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Occupational health legislation: Recent amendments (The Maharashtra Factories Rules): Issues and concerns

In the last fifty years Indian industry has grown rapidly and more so in the last two decades. This has resulted in increased manufacturing activities, technological advancements and change in work practices. This change in business environment has profound effect on health of working population. Thus the onus is on Occupational Health Physician to protect and promote health of working population. This can only be achieved by comprehensively implementing Occupational Health Legislations pertaining to work place.

The Occupational Health Legislation has been amended only twice in the last fifty years; one other central act related to Building and other Construction workers of 1996, and The Biomedical waste (management and handling) rules of 2003 under Environment protection act of 1986 have seen the daylight, whereas in the field of Public health more than thirty-six different Health Legislations have come with changing time. It is only after Bhopal disaster that legislations in the area of safety have been introduced. Health and environment were forced to be reframed and notified. Whether the change in legislation would result in improved Occupational health care at work place, or benefits of legislation remain only on the paper, is the issue of the hour.

**THE EXPECTATIONS FROM OCCUPATIONAL HEALTH LEGISLATION WOULD BE**

- Prohibiting conduct injurious to workers’ health.
- Protecting from disease and promoting positive health amongst the workers.
- Define resources for Occupational Health care.
- Carry out medical screening, surveillance and rehabilitation.
- Address ethical issues in Occupational health care.

**CURRENT OCCUPATIONAL HEALTH CARE SERVICE IS BECAUSE OF**

- Governmental legislation.
- Demand from the Trade Union.
- Management concerns for compliance of legislation and Employee health care.
- Action group Non Government Organizations (NGOs) like Indian Association of Occupational Health, National Safety Council (NSC) and others.
• There is no direction for capacity building with respect to pool of Certifying Surgeons and empowering Factory Medical Officers with requisite skills and qualifications.

TO OVERRIDE ALL THESE LOGISTIC AND CAPACITY CONCERNS, OUR RECOMMENDATIONS ARE

• Clarify the coverage and scope under rule 18-A and 73-W (especially with respect to Employees exposed to Hazardous process, non exposed employees and contract labor).
• Define protocol of examination and tests to be carried out for both the rules.
• Empower the Factory medical Officer to conduct the medical surveillance and record the results, and maintain communication with the regulatory authorities to update them about the health status of the workers.
• Allocate existing Certifying Surgeons for monitoring hazardous process industries, thus optimizing existing resources.
• A mechanism for accreditation of Certifying Surgeons and Factory Medical officers through professional body like Indian Association of Occupational Health (IAOH) should be introduced so that standard of service meets OSHAS18001 and EMS14001 requirements.
• Government needs to clarify certain questions in this proactive amendment: is its regulatory infrastructure in place to fulfill the obligations of the law in letter and spirit; what are the performance indicators for Certifying Surgeons; and, what kind of working population to Certifying Surgeon’s ratio have been defined to meet the requirements?

CONCLUSIONS

At the outset, one should appreciate the efforts of the Government for pursuing the theme of “Total Health for working populations” It is the felt need of the hour to express and point out the inconsistencies in the amendment, so that they can be corrected at an early stage for the benefit of all. Any amendments in law should bring value to workforce protection and clarity must be there in the content of law. No ambiguity should be there on the part of the legislative amendment. It is not enough that there are Occupational Health legislations, but Occupational Health Physicians must put efforts to understand, and the will to implement Occupational Health laws. Employer must create supportive environment for practice of Occupational Health and provide opportunities for continuous learning and training for it. A regular dialogue must take place between Occupational Health Physicians, safety professionals and local factory inspectorate authorities to clear doubts’, seek advice and bring in role clarity. Review of legislation is required once in five years and law makers must seek feedback from Occupational Health Physicians and other sources. Governments can involve NGO’s like Indian Association of Occupational Health as members of the review committee on Occupational Health legislations. I am sure this will trigger the right thinking for all stake holders, leading to more functional amendments with the sole objective of protecting health of working populations.

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