



# INDIAN MEDICAL ASSOCIATION

IMA, TAMILNADU STATE OFFICE

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Dear All,

This is our second news letter in as many weeks. As the patient and disease pattern take us for a tough ride the government at the Centre is always finding some ways and means to put us in the fighting mode.

NEET and now NEXT is proposed by the GOVERNMENT with the claim to have a standard. But they do not realize how much they are do not realize how much they are discouraging students from taking medicine as profession with days and days of life spent only on writing and passing examination. The draft of the government proposal and the Legal opinion from the IMA Headquarters is enclosed. It's a long letter but worth reading for the consequences it has on the future generation. A well drafted reply should convince you to put your objections on mail **TO THE MINISTRY**

Regards

Yours in IMA

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**Government of India**  
**Ministry of Health and Family Welfare**  
**PUBLIC NOTICE**

This Ministry has prepared a draft Indian Medical Council (Amendment) Bill, 2016 to introduce among others Exit Examination for MBBS level, Combined Counselling for admission in UG level and PG level and reservation of upto 50% of the seats of Post Graduate Courses for Medical Officers. A copy of the draft Bill is attached.

General Public is hereby requested to send suggestions/feedback in respect of the draft Bill. Suggestions may be furnished to [mepsection-mohfw@gov.in](mailto:mepsection-mohfw@gov.in) by 06.01.2017.

(Arun Singhal)  
Joint Secretary, Medical Education

	<b>THE INDIAN MEDICAL COUNCIL (AMENDMENT) BILL, 2016</b>	
	<b>A BILL</b>	
	Further to amend the Indian Medical Council Act, 1956.	
	BE it enacted by Parliament in the Sixty-seventh year of the Republic of India as follows:—	
	1. (1) This Act may be called the Indian Medical Council (Amendment) Act, 2016.	Short title and commencement.
Insertion of new section for section 10E.	2. After section 10D of the Indian Medical Council Act, 1956 (hereinafter referred to as the principal Act), the following section shall be inserted, namely:-	102 of 1956
	10E Exit Exam, Counselling for MBBS course and Post Graduate courses in medical colleges/institutions in India;-	
	(a) There shall be conducted a uniform national exit test (NEXT) to all medical educational institutions at the undergraduate level through such designated authority in English and in such manner as may be prescribed and the designated authority shall ensure the conduct of uniform national exit test in the aforesaid manner:	Common exit exam for MBBS level.
	(b) NEXT would substitute the uniform entrance examination at post-graduate level provided for in section 10D of the Principal Act.	
	(c) There shall be conducted a common counselling for admission of candidates to all medical educational institutions at the undergraduate level and postgraduate level. Counselling for 15% All India Quota seats at undergraduate level and 50% All India Quota seats at postgraduate level shall be conducted by Directorate General of Health Services and for remaining seats including Private Colleges and Private/Deemed Universities at the undergraduate level and postgraduate level shall be conducted through such designated authority by the concerned State Governments/UTs.	Common counseling for MBBS level and PG level admission.
Amendment in Section 13.	4. In section 13 of the principal Act, in clause 4(A), after the first para, the following shall be inserted, namely:-	

	<p>“Provide further that a person seeking provisional or permanent registration shall not have to qualify the Screening Test if he/she holds an Under Graduate medical qualification from any of the countries notified in this regard by Government of India and the holder thereof also been awarded a Post Graduate medical qualification and also recognized for enrolment as medical practitioner in that country”.</p>	
Amendment of section 14.	<p>5. In section 14 of the principal Act, in the proviso to sub-section (1), the words “for the time being for the purposes of teaching, research or charitable work” shall be omitted.</p>	
Amendment in Section 15.	<p>6. In section 15 of the principal Act, in clause (l), after the words “Schedules”, the following shall be inserted, namely:-</p>	
	<p>“and securing the minimum score as prescribed in the uniform national exit test (NEXT)”</p>	
Insertion of new section for section 20B.	<p>Upto 50% of the seats in Post Graduate Courses in Government Colleges may be reserved by the appropriate State Governments/UTs for Medical Officers in the Government services, who have served for at least three years in remote and difficult areas. After acquiring the PG Degree, the Medical Officers may further be required to serve for a period up to three years in remote and/or difficult areas by the State Governments/UTs concerned. Admissions to this quota would strictly be on the basis of NEXT merit list only.</p>	
Amendment of Section 33	<p>7. In section 33 of the Principal Act, after clause (mb), the following clause shall be inserted, namely:-</p>	
	<p>(mc) the designated authority and the manner of conducting of uniform national exit text (NEXT) to all medical educational institutions at the undergraduate level.</p>	
	<p>(md) the designated authority and the manner of conducting of uniform counseling to all medical educational institutions at the undergraduate level and post graduate level.</p>	

