Every elector desirous of voting shall, subject to the provisions hereinafter appearing, record his votes on the voting paper.

- 1) Every elector shall have as many votes as there are members to be elected.
- 2) No elector shall vote for more candidates than there are members to be elected. If any elector votes for more candidate than there are votes, the whole voting paper shall be rejected.
- 3) An elector shall record each vote by placing clearly a mark (X) in column 3 of the voting paper opposite the name of the candidate to whom he wishes to give his vote. The mark shall be so placed as to indicate clearly and beyond doubt to which candidate the elector has given his vote, that vote will be deemed to be invalid.
- 4) No elector shall give more than one vote to any candidate; if he gives more than one vote, only one vote will be deemed to be valid.
- 5) The elector shall not put his signature on the voting paper or make any other mark on the voting paper, which will reveal the identity of the elector. If any elector does so, the whole voting paper will be deemed to be invalid.
- 6) After the elector has recorded his vote, he shall place the voting paper in the smaller cover supplied to him by the Returning Officer. The elector shall close the smaller cover and secure it by seal or otherwise. The smaller cover containing the voting paper shall then be placed in the larger cover supplied by the Returning Officer. The elector shall close the larger cover, write his full name and put his signature in the left hand corner of the larger cover in the printed column therefor. The elector shall then send to the Returning Officer the larger cover in which the smaller cover containing the voting paper is kept so as to reach the Returning Officer at or before the time fixed for the receipt of voting papers under clause (d) of sub-rule 4:
- 7) Provided that if any elector, on account of blindness or any other physical cause, is incapable of recording his vote or signing the larger cover, it shall be competent for such elector to record his votes with the help of a Gazetted Officer or a Magistrate. Such Officer shall, in such case record on the back of the larger cover a certificate in the following manner, namely: -

" I hereby certify that
(Name of the Officer)

..... being incapable of
(Name of the Elector)

recording his votes due to.....

(Cause of Incapacity)

..... requested me to record
his votes and I have recorded his votes according to his desire and in his presence."

Signature

Designation

- 8) On receipt of every larger cover containing the voting paper, the Returning Officer shall immediately endorse the date and time of receipt and shall keep all such covers collected in a sealed box. The larger covers containing voting papers received after the time fixed under clause (d) of sub-rule (2) of rule 4 shall be kept in a separate packet and shall not be opened.

10. Scrutiny and Counting of Votes.:- (1) The scrutiny and counting of votes shall be undertaken by the Returning Officer at the time, on the day and at the place appointed by him under clause (e) of sub-rule (2) of rule 4.

- 2) The Returning Officer shall for the purposes of helping him in the scrutiny and counting of votes nominate as scrutinizers such number of persons as he thinks fit.
- 3) A candidate or his representatives duly authorised by him may be present at the time of counting of votes.
- 4) The whole voting paper shall be treated as invalid, -
- a) if the elector has failed to write his full name and make his signature on the larger cover in which the smaller cover, containing the voting paper is kept;
 - b) if the mark " X is placed opposite the names of more candidates than the number of seats to be filled;
 - c) if the elector has put his signature on the voting paper or has made any other mark thereon which may reveal his identity.
- 5) If the Returning Officer receives more than one voting paper from one smaller cover, all such voting papers shall be treated as invalid.
- 6) If the mark "X" is so place as to make it doubtful to which candidate the elector has given his vote, that vote shall be deemed to be invalid.

- 7) If any elector has given more than one vote to any candidate, only one of such votes given shall be taken to be valid, provided that the voting paper is otherwise not invalid.
- 8) When an equality of votes is found to exist between any two or more candidates and the addition of a vote will entitle any one or more of the candidates to be declared elected, the determination of the candidate or candidates to whom such additional vote shall be deemed to have been given, shall be made by lot to be drawn by the Returning Officer in such manner as he shall determine.

11. Declaration of Result of Election.:- (1) When the counting of votes is completed, the Returning Officer shall forthwith declare the candidates to whom the largest number of votes has been given, to have been elected and shall forthwith inform —

- a) the successful candidate by letter of his having been elected to the Board; and
 - b) the President of the result of election.
- 1) After the result of the election has been declared by him, the Returning Officer shall seal the voting paper and all other documents relating to the election and shall retain the same with himself in safe custody for a period of six months, and thereafter cause them to be destroyed.
 - 2) After the receipt by him of the result of the election from the Returning Officer, the President shall forward such result to the State Government for publication in the Maharashtra Government Gazette.

12. Filling of Casual Vacancy of elected Member of Board. - The President shall inform the State Government of every casual vacancy in the office of an elected member.

