

Bill No. 280 of 2022

THE PREVENTION OF VIOLENCE AGAINST HEALTHCARE
PROFESSIONALS AND CLINICAL ESTABLISHMENTS
BILL, 2022

By

DR. DNV SENTHILKUMAR S., M.P.

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BILL

*to provide for the prevention of violence against healthcare professionals
and clinical establishments and for matters connected therewith
or incidental thereto.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Violence Against Healthcare Professionals and Clinical Establishments Act, 2022.

Short title and
commencement.

5 (2) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.	<p>2. In this Act, unless the context otherwise requires,—</p> <p>(a) “clinical establishment” means the clinical establishment as defined under clause (c) of section 2 of the Clinical Establishments (Registration and Regulation) Act, 2010; 23 of 2010.</p> <p>(b) “healthcare professionals” includes,— 5</p> <p>(i) a registered medical practitioner, possessing a recognised medical qualification under National Medical Commission Act, 2019; 30 of 2019.</p> <p>(ii) a medical practitioner registered for practicing in any other system of medicine which is recognised under any law for the time being in force; 10</p> <p>(iii) a mental health professionals under the Mental Healthcare Act, 2017; 10 of 2017.</p> <p>(iv) a registered dentist, registered dental hygienist and registered dental mechanic as defined in the Dentist’s Act, 1948; 16 of 1948.</p> <p>(v) a registered nurse, midwife, auxiliary nurse – midwife and health visitor who is registered under Indian Nursing Council Act, 1947; 15 48 of 1947.</p> <p>(vi) occupational therapist, speech therapists, nutritionists, seeking or imparting medical education, pharmacists and para-medical staff who provide healthcare service in clinical establishments; 20</p> <p>(vii) a medical or a nursing student who is undergoing education or training in any system of medicine recognised by any law for the time being in force; and</p> <p>(viii) a person who interacts with the families of patients to facilitate treatment in hospitals such as social worker, bereavement counselors, transplant coordinators and Arogya Mitra appointed under PM-JAY Scheme; 25</p> <p>(c) “prescribed” means prescribed by rules made under this Act;</p> <p>(d) “property” means any property movable or immovable, medical equipment or machinery; owned by or in possession of or under the control of any healthcare professionals or clinical establishment; and 30</p> <p>(e) “violence” means an act which causes or may cause any harm, injury or endanger of the life of or intimidation, obstruction or hindrance to any healthcare professional in discharge of his duties or causes any damage or loss to the property or reputation of a healthcare professional or a clinical establishment. 35</p>
Prohibition of violence.	<p>3. Any act of violence and targeted violence based on caste, gender, religion, language, place of birth against a healthcare professional or a clinical establishment shall be prohibited and mitigated at all levels.</p>
Cognizance of offence.	<p>4. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any offence committed under this Act shall be cognizable and non-bailable and triable by the Court of Judicial Magistrate of the First Class. 40 5 of 1974.</p>
Penalties.	<p>5. (1) Whoever, commits or attempts to commit or abets or incites the commission of any act of violence in infringement of the provisions of</p>

section 3, shall be punished with imprisonment which shall not be less than six months but which may extend up-to five years and with fine which shall not be less than rupees five thousand but which may extend upto rupees five lakh.

45 of 1860. (2) Whoever, while committing an act of violence cause grievous hurt as defined under section 320 of the Indian Penal Code, 1860 to any healthcare professionals, he shall upon conviction be punished with imprisonment for a term which shall not be less than three years, but which may extend to ten years and with fine which shall not be less than two lakh rupees but which may extend to ten lakh.

2 of 1974. 6. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the aggrieved healthcare professional inform the officer-in-charge of concerned police station of the commission of an offence under this act and if he so desires request the support of the head of the clinical establishment for making complaints in such manner as may be prescribed.

Information of offence.

2 of 1974. 7. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, any case registered under this Act shall be investigated by a police officer not below the rank of Deputy Superintendent of Police.

Investigation of offence.

25 8. (1) For acts of violence punishable under this Act, in addition to the punishment provided for the offences under section 5, the convicted person shall be liable to pay by way of compensation an amount equivalent to twice the amount of fair market value of the damaged property or the loss caused as may be determined by the competent court.

Compensation.

(2) The compensation for causing hurt or grievous hurt to healthcare professionals and damage cause to clinical establishments shall be as per degree of harm inflicted as may be decided by competent court.

30 (3) If the convicted person fails to pay the compensation under sub-section (1) the said sum shall be recovered as an arrear of land revenue under the Revenue Recovery Act, 1890 in such manner as may be prescribed.

