

**MEDICAL COUNCIL OF INDIA
SECTOR-VIII, POCKET- 14,
DWARKA, NEW DELHI.**

Minutes of the meeting of the Ethics Committee held on 17th March, 2012 at 10.30 a.m. in the Council office, Sector- VIII, Pocket- 14, Dwarka, New Delhi. The following members were present:-

1.	Prof. Sneha Bhargava	Chairman
2.	Dr. Arun Bal	Member
3.	Dr. Anil Dhal	Member
4.	Dr. Y.K. Gupta	Member
5.	Dr. V. Sakhuja	Member
6.	Dr. (Prof.) Chander Shekhar Shetty	Member
7.	Prof. Kumudini Sharma	Member
8.	Dr. Sanjay Gupte	Member
9.	Dr. Atul Sood	Member
10.	Dr. Davinder Kumar	Joint Secretary, MCI

Leave of absence was received from Dr. R. B. Panwar & Mr. Amit Bansal, Member, Ethics Committee.

1. Minutes of the last meeting of the Ethics Committee- Confirmation of.

The Minutes of the Ethics Committee meeting held on 14th February, 2012 were confirmed along with following recommendation:

Item No. 4 of Last Ethics Committee meeting (14.02.2012)

Appeal against order dated 06.04.2010 passed by Rajasthan Medical Council filed by Mr. Ajeet Singh Singhvi.(F.No. 522/2010)

The Ethics Committee considered the matter while confirming the minutes of the last meeting of the Ethics Committee held on 14.02.2012 and noted the views as submitted by one of the members of the Ethics Committee and decided to call both the parties i.e. complainant as well as treating doctor in this case for personal hearing.

Let notices be issued to complainant as well as to the alleged doctors to appear before the Ethics Committee at its subsequent meeting along with all the relevant/ supportive documents.

Item No. 7 of Last Ethics Committee meeting (14.02.2012)

Appeal against order dated 21.07.2011 passed by U.P. Medical Council made by Mrs. Chanchal Chaurasia. (F.No.439/2011).

The Ethics Committee decided to call both the parties i.e. complainant as well as the treating doctor in this case for personal hearing.

Let notices be issued to complainant as well as to the alleged doctors to appear before the Ethics Committee at its subsequent meeting along with all the relevant/supportive documents.

2. Minutes of the last meeting of the Ethics Committee - Action taken there on.

The Ethics Committee noted the action taken on the items of the minutes of meeting of the Ethics Committee held on 14th February, 2012.

The Ethics Committee decided that the approved minutes received from the Chairman, Ethics Committee and as well as feedback received from members of the Ethics committee to be placed before the Ethics Committee at its subsequent meeting.

3. Appeal against order dated 06.09.2011 passed by Karnataka Medical Council made by Ch. Shankaraiah against Dr. Kiran J. (F.No. 535/2011)

The Ethics Committee considered the appeal of Ch.Shankaraiah against the order passed by the Karnataka Medical Council and decided to call both the parties i.e. complainant Ch. Shankaraiah as well as the Dr. R.D. Chakravarthy & Dr. Kiran J. the treating doctors in this case for personal hearing.

Let notices be issued to complainant as well as to the alleged doctors to appear before the Ethics Committee at its subsequent meeting along with all the relevant/ supportive documents.

4. Complaint against Dr. Deepak Tyagi, Dr.Chetan Goel & Dr. Vikas Ragve of IVY Hospital, Mohali (Punjab) as alleged by Sh. Om Prakash Sikka (F.No. 209/2009)

The Ethics Committee considered the complaint against Dr. Deepak Tyagi, Dr.Chetan Goel & Dr. Vikas Ragve of IVY Hospital, Mohali (Punjab) as alleged by Sh. Om Prakash Sikka and noted that the matter was referred to the Punjab Medical Council vide this office letter dt. 19.06.2009 but till date the Punjab Medical Council had not replied and decided to take up the matter as per provision of Section 8.7 of the Ethics Regulations namely the "Indian Medical Council (Professional conduct, Etiquette and Ethics) Regulations, 2002".

The Ethics Committee decided to inform both the parties, as well as Punjab Medical Council and further decided to seek all relevant documents, from Punjab Medical Council pertaining to this case.

