

**REPORT TO THE
HON. MINISTER OF HEALTH
BY THE
COMMITTEE APPOINTED TO INQUIRE
INTO COMPLAINTS RELATED
TO THE
SRI LANKA MEDICAL COUNCIL (SLMC)**

10th November 2020

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1. Health Minister and the staff
2. Secretary of Health & the staff
3. **Sri Lanka Medical Council (SLMC)**
 - Prof. Harendra Silva, President-SLMC
 - Dr. S. Shanmuganathan, Vice President-SLMC
 - Prof. H.R. Seneviratne, Head – Examination branch, SLMC
 - Dr Ananda Hapugoda, Registrar-SLMC
 - Prof. Asiri Abegunawardene – Dean, Peradeniya -Council Member
 - Dr. Vasantha Devasiri-Council Member
 - Prof. Vajira Dissanayaka – Dean, Colombo-Council Member
 - Dr. U.M. Gunasekera-Council Member
 - Dr.H M N P Herath -Council Member
 - Dr. S. Pilapitiya – Dean, Rajarata-Council Member
 - Dr. S Ratnapriya -Council Member
 - Dr. S. Raviraj – Dean, Jaffna-Council Member
 - Dr. D. Samaraweera-Council Member
 - Dr. Pushpitha Ubesiri-Council Member
 - Prof. Narada Warnasuriya-Council Member
 - Prof. Surangi Yasawardene – Dean, Sri Jayewardenepura-Council Member
 - Dr. Anuruddha Padeniya - Council Member
 - Dr. Naveen D Zoysa - Council Member
4. **Government Medical Officers Association members**
 - Dr.Senal Fernando (Secretary)
 - Dr.Samantha Ananda (Asst. Secretary)
5. **Association of Medical Specialists (AMS)**
 - Dr Lalantha Ranasinghe
 - Dr Sunil Wijesinghe
6. **Parents Union of Medical Students**
 - Dr Harris Pathirage
 - Mr. Wasantha Alwis

LIST OF ACRONYMS

AA	-	Prof. Asiri Abegunawardene, Dean – Peradeniya medical faculty
AW	-	Dr. Anula Wijesundere – committee member
Chairman	-	Chairman of the committee of Inquiry
DS	-	Dr. Dharshana Sirisena – committee member
HRS	-	Prof. Harsha Seneviratne , Head of Examinations, SLMC
LM	-	Prof. Lalitha Mendis – Past President SLMC
MC	-	Dr. Maithri Chandraratne– committee member
NS	-	Prof. Nilanthi de Silva – former Vice President - SLMC
NW	-	Prof. Narada Warnasuriya – Member, SLMC
PU	-	Dr Pushpitha Ubesiri - member, SLMC
PW	-	Prof. P.S. Wijesinghe – committee member
SY	-	Prof. Surangi Yasawardena, Dean – medical Faculty, USJP
UG	-	Dr Upul Gunasekera - member, SLMC
VD	-	Prof Vajira Dissanayake, Dean – Colombo medical Faculty
VP	-	Vice President of the SLMC
WSR	-	Dr W S Ratnapriya- member, SLMC
DORA	-	Directory of Organizations that Recognize, Accredite medical schools
ECFMG	-	Educational Commission for Foreign Medical Graduates
ERPM	-	Examination for Registration to Practice Medicine
SLMC	-	Sri Lanka Medical Council
PLAB	-	Professional and Linguistic Assessments Board test
WDOMS	-	World Directory of Medical Schools
WFME	-	World Federation of Medical Education
WHO	-	World Health Organization
UGC	-	University Grants Commission
USMLE	-	United States Medical Licensing Examination

EXECUTIVE SUMMARY OF OBSERVATIONS & CONCLUSIONS

Due to many complaints received by the Hon. Minister of Health, Pavithra Wanniarachchi(MP), a committee was formulated and was requested to look into some aspects of the functions of the SLMC with reference to the following terms.

TERMS OF REFERENCE OF THE COMMITTEE

- 1. Undue delay of conducting elections for 04 vacant council members within SLMC.**
- 2. Current issues pertaining to derecognition of Foreign University Degrees.**
- 3. Registration of Medical Graduates with substandard qualifications**
- 4. Undue delay in conducting ERPM Examination.**
- 5. Complaints regarding irregular disciplinary procedures conducted by SLMC.**

SUMMARY OF OBSERVATIONS

General Observations

When inquiring into the ToRs of this committee, it become apparent that, due to a multitude of factors, objectives of the SLMC and therein the Medical Ordinance have not been achieved. While some of these were beyond the control of the SLMC, many were the result of inefficiency of the SLMC. These factors included

1. Inability of the SLMC to understand its duties
2. Inefficiency of the SLMC to carry out its duties.
3. Inappropriate and erroneous actions of the SLMC.
4. Infringement of the medical ordinance and transgression by a former Minister of Health namely Hon. Rajitha Senaratna (M.P.)
5. Procedural delays in enacting regulations of the SLMC which directly affected the ability of such regulations to withstand challenges in a court of law.

The committee observes, during last 4 (2016 -2020) years Sri Lanka Medical Council (SLMC) had many shortcomings. It is evident that during the said period SLMC had 3 presidents where the usual term of a president is 5 years. Not only having 3 presidents being appointed but there was a period where SLMC was without a president nearly a year. In addition SLMC did not have a proper Registrar where the post was covered up by an assistant Registrar who was also a nominee of the former health minister. It is very clear though the Health Minister had powers to control the SLMC by the medical ordinance, he had not used it to the betterment of this statutory body but to the contrary. As a result most of the duties were not executed properly by SLMC, in fact it led to the issues outlined in the ToR of the ministerial committee.

SPECIFIC OBSERVATIONS PERTAINING TO THE TORS

1. Undue delay of conducting elections for 04 vacant council members within SLMC.

The Medical Ordinance clearly empowers the SLMC to fill vacancies of elected members of the SLMC council by holding elections according to regulations made by the SLMC.

Getting duly represented in the SLMC council is a right of Medical Practitioners in Sri Lanka.

Maintaining the composition of the Council is essential for the effective function of all aspects of the SLMC.

However, SLMC has failed to conduct elections for 04 vacant seats for a very lengthy period. i.e.

1. 2 years & 10 months (01 Vacancy)
2. 2 years & 08 months (03 Vacancies)

The main reasons included

1. Former Minister Dr.Rajitha Senarathna's undue influence
2. SLMC Council not acting in the manner expected of public service
3. Acting Registrar of the SLMC Dr.Chandana Athapaththu's unacceptable involvement
4. Unacceptable and unprofessional influence of former and present Presidents of the SLMC namely Prof. Colvin Goonerathna and Prof. Harendra De Silva.

We observe that previous Minister had made unacceptable influence for the election process and hence postponement of the election for more than 2 years. We also observe that despite the directives of current Minister, President and some council members had not taken any tangible measures to hold the election in fact had taken all steps to postpone it.

The SLMC did not carry out its responsibility to conduct elections needed for filling vacancies of the council to maintain the full efficiency of the SLMC.

The SLMC did not exhibit the necessary momentum to conduct elections for vacant seats in the council for a period more than 02 years.

2. Current issues pertaining to derecognition of Foreign University Degrees.

SLMC did not understand that consistency should be maintained when a degree awarding institution is derecognized. e.g. SLMC informed the former Minister of Health of derecognition of SAITM but failed to inform the present Minister of Health of derecognition of 07 overseas universities.

SLMC did not understand that the present recognition system based on applications by overseas universities immediately excluded higher ranking overseas universities from being recognized by the SLMC

The recognition and derecognizing process of the foreign degrees has many shortcomings and the SLMC had not adopted the methods accepted internationally for the recognition of foreign universities. As a result derecognition of 07 universities had been delayed without any transparent manner and as a result, said universities had deprived of reapplying after 2 years. This had led undue advantage to competing universities and their local agents which mainly has profit oriented objectives.

The committee believes final authority of derecognizing such universities is empowered to the Hon. Minister of health but president and the council had not followed the due procedure hence leading to unrest among interested parties including diplomatic missions.

3. Registration of Medical Graduates with substandard qualifications

The committee observed that the SLMC applied minimum entry criteria without the legal authority of an act of the parliament and exposed the SLMC to legal confrontations with no possibility of defense.

