



NATIONAL INTEGRATED MEDICAL ASSOCIATION

CENTRAL COUNCIL : 2017-19

(AN ALL INDIA ORGANISATION OF THE GRADUATES OF THE INTEGRATED MEDICINE)
Registered Under Societies Registration Act XXI of 1860, Regn. No. MUM/28271-G8850
Public Trust Regd. No. F/2459 Mumbai

Delhi Office: NIMA Bhawan 30/23 West Patel Nagar, New Delhi- 110 008

Mumbai Office : G-2, Mohan Kunj, M.J. Phule Marg, Naigaon, Mumbai- 400 014, Ph. 022-24123407

<i>President</i>	: Dr. V. D. Tembhurnikar, Prabhat, B-2/1912, Homkar Nagar, Bhavani Peth, Solapur (M.S.) Ph. (0217) 2629200, Cell – 09823288200 E-mail: vtembhurnikar@yahoo.in
<i>Secretary General</i>	: Dr. U. S. Pandey, B 21/106, Kamachha, Varanasi (U.P.) Mob.: 09415228720, E-mail: drpandey9415228720@gmail.com
<i>Treasurer</i>	: Dr. Ashutosh Kulkarni, 9/132, Kela Plot, Jathar Peth, Akola (M.S.) Ph. (0724) 2491908, 09422880289, Fax : (0724) 2450715, E-mail: kulkarni.ashutosh@ymail.com

Ref. No.: NIMA/SGCC/07/2017-19

Date: 10.04.17

To,
Hon'ble Chairman,
Committee on reforms of IMCC Act 1970 & HCC Act 1973
NITI Ayog, Government of India, New Delhi India

PROPOSER: NATIONAL INTEGRATED MEDICAL ASSOCIATION (NIMA).

SUB: Suggestions on Report of Committee on reforms of IMCC Act 1970.

Respected sir,

NATIONAL INTEGRATED MEDICAL ASSOCIATION (NIMA) is 70 years old, strongest and largest countrywide registered organisation of Integrated Doctors (graduates and post graduates of conjoint courses in ISM and Allopathy) having more than 1000 branches spread all over country. NIMA is fighting for the protection of legitimate Rights of ISM doctors since decades. Besides, members of NIMA are serving in healthcare system through private, semi-government and government agencies by providing timely economic treatment to all classes of population and places throughout the country including rural, hilly, tribal and urban slums area, where services of MBBS doctors never reach at all. Apart from private practises, ISM doctors who are serving NRHM (National Rural Health Mission), RBSK (Rashtriya Bal Suraksha Karyakram), 108 ambulance service etc. It proved that, like in Maharashtra, because of emergency 108 ambulance services, doctors of ISM saved many lives of accidental injured patients, pregnant women, new-born babies and other acute emergencies. Besides, ISM doctors are actively participating in various National and States Health Programs like Pulse Polio, DOTS, Vaccination, Malaria, Leprosy and Family programs etc.

It is pertinent to note that most of the members of ISM are working as family physicians in rural and remote areas and catering the medical service economically to poor and down trodden masses since pre-independence period by sanctity of law.

On the contrary MBBS doctors are very much reluctant to work in rural and remote areas as was observed in Loksabha debates while framing IMCC Act 1970. The situation till date has not at all changed yet.

As mentioned by Hon'ble Supreme Court in Minakshi Gutam's case, WHO has earmarked ideal ratio of "Doctor per number of persons of population" as 1 : 400. In India, actually this ratio is 1 : 1700, implying scarcity of doctors. But here only MBBS/ Allopath Doctors are taken into consideration. If ISM doctors are accommodated/considered, then same ratio will become 1 : 700, which is nearer to WHO's earmarked ideal ratio.

Considering the shortfall of doctors at Primary Health Centres in Maharashtra State, the State Government has thrown open the posts of medical officers to BAMS doctors. They are

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working efficiently at Primary Health Centres, Rural Hospitals, and Cottage Hospitals etc. and are also implementing various National and State Health Programs.

