Sometime back clarification was sought from the Medico-legal Group of Indian Academy of Paediatrics that it has observed Bonnisan liquid and Liv-52 preparations are being prescribed by some doctors. Can practitioners of modern medicine i.e. Practitioners of Modern System prescribe ayurvedic medicines?1

Medico-legal Group had stated: “The Apex Court in the Poonam Varma vs. Ashwin Patel case has ruled that if you are practicing any other system it is Negligence per se. The other side of this issue is that in many developing countries where rural health is important and qualified practitioners are not available the authorities are appointing community health workers (CHW). These CHW are provided with some of the common medicines which can be used for domiciliary management of common illnesses. Do they have the deep and complete knowledge of these illnesses or medicine? If an unqualified CHW can prescribe or dispense medicines why a graduate in medical curriculum (traditional or homoeopathic) cannot do so? This issue also needs a countrywide medical and legal debate.”

Gulati has aptly stated that the Supreme Court ruling forbids the doctors of modern medicine from prescribing / administration of non-allopathic drugs (such as Ayurvedic, Unani, Siddha or Homoeopathy) by rendering them liable to prosecution under both civil and criminal laws leading to cancellation of registration and/or imprisonment. As such they are liable to be labeled as ‘quacks’ per se without further evidence or argument.2 Paradoxically, some High Courts eg. Tamilnadu HC (Tamil Nadu Siddha Medical Graduates Association, Vs. Smt. Letika Saran, Cont. P. No. 775 of 2010, decision dated 23.07.2010) and State commissions (Manpreet Kaur Vs. Dr. Veena Ghumber I 2005 CPJ 63) have pronounced that a practitioner of Indian system of medicine can prescribe drugs of modern medicine. But the overall situation has not changed much since then, cross-pathy is legally not allowed. In judiciary the decision of SC will always be binding on lower courts unless and until SC reviews its decision. The health care facilities in our country are dismal and far from satisfactory. There is mal-distribution of health care personnel in urban and rural set-ups. Despite strong exception taken by Medical Profession at large Government is bent on creating C.H.W. programme. This will lead to reverse the principle laid by Supreme Court. It would be prudent Medical organisation and M.C.I. should file a P.I.L. in Supreme Court to have a relook at the issue in context of these changes.

Legal Issues

1. **Supreme Court judgement:**
   A person can practice only that therapy for which he/she has a degree / recognised qualification or experience.

2. **Medical Council of India. Clause 1.1.3 of MCI prohibits the allopathic practitioners to prescribe ayurvedic or homoeopathic drugs.**

On 21st November 2010 issue of cross system medical practice was discussed at Jamshedpur, Jharkhand during the First National Conference of Medico-legal Group of the Indian Academy of Paediatrics. The issues discussed are presented here.
Who is a Genuine Medical Practitioner?

Any individual who has acquired a qualification / degree from an institute which is recognised by its registering authority, like Medical Council of India, Dental Council of India, Homoeopathic, Ayurvedic or Unani System of medicine, and is registered with respective authority is a genuine medical practitioner for that specific system. In case an individual acquires degrees for two different systems, eg, a person who had passed BHMS and later studied and passed MBBS examination, can practice homoeopathy as well as allopathy provided he/she is registered with both authorities. All other persons should be treated as quacks or fraudulent medical practitioners.

According to Supreme Court any person who claims to be expert is a quack unless he has an adequately standardised training / qualification for these supposed / specific specialties. There are many people who may be teachers, clerks or shopkeepers and claim that they have learned homoeopathy as hobby, or many who claim they have learned the art of healing backache and many other ailments. Surprisingly the government has bracketed yoga experts and siddha or naturopaths with ayurvedic, homoeopathic and unani system qualified persons under AYUSH ie. ayurveda, yoga experts, unani, siddha (naturapaths) and homoeopaths.

The issue regarding community health workers prescribing or dispensing some medicines is very relevant and pertinent. A compounder, nurse or auxiliary nurse (ANM) has to pass examination after a stipulated period of training of 3-4 years, and then is supposed to administer any medicine which has been prescribed or advised by a doctor. Compounders and nurses are not permitted to administer any medicine on their own. But, community health workers are permitted to administer some medicines by themselves. It would be pertinent to have opinion of legal experts on this issue.

