RGICS

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RGICS POLICY BRIEF

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REFORM OF THE INDIAN MEDICAL COUNCIL ACT, 1956

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KEY MESSAGES

- Minimum qualifying marks in the National Eligibility-cum-Entrance Test (NEET) need to be defined.
- Fixing of the fees for a minimum percentage of seats in the private medical institutes instead of the open ended clause 'not exceeding 40% seats'.
- The **'not-for-profit'** status of the medical colleges should be retained.
- Replacement of the outdated norms to establish colleges.
- Accreditation of teachers, clinics, pharmacies, chemists, hospitals should be made mandatory.
- Rural service at the Primary and Community Health Centers should be made mandatory for the medical students, as part of their curriculum.
- A separate Board of Medical Ethics should be created to investigate and prosecute cases of unethical practices by doctors.

PART I. INTRODUCTION[i]

The **Medical Council of India (MCI)** was established in 1934 under the Indian Medical Council Act, 1933, now repealed, with the main function of establishing uniform standards of higher qualifications in medicine and recognition of medical qualifications in India and abroad. The number of medical colleges had increased steadily during the years after Independence. It was felt that the provisions of Indian Medical Council Act were not adequate to meet with the challenges posed by the very fast development and the progress of medical education in the country. As a result, in 1956, the old Act was repealed and a new one was enacted. This was further modified in 1964, 1993 and 2001.

The objectives of the Council are as follows:-

1. **Maintenance of uniform standards of medical education**, both undergraduate and postgraduate.
2. Recommendation for **recognition/de-recognition of medical qualifications** of medical institutions of India or foreign countries.
3. Permanent registration/provisional **registration of doctors** with recognized medical qualifications,
4. Reciprocity with foreign countries in the matter of mutual recognition of medical qualifications.

PART II: WHAT WENT WRONG WITH THE MCI?

The 92nd Report of Department-Related Parliamentary Standing Committee on Health and Family Welfare highlighted the following issues:[ii]

- **Failure** to create a **curriculum** that produces doctors suited to working in the Indian context;
- **Failure** to maintain **uniform standards of medical education**, both undergraduate and post-graduate;
- **Devaluation of merit in admission**, particularly in private medical institutions;
- **Failure** to put in place a **robust quality assurance mechanism**;
- **Failure** to produce any **standardized summative evaluation** of the medical graduates and post-graduates;
- **Failure** to create a **transparent system** of medical college **inspections and grant of recognition** or de-recognition; and
- Focus on infrastructure and human resource related metrics during inspections but **no substantial evaluation/audit of quality of teaching, training and imparting of skills**.

The Committee report also noted that the IMC Act, 1956 has become outdated and the option for amending the same Act is not feasible because that will not solve the contemporary health care and medical education problems. It also noted that the management of over 400 Indian medical colleges is an impossible and difficult task for the Medical Council of India as a single administrative body. Therefore, they recommended for the complete transformation of the Act.

PART III: THE NATIONAL MEDICAL COMMISSION BILL, 2016

The preliminary report of the committee prepared under the guidance of NITI Aayog has presented a draft Bill, which is intended to replace the current Indian Medical Council Act, 1956. The main features of the Proposed Bill are:

S.No.	Indian Medical Council Act, 1956[iii]	Proposed Reforms of the Indian Medical Council Act, 2016[iv]
Administrative Body	Medical Council of India	Medical Advisory Council (Advisory Body), and National Medical Commission (Policy-making Body)
Members	One member from each State nominated by the Central Government in consultation with the State Government concerned. (No representation from the Union Territories). Elected members- One member from each University; one member from each state which maintains a medical register, and seven members to be elected from the State Medical Register council; eight members to be nominated by the central government.	• **MAC**- 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. Two members possessing medical qualifications will be nominated from the Union Territories. • **NMC**- Chairperson, a Member Secretary, 8 ex-officio members and 10 part time members.
Vertical Boards under the Commission	No separate boards.	Autonomous Boards under the overall supervision of the Commission: • Under-graduate Medical Education Board, • Post-graduate Medical Education Board, • Medical Assessment and Rating Board, • Board for Medical Registration.
Entrance Examination	No uniform entrance exam.	A uniform National Eligibility-cum-Entrance Test (NEET) for admission to under-graduate medical admissions, applicable for all the Medical institutes and colleges in India.

