

## JOINT STATEMENT ON MEDICAL DEGREE PROGRAMME OFFERED BY SAIMT

We, the undersigned Deans of the eight medical faculties in the state universities of Sri Lanka, wish to express our grave concern at the growing student unrest that has arisen because of unresolved issues relating to medical degree offered by South Asian Institute of Technology & Medicine (SAITM). We are of the view that urgent action is required to resolve this long-standing problem and prevent the development of a situation similar to that of the late 1980s, when student unrest stemming from the establishment of another private medical school, the North Colombo Medical College, culminated in the closure of all universities for a period of three years.

To this end, we have prepared this statement, which sets out a short summary of key events relating to the establishment of the medical degree programme at SAIMT, the key points from relevant legislation and the stands adopted by various stakeholders involved in this matter. We end by listing our own observations and recommendations for a solution, which attempt to address the concerns of all parties in a just and equitable manner.

**Declarations of conflict of interest:** E.g. We declare that none of us have taught or examined medical students at SAIMT, nor do we have a spouse, son or daughter, who has taught or is teaching or has been a medical student at SAIMT.

### SECTION 1. SUMMARY OF KEY EVENTS

- 1.1 March 2008:** the Board of Investment of Sri Lanka granted approval to the Dr Neville Fernando Investment Co (Pvt) Ltd to establish the South Asian Institute of Technology and **Management** (SAITM), offering degree programmes in IT, Management & Finance, Engineering, Vocational Studies, Nursing, Languages and Health Science. In 2011, the name was changed to South Asian Institute of Technology and **Medicine**. BOI approval was granted subject to the condition that the approval from the Ministry of Health and Nutrition be obtained prior to providing training in Health Sciences.
- 1.2 May 2009:** President SLMC (Dr HHR Samarasinghe) informed Dr Neville Fernando in writing that the SLMC has no legal provision for recognition of a medical degree awarded jointly by a private degree awarding institute in Sri Lanka and a foreign medical school, even if the foreign medical school has a medical degree programme that is recognized by the SLMC.
- 1.3 Sept 2009:** SAIMT registered its 1<sup>st</sup> intake of 40 students for its medical degree programme, followed by subsequent intakes in February and September of every year since then. The intake reached a peak of 127 students in February 2014, and has declined since then to about 70 students per intake.

- 1.4 October 2009 - March 2010:** SLMC informed the public through several newspaper advertisements of the fact that the SLMC has no legal provision to monitor or recognize the medical degree programme at SAIMT.
- 1.5 Mid-2010:** SAIMT advertised vacancies for academic staff to teach on a MD programme conducted jointly with the Nizhny Novgorod State Medical Academy (NNMSA) of the Russian Federation. The MoU with NNSMA has been terminated before October 2015 (exact time unknown).
- 1.6 November 2010:** According to the Ministry of Health Report signed on 28 February 2012 (see item 1.11 below) a team from the UGC has visited SAIMT to review governance structure, medical academic programme and facilities and common amenities available. Recommendations were made to MoHE, UGC, MoH and to SAIMT.
- 1.7 February 2011:** According to the Ministry of Health Report signed on 28 February 2012 (see item 1.11 below) QAAC of UGC has conducted SAIMT MBBS *Programme Review*
- 1.8 April 2011:** According to the Ministry of Health Report signed on 28 February 2012 (see item 1.11 below) QAAC of UGC has conducted SAIMT *Institutional Review*. The review report contained 13 recommendations to be 'duly satisfied' to consider SAIMT for provisional recognition in 6 months.
- 1.9 April 2011:** SAIMT entered into a Memorandum of Understanding with Provincial Director, Dept of Health, Western Province (Dr Amal Harsha de Silva) to enable SAIMT students to train in government hospitals coming under the supervision / management of the PD / Western Province. However, this was never implemented.
- 1.10 August 2011:** Gazette notice declared SAIMT as a degree-awarding institute with powers to award medical degrees (see Section 2.2.1 (i) below for details)
- 1.11 February 2012:** 5-member committee appointed by the Minister of Health and chaired by the Secretary / Health (Dr Ravindra Ruberu) to look into matters related to SAIMT medical degree, made several recommendations, including one that "the UGC and SLMC should advise the management of SAIMT that only one batch is admitted each year for training, as being done for admissions to the state medical schools". This is the Report referred to in Items 1.6, 1.7 and 1.8 above.
- 1.12 January 2013:** 4-member team appointed by the Secretary/Higher Education and chaired by the Vice-Chairman UGC (Prof Ranjith Senaratne), conducted an Institutional Review focusing on period from establishment of SAIMT upto 29.08.2011. Team recommended that "conditional recognition be granted to the MBBS degree from the year of its commencement, provided that students enrolled in 2009 and 2010 are given additional training..." along with several other

