



TAMIL NADU MEDICAL COUNCIL

CHENNAI - INDIA

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NATIONAL MEDICAL COMMISSION DRAFT BILL 2016

“A cure worst than the Disease”



TAMIL NADU MEDICAL COUNCIL

CHENNAI - INDIA



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TAMIL NADU MEDICAL COUNCIL
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From President`s Desk...

It is astonishing to review this proposed draft bill on National Medical Commission, by NitiAayog and its intention to repeal the IMA Act 1956 to dissolve the Medical Council of India.

In a democratic country in which the elected people and bureaucrats work together to enforce progressive democracy, this draft bill emulate faux in this system and claim it will create an **ab-initio conflict of interest** as the regulated elect the regulators. There by proclaim only nominated persons shall regulate the Medical Education. It is an empathetic challenge to the sovereign supremacy of Parliament which is a regulator and elected by the regulated. Based on this principle, this bill propose to abolish the Medical Council containing elected representatives from each State and University and it shall be replaced by the nominated personal by the Central Government.

In India, we have so many regulatory councils like Bar Council, Press Council, Nursing Council, etc and all have the same system of democratic representation and filled only by people of high caliber belonging to their same profession. However this proposed bill envision to have more than 40 percent non medicalprofessionals to be nominated as members of this Council. It is ironic, people have no relevance to Medical curriculum, education and practice shall administer and direct the council.

Voting right to elect their representatives, to represent their concerns and views in a regulatory body is a fundamental right on every regulated

member. This bill defranchises the right of 1.15 lakhs doctors registered in our Council to elect their representatives and also the Universities and State to be represented by their members in this commission.

Tamil Nadu Medical Council also opposes the brazen manner in which NEET is proposed without taking steps to have common feet in the system of education provided. It is pathetic to note Central Government Institutions are exempted from the purview of NEET, thereby making mockery of the objective of not to make students face various entrance examinations.

TN Medical Council totally opposes the proposed EXIT Exam. It invokes every student who has completed their 4 ½ year studies in a MCI approved Institutions, Passed out examination by MCI approved Universities and done 1 year of internship in a MCI approved hospital, yet cannot register as Doctor, unless he passes the centralized National Licentiate Examination by the commission. It is an act impinging on the federal structure of the constitution and degrading the Universities and Medical Colleges under the State Control as the central Government Institutions are exempted from this. It will produce acute shortage of Health care Professionals and short cut like Vyapam Scam will prevail.

Our State Medical Council is constituted in 1914 with a separate act and we are an autonomous democratic participatory council and the proposal to bring the state council under the commission is totally non-acceptable.

Hence we totally oppose this draft bill and request the Central Health Ministry to not proceed with the draft bill.

Dr. J.A. Jayalal
President i/c, TNMC



Medical Council of India

To provide quality medical care to all Indians through promotion and maintenance of excellence in medical education

Move to Replace MCI, a Remedy Worse than Malady

Dr. Jayshree Mehta, president of the Medical Council of India which has been under the scanner for corruption and is currently being monitored by a three-member committee mandated by the Supreme Court, has said that the Council was not 'given a reasonable opportunity' to present its side of the story. She said the negative attention on the MCI, following a report by a Parliamentary Standing Committee, was unfair and claimed the report did not reflect reality.

'NOT GIVEN TIME'

"We sought time from the Parliamentary Committee but were not given any time. To that extent, the Medical Council was denied the mandatory opportunity of hearing, which the principles of natural justice guarantee," Dr. Mehta said, adding that the Parliamentary Standing Committee did not bring out any specific complaints of corruption of any type and magnitude.

On the decision of the NITI Aayog to scrap the MCI and replace it with the National Medical Commission, Dr. Mehta termed it the "remedy more dangerous than the disease." "The draft Bill on the National Medical Commission, 2016, is plagued by several problems and contradictions," which would result in "complete loss of democratic character expected of a regulatory body," she said.

Dr. Mehta said the Supreme Court mandated Lodha panel which is monitoring the functioning was not the first

oversight panel for the Council.

"In 2001, the Delhi High Court appointed a full time administrator who supervised the MCI's functioning for a year. During that year, they could not bring even a single event pertaining

to the functioning of the Council, which could be said to be contrary to the governing rules," Dr Mehta claimed.

Later a four-member ad hoc committee as formed which examined all of the MCI's decisions between 1996 to 2001. "So, we have been under scrutiny from 1996 - 2001 and then 2002 - 2009 and nothing has been found. While the Lodha Committee does not in any way disrupt the functioning of the Council, the decisions/recommendations given by MCI have remain unimplemented for the substantial period of time," she said.

Asked why the MCI did not inspect the medical colleges even after being asked to do so by the Lodha panel, Dr Mehta said the panel had wanted the applications for starting new colleges/increase of seats that had been rejected by MCI be accorded another opportunity of compliance. "We considered all the applications in our Executive Committee meeting and found that all these applicants had already been given the required opportunity to comply."



Dr. Jayshree Mehta, President - MCI

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WHY WE OPPOSE THE DRAFT BILL ON NATIONAL MEDICAL COMMISSION AND REPEAL OF IMC ACT 1956 ?

Compiled by **Dr.K.Prakasam, Past President, TNMC** and
Dr.M.S. Ashraf, Past President, TNMC

NitiAayog has recently put the proposed National Medical Commission Bill – 2016 on the public domain and had invited observations and comments from the stake holders. On behalf of the TNMC, we have submitted the following observation opposing the draft.

1. There is nothing new in the proposed bill, instead the NitiAaygo should have asked for suggestions to amend the existing IMC act 1956 and its subsequent amendments.

2. In the present bill the representative character, which is a must for any regulatory body, a fine balance between the elected and nominated members, has been completely given go by. In fact in the proposed bill, there is total exclusion of elected members. It will have 100% nominated members.

3. The present MCI under the IMC act has representations from all State Medical Councils, health science universities and registered medical practitioners. The same will be lost with the new bill.

4. Health is a state subject and the state doctors are regulated by the state medical councils. How can one justify no representation of state medical councils in NMC? Also the state Medical Councils are autonomous independent bodies but under Sec. 14(5) NMC can take action against state medical councils to ensure for compliance.

5. Also it is likely that the autonomy vested with the State Medical Councils which are independent creation of respective state legislation will go in the next phase. All State Medical councils are

likely to be replaced by nominated councils in future.

6. The bill stipulates the denial of legitimate right of the medical education conferring universities in terms of their representation in the composition of the regulatory body in spite of they being the exclusive key player.

7. It is possible that in near future NitiAayog may suggest similar bills to replace Dental Council of India, Nursing Council of India, Pharmacy Council of India etc. and it is possible to take similar steps even to non-medicals like Bar Council of India or Chartered Accountants of India.

8. The Bill in its present format will also do injustice to people of Jammu and Kashmir as the present bill does not talk about its applicability to Jammu and Kashmir when the existing IMC Act specifically mentions about it.

9. All the powers in NMC are vested with the Chairperson who will also be the ex-officio chairperson of medical advisory council. The Chairperson will be appointed or nominated by the Central Government. Loop holes have been kept in the criteria for selection: any one with over 20 years of experience in profession out of which 10 years shall be in a leadership role. The word leadership role has not been defined and probably kept to suit the nominators. The term of the chairperson also has been limited for maximum 2 terms of 4 years each and retirement age also has been kept at 70 years.

10. There are further ambiguities in the bill also. Sec. 12 (3) prohibits Chairperson after retirement for accepting employment in private medical college for 1 year but Sec. 12(5) allows central government to permit Chairperson to accept such appointments.

11. The Chairperson will always be on the mercy of the government as the government can remove the Chairperson on flimsy grounds such as physical, mentally incapable of performing duties, abusing position, making persistent defaults, not performing or not

complying with actions of the Government.

12. The medical assessment and rating boards like the under graduate and post graduate education boards, although are designated to be autonomous yet they would be seeking directions from the Government through the commission in regard to its tasks dispensation.

13. Under Section 19(4) NMC may allow and sanction locally designed courses by individual institutions which will open the medical education beyond standards.

14. Under Sec. 20(1) and 23(1) President of the under graduate or the post graduate board is empowered to take all decisions on behalf of the board that means that all the powers are vested with the President and not with the board.

15. The said Boards under Section 25(2) would be entitled to hire 3rd party agencies for accreditation including empanelling the same which would be opening flood gates for the various private rating agencies.

16. Under Section 23 (3) the said Board would be evaluating the scheme for opening new medical colleges and make recommendation in regard to approval or disapproval without any necessity on onsite inspection and on the basis of paper assurances. Further by a provision to Sec 27(4), the Board is entitled to make relaxation for opening of a medical college in unserved area without defining the same and therefore opening an avenue for discretionary authority. As such the entire process would end up in dilution of the desired standards and resultant production of comprised graduates.

17. The Sec. 28(3) provides for a board of medical registration that would have a President and 2-Part time members which is different from the other boards namely, under graduate and post graduate rating board respectively.

18. There is no clarity proposed in the Bill pertaining to who will

be the primary registering authority.

19. Under Sec. 29(2) (ii), all the professional organisations and associations of doctors have been brought under the Disciplinary jurisdiction of NMC without realising that the Association / organisations of doctors are not registered under the State Medical Register or the National Medical Register, as the case may be.

20. Under Sec. 29(2) (v) it is contemplated that the States or Union Territories where there is no State Councils, the same has to be put into place within 3 years from the date of the said Bill coming into force which is a direction contrary to the spirit of federalism. It has also been provided that during the transitory period the board of medical registration would have the trial jurisdiction for registered medical practitioners of the State/UT where there is no State Medical Council without bringing out as to what authority would have appellate jurisdiction.

21. The said Board under Sec. 30(2) would be administered by the President or a Part Time member in singular or a combination of both which is different from the other boards without indicating who would be assigning the said onus to the part time member.

22. Under Sec. 31(1) the Board has the requisite of the licentiate examination which in reality puts a question mark on the credibility of the universities conferring MBBS qualification.

23. NMC has proposed an Exit Exam but has simultaneously proposed that if the person does not clear the exam, he can be allowed to practice on the basis of mercy appeal. Under Sec. 31 (3) (d), exemption can be granted by the Commission to practice without clearing the national licentiate examination. This negates what is provided for under Sec. 31(1) read with Sec 17 of the proposed Bill. This discretionary power is open for misuse resulting in manipulation and corruption.

24. Under Sec. 32, governing recognition of qualifications no

provision is made for renewal of the same.

25. Sec. 33(3) provides an opportunity to appeal to central government in respect of medical institutions outside India trying to set up institutions in India but no such provision is made for medical institutions in the country which brings out the grossest medical discrimination.

26. Sec. 35 makes the provision for “other medical qualifications granted by any other bodies which is opening Pandora’s Box in this regard. This would provide a back door entry for non MBBS doctors to enter in the register. The said provision gives absolute authority to the central government to include said other qualifications in schedule 4 which has not been defined.

27. Under Sec. 42(3) merger of National Board of Examinations is brought out with the PG Education Board which is solely aimed at a back door validation of qualifications granted by DNB and upon merger they would be included in schedule 1 of the IMC act.

28. Under Sec. 44, rules can be made by the central government but no modality is providing as to how regulations would be made and what will be the matters on which they would be made.

29. Sec. 45 provides central government with an overriding authority to not only direct the commission to amend the regulations but also direct them to make or revoke regulations amounting to usurpation of the authority of making even subordinate legislation which is unheard of.

30. Further in case the said direction is not implemented by the Commission the Government will Sue-motu can dispense the same on its own. That cannot be a more vulgar way of trampling upon the autonomy in such a high handed manner. The net result would be that the NMC powers which stands centralized in the hands of handpicked President would ultimately will be under the total dictates of the Government resulting in the Commission getting transformed into an extended Babudom of the government of India.

