

13th January, 2021

Minutes of the Delhi Medical Council meeting held on 06th January, 2021 in the Lecture Theater Ground Floor, Pathology Block, Maulana Azad Medical College, New Delhi-110002, is placed opposite for your kind perusal.



President, DMC



(Dr. Girish Tyagi)
Secretary, DMC

Minutes of the Council meeting of the Delhi Medical Council held on 06th January, 2021 in Lecture Theater, Ground Floor, Pathology Block, Maulana Azad Medical College, New Delhi-110002.

A meeting of the Delhi Medical Council was convened on 06th January, 2021 for 2.30 pm in Lecture Theater, Ground Floor, Pathology Block, Maulana Azad Medical College, New Delhi-110002.

The following were present:-

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| 1. | Dr. Arun Gupta | President |
| 2. | Dr. Naresh Chawla | Vice-President |
| 3. | Dr. Raghav Aggarwal | Member |
| 4. | Dr. Narendra Saini | Member |
| 5. | Dr. P.N. Pandey | Member |
| 6. | Dr. Manish Narang | Member |
| 7. | Dr. Manish Kumath | Member |
| 8. | Dr. Maneesh Singhal | Member |
| 9. | Dr. Vijay Dhankar | Member |
| 10. | Dr. Rajeev Sood | Member |
| 11. | Dr. Saudan Singh | Member |
| 12. | Dr. Sushil Kumar | Member |
| 13. | Dr. Ashwini Dalmiya | Member |
| 14. | Dr. Rakesh Kumar Gupta | Member |
| 15. | Dr. Anil Kumar Bhalla | Member |
| 16. | Dr. Pankaj Solanki | Member |
| 17. | Dr. Ashwani Goyal | Member |
| 18. | Dr. Subhash Aggarwal | Member |

The following member could not attend the meeting:-

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| 1. | Dr. N.N. Mathur | Member |
| 2. | Dr. Niket Verma | Member |
| 3. | Dr. Mridu Dudeja | Member |
| 4. | Dr. Harish Gupta | Member |
| 5. | Dr. Prem Kumar Aggarwal | Member |
| 6. | Dr. Anil Kumar Jain | Member |
| 7. | Dr. Nutan Mundeja | Member |

The following agenda was discussed:-

1. Minutes of the meeting held on 15th October, 2020.

The Minutes of the election of the President and the Vice President of the Delhi Medical Council held on 15th October, 2020 were circulated to all the members present, for information.

2. Minutes of the meeting held on 27th October, 2020.

The minutes of the Election of four members of the Executive Committee of the Delhi Medical Council and election of the Chairman, Disciplinary Committee of the Delhi Medical Council held on 27th October, 2020 were circulated to all the members present, for information.

3. To constitute various Sub-Committee of the Council.

The Council unanimously authorizes the President to constitute the Committee/Sub-Committee for carrying the functions of the Council.

4. Any other item with permission of Chair.

- (i) Dr. Manish Narang raised the issue of nomination of one member amongst the elected members of the Delhi Medical Council in Medical Advisory Council in the National Medical Commission, was taken up for consideration before the Council.

The Council unanimously agreed that since new Council has been reconstituted, the process of nominating one member amongst the elected members of the Delhi Medical Council in Medical Advisory Council in the National Medical Commission, be initiated. The Registrar was directed to take necessary steps in this regard.

- (ii) **To discuss the issue for online CME/Webinar Accreditation.**

The Council unanimously agreed that there is need for having provision for grant of accreditation to online CME.

The President requested the members to examine the already circulated document of accrediting online CME/ Webinar Accreditation and to revert back to the office of the Delhi Medical Council with their views/comments within two days, so that the same can be taken into consideration before finalizing the matter.

- (iii) The President briefed the members about the document of the Disciplinary Mechanism, in place, in the Council for examining the complaint of medical negligence/professional misconduct against a registered medical practitioner which has already been approved by the Executive Committee of the Delhi Medical Council. The same document was circulated and the same was approved by the Council. The same is appended herewith as **Annexure 'A'**.
- (iv) A letter F.No.1(136/137)/Estate Cell/MC/92 dated 04.01.2021 from the Maulana Azad Medical College, Govt. of NCT of Delhi, New Delhi-110002 requesting for vacating the Room No.356 and Room No. 357 in the Department of Community Medicine, 3rd Floor, Pathology Block, which are in possession of the Delhi Medical Council, was taken up for consideration before the Council.

The Council observed that since the Delhi Medical Council's office will be shifting to the new premises i.e. DMRC IT Park, Shastri Park, Metro Station, Delhi very shortly and the Room No.356 and 357 houses many cabinets and almirahs which contain important files and records of the Council; the Dean, Maulana Azad Medical College be requested to either allot alternative suitable safe place for keeping those almirahs/cabinets or may bear with the Delhi Medical Council, till the office is shifted to DMRC IT Park, Shastri Park, Metro Station, Delhi, subsequent to which, the vacant position of Room No.356 and Room No. 357 in the Department of Community Medicine, 3rd Floor, Pathology Block will be handed over to the Maulana Azad Medical Council.

