



REPORT NO.

116

PARLIAMENT OF INDIA

RAJYA SABHA

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

ONE HUNDRED SIXTEENTH REPORT

On

THE NATIONAL COMMISSION FOR HOMOEOPATHY BILL, 2019

(Presented to the Rajya Sabha on 27 November, 2019)

(Laid on the Table of Lok Sabha on 27 November, 2019)



Rajya Sabha Secretariat, New Delhi
November, 2019/Agrahayana, 1941 (SAKA)

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सत्यमेव जयते

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27 November, 2019/Agrahayana, 1941 (SAKA)

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* to be appended at the printing stage

COMPOSITION OF THE COMMITTEE
(2018-19)

1. Prof. Ram Gopal Yadav - Chairman

RAJYA SABHA

2. Dr. R. Lakshmanan
3. Dr. Vikas Mahatme
4. Shri Jairam Ramesh
5. Dr. Santanu Sen
6. Shri Ashok Siddharth
7. Shri K. Somaprasad
8. Dr. C. P. Thakur
9. Shri Ronald Sapa Tlau
10. Shrimati Sampatiya Uikey

LOK SABHA

11. Shri Thangso Baite
12. Shri Nandkumar Singh Chauhan
13. Dr. Heena Vijaykumar Gavitt
14. Shri C. P. Joshi
15. Dr. K. Kamaraj
16. Shri Arjunlal Meena
17. Shri Anoop Mishra
18. Advocate Jayasingh Thiyagaraj Natterjee
19. Dr. Mahendra Nath Pandey
20. Shri Chirag Paswan
21. Shri C. R. Patil
22. Shri M.K. Raghavan
23. Shri Janak Ram
24. Dr. Shrikant Eknath Shinde
25. Shri Gyan Singh
26. Shri Bharat Singh
27. Shri Kanwar Singh Tanwar
28. Shrimati Rita Tarai
29. Shri Dasrath Tirkey
*30. Shri Manohar Utawal
31. Shri Akshay Yadav

SECRETARIAT

Shri P.P.K. Ramacharyulu	Secretary
Shri J. Sundriyal	Joint Secretary & Financial Advisor
Shri Rakesh Naithani	Director
Shri Bhupendra Bhaskar	Additional Director
Shrimati Harshita Shankar	Under Secretary
Shri Rajesh Kumar Sharma	Assistant Committee Officer
Ms. Monika Garbyal	Assistant Committee Officer
Shri Parth Gupta	Assistant Research Officer

**ceased to be member of the Committee w.e.f 21st December, 2018*

**DEPARTMENT-RELATED PARLIAMENTARY STANDING COMMITTEE ON HEALTH AND
FAMILY WELFARE (2019-20)**

1. Prof. Ram Gopal Yadav - **Chairman**

RAJYA SABHA

2. Shri A.K. Antony
3. Dr. L. Hanumanthaiah
4. Shrimati Kahkashan Perween
5. Shri Suresh Prabhu
6. Dr. Santanu Sen
7. Chaudhary Birender Singh
8. Shri K. Somaprasad
9. Dr. Subramanian Swamy
10. Shrimati Sampatiya Uikey

LOK SABHA

11. *Vacant
12. Ms. Bhavana Gawali (Patil)
13. Ms. Ramya Haridas
14. Dr. Chandra Sen Jadon
15. Shrimati Malothu Kavitha
16. Shri P. K. Kunhalikutty
17. Dr. Sanghamitra Maurya
18. Shri Arjunlal Meena
19. Shrimati Pratima Mondal
20. Dr. Pritam Gopinath Munde
21. Dr. Mahendrabhai Kalubhai Munjpara
22. Dr. Bharati Pravin Pawar
23. Adv. Adoor Prakash
24. Shri Haji Fazlur Rehman
25. Dr. Rajdeep Roy
26. Dr. Subhas Sarkar
27. Shri D. N. V. Senthilkumar S.
28. Shri Anurag Sharma
29. Dr. Mahesh Sharma
30. Dr. Sujay Radhakrishna Vikhepatil
31. Dr. Krishna Pal Singh Yadav

SECRETARIAT

1. Dr. P.P.K. Ramacharyulu, Secretary
2. Shri J. Sundriyal, Joint Secretary
3. Shri Bhupendra Bhaskar, Additional Director
4. Smt. Harshita Shankar, Under Secretary
5. Shri Rajesh Kumar Sharma, Assistant Committee Officer
6. Ms. Monika Garbyal, Assistant Committee Officer
7. Shri Parth Gupta, Assistant Research Officer

* Shri Udayanraje Pratapsingh Bhonsle, Member resigned from the membership of the Lok Sabha w.e.f 14th September, 2019.

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 One Hundred Sixteenth Report of the Committee on the National Commission for Homoeopathy Bill, 2019.

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 Hon'ble Chairman, Rajya Sabha, referred* the National Commission for Homoeopathy Bill, 2019 (**Annexure I**) on the 14th January, 2019 as introduced in the Rajya Sabha on the 7th January, 2019 for examination and report by 30th January, 2019. However, the previous Committee could not consider the Bill and present its Report and requested for extension of time. Subsequently, Hon'ble Chairman, Rajya Sabha granted extension of time for presentation of Report on the Bill upto 29th April, 2019. However, the deliberations on the said Bill could not be concluded due to preoccupation of the Members of the previous Committee in the General Elections for the 17th Lok Sabha and subsequent dissolution of the Committee.

3. The previous Committee started the examination of the Bill and held one sitting on 24th January, 2019. The Committee also issued a Press Release inviting memoranda/views from individuals and other stakeholders. In response thereto, a number of memoranda from different organisation/association and individuals were received.

4. The re-constituted Committee held 4 sittings during the course of examination of the Bill, i.e., on 21st and 22nd October, 7th and 15th November, 2019. The list of witnesses heard by the Committee is at **Annexure-II**.

5. The Committee considered the draft Report and adopted the same on 15th November, 2019.

6. The Committee relied on the following documents in finalizing its Report:-

- (i) The National Commission for Homoeopathy Bill, 2019;
- (ii) Background Note on the Bill received from the Ministry of AYUSH;
- (iii) Presentation, clarifications and Oral evidence of Secretary, Ministry of AYUSH;
- (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;

* *Rajya Sabha Parliamentary Bulletin Part II, No.58476, dated 14th January, 2019.*

- (v) Oral evidence and written submissions by various stakeholders/experts on the Bill; and
- (vi) Replies received from the Ministry of AYUSH to the questions/queries raised by Members during the meetings on the Bill.

7. On behalf of the Committee, I would like to acknowledge with thanks the contributions made by those who deposed before the Committee and also those who gave their valuable suggestions to the Committee through their written submissions.

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
15 November, 2019
3, Agrahayana, 1941 (Saka)

Prof. Ram Gopal Yadav
Chairman,
Department-related Parliamentary
Standing Committee on Health and Family
Welfare, Rajya Sabha

ACRONYMS

AIPGET	All India Post Graduate Entrance Test
ATS	Association of Teaching Staff
AYUSH	Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy
CBI	Central Bureau of Investigation
CCH	Central Council of Homoeopathy
CCIM	Central Council for Indian Medicine
CCMP	Certificate course in modern pharmacology
CCRH	Central Council for Research in Homoeopathy
CEO	Chief Executive Officer
CGHS	Central Government Health Scheme
CRRI	Compulsory Residential Rotatory Internship in various Departments
DFG	Demands for Grants
EWS	Economically Weaker Section
HCC	Homoeopathy Central Council
IHP	Indian Institute of Homeopathic Physicians
IIPH	Indian Institute of Public Health
IMCC	Indian Medicine Central Council
MARBH	Medical Assessment and Rating Board for Homeopathy
MCI	Medical Council of India
MoU	Memorandum of Understanding
MQT	Minimum Qualifying Test
NCDs	Non-communicable diseases
NCH	National Commission for Homoeopathy
NCHRH	National Commission for Human Resources in Health (NCHRH)
NCISM	National Commission of Indian System of Medicine
NEET	National Eligibility-cum-Entrance Test
NEIAH	North Eastern Institute of Ayurveda and Homeopathy
NEP	National Education Policy
NET	National Entrance Test
NEXT	National Exit Test
NHRM	National Rural Health Mission
NOVOD	National Oilseeds and Vegetable Development
NTET	National Teachers Eligibility Test
OBC	Other Backward Class
PGNET	Post Graduate National Exit Exam
PH	Physical Handicapped
PHC	Primary Health Care
PMO	Prime Minister's Office
PPP	Public Private Partnership
RBSK	Rashtriya Bal Swasthya Karyakram
SC	Scheduled Caste
SOR	Statement of Objects and Reasons
ST	Scheduled Tribe
UT	Union Territory
WHO	World Health Organisation

REPORT

CHAPTER -1

INTRODUCTION

1.1 Mission Statement of the Bill

1.1.1 The National Commission for Homoeopathy Bill, 2019 seeks to provide for constitution of a National Commission for Homoeopathy for development and regulation of all aspects relating to education, medical profession, medical institutions of Homoeopathy and an Advisory Council to advise and make recommendations to the Commission to achieve the mission objectives of the Bill as enshrined in Preamble to the Bill.

1.1.2 The Preamble to the Bill aims to provide a medical education system that improves access to quality and affordable medical education and to ensure availability of adequate and high quality Homoeopathy medical professionals in all parts of the country. The Bill also seeks to promote equitable and universal healthcare that encourages community health perspective and makes services of Homoeopathy medical professionals accessible to all the citizens. In order to achieve the National Health goals, the said Bill encourages Homoeopathy medical professionals to adopt latest medical research in their work and contribute to research. It envisages a system that has an objective, periodic and transparent assessment of medical institutions and facilitates maintenance of a Homoeopathy medical register for India and enforces high ethical standards in all aspects of medical services.

1.1.3 Broadly, the Bill is a replica of National Medical Commission Bill, 2019. The Bill entails the constitution of Autonomous Boards, holding of NEET, NEXT, National Entrance Test and National Teachers Eligibility Test and strives to adapt to the changing needs and keep pace with the time and for matters connected therewith or incidental thereto.

1.2 Objectives of the Bill

1.2.1 The National Commission for Homoeopathy Bill, 2019 has been proposed to achieve the following objectives:-

- (a) Constitution of a National Commission for Homoeopathy for development and regulation of all aspects relating to education, medical profession and medical institutions of Homoeopathy and an Advisory Council to advise and make recommendations to the Commission;
- (b) Constitution of three Autonomous Boards, namely:— (i) the Homoeopathy Education Board (ii) the Medical Assessment and Rating Board and (iii) the Board of Ethics and Registration;
- (c) Holding of a uniform National Eligibility-Cum-Entrance Test for admission to undergraduate medical education;

- (d) Holding of a National Exit Test for granting license to practice as medical practitioner of Homoeopathy;
- (e) Holding of a uniform Post-Graduate National Entrance Test for postgraduate courses;
- (f) Holding of National Teachers Eligibility Test for Homoeopathy for appointment as teachers of Homoeopathy;
- (g) The manner of seeking permission for establishment of new medical institution;
- (h) The manner of maintaining National Register and State Register of Homoeopathy;
- (i) Recognition of medical qualification granted by Universities and medical institutions in India and outside India and withdrawal of recognition or de-recognition of qualification;
- (j) Holding of joint sitting of the Commissions of other medical education to enhance interface between Homoeopathy, Indian System of Medicine, and modern system of medicine;
- (k) The repeal of the Homoeopathy Central Council Act, 1973 and for dissolution of the Central Council of Homoeopathy constituted there under with certain conditions.

1.3 Background and Necessity of the Bill

1.3.1 According to Statement of Objects and Reasons (SOR) of the Bill, the Homoeopathy Central Council (HCC) Act, 1973 (59 of 1973) was enacted to provide a solid foundation for the growth of Homoeopathy medical education and constitution of the Central Council of Homoeopathy for regulation of the educational standards of Homoeopathy, maintenance of the Central Register of practitioners and for matters connected therewith. This Act was drafted on the pattern of the Indian Medical Council Act, 1956 and the broad functions, constitution, regulation making powers, etc. of Central Council for Homoeopathy are identical to the Medical Council of India. However, the said Homoeopathy Central Council Act has not kept pace with time. Various bottlenecks viz. irregularities in regulation of AYUSH medical institutions, ineffective role of members and Executive Committee, lack of standard curriculum and education, absence of ethics in practice of Homoeopathy, failure to provide transparent system of inspection and alleged irregularities in grant of recognition & de-recognition of education system have crept into the system with serious detrimental effects on medical education and delivery of quality health services.

1.3.2 Replying to Committee's query about the details of the factors that hindered the effective implementation of the Homoeopathy Central Council Act, 1973, the Ministry of AYUSH elaborated as under:-

“The Homoeopathy Central Council (HCC) Act, 1973 was enacted for constitution of a Central Council of Homoeopathy (CCH) for regulation of education and practice of Homoeopathy, for maintenance of Central Register of Homoeopathy and for matters connected therewith. The lack of effective provisions in the Act to address the issues relating to Membership, conditions for removal of Members/President in case of non-performance or otherwise, lack of power of Central Government to make regulations or supersede the Council and lack of

penalizing provisions on institutes for non-compliance of prescribed standards. Due to the above lacking provisions in the Act, the members are continuing beyond 5 years tenure. The Inspection of colleges being conducted by the Council has been observed to be unfair. The Council had not implemented the suggestions of Government like Aadhar based geo-location enabled attendance system for teachers, Hospital staff and PG students, NEET, and Teachers eligibility test. The Council failed to ensure standards in colleges and no steps have been taken to improve the teaching and training skills of teachers. The Council could not unfold the hidden potentialities of the system. Further, CCH president was convicted by CBI. In this regard, Ordinance was taken and subsequently amended HCC Act to supersede CCH by Board of Governors.

1.3.3 The Ministry added that the Homeopathy Central Council has not kept pace with time as various bottlenecks have crept into the system. Due to various administrative reasons and influence of sitting members, the elections to the Council could not be conducted in time. Inspection of colleges is being conducted by the Council by deploying the Council members/visitors who are appointed by the President of the Council. It has been observed that the findings of the Inspection reports are often not fair. The Executive Committee of the Council further examines the inspection reports and furnishes their recommendation to the Central Government for taking further action. It has been noted that the recommendations of the Council are also not fair.

1.3.4 Accordingly to the Ministry they had requested the Council to address the issue of ghost teachers, genuine functioning of hospital and colleges. The Ministry had also suggested the Council to implement the Aadhar based geo-location enabled attendance system for teachers, hospital staff and PG students and also to conduct teacher's eligibility test to assess the quality of teachers, but the Council's attitude was inert in implementing the same. The Council failed to ensure standards in colleges and no steps have been taken to improve the teaching and training skills of teachers. The Council could not unfold the hidden potentialities of the system. To make the things worse, the CCH president was convicted by CBI. In this regard, Ordinance was taken and subsequently amended HCC Act to supersede CCH by Board of Governors.

1.3.5 The 9th Report of the Planning Commission, Government of India noted that Homoeopathy “*training Institutes lack well qualified teachers and the quality of training was not of requisite standard.*” The National Policy on Indian System of Medicine and Homoeopathy, 2002 also stated that “*Medical education in Indian System of Medicine and Homoeopathy has been a cause of concern. The number of Indian System of Medicine and Homoeopathy at increased phenomenally to 404 (729 colleges at present). The Central Councils have implemented various educational regulations to ensure minimum standards of education. Despite this, there has been a mushrooming of sub-standard colleges causing erosion to the standards of education and harm to medical training and practice. Liberal permission by the State Governments, loopholes in the existing Acts and weakness in the enforcement of standards of education have contributed to this state of affairs.*”

1.3.6 It was, therefore, felt by the Commission that there is a need to amend some of the provisions of the IMCC and HCC Acts with respect to establishment of new medical colleges, increasing seats and granting permission to existing medical colleges.

1.3.7 The Government of India has taken some steps to meet the challenges before the Homoeopathy Central Council Act, 1973 and to resolve these bottlenecks.

1.4 The Homoeopathy Central Council (Amendment) Act, 2002

1.4.1 The first in a series of such efforts was the amendment of Homoeopathy Central Council Act, 1973 in the year 2002. The Bill was introduced to keep a check on growth of sub-standard colleges, increase in admission capacity and starting of new courses in such colleges. Accordingly, section 12A and 12B were inserted by the 2002 Amendment Act and the permission of the Central Government was made mandatory for establishing new colleges or starting new courses of study. The amendment ensured that quality of Homoeopathy education was not being compromised.

1.5 The Homoeopathy Central Council (Amendment) Bill, 2005

1.5.1 The Homoeopathy Central Council (Amendment) Bill, 2005 was subsequently introduced in the Parliament to ensure timely election to the Central Council of Homoeopathy and streamline its functioning. The Homoeopathy Central Council (Amendment) Bill, 2005 contained amendments with respect to tenure of membership of the members of the Central Council of Homoeopathy, directional powers of the Central Government and provision for regulating existing colleges. The aim of the Bill was to amend inherent flaws in these provisions of the Central Homeopathy Council Act, 1973. These flaws caused undue delay in the elections to the Central Council and arbitrary decisions being taken by it. In order to bring about overall quality improvement in the educational standards of Homeopathy, the Homoeopathy Central Council (Amendment) Bill, 2005 was brought before Parliament. The Bill was referred to the Parliamentary Standing Committee on Health & Family Welfare.

1.5.2 The Committee in its tenth Report on the Homoeopathy Central Council (Amendment) Bill, 2005, which was presented to Parliament on 29th July, 2005 had made recommendations on various clauses related to structure and functioning of Homoeopathy Central Council namely, to:- (i) amend the Act to define Homoeopathic Medical College, (ii) nominate ex-officio members, (iii) seek permission for existing colleges, (iv) fix tenure of elected/nominated members of the Council, (v) remove President and Vice-President, (vi) dissolve the Executive Committee of the Council and (vii) give directions to the Council in public interest.

1.5.3 However, due to various reasons, significant progress with respect to these bills was not made and challenges with the regulation of medical education for Homoeopathy persisted.