Professional Qualification Examination	No Licentiate Examination.	National Licentiate Examination is compulsory for the professionals graduating from the Medical Institutions, to practice and for the enrolment into the Medical Registers. The above exam will also serve as the NEET for the Post-graduate admissions. There is no Licentiate exam after the Post-Graduate education.
Fees Regulation	No.	NMC will be empowered to fix norms for regulating fees for a proportion of seats (not exceeding 40% of the total seats) in Private Medical Colleges. However, the Private Medical Colleges will be given the freedom to fix the fees for the remaining seats. The Bill has also recommended that the total fees of the colleges have to be displayed on the website, and no fees other than that which has been clearly announced on the website of the college should be permitted.
Other Recommendations		• The National Board of Examinations (NBE) shall be merged with the Post-Graduate Medical Examination Board. • 'for-profit' organizations should be permitted to establish medical colleges. • Repeal of the Act, 1956.

PART IV. CRITICAL ANALYSIS OF THE PROPOSED BILL:

- **Structural Changes:** In the 92nd report, the Parliamentary Standing Committee (PSC) noted that too much power was concentrated in a single body i.e. the Medical Council of India, and therefore recommended for a complete reformation of the institutional structure in the Council. The NITI Aayog Committee accepted the above recommendations. They have proposed for the formation of two separate bodies- one as an advisory body, and the other as a Policy-making Commission which will supervise the four autonomous boards. The Advisory body would entirely comprise of members possessing medical qualifications and will help frame the agenda and provide guidance to the Commission. The Commission would consist of medical as well as non-medical members. The four boards would function separately with autonomous powers.

- **Appointment of the Members:** The proposed Bill in its current form has been severely criticized by the Indian Medical Association. They are of the opinion that through the Bill the Government wants to do away with the self-regulating authority of the Medical Council.[v] This criticism is in context to the appointments of the members to the Commission. According to the proposed Bill, the previous procedure of electing the members would be replaced by the nominations carried out by the Search and Selection Committee appointed by the Central Government. This proposal is based on the careful examination of the current composition of the Council, which is majorly dominated by members from private medical institutions. Prior to the PSC, the Ranjit Roy Chaudhury Committee had also emphasized on the need to do away with the election procedure and adopt a transparent system of selection. The report highlighted that the medical councils across the world do not have elected members, and in countries like the UK, USA, Japan, Canada, Australia, the members are appointed through transparent processes. This is because elections increases the possibility for the use of money and this would give an undue advantage to candidates belonging to the private institutions. Moreover, the number of private medical colleges is increasing in our country; the over-representation of private medical college would affect the role and responsibilities of MCI as it could create a virtual conflict of interest and impact the oversight role of the MCI.[vi]

- **Professional diversity among the nominated Members:** A proposal has been made for the appointment of 5 non-medical members out of the total 20 members to the Commission. These five members would be from backgrounds including 'management, economics, law, consumer or patient rights advocacy, health research, science and technology'.[vii] This is similar to the formulation of the General Medical Council of UK, which has 50% non-doctor members, and is supposed to be the 'father' of the Medical Council of India in terms of its design and structure. Similarly, the Canadian and Australian Medical Councils also have non-doctors as their members. The rationale for the above proposal is that members belonging to diverse professions would help in safeguarding the quality of medical education in accordance to the needs of the Indian health system. Therefore, the public interest needs to be given priority over protecting the elected character of the regulatory framework.[viii]

- **Common Entrance and Exit Exams:** An all-India NEET is a progressive reform, which removes the complexity of multiple entrance exams. The admissions will be based on rank in the entrance exam. However, no provision has been made for minimum qualifying marks for NEET. Unless, it is specified, a student who has scored maybe 80% in the exam but does not have the means to pay the fees at private colleges could lose the seat to a student who may have scored merely 30% and can pay the required fees.

Therefore, the notion of admission based on merit will not be justly applicable and hence, the Commission needs to define the minimum qualifying marks to be eligible for admissions.
The idea behind the common Licentiate exam is to issue the licence after testing the standards of the knowledge and the skills of the graduating students. And the same licentiate exam will be considered as NEET for postgraduate admissions. In this scenario, the students will concentrate more on the preparation for the exam instead of focusing on the training during the internship period. Therefore, the exam should be conducted before the internship begins instead of after completing the degree.

