

A BILL

To improve quality of healthcare services and ban quackery in the Punjab in all its forms and manifestations.

Whereas it is expedient to provide for establishment of the Punjab Healthcare Commission, to make provisions for the improvement of quality of healthcare services and ban quackery in all its forms and manifestations.;

It is hereby enacted as follows:

CHAPTER I INTRODUCTORY

1. Short title, extent and commencement.— (1) This Act may be called the Punjab Healthcare Commission Act 2010.

(2) It shall extend to the whole of the Punjab and shall be applicable both on public and private sector. It shall be applicable both on public, private, non profit organization, charitable hospital, trust hospital, semi government and autonomous health care organization without any discrimination.

(3) It shall come into force at once. (This section and section 3 to 10 shall come into force at once; the remaining provision of the act shall come into force on such date as the government shall after approval of standards of health care services and accreditation procedure and frame work as provided under section 16 and 17 respectively of this act may, by notification in official gazette, appoint in this behalf.)

2. Definitions.— In this Act:

- (a) "Accreditation" means the process of accepting/declaring Healthcare Establishments as providing services exactly in accordance with the standards and accepted medical (allopathic, Homeopathic and Tibb Unani) protocols, guidelines and the Tools;
- (b) "Board" means the Board of Commissioners constituted under section 5;
- (c) "Certificate of registration" means the certificate issued by the Commission evidencing registration of a Healthcare Service Provider;
- (d) "Chairman" means the Chairman of the Board;
- (e) "Chief Executive Officer" means the Chief Executive Officer of the Commission;
- (f) "Clinical Governance" means a systematic approach to maintaining and improving the quality of patient care;
- (g) "Commission" means the Punjab Healthcare Commission;
- (h) "Commissioner" means a Member of the Board appointed under section 5;
- (i) "Convener" means the Convener of the Technical Advisory Committee;
- (j) "Fund" means Fund established under the Act;
- (j) "Government" means the Government of the Punjab;
- (k) "Grading" means the ranking of the Healthcare Establishments done on the basis of the tools;
- (l) "Healthcare Establishment" means any hospital, diagnostic centre, medical clinics, nursing home, maternity home, dental clinic, homeo clinic, tibb clinic, acupuncture, physiotherapy clinic or any system of treatment notified by the Government;

- (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;
- (m) "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 the Government;
 - (n) "Healthcare Service Provider" includes a person registered by PMDC, National Council for Tibb and Homeopathy, Nursing council or an owner, manager, or incharge of a Healthcare Establishment;
 - (o) "Inspection Team means a team comprising of more than two medical experts (comprising of one employee of the commission and others from Public or Private sector) to visit any health establishment authorized by the Commission under the Act;
 - (p) "License" means a 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;
 - (q) "Licensee" means a person to whom license has been issued under the Act;
 - (r) "Medical Negligence" means a case where a patient sustains injury or develops medical complications or dies as a result of improper / delayed treatment given to him in a Healthcare Establishment. However, in case of death minimum evidence required to prove a case of grave negligence shall require medical autopsy report;
 - (s) "Person" includes Association, Authority, Body, Company, Corporation, individual, partnership, proprietorship or other entities;
 - (t) "Performance Audit" means a process done through the Tools and other similar instruments;
 - (u) "prescribed" means prescribed by rules or regulations made under the Act in consultation with stakeholders;
 - (v) "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;
 - (w) "Quack" means a pretender providing health services without having registration of PMDC and NCT, NC for Homeopathy and NC for Nursing;
 - (x) Registration means registration certificate issued by the Commission under Section 11 of this Act to a Healthcare Service Establishment and Healthcare Providers;
 - (y) "Regulations" means the Regulations made under the Act;
 - (z) "Rules" means Rules made under the Act;
 - (aa) "Standards" include the Minimum Service Delivery Standards (MSDS) notified by the Government in consultation with stakeholders;
 - (bb) "Staff" means any employee or Commissioner of the Office and includes co-opted members of the Staff, Consultants, Advisors, Liaison Officers and experts;
 - (cc) "Technical Advisory Committee" means the committee constituted under Section 8; and
 - (dd) "Tools" include the Third Party Performance Audit Tools already notified and any other parameters prescribed from time to time by the Government;

CHAPTER II HEALTHCARE COMMISSION AND GOVERNANCE

- 3. Establishment of the Commission.**– (1) The Government may, by notification,

establish a commission to be called the Punjab 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 Commission would be governed by the Board.