WHY THE DRAFT NATIONAL MEDICAL COMMISSION BILL 2016 SHOULD BE OPPOSED ?

By TEAM IMA

The Draft National Medical Commission Bill 2016 is to replace the Indian Medical Council Act. There is nothing new in the objectives of the proposed bill. All the functions enumerated therein are already being carried out presently by Medical Council of India under the aegis and provisions of IMC Act which the proposed bill seeks to repeal.

A fatal flaw of the Draft NMC bill is, that there is ambiguity as to whether it will extend to J & K. Present IMC Act specifically says “including Jammu & Kashmir.”

The definition (Section k of draft NMC bill) itself, is totally wrong. The system of medicine that MBBS doctors are trained in and practicing, is NOT called allopathic medicine at all. It is termed either as Modern Scientific Medicine or as Evidence Based Medicine. The prevailing Indian medical Council Act, 1956, Sec 2, DEFINITIONS,(g) defines “medicine” as modern scientific medicine in all its branches and includes surgery and obstetrics, but does not include veterinary medicine. The manipulation of the definition itself in the proposed bill is with a malicious intention of allowing non MBBS persons to practice modern medicine.

The representative character of Medical Council of India and the fine balance between elected and nominated members have been completely eliminated in the draft NMC bill. In fact, in the proposed

bill, there is total exclusion of elected members thereby making a mockery of democracy.

Because of the representative character of MCI, it is able to play a watch dog role on the government decisions in the medical education sector. By the proposed NMC act, the body becomes an extended wing of the government, so much so, any decision of the government which is against public health go unchallenged.

If implemented, non medical persons will become the decision makers,

The draft NMC act has 40 percent non medical persons, by itself this commission will cease to exist as a professional medical body.

The MCI act through clause 16(c) ensures that modern medicine can only be practiced by MBBS doctors whose names are included in the National Medical Registry. Clause 35 of draft NMC act gives provision for recognising other medical qualifications which may provide lateral entry of other 'pathies' which are today excluded as per prevalent provisions of IMC act. So non MBBS persons can get registered in NMR & start practising modern medicine which will have adverse effect on public health.

Universities which are major stakeholders also have no representation in the draft bill.

State Medical Councils, which regulate medical practitioners within their respective States have no representation.

Registered medical practitioners also will lose their representation in the commission.

Therefore, any proposal, that will take away the self-regulatory and democratic structure of the Medical Council, as enshrined in

our prevalent laws is objectionable.

Section 14 (5) of the draft NMC bill gives provision for taking action against State Medical Councils, as it deems fit to ensure compliance. This is totally contrary to federal structure, as State Medical Councils are independent Councils constituted under their respective State Legislatures. NMC cannot have such overarching jurisdiction.

Section 14 (7) of draft NMC bill prescribing fees in Private Medical Institutions, is contrary to Hon'ble Supreme Court order in Inamdar case, wherein Fee Fixation Committee under the Chairmanship of Retd. High Court Judge is constituted for determining fees. Further this provision prescribes determination of fees for seats not exceeding 40 % and is silent on the fees for remaining seats. The Section 14(7) is vague enough, so that one can interpret that government can prescribe fees within 40 percent and it could even be 1 percent. **This will definitely make medical education very expensive and out of the reach of poor students.**

It is envisaged to include Organizations / Associations of Doctors within ambit of Regulation of Professional Misconduct. This is contrary to law as Organizations / Associations of Doctors are not registered. Code of Ethics can be made applicable only to a person who is registered. Hence provision to include Organization / Association of Doctors is wholly illegal.(Quote Hon'ble Delhi High Court order)

The draft NMC Bill 2016, Section 16, proposes to bring the National Eligibility-cum-Entrance Test (NEET) for admission to under-graduate medical education under the purview of National Medical Commission and Section 17 proposes to bring a National

Licentiate Examination for the professionals graduating from the Medical Institutions under the purview of NMC. Section 22 (4) empowers PGMEB under NMC to determine and prescribe the minimum requirements and standards for conduct of all post graduate and super specialty courses and their examinations in Medical Institutions and Section 42(3) proposes the merger of the National Board of Examinations (NBE) with the PGMEB and allows the PGMEB to add into its fold the courses conducted by and qualifications awarded by National Board of Examinations (NBE).

These provisions would mean that 2-3 individuals, as NMC Chairman/Board Presidents, will control all the admissions to medical graduate courses, exit examinations at the end of graduation that would also be the entrance test for PG courses, and also PG courses and their examinations thereafter. And two of these Board Presidents need not be medical professionals at all.

Excluding institutions governed by their own Acts (Deemed universities) defeats the very purpose of NEET, as it means multiple examinations. There is no justifiable reason for excluding them as such.

Requirement of Licentiate Examination after passing MBBS, is not necessary at all and is wholly avoidable duplication. It also casts aspersion on Universities who are conducting MBBS Examinations. It would also reduce available manpower required to provide health care. A student who has passed MBBS Examination but fails in Licentiate examination would not be available for meeting health manpower needs. Present system has worked well for more than 2 centuries and there is no ostensible reason to change.

It is envisaged that Commission may permit a medical

professional to perform surgery or practice medicine without qualifying National Licentiate examination. This is antithesis of 31 (1). Such discretionary powers which strike at the root of a law or rule cannot be permitted and will encourage manipulation and corruption.

In Section 31 (3(d)) no procedure is prescribed for including qualifications in the Third Schedule.

Provision for recognizing “Other” medical qualifications granted by any other body is too vague and discretionary. It may provide lateral entry for so many other “pathies”, which are to-day excluded as per relevant provisions of IMC Act.

Schedule IV is not defined.

Permitting such graduates in National Medical Register (NMR) will entitle them to all benefits and privileges, including admission to PG courses in Modern Medicine which should not be permitted.

The section 20(1) of draft NMC bill empowers the president of the commission to take all decisions on behalf of different boards. This is too much concentration of power in a single individual. In such an eventuality, there is no purpose in having boards for undergraduate, Post graduate courses and for ethics committee.

Section 23 (1 and 2) states that any appeal against the decision of the president of NMC can be only within itself, the decision on appeal by NMC is final and binding on all concerned. This means that there is no provision for external appeal at all. This is not only unjust but dictatorial as well.

Thus within this non representative body, the president is

empowered to take all decisions and against the decisions of the president no appeal is allowed outside the commission. By no stretch of imagination one can think of legislation which gives absolute and autocratic power to its president.

A critical perusal of draft NMC bill glaringly brings out the following.

1. The objectives of the IMC act and the draft NMC bill are absolutely same, then what is the purpose of the new bill.
2. The representative character of the IMC act is completely lost, there by the watch dog role that naturally a professional body should play is lost.
3. The NMC is converted into a department of health ministry and the safety valve provided in the IMC act to oppose decisions of the government which are against the interest of the public health is also done away with.
4. The autonomy of the state medical councils is tampered with against the principles of federalism.
5. Medical education will become very expensive and unaffordable to the poor.
6. Enough scope is given in the provisions of the draft bill to dilute the very objectives of the bill - eg. When licentiate examination is contemplated, there is provision to allow even those who do not pass to practice, when a common entrance examination (NEET) is considered exclusion clauses are provided, when certain sections mention about excluding members who have conflict of interest, provision is given for the government to exempt persons of their choice from this clause.
7. The draft NMC bill's main objective is to have highest standard

in medical education and practice. But enough provision is provided in the bill for lateral entry of non MBBS persons.

8. As per the draft bill, the CEO of NitiAyog is an official of NMC. If a member of the policy making body becomes a member of a commission itself, how can NitiAyog impartially and without conflict of interest assess the performance of the commission for improvement.
9. There are provisions in the draft bill (Sections 16, 17, 22(4), 42(3)) which empower 2 or 3 individuals like NMC Chairman/ Board Presidents to control all the admissions to medical graduate courses, exit examinations at the end of graduation that would also be the entrance test for PG courses, and also PG courses and their examinations thereafter. Two of these Board Presidents need not be medical professionals at all. This again allows concentration of power in few individuals, resulting in inefficiency and corruption. Presently the NEET examination is conducted by National Board of Examinations (NBE)
10. The president of the commission is armed with absolute power through various sections of the draft bill, which by itself is against the democratic norm and against the spirit of any act.
11. Today the axe is falling on Indian Medical Council Act. If the draconian draft National Medical Commission Bill which is to replace IMC act is not opposed, the same fate will fall on all other para-medical councils and other professional councils
12. The draft NMC bill is legally unsound, undemocratic, and self defeating and contradicting its own objectives, rendering itself impossible for any amendment other than complete repeal.

“The remedy will prove to be worse than the malady”

**Draft bill on proposed National Medical Commission submitted by Niti Aayog in the Web.
On behalf of TNMC, we present the exact bill and our opposition for each aspect of the bill.**

CN	Chapter	Clause/Section	CONTENTS	OBSERVATIONS AND COMMENTS
1	PRELIMINARY	1, Short title, Extent and Commencement	<p>(1) This Act may be called the National Medical Commission Act, 2016.</p> <p>(2) It extends to the whole of India</p> <p>(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.</p>	<p>Will it extend to J & K ? Present IMC Act specifically says “including Jammu & Kashmir.”</p>
		2. DEFINITIONS	<p>(a) “Board” means any of the Boards referred to under subsections (d) to (g) below.</p> <p>(b) “Council” means the Medical Advisory Council constituted under this Act.</p> <p>(c) “Commission” means the National Medical Commission (NMC) constituted under section 6 of this Act.</p> <p>(d) “Undergraduate Medical Education Board” (UGMEB) means the Board constituted for Undergraduate medical education under section 18.</p> <p>(e) “Post Graduate Medical Education Board” (PGMEB) means the Board for Postgraduate medical education constituted under section 21.</p> <p>(f) “Medical Assessment and Rating Board” (MARB) means the Board for assessment and rating of medical colleges constituted under Section 24.</p> <p>(g) “Board for Medical Registration” (BMR) means the Board constituted under Section 27.</p> <p>(h) “License to practice” means a suitable mechanism, as defined by the NMC, to allow medical graduates to do medical practice in India.</p>	<p>2.k. The word ‘Medicine’ has been defined. In the said definition ‘Homeopathy’ has been included as an illustrative example of Indian System of Medicine, which is ‘erroneous’. Further Ayurvedic Medicine including Unani, Siddha and Naturopathy, which is a Indian System of Medicine has not been explicitly excluded, which was a must for best known reasons. The definition (Section k of draft NMC bill) itself, is totally wrong. The system of medicine that MBBS doctors are trained in and practicing, is NOT called allopathic medicine at all. It is termed either as Modern Scientific Medicine or as Evidence Based Medicine. The prevailing Indian medical Council Act, 1956, Sec 2, DEFINITIONS, (g) defines “medicine” as modern scientific medicine in all its branches and includes surgery and obstetrics, but does not include veterinary medicine. The manipulation of the definition itself in the proposed bill is with a malicious intention of allowing non MBBS persons to practice modern medicine.</p> <p>(2.r) The ‘University’ has been defined where at a reference is missing pertaining to governing sections 2(f) and 3 of the University Grants Commission Act.</p>

- (i) "National Register" means the medical register maintained by the BMR.
- (j) "Medical Institution" means any institution, within or outside India, which grants degrees, diplomas or licenses in medicine.
- (k) "Medicine" means, unless the context demands otherwise, all branches of allopathic medicine such as surgery, paediatrics and obstetrics and gynaecology but does not extend to Indian systems of medicine such as homeopathy or to veterinary medicine, veterinary surgery and dentistry.
- (l) "Prescribed" means prescribed by rules and/ or regulations.
- (m) "Recognized medical qualification" means any of the medical qualifications included in the Schedules.
- (n) "Rule" means a rule made under section 40;
- (o) "Regulation" means a regulation made by the NMC under section 14;
- (p) "State Medical Council" means a medical council constituted under any law for the time being in force in any State/Union Territory 3 regulating the registration of practitioners of medicine in the given state/ Union Territory
- (q) "State Register" means a register maintained under any law for the time being in force in any State/Union Territory regulating the registration of practitioners of medicine.
- (r) "University" will have the same meaning as defined in the University Grants Commission Act, 1956.