1.5.4 In 2006, the Planning Commission convened a Task Force for AYUSH education, which found that the curriculum and course content across systems was unsatisfactory. The Task Force, further, concluded that most AYUSH educational institutions did not provide quality

medical education, a feature compounded by poor infrastructure and lack of qualified and committed faculty. This yielded ill trained AYUSH practitioners who lacked knowledge of the fundamentals of the concerned system of medicine and were unable to practice in accordance with the best traditions of their systems. Specifically, both under-graduate and post-graduate courses were described as *“blindly imitative of the corresponding courses in Allopathic medicine.... To the extent that the very character of the AYUSH systems gets compromised.”*

1.5.5 The Department of AYUSH, Government of India, in its report (F.No.R-13040/10/2011-HD (Tech) dated March, 2011, stated *“The Central Government has also received complaints, in the scenario give apprehension that there may be possibility of growth of substandard education. Similarly, the existence of such substandard colleges may create a possibility of adopting malpractices and unfair practices by the colleges.... it is necessary to adopt urgent measures to regularly monitor the Homoeopathy Medical Colleges.”*

1.6 The National Commission for Human Resources for Health Bill, 2011

1.6.1 While considering the observations of Parliamentary Standing Committee of Ministry of Health and Family Welfare, the proposal of Department of Health for establishing an overarching body namely, “National Commission for Human Resources in Health (NCHRH)” was introduced. Accordingly, the Ministry conceived a similar proposal for establishing an overarching body namely National Commission for Human Resources in AYUSH (NCHRA), which was modeled on the National Commission for Human Resources in Health (NCHRH). As the Department of Health and Family Welfare did not pursue the proposed Bill, the Ministry of AYUSH also decided not to pursue the idea of setting up of National Commission for Human Resources in AYUSH.

1.7 The Homoeopathy Central Council (Amendment) Bill, 2015

1.7.1 Thereafter, the Homoeopathy Central Council (Amendment) Bill, 2015 was introduced in Parliament to amend the Homoeopathy Central Council Act, 1973, to (a) make provision for obtaining prior permission of the Central Government by all Homoeopathy Medical Colleges for admission of new batches of students in any course of study or training (including post-graduate course of study or training); and (b) provide the aforesaid permission by the Central Government for a period of five years. The proposed amendment aimed to ensure quality of Homoeopathy education leading to better healthcare through Homoeopathy system of medicine.

1.7.2 The Committee is given to understand that due to persistent challenges, yet another effort was made by the Ministry of AYUSH with the introduction of the Homoeopathy Central Council (Amendment) Bill, 2015 on 6th May, 2015. The Secretary, AYUSH, during his evidence before the Department-related Parliamentary Standing Committee on Health and Family Welfare on 25th May, 2015, shared that although the Homoeopathy Central Council Act contained provisions for de-recognition of degrees granted by any existing institution, it was lacking in stopping grant of permission to make admissions year after year, etc. In view of the said lacunae, the Ministry had contemplated the amendment of the Act by inserting two provisions in the Amendment Bill,

2015 to discourage continuance of “business as usual” approach of Homoeopathy colleges which undermined the standards of education in existing colleges and the quality of Homoeopathy education.

1.7.3 The DRSC on Health and Family Welfare in its Eighty Sixth Report on the Homoeopathy Central Council (Amendment) Bill, 2015 recommended a credible and vibrant appeal mechanism in place so that minor technical and procedural defaults are not made a basis for harassment and questionable practices and genuine grievances of Homoeopathy medical institutions are addressed swiftly within set timelines. These Acts at first pave a solid foundation for growth of medical education and development of therapeutic training pertaining to Homoeopathy. However, over the time, several issues started to emerge in functioning of CCIM and CCH and in regulation of medical education for these systems.

1.8 The Committee under the Chairmanship of Vice Chairman, NITI Aayog

1.8.1 The specific lacunae that Homoeopathy Central Council (Amendment) Act, 2015 aimed to address and were also the subject of the 86th Report of Parliamentary Standing Committee examined in the context of the broader reforms mandated by PMO. Thus, the Government of India, vide its OM No. 4(3)/2016-H&FW dated 04.08.2016 and in terms of the PMO I.D. No. 520/31/C/462015-ES2 dated 01.08.2016 had set up a Committee under the Chairmanship of Vice-Chairman, NITI Ayog, with Additional Principal Secretary to PM, CEO, NITI Ayog and Secretary, AYUSH as members to examine all options of reforms in Homoeopathy Central Council (HCC) Act, 1973 and Indian Medicine Central Council (IMCC) Act, 1970.

1.8.2 The NITI Ayog Committee, consulted the States/UTs in its various meetings and also sought views and suggestions of various experts including eminent medical professionals, experts in the fields of public health, former Secretaries (Department of AYUSH), Presidents/ Vice-President/ Members of the CCIM, CCH, lawyers etc. The said Committee observed that the IMCC Act, 1970 and HCC Act, 1973 were framed along the lines of the IMC Act, 1956 and flagged the following reasons behind failure of Central Council of Homoeopathy:-

- (i) Failure to bring in competent and qualified persons based on merit for regulating AYUSH medical education;
- (ii) Failure of nominated members of CCH in making an effective impact over the elected members;
- (iii) Failure in creation of standard curricula that can produce quality doctors in Homoeopathy and maintaining uniform standard of medical education at the undergraduate and postgraduate levels;
- (iv) Failure in ensuring ethics in practice of Homoeopathy
- (v) Inadequate quality enforcement mechanisms;
- (vi) Lack of transparent system of inspection and grant of recognition or de-recognition of institutions pertaining to Homoeopathy
- (vii) Failed to produce skilled and professionally competent medical graduated and post graduates.

- (viii) Inadequate emphasis on substantial evaluation of quality of teaching, training and imparting of skills, in addition to assessment of infrastructure and availability of human resources in the institutions during inspections.

1.8.3 The Government of India meanwhile undertook a landmark step on the Modern Medicine front and introduced the National Medical Commission Bill, 2016 to revamp the Indian Medical Council Act, 1956. The said Bill included several far-reaching changes for strengthening the regulation of the medical education in the country. Given that a number of issues plaguing MCI were also the ones affecting the CCH, the NITI Aayog Committee has recommended for enactment of the National Commission for Homoeopathy on the same lines as that of the National Medical Commission Bill, 2016.

1.8.4 The Government of India introduced the National Medical Commission Bill, 2017 on the 29th December, 2017 which was referred to the Committee on Health and Family Welfare on the 4th January, 2018. The Committee presented its 109th Report on the said Bill on 28th March, 2018 containing a total of 56 recommendations. The Government has accepted a total of 40 recommendations of the DRSC on Health and Family Welfare, 7 were partially accepted and 9 recommendations were not accepted. The National Medical Commission Bill, 2019 has now been enacted as the National Commission Act, 2019 (No. 30 of 2019 with effect from 8th August, 2019). As the NMC Act replaced the IMC Act, 1956, on the same line, the Ministry has proposed to supersede the HCC Act, 1973 vide the National Commission for Homoeopathy Bill, 2019 to replace the HCC Act, 1973.

1.9 Salient Features of the National Commission for Homoeopathy, Bill, 2019

The salient features of the National Medical Homoeopathy Bill, 2019 may be enumerated as under:-

1.9.1 Institutional Framework for Regulation of Medical Education

- (i) The Bill proposes creation of a new institutional framework, in the form of a National Commission for Homoeopathy, an Advisory Council for Homoeopathy and three Autonomous Boards for regulating all aspects relating to medical education, medical profession and medical institutions.
- (ii) The National Medical Homoeopathy Bill, 2019 will formulate and lay down policies for maintaining a high quality and high standards in education of Homoeopathy, framing policies for regulating medical Institutions and Homoeopathic Medical Professionals, develop a road map for meeting the requirements in healthcare, including human resources and infrastructure, ensuring compliance by the State Medical Councils of Homoeopathy of the regulations made under the Bill and ensuring coordination among the autonomous boards set up under Bill.

1.9.2 Composition and Structure of National Commission for Homoeopathy

- (i) The National Commission for Homoeopathy comprises of a Chairperson, seven ex-officio members and twelve part-time members.
- (ii) The Chairperson shall be a person of outstanding ability, proven administrative capacity and integrity, possessing a postgraduate degree in Homoeopathy from a recognized University and having experience of not less than twenty years in the field of Homoeopathy, out of which at least ten years shall be as a leader in the area of healthcare delivery, growth and development of Homoeopathy or its education.
- (iii) Of the twelve part-time members, three members will be from the field of Homoeopathy, Management, law, Health Research, Science Technology and Economics, five Members to be appointed on rotational basis from amongst the nominees of the States and Union territories in the Advisory Council for a term of two years and four members to be elected by the registered medical practitioners of Homoeopathy from amongst themselves.
- (iv) The Central Government is empowered to appoint the Chairperson, President of Autonomous Boards, the Secretary of the Commission on the recommendation of a Search Committee. These posts will have a maximum term of four years. The Search Committee will consist of six members including the Cabinet Secretary and three experts nominated by the Central Government of which two will have experience in the homoeopathic field.

1.9.3 Advisory Council for Homoeopathy

Under the Bill, the Central Government will constitute an Advisory Council for Homoeopathy. The Council will be the primary platform through which the States/Union Territories can put forth their views and concerns before the NCH. Further, the Council shall advise the Commission on measures to determine and maintain, and to coordinate maintenance of the minimum standards in all matters relating to medical education, training and research.

1.9.4 Autonomous Boards under National Commission of Homoeopathy

Three Autonomous Boards are proposed to be setup under the Commission. The three Autonomous Boards are the Homoeopathy Education Board, the Medical Assessment and Rating Board for Homoeopathy and the Board of Ethics and Registration for Homoeopathy. The brief outline of their composition, powers and functions is as follows:-

(a) Homoeopathy Education Board

The Homoeopathy Education Board will be responsible for formulating standards, curriculum, guidelines for setting up of medical institutions, and granting recognition to medical qualifications at the undergraduate and post graduate levels respectively. The Homoeopathy Education Board shall consist of a President and four Members from the discipline of Homoeopathy.

(b) The Medical Assessment and Rating Board for Homoeopathy

The Medical Assessment and Rating Board for Homoeopathy will determine the process of rating and assessment of medical institutions and have the power to levy monetary penalties on institutions which fail to maintain the minimum standards. It will also grant permission for establishing a new medical institution. The Medical Assessment and Rating Board for Homoeopathy shall consist of a President from the discipline of Homoeopathy and two Members, out of whom one Member shall be from the discipline of Homoeopathy and the other Member shall be chosen from any of the disciplines of management, quality assurance, law or science and technology.

(c) The Board of Ethics and Registration for Homoeopathy.

It will maintain a National Register of all licensed Homoeopathic medical practitioners, and regulate their professional conduct. Only those medical practitioners included in the Register will be allowed to practice Homoeopathic medicine. The Board of Ethics and Registration for Homoeopathy shall consist of a President from the discipline of Homoeopathy and two Members, out of whom one Member shall be from the discipline of Homoeopathy and the other Member shall be a person who has demonstrated public record of work on medical ethics or chosen from any of the disciplines of quality assurance, public health, law or patient advocacy.

1.9.5 National Level Examinations and Counseling

- (i) There will be a uniform National Eligibility-cum-Entrance Test for admission to undergraduate Homoeopathy education in all medical institutions regulated by the Bill. The NCH will specify the manner of conducting common counseling for admission in all such medical institutions. The Bill proposes a common final year National Exit Test for the students graduating from medical institutions to obtain the license for practice. Further, there will be a uniform Post-Graduate National Entrance Test that will serve as the basis for admission into post-graduate courses at medical institutions. The Bill also proposes a National Teachers' Eligibility Test for postgraduates of Homoeopathy who wish to take up teaching Homoeopathy as a profession.
- (ii) The Commission shall specify by regulations the manner of conducting common counseling by the designated authority for admission to all the medical institutions governed under this Act provided that the common counseling shall be conducted by the designated authority of:-
 - (i) the Central Government for All India seats; and
 - (ii) the State Government for the remaining seats at the State level.

1.9.6 Powers of Central Government

The Bill empowers the Central Government to supersede the Commission, not exceeding one year, if the Commission is unable to discharge the functions and duties, or persistently defaults in complying with any direction issued by the Central Government. The Central

Governments empowered to give directions to the Commission and the Autonomous Boards. It can also give directions to the State Governments for carrying out the provisions of the Act.

1.9.7 Appeal on matters related to professional and ethical misconduct

State Medical Councils will receive complaints relating to professional or ethical misconduct against a registered Homoeopathic medical practitioner. If the medical practitioner is aggrieved of a decision of the State Medical Council, he may appeal to the Board of Ethics and Medical Registration for Homoeopathy. The State Medical Councils and the Board of Ethics and Medical Registration for Homoeopathy have the power to take disciplinary action against the medical practitioner including imposing a monetary penalty. If the medical practitioner is aggrieved of the decision of the Board, he can approach the NCH to appeal against the decision. Appeal of the decision of the NCH lies with the Central Government.

CHAPTER - II

PRESENTATION AND VIEWS OF MINISTRY OF AYUSH

2.1 PRESENTATION OF THE MINISTRY

2.1.1 The Committee started deliberations on the said Bill by hearing the views of the Ministry of AYUSH. The Secretary, Ministry of AYUSH made a presentation before the Committee during the previous Committee's meeting held on 24th January, 2019 and before the present Committee on 21st October, 2019. During the course of presentation the Secretary highlighted the background and necessity of the Bill. He informed that review of the HCC Act, 1973 was entrusted to a Committee chaired by Vice-Chairman, NITI Aayog on 1st August, 2016. He apprised the Committee that the drafting of the said Bill was on the lines of National Medical Commission Bill. The Ministry has examined the Bill in consultation with NITI Aayog. The Secretary justified that the proposed Bill seemed to be the solution for all lapses of the HCC Act. He also informed the Committee that presently there 243 Homoeopathy colleges imparting UG courses and 54 Homoeopathy colleges imparting PG courses with intake capacity of 18,944 UG seats and 4014 PG seats. The Commission shall further assess the requirements in healthcare, including human resources for health and healthcare infrastructure and develop a road map for meeting the requirements.

2.1.2 Explaining the salient features of the Bill, the Secretary highlighted the proposed institutional structure, powers and functions, and the composition of the National Commission for Homoeopathy. The Committee was also informed about the mode of appointment of the Members of the Commission and the qualifications stipulated for them in the Bill to be eligible for appointment. The Committee noted that the proposed Bill provides for selection of the members of the Commission by a Search Committee unlike the present mode of Elections. The proposed composition of the Commission is also well balanced as out of 20 members, only 4 part-time members are from elected category. Further, the tenure of the members is also fixed for 4 years and no reappointment or extension is allowed. The provision specifying the conditions for removal of members shall ensure a rationale functioning of the Members and Commission. The Bill further provides for the National Eligibility-cum-Entrance Test, All India Post Graduate Entrance Test (AIPGET), Aadhar based Geo Location Enabled Attendance System, AYUSH National Teachers Eligibility Test, reservation for Economically Weaker Section (EWS) in admission to educational institutions and inspection of colleges.

2.1.3 The Secretary drew a comparison between the Central Council of Homoeopathy and the proposed National Medical for Homoeopathy as reflected in the following table:

Subject	Existing CCH	Proposed NCH
1. Members- mode of selection	(1) Elected members amongst the practitioners from the States. (2) Representatives of the Universities by election. (3) 30% Nomination of (1) and (2) for CCIM, and 40% for CCH.	All members are nominated by Central Government on the recommendation of Search Committee, except for elected part-time members.
2. Tenure	Tenure of members is five years or till his successor is elected.	Fixed tenure of four years and no re-appointment. <i>(Section 6)</i>
3. Inspections & Permissions	Conducted by inspectors and visitors. Mostly by Members.	By a separate Board which can hire any agency. <i>(Section 28)</i>
4. Structure	Executive committee is the main functioning body	Separate Boards for education, assessment and Rating; Ethics and Registration so as to have proper focus. <i>(Section 19)</i>
5. Permission for setting up of a medical college	Application to Central Government and permission by CG on recommendation of Councils.	Application and permission by Assessment and Rating Boards. <i>(Section 29)</i>
6. Permission for UG courses	Establishment; renewal; recognition; increase of intake.	Only Establishment and Recognition; automatic increase of intake allowed by fulfilling the required norms; recognition by Boards.
7. Removal of President/ Members	Not Available	Conditions for removal has been proposed and Members to be public servants. <i>(Section 7 and 47)</i>
8. Penalising provisions for non-compliance of standards	Not Available	Provisions for imposition of monetary penalty, reducing intake or stoppage of admissions and recommending to the Commission for withdrawal of recognition, against a medical institution for its failure to maintain the minimum essential standards. <i>(section 28)</i>

9. Exit test/ test for licensing	No test is required before registration. The Degree of the University entitles for registration and practice.	Common final year undergraduate examination shall be held by the Commission for granting license to practice as practitioner and for enrolment in the Register. Proposed Test to be started within 3yrs of enactment. <i>(Section 15).</i>
10. Teachers eligibility Test	Not Available	National Teachers' Eligibility Test shall be conducted separately for the postgraduates who desire to take up teaching profession in that discipline. Proposed to be operational within 3 years of enactment. <i>(Section 17)</i>
11. Provision to supersede	Not Available	Available. Proposed for superseding the Commission for a period not exceeding one year. <i>(Section 50)</i>

2.1.4 The Committee notes that the members of the Commission are treated as public servants and the provision specifying conditions for removal of members shall ensure a rationale functioning of the Members and Commission. The Commission shall submit such reports and statements and such particulars in regard to any matter under the jurisdiction of the Commission, as the Central Government may, from time to time, as required. The Central Government has the power to issue directions relating to policy for achieving the objectives of the Commission and also can supersede the Commission if the functioning of the Commission is not in accordance with the directions of the Central Government. According to the Ministry the proposed Bill is having sufficient checks and balances to achieve the objectives of the Bill in fair and transparent manner.

2.2 Comments of the Ministry

The Committee Secretariat prepared detailed questionnaire on the various issues and clause specific queries to which the Ministry of AYUSH furnished written submission for the consideration of the Committee. The Ministry also furnished its comments to the queries raised by the Chairman and Members of the Committee. The comments/response of the Ministry of AYUSH on the issues/questions raised by the Members of the Committee on various provisions of the Bill are enumerated in the succeeding paras:-

2.2.1 On a query as to what extent the National Commission for Homoeopathy Bill, 2019 in its present form would improve the overall regulatory mechanism of Homoeopathy medical education and practice in the country, the Ministry replied that the proposed Bill is expected to

bring quality education and healthcare services to the public at large. The Bill provides for separate independent Autonomous Boards for (i) Education, (ii) Assessment and Rating Board for granting permissions to colleges and (iii) Ethics and Registration Board for maintenance of National Register. This mechanism, unlike the present structure of CCH, will help proper focus for development of Homoeopathy by the independent Boards for the development and promotion of Homoeopathy Medical education, Research training & development.