Part II

13. Returning Officer for Election to Court. - The Registrar shall be the Returning Officer for every election held in pursuance of clause (b) or (c) of sub-section (2) of section 16.

14. Preparation of Electoral Rolls.

- 1) For the purpose of election under clause (b) and (c) of subsection (2) of section 16, the Registrar shall prepare electoral rolls of —
 - a) principals or heads of the recognized institutions; and
 - b) qualified teachers in the recognized institutions other than the principals or heads of such recognized institutions;

after obtaining from the principals or heads of the recognized institutions such information as he may require for the purpose. The Registrar shall show against the name of each person included in the electoral roll the qualification and address of such persons.

- 2) The Registrar shall send copies of the electoral rolls so prepared to the principals or heads of recognized institutions at least thirty days before the date fixed for the receipt of nomination papers under rule 15 read with rule 4. Objections in respect of such rolls shall be lodged with the Registrar within at least fifteen days before the date aforesaid. On receipt of such objections the Registrar shall, after making such inquiries as he deems fit, amend the rolls by making such alterations in, and additions to, the said rolls as he deems fit before the date aforesaid.
- 3) The electoral rolls prepared under sub-rule (!) subject to their amendment, if any, under sub-rule (2), shall be the electoral rolls for elections under clauses (b) and (c) of sub-section (2) of section 16 and shall be published in the Official Gazette.

15. Application of rules 6 to 13 to the Elections to the Court. –

- 1) The provisions of rules 4 to 11 shall mu/antis mutandis apply to any election to the Court held under clause (b) or (c) of subsection (2) of section 16.
- 2) Without prejudice to the generality of the provisions of sub-rule (1), the rules 4 to 11 shall be deemed to be modified as follows in their application to the elections to the Court specified in the said sub-rule, namely:-
 - a) for the word “Board ” wherever it occurs in the rules specified in sub-rule (1), the word “Court ” shall be substituted;
 - b) in rule 4, in sub-rule (1), for the words, brackets, letters and figures “under clause (b) of sub-section (2) of section (3)” the words, brackets and figures “under clause (b) or (c), of sub-section (2) of section 16” shall be substituted;
 - c) in rule 5, in sub-rule (1), for the words, brackets, letter and figures “under clause (b) of sub-section (2) of section 3” the words, brackets, letters and figures “under clause (b), or clause (c), of sub-section (2) of section 16” respectively shall be substituted;
 - d) in rule 8, in sub-rule (7), in clause (b) for the words, brackets and figures “sub-section (3) of section 3” the words, brackets and figures, “sub-section (6) of section 16” shall be substituted
 - e) in rule 11, in sub-rules (1) and (3), for the word “President” the word “Chairman” shall be substituted.

16. Filling of Casual Vacancy. - When there is a casual vacancy in the office of a member elected under clause (b), (c) or (d) of sub-section (2) of section 16, the Registrar shall, as soon as possible after the vacancy has occurred, take steps to fill in the vacancy by election held under provisions of these Rules.

FORM "A"

(Rule 4 and rule 15 read with rule 4)

NOTICE OF ELECTION

Election to the * of Homoeopathic and Biochemic Systems of Medicine, Bombay.

Notice is hereby given pursuant to the provisions of rule 4 of the Board and Court of Examiner of Homoeopathic and Biochemic Systems of Medicine (Election) Rules, 1960, that-

- 1) an election is to be held of ** members of the * of Homoeopathic and Biochemic Systems of Medicine, Bombay elected by the + from amongst themselves;
- 2) nominations of + eligible to fill the seat/seats ++ are invited;
- 3) forms of nomination paper may be obtained from the undersigned, on application;
- 4) nomination papers may be sent to so as to reach the undersigned at or before on the (hours) (date)
- 5) nomination papers will be taken up for scrutiny at on (hours) the at (date) (place)
- 6) notice of withdrawal of candidature may be sent to as to reach the undersigned at or before on the (hours) (date)
- 7) in the event of the election being contested –
 - a) the voting papers may be sent by the electors so as to reach the undersigned at or before on the (hours) (date)
 - b) the votes will be taken up for scrutiny and counting at on (hours) the at

(date)

(place)

Returning Officer

Date :

Address:

- * Here insert "Board" or "Court of Examiners" as may be necessary.
- ** Here insert the number of pending vacancies.
- + Here insert —
 - a) registered practitioners; or
 - b) principals or head of recognized institutions; or
 - c) qualified teachers in the recognized institutions, as may be necessary.
- ++ Strike off one of the alternatives as may be necessary.

FORM "B"

[Rule 5(4) and rule 15 read with rule 5(4)]

Form of Nomination Paper

Election to the * of Homoeopathic and
Biochemic Systems Of Medicine, Bombay.