recommendations to ensure continued development and sustainability of the Institute.

- 1.13 February 2013:** 6-member committee appointed by the Secretary/Higher Education and chaired by Prof Mohan de Silva conducted a review (including a site visit) of SAIMT to ascertain the suitability of backdating the recognition of the degree awarding status to SAIMT, and award of the MBBS degree from 15 September 2009 to 29 August 2011. Committee recommended back dating of degree awarding status to the date of inception (i.e. 15 Sept 2009).
- 1.14 April 2013:** Dr Neville Fernando Teaching Hospital (NFTH) started functioning in Malabe
- 1.15 August 2013:** Gazette notice backdated degree-awarding status of SAIMT to its inception in 2009 (see Section 2.2.1 (ii) below for details)
- 1.16 May – June 2014:** SAIMT requested SLMC to visit SAIMT and its new teaching hospital. SLMC requested SAIMT to complete application for recognition of a medical faculty/school in Sri Lanka.
- 1.17 August 2014:** SAIMT submitted completed application form for recognition of a medical school by the SLMC. SLMC appointed a 3-member team (all members of the SLMC) to carry out a desk review of the application.
- 1.18 September 2014:** F/R case no 208/2014 filed in Supreme Court by SAIMT students against the Minister of Health, was settled out of courts in September 2014, on grounds that “in principle, Hon Minister (of Health) is agreeable to cooperate with the SAIMT in order to facilitate the required clinical training at designated state hospital in respect of the petitioners and the batches registrable under the Medical Ordinance. However, the SAIMT remains responsible to adhere to all laws and regulations, specification and guidelines and to fulfill all the requisite standards applicable in respect of registration and recognition by the Sri Lanka Medical Council and / or other relevant authority”.
- 1.19 December 2014:** SLMC requested SAIMT to provide clarifications requested by desk review team; SAIMT responded to this by letter dated 16 March 2015.
- 1.20 July 2015:** 10-member inspection team (chaired by Prof Rezvi Sheriff) appointed by SLMC, carried out inspection of SAIMT and NFTH, and submitted report recommending that the SLMC should not recognize graduates who have completed the study programme currently provided by the Faculty of Medicine, SAIMT as suitable for provisional registration under the medical ordinance.
- 1.21 August 2015:** SLMC inspection report and recommendation was submitted to Minister of Health (Hon Rajitha Senarathne)

- 1.22 November 2015:** SLMC notified public that a report has been submitted to the Minister of Health, recommending that the degree awarded by SAIMT should not be recognized for the purpose of registration under the medical ordinance.
- 1.23 May 2016:** SAIMT conducted final MBBS examinations for first intake of students
- 1.24 June 2016:** SAIMT graduates filed action in the Court of Appeal asking for SLMC registration; and in Supreme Court asking for amendment to Medical Service Minute.

***The above sequence of events makes it clear that there were many irregularities, if not outright deception of the public, in the manner in which the SAIMT medical degree programme was established.***

## **SECTION 2. KEY POINTS FROM RELEVANT LEGISLATION**

### **2.1 Medical Ordinance (Chapter 105)**

**Section 19A** empowers the Sri Lanka Medical Council “to enter a recognized university or institution and make such examinations and investigations thereon and such inquiries of the members of the relevant faculty, as may be necessary for the purpose of ascertaining whether - (a) the courses of study provided by such university or institution leading to the grant or conferment of a medical qualification, (b) the degree of proficiency required at examinations held by such university or institution for the purpose of granting or conferring any such qualification, (c) the staff, equipment, accommodation and facilities proved by such university or institution for such course of study, conform to the prescribed standards.