Being the statutory body where the prime objective is to maintain highest standard of medical care which ultimately reflects as the wellbeing of the general public, SLMC has failed in its main objective of maintaining standards of medical practice by not exploring all possible avenues to prevent graduates without minimum qualifications registering for foreign degrees entering the Sri Lankan health service.

We observe that many hundreds of students had got entry into foreign universities without basic entry qualifications and, some have even failed all subjects in Advanced Level examination or not sat for biology stream in Advanced Level examination and some had not even sat for the Advanced Level examination.

It is also noted that SLMC had not taken any tangible measures and applied any sort of influence on the minister to gazette the minimum standards to enter into foreign universities for the last 5 years which should be their major objectives in maintaining standards.

4. Undue delay in conducting ERPM Examination.

The SLMC postponed the ERPM examination based on a verbal opinion of a lawyer. This resulted in a significant delay of ERPM examination and unduly created unrest among local undergraduates as well as foreign graduates as well as created unnecessary public pressure on the Ministry of Health, at time when the whole country is facing a health crisis.

The facilities available at the SLMC to conduct the ERPM are sub standard and could reflect in the quality of the examination as well.

5. Complaints regarding irregular disciplinary procedures conducted by SLMC.

Deliberately misinterpreted the Gazetted Regulations on Disciplinary Procedures when inquiring into an incident which has occurred in a hospital canteen which had no relation to any professional duties.

The said incident should have fulfilled the following excerpt of the gazetted regulation. "Conduct or negligence or incapacity relating to professional duties of a practitioner".

It is clear that a gathering of medical practitioners on a matter which had no relationship to duties does not qualify under the above clause.

President, Acting Registrar and some of minister's nominees abused their power to take revenge from the respondents by misinterpreting and misapplication of SLMC disciplinary procedure.

The SLMC allowed a serious breach of conflict of interest during an inquiry which involved a council member, by allowing the said member to sit in the said inquiry panel and allowing the said member to sign the verdict.

FINAL RECOMMENDATIONS

Undue delay of conducting elections for 04 vacant council members within SLMC

1. President and the council should take all measures to hold the elections for the vacant 04 seats immediately with no further delay. We recommend that the existing regulations are sufficient for such.
2. Further amendments or legalization of election procedures should be done after holding the already sanctioned elections and cannot be used to delay the right of medical practitioners of this country from getting elected to the SLMC.
3. The election for the category of specialist representatives should be carried out later as a separate event once the specialist registry is completed and sanctioned.

Current issues pertaining to derecognition of Foreign University Degrees

4. Immediately restore the deleted names of medical faculties from the eligible list for foreign medical education.
5. Submit the derecognition decisions of any overseas universities with reasons, for the Hon. Minister's perusal.
6. The SLMC should strictly review the current recognition process which had given room to various malpractices and take immediate steps to formulate and implement a proper recognition process for foreign degrees, taking into account the global trends in medical education.
7. Immediately revise the recognition process based on the guidelines given in this report. (refer algorithm)

Registration of Medical Graduates with substandard qualifications

8. While appreciating the Hon. Health minister's untiring effort to approve the minimum standard gazette on 03.11.2020, we recommend the minimum requirement should be amended later based on our proposal by equating the minimum standard to the lowest Advance Level results of the student who entered to local medical faculties in the previous year.

Undue delay in conducting ERPM Examination.

9. All steps should be taken to hold the ERPM examinations soon without further delay. SLMC should provide all the assistance to the examination department in this regard.

Complaints regarding irregular disciplinary procedures conducted by SLMC

10. Minister may direct the SLMC-President to immediately to withhold the protracted inquiry against the 16 medical practitioners (PPC 398) and request the SLMC to abide by the PPC decision of not proceeding with an inquiry as it contravenes the Gazetted disciplinary inquiry procedures.

Additional Recommendations

11. Responsible officers and council members should be terminated to restore the independence and function of SLMC.
12. To consider appointing medical professionals of high caliber and integrity as President SLMC and Hon. Minister's nominees under 12 (f) of the Medical Ordinance with immediate effect
13. Minister may consider developing suitability criteria such as age, duration of service in the health ministry, qualifications etc. for the members appointed by the minister by amending the Medical Ordinance so that SLMC could regain its previous respect and glory and more importantly to maintain the high standards of medical practice in this country with impartial and transparent manner.
14. Minister shall request the SLMC to apply section 18 (e) to the local medical degree awarding institutions and section 18 (f) to the Post Graduate Institute of Medicine
15. Minister may consider, after consultation with the minister of Higher Education, suggest appointing the Chairman of the UGC and the Director of the PGIM as ex-officio members of the SLMC by amending the medical ordinance
16. Minister to recommend a complete revision of the scholarship scheme for overseas medical education
17. Strongly recommend revision of the medical ordinance in keeping with current and global trends and importantly a revision of the composition of the council
18. As the number of medical faculties have increased over the last decade, their representatives had increased so that to maintain the balance we recommend to increase the elected members accordingly.
19. The Minister of Health to make strong representations to the government on
 - a) Advising the UGC in minimizing the delays in admitting the local medical students to the local medical faculties
 - b) Instructing the Vice Chancellors of all local universities to provide a examination calendar of the final examination of the medical faculties with minimum intervals between faculties
20. The Minister of Health may draw the attention of the Minister of Education with regard to the major discrepancies in the local school curriculum compared to international education curricula in an attempt to minimize the disadvantages faced by students following the Sri Lankan school syllabi when entering the universities

INTRODUCTION

By the authority bestowed upon it by the medical ordinance of 1927 and its subsequent amendments, the Sri Lanka Medical Council, hereafter referred to as SLMC, has an overarching responsibility towards the medical profession in this country and is expected to make representations to the Government on any matter connected with the medical profession in Sri Lanka [Section 12(3)].

As the medical profession is for serving the people, the SLMC has the ultimate responsibility to the people who receive medical attention and who offer such medical attention. It is paramount that all actions of SLMC must be carried out keeping this objective in focus at all times.

Among such responsibilities of the SLMC lies the power to make regulations for

1. The maintenance of minimal standards of primary medical education
2. Holding the elections for the Council of the SLMC
3. Recognition and recommendation of overseas medical schools for education of Sri Lankan citizens
4. Conducting the ERPM examination for overseas students
5. Conducting disciplinary inquiries against its members

Basis for Report

Due to many complaints received by the Hon. Minister of Health, Pavithra Wanniarachchi MP, a 5-member committee was formulated and was requested to look into some aspects of the functions of the SLMC with reference to the following terms. The appointment letters to the members of the committee were handed over on 16.09.2020. with a request to submit a report on or before 30.09.2020. on the under mentioned Terms of References. (Annexure 1) .This deadline was subsequently extended to 15.11.2020. on a request made by the committee. (Annexure 2).

Terms of Reference of the Committee

1. Undue delay of conducting elections for 04 vacant council members within SLMC.
2. Current issues pertaining to derecognition of Foreign University Degrees.
3. Registration of Medical Graduates with substandard qualifications
4. Undue delay in conducting ERPM Examination.
5. Complaints regarding irregular disciplinary procedures conducted by SLMC.

Having received and perusing the documents related to the complaints from the office of the Minister of Health, the committee met on 23.09.2020. for the first time and regularly thereafter, at the Office auditorium of the Secretary of Health and at the Council room of the

Sri Lanka College of Obstetricians & Gynecologists. Dr. Dharshana Sirisena, member of the committee was appointed as the secretary of the committee. All proceedings of the meetings were recorded and minuted.

All written submissions sent to the committee were entertained. GMOA, the main complainants, the President and the council of the SLMC, representatives of the association of medical specialists (AMS) and, the parents of the Sri Lankan medical students requested an opportunity to present their views in person and this was allowed. A medical students union which sent a similar request was given an appointment to present their views but excused on 06.11.2020. due to the curfew imposed at that time.

Whenever necessary, the Registrar of the SLMC, the head of education department of the SLMC and members of the SLMC were contacted via telephone to get additional information. All participants were very helpful in providing information and the committee wishes to thank all of them. Committee also wishes to thank the staff of the office of the Minister of Health, office of the Secretary of Health and the President of the Sri Lanka College of Obstetricians & Gynecologists for the kind assistance provided.

