BALOCHISTAN PROVINCIAL ASSEMBLY SECRETARIAT.

NOTIFICATION.

Dated Quetta the, 16th December,2019.

No.PAB/Legis; V (10)/2019. The Balochistan Health Care Commission Bill 2019 Bill No. 10 of 2019 having been passed by the Provincial Assembly of Balochistan on 18th Novemebr, 2019 and assented to by the Governor Balochistan, on 10th December, 2019 is hereby published as an Act of the Balochitsan Provincial Assembly.

Balochistan Healthcare Commission Act, 2019

Act No. XII of 2019

AN
ACT

to improve quality of healthcare services and ban quackery in all its forms and manifestations in Balochistan.

Preamble. WHEREAS, it is expedient to make provisions for the improvement of quality of healthcare services, clinical governance and to ban medical or health quackery in all its forms and manifestations and to provide for establishment of the Balochistan Healthcare Commission and the matters connected or ancillary thereto;

It is hereby enacted as follows: —

Short title, extent, commencement and application.

1. (1) This Act may be called the Balochistan Healthcare Commission Act, 2019.

(2) It shall extend to the whole of Balochistan.

(3) It shall come into force at once.

(4) It shall apply to all healthcare establishments, public or private hospitals, non-profit organizations, charitable hospitals, trust hospitals, semi-government and autonomous healthcare organizations.

Definitions.

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

(a) "Act" means the Balochistan Healthcare Commission Act, 2019;

(b) "Accreditation" means the process of accepting or declaring a healthcare establishment providing services in accordance with the standards and accepted medical, allopathic, homeopathic,

psychological, medical social work, physiotherapy, bio-engineering, traditional healer, faith healer, shrine or Tibb-i-Unani protocols, guidelines or tools for training / teaching purpose, to concern infrastructure, human resource, equipment, procedures and other required for graduate and post-graduate programs;

(c) "Certificate of registration" means the certificate issued by the Commission for registration of a healthcare service provider under section 15;

(d) "Chairperson" means the Chairperson of the Commission;

(e) "Chief Executive Officer" means the Chief Executive Officer appointed by the Commission under section 10 of this Act;

(f) "Clinical governance" means a systematic approach for maintaining and improving the quality of patient care;

(g) "Clinical audit" means a quality assurance process that seeks to improve the patient care against a standard criteria;

(h) "Commission" means the Balochistan Healthcare Commission established under section 3 of this Act;

(i) "Convener" means the convener of the Technical Advisory Committee;

(j) "Council for Homeopathy" means the National Council for Homeopathy established under section 4 of the Unani, Ayurvedic and Homoeopathic Practitioners Act 1965 (II of 1965);

(k) "Council for Tibb" means the National Council for Tibb established under section 5 of the Unani, Ayurvedic and Homoeopathic Practitioners Act, 1965 (Act XVII of 1965);

(l) "Council of Pharmacy" means the central or provincial pharmacy council as established under section 3 of the Pharmacy Act, 1967 (Act XI of 1967).

(m) "eHealthcare service" means interaction via electronic channels through radio, TV, Mobile, internet etc. in healthcare service. Its components are healthcare service recipient, service provider, the service setting/ establishment, the service process /delivery / interaction;

(n) "Engineering Council" means Pakistan Engineering Council established under the Pakistan Engineering Council Act, 1976 (V of 1976);

(o) "Faith healer" means the person or practice of prayer and gestures that are believed by some to elicit divine intervention in spiritual and physical healing;

(p) "Government" means the Government of Balochistan;

(q) "Grading" means the ranking of the healthcare establishments made on the basis of the tools;

(r) "Harassment" means aggressive (Mental/ Physical) pressure and intimidation executed by any person (disturbing, upsetting or threatening) that demeans, humiliates or embarrasses a person;

(s) "Healthcare services" means services provided for diagnosis, treatment or care of persons suffering from any physical or mental disease, injury or disability. Its components are healthcare service recipient, service provider, the service setting/establishment, the service process / interaction / delivery, and eHealthcare service at all components of healthcare service;

(t) "Healthcare service establishment/setting" means a hospital, diagnostic centre, medical clinics, medical store, pharmacy, Tabib shop, Hakim Shop, Pensari Shop, psychologist settings, traditional healer, cupping, tattoo, saloon, hair cutting shop, hair grafting, ear piercing, fortune teller settings, magicians settings, infertility centres, faith healer setting, nursing home, maternity home, dental clinic, homeopathy clinic, Tibb clinic, acupuncture, physiotherapy clinic, Faith-healer Settings, or any other premises or conveyance–

(i) wholly or partly used for providing healthcare services; *and*

(ii) declared by the Government, by order published in the official Gazette, as a healthcare establishment;

(u) "Healthcare service process/interaction" means human to human (the service provider and recipient) interaction, service delivery and treatment, human and ehealthcare service, printing material, wall chalking, printing material;

(v) "Healthcare service provider" means an owner, manager or in-charge, worker of a healthcare establishment and includes a person registered by the Pakistan Medical Commission, Council for Tibb, Council for Homeopathy or Nursing Council, Pakistan Engineering Council, paramedical and Pharmacy Council. It also includes Pensari, Hakim, faith healer, Tibib, Hair Grafter, traditional healer, Khathna / circumcision, magic

therapist, sex therapist, infertility therapist, ear piercing expert, mobile dental/eye healer, tattoo expert, cupping expert etc., paramedics, janitorial expert, hair dresser, saloon expert, sweeper, security guard, bioengineer, engineer, tattoo maker, other technical service provider;