2.2.2 As regards the provisions to promote equitable and universal Healthcare through Homoeopathic mode of treatment and the measures that could be taken for implementation of these provisions on the ground level especially in rural & tribal areas, the Ministry clarified that the National Commission for Homoeopathy through its Autonomous Board, namely, the Board of ethics and registration for Homoeopathy shall ensure that the practice in Homoeopathy is allowed only by the licensed practitioners so as to promote equitable and universal Healthcare through Homoeopathy mode of treatment. The Board also regulates professional conduct and promotes medical ethics through State Medical Councils. Under the Act, the practice of Homoeopathy shall be regulated uniformly across the country. It was also added that the Community Health Perspective can be given impetus in rural and tribal areas of the country in the Homoeopathic field. The function of the Homoeopathy Education Board is to develop a competency based dynamic curriculum at all levels for appropriate skill, knowledge, attitude, values and ethics among the postgraduate and super specialty students and enables them to provide quality healthcare as per the needs of the country. It is expected that the curriculum addresses the community health perspectives.

2.2.3 The Committee was also apprised of measures/strategy that can be adopted for proliferation and popularization of Homoeopathic mode of treatment in various parts of the country especially in rural and tribal areas to make service of Homoeopathy medical professionals accessible to all the citizens. The Ministry informed that the Homoeopathy mode of treatment is quite popular in various parts of the country. There are 245 Colleges spread in 25 States having attached hospitals with inpatient and outpatient services. Apart from this, Homoeopathy dispensaries are established by the concerned State Governments where Homoeopathy treatment is available for the citizens. Further, the Ministry of AYUSH under the flagship scheme of 'National AYUSH Mission' is funding the State/Union Territory Governments for development of AYUSH treatment centers like establishment of dispensaries and hospitals.

2.2.4 The Committee sought to know specifically the provisions in the Bill, intending to achieve the National Health goals and the common meeting ground of the National Health goals and objective mission of the Bill alongwith the strategy for execution of Mission and objectives of the Bill on the ground level. The Ministry clarified that the proposed National Commission for Homoeopathy is expected to assess the requirements in healthcare including human resources for health and healthcare infrastructure and develop a roadmap and to lay down policies for achieving the national health goals. It is also expected that the Advisory Council consisting of State/UT representatives shall advise the Commission in shaping the overall agenda, policy and

action relating to medical education in the field of Homoeopathy across the country. The State Governments are expected to take necessary measures to enhance the capacity of the healthcare professionals for the purposes of addressing or promoting healthcare in rural areas.

2.2.5 As regards the proficiency of Homoeopathy research institutions in the country and their conversion into outcome-centric from the input-centric, the Ministry replied that there is a separate apex research institution for Homoeopathy, namely, 'Central Council for Research in Homoeopathy' for conducting specific research in fundamental and clinical areas. The studies conducted by the research institutes are being utilized in healthcare services. In order to further utilize the work done by the research institutes into the healthcare, the Ministry has upgraded the Central Research Institute of Homoeopathy at Kottayam into postgraduate teaching institute.

2.2.6 Regarding the prospects of the Homoeopathy research work in curing the illness in more precise and proficient manner and encouragement of the research work through PPP model, it was stated that there is a separate apex research institution for Homoeopathy, namely, 'Central Council for Research in Homoeopathy'. The Council undertakes, coordinates, develops, disseminates and promotes scientific research in Homoeopathy. The Council formulates and conducts research programs/projects; collaborates with national and international institutes of excellence to undertake evidence based research in fundamental and applied aspects of Homoeopathy; monitors extra mural researches and propagates the research findings through monographs, journals, newsletters, I.E.&C. materials, seminars/workshops. Studies comply with the modern scientific parameters and research is undertaken with the goal that the outcome of research translates into practice and the benefit of the research is extended to the profession and the public at large.

2.2.7 On the precautionary measure that can be taken for implementing the provisions of the Bill pertaining to high ethical standards in all aspects of Homoeopathic medical services in the country, the Ministry informed that maintenance of a National Register by Ethics and Registration Board shall contain the name, address and all recognized qualifications possessed by licensed medical practitioners of Homoeopathy. Every State Medical Council shall maintain a State Register for registration of practitioners of Homoeopathy. The registers will be maintained in such forms including electronic form as may be specified. The State Councils are empowered to take disciplinary actions in respect of any professional or ethical misconduct by a registered practitioner of Homoeopathy and shall act in accordance with the regulations prescribed under the Commission.

2.2.8 About the lacunae in the existing grievances redressal mechanism and the provisions in the Bill to eliminate the same and improve upon its functioning, the Ministry informed the Committee that as per the existing Homoeopathy Central Council Act, 1973, the Central Council Homoeopathy (CCH) was constituted for regulation of education and practice of Indian Systems of medicine. The CCH is conducting inspections of the colleges and furnishing recommendations to the Central Government for taking further necessary action. The Central Government after examining the same vis-à-vis with the norms specified in relevant regulations shall be

granting/denying permission to the colleges. Whereas, in the proposed Bill, the Assessment and rating Board grants permission to start new Colleges and in the case of disapproval, the applicant may prefer a first appeal to the Commission and followed by an appeal to the Central Government. Similarly, for the ethical or professional misconduct a practitioner who is aggrieved by the order passed by the State medical Council may prefer an appeal to the Board of Ethics and Registration and subsequently to the Commission and to the Central Government.

2.2.9 The Committee sought to know the perception of the Ministry on the 'Bridge course' for AYUSH doctors. The Ministry maintained that as per the provisions of the Homoeopathy Central Council Act, 1973, only the persons registered in the State register or central register of Homoeopathy are entitled to practice the Homoeopathy. To enhance interface with other medical systems, the joint sittings with the Commissions of other systems have been proposed.

2.2.10 The National Commission for Homoeopathy Bill, 2019 aims to address the alleged widespread corruption in the council. The Committee desired to know about overall nature of corruption the details of the employees/officers facing corruption charges or those have been convicted, alongwith the pre-cautionary measures that can be taken to avoid the incidents of corruption in proposed NCH. The Ministry in its written submission replied as under:-

“The Homoeopathy Central Council Act, 1973 was amended in the year 2002, to make provision for seeking permission of the Central Government for establishing new colleges or starting new courses of study or increase of admission capacity in existing colleges. The amendment has been made to check the growth of sub-standard Homoeopathy Colleges. Further, many Homoeopathy Medical Colleges are still struggling to meet the required standards necessary to impart quality education. There have been instances of serious malpractices in the Council, as a result of which the quality of medical education has been compromised with. The Central Government has taken various steps to streamline the functioning of the Council and to bring transparency in the affairs of the Council. However, the Council has been stalling all such initiatives of the Central Government. Many Members of the Council continued in the Council long after their tenure is completed. Further, there have been many charges of serious misconduct against the President of the Council, who continued to be a Member in the Council even after the end of his tenure as the election to elect the new incumbent could not be completed in time. However, the Homoeopathy Central Council Act does not have any enabling provisions for taking over the powers of the President of the Central Council or superseding the Council or to take action on conviction or misconduct.

In the proposed National Commission for Homoeopathy Bill, 2019, the tenure of the Members has been fixed for 4 years and there will be no reappointment. Further, the conditions for removal of Members have been specified. The provision of the proposed Commission addresses the lacunae existing in the HCC act, 1973.”

2.2.11 The Committee desired to know whether the NCH Bill, 2019 also have provision to cover the allied homoeopathy staffs that are not covered under the Allied and HealthCare

professions Bill, 2018, to which the Ministry replied that at present there is no separate Central regulation for allied homoeopathy staffs. Most of the allied staff used by modern medical institutes is also being used by Homoeopathy institutes.

2.2.12 The Committee wanted to know as to why there is no representation from the Institutes/NGO working to uphold the rights of Patients that are affected by the functioning or malfunctioning of the regulatory bodies. It was informed that the Advisory Council consist of one member to represent each State, who is the Vice-Chancellor of a University in that State, to be nominated by that State Government, and one member to represent each Union territory, who is the Vice-Chancellor of a University in that Union territory, to be nominated by the Ministry of Home Affairs in the Government of India. The intention is that the Vice-Chancellors being heads of the University shall have overall idea about the requirements of Colleges, students, patients and public. The members of the States may take the views of the students' patients and perspectives of the citizens and present the same before the Advisory Council for consideration. Further, in the Commission, 3 part-time members who do not belong to the Homoeopathy fraternity may look into the patient perspective matters.

2.2.13 In response to a question about appointment of majority of part-time members by the Government of India and the likely more intervention of the Government in the functioning of the commission, the Ministry responded that in the present CCH, nominated members are only 40% and the functioning of CCH was not satisfactory in achieving the required objectives. The proposed Bill intends to select the members of the Commission by a Search Committee Chaired by Cabinet Secretary. The proposed composition of the Commission is also well balanced where, out of 20 members, only 4 part-time members are from elected category. Further, the tenure of the members is also fixed for 4 years and no reappointment or extension is allowed. The provision specifying conditions for removal of members is also an important proposal which shall ensure a rationale functioning of the Members and Commission.

2.2.14 Further, in response to a query seeking protection of the interest of Homoeopathy in the backdrop of search Committee comprising persons of academic background, the Ministry stated that the proposed Bill intends to select the Chairperson of the Commission and Presidents of the Autonomous Boards by a Search Committee Chaired by Cabinet Secretary along with two experts of Indian System of Medicine, one expert from elected representative of registered medical practitioner and only one non-Homoeopathy person. Hence, the Search Committee is well balanced and neutral.

2.2.15 Clause 6(7) prevents the Chairman or Members to accept, for a period of two years from the date of demitting such office, any employment in any private Medical Institution of Homoeopathy. However, proviso to Clause 6(7) and 6(8) allows the Chairman/Members to accept employment. Explaining the rationale for these proviso and exception, the Ministry clarified that the Chairperson or member cannot join any employment in any private medical institution, whose matter has been dealt with by them for a period of two years after demitting the office. The exemption is provided so that the Central Government can permit them to join after assuring that there was no conflict of interest involved while dealing the matter of the concerned institute. In response to the query that it would have been better if the Secretariat for

the Commission is headed by persons with a Homoeopaths background, it was explained by the Ministry that the nature of duty of Secretary includes more of administrative in nature. However, the qualifications and experience shall be proposed in the rules to be made after enactment of the Bill.

2.2.16 As regards the measures for maintaining a high quality and high standards in education of Homoeopathy and the criteria and parameter of 'high quality' and 'high standards', the Ministry maintained that the proposed National Commission for Homoeopathy is expected to develop a roadmap and to lay down policies for requirement of Healthcare infrastructure and Human Resource Management and also to maintain a high quality and high standards in education. It is also expected that the Advisory Council consisting of State/UT representatives shall advise the Commission in shaping the overall agenda, policy and action relating to medical education in the field of Homoeopathy across the country. The Commission may adopt any new advancement in other countries for improving the quality of teaching and practice standards.

2.2.17 Clause-11 (2) (a) & (b) spells out that the Chairperson of the Commission shall be the ex-officio Chairperson and every Member of the Commission shall be ex-officio Member of the Council' which means the same people would advise the Commission, and therefore, nothing fresh thinking would come out of the intended exercise. The Committee desired to know as why not Advisory council for Homoeopathy should comprise of group of experts from Homoeopathic field. The Ministry submitted that the Advisory Council consists of one member to represent each State, who is the Vice-Chancellor of a University in that State, to be nominated by that State Government, and one member to represent each Union territory, who is the Vice-Chancellor of a University in that Union territory, to be nominated by the Ministry of Home Affairs in the Government of India. Further, all members of the Commission shall be *ex-officio* members of the Council and 4 members shall be nominated from the Indian Institute of technology, Indian Institutes of Management and Indian Institute of Science shall be Members of the Advisory Council. The role of Advisory Council is to put forth their views and concerns before the Commission and help in shaping the overall agenda, policy and action relating to medical education, research and training of Homoeopathy. The Council shall advise the Commission on measures to determine and maintain, and to coordinate maintenance of the minimum standards in all matters relating to medical education, training and research. Further, the Council shall advise the Commission on measures to enhance equitable access to medical education.

2.2.18 Under clause - 12(3) the Advisory council shall advise NCH on measures to enhance equitable access to medical education. In response to the query as to how the Ministry is contemplating to enforce the provision on the grass-root level, especially for weaker section of the Society and in the rural and tribal areas as also the guiding principle of rules and regulation to be framed for the purpose under the proposed regulation, the Ministry replied that the National Commission for Homoeopathy through its autonomous Board, namely, the Board of ethics and registration for Indian System of Medicine shall ensure that the practice of Homoeopathy is allowed only by the licensed practitioners so as to promote equitable and universal Healthcare through Homoeopathy mode of treatment. The Board also regulates professional conduct and

promotes medical ethics through State Medical Councils. Under the Act, the practice of Homoeopathy shall be regulated uniformly across the country.

2.2.19 Responding to the query of the Committee as to the measures that can be taken to facilitate research programme in Homoeopathic research Institutes and make it a centre of excellence in the field of Homoeopathic research, the Ministry replied that the medical research shall be included appropriately in the curriculum of undergraduate and postgraduate courses and the studies/ results conducted by the students/faculty may be further taken ahead by the research institutes of Homoeopathy to a logical use in the healthcare.

2.2.20 The Committee sought to know whether any minimum criteria or parameter has been contemplated by the Ministry of AYUSH to grant recognition to medical qualifications of Homoeopathy at all levels as mentioned in clause 26(1) (i), the Ministry mentioned that the undergraduate and postgraduate medical courses of Indian System of medicine prescribed by the NCH shall be the recognized Courses. The recognition shall be granted to the qualifications awarded to such candidates after successful completion of the courses.

2.2.21 Clause 28 deals with powers and functions of Medical Assessment and Rating Board for Homoeopathy. The Ministry was sought to explain about the quantitative and qualitative parameters for hiring third party agency and how it would be ensured that such third party agency is giving rating as per rules & regulations and do not set their own methodology or propagate their own hidden agenda. The Ministry explained that the Medical Assessment and Rating Board for Indian System of Medicine shall empanel independent rating agencies to conduct, assess and rate all medical institutions, within such period of their opening, and every year thereafter, at such time, and in such manner, as may be specified by regulations to be framed under the Act. Adequate provisions to conduct fair and transparent inspection of the Institutions shall be incorporated in the regulation to be prescribed under the Act.

2.2.22 Clause 30 provides for establishment of the State Medical Council and other provisions relating thereto, however, the Bill does not have provisions enumerating powers and functions of State Medical Councils. The Committee desired to know the reason for not specifying the powers and functions of State Medical Councils. It was explained that the State Medical Council” means a State Medical Council of Homoeopathy constituted under any law for the time being in force in any State or Union territory for regulating the practice and registration of practitioners of Homoeopathy in that State or Union territory. It has been defined under clause 2(q) of the Act. In response to a further query whether the patient or his legal heir can also be as an aggrieved party, the Ministry replied that the patients or his legal heir can complain against any registered practitioner in respect of any professional or ethical misconduct to the State Medical Council and the State Medical Council shall take action in accordance with the regulations.

2.2.23 NCH Bill, 2019 does not have the provision of prescribing fees. While NMC Act, 2019 has the provision for regulation fees regulation. The Committee desired to know as how the fees would be regulated and whether the recommendations of the Committee given in NMC report were taken into consideration while drafting the Bill. The Ministry apprised that currently,

fixation of fees is being done by the respective State Governments after taking into the account of local factors, reservation quota and other issues prevailing in the concerned State. The structure of fee also varies from State to State according to the MoUs signed by private medical colleges. In most States, fees of seats in deemed universities are not regulated by State Governments. Hence no provision has been prescribed for fee regulation.

2.2.24 Clause 49 states that "No Court shall take cognizance of an offence punishable under this Act except upon a complaint in writing made in this behalf by an officer authorised by the Commission or the Ethic and Registration Board or a State Medical Council, as the case may be." Responding to the query as to the types of offenses punishable under the provision of the Bill and whether the punishment will be accorded as per IPC any other Act/Rules, the Ministry explained that non-compliance of the provisions of the norms prescribed under the Act shall be the offences and action shall be taken as per the procedure laid down in the Act. If the offences are of serious in nature and the punishment is not defined in the Act, then the matter shall be treated under the IPC.

2.2.25 The Committee wanted to know as to how the spirit of co-operative federalism can be protected in view of preponderance of powers of Central Government as enshrined in the provision for giving direction to State Government. The Ministry replied that Medical Education is a concurrent subject under Seventh Schedule of the Constitution. Therefore, the Centre and the States needs better coordination in that matter. The directions would be limited to the provisions of NCH Act. In order to maintain uniformity of education and practice of Homoeopathy across the country, the preponderance of Central Government over State Government is required.

2.2.26 The Committee apprehended that powers of Central Government to give direction to the Commission and Autonomous Board also restricts the autonomy and independent functioning of the Commission. It sought to know the safeguards that can be spelt out to prevent the power of Central Government from becoming authoritative, arbitrate and autocratic so as to ensure autonomy and independent functioning of the Commission and autonomous Boards. The Ministry clarified that the powers of the Central Government to give directions to the NCH and the Boards will be limited to policy matters to achieve the objectives of the Act. Furthermore, the Central Government can supersede the commission upto one year that can be further extended upto a period of six months. During that period the Central Government undertakes all function of the Commission. The Ministry explained that the power to supersede the Commission for a period of one year and subsequently for another half year has been proposed in the Bill, so that sufficient time will be available to the Central Government to make necessary reforms and reconstitute the Commission.

2.2.27 In the National Commission for Homeopathy Bill, 2019, Clause 51 spells out the provision for joint sittings, of NCISM, NCH, NCYN and National Medical Commission. There is no express provision for chairperson for conducting the joint sitting. The Ministry stated that the joint sitting shall be held at least once a year with mutual consent of the Chairman of the Commission concerned. One of the objectives of joint sittings is to promote 'Medical Pluralism'. The other objective of the Clause is to approve specific educational and Medical module on programme that could be introduced in UG and PG course across medical system. The

Committee desired to know whether the Government intends to promote crosspathy, and whether it would be practically feasible to have the consent of all Members present and voting to arrive at a decision. The Ministry explained that Agenda for the joint sittings shall be placed with mutual agreement by the Chairpersons of the Commissions concerned. There is a provision for joint sittings of the Commissions of various other systems of medicine to have interface meetings and to exchange the knowledge of development of science and technology in the field of medicine. After the consent, specific educational and medical modules or programs in the under-graduate and post-graduate courses across medical systems, and promote medical pluralism shall be introduced.

