



**PARLIAMENT OF INDIA
RAJYA SABHA**

60

**DEPARTMENT-RELATED PARLIAMENTARY
STANDING
COMMITTEE ON HEALTH AND FAMILY WELFARE
ON
SIXTIETH REPORT**

ON

**THE NATIONAL COMMISSION FOR HUMAN
RESOURCES FOR HEALTH BILL, 2011**

(MINISTRY OF HEALTH AND FAMILY WELFARE)

(PRESENTED TO HON'BLE CHAIRMAN, RAJYA SABHA ON THE 30th OCTOBER, 2012)
(FORWARDED TO HON'BLE SPEAKER, LOK SABHA ON THE 30th, OCTOBER, 2012)

**RAJYA SABHA SECRETARIAT
NEW DELHI**

OCTOBER, 2012/ KARTIKA, 1934 (SAKA)

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* To be appended at printing stage.

COMPOSITION OF THE COMMITTEE (2011-12)

RAJYA SABHA

- | | | | |
|-----|---------------------------|---|----------|
| 1. | Shri Brajesh Pathak | - | Chairman |
| #2. | Shri Janardhan Dwivedi | | |
| 3. | Dr. Vijaylaxmi Sadho | | |
| 4. | Shri Balbir Punj | | |
| 5. | Dr. Prabhakar Kore.. | | |
| 6. | Shrimati Vasanthi Stanley | | |
| @7. | Shri Rasheed Masood | | |
| 8. | Shrimati B. Jayashree | | |
| 9. | Shri Derek O'Brien | | |
| 10. | Shri Arvind Kumar Singh | | |

LOK SABHA

- | | |
|---------|-------------------------------------|
| 11. | Shri Ashok Argal |
| \$12. | Shrimati Harsimrat Kaur Badal |
| \$\$13. | Shri Vijay Bahuguna |
| 14. | Shrimati Raj Kumari Chauhan |
| 15. | Shrimati Bhavana Gawali |
| 16. | Dr. Sucharu Ranjan Halder |
| 17. | Dr. Monazir Hassan |
| 18. | Dr. Sanjay Jaiswal |
| 19. | Shri S. R. Jeyadurai |
| 20. | Shri P. Lingam |
| 21. | Shri Datta Meghe |
| 22. | Dr. Jyoti Mirdha |
| 23. | Dr. Chinta Mohan |
| 24. | Shri Sidhant Mohapatra |
| 25. | Shrimati Jayshreeben Kanubhai Patel |
| 26. | Shri M. K Raghavan |
| 27. | Shri J. M. Aaron Rashid |
| 28. | Dr. Arvind Kumar Sharma |
| 29. | Shri Radhe Mohan Singh |
| 30. | Shri Ratan Singh |
| 31. | Dr. Kirit Premjibhai Solanki |

SECRETARIAT

Shri P.P.K. Ramacharyulu	Joint Secretary
Shri R. B. Gupta	Director
Shrimati Arpana Mendiratta	Joint Director
Shri Dinesh Singh	Deputy Director

ceased to be a member w.e.f 27th January, 2012 and re-nominated to the Committee on 2nd February, 2012 @ ceased to be a member w.e.f 9th March, 2012 and re-nominated to the Committee on 04th May, 2012

\$ ceased to be a member w.e.f 29th June, 2012

\$\$ ceased to be a member w.e.f 30th April, 2012

COMMITTEE ON HEALTH AND FAMILY WELFARE(2012-13)

RAJYA SABHA

1. Shri Brajesh Pathak - Chairman
2. Dr. Vijaylaxmi Sadho
3. Dr. K. Chiranjeevi
4. Shri Rasheed Masood
5. Dr. Prabhakar Kore
6. Shri Jagat Prakash Nadda
7. Shri Arvind Kumar Singh
8. Shri D. Raja
9. Shri H. K. Dua
10. Shrimati B. Jayashree

LOK SABHA

11. Shri Ashok Argal
12. Shri Kirti Azad
13. Shri Mohd. Azharuddin
14. Shrimati Sarika Devendra Singh Baghel
15. Shri Kuvarjibhai M. Bavalia
16. Shrimati Priya Dutt
17. Dr. Sucharu Ranjan Haldar
18. Mohd. Asrarul Haque
19. Dr. Monazir Hassan
20. Dr. Sanjay Jaiswal
21. Dr. Tarun Mandal
22. Shri Mahabal Mishra
23. Shri Zafar Ali Naqvi
24. Shrimati Jayshreeben Patel
25. Shri Harin Pathak
26. Shri Ramkishun
27. Dr. Anup Kumar Saha
28. Dr. Arvind Kumar Sharma
29. Dr. Raghuvansh Prasad Singh
30. Shri P.T. Thomas
31. Vacant

SECRETARIAT

Shri P.P.K. Ramacharyulu	Joint Secretary
Shri R. B. Gupta	Director
Smt. Arpana Mendiratta	Joint Director
Shri Dinesh Singh	Deputy Director

PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Health and Family Welfare, having been authorized by the Committee to present the Report on its behalf, present this Sixtieth Report of the Committee on the National Commission for Human Resources for Health Bill, 2011*.

2. In pursuance of Rule 270 of the Rules of procedure and Conduct of Business in the Council of States relating to the Department-related Parliamentary Standing Committees, the Chairman, Rajya Sabha, referred** the National Commission for Human Resources for Health Bill, 2011(**Annexure I**) as introduced in the Rajya Sabha on the 22nd December, 2011 for examination and report by 25th March, 2012. Subsequently, the Committee was granted extension of time till 31st May, 2012, again till 15th July, 2012 and further till 31st August, 2012 and still further till 31st October, 2012, respectively.

3. The Committee issued a Press Release inviting memoranda/views from individuals and other stakeholders. (**Annexure-II**). In response thereto 53 Memoranda from individuals and others relevant to the Bill have been received till the last date. List of individuals from whom memoranda were received is at **Annexure-III**. Copies of the Memoranda and suggestions received were sent to the Ministry for comments. The Comments received from the Ministry are at **Annexure-IV**.

4. The Committee held eleven sittings during the course of examination of the Bill namely 24th January, 2012; 27th February, 2012; 20th March, 2012; 07th June, 2012; 8th June, 2012; 05th July, 2012; 17th July, 2012; 18th July, 2012; 30th July, 2012; 31st July, 2012; 17th and 28th August and 19th October, 2012. The list of witnesses heard by the Committee is at **Annexure-V**.

5. The Committee considered the draft Report and adopted the same on 19th October, 2012.

6. The Committee has relied on the following documents in finalizing the Report.

- (i) The NCHRH Bill, 2011
- (ii) Background Notes on the Bill received from the Department of Health and Family Welfare and Department of AYUSH;

(iii)

- (iii) Presentation, clarifications and Oral evidence of Secretary, Department of Health & Family Welfare;
- (iv) Memoranda received on the Bill from various institutes bodies/associations/organizations/experts and replies of the Ministry on the memoranda selected by the Committee for examination.
- (iv) Oral evidence and written submissions by various stakeholders/experts from various medical professions, on the Bill; and
- (v) Replies to the questions/queries raised by Members in the meeting on the Bill received from the Department of Health & Family Welfare

7. On behalf of the Committee, I would like to acknowledge with thanks the contributions made by those who deposed before the Committee.

8. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

NEW DELHI;

BRAJESH PATHAK
Chairman,

19th October, 2012
Kartik 27, 1934 (Saka)

Department-related Parliamentary
Standing Committee on Health and Family Welfare

* *Published in Gazette of India Extraordinary Part II Section 2, dated 22nd December, 2011*

** *Rajya Sabha Parliamentary Bulletin Part II, No 49175, dated 26th December, 2011.*

LIST OF ACRONYMS

AIIMS- All India Institute of Medical Sciences
AYUSH-Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homoeopathy
CAT-Central Administrative Tribunal
CCH - Central Council of Homoeopathy
CCIM-Central Council of Indian Medicine
DCI-Dental Council of India
GPs-General Practitioners
HRM-Human Resource Management
ICMR - Indian Council of Medical Research
IMA-Indian Medical Association
INC-Indian Nursing Council
IPC-Indian Penal Code
JIPMER, Puducherry- Jawaharlal Nehru Institute of Post Graduate Medical
Educational and Research, Puducherry
MCI-Medical Council of India
MoU-Memorandum of Understanding
NBE- National Board of Examinations
NBHE-National Board of Health Education
NCHRH - National Commission for Human Resources for Health
NEAC-National Evaluation and Assessment Committee
NGO- Non-Government Organization
NIMHANS, Bangalore-National Institute of Mental Health and Neurosciences,
Bangalore
PCI-Pharmacy Council of India
PGIMER, Chandigarh-Postgraduate Institute of Medical Education and
Research, Chandigarh
SOR-Statement of Objects and Reasons
UGC-University Grants Commission
UK-United Kingdom
WHO- World Health Organization

REPORT- NCHRH Bill, 2011

The National Commission for Human Resources for Health Bill, 2011 (hereinafter referred to as the Bill) was introduced in the Rajya Sabha on the 22nd December, 2011 and referred to the Department-related Parliamentary Standing Committee on Health and Family Welfare on the 26th December, 2011 for examination and report thereon.

2. The National Commission for Human Resources for Health Bill, 2011 seeks to consolidate the law in certain disciplines of health sector and promote human resources in health sector and provide for mechanism for the determination, maintenance, co-ordination and regulation of standards of health education throughout the country to ensure adequate availability of human resources in all States and for the said purpose to establish the National Commission for Human Resources for Health to supervise and regulate professional Councils in various disciplines of health sector.

3. According to the Statement of Objects and Reasons (SOR) of the Bill, at present various disciplines of health are supervised and regulated by their respective professional Councils, namely, the Medical Council of India, the Dental Council of India, the Pharmacy Council of India and the Indian Nursing Council. The broad vision of human resources in terms of quantity, composition and quality required for enabling the country's health system to provide health care for all, is hidden from the perspective of these individual regulatory bodies. Any effort to make piecemeal changes in the statutes of the existing regulatory bodies is not likely to bring any substantial reform in the field of health education and services. The SOR, further states that to address these issues it was felt necessary to establish a National Commission for Human Resources for Health to provide an institutional framework to promote availability of health care providers in all parts of the country to reduce shortages, standardize quality and bridge the uneven distribution of existing work force in the health sector.