Method of Conducting the Inquiry

All written submissions sent to the committee were entertained. In addition, the committee requested documents relevant to the 5 ToR's from Sri Lanka Medical Council through Health Ministers office. GMOA, the main complainants, representatives of the association of medical specialists (AMS) and, the parents of the Sri Lankan medical students requested an opportunity to present their views in person and this was allowed.

The President and the council of the SLMC were requested to present their views on the ToRs in person and this meeting was held from 8.30 am to 1.30 pm on 16th October 2020 at the office of the Secretary of Health.

Following organizations were present physically, on request.

1. Government Medical Officers Association (GMOA) members
2. Sri Lanka Medical Council (SLMC)
3. Association of Medical Specialists (AMS)
4. Parents Union of Medical Students

List of Documentary Evidence

1. Complaints received to the committee through Health Ministers office
2. SLMC Council meeting minutes relevant to the 5 ToR sent by the SLMC
3. Relevant Minutes of the Foreign Degrees Committee (FDC) sent by the SLMC
4. Relevant minutes of the Preliminary Proceedings Committee (PPC) and Preliminary Conduct Committee (PCC) sent by the SLMC
5. Files relevant to derecognition process of the 7 universities sent by the SLMC
6. Submission from Association of Medical Specialists (AMS)
7. Submission from Association of Parents Union of Medical Students

Format of the report

1. Sectional reports under each ToR with opinions and recommendations
2. Final report with summary of findings and recommendations

Relevant supporting documents are attached as annexures.

1. UNDUE DELAY OF CONDUCTING ELECTIONS FOR 04 VACANT COUNCIL MEMBERS WITHIN SLMC.

1.1 OBSERVATIONS

- 1.1.1 Section 16 of the Medical Ordinance provides guidance on filling a vacancy of a member.
- 1.1.2 Since the inception of SLMC, there has been no gazette or parliamentary approved format for holding elections. However, as per the powers vested in the Council, regulations to conduct the elections have been employed by the SLMC from time to time.
- 1.1.3 The SLMC is empowered by section 19 of the Medical Ordinance to make regulations for many purposes including the election of members to the Medical Council
e.g.
Section 19. Regulations may be made for all or any of the following purposes :-
a) The election of members to the Medical Council and of the vice-president
b) Regulations made for the procedure at meetings of the Medical Council, including the quorum

OPINION 1

- i. *All such regulations made by the SLMC need not be gazetted and passed in the parliament as law unless the SLMC considers that such regulations are of such public importance, warranting the ability to withstand a challenge in a court of law*

- 1.1.4 In 2017, SLMC Council has published the latest electoral procedure regulations in draft form as per section 19 (a) of the Medical Ordinance.
- 1.1.5 This draft of the Election Procedure Regulations has been submitted to the Minister of Health on 10.11.2017. to be gazetted and subsequent parliamentary approval.
- 1.1.6 However, up to date, these regulations have not been gazetted.
- 1.1.7 Under this draft “Election Regulations of 2017” one election was successfully held on 24.01.2017, conducted by the Council and the Registrar acting as the returning officer and with the assistance of an officer from the Department of Elections. There was no any objections regarding the Elections regulations by contestants.
- 1.1.8 The President of the Council at that time as well as a member namely Dr. Upul Gunasekera had commended the efficient and transparent manner in which the election has been conducted under the draft regulations. (Ref: Minutes of 586th meeting – 23.02.2018.)

- 1.1.9 A memo has been submitted by the Registrar, SLMC to sanction 04 vacancies resulting from expiry of terms and to inform the Council the need to advertise and hold an election. The vacancies were sanctioned and the Registrar was appointed as the returning officer (Ref: Minutes of 586th meeting – 23.02.2018.)
- 1.1.10 An advertisement was placed in the local newspapers on 27.02.2018. calling for applications.
- 1.1.11 Nominations were received and a Notice of Elections was to be published on 28.03.18. (Ref: Memo from Registrar, SLMC dated 22.03.2018.)
- 1.1.12 The day after the abovementioned memo, the Minister of Health, Hon. Rajitha Senaratne instructed the President of the SLMC to stop proceeding with the already advertised Election claiming that he had received several complaints. These complaints were neither mentioned in his letter nor were attached to his letter. (Ref: Ministers Letter dated 23.03.2018. and Minutes of 587th meeting – 23.03.2018.)
- 1.1.13 When inquired from the SLMC, it was revealed that no document was sent by the Minister of Health pertaining to these complaints and as such, the SLMC admitted to have no knowledge as to what these complaints the Minister was referring to.

OPINION 2

- i. The more prudent and transparent approach by the Minister should have been to assist the SLMC Council to understand and correct if necessary the shortcomings of the draft regulations under which an election had been already held.*
- ii. Lack of official correspondence with documentation, with the Minister about the actual complaints shows inadequate grasp of the responsibilities of the SLMC by its Council.*
- iii. The SLMC should have written to the Minister and requested the factual information in relation to the so called legal invalidities law*

- 1.1.14 However, the SLMC decided to go ahead with the Elections despite the Minister's instructions. (Ref: Minutes of 587th meeting – 23.03.2018.)
- 1.1.15 Advertisement for the Election was published on 02.04.2018. as per the Council decision taken on 23.03.2018.
- 1.1.16 On the same date of the said advertisement, the Minister informed the President of the SLMC that he had decided to cancel the notice of Election by virtue of the powers vested upon him under section 18 of the Medical Ordinance, referring to an appeal made to him by the Association of Medical Specialists (AMS), again without any details of the said complaint.

- 1.1.17 When inquired from the SLMC, it was revealed that no document was sent by the Minister of Health pertaining to these complaints and as such, the SLMC admitted to have no knowledge as to what these complaints the Minister was referring to.
- 1.1.18 AMS, during oral submissions, acknowledged their role in this appeal and agreed to send a copy of the document they submitted to the Minister.

OPINION 3

- i. Again, providing the contents of the appeal should have been the more prudent and transparent approach by the Minister to assist the SLMC Council to understand the reasons behind cancelling the elections.*
- ii. The minister referred to section 18 (1) when making this request, but having made a decision without providing any reasons he had violated the legitimate right of any Medical practitioner registered under the section 29 of the ordinance and, disregarded the essential composition of the Council necessary to carry out its functions properly*
- iii. He has confounded his errors by appointing two of the 04 members who completed their 05 year term while preventing other practitioners in the country getting democratically elected to the Council for an equal position of the said member appointed by him.*
- iv. The minister has contravened the Ordinance and has risked being guilty of an offence under section 68 of the Medical Ordinance.*
- v. The minister has overlooked the methodology used to prepare the Election Regulations, which has included many discussions, including discussions with Department of Elections (Ref: Minutes of 589th meeting – 25.05.2019.)*

- 1.1.19 When the SLMC decided to hold the Elections despite the Minister's request to the contrary, subject to the Minister gazetting the Regulations within a reasonable period of time. The Minister by his letter dated 18.05.2018. reiterated his decision, still quoting section 18 (1) of the Ordinance.

OPINION 4

- i. Section 18 has to be prudently applied but not in an autocratic manner without transparency and reasoning as was done here*

- 1.1.20 Despite a SLMC delegation meeting the minister on 07.06.2018, he did not change his stance and maintained that he had every right to do so. (Ref: Minutes of 591st meeting – 20.07.2018.)
- 1.1.21 Another delegation of the SLMC met the Minister on 17.08.2018.
- 1.1.22 It has to be noted that by this time, the Council had unfilled vacancies for
- 09 months (01 Vacancy)
 - 06 months (03 Vacancies)
- 1.1.23 At this meeting held on 17.08.2018 Minister, Hon. Rajitha Senaratne has finally exposed the reasons behind his stance by expressing his view that SLMC might turn into a trade union with the way Elections are conducted. He has expressed his unwillingness to permit the SLMC to hold the elections or to publish the Regulations. (Ref: Minutes of 592nd meeting – 31.08.18.)