(4) The head office of the Commission shall be at Lahore and it may have such other offices in the Punjab as the Board may determine.

4. Functions and powers of the Commission/Board.— (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 that may be exercised or done by the Commission under this Act.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Board may:

- (a) determine the character, value and mission of the Commission;
- (b) provide leadership and oversight of activities of the Commission;
- (c) ensure the effective and efficient use of resources, solvency and safeguarding of the assets of the Commission;
- (d) establish and maintain strategic direction of the Commission;
- (e) oversee implementation of strategic objectives of the Commission;
- (f) monitor performance and review achievements of the Commission;
- (g) ensure adequate and effective governance and risk management systems in the Commission;
- (h) promote and develop partnerships with other organizations;
- (i) approve the standing orders of the Commission;
- (j) approve annual plans and reports;
- (k) approve annual accounts, budget and estimates of income and expenditure;
- (l) appoint Inspection Team(s);
- (m) appoint bankers and auditors;
- (n) handle and redress any complaint about the Commission;
- (o) appoint, oversee, authorize the Chief Executive Officer, determine his terms and conditions of service and take any disciplinary action against him; and
- (p) regulate appointment, grades, appraisal, dismissal and terms and conditions of service of the employees of the Commission.
- (q) all the decisions regarding penalties, suspension and revocation of licenses will be decided in a meeting by the Board;

(3) The Board may establish committees for assistance and advice to the Board in relation to the performance of its functions and determine the membership, remuneration of members and terms of reference of each committee.

(4) The Commission shall perform such functions and exercise such powers as may be required to improve the quality of Healthcare Services/Clinical Governance and ban on quackery.

(5) Without prejudice to the generality of the provisions of sub-section (2), 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 thereof;
- (c) monitor and regulate the quality and standards of the Healthcare Services developed by the Government;

- (d) operate accreditation programmes in respect of the Healthcare Services and to grant accreditation to such Healthcare Service Providers who meet the prescribed standards;
 - (e) enquire and investigate into maladministration, malpractice and failures in the provision of Healthcare Services and issue consequential advice and orders;
 - (f) inspect and search premises, records and other materials of persons involved in, or concerned with, the provision of Healthcare Services and to regulate the conduct of such inspections;
 - (g) impose and collect fees and charges on registration, licensing and accreditation under this Act;
 - (h) 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;
 - (i) advocate rights and responsibilities of recipients and providers of the Healthcare Services;
 - (j) Hold seminars, conferences and meetings on developing awareness about provision of high quality Healthcare Services;
 - (k) 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;
 - (l) coordinate, liaise and network with any person, agency or institution;
 - (m) 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;
 - (n) appoint, engage, authorize and terminate employees, consultants, advisers, attorneys, Inspection/Investigation 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;
 - (o) take measures for the welfare of the present and past employees of the Commission; and
 - (p) issue regulations, guidelines, instructions and directives to persons involved in the provision of Healthcare Services.;
 - (q) grading of the Healthcare establishment;
 - (r) take necessary steps to completely put ban on quackery.
- (6) 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.
- (7) 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.
- (8) Independent Performance Audit of Healthcare Establishments shall be done by the Commission through Third Party Evaluation in a phased manner **with Tertiary Care Hospitals in the private sector.**
- (9) Notwithstanding anything contained in any other law, the Healthcare Commission may:
- (a) on a complaint by any aggrieved person;
 - (b) on a complaint by any aggrieved doctor; or
 - (d) referred by any organization the request of any aggrieved person to the Commission;
- and shall:
- (c) on a reference by the **Government** or the Provincial Assembly of the Punjab; or

(d) on a motion of the Supreme Court of Pakistan or the Lahore 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 officers or employees of the Healthcare Service Provider or the Commission.