			<p>(s) "Health University" means a class of University as defined in subsection (r) above specializing in affiliating institutions engaged in teaching medicine, medical and health sciences. This expression, unless it is repugnant to the context, shall also include the expression Medical University and University of Health Sciences.</p> <p>(t) "NBE" means the National Board of Examinations registered under the Societies Registration Act, 1860.</p> <p>(u) "Central Government" means the Ministry or Department in-charge of Health, Family Welfare and Medical Education.</p>	
2	THE MEDICAL ADVISORY COUNCIL	3. Constitution and Composition	<p>(1) The Central Government shall constitute a Council to be called the Medical Advisory Council (2) The Council shall consist of:</p> <p>a. One member to be nominated by every State government who would either be a Vice Chancellor of a Health University or a person not below the rank of Professor from amongst the faculty of a Medical Institution with the State.</p> <p>b. Two members, to represent Union Territories, to be nominated by the Ministry of Home Affairs who shall possess medical qualification as may be prescribed.</p> <p>c. All members including the Chairperson of the National Medical Commission shall be ex-officio members of the Council and the Chairperson of the National Medical Commission shall be the ex-officio Chairperson of the Council</p>	<p>1. All members (i.e. 100 %) are nominated members. There is no representative character.</p> <p>2. Universities which are a major stakeholder have no representation.</p> <p>3. State Medical Councils which regulate medical practitioners within their respective States have no representation.</p> <p>Chairperson of NMC is ex-officio Chairperson of MAC. This strikes at the root of autonomy of Advisory CouncilThe word used in the text is 'faculty of a Medical Institution' without indicating its nature as to whether it would be 'full time/part time/honorary/visiting/adjunct' etc. Further the expression used is 'faculty of a medical institution with the State' is restrictive in as much as it will amount to a teaching faculty in a Govt. run and managed medical college alone</p>

		<p>4. Functions of Medical Advisory Council</p> <p>(1) The Role of the Council shall be entirely advisory in nature</p> <p>(2) The Council shall serve as the primary platform through which the states would put forward their views and concerns before the National Medical Commission (NMC) and shall help shape the overall agenda in the field of medical education & training.</p> <p>(3) The Council shall advise the National Medical Commission (NMC) on the measures to determine, maintain and coordinate the minimum standards in the discipline of medical education, training and research.</p> <p>(4) The Council shall advise the National Medical Commission (NMC) on measures to enhance equitable access to medical education</p>	<p>1. One of the function of MAC is to advise MMC on measures to determine, maintain, co-ordinate minimum standards in medical education, training & research; however surprisingly not a single member is from Medical Education or from Universities.</p> <p>2. The areas where the Medical Advisory Council would advice has not included the area of 'practicing of the profession'. It is a significant omission</p>
		<p>5. Meeting of the Medical Advisory Council.</p> <p>(1) The Council shall meet at least once every year at such time and place as may be appointed by the Chairperson.</p> <p>(2) The Chairperson shall preside over the meetings of the Council. If for any reason, s/he is unable to attend, such other member as nominated by the Chairperson shall preside over the meeting.</p> <p>(3) Unless otherwise provided by regulations, 15 members including the Chairperson of the Council shall form a quorum and all the acts of the Council shall be decided by a majority of the members present and voting. Absentee votes will not be permitted.</p>	
3	THE NATIONAL	<p>6. Constitution</p> <p>(1) The Central Government shall constitute a Commission, to be called the National Medical</p>	<p>1. There are 30 States in India. As members of only 5 States can be nominated simultaneously,</p>

<p>MEDICAL COMMISSION</p>	<p>and Composition</p>	<p>Commission.</p> <p>(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.</p> <p>(3) The Central Government shall, by notification, establish autonomous Boards under the overall supervision of this Commission, to fulfil the functions related to the conduct of under-graduate and post-graduate education, assessment and rating of medical institutions and registration of medical practitioners and enforcement of medical ethics.</p> <p>(4) The Commission shall comprise a Chairperson, a Member Secretary, 8 ex-officio members and 10 part time members.</p> <p>(5) Of the ex-officio members, four shall be the Presidents of the Boards constituted under this Act; and the remaining four shall be nominees— one each of the Ministries of Health and Family Welfare, Department of Pharmaceuticals and Human Resources Development and one of the Director General of Health Services; Provided that the nominees of the Ministries shall be officials not below the rank of Joint Secretary; Provided further that the nominee of Director General of Health Services shall not be an official below the rank of Deputy Director General.</p> <p>(6) Of the part-time members, five shall be</p>	<p>chance of any one State to have nominee will come once in 12 years only and that too for a 2 year term against one nominee for full 5 year term in present MCI. Even in this actually States will have no say as these members will be nominated by Central Govt. from members of MAC.</p> <p>2. This will be 100 % nominated Commission having no representative character which is contrary to democratic tenets.</p> <p>3. Out of 4 nominated members, 3 are representatives from Ministries who are non-medical. 5 part time members are from diverse non-medical background. Thus out of 18 members, as many as 8 –i.e. 44 % - will be from non-medical background who will decide highest level policy matters related with medical education !</p> <p>4. General superintendence & control is with Chairperson. This is certainly undemocratic.5. Although Universities are major stakeholders, they will have no representation in NMC.</p> <p>6. State Medical Councils, which regulate medical practitioners within their respective States have no representation.</p> <p>7. Registered medical practitioners also will lose their representation in the commission.</p> <p>Therefore, any proposal, that will take away the self-regulatory and democratic structure of the Medical Council, as enshrined in our prevalent laws is objectionable.</p> <p>3. CONSTITUTION & COMPOSITION OF THE EXISTING MEDICAL COUNCIL1. One member</p>
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		<p>persons to be appointed by the Central Government from diverse backgrounds including management, economics, law, consumer or patient rights advocacy, health research, science and technology.</p> <p>(7) The remaining five part- timemembers shall be from amongst the nominees of the States and Union Territories in the Medical Advisory Council, who shall be appointed on a rotational basis for two-year terms by the Central Government in the manner prescribed.</p> <p>(8) The general superintendence, direction and control of the administration of the Commission shall vest in the Chairperson</p> <p>(9) No act done by the Commission shall be questioned on the ground of the existence of a vacancy in, or a defect in the constitution of the Commission.</p>	<p>from each State other than a Union Territory to be nominated by the Central Government in consultation with the State Government concerned.</p> <p>2. One member for every 10 medical colleges 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.</p> <p>3. 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.</p> <p>4. 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 Part I of the Third Schedule.</p> <p>5. Eight members to be nominated by the Central Govt.</p>
	7. Secretariat	<p>(1) There shall be a Secretariat for the Commission to be headed by the Member Secretary of an appropriate rank, who shall be the ex-officio Secretary to the Commission.</p> <p>(2) The Member Secretary shall be appointed by the Central Government for a term of four years in the manner as may be prescribed and shall not be eligible for re-appointment.</p> <p>(3) The Member Secretary shall discharge such</p>	<p>7(1) Secretariat for the Commission would be headed by the Member Secretary of an 'appropriate rank', without anywhere explicitly indicating what exactly that appropriate rank would be.</p> <p>7(2) This condition of not being eligible for re-appointment may not attract best talents</p>

			<p>functions as may be specified under the regulations made by the Commission and/ or may be assigned to him by the Commission from time to time.</p> <p>(4) The Commission may fill-up the posts created in the Secretariat by the central government with such professionals, officers and other employees from diverse backgrounds including medical education, public health, management, health economics, quality assurance, patient advocacy, health research, science and technology, administration, finance or law, as it or its constituent Boards considers necessary for the efficient discharge of its functions under this Act. The recruitment process, salaries and allowances and other terms and conditions of service of the Member Secretary and other professionals, officers and employees of the Commission shall be such as may be prescribed.</p> <p>(5) The professionals, officers and staff engaged by the Commission shall be employees of the Commission and shall be deployed to the constituent Boards based on procedure as may be prescribed.</p>	
		<p>8. Qualification for appointment as Chairperson of the Commission,</p>	<p>(1) The Chairperson shall be a person of outstanding ability, proven administrative capacity and integrity with a post graduate degree in any discipline of medical sciences from a university, and having not less than twenty years' experience in the profession, out of which at least ten years shall be in a <u>leadership role</u>, in the area of health care delivery, growth and development of modern medicine or medical education.</p>	<p>Selection criterion at least 10 and 7 years in leadership role is vague. What constitutes "leadership role" needs to be precisely defined. Position of President of Boards dealing with Medical Education should be restricted to senior faculty position. The word leadership role has not been defined and probably kept to suit the nominators.</p>

		President of the Boards	(2) The Presidents of the Boards shall be persons of outstanding ability, proven administrative capacity and integrity with post-graduate degree in the disciplines of medical science, medical education, public health, community medicine or health research from a University, and having not less than fifteen years' experience in the profession, out of which at least seven years shall be in a leadership role.	
		9. Mode of Appointment	The Central Government shall appoint the Chairperson, President of the Boards, Part time members and the Member Secretary, referred in Sections 8(1), Section 6(6) and Section 7(2), through an open and transparent selection process by a Search and Selection Committee provided for in this Act	
		10. Search and Selection Committee	<p>(1) The Central Government shall constitute a Search-cum-Selection Committee consisting of:</p> <ol style="list-style-type: none"> a. Cabinet Secretary b. CEO, NITI Aayog c. One person having outstanding qualifications and experience of having worked for not less than twenty-five years in the field of Medicinal Sciences/ Public Health to be nominated by Ministry of Health and Family Welfare, Govt. of India. d. One person having outstanding qualifications and experience of not less than twenty five years in the management, or law, or economics or science and technology to be nominated by Ministry of Health and Family Welfare, Government of India 	<p>(2) It is contemplated that 'Search-cum-Selection Committee' would recommend a panel of names for every vacancy referred to it without indicating the minimum number of names to be included in the said panel.</p> <p>(3) Search & Selection Committee is fully comprising of Government officials &</p>

		<p>e. Secretary to the Government of India, in charge of the Ministry of Health and Family Welfare, as the Convenor.</p> <p>(2) The Search-cum-Selection Committee shall recommend a panel of names for every vacancy referred to it.</p> <p>(3) Before recommending any person for appointment as the Chairperson or President of the Boards or other Members of the Commission, the Committee shall satisfy itself that such person does not have any financial or other conflict of interest, which is likely to affect prejudicially his functions as Chairperson or President or Member, as the case may be.</p> <p>(4) No appointment of the Chairperson or President or Member of the Commission or the Boards, as the case may be, shall be invalid merely by reason of any vacancy or absence of Member in the Search-cum-Selection Committee.</p> <p>(5) Subject to the provisions of sub-sections (1) to (4), the Search-cum-Selection Committee may regulate its own procedure.</p>	<p>nominees. It is not made clear how the Search & Selection Committee would select personnel whose names would be included in the panel of names. It is merely said that Search cum Selection Committee may regulate its own procedure.</p> <p>(5) The Search-cum-Selection Committee is authorised to regulate its own procedure, which is too liberal a connotation to be used in a statutory sense</p>
	11. Terms of Chairperson and Members	<p>(1) The Chairperson of the Commission or the part-time Members, as mentioned in section 6(6) of the Commission shall hold office for a term, not exceeding four years and not extending beyond the expiry of his/ her term as Member of the Commission.</p> <p>(2) The Presidents of the Boards shall hold the office for a term not exceeding four years.</p> <p>(3) The Chairman, part-time Members and the President of the Boards, as referred in sub-</p>	<p>1. Maximum 2 terms for Chairperson/President are prescribed which is against democratic tenets.</p> <p>2. Maximum age prescribed for Chairperson is 70 years & for President / Member of Board as 65 years which also are against democratic tenets.</p> <p>3. The age at which the Chairperson would cease to hold the office is stated to be 70 years as against for the president of the Board /</p>