(w) "Healthcare service recipient" means the person(s) receiving services, where the primary recipient is patient and the secondary is spouse and other relatives;

(x) "Inquiry team" means a group of more than three experts having postgraduate qualification and not less than fifteen years' experience in concerned field, either from public or private sector, to inquire any task given by the Commission;

(y) "Institution" means the medical institutions including Hospitals, Institutions, Universities and Colleges;

(z) "Inspection team" means a team comprising more than two medical experts having postgraduate qualification and not less than fifteen years' experience in the concerned field, and consisting of an employee not below the rank of B-18 of the Commission and others from public or private sector, to inspect any healthcare establishment, healthcare provider and healthcare process/delivery;

(aa) "Investigation team" means team of experts in concerned specialized field(s) for investigation of case as may be referred from inspection team on the recommendation of the Commission;

(bb) "license" means a license issued by the Commission under the Act for the use of any premises or conveyance as a healthcare establishment and "licensed" and "licensing" shall be construed accordingly;

(cc) "licensee" means a person to whom license has been issued under the Act;

(dd) "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;

(ee) "Medical or health Quackery" means the promotion of fraudulent or ignorant medical practice at medical healthcare services. It defines a pretender providing health services without having registration of the Pakistan Medical Commission, Council for Tibb, Magic, Fortune Tellers, Council for Homeopathy, Nursing Council and Pharmacy Council, Pakistan Engineering Council, faith healer, traditional healer made on the basis of tools or standards;

(ff) "Nursing Council" means the Pakistan Nursing Council established under section 3 of the Pakistan Nursing Council, Act, 1973 (Act XXVI of 1973);

(gg) "Pakistan Medical Association" means the Pakistan Medical Association, a society registered under the Societies Registration Act, 1860 (Act XXI of 1860) or such a law for the time being in force.

(hh) "Pakistan Medical Commission or PMC" means the Pakistan Medical Commission as established under section 3 of the Pakistan Medical Commission Ordinance, 2019 (Ordinance XV of 2019;

(ii) "Performance audit" means an independent examination of a program, function, operation or the management in the employment of available resource or standard or task done through the tools and other similar instruments;

(jj) "Person" includes any person, association of persons, authority, body, company, corporation, individual, partnership, proprietorship or other entity;

(kk) "Prescribed" means prescribed by rules or regulations made under the Act;

(ll) "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;

(mm) "Quack" means a pretender providing health services without having the required knowledge/skills and registration of the Pakistan Medical Commission, Council for Tibb, Council for Homeopathy, Nursing Council, Council of Engineering and Pharmacy Council or any other Regulatory Body;

(nn) "Quackery" dishonest practices and claims to have special knowledge and skill in any field of health;

(oo) "Redressal Committee" means a committee of more than two members of experts and having more than fifteen years' experience in the concerned field consisting of one employee not below the rank of B-18 of the Commission and others from public or private sector, to redress any complaint referred by the Commission;

(pp) "Registration" means registration under section 15 of the Act;

(qq) "Regulations" means the regulations made under the Act;

(rr) "Rules" means the rules made under the Act;

(ss) "Search Committee" means a committee as constituted under section 13 of the Act;

(tt) "Staff" means any employee or member of the Commission, healthcare establishment and includes consultants, advisors, liaison officers and experts;

(uu) "Standards" include the minimum service delivery standards notified by the Government;

(vv) "Technical Advisory Committee" means the Committee constituted under section14 of the Act;

(ww) "Tools" means standards of the Healthcare Services as developed/prepared by on the basis of the third party performance evaluation for Healthcare provider, Healthcare establishment and healthcare interaction/ skill/ procedure, by the Commission with the approval of the Government under section 27 of this Act;

(xx) "Traditional Faith Healer" persons who perform *Khathna*/circumcision, magic therapy, sex therapy, infertility therapy, ear piercing, mobile dental/eye healer, tattoo expert, cupping expert etc.; *and*

(yy) "Violence" means active and passive violence.

Establishment of Commission.

3. (1) The Government shall, by notification in the official gazette, with such composition of members as provided in section 5 of this Act, establish a Commission to be called "the Balochistan Healthcare Commission", for carrying out the purposes of this Act.

(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 Quetta and it may have such other offices in Balochistan as the Commission may determine from time to time.

(4) All the affairs of the Commission shall be run by the Commission comprising all its members and Chairperson jointly in accordance to the provision of this Act and the Rules and Regulations made thereunder.

Functions and powers of the Commission.

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.

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

(a) maintain register of all healthcare service providers and healthcare establishments;

(b) to develop standards, tools, guidelines, proforma, criteria, term and conditions, checklist, booklets, rules, regulations, instructions, rights, functions, responsibilities, register, receipts, forms etc. for all components of the healthcare service, harassment, violence and medical quackery;

(c) to establish booklets, form, criteria, checklist etc. for rules and regulations with regards to ban medical or health quackery and in concern to all components of healthcare service and medical quackery;

(d) take all steps to ban quackery including collection of data of quackery in all components of Healthcare services;

(e) inquire and investigate into maladministration, malpractice and failures in the provision of healthcare services in service delivery / interaction / context and issue consequential advice and orders;

(f) grant, revoke and renew licenses to healthcare providers/ persons/licensee for establishment involved in the provision of the healthcare services and to vary terms and conditions and purposes of the licenses;

(g) monitor and regulate the quality and standards of all healthcare services;