Ayurvedic Medicines Studied by Allopaths

The modern medicine is evidence based, peer reviewed, technologically assisted, preferred by meritorious students and hence probably more accepted. Because of all these advantages and better avenues allopaths shall try to explore the talent and research in other systems for the benefit of human race. The SC forbids prescription or administration of drugs from other systems but research is not forbidden (in fact there are many drugs like Reserpine, Vinblastine etc which are herbal in origin). Many ayurvedic medicines have been studied by the allopathic experts in many institutions including All India Institute of Medical Sciences, New Delhi and found to be effective. It is no one’s case that ayurvedic medicines are not effective. The scientific studies done in institutes have validated the efficacy of these medicines, and must have studied the safety aspect also.

This point is highlighted by manufacturers of ayurvedic drugs. But, this cannot be a reason or argument that, as, these medicines have been found to be effective and safe by experts of modern medicine so practitioners of modern medicine (allopaths) can prescribe these medicines.

If we allopaths justify prescribing those ayurvedic medicines which have been studied by the experts of our own system then a qualified practitioner of other system would have a stronger case to justify prescribing allopathic drugs. Their argument would be that in addition to our own drugs we prescribe or administer those drugs which have been found to be effective and safe by scientific studies. By this criterion a practitioner of any other system would be justified to prescribe an antibiotic as suggested by urine culture and sensitivity report.

Thus any person who prescribes a drug from other system is liable for legal action by a court of law and suitable punitive action by respective authority like Medical Council of India, Dental Council of India, etc. An allopathic doctor cannot prescribe Liv 52 or Calcaria Phos, very popular ayurvedic and homoeopathic drugs respectively. Similarly, a vaid or a homoeopath cannot prescribe Amlodipine in hypertension, Valproic acid in epilepsy and any antibiotic.

Which Products can be Prescribed by Anyone?

The products which are food supplements can be prescribed or purchased by any one, because no prescription is required. Thus over the counter (OTC) drugs like Strepsil, Vicks, Hajmola, Ferradol, Sharkoferrol, Chyavanprash and protein preparations can be prescribed by any one. In fact, most of these products are available and sold without prescription in general stores also. The honorable SC in, C A no. 3541 of 2002, Martin F. D’Souza vs. Mohd. Ishfaq has observed that: No prescription should ordinarily be given without actual examination. The tendency to give prescription over the telephone, except in an acute emergency, should be avoided. A doctor should not merely go by the version of the patient regarding his symptoms, but should also make his own analysis including tests and investigations where necessary. A doctor should not experiment unless necessary and even then he should ordinarily get a written consent from the patient.
Keeping an eye on various judgements of Supreme Court, there is need to prepare a list of some common drugs (may be 8-10) with specific indications from various systems (pathies) which can be included in curriculum and the basic pharmacology of these drugs are taught so that the practitioners can’t be labeled as “Quacks” as pronounced by SC in Poonam Varma case. These can be used for domiciliary treatment of common illnesses like diarrhoea, respiratory infections etc in rural / slum area with referral to higher centres for further management whenever required.

**Licensed Herbal Products**

Some therapeutic indices mention group of ‘licensed herbal products’ under many sections. Bonnisan is mentioned under section drugs for gastrointestinal system, Liv52 under section drugs for hepatic disorders, Abana is mentioned under section drugs for cardiovascular system, Eves Care for menstrual disorders, Septilin as Immunostimulant in various infections. The word drug is derived from the French word ‘drogue’ a dry herb. Drug is defined as any substance used for the purpose of diagnosis, prevention, relief or cure of disease in man or animal. According to WHO “a drug is any substance or product that is used or intended to be used to modify or explore physiological systems or pathological states for the benefit of the recipient”.4 According to The Drugs and Cosmetics Act, it includes all the preparations, whether allopathic or ayurvedic.5 A drug can be sold or supplied by the pharmacist or druggist only on the prescription of a “registered medical practitioner” defined under Indian Medical Degrees Act of 1916. The Indian Medical Council Act regulates modern system of medicine; the Indian Medicine Central Council Act, 1970 regulates Indian Medicine and The Homoeopathic Central Council Act, 1973 regulates practice of Homoeopathic medicine.

On September 29, 2010 this issue was raised with Central Drugs Standard Control Organisation, New Delhi and Medical Council of India, New Delhi: “As per Medical Council of India (MCI) the practitioners of modern medicine i.e., Allopaths are not permitted to prescribe Ayurvedic or Homoeopathic medicines. CIMS published by CMP Media India Private Limited, Bangalore (Jan-April 2010 issue) contains separate section of ‘Licensed Herbal Preparations.’ Does it imply that Allopaths are permitted to prescribe Ayurvedic drugs mentioned under licensed Herbal Preparation?” A reminder was sent on October 17, 2010, but the author has not received any communication from either of them.