			<p>sections (1) and (2) above, shall be eligible for re-appointment for another term of four years. Provided that the maximum term of a person as the Chairperson, President of the Board and/ or Member shall not exceed eight years in aggregate; Furthermore the Chairperson shall cease to hold office after he/ she has attained the age of seventy years and the President of the Board/ Member of the Commission shall cease to hold office after he/ she has attained the age of Sixty Five years.</p> <p>(4) A Member/ Member Secretary shall be deemed to have vacated his/her seat if he/she is absent from three consecutive ordinary meetings of the Commission and the cause of absence is not attributable to valid reasons in the opinion of the Commission.</p> <p>(5) The Central Government shall initiate the process of appointment of the Chairperson/ President of the Boards, 3 months before the expiration of their term. However, the new Chairperson/ President shall not assume office until the term of the outgoing member has expired.</p>	<p>member of the commission as 65 years, which is contradictory specially when the membership or Presidentship of the Board is not a condition precedent for the appointment for the Chairperson of the Commission.</p>
		<p>12. Terms and Conditions of service</p>	<p>(1) The salary and allowances payable to the Chairperson, President of the Board and other Members shall be such as may be prescribed.</p> <p>(2) The Chairperson, President of the Board and/ or Member(s) in discharge of their official duties shall ensure that there is no conflict of interest as per prescribed rules. Violations shall be treated as misconduct inviting action under the relevant penal clauses of this Act.</p>	<p>1. Section 12(3) prohibits Chairperson/ President/Member from accepting employment in private medical college for a period of 1 year. Section 12 (5) allows Central Govt. to permit Chairperson/President/Member for accepting such appointment. Section 12 (5) stipulates discretionary authority and would lead to nepotism & favouritism in the matter of Central Govt. permitting such employment. As such, what has been stipulated in terms of desirable</p>

			<p>(3) The Chairperson, Members and the President of the Board, on ceasing to hold office shall not, for a period of one year from demitting such office, accept any employment (including as consultant or expert or any other) in any private medical educational institution, whose matter has been dealt with by such Chairperson/ Member or President of the Board, directly or indirectly.</p> <p>(4) Nothing in sub-sections (2) & (3) shall prevent the Chairperson, President of a Board or a Member from accepting employment in a body or institution including medical educational institutions controlled or maintained by the Central Government or a State Government.</p> <p>(5) Nothing in sub-sections (2) & (3) shall prevent the Central Government from permitting the Chairperson/ Member or President of the Board for accepting any employment (including as consultant or expert or any other) in any private medical educational institution, whose matter has been dealt with by such Chairperson/ Member or President of the Board.</p>	<p>embargo with reference to conflict of interest under section 12(3) has been totally subverted by provisions included under section 12(5), which amounts to providing for by the right hand and snatching away by the left hand. Sec. 12 (3) prohibits Chairperson after retirement for accepting employment in private medical college for 1 year but Sec. 12(5) allows central government to permit Chairperson to accept such appointments.</p>
		<p>13. Resignation and Removal</p>	<p>(1) The Chairperson, a President of a Board or a Member may, by giving notice of a period not less than three months to the Central Government, resign from his office. If mutually agreeable, such Chairperson, President or Member may be relieved from duties earlier than three months or allowed to continue beyond three months until a successor has been appointed.</p>	<p>(1) It has been stipulated that for the purposes of resignation by the Chairperson / Board Presidents and members three months notice would be required to the Central Govt. It further goes to say 'if mutually agreeable, such Chairperson / President / member may be relieved from duties earlier than three months or allowed to continue beyond three months until a successor has been appointed' which is</p>

(2) The Central Government may, by order, remove from office the Chairperson, President of a Board or any Member, who— a. has been adjudged an insolvent; or b. has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or c. has become physically or mentally incapable of performing his or her duties; or d. is of unsound mind and stands so declared by a competent court; or e. has been removed or dismissed from the service or office of the Central Government or of a State Government or from a body owned or controlled by the Central Government or a State Government or from any Central or State statutory body; f. has acquired such financial or other interest as is likely to impair his ability to perform his duties; or g. has so abused his position as to render his continuance in office prejudicial to public interest; or h. has been guilty of proved misconduct; or i. has been guilty of proved conflict of interest in the discharge of his functions or j. has not been able to perform or has made persistent defaults- i. in the performance of the duties expected of him under this Act or has exceeded or abused his position; or ii. either willfully or without sufficient cause neglects to comply with the directions issued by the Central Government under sections 40 or 41.

(3) The Chairperson/ President of a Board or any Member shall not be removed from his office under clauses (a), (b), (f), (g), (h), (i) and (j) of the preceding sub-section unless he / she

open ended and therefore prescription of a time limit is inevitably necessary.2.(c) It permits Central Govt. to remove Chairperson/ President/Member on the ground being physically or mentally incapable of performing his or her duties. This is too vague.2(g) It permits Central Govt. to remove Chairperson/ President/Member on the ground that “has so abused his position as to render his continuance in office prejudicial to public interest.” This is too vague.2(j) It permits Central Govt. to remove Chairperson/President/Member on the ground that “has not been able to perform or has made persistent defaults —.” This is too vague2.j (ii) It permits Central Govt. to remove Chairperson/President/Member on the ground that “either wilfully or without sufficient cause neglects to comply with directions issued by the Central Govt. u/s 40 & 41.” This strikes at the root of autonomy of NMC. It will make NMC entirely a department of Central Govt.The Chairperson will always be on the mercy of the government as the government can remove the Chairperson on flimsy grounds such as physical, mentally incapable of performing duties, abusing position, making persistent defaults, not performing or not complying with actions of the Government.

			has been given a reasonable opportunity to represent his case.	
		14. Power and Functions	<p>(1) To assess the changing requirements of the health care scenario, human resources for health, health care infrastructure and develop a road map for meeting these requirements.</p> <p>(2) To frame requisite policies for the governance of Medical Education.</p> <p>(3) To frame regulations for smooth working of the Commission and the Boards without undermining the autonomy of the Boards and within the provisions of this Act and Rules framed under it.</p> <p>(4) To provide overarching policy coordination among the Boards with due regard to their autonomy.</p> <p>(5) To ensure that State Councils effectively enforce the provisions of the Act and in event of inaction on their part, take such action as it deems fit to ensure compliance.</p> <p>(6) To exercise Appellate Authority with respect to decisions of the UGMEB, PGMEB and MARB.</p> <p>(7) To prescribe norms for determination of fees for a proportion of seats, not exceeding 40%, in the Private Medical Educational Institutions.</p> <p>(8) To exercise such other powers and duties as the Central Government may confer upon it from time to time under the Rules framed under the Act.</p>	<p>14(5) It envisages that NMC can take action against State Medical Councils as it deems fit to ensure compliance. This is totally contrary to federal structure as State Medical Councils are independent Councils constituted under their respective State Legislatures and will act as per provision of their respective acts. NMC cannot have such overarching jurisdiction.</p> <p>14(6) Power of Appellate Authority over UGMEB, PGMEB & MARB which are its own constituent units is antithesis to normal functioning and such a provision does not exist anywhere. Appellate Authority has to be outside the purview & has to be independent organization (E.g. Income Tax Appellate Tribunal, etc.)</p> <p>14(7)</p> <p>1. Prescription of fees in Private Medical Institutions is contrary to Hon'ble Supreme Court order in Inamdar case wherein Fee Fixation Committee under the Chairmanship of Retd. High Court Judge is constituted for determining fees. Further this provision prescribes determination of fees for seats not exceeding 40 % and is silent on the fees for remaining seats.</p> <p>2. Further, it also stipulated the proportion of said seats not exceeding 40%, which operationally would mean anywhere from 1% to 40% and decision thereon would be vested with the Commission, which by itself would amounts to providing for a discretion, which</p>

				could be open for handy misuse and manipulation and thus opening flood gates for corruption at the behest of the beneficiaries thereto. Thus it is an incomplete proposition. This would also mean denial of legitimate right accruable to meritorious and deserving students seeking admission to the undergraduate medical course in capable of affording the prescribed high costing tuition fee. This will definitely make medical education very expensive and out of the reach of poor students. As such, the said provision cannot be said to be in public interest
		15. Meeting of the Commission	(1) The Commission shall meet at least once every quarter at such time and place as may be appointed by the Chairperson. (2) Unless otherwise provided by regulations, 7 members including the Chairperson of the Commission shall form a quorum and all the acts of the Commission shall be decided by a majority of the members present and voting and in the event of equality of votes, the Chairperson or in his absence; the member presiding shall have the casting vote.	
4	NATIONAL EXAMINATION	16. NEET	There shall be a uniform National Eligibility-cum-Entrance Test (NEET) for admission to undergraduate medical education under the purview of National Medical Commission through such designated authority in Hindi, English and such other languages and in such manner as may be prescribed and the designated authority shall ensure the conduct of uniform entrance examination in the aforesaid manner. The	1. Other languages for conducting NEET are not prescribed. Languages shown in the Schedules of Constitution of India must be included in the Act. Otherwise it would be a great disservice to a large mass of students who are studying in regional languages and who are coming from rural background. 2. Excluding institutions governed by their own Acts defeats the very purpose of NEET as it

			procedure for admission shall be as may be prescribed. Provided that those institutions, which are governed by a separate Act of Parliament, shall continue to be governed by their respective Act(s).	means multiple examinations. There is no justifiable reason for excluding them as such.
		17,EXIT EXAMS	There shall be a National Licentiate Examination for the professionals graduating from the Medical Institutions under the purview of National Medical Commission through such designated authority in such manner as may be prescribed for granting the licence to practice and enrolment into the Medical Register(s), as referred to in Section 28(1). The designated authority shall ensure the conduct of uniform licentiate examination in the aforesaid manner. The National Licentiate Examination shall also serve as a National Eligibility-cum-Entrance Test for admission into post-graduate courses in medical colleges/ institutions under the purview of National Medical Commission. Provided that those institutions, which are governed by a separate Act of Parliament, shall continue to be governed by the respective Act(s). Provided further that the National Licentiate Examination shall become operational within three years from the date on which this Act comes into force, on a date to be notified by the Central Government.	1. This is not required at all and is unnecessary avoidable duplication. It also casts aspersion on Universities who are conducting M.B;B.S. Examinations. It would also reduce available manpower required providing needs because a student who has passed M.B;B.S. examination but fails in Licentiate examination would not be available for meeting health manpower needs. It is mindless copying of American system without application of mind & should not be accepted. 2. Excluding institutions governed by their own Acts cannot be permitted as there is no justifiable reason for excluding them as such. Such a provision does not exist anywhere. This also means that many other institutions owned by the Central Govt. but which are affiliated to Central / State Universities would not be exempted. This amounts to discrimination and demeaning of other institutions.
5	UNDER-GRADUATE MEDICAL EDUCATION BOARD (UGMEB)	18. Composition and Constitution	(1) The Central Government shall, by notification, establish a body to be called the Under-Graduate Medical Education Board (UGMEB). (2) The Board shall be autonomous in its	18 (2)It is stated that 'the undergraduate medical education board shall be autonomous in its functioning subject only to the policies and regulations framed by the National Medical Commission' and under section 19(9) vide powers and functions of the said Board it is

