

# **Chapter VIII**

## **Adequacy and effectiveness of the Regulatory Mechanisms**



## Chapter-VIII: Adequacy and effectiveness of the regulatory mechanisms

*The terms of members of the Gujarat Medical Council and Gujarat Nursing Council expired in 2018 and 2019 respectively, however, the Councils were not re-constituted till December 2023.*

*The Gujarat Clinical Establishment (Registration and Regulation) Act 2021 (Act) got the assent from the Governor on 13 May 2021. However, the Rules to be framed under the Act were delayed resulting delay in its implementation in the State.*

*Many Government Healthcare Facilities were running without proper authorisation from Gujarat Pollution Control Board. Joint verification of three Common Bio-Medical Waste Treatment Facilities revealed that untreated Bio-Medical Waste was stored within the premises for a longer period.*

### 8.1 Introduction

Regulation is an important function in the healthcare sector. The purpose of regulation is to ensure access to health services, maintain quality standards, reasonable pricing and cost containment, information collection, protect the rights of patients/consumers from opportunistic behaviour or malpractices, ensure accountability of service providers and achieve the goal of equity.

### 8.2 Regulation of Medical and Allied Health Professionals

The role of Regulatory Councils is to protect healthcare consumers from health risks, provide a safe working environment for healthcare professionals, and ensure that public health and welfare are served by health programs.

#### 8.2.1 Gujarat Medical Council

Gujarat Medical Council (GMC) was established under Gujarat Medical Council Act, 1967 (GMCA) to register qualified medical persons who are possessing the qualifications recognised by the Medical Council of India. The Council keeps a strict watch on the conduct and ethics practised by medical professionals. The Council conducts an inquiry on receipt of complaints against the registered medical practitioners and if found guilty, gives punishment as per Rules.

A total number of 80,614 doctors possessing medical qualifications have been registered with the GMC as of 31 March 2022.

### **8.2.1.1 Non-reconstitution of Gujarat Medical Council**

Section 3(3) of GMCA, 1967 stipulated that the Council shall consist of various members<sup>70</sup> and Section 4(2) stipulated that a member, whether elected or nominated, shall hold office for a term of five years. HFWD constituted the GMC and published the names of nominated members and elected members of the said Council in the Official Gazette through Notification on 29 November 2013 and 25 February 2014 respectively. The term of elected and nominated GMC members expired on 28 November 2018 and 24 February 2019 respectively.

The ACS, HFWD during the exit conference (June 2023) agreed to take necessary action in the matter. However, the new Council was not yet constituted till January 2024 by the State Government. The Registrar (GMC) stated (January 2024) that the constitution of new council is under process, and he further clarified that as per provision of Section 4(4) of GMCA, present council body continue its functioning till the constitution of new council body.

### **8.2.2 Gujarat Nursing Council**

Gujarat Nursing Council (GNC) was established under the Gujarat Nurses, Midwives and Health Visitors Act, 1968, (GNMHVA) for the fulfilment of the aims and objectives as laid down in the Act.

The main functions of GNC are such as granting recognition to the training institutions and periodical inspection thereof as the Council is governing authority of physical and clinical facilities in almost all the nursing courses conducted in the institutions, *etc.*

A total number of 1,04,648 (91,479 Home State + 13,169 outside State) Nurses, Midwives and Health Visitors were registered with the GNC as of 31 March 2022.

#### **8.2.2.1 Non-reconstitution of Gujarat Nursing Council**

Section 3(2) of Gujarat Nurses, Midwives and Health Visitors Act, 1968, (GNMHVA) stipulated that the Gujarat Nursing Council shall consist of various members<sup>71</sup> and Section 5(1) stipulated that a member, whether elected or nominated, shall hold office for a term of five years from the date of their election or nomination as the case may be, or until their successor has been duly elected or nominated as the case may be, whichever is longer.