2.2.28 Clause 57 (3) of the Bill provides that "the Chairman of that Council and every other person appointed as the Member and any officer and other employees of the Council and holding office as such immediately before such dissolution shall vacate their respective offices and such Chairman and other Members shall be entitled to claim compensation not exceeding three months' pay and allowances for the premature termination of term of their office or of any contract of service". Responding to the Committee's query as to the total number of employees working in CCH and the relevant rules for the appointment of the employees on regular basis and way out to retain the employees either in NCH or any other Department of the Government, the Ministry replied that there are total 22 regular employees (including 01 on deputation) and eight (08) contractual employees working in CCH. So far as appointment of employees on regular basis is concerned, all the regular posts have been created by the Govt. of India. The Recruitment Rules of all the regular posts have been approved by the Govt. of India. The appointment have been made on the basis of recommendations of the Selection Committee (as prescribed under the respective recruitment rules) out of the candidates who applied against the open advertisement in News Papers / Employment News and fulfilling the qualification prescribed in the Recruitment Rules. Promotions have also been made on the recommendations of the Departmental Promotion Committee, as prescribed under the Govt. of India rules. Posts reserved for SC/ST/OBC/PH and other categories, have been filled up, accordingly. The Committee pointed out that the Government of India on many occasions has repealed so many acts and as a result so many organizations were closed but the Government rehabilitated/ absorbed their employees in other organization and one of the examples is of NOVOD Board. The National Oilseeds and Vegetable Development (NOVOD) Board Act, 1983 was repealed by the Parliament of India and its employees were absorbed in other organizations. The Committee sought to know why the Ministry has not made provisions for absorption of employees of CCH in other Department of Ministry. The Ministry replied that adequate compensation will be paid to all such employees as specified in proviso 2, Section 57(3) of the Act. In view of the past legacy of CCH, it will not be advisable to take these employees into the NCH secretariat. Even, the National Medical Commission Act, 2019 stipulates similar action against the employees of MCI.

2.2.29 As regards the future outlook of Indian Homoeopathic system and the planks of international co-operation for its promotion, the Ministry responded that the Homoeopathy system of Medicine has gained much popularity across the globe. The Ministry of AYUSH is having Country to Country MoUs for cooperation in the field of Traditional Medicine in about 20 countries and Institute to Institute MoUs for Research/ Academic Collaboration in areas of

mutual interest in about 17 institutes. Further, strengthening of Homoeopathy in India will enable the Government to promote internationally in other countries also. India is the leading country having for having dedicated infrastructure like Homoeopathy teaching colleges (245), Central Research Council and Pharmacopoeia Laboratory for drug testing.

CHAPTER - III

Views of Organizations/ Associations/ Institutions/ Experts

3.1.1 The Committee in its meeting held on 22nd October, 2019 heard the views Organizations/Institutions/Associations/ Experts and members of Central Council Homeopathy on the various provisions of the NCH Bill, 2019. The previous Committee had issued a Press Release inviting memoranda and suggestions from a wide cross-section of stakeholders on the Bill. In response to the Press Release, the Committee received a number of memoranda on the National Commission for Homeopathy, 2019. The views of Experts/Organizations/Associations that submitted their written views in response to the press release and organizations that presented their oral evidence before the Committee are enumerated below:

3.2 Central Council for Homeopathy (CCH)

3.2.1 The CCH apprised the Committee that the Union of India by an amendment in HCC Act, 1973 published in the Official Gazette on 13.8.2018 (deemed to have come into force on 18.5.2018), had superseded the Central Council of Homoeopathy and the President, Vice-President and other Members of the Council had vacated their offices and a Board of Governors had been constituted by the Central Government to exercise the powers and perform the functions of the Council under the said Act. The appointment of Board of Governors is an interim arrangement made by the Government of India to look after the education and practice of Homoeopathy in the country. However, it is only the recommendatory Board to the Government of India. The Committee was, further, informed that the Central Council was not consulted in the matter of drafting of the present Bill on National Commission for Homoeopathy and the present Board of Governors also have not deliberated on this issue as the progress in the matter of the NCH was not within the knowledge of the present Board.

3.2.2 The CCH informed the Committee that, in response to letter No.F.4(1)/2017-H&FW dated 20.03.2017 received from NITI Aayog with respect to proposed reforms in Homoeopathy Central Council Act, the Council have written to the Aayog wherein they have raised the following points:

- The preamble to the proposed Bill gives a one side story (showing all faults of regulatory body) without reflecting the faulty decisions and actions of the concerned administrative Ministry, Government of India.
- The Ministry (Union of India) has not nominated the acclaimed persons in CCH as reflected in the preamble of the NCH Bill.
- The CCH was being projected as a villain whereas amnesty for admission in all Homoeopathic Medical Colleges by non enforcement of Homoeopathy (Minimum Standard of Education) Regulations followed by extension of amnesty by non enforcement of Homoeopathy (Minimum Standard of Requirement of Homoeopathic Colleges & attached Hospital) Regulations, 2013 was allowed to continue for five years by the Central Government which was against the settled principles and spirit of law. This resulted into feeling of laxity in all Homoeopathic Medical Colleges for non-complying with the said statutory regulations. The Central Government in majority of the

cases did not implement the provisions of section 19 of HCC Act where they have recommended for the same.

3.2.3 The Council made the following comments on the preliminary report of the Committee constituted under NITI Aayog on the reforms of the Homoeopathy Central Council Act, 1973 which suggested the repealing of Homoeopathy Central Council Act, 1973 by constitution of National Commission for Homoeopathy:-

- The Central Council of Homoeopathy has members elected by the practitioners of Homoeopathy, elected from facilities of Homoeopathy in the Universities and 40% of such elected members have been nominated by Central Government. It is strange to note that Committee constituted under Vice Chairman, NITI Aayog in its Report has stated that the CCH has failed to maintain uniform standards of medical education, failed to create standard curricula and failed to emphasize on evaluation of quality of teaching, training in Homoeopathic colleges. However, CCH as per provisions of Homoeopathy Central Council Act did its level best for creating uniform standards of education by way of regulations which were duly sanctioned by the Central Government which enhanced the quality of teaching and training in Homoeopathic Medical Colleges, due to which India is known as the global leader of Homoeopathy.
- The Council submitted that, if the Committee constituted under NITI Aayog feels that the nominated members could not succeed in making an effective impact over the elected members in the Central Council of Homoeopathy, may reflect to poor selection of members by Central Government through nomination or lack of interaction between such members and officials of Central Government or lack of faith of Central Government in such nominated members. What then will be the guarantee that members nominated/deputed in the proposed Commission by the Central Government will succeed in creating standards of education in Homoeopathy.
- There appears nothing concrete in the proposed Bill except making strange provisions wherein Medical Council of India or its successors, Central Council of Indian Medicine or its successor shall meet once in a year to realize the potential of India's medical pluralism and provide more choices to patients without elaborating the same. However, what results such joint meetings will bring cannot be imagined.
- The representative character of Central Council of Homoeopathy and the fine balance between elected and nominated has been completely ignored in the proposed Bill by way of total exclusion of elected members thereby making a mockery of democratic process.
- There are other professional Councils too like Nursing Council of India, Pharmacy Council of India, Veterinary Council of India, Bar Council of India etc. but efforts have been made by such Committees of Central Government to abolish Medical Council of India, Central Council of Homoeopathy and Council of Indian Medicine. There is no legitimate reason for doing so when in the shortest span, education on Homoeopathy has been put on uniform pattern by the Central Council of Homoeopathy.
- The officers and staff of Central Council of Homoeopathy implement the policies of this Council (to earn their respective salaries) and they have no other influence. Therefore, if

at all NCH is to be formed then all officers and staff of CCH need to be absorbed in NCH and their rights and privilege need to be protected to avoid legal complications.

- The draft Bill is not only plagued by inconsistencies and contradictions including undefined grey areas as it has adequately provided for wide and varied loop holes catering to abuse, misuse and corruption and also ends up in denying the legitimate meritorious claims of poor and deserving students and therefore turns out to be anti-merit and anti-people.

3.2.4 On the issue of the premature termination of employment of the employees of the Central Council of Homoeopathy as mentioned in clause 57(3), the representatives of the Council has stated that the employees in the Council, who are working in a statutory body set up by the Government of India, required to be treated sympathetically and they may be absorbed in other Central Government Departments, on the principle of natural justice as has also been recommended in the recommendations of the Department related Parliamentary Standing Committee on Health & Family Welfare in the matter of National Medical Commission Bill.

3.3 Association of Teaching Staff (ATS)

3.3.1 The ATS in its representation submitted that the biggest lacuna in the development of the Homeopathy is that there is no independent allocation of funds for its development. Homoeopathy has no direct fund allocation for Research and Development. There are only one or two National Level Institutes and very few Government medical colleges in country and none whatsoever in the state of Punjab, Haryana and Himachal Pradesh. Most of the Homoeopathic Colleges are run by members of CCH or other influential people who do not want this sort of Bill and development of Homoeopathy.

3.3.2 The Association, further, highlighted that Department of AYUSH and CCH conduct inspection of all the running Homoeopathic Medical Colleges before every academic year. They inspect building, infrastructure, equipment and staff. They only inspect qualification, experience, attendance and other clerical issue but never the salaries of the teaching staff. This means that there is no salary structure, no emoluments, no gratuity, no retirement plans and no other benefit for the serving employees. They strongly demanded the inclusion of salary structure in the entire private and the Government run Homoeopathic medical colleges all over the country.

3.3.3 The Association demanded that Homoeopathy should be included in all National Health Schemes and Cancer Research and Treatment. Provisions for independent allocation of funds for the development of Homoeopathy should be chalked out to ensure the practical utility of the Bill. The Association has emphasized on including the formation, development and maintenance of standard of Homoeopathy first then quality of service rendered by them.

3.4 Indian Institute of Homeopathic Physicians (IHP)

3.4.1 The Indian Institute of Homeopathic Physicians strongly supported the National Commission for Homoeopathy Bill, 2019. The Institute, further, stated that the proposed National Commission for Homoeopathy Bill, 2019 replacing Homoeopathy Central Council (HCC) Act, 2019 and Central Council for Homoeopathy (CCH) constituted under it, is a very

important reformative step by the Government. CCH was established in 1973 to regulate the education and practice of Homoeopathy and to maintain the Central Register. Even after more than 45 years, CCH could not bring a mechanism for ensuring quality education in medical colleges and to unfold the real potential of Homoeopathy. The proposed Bill seems to be the solution for all lapses present in the HCC Act.

3.4.2 The IIPH highlighted that the structure of the existing CCH have majority of elected members and only 40% of the members are nominated. There are no provisions in the present HCC Act regarding the fixed tenure of membership, conditions for removal of Members, penalizing provisions against colleges for non-compliance of standards etc.

3.4.3 On the composition of the NCH, IIPH pointed out that the proposed NCH Bill, 2019 seem to be the solution for all lapses in the HCC Act. It is observed that the proposed Bill intends to select the members of the Commission by a Search Committee unlike the present mode of election. The proposed composition of the Commission is also well balanced where out of 20 only 4 part time members are from elected category. Further, the tenure of members is also fixed for 4 years and no reappointment or extension is allowed. The conditions for removal of members are also an important provision which shall ensure rationale functioning of members and Commission.

3.4.4 IIPH welcomed the provisions to control nepotism in the Commission. The Bill also provides that no member shall either himself or through any of his family members, directly or indirectly, own or be associated with or have any dealings with the managing body of a private or non-Government medical institution.

3.4.5 It has also been submitted by IIPH that other provisions like common entrance exams for admission into UG and PG courses, National Exit Exam for the license to practice, enrolment in the register and National Eligibility Test for teachers will definitely attract meritorious students into Homoeopathy courses and can also induct quality of education.

3.4.6 IIPH also submitted that Advisor (Homoeopathy) in the Ministry of AYUSH is appointed from among the senior Homoeopathic doctors working in CGHS merely on a seniority basis. This should be a selection post at all India level to justify the duties of an Advisor and must have a pan national character with knowledge, skills and experience. Until then, the Joint Secretary in the Ministry of AYUSH dealing with Homoeopathy affairs should be made the Ex-officio Member in the Commission.

3.4.7 There are better Government Homoeopathic Medical Colleges having excellent facilities and standards, producing outstanding Homoeopathic graduates. The NIH Kolkata is always in controversy and the quality of education being imparted to in North Eastern Institute of Ayurveda and Homeopathy (NEIAH), Shillong have not been known to Homoeopathic professions yet. Hence, role of Director NEIAH is insignificant in the august body. IIPH, therefore, suggested that a panel of Principals/Directors/Professors etc. of Government and private Homoeopathy Medical colleges which are attached with the NABH Accreditation Hospitals in Homoeopathy may be considered as Ex-officio members for two years by rotation. This will certainly give a Pan National status to the National Homeopathy Commission. Taking

doctors of above two Institutions in the Commission as Ex-officio members amount to underestimating the standards of other Homoeopathic Medical Colleges and denying these institutes an opportunity to serve NCH.

3.5 The Homoeopathic Medical Association of India

3.5.1 The Association strongly opposed the passing of the National Commission for Homoeopathy (NCH) Bill, 2019 and is of the view that the Bill will totally demolish the previously existing democratic process by building a new autocracy process. The Association submitted that the Bill is nothing but a replica of proposed National Medical Commission (NMC) Bill 2019 of Government of India by which present Government wants to take entire power in their hands which is quite evident by the proposed formula of Constitution of the Commission. the Association has also expressed reservations regarding composition of the Commission, common final year examination to get license for practice etc.

3.5.2 The Association, further, stated that the proposed Bill is stipulating about the Research and latest development in Homoeopathy that means it is denying the functioning and existence of its own creation i.e. Central Council for Research in Homoeopathy (CCRH). The CCRH used to perform research work with the help of Government funds, but as per the new proposed Bill, the research work will also be done by the Commission and so automatically in future the CCRH will become defunct.

3.5.3 The Government of India, by trying to fit itself into the ambit of proposed NCH Bill 2019, is challenging the existence and functioning of its own creation – the Homoeopathy Central Council Act, 1973 and its amendments time and again. The Homoeopathy Central Council Act, 1973 was introduced by the Central Government to regularize and bring uniformity in Homoeopathic education across the country. What the Central Government is trying to say by proposed NCH Bill 2019, it can say the same by simply amending the existing Act.

3.5.4 The Association also pointed out that the National Commission for Homoeopathy has lots of flaws within and it contradicts itself. As per the proposed Bill, the Homoeopathic education was not affordable all these years. However, even earlier than 1970, Homoeopathic education was affordable as a matter of fact.

3.6 Unified AYUSH Associations of Tamil Nadu

3.6.1 While welcoming the proposed Bill, the Unified AYUSH Associations of Tamil Nadu were of the view that the primary reason for lack of quality education in Homoeopathy system was lack of commitment on the part of regulatory body resulting in poor infrastructure in colleges, insufficient staff, shortage of hospitals and training facilities, fake hospital records and faulty attendance for inspection. The Association was of the view that surprise educational inspection should be conducted and there is a need for more strict provisions to prevent malpractices. The education system in Homoeopathy remains woefully short in imparting quality education to the Homoeopaths. The number of colleges and students are consistently increasing whereas confident prescribers and able teachers are gradually decreasing.

3.6.2 The Association has also argued that AYUSH doctors pursue five and half years courses in other forms of medicine and study various subjects such as Physiology, Anatomy, Biochemistry, Embryology, Pathology, surgery, ENT, Ophthalmology, Forensic Science, Social and Preventive Medicines Obstetrics and Gynecology in their four and a half year curriculum. They also pursue one year Compulsory Residential Rotatory Internship in various Departments (CRRRI) same as MBBS doctors. The Association, further, argued that if doctors from other streams are given basic training in modern medicine and are permitted to work at primary level, that will be beneficial for people living in rural areas. Many States including Karnataka Maharashtra, Tamil Nadu, Gujrat, Punjab, Uttar Pradesh, Bihar, Assam and Uttarakhand have already allowed AYUSH doctors to get appointed in Primary Health Care Centers in rural areas to practice Allopathy in emergencies. This will not only help in curbing quackery but also ensure that people in rural areas get timely treatment.

3.6.3 The Association has demanded that Homoeopathy should be included in all National Health Schemes introduced by Government of India. A study carried out by Public Health Foundation of India in 2014 highlighted that in as many as 32% of Primary Health Care Centers in remote and tribal areas, it is the alternative medicine practitioners who carry out clinical care. Further, according to Rural Health Statistics 2017-18 of the Ministry of Health and Family Welfare, there is a huge shortfall of doctors and specialists in the rural healthcare system. With little or no presence of private hospitals in rural areas, large sections of the rural population do not have access to doctors. In such circumstances, training AYUSH practitioners to fill the gaps in healthcare delivery at primary level can improve the doctor-patient ratio and provide medical assistance to poorest masses in the remote areas.

3.6.4 The Association has, further, requested to introduce new post graduate educational modules i.e. short term diploma courses/ certificate course/ fellowship courses in clinical and non clinical subjects like Ultra sonogram, Embryology, epidemiology, Endocrinology, Dermatology etc after under graduation. This will result in established practice, development of Homoeopathic system and active participation in building a healthy nation.

3.7 The National Integrated Homoeopathic Medical Practitioner's Association

3.7.1 The Association has submitted that the Bill will revolutionize medical education completely by improving its standards, efficiency and help medical education keep up with the pace of improvements in the medical field and also remove red tape and corruption. It will promote innovation in training and facilitate Universities to come up with newer courses and speedily implement them, as the Bill proposes composition of Autonomous Boards dedicated for each aspect of medical education in detail and also comprehensively defines the composition, functions and powers of the each Board. It will facilitate opening of new colleges and increase seats in medical colleges.

3.7.2 The Association further, submitted that if Homoeopathic doctors are trained in modern pharmacology and modern advances during their undergraduate course, they will be immediately be available to Government for providing Primary Health Care and utilized in Central and State Government's health projects/ Schemes such as Community health officer in Health & Wellness

Centers under Ayushman Bharat, 108 Ambulance, Rashtriya Bal Swasthya Karyakram (RBSK), Medical officers in Primary Health Centers. This will save time and money of both Government and the doctors.

