

Bill No. 151 of 2019

THE PREVENTION OF VIOLENCE AGAINST DOCTORS, MEDICAL
PROFESSIONALS AND MEDICAL INSTITUTIONS BILL, 2019

By

DR. SHRIKANT EKNATH SHINDE, M.P.

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BILL

*to provide for the prevention of violence against doctors, medical professionals and
medical institutions and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Violence Against Doctors, Medical Professionals and Medical Institutions Act, 2019. Short title and commencement.

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

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “doctor” means a person who is qualified in modern allopathic medicine and surgery or allied procedure (radiology, physiotherapy, psychology, occupational therapy, diet and nutrition) along with that of practitioners of Homocopathy, *Ayurveda*, *Unani* system of medicine, *Yoga* and naturopathy, *Siddha* or any other form of treatment as recognized by the Medical Council of India, Dental Council of India, Ministry of Health and Family Welfare, Ministry of AYUSH, College of Physicians and Surgeons or any other recognized body by the Government of India and also those in possession of a recognized degree or professional qualification sought overseas to Indian soil to treat people who are sick or come to him for any form of service, advice or consultation;

(b) “medical professionals” means all those people who practice or profess services associated to medical profession including those of nurses, radiologists, technicians, medical social workers, pharmacists, medical administrators, para-medical staff and practitioners including those seeking or imparting medical education, as the case may be;

(c) “medical institutions” means all institutions involved in discharge of medical or corresponding services including government or private hospitals, teaching institutes, primary health centres, dispensaries, pharmacies, radiology or imaging centres, casualty and trauma care centres, health and wellness centres, management and consulting centres, pharmacy, mobile medicare units, e-medicine and tele-medicine centres;

(d) “offenders” means a person who either by himself or as a member or leader of a group of persons or organization commits or attempts to commit, abet, provoke or incite the commission of violence under this Act;

(e) “property” means any property movable or immovable, medical equipment or machinery; owned by or in possession of or under the, control of any doctor, medical professional or medical institution;

(f) “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 doctor or medical professional in discharge of his duties, or causes to be the reason for any damage or loss to the property or reputation (inordinately) of a doctor, medical professional or a medical institution;

(g) “witness” means an observer, on-looker, spectator or any other person ordinarily present at ‘*locus-delicti*’ irrespective of his affinity to the doctor, medical professional or the medical institution in question; and suffers any loss or damage by virtue of his presence at the place of offence; and

(h) “prescribed” means prescribed by rules made under this Act.

Prohibition of violence.

3. Any act of violence against a doctor, medical professional or medical institution shall be prohibited and mitigated at all levels.

Cognizance of offence.

4. Any offence committed under this Act shall be cognizable and non-bailable and triable by the Court of Judicial Magistrate of the First Class.

Penalty and compensation.

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 section 3, shall be punished with imprisonment which shall not be less than two years but which may extend upto five years and with fine which shall not be less than rupees five thousand but which may extend upto rupees five lakh in addendum to recovery of the entire damage to the property or belonging of all concerned including the witnesses if any; in actual.

(2) If the accused does not pay or is financially incompetent to pay the penalty at that time it shall be recovered as if it were an arrear of land revenue and any property belonging

45 of 1860. to his immediate relatives (as per the existing provisions of the Indian Penal Code 1860), may be attached in recovery of the said penalty.

6. It shall be the responsibility of every doctor, medical professional or medical institutions, as the case may be, before start of any treatment or procedure to make an explanatory note containing:—

Explanatory Note.

(a) the present medical condition of the patient;

(b) expected procedures and treatment;

(c) possible outcome;

(d) expected time to be taken for recovery;

10 (e) chances of failure of the prescribed procedures; and

(f) expected expense per unit of medication, procedure, treatment and service pertaining details as applicable, to be provided with, and categorically explained to the patient in person or his nearest kin, attendant or escort, as the case may be and a confirmation of understanding either in writing or a verbatim ascent in front of minimum two attesters shall also be obtained:

Provided that such explanatory note does not limit the doctor or the medical professional to cater to any emergency or trauma case without obtaining the patient's or his relative's ascent and the medical professional shall listen to the call of the duty first and the explanation may be made at a later stage as early as convenient to both the parties.