The doctors of Indian Systems of Medicine have completed the graduation and post-graduation as per the syllabus and curriculum framed by Central Council of Indian Medicine which is gazetted. The syllabus covers the subjects of Indian Systems of Medicine supplemented by the subjects of Modern Medicine like pharmacology etc. Their training and teaching is carried out according to the syllabus. The internship programs completed in PHC, Rural Hospital, Civil Hospital along with hospitals attached to colleges.

According to the provisions of Sec 2 (1) (e) and Sec 17 (3) (b) of IMCC Act 1970- Rights of person and various notifications issued time to time by Central Council of Indian Medicine, it is crystal clear that, " The institutionally qualified practitioners of Ayurved, Siddha, Unani-Tibb are eligible to practice their respective system with Modern Scientific System of Medicine.

As this Right is given to respective States. Many State Governments have made necessary provisions to enable ISM Doctors to use Modern Scientific Medicine which is known as Allopathic system of Medicine.

Hon'ble Supreme Court in various cases like in Dr. Mukhtiarchand and others Vs The State of Punjab and others and Dr. Subhasis Bakshi Vs State of West Bengal case, and various Hon'ble High Courts up held these provisions.

Recently since 2014, various state legislatures conferring Statutory Rights to practise Modern Scientific System of Medicine by doctors of ISM was challenged by IMA in various Hon'ble High Courts like Mumbai, Hariyana and Uttar Pradesh. All three Hon'ble High Courts have not passed any order against ISM. The reason given is, syllabus and training imparted to ISM doctors and State's Right to legislate and need of these doctors in rendering healthcare services in rural and urban areas. IMA had preferred a Special Leave Petition against order of Hon'ble Bombay High Court (WP (C) No 7846 of 2014) in Hon'ble Supreme Court, but Hon'ble Supreme Court dismissed the petition *lemine*. This indicates that judiciary has upheld the efforts made by the states to include ISM doctors in healthcare system for it's effective implementation of health policies.

After perusal of the proposed bill to replace IMCC Act 1970 and as there is no express provision regarding the Rights of ISM to practise respective system with modern scientific medicine which is known as allopathic system of medicine, NIMA strongly feels that the said proposed bill will jeopardise the effectiveness of the entire medical fraternity of the country.

NIMA strongly feels that any move to table the bill or to give effect to the passage of the bill will weaken the medical profession and health system of the country and therefore NIMA strongly opposes the said proposed bill to this extent.

NIMA resolves that all necessary measures will be taken by the association involving state branches across the country also various district branches and entire ISM medical fraternity. So that this bill in it's current form is not introduced in the Parliament.

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After examining the proposed bill at great length the NIMA feels that there are serious issues besides others.

We welcome the contents of bill with respect to the functioning of council, NEET, NAAC, establishment of boards for different systems, college standard, quality education and research.

But we differ with respect to:

1. Inclusion of Yoga and Naturopathy.
2. Nomination of members by non-democratic way (Members not elected by and through ISM)
3. Definition of Indian Systems of Medicine – Under section 2 (a).
4. Rights of ISM – Under Section 40.
5. No mention of the word like Integration/Integrated Course / Integrated Schedule
6. Sec 18: National Licentiate Examination for ISM.
7. Sec 37 (2) (ii)- Professional misconduct - No provision of Imprisonment.

After examining proposed bill at great length, the NIMA Central Council feels that there are serious issues. We strongly recommend the following suggestion:

1. We are a democratic country. In spite of this we do not find any involvement of elected representatives from ISM fraternity. We strongly recommend for the same.
2. Sec 2 (a) We suggest the Definition of Indian Systems of Medicine as follows: Indian Medicine known as Ashtang Ayurved, Siddha, Unani-Tibb, or Sowa-Rigpa supplemented with modern medicine known as Allopathic medicine and modern advances as specified by the syllabus and curriculum.
3. Please retain Sec 17 (3) b of IMCC Act 1970 which reads as follows:
Sec 17. Rights of persons possessing qualifications included in Second, Third and Fourth Schedules to be enrolled.

(1)

(2)

(3) Nothing contained in sub-section (2) shall affect-

(a)

(b) the privileges (including the right to practise any system of medicine) conferred by or under any law relating to registration of practitioners of Indian Medicine for the time being in force in any state on a practitioner of Indian Medicine enrolled on a State Register of Indian Medicine.