3.7.3 It has also been argued by the Association that State Governments should have right to frame training programs in “Modern Pharmacology” for Homoeopathic doctors which should be conducted through Health Universities in respective States to make doctor more competent to provide primary, preventive and emergency services in needy areas. A very good example of such educational module is implemented by State Government of Maharashtra under name of “Certificate course in modern pharmacology” (CCMP) run by “Maharashtra University of Health Sciences” since 2016 till today.

3.7.4 The Association also submitted that many of the State Governments have permitted AYUSH doctors to work in PHCs and District hospitals by virtue of notifications that are being challenged in various Courts thus hindering patient care or breeding irregularity in the health care system. Hon’ble Supreme Court of India has in its judgment in *Muktiaar Chand vs State of Punjab and others* have clearly stated that unless a doctor is either registered under the Central or State Medical Council, he cannot use allopathic medicine. This deployment has produced visible results in reducing mortality and morbidity in those States and without any disastrous out comes as alleged by some allopathic doctor’s organizations. This provision will enable the AYUSH doctor to upgrade their knowledge and then render better patient care. This is highly advocated from patient safety point of view.

3.7.4 AYUHS doctors have played a very vital role in National Immunization Programme and Pulse Polio Program to make it a success. Bridge course will upgrade their current knowledge with regard to newer vaccines introduced under Mission Indradhanush.

3.7.5 The Association advocated in the favor of Bridge Course and submitted that Bridge Course training to Homeopathic practitioners regarding the recent advances in the Non Communicable Disease and their management will help to reduce mortality and morbidity. Further, Tuberculosis, HIV, Malaria, Dengue related national programmes can be better implemented if trained AYUSH doctors are available in the PHCs or at primary Care level in private sector. The Association, further, asserted that may result in increased efficiency of public health surveillance and data collection

3.8 Individual Stakeholders

3.8.1 Few individual stakeholders in their representation have requested to start Bridge Course and to start practice Modern Medicines for Homoeopathic doctors so that Homoeopathic doctors can be appointed to the post of Community Health Officer. They strongly support NMC Bill & Bridge course which is inter-related with National Commission for Homoeopathy Bill 2019. They were of the view that by starting a Bridge Course, research on Homoeopathy will increase.

3.9 Government of Maharashtra

3.9.1 The Directorate of AYUSH, Government of Maharashtra has submitted that while considering the inappropriate ratio between needy population and number of healthcare providers/doctors in the country, Niti Ayog and Central Government under National Health Policy 2017 directed for creation of a cadre of mid-level health care providers encompassing a huge manpower/resource of Ayush medical practitioners for provision of holistic health care to needy population. In attempt to achieve this goal the government needed to incorporate various modern advances/techniques and inclusion of modern pharmacology syllabus in curriculum of Ayush faculty for up gradation in their strengths/skills as per need of public health care delivery system such all new supplementary provisions declared by state or central government from time to time, needs to be incorporated in the definition o homeopathy.

3.9.2 Since many of the States are facing problems of appropriate number of skilled medical human resource for proper provision of primary healthcare in accordance to criteria laid down by WHO, the Niti Ayog and Central Government under National Health Policy 2017 has given clear guidelines for utilisation of huge skilled human resource of AYUSH faculty to meet this gap between needy population and healthcare service providers. States like Maharashtra has taken the first initiative and formulated a competency based post graduate course of modern pharmacology for Homeopathic practitioners of the state, after completion of which these practitioners will be able to utilize their skill and knowledge of modern medical system for fulfilling the gap in primary healthcare system. The provisions made by State of Maharashtra or any other state in future, need to be incorporated in rules and regulations of proposed commission. It should be assured that such kind of automaticity of the state regarding the powers confirmed under concurrent list in subject to providing health care facilities in the respective states will not be affected by enforcement of provisions/acts of commission.

CHAPTER- IV

CLAUSE BY CLAUSE EXAMINATION OF THE BILL

4.1 During the course of the examination of the Bill, the Committee received a large number of suggestions on various clauses from experts from Homoeopathy medical fraternity, some individuals/organizations/institutions/associations representing Homoeopathic doctors' communities, in response to the Press Release issued by the Committee. These memoranda were forwarded to the Ministry of AYUSH for its response. The written views of all the State Governments/UTs were sought on the Bill. However, only the Maharashtra Government responded in time for its views to be included in the Report. Upon scrutiny of the suggestions of the organizations/institutions/ associations/individuals/experts, State Governments vis-à-vis the response of the Ministry of Ayush, the Committee, however, finds that the Bill suffers from certain infirmities and is of the view that certain provisions of the Bill need to be recast/amended/changed to serve the intended purpose of the Bill better and to achieve its legislative objective.

Clause 2

4.2.1 This clause defines various terms and expressions used in the proposed Act.

4.2.2 Clause 2 (f) of the Bill deals with the definition of "Homeopathy" and reads as under:

"Homoeopathy" means the Homoeopathic System of Medicine and includes the use of biochemic remedies"

Suggestions

4.2.3 The National Integrated Homoeopathic Medical Practitioner's Association submitted that the definition of Homeopathy under clause 2(f) may be amended as follows:

"Homoeopathy" means the Homoeopathic System of Medicine and includes the use of biochemic remedies and whether supplemented or not by such modern medicine and modern advances as the Commission may, in consultation with the Central Government, declare by notification from time to time"

4.2.4 Directorate of AYUSH, Government of Maharashtra has suggested that the definition of Homeopathy under clause 2(f) may be amended as follows:

"Homoeopathy" means the Homoeopathic System of Medicine and includes the use of biochemic remedies and whether supplemented or not by such modern advances as the Commission may, in consultation with the Central Government, declare by notification from time to time";

Recommendations/Observations

4.2.5 The Committee notes that there is an acute shortage of doctors and health workforce in the country especially in rural/remote and tribal areas of the country. Allopathy or the modern system of medicine has emerged as the most commonly used and the more popular system of medicine all around the world. With the advent of the scientific age and lifestyle changes, the burden of chronic, systemic and non-communicable diseases (NCDs) has been increasing. According to WHO, non-communicable diseases such as cancer, diabetes, and cardiovascular diseases have been collectively responsible for 70% of all deaths worldwide. The Committee is of the view that in the wake of this global health crisis, Homeopathy can be utilized as an affordable means to tackle various illness including NCDs. The Committee also recognizes the constant efforts of the Government to mainstream Homeopathy and integrate it in the health delivery system. The Committee strongly believes, with the multitude of health issues that the country is facing today, adoption of an inclusive and integrated health care policy has become more important and necessary. The Committee believes that there is a need to create a rational and sustainable interface between Homeopathy and the modern medicine to increase its acceptability. Homeopathy and modern medicine are two different streams of knowledge and there have been efforts on the part of the Government to mainstream Homeopathy in the National Rural Health Mission (NRHM). The Committee also recognizes the services of Homeopathy doctors for providing the first line of treatment especially in the rural areas.

4.2.6 The Committee, therefore, recommends integration of Homeopathy with the modern scientific advances that will be fundamental in providing accessible, affordable and quality health care. The Committee in its 109th Report on the NMC Bill, 2017 had recognized the need to build capacity of existing human resource in the healthcare sector to address the shortage of healthcare professionals. The Committee at the same time cannot overlook the possible risk of non-qualified and untrained doctors prescribing modern medicine and inducing irreparable damage to the patients and reiterates its recommendation as in its 109th Report that healthcare professional practicing without requisite qualification anywhere in the country may attract provision. The Committee had also recognized specific healthcare issues and challenges of every State. The Committee, therefore, reiterates its recommendation that State Governments may implement measures to enhance the capacity of existing health care professionals including Homeopathy practitioners to address State specific primary health care issues/challenges. The Committee also recommends that the States and UTs while formulating laws to integrate the best of these two Systems should keep in mind the National Health Goals.

4.2.7 The Committee also believes that there is an urgent need to promote and integrate Homeopathy with the scientific modern advances to increase its acceptability as a scientific and reliable alternate system of medicine. The Committee therefore, strongly recommends adoption of science based approaches in Homeopathy for its seamless integration with the National Level health care delivery infrastructure. The Committee recommends that clause 2(f) should be amended as follows:

“Homoeopathy” means the Homoeopathic System of Medicine and includes the use of biochemic remedies supplemented by such modern advances, scientific and technological development as the Commission may, in consultation with the Central Government, declare by notification from time to time”;

4.2.8 Clause 2 (l) of the Bill deals with the definition of “National Register” and reads as under:

"National Register" means a National Medical Register for Homoeopathy maintained by the Board of Ethics and Registration for Homoeopathy under section 31"

4.2.9 Clause 2 (r) of the Bill deals with the definition of “State Register” and reads as under

“State Register” means a State register for Homoeopathy maintained under any law for the time being in force in any State or Union territory for registration of practitioners of Homoeopath”;

Suggestions

4.2.10 Mumbai Grahak Panchayat submitted that both these existing definitions were inadequate to explain the eligibility of registering in National Register or the State Register. Neither the definitions nor any other provisions in the Bill explain as to who qualifies to be in National Register and who qualifies for State Register. Hence, it is suggested that the definition of "National Register" and "State Register" must clarify as to who is required to register in the National or State Registers. Both these existing definitions are inadequate to explain the eligibility of registering in National Register or the State Register.

Ministry's Response

4.2.11 The Ministry stated that separate definitions for National Register and State Register are mentioned in the NCH Bill, 2019.

Recommendations/Observations

4.2.12 The Ministry may examine the suggestions made by the stakeholder for providing more clarity to the definition of ‘National Register and State Register" by incorporating the elements of eligibility criteria for registration in the said two registers, as given in clause 2(i) and 2(r).

Suggestions

4.2.13 It was also suggested by Mumbai Grahak Panchayat that the terms “Professional Misconduct” and “Ethical Misconduct” should be incorporated in the definition clause of the Bill. The Board of ethics and registration under clause 27 (1) (b) is mandated to perform functions of regulating professional conduct and promote medical ethics. The Board and the State Medical council are required to take disciplinary actions in respect of any Professional or Ethical Misconduct of registered practitioners. Therefore, the definition clause of the Bill needs to define as to what constitutes "Professional Misconduct” and “Ethical Misconduct”

Ministry's Response

4.2.14 The regulations to be made under the Act to regulate professional conduct and medical ethics may address these suggestions.

Recommendations/Observations

4.2.15 The Committee is of the view that since the proposed Bill is an attempt to improve access to quality and affordable medical education and treatment in the field of Homeopathy and promote medical ethics, it is therefore pertinent to define the terms "Professional Misconduct" and "Ethical Misconduct" in the Bill appropriately so that there are no ambiguities in the proposed legislation. The absence of definitions of the terms "Professional Misconduct" and "Ethical Misconduct" does not provide for any grounds to the patients or their legal heirs, who has suffered, to appeal against the misconduct of any Homeopathy professional. The Committee, therefore, recommends that the definitions of the terms "Professional Misconduct" and "Ethical Misconduct" should be incorporated in the definition clause of the Bill and the same may be borrowed from the Indian Medical Council (Professional Conduct Etiquette and Ethics) Regulations, 2002. However, at the same time, necessary safeguard should be put in place to protect the rights of practitioner and they should not be subject to unnecessary harassment.

4.2.16 Subject to the above recommendations, the clause is adopted.

Clause 4

4.3.1 Clause 4 deals with the composition of the Commission and reads as under;

(1) The Commission shall consist of the following persons, namely:-

- (a) a Chairperson;*
- (b) seven ex-officio Members; and*
- (c) twelve part-time Members.*

(2) The Chairperson shall be a person of outstanding ability, proven administrative capacity and integrity, possessing a postgraduate degree in Homoeopathy from a recognized University and having experience of not less than twenty years in the field of Homoeopathy, out of which at least ten years shall be as a leader in the area of healthcare delivery, growth and development of Homoeopathy or its education.

(3) The following persons shall be appointed by the Central Government as ex officio Members of the Commission, namely:-

- (a) the President of the Homoeopathy Education Board;*
- (b) the President of the Medical Assessment and Rating Board for Homoeopathy;*
- (c) the President of the Board of Ethics and Registration for Homoeopathy;*

(d) Advisor (Homoeopathy) or Joint Secretary to the Government of India in- charge of Homoeopathy, in the Ministry of AYUSH;

(e) the Director, National Institute of Homoeopathy, Kolkata;

(f) the Director, North Eastern Institute of Ayurveda and Homoeopathy, Shillong;

(g) the Director-General, Central Council for Research in Homoeopathy, Janakpuri, New Delhi.

(4) The following persons shall be appointed by the Central Government as part-time Members of the Commission, namely:—

(a) three Members to be appointed from amongst persons of ability, integrity and standing, who have special knowledge and professional experience in the areas of Homoeopathy, management, law, health research, science and technology and economics;

(b) five Members to be appointed on rotational basis from amongst the nominees of the States and Union territories in the Advisory Council for a term of two years in such manner as may be prescribed.

(c) four members to be elected by the registered medical practitioners of Homoeopathy from amongst themselves, from such regional constituencies and in such manner as may be prescribed:

Provided that no Member shall either himself or through any of his family members, directly or indirectly, own or be associated with or have any dealings with the managing body of a private or non-government medical institution which is regulated under this Act.

Suggestions

4.3.2 The following suggestions have been received on Clause 4 of the Bill:-

- (i) Indian Institute of Homoeopathic Physicians (IIHP) stated that Advisor (Homoeopathy) in the Ministry of AYUSH is appointed from among the senior Homoeopathic doctors working in CGHS merely on a seniority basis. Advisor (Homoeopathy) in the Ministry of AYUSH should be a selection post at all India level to justify the duties of an Advisor and must have a pan national character with knowledge, skills and experience. Until then, the JS in the Ministry of AYUSH dealing with Homoeopathy affairs should be made the Ex-officio Member in the Commission.
- (ii) With respect to clause 4 (3) (e) and clause 4 (3) (f), IIHP suggested that a panel of Principals/Directors/Professors etc. of Government and private Homoeopathy Medical colleges which are attached with the NABH Accreditation Hospitals in Homoeopathy may be considered as Ex-officio members for two years by rotation.

- (iii) IIPH was further of the view that in clause 4(4)(c) the four members criterion to be elected among Homoeopathic practitioners is very less and suggested that at least six members should be elected from 6 different zones as decided by the Commission. The members interested in contesting from these zones must be Registered Practitioners in that particular zone who would be able to understand the problems of the profession in that particular Zone and also will be able to coordinate with practitioners in that particular zone.
- (iv) The National Integrated Homeopathic Medical Practitioner's Association submitted that for purpose of increasing Homeopathic doctor's representation in the Commission, the strength of members elected by the registered medical practitioner of Homeopathy under clause 4(4)(c) may increase from 4 to 10.
- (v) The Central Council for Homoeopathy (CCH) submitted that no parameters have been specified to judge the outstanding ability, proven administrative capacity and integrity of concerned persons. No PG Degree course in Homoeopathic Education is available in India as such from where candidates holding PG Degree in the Homoeopathic education from a University will come.
- (vi) The National Federation of Homoeopathic Medical Colleges in India and the Homoeopathic Medical Association of India raised concerns over the composition of the National Commission of Homeopathy. It was submitted that the proposed composition of the Commission indicates that if one State is given a representation in a specific year, the next turn of that State would come after a period of not less than ten years. They have suggested to increase the membership of the States under clause 4(4)(b).
- (vii) Mumbai Grahak Panchayat has suggested to increase the strength of part time members from 12 to 13. They have proposed for the representation of the patients through recognized consumer body. They also suggested that either clause 4 (4) (b) should provide 4 years term for 5 members or clause 6(1) should provide term not exceeding 2 years.
- (viii) Dr. K.A.Mohit, Chairman, all Bengal Homoeopathic Doctors Forum has submitted that representative of grass root level doctors viz. village Homoeopathy practitioners from each State should be included in the Commission on the basis of selection.

Ministry's Response

4.3.3 The Ministry of AYUSH submitted that unlike the present mode of selection of members in CCH, the proposed Bill intends to select the members of the Commission by a Search Committee. The proposed composition of the Commission is also well balanced having 20 members, out of which only 4 Part-time members are elected registered medical practitioners. Out of the remaining 16 members, 8 members represent Homoeopathy and 5 members represent State/UT Universities and 3 Part time members who can either be from Homoeopathy or from other fields like law, health research, science and technology and economics. Therefore, there are more than 50% members including Chairman from Homoeopathy. The term of all Members has been proposed for four years only and no reappointment is allowed.

4.3.4 On the issue of selection of Advisor from All India Level, the Ministry submitted that at present the Advisor is a senior person from the CGHS cadre which is having all India stature.

4.3.5 In response to the submission of the CCH that relates to qualifications for the Chairperson of National Commission for Homoeopathy, the Ministry has submitted that the selection of members is entrusted to Search Committee which shall assess the required qualities. Further, Homeopathy PG courses were started in the year 1989, hence sufficient PG holders are available in the country.

Recommendations/Observations

4.3.6 The Committee held detailed deliberations on clause 4 with the officials of the Ministry of AYUSH as well as the stakeholders. The Committee received large number of suggestions/recommendations from the various sectors of stakeholders. They have requested to increase not only the strength of the Commission but also the representation of States and UTs in the Commission.

4.3.7 The Committee observes that representation of five part time members on rotational basis from amongst the nominees of the States and Union territories in the Advisory Council for a term of two years, is not only inadequate but also reflects ineffective participation of the States in the Commission. The Committee also notes that if one State is given a chance this year, their next chance will come after a period of not less than ten years. The Committee is surprised to note that though its recommendation related to composition of National Medical Commission in the NMC Bill, 2019 had been accepted, the same has not been reflected in this Bill even though this Bill has been based on the NMC Bill. Keeping in view the representative and federal charter of the country as emphasized in its 109th Report on the NMC Bill, the Committee recommends that the representation of States and UTs should be increased from 5 to 10, on the lines of National Medical Commission Act, for their proper representation in the proposed Commission.