4. SOR further states that in view of the above, it was proposed to enact a law, namely, the National Commission for Human Resources for Health Bill, 2011. The Bill provides that the Central Government shall by notification establish the National Commission for Human Resources for Health with three constituent bodies, namely the National Board of Health Education, the National Evaluation and Assessment Committee and the National Councils, with distinct responsibilities for regulating educational standards; enforcing the standards and assuring quality and governing medical practice along ethical norms. It would also be the task of the Commission to ensure effective use of linkages in the entire health system, act as the controlling and co-ordinating agency that ensures accountability in the system and to facilitate interconnectivity among and between disciplines to meet the needs of a diverse and growing health system in the country. The Bill inter alia provides for the following:

- to establish the National Commission for Human Resources for Health consisting of a Chairperson, four whole-time members and eight part-time members, to be appointed by the Central Government on the recommendations of the Selection Committee;
- (b) to empower the Commission (i) to grant or withdraw the permission for establishment of health educational institutions and to ensure compliance of its terms and conditions; (ii) to conduct the elections to the National Councils; (iii) to make recommendations on the measures to strengthen the health care delivery, operational efficiency and health care infrastructure; and (iv) to provide grants and moneys to the National Board for Health, National Education and Assessment Committee and to the National Council for efficient discharge of their functions under the proposed Bill;
- (c) to constitute the National Board for Health Education in the place of the National Board of Examinations and to confer upon it the powers, inter-

alia, to, (i) conduct examinations for entry to any under-graduate, post graduate, doctoral, super-speciality or diploma courses, fellowship examination and screening test; (ii) determine, coordinate and maintain standards for health education and research; (iii) specify minimum requirements for faculty, infrastructure and clinical workload for establishment of institutions for discipline of health; and (iv) specify the curriculum for examinations to be conducted under the proposed Bill;

- (d) to constitute the National Evaluation and Assessment Committee for (i) evaluation and assessment of any university or institution seeking permission for establishing an institution for a course of study or training in the discipline of health; (ii) grant of recognised qualification or imparting education in the disciplines of health; and (iii) assisting the Commission in discharge of its powers and functions;
- (e) to establish new National Councils to be known as the Medical Council of India for medicine, the Dental Council of India for dentistry, the Nursing Council of India for nursing, the Pharmacy Council of India for pharmacy in the place of existing Councils for regulating the health profession and also to establish a new Paramedical Council of India for the discipline of paramedics;
- (f) to empower the State Government to constitute State Councils where there is no State Council for the disciplines of health within a period of three years from the date of the commencement of the proposed legislation;
- (g) to constitute a fund to be called "the National Commission for Human Resources for Health Fund" wherein all government grants, fees and charges received by the Commission shall be credited to and such grants shall be utilised for the expenses of the Commission, Board, Committee and the National Councils in discharging of their functions under the proposed Bill;

- (h) to repeal the Indian Nursing Council Act, 1947, the Pharmacy Act, 1948, the Dentists Act, 1948 and the Indian Medical Council Act, 1956 by the proposed Bill and to dissolve the Nursing Council of India, the Pharmacy Council of India, the Dental Council of India and the Medical Council of India;
- (i) to transfer the assets, liabilities, rights, duties, etc., for the existing Councils to the Commission;
- (j) to provide for, (i) punishment for establishing institutions without permission under section 17; (ii) penalty for contravention of provisions relating to enrolment under 57; (iii) penalty for contravention of section 33 for enrolment as medical practitioner without qualifying the screening test; and (iv) punishment for furnishing information contrary to which published by institutions under section 38;
- (k) to empower the Central Government to supersede the Commission, Board, Committee or National Council on account of circumstances beyond their control or if they are unable to discharge their functions in accordance with the provisions of the proposed Bill and also to empower the State Government to supersede the State Councils.

5. Keeping in view the critical role of the health sector in our society, the objectives behind the proposed legislation and its impact on diverse categories of professions and professionals associated with the health sector, the Committee decided to have opinion of different stakeholders on the Bill. The Committee, accordingly, issued a Press Release, inviting views/suggestions from all the stakeholders. An overwhelming response to the Press Release was received by the Committee. A considerable number of organizations/stakeholders, individuals/associations have submitted

memoranda containing their views. The Committee held extensive interactions with representatives of associations/organizations/Councils/Institutes as well as renowned experts and professionals from the disciplines of medicine, dentistry, nursing, pharmacy, physiotherapy and Indian systems of Medicine and Principal Secretaries of the Government of Gujarat and West Bengal.

6. The Committee heard the Secretary, Department of Health and Family Welfare and his team of officers and sought clarifications on various provisions of the Bill. Besides, the Committee also heard the views of Secretaries of Department of Ayurveda, Yoga & Naturopathy, Unani, Siddha and Homoeopathy (AYUSH) and Health Research and the representatives of Ministry of Law and Justice. The Committee was also benefitted by the written submissions made by the State Governments of Chhattisgarh, Kerala, Tripura, Mizoram, Manipur, West Bengal, Tamil Nadu, Rajasthan, Meghalaya, Andhra Pradesh, Nagaland, Haryana, Uttar Pradesh, Union Territories of Daman & Diu and Dadra & Nagar Haveli and Chandigarh, and oral evidences of State Governments of West Bengal and Gujarat. The Committee undertook a study visit to Jammu and Kashmir and held discussion with the Secretary, Health Department of the State.

7. The Ministry of Health and Family Welfare in its background note on the Bill made the following submissions:-

“There are important distortions in the development of human resources for health sector in India. There has undoubtedly been a steep increase in medical colleges in the country but this has mostly been in private sector especially in southern and western States which share between them around 70 % of total medical colleges. This reflects the distorted distribution of the country’s production capacity of health workers. Private medical colleges also place a heavy burden of fees on students and their admission procedures are not transparent. The curricula of medical schools, both public

and private, are not designed for producing 'social physicians' as envisioned in the Bhore (1946) and other Committees on Medical Education. Rather, the training they provide is better suited to the problems of urban India and for employment in corporate hospitals.

After independence, the government attempted to improve the state of nursing in the country through standardisation of nursing education and increasing the resources for training public health nurses and midwives. However, despite such efforts, the nursing profession and other cadres such as auxiliary nurse midwives, pharmacists, medical laboratory technicians etc. is not in a very promising state. The primary reason for this state of nursing and paramedic field is the establishment of doctor-centric health system and inadequate financial support from the government.

Many nursing institutes, especially in the private sector, are under-staffed and provide poor nursing education. The geographical imbalance of the best nursing institutions, which provide faculty for teaching the basic courses, is contributing to the near collapse of basic nursing education in the country. The adverse nurse-doctor ratio of 0.8:1 which should ideally be 3:1, remains a matter for serious concern. Nurses can deliver many of the basic clinical care and public health services, particularly at the community level, at a lower cost than trained physicians.

Professional councils such as the Medical Council of India, the Indian Nursing Council, Dental Council and the Pharmacy Council have been set up by statutes of Parliament to regulate the practice of their respective professions, including education. However, many of these councils, besides being far too unwieldy have attracted criticism of their functioning, from health professionals, health administrators and media. They have also

drawn judicial censure on several occasions. Further, the existence of these different regulatory bodies, each responsible for important cadres of health workers have failed to provide synergistic approach to addressing the human resources needs of the country. There is an urgent need for innovation in health related education which encourages cross connectivity across disciplines and categories of health workers.

Any effort to make piecemeal changes in the existing Statutes is not likely to bring any substantial reform in the field of health education and services. The Indian health system stands to benefit tremendously from the generation of new cadres and competences that can actively meet the health needs of the country. With rising demand for health services, the inadequacies of the present health system – both in the public and private domains – are increasingly becoming evident. The responsibility of the government in providing an efficient and purposeful health system, covering all aspects such as health education, preventive programmes and curative services, has considerably increased. Further, the government, besides strengthening the current public health system has also the challenge of fruitfully utilising the widespread private health system to address public health goals and make it accessible to the poor at affordable prices.

The broad vision of human resources in terms of the quantity, composition and quality required for enabling the country's health system to provide health care for all, is hidden from the perspective of these individual regulatory bodies. This makes the need for an overarching regulatory body critical for addressing the human resource issues facing the country."

8. During the course of his oral evidence before the Committee on the 24th January, 2012, the Secretary, Department of Health and Family Welfare apprised the Committee of the salient features of the Bill. He pointed out that unlike the existing system where a single body like the Medical Council of India or the Dental Council of India performs all the regulatory functions, in the proposed structure the regulatory functions will be divided amongst three separate bodies, namely, the National Commission for Human Resources for Health (NCHRH), the National Board for Health Education and the National Evaluation and Assessment Committee.

9. Apprising the Committee of the need for the NCHRH, the Joint Secretary, Ministry of Health and Family Welfare in his presentation made the following submissions namely: separate regulatory bodies oversee different healthcare disciplines and there is no cross-connectivity across these different health care disciplines; statutes of the present regulatory bodies do not mandate planning and provisioning of human resources in their respective streams and therefore Human Resource Management (HRM) in the health sector remains a neglected area; different regulatory bodies, each responsible for its own cadre of health workers, have failed to provide a synergistic approach to address the human resource needs in the health sector; the current regulatory bodies regulate both education and professional practice within its domain and are overburdened with all regulatory functions starting with inspection of colleges to maintenance of enrolment registers which has led to stifling of innovation and creativity and increase in inefficiency and malpractices; no quality assurance framework is in place. He further pointed out that the Bill had been formulated after a series of consultations with various stakeholders including the State Governments, the various Councils, the Indian Medical Association etc.

10. Elaborating further on the need for the Bill, the Joint Secretary pointed out that this reform is being brought with the anticipation that this would bring

quality education into the whole system and the governance method will be much better.

11. According to the Joint Secretary, the Ministry is of the view that piecemeal changes in each of the existing Acts may not bring about the substantial reforms in terms of quality and quantitative aspects of medical and allied health sciences education.

12. On being asked about the role assigned to the Councils in the Bill, the Joint Secretary replied that they will *inter-alia* act as a watchdog and regulate their profession.

Views of the State Governments

13. To acquaint itself with the views of the State Governments, the Committee sought the written comments of all the State/UT governments. However, only a few governments responded. The Committee then called some Chief Secretaries for oral evidence. Principal Secretaries of two States appeared before the Committee. Maharashtra Chief Secretary sent a junior level officer and therefore, the Committee expressing its displeasure decided not to hear him. The Principal Secretary, Government of West Bengal during the course of his deposition before the Committee on the 31st July 2012, stated that his State Government was of the view that the Bill should not be passed in the present form. He further stated that the Bill moves from self regulation of professional bodies to a Central and technocratic regulation. On being asked as to which structure, the existing individual Councils or the proposed overarching body would be better suited to deal with the aspects of regulation, the Principal Secretary stated that a properly strengthened individual Council with a term limit, and definition of the office bearers as public servants in terms of Indian Penal Code (IPC) and an accountability mechanism in place, would suit the need better than having an overarching body with gigantic mandate. On the issue of corruption in the existing bodies, the Principal Secretary submitted that besides the term limits

and the definition of office bearers, a provision to remove the office bearers in case of blatant corruption or misuse of official powers should suffice to ensure that there is no corruption in the existing Councils. The reason for creating an overarching body to handle corruption in the existing Councils is a questionable exercise.

14. In a written submission, the Government of West Bengal also furnished the following comments:-

“(i) The Bill envisages the creation of a number of regulatory bodies. The structure seems to be top heavy with more emphasis on “expertise” than on “States’ participation”. This could lead to a purely technical, highly centralized, over-regulated approach to a sector that impinges on public welfare and one that is clearly in the concurrent list. Clause 4 should be modified to include representatives from the States own councils (medical, nursing etc.) on a rotation basis.

Clause 5 should be changed to include one or more state representatives on a rotation basis in the Selection Committee. Further, the Selection Committee should itself be prepared on the basis of an agreement between the Prime Minister and the Leader of the Opposition in the Lok Sabha, much in a manner similar to the procedure for the selection of the Chairman, NCHRH.

(ii) In terms of Clause 16, the NCHRH is the final authority to grant permissions to establish health educational Institutions. It is also expected to act as a regulator. It may be useful to separate the two functions and assign the licensing functions solely to the subordinate regulatory bodies under Clause 30 (e.g. the National Board). The Commission could exercise appellate powers.

(iii) Similarly, the National Board, set out in Clause 23, should also have state representatives. The same procedure set out for the main Commission should be followed for appointment of the President and the members of the

Board. The Selection Committee should also have State representatives.