		<p>functioning subject only to the policies and regulations framed by the NMC. 12</p> <p>(3) It shall be headed by a full- time President who shall be assisted by such other staff from the NMC Secretariat as may be sanctioned under the Rules.</p> <p>(4) There may be Advisory Committees of Experts to assist the Board in discharging its functions.</p>	<p>brought out that ‘the Board shall make recommendations and seek directions from the Govt. through the Commission’, which speaks volumes about the annihilation of the autonomy as against being autonomous in the real sense.18(4) Composition of Advisory Committee is not defined.</p>
	19. Powers and Function	<p>(1) To determine and prescribe standards and oversee all aspects of medical education at undergraduate level.</p> <p>(2) To develop a competency based dynamic curriculum (including assessment) at undergraduate level in consultation with stakeholders such that medical graduates have appropriate knowledge, skills, attitude, values and ethics for providing health care, as per the societal needs.</p> <p>(3) 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.</p> <p>(4) To determine and prescribe the minimum requirements and standards for conduct of courses and examinations for under graduates in medical institutions while leaving room for creativity at local levels including the design of some courses by individual institutions.</p> <p>(5) To determine and prescribe standards and norms for infrastructure, faculty and quality of education in institutions conducting under-graduate medical education. These standards</p>	<p>19(4) The phrase “... leaving room for creativity at local levels including design of some courses by individual institutions” is vague. It is not clear whether there would be any check over such locally designed courses. Traditionally MBBS has always been a single course; there may be variations in details of course curriculum & syllabus but there are no other courses under its ambit. Is it the wish to permit backdoor entry of local courses ?What would be the fate of such students who are coming out with such degrees ? Will they be permitted to register in IMR?</p> <p>19(9) This strikes at root of autonomy. If UGMEB has to seek directions from Government through Commission, where is the autonomy?</p>

			<p>and norms shall be used as the basis for the assessment of the institutions by MARB.</p> <p>(6) To facilitate development/training for the faculty teaching undergraduate courses.</p> <p>(7) To facilitate and implement research and international student and faculty exchange programs as they relate to under-graduate education.</p> <p>(8) To prescribe norms for compulsory annual disclosure, electronically and otherwise, by medical institutions in all aspects related to their functioning that has a bearing on the interest of various stakeholders such as students, faculty, the Commission and the Government.</p> <p>(9) To make recommendation and seek directions from the Government through the Commission.</p>	
		<p>20. Decisions of UGMEB</p>	<p>(1) Subject to the Regulations and the Policies framed by the NMC, the President shall be empowered to take all decisions on behalf of the UGMEB</p> <p>(2) Any stakeholder who is aggrieved by any decision of the Board can appeal against the said decision within a period of two months to the NMC whose decision shall be final and binding on all concerned.</p>	<p>20(1) President is empowered to take all decisions on behalf of UGMEB. This is too much concentration of power in a single individual. In such an eventuality, what is purpose of having such a board</p> <p>20 (2)</p> <p>1. Appeal against the decision of UGMEB which is a constituent unit of NMC is to NMC itself which is not only not desirable but also against basic principle that “No man can judge his own cause.”</p> <p>2. The decision of appeal by NMC is final and binding on all concerned. This means that there is no provision for external appeal at all. This is not only unjust but dictatorial as well.</p> <p>3. Although the time limit for preferring an</p>

				appeal is prescribed but no time limit has been prescribed in respect of decision making by the National Medical Commission.
6	POST-GRADUATE MEDICAL EDUCATION BOARD (PGMEB)	21 Composition and Constitution	<p>(1) The Central Government shall, by notification, establish a body to be called the Post-Graduate Medical Education Board (PGMEB)</p> <p>(2) The Board shall be autonomous in its functioning subject only to the policies and regulations framed by the NMC.</p> <p>(3) It shall be headed by a full- time President who shall be assisted by such other staff from the NMC Secretariat as may be sanctioned under the Rules.</p> <p>(4) There may be Advisory Committees of Experts to assist the Board in discharging its functions.</p>	21 (2) It is stated that ‘the undergraduate medical education board shall be autonomous in its functioning subject only to the policies and regulations framed by the National Medical Commission’ and under section 22(9) vide powers and functions of the said Board it is brought out that ‘the Board shall make recommendations and seek directions from the Govt. through the Commission’, which speaks volumes about the annihilation of the autonomy as against being autonomous in the real sense. 21(4) Composition of Advisory Committee is not defined.
		22. Powers and Function	<p>(1) To determine and prescribe standards and oversee all aspects of medical education at the postgraduate and super-speciality levels.</p> <p>(2) To develop a competency based dynamic curriculum (including assessment) at post-graduate level in consultation with stakeholders such that post-graduates have appropriate knowledge, skills, attitude, values and ethics for providing health care, imparting medical education and conducting medical research.</p> <p>(3) To prescribe guidelines for setting up medical institutions for imparting post-graduate/ super-speciality courses as per the needs of the country while keeping in mind global norms.</p> <p>(4) To determine and prescribe the minimum requirements and standards for conduct of all</p>	22(4) The phrase “... leaving room for creativity at local levels including design of some courses by individual institutions” is vague. It is not clear whether there would be any check over such locally designed courses. Traditionally MBBS has always been a single course; there may be variations in details of course curriculum & syllabus but there are no other courses under its ambit. Is it the wish to permit backdoor entry of local courses ?What would be the fate of such students who are coming out with such degrees ? Will they be permitted to register in IMR? 22(9) This strikes at root of autonomy. If PGMEB has to seek directions from Government through Commission, where is the autonomy?

		<p>post graduate and super specialty courses and their examinations in Medical Institutions.</p> <p>(5) To determine and prescribe standards and norms for infrastructure, faculty and quality of education in institutions conducting post-graduate and super speciality medical education. These standards and norms shall be used as the basis for the assessment of the institutions and courses by MARB.</p> <p>(6) To facilitate development/training for the faculty of post-graduate courses.</p> <p>(7) To facilitate research and international student and faculty exchange programs as they relate to post-graduate and super speciality medical education.</p> <p>(8) To prescribe norms for compulsory annual disclosure, electronically and otherwise, by medical institutions in all aspects related to their functioning that has a bearing on the interest of various stakeholders such as students, faculty, the Commission and the Government.</p> <p>(9) To make recommendations and seek directions from the Government through the Commission.</p>	
		<p>23. Decisions of the PGMEB</p> <p>Subject to the Regulations and the Policies framed by the NMC, the President shall be empowered to take all decisions on behalf of PGMEB.</p> <p>(2) Any stakeholder who is aggrieved by any decision of the Board can appeal against the said decision within a period of two months to the NMC whose decision shall be final and binding on all concerned</p>	<p>23(1)President is empowered to take all decisions on behalf of PGMEB. This is too much concentration of power in a single individual. In such an eventuality, what is purpose of having such a board</p> <p>23 (2)</p> <p>1 .Appeal against the decision of PGMEB which is a constituent unit of NMC is to NMC itself which is not only not desirable but also</p>

				<p>against basic principle that “No man can judge his own cause.”</p> <p>2 .The decision of appeal by NMC is final and binding on all concerned. This means that there is no provision for external appeal at all. This is not only unjust but dictatorial as well.</p> <p>3 .Although the time limit for preferring an appeal is prescribed but no time limit has been prescribed in respect of decision making by the National Medical commission.</p>
7	MEDICAL ASSESSMENT AND RATING BOARD (MARB)	24. Composition and Constitution	<p>(1) The Central Government shall, by notification, establish a body to be called the Medical Assessment and Rating Board (MARB).</p> <p>(2) Subject only to the policies and the regulations framed by the NMC, the Board shall be autonomous in its functioning.</p> <p>(3) It shall be headed by a full- time President who shall be assisted by such other staff from the NMC Secretariat as may be sanctioned under the Rules.</p> <p>(4) There may be Advisory Committees of Experts to assist the Board in discharging its functions.</p>	<p>24 (2)It is stated that ‘the Medical Assessment and Rating Board shall be autonomous in its functioning subject only to the policies and regulations framed by the National Medical Commission’ and under section 25(9) vide powers and functions of the said Board it is brought out that ‘the Board shall make recommendations and seek directions from the Govt. through the Commission’, which speaks volumes about the annihilation of the autonomy as against being autonomous in the real sense.24(4) Composition of Advisory Committee is not defined.</p>
		25. Powers and Function	<p>(1) To determine the process of Assessment and Rating of Medical Educational Institutions as per the standards laid down by the UGMEB or PGMEB, as the case may be.</p> <p>(2) To hire such credible third party agencies or to appoint such visitors and personnel as it may consider necessary to carry out inspections of the Medical Educational Institutions in order to discharge its Assessment and Rating Function.</p>	<p>25(4) The phrase “... leaving room for creativity at local levels including design of some courses by individual institutions” is vague. It is not clear whether there would be any check over such locally designed courses. Traditionally MBBS has always been a single course; there may be variations in details of course</p>

			<p>It would be obligatory on such institutions to provide access to the inspecting team authorized by MARB for such purpose.</p> <p>(3) To conduct an Assessment and Rating of all Medical Educational Institutions, within such period of their start, as may be prescribed, and every year thereafter, and to make it available in the public domain at regular intervals. MARB may empanel independent ratings agencies for this purpose.</p> <p>(4) To levy monetary and other such penalties on Institutions which fail to maintain the minimum essential standards mentioned in sub-section (1) above. Provided that no penalty shall be levied on any medical institution without giving them a reasonable opportunity to explain the reasons for the failures. Provided further that in case a Medical Educational Institution fails to take the necessary corrective actions even after three monetary penalties, MARB shall recommend to the NMC to initiate proceedings for derecognizing the degree/ degrees awarded by the Institution as per the procedure prescribed section 36.</p> <p>(5) To make recommendations and seek directions from the Government through the Commission.</p>	<p>curriculum & syllabus but there are no other courses under its ambit. Is it the wish to permit backdoor entry of local courses ?What would be the fate of such students who are coming out with such degrees ? Will they be permitted to register in IMR? 25(9) This strikes at root of autonomy. If MARB has to seek directions from Government through Commission, where is the autonomy?25(2)The said Boards under Section 25(2) would be entitled to hire 3rd party agencies for accreditation including empanelling the same which would be opening flood gates for the various private rating agencies.</p> <p>25(3)Empanelling a rating agency is not a good idea. It is not clear how it would be checked whether such rating agency has verified & given rating as per Rules & Regulations. It is experience that presently there are many rating agencies who give rating as per their own methodology which is not in consonance with Regulations. 25(5) This strikes at root of autonomy. If MARB has to seek directions from Government through Commission, where is the autonomy</p>
		<p>26. Decisions of the MARB</p>	<p>(1) Subject to the Regulations and the Policies framed by the NMC, the President shall be empowered to take all decisions on behalf of the MARB.</p> <p>(2) Any stakeholder who is aggrieved by any decision of the Board can appeal against the said</p>	<p>26(1)President is empowered to take all decisions on behalf of MARB. This is too much concentration of power in a single individual. In such an eventuality, what is purpose of having such a board26</p> <p>(2)1.Appeal against the decision of MARB which is a constituent unit of NMC is to NMC itself</p>