(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 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.

(11) The Healthcare Commission shall not have any power to 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 by him;

(12) The Healthcare 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 Act without proof of the signature or seal or official character of such person.

(13) If the complaint, submitted either by aggrieved person or a doctor, is proved false, the complainant shall be liable to pay a fine up to two hundred thousand rupees.

(14) All executive authorities and law enforcement agencies of the Government shall act in aid and support of the Healthcare Commission.

5. Constitution of the Board.— (1) The Board shall consist of nine Commissioners. For the nomination of seven Commissioners the Government shall constitute a Committee, comprising the following, which shall recommend a panel of fourteen candidates for appointment of seven Commissioners having a minimum of fifteen years experience in public or private organization. From this panel the Government shall select seven Commissioners and the remaining two Commissioners, i.e. one retired Judge of Lahore High Court and one eminent Finance Expert will be nominated Chief Minister.

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| 1. Health Secretary | Chairman |
| 2. Vice Chancellor of a Health University | Member |
| 3. One representative of PMA, Punjab | Member |
| 4. One representative of Private Hospital Owners Association, Punjab | |
| 5. One representative of General Practitioner's Association | Member |
| 6. One Member from Hakim or Homeopath Council | Member |

(2) On completion of all procedural/codal formalities as provided under sub-section (1) the Government may, by notification, constitute a Board to run the business of Punjab Healthcare Commission for carrying out the purposes of this Act.

(3) The Government shall appoint Commissioners and the Commissioners shall hold a secret ballot to elect a Chairman of the Board from amongst themselves.

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

(5) The Government shall prescribe the remuneration payable to a Commissioner for attending a meeting of the Board.

(6) No act or proceedings of the Board shall be invalid merely on the ground of the existence of any vacancy in or defect in the constitution of the Board.

(7) The Chairman or a Commissioner shall not, for two years after the expiry of their term of office, enter into the employment of or accept any advisory or consultancy relationship with any Healthcare Service Provider in the Punjab.

(8) 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 the Government, is an offence involving moral turpitude;
- (e) absents himself from three consecutive meetings of the Board, without leave of absence from the Board; and
- (f) is a salaried official of the Commission.

6. Term of the Commissioners.— (1) All the nine Commissioners shall hold office for a term of three years. However, all of them or anyone from them could be re-appointed for a further period from one to three years, as deemed appropriate by the Government.

(2) In case of a casual vacancy of a Commissioner, the Government shall appoint a qualified person as Commissioner for the remainder of the term of the Commissioner who has resigned or disqualified to be the Commissioner under this Act.

7. Technical Advisory Committee.— (1) The Board shall constitute a Technical Advisory Committee, consisting of the following members:

- (a) one representative each to be nominated by:
 - (i) the Pakistan Medical and Dental Council established under the Pakistan Medical and Dental Council Ordinance, 1962;
 - (ii) the College of Physicians and Surgeons of Pakistan established under the Pakistan College of Physicians and Surgeons Ordinance, 1962;
 - (iii) the Pakistan Nursing Council established under the Pakistan Nursing Council Act, 1973;
 - (iv) the Pharmacy Council of Pakistan established under the Pharmacy Act, 1967;
 - (v) the Mental Health Authority established under the Mental Health Ordinance, 2001;
 - (vi) the National Council for Homeopathy;
 - (vii) the National Council for Tibb;
 - (viii) the Auditor General of Pakistan established under Article 168 of the Constitution;
 - (ix) the University of Health Sciences established under the University of Health Sciences, Lahore Ordinance, 2002; and
 - (x) the Punjab Medical Faculty;
 - (xi) King Edward Medical University.
 - (xii) Pakistan Medical Association (Punjab Chapter)
- (b) one representative of the Government to be nominated by the Secretary to the Government, Health Department;
- (c) one member of the Provincial Assembly of the Punjab to be nominated by the Speaker of the Assembly;
- (d) one representative each of the six District Governments selected by the Government for one year on non-recurring basis;
- (e) one person each to be nominated by the Government from the Hospitals, Medical Clinics, Diagnostic Centres and medical colleges in the private sector;
- (f) five experts in Healthcare Services to be nominated by the Convener of the Technical Advisory Committee in consultation with the Chairman of the Board; and
- (g) two international health experts to be nominated by the Government.