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<sup>70</sup> (a) five members to be nominated by the State Government, (b) one member from each University established by law in the State which has a medical faculty and (c) six members to be elected by registered practitioners amongst themselves.

<sup>71</sup> As ex-officio members, (i) the Commissioner of Health and Medical Services, Gujarat State; (ii) the Superintendent of Nursing Services, Government of Gujarat and (iii) Regional Nursing Supervisor, Government of Gujarat. As elected members, total ten members to be elected by nurses, midwives and health visitors registered and from various heads of the affiliated nursing institutions.

Audit observed that all seven members<sup>72</sup> were elected and nominated in 2014. However, after the expiry of their terms in 2019, a new body of GNC was not constituted.

The ACS, HFWD during the exit conference (June 2023) agreed to take necessary action in the matter. The Registrar stated (December 2023) that new members were elected, and result was sent (December 2022) to Health & Family Welfare Department for publishing Notification in Extra Ordinary Gazette and new body would be constituted after the notification.

***Recommendation 16: Government may take immediate steps for the reconstitution of members of the Gujarat Medical Council and Gujarat Nursing Council for effective functioning of the Councils.***

### 8.3 Regulation of Health Delivery Institutions

The Clinical Establishments Act was passed by the Parliament of India on 17 August 2010 to provide for registration and regulation of all clinical establishments in the country with a view to prescribing minimum standards of facilities and services.

- ***Delayed implementation of Gujarat Clinical Establishments (Registration and Regulation) Act, 2021***

The Gujarat Clinical Establishments (Registration and Regulation) Act, 2021 got the assent from the Governor on 13 May 2021 and was published in the Gujarat Government Gazette on 22 May 2021.

However, the Act was passed by the State Government after a delay of more than 10 years since it was passed (August 2010) by the Central Government.

Further, the Rules to be framed under the Act were delayed (framed in September 2022) resulting in delay in the implementation of the Act in the State as its implementation was started from March 2023 only.

### 8.4 Bio-Medical Waste Management

Bio-Medical Waste (BMW) is generated during procedures related to diagnosis, treatment and immunisation in the hospitals and its management is an integral part of infection control within the hospital premises. The Bio-Medical Waste Management Rules, 2016 (BMWM Rules) framed by GoI *inter alia* stipulate the procedures for collection, handling, transportation, disposal and monitoring of the BMW with clear roles for waste generators and Common Bio-Medical Waste Treatment Facility (CBWTF).

<sup>72</sup> five members and two members of GNC were elected and nominated on 3 January 2014 and 27 August 2014 respectively.

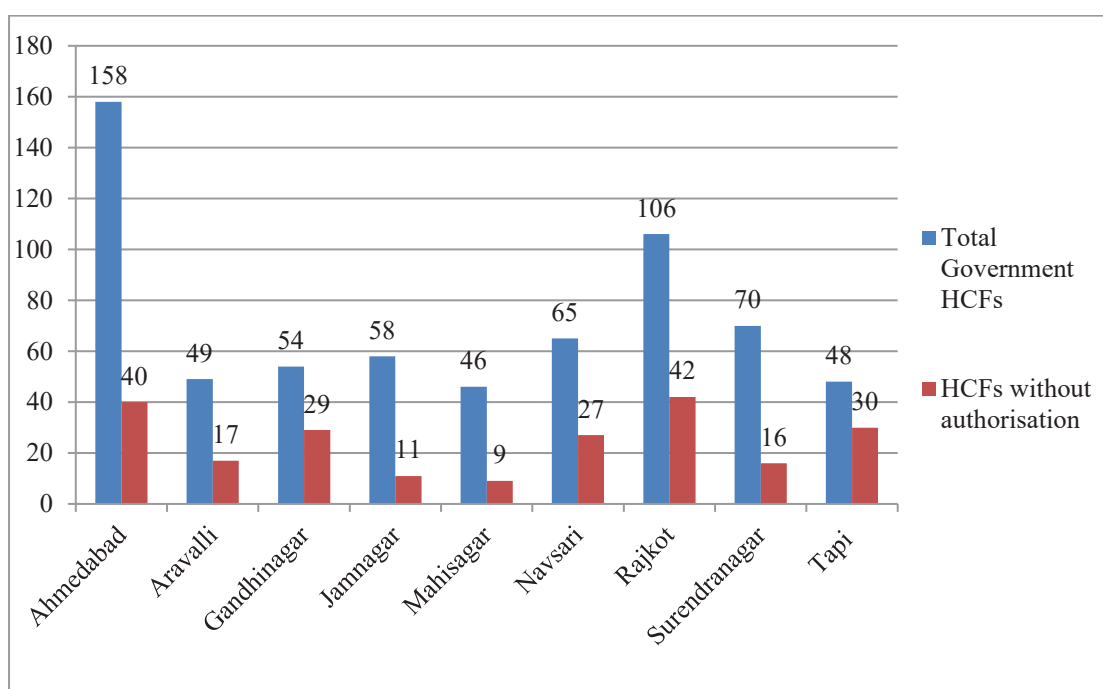
- **Operation of Government HCFs without Authorisation**

