

The National Medical Commission Bill 2017 – The Relevant Clauses

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The National Medical Commission Bill, 2017 a bill to provide for a medical education system that ensures availability of adequate and high quality medical professionals; that encourages medical professionals to adopt 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. The relevant clauses of the Bill are included here with the numbering of clauses as in the Bill tabled.

Composition of NMC

3. (1) *The Central Government shall constitute a Commission, to be known as the National Medical Commission, to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.*
 - (2) *The Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.*
 - (3) *The head office of the Commission shall be at Delhi.*
 4. (1) *The Commission shall consist of the following persons to be appointed by the Central Government, namely:—*
 - (a) *a Chairperson;*
 - (b) *twelve ex officio Members;*
 - (c) *eleven part-time Members; and*
 - (d) *an ex officio Member Secretary.*
- (2) *The Chairperson shall be a person of outstanding ability, proven administrative capacity and integrity, possessing a post graduate degree in any discipline of medical sciences from any University and having experience of not less than twenty years in the field of medical sciences, out of which at least ten years shall be as a leader in the area of healthcare delivery, growth and development of modern medicine or medical education.*
 - (3) *The following persons shall be the ex officio Members of the Commission, namely:—*
 - (a) *the President of the Under-Graduate Medical Education Board;*
 - (b) *the President of the Post-Graduate Medical Education Board;*
 - (c) *the President of the Medical Assessment and Rating Board;*
 - (d) *the President of the Ethics and Medical Registration Board;*
 - (e) *the Director General of Health Services, Directorate General of Health Services, New Delhi;*
 - (f) *the Director General, Indian Council of Medical Research;*
 - (g) *the Director, All India Institute of Medical Sciences, Delhi or his nominee;*
 - (h) *the Director, Post-Graduate Institute of Medical Education and Research, Chandigarh or his nominee;*
 - (i) *the Director, Jawaharlal Institute of Post-Graduate Medical Education and Research, Puducherry or his nominee;*
 - (j) *the Director, Tata Memorial Hospital, Mumbai or his nominee;*
 - (k) *the Director, North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences, Shillong or his nominee; and*

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- (l) one person to represent the Ministry of the Central Government dealing with Health and Family Welfare, not below the rank of Additional Secretary to the Government of India, to be nominated by that Ministry.
- (4) The following persons shall be appointed as part-time Members of the Commission, namely:—
- (a) three Members to be appointed from amongst persons of ability, integrity and standing, who have special knowledge and professional experience in such areas including management, law, medical ethics, health research, consumer or patient rights advocacy, science and technology and economics;
- (b) three Members to be appointed on rotational basis from amongst the nominees of the States and Union territories in the Medical Advisory Council for a term of two years in such manner as may be prescribed;
- (c) five Members to be elected by the registered medical practitioners from amongst themselves from such regional constituencies, and in such manner, as may be prescribed.

Search Committee for appointment of Chairperson and part time members

5. (1) The Central Government shall appoint the Chairperson, part-time Members referred to in clause (a) of sub-section (4) of section 4 and the Secretary referred to in section 8 on the recommendation of a Search Committee consisting of—
- (a) the Cabinet Secretary—Chairperson;
- (b) Chief Executive Officer, National Institution for Transforming India Aayog under the Government of India— Member;
- (c) two experts, possessing outstanding qualifications and experience of not less than twenty-five years in the field of medical sciences or public health, to be nominated by the Central Government — Members;
- (d) one expert, from amongst the part-time Members referred to in clause (c) of sub-section (4) of section 4, to be nominated by the Central Government in such manner as may be prescribed — Member;
- (e) one person, possessing outstanding qualifications and experience of not less than twenty-five years in the field of management or law or economics or science and technology, to be nominated by the Central Government — Member;

- (f) the Secretary to the Government of India in charge of the Ministry of Health and Family Welfare, to be the Convenor — Member.