The SLMC inspection visit was carried out under this Section of the Medical Ordinance. The standards adopted by the inspection team were as described in the SLMC booklet on ***Guidelines and specifications on standards and criteria for accreditation of medical schools in Sri Lanka and courses of study provided by them*** (the minimum standards booklet), which has been in use by the SLMC for several years.

In 2009, a set of regulations made under Section 19, read with Section 72 of the Medical Ordinance, and termed the **Medical Education (Minimum Standards) Regulations No 1 of 2009**, was published by the Minister of Healthcare and Nutrition in consultation with the Sri Lanka Medical Council (Gazette no 1590/13 of 2009.02.25), but this was subsequently rescinded. As such, there are no gazetted regulations for minimum standards in Medical Education at present. A proposed revision is currently with the Legal Draftsman’s Office.

**Section 29** empowers the SLMC to register a person as a medical practitioner under the following conditions:

- 29 (1) A person shall, upon application made in that behalf to the Medical Council, **registered as a medical practitioner -**
- (a) If he is of good character; and
  - (b) If he -
    - (i) Holds a **Degree of Bachelor of Medicine** of
      - (a) the University of Ceylon or a corresponding university; or
      - (b) a **Degree Awarding Institute**,
      - (c) the Kotelawala Defence University
 and a certificate granted by the Medical Council under section 32; or
    - (ii) not being qualified to be registered under sub-paragraph (i) -
      - (aa) **is a citizen of Sri Lanka**
      - (bb) holds a degree of **Bachelor of Medicine or equivalent qualifications** of any university of medical school of **any country other than Sri Lanka**, which is recognized by the Medical Council for the purposes of this section, having regard to the standard of medical education of such university or medical school;
      - (cc) **has passed the special examination** prescribed in that behalf by the Medical Council; and
      - (dd) holds a certificate granted by the Medical Council under section 32
- (2) For the purposes only of enabling the acquirement of such experiences as is required for obtaining from the Medical Council, a certificate under Section 32, a person shall, upon application made in that behalf to the Medical Council **registered provisionally as a medical practitioner -**
- (a) If he is of good character; and
  - (b) If he -
    - (i) Holds a Degree of Bachelor of Medicine of the University of Ceylon or a corresponding University or a Degree Awarding Institute; or
    - (ii) Has passed the examination necessary for obtaining the Degree of Bachelor of Medicine of the University of Ceylon or a corresponding university, or of a Degree Awarding Institute, but has not obtained that degree owing to a delay on the part of that university or Degree Awarding Institute in conferring that degree on him; or
    - (iii) Not being qualified to be registered under any of the preceding sub-paragraphs -
      - (aa) **is a citizen of Sri Lanka**; and

- (bb) (i) holds a degree of **Bachelor of Medicine or an equivalent qualification** of an university or medical school of **any country other than Sri Lanka**, which is recognized by the Medical Council for the purposes of this section having regard to the standard of medical education of such university or medical school; or
- (ii) Has passed the examinations necessary for obtaining a degree of Bachelor of Medicine or an equivalent qualification of any university or medical school of any country other than Sri Lanka, which is recognized by the Medical Council for the purposes of this section, having regard to the standard of medical education of such university or medical school, but has not obtained that degree, owing to the fact that he has not completed the period of internship required for obtaining that degree and the Director-General of Health Services has permitted him to complete that period of internship in Sri Lanka; an
- (cc) **Has passed the special examination** prescribed in that behalf by the Medical Council.

