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PART-I

GOVERNMENT OF SINDH
LAW DEPARTMENT

Karachi dated 9th May, 2013.

No.S.Legis:1(03)/2013. The following Ordinance made by the Governor of Sindh is hereby published for general information:-

THE SINDH HEALTHCARE COMMISSION ORDINANCE, 2013.

Sindh Ordinance No. III of 2013.

AN ORDINANCE

to improve the quality of healthcare services and banning quackery in the Province of Sindh in all its forms and manifestations;

WHEREAS it is expedient to make provisions for the improvement of quality of healthcare services, to ban quackery in all its forms and manifestations and to provide for ancillary matters; Preamble.

AND WHEREAS the Provincial Assembly is not in session and the Governor of Sindh is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, 1973, the Governor of Sindh is pleased to make and promulgate the following Ordinance :-

**Short title,
extension,
commencement
and application.**

1. (1) This Ordinance may be called the Sindh Healthcare Commission Ordinance, 2013.
- (2) It shall extend to the whole of the Province of Sindh.
- (3) It shall come into force at once.
- (4) It shall apply to healthcare establishments, public or private hospitals, non-profit organizations, charitable hospitals, trust hospitals, semi government and autonomous healthcare organizations.

Definitions.

2. In this Ordinance, unless there is anything repugnant in the subject or context -

- (i) "accreditation" means the process of accepting or declaring the healthcare establishment providing services in accordance with the standards and accepted medical, allopathic, homeopathic or Tibb-i-Unani protocols, guidelines or tools;
- (ii) "Board" means the Board of Commissioners constituted under section 5;
- (iii) "Chairperson" means the Chairperson of the Board;
- (iv) "Chief Executive Officer" means the Chief Executive Officer of the Commission;
- (v) "clinical governance" means a systematic approach to maintaining and improving the quality of patient care;
- (vi) "Commission" means the Sindh Healthcare Commission established under this Ordinance;
- (vii) "Commissioner" means a Member of the Board nominated under section 5;
- (viii) "convener" means the convener of the Technical Advisory Committee;
- (ix) "Council for Homeopathy" means the National Council for Homeopathy established under the Unani, Ayurvedic and Homoeopathic Practitioners Act, 1965 (Act II of 1965);

- (x) "Council for Tibb" means the National Council for Tibb established under the Unani, Ayurvedic and Homoeopathic Practitioners Act, 1965 (Act II of 1965);
- (xi) "Fund" means the fund established under this Ordinance;
- (xii) "Government" means the Government of Sindh;
- (xiii) "grading" means the ranking of the healthcare establishments made on the basis of the tools;
- (xiv) "healthcare establishment" means a hospital, diagnostic centre, medical clinics, nursing home, maternity home, dental clinic, homeopathic clinic, Tibb clinic, acupuncture, physiotherapy clinic or any system of treatment -
 - (a) wholly or partly used for providing healthcare services; and
 - (b) declared by Government, by order published in the official Gazette, as a healthcare establishment;
- (xv) "healthcare services" means services provided for diagnosis, treatment or care of persons suffering from any physical or mental disease, injury or disability including procedures that are similar to forms of medical, dental or surgical care but are not provided in connection with a medical condition and includes any other service notified by Government;
- (xvi) "healthcare service provider" means an owner, manager or incharge of a healthcare establishment and includes a person registered by the Pakistan Medical Dental Council, National Council for Tibb and Homeopathy or Nursing Council;
- (xvii) "inspection team" means a team comprising of more than two medical experts having postgraduate qualification and not less than fifteen years experience in the concerned field and consisting of

- one employee of the Commission and others from public or private sector, to inspect any healthcare establishment;
- (xviii) "license" means license issued by the Commission under section 13 for the use of any premises or conveyance as a healthcare establishment and "licensed" and "licensing" shall be construed accordingly;
- (xix) "licensee" means a person to whom a license has been issued under this Ordinance;
- (xx) "Medical and Dental Council" means the Medical and Dental Council constituted under the Medical and Dental Council Ordinance, 1962 (Ordinance XXXII of 1962);
- (xxi) "medical negligence" means a case where a patient sustains injury or dies as a result of improper treatment in a healthcare establishment and, in case of death, determined on the basis of medical autopsy report;
- (xxii) "Nursing Council" means the Pakistan Nursing Council established under the Pakistan Nursing Council Act, 1973 (Act XXVI of 1973);
- (xxiii) "Pakistan Medical Association" means the Pakistan Medical Association, a society registered under the Societies Registration Act, 1860 (Act XXI of 1860);
- (xxiv) "performance audit" means a process done through the tools and other similar instruments;
- (xxv) "person" includes association of persons, authority, body, company, corporation, individual, partnership, proprietorship or other entity;
- (xxvi) "prescribed" means prescribed by rules or regulations made under this Ordinance;
- (xxvii) "property" includes all kinds of property and assets, whether movable or immovable, tangible or intangible, deeds of title or any document evidencing right, title or interest of any kind in any property or assets;
- (xxviii) "quack" means a pretender providing health services without having registration of Pakistan Medical Dental Council, Council for Tibb and Homeopathy and Nursing Council;