- **Fees Regulation:** It is known that the private medical colleges have been charging high amount of fees from their students. Therefore, one major challenge for the Medical Commission is to ensure that the medical education is affordable, especially for the students belonging to traditionally marginalised communities. For this, the fees of the private medical colleges have to be monitored, without which the objective of a fair and transparent system for providing excellent medical education will be defeated. Under the MCI, the fee of the private medical colleges was not monitored. In this regard, the PSC was of the opinion that "since the Ministry of Health and Family Welfare plays a critical role in supporting the regulation of medical education, it should be enabled to play a role in regulating fee structure in private medical colleges so that the right quantum of tuition fees is charged by private medical colleges and there is uniformity in the fees across the country amongst the public and private sector medical colleges/institutions. The fee structure should be strictly enforced and action should be taken against erring managements."[ix]

  However, the NITI Aayog drafting committee has a different view. They are of the opinion that "monitoring the fees at the micro level might encourage 'rent seeking behaviour' in the Commission, and moreover, a fee cap would discourage the entry of private colleges thereby undermining the objective of rapid expansion of medical education". Therefore, to balance the equation, they have proposed for monitoring of fees not exceeding 40% of the seats at the Private medical colleges, and the fees for the remaining seats to be determined by the college administration.[x] However while this sounds like a logical step, the fact that the proposal says 'not exceeding 40%', can be interpreted to mean that fees needs to be regulated for a maximum of 40% of the seats and a college could even get away with as little as 5% of the seats being subject to regulation and this could vary according to the decision of the Commission. This also means that there is no ceiling proposed on the market led fee structure which would have its own impact on students who may pass out with huge student loans etc. The norms for the fees regulation must clearly define a minimum percentage of seats and not give an open ended upper limit.

- **Shortage of Medical Practitioners:** India is the largest producer of medical manpower in the world,[xi] despite this, there is an acute shortage of medical staff at public health centres. There are 25,308 Primary Health Centres (PHC) as on 31st March, 2015, for a rural population of around 83.3 crore, which is inadequate in number. The shortfall of the required staff at the PHC is "83.4% of surgeons, 76.3% of obstetricians & gynecologists, 83.0% of physicians and 82.1% of pediatricians." Similarly, at the Community Health Centres (CHC), out of the sanctioned posts, "74.6% of Surgeons, 65.4% of obstetricians & gynecologists, 68.1% of physicians and 62.8% of pediatricians" are vacant as on 31st March, 2015.[xii] The data clearly indicates the severe shortage of medical staff at these health centres. Therefore, the Committee should make rural health service mandatory for the medical students as part of their curriculum. This will cater to the shortfall of medical staff at these health centres which, at times, are the only healthcare option available for the rural and marginalized people.

- **Expansion of Medical Colleges:** According to the 2006 report, World Health Organization had identified India among the 57 countries facing critical shortage of health workforce.[xiii] India has one doctor for every 2000 people instead of the 1000 people norm by the World Health Organization.[xiv] According to the data provided by the Ministry of Health and Family Welfare, Government of India for 2015-2016, there are 200 government medical colleges (27,143 medical seats) and 222 private medical colleges (29,995 medical seats) throughout India.[xv] Moreover, it can be inferred from the data that six States with 31% of India's population accounts for 58% of the MBBS seats, while the other eight States which comprises 46% of India's population have 21% of the MBBS seats.[xvi] Considering the shortage of medical seats, the Committee has expressed the views for expanding large district level hospitals & major private hospitals into medical colleges to impart postgraduate education. The Committee believes that the expansion will be achieved without spending much on the infrastructure, and it will provide for the utilisation of the doctors employed in private hospitals.[xvii] In fact, the expansion of the large district hospitals into medical colleges is a logical step, as it will increase the number of medical seats and also cater to the medical aspirations of students belonging to that particular district. However, the question is, will these large district hospitals be well equipped with the necessary infrastructure to provide quality education and training to the students? As it is also known, that most private hospitals charge high fees based on the attending doctor's reputation and they would not encourage junior doctors to train by attending to patients. Therefore, the above proposal will be fruitful only if the infrastructure of the concerned hospitals is upgraded to provide quality education with minimum hours of practice for the students under senior doctors. The Commission will also need to ensure strict regulation and accreditation of the teaching faculty at these hospitals.

