The Constitution of India lists various items that fall within the legislative jurisdiction of Parliament as well as the state legislatures. The Concurrent List includes matters on which both Parliament and state assemblies can frame laws. However, if on a matter under the Concurrent List, both Parliament and state legislatures enact a law and there is a contradiction in their provisions, then the central law will override the state law. Matters related to health are enumerated in both the State List and the Concurrent List. The public health, sanitation, hospitals and dispensaries come under the State List (item No. 6). However, education including technical education, medical education and universities and legal, medical and other professions come under the Concurrent List of the Constitution under item 25 and 26 respectively. Thus, both Parliament and state assemblies have enacted laws to regulate the health sector. The regulation of nursing education and professional practice of nursing professionals is governed by central laws such as Indian Nursing Council Act 1947 and as well as state laws such as state nursing council act of the respective states/nearby jurisdiction of states.

In India, the formal nursing education began in 1871 at School of Nursing in Madras. Later, several nursing training institutes started providing nursing education. Thus, probably a need was felt to bring the law to regulate the nursing education and practices in the region and the first nurses’ registration act “The Madras Nurses and Midwives Act No. III of 1926 was passed on 29 June 1926 in the Madras Legislative Council of Madras. Later, in other regions and provinces of India such legislations were passed for the registration and better training of nurses, health visitors, midwives and dais in the particular region/state or provinces. On 15 August 1947 with India becoming independent, the graduate nursing university level nursing degree courses started at Rajkumari Amrit Kaur College of Nursing, Delhi and College of Nursing, Christian Medical College, Vellore, Tamil Nadu in 1946 and later in other parts of the country in public as well as private sector. The Indian Nursing Council Act, 1947 was passed by the Parliament of India to expedite constitute an Indian Nursing Council to establish a uniform standard of training for nurses, midwives and health visitors.

The primary function of the Indian Nursing Council (INC) is to ensure minimum nursing educational standards, recognise nursing qualifications and prescribe nursing courses admission criteria and curriculum. The Council is composed of elected and nominated members for tenure of five years. It makes recommendations to the central government on matters related to the nursing education. The INC is required to monitor the standards of nursing education, prescribe the minimum standards of nursing education required for granting recognised nursing qualifications, grant permissions for establishment of new nursing schools/colleges, increase in admission capacity or for starting new or higher course of study or training in the established nursing schools or colleges; oversee the qualifications, registration and licensing of nurses in state nursing councils, and their professional conduct; and maintain a register with names of all nurses, midwives and health visitors having recognised qualifications and are licensed to practice as nurse, midwife or health visitor.

The state nursing councils are additionally responsible for conducting the examinations for the certificate or diploma nursing courses and registering the qualified person as nurse, midwife, auxiliary nurse midwife or health visitor. The INC Act, 1947 and the different state nursing acts enacted from time to time, ensure the regulation of nursing education, registration of nurses, maintenance of a cumulative register of the nurses, midwives and health visitors registered in the council, and periodical renewal of the nursing practicing license. Most of the state nursing council act also have provision for protection of title and practices of nurses in particular state (…that no person other than who is registered under state nursing council act can use the title as nurse, midwife or practice as nurse or midwife; if anyone do so can be convicted or legally implicated) but these acts prescribe very minimal penalty for the violators. Moreover, only selected state nursing council acts such as Tripura Nursing Council Act 1986 have included the clause of “Prohibition of employment of
unregistered persons in healthcare facilities of the particular jurisdiction”. I hope that is the reason many unqualified and unregistered persons are practicing as nurse or midwife in small scale private healthcare facilities. In one of my studies, it was found that more than 50 percent unqualified personnel were performing the nursing job in private nursing homes of Punjab state (Sharma, 2016).

The nursing education has undergone the tremendous changes in recent years. Today, we have different levels nursing educational courses ranging from basic nursing to the advanced nursing programmes such as auxiliary nursing midwifery (ANM), diploma in general nursing & midwifery (GNM), graduate nursing degree, masters nursing degree, super-specialties nursing diploma, MPhil nursing, doctorate nursing programme. Further, recently Indian Nursing Council has also started nurse practitioners programme in critical care and primary health care. However, it is essential to bring mechanisms so that no other than trained and registered nurse or midwife can use the title as nurse and practice as a nurse or midwife in any healthcare facility.

Indian Nursing Laws and Acts: History & Development

The South East Asia and India’s first nursing registration act “The Madras Nurses and Midwives Act No.III of 1926 was passed in the Madras Legislative Council of Madras in 1926 that came into force on 14 February 1928. Thereafter, several acts were passed in different states of India. However, the focus of these acts was on the curriculum for the nursing courses, conducting examination, awarding certificates or diplomas and the provision of registration for the nurses, health visitors, midwives, auxiliary nurse midwives and dais.