*Provisional registration of graduates from medical schools in Sri Lanka comes under Section 29 (2)(b)(i) whereas registration of graduates from foreign medical schools comes under Section 29 (2)(b)(iii), which requires such graduates to pass a special examination (i.e. the ERPM), prior to commencing internship.*

*Full registration (after satisfactory completion of internship) of graduates from medical schools in Sri Lanka comes under Section 29 (1)(b)(i) whereas registration of graduates from foreign medical schools comes under Section 29 (1)(b)(iii).*

*Refusal to recognize SAIMT graduates as suitable for registration by the SLMC is effected under this Section (29 (2) for provisional registration prior to internship, and 29(1) for full registration after satisfactory completion of internship)*

## **2.2 Universities Act No 16 of 1978**

### **2.2.1 Recognition of SAIMT as a degree awarding institute**

- (i) Under Section 70C of the Universities Act, Minister of Higher Education (Hon SB Dissanayake) issued notification in Gazette no 1721/19 of 2011.08.30, recognizing SAIMT as a degree awarding institute, with power to award MBBS degrees, subject to fulfillment of several conditions stipulated in the Gazette, including the establishment of its own teaching hospital and professorial units.
- (ii) Minister of Higher Education (Hon SB Dissanayake) issues notification in Gazette no 1829/36 of 2013.09.26 that the MBBS degree may be awarded by SAIMT to students registered at SAIMT for the NNSMA MD degree from 15 Sept 2009 – 29 Aug 2011,

and who had fulfilled qualifications specified by the UGC for selection of students to universities, and who are agreeable to change their course of study to the MBBS degree awarded by SAIMT.

**2.2.2 Section 27 (2) of the Universities Act No 16 of 1978** requires that an order made under subsection (1), as well as any amendment, must published in the Gazette, and tabled in Parliament.

27 (1) (a) A University Order, Campus Order, Open University Order, University College Order, or Institution for Higher Learning Order may, be amended, varied or revoked by the Minister. *Altering of Order, under sections 21, 22, 23, 24, 24A and 25A.*

(b) A Degree Awarding Institute Order made under section 25A, may be amended, varied or revoked by the Minister. *[S 27, 7 of 1985]*

**(2) Every Order made under subsection (1) shall be published in the Gazette. Each such Order shall come into force on the date specified therein and shall, as soon as possible thereafter, be tabled in Parliament.** *[Marginal Note, 7 of 1985]*

***There has been no Gazette notification that the conditions stipulated by the Specified Authority in Gazette no 1721/19 of 2011.08.30 have been fulfilled.***

**2.2.3 Recognition of non-state institutes as degree awarding institutes**

1. Rules under Section 137 of the Universities Act were published in Gazette no 1824/21 of 2013.08.22. This gazette sets out rules that shall be applicable for the recognition of any state or non-state institute as a degree awarding institute and for the obtaining of power to grant degree(s) by such institute. Rule 31 stipulates that “All non-state institutes which have been recognized as degree awarding institutes in pursuance to the report made to the Minister by the Specified Authority under Section 70 C of the Act, and which shall offer study programmes leading to degrees in Medicine, Engineering, Architecture and other similar professional degrees shall obtain compliance certification from the relevant specified professional body and shall submit such certification to the Specified Authority”.
2. Rule 31 was repealed in Gazette No 1847/56 of 2014.01.31, and substituted with the following: “All non-state institutes recognized as degree awarding institutes in pursuance to the reports made to the Minister by the Specified Authority under Section 70 C of the Act and which offer study programmes leading to degrees in Medicine, Engineering, Architecture and other similar professional degrees also may seek compliance certificates from respective professional bodies.”

3. After protests from several professional bodies, including the SLMC, the same rule was further amended as follows by Gazette no 1891/9 of 2014.12.02: “All non-state institutes recognized as degree awarding institutes which offer study programmes leading to degrees in Medicine, Engineering, Architecture and other similar professional degrees shall obtain a compliance certification from the specified professional body and submit such certification to the Specified Authority”.