4.3.8 The Committee also notes that of the 20 members, only 4 are elected to the Commission. This means 80% of the members in the Bill are nominated by the Central Government which clearly reflects lack of proper representation of elected Homeopathic medical professionals in the composition of the Commission. The Committee, thus, agrees with the contention of the stakeholders that the Commission lacks the democratic character in its present form as it is dominated by the members nominated by the Central Government. The Committee also finds merit in the submission by stakeholders that representative of Homoeopathy practitioner should be zone-wise. The Committee, therefore, recommends that the representation of the Homeopathy medical practitioners should be increased from 4 to 6 and these 6 practitioners should be elected from each zone *i.e.* East, West, North, South, Central and North-East. The Committee is in agreement with suggestion of the stakeholder that the members interested in contesting from these zones must be Registered Practitioners in that particular zone and shall only be allowed to

contest from the zone where they are registered as a Homeopathic practitioner. This way elected members will be able to understand the problems of the profession in that particular zone and also will be able to coordinate with practitioners in that particular zone. The Committee recommends that the electoral college for the members to be elected by the medical practitioners must be well defined in the Bill itself and if not in the Bill, the details must be explained in the Rules and Regulations framed under the Act.

4.3.9 Keeping in view the above deliberations, the Committee, recommends that the total strength of the Commission should be increased from 20 to 27 to facilitate proper representation of all the sections in the Commission. Hence the composition of the proposed Commission *w.r.t.* part-time members should be as under:-

- (a) three Members to be appointed from amongst persons of ability, integrity and standing, who have special knowledge and professional experience in the areas of Homoeopathy, management, law, health research, science and technology and economics;*
- (b) ten Members to be appointed on rotational basis from amongst the nominees of the States and Union territories in the Advisory Council for a term of two years in such manner as may be prescribed.*
- (c) six members to be elected by the registered medical practitioners of Homoeopathy from amongst themselves, one from each Six zones i.e. East, West, North, South, central and North-east and in such manner as may be prescribed:*

4.3.10 The Committee also recommends that clause 4(2) wherein the requisite qualifications for the Chairperson of the Commission are prescribed may be amended as follows:-

“The Chairperson shall be a Homeopathic medical professional of outstanding ability, proven administrative capacity and integrity, possessing a recognized postgraduate degree in Homeopathy and having experience of not less than twenty years in Homeopathy, out of which at least ten years shall be as a leader in the area of healthcare delivery, growth and development of Homoeopathy or its education.”

4.3.11 Subject to the above recommendations, the clause is adopted.

Clause 5

4.4.1 Clause 5 deals with Search Committee for appointment of the Chairperson and members of the Commission under proposed Act. The Search Committee shall be chaired by the Cabinet Secretary and include two experts nominated by the Central Government of which one shall be with experience in field of Homoeopathy and one from non-medical. One of the elected medical members in National Commission for Homoeopathy shall also be a Member of this Committee. The Secretary to the Government of India, in charge of the Ministry of AYUSH, is to be the convenor member.

4.4.2 Provided that for selection of part-time members of the Commission referred in Clause (a) of sub-section (4) of section 4, the Secretary referred in section 8 and other Members of the

Boards referred in section 20, the Search Committee shall consist of members specified in clauses (b) to (d) and Joint Secretary to the Government of India in the Ministry of AYUSH as Convenor-Member and chaired by the Secretary to the Government of India in charge of the Ministry of AYUSH.

4.4.3 Clause 5 (2) of the Bill reads as under:

"The Central Government shall, within one month from the date of occurrence of any vacancy, including by reason of death, resignation or removal of the Chairperson or a Member, or within three months before the end of tenure of the Chairperson or Member, make a reference to the Search Committee for filling up of the vacancy."

Suggestions

4.4.4 The stakeholders furnished following suggestions in clause 5:-

- (i) The CCH pointed out that Search committee fully comprises of Government officials and nominees. The procedure and process of selection of persons in the panel of Search Committee needs to be detailed.
- (ii) No mechanism is in place to ensure that Government shall initiate the process of appointment of the Chairperson and Members of the Commission, President and members of the Boards at least three months before the expiry of the respective terms.
- (iii) The National Federation of Homoeopathic Medical Colleges in India and the Homoeopathic Medical Association of India raised concerns on composition of Search Committee. They are of the view that all the members are nominated from Government of India and none of them elected. Only 2 Homoeopathic experts are in the Search Committee.

Ministry's Response

4.4.5 The Ministry submitted that selection of members is entrusted to Search Committee who shall assess the required qualities and nominate the members to fill up the vacancies within due time.

Recommendations/Observations

4.4.6 The Committee has been apprised by the stakeholders that the similar provisions, where the Search Committee recommended to Central Government regarding appointment of members to the Commission, are present in the CCH as well. It has also been pointed out that the Central Government had failed in their appointment and had issued unlawful guidelines to the members that resulted in litigations. The Committee is of the view that since the Search Committee has to play a critical role in the selection of the Chairperson and members of the Commission, a proper and streamlined procedure should be evolved where the appointment of the Chairperson and Members should be done within a stipulated time period by the Central Government so as to avoid unwanted litigations that may take place against the Government. The Committee, therefore, recommends the

Ministry to ensure timely appointment of the Chairperson and members of the Commission.

4.4.7 The Committee observes that in Clause 5(1)(c), one expert from amongst the part time members referred to in Clause 4(4)(c) will also be a Member of the Search Committee. The Committee in Clause 4(4)(c) has recommended to increase the strength of part time members from 4 to 6, one each from 6 zones. Since the membership under Clause 4(4)(c) has been increased from 4 to 6, the Committee feels that it would be appropriate to have one more representation from the part-time members in the Search Committee. The Committee, therefore, recommends to increase the strength of experts under clause 5(1)(c) from 1 to 2 conforming to the line of NMC Act, 2019.

4.4.8 Subject to the above recommendations, the clause is adopted.

Clause 6

4.5.1 This Clause provides for the terms and office conditions of service of the Chairperson and members.

4.5.2 Clause 6(7) of the Bill reads as under:

"The Chairperson or a Member, ceasing to hold office as such, shall not accept, for a period of two years from the date of demitting such office, any employment, in any capacity, including as a consultant or an expert, in any private Medical institution of Homoeopathy or, whose matter has been dealt with by such Chairperson or Member, directly or indirectly:

Provided that nothing contained herein shall be construed as preventing such person from accepting an employment in a body or institution including Medical institution of Homoeopathy, controlled or maintained by the Central Government or a State Government".

4.5.3 Clause 6(8) of the Bill reads as under:

"Nothing in sub-section (7) shall prevent the Central Government from permitting the Chairperson or a Member to accept any employment in any capacity, including as a consultant or an expert, in any private Medical Institution of Homoeopathy, whose matter has been dealt with by such Chairperson or Member".

Suggestions

4.5.4 Section 6(7) prohibits Chairperson/president/Members from accepting employment in any private Homoeopathy Medical educational institution for a period of two year but in sec 6(8) the authority has been given to Central Government to allow Chairperson/president/Members for accepting such appointment thus giving discretionary authority to Central Government would lead to corruption, nepotism and favoritism.

Ministry's Response

4.5.5 In section 6 of the NCH Bill, 2019, it has been proposed that for a period of two years the Chairperson and Members shall not enter into any contract or employment in private medical institution but allowed for employment in Government colleges. The provision is to discourage misuse of powers of the post held in the commission.

Recommendations/Observations

4.5.6 The Committee notes that at first clause 6(7) forbids the Chairperson and Members Commission for accepting any employment in any capacity including as a consultant or expert in any private medical education. However, clause 6(8) of the Bill allows the Chairperson and Members to accept the same with the prior permission of the Central Government. The Committee is of the view that giving the Central Government this discretion will leave unnecessary scope for bias and favoritism. The Committee, therefore, recommends that Clause 6(8) empowering the Central Government to relax this condition be deleted.

4.5.7 Subject to the above recommendations, the clause is adopted.

Clause 7

4.6.1 This clause deals with removal of the Chairperson and Members of the Commission.

4.6.2 Clause 7 of the Bill reads as under:

"The Central Government may, by order, remove from office the Chairperson or any other Member, who

(a) has been adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as the Chairperson or a Member; or

(d) is of unsound mind and stands so declared by a competent court; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member; or

(f) has so abused his position as to render his continuance in office prejudicial to public interest; or

(2) No Member shall be removed under clauses (e) and (f) of sub-section (1) unless he has been given a reasonable opportunity of being heard in the matter."

Suggestions

4.6.3 The stakeholder has submitted that the clause 7(1)(c) permits Central Government to remove Chairperson and Members/Members Secretary of the Commission and President and Members of the Boards on the ground of being physically or mentally incapable of performing ones duty which is too vague. The Authorities concerned may keep in view the Rights of Persons with Disabilities Act 2016. CCH also pointed out that the provisions of clause 7(1) (f) are too vague.

Ministry's Response

4.6.4 The Ministry submitted that the conditions for removal of members are standard conditions which have been approved by the Ministry of Law and Justice.

Recommendations/Observations

4.6.5 The Committee observes that this clause is on similar lines with the clause dealing with removal of the Chairperson and Members of the Commission as in NMC Act, 2019. These are certainly standard conditions for removal as approved by Ministry of Law & Justice. The Committee, however, finds some sense in the argument of the stakeholder that the Rights of Persons with Disabilities Act, 2016 should be kept in mind while removing such persons on physical or mental grounds as the Bill should not discriminate persons with disabilities.

4.6.6 Subject to the above recommendations, the clause is adopted.

Clause 9

4.7.1 Clause 9 provides for meetings, its Chairperson, quorum and other ancillary matters connected to meetings. The Commission shall meet at least once every quarter.

4.7.2 Clause 9(6) of the Bill reads as under:

"A person who is aggrieved by any decision of the Commission may prefer an appeal to the Central Government against such decision within thirty days of the communication of such decision".

Ministry's Response

4.7.3 On a specific query regarding the proposal of a common Medical Appellate Tribunal, the Secretary deposed before the Committee that the final appellate authority will be the Central Government after the Commission. The Secretary, further, submitted that making a separate body is very expensive, time taking and judiciary is available if somebody is aggrieved by the appellate authority. So, a separate medical appellate tribunal will not be feasible.

Recommendations/Observations

4.7.4 The Committee would like to reiterate its recommendation made in para 4.9.3 of 109th report on National Medical Commission, 2017 that giving the appellate jurisdiction to the Commission with respect to the decisions of the Central Government does not fit into the constitutional provision for separation of powers. The Committee, therefore, recommends constitution of a common Medical Appellate Tribunal for Indian System of Medicine and Homeopathy comprising of a Chairperson, who should be a sitting or retired Judge of the Supreme Court or a Chief Justice of a High Court, and four other Members, to have an appellate jurisdiction over the decisions taken by the Commission. One of the Members should have a special knowledge and experience in the medical profession/medical education, one have special knowledge and experience in the field of Indian system of medicine and one in homeopathy and finally the last member with an experience in the field of health administration at the level of Secretary to Government of India. Consequent changes for replacing the Central Government with the said Tribunal may be reflected in all the subsequent clauses viz. clause 29(6), clause 30(4)(b), clause 34(7), clause 35(3) or any other related clause of the Bill.

4.7.5 Subject to the above recommendations, the clause is adopted.

Clause 10

4.8.1 This clause deals with the powers and functions of the Commission.

4.8.2 Clause 10 of the Bill reads as under:

"(1) The Commission shall perform the following functions, namely:—

- (a) lay down policies for maintaining a high quality and high standards in education of Homoeopathy and make necessary, in this behalf;*
- (b) lay down policies for regulating medical institutions, medical researches and medical professionals and make necessary regulations in this behalf;*
- (c) assess the requirements in healthcare, including human resources for health and healthcare infrastructure and develop a road map for meeting such requirements;*
- (d) frame guidelines and lay down policies by making such regulations as may be necessary for the proper functioning of the Commission, the Autonomous Boards and the State Medical Councils of Homoeopathy;*
- (e) ensure coordination among the Autonomous Boards ;*
- (f) take such measures, as may be necessary, to ensure compliance by the State Medical Councils of Homoeopathy of the guidelines framed and regulations made under this Act for their effective functioning under this Act;*

- (g) exercise appellate jurisdiction with respect to decisions of the Autonomous Boards ;
- (h) make regulations to ensure observance of professional ethics in Medical profession and to promote ethical conduct during the provision of care by medical practitioners;
- (i) exercise such other powers and perform such other functions as may be prescribed.

Suggestions

4.8.3 The stakeholders furnished the following suggestions on Clause 10:-

- (i) CCH submitted that NCH can take action against State Councils as it deems fit to ensure compliance. This is totally contrary to federal structure as State Councils are independent Statutory Councils constituted under the respective State Acts and these Councils will act as per provision of the respective Acts.
- (ii) Directorate of AYUSH, Government of Maharashtra and the National Integrated Homoeopathic Medical Practitioner's Association has submitted to amend the clause 10(1)(d) and 10(1)(f) as follows:

"10 (1) (d) frame guidelines and lay down policies regarding education and educational institutions by making such regulations as may be necessary for the proper functioning of the Commission, the Autonomous Boards and the State Medical Councils of Homoeopathy without affecting the autonomy of State Medical Councils of Homoeopathy as confirmed by respective state acts".

"10 (1) (f) take such measures, as may be necessary, to ensure compliance by the State Medical Councils of Homoeopathy of the guidelines framed and regulations made under this Act for their effective functioning under this Act without affecting the automaticity of State Medical Councils of Homoeopathy";

- (iii) Directorate of AYUSH, Government of Maharashtra has also suggested to frame guidelines and lay down policies regarding education and educational institutions.
- (iv) The power of appellate authority over Medical Assessment and Rating Board for Homeopathy (MARBH), given to the Commission which are its own constituent, is antithesis to normal functioning of an organization, therefore, the appellate authority should ideally be outside the purview and has to be independent organization as in the case of Income Tax Appellate Tribunal etc.

Ministry's Response

4.8.4 The Ministry clarified that once the Central Act is enforced, the State Acts shall be suitably amended in consonance with the provisions of Central Act. In response to the submission of the CCH that relates to power of appellate authority over MARBH, the Ministry has submitted that the NCH Bill, 2019 does not have the provision of appellate authority.

Recommendations/Observations

4.8.5 The Committee recognizes the fact that the State Medical Councils will be constituted/established by the State Government, under Clause 30, after the commencement of the Act. However, it is the responsibility of the National Commission to look over or monitor the functioning of the respective State Council in order to ensure compliance of the guidelines framed and regulations made under the act. The Committee understands the fact that the Doctrine of Repugnancy would apply in the case of conflict between the Centre and State and once the Central Act is enforced, the State Acts shall suitably be amended in consonance with the provisions of Central Act. The Committee, therefore, is in agreement with provision made under the Act and concludes that there is no reason to amend the clause.

4.8.6 The clause is adopted without any change.

Clause 11

4.9.1 Clause 11 provides for constitution and composition of the Advisory Council for Homoeopathy.

4.9.2 Clause 11(2) reads as under:

"The Council shall consist of a Chairperson and the following Members, namely:

(a) the Chairperson of the Commission shall be the ex officio Chairperson of the Council;

(b) every Member of the Commission shall be ex officio member of the Council;

(c) one Member, to represent each State, who is the Vice-Chancellor of a University in that State, to be nominated by that State Government, and one Member to represent each Union territory, who is the Vice-Chancellor of a University in that Union territory, to be nominated by the Ministry of Home Affairs in the Government of India:

Provided that the State Government or the Ministry of Home Affairs in the Government of India, as the case may be, shall nominate the Vice-Chancellor of the University in that State or Union territory which has the largest number of colleges for Homoeopathy affiliated to it;

(d) four Members to be nominated by the Central Government from amongst persons holding the post of Director in the Indian Institutes of Technology, Indian Institutes of Management and the Indian Institute of Science.

(e) The terms of non-ex officio Members in the Council shall be four years."

Suggestions

4.9.3 The stakeholders furnished the following suggestions on Clause 11:-

- (i) The Central Council for Homoeopathy submitted that the ‘Vice- Chancellors’ as members of Advisory Council may contribute without having any expertise in Homeopathy system either in practice or in teaching due to lack of exposure to medical education. It is not clear whether members of Advisory Council will be full time/ part time/ visiting/ ordinary. The function of Advisory Council does not include the area of “practice of homeopathy by the profession which is an important omission”.
- (ii) The National Integrated Homoeopathic Medical Practitioners have submitted that the Vice Chancellor along with the Dean for the Homoeopathic faculty of that University in that State/UT should be nominated by the respective State and UT's in the Advisory Council for Homoeopathy.

Ministry's Response

4.9.4 The Advisory Council consists of Chairperson and all Members of the Commission apart from the Vice-Chancellors of all States/UTs and four persons from Indian Institutes of Technology, Indian Institutes of Management and the Indian Institute of Science. Further, the role of Advisory Council is to put forth the views and concerns of States regarding medical education, research and training before the Commission and to advise the Commission in the said matters.

Recommendations/Observations

4.9.5 Attention of the Committee has been drawn to clause 11(2)(c) wherein Vice-Chancellors of a University from each State/UT would be Members of the Advisory Council for Homoeopathy. The Committee observes that in NMC Act, Vice-Chancellors of Health University of each State/UT was given representation where as this Bill refers to any University. The Committee also notes the argument put forth by the stakeholders' w.r.t. the contribution of Vice-Chancellor of a University in a State/UT representing each State. The Committee is of the view that given the different nature of Homeopathy system of medicine, appropriate representation from recognized Homoeopathy Colleges/Universities in a State/UT must be given. The representative would be in possession of specialization knowledge and skills of their own system of medicine and would offer a much better understanding of challenges and solutions thereof. However, in the case where there is no recognized Homoeopathy College/University, then Vice-Chancellor of any University may be appointed.

4.9.6 The Committee also notes that the representation from State Medical Councils is missing in the Advisory Council. The Committee, therefore, recommends that the provision for the representation of members from the State/UTS from amongst elected members of the State Medical Council should be added in the clause, on the lines of NMC Act

4.9.7 The Committee also notes that the representation of the Chairman, University Grants Commission and the Director, National Assessment and Accreditation Council is missing in the NCH Bill, 2019, as given in NMC Act, 2019. The Committee would like to reiterate that the since Bill is based on the lines of NMC Act, therefore, representation of the Chairman, University Grants Commission and the Director, National Assessment and Accreditation Council should also be there in the Advisory Council in the NCH Bill. The Committee, therefore, recommends the Ministry to add similar provision for their representation in the Advisory Council for Homeopathy.

4.9.8 Subject to the above recommendations, the clause is adopted.

Clause 12

4.10.1 Clause 12 provides for functions of Advisory Council for Homeopathy

4.10.2 Clause 12(1) reads as under:

"The Council shall be the primary platform through which the States and Union territories may put forth their views and concerns before the Commission and help in shaping the overall agenda, policy and action relating to medical education and training".

4.10.3 Clause 12(2) reads as under:

"The Council shall advise the Commission on measures to determine and maintain, and to co-ordinate maintenance of, the minimum standards in all matters relating to medical education, training and research".

