

The National Medical Commission Bill, 2017

I. Introduction

The Medical Council of India (MCI) was established in 1934 under the Indian Medical Council (IMC) Act, 1933, with a primary aim to standardise both training in medicine and the accreditation of medical and surgical proficiency in India and abroad. Later, The Indian Medical Council Act 1933 was repealed and enacted IMC Act, 1956 and reconstituted the Medical Council of India.

With changing times, several challenges and bottlenecks started creeping into the MCI in form of poor medical education and poor delivery of quality health services in rural areas. To address the challenges, the Govt. of India promulgated the IMC (Amendment) Act, 2010, that constituted Board of Governors (BoG) to take over the functions of MCI. Later, the Ministry of Health and Family Welfare on 7th July 2014 constituted Group of Experts headed by Prof. Ranjit Roy Chaudhury to study the existing IMC Act 1956 who suggested the Government to make the MCI, modern and suited to the prevailing conditions¹. Following that, in 2015, the Department Related Parliamentary Standing Committee on Health and Family Welfare examined the subject and provided suggestions in line with Prof. Chaudhary's recommendations. The Standing Committee endorsed separation of functions by forming four autonomous boards and recommended appointment of regulators through selection rather than election and to bring a new comprehensive Bill in Parliament for this purpose, as the existing provisions of the Indian Medical Council Act, 1956 are outdated. In 2016, a committee formulated by NITI Aayog sought views and suggestions of various experts and finalised the draft National Medical Commission Bill.

The draft Bill was finalised and approved by the Cabinet on 15th December 2017 and was introduced in the Lok Sabha on 29th December 2017 by the Minister of Health and Family Welfare, Mr. J.P. Nadda. Following debates and continuous questionings, the Bill was subsequently referred to the Department-related Parliamentary Standing Committee on 04th January 2018 for detailed examination and report. In this context, the brief will highlight the salient features and analyse the shortcomings of the Bill.

II. The National Medical Commission Bill, 2017

The National Medical Commission Bill, 2017 proposes to *'to provide for a medical education system that ensures availability of adequate and high quality medical professionals; that encourages medical professionals to adopt*

¹ Department-Related Parliamentary Standing Committee on Health and Family Welfare, 190th Report on The National Medical Commission Bill, 2017

latest medical research in their work and to contribute to research; that has an objective periodic assessment of medical institutions and facilitates maintenance of a medical register for India and enforces high ethical standards in all aspects of medical services; that is flexible to adapt to changing needs and has an effective grievance redressal mechanism and for matters connected therewith or incidental thereto.²

Salient Features of the Bill

The Bill aims to repeal the IMC Act, 1956 and aims to put in place a stringent system to regulate medical education in India. Mentioned below are the salient features of the Bill:

- **Formulation of National Medical Commission:** The Bill proposes to create a new institutional framework in form of National Medical Commission that would regulate all aspect related to medical education, medical profession and institutions. Further, the commission would frame guidelines for determination of fees for up to **40 percent** of the seats in the private medical institutions and deemed universities.
- **Formulation of Autonomous Boards:** The Bill proposed to set up four autonomous boards under the supervision of the NMC namely

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1. Under-Graduate Medical Education Board- regulate medical education at undergraduate level and to determine standards thereof;

2. Post-Graduate Medical Education Board- regulate medical education at postgraduate level and to determine standards thereof;

3. Medical Assessment and Rating Board- carry out inspections and to assess and rate the medical institutions; and

4. Ethics and Medical Registration Board- regulate professional conduct and promte medical ethics amongs medical practitioners and professional and maintain national register of all licensed medical practitioners and national registers of AYUSH practitioners.