5. Complaint submitted by Sh. Rakesh Singh against Dr. Bhuvan (F.No. 509/2011)

The Ethics Committee considered the complaint submitted by Sh. Rakesh Singh against Dr. Bhuvan and decided to refer this matter to Uttar Pradesh Medical Council as the doctor concerned had been practicing there. All the relevant particulars of this case to be forwarded to U.P. Medical Council for taking necessary action at their end within six months of receipt of this communication under intimation to this Council. A copy of the same to be marked to the complainant.

6. Appeal against order dated 06.09.2011 passed by Karnataka Medical Council filed by Sh. Ratnesh Kumar Mishra (F.No. 473/2011)

The Ethics Committee considered the appeal of Sh. Ratnesh Kumar Mishra against the order dated 06.09.2011 passed by Karnataka Medical Council and decided to take up the matter as per provision of Section 8.7 & 8.8 of the Ethics Regulations namely the "Indian Medical Council (Professional conduct, Etiquette and Ethics) Regulations, 2002".

The Ethics Committee further decided let notices be issued to complainant (Sh. Ratnesh Kumar Mishra) as well as to the concerned doctor (Dr. K. Umadevi) to appear before the Ethics Committee at its subsequent meeting along with all the relevant/ supportive documents.

7. **Complaint against Dr. N.K. Pandey, Managing Director, Asian Institute of Medical Sciences, Faridabad as alleged by Mr. Vinay Kumar Jain, Advocate, Delhi High Court. (F.No. 802/2010)**

The Ethics Committee considered the complaint against Dr. N.K. Pandey, Managing Director, Asian Institute of Medical Sciences, Faridabad as alleged by Mr. Vinay Kumar Jain, Advocate, Delhi High Court and noted that the matter was referred to the Haryana Medical Council vide this office letter dated 22.11.2010. But, till date no reply has been received from Haryana Medical Council and decided to take up the matter as per provision of Section 8.7 of the Ethics Regulations namely the "Indian Medical Council (Professional conduct, Etiquette and Ethics) Regulations, 2002".

The Ethics Committee decided to inform both the parties as well as Haryana Medical Council and further decided to seek all relevant documents, from Haryana Medical Council pertaining to this case.

8. **Appeal against order dated 07.06.2010 passed by Delhi Medical Council made by Mr. S.P.Manchanda. (F.No. 597/2010).**

The Ethics Committee considered the appeal of Mr. S.P. Manchanda against the order dt. 07.06.2010 passed by Delhi Medical Council and noted that the Delhi Medical Council had provided all the necessary documents. Hence, decided to call both the parties i.e. complainant Mr. S.P. Manchanda as well as the alleged doctors in this case for personal hearing.

Let notices be issued to complainant as well as to the alleged doctors to appear before the Ethics Committee at its subsequent meeting along with all the relevant/ supportive documents.

9. **Appeal against order dated 07.12.2010 passed by Delhi Medical Council made by Mr. Gulshan Jit Singh Ahluwalia. (F.No. 36/2011).**

The Ethics Committee considered the appeal of Dr. Gulshan Jit Singh Ahluwalia against the order dt. 7.12.2010 passed by the Delhi Medical Council and noted that the Ethics Committee had already disposed off the case at its meeting held on 27.9.2011. The Ethics Committee further noted that as per the Hon'ble "*Supreme Court has laid down the law that there is no provision to review its own decision*" (*Patel Chunibhai Dajibha V. Naravanrao Khanderao Jambekar & Anr., AIR 1965 SC 1457; and Harbhajan Singh V. Karam Singh & Ors., AIR 1966 SC 641*), (*Patel Narshi Thakershi & Ors. V. Shri Pradyumansinghji Arjunsinghji, AIR 1970 SC 1273; Maj. Chandra Bhan Singh V. Latafat Ullah Khan & Ors., AIR 1978 SC 1814; Dr. Smt. Kuntesh Gupta V. Management of Hindu Kanya Mahavidhyalaya, Sitapur (U.P.) & Ors., AIR 1987 SC 2186; State of Orissa & Ors. V. Commissioner of Land Records and Settlement, Cuttack & Ors. (1998) 7 SCC 162; and Sunita Jain V. Pawan Kumar Jain & Ors., (2008) 2 SCC 705, this court held that the power to review is not an inherent power. It must be conferred by law either expressly/specifically or by necessary implication and in absence of any provision in the Act/Rule, review of an earlier order is impermissible as review is a creation of statute. Jurisdiction of review can be derived only from the statute and thus, any order of review in absence of any statutory provision for the same is nullity being without jurisdiction).*

10. **Appeal u/s 24(2) of the IMC Act, 1956 by Ex. Surgeon Commander Bhaskar Rao against the order dated 19.08.2006 passed by Karnataka Medical Council, Bangalore. (F.No. 46/2010)**

The Ethics Committee considered the appeal of Ex. Surgeon Commander Bhaskar Rao against the order dt. 19.8.2006 passed by the Karnataka Medical Council and decided to advise the complainant to renew his registration with Karnataka Medical Council.