(h) operate accreditation programmes and any related scientific activities with respect to the healthcare services and to grant accreditation to such healthcare service establishment and programmes;

(i) grading of the healthcare establishments;

(j) operate certification and registration with respect to the healthcare services and to grant certification and registration to such healthcare service providers;

(k) issue regulations, guidelines, instructions and directives to persons involved in the provision of healthcare services;

(l) draft and format new Bills and amendments in existing laws related to Health on advice of the Commission or the Health Department;

(m) impose and collect fees and charges on registration,

licensing and accreditation under this Act;

(n) impose and collect penalties on violation, breach or non-compliance of the provisions of the rules, regulations, standing orders and instructions issued under this Act;

(o) advocate rights, functions and responsibilities of recipients / consumer, establishment and providers of the healthcare services;

(p) hold seminars, workshops, conferences and meetings on developing awareness and printing IT material about provision of high quality healthcare services;

(q) enter into agreement or arrangement with the Federal Government or a Provincial Government, any authority, board, council or entity, non-governmental organization, domestic or international institution or agency for the purposes of this Act;

(r) coordinate, liaise and network with any person, agency or institution for the purposes of this Act;

(s) take on lease land, buildings for the purpose of offices or premises of the Commission at such price and on such term as may be necessary;

(t) establish and construct offices and related infrastructure for the purpose of this Act;

(u) appoint and engage employees, consultants, advisors, 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;

(v) take measures for the welfare of the present and past employees of the Commission as well as its all registered members;

(w) determine the character, value and mission of the Commission;

(x) fulfill and perform all powers and function of the Commission;

(y) provide leadership and oversight of activities of the Commission;

(z) ensure the effective and efficient use of resources, solvency and safeguarding of the assets of the Commission;

(aa) establish and maintain strategic direction of the Commission;

(bb) oversee implementation of strategic objectives of the Commission;

(cc) monitor performance and review achievements of the Commission;

(dd) ensure adequate and effective governance and risk management systems in the Commission;

(ee) promote and develop partnerships with other organizations;

(ff) approve the standing orders of the Commission;

(gg) approve annual plans and reports;

(hh) approve annual accounts, budget and estimates of income and expenditure;

(ii) appoint different teams and committees;

(jj) appoint bankers and auditors;

(kk) handle and redress any complaint about the Commission;

(ll) appoint, oversees, authorize the chief executive officer, determine his terms and conditions of service and take any disciplinary action against him; and regulate appointment, grades, appraisal, dismissal and terms and conditions of service of the employees of the Commission; *and*

(mm) handle and redress any complaint about the Commission, staff, healthcare services and ban quackery.

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

(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 the Government.

(5) Subject to sub-section (6), the Commission shall conduct third party evaluation through independent performance audit of healthcare establishments in a phased manner.

(6) The Commission shall conduct third party

evaluation through independent performance audit of healthcare establishments in the private sector.

(7) 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; and shall–

(c) on a reference by the Government or the Provincial Assembly of Balochistan; *or*

(d) on a direction of the Supreme Court of Pakistan or the Balochistan 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.

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

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

(10) 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 anyperson 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.

(11) 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.

(12) The Commission may authorize members of the staff to administer oaths and to attest various affidavits, affirm ations or declarations which shall be admitted in evidence in all proceedings under this Act.

(13) The Commission shall take all the decisions regarding penalties, suspension and revocation of licenses in a meeting.

(14) The Commission may establish committee(s) or teams for assistance and advice to the Commission in relation to the

performance of its functions and determine the membership, remuneration of members and terms of reference of each committee.

Composition of the Commission.

5. (1) The Health Department with approval of the Chief Minister shall notify the Commission which shall consist of nine members, seven of whom shall be nominated on the recommendation of the Search Committee constituted hereunder in section 13.

(2) 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 Commission which may exercise all such powers and do all such acts, deeds and things that may be exercised or done by the Commission under this Act.

(3) A person shall not be eligible to be nominated as member unless he possesses a minimum of twenty years' experience. Out of total members at least three shall be from health sector and a member shall be from the federal/provincial administrative service, preferably from health sector, not below the rank of B-20. Other criteria for eligibility of members shall be as prescribed by rules.

(4) The Search Committee shall recommend to the Chief Minister a panel of at least two persons for each vacant post of the seven members to be nominated.

(5) The Health Department with approval of the Chief Minister shall nominate a former/retired Judge of the High Court and a financial expert as members of the Commission under criteria as prescribed by rules.

(6) The eligibility criteria for ever first seven members and the Chief Executive Officer shall be prescribed by the Search Committee.

(7) The Search Committee shall recommend a penal of at least three persons for the post of Chief Executive Officer to be nominated by the Chief Minister.

(8) The Commission shall regulate the conduct of its meetings, quorum and minutes of the meetings as prescribed.

(9) The Health Department with approval of the Chief Minister shall prescribe the remuneration payable to a member for attending a meeting of the Commission.

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

Meetings of the Commission.

6. (1) The Chairperson shall convene meeting of the Commission through Chief Executive Officer on quarterly basis for the conduct of the business of the Commission.

(2) Extra ordinary meetings of the Commission may be convened as and when required. The extraordinary meeting may be called by the Chairperson on the request of three or more members in writing for reasons specified therein.

(3) Two-third of the total members shall constitute quorum for a meeting of the Commission.

(4) All decisions in the meeting shall be taken on majority of votes; provided that in the case of equality of votes, the Chairperson shall have a second or casting vote.

(5) In absence of the chairperson, the members of the Commission may elect any member present to preside over the meeting.

