

Part : 2

Dear Sir,

The National Medical Commission Bill 2016 is totally flawed and will create more problems to all aspects of modern medical practice in India. We therefore suggest total abandonment of the NMC Bill, 2016 and instead suggest the following amendments to the Indian Medical Council Act, 1956.

The Preliminary Report of the Committee on the Reforms of the Indian Medical Council Act, 1956, appended to the draft NMC Bill, under section 3.1 Elected versus Selected Regulators states as below:

The current electoral process of appointing regulators is inherently saddled with compromises and attracts professionals who may not be best suited for the task at hand. Indeed, there is ample evidence that the process has failed to bring the best in the field in the regulatory roles. The process is based on what is now widely regarded as a flawed principle whereby the regulated elect the regulators. It creates an ab-initio conflict of interest and therefore this system must be discarded in favour of one based on search and selection. Regulators of highest standards of professional integrity and excellence must be appointed through an independent and a transparent selection process by a broad based Search cum Selection Committee.

It appears that the entire draft is based on the premise stated here above, that, *the process is based on what is now widely regarded as a flawed principle whereby the regulated elect the regulators. It creates an ab-initio conflict of interest and therefore this system must be discarded in favour of one based on search and selection.*

We object to this premise as being baseless and uncalled for. The report does not provide any proof for the statement that it “*is now widely regarded as a flawed principle*”.

In India, the following institutions are set up under law for self-regulation of professions: Bar Council of India (BCI) formed under the Advocates Act, 1961, Medical Council of India (MCI) formed under the Indian Medical Council Act, 1956, Institute of Chartered Accountants of India (ICAI) formed under the Chartered Accountants Act, 1949, Institute of Cost and Works Accountants of India (ICWAI) formed under the Cost and Works Accountants Act, 1959, Institute of Company Secretaries of India (ICSI) formed under the Company Secretaries Act, 1980 and the Council of Architecture (COA) formed under the Architects Act, 1972.

Similar laws of self-regulation of such professions exist in the United Kingdom, other countries of the Commonwealth, the United States and many other European countries as well. The professions that are allowed by law to be self-regulated, including the medical profession, are the ones that require high levels of knowledge, skill and commitment, with high levels of complexities. For such professions, self-regulation enables setting of high standards of skills and ethics, so as to preserve and improve the quality standards. Therefore, the prevalent laws of the

country, such as the Indian Medical Council Act of 1956, which are in tune with the international laws, should not be trampled.

We also object to the contention in the report that the present system *creates an ab-initio conflict of interest*. If self-regulation of medical professionals *creates an ab-initio conflict of interest*, the same must be true of all other professions, and may be of the legislatures, parliament, judiciary and the executive who make laws and procedures for themselves. By this standard, Bar Council cannot be allowed to regulate advocates, ICAI cannot regulate chartered accountants, parliamentarians and legislators should not make laws regulating themselves, and their perks and so forth.

Therefore, the contention of the report that *this system must be discarded in favour of one based on search and selection* is also objectionable. It is indeed very perplexing to note that the report which questions the standards of self-regulation by elected members of the MCI, goes on to self-certify the standards of the proposed Search cum Selection Committee! It is indeed baffling as to how the NITI Aayog, whose CEO has been listed as a member of the proposed Search cum Selection Committee, can certify the very same committee as independent and transparent and capable of appointing regulators of highest standards of professional integrity and excellence, disregarding the very principle of conflict of interest that it espouses to decry the MCI! **NITI Aayog should have been above this body to become eligible to critically evaluate the search cum selection committee rather than be a part of the committee.**

Further, all the discussions, media reports and the like that have been quoted in the report appear to be one sided and do not necessarily offer an objective reasoning for scrapping the Medical Council of India. It is not an unknown fact that the Medical Council of India has been interfered with time and again, and many politicians across the divide and many businessmen of various trades have succeeded in starting medical colleges of their own in the past 3 decades. Now to blame it all on the Medical Council of India and use that alibi to scrap the very structure of the MCI is unjust and will certainly do more harm than good.

Therefore, we propose the following for the Draft of the National Medical Commission Bill 2016:

1. The preamble of the Draft NMC Bill must be discarded.

Instead, the following amendment shall be inserted into the Indian Medical Council Act, 1956:

THE words AN ACT TO PROVIDE FOR THE RECONSTITUTION OF THE MEDICAL COUNCIL OF INDIA AND THE MAINTENANCE OF A MEDICAL REGISTER FOR INDIA AND FOR MATTERS CONNECTED THEREWITH

must be replaced with the words

AN ACT TO PROVIDE FOR THE CONSTITUTION OF THE MEDICAL COUNCIL OF INDIA AND ITS SUB COMMITTEES, PROVIDING FOR THE MAINTENANCE OF A MEDICAL REGISTER FOR INDIA AND FOR ENFORCING HIGH ETHICAL STANDARDS IN ALL ASPECTS OF MEDICAL SERVICES, FOR REGULATING THE CURRICULUM AND STANDARDS OF MEDICAL EDUCATION, FOR OBJECTIVE PERIODIC ASSESSMENT OF MEDICAL COLLEGES, AND TO ENCOURAGE MEDICAL PROFESSIONALS TO INCORPORATE THE LATEST MEDICAL RESEARCH IN THEIR WORK AND TO CONTRIBUTE TO SUCH RESEARCH AND FOR OTHER MATTERS CONNECTED THEREWITH.