(2) Except for the ex-officio members referred in sub-section (1), all other members of the Technical Advisory Committee shall hold office for a period of three years and shall be re-appointed for an additional term of three years.

(3) The Technical Advisory Committee shall elect one of its members as the convener.

(4) The convener of the Technical Advisory Committee shall chair meetings of

the committee and the Chief Executive Officer may attend any meeting of the committee.

(5) The Board may determine the remunerations payable to the members of the Technical Advisory Committee for attending a meeting.

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

- (a) policy and strategic framework of the Commission;
- (b) healthcare standards, accreditation and quality assurance;
- (c) governance process of the Commission;
- (d) advocacy, promotion and contribution towards development and sustainability of the work of the Commission; and
- (e) stakeholder consultation for the promotion of quality and standards of the Healthcare Services.

8. Chief Executive Officer.— (1) The Board shall appoint a person having a minimum of fifteen years of experience in Hospital or public administration, medicine, accounting, finance, law, regulation or other related field to be the Chief Executive Officer of the Commission.

(2) The Chief Executive Officer shall, subject to the supervision and control of the Board, administer the affairs of the Commission, and may exercise such powers as are delegated to him by the Board.

(3) In particular, the Chief Executive Officer may:

- (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 Board with strategic and operational plans for its review and appraisal;
- (d) assist the Board 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.

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

(5) **The chief executive officer shall not interfere or involve in the process of suspension/ revocation of licenses and formation of inspection teams.**

9. Disqualifications of Chief Executive Officer.— 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 or has been contesting last general election;
- (b) is employed in any capacity in the service relating 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;
- (d) has been convicted of tax evasion or for an offence involving moral turpitude; or
- (e) is in default of payments due from him to any bank, financial institution, cooperative society, governmental agency, department or corporation.

CHAPTER III REGISTRATION AND LICENSING

10. Registration.– (1) A Healthcare Service Provider shall not provide Healthcare Services without being registered under this section and the regulations framed under this Act..

(2) An existing Healthcare Service Provider shall, within a period of ninety days of the coming into force of this Act, apply for registration in accordance with this section and the regulations.

(3) A person seeking to be registered as a Healthcare Service Provider shall make an application to the Commission in the prescribed form and accompanied by such particulars, documents as the Commission may prescribe.

(4) If a person fulfills the requirements of this Section, the Commission shall issue a certificate of Registration to the person within 14 days otherwise the applicant shall be considered Registered provisionally.

(5) The Commission may impose a fine which may extend to five hundred thousand rupees upon a Healthcare Service Provider or any other person who practices without Registration.

11. Licensing.– (1) A Healthcare Establishment shall not be used except in accordance with the terms and conditions of a license issued under this Act.

(2) If a Healthcare Establishment is not licensed under this Act or is used otherwise the Commission may impose a fine which may extend to five hundred thousand rupees upon the Healthcare Service Provider.

(3) In case of shifting of a Healthcare Establishment, the license issued earlier shall be valid. It shall be obligatory on the Healthcare Establishment to inform the Commission in advance about the shifting of the premises.