Current Status of Nursing Practice and Regulation

On the lines of Indian Nursing Council, most of the state legislative assemblies in India have enacted the Nursing Council Acts and have established the Nursing Councils. However, these acts are very primitive to regulate the nursing practices considering and comparing the present national and international nursing scenario.

Purpose of Nursing Practice Act

The practice of nursing requires specialised knowledge, skill and independent decision making. Nursing careers take widely divergent paths; practice focus varies by setting, by type of client, by different disease, therapeutic approach or level of rehabilitation.

The practice of nursing is a right granted by a state to protect those who need nursing care, and safe, competent nursing practice is grounded in the guidelines of the state NPA. All nurses have a duty to understand their NPA and to keep up with ongoing changes as this dynamic document evolves and the scope of practice expands.

As with Medical Council of India Act, existing Indian Nursing Council act 1947 needs to be amended to have a robust Nursing Practice Act, which will have two components i.e. Standards of Nursing Education and Nursing Practice. On the other hand, on American pattern all states and union territories may have a nurse practice act (NPA). Each state’s NPA should be enacted by the state legislature. However, NPA at national level or state level itself will not be sufficient to provide the necessary guidance for the nursing profession. Therefore, an independent Board of Nursing / State Nursing Council that has the authority to develop administrative rules or regulations to clarify or make the law more specific is imperative. Rules and regulations must be consistent with the NPA and cannot go beyond it. These rules and regulations undergo a process of public review before enactment. Once enacted, rules and regulations have the full force and effect of law.

Although the specificity of NPAs may vary among states, but a broader national level NPA must include:

- Authority, power and composition of a board of nursing
- Education programme standards
- Standards and scope of nursing practice
- Types of titles and licenses
- Requirements for licensure
- Grounds for disciplinary action, other violations and possible remedies.

Nursing practice entails risks; medications and treatments have benefits and side effects; clinical situations are underdetermined, open-ended, and highly variable (Benner, et al 2010). Providing nursing care sometimes feels like an unprotected intersection being navigated by the new driver. As with the new driver, education and standards provided by laws designed to protect the public provide guidance in nursing practice (National Council of State Boards of Nursing, 1996). A lay person does not necessarily have access to the credentials of a health professional nor can one ordinarily judge whether the care received is delivered according to the standard of care. Because health care poses a risk of harm to the public if practiced by professionals who are unprepared or incompetent, professionals are governed by laws and rules designed to minimise the risk (NCSBN, 1996). That protection is
in the form of reasonable laws to regulate occupations such as nursing. Consequently, these laws include standards for education and scope of practice as well as discipline of professionals.

**Nursing Practice Issues in India**

Nurses play an integral role in the healthcare industry, providing care to patients and filling leadership roles at hospitals, health systems and other organisations. Yet, being a nurse is not without its challenges. It’s a demanding profession that requires a lot of dedication and commitment. Practice issues faced by nurses today are numerous.

(i) **Legal safety for nursing practices:** There is no defined scope of practice for different level of nurses. Therefore, nurses are not legally safe what they practice and they are not sure what they can or cannot practice.

(ii) **Public Safety:** There is no defined scope of work for nurses working at different level. The diploma and graduate nurses cover general nursing responsibilities as well as nursing specialties without holding desired license, which jeopardise the safety of care-seeking people.

(iii) **Short staffing:** Staffing is an issue of both professional and personal concern for nurses today. In fact, many nurses leave a hospital job on this count.

(iv) **Workplace violence:** Another major challenge nurses face is violent behavior while on the job, from patients or co-workers.

(v) **Long working hours:** Nurses are often required to work long shifts. But in a number of cases, nurses must work back-to-back or on extended shifts, risking fatigue that could result in medical mistakes.

(vi) **Workplace hazards:** Nurses face a number of workplace hazards each day due to exposure to blood borne pathogens, injuries, hand washing-related dermatitis and cold and flu germs.

(vii) **Compensation:** When it comes to nurse compensation, regional differences are to be expected based on cost of living.

