LEGAL ISSUES RELATED TO AYURVEDA

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ABSTRACT

Ayurveda is science of life that provides remedies to the health problem of people with natural treatment. Ayurveda comes under Traditional Medicine and still is in process to regain international recognition. The origin of Ayurveda lies in our native land India. Still there is a question over Ayurveda to prove its superiority over other medical streams beyond doubt. Practitioner having limited knowledge of Ayurveda have given a wrong message to the world has put on limit to the scope of Ayurveda which is vast. This particular situation has to change by formulating uniformed national policy and its implementation under legal sanction. Ayurveda will not come under globalization unless it is dully acknowledged by WHO.

KEYWORD: Ayurveda, Traditional Medicine, Globalization.

INTRODUCTION

As we know that Ayurveda comes under traditional system of Indian medicine, globally it is known as complementary and alternative medicine. In many developing countries as well as in developed countries large number of population in recent years relies heavily on traditional system of medicine and medicinal plants to met primary healthcare needs and it is mainly due to the realization of the limitations of modern medicine and that’s why this system of medicine is rapidly gaining economic importance the world over. A common feature of most systems of traditional medicine (TM)/ complementary and alternative medicine (CAM) is that they take a holistic approach to promote health, prevent disease, and help the individual treat disturbances by regulating his/her physical, emotional and mental aspects and living environment. According to its characteristics and concepts, TM/CAM can be used not only
for curing disease and relieving symptoms but also for the regulation, improvement, and promotion of the function of human body.

With the widespread use of TM as well as CAM and the rapid expansion of international herbal medicine markets, the development of national policies and regulation on TM/CAM has become an important concern for both health authorities and the public. Only 25 of WHO’s 191 countries have a national policy on TM/CAM and 64 countries regulate herbal medicines.

VARIOUS LAW AND THEIR PROVISIONS

- The Indian Medicine Central Council Act, 1970
- The Drugs and Cosmetics Act 1940 and the rules made there under
- The drugs and Magic Remedies (Objectionable Advertisement) Act 1954 and the rule there under
- The Medicinal and Toilet Preparations Act and Rules
- The Madras Medical Registration Act, 1914
- The Indian Medical Degree Act, 1916
- The Travancore-Cochin Medical Practitioners Act, 1953
- The Kerala Ayurveda Health Centers (issue of license and control) Act, 2007
- The Clinical Establishment (registration and regulation) Act, 2010

INSUFFICIENT PENALITY FOR PUNISHMENT

The legal laws are not been enforced for practice of ayurveda inspite of legal provision. The punishment for violation of the provisions of the Act is not a cognizable offence as is evident from section 39 of the TCMP Act, section 8 of the Kerala Ayurveda Health centers (issue of License and Control)) Act, 2007 and section 17(4)of the IMCC Act and the violators of the law get themselves bailed with the payment of a minor penalty.

LEGAL RECOGNITION AND STATUS UNDER QUESTION

Ayurvedic practitioner are still craving for due recognition under the Travancore-Cochin Public Health Act, 1955 and are unauthorized to exercise powers in regards to the maintenance of public health. Under Mental Health Act Ayurveda has to still prove its recognition, role and status. Re-installment of Ayurveda laws under legal provision is necessary to attain global recognition for the Ayurvedic Practitioners.
NEED OF SPECIAL LEGISLATION FOR AYURVEDA

- To expand and explore the discipline of Ayurveda
- To attain universal set of laws, concepts and guidelines in Ayurveda
- To acquire international recognition
- To analyze the present law and its implementation especially in the context of the standard protocol and policies prescribed by the WHO
- To block faked advertisements in T.V. and newspaper which misguide the public in self-interest
- To prohibit the quacks and unqualified practitioners who use drugs without adequate knowledge of Ayurveda
- To attain the integrated approach by enactment of Health Professions Act in co-ordination with modern medicine