(6) The Chief Executive Officer shall be the Secretary of the Commission.

Term of the members of the Commission.

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

(2) In case of a casual vacancy of a member, the Chief Minister shall appoint a person as member in accordance with the provisions of section 5 for the remaining term of the member who has died, resigned or is disqualified under this Act.

(3) The member(s) of the Commission nominated shall submit resignation or relieving letter from previous position if held where has an interest or share in any healthcare establishment.

Disqualification.

8. No person shall be, or shall continue to be the Chairperson or as a member of the Commission, 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 the Government, is an offence involving moral turpitude;

(e) absents himself from three consecutive meetings of the Commission, without leave of absence from the Commission;

(f) is an employee, advisor or consultant of a healthcare service provider;

(g) is a salaried official of the Commission;

(h) employees of other private or public health or any other sector; *and*

(i) other as prescribed in the rules.

Chairperson.

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

(2) The Chairperson elected by the members of the Commission shall be notified by the Health Department with approval of the Chief Minister, who shall hold office until he has the confidence of majority of the members.

(3) The Chairperson shall cease to hold office if a vote of no confidence has been passed by the majority of the members.

(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.

Chief Executive Officer.

10. (1) The Commission shall appoint a MBBS doctor having a postgraduate degree and minimum of twenty years' experience in hospitals/teaching institutions administration and management, to be the Chief Executive Officer of the Commission as prescribed.

(2) The Chief Executive Officer shall, subject to the supervision and control of the Commission administer the affairs of the Commission as provided in the Act, and may exercise such powers as are delegated to him by the Commission. Or as prescribed in the rules or regulation.

(3) His office shall be in the premises of Commission and shall respond to chairperson and Commission.

(4) In particular, the Chief Executive Officer shall be responsible to —

(a) manage the administration, operations and functions of the Commission;

(b) act as the principal accounting officer responsible and accountable for the management of the Commission's funds and assets;

(c) prepare and present the Commission with strategic and operational plans for its review and appraisal;

(d) assist the Commission in strategic thinking, planning and leadership and implement its policies;

(e) protect the financial health of the Commission;

(f) act as spokesperson and advocate of the Commission;

(g) provide leadership to the senior management and direction to all staff;

(h) convey and coordinate Commission meetings, formulation of meetings' minutes, execution of decisions, maintain record, correspondences, implementation of decision by committees and other, and reports to Chairperson and Commission;

(i) attend meeting of the Technical Advisory Committee; *and*

(j) shall be non-voter member of the Commission.

(5) The Chief Executive Officer shall devote his whole time and attention to the affairs of the Commission.

(3) The Chief Executive Officer of the Commission nominated shall submit resignation or relieving letter from previous position if held where has an interest or share in any healthcare establishment.

Disqualification of Chief Executive Officer.

11. A person shall not be appointed or hold office as Chief Executive Officer, who–

(a) is a member of the Federal or Provincial legislature, local council or local body constituted under any law;

(b) is employed in any capacity in the service related to the affairs of the Federation or Province or hold any office for which salary or other remuneration is payable out of public funds;

(c) is a director, officer or employee of any healthcare service provider or has an interest or share in any healthcare establishment; *and*

(d) has been convicted of tax evasion or for an offence involving moral turpitude; or is in default of payments due from him, for more than one hundred and eighty days, to any bank, financial institution, cooperative society, governmental agency, department or corporation.

Committees.

12. The Commission shall establish the following committees

and may establish other committees for assistance and advice to the Chief Executive Officer and Commission in relation to the performance of functions of the Commission and determine the membership, remuneration of members and terms of reference of each committee or team as prescribed —

(a) Finance and Grant Committee;

(b) Performance Review Committee;

(c) Continuous Quality Improvement Committee;

(d) Legal and Legislation Committee;

(e) Secret Team;

(f) Technical Committees; *and*

(g) Redressal Committee.

Search Committee.

13. A Search Committee shall be notified by the Health Department with the approval of Chief Minister, within three months from the commencement of this Act. It shall consist of the following:-

(a)	Chief Secretary, Government of Balochistan	Chairman.
(b)	Secretary to the Government, Health Department.	Member / Secretary.
(c)	Secretary to the Government, Law Department.	Member.
(d)	Vice Chancellor, Bolan University of Medical and Health Sciences.	Member.
(e)	President, Pakistan Medical Association Balochistan.	Member.
(f)	President of the Association of Private Healthcare Establishment/Hospitals.	Member.
(g)	A general practitioner/retired professor nominated by the Health Department.	Member.
(h)	A retired member of PMC/PMDC.	Member.
(i)	A member from other Councils having more than 25 years' experience and high qualification nominated by the Health Department:	Member.

Provided that the members other than the *ex-offico* members shall be re-nominated after every three years, in case of resignation, disqualification or death of a member.

Technical Advisory Committee.