9. It shall be the responsibility of every healthcare professional or clinical establishment, as the case may be to,—

35 (a) ensure that patients do not wait for long duration for their treatment or consultation;

(b) ensure that all information about patients and their medical records are available to the family members and the patient or their family members shall be entitled to obtain second opinion;

(c) ensure that there is no information asymmetry to patients;

40 (d) establish appropriate grievance redressal system in clinical establishments;

(e) strengthen hospital security including interlocking with nearby police station;

45 (f) ensure transparency on rates of consultation, investigations, rents and other expenses of hospitals;

(g) ensure mandatory reporting of the violence against healthcare professionals and the clinical establishment including creating a panel to investigate cases of violence against healthcare professionals;

(h) display the constraints under which most healthcare professionals operate and sensitise the public visiting clinical establishments; and 5

(i) change the curriculum of the medical education and include the concurrence of cognitive skills, psychomotor skills and empathic skills.

Establishment
of District
Committee.

10. (1) The Central Government shall, by notification in the Official Gazette, establish a District Committee or for such area as may be specified in such notification to hear appeals and grievances of the victims of medical negligence or mismanagement under this Act and to aid and advice such victims for taking recourse to an appropriate forum for a suitable relief including dealing with issues in insurance claiming by the patients. 10 15

(2) The District Committee shall convene every month.

(3) The District Committee shall provide suitable relief to the parties within two sittings.

(4) Notwithstanding anything prescribed in this Act, the deliberations made hereto may be held by a court of law of competent jurisdiction within the territories of the country. 20

(5) The Committee established under sub-section (1) shall consist of—

(a) the Member of Parliament of the respective constituency who shall be the Chairperson of the District Committee; and 25

(b) one expert each from the field of medicine, law, consumer movement, health management and human rights to be appointed by the Central Government in such manner as may be prescribed.

(6) Any appeals, arguments or rebuttals presented to this effect by either of the parties shall be kept transparent and open for media and public scrutiny without any prejudices. 30

(7) The salary and allowances payable to and other terms and conditions of service of experts mentioned in the sub-section (4), and the procedure to be followed by the committee shall be such as may be prescribed.

Central
Government
to provide
requisite funds.

11. The Central Government shall provide after due appropriation made by Parliament by law in this behalf, necessary requisite funds, from time to time, for carrying out the purposes of this Act. 35

Power to
remove
difficulties.

12. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty: 40

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

Power to make
rules.

13. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act. 45

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately
5 following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such
10 modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The violence against healthcare service personnel is not only endemic to India but also in western countries where over the years the violence against them has been reduced in western countries due to increase spending in healthcare and deterrent act which tends to prevent the violence against healthcare workers.

According to a study made by the Indian Medical Association, more than 75 per cent. of the doctors have faced some form of violence while on duty. The violence is not just physical they also face verbal abuse almost every day. Many states have enacted laws to prevent violence against healthcare professionals and damage to hospital property.

However, various lacuna exists in the State acts. The need is to focus on both positive deterrence and negative deterrence.

As already mentioned there are acts to prevent the violence but excessive focus on increasing punishment and penalties is simply not working unless the underlying cause of violence is addressed. The need is also to consider the most significant aspect which is the conduct or state of mind that specifically focus on targeted violence. The important dimension which lead to violence against healthcare service workers in the government and private hospitals is long waiting period, patients relatives feel that the doctors are not giving enough attention, trust deficiency etc. The need is to provide a mechanism to act as positive deterrence, to state a few, optimizing the long waiting period, a good grievance addressal and redressal mechanism, displaying the constraints under which healthcare service personnel works, etc. which will sensitize the public visiting hospitals. The change in medical education curriculum is one such measure in this regard where Medical Council of India has proposed new teaching learning approaches which includes structural longitudinal programme on “AETCOM”. The grief counseling should be the essential part of medical training. The need is also to establish a committee chaired by the Member of Parliament which will hear the appeals and grievances of the victims of medical negligence or mismanagement and to aid and advice such victims. It is also required that an investigation panel be created by the clinical establishment to investigate the case of violence against the healthcare workers. The mere increase of punishment does not serve the deterrence purposes whereas the same act has to better enforced or which increase the likelihood of being caught and ensuring speedier consequences. The present Bill not only merely focuses on punishment but also address the other parameters which lead to violence. It will ensure that all the healthcare service personnel have the right to work in a safe and secure work place which is free of violence and also secure the rights of patients.

Hence this Bill.

NEW DELHI;
August 8, 2022.

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FINANCIAL MEMORANDUM

Clause 10 of the Bill provides for establishment of district-wise Committee to provide timely assistance to the victims of medical negligence. It also provides for appointment of experts to the Committee. Clause 11 provides for the Central Government to provide adequate funds for carrying out the purposes of this Act. The Bill, therefore, if enacted and brought into operation, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees fifty crore of recurring expenditure per annum would involve from the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

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