OPINION 5

- i. *By this deliberate refusal to facilitate the election procedure, the Minister has clearly violated constitutional rights of medical practitioners in this country under Section 12 (C) and thereby has committed an offence against the ordinance punishable under Sections 68 and 69.*
- ii. *The SLMC Council should have acted with boldness when it realized that the Minister is clearly giving instructions with no basis, as they knew that the Section 18 of the Medical Ordinance has to be prudently applied but not in an autocratic manner without transparency and reasoning.*

- 1.1.24 On 27.11.2019, the Council received a letter from the then Minister of Health, Hon. Chamal Rajapakse to hold the election. This was not carried out by the Council quoting various reasons. Even this request was not cancelled by Dr. Rajitha Senarathna in his second term.
- 1.1.25 VP said the request letter was addressed to Dr. Palitha Abeykoon as the President - SLMC, SLMC but there was no President - SLMC for the SLMC at that time. SY said the letter was addressed to a name. Chairman of the Committee asked "When such a letter comes, who will act on that as this letter was on a general matter?". There was no answer to the Chairman of the Committee's question.

OPINION 6

- i. By not acceding to this Minister's request but accepting the previous Minister's requests, the SLMC has quite clearly treated two Ministers' directives differently and has again committed an offence under section 68 and 69.*
- ii. As the election was a right of medical practitioners and as the SLMC needed to fill 04 vacancies as soon as possible, there was no reason to refuse to comply with the Minister's order.*
- iii. Withholding an election by an arbitrary, unfounded instruction of a Minister, anticipating an unseen legal deficiencies is not acceptable.*
- iv. Instead, the SLMC should have been challenged the Minister's order in the court of law, rather than meekly surrendering the powers it has been vested upon by the Medical Ordinance.*
- v. The reason for not appointing a Registrar - SLMC was not given.*
- vi. If the absence of a Registrar was a reason not to hold the election, the President could have acted as the Returning officer as was done at the 610th council meeting. (Ref: Minutes of 610th meeting – 28.02.2020.)*

1.1.26. On 16.05.2019. Minister Hon. Rajitha Senaratne appointed 02 members under Section 12 (f) of the Ordinance.

OPINION 7

- i. He violated the ordinance further by again treating two council seats unequally, when he appointed 02 members without an election while still refusing to allow the democratic election of 04 medical practitioners under section 12 (c).*

1.1.27 Assistant Registrar had proposed for himself to consult the Election Commissioner and the council has allowed it. (Ref: Minutes of 610th meeting – 28.02.20)

OPINION 8

President of the SLMC should not have acceded to the above as there was no right to do such private consultations.

- i. Registrar - SLMC has misled the Council. President - SLMC has allowed himself to be misled by the Registrar - SLMC to believe that Election commission conducted the previous election.*
- ii. Draft Regulations clearly say "The SLMC may seek assistance and advise of the Commission of Elections of Sri Lanka in conducting the whole election or part of the election".*
- iii. This incident depicts a substandard grasp of the responsibilities of the Council, probably emanating from the fact that the very prestigious and responsible post of the Registrar - SLMC of the SLMC, which was held by eminent professionals of the yesteryear, such as Prof. H.V.J. Fernando and Prof. S.S Pandithratne being considered to be adequate to be held by an ordinary medical officer of very limited professional experience.*
- iv. The assistant Registrar - SLMC has been allowed to deliberately delay the elections using a meeting with Elections Commissioner as an excuse. President - SLMC is responsible for not guiding the Council to honor the Minister's instructions. President - SLMC of the SLMC should not have acceded to the above as there was no right to do such private consultations.*

1.1.28 On 28.12.2019. The Minister of Health, Hon. Pavithra Wanniarachchi has requested the President, SLMC to proceed with the Elections. Up to date this has not been carried out.

OPINION 9

- i. President should have instructed the council to advertise elections based on the request of the minister on 28.12.2019.*

1.1.29 Acting Registrar had insisted that Election Commission has handled the previous election completely. (Ref: Minutes of 609th meeting – 31.01.20.)

OPINION 10

- i. Acting Registrar has misled the council. President has allowed himself to be misled by the Registrar to believe that Election commission conducted the previous election.*

- 1.1.30 The Assistant Registrar has repeatedly indicated that he wants to get the Election Commissioner's Opinion by meeting him privately. This has been allowed by the Council. (Ref: Minutes of 612th meeting – 29.05.20.)

OPINION 11

- i. *The assistant Registrar has been allowed to deliberately delay the elections using a meeting with Elections Commissioner as an excuse. President is responsible for not guiding the council to honor the Minister's instructions*

- 1.1.31 By this stage the delay in filling 04 vacancies has been

- ½ years (01 Vacancy)
- years & 3 months (03 Vacancies)

- 1.1.32 President has written to the Commission of Elections on 04.03.2020. indicating that there is a legal reason for not holding the elections even though he knew that the reasons for not holding the elections had no such basis at all. In fact, as mentioned above, a successful Election had been held under the existing draft regulations.

OPINION 12

- i. *The President – SLMC should have acted more responsibly by checking what these legal reasons were, before informing a third party who had no knowledge at all about this.*
- ii. *This shows that, on the part of the President - SLMC, there has been no genuine interest to hold the elections despite the extreme delay. Sending a letter to the Election Commission which had no knowledge of the sequence of events which took place at the SLMC regarding the elections, the President - SLMC, has thought it adequate to mention a legal inadequacy, of which he had absolutely no evidence.*

OPINION 13

- i. *All such regulations made by the SLMC need not be gazetted and passed in the parliament as law unless the SLMC considers that such regulations are of such public importance, warranting the ability to withstand a challenge in a court of law*
- ii. *If the Draft regulations have never been challenged in a court of law but if the SLMC thought it might happen in the future, these regulations could be gazetted in the future.*
- iii. *Withholding an election by an arbitrary, unfounded instruction of a Minister, anticipating an unseen legal deficiencies is not acceptable.*
- iv. *Instead, the SLMC should have been challenged the Minister's order in the court of law, rather than meekly surrendering the powers it has been vested upon by the Medical Ordinance.*

- 1.1.33 The response from the Commissioner's department simply echoed the President's statement, delaying the election further.

OPINION 14

- i. It sounds strange that the additional commissioner, even without knowing what these purported legal issues were, advised to delay the elections further.*
- ii. This shows poor administrative capabilities of the officials of the Election Commissioner, who thought it appropriate to not get details of the so called legal inadequacies, particularly on the backdrop of the Election Commissioner having to take responsibilities when the election would be held.*

- 1.1.34 Up to date the delay of election has been

- years & 10 months (01 Vacancy)
- years & 08 months (03 Vacancies)

- 1.1.35 President - SLMC said the Registrar - SLMC had informed that until Registers are updated, election cannot be held. AW asked "what about the previous Registers?". Chairman of the Committee asked "Is it correct to say that the Registrar - SLMC is expected to maintain the Registers? If not maintained, it is a lapse of the SLMC". SLMC agreed. President - SLMC said there are new registrants.

OPINION 15

- i. Registrar - SLMC has misled the Council. It is clearly mentioned in the draft Regulations "The electoral registry shall be the updated electronic registry of the SLMC as at the time of the notice of the election".*
- ii. As such, any time an election notice is placed, the registry as updated to that point will be the valid registry to be considered for the eligibility to vote. This shows that the SLMC Council has no knowledge of its own Regulations.*

1.2. CONCLUSIONS:

- 1.2.1 The elections have been deliberately delayed by the former Minister of Health, Hon. Rajitha Senaratne MP.
- 1.2.2 The SLMC Council is responsible for not seeking the reasons of the Minister for preventing the elections from being held
- 1.2.3 The SLMC Council is responsible for not challenging the Minister's decision in a court of law
- 1.2.4 SLMC is responsible for not carrying out the request of the next Minister of Health, Hon. Chamal Rajapakse to hold the elections, by citing unacceptable reasons

- 1.2.5 SLMC is responsible for not carrying out the request of the present Minister of Health, Hon. Pavithra Wanniarachchi to hold the elections by citing unacceptable reasons
- 1.2.6 SLMC has failed to safeguard the democratic rights of Medical Practitioners, granted by the Medical Ordinance, to be represented in the Council of the SLMC

1.3. RECOMMENDATIONS:

- 1.3.1 Minister of Health to request the President and the Council of the SLMC to hold the election immediately under the existing draft regulations for the 04 vacant posts utilizing the currently available registries.
- 1.3.2 Draft Election Procedure Regulations need a review and has to be gazetted by the Minister of Health.
- 1.3.3 Minister may request the President of the SLMC and the Council to show cause for the lapses which led to this blatant violation of the Medical Ordinance.
- 1.3.4 Election for the 04 posts of specialist representatives of the Council to be held once the specialist registry is completed as per the section 39 of the amended Medical Ordinance of 2018.

