Suggestions

“THE CLINICAL ESTABLISHMENT (REGISTRATION & REGULATION) ACT 2010.”

1. The Govt. of Maharashtra has decided to introduce “The Clinical Establishment Act 2010” and before introducing the same the opinions of the medicos, medical organizations and the general public as well are being invited.

2. The main objectives of “The Clinical Establishment Act 2010” seem to be seeking improvement in the public & private health care systems as far as quality is concerned and to make an accurate and updated register of these establishments at District – State & Central level, so that all these establishments can be used as a helping hands for effective implementation of National Health programmes etc. by the State / Central Govt.

3. Prima facie, these objectives sound good, logical & in national interest as well. Every prudent & socially responsible medico will definitely support the Act for the achievement of these objectives. We, the members of NIMA-MSB also welcome the proposed Act for these objectives.

4. But that is not enough. The proposed Act has also suggested the modes operandy to achieve these goals and NIMA-MSB would like to raise strong objections for many of such clauses mentioned in the Act as they are unfavourable and cumbersome for medical practitioners.

5. NIMA is an Association registered under the Societies Registration Act comprising of qualified doctors of “Indian System of medicine” (ISM) ie. Ayurved & Unani system of medicines fused with allopathic system. The doctors registered under various schedules of NIMA-MSB like A-A1-B & D are not only qualified in Ayurved or Unani system but they also have been taught the adequate knowledge of modern scientific system of medicine (i.e. Allopathy) which forms the part of their syllabus. These courses which were earlier run by private medical colleges then run through statutory faculties / Boards and later through statutory Universities. With the establishment of Central Council of Indian Medicine (CCIM) under IMCC Act 1970, a Central Act, uniformity in course of ISM was established through out India. The duration of these courses since then is made 4½ yrs., plus one year of internship, to bring the course of par with other standard medical degree courses.

6. Maharashtra Council of Indian Medicine is having around 72000 registered medical practitioners till date on its roll under various schedules like A-A1-B & D etc. As they all have received training in both the systems of medicine i.e. Ayurved/Unani with Allopathy through Statutory institutions, they are privileged legally to practice both the systems of medicine, under various state government Resolutions from time to time and various statutes like Indian Medicine Central Council Act 1970, Maharashtra Medical Practitioner‟s Act 1960, Drug & Cosmetic Act 1940 etc.

7. Majority of these practitioners are family physicians practicing in rural & remote areas of the state and providing medical service to the poor and downtrodden masses. Few of these ISM practitioners are also running well equipped hospitals in rural areas and are providing outdoor and indoor medical services, working in all sort of adverse geographical and social conditions coupled with illiteracy and poverty and thus serving humanity at its best, since many decades.

8. Looking into these real facts, these doctors need to be incorporated in a very special category as an “Integrated System” or “ISM practitioner” and should not be labelled only as Ayurvedic or Unani doctors. So we strongly recommend the introduction of a new category of “Integrated system” to place all our ISM practitioners in proper perspective.

9. In the proposed National Council, one representative has been given place only from Indian Medical Association [clause (8)(2)(f)] , which is a private body of Registered doctors under Indian Medical Council Act 1956. This seems to be a very bias and partial view.

Suggestion:

Similar representation should also be given to the National Associations, belonging to other systems of medicine. National Integrated Medical Association (NIMA) in a largest and strongest registered association of ISM practitioners working on national level since 1948 (i.e. since 65 long years) representing about 3½ lakh ISM practitioners from all over the country. So we recommend that one representative of NIMA also should be involved in the National council.

10. In clause no. 12 (2), all the clinical establishments have been asked to provide the facilities for stabilizing the emergency medical conditions of any individual who comes or is brought to such clinical establishment.

Suggestion:

Providing the facilities required to stabilize the emergency medical conditions should not be made mandatory for each and every clinical establishment. This is not possible practically at all. Only selective categories of clinical establishments should be asked to provide such facilities.

11. As mentioned in the clause no.13 (1) the Central Govt. will prescribe various categories of different systems.

Suggestion:

The Govt. of Maharashtra should suggest a special category of „Integrated System‟ to safeguard the professional rights & interests of the doctors of Indian System of Medicine.

12. The Central Govt. shall have regard to the “local conditions” in prescribing the standards for clinical establishments. “The Integrated System of Medicine” thus derived specially, is a creation of many progressive states like Maharashtra, Rajasthan, Punjab, Gujrat etc. keeping in mind the basic need health infrastructure esp. for rural & remote areas. The medical facilities in these areas are still inadequate. The highly qualified consultants or even MBBS doctors are reluctant to go the rural area. They prefer the city & urban area only and the poor and illiterate masses in the rural area are deprived off the basic medical facilities. The great national leaders like Lokmanya Tilak, Pandit Jawaharlal Nehru, Mahatma Gandhi, Pandit Madan Mohan Malviya, Hakim Ajmal Khan, etc. who believed that for the effective medical relief to the poor people of this country, the basic general practitioner equipped with the knowledge of modern medicine and the ancient heritage of Ayurved / Unani would be much better than the practitioner knowing a single pathy. So even from pre-Independence days (since almost 75 years) such integrated medical courses are being introduced in many states of our country. The progressive states like Maharashtra, Rajasthan, Punjab, Gujrat etc. have taken a leading role in this regard and as a result of that, the health infrastructure in these states has become deep rooted, widely extensive and strong. This ultimately has reflected in the successful implementation of various National health programmes, as can be seen from the data available. After the establishment of Central Council of Indian medicine as per the Central Act, i.e. Indian Medicine Central Council Act 1970, there is an uniformity in the syllabus of integrated course i.e. B.A.M.S. through out the country and thus now all the states are getting benefit of this integrated system of medicine.