11. Appeal against order dated 18.10.2011 passed by Delhi Medical Council filed by Dr. S. Datta (F.No. 469/2011)

The Ethics Committee considered the appeal of Dr. S. Datta against the order dt. 18.10.2011 passed by Delhi Medical Council and decided to call both the parties i.e. Dr. S. Datta along with Dr. S.C. Khanna, owner and proprietor of Khanna Nursing Home as well as Smt. Anju - complainant in this case for personal hearing.

Let notices be issued to complainant as well as to the alleged doctors to appear before the Ethics Committee at its subsequent meeting along with all the relevant/ supportive documents.

12. Complaint against Dr. R. P. Singh, Eye Surgeon as alleged by Mr. P.C.Jain - F.No. 78(2010).

The Ethics Committee considered the complaint against Dr. R. P. Singh, Eye Surgeon as alleged by Mr. P.C.Jain and noted that the matter was referred to Haryana Medical Council vide this office letter dt. 13.03.2010 and reminders dt. 03.01.2011, 15.04.2011 & 07.07.2011. But, till date the Haryana Medical Council had not replied and therefore decided to take up the matter as per provision of Section 8.7 of the Ethics Regulations namely the "Indian Medical Council (Professional conduct, Etiquette and Ethics) Regulations, 2002".

The Ethics Committee decided to inform both the parties as well as Haryana Medical Council and further decided to seek all relevant documents, from Haryana Medical Council pertaining to this case.

13. Appeal u/s 24(2) of the IMC Act, 1956 by Dr. D.K. Gupta for restoration of name in Indian Medical Register.(F.No. 773/2010)

The Ethics Committee considered the appeal of Dr. D.K. Gupta and noted that the Ethics Committee had already disposed off the case at its meeting held on 10.05.2011. The Ethics Committee further noted that as per the Hon'ble "*Supreme Court has laid down the law that there is no provision to review its own decision*" (*Patel Chunibhai Dajibha V. Naravanrao Khanderao Jambekar & Anr., AIR 1965 SC 1457; and Harbhajan Singh V. Karam Singh & Ors., AIR 1966 SC 641*), (*Patel Narshi Thakershi & Ors. V. Shri Pradyumansinghji Arjunsinghji, AIR 1970 SC 1273; Maj. Chandra Bhan Singh V. Latafat Ullah Khan & Ors., AIR 1978 SC 1814; Dr. Smt. Kuntesh Gupta V. Management of Hindu Kanya Mahavidhyalaya, Sitapur (U.P.) & Ors., AIR 1987 SC 2186; State of Orissa & Ors. V. Commissioner of Land Records and Settlement, Cuttack & Ors. (1998) 7 SCC 162; and Sunita Jain V. Pawan Kumar Jain & Ors., (2008) 2 SCC 705, this court held that the power to review is not an inherent power. It must be conferred by law either expressly/specifically or by necessary implication and in absence of any provision in the Act/Rule, review of an earlier order is impermissible as review is a creation of statute. Jurisdiction of review can be derived only from the statute and thus, any order of review in absence of any statutory provision for the same is nullity being without jurisdiction*).

14. Appeal against order dated 02.01.2012 passed by Delhi Medical Council filed by Dr.(Mrs.) Raj Kohli.(F.No. 541/2011).

The Ethics Committee considered the appeal of Dr(Mrs.) Raj Kohli against the order dt. 02.01.2012 passed by the Delhi Medical Council. The Ethics Committee heard Dr. Vijay Kohli husband of Dr.(Mrs.) Raj Kohli and Mrs. Sonika Kapoor who appeared before the Ethics Committee on 17.03.2012. The Ethics Committee deliberated the matter and decided to uphold the decision of the Delhi Medical Council. The decision may be communicated to all the parties.

15. Appeal against order dated 14.09.2011 passed by Orissa Medical Council filed by Mrs. Jayeeta Verma Sarkar. (F.No.466/2011).