14. (1) The Commission shall constitute a Technical Advisory Committee consisting of the following members: —

(a) one representative each to be nominated by the—

(i) Pakistan Medical Commission;

(ii) College of Physicians and Surgeons Pakistan established under the Pakistan College of Physicians and Surgeons Ordinance , 1962 (Ordinance XX of 1962);

(iii) Nursing Council;

(iv) Pharmacy Council of Pakistan or the Provincial Pharmacy Council established under the Pharmacy Act 1967 (Act XI) of 1967);

(v) Balochistan Mental Health Authority established under the Balochistan Mental Health Act, 2019 (Act IX of 2019);

(vi) Council for Homeopathy;

(vii) Council for Tibb;

(viii) Director General (Audit) Balochistan;

(ix) University of Balochistan;

(x) Balochistan Medical Faculty constituted under the Medical and Dental Degrees Ordinance 1982 (XXVI of 1982);

(xi) Bolan University of Medical and Health Sciences, Quetta;

(xii) Pakistan Medical Association; *and*

(xiii) The Young Doctors Association;

(b) one representative of the Health Department;

(c) one Member of the Provincial Assembly of the Balochistan, preferably be a Medical Doctor, to be nominated by the Speaker, Balochistan Provincial Assembly;

(d) one representative of the District Council nominated by the Chairman, district Council, Quetta;

(e) one representative to be nominated by the Health Department from the private healthcare establishments;

(f) five experts in healthcare services to be nominated by the convener of the Technical Advisory Committee in consultation with the Chairperson;

(g) Co-opt member(s) of concerned agenda;

(h) Chief Exceptive Officer of the Commission; *and*

(i) two international health experts to be nominated by the Health Department.

(2) Except for the *ex-officio* members, all other members of the Technical Advisory Committee shall hold office for a period of three years and shall be eligible for re-appointment for another term of three years.

(3) The Technical Advisory Committee shall elect one each from its members as the Convener and a Secretary.

(4) The procedure of meetings and selection of Convenor and secretary may be prescribed in Rules of this Act.

(5) The Convener of the Technical Advisory Committee shall chair meetings of the Committee and the Chief Executive Officer shall attend all meetings of the Committee.

(6) The Commission may determine the remunerations payable to the non-official members of the Technical Advisory Committee for attending a meeting as per the TA/DA Rules.

(7) The Secretary shall convey and coordinate meetings, formulate and circulate minutes of the meetings and process it to the Commission.

(8) The Technical Advisory Committee may organize itself into sub-committees and shall advice on any matter referred to it by the Commission or Convenor, including the matters relating to —

(a) policy and strategic framework of the Commission;

(b) healthcare standards, Licenses, registration, ban quackery, accreditation and quality assurance;

(c) constitution of rules and regulations, forms, checklist, standards, booklets, guidelines etc. related to all components of healthcare service;

(d) governance process of the Commission;

(e) advocacy, promotion and contribution towards development and sustainability of the work of the Commission;

(f) stakeholder consultation for the promotion of quality and standards of the healthcare

services; *and*

(g) technical advice on any function of the Commission.

Registration.

15. (1) No healthcare service provider or healthcare establishment shall not provide healthcare services without being registered under this Act.

(2) A person seeking to be registered as a healthcare service provider shall make an application to the Commission through the Chief Executive Officer in the prescribed proforma**/** form and accompanied by such particulars, documents as the Commission may prescribe.

(3) If a person fulfils the requirements of this section, the Commission shall issue a certificate of registration to the person within thirty days, otherwise the applicant shall be considered as having provisionally registered.

(4) The Commission may impose a fine as prescribed, upon a healthcare service provider or who pretends to be a healthcare service provider without registration.

(5) Any practitioner in possession of a medical qualification that allows him to practice medicine and surgery in the European Union, Canada, UK, Australia, USA, or other competent country shall be eligible to do the same in the province of Balochistan without hindrance but will be responsible to provide good medical care with ethics under this Act. He shall be answerable to the authority for any quarries arising from the care provided to him under this Act. He will follow the regulation of this Act in the same manner as other applicable to other doctors working in the province, subject to registration with the Pakistan Medical Commission.

Licensing.

16. (1) A healthcare establishment shall not be used except in accordance with the terms and conditions of a license issued by the Commission.

(2) If a healthcare establishment is not licensed under this Act, the Commission may impose a fine upon the healthcare service provider as prescribed by rules.

(3) In case of shifting of a healthcare establishment, the license issued earlier under this Act shall be valid in accordance with the stipulated condition of original license and it shall be mandatory but the healthcare service provider shall inform the Commission prior to the shifting of the healthcare establishment.

(4) Within thirty days of the issuance of the certificate of registration or such other time as may be fixed by the Government, the healthcare service provider shall make an application for a license to the Commission through the Chief Executive Officer office in the prescribed proforma/form which shall be accompanied by such particulars, documents and fees as the Commission may prescribed. The Health establishment shall go through the process of registration and accreditation once

licensed.

Application procedure for licenses of existing health facilities.

17. (1) The existing healthcare establishment shall be awarded license on the production of a certificate issued by Pakistan Medical Commission.

(2) For meeting the mutually agreed standards for issuance of license, an appropriate and reasonable period of time shall be allowed to the applicant, keeping in view the ground realities regarding the availability of trained human recourse, improvement of the existing human resource and all other allied factors according to the minimum delivery standards as notified by the Commission:

Provided that the period allowed may vary, considering the nature of the establishment and availability of appropriate human resource that is to say tertiary to primary and big city to small town.

Licensing procedure.

18. (1) The Commission shall, on receipt of an application, complete in all respect with all required documents issue a provisional license to the healthcare establishment and shall, within the period of thirty days from the date of acceptance of the application, issue the regular license to the healthcare establishment.

(2) The Commission shall, before issuing the license, inspect the healthcare establishment by an inspection team.

(3) A license issued by the Commission under this section—

(a) shall be in such form as may be prescribed;

(b) shall be valid for the period of five years; *and*

(c) may be renewed upon expiry.

Kinds of licenses.

