

Proceedings of Seminar on Health and Right to Information Act, 2005 held on
07.04.2018

1. The Central Information Commission organised a seminar on the topic “Health and Right to information Act 2005” on 07 April 2018 at SCOPE Convention Centre, Lodhi road, New Delhi. The seminar began with an address by Hon’ble Chief Information Commissioner, Shri R.K Mathur.
2. Shri R.K. Mathur welcomed all the participants. He stated that with announcement of Ayushman Bharat scheme, this seminar has become even more important. In view of health being a state subject, the seminar has greater importance for the State Information Commissions and representatives from the Health Department of State Governments. Shri Mathur observed that all the schemes have to centre around the citizens. Their information needs should be served both by real time suo-motu disclosures as well as by quick replies in response to RTI applications made to the centre/state government. Information needs should also be met by the private sector, who may be registered under the Clinical Establishment Act or are a service provider under the Ayushman Bharat Scheme or other schemes.
3. The proceedings were thereafter chaired by Shri Yashovardhan Azad, Hon’ble Central information Commissioner, who gave a brief address on the expectations from the seminar.
4. The deliberation began with a presentation on the issue **Right to Health Information, do we have? Prof. M. Sridhar Acharyulu**, Central Information Commissioner. He emphasised on the rights of the patients. They have the right to get their case papers and Medical Council of India (MCI) says this access must be provided within 72 hours of the treatment. Besides the patient’s records must be kept for 3 years. He suggested that case papers, should in fact be provided suo-motu.
5. The next presentation on the **Health and Right to Information Act 2005** was given by **Dr. Sheela Priya**, IAS (Retd.), State Chief Information Commissioner, Tamil Nadu, The Presenter highlighted the issues like

transparency, accountability, good governance, right to know and good governance associated with the enactment of the Act and digitization of Records to minimise human error. In order to make the RTI mechanism robust, it was suggested to ensure compliance of Section 25 of the Act through external audit of all Public Authorities, promotion of RTI by way of increasing the budget allocations, introduction of case tags by each Public Authority for classifying nature of RTI requests and identification of root cause of the request for proactive actions. She emphasised coverage of all private bodies under Clinical Establishment Act. She pointed out that extensive suo-motu disclosures may help in fulfilling the information needs.

6. The subsequent presentation was given by **Shri Alok Saxena**, Joint Secretary, Ministry of Health on **how AYUSHMAN Bharat will pave the way for greater transparency**, improve quality of services provided and increase satisfaction of patients/consumers. He stated that finance is an important part since paying customers (patients) have the right to know how much they are being charged for services and how cost of patient care is covered by insurance. Personal healthcare data should be available in the public domain at one place to improve policy making. He suggested that the model followed by NACO, which involves civil society and is data and evidence driven can be followed. He emphasised that since 74% of healthcare facilities are in the private sector, they should be required to place all information about implementation of Ayushman Bharat in public domain.
7. The next presentation on the issue viz **Clinical Establishment Act and Good Governance in the Health Sector** was given by **Prof. Jayant Kumar Das**, Director, National Institute of Health and Family Welfare. He highlighted the elements of good governance in health sector. He shared his views on importance of Clinical Establishment Act of 2010. He stated that a NIHFV study showed low commitment and slow implementation of the Act. The study found a lack of interest and ownership of the Act. Hospitals are required to take multiple clearances. There is a shortage of

specialists, nurses and paramedical staff. There are financial constraints in implementing the Act.

8. A presentation on **Transparency under the Clinical Establishment Act, 2010 (CEA Act) in the context of RTI Act, 2005** was given by Shri **Sunil Nandraj**, Ex- Advisor, Ministry of Health and Family Welfare. He highlighted various aspects of desirability of registration of Medical Service Providers and creation of a database of essential information regarding both public & private sector Clinical Establishments. He further emphasized on the role of National Council and District Authority constituted under CEA Act, 2010 in collation of information regarding the performance of a particular establishment and placing the same in public domain so that the consumers of services of Clinical Establishments can make an informed decision in choosing a suitable option. He suggested that there must be apps to help patients access health care facilities. Lack of information is a major reason why people fear going to the hospitals.
9. The subsequent presentation on **Health and Right to information- newer paradigms** was given by **Dr. Sabahat S. Azim**, Chief Executive Officer, Glocal Healthcare System Private Limited. He focused on the usage of technologies (block chain, zero knowledge proof) for protecting privacy and ensuring transparency and trustworthiness of medical records. He stated that today Hospitals only give summary data while discharging, instead of giving complete patient data. The result is that most of the medical data lies with others and not with the patient. He said that as information belongs to the individual, it must be given to him. He stated that the Rules under Clinical Establishment Act in West-Bengal exempt all public hospitals from its coverage, which is against the interest of flow of information and transparency.
10. **Dr. V. K. Paul**, Member, Niti Aayog stated that the country has come a long way since 1947. We have eliminated many contagious diseases, the life expectancy has risen from 27 years at the time of independence to the present 69 years. He stated that there is an inherent information asymmetry in the health sector. All measures to reduce this are welcome. Standards are at the heart of any good system. Clear pathways need to be