- (v) To discuss cases of medical negligence and unethical conduct.
- (a) The Order of the Executive Committee in complaint No.2952 of Shri Tarun Sharma, r/o- O-35, Near MCD Primary School, Block-O, Krishna Vihar, Delhi, forwarded by the Medical Council of India alleging medical negligence on the part of Dr. V.K. Aggarwal of Dr. Vikas Hospital, E-253B, Krishan Vihar (Near Laxmi Dairy), Delhi-110086, in the treatment of complainant, was confirmed by the Delhi Medical Council.
- (b) The Order of the Executive Committee in complaint No.2973 of Shri Sunil Kumar Gupta, r/o- Flat No.87, Pocket-16, DDA Flats, Sector 03, Dwarka, New Delhi, alleging medical negligence on the part of Dr. Puneet Dwivedi, DLF, Phase 1, Gurugram, Dr. Shikha Gupta, Ghaziabaad and Dr. Kunal Kumar, Flat No.1B,

DDA SFS, Pocket-2, Sector 06, Dwarka, New Delhi, in the treatment of complainant, was confirmed by the Delhi Medical Council.

- (c) The Order of the Executive Committee in complaint No.3045 of Shri Himanshu Singhal, r/o A-81, Phase-2, Ashok Vihar Delhi-110052, alleging professional misconduct on the part of Dr. Satvinder Kapoor of Max Super Speciality Hospital Shalimar Bagh New Delhi and Max Hospital Saket, in the treatment of complainant's son Master Parv Singhal, was confirmed by the Delhi Medical Council.
- (d) The Order of the Executive Committee in complaint No.3107- a representation from Dy. Commissioner of Police, Shahdara District forwarded by the Health & Family Welfare Department, Govt. of NCT of Delhi, seeking medical opinion on a complaint of Shri Rahul Sharma r/o A-81, Gali No. 02, Gokalpur Village, Delhi-110094, alleging medical negligence in the treatment of complainant's wife Smt. Divya and her new born baby at Jain Charitable Hospital, Gandhi Nagar, Delhi, resulting in the death of new born baby on 16.7.2020, was confirmed by the Delhi Medical Council.
- (e) The Order of the Executive Committee in complaint No.3061 of Shri Chander Kant Singhal, 1083, Multani Mohalla, Rani Bagh, New Delhi-110034 alleging medical negligence on the part of Dr. Mahipal S. Sachdev of Center for Sight, B5/24, Safdarjung Enclave, New Delhi-110029, in the treatment of complainant's daughter Ms. Varnika Singhal, was confirmed by the Delhi Medical Council.
- (vi) To discuss the nomination of a legal expert to the Disciplinary Committee.

On the proposal of President, the Council unanimously nominated Shri Bharat Gupta to be a legal expert in the Disciplinary Committee

Meeting ended with vote of thanks to the Chair.


(Dr. Girish Tyagi)
Secretary

Disciplinary Mechanism in the Council

(i) **Criteria for examining complaint against a registered medical practitioner.**

All complaints of medical negligence/professional misconduct against a registered medical practitioner received in the Delhi Medical Council are first screened by the Executive Committee or in consultation with a medical specialist to which the complaint pertains and if at that stage the Executive Committee is of the opinion that prima-facie no case of medical negligence or professional misconduct is made out then the same can be disposed vide a speaking Order. If required, the Executive Committee may hear the parties before deciding the case. However, in case the Executive Committee is of the view that the matter cannot be disposed in the Executive Committee of and the same require detailed investigation; such cases are referred to the Disciplinary Committee for hearing. On the date of hearing or any other date to which hearing is adjourned, it is obligatory on the parties to appear before the Disciplinary Committee of the Council. Where the complainant fails to appear on such days, the Disciplinary Committee may in its discretion either dismiss the complaint for default or decide it on merits, where the opposite party fails to appear on the date of hearing, the Disciplinary Committee may decide the complaint ex-parte. The decision of the inquiry is put up for confirmation before the Council and after the same is confirmed, it is communicated to the respective parties and to other as may be required.