.....

(To be filled in by the Proposer)

I the undersigned, being a registered practitioner, hereby as a
candidate for the forthcoming election to the * of
Homoeopathic and Biochemic Systems of Medicine.

1. Full name of the proposer,
2. Full postal address of proposer,
3. Serial number of proposer in the electoral roll,
4. Full postal address of candidate,
5. Serial number of the candidate in the electoral roll.

Date

Signature of the Proposer.

.....

(To be filled in by the Seconder)

I the undersigned, hereby second the above proposal for the nomination of as a candidate for the forthcoming election to the of Homoeopathic and Biochemic Systems of Medicine.

- 1. Full name of the Seconder,
- 2. Full postal address of the seconder
- 3. Serial number of seconder in the electoral roll.

Date

Signature of the seconder.

.....

(To be filled in by the candidate)

I, the above mentioned candidate, assent to this nomination and hereby declare that I am willing to serve on * if elected.

Date

Signature of the Candidate.

* Here insert "Board" or "Court of Examiners" as may be necessary.

.....

(To be filled in by the Returning Officer)

Serial No. of Nomination Paper

This nomination paper was delivered to me at my office at (Hour) on (Date)

Date

Returning Officer

.....

Decision of Returning Officer accepting or rejecting the Nomination Paper

I have examined this nomination paper in accordance with the provisions of the Board and

Court of Examiners of Homeopathic and Biochemic Systems of Medicine (Election) Rules, 1960, and decide as follows: -

Date:

Returning Officer

* Here insert "Board" or "Court of examiners" as may be necessary

FORM 'C'

[Rule 8 and 15 read with rule 8]

* of Homeopathic and Biochemic Systems of Medicine.

VOTING PAPER

Counterfoil

Outherfoil (Front)

	Serial No. (1)	Name of Certificate (2)	Vote (3)
1. Serial number of voting paper .. 2. Constituency:- # 3. Number of elector on the electoral roll to whom the voting has been sent			

Returning Officer

Here insert—

- a) registered practitioners; or
- b) principals or heads of the recognized institutions; or
- c) qualified teachers in the recognized institutions, as the case may be.

* Directions to Elector

- 1) Before recording your vote read carefully the following directions.
- 2) The number of members to be elected is **
- 3) You have ** vote(s)
- 4) Record each vote by placing clearly a mark(x) in column 3 of the voting paper opposite the name of the candidate to whom you wish to give that vote.
- 5) The mark should be so placed as to indicate clearly and beyond doubt to which candidate you are giving your vote. If the mark is so placed as to make it doubtful to which candidate you have given the vote will be invalid.
- 6) You must not vote for more than **..... Candidates. If you do, your voting paper will be rejected.
- 7) You must not place more than one mark (x) opposite the name of any candidate. If you do so, only one vote will be taken to be valid.
- 8) Your vote is secret. You must not put your signature on the voting paper or make any other mark on it which will reveal your identity. If you do, your voting paper will be rejected.
- 9) After you record your votes place the voting paper in the smaller cover supplied to you by the Returning Officer. Close the cover and secure it by seal or otherwise place the smaller cover containing the voting paper in the larger cover supplied to you by the Returning Officer. Close the larger cover. Write your full name and put your signature in the left hand corner of the larger cover in the printed column therefor.
- 10) Dispatch the larger cover to the Returning Officer so as to reach him before #
.....

.....
* To be printed on the back of the counterfoil of the voting paper.

** The particulars shall be filled in by the Returning Officer.

Here enter the time and the date at or before which the voting paper must reach the Returning Officer.

FORM 'D'

(Rule 8 and 15 read with rule 8)

SMALLER COVER

<p>Not to be opened before counting</p> <p>Election to the * of Homeopathic and Biochemic Systems of Medicine, Bombay</p> <p>VOTING PAPER</p>

*Here insert "Board" or "Court of Examiners" as may be necessary.

FORM 'E'

(Rule 8 and 15 read with rule 8)

Larger Cover

Election to the *of Homeopathic and
Biochemic Systems of Medicine, Bombay,

ELECTION — IMMEDIATE

VOTING PAPER

Not to be opened before counting.
No. of elector in the electoral roll

<p>STAMP</p>

To
The Returning Officer and the Registrar,
Constituency#
of Homeopathic and Biochemic Systems of
Medicine,

Name of the elector: -

.....
**

Signature of the elector

- * Here insert "Board" or "Court of Examiners" as may be necessary.
- ** Here insert the full address of the Returning Officer.
- # Here insert —
 - a) registered practitioners;
 - b) principals or heads of the recognized institutions'
 - c) qualified teachers in the recognized institutions, as may be necessary