12. Application for issue and renewal of licenses.– (1) Within thirty days of the issuance of the certificate of Registration, the Healthcare **Service establishment** shall make an application for a license to the Commission in the prescribed form which shall be accompanied by such particulars, documents and fees as the Commission may prescribe.

(2) On receipt of an application, complete with all required documents, under sub-section (1), the Healthcare Service establishment shall be issued a provisional license and within the period of thirty (30) days from the date of acceptance of his application the license will be issued in his favour.

(3) For the purpose of sub-section (3), the Commission may, before issuing the license inspect the premises or conveyance to be licensed, or cause such premises or conveyance to be inspected by the Inspection Team authorized by the Commission;

(4) A license issued by the Commission under this section:

- (a) shall be in such form as may be prescribed by the Commission;
- (b) shall be valid for the period of five years; and
- (c) may be renewed upon its expiry.

13. Kinds of licenses.– (1) Every license of a Healthcare Establishment shall specify the kind Healthcare Establishment for which it is issued and the purposes thereof.

(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 reasonably incidental thereto.

(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 Establishment.

14. Suspension and revocation of licenses.– The Commission may suspend or revoke a license if:

- (a) the license has been obtained by fraud or misrepresentation;
- (b) repeated medical negligence of Healthcare Establishment is proved;

CHAPTER IV STANDARDS OF HEALTHCARE SERVICES

15. Standards of Healthcare Services.– (1) The Commission shall implement the Standards developed and approved by the Government. The Commission, with the approval of the Government, shall:

- (a) prepare and publish statements of standards in relation to the provision of Healthcare Services; and
 - (b) keep the standards under review and publish amended statements whenever deemed appropriate, with the approval of the Government.
- (2) The Government may, after considering any representations made in relation to the standards prepared and published by the Commission, make such revision with respect thereto as deemed necessary and the Commission shall publish the revised standards.

16. Accreditation.– (1) The Commission shall develop framework and procedures for the accreditation of the Healthcare Services and issue necessary guidelines and instructions in this behalf in phases.

- (2) The Commission shall review 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 Services.

CHAPTER V INSPECTION AND ENFORCEMENT

17. Inspection – (1) The Commission may, by order in writing, appoint inspection team of highly qualified experts in the relevant field 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) An inspection team may visit:
- (a) at the time of issuance and renewal of license.
 - (b) On receipt of a complaint.
 - (c) Investigate whether this Act, rule or Regulation has been or is being contravened;
 - (d) Assess the quality and appropriateness of the facilities and services provided and the practices and procedures being carried out at the Healthcare Establishment; or
 - (e) Enquire if there has been any instance of maladministration, malpractice or failure in the provision of Healthcare Services.
 - (f) 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.
- (3) The Commission may impose a fine which may extend to fifty thousand rupees upon a licensee or Healthcare Service Provider who:
- (a) refuses or fails, without reasonable excuse, to furnish any information to the Inspection/Investigation Team in contravention of sub-section (2); or
 - (b) gives any false or misleading information.
- (4) Except in the case of a prosecution for an offence under this Act, the Inspection/Investigation 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 or performing any duty or function under this Act.
- (5) The Inspection/Investigation 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 or performing any duty or function under this Act unless allowed in

writing by the Commission.

18. Procedure of investigation.— (1) The Commission shall, by rules, prescribe the procedure for the conduct of investigation to be carried out by the Healthcare Commission under this Act.

(2) A complaint shall be made on solemn affirmation or oath and in writing addressed to the Healthcare Commission by the person aggrieved or, in the case of his/her death, by the legal representative and may be lodged in person at the Office or handed over to the Chief Executive Officer of the Healthcare Commission in person or sent by any other means of communication to the Office.

(3) No anonymous or pseudonymous complaints shall be entertained.

(4) A complaint shall be made not later than sixty days from the day on which the person aggrieved first had the notice of the matter alleged in the complaint.