Powers and Functions of the Commission

10. (1) The Commission shall perform the following functions, namely:—
- (a) lay down policies for maintaining a high quality and high standards in medical education and make necessary regulations in this behalf;
- (b) lay down policies for regulating medical institutions, medical researches and medical professionals and make necessary regulations in this behalf;
- (c) assess the requirements in healthcare, including human resources for health and healthcare infrastructure and develop a road map for meeting such requirements;
- (d) promote, coordinate and frame guidelines and lay down policies by making necessary regulations for the proper functioning of the Commission, the Autonomous Boards and the State Medical Councils;
- (e) ensure coordination among the Autonomous Boards;
- (f) take such measures, as may be necessary, to ensure compliance by the State Medical Councils of the guidelines framed and regulations made under this Act for their effective functioning under this Act;
- (g) exercise appellate jurisdiction with respect to the decisions of the Autonomous Boards, except that of the Ethics and Medical Registration Board;
- (h) lay down policies and codes to ensure observance of professional ethics in medical profession and to promote ethical conduct during the provision of care by medical practitioners;
- (i) frame guidelines for determination of fees in respect of such proportion of seats, not exceeding forty per cent., in the private medical institutions and deemed Universities which are governed by the provisions of this Act;
- (j) exercise such other powers and perform such other functions as may be prescribed.

National Eligibility-Cum-Entrance Test and Examination

14. (1) There shall be a uniform National Eligibility-cum-Entrance Test for admission to the undergraduate medical education in all medical institutions which are governed by the provisions of this Act.

National Licentiate Examination

15 (1) The Commission shall conduct a uniform National Licentiate Examination for students graduating from the medical institutions which are governed by the provisions of this Act for granting licence to practice medicine as medical practitioners and for enrolment in the State Register or the National Register, as the case may be.

(2) The Commission shall conduct the National Licentiate Examination through such designated authority and in such manner as may be specified by regulations.

(3) The National Licentiate Examination shall become operational on such date, within three years from the date of commencement of this Act, as may be appointed by the Central Government, by notification.

(4) The National Licentiate Examination shall be the basis for admission to postgraduate courses in medical institutions which are governed by the provisions of this Act.

Autonomous Boards

16. (1) The Central Government shall, by notification, constitute the following Autonomous Boards, under the overall supervision of the Commission, to perform the functions assigned to such Boards under this Act, namely:—

- (a) the Under-Graduate Medical Education Board (Under-Graduate Medical Education Board);
- (b) the Post-Graduate Medical Education Board (Post-Graduate Medical Education Board);
- (c) the Medical Assessment and Rating Board (Medical Assessment and Rating Board); and
- (d) the Ethics and Medical Registration Board (Ethics and Medical Registration Board).

(2) Each Board referred to in sub-section (1) shall be an autonomous body which shall carry out its functions under this Act subject to the regulations made by the Commission.

17. (1) Each Autonomous Board shall consist of a President and two Members.

(2) The President of the each Autonomous Board, both Members of the Under-Graduate Medical Education Board and the Post-Graduate Medical Education Board and one Member each of the Medical Assessment and Rating Board and the Ethics and Medical Registration Board shall be persons of outstanding ability, proven administrative capacity and integrity, possessing a postgraduate degree in any discipline of medical sciences from any University and having experience of not less than fifteen years in such field, out of which at least seven years shall be as a leader in the area of medical education, public health, community medicine or health research.

(3) The second Member of the Medical Assessment and Rating Board shall be a person of outstanding ability and integrity, possessing a postgraduate degree in any of the disciplines of management, quality assurance, law or science and technology from any University, having not less than fifteen years' experience in such field, out of which at least seven years shall be as a leader.

(4) The second Member of the Ethics and Medical Registration Board shall be a person of outstanding ability who has demonstrated public record of work on medical ethics or a person of outstanding ability possessing a postgraduate degree in any of the disciplines of quality assurance, public health, law or patient advocacy from any University and having not less than fifteen years' experience in such field, out of which at least seven years shall be as a leader.

24. (1) **The Under-Graduate Medical Education Board** shall perform the following functions, namely:-

- (a) determine standards of medical education at undergraduate level and oversee all aspects relating thereto;
- (b) develop competency based dynamic curriculum at undergraduate level in accordance with provisions of the regulations made under this Act;
- (c) develop competency based dynamic curriculum for primary medicine, community medicine and family medicine to ensure health-care in such areas, in accordance with provisions of the regulations made under this Act;

- (d) frame guidelines for setting up of medical institutions for imparting undergraduate courses, having regard to the needs of the country and the global norms, in accordance with provisions of the regulations made under this Act;
- (e) determine the minimum requirements and standards for conducting courses and examinations for undergraduates in medical institutions, having regard to the needs of creativity at local levels, including designing of some courses by individual institutions, in accordance with provisions of the regulations made under this Act;
- (f) determine standards and norms for infrastructure, faculty and quality of education in medical institutions providing undergraduate medical education in accordance with provisions of the regulations made under this Act;
- (g) facilitate development and training of faculty Members teaching undergraduate courses;
- (h) facilitate research and the international student and faculty exchange programmes relating to undergraduate medical education;
- (i) specify norms for compulsory annual disclosures, electronically or otherwise, by medical institutions, in respect of their functions that has a bearing on the interest of all stakeholders including students, faculty, the Commission and the Central Government;
- (j) grant recognition to a medical qualification at the undergraduate level.