- (iv) Likewise, the National Evaluation and Assessment Committee should be structured on the above lines.
- (v) Clause 53 should specify the status of the existing State Councils.
- (vi) The concept of a monetary penalty (Clause 69) in case of professional misconduct is welcome.
- (vii) The appeals procedure is too lengthy. From the State Council, appeals often lie to the State Government. Clause 70 will change the appellate authority. The National Council has been made the appellate body. Thereafter, a further appeal will lie to the National Council, that is, one more tier will be added. This will lengthen the appeals process. As of now, the State Council is not a subordinate authority of the medical Council. This will change the situation.
- (viii) In view of the huge information asymmetry in matters relating to medical treatment and procedures, Clause 73 should allow the formal involvement of NGOs and others to help the complaints. Locus standi should be provided.
- (ix) Clause 74 should allow the continuance of existing Acts/Regulation."

15. The Principal Secretary, Department of Health and Family Welfare, Government of Gujarat during the course of his oral evidence before the Committee on 31st July, 2012, stated that there is a need for reform in the area of medical education, creation and maintenance of standards of medical education and research. However, the Bill under reference attempts to create a mechanism which is so overwhelming that it is likely to lead to delay in execution. He further stated that the new bodies, namely, the National Commission for Human Resources for Health, the National Board for Health Education and National

Evaluation and Assessment Committee – which are sought to be created were purely nominative in character and there was no democratic element. Elaborating on the need for State role in the medical sector, he stated that the States play a very vital role in the medical education sector, and unless a State Government gives an essentiality certificate, no new medical college or nursing institution or dental institution can be set up or existing institution can be expanded to a higher strength. He stated that the proposed Commission was expected to make an assessment of the requirement of manpower in order to ensure better geographical spread and meeting the local needs; but this cannot be achieved without an effective role of the State Governments who are in the know of the local realities better. Commenting on the roles of the National Councils and the State Councils under the proposed legislation, he stated that the major functions of fixation of norms or standards and assessment have been taken away from the National Councils and given to the National Board and the Assessment Committee proposed in the Bill and the National Councils are left with no other functions than to maintain a register. He felt that since the State Councils also maintain the State registers of doctors, dentists or nurses, then why there should be the National Councils at all. Elaborating further, he stated that the State Government of Gujarat was of the view that it would be better to modify, amend and expand the role of the existing mechanisms rather than to create new structures. He also stated that the correct way to go about it was to improve the existing structures, build in safeguards and have a democratic and more consultative dispensation.

16. On being asked as to what should be the role of the State Government, the Principal Secretary replied that medical education is a concurrent subject and therefore some form of representation of the State Government should be there in the proposed National Commission proposed to be set up. Elaborating further, he pointed out that the process of creation of new medical institutions started from the State Government; there had to be some kind of a scientific assessment about the existing medical education capacity and future

requirements based on which the State Government could analyze the request for expanding the capacity of a existing Medical Institution or creating a new one and give essentiality certificates. He opined that this role of the State Governments should be recognized and put into the new decision making framework proposed in the Bill.

17. The Committee received written comments of some State Governments/UTs which are dealt with in the following paragraphs.

18. The State Government of Kerala welcomed the Bill in principle subject to certain reservations. Welcoming the proposal to split the functions currently concentrated in the National Councils, into accreditation of institutions, academics and conduct of examinations and regulation of profession, it expressed reservations about the Government of India getting control of every segment of medical education. It further stated that the Chairman and Members of the Commission and the Selection Committee are proposed to be appointed by the Central Government and that in a federal set-up as in India, such centralization of powers should be avoided. The State Government suggested that the functional autonomy of the institutions proposed should be retained and norms for choosing the majority of members of the Selection Committee should be stated specifically to ensure integrity and impartiality of the Selection Committee. The State Government further felt that provisions should also be incorporated in the Bill so as to have a system to consult the State Government also about their future plans for the health sector as State health services are major consumers of the human resources for health. The State Government of Kerala was not in favour of Clauses 16(2) (e) and (f) which seeks to make recommendations on the measures to strengthen healthcare delivery and coordinate existing healthcare infrastructure and recommended their deletion. It also recommended amendment to Clause 46 (1) (a) to the effect that the power to nominate Member from the State in the National Councils shall vest with the State Government and not with the Central Government “ in consultation with

the State Governments". The State Government also felt that overriding powers given to the Central and State Governments to supersede all structures to be constituted under the Bill were too sweeping and liable to be abused at each change of Government, that would make these structures political appendages of the Government.

19. The State Government of Andhra Pradesh in its written comments submitted to the Committee, welcoming the Bill, stated that the strength of the Bill is in its ability to speed up reforms in Health Education in terms of its context, health system connectivity, standards and standardization across the country for improving governance and to promote inter-professional education and build teamwork through overarching body. The State Government also flagged problem areas in the Bill, viz. it is not in favour of Clause 16 (2) (e) and (f); it favours representation of nurses, dentists or paramedics under Clause 24 (4); Public Health Courses which find no mention in the Bill should be covered under the Bill; P.G degrees of Medical Education awarded by the National Board of Examinations, which will be dissolved under the Bill, should be protected since many public and private hospitals like Army Hospitals, Railway Hospitals, Apollo Hospitals etc. were running such courses. The State Government also opined that Director of Medical Education, Vice-Chancellor of Health University should be made members of the Commission by rotation from Southern Chapter/Zone.

20. The State Government of Tripura accepting the Bill in principle suggested certain modifications. The State Government inter-alia suggested that a major cause of differential health care standards in the country was lack of proper funding, and hence, in the proposed Bill there should be assurance of proper funding for the States like Tripura at par with the developed States of the country. It also favoured promotion of autonomy of health educational institutions for the free pursuit of knowledge and innovation.

21. The State Government of Tamil Nadu objected to the Bill stating that the Bill effectively puts the leadership and decision-making process with regard to medical, dental and paramedical education in the hands of about twenty five persons, all of whom would be nominees of the Central Government. This would undermine the powers of the State Governments which would be left with no role to play in policy issues. The State Government felt that need based planning for medical, dental and paramedical manpower should follow regional and local demands which would be best achieved by giving adequate representation to the States in policy making bodies. The Government of Tamil Nadu was in favour of maintaining the status quo with regard to the existing National and State Councils.

22. The State Government of Chhattisgarh in its comments welcomed the Bill stating that the creation of the National Commission for Human Resources for Health, National Board for Health Education and National Evaluation and Assessment Committee would go a long way in regulating the standards of Health Education.

23. The State Government of Mizoram, in its comments while supporting the provisions of the Bill expressed the following objections viz. (i) the proposed Bill hampers the spirit of professionalism, (ii) the system proposed appears to be autocratic in one way or the other (iii) the various Councils' role has been reduced to merely maintaining registers, (iv) the Central administration from the Commission will not be able to cater to various needs of professionals at the State level and desired that status quo may be maintained in respect of the independent Councils.

24. The State Government of Rajasthan in their comments stated that the draft received from Government of India seems to be exhaustive and explanatory and it has adequate suppleness in its provisions. It further stated that there was no specific provision in the Bill for saving the existing State Council. It also stated in

Section 78, the report of the State Council shall be sent to the Central Government which shall be placed before the Parliament. This provision is inconsistent with the federal system of the Indian Constitution. Instead, there may be a provision for placing the report of the State Council before the State Legislature.

25. The State Government of Nagaland in their comments informed the Committee that the Bill is acceptable to the State Government since it brought Medical and Allied services under one umbrella which would improve the service delivery, management and monitoring of services. However, they made following two suggestions for consideration of the Committee which are as follows:-

(a) Under Clause 53, a medical practitioner, enrolled with any State Council may be allowed to practice anywhere within India, and

(b) Under Clause 57, the need to enroll before expiry of ten years may be kept in abeyance for a period of ten years in case of Nagaland because the State lacks facilities for teaching and research.

26. The State Government of Haryana in their comments informed the Committee that it agreed with the concept of the Bill as the Bill would go a long way in improving and providing quality health care to the people. Further they made some suggestions on the Bill viz. (i) the existing Councils in the discipline of health should continue till the enactment of Act and formation of rules {Clause-53(1)}; (ii) the words "Chairman" and "Members of the Board of Governors" of Medical Council of India should be incorporated with the words "existing Councils", and (iii) also the words "National Board of Examinations" should be added along with the existing Council regarding providing of benefits{Clause118(1)} etc.

27. The State Government of Uttar Pradesh in their comments *inter-alia* informed the Committee that the Council work should be decentralized

specially in a large state like Uttar Pradesh. The Council members should be selected by the search committee. The process of selection to elect the president of the National or State Council has not proved to represent the true mandate of the medical fraternity during the past 50-60 years. There is a strong need to change the system and give autonomy to various States and allow the Councils to function independently managed by men of highest integrity and eminence in the medical fraternity.

28. The Union Territory of Daman & Diu and Dadra & Nagar Haveli informed the Committee that the Bill is in accordance with the needs of the present situation and the Union Territory is in agreement with such a Bill. However, it would be useful if the Union Territory of Dadra and Nagar Haveli is appointed as one of the members of each of the Councils or may be affiliated to the neighbouring Councils, as at present the Union Territories are not Members of the Medical Councils or any of the Councils.

29. Union Territory Administration of Chandigarh in its comments stated that the Union Territory should have its own Council and it should be formed by the Union Territory itself and the norms/ rules which are followed in the constitution of the Council at the State level can be followed by the Union Territory; but the Union Territory would be in no position to discharge these functions as no powers of State Government have been conferred upon the administrator of a Union Territory under the Act. It was further stated that the power of "State Government" should be conferred upon the Administrator of a Union Territory by defining that the word "State Government" in relation to a Union Territory as the Administrator of that Union Territory appointed by the President under article 239 of the Constitution as has been/ is being done in all Central Acts now.

30. The State Government of Meghalaya stated that it has no comments/ suggestions to offer on the provisions of the Bill.

31. The State Government of Manipur endorsed the National Commission for Human Resources for Health Bill, 2011 for its enactment and implementation. While endorsing the Bill, it suggested to see if the:-

- Central Council for Homeopathy ; and
- Central Council of Indian Medicines

can be included in the list of Councils to be supervised and regulated by the National Commission for Human Resources for Health.

32. The Committee also heard views of the Secretary, Department of AYUSH and Secretary, Department of Health and Family Welfare on the 27th February, 2012 on the issue of inclusion or otherwise of the various disciplines of AYUSH in the NCHRH Bill. The Secretary, Department of AYUSH during the course of his deposition before the Committee stated that these systems of medicine needed to be given a focused approach for their development. He also stated that the Allopathy and the Indian Systems of Medicine are two different systems of Medicine and by bringing them under one Council, separate focus would be lost. Apprising the Committee of the circumstances under which the Department of AYUSH was created, he stated that recognizing these systems of medicine should be developed more strongly and to give them a separate focus, a separate department was created in 1995 which was renamed as the Department of AYUSH in 2003. He felt that if AYUSH is included in the NCHRH Bill, it would amount to reverting to pre-1995 position. He sought the Committee's support for the Department's move to set up a separate Commission for the Indian Systems of Medicine and Homoeopathy. The Secretary, Department of Health and Family Welfare endorsed the above views of Secretary (AYUSH).

33. The Committee also heard the views of Secretary, Department of Health Research on the 27th February, 2012 on the Bill. On being asked about the status

of Health Research in the Bill, the Secretary replied that education and research are both part of the Bill and Clause 30(a) specifically talks of determining, coordinating and maintaining standards for health education and research. On being pointed out that in the Preamble of the Bill, the word 'Health Research' did not find a mention, the Secretary admitted the omission. Making an intervention, the Joint Secretary, Department of Health and Family Welfare agreed that the word "Health Research" could be added to the Preamble.