19. (1) Every license of a healthcare establishment shall specify the kind of healthcare establishment for which it is issued and the purposes of the healthcare establishment.

(2) A licensed healthcare establishment shall not be used for any purpose other than the purposes in respect of which the license is issued and purposes incidental to such purposes.

(3) The Commission shall maintain a register of all licensed healthcare establishments and may enter in the register any necessary details or other particulars of the healthcare establishments.

Revocation and suspension of licenses.

20. (1) The Commission may revoke a license, if the license has been obtained by fraud or misrepresentation.

(2) The Commission shall suspend a license of a healthcare establishment if repeated cases of medical negligence of same nature have proved against the healthcare establishment.

Accreditation.

21. (1) The Commission shall develop framework and procedures for the accreditation, revocation and suspension of accreditation of the healthcare establishments and issue necessary guidelines and instructions in this behalf in a phased manner.

(2) The Commission shall develop accreditation criteria for scientific program, conference, seminar and any other with respect to healthcare service.

(3) The Commission shall review the best national and international practices in accreditation and build supportive links and enter into collaborations and agreements with national and international organizations in relation to accreditation of the healthcare establishments.

Medical negligence.

22. (1) Subject to sub-section (2), a healthcare service provider may be held guilty of medical negligence on one of the following two findings:-

(a) the healthcare establishment does not have the requisite human resource**,** equipment and other which it professes to have possessed claimed during the submission of proforma along application for issuance of new licenses or renewal of licenses; or

(b) he or any of his employee did not, in the given case, exercise with minimum service delivery standard prescribed by rules or with the competence and skill which he or his employee possessed.

(2) The recognized and known complications of a medical or surgical treatment are not considered as medical negligence.

(3) The fine or penalty shall be imposed on healthcare provider once found guilty after proper inspection, inquiry and investigation as prescribed by the Commission.

Protection of Healthcare Provider.

23. (1) The security and protection while on duty of the healthcare provider shall be the responsibility of the

establishment including federal and its authority availing their services.

(2) Healthcare providers should have legal protection and in case of legitimation, the administration of healthcare establishment must own the responsibility of legal cover and provide full financial and legal help accordingly if the case has connection with healthcare services during duties or services.

Harassment and violence against Healthcare provider and establishment.

24. (1) Any healthcare provider and/ or establishment against whom an act of violence or harassment has been committed by-

a) a person including healthcare recipient; or

b) print/social/electronic media establishment's employees, NGOs personnel; or

c) government employees, inspection team; or

d) healthcare provider, establishment and its staff,—

shall submit their grievances to the Commission as prescribed by rules:

Provided that any aggrieved person, healthcare recipient/provider/establishment, print/electronic/social media employees having complaints/grievances may also submit their grievances to the Commission as prescribed by rules.

(2) The case of grievances/complaints shall be inspected, inquired, investigated and assessed on case to case basis by the Commission with the help of redressal committees for decision or further refer to other competent forum as prescribed by rules.

(3) If the complaint made by any aggrieved person including healthcare provider or healthcare establishment, is proved false, the complainant shall be liable to pay a fine as prescribed by rules.

(4) The offender found guilty, shall be liable —

(a) in case of physical injury and emotional harassment incurred to healthcare provider while performing duties in establishment, to fully compensate healthcare provider including equipment's damage and treatment cost of healthcare provider as prescribed in rules;

(b) to compensate also the healthcare provider if the incidence of harassment and violence occurred outside healthcare establishment but proved its connection to healthcare services; *and*

(c) in case of physical damage to the property infrastructure and/or equipment of a healthcare establishment, to fully financial compensate to the healthcare establishment as prescribed by rules.

(5) No person shall pass judgmental and aversive remarks by electronic/print/social media via a post, text, images/videos or by any other means about healthcare provider or healthcare establishment until proven guilty by the Commission. Offender(s) shall be punished if found guilty of such act, as prescribed by Rules.

(6) The Commission shall not entertain an anonymous or pseudonymous complaint(s) against a healthcare service provider or healthcare establishment.

(7) No FIR against healthcare establishment and healthcare provider shall be lodged in the cases concerned with healthcare services, without permission of the Commission.

(8) No Cross-FIR against healthcare provider and healthcare establishments shall be lodged in the cases concerned with healthcare services, without permission of the Commission.

Confidentiality.

25. (1) Any person including healthcare provider or establishment, print/electronic/social media's personnel shall not be permitted to take photos or make videos of healthcare recipient, provider, process/procedure and establishment without prior written permission of the concerned authority. Any violation of this provision shall be liable to such punishment as prescribed by rules.

(2) The inspection team, inquiry team, redressal committee and investigation team shall not disclose identification and shall not express its views, judgment or aversive remarks by any means about healthcare provider and establishment. Any violation of this provision shall be liable to punishment as prescribed by rules.

False claims or use of data and practice of procedure and skills.

26. False written/audio/video medical claims by any means of data/skills/procedures and practice of them by any person, healthcare provider and staff of healthcare establishment shall be punished as prescribed by rules if found guilty by the Commission.

Standards of healthcare services.

27. (1) The Commission, with the approval of the Government, shall —

(a) prepare and publish in the official gazette, the standards (tools) in relation to the provision ofhealthcare services; *and*

(b) keep the standards under review and publish amended standards whenever deemed appropriate.

(2) The Commission shall implement the standards as developed and approved by the Government.

(3) The Government may, after considering any representations made in relation to the standards prepared and published by the Commission, make such revision of the standards as deemed necessary and the Commission shall publish the revised standards.