- **Proposal for allowing 'for-profit' medical colleges:** The proposed Bill has recommended for the removal of the 'not-for-profit' clause from the Act and to allow 'for-profit' colleges to be established. The Committee believes that the medical expansion through private institutions is required to meet the shortage of medical practitioners in our country. It is true that the private institutions need to participate but commercialization and profit making from medical education is not the solution for their participation. Under the previous Act, 'not-for-profit' colleges were allowed, which were established not to earn profit. Presently, there are a larger number of private medical colleges than government colleges, which clearly indicates that the private sector already has a very significant presence in the area of medical education. But the 'for-profit' clause in the Bill will allow medical colleges to make profit according to their will, which would lead to the rise in education fees as well as increase in the expenditure on health care of the people. This would also provide an opportunity for foreign medical institutions to establish partnership colleges/institutions in India with the assistance of Indian corporate houses. Therefore, the solution for greater participation of the private and the government sector in medical education is in the removal of rigid barriers to establish medical colleges. The Medical Council has mandated norms like the 'minimum land requirement of 20 acres, the number of class rooms, size of the lecture halls, examination hall and library' to establish colleges, which are the reason for increase in the investment amount. Hence, higher investment leads to charging higher fees from the students. Moreover, despite the ban on animal experiments in our country, unnecessary labs like mammalian amphibian and experimental pharma labs are required to be maintained by colleges, which is an extra financial burden on the colleges.[xviii] It takes more than Rs 200 crore to set up a medical college and about Rs. 1500 crore to set up an institution like AIIMS.[xix] Therefore, the Committee should retain the previous clause of 'not-for-profit', and replace the outdated infrastructural norms with the necessary norms according to the required healthcare by our country. With the reduction in the investment amount, the government and other private institutions will be able to establish more number of colleges.

- **Regulation for Unethical code of conduct:** In the proposed Bill, the code of ethics has been put under the regulation of the Board for Medical Registrations and has not been given adequate attention. The Committee needs to understand the importance of doctors following a strict code of ethics and that its compliance needs to be strictly enforced and monitored. Despite anecdotal data indicating that the number of unethical practices has increased in India, only 109 doctors have been black listed by the MCI in the period 1963-2009. In UK, the disciplinary actions are taken by separate Tribunals headed by Judges, which is a separate body independent of the GMC.[xx] On the other hand, in India, the State Medical Commissions are responsible for ensuring the medical code of conduct, and they have not been efficient as it can be inferred from the data. The Committee has failed to adopt the recommendations made by the PSC for the formulation of a separate Board of Medical Ethics, which could be constituted on the lines of the GMC or the Australian Medical Council and comprise of non-doctor lay men as members.[xxi]

  The Medical Assessment and Rating Board are given the powers to conduct the assessment of medical institutions. There is no provision in the proposed Bill for the accreditation or for the regulation of teachers at medical colleges, nursing homes, hospitals, clinics, pharmacy and chemists, which is necessary. In a particular instance, the MCI had taken action against a super-specialty hospital for certain lapses, and the hospital approached the Delhi High Court stating that they did not come under the MCI, and the case went in favour of the hospital.[xxii] Similarly, it has been reported that certain pharmaceutical companies organize pleasure trips for the doctors in order to seek favour for their medicines.[xxiii] Recently, the Income-Tax Appellate Tribunal has passed a judgment, stating that the practice of entertaining and offering pleasure trips to the doctors by the pharmaceutical companies is illegal.[xxiv] It is for the first time such a practice has been nabbed, surprisingly by the Income-Tax Appellate Tribunal instead of the MCI. Therefore, teachers, clinics, hospitals, pharmacies, etc should be accredited and brought under the ambit of the Medical Commission. Moreover, as mandated by leading universities across the world, students should assess the teachers rather than an external body.

The proposed Bill of 2016 has been introduced to bring a complete reformation in the structure and the functioning of the Medical Commission. However, the Bill is not free from flaws, and some of which need urgent reconsideration:

- Minimum qualifying marks in the National Eligibility-cum-Entrance Test (NEET) need to be defined;
- Fixing of the fees for a minimum percentage of seats in the private medical institutes instead of the open ended clause ‘not exceeding 40% seats’;
- The **‘not-for-profit’** status of the medical colleges should be retained.
- Replacement of the outdated norms to establish colleges.
- Accreditation of teachers, clinics, pharmacies, chemists, hospitals should be made mandatory.
- Rural service at the Primary and Community Health Centers should be made mandatory for the medical students, as part of their curriculum.
- A separate Board of Medical Ethics should be created to investigate and prosecute cases of unethical practices by doctors.

Nevertheless, the Bill contains some positive reforms as well, which are reflected through the complete reformation of the administrative structure of the Commission. However, the core objectives of the Commission have to be upheld, which are to create and train a medical workforce which can work effectively in context to the social conditions of our country. Moreover, the proposed Bill will not be fruitful if it does not emphasize on strict regulatory and enforcement practices. Therefore, instead of emphasizing on the creation of medical colleges, the prime focus should be on the quality and skills of the doctors being produced, who will effectively cater to the increasing requirement of healthcare in our country with the right ethical code of conduct.

PART V. BACKGROUND/REFERENCE DOCUMENTS

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