

Legislative Brief

The Paramedical and Physiotherapy Central Councils Bill, 2007

The Bill was introduced in the Lok Sabha on 4th December, 2007 and was referred to the Standing Committee on Health and Family Welfare (Chairperson: Shri Amar Singh).

The Standing Committee is scheduled to submit its report by the first week of the Monsoon Session, 2008.

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Highlights of the Bill

- ◆ The Paramedical and Physiotherapy Central Councils Bill, 2007 seeks to set up three councils to regulate physiotherapists and occupational therapists, medical laboratory technicians and radiology technicians.
- ◆ Each central council shall set minimum educational standards for the profession it regulates and maintain a register of qualified practitioners. It can specify standards of professional conduct for each profession and take disciplinary action, including the removal of a person's name from the register, against any practitioner found to be guilty of violating such standards.
- ◆ Every university or institution offering educational courses in the relevant subjects has to seek the prior approval of the central government.
- ◆ Every person practicing under the Act has to be registered with the respective council.
- ◆ Clinical establishments can only appoint those physiotherapists, occupational therapists or paramedics who are registered with the respective council.

Key Issues and Analysis

- ◆ All members of each central council are either government officials or are directly appointed by the central government. Similar bodies such as the Medical Council of India have some members elected from amongst practitioners.
- ◆ The Bill ensures that the central council is bound to follow any directions issued to it by the central government. In contrast, the Indian Medical Council Act, 1956, does not bind that council to act on any directions from the government without the constitution of a Commission of Enquiry.
- ◆ The Bill defines physiotherapy and occupational therapy as 'medically-directed' treatments which imply that practitioners in both professions may be able to treat only those patients referred by a doctor. As of now, they can treat patients directly.
- ◆ Some states already have laws which regulate these professions. Practitioners in these states will have to register themselves with both the state and central councils.

PART A: HIGHLIGHTS OF THE BILL ¹

Context

Professionals such as laboratory technicians, or those trained in therapeutic procedures such as physiotherapy or occupational therapy, are unregulated at an all-India level. In contrast, nurses and doctors are regulated by central councils who set minimum educational and ethical standards, register practitioners, and take disciplinary action against those who violate professional norms of conduct. A government notification in 1998 included physiotherapists and occupational therapists under the Rehabilitation Council of India Act, 1992, though a subsequent notification in 1998 reversed that decision. The Rehabilitation Council of India regulates professionals who work with the disabled.²

As there is no central regulation of these professions, there is a lack of reliable data on the number of practitioners across the country and on the number of educational courses being offered. According to government data, there were 1,740 radio technicians and 12,101 laboratory technicians in rural health care centres across the country as of March 2007.³ According to the Indian Association of Physiotherapists, there are about 25,000 to 30,000 graduates in physiotherapy in India with about 250 colleges offering undergraduate physiotherapy programmes and over 50 colleges offering Masters programmes in physiotherapy.⁴

Some states such as Madhya Pradesh, Delhi, Maharashtra and Himachal Pradesh have passed laws setting up state councils to regulate medical laboratory technicians, physiotherapists or occupational therapists. A Planning Commission Working Group pointed out that there is a lack of uniformity of norms and standards across these states. The report said there was a need to have a central council to ensure uniformity in standards across the country.⁵

Key Features

- The Bill seeks to establish three central councils. The Physiotherapy Central Council will regulate physiotherapists and occupational therapists. The Paramedical (Medical Laboratory Technology) Central Council will regulate medical laboratory technicians. The Paramedical (Radiology Technology) Central Council will regulate radiological technicians.

Constitution of Central Councils

- Each council will have 25 members of which 13 will be government officials while 12 will be appointed by the central government from amongst practitioners and teachers in educational institutions offering courses in the relevant fields. (See Table 1)
- The Chairperson and Vice-Chairperson of each council shall be appointed by the central government from amongst the members of the council.

Setting Educational Standards

- Each central council may specify the minimum standards to be maintained by institutions while offering courses of education.
- Every institution offering such courses has to seek prior approval from the government before doing so.
- The central government may make a scheme of reciprocity to recognise foreign qualifications after consulting the central council.