34. The Committee also heard the views of the representatives of Central Council of Indian Medicine (CCIM) and Central Council of Homoeopathy on the 7th June, 2012 on the issue of inclusion or otherwise of the various disciplines of health under AYUSH in the Bill. The President, Central Council of Indian Medicine submitted before the Committee that the traditional systems of medicine have separate pharmacopeia and methodology and prior to 1995 when AYUSH was under the Department of Health and Family Welfare, it did not receive focused attention for its development. He, therefore, pleaded that the traditional systems of medicine should be kept out of the ambit of the NCHRH Bill. Subsequently, CCIM vide its letter dated the 13th June, 2012 submitted that the traditional systems of medicine such as Ayurveda, Unani, Siddha and Sowa Ripa are quite distinct in their philosophy and approach to healthcare and any attempt to integrate these systems of medicine within the overarching framework of a National Commission may be fraught with serious and irreconcilable difficulties.

35. Depositing before the Committee, the President, Central Council of Homoeopathy also opposed the inclusion of the Central Council of Homoeopathy in the NCHRH Bill on the ground that if Homoeopathy is included in the Bill, it will nullify all progress made since creation of a separate Department of AYUSH for the promotion of the traditional systems of medicine. He further submitted that greater autonomy should be given to the existing Council of Homoeopathy.

36. The Central Council of Homoeopathy in its written comments had *inter-alia* submitted that a separate National/Central Council should be set up for Homoeopathy and other systems of Indian Medicine. It was also pointed out that at the Medical and Health University level where all systems of medicine were under the same controlling authority, Homoeopathy and other AYUSH system were getting dominated by the modern medicine faculty and had the feeling of being neglected. It was suggested that instead of including Homoeopathy and other AYUSH systems in the proposed National Commission, the Government should strengthen the individual Councils and establish an Advisory and Coordinating Central Council of Health and Medical Education.

Views Of Other Stake Holders

Views of Pharmacy Council

37. The Committee took oral evidence of the representatives of Pharmacy Council of India on the 7th June, 2012 on the Bill. The President, Pharmacy Council of India submitted before the Committee that the Pharmacy Council of India frames the course, inspects the pharmacy institutions and gives approval to the institutions for conducting different courses in pharmacy. However, the proposed Bill would restrict the function of the Council to maintain the Central register only. He also underlined the fact that in the Bill there was no mention of the composition of the State Councils which might lead to a situation where there would be no uniformity as regards the composition of the State Council. He also pointed out that in the proposed National Commission, National Board and the Assessment Committee, the representation of the pharmacy profession was not assured. He suggested that the word “medical college” in the Bill should be replaced by health education and institutions covering all five disciplines of medical, dental, nursing, pharmacy and paramedical.

38. In reply to a query, the President, Pharmacy Council of India (PCI) replied that PCI was in agreement with the vision of the Bill but wanted certain

modifications in the provisions of the Bill so that it could be well-equipped and implemented smoothly. Elaborating further, he stated that Pharmacy Council of India wanted to become an integral part of health delivery system and that is only possible if all –physicians, nursing staff, paramedics and pharmacists came under one umbrella. In reply to another query, the President, PCI stated that in the Bill, there is confusion that if a person got registered in a particular State, he would be able to practice in that State only whereas if he gets registered himself in the National Council, he would be allowed to practice all over the country. He, therefore, felt that this confusion need is to be sorted out.

39. In addition to the above submissions, PCI suggested certain amendments to some provisions of the NCHRH Bill, 2011. The suggestions are at Annexure-VI.

Views of Indian Nursing Council

40. The Committee heard the oral evidence of the representatives of Indian Nursing Council (INC) on 7th June, 2012. The President, INC submitted before the Committee that INC was not in favour of the overarching body proposed in the Bill and instead favoured strengthening of the Indian Nursing Council stating that in an overarching body, the nursing may not get the importance. He also stated that the State Governments are empowered to pass the State Nursing Council Act and they have the duties and responsibilities for recognition & approval and therefore consultations with the State Governments must be held before having the overarching body. In addition to the above submissions, INC suggested certain amendments to the provisions of NCHRH Bill, 2011. The suggestions are at Annexure-VII.

Views of Medical Council of India:-

41. At the meeting held on 8th June, 2012, Prof. K.K. Talwar, Chairman, Board of Governors, Medical Council of India (MCI) informed the Committee that the proposed Bill encompasses what the present Medical Council of India (MCI) is doing at the moment. The proposed Bill only created an overarching Council divided into the National Commission, National Evaluation and Assessment Committee and National Board for Health Education, thereby creating division of responsibilities in the hope that better services or responsibilities would follow. He however, stated that the proposed Bill lacks the constitution of a strong selection committee on the lines of National Higher Education Bill which is being examined by the Committee on Human Resource Development. Such committee should include only eminent persons from the medical professions. He further felt that the subsumation of all bodies under the proposed Bill would help in better interface between MCI, Dental Council of India and Indian Nursing Council, which is lacking at present.

Views of Dental Council of India

42. The Committee then heard the views of Dr. Dibyendu Majumdar, President, Dental Council of India on the Bill on the 8th June, 2012. He submitted that the unfortunate part of the present Bill is that it proposes to form a Commission which is totally under the control of the Central Government. None of the States would have any role to play in the policy issues relating to health. He was of the view that the Bill is absolutely unconstitutional and against the policy of the present Dental Council of India. Secondly, Clauses 100 and 101 of the Bill say that the decision of the Commission cannot be questioned in the court of law and there is no provision for election to any of the bodies in the present Bill. The Bill forbids any aggrieved party from raising any question or going to the court of law which is against democratic norms. The present Bill consisted of nominated members to the various bodies under the Commission which goes against the democratic principles.

43. He also stated that Clauses 4 (j) and Clause 115 (2) give absolute autocratic power to the Central Government to make the Commission dance to its tune which is against the very spirit of democracy and thus unacceptable. The Dental Council of India also submitted written views to the Committee which are at Annexure VIII.

Views of Indian Medical Association

44. The Committee at its meeting held on 5th July, 2012 heard the views of Indian Medical Association and Delhi Medical Association on the proposed Bill. The representatives of Indian Medical Association informed the Committee that the proposed Bill intends to stifle the democratic character of the existing bodies by substituting them with bodies under the Commission which would have a nominative character instead of elective character as is existing under the present Councils.

45. The representatives of Delhi Medical Association also supported the stand taken by Indian Medical Association. They added that in the proposed Bill the role of the State Councils has been relegated to maintenance of registers only. They were of the view that measures were being taken to streamline the various existing Councils and if need be, laws may be amended to streamline the existing Councils and there is no need to dissolve the existing Councils.

Indian Medical Association and Delhi Medical Association also submitted written views and suggestions which are at Annexure - IX and X.

Views of Physiotherapists' Associations

46. The Committee heard the views of Dr. Umashankar Mohanty, President, Indian Association of Physiotherapists, Karnataka on the Bill. Dr. Mohanty informed that they wanted a separate Physiotherapy Council of India which

would help to regulate the sector which is suffering due to non-regulation of this profession by a body on the lines of MCI, DCI.

47. Shri Hemant Juneja of Amarjyoti Institute of Physiotherapy also supported the suggestion of setting up of a separate Physiotherapy Council of India under the said Bill.

48. The representatives of Physiotherapists' Forum of AIIMS, New Delhi informed that the previous Standing Committee had observed that Physiotherapists are independent professionals and therefore recommended that there should be a separate Physiotherapy Council of India and it should be acted upon. The forum submitted that as far as autonomy and professional character of the physiotherapists is maintained, they had no objection to come under the proposed Bill. The representatives of Society for Research and Evidence Translation in Physiotherapy endorsed the views tendered by the various physiotherapists.

49. Dr. Ali Irani, President, Indian Association of Physiotherapy, Mumbai submitted that physiotherapists are equal health partners in health and requested for independent practice in physiotherapy. He also informed that eighty percent of the heads of the Department of Physiotherapy world over are Indians. Further, it was also submitted that because there is no regulatory body to regulate this profession, population of this country has been deprived of the science of healing at the right stage.

50. The Committee also received written submissions from these Physiotherapists Associations which are at Annexures XI-XIV.

Views of National Board of Examinations (NBE)

51. At its meeting held on 17th July, 2012, the Committee heard the views of representatives of National Board of Examinations. Prof. K. Srinath Reddy, President, National Board of Examinations stated that there is need to bring

about reform in health professional education to redefine and maintain standards of health professional education at highest possible level aligned to the needs of the country. He supported the purpose of the proposed Bill but pointed out various structural lacunae in the Bill. The Committee was also informed that the proposed Bill does not bear much resemblance to the first draft wherein he also participated.

52. The Committee's attention was drawn towards a major aspect viz. abolition of National Board of Examinations without clearly defining the preservation, protection and promotion of health professional education within the ambit of the new Bill.

53. The Committee was further informed that National Board of Examinations was set up more than three decades ago with the purpose of not only providing a standardized examination for PG courses across the country but also providing an opportunity to multiple institutions to train people in PG courses. National Board of Examinations conducts the only national standardised examination in India for PG medical education which is recognised internationally to be of the highest order. In our country where there exists shortage of specialists, doctors and other health professionals to manage health services, National Board of Examinations provides an additional opportunity beyond the medical colleges to train these specialists of a high caliber. At present, National Board of Examinations is running 63 specialist courses including family medicine, rural surgery, aviation medicine with participation of approximately 3000 students and 470 hospitals.

54. The Committee was also informed that the current Bill does not make a reference to National Board of Examinations other than to say that it will be abolished once the Commission comes into being. Clause 2(r) defines 'health education institution' or 'health institution' as an institution of learning including a University, an institution deemed to be a university, a college, an institute, an institution of national importance or a constituent unit of such institution. Under

this definition, neither Army Hospital, nor Railway Hospital, Sir Ganga Ram Hospital and L.V. Prasad Eye Institute would figure. Prof. Reddy felt that if this definition as mentioned in the Bill is adhered to, then, the entire stream of National Board of Examinations will disappear.

55. The Committee's attention was also drawn towards additional conflicts in the structure of the Bill. Firstly, clause 16(e) speaks about making recommendations on the measures to strengthen the healthcare delivery, operational efficiency and healthcare infrastructure which are substantially the responsibility of the State Governments in terms of health service delivery. The Clause 16(f) says 'the Commission will coordinate existing Healthcare infrastructure in Central and State Governments for effective utilisation thereof'. The statement implies that the Commission will be able to control everything from Safdarjung Hospital to the District Hospital to the Primary Healthcare Centres across the country when Healthcare infrastructure is not really part of Commission's ambit which is supposed to be dealing with Health professional education and standards thereof. Secondly, there is overlapping of the functions of the 3 bodies set up under National Commission i.e. a Commission, a Board and a Committee. The Clause 19(2) says- 'where any health educational institution offers a new or higher course of study or training (including PG or doctorate or post-doctoral or super speciality course of study or training) such qualification shall not be a recognized qualification for the purpose of this Act, unless such course of study or training offered has been approved by the Commission before offering the same to the students. This shows that it is Commission's responsibility to recognise new courses whereas clause 30(2)(d) shows the Board is empowered to recognise new courses and give accreditation to new courses. Similarly, Clause 37(1) and Clause 30(2)(t) shows potential of conflicts of powers between the Board and the Committee. So, there is a lack of clarity regarding the overlapping powers and absence of subsidiarity among the functions of Commission, Board, and Committee under the ambit of the Bill.