**Needs of Nursing Practice Regulations in India**

The nursing education has undergone rapid development in recent past. Today country has nurses qualified with postgraduate specialty and super-specialty nursing degrees. Moreover, recently Indian Nursing Council has developed the curriculum for nurse practitioners course in critical care nursing and nurse practitioner in primary health care to independently manage the patients in remote communities as well as the critical care units with limited prescribing rights. However, our existing Indian Nursing Council Act 1947 as well as state nursing and midwifery council acts are limited in power to manage the routine functions of nursing council, prescribe nursing curriculum, develop nursing educational standards, granting the approval for the nursing educational institutes to run the nursing courses or withdraw the approval for institutes which did not meet the prescribed standards.

In addition, state nursing acts also empower the respective state nursing council to conduct examinations for the ANMs, GNMs and Post Basic diploma courses and register the qualified persons to practice as nurse and/or midwife and protect the title of nurses and midwives so that none other than a duly registered person can use the title as nurse or midwife and practice as nurse or midwife in particular state.

Surprisingly, many nurses are not even aware of the NPA as a Law, and unknowingly violate aspects of this statute (NCSBN, 2011b). This is an unfortunate lapse because these administrative rules and regulations answer crucial questions that nurses have about the day-to-day aspects of practice and unusual occurrences. The laws of the nursing profession can only function properly if nurses know the current laws governing practice in their state. Ignorance of the law is never an excuse!

**Indian Nursing Council initiative towards Nurse Practice Act**

Ministry of Health and Family Welfare (MOHFW) has constituted the committee under the chairmanship of President, Indian Nursing Council to prepare the draft Nurse Practice Act. This multi-disciplinary committee represents WHO & JHIEGO and other stakeholders. INC has included the Trained Nurses Association of India (TNAI) President and Mrs GK Khurana, President, All India Govt Nurses Federation as members. However, the committee felt that it will be confusing to have two separate acts i.e. Indian Nursing Council act, 1947 and Nursing Practice Act; therefore, it will be better to incorporate the practice component in existing Indian Nursing Council act, 1947.

**TNAI initiative towards Nurse Practice Act**

TNAI taken active initiative to uplift the nursing profession identity. Nursing has its own identity as a health profession, hence due recognition needs to be given to the role and contribution of Nursing personnel to health care services in the hospital and the community. Nursing identity should be reflected in all planning papers, documents and policy statements of government and non-government organisations with a view to strengthening develop-
ment of Nursing, otherwise, this sector of the health system gets neglected and status of the Nursing service gets further diminished. Nursing should not be designated as “paramedical”, nor should its identity be lost under the term “health workers”. Nursing is supported by auxiliaries. The term “Nursing personnel” can be used to collectively designate a wide variety of workers of the Nursing team, both professionals and Nursing auxiliaries. TNAI have continuously raised the issue of nursing practice act on several forms and platforms. Therefore, MoHFW, has taken an initiative to draft Nursing Practice Act.

**Recommendations**

It is high time for the Indian nurses to raise the national and state level agenda for the amendment and revision in the existing Indian Nursing Council act and state nursing council acts. The amendments should include the provision of registration for the nurse specialists and nurse practitioners, defining the scope of practices separately for the Registered Nurses, Registered Midwives, Advanced Nurse Specialists and Nurse Practitioners. It also should have the provision of limited registration, non-practicing registration and endorsement. The amended acts must also specify the titles and licenses required for the general registered nurses and specialist nurses and nurse practitioners, have a provision of the general nurses, specialist nurses and nurse practitioners’ title and practice protection, specify the obligations of registered nurses and specialist nurses and nurse practitioners, prescribe the legal proceedings or disciplinary actions deemed fit against offences, professional misconduct of nurses and also mentions the powers of nursing councils to regulate the nursing practices.

**Conclusion**

The Nursing Practice Act is the need of the hour for the Indian nurses, which could be achieved by making necessary amendments in existing Indian Nursing Council Act and / or State Nursing Council Act. Primarily, on lines of Medical Council of India (MCI), INC Act 1947 may be amended, which could be later uniformly adapted in all the state to ensure uniformity of nursing practice act throughout India. The amended acts must have the provision for the registration of the nurse specialist and independent nurse practitioners; specify the separate titles for the general nurses, midwives, specialist nurses and nurse practitioners, define the scope of practices for nurses registered with different titles and prescription about the legal and disciplinary proceeding against professional misconduct of nurses. Furthermore, it is suggested that Indian Nursing Council may also factor the provision of national licensing examination for the nurses before they obtain the license to practice as Registered Nurse or Midwife.

**References**

30. Indian Nursing Council (https://www.aphrdi.ap.gov.in/documents/Trainings@APHRDI/2017/2_Feb/NRTS/Valli%20INC%20Achievements%20President%20INC.pdf)

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254 THE NURSING JOURNAL OF INDIA