***As of now, SAITM has not obtained the compliance certification (required under the above rule) from the specified professional body, which is the SLMC in the case of degrees in Medicine.***

### **2.3 Medical Service Minute of Sri Lankan Health Service**

Updated in Gazette no 1883/17 of 2014.10.11

### **7.2 Open recruitment: Medical Officers**

- 1. Recruitment Grade:** Preliminary Grade
- 2. Educational and professional qualification and experience for recruitment**

All medical officers with valid full registration of Sri Lanka Medical Council for practicing as a Medical Officer are eligible for recruitment. : - Obtaining a Medical degree awarded by the faculty of Medicine of a state or foreign university approved and recognized by Sri Lanka Medical Council with successful completion of one year period of compulsory internship at a hospital recognized by the Sri Lanka Medical Council.

#### **Note 1**

Sri Lankan citizens who have obtained Foreign Medical Degrees after the date 01.11.1988 should have passed the special examination for Sri Lankan citizens in terms of section 29.1(b) II(cc) and 29.2(b)(III) of the Medical Ordinance and should have successfully completed the compulsory internship for a period of one year at a local hospital recognized by the Sri Lanka Medical Council.

- 3. Physical fitness:** Physical conditions suitable to perform the patient care services
- 4. Age -** between 25- 45 years
- 5. Method of calling for application and selection:**  
Applications will be called from eligible officers with the above qualifications by a Departmental circular and public notice published in the Ministry of Health web site and the Government gazette. First priority will be given to the state university graduates and then considered the foreign graduates qualified with the special examination under section 29.1 (b) (ii) (cc) and

29.2 (b) (iii) of the Medical Ordinance. Selection will be done according to the merit order of state university graduates provided by University Grant Commission and according to the merit order provided by the Sri Lanka Medical Council for foreign graduates. Selected graduates will be recruited by the Public Service Commission and appointed as preliminary grade medical officers.

***The Medical Service Minute has no provision for recruitment of medical graduates from a private degree awarding institute in Sri Lanka.***

**SECTION 3. STANDS ADOPTED BY DIFFERENT STAKEHOLDERS**

- 3.1 Sri Lanka Medical Council:** the SLMC cannot recognize MBBS graduates who have completed the study programme currently provided by SAIMT as suitable for provisional registration under the Medical Ordinance because their training is inadequate to ensure that they will be safe practitioners.
- 3.2 Staff and students of SAIMT:** SAIMT has been lawfully recognized as a degree awarding institute, with power to award a MBBS degree. Medical graduates from SAIMT should be registered by the SLMC and allowed to practice as medical professionals in Sri Lanka, and allowed to enter the Sri Lankan Health Service as medical officers in the Ministry of Health.
- 3.3 Students in the state universities:** SAIMT has been established fraudulently, particularly the MBBS degree programme. Sri Lanka should have no private medical schools as it could adversely affect the state medical degree programmes. Therefore the SAIMT medical faculty should be taken over by the state, and run as a state medical faculty. Students should be admitted in the future through the UGC, according to the same policy as for the state medical schools. Some form of relief should be given to those currently registered medical students in SAIMT, through an interim solution.
- 3.4 Government Medical Officers Association:** The MBBS degree programme at SAIMT has been established fraudulently, in violation of existing legislation regarding establishment of non-state higher education institutes and degrees awarded by such institutes. The basis on which the SAIMT medical degree is run must be changed, with provision for much more oversight and direct involvement of the state in its governance, in order to ensure achievement of the minimum standards required of a medical degree in Sri Lanka. The current SAIMT students cannot be registered or allowed to practice Medicine in Sri Lanka.

## SECTION 4. OBSERVATIONS AND RECOMMENDATIONS

Our recommendations are based on four cardinal principles.

**Principle 1:** Degree programmes offered by any Higher Education Institute must comply with the requirements of the relevant professional body. This is particularly important in medical degree programmes, for reasons of patient safety and patient rights. The relevant professional body for medical degree programmes is the SLMC.

**Principle 2:** The expansion of medical education opportunities in Sri Lanka must be based on national health policies, with due consideration of the requirements of the national health system.