2. Chapter 1 and Chapter 2 of the Draft NMC Bill should be discarded.

Instead, the IMC Act 1956 must be amended as below:

Section 3 (1) The Central Government shall cause to be constituted a council consisting of the following members, namely:-

Shall be amended as

Section 3 (1) The Central Government shall cause to be constituted a council called the Medical Council of India, and its subcommittees to be called as Sub **Committee for Undergraduate Medical Education**, Sub **Committee for Post graduate Medical Education**, Sub Committee for Assessment and Accreditation of Medical Colleges, and Sub Committee for Registration and Monitoring of Medical Professionals.

3. Chapters 3-8 of the Draft NMC Bill must be discarded.

Instead, the IMC Act 1956 must be amended as below:

3 (1)

(a) One member from each State other than a Union Territory to be nominated by the Central Government in consultation with the State Government concerned.

Shall be amended as

(a) One member from each State and Union Territory, having registered with the medical council for a period of not less than 15 years, and not a teaching faculty in any medical college, to be elected by the registered medical practitioners having a qualification equal to a post graduate diploma or a post graduate degree or above.

(b) One member from each University to be elected from amongst the members of the medical faculty of the University by members of the Senate of the University or in case the University has no Senate, by members of the Court.

Shall be amended as

(b) One member from each State and Union Territory, having registered with the medical council for a period of not less than 15 years, to be elected by the registered medical practitioners with post graduate degree or above, and working as faculty in the medical colleges within the state,

(c) One member from each State in which a State Medical Register is maintained, to be elected from amongst themselves by persons enrolled on such register who possess the medical qualifications included in the First or the Second Schedule or in Part II of the Third Schedule.

Shall be amended as

(c) One member from each State and Union territory, having registered with the medical council for a period of not less than 15 years, to be elected from amongst themselves by persons enrolled on such register who possess the medical qualifications in the First or the Second Schedule or the Third Schedule that is not above the level of graduation.

(d) Seven members to be elected from amongst themselves by persons enrolled on any of the State Medical Registers who possess the medical qualifications included in of the Third Schedule.

Shall be repealed and replaced with

(d) One member to be elected from each state and Union territory under subsections (a), (b) and (c) here above shall be a woman, and such reservation shall be done on rotation among the three constituencies and announced at least 6 months prior to the date of the elections.

(e) Eight members to be nominated by the Central Govt.

Shall be amended as

(e) Eight members to be nominated by the Central Govt. Two of them must be medical professionals of undergraduate or post graduate qualifications, of having worked as practitioners in remote or rural areas for more than 10 years; two of them must be medical professionals of undergraduate or post graduate qualifications from the scheduled castes and scheduled tribes, with more than 10 years of experience; two of them must be medical professionals of undergraduate or post graduate qualifications from the minorities and other backward classes, with more than 10 years of experience; **Two members should be women with more than 10 years of experience with undergraduate or post graduate qualifications.**

(2) The President and Vice-President of the Council shall be elected by the members of the Council from amongst themselves.

Shall be amended as

(2) The President and Vice-President of the Council *and the Chairpersons of the sub committees* shall be elected by the members of the Council from amongst themselves.

MODE OF ELECTION

4 (1) (a) An election under clause (b), clause (c) or clause (d) of sub-section (1) of section 3 shall be conducted by the Central Government in accordance with such rules as may be made by it in this behalf, and any rules so made may provide that pending the preparation of the Indian Medical Register in accordance with provisions of this Act, the members referred to in clause (d) of sub-section (1) of section 3 may be nominated by the Central Government instead of being elected as provided therein.

Shall be amended as:

MODE OF ELECTION AND NOMINATION

4 (1) (a) An election under clause (a), clause (b) or clause (c) of sub-section (1) of section 3 shall be conducted by the Central Government in accordance with such rules as may be made by it in this behalf. (Rules shall be framed as: The elections will be held through physical ballots or electronic voting machines at the voting centres established at every Taluka under the supervision of the officer of the rank not less than Assistant Commissioner, with the electoral rolls being prepared and published on the notice board of the Medical Council of India and the respective state medical councils, as also published on the web sites of these councils as available, and also made available at all the Taluka offices of the Assistant Commissioners, at least two months before the scheduled date of the election. As and when facilities for tamper proof voting can be made available, electronic voting through the web sites of the Medical Council of India and of the respective state medical councils shall be allowed.)