			<p>decision within a period of two months to the NMC whose decision shall be final and binding on all concerned.</p>	<p>which is not only not desirable but also against basic principle that “No man can judge his own cause.”</p> <p>2. The decision of appeal by NMC is final and binding on all concerned. This means that there is no provision for external appeal at all. This is not only unjust but dictatorial as well.</p> <p>3 .Although the time limit for preferring an appeal is prescribed but no time limit has been prescribed in respect of decision making by the National Medical commission.</p>
		<p>27. Permission for establishment of a New Medical College</p>	<p>(1) No person shall establish a new medical college except with the prior permission of the MARB obtained in accordance with the provisions of this section.</p> <p>(2) Every person shall, for the purpose of obtaining permission under sub-section (1), submit to the MARB a scheme in the manner as may be prescribed.</p> <p>(3) The Board may after considering the scheme shall pass an order within a period of 6 months from the receipt of the scheme, either approving or disapproving the scheme and any such approval shall be permission under sub-section (1). Provided that the person/ college shall be free to appeal to the Commission in case no decision is received within the 6 months period or the scheme is disapproved. Provided further that the person/college shall be free to make a second appeal to the Government in case no decision is received within one year from the date of his submission or the scheme is disapproved.</p>	<p>1. 27(3) The Board is entitled for considering the submitted scheme for establishment of a new medical college by an applicant and pass an order within a period of six months from the receipt of the scheme in terms of approval or disapproval thereto with due regard to stipulations provided for under section 27(4), which amounts to vesting the Board with an absolute authority of deciding thereon by documentary verification including assurances thereon, which by itself provides for an ample scope for ‘authoritarianism’ and open for abuse / misuse in its own way providing for all the opportunities for corruption and decisions on extraneous considerations.</p> <p>27(4)</p> <p>1. There is a proviso which contemplates that there could be a relaxation made for the medical colleges which are to be set up in an ‘unserved area’, which has not been defined anywhere in the proposed Bill as to what is the scope, meaning and the ambit of the said word</p>

			<p>(4) The MARB or the Commission or the Government, while passing the order under sub-section (3), either approving or disapproving the scheme, shall have due regard to the following factors:</p> <p>a. Adequacy of financial resources;</p> <p>b. Whether adequate academic faculty necessary facilities to ensure proper functioning of medical college has been provided or would be provided within the time-limit specified in the scheme;</p> <p>c. Whether adequate hospital facilities have been provided or would be provided within the time-limit specified in the scheme.</p> <p>Provided that the above criteria may be relaxed for those Medical Colleges which are set up in an un-served area.</p>	<p>and who is to decide on the same.</p> <p>2. It is envisaged that permission to start a new medical college would be given on basis of mere statement that adequate faculty and hospital facilities “would be provided”. This implies that permission to start would be given even if adequate faculty & hospital facilities are not available which is not only not conducive for growth of medical education but would lead to mushrooming of medical colleges with inadequate facilities.</p> <p>3. It is not specified whether the facilities claimed to have been provided by institutes are to be verified or not. Granting permission to start new medical college without verification is fatal to organic growth of medical education and would lead to mushrooming of medical colleges with inadequate facilities.</p> <p>4. There is no mechanism to verify whether facilities as claimed “would be provided” have actually been provided or not within the prescribed time frame. Such sweeping provision without provision for verification is not conducive for healthy growth of medical education at all. What would be the fate of students admitted in such institutions in case the institute does not provide facilities as required ?</p>
8	BOARD FOR MEDICAL REGISTRATION (BMR)	28. Composition and Constitution	<p>(1) The Central Government shall, by notification, establish a body to be called the Board for Medical Registration (BMR).</p> <p>(2) Subject to the policies and the regulations framed by the NMC, the Board shall be autonomous in its functioning.</p>	28(3) It is contemplated that the Board for Medical Registration would comprise a President and two part time members of the Commission, which is different from the composition of the undergraduate medical education, postgraduate medical education and

			<p>(3) The Board shall comprise a President and two Part-time Members of the Commission as referred in section 6(6) and nominated by the Chairperson of the Commission. The Board shall be assisted by such other staff from the NMC Secretariat as may be sanctioned under the Rules.</p> <p>(4) There shall be an Advisory Committee of Experts to assist the Board in discharging its functions.</p>	<p>Board for Medical Assessment and Rating. This dichotomy is difficult to reason out</p> <p>28(4) Composition of Advisory Committee is not defined</p>
		<p>29. Powers and Function</p>	<p>(1) Maintaining the National Register (NR)</p> <p>i. The BMR shall maintain a live National Register of all licensed medical practitioners to be known as the National Register. The register shall contain the name, address, date of birth, Aadhaar ID of and all qualifications recognized by UGMEB and PGMEB possessed by the licensed practitioner.</p> <p>ii. The National Register must be maintained in an electronic form as per prescribed rules. BMR shall prescribe a standard data format for the maintenance of such records which will be binding on all State Councils so that homogeneity and interoperability of such database can be maintained.</p> <p>iii. Such Register shall be made available in the public domain. It shall be deemed to be a public document within the meaning of the Indian Evidence Act, 1872 or any amendment thereof.</p> <p>iv. Every State Medical Council shall maintain and regularly update the State Register in an electronic format. It shall supply a physical copy of the same to the BMR at the commencement</p>	<p>29(1)It is not clearly defined who will be the primary registering authority. This needs to be clarified.</p>

of this Act. Thereafter, the National and the State Register should be in Electronic synchronization so that a change in one is automatically reflected in the other.

v. Where the name of any person has been removed from a State Register on a ground other than non-possession of the requisite medical qualifications, he may appeal in the prescribed manner to the BMR, whose decision shall be binding on the State Council subject to the provisions of Section 29.

vi. If any person whose name is entered in the National Register obtains any title, diploma or other qualification for proficiency in sciences, public health or medicine which is a recognized medical qualification, he shall, on application made in this behalf in the prescribed manner be entitled to have such information entered against his name in the State and the National Register.

(2) Regulation of Professional Conduct

i. To prescribe the standards of professional conduct and frame a Code of Ethics for medical practitioners.

ii. To ensure compliance to the Code of Ethics through the State Councils which shall take disciplinary action in cases of professional misconduct by medical practitioners and Organisations/ Associations of Doctors.

iii. For the purposes of this Act, the expression “professional misconduct” shall be deemed to include any act of commission or omission notified in the Fifth Schedule of this Act. Nothing in this section shall, however, limit or abridge

29.2(II) All the professional organisations and associations of doctors have been brought under the Disciplinary jurisdiction of NMC without realising that the Association / organisations of doctors are not registered under the State Medical Register or the National Medical Register, as the case may be.

the power conferred or duty cast on the respective Councils under this Act to inquire into the professional conduct of any person whose name is included in the National Register or the State Register.

iv. The original jurisdiction for grievances relating to cases of “professional misconduct” of medical practitioners shall lie with the State Councils. Provided that the Council shall offer the pra practitioner or the organisation/ association concerned an opportunity to explain their conduct before imposing any prescribed penalty upon them.

v. BMR will have an appellate jurisdiction over the orders passed by the State Councils under sub-section

(iv) and such an order would be binding upon the State Council subject to the provision of section 29. Provided that, in States or Union Territories where there is no State/UT Medical Council, an enactment to create such a Council shall be carried out within 3 years of the notification of this Act. Provided further that during the transition period, the BMR shall also receive complaints and grievances of ethical misconduct against registered medical practitioners of these States and UT subject to such procedure as may be prescribed. vi. To develop mechanisms to have continuous interaction with State Councils to effectively promote and regulate the conduct of medical profession. vii. To make recommendations and seek directions from the Government through the Commission

Code of Ethics can be made applicable only to a person who is registered. Hence provision to include Organization / Association of Doctors is wholly illegal

129 (2)(V)1.

In the proviso thereto it has been brought out that in States or Union Territories where there is no Union Territory Medical Council, the same would be put into place within three years from the date of notification of this Act, which again an impermissible imposition on the autonomy of the Govt. of the concerned State or Union Territory as the case may be and is inconsistent with the governing principles of the federal polity.

2. In the very proviso it has also been brought out that the during the transition period the Board shall vest itself with ‘the trial jurisdiction’, without indicating that where exactly ‘the appellate jurisdiction’ shall vest, in view of the material fact that section 29(2)(v) clearly stipulates that the Board will have an appellate jurisdiction over the State Councils, which have the original jurisdiction in terms of sub clause (4) of the said section? 29 (2)(VII)This strikes at root of autonomy. If BMR has to seek directions from Government through Commission, where is the autonom

	<p>30. Decisions of the BMR</p>	<p>(1) Subject to the Regulations and the Policies framed by the NMC, the decisions of the board shall be through the President or a Part-Time Member or a combination of both.</p>	<p>30(1) 1. It has been brought out that the decisions of the Board of Medical Registrations shall be through the President or a part time member or a combination of both, which is materially different than what has been contemplated for the Under graduate, the Postgraduate and the Medical Assessment and Rating Board. 2. There are two part time members attached with the said Board as contemplated under section 28(3) and section 30 contemplates decisions through the President or a part time member in singular or a combination of both without indicating as to which one of the two member is to be assigned the same and who is to do it?</p>
	<p>31. Rights and duties of persons included in the National Register</p>	<p>(1) Qualifying the National Licentiate Examination by an Indian citizen with undergraduate degree obtained from a medical institution within India shall be sufficient for licence to practice and enrolment in the National Register and/or any State Register. Provided that the persons registered in the Indian Medical Register under the IMC Act, 1956 before the commencement of this Act and prior to the coming into force of the National Licentiate Examination shall be deemed enrolled in the National Register.</p> <p>(2) A person who is a citizen of India and obtains medical qualification granted by any medical institution in any country outside India recognised as medical practitioner in that country after such date as may be specified, shall</p>	<p>31(1) Requirement of Licentiate Examination is not necessary at all and is wholly avoidable duplication. It also casts aspersion on Universities who are conducting M.B.B.S. Examinations. It would also reduce available manpower required providing needs because a student who has passed M.B.B.S. examination but fails in Licentiate examination would not be available for meeting health manpower needs. It is mindless copying of American system without application of mind & should not be accepted. Present system has worked well for more than 2 centuries and there is no ostensible reason to change 31(3)(d)It is envisaged that Commission may permit a medical professional to perform surgery or practice medicine without qualifying</p>

not be entitled to be enrolled in the National Register unless he qualifies the National Licentiate Examination and such foreign medical qualification after such person qualifies the National Licentiate Examination shall be deemed to be recognised medical qualification for the purposes of this Act for that person.

(3) No person other than the one enrolled in the National/State Register:

(a) Shall be allowed to practice medicine as a qualified medical practitioner

(b) Shall hold office as physician or surgeon or any other office (by whatever designation called) meant to be held by a physician or surgeon in Government or in any institution maintained by a local or other authority;

(c) shall 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) Shall 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 surgery or practice medicine without qualifying the National Licentiate Examination. The Commission shall submit a list of such medical professionals to the Central Government in the manner prescribed.