Registration and Enforcement of Standards among Practitioners

- Only practitioners registered with the respective central councils can practice. Registered practitioners are entitled to be called physiotherapists, occupational therapists, medical laboratory technicians or radiology technicians. Any person with recognised qualifications is eligible for registration.
- The central government may relax the minimum educational standards for those who were already practitioners at the time the Act is notified.
- Each central council shall lay down standards of professional conduct and a code of ethics to be followed by practitioners. The Bill specifies the process by which a council can initiate proceedings against a practitioner who violates professional or ethical norms of conduct. The council can remove a practitioner's name from the

Table 1: Composition of Central Councils

Government Officials	
– Central government officials	5
– Representatives of CBSE, UGC, AICTE and MCI*	4
– Representatives of states and union territories	4
Practitioners and Teachers	
– Teachers of recognised institutes offering education in the respective professions	4
– Practitioners of physiotherapy, occupational therapy, medical laboratory technology and radiology technology	4
– Representatives of organisations representing the interests of the respective professions	4
Total	25

* CBSE - Central Board of Secondary Education; UGC – University Grants Commission; AICTE – All India Council of Technical Education; MCI – Medical Council of India.

Source : The Paramedical and Physiotherapy Central Councils Bill, 2007.

register following such proceedings. The practitioner can appeal against the decision to the central government whose decision shall be final.

- Clinical establishments can only appoint a person as a paramedic or physiotherapist if he has been registered with the respective central council.
- Any person who violates the provisions of the Act, or who practices as a paramedic or physiotherapist without being registered by the respective council faces a prison term of between 6 months and three years and a possible fine of Rs 10,000 to Rs 1 lakh.

Directions Issued to the Council by the Central Government

- A council is bound to carry out any directions issued by the central government including ones which ask it to make or revoke certain regulations. The central government has the power to dissolve a council if, in its opinion, the council has persistently failed to carry out directions issued to it.

PART B: KEY ISSUES AND ANALYSIS

Autonomy of the Councils

Clause 3(4) Thirteen of the 25 members of each council are government employees. The other 12 members of the council are also appointed by the government to represent practitioners, teachers and professional associations. There is no provision for the election of any member including the Chairperson and Vice-Chairperson. In contrast, some councils which regulate other professions include members elected by practitioners (See Table 2).

Clause 39 The central government also has the power to issue directions to the council which the latter is bound to follow. The government has the power to dissolve a council if it feels that the council has persistently failed to carry out such directions.

In comparison, the Indian Medical Council Act, 1956 does not bind the Medical Council of India to act on any directions from the government. However the Act does allow for the constitution of a Commission of Enquiry to look into the workings of the council. The MCI is required to adopt any remedies suggested by the Commission, and if it fails to do so, the central government can take steps to ensure that the recommendations of the Commission are carried out.⁶

While the Indian Medical Council (Amendment) Bill, 2005 empowers the government to give binding directions to the MCI, it can do so only in the ‘public interest’ (the Bill is currently pending in Parliament). In contrast, the Paramedical and Physiotherapy Central Councils Bill does not require the government to issue directions only in the ‘public interest’.

Doctor’s Referral

Clauses 2(k), (l) and (o)

The Bill defines occupational therapy and physiotherapy as ‘medically directed’ therapies which imply that patients may not be able to approach professionals in either of these fields without reference from a doctor. Currently, a lack of regulation means that a doctor’s referral is not necessary.⁷

The need for a doctor’s referral varies across countries. In the UK, it is possible to approach registered physiotherapists or occupational therapists without being referred by a doctor.⁸ In Canada, physiotherapists are also allowed to act as ‘first contact’ practitioners.⁹ In the US State of New York, only physiotherapists with three years of practical experience can treat patients without a referral.¹⁰ Though California law does not require a referral, physiotherapists can only treat patients who have already been diagnosed – they cannot perform such diagnoses themselves.¹¹

State Acts and the Bill

States such as Himachal Pradesh and Madhya Pradesh have laws to regulate the paramedical profession. Maharashtra and Delhi have laws to regulate physiotherapy and occupational therapy.¹² According to the Seventh Schedule of the Constitution, “legal, medical and other professions” and “education, including technical education, medical education and universities” are covered by the Concurrent List.¹³

Table 2: Proportion of Elected Professionals across Regulatory Councils

Name of Council / Regulatory Body	Proportion of elected members* (%)
Paramedical / Physiotherapy Council	0
Pharmacy Council of India	39
Medical Council of India	62
Institute of Chartered Accountants of India	80

* Figures show actual composition of existing councils as on date
Sources: The Paramedical and Physiotherapy Central Councils Bill, 2007; www.mciindia.org; www.pci.nic.in; www.icaai.org.