The Ethics Committee considered the appeal of Mrs. Jayeeta Verma Sarkar against the order dt. 14.09.2011 passed by Orissa Medical Council and heard Dr. Jayanarayan Naik and Jayeeta Verma Sarkar who appeared before the Ethics Committee on 17.03.2012.

The Ethics Committee after hearing both the parties and going through the available records, it was unanimously* decided that Dr. Jayanarayan Naik, Cardiologist had not given the high risk informed form to the patient /attendant of the patient, which was a necessary procedure in this case. The Consent Form was also found not in order, since it did not carry the signature of the patient who was conscious throughout this procedure. It was felt that such a High Risk patient deserved to be kept in ICCU with intensive care unit facilities for cardiac patient. It was decided that Dr. Jayanarayan Naik was negligent as a treating physician and his name should be removed from the Medical Register for a period of 03(three) months starting from the date of issue of the letter.

*Dr. (Prof.) Chander Shekhar Shetty refrained from discussion for this matter because of "conflict of interest" as he serves on the Board of the concerned hospital.

16. Appeal against order dated 12.09.2011 passed by Uttarakhand Medical Council filed by Sh. Bhavar Singh Bhati (F.No. 492/2010).

The Ethics Committee considered the appeal of Sh. Bhavar Singh Bhati against the order dt. 12.9.2011 passed by Uttarakhand Medical Council and noted that both the parties were asked to appear before the Ethics Committee and they did so.

After hearing both the parties, the committee was surprised to note that the respondent had not received any communication regarding the punishment awarded by the Uttarakhand Medical Council so that they were given an opportunity to collect the relevant order/documents from the Uttarakhand Medical Council. However, a copy of the appeal as well as information available on records and decision of the Uttarakhand Medical Council were handed over by the Medical Council of India to all the doctors concerned and they were asked to appear before the Ethics Committee at its subsequent meeting along with all the relevant/ supportive documents.

17. Appeal against order dated 14.10.2011 passed by Uttar Pradesh Medical Council filed by Sh. Sudhir Kumar Srivastava (F.No. 272/2011).

The Ethics Committee considered the appeal of Sh. Sudhir Kumar Srivastava against the order dt. 14.10.2011 passed by the Uttar Pradesh Medical Council and noted that both the complainant Sh. Sudhir Kumar Srivastava and alleged doctor Dr. Vipul Shah appeared before the Ethics Committee. Dr. Vipul Shah raised the objection on the ground of jurisdiction of the Uttar Pradesh Medical Council to have reviewed its previous decision. According to him, it was not maintainable. It was also informed to both the parties that an FIR was lodged in this case and the matter has been pending in the Hon'ble Supreme Court. Taking both the issues in to consideration, it was felt that a legal opinion should be obtained from the retainer advocate of the Council in this matter before proceeding further and also to confirm whether the delay in filing the first appeal against the order of the Uttar Pradesh Medical Council could be condoned in this case.

18. Complaint from Dr. M. Narayanan, IMA, Valluvanad Branch against Dr. M.V. Prasad, MBBS Reg. No. 24560 from Travancore Cochin Medical Council. (F.No. 588/2011)

The Ethics Committee considered the complaint from Dr. M. Narayanan, IMA, Valluvanad Branch against Dr. M.V. Prasad, MBBS Reg. No. 24560 from Travancore Cochin Medical Council and decided to refer the matter to the concerned State Medical Council for further action at their end.

19. **Complaint against Dr. Surender Pratap Singh working in Pushpanjali Medical Centre under Dr. Vinay Kumar Aggarwal as alleged by Dr. Pankaj Singhal, Dr. M.C. Gupta & Dr. Babu K.V. (F.No. 463/2011)**

The Ethics Committee considered the complaint against Dr. Surender Pratap Singh working in Pushpanjali Medical Centre under Dr. Vinay Kumar Aggarwal as alleged by Dr. Pankaj Singhal, Dr. M.C. Gupta & Dr. Babu K.V. and noted that the documents received in this case from the complainant in support of their complaint needed to be examined by the counsel and one members of the Ethics Committee.