(2) The Under-Graduate Medical Education Board may, in the discharge of its duties, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.

25 (1) **The Post-Graduate Medical Education Board** shall perform the following functions, namely:-

- (a) determine the standards of medical education at the postgraduate level and super-speciality level in accordance with the regulations made under this Act and oversee all aspects relating thereto;
- b) develop competency based dynamic curriculum at postgraduate level and super-speciality level in accordance with the regulations made under this Act, with a view to develop appropriate skill, knowledge, attitude, values and ethics among postgraduates and super-

specialists to provide healthcare, impart medical education and conduct medical research;

- (c) frame guidelines for setting up of medical institutions for imparting postgraduate and super-speciality courses, having regard to the needs of the country and global norms, in accordance with the regulations made under this Act;
- (d) determine the minimum requirements and standards for conducting postgraduate and super-specialty courses and examinations in medical institution, in accordance with the regulations made under this Act;
- (e) determine standards and norms for infrastructure, faculty and quality of education in medical institutions conducting postgraduate and super-speciality medical education, in accordance with the regulations made under this Act;
- (f) facilitate development and training of the faculty members teaching postgraduate and super-speciality courses;
- (g) facilitate research and the international student and faculty exchange programmes relating to postgraduate and super-speciality medical education;
- (h) specify norms for compulsory annual disclosure, electronically or otherwise, by medical institutions in respect of their functions that has a bearing on the interest of all stakeholders including students, faculty, the Commission and the Central Government;
- (i) grant recognition to the medical qualifications at the postgraduate level and super-speciality level.

(2) The Post-Graduate Medical Education Board may, in the discharge of its functions, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.

26. (1) **The Medical Assessment and Rating Board** shall perform the following functions, namely:-

- (a) determine the procedure for assessing and rating the medical institutions for their compliance with the standards laid down by the Under-Graduate Medical Education Board or the Post-Graduate Medical Education Board, as the case may be, in accordance with the regulations made under this Act;

- (b) grant permission for establishment of a new medical institution in accordance with the provisions of section 28;
- (c) carry out inspections of medical institutions for assessing and rating such institutions in accordance with the regulations made under this Act:

Provided that the Medical Assessment and Rating Board may, if it deems necessary, hire and authorise any other third party agency or persons for carrying out inspections of medical institutions for assessing and rating such institutions:

Provided further that where inspection of medical institutions is carried out by such third party agency or persons authorised by the Medical Assessment and Rating Board, it shall be obligatory on such institutions to provide access to such agency or person;

- (d) conduct, or where it deems necessary, empanel independent rating agencies to conduct, assess and rate all medical institutions, within such period of their opening, and every year thereafter, at such time, and in such manner, as may be specified by regulations;
- (e) make available on its website or in public domain the assessment and ratings of medical institutions at regular intervals in accordance with the regulations made under this Act;
- (f) take such measure, including imposition of monetary penalty, against a medical institution for failure to maintain the minimum essential standards specified by the Under-Graduate Medical Education Board or the Post-Graduate Medical Education Board, as the case may be, in accordance with the regulations made under this Act:

Provided that the medical institution which has been imposed a first-time monetary penalty fails to take any corrective action, the Medical Assessment and Rating Board may impose a second-time monetary penalty for continued failure which shall be higher than the first-time penalty and on continued failure, impose a third-time monetary penalty which shall be higher than the second-time penalty:

Provided further that all the three monetary penalties imposed under the first proviso shall not be less than one-half, and not more than ten-times, the total amount charged, by whatever name called, by such institution for one full batch of students of undergraduate course or postgraduate course, as the case may be:

Provided also that even after the imposition of third-time penalty, if the failure continues, the Medical Assessment and Rating Board shall forward its report to the Commission recommending to withdraw the recognition granted to the medical qualification awarded by that medical institution.

- (2) The Medical Assessment and Rating Board may, in the discharge of its functions, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.