2. CURRENT ISSUES PERTAINING TO DE-RECOGNITION OF FOREIGN UNIVERSITY DEGREES.

2.1 OBSERVATIONS

- 2.1.1 According to powers vested in the Medical Ordinance, recognition and de-recognition of foreign universities should be done by the SLMC in accordance with chapter 105 section 19c. The Foreign Degrees Committee (FDC) is entrusted with the task of making recommendations to the council in this regard.
- 2.1.2 This committee after close scrutiny, should give its opinion to the council which should then make recommendations to the Minister of Health (Ref: Section 19c), who may, after a stringent review of the derecognition process adopted, may consider to de-recognize universities.
- 2.1.3 The recognition process, according to the information given by the SLMC, includes, desk reviews followed by site visits when required, after receiving the application from the foreign universities. This applies for first time applications and for the mandatory renewals after 5 years.
- 2.1.4 This process of accreditation and evaluation of standards considers the following requirements.
- i. The content, composition, and duration of the medical curricula.
 - ii. The assessment of the teaching components and students' learning.
 - iii. Implementation, monitoring, alteration and modification of Curricula with feedback.
- 2.1.5 The above process is done by the FDC which is chaired by the President-SLMC.
- 2.1.6 A derecognized university has the privilege of reapplying after an interval of 02 years.
- 2.1.7 Summary of the findings of the FDC related to the presently SLMC recognized (eligible to study) medical schools is attached. (Table 1)
- 2.1.8 During the period from 23.07.2018 to 01.07.2019, the FDC has not met regularly despite the accepted practice of having monthly meetings.
- 2.1.9 The explanation given by the SLMC was that the delay in having regular meetings was due to the absence of a duly appointed President and a Registrar during the period under review.

OPINION 1

- i. This explanation is not acceptable as regular meetings of the FDC were essential because there were many applications pending accreditation.*
- ii. The meetings could have been held with the acting President and the acting Registrar of the SLMC*

2.1.10 Desk reviews regarding seven (07) universities mentioned below, were delayed between 2016 and 2018. Ultimately a decision to derecognize all 07 universities was taken on 23.06.2020. (Table 2)

- 1) Grant Government Medical College of India
- 2) Melaka- Manipal Medical College, Malaysia
- 3) Pirogov Russian National Research Medical University of Russia
- 4) Riga Stradins University of Latvia
- 5) RUDN University of Russia
- 6) Taylor University of Malaysia
- 7) Tver State Medical University of Russia

2.1.11 However, students continued to get enrolled to 06 of these universities during this period due to this unprecedented delay of the recognition process.

2.1.12 Desk reviews of the above universities began in 2016.

2.1.13 The review process of the said universities was completed in 2018.

2.1.14 However, the derecognition decision was not tabled at SLMC council until 2 years later, on 26.06.2020.

2.1.15 When the whole set of documents pertaining to each of these derecognized universities were perused, many lapses in the evaluation process by the SLMC evaluators could be detected, which included inadequate assessment of the information provided, inconsistency among the evaluators and documenting errors. (Ref. Annexure 03)

2.1.16 Countries such as USA, UK and Australia use a very transparent method of recognition process before accepting applications for their licentiate examinations such as USMLE, PLAB or AMC.

This is a process which involves

a. For USA

- i. Certification by Educational Commission for Foreign Medical Graduates (ECFMG) which, from the beginning in 2023, will need the medical schools to be accredited by a World federation of Medical Education (WFME) -recognized accrediting agency
- or**
- ii. Accredited by an Agency that Has Received a Determination of Comparability by the National Committee on Foreign Medical Education and Accreditation (NCFMEA)

b. For UK/Australia

- i. Primary source verification of the medical education and registration credentials of medical graduates by the ECFMG
- and**
- ii. Medical school has to be listed in the *World Directory of Medical Schools* (WDOMS) and have an ECFMG note stating this in the schools' *World Directory* listing.

OPINION 2

- i. *Current recognition process, despite being extremely detailed, which of course is a good quality, is laborious and extremely time consuming. This is not a process practically possible to be carried out by O2 evaluators, who are professionals in full time employment in non-SLMC occupations, doing this when time permits. This makes it vulnerable to human and calculation errors, not to mention the possibility of unacceptable influences of recruiting agencies.*
- ii. *At the end of such a rigorous effort, when a university is derecognized, particularly when such a university has not been even recognized in an accreditation system such as ECFMG or the system applied by GMC General Medical Council in the reckoning in a ranking system such as TIMES, the whole exercise is wasted.*
- iii. *These deficiencies in the recognition process should be rectified by a more transparent process incorporating globally accepted accreditation criteria and, with assistance of acceptable accreditation agencies in the world.*
- iv. *This delay in processing the application has resulted in depriving the said universities from reapplying for re-recognition. This indirectly favors the competing universities and their local agents.*

OPINION 2 - CONT..

- v. *The current recognition system in Sri Lanka more or less supports the profit-oriented universities and their local agents rather than the quality of medical education.*
- vi. *The current system leaves room for corruption as intermediate agents are involved.*
- vii. *SLMC has responsibilities to be carried out as per the Medical Ordinance which has been completed overlooked so far e.g. setting standards for the local universities, and this time and energy would be very well spent on such more useful activities.*

2.1.17 Thereafter, the names of these universities were removed from the SLMC website without informing the present Minister of Health. VP said that the SLMC has never informed any Ministers of Health when derecognizing a university, till the present issue of the 07 universities, except in the case of SAIMT. He added that though 19 C (1) says “may recommend”, that is not binding to inform the Minister. President - SLMC said they have informed the Minister of Health now with regards to the 07 derecognized institutions.

2.1.18 When questioned whether a scrutiny by the Minister will make the process of derecognition more transparent, President - SLMC said they will do it hereafter.

OPINION 3

- i. *This answer has contradictory statements as the SLMC has considered it as appropriate to inform the Minister of Health as per Section 19c of the Medical ordinance on a particular occasion which was regarding SAIMT, but didn't follow suit with regard to other universities,*
- ii. *Both these instances involved assessment of universities which were not under ministry of higher education.*
- iii. *This should have been the accepted practice as there is clear guidance in the Medical Ordinance. Not adhering to this resulted in a grave injustice to students who have been already studying in 06 of the 07 universities and more importantly, led to a diplomatic crisis to the government.*

2.1.19 Subsequently President-SLMC had stated in media that the removal of the above universities from the SLMC web site was a mistake. However, SLMC did not officially

acknowledge the mistake or took any measures to correct it until this committee was appointed to look into this affair.

OPINION 4

- i. The President- SLMC as well as his predecessors should have been more professional in handling of entire issue of derecognition by informing the Minister of Health. This would have avoided embarrassment to the government which is ultimately responsible to the public on these matters.*

2.2 CONCLUSIONS

- 2.2.1 Over the years, up to date, the methods used by the SLMC for recognition of universities have not been satisfactory
- 2.2.2 The number of recognized universities in the SLMC list do not include most of the world recognized universities
- 2.2.3 The “need to apply” prerequisite of the SLMC is preventing such high caliber universities being recognized by the SLMC as such universities would not pay and apply for recognition by the SLMC
- 2.2.4 Current method opens doors for middlemen to use the application system for monetary gains
- 2.2.5 Current method is vulnerable for corruption
- 2.2.6 Current method prevents students from Sri Lanka in getting exposed to top quality medical education and instead forces them to accept substandard universities
- 2.2.7 Current method of recognition has to be abolished with immediate effect.
- 2.2.8 A complete change of the recognition process has to be implemented.
- 2.2.9 Derecognition of universities has to be conveyed to the Minister of Health as a routine formality before listing such universities as derecognized
- 2.2.10 The SLMC has to act with the primary objective of assuring the quality maintenance of health care delivery to the public during all its actions

2.3 RECOMMENDATIONS

- 2.3.1 *It is recommended that the derecognized O6 universities are reverted back to recognized status with immediate effect*
- 2.3.2 *The SLMC should send in a detailed report, giving reasons for derecognition of these O6 universities to the Minister of Health*
- 2.3.3 *This system of routine information to the Minister of Health should be adopted in the future for every instance of derecognition of a university*
A new method of recognition, based on accepted methods used by developed countries should be adopted as soon as possible (Ref. annexed Algorithm 1)