(c)

(d)

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Our Indian Constitution is a federal constitution according to which subjects are distributed into three lists: Union List, State List and Concurrent List, of which the subject "Health" is under State list. So to ensure federal structure of constitution, please retain this right of state.

4. Same is mentioned in 12th Planning Commission's report 2012-17, which reads as follows:

1.6.9. Medical Education should be made relevant to the needs of the country.

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1.6.12: Titling Integration of AYUSH in Teaching Research and Practise. It says AYUSH Doctors should be suitably trained and used.

8.4.1: Right of patient to rational treatment of good quality and reasonable cost to be protected.

10: There are 7.87 Lakhs RMPs from AYUSH

10.2: Says AYUSH has substantial role in the National Health System.

10.8.3: Strongly recommends enabling the prescriptions of essential allopathic medicines by AYUSH practitioners.

The planning commission under section 7.9 has gone to the extent of permitting non-qualified practitioners into the health system after suitable training. Such remarks of planning commission highlight drastic scarcity of doctors in the health care system of the nation. And here we, the ISM doctors are duly trained and qualified in both the systems of medicine (ISM and Modern Scientific Medicine) and already serving the nation. Hence this Right of ISM

Doctors should be protected in the best interest of people at large and prevent irreparable loss towards healthcare system of nation.

5. This bill is silent on the existence of a class of Integrated Practitioners (holding integrated degrees), which is recognised and mentioned by Hon'ble Supreme Court in Dr Mukhtiyarchand's case.

6. As Yoga and Naturopathy are not independent recognised systems of medicine like Ayurveda, Unani-Tibb, Siddha and Sowa-Rigpa therefore yoga and naturopathy cannot be equated and included in the definition of Indian Systems of medicine.

It is humbly suggested that, Yoga and Naturopathy definition does not match with Indian Systems of Medicine because no medicines are to be used /allowed in yoga and naturopathy practice. We recommend to establish separate Commission for yoga and naturopathy.

7. Sec 18: National Licentiate Examination for ISM:

Sec 18 (1): We do not agree with proposed NLEIM for granting licence to practise and enrolment in register.

Sec 18 (2): We welcome this NLEIM for admission in PG courses.

8. Sec 37 (2) (ii) Regulation of Professional Conduct: We could not find any schedule in this draft bill. Hence we reserve our Right to opine.

9. Sec 40 (4) : Penal Provision of imprisonment for the contravention of any provision of subsection 3 on section 40 shall be included.

10. In this scenario we strongly feel that there will be a gross violation of FUNDAMENTAL RIGHTS under Article 21 i.e. Right to LIFE and Right to HEALTH of people at large in general and gross violation of FUNDAMENTAL RIGHT of ISM practitioners mentioned under Article 19 (1)(g) of The Constitution of India regarding freedom of profession in particular. This will render provisions of bill unconstitutional.

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11. For the reasons mentioned above - The proposed bill will seriously affect the functioning of the ISM fraternity and healthcare system of the whole country. Hence NIMA opposes the bill up to the extent mentioned above.
12. NIMA further resolves that it will be seeking an appointment to meet and to appraise His Excellency The President of India, Hon'ble The Prime Minister of India, Hon'ble Health Minister, Hon'ble AYUSH Minister and other Cabinet Ministers. NIMA will take lead as the biggest association of ISM Doctors of the country in organising a series of meetings and countrywide strong protest.

So, We kindly request you to go through the above mentioned opinion and suggestions and do the needful. Thanking you,

Yours sincerely,

Dr Vinayak Tembhurnikar
Hon. President, NIMA CC.

Dr U S Pandey
Hon. Secretary General, NIMACC.

Dr Ashutosh Kulkarni
Hon. Treasurer, NIMA CC.

Medico-Legal Cell of NIMA CC :

Dr Nitin K Kothale - Chairman
Dr Mandar Ranade
Dr Vinayak E Mhatre
Dr Kiran T Patil
Dr Rajendra H Khatavkar