**Employment of Practitioners of Other Systems in Hospitals**

A hospital can provide services of practitioners of other systems along with practitioners of modern medicine (Allopaths) under the same roof, provided every practitioner follows her/his system of medicine. It is said that some private hospitals employ Ayurvedic or Homoeopathic doctors as resident medical officers under supervision of consultants. As these are trained and qualified personnel their observations may be accurate but they have to administer allopathic medicines as advised by the consultant. In case it happens to be the fact, this could be considered fraud with the patients who attend that hospital for allopathic treatment by allopaths.

**Cross Practice in Hospitals**

Cross practice is not confined to individual doctors only. Verma et al. conducted a survey of OPD prescriptions of a tertiary care allopathic hospital and an ayurvedic hospital, both belonging to government setup.6 The study found that the prescriptions from tertiary care hospital had 12% ayurvedic drugs, while prescriptions from ayurvedic hospital had 58% allopathic drugs.

**AYUSH Doctors in PHCs**

DNA (Daily News Analysis) Jaipur edition dated December 29, 2010 under caption Union health review mission pulls up state dept over NRHM stated “The Common Review Mission (CRM) of the Union health ministry which came in the state to review the National Rural Health Mission (NRHM) has suggested the state government to depute Ayush doctors at the primary health centres (PHCs) if doctors are not available in the state.”

Primary health centres have allopathic medicines. Will these doctors from Ayush group prescribe allopathic drugs about which they are not well acquainted or their own medicines or alternatively prescribe medicines from two systems i.e. allopathic and their own system? In case a serious adverse reaction occurs following allopathic drug administered by Ayush doctor, he/she may not be able to handle the situation appropriately. Who shall be held responsible in such a situation: Ayush doctor or the appointing authority? It is further stated: “The CRM members were impressed with the performance of Ayush doctors hence they asked the state to depute them at PHCs.”

**Home Remedies**

Many plant products have been found to be
effective in many different ailments. For example clove or clove oil is effective in tooth pain, caraway a type of linseed, called ajwain in Hindi is effective in dyspepsia, Basil plant called tulsi in Hindi, fen liquorice, called mulethi in Hindi and honey have been found to be effective in cough and sore throat. Many more such products have been used as home remedies for centuries and are passed on to generations as grand mothers’ formulae. Many people take the stand that these natural products have been found effective so these may be given as such or as ayurvedic medicines.

A possible solution to all these controversies may be to adopt an integrated approach and formation of AYUSH is probably a step towards this. If we want to achieve health for all, there is need for adequate training, capacity building, and providing infrastructure, empowerment of health workers (including nurses, ASHA, CHW’s etc.) and upgrading of health care centres in rural areas. The practical approach and solutions to all these contradictions related to cross-pathy can be:

1. To conduct integrated course, 4-5 commonly used drugs from different pharmacopoeia may be included in the pharmacology syllabus.
2. An 8-12 weeks training or posting can be done in pathies other than the one in which the students are enrolled for under graduate medical education.
3. An expert or specialists from various branches can be deputed or posted in rural area by giving extra benefits / privileges to supervise the local health workers. A weekly / monthly visits or follow-ups can be planned to guide and empower the local health workers.
4. The possibility of implementing the concept of “bare foot doctors” in our country can also be explored.

Keeping in mind these background situation and the various contradictions related to health care facilities in our country, the authors seek authoritative opinion and guidance from MCI on following issues.

1. Licensed herbal products mentioned in the therapeutic indices.
2. Ayurvedic or homoeopathic drugs being prescribed by the allopathic doctors.
3. Employment of Ayurvedic and Homoeopathic doctors in the hospitals.
4. Some state governments have authorised Ayurvedic and Homoeopathic doctors to prescribe allopathic drugs where there is shortage of Allopathic doctors.
5. Legal and ethical issues involved in permitting community health workers to dispense some medicines to people on their own.

There is need for the Government, judiciary and Medical Councils to look into these vital issues and to frame clear cut guidelines keeping in mind the situation and facilities in our country. There shouldn’t be confusion or paradox in legal, ethical or evidence based scientific recommendations. This is important so as to prevent / decide the cases of medical malpractice and negligence in future.

References