(4) Any person who acts in contravention of any

National Licentiate examination. This is antithesis of 31 (1) read with section 17 and would lead to treating unequal with equal. Such discretionary powers which strike at the root of a law or rule cannot be permitted and will encourage manipulation and corruption.

			provision of sub-section (2) shall be punished with revocation/suspension from the National Register or with fine as may be prescribed, or with both.	
9	RECOGNITION OF MEDICAL QUALIFICATIONS	32. GRANTED BY UNIVERSITIES OR MEDICAL INSTITUTIONS IN INDIA	<p>(1) The medical qualifications granted by any University or Medical Institution in India, included in the First Schedule, shall be recognized medical qualifications for the purpose of this Act.</p> <p>(2) Any University or Medical Institution in India, which grants an undergraduate or post-graduate medical qualification not included in the First Schedule, may apply to the UGMEB or PGMEB, respectively, to have such qualification recognized. The respective Board may, by notification in the official Gazette, amend the First Schedule so as to include such qualification. The notification affecting the amendment may also direct that an entry shall be made in the last column of the First Schedule against such medical qualification declaring that it shall be a recognized medical qualification only when granted after a specified date.</p> <p>(3) All medical qualifications listed in Schedule I of the IMC Act, 1956 shall be incorporated automatically in Schedule I of this Act.</p>	1. No provision is made for periodical renewal of recognition as is prevalent to-day. See 33 (3). There is provision for appeal to Central Government in respect of institutions outside India. No such provision is made u/s 32 for institutions in India. There is no justifiable reason for doing so
		33, GRANTED BY MEDICAL INSTITUTIONS OUTSIDE OF INDIA	<p>(1) The medical qualifications granted by medical institutions outside India included in the Second Schedule shall be recognized medical qualifications for the purposes of this Act.</p> <p>(2) The Commission may subject to such verification as it deems fit with the authority in any country outside India which by the law of</p>	1. This is antithesis of 31 (2). 33.2 It contemplates to the effect that Commission may subject to such verification as it deems fit may provide for inclusion or exclusion of the medical qualifications in the Second Schedule with reference to medical qualifications granted by medical institutions

		<p>such country is entrusted with the recognition of medical qualifications provide for recognition or de-recognition of such medical qualification by notification in the official Gazette and amend the Second Schedule so as to include or exclude therein the medical qualification(s). Provided that any qualification shall not be excluded unless the institution(s) concerned has been given a reasonable opportunity of being heard in the matter.</p> <p>(3) Where the Commission has refused to recommend a medical qualification that has been proposed for recognition by any Authority referred to in sub-section (2), the Authority may apply to the Central Government for such recognition. The Central Government, after considering such application and after obtaining from the Commission a report regarding the reasons for its refusal, may by notification in the Official Gazette amend the Second Schedule so as to include such qualification in it. The provisions of sub-section (2) shall apply to such notification.</p>	<p>outside India without anywhere it being indicated as to how in what manner and mode the said verification would be carried out by the Commission. It has been kept outside the domain of any prescription for the same vide appropriate 'Rules or Regulations'.</p>
	<p>34. Granted by certain medical institutions whose qualifications are not included in the first or second schedule</p>	<p>(1) The medical qualifications listed in Part I and Part II of Schedule III to the IMC Act, 1956, repealed w.e.f. shall be incorporated automatically in Part I and Part II respectively of Schedule III under this Act.</p> <p>(2) The Commission may by notification in the official gazette amend Part II of the third schedule so as to include therein any qualification granted by medical institution outside India which is not included in the second schedule. Provided further that a foreign citizen</p>	<p>No procedure is prescribed for including qualifications in Third Schedule.</p>

			maybe permitted temporary registration in India for a period and in a manner as may be prescribed by the Commission subject to such person being enrolled as medical practitioner in accordance with the law regulating the registration of medical practitioners in that country	
		35. RECOGNITION OF OTHER MEDICAL QUALIFICATIONS	(1) The Central Government may by notification in the official gazette include medical qualifications granted by any other body in India under Schedule IV to this Act which shall be recognized qualification as may be prescribed by the Central Government in this regard.	<p>1. Provision is recognizing “Other” medical qualifications granted by any other body is too vague and discretionary. It may provide back door entry for so many other “pathies” which are to-day excluded as per prevalent provisions of IMC Act.</p> <p>2. It contemplates the absolute authority of recognition of other medical qualifications to be included in Schedule 4 being vested with the Central Govt. without any description of any modality for the said purpose through ‘Rules or Regulations’. Hence the same amounts to an authorization in a blinded manner.</p> <p>3. Schedule IV is not defined.</p> <p>4. Permitting such graduates on NMR will entitle him to all benefits & privileges, including admission in PG courses in allopathic medicine which cannot be permitted.</p>
		36. WITHDRAWAL OF RECOGNITION	(1) Upon a report by the MARB or otherwise, if it appears to the Commission that the courses of study and examination to be undergone in, or the proficiency required from candidates at any examination held by any University or medical institution do not conform to the standards prescribed and that the institution has failed to take necessary corrective action to	

			<p>adhere to minimum standards, the Commission shall make a representation to that effect to the Central Government.</p> <p>(2) After considering such representation, the Central Government, after making such further inquiry and consultations with the Government/ Authority concerned, as it may think fit, may by notification in the official Gazette, direct that an entry shall be made in the appropriate Schedule against the said medical qualification declaring that it shall be a recognised medical qualification, only when granted before a specified date or that the said medical qualification if granted to students of a specified college or institution affiliated to any university shall be a recognised medical qualification only when granted before a specified date, as the case may b</p>	
		37. SPECIAL PROVISION	<p>(1) If the Commission deems it fit, it may by notification in the Official Gazette, direct that medical qualifications granted after a specified date by medical institutions in a country outside India shall be recognised medical qualification for the purposes of this Act. Provided that medical practice by persons possessing such qualifications shall be permitted only if such persons are enrolled as medical practitioners in accordance with the law regulating the registration of medical practitioners for the time being in force in that country; and Provided further that medical practice by persons possessing such qualifications shall be limited to the period specified in this behalf by general or special order.</p>	<p>1. This provides for granting recognition of qualifications after specified date. This is in antithesis to Section 31 (2). The purpose for this is not clear and is totally irrelevant on account of Section 33.</p> <p>2. It contemplates that if the commission 'deems fit' it may be notification in the Official Gazette direct that the medical qualifications granted after a specified date by a medical institution in the country outside India shall be recognized medical qualification for the purposes of this Act, which again amounts to vesting commission with an absolute authority without any statutory prescription with reference to means, mode and manner including modalities.</p>

				3. The Proviso aims at entitling medical practice by individuals possessing Foreign Medical Qualifications even for commercial purposes as no restriction has been imposed on the same other than that of duration.
10	MISCELLANEOUS	38. INFORMATION TO BE FURNISHED	(1) The Commission shall furnish such reports, copies of its minutes, abstracts of its accounts, and other information to the Central Government as that Government may require. (2) The Central Government may publish in such manner as it may think fit, any report, and copy, abstract or other information furnished to it.	
		39. REPORTING BY UNIVERSITIES	(1) Every medical institution under this act shall at all times maintain a website and display all such information as may be required by the Commission or the Board(s). (2) The Commission or the Board(s), as the case may be, shall either directly or through other experts, at any time during the existence of the evaluation or assessment, with or without any notice, may assess the performance standards and benchmarks displayed by the medical institution on its website.	
		40. COMPLETION OF COURSES	(1) Notwithstanding anything contained in this Act, any student of medical institution who, immediately before the commencement of this Act was studying for a degree, diploma or certificate in any such institution shall continue and complete his course for that degree, diploma or certificate, as the case may be, and such institutions shall provide for the instruction and examination for such student in accordance with syllabus and studies as existed before	

			<p>commencement of this Act and shall be deemed to have completed his course of study and awarded degree, diploma, as the case may be, under this Act.</p> <p>(2) Notwithstanding anything contained in this Act, the medical institution in lapse of its recognition whether by efflux of time or by its voluntary surrender or for any other reason whatsoever shall continue to maintain and provide the minimum standards approved by the Commission till such time that all the candidates are able to complete their study in such institutions</p>	
		<p>42. TRANSITORY PROVISIONS</p>	<p>(1) The National Medical Commission is the successor in interest to the Indian Medical Council including its subsidiaries or owned trusts. All the assets and liabilities of the Indian Medical Council shall be deemed to have been transferred to the Commission.</p> <p>(2) Notwithstanding the repeal of the Indian Medical Council Act, 1956, the educational standards, requirements and other provisions of the Indian Medical Council Act, 1956 and the rules and regulations made thereunder shall continue to be in force and operate till new standards are specified under this Act or the rules and regulations made thereunder: Provided that anything done or any action taken as regards the educational standards and requirements under the enactments under repeal and the rules and regulations made thereunder shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force accordingly</p>	<p>42(1) While it is provided that proposed NMC will take over all assets & liabilities of MCI & other trusts, nothing specific is mentioned about absorption of officers and employees of erstwhile Medical Council of India who have been validly recruited under existing MCI Regulations.</p> <p>42(2)It contemplates merger of the National Board of Examination with the Postgraduate Medical Education Board, bringing out therein if the qualifications conferred by the National Board shall be subsumed and added as the courses conducted by and qualifications awarded by the Postgraduate medical Education Board without indicting as to what schedule the said qualifications would be entered into</p>

			<p>unless and until superseded by anything done or by any action taken under this Act.</p> <p>(3) The National Board of Examinations (NBE) shall be merged with the PGMEB. Provided further that all such courses that are being run by and the qualifications being awarded by the NBE shall be subsumed and added as the courses conducted by and qualifications awarded by the PGMEB and any reference to the existing National Board of Examinations in any law or rule or contract other than this Act shall be deemed as a reference to PGMEB hereinafter.</p> <p>(4) The Central Government may take such appropriate measures as may be necessary for smooth transition of the repealed Council to the corresponding new Commission and the existing NBE to the PGMEB under this Act.</p>	
		44. POWER TO MAKE RULES	<p>(1) The Central Government may, by notification in the Official Gazette, make Rules to carry out the purposes of this Act.</p> <p>(2) In particular, and without prejudice to the foregoing power, such rules may provide for all or any of the following matters:</p> <p>i. Manner of nomination of the members of the Medical Advisory Council to the NMC under section 6 (6)</p> <p>ii. Manner of appointment of Search and Selection Committee under section 11.</p> <p>iii. Manner of constituting the Boards under section 18, 21, 24 and 27.</p> <p>iv. Procedure for removal of Chairperson and Members of the Commission under section 13.</p> <p>v. The creation of posts, salary and allowances</p>	<p>The word 'prescribed' under section 2(I) reads as 'prescribed means prescribed by Rules and or Regulations'. But there is no provision in respect of prescribing of 'Regulations' and further there is no indication as to which is the matter which would be governed by both 'Rules as well as Regulations' in terms of the definition of the word prescribed contemplated at section 2(I) of the said Bill.</p>

			<p>payable to and other terms and conditions of Chairperson /Members of the Commission, President of the Boards and other staff members of the Commission. vi. Any other matter in respect of which provision is to be made by rules.</p> <p>(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament for a total period of thirty days , after the expiry of which period the Rule shall be deemed as confirmed. If both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall, thereafter have effect only in such modified form or be of no effect, as the case maybe; however, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.</p>	
		45. Power to give Directions	<p>(1) Without prejudice to the foregoing provisions of this Act, the Commission and the Boards, as the case may be, shall, in the discharge of their functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time, and the question whether the direction given is one of policy or not shall be decided by the Central Government. Where the Central Government considers it expedient so to do, it may, by order in writing, direct the Commission to make any regulations or to amend or revoke any regulations already made by it, within such period as the Central Government may specify</p>	<p>1. It is envisaged that Central Government may give directions regarding policy matters or amending Regulations or to NMC / Boards. This strikes at the root of Autonomy of NMC and cannot be permitted at all in a democratic setup.2. It also vests with the Govt. to issue directions to make any regulations or to amend or to revoke any regulations already made by it within the period specified by it which is amounting to usurp even the subordinate legislative jurisdiction vested with it. It also provides that in case the Commission fails to do so the Govt. will dispense the same on its own, which makes the entire concept of a regulatory body to be absolutely subordinate</p>

		<p>in this behalf. If the Commission fails or neglects to comply with such order within the specified period, the Central Government may make the regulations or amend or revoke the regulations made by the Commission, as the case may be, in such manner as the Central Government thinks fit.</p> <p>(2) Any person or a body or an organisation, aggrieved by an order made by the Commission may prefer an appeal to the Central Government in such form with in such period as may be prescribed. The procedure for disposing of an appeal shall be such as may be prescribed and the appellant shall be given a reasonable opportunity of being heard.</p>	<p>to the Central Govt. in its entirety at the cost of annihilation of democratic representative character of the Medical Council of India as enshrined in the Indian Medical Council Act, 1956, which would be repealed by the promulgation of the proposed Bill.</p>



தமிழ்நாடு மருத்துவ கவுன்சில்

சென்னை



தேசிய மருத்துவ ஆணை குழு மசோதா 2016, செயல்படும் இந்திய மருத்துவ கவுன்சிலை கலைத்துவிட்டு, மருத்துவ கல்வி மற்றும் மருத்துவ சேவைகளை சிறப்பாக செயல்படுத்த, புதிய மருத்துவ ஆணையத்தை நிறுவ மத்திய அரசால் முன் மொழியப்பட்டுள்ளது. ஆனாலும் இந்த மசோதாவை ஆராயும் போது மருந்து நோயை விட கொடுமையாக இருக்கிறது என்று சொல்வதை போல மிகவும் மோசமானதாக உள்ளது. இந்நிலையில் இந்த மசோதா நிறைவேற்றப்பட்டால் இது இந்திய மருத்துவ சேவையை சீர்குலைப்பதற்கு சமமாகும்.