56. It was also informed that the constitution of National Board of Health Education is meant to assist the Commission in discharge of its powers and functions for the purpose of health education as stated in Clause 23. But as per Clause 24 (3) and 24(4), the President and part-time members of the Board will have a post-graduate degree in the discipline of medicine or medical education. There is nobody from nursing, dentistry or paramedical sciences and thus they do not have required professional representation and the constitution of the Board itself does not appear to be satisfying the objective of the functions that it is supposed to perform. He also submitted before the Committee few problems related to potential misuse of provisions of the Bill viz. Clause 17, wherein various requirements are there for a person to apply for permission to start an institution for a course of study or framing in the discipline of health which must be fulfilled before the Commission grants permission. But, at the same time an explanatory note given below Clause 17 clearly states that 'for the purpose of this section, "person" includes any University or a trust or other body corporate, but does not include Central Government or a State Government. According to him, Clause 17 (6) of the Bill implies that if, for one year, file remains in the Commission for any reasons, the permission will be automatically granted and approved.

57. He further added that the Bill serves important public purpose but there are several issues that need to be addressed to attain the objectives of the Bill. If the NBE is integrated into overall framework of the National Commission with a clear indication of preservation and protection of its functions as recognised structure within the new format, National Board of Examinations has no objections with the Bill. He also submitted few aspects that need to be addressed under the ambit of the proposed Bill viz. inter-professional education; training of medical professionals as a team to cater to health services in primary health centres and other areas; professional ethics and professional independence.

Views of Optometric Association

58. The Indian Optometric Association in a written submission stated that there was an imperative need for reorganisation of optometry and separate Council for optometrists in India so that their full potential could be realized.

Views of Dental Hygienists Associations

59. The Committee heard the views of the All India Dental Hygienists Association on the Bill on 17th July, 2012. Shri S. K. Pandey, President, All India Dental Hygienist Association apprised the Committee about the role of dental hygienist in prevention, control, treatment & eradication of dental diseases. The Committee also noted that although Dental Hygienists are registered in Dental Council of India, they have no growth in educational as well as clinical aspect as compared to other countries where Ph.D in Dental Hygienist is being conducted. Further, he requested for incorporation of Dental Hygienist in the Bill, time bound promotional avenues after 5 years of service and lateral entry in Bachelor of Dental Sciences course.

60. The Committee also received written submissions from Dental Hygienists Association which are at Annexure- XV.

Views of Experts/Others

61. During the course of the meeting held on 18th July, 2012, the Committee heard the views of Dr. H.N. Tripathi, Chief Medical Superintendent, Sahara Hospital, Lucknow. He was of the view that it is important to ensure a measured and balanced approach by involving representatives of the academic medical fraternity in Medical Council of India along with the appointed panel by the Government and there should be no bar of jurisdiction as mentioned in the Bill.

He further added that the present system should continue with more stringent rules, close monitoring & auditing system.

62. The Committee then heard the views of Prof. D.K. Gupta, Vice Chancellor, Chhatrapati Shahuji Maharaj Medical University, Lucknow on the Bill. He suggested for making the selection process for the Commission more transparent and stated that the Chairman and five members of the Commission should be selected by a Search Committee. He also suggested that the Search Committee should consist of Secretary, Health, Government of India; Director, ICMR; one Judge of the Supreme Court of India who would be nominated by the Chief Justice of India; one Chairman or Vice-Chancellor of Medical Universities from the country; one vice-chancellor from Health Sciences Universities and Director General, Health Services. He also stressed that persons of bureaucracy of Additional Secretary rank should not be included in the selection process. In order to ensure transparency in selection process, an expert from Health Management should also be included in the Selection Committee. Further, he was of the view that the Clause relating to heavy penalty on their practicing beyond their profession should be dropped as the provision would impinge on their freedom to profess after passing graduation or post graduation.

63. Prof. A. P Tikku, Faculty of Dental Sciences, Chhatrapati Shahuji Maharaj Medical University, Luckow, during the course of his deposition before the Committee on the 17th July, 2012, while supporting the Bill, informed the Committee that existing Dental Council of India has deviated from the lines of Dental Council Act, 1948, getting inclined towards private organizations, due to which Government policies are not being implemented properly. His only reservation regarding the proposed Bill was the concentration of power in the persons selected by the Central Government with no power whatsoever to the elected persons in the bodies under the Commission. Further, he also submitted

that there should be inclusion of magisterial powers and clear specification of authority to curb malpractices in health professions in the Bill.

64. Dr. Rohit Khanna, Lucknow during the course of his deposition before the Committee on 17th July, 2012 was in agreement with selection of members given in the Bill as it ensures selection of more eminent people rather than influential ones. He also informed that the Bill should focus on creation of jobs, funds, avenues for human resources in health sector. He also focussed on the need to strengthen, promote, and monitor ethics amongst medical, allied, paramedical practitioners in the country. Further, he submitted that more powers should be given to State Councils. While partially supporting the Bill, he was also of the view that there should be professional representation and firm policies should be laid and followed in health education.

Views of Director, AIIMS

65. The Committee at its meeting held on 30th July, 2012 heard the views of Dr. R.C. Deka, Director, AIIMS on the NCHRH Bill, 2011. Dr. Deka was of the view that there is a need for change in the present system and the Central Government had rightly and determinately set its mind on a change. There is a need for a fresh look at the human resource aspects keeping in view the health needs of the country as the present system of health care education had created inequalities, poor access and has been disconnected with the health care needs of different parts of the country which has resulted in diversity and disproportionate medical establishment, be it a medical college, a nursing college or a dental college. He submitted that the Government or people of this country had experienced the MCI, DCI and other Councils and the country has a large experience of them since they were instituted.

66. He was, however, of the view that the change proposed to be brought by way of proposed Bill, appears to have been made without assessing the needs of the country. Such assessment had been done in USA and some other countries

before such an Act had been enacted. The same was done in India as well through Bhore Committee before the MCI Act was enacted. The Committee was therefore requested that before making the changes as reflected in the proposed Bill, there is a need for making an extensive study in the country through a Bhore-type Committee.

67. He felt that there is a need to empower and enhance the capabilities rather than just giving absolute power to a high powered body like the proposed one. The need of the hour is to empower the State Councils and universities who are aware of the realities/deficiencies existing in the State to assess the health manpower/health facilities actually needed in the State to serve the people properly. He therefore stressed on the need to set up a Committee on the lines of Bhore Committee to find out the deficiencies both in educational and healthcare sectors. Further, he was of the view that the name 'health education' is not an appropriate title. According to him, it should have been 'health professional education'. He was of the view that in this context the State Governments, the NGOs, the private universities or deemed to be private universities should be made partners in making changes in the proposed Bill.

68. With regard to AIIMS and other 'Institutions of National Importance', he pointed out that in the present Bill there is no specific mention whether these institutions of National Importance would continue to remain under the present Act or will come under the proposed Bill. Further he felt a need to carve out a separate body in the proposed Bill viz. 'Medical Practitioners Tribunal Service' similar to CAT and other disciplinary bodies to prevent malpractices and to improve patient safety, which is presently under the Medical Council itself or State Councils. Such a Tribunal has been set up in the United Kingdom (UK) which is separate from the General Medical Council of U.K. in tackling the problems of disproportionate distribution of health personnel not only for delivery of services but also for imparting education; there is a need for setting up of a body similar to Civil Services, which could be constituted under the

ambit of the proposed Bill. He felt that this could help in equitable distribution of personnel throughout the country. With regard to standard and quality assurance, he was of the view that this should be assigned to some body other than the overarching council. The Committee was therefore requested that this aspect should be looked into by different experts, Members of Parliament and Legal experts. Lastly, he was of the view that research and innovation are the part of healthcare profession and **research** cannot be kept out of the proposed Bill and should have been included as a part of the proposed Bill.

Views of Director, PGIMER

69. The Committee then heard the views of Prof. Y.K. Chawla, Director, PGIMER, Chandigarh on the proposed Bill. He was of the view that PGIMER and Institutes like AIIMS should be kept out of the purview of the present Bill. With regard to Second Schedule in the Bill, he stated that it was not clear whether or not Post-Doctoral Medical Qualification included Ph.D also. The same analogy also extended to dental qualification in the Third Schedule. With regard to nomination of members to the various bodies of the Commission, he was in favour of majority of these being filled by reputed people from good academic institutes instead of private practitioners as is the present case. With regard to recruitment of members, it has been laid down that the age of retirement would be 65 years. He was not clear as to whether a person of the age of 40 years could also become a member.

70. With regard to the provision for collaboration with International Universities, he felt that there is a need to include a provision for Memorandum of Understanding (MoU) with good international universities which is lacking in the present Bill. He also felt that there is a need to incorporate a provision for adjunct faculty in the proposed Bill by means of which a professional from one medical college can go to another medical college for academic purpose for some time to strengthen the latter as is being done in the IITs presently.

71. Shri Chawla, Director, PGIMER, Chandigarh vide his letter also furnished his written views on the talking points sent by the Committee which are in Annexure-XVI.

Views of representative of JIPMER

72. The Committee then heard the views of Dr. Ananthanarayanan, Jawaharlal Nehru Institute of Post Graduate Medical Education and Research, Puducherry. While supporting the Bill in principle, he suggested certain amendments to various provisions of the Bill. The list of amendments suggested by him is at Annexure-XVII.

73. The Committee then had the benefit to hear the views of Dr. P. Satish Chandra, Director and Vice-Chancellor, NIMHANS, Bangalore on the Bill. He made **certain** observations which merited attention in the various provisions of the proposed Bill as detailed in Annexure-XVIII.

74. The Committee also received the written views of Joint Forum of Medical Technologists of India which are detailed in Annexure-XIX.

75. As mentioned earlier, the Committee issued a Press Release on the Bill inviting memoranda from public and other stakeholders. In response thereto, the Committee received several memoranda. Besides, representatives of various Associations who appeared before the Committee also made written submissions. All the memoranda and oral submissions were sent to the Ministry of Health and Family Welfare for their comments. The issues raised and comments furnished by the Ministry are given in Annexures IV and XX.

Status of AYUSH in the Bill

76. The Committee's attention was drawn to the fact that AYUSH has not been included in the ambit of the Bill. The Department of Health and Family Welfare informed the Committee that the Bill primarily seeks to reform the

current regulatory framework in medical education which is based on biomedical approach. It was further informed that the traditional system of medicine plays an important role in the health delivery system of the country. However, the modern system of medicine and the traditional system of medicine are two different approaches and bringing them together under a single regulatory body may result in AYUSH getting relegated to an ancillary stream in the overall health delivery system. The Department also stated that accrediting and approving a college imparting education in traditional system of medicine would require a completely different set of rules and regulations than that required for a health institution imparting education in modern system of medicine. The Department was of the view that the two streams needed to have separate regulatory bodies to allow each stream to develop in accordance with its genius.

77. The Department of AYUSH in its note submitted to the Committee pleaded for a separate regulatory body for the various disciplines of health under AYUSH, *inter-alia* stating that these systems of medicine have not been utilized fully while being under a combined health education and service delivery systems.