3. REGISTRATION OF MEDICAL GRADUATES WITH SUBSTANDARD QUALIFICATIONS

3.1 OBSERVATIONS

- 3.1.1 Sri Lankan state universities admit students to study medicine based on following criteria;
- Subject combination at GCE Advanced Level Examination (Biology, Chemistry, Physics)
 - Minimum pass mark for each subject
 - Selection of national and district level candidates based on the merit order (Z score)
 - Special categories
 - Availability of placements in the individual faculties.
- 3.1.2. Overseas Universities may have different entry criteria with regard to subject combinations and minimum marks.
- 3.1.3. Some overseas universities admit
- Students after premedical/foundation courses and
 - Graduate students to study medicine.
- 3.1.4. Minimum entry criteria for any university degree program in Sri Lanka has been 03 'S' passes at the GCE Advanced Level examination.
- 3.1.5. As for medical education, from 3.11.2020., the minimum entry qualification will be
- The Z score
 - The examination results of the lowest Z score to be admitted having subject results higher than 2 'C' and 1 'S' in biology, chemistry and physics
- 3.1.6. However, until 3.11.2020., when allowing students to enter overseas medical schools, there was no legally binding minimum qualification applied by the SLMC and as such, the only criterion which had to be fulfilled was whether the given medical school had been recognized by the SLMC.
- 3.1.7. As such, there have been instances of students having entered overseas medical schools
- With subject combinations other than the 03 required subjects of biology, chemistry and physics
 - With subject results less than 03 's' passes
 - Having failed in all 03 subjects at the advanced level examination
 - Without sitting the advanced level examination

OPINION 1

- i. Recognizing universities without verifying their minimum admission criteria appears to be an unacceptable error with so many academics in the SLMC*
- ii. Due to lapses on the part of the SLMC over the years, the country has allowed doctors without even the bare minimum of pre-university educational qualifications to be enrolled into the health service.*

- 3.1.8. Such students who completed medical degrees in overseas medical schools have been allowed to sit the ERPM examination by the SLMC, on the virtue of the fact that they have completed a medical degree in a SLMC recognized overseas medical school.
- 3.1.9. Several supreme court decisions have indicated that the criterion to sit the ERPM is the successful completion of the degree program in a recognized medical school and not the entry criteria.

OPINION 2

- i. Since the parliamentary approval of the minimum standards on 03.11.2020., both these factors will be essential for eligibility to study medicine abroad.*
- ii. However, the SLMC has to be mindful to check whether the student has satisfactorily completed the full study period, has passed the final examination and that the degree certificate is authentic*

SCHOLARSHIPS

- 3.1.10. Some Sri Lankan students are offered scholarships to study medicine in various overseas medical schools through different ministries and diplomatic missions.
- 3.1.11. The entry criteria for these medical schools are not the same as for the Sri Lankan medical faculties. There are instances when such scholarships have been offered without adhering to the basic minimal criteria necessary for medical education.
- 3.1.12. Furthermore, these overseas medical schools may not be recognized by the SLMC. There are instances where these overseas medical schools have not been recognized by the SLMC.
- 3.1.13. When students return to the country, having studied in a medical school that is not in the recognized list of the SLMC and, apply for the ERPM, as these scholarships had been

already awarded by the Sri Lankan Government, the SLMC has been requested to recognize those universities retrospectively.

OPINION 3

If such universities and the degree are eligible for recognition, under the proposed new system, these students will be eligible to sit for the ERPM.

- i. There has to be a complete change in the acceptance process of scholarships for Medical education abroad.*

3.2. CONCLUSIONS

- 3.2.1. Lack of legal mandatory minimum standards to enter into foreign universities for medical degrees was a huge failure from all stake holders including Ministry of health and SLMC from the inception.
- 3.2.2. The SLMC being the main statutory body in maintaining medical standards in the country had not taken sufficient steps to impress upon the government to legalize the minimum standards.
- 3.2.3. This has resulted in many court cases deciding in favor of the graduates with, substandard qualifications enter into the health system putting patients at risk.
- 3.2.4. It is commendable to note that the present Hon. Minister of Health took steps to legalize the minimum standards on 03.11.2020 whereby the above irregularity was rectified ultimately.
- 3.2.5. The committee is in strong view the minimum standards need further amendments where that standard should be the Advanced Level results of the student who entered local medical faculty with the lowest qualification, in the previous year.
- 3.2.6. As many students do London Advanced Level e.g. Edexcel, Cambridge at present, the minimum standards should include a formula comparable minimum results, certified by the examination department of Sri Lanka
- 3.2.7. If not, this will lead to an area of uncertainty again, with room for malpractices and irregularities.

- 3.2.8. There has been no proper guidance regarding scholarships for medical education stipulated by the SLMC

3.3. RECOMMENDATIONS

- 3.3.1. SLMC shall abide by court decisions on the eligibility of affected students to sit the ERPM.

- 3.3.2. In the future, SLMC shall inform prospective students of the

- a. mandatory minimum entry qualifications
- b. mandatory subject combinations
- c. curriculum requirements
- d. eligible universities for foreign medical education
- e. the need to get the verification of the degree through ECFMG

if they wish to

- a. sit for the ERPM and
- b. practice medicine in Sri Lanka

SCHOLARSHIPS

- a. A guidance with regard to scholarships offered to Sri Lankan citizens for overseas medical education, leading to a medical degree has to be prepared by the SLMC and UGC and gazetted immediately. This guidance should include currently applicable minimal standards required for subsequent registration by the SLMC.

Following factors can be considered for such a guidance, among other things.

- c. Prior to acceptance, all offers for scholarships for medical degrees should be channeled through the External resources Ministry
- d. Thereafter, such offers should be sent to the SLMC for ratification of the recognition status, with the concurrence of the University Grants Commission, subject to “Medical (Maintenance of Minimum Standards of Medical Education) Regulations”.
- e. Once SLMC is satisfied that all criteria are met, as per the eligibility standards applied for overseas medical education, the SLMC shall advise the Government to accept the scholarship.

- f. Selecting students for all such scholarships should be transparent and should be open to all eligible Sri Lankan citizens with advertisements being made well ahead of selections
- 3.3.3. A committee of the UGC with representation by the SLMC should select the awardees. (see algorithm 2- Annexure)

4. UNDUE DELAY IN CONDUCTING ERPM EXAMINATION

4.1 OBSERVATIONS

- 4.1.1. The Examination for Registration to Practice Medicine (ERPM) consists of four parts (parts A, B, C, and D). Parts A and D are written papers. These are organised and conducted by the Examination Department of the SLMC. Part B is a clinical examination and part C is an oral examination in emergencies. These two parts are planned by the SLMC and conducted with the support of the medical faculties and specialists attached to Ministry of Health (infrastructure, logistics, and examiners).
- 4.1.2. Up to 2018, the ERPM has been conducted satisfactorily with examinations being held twice a year, similar to the examination calendar of the state medical schools.
- 4.1.3. Since 2018, there has been a significant delay in conducting the ERPM which has now led to a crisis
- 4.1.4. Following reasons were given by HRS for the general delays in holding the examination;
- a. SLMC examination department has no permanent staff.
 - b. ERPM depends totally on university staff.

OPINION 1

- i. This is a major lapse on the part of the SLMC as conducting an examination like ERPM twice a year is a major undertaking, particularly when the large number of candidates (now over 1000) is considered. The Examination department of the SLMC should be made self-sufficient in staff and resources.*
- ii. With no synchronicity between the final examination of the 09 medical faculties, there has to be a definite, independent mechanism for ERPM.*

- 4.1.5. HRS said SLMC needs better support from UGC. Medical schools' staff did not like conducting ERPM. He said that UGC has informed faculties to conduct the ERPM and as such no one can say it is not their job. VD asked why they should conduct this exam for other people to earn money and was agreed by SY.