- (ii) It is observed that many times complaints have been received in the office of the Delhi Medical Council including forwarded by the various authorities, which do not meet the statutory requirements as specified under Rule 32 of the Delhi Medical Council Rules, 2003, as in most cases the same are unsigned being e-mail or do not specify the address of the complainant. It is observed that the Delhi Medical Council is a statutory body and one of its functions is to examine complaints of medical negligence/professional misconduct against registered medical practitioner. In discharging this function, it acts as a quasi-judicial authority exercising the power of a civil court and the proceedings conducted by are in nature of judicial proceedings within the meaning of Section 193, 219 & 228 IPC. The Rule 32 of the Delhi Medical Council Rules, 2003 is a statutory provision which lays down the particulars, which a complaint needs to contain i.e :-

- (a) *the name, description and address of the complainant;*
- (b) *the name, description and address of the opposite party or parties, as the case may be, as far as they can be ascertained;*
- (c) *the facts relating to the complaint, when the cause of action arose and what are the grounds or causes of the complaint;*
- (d) *the documents in support of the complaint if any;*
- (e) *the relief which the complaint claims.*

It specifically states that no complaint shall be entertained unless it is in writing and signed by the person making it. The complaint shall be verified by the complainant. The complainant shall file six copies of the complaint along with such number of copies as there are opposite parties in the complaint. All anonymous and frivolous complaints shall be rejected.

The Council has shared these observations with the Health & Family Welfare Department, Govt. of NCT of Delhi, Medical Council of India, Directorate General of Health Services, Govt. of NCT of Delhi, Police, Health and Family Welfare Department, Govt. of India, with a request that they may kindly intimate to all persons who make complaint to comply with the requirements under Rule 32 of the Delhi Medical Council Rules, 2003, which is available on the website of the Delhi Medical Council (www.delhimedicalcouncil.org) link/About Us, DMC Act, 1997, so that the complaint may be considered for examination.

(iii) Hearing before the Executive Committee.

All matters where, prima-facie, case of medical negligence or professional misconduct is made requiring detailed investigation, the same is referred to the Disciplinary Committee where hearing of all the parties concerned is held in terms of Rule 32 of the Delhi Medical Council Rules, 2003 and the complaint is determined vide a reasoned Order.

The Executive Committee may also hear the parties (complainant/ respondents) before deciding the cases of professional misconduct and negligence, in the interest of natural justice which will provide an opportunity for parties (complainant/respondents) of being heard and to put their points of views regarding complaint.

(iv) Issue of acceptance of the decision of the Disciplinary Committee.

All decisions/Orders of the Executive Committee and the Disciplinary Committee pertaining to the complaints of medical negligence/professional misconduct against a registered medical practitioners are put up to the Council for confirmation and once the same is confirmed, it is released to the parties or concerned authorities. However, in case of exigency where calling of Council meeting may not be feasible, the President may confirm the same on behalf of the Council.

The Council taking note of the fact that there is no provision for review of Order passed by the Disciplinary Committee, has passed the following resolution, in regard to issue of acceptance of the decision of the Disciplinary Committee :-

“In case where more than fifty percent (50%) of the members of the Council present and sitting in the meeting of the Council, do not agree with the decision of the Disciplinary Committee in a particular case, the Council may revert back to the Disciplinary Committee for reconsideration. This direction shall be used sparingly with abundant caution and only exceptional cases in the interest of justice. In case of Disciplinary Committee after re-appreciating the evidence before it re-affirms its earlier decision or modifies the same in that particular case, the same shall be binding upon the Council and the matter would stand finally determined”.

In order to promote transparency, the Council has directed that all the matters enquired by the Delhi Medical Council should reflect the Committee which has examined the same alongwith the final decision of the Council.

(v) Issue of appearance of lawyers/pleaders in the Disciplinary Committee.

The Council noted the provision 8.2 of the Indian Medical Council (Professional Conduct, Etiquette and Ethics), Regulations 2002 wherein it is mentioned that *“upon receipt of any complaint of professional misconduct, the appropriate Medical Council would hold an enquiry and give opportunity to the registered medical practitioner to be heard in person or by pleader”.*

The Council further noted provision of Rule 32 of the Delhi Medical Council Rules, 2003, which specify the procedure on receipt of complaint that “*on the date of hearing or any other date to which hearing could be adjourned, it shall be obligatory on the parties to appear before the Council*”.

The Council observed that for proper and effective determination of issues of medical negligence, it is imperative that the parties involved with the case especially the doctors who have treated the patient should be examined in person. Permitting the parties to appear through pleader would defeat the whole purpose of enquiry. Hence, we do not see any merit in allowing parties to appear through pleaders.

(vi) Time limit for filling of complaint with the Delhi Medical Council.

It is observed that in terms of the Regulation 1.3.1 of the India Medical Council (Professional Conduct, Etiquette and Ethics), Regulations, 2002, a physician is required to maintain the medical records pertaining to his/her indoor patients for a period of 3 years from the date of commencement of the treatment. It will, therefore, be appropriate, that the Delhi Medical Council shall not admit/entertain a complaint of medical negligence or professional misconduct unless it is file within three years from the date of which the cause of action has arisen. However, if the Council, in its wisdom, deem just and appropriate it may entertain complaint file beyond period of 3 years, after recording its reasons for the same.


(Dr. Girish Tyagi)
Secretary