Suggestions of Members of the Committee and comments of Ministry of Health and Family Welfare thereon

78. The Committee also received written suggestions of Shri M.K. Raghavan, M.P (L.S.), Smt. Jaishreeben Kanubhai Patel, M.P (L.S.) and Shri Ratan Singh, M.P (L.S.) on the Bill which were forwarded to the Ministry of Health and Family Welfare for their comments. The issues raised and the comments furnished by the Ministry are given below:

Suggestions of Shri M. K. Raghavan, MP (L.S)

79. The existing regulations pertaining to medical/ allied health/ paramedical education in the country should be strengthened and aimed at addressing the genuine health needs of the country and fulfilling national

objectives. The objective of medical education should be people-oriented, not for profit. The whole system should be working with the single mission of Health for All people without discrimination. The Medical Council of India (MCI) has failed to maintain ethics and prevent malpractices. This is because majority of doctors work with a business motive; there is lack of uniformity of selection procedure and ignoring of merit etc. There is a need for a strong health policy, otherwise the National Commission for Human Resources for Health (NCHRH) will be like old wine in new bottle. The NCHRH should be governed by people who know the basic issues related to healthcare, economics of health, health problems in the society and solutions to them. They should be people of integrity and academic brilliance alone should not be the criteria. The Chairman or the Members of the NCHRH should not have any interests in the private hospitals and private medical colleges. They should all be preferably from government medical colleges or 100% Charitable institutions. AYUSH should be covered under NCHRH. There must be complete transparency and social scientists should be incorporated in the body. The NCHRH is welcome if its objectives are genuinely aimed at improving the healthcare. State Councils should have some powers and all powers need not be centralized in the NCHRH. Financial positions/ assets of all members of NCHRH and all state and Central Council should be made available on the website.

80. All paramedicals were not covered under the NCHRH Bill. The Chairperson and Members should be selected based on their academic background, seniority, vision on healthcare issues. There should be minimum super-specialists in NCHRH. They should be selected from Government Sector. Nomination is not the panacea for all ills. There must be more democracy.

81. The NCHRH should be like the University Grants Commission (UGC) and it has the power to monitor, direct and modify the medical education. If State Councils are more strengthened and decentralised that would fetch balanced results.

82. More General Practitioners (GPs) are required. The proposed body should work for bringing a health policy for the nation. The policy should focus on providing basic health needs to all the sections of the society. If the proposed body is for modern medicine, there must be a separate Bill for six systems of medicine under AYUSH.

Comments of Ministry of Health and Family Welfare

83. The current regulatory bodies regulate both education and profession practice within their domain and are over-burdened with all regulatory functions. Further, different regulatory bodies each responsible for its own cadre of workers have failed to provide a synergistic approach to address human resources needs in the health sector of the country. NCHRH seeks to decentralise and trifurcate the regulatory functions among three separate bodies viz. NBHE, NEAC and National Councils which would function under the overall supervision of the Commission.

84. The NCHRH Bill seeks to provide an institutional framework to promote availability of health care providers in all parts of the country, reduce shortage, standardise quality and bridge the uneven distribution of the existing work force. It also seeks to overhaul the existing system of granting permissions for opening of new health education institutions, strengthen the State Councils and introduce penal provisions for violation of laid down norms.

85. The National Councils to be established for each discipline of health would not only promote ethical standards in each of these professions but also provide grievance redressal mechanism for strengthening of ethical practice of professions, maintain live register for professionals and enforce a continuous medical education program for renewal of license every 10 years.

86. The existing councils have attracted criticisms on their functioning from health professionals, health administrators and media and have also drawn judicial censure on several occasions. They have also failed to provide a synergetic approach to address the human resources needs of the health sector. The existing jumbo sized Councils comprise of elected and nominated members who lack the required competencies.

87. The NCHRH will be guided by a National Policy for Human Resources for Health that will articulate a strategic vision and normative framework for the creation of Human Resources for Health. This policy document, to be updated every five years, will be developed by public health leaders representing State and Central Governments through the Central Council for Health and Family Welfare and shall be in the public domain.

88. The composition of the NCHRH will be more compact and the Commission and its constituent bodies would be guided by eminent persons in health profession with fresh and up to date outlook. The members of the Commission would represent various streams connected with health education viz. medicine, dentistry, nursing, pharmacy paramedics and public health. The Commission would comprise from members who are from outside the medical profession viz. law, technology and management.

89. The Bill provides that selection of a member shall be subject to his satisfying the fact that he does not have any financial or other conflict of interest which is likely to affect prejudicially his functions as a member.

90. The Traditional system of medicine and the modern system of medicine are two different approaches and bringing them together under a single regulatory body may result in “AYUSH” getting relegated as an ancillary stream in the overall health delivery system.

91. The main objective of the National Commission for Human Resources in Health will be to provide an institutional framework to promote availability of health care providers in all parts of the country (doctors, nurses, dentists, pharmacists and paramedics) to reduce shortages, standardize quality and bridge the uneven distribution of the existing workforce. Accordingly, the Commission’s immediate tasks will be to undertake a work force study, formulate an action plan, and ensure inter-sectoral coordination to promote availability of human resources in all parts of the country. As stated above, the NCHRH will be guided by a National Policy for Human Resources for Health. This policy document, to be updated every five years, will be developed by public health leaders representing State and Central Governments through the Central Council for Health and Family Welfare and shall be in the public domain.

92. Clause 7 of the Bill stipulates that the Chairperson and other members of the Commission, shall immediately after entering office and every year thereafter, make a declaration to the extent of their interest, whether direct or indirect and whether financial or otherwise, in any health institution or any other institution which comes under the purview of the Commission and the same shall be displayed on the website of the Commission.

93. The NCHRH Bill provides for replacement of the existing Councils by constitution of corresponding new Councils and a paramedical Council,

however, it also leaves room for the Government to notify the constitution of National Councils for any other discipline of health.

94. As stated above, the Commission and its constituent bodies would be guided by eminent persons in health profession with fresh and up to date outlook. The members of the Commission would represent various streams connected with health education viz. medicine, dentistry, nursing, pharmacy paramedics and public health. The Commission would comprise from members who are from outside the medical profession viz. law, technology and management. The Commission will not comprise of any nominated members. It will have only appointed members as well as elected members. The decision of the Commission shall be by consensus failing which by majority of members present and voting in the meeting. The quorum of the meeting shall be seven members.

95. The current regulatory bodies regulate both education and profession practice within their domain and are over-burdened with all regulatory functions. NCHRH in fact seeks to decentralise and trifurcate the regulatory functions among three separate bodies viz. NBHE, NEAC and National Councils. The NEAC would exclusively dealing with evaluation and assessment of institutions imparting health education and programmes conducted therein. The Committee would inter alia undertake audit and cause to be audited the adherence to code of ethics including policies on obviating conflict of interest, disclose of information, evolving transparency in the processes and procedure of evaluation and assessment. Committee. The proposal makes it mandatory for States not having State Councils to constitute the same within three years of the enactment of the NCHRH Bill. Hence, the Bill seeks to further strengthen institution of State Councils.

96. Allied health practitioners comprise of those who provide a range of diagnostic technical therapeutic and direct patient care and support services that are critical to other health professionals they worked with and patients they serve. Yoga, homeopathy, ayurveda are generally known as “alternative system of medicine”.

97. The existing curriculum for any course including MBBS would be looked into by NBHE. As stated above, the NCHRH will be guided by a National Policy for Human Resources for Health. This policy document, to be updated every five years, will be developed by public health leaders representing State and Central Governments through the Central Council for Health and Family Welfare and shall be in the public domain.

98. The main objective of the National Commission for Human Resources in Health will be to provide an institutional framework to promote availability of health care providers in all parts of the country (doctors, nurses, dentists, pharmacists and paramedics) to reduce shortages, standardize quality and bridge the uneven distribution of the existing workforce. The Ministry is also of the same view that there should be separate regulatory body for AYUSH

Suggestions of Smt Jaishreeben Kanubhai Patel, MP (L.S)

99. The suggestions of Smt. Jaishreeben Kanubhai Patel are delineated below:-

- In NCHRH Bill, nothing is mentioned about inclusion and enrolment of Dental Hygienists.

- The Bill stipulates that the Commission, the Board and the Committee will be bound by the directions of the Central Government. It may impinge on the objective functioning of these bodies.
 - The Bill lays down that the Commission, the Board and the Committee will have appointed and nominated members and removal of Chairperson or any other member gives autocratic powers to the Central Government.
 - There is no provision for representation from professional organisations and health universities or councils.
 - Decisions of the Commission cannot be questioned in any court of law, which is against the principles of natural justice.
 - Only power of registration is restored with Councils; State Councils are made branches of Central Council.
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- The registration in State Council valid only for the State. This will only undermine State Councils
 - The NCHRH should consist of eminent persons with integrity.
 - The Selection Committee should consist of Director General, ICMR, Supreme Court Judge and DGHS among others.
 - The membership of Selection Committee should be terminated with a notice of one month.
 - The CEO of the Commission should be from the medical field and selected by the Selection Committee.
 - Reconstitution of Medical Council of India.

Views /Comments of the Ministry

100. The Comments of the Ministry of Health and Family is given below point wise:-

- It is neither desirable nor possible to include each and every allied health science stream as an independent profession in the Bill. Nonetheless, the Bill seeks to promote availability of health care providers' standardised quality and bridge the uneven distribution of the existing work force. The Bill also has the provision to allow the Government to notify constitution of National Councils for disciplines of health other than those mentioned

- in the Bill. Moreover, the primary aim of NBHE would be to ensure augmentation of trained specialists and super specialist in every field of health care.
- The Bill provides that the Commission will be guided by the directions given by the Central Government only on the questions of policy. As regards provision to supersede the Commission, Board, Committee and the National Councils, the same have been incorporated for being exercised directly by the 'government in extraordinary circumstances with a view to improve the overall functioning of the Commission with more transparency and accountability.
 - The Commission, Board and the Committee will not comprise of any nominated members. They will have only appointed members duly selected by laid down procedure. The Commission will also have the Presidents of the Council as members, who would come through election. As stated above, the provision to remove or suspend Chairperson/members has been kept for use in extraordinary circumstances.
 - One of the main functions of the National Board for Health Education would be to coordinate between medical and other scientific academies, societies, associations, institutions and government medical and scientific departments and services. This ensures participation of professional bodies and health universities in the functioning of the Commission. Furthermore, it is stated that sub-clause(4) of clause 3 stipulates that the Presidents of each of the National Council shall be an ex-officio Member of the Commission and sub clause (5) of clause 3 stipulates that all ex-office Members shall have voting rights.
 - In so far as provisions under clause 100 are concerned it is stated that a commission or tribunal is established with limited powers to decide and investigate matters falling under its ambit so that ordinary courts are not overburdened. However such commissions/tribunals are amenable to constitutional courts. Therefore a person aggrieved with the decision of the Commission can always file an appeal in the High Court or the Supreme Court and his fundamental rights would remain intact. The bill provides for an appellate authority in the Central Government.
 - The current regulatory bodies regulate both education and profession practice within their domain and are over-burdened with all regulatory functions. NCHRH in fact seeks to decentralise and trifurcate the regulatory functions among three separate bodies viz. NBHE, NEAC and

National Councils. The State Councils would be constituted by the States under their own statute.

- The bill seeks to introduce the concept of live register for medical professional and therefore it is essential to segregate the data. A person registered with the state council is not barred from practicing anywhere in India; he just needs to register himself with the National Register to allow him to practice in any place outside his state that his whereabouts and manpower planning is made easy.
- The Commission and its constituent bodies will be guided by eminent persons in health profession with fresh and up to date outlook. They would be persons of standing in the respective professions with integrity, administrative capability and outstanding ability.
- Point noted.
- The Selection Committee would be constituted only for a prescribed period.
- The Bill only specifies that the CEO should not be person below the rank of the additional Secretary in Government of India. It does not bar a medical person from being appointed as the CEO. It is a very crucial position and therefore the appointment should be in the hands of the Government.
- All the National Councils will be reconstituted as the provisions of the Bill.