OPINION 2

- i. The ERPM examination is the only assessment of foreign trained medical graduates prior to absorbing them into the Sri Lankan Health system*
- ii. As such, the maintenance of the quality of this examination is a prime responsibility of the SLMC*

- 4.1.6. Chairman of the Committee asked whether we can say that there must be better objective cooperation between the UGC and the SLMC about utilizing these students for the sake of the country.
- 4.1.7. He inquired whether a new system could be developed to run the clinical and other component of ERPM independent of the local examination calendar as the available gaps were few and far between local exams i.e. main and repeat examinations of all faculties and PGIM involvements.
- 4.1.8. HRS said suggestion to hold the clinical examination in District General Hospitals was declined by the Council, because those centres lacked the mechanism to run the exam.

OPINION 3

- i. This remarks of the Deans sum up the general antipathy of the academics of the local universities despite the agreement of the UGC to facilitate the ERPM*
- ii. This country spends huge amounts of money both on local as well as overseas education of medical students and that money, even if parents spend, has come from ordinary people of this country. If these students do not come back, it is a loss for the investment of the country, which no body has counted so far as a loss.*
- iii. This must be looked at from an economic point of view. If 1000 doctors are not employed for 1 day, it equals to one doctor not working for 1 ½ years. When an 18 months delay occurs as it is now, it is a huge economic and service loss. One day of a young doctor is more valuable than 1 day of a 65-year-old doctor.*
- iv. SLMC is duty bound to make sure that a proper system is in place to assess their education and qualifications are suitable to practice as doctors in this country.*
- v. If the SLMC cannot run the examination, then a capable team has to be appointed rather than delaying the examination.*

4.1.9. In July 2019, the parts A and D of the examination were held. The parts B and C were held from November 2019 to January 2020. The next examination was scheduled to be held from 3-5th March, 2020, but has not been conducted up to now.

4.1.10. The reasons given by the SLMC are as follows.

- a. According to the Vice President of the SLMC, Mr. Manohara de Silva PC, the counsel appearing for the SLMC in 06 fundamental right applications filed in the supreme court by medical graduates qualified abroad who do not possess minimum GCE (A/L) results, advised the SLMC not to hold the exam until the verdict was delivered.

Dr Pushpitha Ubesiri, a member of the council said that the delay was only from March to July and that the lawyer of the SLMC gave the assurance that judgment will be delivered early.

4.1.11. When asked whether there was an actual documented injunction tabled at the Council meetings, President - SLMC answered in the negative and said this decision to postpone the exam was based on a verbal information given by the legal officer at a Council meeting and, that the said conversation is minuted.

4.1.12. Closure of the SLMC for about two months followed by limited operations due to COVID 19 pandemic.

4.1.13. The need for extra logistics and support associated with conducting examinations according to COVID 19 guidelines.

OPINION 4

i. There has been no court injunction against holding the ERPM examinations .

ii. Advising to postpone the ERPM, without a documented reason, was a somewhat irresponsible act on the part of a legal officer, President - SLMC and Acting Registrar considering the nearly 1000 candidates and the loss of new doctors to the country.

iii. it would have been better if the lawyer indicated to the bench that this delay is preventing the country from employing much needed doctors.

iv. SLMC and its lawyers have to understand that all these actions are affecting the people in the country.

OPINION 4- CONT....

- v. There has been a lack of accountability by the SLMC and this could have been averted.*
- vi. Indefinite postponement of an examination affecting nearly 1000 candidates quoting inability to find adequate infrastructure is not acceptable.*
- vii. There should be no more excuses for not holding the examination. If there are further delays, it will only show that*
 - the SLMC is not accountable to the country*
 - the SLMC is inefficient*

4.1.14. At the Council meeting on 25th September 2020, majority were willing to comply with the Supreme Court order and holding the ERPM Examination and to give the degree approval which is essential to sit the ERPM. The ERPM is already advertised and the closing date of applications is 29th October 2020.

4.1.15. Chairman of the Committee said that this crisis has shown that a new system, where ERPM is conducted independent of local faculty examinations and local faculty staff has to be developed and, all agreed.

4.1.16. Committee's attention was brought to the extremely sensitive and serious discrepancies which occur due to the two parallel streams of school education i.e. local Advanced level and parallel overseas examinations e.g. EDEXEL, Cambridge by the Parent's Union of Medical students.

a. There are major disadvantages to the students entering the local universities when compared with their peers in the overseas universities; at the beginning of the medical education, due to unacceptable long delays in admitting students to the local medical faculties after the Advanced level examination results.

b. At the end of the medical education due to unacceptable gaps between the Final MBBS examinations of the medical faculties in the country which delays the start of the internship

4.1.17. This leads to a situation where the local medical student's professional career is made junior to his/her overseas counterpart who enters a foreign medical faculty with minimum delay.

4.1.18. It has to be taken in to cognizance that this advantage is lifelong and affects the appointments, the total duration of service as well as seniority even as a specialist.

4.1.19. Once the internship is over, there is a major delay in giving the post intern appointments which

- a. delays the services to the public
- b. affects the quality of knowledge as a doctor
- c. affects the quality of post graduate trainees

4.1.20. The SLMC has to make strong representations to the government through the Minister of Health on

- a. Advising the UGC in minimizing the delays in admitting the local medical students to the local medical faculties
- b. Instructing the Vice Chancellors of all local universities to provide a examination calendar of the final examination of the medical faculties with minimum intervals between faculties

OPINION 5

- i. Comparatively longer local school academic years before sitting local Ordinary level and Advanced level examinations against shorter school years before the overseas examinations poses a significant disadvantage to the local student*
- ii. Allowing the cross over to the local stream after ordinary level examination immediately allows a student in the overseas stream to have an advantage in academic years*
- iii. These handicaps add to 2-3 years and will have lifelong advantages*
- iv. Not holding the local Final MBBS examinations on time adds to this advantage*

4.2. CONCLUSIONS

- 4.2.1. SLMC is fully responsible for postponing the due ERPM examination in March 2020 with no court directive but just because of an opinion of a lawyer where by many hundreds of foreign graduates were deprived of sitting the ERPM.
- 4.2.2. The Examination department of SLMC is lacking sufficient infrastructure and human resources to conduct the ERPM examination on regular basis where they have to depend on local medical faculties to conduct the clinical examination at a time where local faculties are also struggling to hold exams to local students as well.
- 4.2.3. This could be easily overcome by recruiting examiners on contract basis e.g. retired consultants, to the SLMC examination department and utilizing hospitals with no clinical commitments to local students.

4.3. RECOMMENDATIONS

- 4.3.1. Already advertised 2020 ERPM examination should be held within the next 4 weeks.
- 4.3.2. If the existing team in the Examination department is inadequate to conduct the 2020 examination, the SLMC must recruit new staff according to the requirements recommended by the Head of the Examination department of the SLMC
- 4.3.3. Conducting the ERPM examination twice a year has to be done, according to an examination calendar published by the SLMC with, the examination dates applicable for 05 years
- 4.3.4. Local medical faculty staff can be used for the guidance while Retired examiners can be recruited by SLMC and conduct the ERPM
- 4.3.5. Conduct ERPM according to an examination calendar.
- 4.3.6. Multiple exam centers must be used with central SLMC control.
- 4.3.7. District General Hospitals have to be considered as clinical examination centres with the examination being coordinated by a senior member from the Examination department of the SLMC
- 4.3.8. Application of the qualification criteria to sit for the ERPM has to be carried out as stipulated without any lapses

5. COMPLAINTS REGARDING IRREGULAR DISCIPLINARY PROCEDURES CONDUCTED BY SLMC

5.1. OBSERVATIONS.

- 5.1.1. SLMC is empowered by Medical Ordinance (sections 25(1)(a) & (b) and 33) and Medical Disciplinary (procedure) Regulation 1990 (extraordinary gazette no 757/7 dated 10th March 1993) to carry out disciplinary procedures for medical practitioner
- 5.1.2. According to the above legal provisions, the SLMC shall conduct an inquiry against a medical practitioner only if he /she is alleged to be engaged in
- a. Infamous conduct in any professional respect
 - b. Negligence
 - c. Incapacity relating to professional duties
- 5.1.3. The relevant sections of the above gazette notification clearly outline the procedure once a complaint is received by the council. In addition to the above legal documents, “Instructions on **Serious** Professional Misconduct to Medical Practitioners and Dentists” formulated under the guidance of Dr. H H R Samarasinghe, President of SLMC in September, 2000 and “Guidelines on Ethical conduct for Medical and Dental Practitioners registered under the SLMC” published under the guidance of same president in 15th March 2003 is referred as guidelines.