4(1) (b) For the nominations of eight members as per Sec 3 (1) (e) of the Act, selections will be made by a committee comprising of the Prime Minister, Leader of the Opposition, Speaker, Attorney General, Minister of Health and Family Welfare and the Minister of Law and Justice, by giving due weightage to the previous record of the nominees.

OFFICERS, COMMITTEES AND SERVANTS OF THE COUNCIL

9. The Council Shall:-

(1) constitute from amongst its members an Executive Committee and such other committees for general or special purposes as the Council deems necessary to carry out the purposes of this Act.

Shall be amended as

(1) constitute from amongst its members an Executive Committee and, as per sec 3(1), **Sub Committee for Undergraduate Medical Education, Sub Committee for Post graduate Medical Education**, Sub Committee for Assessment and Accreditation of Medical Colleges, and Sub Committee for Registration and Monitoring of Medical Professionals or any other sub committee for special purposes as the Council deems necessary to carry out the purposes of this Act.

THE EXECUTIVE COMMITTEE

10. (1) The Executive Committee, here in after referred to as the Committee shall consist of the President and Vice-President, who shall be members ex-officio and not less than seven and not more than ten other members who shall be elected by the Council from amongst its members.

(2) The President and Vice-President shall be the President and Vice-President respectively of the Committee.

(3) In addition to the powers and duties conferred and imposed upon it by this Act, the Committee shall exercise and discharge such powers and duties as the Council may confer or impose upon it by any regulations which may be made in this behalf.

Shall be amended as

THE EXECUTIVE COMMITTEE AND THE SUB COMMITTEES

10. (1) (a) The Executive Committee, shall consist of the President and Vice-President of the Medical Council of India, and Chairpersons of the Sub committees, who shall be members ex-officio and not less than seven and not more than ten other members who shall be elected by the Council from amongst its members.

(1) (b) The President and Vice-President shall be the President and Vice-President respectively of the Executive Committee.

(1) (c) In addition to the powers and duties conferred and imposed upon it by this Act, the Committee shall exercise and discharge such powers and duties as the Council may confer or impose upon it by any regulations which may be made in this behalf.

(1) (d) All the decisions taken by the sub committees must be ratified by the Executive Committee

(2) (a) Sub **Committee for Undergraduate Medical Education, Sub Committee for Post graduate Medical Education**, shall consist of a Chairperson and 8 members each, elected from among the members of the MCI, all members being teaching faculty. Two each of the members must be from the north, south, east and west of India.

(2)(b) This sub committee will have the responsibility to prescribe guidelines for setting up medical institutions for imparting under-graduate courses in alignment with needs of the country while keeping in mind global norms, to determine and prescribe the minimum requirements and standards for conduct of courses and examinations for under graduates and post graduates in medical institutions, to determine and prescribe standards and norms for infrastructure, faculty and quality of education in institutions conducting under-graduate and post graduate medical education and to organise continuing medical education programmes on a regular basis, in association with the state medical councils. It will also execute the powers vested in Sections 16 to Sec 20 of the IMC Act.

(2)(c) For the purpose of fixing standards of medical education, the sub committee may constitute a consultative group, with approval from the Executive Committee, comprising of faculties from pre-clinical and clinical disciplines, including super specialities

(2)(d) For the purpose of conducting CME Programmes, the sub committee will constitute a CME Grant Fund, with support from the Central Government, and similar grant funds can be instituted in all the state medical councils with the support from the state governments. These funds must be such that at least 3 CME programmes an year can be conducted in every district.

(3)(a) Sub Committee for Assessment and Accreditation of Medical Colleges shall consist of a Chairperson and 8 members, elected from among the members of the MCI, 4 members being teaching faculty and 4 among the non teaching post graduate practitioners. Two each of the members must be from the north, south, east and west of India.

(3)(b) This sub committee will have the responsibility to assess and accredit the medical colleges, as prescribed in Sec 10 A-C of the IMC Act

(3)(c) For the purpose of Assessment and Accreditation of Medical Colleges, the sub committee may constitute a consultative group or zonal groups, with approval from the Executive Committee, comprising of faculties from pre-clinical and clinical disciplines, including super specialities.

(4)(a) Sub Committee for Registration and Monitoring of Medical Professionals shall consist of a Chairperson and 8 members, elected from among the members of the MCI, 4 members being post graduates and 4 among the graduate practitioners. Two each of the members must be from the north, south, east and west of India

(4)(b) This sub committee will have the responsibility to execute the powers vested in Sections 11-15 and 20A to Sec 30 of the IMC Act.

4. Chapters 9-11 of the NMC Bill also must be discarded.

Other Sections of the IMC Act 1956 can be suitably amended to be in line with the above listed amendments.

To summarise, the NMC Bill 2016 must be abandoned totally. Changes can be brought about in the Medical Council of India by retaining and strengthening its self regulatory role, by minimising interference from the Govt and other lobbies, and that can be achieved by making relevant amendments to the IMC Act 1956 itself.