Rule 10 of BMW Rules, 2016 provides that every occupier or operator handling bio-medical waste, irrespective of quantity, has to make an application to the Gujarat Pollution Control Board (GPCB) for grant of authorisation.

As per data provided by GPCB, out of 2,296 Government Healthcare Facilities (Government HCFs) in the State, 531 (23 *per cent*) Government HCFs were running without authorisation or with expired authorisation.

The details of Government HCFs running without proper authorisation in the test-checked districts are depicted in **Chart 8.1** below:

**Chart 8.1: Details of Government HCFs operating without authorisation**



(Source: As per data provided by GPCB)

The above chart shows that Government HCFs running without proper authorisation in the test-checked districts ranged between 20 *per cent* (Mahisagar) and 63 *per cent* (Tapi).

The Commissioner of Health stated (September 2022) that State has issued an order to take immediate action for obtaining proper authorisation from the competent authority.

- **Installation of GPS in transportation vehicles**

As per revised guidelines for Common Bio-Medical Waste Treatment Facility (CBWTF) 2016, the route of transportation shall be worked out and designed for optimum travel distance and to cover all member HCFs of the CBWTF by GPCB.

Further, the CBWTF should give access to the GPCB, online and real-time tracking of Global Positioning System (GPS) enabled their transportation vehicles so that GPCB can cross-check the movement of the transportation vehicles at any time.

Audit noticed that out of eight test-checked CBWTFs, none of the CBWTFs has given access to GPS tracking of their transportation vehicles to GPCB.

- ***BMW was not treated within 48 hours***

As per revised guidelines of CBWTFs 2016 and BMWM Rules 2016, BMW generated shall be collected, treated and disposed of within 48 hours. Audit noticed that in three CBWTFs<sup>73</sup> out of eight CBWTFs jointly verified, the treatment and disposal of BMW collected from member HCFs was not being carried out within 48 hours of generation and untreated BMW was stored within the premises of CBWTFs (Pictures 8.1 and 8.2):



**Picture 8.1: Fluid flowing out of untreated waste kept at Pollucare Bio-Medical Management Pvt. Ltd., Gandhinagar (07/09/2022)**



**Picture 8.2: Fluid flowing out of untreated waste kept at Medicare Environmental Management Pvt. Ltd., Ahmedabad (14/09/2022)**

***Recommendation 17: State Government may ensure compliance with the Bio-Medical Waste Management Rules 2016 for monitoring the collection and disposal of bio-medical waste in the State.***

<sup>73</sup> 1. Dev Bio Medical Waste Management Services, Jamnagar 2. Pollucare Bio-Medical Management Pvt. Ltd., Gandhinagar and 3. Samvedna BMW Incinerator, Halol.