**SUB: Draft of submissions and objections on behalf of IMA regarding the Indian Medical Council (Amendment) Bill 2016 vide Public Notice dated 29.12.2016 which seeks to replace the Indian Medical Council (Amendment) Ordinance, 2016**

1. Firstly the proposed amendments are ex-facie unconstitutional and discriminatory in their very nature and shall result in violation of fundamental rights of all parties concerned in the manner as below:

- There appears no justified basis as to why the uniform entrance examination (NEET) provided for postgraduate medical study as provided in section 10-D is now being substituted by uniform national exit test (NEXT). There is no object or any valid purpose achieved by doing this except causing arbitrariness and more complexities and confusions to all the parties concerned. More particularly in view of the judgement passed by Hon'ble Supreme Court on 28.4.16 and 9.5.16 in W.P.No.261/2016 filed by Sankalp Charitable Trust.
- There is further no purpose and object achieved by introducing NEXT exam at undergraduate level when the students who have already qualified MBBS course and they are compelled to clear NEXT exam for the purpose of their registration in MCI register and eligibility to practice. This amounts to duplicacy and conflict of interest.
- Secondly how it is provided that the same exam NEXT shall be for undergraduate and postgraduate level both when NEET is already there for both undergraduate and postgraduate levels.
- How the same test is provided for undergraduate level for registration and eligibility to practice and also for admission in postgraduate courses. This amendment is entirely arbitrary and without application of mind and shall not pass the test of Constitutional validity.
- The proposed amendment in section 13 to forgo the screening test for those students who possess medical qualifications from foreign country. This is in sharp contradiction to Indian students who are required to pass NEXT even after having qualified MBBS and foreign qualified students not even required to go through the process of screening test as was always provided in the main Act.
- This also brings into fore that for the graduates who are emerging out of medical colleges geographically located in India under the ambit and regulatory control of the Medical Council of India and Government of India, respectively would be subjected to Exit Test, which in a way tantamount to doubting the attainment of desired standards by them through orientation at the medical colleges located in the country and therefore they need a reassessment leading to recertification. As against this material reality, the foreign medical graduates are exempted from the Screening Test as a filter which amounts to certifying standards attained thereat as qualitatively superior to the ones gained by the Indian Medical Graduates emerging from Indian Medical Colleges, which is not only insulting but is also humiliating as well.

- This also brings an analogy to fore that the standards of medical education in the country are set by the Government of India, in consultation with the Medical Council of India vide authority vested in it in terms of provisions included at section 32 which entitles Government of India, to formulate 'Rules' and Section 33 which entitles the Government of India, to notify 'Regulations' in consultations with the Medical Council of India. The fact that the Exit Test is to be put into place for Indian Medical Graduates with simultaneous repeal of the Screening Test as applicable to the foreign medical graduates amounts to Government of India, accepting for itself that it has failed to cater to the desired standards of medical education being imbibed by the Indian Medical Graduates and certifying that Foreign Medical Graduates have dispensed of the same which they have failed in the Indian context.
- It is a matter of record that the inspections that were carried out by the Medical Council of India in 1998 of medical colleges located in Russia had revealed that pathetic state of affairs existing in the said colleges consequent upon which it was recommended that they do not merit recognition as they fail substantially short of the minimum standards that have been prescribed by the regulation notified by the Government of India, in consultation with the Medical Council of India.
- It is also a matter of record that by a similar exercise joint inspection teams comprising the representatives of the Medical Council of India and the Government of India, respectively had inspected colleges in China and had reported on the similar lines that they do not merit recognition as they fall short of the minimum standards that have been prescribed by the regulation notified by the Government of India, in consultation with the Medical Council of India.
- Inserting an amendment to section 13 in the principal Act by inserting clause 4(A) to the effect that 'provide further that a person seeking provisional or permanent registration shall not have to qualify the screening test if he / she holds an under graduate medical qualification from any of the countries notified in this regard by the Government of India, and the holder thereof also been awarded a post graduate medical qualification and also recognized for enrolment as medical practitioner in that country, is questionable on the following counts:

i. The Government of India, overruling the recommendations of the Medical Council of India in 2008 by a Notification have unilaterally accorded recognition to the post graduate qualifications gained from the medical schools located in USA, UK, Canada, Australia and New Zeland. Further by a subsequent notification in the year 2011 those who hold PG qualifications from these countries have been exempted from the screening test with the only rider that the qualification so gained are sufficient for the purposes of the registration by the registering authority in the concerned country.