There are differences between the state acts and the central councils Bill. For instance, the state acts typically have just one council to regulate all these professions. The Madhya Pradesh Paramedical Council Act, 2003 and the Himachal Pradesh Paramedical Council Act, 2003 both cover those professionals who practice traditional systems of medicine such as Ayurveda, Unani or Homeopathy. These systems of medicine are regulated by their own, separate councils at the central level.

As both the state law and the central law will be applicable to these professions, practitioners in these states would have to register themselves with both the state and central council.¹⁴ There is also the possibility that a practitioner's name could be removed from the central register for disciplinary reasons, but this does not affect the status of his registration with the state council.

Notes

1. This Brief has been written on the basis of the Paramedical and Physiotherapy Central Councils Bill, 2007, which was introduced in the Lok Sabha on December 4, 2007 and referred to the Standing Committee on Health and Family Welfare (Chairperson: Shri Amar Singh). The Standing Committee is scheduled to submit its report by the first week of the Monsoon Session, 2008.
2. The Rehabilitation Council of India Act, 1992. See http://rehabcouncil.nic.in/council/acts_amend.htm.
3. See Ministry of Health and Family Welfare, Rural Health Statistics In India, 2007. <http://mohfw.nic.in/NRHM/BULLETIN%20ON.htm>. Tables 29 and 31.
4. Indian Association of Physiotherapists, Memorandum Submitted to Honourable Minister for Health, Govt of India, 26/12/2007, Pg. 2.
5. Report of the Working Group on Clinical Establishments, Professional Services Regulation and Accreditation of Health Infrastructure for the 11th Five Year Plan, Planning Commission, http://www.planningcommission.nic.in/aboutus/committee/wrkgrp11/wg11_hclinic.pdf.
6. The Indian Medical Council (Amendment) Bill, 2005, seeks to reduce the proportion of elected representatives on the MCI from 69% to 54%. The amendment has not yet been passed by Parliament. See PRS Legislative Research, Legislative Brief on The Indian Medical Council (Amendment) Bill, 2005, http://www.prsindia.org/legis_page.php?bill_id=59.
7. See Rajya Sabha Unstarred Question No. 2042, answered on December 7, 2007. Health and Family Welfare Minister, Dr Anbumani Ramadoss said that "Physiotherapists / OT couldn't be the first contact persons for treatment of patients and it has to be administered under the overall directions of medical professionals."
8. The Chartered Society of Physiotherapy, "Scope of physiotherapy Practice 2008", London. <http://www.csp.org.uk/uploads/documents/PD001%20Scope%20of%20Practice%202008.pdf>, pg. 8. For the status of occupational therapy in the UK, see the website of the British Association of Occupational Therapists. <http://www.cot.co.uk/public/findinganot/intro.php>.
9. For Canada, see the website of the Canadian Physiotherapy Association, http://www.physiotherapy.ca/PublicUploads/222419CPA%20Consumer%20Brochure_English_Final.pdf. For the EU, see European Region of the World Confederation for Physical Therapy, European Physiotherapy Benchmark Statement, 2003, <http://www.fysiot.ee/dok/01.pdf>, Pg. 10.
10. See the website of the New York State Education Department: <http://www.op.nysed.gov/ptfaq.htm#direct>.
11. See the website of the Physical Therapy Board of California: http://www.ptbc.ca.gov/consumers/consumer_info_faq.shtml#obtain.
12. The relevant state acts are the Himachal Pradesh Paramedical Council Act, 2003; the Maharashtra State Council for Occupational Therapy and Physiotherapy Act, 2002; and the Madhya Pradesh Paramedical Council Act, 2003.
13. However, "Institutions for scientific or technical education financed by the Government of India, wholly or in part..." and "Co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions" are part of the Union List.
14. This practice is different from that of doctors whose names are first entered in a state medical register and then aggregated in the Indian medical register maintained by the Medical Council of India. See clauses 21-23, Indian Medical Council Act, 1956.

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