Suggestions

4.10.4 It has been suggested that the words 'development' may be added, after the word training and before the word 'of' in third line to give impetus to the outcome- centric approach. Similarly, in Clause 12 (2) the word 'development' may be added after the word research.

Ministry's Response

4.10.5 The development of Homoeopathy is the inherent spirit of the Bill. The role of Advisory Council is to put forth their views and concerns before the Commission and help in shaping the overall agenda, policy and action relating to medical education, research and training of Homoeopathy for taking proper measures in overall development of Homoeopathy.

Recommendations/Observations

4.10.6 The Committee is of the view that when the development of Homoeopathy is the inherent spirit of the Bill as submitted by the Ministry, there should be no second thought on the part of the Ministry to add the word "Development" in clause 12(1) and 12(2). The

addition of word "Development" will only make explicit, of what is implicit in the Bill. The Committee, therefore, recommends addition of the word "development" in clause 12(1) and 12(2).

4.10.7 Subject to the above recommendations, the clause is adopted.

Clause 15

4.11.1 This clause provides that National Exit Examination for students graduating from the medical institutions for granting license to medical practice.

Suggestions

4.11.2 The following suggestions have been received of Clause 15:-

- (i) Few Stakeholders that include CCH, Association of Teaching Staff have suggested to remove National Exit Test for students graduating from the medical Institutions for granting license to medical practice. They have expressed their concern as to why a student passing first three exams from a recognized University has to appear for a common final year examination to get license to practice as Medical Practitioner.
- (ii) Dr. Sukhdeo M Makhija, MD (Medicine), Guest Faculty in Allied subjects of BMHS curriculum has suggested that the nomenclature of National Exit Test should be "National Assessment Test". The curriculum for the proposed Exit Test for Homoeopathy students graduating from recognized Indian Institutions should be based on practical skills and clinical acumen only but not on theoretical aspects and principles.
- (iii) Adv. Shirish V Deshpande, Chairman, Mumbai Grahak Panchayat have suggested to curtail the time provided for the National Exit Test from 3 years to 1 year.

Ministry's Response

4.11.3 The Ministry while justifying upon this clause Stated that the National Exit Test shall be conducted by the Commission to assess and ensure the quality of students coming out of Institutions across the country before registration and offering license to practice. It has been proposed that the final year exam of the Undergraduate course shall serve as National Exit Test and it is clarified that no additional test shall be conducted for offering license to practice.

4.11.4 In response to curtail the time for the National Exit Test, the Ministry has Stated that the National Exit Test shall be operational within three years. It implies that the Commission can implement National Exit Test even earlier.

Recommendations/Observations

4.11.5 The Committee believes that National Exit Test will serve as an instrument of quality assurance and ensure that the quality and competencies of a Homeopathic doctors

before they start practicing are guaranteed and standardized in terms of various quality norms. It is envisioned to standardize the quality of the Homeopathic doctor, i.e. to certify to the people that the doctor licensed by the NCH has the appropriate level of competencies and skills needed for a doctor irrespective of which medical institution he or she is trained in. This is an attempt to overcome the huge disparities in teaching and educational standards prevailing across medical colleges and give the practitioner a brand value. The Committee has, further, noted that many of the Homeopathic medical institutes have faculty and infrastructure shortages resulting in poor quality of education. This leaves a wide gap in the knowledge of the students graduating from these institutes as compared to the institutes that have adequate faculty and infrastructure. The Committee, therefore, is in the favor of the National Exit Test which is also in line with the provision of the NMC Act, 2019.

4.11.6 The clause is adopted without any change.

Clause 16

4.11.7 Clause 16 provides for uniform National Eligibility-cum-Entrance Test and counseling for admission in Post-graduate course in medical institutions.

Suggestions

4.11.8 Stakeholders like the National Federation of Homeopathic College in India and Homeopathic Medical College in India is of the view that the admission in P.G. courses in Homeopathy may be based on the merit of National Exit Exam so as to reduce the burden on the proposed Commission and the also on the students/doctors.

Ministry's Response

4.11.9 The Ministry submitted that as per NCH Bill, separate post graduate entrance test has been proposed for PG admissions apart from the National Exit Test. The Ministry would like to adopt the similar provision of the National Medical Commission Act, 2019 by making the National Exit Test as entrance test for admission to Post graduate courses.

Recommendations/Observations

4.11.10 The Committee takes the note of the concerns expressed by the stakeholders stating that the PGNET will be an added burden on both the students and the examiner. However, the Committee believes that the PGNET for admission to PG courses may continue as of now as an interim management till a mechanism is evolved within three to five years for the conduct of a common final year examination which has an adequate structure, so that subjectivity in the theoretical examination is replaced by common problem/case study based MCQ type examination.

4.11.11 The clause is adopted without any change.

Clause 17

4.12.1 Clause 17 provides for uniform National Teachers Eligibility Test for Homoeopathy for appointment of teachers.

4.12.2 Clause 17 reads as under:

"(1) A National Teachers' Eligibility Test shall be conducted separately for the postgraduates of Homoeopathy who desire to take up teaching profession in that discipline.

(2) The Commission shall conduct the National Teachers' Eligibility Test for Homoeopathy through such designated authority and in such manner as may be specified by regulations.

(3) The National Teachers' Eligibility Test for Homoeopathy shall become operational on such date, within three years from the date on which this Act comes into force, as may be notified by the Central Government:

Provided that nothing contained in this section shall apply to the teachers appointed prior to the date notified under sub-section (3)".

Suggestions

4.12.3 Dr. Parmod Kumar, Professor and HOD (Practice of Medicine), Secretary, Association of Teaching Staff (ATS) welcomed the Teachers Eligibility Test for Homoeopathy and all other qualifying conditions mentioned in "minimum standard education for Homoeopathy". However, he has raised the questions as to why no one has ever taken up the issue of pay parity, pay structure, Gratuity and pension plans for Homoeopathic Teachers.

Ministry's Response

4.12.4 At present the pay related matters are regulated by the respective State Governments.

Recommendations/Observations

4.12.5 The Committee appreciates the idea of National Teachers Eligibility Test as it is the best way to tap qualified persons into the teaching profession. The Committee is aware of the fact that one of the major challenges in promotion of Homoeopathic education and practice is inadequate as well as sub-standard faculty and infrastructure. Such a merit based examination will certainly improve the education being imparted to students studying Homoeopathy as well as improve the quality of health care services.

4.12.6 The Committee is also of the considered view that pay parity, pay structure, gratuity and Pension plans is an important motivational factor for Homoeopathic medical/teaching professionals across the country. Improving the motivation and incentives of teachers will certainly improve the overall quality of the education system. This will result in augmenting a sense of equality among the homeopathic professionals and also encourage more and more people to take up Homeopathy as a career. The Committee, therefore,

recommends to the Ministry to take these issues of pay parity, pay structure, gratuity, pension plans and other related incentives of Homeopathic doctors with the State Governments so that Homeopathic professionals get similar incentives as that of a MBBS doctor.

4.12.7 While deliberating section 17, the Committee finds that nothing contained in this section shall apply to the teachers appointed prior to the date notified under sub section (3). The Committee notes that there are many teachers in the system who do not hold a post-graduate degree but are part of the education system. They are likely to remain in the system for quite a long period of time. For such teaching professionals, it would not be easy to clear the NET exam. Therefore, there must be a provision for a training or refreshers course for them followed by Minimum Qualifying Test (MQT) so that their knowledge base is widened as well as updated and they are better equipped to teach efficiently.

4.12.8 Subject to the above recommendations, the clause is adopted.

Clause 18

4.13.1 Clause 18 provides for constitution of three Autonomous Boards under the overall supervision of the Commission. The three Autonomous Boards are the Homoeopathy Education Board, the Medical Assessment and Rating Board for Homoeopathy and Board of Ethics and Registration for Homoeopathy.

Suggestions

4.13.2 The following suggestions have been received of Clause 18:-

- (i) The Central Council of Homoeopathy submitted that the draft Bill reflects the intention to establish Autonomous Boards under the overall supervision of the Commission, which appears to be antithetic being autonomous in character on one hand, but subjugated to overall control of Commission on the other hand.
- (ii) The National Federation of Homoeopathic Medical Colleges in India and Homoeopathic Medical Association of India, West Bengal Branch have expressed their concern over independent working of Autonomous Boards and submitted that there would not be any autonomy and Government will try to get control over it.
- (iii) Dr. Parmod Kumar, Professor and HOD (Practice of Medicine), Secretary, Association of Teaching Staff (ATS) suggested forming Research and Development Board along with constitution of Commission and Advisory Council exclusively for Homoeopathy with its independent budget.

Ministry's Response

4.13.3 The Ministry submitted that the Autonomous Boards are constituted by the Central Government under the overall supervision of the Commission. The Boards have autonomy to function as per the guidelines and policies framed by the Commission.

4.13.4 The suggestions have also been received to form a research and development board exclusively. However, the Ministry submitted that component of research standards to be taught to students is a function of Homeopathy Education Board.

Recommendations/Observations

4.13.5 The Committee time and again in its DFG reports has been emphasizing upon the quality control and drugs standardization and promotion of research for research outputs to be translated into remedies/medicines in the public health care system. The Committee believes that research must be carried on with the pursuit for its scientific validation for better acceptability and higher credibility. The Committee recognizes the fact that Research and Development is vital for growth and promotion of Homoeopathy.

4.13.6 The Committee hopes that the Homoeopathy Education Board would take care of research pursuits and standards during the course of education as stated in Clause 26(h) and give adequate priority and focus to research and development. However, the Committee feels that since research being an important component for the growth of any medical system around the world, it should be explicit in the name of the board. The Committee, therefore, recommends that the name of "The Homoeopathy Education Board" be renamed as "The Homoeopathy Education, Research and Development Board" in commensurate to the expected role and responsibilities of the said Board.

4.13.7 Subject to the above recommendations, the clause is adopted

Clause 19

4.14.1 Clause 19 provides for composition of the following Autonomous Boards

4.14.2 Clause 19(1)(a) reads as under:

"the Homoeopathy Education Board shall consist of a President and four Members from the discipline of Homoeopathy"

Recommendations/Observations

4.14.3 The Committee observes that since the research is an important component of Homeopathy, there should be representation of the apex research body for Homeopathy i.e. Central Council for Research in Homeopathy in "The Homoeopathy Education, Research and Development Board". The Committee, therefore, recommends that the Director-General or a member of CCRH should also have representation in the said Board. The Committee, therefore, recommends that Clause 19(1)(a) may be amended as under:-

"the Homoeopathy Education Board shall consist of a President and five Members, out of whom four members shall be from the discipline of Homoeopathy and the other

member shall be the Director-General/Member, Central Council for Research in Homeopathy, Janakpuri, New Delhi"

4.14.4 Clause 19(1)(b) reads as under:

"the Medical Assessment and Rating Board for Homoeopathy shall consist of a President from the discipline of Homoeopathy and two Members, out of whom one Member shall be from the discipline of Homoeopathy and the other Member shall be chosen from any of the disciplines of management, quality assurance, law or science and technology"

4.14.5 Clause 19(1)(c) reads as under:

"the Board of Ethics and Registration for Homoeopathy shall consist of a President from the discipline of Homoeopathy and two Members, out of whom one Member shall be from the discipline of Homoeopathy and the other Member shall be a person who has demonstrated public record of work on medical ethics or chosen from any of the disciplines of quality assurance, public health, law or patient advocacy".

Suggestions

4.14.6 The following suggestions have been received on the Clause 19

- (i) The National Integrated Homoeopathic Medical Practitioners Association submitted that in the Medical Assessment and Rating Board for Homoeopathy and the Board of Ethics and Registration for Homoeopathy, there should be four members other than President, out of whom three should be from the discipline of Homeopathy.
- (ii) It is also suggested that in the Medical Assessment and Rating Board for Homoeopathy and the Board of Ethics and Registration for Homoeopathy, there should be two members from the discipline of Homoeopathy instead of just one.
- (iii) The Board of Ethics and Registration should be independent of NCH and in order to maintain its autonomy.

Ministry's Response

4.14.7 The Medical Assessment and Rating Board for Homoeopathy and the Board of Ethics and Registration for Homoeopathy have been proposed for containing a President and two Members, out of which one member shall not be from Homoeopathy. These two Boards deal with the most sensitive functioning of the Commission. Hence, it has been proposed to include a neutral person to balance the functioning.

4.14.8 The Board of Ethics and Registration is an autonomous Board to maintain National Register for all licensed practitioners of Homoeopathy and to regulate professional conduct and promote medical ethics. In the process of exercising its functions, the Board may make such recommendations to the Commission for achieving overall objectives of the Act.

Recommendations/Observations

4.14.9 The Committee is in agreement with the view of stakeholders that in the MARBH and the Board of Ethics and Registration for Homoeopathy, there should be two members each from the discipline of Homoeopathy instead of just one besides President to discharge its enshrined function and responsibility and to have judicious decision whenever required. Moreover, two Members from the field of Homoeopathy would add advantage to each Board for in-depth understanding of the profession and its functioning in a more democratic way. Further, the large composition of Ethics and Registration for Homoeopathy would provide adequate platform for interaction with State Medical Council of Homoeopathy to effectively prompt and regulate the conduct of Medical practitioner of Homoeopathy. The Committee also understands that one person from any of the disciplines of management, quality assurance, law or science or patient advocacy, and the work related to medical education and professional standards would adequately diversify the composition of two Boards to equip additional specialization knowledge in that field. The Committee believes that representation of member other than Homeopathy professional will bring in wide range of knowledge of other fields in the Boards along with the knowledge of Homeopathy. This has become necessary for better administration of Boards whose functioning requires a diversified range of knowledge of other fields as well. The Committee, therefore, is in consonance with the Ministry's view to have a neutral person to balance the functioning of the Commission.

4.14.10 The Committee, therefore, recommends that Clause 19(1)(b) and 19(11) (c) may be amended as under:-

"(b) the Medical Assessment and Rating Board for Homoeopathy shall consist of a President from the discipline of Homoeopathy and three Members, out of whom two Member shall be from the discipline of Homoeopathy and the other Member shall be chosen from any of the disciplines of management, quality assurance, law or science and technology";

"(c) the Board of Ethics and Registration for Homoeopathy shall consist of a President from the discipline of Homoeopathy and three Members, out of whom two Member shall be from the discipline of Homoeopathy and the other Member shall be a person who has demonstrated pubic record of work on medical ethics or chosen from any of the disciplines of quality assurance, public health, law or patient advocacy."

Clause 28

4.15.1 Clause 28 deals with powers and functions of Medical Assessment and Rating Board for Homoeopathy.

4.15.2 Clause 28 of the Bill reads as under:

"The Medical Assessment and Rating Board for Homoeopathy shall perform the following functions, namely:-

(a) determine the process of assessment and rating of medical institutions on the basis of their compliance with the standards laid down by the Homoeopathy Education Board, in accordance with the regulations made under this Act;

(b) grant permission for establishment of a new medical institution in accordance with the provisions of section 29;

(c) carry out inspections of medical institutions for assessing and rating such institutions in accordance with the regulations made under this Act:

Provided that the Medical Assessment and Rating Board for Homoeopathy may, if it deems necessary, hire and authorise any other third party agency or persons for carrying out inspections of medical institutions for assessing and rating such institutions:

Provided further that where inspection of medical institutions is carried out by such third party agency or persons authorised by the Medical Assessment and Rating Board for Homoeopathy, it shall be obligatory on such institutions to provide access to such agency or person;

(d) conduct, or where it deems necessary, empanel independent rating agencies to conduct, assess and rate all medical institutions, within such period of their opening, and every year thereafter, at such time, and in such manner, as may be specified by regulations;

(e) make available on its website or in public domain, the assessment and ratings of medical institutions at regular intervals, in accordance with the regulations made under this Act;

(f) take such measures, including issuing warning, imposition of monetary penalty, reducing intake or stoppage of admissions and recommending to the Commission for withdrawal of recognition, against a medical institution for its failure to maintain the minimum essential standards specified by the Homoeopathy Education Board, in accordance with the regulations made under this Act."

Suggestions

4.15.3 The CCH pointed out that the criteria for hiring a third party agency are not provided. It is not cleared as to how it would be checked whether such third party agency has verified as per rules and regulations. There should be express provision for legal responsibilities. Considering all aspects, verification has to be done through assessment cell in the Commission itself through assessors who will be appointed directly by the Board. CCH, further, submitted that empanelling a rating agency is not a good idea. It is experienced that presently there are many rating agencies who give rating as per their own methodology which is not in consonance with regulations.

Ministry's Response

4.15.4 The Medical Assessment and Rating Board for Indian System of Medicine shall empanel independent rating agencies to conduct, assess and rate all medical institutions, within such period of their opening, and every year thereafter, at such time, and in such manner, as may be

specified by regulations to be framed under the Act. Adequate provisions to conduct fair and transparent inspection of the Institutions shall be incorporated in the regulation to be prescribed under the Act.

Recommendations/Observations

4.15.5 The Committee notes that one of the targeted missions of the proposed legislation is to have an objective periodic and transparent assessment of Medical institution. In this regard, ratings have been prescribed to facilitate the institutions to assess their performance *vis-a-vis* set parameters through introspection. This helps the institution to know its strengths, weaknesses, and opportunities through an informed review process ratings and also helps in identifying areas of planning and resource allocation and formulate direction and identity for institutions. It, thus, plays a pivotal role in the development of the institutions.

4.15.6 The Committee, therefore, is in the favor of making quantitative and qualitative parameters for hiring and empanelling third party agency more explicit in the Bill to avoid any confusion or conflict in the future. The Committee is of the view that the methodology for conducting inspection by the third party agency must also be made crystal clear, so that these agencies do not evolve their own criteria while rating any institution. The Committee also recommends that necessary safeguards and precaution may be specified to ensure that the rating agencies do not give any unwanted leverage to any institute that may improve their rating.