20. **Appeal by Mr. Kamal Kant Sharma against order dated 18/08/2008 passed by Rajasthan Medical Council - Review of recommendations of Ethics Committee of Medical Council of India. (F. No. 487/2008)**

The Ethics Committee considered the appeal along with letter dated 25.01.2011 by Mr. Kamal Kant Sharma against order dated 18/08/2008 passed by Rajasthan Medical Council - Review of recommendations of Ethics Committee of Medical Council of India and noted that as per the Hon'ble "*Supreme Court has laid down the law that there is no provision to review its own decision*" (*Patel Chunibhai Dajibha V. Naravanrao Khanderao Jambekar & Anr., AIR 1965 SC 1457; and Harbhajan Singh V. Karam Singh & Ors., AIR 1966 SC 641*), (*Patel Narshi Thakershi & Ors. V. Shri Pradyumansinghji Arjunsinghji, AIR 1970 SC 1273; Maj. Chandra Bhan Singh V. Latafat Ullah Khan & Ors., AIR 1978 SC 1814; Dr. Smt. Kuntesh Gupta V. Management of Hindu Kanya Mahavidhyalaya, Sitapur (U.P.) & Ors., AIR 1987 SC 2186; State of Orissa & Ors. V. Commissioner of Land Records and Settlement, Cuttack & Ors. (1998) 7 SCC 162; and Sunita Jain V. Pawan Kumar Jain & Ors., (2008) 2 SCC 705, this court held that the power to review is not an inherent power. It must be conferred by law either expressly/specifically or by necessary implication and in absence of any provision in the Act/Rule, review of an earlier order is impermissible as review is a creation of statute. Jurisdiction of review can be derived only from the statute and thus, any order of review in absence of any statutory provision for the same is nullity being without jurisdiction*).

21. **Placing of Minutes of Ethics Committee on MCI website as recommended by Hon'ble CIC - Reg..**

The Ethics Committee considered the matter with regard to placing of Minutes of Ethics Committee on MCI website and noted the same for compliance from due date.

22. **Approval of the Minutes of Ethics Committee by the BOG's.**

Ethics Committee examined the opinion of the Board of Governors and agreed with the decision of the BOGs regarding Dr. O.P. Murthy. It was also noted that the letter had already been sent on 23.12.2011 to Director, All India Institute of Medical Sciences, New Delhi. It was unanimously decided that another letter should be sent to Director, All India Institute of Medical Sciences, New Delhi regarding the issue of plagiarism for necessary action at their end in reference to Item No.11 of 01.11.2012 of the Ethics Committee meeting.

Ethics Committee further perused the comments/opinion of the Board of Governors regarding Dr. M. Saravana Vivek and it was unanimously felt that lenient view was taken keeping in mind that the doctor in quest is a mere Jr. Resident and not a permanent faculty member. This being the first lapse on the part of the doctor and also keeping in mind the future career of a junior doctor, the Ethics Committee stands by its original decision taken at its meeting held on 01.12.2011.

23. Complaint under "Public Interest Disclosure Resolution" - The complaint as forwarded by the CVC with reference to stem cell banking.

The Ethics Committee considered the matter with regard to complaint under "Public Interest Disclosure Resolution and decided to ask ICMR, Delhi for any guidelines having been issued regarding the subject concerned.

24. Appeal against the activities and order dated 26.10.2007 passed by Rajasthan Medical Council made by Sh. Ajeet Singh Singhvi, IAS (Retd.)- Review of recommendations of Ethics Committee of Medical Council of India. (F.No. 277/2007).

The Ethics Committee considered the matter with regard to appeal against the activities and order dated 26.10.2007 passed by Rajasthan Medical Council made by Sh. Ajeet Singh Singhvi, IAS (Retd.) - Review of recommendations of Ethics Committee of Medical Council of India and decided to call both the parties i.e. complainant Sh. Ajeet Singh Singhvi as well as the doctor concerned in this case for personal hearing.

Let notices be issued to complainant as well as to the alleged doctors to appear before the Ethics Committee at its subsequent meeting along with all the relevant/ supportive documents.

New Delhi, the dated: 17.03.2012

(Dr. Davinder Kumar)
Joint Secretary

APPROVED BY

(Prof. Sneh Bhargava)
Chairman

Dr. Arun Bal
(Convener)

Prof. Kumudini Sharma
(Member)

Dr. Anil Dhal
(Member)

Dr. Y.K. Gupta
(Member)

Dr. Sanjay Gupte
(Member)

Dr. (Prof.) Chander Shekhar Shetty
(Member)

Dr. V. Sakhuja
(Member)

Dr. Atul Sood
(Member)