இந்த மசோதாவில் உள்ள ஏற்றுக்கொள்ள முடியாத சரத்துகள்

1. இந்திய மருத்துவ கவுன்சில் மாநில அரசு மற்றும் பல்கலைக்கழகங்களால் தேர்ந்தெடுக்கப்பட்ட நபர்கள் மற்றும் மத்திய அரசின் நியமன உறுப்பினர்கள் இணைந்து ஜனநாயக பிரதிநிதித்துவ அடிப்படையில் செயல்படும் ஒன்று ஆகும். ஆனால் முன்மொழியப்பட்டுள்ள வரைவு மசோதா தேர்ந்தெடுக்கப்பட்ட உறுப்பினர்கள் ஒருவர் கூட இல்லாமல் அனைத்தும் மத்திய அரசு சார்ந்த நியமன உறுப்பினர்களை கொண்ட அமைப்பாக செயல்பட வடிவமைக்கப்பட்டுள்ளது. இது இந்திய ஜனநாயக கூட்டாட்சி தத்துவத்திற்கும், பிரதிநிதித்துவ அமைப்பு முறைக்கும் எதிரான ஒன்று மட்டுமல்லாது நமது அரசியல் சாசனத்திற்கும் முரணானது.
2. தேசிய ஆணைக் குழுவின் தலைவரே, இந்திய ஆணையக்குழுவிற்கு ஆலோசனை வழங்க மத்திய அரசால் நியமிக்கப்படும் தேசிய மருத்துவ ஆலோசனை குழுமத்திற்கும் தலைவராக செயல்படுவார் என்பது ஆலோசனை குழுவின் தன்னாட்சி முறையின் செயல்பாட்டிற்கு எதிரானது.
3. தேசிய மருத்துவ ஆணையக்குழுவின் அனைத்து உறுப்பினர்களும் (தலைவர், செயலர், 8 முழு நேர உறுப்பினர்கள், 10 பகுதி நேர உறுப்பினர்கள்) மத்திய அரசால் நியமிக்கப்படுவதால், மாநில அரசின் பங்களிப்பும், பிரதிநிதித்துவமும் முழுமையாக மறுக்கப்படுகிறது. பிரதிநிதித்துவம் இல்லாத அமைப்பு அரசியல் சாசன சட்டத்திற்கு எதிரானது.
4. நியமிக்கப்படும் உறுப்பினர்களின் தகுதி, அனுபவம் மற்றும் தகுதி முறைகளின் செயல்பாடு இவை மேலோட்டமாக கூறியிருப்பது, பல குறைபாடுகளுக்கு வழிவகுக்கும். மேலும் 40 சதவீதத்திற்கு மேற்பட்டவர்கள் மருத்துவம் சாராத தொழில் செய்பவர்களும்

உறுப்பினராகும் நோக்கில் செய்யப்பட்டிருப்பது கண்டிக்கத்தக்கது.

5. தேசிய மருத்துவ ஆணைக்குழு மத்திய அரசை சார்ந்த அதின் முடிவை மட்டும் செயல்படுத்தும் அமைப்பாக உள்ளது.
6. தேசிய மருத்துவ ஆணைக்குழுவிற்கு, தனிப்பட்ட மாநில மசோதாக்களின் மூலம் செயல்படும் தன்னாட்சி மாநில மருத்துவ கவுன்சில் அமைப்பில் தலையிடவும், நடவடிக்கை எடுப்பதற்கும் அதிகாரம் கொடுத்திருப்பது தேசிய கூட்டாட்சி பண்புகளுக்கு எதிரானது. மாநில அரசின் உரிமையை பறிப்பதாகும்.
7. தேசிய மருத்துவ ஆணைக்குழு, மருத்துவ படிப்பிற்கான கல்வி கட்டணத்தில், கல்லூரியில் பயிலும் மாணவர்களில் அதிகபட்சம் 40 சதவீத மாணவர்களுக்கு மட்டும் கல்வி கட்டணத்தை நிர்ணயிக்கும் என்றும், மற்றவர்களுக்கு கல்லூரிகளே நிர்ணயிக்கலாம் என்பது அபாயகரமானது. அதிகபட்சம் 40 சதவீதம் மட்டும் என்பது 1-40 சதவீதம் என்பதாகும். இது கல்லூரிகளில் தரம் பெற்ற மாணவர்கள் பயில முடியாதப்படி வியாபாரை நோக்கில், தனியார் கல்லூரிகளுக்கு உதவும் வகையிலும் உள்ளது. இது மாணவர்களின் நலனை பாதிப்பதோடு, பணம் படைத்தவர்கள் மட்டும் தான் படிக்க முடியும் என்ற நிலைமை ஏற்படுதலும். ஏற்கனவே மருத்துவ கல்லூரிகளில் கல்வி கட்டணம் நிர்ணயம் செய்ய, உயர்நீதிமன்ற நீதிபதி தலைமையில் ஒரு குழு அமைந்துள்ளது. இந்நிலையில் இந்த மசோதா கோர்ட் உத்தரவை மீறும் செயலாகும்.
8. தேசிய மருத்துவ நுழைவு தேர்வு (NEET) :

இந்த மசோதா NEET நுழைவு தேர்வை நடத்த அதிகாரபடுத்தியிருக்கிறது. பொதுவான கல்வி சூழல் ஏற்படுத்தாமல் இத்தகைய நுழைவு தேர்வு நடத்துவது ஏற்புடையதல்ல. மாணவர்களுக்கு பல நுழைவு தேர்வு இல்லாமல் ஒரே தேர்வு மட்டும் வேண்டும் என்று அறிவிக்கப்பட்ட இந்த NEET தேர்வு மத்திய அரசின் கல்வி கூடங்களான AIIMS, JIPMER, AFMC போன்ற கல்லூரிகளுக்கு பொருந்தாது. இவைகளில் சேர தனியாக தேர்வு எழுத வேண்டும் என்று கூறுவது வியப்பானது. அரசியல் சாசன சட்டத்தில் அங்கீகரிக்கப்பட்ட அனைத்து மொழிகளிலும் தேர்வு நடைபெற எந்தஉறுதியும் இந்த மசோதாவில் அளிக்கப்படவில்லை.

9. தேசிய தகுதி சான்றுடையார் தேர்வு (EXIT Exam)

மருத்துவ கவுன்சில் அங்கீகாரம் பெற்ற கல்லூரிகளில் 4.5 ஆண்டுகள் பயின்று, மருத்துவ பல்கலைக்கழகங்களின் தேர்வில் வெற்றி பெற்று, 1 வருடம் பயிற்சி மருத்துவராக பணியாற்றிய பின்பும் மத்திய அரசின் இந்த ஆணைக்குழு நடத்தும் தேசிய தகுதி சான்றுடையார் தேர்வில் வெற்றி பெற்றால் மட்டும் தான் மருத்துவராக பதிவு செய்ய

முடியும் என்று அறிவித்திருப்பது அதிக ஆபத்தானது. மருத்துவம் மாநில மற்றும் மத்திய அரசை சார்ந்தது. மாநில அரசில் பணியாற்ற விரும்பும் மாணவர்களுக்கும் மத்திய அரசு தேர்வு நடத்துவது அபாயகரமானது. மேலும் மத்திய அரசின் கல்லூரிகளில் பயிலும் மாணவர்களுக்கு இது பொருந்தாது என்பது, மாநில அரசின் கல்லூரிகளையும் பல்கலைக்கழகங்களையும் கொச்சைப்படுத்துவது ஆகும்.

10. நவீன மருத்துவம் செய்ய MBBS பட்ட படிப்பு மட்டும் தான் ஏற்படையது என்பது மருத்துவ கவுன்சில் சட்டம் ஒப்பு கொண்டுள்ளது. ஆனால் இந்த தேசிய மருத்துவ ஆணைக்குழு தவிர இதர மருத்துவம் சார்ந்த படிப்புகளையும் ஏற்றுக் கொள்ள வழிவகுக்கிறது. அப்படிப்பட்ட மருத்துவ படிப்பு படித்த மாணவர்களின் நிலை என்ன என்பதும், அவர்கள் மருத்துவ கவுன்சிலில் பதிவு செய்ய முடியுமா என்பது தெளிவுப்படுத்தப்படவில்லை.
11. மருத்துவ பட்டப்படிப்பு வாரியம் என்பது இந்த தேசிய மருத்துவ ஆணையத்தினால் உருவாக்கப்பட்டு, கல்லூரிகளில் மருத்துவ படிப்பிற்கான அனுமதி மற்றும் படிப்பு விபரங்களை தீர்மானிக்கும் அமைப்பாகும். வாரியத்தின் முடிவுகளுக்கான மேல்முறையீடு அமைப்பு இந்த ஆணையம் என்பது வேடிக்கையானது. தன்னுடைய படைப்பை தானே நியாய தீர்வு செய்ய முடியாது. மேலும் மேல்முறையீடு செய்யும் போது எத்தனை நாளுக்குள் தீர்வு வழங்கப்படும் என்பது குறிப்பிடப்படவில்லை.
12. புதிய மருத்துவ கல்லூரிகள் துவங்க, அல்லது மருத்துவ கல்லூரிகளில் அனுமதியை புதுப்பிக்க, மருத்துவ கவுன்சிலின் குறைந்தபட்ச அடிப்படை வசதிகளை ஆய்வின் போது ஏற்படுத்தியிருக்க வேண்டும் என்பது தற்போதைய மருத்துவ கவுன்சிலின் நிலை. ஆனால் அறிவிக்கப்பட்டுள்ள இந்த ஆணையத்தில், தேவையான அடிப்படை வசதிகளை குறிப்பிட்ட காலகெடுவிற்குள் செய்து முடிப்போம் என உறுதி அளித்தால் போதும், ஆய்வின் போது அதை செய்து முடித்திருக்க வேண்டும் என்பது கட்டாயமில்லை என்பது, தரம் அற்ற மருத்துவ கல்லூரிகளை உருவாக்கும் முயற்சியாகும்.
13. மற்ற நாடுகளில் உள்ள மருத்துவ படிப்புகளை அங்கீகரிக்கவும், தேர்வு எழுதாமலே அவர்களை இந்தியாவில் பணியாற்ற அனுமதி வழங்கவும், அல்லது இதர பட்ட படிப்புகளையும் மருத்துவர்களாக அங்கீகரிக்க வழிவகுக்கும், தரமிக்க மருத்துவ சேவைக்கு உளறு விளைவிக்கும் ஒன்றாகும்.

ஆக ஜனநாயக முறையில் தேர்ந்தெடுக்கப்பட்ட மருத்துவ கவுன்சிலை கலைக்காமல், தேவையான சரத்துகளை 1956 மருத்துவ கவுன்சில் மசோதாவில் ஏற்படுத்தி பிரதிநிதித்துவ மற்றும் ஒளிவுமறைவு அற்ற முறையில் செயலாற்ற ஊக்குவிக்க வேண்டும் என கேட்டுக் கொள்கிறோம்.

தலைவர் மற்றும் உறுப்பினர்கள்

தமிழ்நாடு மருத்துவ கவுன்சில்