SEPARATE LEGISLATION FOR SPECIFIC AREAS OF AYURVEDA

It should be enforced for proper use of Ayurveda in various fields resulting in the welfare of general public. These laws should be implemented by registered and qualified practitioners and its misuse in any form should be strictly violated. Legal machinery should be setup to keep-in continuous check on any invalid use of Ayurveda in respective areas mentioned below:-

1. QUALITY CONTROL AND STANDARDIZATION

- Separate research centers under universities and special boards must be established.
- Legal mechanism must be set up to maintain the safety, efficacy and quality of drugs
- Indian system of medicine can benefit the health system of the country if the drugs are prepared under the support of native government
- Quality certification scheme should be introduced by statuary body for batch by batch testing in order to stop the advertisements that mislead and misguide the general public
- Manufacturing of medicine under quality control department followed by proper clinical trial under the supervision of experts
- Proper marketing of medicines
- Formulating and guidelines pertaining to Ayurveda comes under the jurisdiction of WHO for the attainment of international recognition
2. MASSAGE PARLORS AND PANCHAKARM CENTERS

- Legal laws should be rigid in governance of Massage Parlors and Panchkarma centers
- Universal laws should be applicable throughout the country for the establishment of these centers
- The Kerala Ayurveda Health Centers (Issue of License and Council) Act 2007 has proved a milestone but still a lot has to be done for the approval of legal establishment

3. TRADITIONAL AYURVEDIC CHIKITSA

- It should be regulated without legalizing the traditional practice like Chinese
- In case, any person has specific knowledge of a process or a product, that can be allowed to be patented but that should not give a license for the person to practice Ayurvedic system of medicine without legally recognized qualification

4. AYURVEDA AND INTELLECTUAL PROPERTY RIGHTS

- The establishment of a Traditional Knowledge Resource Classification and a Traditional Knowledge Digital Library and a Data Base on the medical knowledge of Ayurveda as contemplated in the Draft National Policy, would go a long way in safeguarding the rights of the people and that of Ayurvedic Practitioners
- The intellectual property rights should be dealt with competent people so as to avoid the misuse of traditional knowledge of Ayurveda

5. INSURENECE FOR AYURVEDIC TREATMENT AND PRODUCTS

- It is essential to insure the Ayurvedic treatment and product so as to it acquires a standard equal to other system of medicine which was lacking in the past
- Consequently the insurance scheme has been announced for the equality of Ayurveda with other system of medicine. Such a step would facilitate the Ayurvedic treatment and products. Such insurance is highly commendable in the field of Ayurveda
- As per press information bureau, Govt. of India Insurance Regulatory and Development Authority (IRDA) has informed that the insurance coverage to AYUSH treatments has been facilitated through the Regulation 5 (1) of the IRDA (Health Insurance) Regulations, 2013 which are published in the official gazette and came into force with effect from 18.02.2013. As per this regulation the insurers may provide coverage to non-allopathic treatments provided the treatment is taken in a government hospital or in any institute recognized by Government and/or accredited by Quality Council of India / National...
Accreditation Board on Health or any other suitable institutions. Insurance companies like National Insurance Company, Star Health and Allied Insurance Co. Ltd, L & T General Insurance Co. Ltd., are offering insurance cover for AYUSH.

CONCLUSION

Undoubtedly Ayurveda is a traditional branch of medicine but will gain belief among the people only if the laws, rules and regulations are duly enforced and any violation of these laws should be strictly punishable. If such a theology is adopted and admissible by law then it is no longer that Ayurveda can receive international status as well as standardized branch of medicine in comparison to the international status as because of non enforcement and non implementation of laws leniently by the government incompetent people are mishandling this oldest and most popular wing of medicines. Ayurveda is a root from which the other branches of medicines are evolved and it is the responsibility of the government and concerned legal bodies to prevent the uprooting of Ayurveda and preserve it as a treasure from which the entire tree of medicine flourish and progress.

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