OPINION 1

- i. Except the Medical Ordinance and Gazette notice the other 2 documents are guidelines and has no legal validity.*

- 5.1.4. The disciplinary procedure is clearly outlined in the gazette.
- a. To accept and then direct to the Preliminary Proceedings Committee (PPC) to consider and report, after careful consideration as to whether a prima facie case is present or not.
 - b. The decision of the PPC should be referred to the Professional Conduct Committee (PCC), only after extensive evaluation of all evidence produced and after listening in person or in camera, which itself is a stringent process to serve the justice.

- c. After the preliminary inquiry PPC should forwards its recommendation to the professional conduct committee (PCC).
- d. The PCC has empowered to go through the complaint and decide whether to proceed with the inquiry or not. The accepted practice is once PPC recommends that no prima facie case involved to drop the charges. If PCC, where the President of the SLMC chairs the committee decides contrary to the report of PPC, should clearly outline the reasons to the defendants.

or

- e. SLMC decided to reject the complaint at the outset, shall inform the council and drop the charges without referring to PPC.

5.1.5. With the above background, the 5 member ministerial committee investigated 3 complaints pertaining to ToR 5 made by the GMOA to the Hon. Minister of Health. In addition to the evidence from the meetings with the SLMC and the GMOA, the followings documents were perused.

- a. Inquiry proceedings and other relevant documents pertaining to the inquiry conducted by the SLMC against 16 medical practitioners (PPC 398)
- b. Documents relevant to comments made by Dr.Upul Gunasekera during the Council meetings in relation to a letter sent to His Excellency the President of Sri Lanka by Dr.Haritha Aluthge in the latter medical officer's capacity as the secretary of the GMOA (Ref: SLMC minute 598)
- c. Documents related to Dr.Upul Gunasekera's participation as a member of the PPC in an inquiry based on a complaint against Dr Jayan Mendis by Mr. Harsha Thilakasiri Bandara (PPC 419)

a. Observations regarding complaint against 16 medical practitioners (PPC 398)

Time frame regarding the said inquiry is as follows. (Reference to PPC and PCC minutes tabled by the SLMC in reference to the case PPC 398)

- i. The said incident had occurred at 520 canteen premises between 2 groups regarding a trade union dispute in July 2014.

OPINION 2.

- i. *There is erroneous interpretation of the gazette Regulations as, to consider initiating an inquiry, the first requirement is that the incident should have happened during professional duties. The President - SLMC who saw the complaint could have decided not to proceed with an inquiry simply based on that fact and recommended it to the Council.*

- ii. Subsequently 10 medical practitioners had complained to the SLMC against a group of 16 medical practitioners and the case was forwarded to the PPC by the President.
- iii. Preliminary objections were made by the respondent practitioners in January 2015.
- iv. After the preliminary hearing, the PPC recommended to the PCC to drop the charges quoting (PPC minute dated 06.10.2016)
 - a) No prima facie case
 - b) Technical deficiencies in the Affidavits.
- v. However after 14 months delay on 16.02.2018 PCC, chaired by Prof. Colvin Gooneratne decides to continue the preliminary inquiry despite the standard practice of accepting the decision of PPC.

OPINION 3

- i. *The reasons given by Prof. Colvin Gooneratne, President SLMC regarding delay and justification of continuing the case against PPC decision is unacceptable whereas in a later communication he drops some of those explanation. (Ref: letter dated 03.03.2018 by Prof. Colvin Gooneratna, President SLMC to Secretary GMOA)*

- vi. PCC under the current president of SLMC, Prof. Harendra De Silva decided to approve the charge sheet on 25.02.2019 on all defendants(ref: PCC minute dated 25.02.2019).

OPINION 4

- i. *After the approval of the charge sheet in subsequent PCC meetings (ref: PCC minutes 19.06.2020)where lot of discussion to this inquiry had taken place, where the committee seems to struggle regarding the charge sheets as well to whom to charge sheets should be issued.(out of the 16 defendants ultimately charge sheets were prepared only against 7 whereas 9 were exonerated)*

- vii. Even at present, a charge sheet has not been issued to any of the defendants (November 2020).
- viii. As a result one of the defendants Dr. H M N P Herath, who is also an elected member of the SLMC council has been deprived of getting a “Certificate of Good Standing (CGS)” which is essential document to apply for his foreign training in order to complete his

post graduate training, which is a violation of his basic rights. It is also noted by the committee that one of the defendant (Dr. T Wickramasekera) had been issued a CGS citing a technical error in the affidavit where as Dr. H M N P Herath was denied.

OPINION 5

- i. *The explanation given by the Registrar-SLMC on issuing CGS to Dr. Wickramasekera is unacceptable where the request to present in the PPC was delivered to correct address though the name was incorrect. (Affidevit to PPC by Dr. T D Wickramasekera)*

- ix. It is also noted that Dr. Chandana Athapaththu has excused in the initial committee meeting sitting, declaring conflict of interest in this case which is the accepted practice, but subsequently participated in the capacity of acting Registrar.

OPINION 6

- i. *The involvement of Dr. Chandana Athapaththu, as the acting registrar is not acceptable and unethical.*

b Observation regarding Reference to SLMC minute 598 comment by Dr. Upul Gunasekera against a letter sent to His Excellency the President by Dr. Haritha Aluthge as his capacity of secretary GMOA.

- i. Dr. Upul Gunasekera a member of the SLMC appointed by Hon. Rajitha Senarathna, then minister of Health as his nominee had stated that president of SLMC should inquire from Dr. Haritha Aluthge regarding the content of a letter sent to HE the president in the capacity of Secretary GMOA. Though he has every right to comment such it is noted in the minute that himself will submit an affidavit to initiate such inquiry.

OPINION 7

- i. *Dr. Upul Gunasekera being a member of the PPC, it is not ethical to comment that he will initiate an inquiry by giving an affidavit.*

c **Observations regarding reference to Dr.Upul Gunasekera’s conduct as a member of the PPC in the case number PPC 419 (complaint against Dr Jayan Mendis by Mr.Harsha Thilakasiri Bandara.**

- i. The minutes of the case number PPC 419 as mentioned above in the preliminary inquiry the complaint in his statement mentions Dr.Upul Gunasekera’s involvement which is further confirmed by Dr. Jayan Mendis statements as well.
- ii. Though there is no issue on the content of the case, Dr.Upul Gunasekera signs himself as a member of the PPC to drop the charges against mentioning no prima facie case.

OPINION 8

- i. *Though the explanation given by SLMC,he declared his conflict of interest initial and he sat in the committee to fulfill the quorum, the statement it self directs that he was actively involved and if the quorum is not fulfilled correct practice could be postponing the case. The committee observe that even sitting in the PCC is a clear violation of ethical conduct and questions the credibility of investigation procedure of SLMC.*

5.2 CONCLUSIONS

- 5.2.1 The committee understands the President and some council members (appointed by the minister) had misunderstood, misinterpreted and misused their powers in conducting inquiries against the 16 medical practitioners. According to the medical Ordinance **“infamous conduct in any professional respect in relation to the professional duties”**. The committee observes the referring incident has no involvement whatsoever with professional duties.
- 5.2.2 Presidents (Former and the current) and some members had misinterpreted their powers vested by the medical ordinance to take revenge against the respondents in the inquiry procedures disregarding the accepted practice in the case PPC 398.
- 5.2.3 According to the observed time frame, the delay of investigating this case is unacceptable where even after 6 years of the complaint PCC had failed to issue charge sheets to the defendants.
- 5.2.4 The committee observe there is unacceptable delays in the inquiry procedures of the SLMC in general so that all parties (complainants and defendants) are of great disadvantage for their carriers as medical practitioners. The current delay of disciplinary procedures proves the famous legal saying “Justice delayed equals justice denied”.

5.3. RECOMMENDATIONS

- 5.3.1. Therefore taking above into consideration, committee recommends to revisit this case and drop the charges forthwith.
- 5.3.2. However, an independent legal opinion is recommended and if the opinion is in favor of PPC recommendations, to take appropriate actions against the members of the President and members of the PCC for abuse of power.
- 5.3.3. SLMC should look into a practical approach of expediting the disciplinary procedures in a more transparent manner as the current delay is unacceptable. We recommend the increasing numbers in the PPC and PCC members to satisfy the quorum and increasing the number of legal officers.