(4) The Commission or the Government shall, for meeting the mutually agreed standards, give an appropriate and reasonable period of time by keeping in view the ground realities regarding availability of trained human resource, improvement of the existing human resource and all other allied factors.

Inspection and Investigation team.

28. (1) The Commission may, by order in writing, appoint an inspection team(s) to perform the functions and exercise the powers of the Commission in relation to inspections under this Act, rules or regulations subject to such conditions and limitations as the Commission may specify in this behalf.

(2) The inspection team may inspect a healthcare establishment —

(a) at the time of issuance or renewal of license; or

(b) on receipt of a complaint.

(3) The inspection team may inspect any apparatus, appliance, equipment, instrument, product, goods or item used or found in, or any practice or procedure being carried out at, the healthcare establishment.

(4) The inspection team may inquire any case if there has been any instance or allegation of mal-administration, malpractice or failure in the provision of healthcare services against a healthcare establishment.

(5) The inspection team may inspect the documents of registration of healthcare provider.

(6) The inspection team will submit all the documents, evidences etc. to the Commission for examination and decision.

(7) Except in the case of a prosecution for an offence under this Act, a member of the inspection team shall not be bound to give evidence in any proceedings in respect of, or to produce any document containing, any information which has been obtained from any healthcare establishment in the course of carrying out any investigation, inspection, inquiry or performing any duty or function under this Act.

(8) A member of the inspection team shall not disclose any information at any forum which is contained in the medical record, or which relates to the condition, treatment or diagnosis, of any person, as may have come to his knowledge in the course of carrying out any investigation, inspection, enquiry or performing any duty or function under this Act unless allowed in writing by the Commission.

(9) The inspection team shall not post or release any material or inspection process about healthcare provider or establishment to any print or electronic or social media until proven by process of investigation team and the Commission.

(10) The Commission may impose a fine as prescribed by rules upon a healthcare service provider or establishment who —

(a) refuses or fails, without reasonable cause, to furnish any information to the inspection team; or

(b) gives any false or misleading information to the inspection team.

Procedure for investigation.

29. (1) The Commission shall prescribe the procedure for the conduct of investigation to be carried out by the Commission, investigation team or redressal committee under this Act.

(2) An aggrieved person may, within sixty days from the date of knowledge of the cause of action, file a complaint against a healthcare service provider or healthcare establishment by submitting an application in writing supported by an affidavit of the aggrieved person.

Directions as to apparatus, appliances, equipment or products.

30. Where, in the opinion of the inspection team-

(a) the use of any apparatus, appliance, equipment, instrument, product, goods or item; or

(b) the carrying out of any practice or procedure in a healthcare establishment, —

is dangerous or detrimental to any person therein or otherwise unsuitable for the purpose for which it is used or carried out, it shall immediately report, the matter in writing to the Commission along with the necessary details. On receipt of report the Commission may act as prescribed by rules.

Obstructing inspection team.

31. The Commission may impose a fine as prescribed by rules on a person who obstructs, hinders or impedes an inspection team in the performance of its function or execution of its duty.

Violations by bodies corporate.

32. (1) Where any contravention of this Act is committed by a body corporate and it is proved to have been committed with the consent or connivance of, or to be attributable to any director, manager, secretary or other officer or employee of the body corporate, or any person who purported to act in any such capacity, he as well as the body corporate shall be liable to pay fine for the violation as prescribed by rules.

(2) Where it appears to the Commission that the circumstances of a case warrant action under any other law, the Commission may refer such case to the concerned governmental authorities or law enforcement agencies for appropriate action under relevant laws.

Indemnity.

33. No suit or other legal proceedings shall lie against the Commission, Technical Advisory Committee, Chief Executive Officer, officers, inspection teams, investigation teams, advisors, consultants or agents of the Commission for anything done in good faith under the Act, rules or regulations.

Jurisdiction of Commission for adjudication of fine.

34. (1) Notwithstanding anything contained in any other law, the Commission may, for contravention of a provision of this Act, rules or regulations, impose fine as prescribed by rules, keeping in view the gravity of offence.

(2) The Commission shall afford adequate opportunity of hearing to a person before imposing fine on the person under this Act.

(3) If the complaint, submitted either by an aggrieved person or a healthcare service provider, is proved false, the Commission may impose fine upon the complainant as prescribed by rules.

Immunity.

35. No suit, prosecution or other legal proceedings related to provision of healthcare services shall lie against a healthcare service provider except under this Act.

Bar of jurisdiction.

36. Save as provided in this Act, no court other than the Court of the District and Sessions Judge shall have jurisdiction —

(a) to question the validity of any action taken, or intended to be taken, or order made, or anything done or purporting to have been taken, made or done under this Act; or

(b) decision of the Commission to suspend or revoke a license.

Appeal.

37. A person who is aggrieved by —

(a) an order of the Commission to refuse issuance or renewal of a license; or

(b) a decision of the Commission to suspend or revoke a license; or

(c) an order of closing down of a healthcare establishment or making improvements in the healthcare establishment; or

(d) an order relating to equipment, apparatus, appliances, or other things at a healthcare

establishment; or

(e) an order of the Commission to refuse issuance or renewal of a registration; or

(f) a decision of the Commission to suspend or revoke a registration; or

(g) an order relating to procedures, process, skill by healthcare providers; or

(h) an imposition of fine/penalty/compensation or any other order by the Commission, —

may, within thirty days from the date of communication of the order of the Commission, prefer an appeal in writing to the District and Sessions Judge.

Fund.