- (xxix) "registration" means the registration certificate issued under section 13;
- (xxx) "regulations" means the regulations made under this Ordinance;
- (xxxi) "rules" means the rules made under this Ordinance;
- (xxxii) "staff" means any employee or Commissioner of the Commission and includes consultants, advisors, liaison officers and experts;
- (xxxiii) "standards" include the minimum service deliver standards notified by Government;
- (xxxiv) "Technical Advisory Committee" means the Committee constituted under section 10; and
- (xxxv) "tools" include the third party performance audit tools notified by Government

CHAPTER-II HEALTHCARE COMMISSION AND GOVERNANCE

3. (1) Government may, by notification in the official gazette, establish a Commission to be called the Sindh Healthcare Commission for carrying out the purposes of this Ordinance. **Establishment of the Commission.**

(2) The Commission shall be a body corporate having perpetual succession and a common seal, with powers to enter into contract, sue and be sued by its name.

(3) The head office of the Commission shall be at Karachi and it may have such other offices in the Province of Sindh as the Commission may determine.

4. (1) The Commission shall perform such functions and exercise such powers as may be required to improve the quality of healthcare services and clinical governance and to ban quackery. **Functions and Powers of the Commission.**

(2) Without prejudice to the generality of the provisions of sub-section (1), the Commission shall -

- (a) maintain register of all healthcare service providers;
- (b) grant, revoke and renew licenses to persons involved in the provision of the healthcare services and to vary terms and conditions and purposes of the licenses;
- (c) monitor and regulate the quality and standards of the healthcare services developed by Government;

- (d) operate accreditation programs in respect of the healthcare services and to grant accreditation to such healthcare service providers who meet the prescribed criteria and standards;
- (e) enquire and investigate into maladministration, malpractice and failures in the provision of healthcare services and issue consequential advice and orders;
- (f) impose and collect fees and charges on registration, licensing and accreditation under this Ordinance;
- (g) impose and collect penalties on violation, breach or non-compliance of the provisions of this Ordinance, rules, regulations, standing orders and instructions issued from time to time;
- (h) advocate rights and responsibilities of recipients and providers of the healthcare services;
- (i) hold seminars, conferences and meetings on developing awareness about provision of high quality healthcare services;
- (j) enter into agreement or arrangement with the Federal Government, Provincial Government, any authority, board, council or entity, non-governmental organization, domestic or international institution or agency for the purposes of this Ordinance;
- (k) coordinate, liaise and network with any person, agency-or institution;
- (l) take on lease the land, buildings for the purpose of offices or premises of the Commission at such price and on such term as may be necessary;
- (m) appoint, engage, authorize and terminate employees, consultants, advisers, attorneys, inspection teams, contractors, agents and experts on such terms and conditions as deemed fit and assign, delegate or entrust them with such functions and powers as are expedient for the performance of functions of the Commission;
- (n) take measures for the welfare of the present and past employees of the Commission as well as its all registered members;

- (o) issue regulations, guidelines, instructions and directives to persons involved in the provision of healthcare services;
- (p) grading of the healthcare establishment; and
- (q) take necessary steps to put ban on quackery;

(3) The Commission may assign any of its functions to a person on such terms and conditions as may be agreed between the Commission and the person.

(4) In the performance of its functions, the Commission shall -

- (a) take into consideration the policy advice of the Technical Advisory Committee; and
- (b) co-ordinate with Government.

(5) The Commission shall not conduct third party evaluation through independent performance audit of healthcare establishments in the private sector other than tertiary care hospitals in the phased manner.

(6) Notwithstanding anything contained in any other law, the Commission may -

- (a) on a complaint by any aggrieved person; or
- (b) on a complaint by any aggrieved healthcare service provider;
- (c) on a reference by Government or the Provincial Assembly of Sindh; or
- (d) on a motion of the Supreme Court of Pakistan or the High Court made during the course of any proceedings before it,

undertake investigation into allegations of maladministration, malpractice or failures on the part of a healthcare service provider, or any employee of the healthcare service provider.

(7) The Commission shall take cognizance of any case of harassment of healthcare service provider or damage to healthcare establishment property and may refer such a case to the competent forum.

(8) The Commission shall take measures and devise a strategy to counter sale of drugs without prescription.

(9) The Commission may exercise the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (V of 1908), in respect of the following matters:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) compelling the production of documents;
- (c) receiving evidence on affidavits; and
- (d) issuing commission for the examination of witnesses.