Suggestions of Shri Ratan Singh, M.P. (L.S.)

101. The suggestions of Shri Ratan Singh, MP (L.S) are delineated below:-

- The National Board of Health Examinations has been proposed by naming NBE. Thereby depriving NBE of the independent status; the Committee will have extraordinary responsibilities to develop and regulate the process of evaluation and assessment of institutions.
- It fails to address various National Registers being maintained by existing Councils.

- AYUSH not incorporated in the Bill.
- Imposes bureaucratic control over medical, dental, pharmacy, nursing education.
- The decision taken by the Commission will not be challenged in any court of law as per section 100 and 101.
- Duty to serve in India for persons leaving the country to acquire higher education.
- Power of National Council and State Council to institute inquiries and impose penalties under section 69 and appeal against such decision under section 70.
- Formation of Dental Hygienist Council

Views/ Comments of the Ministry

102. The Comments of Ministry of Health and Family Welfare are given below pointwise:-

- The proposal to set up NCHRH has been extensively discussed with all stakeholders and only after taking everyone on board the Government has gone ahead with the proposal. The aim of the Bill is to create an overarching regulatory body for the health sector regulating the various professions related to health under one umbrella. Different regulatory bodies each responsible for its own cadre of workers have failed to provide a synergetic approach to address the human resources needs in the health sector of the country. The Committee itself would not be undertaking evaluation and assessment of institutes. It will only lay down the standards, norms and processes for registration of evaluation and assessment agencies with the Commission.
- The Bill seeks to introduce the concept of live register for all the health professionals, to be maintained by respective State Councils. The National Councils and the State Council shall maintain the register by such data capturing method as may be prescribed by the Central or State Government and shall inter alia contain the biometric and other detail of each health professional which shall be verified at the time of renewal.

- The traditional system of medicine and the modern system of medicine are two different approaches and bringing them together under a single regulatory body may result in “AYUSH” getting relegated as an ancillary stream in the overall health delivery system.
- The NCHRH is proposed to be independent regulatory body and its constituent bodies would comprise of eminent professionals from various field of health sciences as well as law, management and technology. The Central Government, other than giving directions on policy issues would have no say in the functioning of the Commission.
- In so far as provisions under clause 100 are concerned it is stated that a commission or tribunal is established with limited powers to decide and investigate matters falling under its ambit so that ordinary courts are not overburdened. However such commissions/tribunals are amenable to constitutional courts. Therefore a person aggrieved with the decision of the Commission can always file an appeal in the High Court or the Supreme Court and his fundamental rights would remain intact. The bill provides for an appellate authority in the Central Government.
- The present provisions do not bar a student from leaving the country after obtaining a medical degree from a government medical college. Under NCHRH such a student, after acquiring higher qualification from abroad, would have to return to the country and serve for three years failing which his registration shall be cancelled.
- The fact that there needs to be more clarity regarding the jurisdiction of the National Councils and the State Councils has been noted and the clause shall be rectified in consultation with the Legislative Department.
- The NCHRH Bill leaves a provision for the Government to notify constitution of National Councils for any discipline of health other than those mentioned in the Bill.

Suggestions of Shri Kirti Azad, M.P. (L.S.)

103. The suggestions of Shri Kirti Azad, MP (L.S) are delineated below:-

- Not just that there is an acute shortage of hospital and their unequal distribution in various states, the problem is also accentuated by the poor infrastructure and the poor quality of education that is being given in most colleges. Dental and Medical institutions are

mushrooming all over, yet the quality of medical and paramedical education needs to be strictly monitored. The concept of an overarching authority, is therefore, welcome.

- Nursing requires greater emphasis than ever before. Not only do we need to impart better nursing education, we need to produce much larger number of nurses to improve the Doctor-Nurses ratio. Instead of just expecting the private sector to churn out nurses and pharmacists, the Government should establish institutes, alongside Government hospitals, to train quality professionals. ESI, Army and CGHS hospitals can be conveniently used for harnessing their capacity for training a larger pool of nursing professionals.
- Health is a state subject. This proposal legislation attempts to trample the role of the states in as much as the proposed Commission does not give any representation to the states. Whether it the Central or the State Government, it should be mandated that the members will only be from the Medical profession- there should be self control, and at least two third members should be from Institutes of National importance, like AIIMS, JIPMER etc.
- The process of removal of such eminent members should be tough. Unlike the Government's pushing out an eminent AIIMS Director Prof Venugopal purely for ego related reasons, we need to incorporate the procedure for removing the members, which should only be for very grave reasons. There should be assurance of tenure, and functional autonomy and authority should be clearly defined and outlined in the proposed bill.
- I agree that there should be only one Selection Committee for all the three institutions, both in the States as well as, in the Central Government, and there should be a minimum qualification, experience, submission of technical papers in national/ international journals of repute which should help zero in on the suitable candidates. To maintain quality standards, doctors in private practice should not be more than 20% of the Committee's strength.
- There should be no automatic approval of application for establishing educational institutions, just by the efflux of one year. Every proposed institution should be inspected, preferably by a panel of eminent doctors in that field to be constituted in every state, and on the basis of the panel's recommendation, an appropriate decision should be taken.
- Medical Research should be given prominence in the Bill. Even an Institution like AIIMS is lagging behind, since it is unable to cope with the massive footfall every day. There should be an incentive for research placed in the Bill, in the lines of Developed countries.
- Specialized institutions need to be encouraged to act as Teaching institutions for producing quality faculty, contributing to research and at best as, tertiary level referral centre for patients suffering from complicated disorders that cannot be managed elsewhere. With the

current load on even Institutions of National importance, they have become the first stop for walk in patients, and that has impinged on the basic purpose for which they were founded.

- Distance Education System in Medical Institutions should be a strict no-no. Like in Management/ Law etc Distance Education should not be considered at all. The Medical professional deals with human life and having 'professional' who are trained through 'distance training methods' can spell the end of the road for patient care.
- A new Institution should be allowed to come up after any state issues an Essentiality Certificate, which should be done after making an objective assessment of manpower requirements, to ensure better geographical spread and to meet the local needs.

104. The Committee took further oral evidence of Secretary and other officials, Department of Health and Family Welfare on the 17th August, 2012 to seek clarifications in the light of suggestions/comments received from various stakeholders/experts. During his deposition, the Secretary stated that his Ministry had received the copies of memoranda from the Rajya Sabha Secretariat containing views and suggestions by different organizations and individuals and the comments thereon had been furnished. The Secretary highlighted the fact that the dominant view that emerged from the memoranda furnished to the Committee and evidences tendered before it was the pressing need for reform in the health education sector. As regards the suggestions to bring AYUSH under the ambit of the Bill, he emphasized the fact that AYUSH should be kept outside the ambit of the Bill as bringing it under a single regulatory body may result in it being relegated to an ancillary stream in the overall health care delivery system. Apprising the Committee of the consultative process undertaken prior to drafting of the Bill, the Secretary stated that when the formation of the overarching body was envisaged, a task force was constituted which prepared a report suggesting a model for National Commission for Human Resources for Health (NCHRH). The report was sent to the State Governments and other stakeholders and the draft NCHRH Bill was put on the website of the Ministry inviting comments and suggestions thereon. He also stated that six regional consultations had also been held in which State Governments, Vice-Chancellors,

Principals of Medical Colleges, medical practitioners, academicians and representatives of regional IMA had participated. He informed the Committee that the Government was open to increasing the representations of State Governments in the National Commission, Board and Committee. He tried to impress upon the Committee that the Bill would not usurp any powers that currently vest with the State Governments. The registration with the State Councils and the National Councils, bar of jurisdiction, provision for appellate authority, status of the courses run by National Board of Examinations, formation of additional National Councils, etc. also figured in the discussion.

105. As regards the composition of the National Commission for Human Resources for Health, the National Board for Health Education and the National Evaluation and Assessment Committee, the Secretary submitted that **those** would be guided by eminent persons not only from disciplines of health education but also from other disciplines like management, law etc. and the appointment of the Chairpersons and Members would be based on the recommendation of a Selection Committee which shall consist of persons of eminence and experience from medical and allied fields to avoid bias. As regards Clause 100 which debars a person from calling into question any order under this Act, the Secretary submitted that a Commission or Tribunal is established with limited powers to decide and investigate matters falling under its ambit so that ordinary courts are not overburdened. However, all Commissions are amenable to constitutional courts i.e., the High Courts and the Supreme Court. He further stated that Clause 98 provides for an appellate authority. On the issue of separate councils for allied health professionals like physiotherapists, occupational therapists, radiographers, medical technologists etc, he stated that the Bill contains a provision for setting up of additional Councils.

106. The Secretary further informed that as per the Bill, a person enrolled in the State Council can practice only in that State whereas a person registered with the National Council can practice anywhere. He clarified that this was necessary because under the current system there was a lot of confusion and there were cases where doctors have multiple registrations. He stated that actually a person registered with the State Council is not barred from practicing anywhere in India but needs to register himself with the National Register so that there is no duplication of figures involved. Further, he stated that the Bill seeks to introduce the concept of live register for medical professionals and, therefore, it is essential to segregate the data.

RECOMMENDATIONS/OBSERVATIONS

1. The Committee takes note of the fact that even though it is more than sixty years since India attained independence, affordable healthcare and health education have been a distant dream for the common people of the country. Even though concerted efforts have been made by the Government, but due to substantial socio-economic and geographical inequalities, those efforts have not made the desired impact. The Committee expresses its concern over the acute shortage of qualified health workers including doctors in the country. It is constraining to note that as per 2001 Census, the estimated density of all the health workers (qualified and unqualified) in India is about 20 per cent less than the WHO norm of 2.5 workers (doctors, nurses and midwives) per thousand population. This shows the substantial shortage of qualified health workers in the country. The Committee also notes the disparities between the rural and urban areas in respect of the availability of health infrastructure. Even though there is a steep increase in the number of medical colleges in the country, the cause of the concern for the Committee is that a number of colleges that have been opened are not evenly distributed. This has resulted in distorted distribution of the country's production capacity of health workers. The Committee also takes cognizance of the fact that the other health professions such as nursing, pharmacy, etc., are not in a promising state. The nursing education is also in a poor condition resulting in poor quality of the nursing professionals. Similarly, the nurses-doctors ratio in the country is only 0.8:1 as against the ideal ratio of 3:1. Adding to these woes is

the criticism being made against some of the National Health Councils, leading to judicial censure on several occasions. The Committee, therefore, takes note of this background in which the Bill has been brought forward by the Government in the Parliament.

2. Taking note of the importance of the Bill and its likely impact on the availability of health professionals, health infrastructure and ultimately healthcare delivery for the common people of the country, the Committee took the views of a cross-section of the society and various stakeholders. The Committee feels that the need for reforms in health sector is long overdue so as to invigorate the health sector. But several stakeholders have raised serious apprehensions on various provisions of the Bill and effectiveness of various bodies that are proposed to be established under the Bill. In view of the apprehensions expressed by various stakeholders, the Committee, in its meeting held on 17 August, 2012, felt that the Bill, in the present form, cannot be recommended. The Committee, therefore, decided not to go in for clause-by-clause consideration of the Bill and to recommend to the Government to consider all shades of opinion and all the suggestions and bring forward a revised comprehensive Bill before the Parliament.