² The National Medical Commission Bill, 2017

- **National Level Examination and Counselling:** The Bill seeks to provide a statutory basis for the following examinations:
 - i. **National Eligibility-cum-Entrance Test (NEET):** A common entrance test for admission to the under-graduate medical education under the under-graduate medical education under the purview of National Medical Commission.
 - ii. **National Licentiate Examination (NLE):** A common licentiate examination for medical graduates for enrolment into the Medical Register(s). The NLE will also serve as NEET (PG) for admission into post-graduate courses. NMC may also permit foreign medical practitioners to register on temporary basis in India.
 - iii. **Common Counselling:** A common counselling will be conducted for all medical institutions by the designated authority at the Centre and the State level.
 - iv. **Bridge Courses:** The NMC along with Central Councils of Homoeopathy and Indian Medicine may approve bridge courses for the AYUSH practitioners to enable them to prescribe modern medicines at such level as notified by the Central Government.
- **Appeal on Professional and Ethical Misconduct:** The Bill states that State Medical Councils will receive complaints relating to professional or ethical misconduct against a registered medical practitioner. Further, a monetary penalty will be imposed as a form of disciplinary action.
- **Penalties:** The Bill imposed a high penalty on anyone who practice medicine without being enrolled in a State Register or the National Register. Any person found contravening will be punished with a fine between 1 and 5 lakh rupees.

Shortcomings of the Bill

While the salient features highlight the strength of the Bill in providing an inclusive law, there are certain key issues, which creates further gaps in catering to the main aim of the Bill.

- **Bridge Courses for AYUSH Practitioners:** Section 49 of the Bill allows setting up of 'bridge course' for homeopaths and AYUSH practitioners. After the completion of the course, they can prescribe modern medicine. However, the major concern placed by the Indian Medical Association (IMA) and other medical professionals is that this would promote quackery and increase high risk to health for public. Further, if prescribed the incorrect medicine by the AYUSH practitioners, this may lead to high incidence of health risk, affecting the medical system.

Suggestion: While this move will increase the supply of healthcare practitioners in the country, it is important to ensure that every practitioner is properly qualified. It may be considered that the length of the bridge course is increased, with a proper review of the course and syllabus, to ensure that qualifications are properly awarded.

- **Validity Period under National Licentiate Examination:** Clause 15 of the Bill introduces a National Licentiate Examination for students graduating from medical institutions to obtain a license for practicing as doctor. However, several criticisms have been stated by renowned medical professionals regarding this process. They have stated that it is highly insensitive and further it does not specify the validity period of this licence to practice. In countries like Australia, such a license to practice needs to be periodically renewed.

Suggestion: As per international standards and practices, and to ensure the highest quality of medical care, the bill, or accompanying rules, should indicate a period of validity of such certification. The bill/rules should also set up a mechanism by which these licenses are reviewed.

- **Power to set the fees:** The Clause 10 (1)(i) of the Bill gives NMC the power to formulate guidelines regarding the fees for up to 40 percent of seats in Private medical colleges and deemed universities. With private universities and colleges being upgrading their fee structure every year for expansion and development, Expert Committees stated that many private medical institution demand high fees that makes it difficult for the meritorious students to enter such institutions³. However, in 2016, the NITI Aayog Committee stated that a fee cap will discourage the entry of private colleges, which would limit the growth of medical education in the country. Thus, the question arises that should the NMC be regulating the fee charged by the private medical institutions.

Suggestion: A balance must be struck between entry of meritorious students into private colleges, and incentivising the opening of new private colleges. For example, a minimum benchmark for fees may be prescribed, to ensure that the NMC does not have full discretion to lower fees of private colleges, thereby ensuring that no student is discouraged from applying.

- **Dissolving the Medical Council of India:** Clause 4 of the Bill lays down the provision to set the National Medical Commission (NMC) as the regulator for medical education in India. As stated in the bill, NMC will contain 25 members, of which **at least 17 i.e. 68 percent** are medical practitioners. The Medical Council of India (MCI), that acts as a current regulator is being formulated as elected body where the President and members of the MCI are elected. Now, this bill will substitute the MCI with the NMC and

³ Functioning of the Medical Council of India', Standing Committee on Health and Family Welfare, 8th March 2016, Rajya Sabha.

is not an elected body. Further, the functioning will be more focused on answering question to bureaucracy and non-medical administrators, which will give more control to the government to run the commission. In addition to this, we do not have any guarantee that the non-medical expert will not bring in their self-interest in the functioning of the commission.

Suggestion: *There must be a mechanism in place to ensure transparency and accountability of all members on the NMC, to ensure that no external interests are taken into consideration. Further, proper justification must be sought as to why the NMC is best suited to regulate medical education, as opposed to the MCI.*

III. Conclusion

The Bill is certainly a step forward to bring a better structure to the medical education, training and research in the country. However, it is equally important to address the gaps to ensure the formulation of a stringent law catering to issues of all kind.

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