(10) The Commission shall not investigate or inquire into any matter subjudice before a Court of competent jurisdiction on the date of the receipt of a complaint, reference or motion.

(11) The Commission may authorize members of the staff to administer oaths and to attest various affidavits, affirmations or declarations, which shall be admitted in evidence in all proceedings under this Ordinance without proof of the signature or seal or official character of such person.

(12) If the complaint, submitted by aggrieved person, is proved false, the complainant shall be liable to pay a fine upto two hundred thousand rupees.

(13) Any practitioner in possession of a medical qualification that allows him to practice Medicine or Surgery in the European Union or United States shall be eligible to do the same in the Province of Sindh without hindrance but will be responsible to provide good medical care with ethics under this Ordinance. He shall be answerable to the authority for any queries arising from the care provided by him under this Ordinance. He will follow the regulations of this Ordinance in the same manner as applicable to other doctors working in the Province, subject to registration with Pakistan Medical and Dental Council.

(14) The Commission shall frame the guidelines to save health service provider from harassment, undue pressure and damage to property in performing their professional duties.

(15) The Security and protection while on duty of the Health Care Worker should be the responsibility of the organization availing their services.

(16) The organizations, public or private, government, local, provincial or federal for which the doctors and Health Care Workers are working must provide them full protection, both physical and legal.

(17) In case of physical injury incurred while performing the duties, the -

- (a) doctors and health care workers should be fully compensated;

- (b) doctors and healthcare workers should have legal protection and in case of litigation, the administration must own the responsibility of legal cover and provide full financial and legal help accordingly.

5. (1) The general superintendence, direction and management of the affairs of the Commission and overall policy making in respect of its operations shall vest in the Board which may exercise all such powers and do all such acts, deeds and things which may be exercised or done by the Commission under this Ordinance.

**Constitution
of the Board.**

(2) Government shall notify the Board which shall consist of nine Commissioners, seven of whom shall be nominated on the recommendation of the Committee.

(3) A person shall not be eligible to be nominated as Commissioner unless he possesses a minimum of fifteen years experience in public or private sector.

(4) The Committee shall recommend to Government a panel of two persons for each vacant post of the seven Commissioners to be nominated on the recommendation of the Committee.

(5) Government shall nominate a former Judge of the Sindh High Court and a financial expert as Commissioners.

(6) The Board shall regulate the conduct of its meetings, quorum and minutes of the meetings.

(7) Government shall prescribe the remuneration payable to a Commission for attending a meeting of the Board.

(8) A decision of the Board shall not be valid if decided in a meeting without quorum.

(9) The Committee, for the purpose of recommendation for nomination of Commissioners under this section, shall consist of the following :-

- (i) Health Minister as Chairperson
- (ii) Health Secretary as Member
- (iii) Vice Chancellor of a Health University as
- (iv) President or Secretary General of
- (v) President or Secretary General of Private
- (vi) One representative of College of Family
- (vii) Medical Superintendent from Public Hospital to be nominated by the Secretary Health not below Grade 20.

6. (1) A Commissioner shall hold office for a term of three years and shall be eligible for re-nomination in accordance with the provisions of section 5.

**Term of the
Commissioners.**

(2) In case of a casual vacancy of a Commissioner, Government shall appoint a person as Commissioner in accordance with the provisions of section 5 for the remainder of the term of the Commissioner, who has died, resigned or disqualified under this Ordinance.

Disqualifications.

7. No person shall be, or shall continue to be, the Chairman or a Commissioner who -

- (a) has tendered resignation and not withdrawn it within a period of thirty days;
- (b) is, or at any time has been, adjudicated as insolvent;
- (c) is found to be of unsound mind by a court of competent jurisdiction;
- (d) is, or has at any time been, convicted of any offence which, in the opinion of Government, is an offence involving moral turpitude;
- (e) absents himself from three consecutive meetings of the Board, without leave of absence from the Board;
- (f) is an employee, adviser or consultant or a healthcare service provider; and
- (g) is a salaried official of the Commission.

Chairperson.

8. (1) The Commissioners shall hold a secret ballot to elect the Chairperson from amongst themselves for a term of three years.

(2) Government shall notify the Chairperson elected by the Commissioners and the Chairperson shall hold office during the pleasure of majority of the Commissioners.

(3) The Chairperson shall cease to hold office if a vote of no confidence has been passed by the majority of the Commissioners or he ceases to hold office as Commissioner.

(4) The Chairperson shall not, for one year after the expiry of his term of office, enter into the employment or accept any advisory or consultancy relationship with any healthcare service provider in the Province of Sindh.

Functions and powers of the Board.

9. The Board may -

- (a) determine the character, value and mission of the Commission;
- (b) provide leadership and oversight activities of the Commission;
- (c) ensure the effective and efficient use of resources, solvency and safeguarding of the assets of the Commission;