13. So NIMA-MSB strongly recommends that, in the interest of the masses, this “Integrated System of Medicine” should be specially incorporated acknowledged & protected in the clause (13)(1) of the said Act.

14. As per clause (10). The district Health officer or the Chief medical officer should be designated as a registering authority only. In fact they should be given only supervisory & recommendatory powers but not the executive powers like imposing fine/penalties or cancellation of registration etc.

15. Clause (16) says that the authority shall not be required to conduct any enquiry prior to the grant of provisional registration. This is very strange and dangerous too.

Suggestion: Before giving even the provisional registration, detailed enquiry must be made as regards the qualification & registration of the concerned doctor. Many bogus doctors are already practicing in almost every place whether urban or rural. In absence of any prior enquiry, such bogus doctor will get the provisional registration and he may continue to practice for 12 months till he is inspected again for permanent registration. So the policy of not enquiring at all before the provisional registration is detrimental in the interest of the society. NIMA-MSB strongly recommends that the detailed inquiry must be made as regards the qualification & registration of the doctors before giving them the Provisional registration for clinical establishment.

16. Clause (17) says that the provisional registration is renewable every year. When the process of final registration has to be completed within three years, provisional registrations need not be renewed every year.

Suggestion: The period for renewal of registration should be made as every 3 years.

17. Clause (23) suggestion: Permanent registration should be given within 6 months or a year at least instead of three years.

18. Clause (26) & (27) suggestion: Display of information for filing of objections should not be made open to public as a rule & for every category of clinical establishment because such kind of a practice will invite unnecessary & unwanted nuisance from the people in the society having vested interest & biased attitude against doctors.

19. Section 30 (2): The certificate shall be valid for a period of five years from the date of issue.

Suggestion: If this is so, then the renewal should not be made mandatory every year.

20. In this proposed Act extensive and unlimited executive powers are proposed to be given to authority under various clauses e.g.

1. Clause No. 32cancellation of registration

2. Clause 40 Fine for contravening the provisions of the said Act.

 For 1st instance – Fine Rs. 10,000/-

 For 2nd Instance – Fine Rs. 50,000/-

 For 3rd Instance – Fine Rs. 5,00,000/-

3. Clause 41 Establishment without registration.

 1st Instance – Fine Rs. 50,000/-

 2nd Instance – Fine Rs. 2 Lakh

 3rd Instance – Fine Rs. 5 lakh

4. Clause 42 Fine up to Rs. 5 lakh

Suggestion: All this is very ridiculous & unjust for the private medical practitioners. Vesting of such extensive executive powers into the beaurocrats like D.H.O. / C.M.O. will be an open invitation leading to chaos and anarchy in the medical field, both in urban & rural area as well.

21. We strongly oppose these provisions and strongly recommend that no such executive powers should be given to D. H. O. or C.M.O. in this regards. They should be given only supervisory and recommendatory powers. For all kinds of irregularities noted, the DHO/ CMO should refer to the respective medical councils of the state and the executive powers in this regards must only be vested in the Medical Councils of the state which are the statutory bodies with wide experience & skill in handling these matters. The decisions of the medical councils should be final & binding on the concerned parties. The Medical councils should be strengthened with adequate manpower and money power to carry on this work effectively.

22. When the Act suggests such heavy penalties for defaulting doctors, surprisingly there is no provision of counter penalty against defaulting registering authorities. Action against them only under Indian Penal Code or criminal Procedure Code will not be enough. There must be a provision for heavy penalty (i.e. Rs. 20 lakh and more) coupled with termination of service and also the provision for imprisonment as the case may be. Then and then only the balance of justice will exist in this case otherwise this all will prove to be a monopolized dictatorship activity against medical profession.

23. Thus though the Act is being proposed apparently with good views of improving the standard of health system and to update the register of clinical establishments at Central – State & district level, the medical professionals will be in deep trouble in future.

24. The doctors have to complete the formalities first for provisional & then permanent registration of their clinical establishment and after that for the renewal of the permanent registration every year by payment of the fees prescribed. It will be an added heavy financial burden on their pocket & still they have to submit themselves for periodic inspections of the registering authorities which will be having extensive executive powers for heavy penalties. This all will result into heavy exploitation of the medical professionals. In spite of all this, these medical professionals are expected to help the Govt. in the effective implementation of the National Health Programmes. This is all very ridiculous.

25. We welcome the objectives of this proposed Act very cautiously and at the same time must strongly oppose the cumbersome clauses suggested for the achievement of these objectives as mentioned earlier.