**Principle 3:** Strong regulations for assuring the quality of higher education programmes offered by Higher Education Institutes in both public and private sectors must be enacted and implemented by the state.

**Principle 4:** There must be expansion in opportunities for higher education (including medical education) in Sri Lanka, through both public and private sectors. This is based on the fact that at present, large numbers of students go overseas in search of higher education because of lack of opportunities at home because of inadequate state funding in higher education.

A just and equitable solution to the SAIMT issue must provide answers to the following questions while abiding by the principles enunciated above:

1. Should the SAIMT Medical Faculty be permitted to continue functioning in the long term, and if so, on what basis?
2. If it is different to the current basis, what relief can be given to students currently registered for the SAIMT MBBS degree?
3. What is the best means of ensuring patient rights and safety in the context of private medical education?

## RECOMMENDATIONS

### 4.1 With regard to the functioning of SAIMT as a higher education institute:

- a. On the basis of Principle 1 above, recruitment of students to the MBBS degree programme and admission of new students should be halted with immediate effect. Admissions should not be allowed to recommence until SAIMT has obtained the compliance certificate from the SLMC.
- b. Although establishment of the medical degree programme offered by SAIMT was accompanied by many serious irregularities, on the basis of Principle 4 above, the SAIMT medical degree programme may be permitted to continue to function after correcting the irregularities, as a governmental or semi-governmental, fee-levying, degree awarding institute, with provision for admission of some proportion of students on scholarships or student loans.

- c. The governance structure of the SAIMT medical degree programme must be changed to provide for majority representation from the state higher education and health sector institutions, especially with regard to admission of students, conduct of the degree programme and examinations.
- d. The student admissions policy may be different to that adopted by the UGC, but the minimum admission requirements must comply with SLMC recommendations.
- e. The basis on which the Neville Fernando “Teaching” Hospital provides patient care must be changed to run as a governmental or semi-governmental hospital, in order to ensure greater patient turnover and variety, and thus provide students with better clinical training.
- f. Long-term provision of access to the office of a Judicial Medical Officer and to a designated Medical Officer of Health area are essential for meeting minimum standards with regard to training of students. This issue and other deficiencies will be addressed if the teaching hospital functions as a governmental or semi-governmental institution
- g. The SAIMT medical programme should be subjected to another inspection visit by the SLMC, to consider if their hospital and other clinical training arrangements meet required minimum standards.

#### **4.2 With regard to current students and graduates:**

- a. Students should be required to obtain intensive clinical exposure in Medicine, Surgery, Paediatrics and Obstetrics & Gynaecology, and appointments in a MOH office and a JMO office, before their Final MBBS examination. Those who have already passed the MBBS examination conducted by SAIMT should be required to undergo additional training and pass the licensing examination described below.
- b. Section 29 of the Medical Ordinance (see section 2.1 above) should be amended so that all graduates from degree awarding institutes are required to pass a licensing examination administered by the Sri Lanka Medical Council prior to provisional registration.
- c. Placements for internship appointments for SAIMT graduates who pass this licensing examination and are given provisional registration, should be provided by the Ministry of Health, as for foreign graduates who have passed the ERPM.
- d. Those who complete the internship satisfactorily may be given full registration by the SLMC.
- e. Status quo should be maintained with regard to the Medical Service Minute (see section 2.3 above).

**4.3 With regard to ensuring patient rights and safety in the long term**

- a. The Minister of Health should ensure speedy enactment of regulations made under the Medical Ordinance Section 19 (e) regarding *Minimum Standards for Medical Education*, so that the SLMC has greater power in ensuring the maintenance of high standards in medical degree programmes.
- b. The Minister of Higher Education should ensure in the future, that all private higher education institutions which aspire to award medical degrees must provide a compliance certificate from the SLMC before granting degree awarding status with the power to award medical degrees.
- c. In order to guide medical school admission policies, the Ministry of Health should analyze the health manpower requirements of Sri Lanka and provide national projections on the requirement of medical practitioners in both public and private health sectors, and targets for production of medical graduates for the next decade at least.

**Signed:**

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