3. The Committee, however, makes the following general observations/recommendations to enable the Government to take necessary action at the time of revisiting the Bill:

- (i) The National Commission for Human Resources for Health, as proposed in the Bill, is mandated to take measures to determine, maintain and coordinate the minimum standards of and promote the human resources, in the disciplines of health education and training, commensurate with the requirement of such resources in different States and Union Territories. The Committee is aware that 'Health' is a State subject whereas 'Health Education' figures in the Concurrent List of the Constitution. However, the composition of the Commission gives no representation to the States. The Committee agrees with the viewpoint put forth by the State representatives that the States play a vital role in delivery of healthcare and medical education. States are well versed with existing medical education capacity and know their future requirements better. The Secretary, Department of Health and Family Welfare, during the course of his deposition before the Committee stated that he was open to giving greater representation to the States in the National Commission, the National Board and the National Evaluation and Assessment Committee. It is, in this context, that the Committee is of the considered view that a substantive role should be mandated for the States in the Commission. The Committee, therefore, recommends to revisit the institutions of National Commission, National Board and National Evaluation and Assessment Committee and give adequate

representation to the States. Cooperation and coordination of the States is very essential for better provision of healthcare and health education in the country. Discussions may be held with all the State Governments before revising the Bill. Necessary modifications may, accordingly, be made in the Bill.

- (ii) Some stakeholders favoured strengthening of the existing Councils rather than overarching body as proposed in the Bill. They felt that sufficient safeguards should be provided in the present Councils to ensure their transparent functioning and accountability to the Central Government and the Parliament. The Committee also took note of their concern that the present National Councils have been relegated to maintaining the Central Register only, in the Bill. There was also a mention that in the National Commission, National Board and National Evaluation and Assessment Committee, the representation of several professions has not been indicated. The Committee notes the concern expressed by the Councils that their autonomy and democratic set-up have been taken over under the Bill. The Committee feels that these apprehensions need to be appropriately addressed by the Government in the Bill. There is a need for clarifying all these concerns. The democratic functioning of the National Councils should be appropriately protected, even if they are brought under the overarching body. As regards the existing functions of the Councils, the Committee suggests that Councils may

be given the powers to consider all the proposals as per the existing functions and after their due consideration, the three bodies proposed under the Bill i.e the Commission, the Board and the Assessment Committee may be given the power to take final decision in the respective matters. Besides, adequate representation should be given to all the professions in the proposed Commission, Board and Committee.

(iii) Some of the stakeholders expressed their apprehensions that there is no element of election in the composition of the Commission, Board and the Assessment Committee. The Bill provides only for the appointment by the Central Government on the recommendations of the Selection Committees. In fact, this has been objected by the State Governments also. The Committee desires, that the apprehensions of stakeholders may be considered by the Government while revising the Bill.

(iv) The Selection Committees proposed to be set up for recommending persons for nominations to the Commission, Board and the Assessment Committee have been questioned by some of the stakeholders. They felt that the selection process for the Selection Committees has been made very ambiguous stating that the Chairperson and Members shall be appointed in such manner as may be prescribed. The Committee agrees that this would lead to doubts in the minds of the people and this needs to be clearly spelt

out. The Committee, in this regard, takes note of the Higher Education and Research Bill, 2011 in which composition of the Selection Committee has been clearly spelt out. The Committee recommends that a procedure on the similar lines be spelt out at the time of revising the Bill. The Committee also feels that the members of Selection Committee should be persons of eminence, preferably from the medical field. Besides, the Committee also recommends that there should be only one Selection Committee for all the three bodies.

- (v) The Bill provides that the Chairperson or a Member of the National Commission/National Board/National Evaluation and Assessment Committee can be removed by the Central Government at its pleasure which is very ambiguous provision and susceptible to misuse whereas the Higher Education and Research Bill, 2011 provides that the Chairperson or a Member of the National Commission for Higher Education and Research can be removed by the President. The Committee feels that a similar provision may be incorporated in the present Bill. The Committee recommends that adequate safeguards may be provided in the Bill so that the Chairperson and other Members of the Commission, Board, and the Assessment Committee are able to discharge their duties and responsibilities in a fair and objective manner.

(vi) It has been brought to the notice of the Committee that though the Bill seeks to abolish the National Board of Examinations (NBE), it fails to define how the existing streams of health education run by the NBE are to be preserved and promoted within the ambit of the Bill. The Committee is given to understand that the NBE has provided standardized examination for post-graduate courses across the country and public sector hospitals like Railway Hospitals, Armed Forces Hospitals and some private sector hospitals like Sir Ganga Ram Hospital, Shankar Netralaya, etc. are participating for the post graduation courses. It has been impressed upon the Committee that India is very short of specialists and the NBE provides an opportunity beyond the medical colleges to train the specialists of higher order. The Committee agrees that the NBE performs very important functions and the post-graduate medical education of the highest order is being standardized by it, and if this stream disappears, it is going to affect the specialists, who have been awarded degrees so far. The Committee, therefore, recommends that the above apprehensions be adequately addressed and precise and explicit provisions be made while revising the Bill to protect the existing streams of PG education run by the NBE.

(vii) The Committee also takes note of the apprehensions expressed before it about a potential conflict of powers between the Commission, the Board and the Assessment Committee due to lack

of clarity regarding the powers of the three bodies. One of the apprehensions was that the Commission gives permission for new courses under Clause 17 of the Bill whereas Clause 30 gives an impression that the Board is fully empowered to recognize new courses and give accreditation to new courses. Similarly, it was also apprehended that there is conflict between Board and Committee regarding accreditation of Health Educational Institutes under Clauses 30 (2) (t) and 37 (1) respectively. The Committee strongly feels that there is a need to clearly demarcate the respective jurisdictions of the three bodies under the Bill.

(viii) The Committee also takes note of the apprehensions expressed by some of the professional associations like physiotherapy, dental hygienists, optometrists, occupational therapists etc. They expressed the desire to have separate Council for each of the professions. For example, Dental Hygienists Association felt that they are always relegated to the background and they do not get sufficient prominence. They also felt that their profession has not been appropriately represented in the Bill. The Committee feels that many new fields have emerged in the health profession but the new fields are yet to be granted the status of separate Council so as to ensure their better growth, regulation and standards. The Committee, therefore, recommends that their grievances may also be

taken care of and separate Councils may be provided for them, wherever feasible.

- (ix) The Committee takes note of the provision in Clause 17 (6) which provides that where no order on establishment of institution for imparting health education or a new course of study has been given by the Commission for a period of one year, the same shall be deemed to have been approved by the Commission in the form in which it has been submitted. The Committee expresses its serious doubts on this open-ended clause. The Committee feels that this clause is susceptible to misuse by allowing backdoor entry of health institutions or a new course of study by stalling the decision for one year, which would automatically be treated as approval. The Committee recommends that this provision may be made more stringent and sufficient riders and safeguards may be provided in the clause.
- (x) The Committee is also of the view that there is no mention about the Medical Research in the preamble, powers and functions of the Commission nor has been defined under the definition in Clause 2. It has only been mentioned in Clause 30(1)(a) under the powers and functions of the National Board of Examination stating that it is one of the functions of the Board to maintain standards of Health Education and Research. Health Research is covered under the Higher Education and Research Bill, 2011 also. The Committee has

noted that in the Higher Education Bill, 2011, Agricultural Education and Research has been kept out of its purview. A comparative perusal of contents of the provisions pertaining to jurisdiction and functions of the Commissions proposed under both the Bills reveals that both the Bills have identical jurisdiction and functions on various aspects of Medical Education and Research. Under such circumstances overlap and conflict of jurisdiction is inevitable. Wherever there is overlap and conflict of jurisdiction between more than one agency on a particular subject, the ultimate sufferer would be its objective i.e. development of medical education and medical research. The Committee is not in agreement with the Ministry's contention that Health Research requires a forum like National Commission on Higher Education. There is a separate department for Medical Research mandated with the responsibility of development of various aspects of Medical Research and coordination between various National and International Agencies engaged in Medical Research. In the given circumstances, the Committee is of the opinion that it would not be appropriate to keep Medical Education and Medical Research under the jurisdiction of more than one Agency and Ministry. It would not serve any purpose and rather it would hamper its development. The Committee, therefore, strongly recommends that both Medical Education and Medical Research should be brought under the purview of the proposed National Commission envisaged in the

Bill. The Ministry may appropriately address this issue while revising the Bill.

(xi) The Committee notes that the medical education and healthcare under AYUSH has not been brought under the Bill. The Committee, therefore, heard the views of the Secretaries of Departments of Health and Family Welfare and AYUSH. Both the Departments of Health and Family Welfare and Department of AYUSH desired to keep the Indian Systems of Medicine and Homoeopathy out of the ambit of the present Bill on the ground that the Allopathy and the Indian Systems of Medicine and Homoeopathy are completely different and the latter needs focussed attention for proper development. It was, therefore, proposed to be kept on a separate footing due to the apprehensions that if they were brought under one Commission, the focussed attention of the AYUSH may be lost. It was also brought to the notice of the Committee that a separate Department was created in 1995 for Indian Systems of Medicine and Homoeopathy to give focussed attention and later it was named as Department of AYUSH in 2003. A separate policy known as 'National Policy on Indian Systems of Medicine and Homoeopathy' was also formulated in 2002. The Committee cannot understand the rationale behind having two separate overarching bodies for two different systems of medicine within the country. The Committee is of the view that there should be only one overarching body and all the health/medical professions should be brought under one single umbrella though with separate Councils. The Committee, therefore,

recommends that the Indian Systems of Medicine and Homoeopathy may also be brought under the jurisdiction of the National Commission for Human Resources for Health. The representatives of the Councils of the Indian Systems of Medicine and Homoeopathy may also be given representation in all the bodies, i.e., the Commission, the Board as well as the Assessment Committee so that their interests are well taken care of.

(xii) The Committee notes that though Health Educational Institutions, Health Institutions and Health Education have been mentioned in the Bill, but Health Education has not been defined while Health Educational Institution or Health Institutes have been defined. The Committee desires that this may be amply clarified. The Committee also desires that health education should be replaced by medical education because it is not the Health Educational Institution, it is Medical Educational Institution which imparts various kinds of medical education. The Committee, therefore, recommends that Health Education, Health Education Institutions / Health Institution may be replaced by Medical Education / Medical Educational Institutions / Medical Institutions wherever they appear and Medical Education may be appropriately defined.

(xiii) Similarly, distance education system as has been mentioned in Clause 2(r) is also not acceptable to the Committee. The Committee feels that Medical Education should not be imparted through distance education mode and it should be a regular course.

4. The Committee has received several suggestions from various stakeholders in the form of written representations, written submissions as well as oral evidence. The Committee has dealt with some important suggestions made by various stakeholders and appended all the memoranda/written submissions to the Report. The memoranda/written submissions received from various persons/bodies have been sent to the Ministry for comments. The issues raised by various persons/bodies in the memoranda and the written submissions and the comments of the Ministry are appended. Some of the stakeholders have proposed amendments to various provisions of the Bill. The Committee recommends that the Ministry of Health and Family Welfare may carefully examine all the suggestions made by various stakeholders in the written memoranda, written submissions and oral evidence and also the recommendations made by this Committee while revising the Bill. All the apprehensions made by various stakeholders may be appropriately addressed. If need be, the Ministry may hold another round of discussions with all the stakeholders before finalizing the fresh Bill.

5. The Committee, accordingly, recommends that the Ministry may withdraw this Bill and bring forward a fresh Bill after sufficiently addressing all the views, suggestions and the concerns expressed. Before finalising the fresh Bill, the Ministry may hold discussions with all the stakeholders including the State Governments.