20 **7. (1) The Central Government shall, by notification in the Official Gazette, in order to provide able and timely assistance to the victims of medical negligence or mismanagement, establish a District-Wise Committee or for the area as may be specified in such notification to hear appeals and grievances of the victims of medical negligence or mismanagement and to aid and advice such victims for taking recourse to an appropriate forum for a suitable relief and at its own cost:**

Cases of medical negligence.

25 Provided that the maximum time to provide for a suitable relief to the parties shall not exceed four sittings and one month.

(2) 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 Union of India.

(3) **The Committee established under sub-section (1) shall consist of experts one each from the field of medicine, law, consumer movement, health management and human rights and shall be chaired by the Member of Parliament of the respective constituency.**

35 (4) 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.

(5) The salary and allowances payable to and other terms and conditions of service of experts mentioned in the sub-section (3), and the procedure to be followed by the committee shall be such as may be prescribed.

40 **8. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide, from time to time, adequate funds for carrying out the purpose of this Act.**

Central Government to provide funds.

45 **9. (1) 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 may appear to be necessary for removing the difficulty:**

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of a period to two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

Act to have overriding effect.

10. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

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Act to supplement other laws.

11. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

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

(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 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 modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

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STATEMENT OF OBJECTS AND REASONS

India is the second most populous country in the world with a little over 1.36 billion people. It is a home to almost eighteen per cent. of the world population with the surface area share of just two per cent. (of the world). It being a developing economy, increased urbanization rapid deforestation, little or no check on pollution levels, it's geographical position (making it more prone to tropical diseases) coupled with equally dense population; it is buy natural, that the health condition of this country could not be the best. Rising cost of health & care services and shortage of enough doctors and medical centres makes the problem all the more gruesome. On an average, this country has 1 doctor to every 1700 patients. This is a national average and the condition is even worse in rural areas. No wonder why; seldom; the sudden impulse of revenge from his miseries is outpoured on a doctor in its entirety by an ignorant common man.

Over seventy-five per cent. of doctors across country are reported to have faced atleast some form of violence. The cases of violence against doctors by kins or attendants of patients has become a serious problem off-late compelling many doctors and medical professionals to go out on stike for days seeking security of themselves and their belongings. Some studies have shown that doctors face maximum violence when providing emergency services with close to forty-nine per cent of such incidences reported from ICUs or after a patient had undergone surgery. Reasons attributed to this violence range from variety of issues including prescription of unnecessary investigations, delayed and unsatisfactory approach of a doctor in attending the patients, medical bills far higher than the estimated expense, request of advance payments to withholding a deceased body until settlement of final billing and many more. Broadly speaking a common factor attributing to strife between doctors, medical institutions and the patients in alomost all cases is the lack of transparency and trust with respect to the procedures and pricing.

Doctors are care givers, the most-noble profession and have been deemed next to God from times immemorial. It is only in recent times that the assault on doctors and vandalism of medicals institutes has started gaining prominence. Ever increasing prices of drugs, equipments, consumables etc.; availability of substandard and unresearched information at the finger tip; declining personal connect of a doctor with his patient; would to mouth feedback platforms without enough medical justification and many more have all contributed their bit in creating a disaccord between a Doctor-Patient relationship. Absence of a stringent Union Law with appropriate provisions and punishments for the offenders has also contributed severely in furthering the number of cases of violence against doctors, medical professionals and medical institutions. Need for a harmonious, transparent and trustworthy relationship between a doctor and his patient is the most-dire need of this country more-so because of the already meager number of doctors and care givers that we have at present.

The Bill, therefore, seeks to provide for the prevention of violence against doctors, medical professionals and medical institutions in the most amicable manner.

The Bill seeks to achieve the above objectives.

NEW DELHI;
June 26, 2019.

SHRIKANT EKNATH SHINDE

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for establishment of district-wise Committee to provide timely assistance to the victims of medical negligence. Clause 8 provides that the Central Government shall, after due appropriation made by Parliament by law in this behalf, provide, from time to time, adequate funds for carrying out the purpose 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 one hundred 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 12 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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(Dr. Shrikant Eknath Shinde, M.P.)