laid down in the form of guidelines. He suggested that laws like Clinical Establishment Act, RTI Act etc. may come together under a single tribunal system. For information flow, the Government is developing an app that will tell people where a health facility is available. There is also an effort to develop help lines for people who cannot access internet. He emphasised on grievance redressal and the need for private sector entities to be under the RTI Act. He sought suggestions to reach out to the consumers (patients) and educate them. He further added that Ayushman Bharat will require a huge administrative regulation of the public and private health sector. Whoever will come under this scheme, will be required to agree to a broad set of standards of treatment, be willing to disclose information suo-motu and will have to agree to have Ayushman Mitra as the interface with the public space.

11. Shri Shikhar Ranjan from Medical Council of India presented a paper on **Registration by Medical Council of India (MCI) and its jurisdiction**. He informed that MCI receives 50 to 60 RTIs every day, of which 3 to 7 % end up as second appeals. He stated that MCI does not have any jurisdiction over hospitals in public/private sector. However, Complaints about registered doctors are decided by MCI. As per directions of CIC, MCI also discloses the names of blacklisted doctors.
12. The concluding presentation on **Implementation of section 4 of RTI Act 2005** was given by **Dr. Mohan Lal** of Central Government Health Scheme. He highlighted that CGHS provides comprehensive health care to govt. servants. It is operational in more than 30 cities. RTIs filed with them cover subjects like medical reimbursement, CGHS card issue, grievances, personnel matters, supply of medicines etc. CGHS is focussing on maximum suo-motu disclosures so that number of complaints can be reduced. CGHS helpline has also been set up and people can get information through phone calls. He stated that OPD consultation at private hospitals has been allowed, which has reduced grievances and queues to a large extent. Renewal of cards is being made online.
13. The take-aways from the seminar are summarised below:

- i. Today citizens expect more transparency as well as accessible and responsive services from the health sector. For this it is necessary that all Govt. Schemes, in their design, should be citizen centric. Govt. information should be disseminated through extensive real-time suo-motu disclosures (through internet or other suitable means). Comprehensive, understandable and quick responses to requests for information under the RTI Act should be given. There is a need to protect the privacy of the data of the citizens. For this purpose, high end technologies like block chain and Zero knowledge proof can be adopted. The feasibility of giving control of personal medical data through a digi locker to each citizen may be explored. Methodologies to anonymise patient data for the purposes of medical research and government policy making may be worked out. The information needs under each scheme should be worked out in consultation with stake holders. Adequate staff and budget should be made available under each scheme to ensure timely RTI replies and suo-motu disclosures.
- ii. To provide information to the citizens, proper record keeping is a pre-requisite. Section 4 (1)(a) of the RTI Act prescribes the obligation of public authorities in the matter as follows “ maintain all its records duly catalogued and indexed in a manner and the form which facilities the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated” . It is important to create such records as are required frequently by the citizens. Through workshops, it should be ascertained as to what sort of information may be sought and the record keeping should cater to that need. Record retention policy should be clearly defined and publicised. The record keeping should also make the data amenable to analysis for public policy and for medical devices/pharmaceutical industry. For this, the entire country should follow standardised formats and nomenclature for various ailments. All data relating to the health should be adequate, relevant and limited to what is necessary in relation to the purposes

for which they are processed. Data should be obtained by lawful and fair means and with the knowledge or consent of the data subject.

- iii.** Mobile apps may be developed to help patients' access health care facilities like Zomato helps people to access restaurants.
- iv.** All clinical establishments in the country should be covered under Clinical Establishment Act, 2010. This would ensure flow of information from the entire country. Besides, the private sector medical establishments, which become part of Government schemes like "Ayushman Bharat" should be made subject to replies under RTI Act.
- v.** The information relating to recruitment, promotion and transfers of public servants should be brought into public domain promptly. This has been found to be a frequently sought information.
- vi.** It was emphasised that regulating medical education is the crux of the problem as thousands of students are not able to proceed further after graduation because the institution where they studied is not recognised by the Medical Council of India. It is necessary that the Medical Council of India puts up the list of recognised medical institutions on their website and undertakes a regular publicity drive for disseminating this information.
- vii.** Many positive changes have been brought about in the CGHS scheme. It is, however, necessary to publicise these changes for information of the beneficiaries. Further substantially more efforts should be put in to address the needs/grievances of CGHS beneficiaries, for which purpose an adequately staffed cell may be set up under CGHS.
