

# **REASONS FOR MEDICAL STRIKE**

## **1. National Council for Human Resources in Health (NCHRH) Bill-2011**

IMA is stunned by the dual standards depicted by the Govt. of India and the step motherly treatment meted out to the medical profession.

On the one hand, the Govt. boasts about its commitment to decentralize various departments for effective implementation of its policies and projects and efficient working of its departments, whereas on the other it bats for constituting a superarching Commission over all the Medical Councils using the proposed National Council for Human Resources in Health (NCHRH) Bill-2011.

If the Bill is passed:-

1. The Commission, the Committee and the Council **will execute the orders given by the Central Government** with no provision for the representation from the professional organizations, like Indian Medical Association or Health Universities in the Commission, Board or Council, shunning the voice of the health care providers. In the circumstances, it will not be possible for the Commission, Board, committee or Council to provide fair assessment of the medical education or health care delivery.

2. **Registration in State Council valid only for the state:** Health is a State Subject. Contrary to the existing practice, a candidate who have registered in State Council will be able to practice only in the State of registration and only when you register in the National Council can practice anywhere in India. **This will negate State Councils and no one will come forward to register in the State Council**

3. **Doctor doing any other occupation is misconduct:** The Bill defines the engagement of medical professionals in any business (or) occupation other than health profession as “misconduct”. **This prohibits all career opportunities for health professionals other than medicine and is an infringement on the basic rights of a citizen of the country.**

Our observations in the broad terms are:-

- Medical Education is a specified area.
- NCHRH will definitely affect the Health Education and Health scenario of India.
- Independent Council is the need of the Medical Profession.
- NCHRH is **“Of the Government, By the Government and For the Government”** & not for the Health Profession or Education.

## **2. Clinical Establishments Act**

The Act introduced as a bill in 2010 to regulate private hospitals and clinics to ensure that no Clinical Establishment runs unless it has been duly registered in accordance with the prescribed procedure.

The Bill was passed by the Parliament without a single word of discussion in the House.

1. The Act includes **solo doctor clinics** under its ambit although the term **“Establishment”** cannot be used to include solo OPD type practice by a single practitioner, often functioning from a small room in his house or shop, which is generally on rent.

2. **“Emergency Medical Condition”** as part of a statute or rules made under the statute, should be left to the medical specialists in accordance with the Judicial dicta of the Supreme Court of India – “the profession is the best judge”. The erring doctors are already liable under Consumer Protection Act, the Indian Medical Council Act, 1956; and the Indian penal Code which can run concurrently. So this Act will lead to duplication of the existing acts and thus over regulation.

3. **“Stabilisation”** is purely and squarely a medical and professional decision totally outside the jurisdiction of courts to decide as to

- a. whether the condition of a patient is improving or deteriorating
- b. or has stabilized
- c. whether the interest of the patient will be best served by continuing treatment at a centre or by transferring him to another facility in spite of the deteriorating condition
- d. the risks involved in transfer

There is no clarity in the meaning of the word ‘stabilised’ and who would be responsible for the costs incurred in the same.

4. The District Authority can impose a **fine upto Rs. 5 lakh or even closure of the establishment** for failure to follow the rules. It is not acceptable to the IMA that such vast powers should be exercised in the absence of adequate legal safeguards against administrative abuse of power. This is already covered under the CPA Act.

IMA opposed the Bill tooth and nail and demands:-

- a. To freeze the Bill and initiate a nation wide debate

- b. To look at other options like accreditation which will retain the independence of this vital sector and ensure quality
- c. To exempt the healthcare institutions run by doctors from this Act, in case Government still feels it is in the interest of the country
- d. To bring all healthcare legislations under single window for better governance

### **3. Dissolution of Medical Council of India & a 3rd extension to its appointed Board of Governors**

It has been a renowned and proven fact that for people friendly policies and their effective implementation, the autonomy of all the professionals is a must. It is only the professionals of each field who can understand the requirements better, comprehend the outcome and suggest best modes of implementation. If one takes away their autonomy and they start getting dictats from non professionals, the common man bears the brunt.

The Medical Council of India, constituted by the Parliament of India through the Indian Medical Council Act 1956, has been an autonomous body regulating medical education in the country. As the majority of the members were elected and represented different states, they were able to give unbiased opinion regarding medical institutions and medical courses.

The Medical Council of India was dissolved by the Govt. 2 years earlier and the elected body was replaced by a Board of Governors nominated by the Union Government with a promise to streamline the Council. However, even after 2 years and a 3<sup>rd</sup> extension given to the Board of Governors for the next year, the Govt. does not seem to be inclined to restore the autonomy of the MCI.

As claimed by the Hon'ble Union Health Minister in the Parliament, if the Govt. does not plan to take away the autonomy of the medical professionals, why doesn't it let the autonomous structure of MCI be restored.

**We are deeply deeply anguished by the step brotherly treatment metted out to the medical profession by the Government.**

**IMA seeks your intervention to ensure:-**

- 1. The Clinical Establishments Bill is not passed by the Legislative Assembly in our State**
- 2. Instructions to members of your Party in the Parliament to oppose the passing of the NCHCH Bill.**
- 3. Restoration of the democratic setup of the Medical Council of India by reconstitution of its elected body.**