38. (1) There shall be established a Fund for the purposes of this Act which shall vest in, and be administered and controlled by the Commission.

(2) The Fund shall consist of —

(a) all such sums as the Government may grant by way of seed money or otherwise;

(b) donations from domestic and international donor agencies or other institutions;

(c) grants of money and sums borrowed or raised by the Commission for the purposes of meeting any of its obligations or discharging any of its duties;

(d) fees, penalties or other charges imposed by the Commission under this Act; *and*

(e) all other sums which may in any manner become payable to or vested in the Commission in respect of any matter incidental to the exercise of its functions and powers.

(3) The Fund shall be expended for the purpose of—

(a) paying any expenditure lawfully incurred by the Commission, including the remuneration of employees appointed by the Commission, their provident fund contributions, superannuating allowances or gratuities;

(b) meeting the cost and charges of the contractors, inspection teams, advisors, investigation team, redressal committee, consultants and agents

hired by the Commission;

(c) paying any other expenses, costs or expenditure properly incurred or accepted by the Commission in the performance of its functions or the exercise of its powers under this Act, including legal fees and costs;

(d) purchasing or hiring equipment, machinery and any other materials, acquiring land and erecting buildings, and carrying out any other work and undertakings in the performance of its functions or the exercise of its powers under this Act;

(e) repaying any financial accumulation received or money borrowed under this Act and the profit, return, mark-up or interest due thereon; *and*

(f) generally paying any expenses for carrying into effect the provisions of this Act.

Annual budget.

39. (1) The Commission shall prepare and approve annual budget for a financial year in the prescribed manner.

(2) No expenditure shall be made for which provision has not been made in any approved budget except if made from any previously approved contingency funds, unless further approval is sought and obtained from the Commission.

Annual report and accounts.

40. (1) Within ninety days from the end of each financial year, the Commission shall prepare a report on the activities and performance of the Commission, including inspections carried out under this Act during the financial year and submit a copy of the report to the Government.

(2) The Commission shall keep proper accounts and shall, as soon as practicable, after the end of each financial year, prepare a statement of accounts of the Commission for the financial year which shall include a balance sheet and an account of income and expenditure.

(3) The Commission shall appoint a firm of chartered accountants for audit of the statement of accounts of the Commission.

(4) The Commission shall, within one hundred and twenty days of the end of each financial year, together with the annual report of the Commission send a copy of the statement of accounts of the Commission certified by the auditors and a copy of the auditors' report to the Government.

Investments.

41. (1) Subject to sub-section (2) of this section, the Commission may, in so far as its moneys are not required to be expended under this Act, invest the surplus moneys in such manner as may be prescribed.

(2) The Commission shall not invest its money in listed securities or any derivative thereof whether listed or not.

Executive authorities to assist the Commission.

42. All executive authorities and law enforcement agencies of the Government shall act in aid of the Commission.

Recovery of fines and other dues as arrears of land revenue.

43. The Commission may recover the fines imposed under this Act or other dues recoverable under the Act as arrears of land revenue under the Balochistan Land Revenue Act, 1967 (Act XVII of 1967).

Failure to comply with the decision of the Commission.

44. Any person who, in the opinion of the Commission, fails to comply with the final decision or recommendation of the Commission, the Commission may impose a fine on the person as prescribed by rules.

Removal of difficulties.

45. If any difficulty arises in giving effect to any provision of this Act, the Government may make such order not inconsistent with the provisions of this Act as may appear to it to be necessary for the purpose of removing such difficulty.

Rules.

46. The Government may, by notification in the official Gazette, make rules within six months for giving effect to the provisions of this Act.

Regulations.

47. (1) The Commission may, by notification in the official Gazette, make regulations for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the forgoing powers, the Commission may make regulations with respect to all or any of the following matters:-

(a) the forms, fees and registers for the purposes of this Act;

(b) the records of patients treated in a healthcare establishment are provided;

(c) the records of the staff of a healthcare establishment;

(d) the requirements as to the number and qualifications of nursing and other staff in a healthcare establishment;

(e) the apparatus, appliances, equipment and

instruments to be provided and maintained in a healthcare establishment;

(f) the ambulances to be provided and maintained by a healthcare establishment;

(g) the standards of accommodation, sanitation, and other amenities in a healthcare establishment;

(h) fix penalties according to offence;

(i) the cleanliness and hygiene in a healthcare establishment;

(j) the safety and welfare of patients in a healthcare establishment are provided;

(k) the management, control, superintendence and care of a healthcare establishment;

(l) the composition, procedures, duties and responsibilities of quality assurance committees of healthcare establishments;

(m) the rights, functions and responsibilities regards access, safety and protection, respect and dignity, information, participation, privacy and feedback and comment of health care recipients, providers, interactions/ processes and establishments;

(n) the medical quackery, and anti-medical quackery strategy;

(o) guidelines and do and not do for inquiry team, inspection team(s), investigation team, redressal committee; *and*

(p) the regulation and control of prices of the healthcare services.

(3) The power to make regulations conferred by this section shall be subject to the condition of previous publication and, before making any regulations, the draft thereof shall be published, in the official Gazette, two newspapers of wide circulation and on the website of the Commission, for eliciting public opinion thereon within a period of not less than fifteen days from the date of publication.

Delegation of Powers.

48. The Government may delegate any of its powers under the Act and any rules made there under, to the Chief Minister, Chief Secretary or Secretary Health, with exception of the powers as prescribed herein above section 46.

(SAFDAR HUSSAIN)

Secretary.