4.15.7 Subject to the above recommendations, the clause is adopted

Clause 30

4.16.1 Clause 30 provides for establishment of the State Medical Council and other provisions relating thereto.

4.16.2 Clause 30(3) reads as under:-

"A practitioner of Homoeopathy who is aggrieved by the order passed or the action taken by—

(a) the State Medical Council under sub-section (2) may prefer an appeal to the Board of Ethics and Registration for Homoeopathy and the decision, if any, of the Board of Ethics and Registration for Homoeopathy thereupon shall be binding on such State Medical Council, unless a second appeal is preferred under sub-section (4);

(b) the Board of Ethics and Registration for Homoeopathy under the first proviso to sub-section (2) may prefer an appeal to the Commission

Suggestion

4.16.3 Mumbai Grahak Panchayat has submitted that present Bill does not provide for powers and functions of State Medical Council at all. Since clause 57 repeals Homoeopathy Central Council Act, 1973, it is necessary to provide powers and functions of State Medical Council in this Bill. They have, therefore, suggested to add provisions enumerating powers and functions of State Medical Councils.

4.16.4 The stakeholders submitted that existing provisions allows appeal only by the aggrieved practitioner of Homoeopathy. It is possible that the complainant (patient or his legal heir) could also be aggrieved. It has therefore been suggested to replace the words "A practitioner of Homoeopathy who is aggrieved" with "Any party aggrieved by"

Ministry's Response

4.16.5 The powers and functions of State Medical Councils shall be specified by the concerned State Acts to be framed/amended in accordance to the Central Act.

4.16.6 The patients or his legal heir can complain against any registered practitioner in respect of any professional or ethical misconduct to the State Medical Council and the State Medical Council shall take action in accordance with the regulations.

Recommendations/Observations

4.16.7 The Committee is in agreement with the views/justification given by the stakeholders regarding the rights of the patients to complain against any register practitioner in respect of any professional or ethical misconduct. It is pertinent that the contents of the clause 30(3) must recognise that the patient including their legal heirs could also be aggrieved party. So there is no need to replace the words "A practitioner of Homoeopathy who is aggrieved" with "A practitioner of Homoeopathy or patient (including who is aggrieved)" as suggested by the stakeholder.

4.16.8 The Clause is adopted without any change

Clause 51

4.17.1 Clause 51 provides for joint sittings of the Commission, the National Commission for Indian Systems of Medicine and the National Medical Commission, to enhance the interface between Homoeopathy, Indian System of Medicine and Modern System of Medicine.

Suggestions

4.17.2 The National Federation of Homoeopathic Medical Colleges in India and the Homoeopathic Medical Association of India are of the view that the proposed Bill indulges and encourages Crosspathy which is not possible as per order of the Hon'ble Supreme Court. Medical pluralism is never feasible, as all the systems are individual vertical systems with own defined dedicated principle. They have to be developed in their own glory.

Ministry's Response

4.17.3 The Ministry submitted that there shall be a joint sitting of the Commission, the National Commission for Homoeopathy and the National Medical Commission, at least once a year, at such time and place as they mutually appoint, to enhance the interface between Indian System of Medicine, Homoeopathy and modern system of medicine. Agenda for the joint sitting may be placed with mutual agreement by the Chairpersons of the Commissions concerned.

4.17.4 The Ministry further submitted that after the consent, specific educational and medical modules or programs in the under-graduate and post-graduate courses across medical systems, to promote medical pluralism shall be introduced.

Recommendations/Observations

4.17.5 The Committee is of the view that any effort towards creating a rational and sustainable interface between the various systems between Indian System of Medicine (ISM), Homoeopathy and Modern Medicine is a laudable objective. Every system of medicine has its own philosophy and methodology. The AYUSH systems are pure systems and each of them has phenomenal advantages in themselves. The Committee, therefore, is in agreement with Ministry that joint sittings would provide for an interface between different systems of medicine and certainly does not encourage crosspathy.

4.17.6 This clause is adopted without any change.

Clause 52

4.18.1 Clause 52 deals with State Government to promote primary healthcare in rural areas. Clause 52 reads as under:

4.18.2 Clause 52 reads as under:-

Every State Government may, for the purposes of addressing or promoting healthcare in rural area, take necessary measures to enhance the capacity of the healthcare professionals.

Suggestions

4.18.3 Directorate of AYUSH, Government of Maharashtra has suggested to amend Clause 52 as follows:

"Every State Government may, for the purposes of addressing or promoting healthcare facilities in required areas of States, take necessary measures to enhance the capacity and ability of the healthcare professionals of any system of medicine".

Recommendations

4.18.4 The Committee is of the view that presently the health infrastructure of the country especially the public health services delivery system in the rural, tribal and urban areas of

the country are highly inadequate. People from rural areas have to travel miles for availing primary health care to get the first line of treatment. Such an environment that lacks basic health care needs a focused approach and the States be requested to take necessary measures to enhance the health professionals in the rural areas. The Committee also feels that the services of AYUSH Doctors should not be just limited only to rural areas, instead they should be promoted and encouraged at pan India level.

4.18.5 The Committee, therefore, recommends that clause 52 may be amended as follows:

"Every State Government may, for the purposes of addressing or promoting public health care especially in rural, tribal and urban slum areas, take necessary measures to enhance the capacity of the healthcare professionals".

4.18.6 Subject to the above recommendations, the clause is adopted.

Clause 57

4.19.1 Clause 57 provides for repeal and saving. The Homoeopathy Central Council Act, 1973 shall stand repealed and the Central Council of Homoeopathy shall stand dissolved from the date as may be prescribed by the Central Government. The Chairman and other Members and employees of Central Council of Indian Medicine shall vacate their respective offices and be entitled to the compensation.

4.19.2 Clause 57 (3) reads as under:-

"On the dissolution of the Central Council of Homoeopathy, the person appointed as the Chairman of that Council and every other person appointed as the Member and any officer and other employees of the Council and holding office as such immediately before such dissolution shall vacate their respective offices and such Chairman and other Members shall be entitled to claim compensation not exceeding three months' pay and allowances for the premature termination of term of their office or of any contract of service:

Provided that any officer or other employee, who has been, immediately before the dissolution of the Central Council of Homoeopathy appointed on deputation basis to the Central Council of Homoeopathy, shall, on such dissolution, stand reverted to their parent cadre, Ministry or Department, as the case may be:

Provided further that any officer, expert, professional or other employee who has been, immediately before the dissolution of the Central Council of Homoeopathy employed on regular basis or on contractual basis by the Council, shall cease to be such officer, expert, professional or other employees of the Central Council and shall be entitled to such compensation for the premature termination of his employment, which shall not be less than three months' pay and allowances, as may be prescribed".

Suggestions

4.19.3 Various stakeholders like National Federation of Homoeopathic Medical Colleges in India and the Homoeopathic Medical Association of India are of the view that it is absolutely in contradiction of the service rules of the Central Government and also an inhuman act as most of them will fail to find any other means of life to run their livelihood at their age. They have therefore requested to direct the Government to modify or to set aside the provisions of Section 57(3) as referred.

Ministry's Response

4.19.4 The Ministry has submitted that Clause 57 provides for dissolution of the Central Council of Homoeopathy including the Chairperson, Members and other employees of the Council. So far as appointment of employees on regular basis is concerned, it is stated that all the regular posts have been created by the Government of India. The Recruitment Rules of all the regular posts have been approved by the Government of India. The appointment have been made on the basis of recommendations of the Selection Committee (as prescribed under the respective recruitment rules) out of the candidates who applied against the open advertisement in News Papers / Employment News and fulfilling the qualification prescribed in the Recruitment Rules. Promotions have also been made on the recommendations of the Departmental Promotion Committee, as prescribed under the Govt. of India rules. Posts reserved for SC/ST/OBC/PH and other categories, have been filled up, accordingly.

4.19.5 Adequate compensation will be paid to all such employees as specified in proviso 2, Section 57(3) of the Act. In view of the past legacy of CCH, it will not be advisable to take these employees into the NCH secretariat.

Recommendations/Observations

4.19.6 The Committee finds premature termination of the employees of CCH after its dissolution very harsh and unfair. The provision is against the principle of natural justice and also violates the Article 21 of the Indian constitution by depriving employees of living a life with dignity and Right to Livelihood. The Committee finds that there are only 21 regular employees working at the CCH. Termination of their service at this juncture, may lead to severe hardship and express violation of constitutional rights as provided in Article 21 of the Constitution.

4.19.7 The Committee has been apprised that the Government of India has taken the step to repeal these bodies quoting the ground of corruption, however, unlike Medical Council of India, not even a single employee has been found corrupt in CCH by the Ministry of AYUSH, so the premature termination of employees cannot be validated on such grounds.

4.19.8 The Committee, further, believes that the compensation amounting to three month's pay and allowances for the premature termination of their employment is not adequate compared to heavy monetary loss and regular income of years of pay and allowance they would lose due to premature termination.

4.19.9 The Committee, therefore, strongly recommends the Ministry for either accommodating the staff of the CCH in the new Commission after the enactment of the Bill or the employees can be accommodated in the different Departments of the Ministry in any part of the country. They can be placed under Surplus Staff Establishment in the Ministry for their redeployment so that they are available for placement in other organizations/offices/divisions of the Ministry of AYUSH.

4.19.10 The Committee, therefore, recommends that instead of termination of their services, all the employees of the Council may be suitably absorbed on compassionate and humanitarian grounds either in NCH or in any Department of the Government so as to protect the right of livelihood of these employees.

4.19.11 Subject to the above recommendations, the clause is adopted.

Preamble

4.20.1 The Preamble of the Bill reads as follows:

"to provide for a medical education system that improves access to quality and affordable medical education, ensures availability of adequate and high quality Homoeopathy medical professionals in all parts of the country; that promotes equitable and universal healthcare that encourages community health perspective and makes services of Homoeopathy medical professionals accessible to all the citizens; that promotes national health goals; that encourages Homoeopathy medical professionals to adopt latest medical research in their work and to contribute to research; that has an objective periodic and transparent assessment of medical institutions and facilitates maintenance of a Homoeopathy medical register for India and enforces high ethical standards in all aspects of medical services; that is flexible to adapt to the changing needs and has an effective grievance redressal mechanism and for matters connected therewith or incidental thereto".

Suggestions

4.20.2 Mumbai Grahak Panchayat has proposed to add word affordable before the term "to all the citizens".

Recommendations/Observations

4.20.3 The Committee recognizes the fact that Homeopathic are generally affordable means of treatment of ailment compared to modern system of medicine. Affordability of health care is the main concern in our country which aims to achieve goal of universal health care. The Committee believes that accessibility of healthcare services should go hand in hand with the affordability of any stream/system of medicine. Finding merit in the said suggestion the Committee, recommends to insert the term "affordable" before "to all the citizens" as suggested, in the preamble of the Bill.

4.20.4 The Committee also recommends for all consequential changes to be carried out in the relevant clauses of the Bill keeping in view the Committee's observations and recommendations contained in the report.

4.20.5 The Committee adopts the remaining clauses of the Bill without any changes. The Committee recommends that the Bill may be passed incorporating the suggestions made by it.

CHAPTER-V

GENERAL RECOMMENDATIONS

5.1 FEES REGULATION

Suggestions

5.1.1 The Stakeholders have submitted that the NCH Bill has no provision for determination of fees in respect of 50% seats in private medical institutions, whereas NMC Act, 2019 has such provision mentioned under Clause 10(1)(i).

Ministry's Response

5.1.2 The Ministry viewed that currently fixation of fees is being done by the respective State Governments after taking into the account of local factors, reservation quota and other issues prevailing in the concerned State. The structure of fees also varies from State to State according to the MoUs signed by private medical colleges. In most States, fees of seats in deemed universities are not regulated by State Governments. Hence, no provision has been prescribed for fee regulation.

Recommendations/Observations

5.1.3 The Committee observes that there is no provision to regulate fees of Homeopathy colleges in the proposed Bill. However, the NMC Act empowers the Commission to regulate fees and all other charges in respect of fifty percent of seats in private medical institutions and deemed to be universities which are governed under the provisions of NMC Act. The absence of provision for regulation of fees may result in charging of high fees by the private medical institutions and universities. Needless to say, high fees will discourage the students from taking up Homeopathy as a career.

5.1.4 The Committee observes that unregulated fee would, therefore, create inequity and deprive large number of meritorious students, who want to pursue Homeopathy medical education, from among socially and economically backward sections of society of an opportunity to pursue medical education. The Committee, therefore, believes that regulation of fees would certainly ensure protection of the interests of students from exploitation and encourage students from any strata of society to study in such medical institution. Given the problem of shortage of doctors in the country especially in rural, tribal and urban slum areas, the Committee feels that there is a need to encourage alternative system of medicine like Homeopathy.

5.1.5 In Committee's opinion medical education must be treated as a public good. Public Health must not be a profit maximization venture because such objective would only encourage and incentivize commercialization of medical education instead of promoting to

the optimum level. Keeping in view the said facts into account, the Committee is of the view that Homeopathy medical education needs to be given high priority at an affordable cost.

5.1.6 The committee, accordingly, recommends that fees for 50 percent of the seats should be decided by the Fee Fixation Committee of the State Governments or by the National Commission for Homeopathy for all private medical colleges or deemed to be universities, if any, in line with NMC Act, 2019. The provisions for the regulation of fees should be added in the Clause 10 of the Bill i.e. Power and functions of Commission.

5.2 NOMINATION OF MEMBERS OF PARLIAMENT

5.2.1 The representatives of the people come across the grievances of the common masses. Their representation in the management of the Universities and Institutions will form the voice of the people spelling out the ground realities. The Committee, therefore, recommends that three Members of Parliament (two from Lok Sabha and one from Rajya Sabha) should be nominated in the Governing Bodies of all the Homeopathy Universities and Institutions of National Importance in the country.

5.3 PARAMEDICAL STAFF

5.3.1 The Committee is of the view that the paramedical education, profession and practice should be regulated under the Bill. The Commission should identify the paramedical staff under the system of Homeopathy and create a database of the same. Such exercise would ensure standardization of education and practice of these professions. The Committee, recommends the Ministry that the regulation and standardization of paramedical profession should also be mentioned as one of the functions of the National Commission for Homeopathy so as to develop and maintain the standards of education and services by these paramedical professionals.

5.4. REGISTRATION OF COMPLAINTS

5.4.1 Attention of the Committee has been brought to the instances when a person is practicing in one State but a case is registered against him in another State. The practitioner in such a scenario has to fight the case in the area where the case has been registered. This leads to unwarranted harassment of the doctor and loss of time and money.

5.4.2 The Committee is of the view that the registration of complaints filed against the AYUSH practitioners should be restricted to the area where the doctor is practicing. The Committee, therefore, desires that the Ministry may consider making provision, either in the Bill itself or regulations, restricting the place of registration of complaints at the place of medical practice rather than the residential place of complainant.

5.5 EDUCATION

5.5.1 The Committee also notes that there is an urgent need to establish Homeopathy as a preferred choice of career among the students. The present poor health infrastructure in the country demands more trained healthcare providers from the modern as well as

AYUSH System of Medicine. The Committee, therefore, is of the view that Homeopathy System should also be included in the School curriculum. Small chapter on Homeopathy will help dissemination of information on these traditional systems of medicine. The Committee also notes that the National Education Policy 2019 has emphasized on reforms at all levels of education from school to higher education. The NEP 2019 also provides that the school curriculum should be integrated and flexible with equal emphasis on all subjects and fields. The Committee, therefore, is of the view that, on the same lines of National Education Policy, the Curriculum should also be designed according to the changing dynamics with regards to quality education and population requirement. The Committee, therefore, strongly recommends the Ministry to take necessary initiatives to make students from early childhood aware of the concept of mindfulness and holistic health that the Homeopathy system is based on.

5.6. FUTURE OUTLOOK

5.6.1 India has a population of almost 1.3 billion people with a high degree of socio-cultural, linguistic, and demographic heterogeneity. There is limited number of health care professionals, especially doctors, per head of population. In the recent times, mainstreaming of AYUSH, including Homoeopathy has been one of the important strategies of the Government of India envisaged under the National Rural Health Mission to help meet the challenge of this shortage of health care professionals and to strengthen the delivery system of the health care service.

5.6.2 The Committee is of the view that promotion of Homeopathy in a country can be done in the following ways:

- i. It has to be a joint responsibility of the governing bodies and the institutions, involved in Homeopathic education, research and patient care to clear the misconceptions at the mass level and produce faith among people towards Homeopathic system as a competent system of medicine to tackle various diseases and has a potential to cure them.**
- ii. All the individual Homeopathic doctors practicing with their limited resources are the ones who are working at the ground level and come in direct contact with different categories of the patients. They should display in their clinics the kind of cases they see and keep the information, education communication material for free distribution conveying the importance of Homeopathy in the Primary Healthcare.**
- iii. The Ministry should encourage and involve various research bodies and Departments like IIT, CSIR, ICMR, DST etc. to carry out fundamental or extramural research by undertaking various projects that can help in scientific promotion of Homeopathy in India.**
- iv. The private sector like NGOs, organizations working as PPP (Public Private Partnership) and big Pharmaceutical companies can organize various health camps in the peripheral areas of the city and rural as well as tribal regions.**

- v. Radio talks and TV shows be arranged involving senior Homeopaths to speak on various health related issues including the efficacy and benefits of Homeopathy treatment.
- vi. An epidemic cell at the institution level can be set up which can be monitored by the people from apex bodies like CCRH, CCH etc. so that in case of epidemics striking at a particular area timely and effective homeopathic treatment can be given.
- vii. A Rapid Action Force having trained and skilled Homeopathic physicians be raised for managing emergency situations and propagating Homeopathy as one of the first line of treatment in the country.
- viii. Knowledge in the system if shared and upgraded by frequent interactions with other Homeopaths around the world through internet can help in devising the similar model of Homeopathy in India.
- ix. Motivating Homeopaths by recognizing their judicious contribution and services and instituting rewards/awards to enhance their working morale.
- x. Setting up Homeopathic hospitals, camps, homeopathic Primary Health Centers in rural areas, practicing classical homeopathy and opportunities for government jobs in the field of homeopathy

5.6.3 The Committee is of the considered view that in order to ensure the accessibility and availability of health care services to all, policy-makers need to implement strategies to facilitate the mainstreaming of the Homeopathy system and to support this system with stringent monitoring mechanisms. The mainstreaming of Homeopathic doctors is therefore necessary for achieving Universal Health Goals and they can further be utilized in various Central and State Government health programs.

5.6.4 The Committee understands that in a country like India, there is ample scope for the widespread use of homeopathy system which can provide a safe, reliable and cheap alternative, without producing iatrogenic effects, as may be possible allopathic system. The Committee is of the considered view that the country has tremendous potential to emerge as a global hub for medical tourism in AYUSH, therefore, believes that Ministry should focus on promotion of Homeopathy system and evolve policy, in partnership with the Private Sector, which aims to develop better Homeopathy infrastructure to attract people from around the globe.