27. (1) **The Ethics and Medical Registration Board** shall perform the following functions, namely:—

- (a) maintain a National Register of all licensed medical practitioners in accordance with the provisions of section 31;
- (b) regulate professional conduct and promote medical ethics in accordance with the regulations made under this Act:

Provided that the Ethics and Medical Registration Board shall ensure compliance of the code of professional and ethical conduct through the State Medical Council in a case where such State Medical Council has been conferred power to take disciplinary actions in respect of professional or ethical misconduct by medical practitioners under respective State Acts;

- (c) develop mechanisms to have continuous interaction with State Medical Councils to effectively promote and regulate the conduct of medical practitioners and professionals;
 - (d) exercise appellate jurisdiction with respect to the actions taken by a State Medical Council under section 30.
- (2) The Ethics and Medical Registration Board may, in the discharge of its duties, make such recommendations to, and seek such directions from, the Commission, as it deems necessary.

28. (1) No person shall establish a new medical college without obtaining prior permission of the Medical Assessment and Rating Board.

(2) For the purposes of obtaining permission under sub-section (1), a person may submit a scheme to the Medical Assessment and Rating Board in such form, containing such particulars, accompanied by such fee, and in such manner, as may be specified by regulations.

(3) The Medical Assessment and Rating Board shall, have due regard to the criteria specified in section 29, consider the scheme received under sub-section (2) and either approve or disapprove such scheme within a period of six months from the date of such receipt:

Provided that before disapproving such scheme, an opportunity to rectify the defects, if any, shall be given to the person concerned.

(4) Where a scheme is approved under sub-section (3), such approval shall be the permission under sub-section (1) to establish new medical college.

(5) Where a scheme is disapproved under sub-section (3), or where no decision is taken within six months of submitting a scheme under sub-section (1), the person concerned may prefer an appeal to the Commission for approval of the scheme within fifteen days of such disapproval or, as the case may be, lapse of six months, in such manner as may be specified by regulations.

(6) The Commission shall decide the appeal received under sub-section (5) within a period of forty-five days from the date of receipt of the appeal and in case the Commission approves the scheme, such approval shall be the permission under sub-section (1) to establish a new medical college and in case the Commission disapproves the scheme, or fails to give its decision within the specified period, the person concerned may prefer a second appeal to the Central Government within thirty days of communication of such disapproval or, as the case may be, lapse of specified period.

(7) The Medical Assessment and Rating Board may conduct evaluation and assessment of any University or medical institution at any time, either directly or through any other expert and without any prior notice and assess and evaluate the performance, standards and benchmarks of such University or medical institution.

Explanation- For the purposes of this section, the term “person” includes a University, trust or any other association of persons or body of individuals, but does not include the Central Government.

28. While approving or disapproving a scheme under section 28, the Medical Assessment and Rating Board, or the Commission, as the case may be, shall take into consideration the following criteria, namely:-

- (a) adequacy of financial resources;
- (b) whether adequate academic faculty and other necessary facilities have been provided to ensure proper functioning of medical college or would be provided within the time-limit specified in the scheme;
- (c) whether adequate hospital facilities have been provided or would be provided within the time-limit specified in the scheme;
- (d) such other factors as may be prescribed:

Provided that, subject to the previous approval of the Central Government, the criteria may be relaxed for the medical colleges which set-up in such areas as may be specified by regulations.

30. (1) The State Government shall, within three years of the commencement of this Act, take necessary steps to establish a **State Medical Council** if no such Council exists in that State.

National and State Register

31. (1) The Ethics and Medical Registration Board shall maintain a National Register containing the name, address, all recognised qualifications possessed by a licensed medical practitioner and such other particulars as may be specified by regulations.

(2) The National Register shall be maintained in such form, including electronic form, in such manner, as may be specified by regulations.

(3) The manner in which a name or qualification may be added to, or removed from, the National Register and the grounds for removal thereof, shall be such as may be specified by regulations.

(4) The National Register shall be a public document within the meaning of section 74 of the Indian Evidence Act, 1872.

(5) The National Register shall be made available to the public by placing it on the website of the Ethics and Medical Registration Board.