ii. As if, this unilateral exercise was not enough the present amendment is being proposed which is going to further open the flood gates and would be a grossest compromise with the desired standards of the medical education and resultant professional practice.

iii. The present stipulation in the principal Act, not only mandates screening test as a filter to ascertain and assess the parity of standards accrued vide the foreign medical qualification as against those in vogue in the Indian

Medical Colleges and also the incumbent upon clearing the screening test is required to pursue a rotating internship of one year in a recognized medical college and it is the satisfactory completion of the same that entitles the incumbent for the permanent registration with the concerned State Medical Council. This exercise is mandatory and relevant in the context of the material fact that before the holder of a foreign medical qualification is entitled to practice modern medicine in India he should be well oriented for the same with reference to the required competencies so that the people in general and the population is not put to any risk of any type. By doing away with the screening test as a filter the parity which otherwise was getting sorted out would be missing and hence it would open up a situation where the people at large would be subjected to professionals who have not been verified and certified for the purposes of practicing modern medicine in desired mode and manner conducive to the legitimate expectations of the people at large. This will entail a catastrophe being inflicted on the Indian population for no fault of theirs.

- By inserting amendment to Section 14 in the proviso to sub-section 1 whereby the words ‘for the time being for the purposes of teaching, research / charitable work’ shall be omitted is questionable on the following counts:
  - i) Provisional registration as contemplated under section 14(1) of the parent Act intends and accordingly imposes reasonable restrictions with the prime aim that the provisional registration is not availed for any commercial and gainful ventures. As such, the said reasonable restrictions are genuine, bonafide and well intended in public interest.
  - ii) By repealing of the said reasonable restrictions, the professional who is granted provisional registration is being entitled to all commercial gains which would be unrestricted and open ended in character. This withdrawal of the existing reasonable restrictions does not augur well with the public good and people’s welfare at large. Hence cannot be said to be well intended and conducive to public interest.
- Insertion of a new section to section 20(B) of the principal Act to provide for that up to 50% of the seats in post graduate courses in Govt. colleges may be reserved by the appropriate state Govt. / UTs for medical officers in the government services, who have served for at least three years in remote and difficult areas. After acquiring the PG Degree, the medical officer may further be required to serve for a period up to three years in remote and or difficult areas by the State Govt. / UTS concern is questionable on the following considerations:
  - i. The existing stipulations provide for explicitly reservation of 50% post graduate diplomas for the medical officers in the services of the State Govt. / Union Territories exclusively to ensure that personnel working in Public health department

are offered opportunities and avenues for update of their qualification, so that the resultant services rendered by them are also updated.

ii. Providing for reservation of 50% seats in the Govt. colleges for the public health personnel under the State Govt./ Union Territories would result in a very meager portion of the post graduate seats available for open category meritorious applicants in as much as that after the omission of 50% post graduate seats for Govt. sponsored personnel of the remainder 50% of the seats would be reserved for the scheduled constitutional reservations and a miniscule remainder would be left for the open category meritorious and deserving applicants.

iii. It would be worthwhile to interpolate this miniscule remainder left for the open category meritorious and deserving applicants in terms of the number of eligible applicants as against the available miniscule number of post graduate seats which would be indeed a mockery of merit based admissions to post graduate courses in tune with the binding doctrine of the legitimacy of expectations.

It is for the above cited reasons we are of the considered opinion that the amendments that have been proposed in the form of Indian Medical Council (Amendment) Bill 2016 do not augur well with the public interest at large and would be counterproductive including prejudicing the legitimate claims of the Indian Medical Graduates hence they need to be abandoned in limini.

Dr KK Aggarwal, National President

Dr R N Tandon, Honorary Secretary General