- (6) Every State Medical Council shall maintain and regularly update the State Register in the specified electronic format and supply a physical copy of the same to the Ethics and Medical Registration Board within three months of the commencement of this Act.
- (7) The Ethics and Medical Registration Board shall ensure electronic synchronisation of the National Register and the State Register in such a manner that any change in one register is automatically reflected in the other register.
- (8) The Ethics and Medical Registration Board shall maintain a separate National Register in such form, containing such particulars, including the name, address and all recognised qualifications possessed by a licensed AYUSH practitioner who qualifies the bridge course referred to in sub-section (4) of section 49, in such manner as may be specified by regulations.
32. (1) Any person who qualifies the National Licentiate Examination held under section 15 shall be granted a licence to practice medicine and shall have his name and qualifications enrolled in the National Register or a State Register, as the case may be:
- (2) No person who has obtained medical qualification from a medical institution established in any country outside India and is recognised as a medical practitioner in that country, shall, after the commencement of this Act and the National Licentiate Examination becomes operational under sub-section (3) of section 15, be enrolled in the National Register unless he qualifies the National Licentiate Examination.
- (3) When a person whose name is entered in the State Register or the National Register, as the case may be, obtains any title, diploma or other qualification for proficiency in sciences or public health or medicine which is a recognised medical qualification under section 34 or section 35, as the case may be, he shall be entitled to have such title, diploma or qualification entered against his name in the State Register or the National Register, as the case may be, in such manner as may be specified by regulations.
33. (1) No person other than a person who is enrolled in the State Register or the National Register, as the case may be, shall-
- (a) be allowed to practice medicine as a qualified medical practitioner;
- (b) hold office as a physician or surgeon or any other office, by whatever name called, which is meant to be held by a physician or surgeon;
- (c) be entitled to sign or authenticate a medical or fitness certificate or any other certificate required by any law to be signed or authenticated by a duly qualified medical practitioner;
- (d) be entitled to give evidence at any inquest or in any court of law as an expert under section 45 of the Indian Evidence Act, 1872 on any matter relating to medicine:
- Provided that the Commission may permit a medical professional to perform surgery or practice medicine without qualifying the National Licentiate Examination, in such circumstances and for such period as may be specified by regulations:
- Provided further that the Commission shall submit a list of such medical professionals to the Central Government in such manner as may be prescribed:
- Provided also that a foreign citizen who is enrolled in his country as a medical practitioner in accordance with the law regulating the registration of medical practitioners in that country may be permitted temporary registration in India for such period and in such manner as may be specified by regulations.
- (2) Any person who contravenes any of the provisions of this section shall be punished with fine which shall not be less than one lakh rupees, but which may extend to five lakh rupees.

Recognition of Medical Qualifications

34. (1) The medical qualification granted by any University or medical institution in India shall be listed and maintained by the Under-Graduate Medical Education Board or the Post-Graduate Medical Education Board, as the case may be, in such manner as may be specified by regulations and such medical qualification shall be a recognised medical qualification for the purposes of this Act.
- (2) Any University or medical institution in India which grants an undergraduate or postgraduate or super-speciality medical qualification not included in the list maintained by the Under-Graduate Medical Education Board or the Post-Graduate Medical Education Board, as the case may be, may apply to that Board for granting recognition to such qualification.

- (3) The Under-Graduate Medical Education Board or the Post-Graduate Medical Education Board, as the case may be, shall examine the application for grant of recognition to a medical qualification within a period of six months in such manner as may be specified by regulations.

DISCUSSION

Indian Medical Association opposes many clauses in the proposed Bill:

1. The fact that NMC replaces a fully medical body with a body with nonmedical members also. No other country has such a representation¹
2. That not all states are represented in the Commission
3. IMA opposes the National Licentiate Examination (Exit Exam).
4. IMA opposes the bridging courses and lateral entry to Modern Medicine by Ayush practitioners
5. IMA opposes the mixing of streams
6. IMA strongly opposes the clause on private medical education
7. IMA opposes the fact that the functioning of the State Medical Councils will be affected
8. IMA opposes the fact that NMC does not have substantial representation to the State Medical Universities

To correct these deleterious clauses IMA has planned a step by step agitation starting with the Dilli Chalho on June 6th 2017, the Dharnas at State and National level on November 16th 2017, the out patient closure campaign at branch, state and national levels on January 2nd 2018 and later with the Maha Panchayath Campaign at Delhi on March 27th 2018. To achieve these objectives IMA National President Dr Ravi Wankhedkar, IMA Action Committee Chairman Dr A Marthanda Pillai and other leaders did extensive brain storming to finalise the plans of agitation. These were accompanied by sensitisation of elected representatives the MPs at State and National levels mainly to stall the passage of the NMC Bill in the Parliament. Finally the Bill was sent to the Select Committee for detailed consideration giving IMA breathing time to work towards removing all the unfavourable clauses in the NMC Bill 2017.

END NOTE

Author Information

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Conflict of Interest: None declared

REFERENCES

1. Medical Regulatory Councils S Vasudevan KMJ Vol X Issue 2 p 1-3.