19. Directions as to apparatus, appliance, equipment, products, etc.— Where, in the opinion of the Inspection/Investigation 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, he shall immediately report the matter in writing to the Commission along with the necessary details. On receipt of report the Commission may act according to the rules, regulations and the procedure prescribed by the Government.

20. Directions of closure, etc.— Where, in the opinion of the Commission, the use of any premises as a Healthcare Establishment is not according to the specified rules:

(a) The Commission may direct such licensee or Healthcare Service Provider to take such remedial or consequential actions as may be deemed appropriate in the circumstances

(b) In case of non compliance of directions given by the commission, the Healthcare Establishment may be suspended/revoked or may be fined upto fifty thousand rupees as per prescribed rules/procedures.

(c) in case of repeated instances of maladministration, malpractice, negligence or failure in the provision of Healthcare Services, the concerned speciality of the Establishment may be closed

(d) on non-compliance of (1)(c) the Commission may, by notice, require the licensee or Healthcare Service Provider to show cause, within a period of fifteen days, why the Healthcare Establishment should not be closed down within such time as specified in the notice. If the Commission feels that the reply of the licensee or Healthcare Provider is not satisfactory, the Commission may serve a final notice and afford personal hearing to the licensee or Healthcare provider within a period of one month. And, if the Commission still feel the reply unsatisfactory, the Healthcare Establishment may be closed.

21. Obstructing Inspection/Investigation Teams in execution of their duties.— The Commission may impose a fine which may extend upto fifty thousand rupees on a person who obstructs, hinders or impedes an Inspection/Investigation Team in the performance or execution of his duty, at each incidence.

22. Violations by bodies corporate.— (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.

(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.

23. Protection from liability.— No suit or other legal proceedings shall lie against the Commission, Board, Technical Advisory Committee, Chief Executive Officer, officers, Inspection/Investigation Teams, advisers, consultants or agents of the Commission for anything done in good faith in the execution or purported execution of this Act, rules or regulations.

24. Jurisdiction of Commission for adjudication of fine.— (1) Notwithstanding anything contained in any other law, the Commission may impose fine which may extend to five hundred thousand rupees in accordance with the provisions of this Act, keeping in view the gravity of offence, notified by the Commission time to time.

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

25. Bar of jurisdiction.— Save as provided in this Act no court or other than 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) to grant an injunction or stay or to make any interim order in relation to any proceeding before, or anything done or intended to be done or purporting to have been done by, or under the orders or at the instance of the Healthcare Commission.

26. Appeal.— (1) Any person who is aggrieved by:-

- (a) the refusal of the Commission to issue or renew a license;
- (b) the decision of the Commission to suspend or revoke a license;
- (c) the order of closing down of a Healthcare Establishment or making improvements in the Healthcare Establishment;
- (d) the order relating to equipments, apparatus, appliances, or other things at a Healthcare Establishment; or
- (e) the imposition of fine 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.

(2) Healthcare Establishment will provide legal aid to Healthcare Provider, working in the said Healthcare Establishment, pertaining to the matters related to this Act.

27. Immunity.— No suit, prosecution or other legal proceeding shall lie against the health care provider except before the Commission related to provision of health care.

CHAPTER VI FUND, BUDGET AND ACCOUNTS

28. The Fund.— (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) such sums as the Government may grant by way of seed money or otherwise;
- (b) donations from domestic and international donor agencies and 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 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 costs and charges of the contractors, Inspection/Investigation Teams, advisors, 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 accommodation received or moneys 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.

29. Annual budget.— (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 Board.

30. Annual report and accounts.— (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 Board shall, within one hundred and twenty days of the end of each financial year, together with the annual report of the Commission under sub-section (2), 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.

31. Investments.— (1) Subject to sub-section (2), 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.

CHAPTER VII MISCELLANEOUS

32. Executive authorities to assist the Commission.— All executive authorities and law enforcement agencies of the Government shall act in aid of the Commission.

33. Recovery of fines and other dues as arrears of land revenue.— The Government may recover the fines imposed under this Act or other dues recoverable under the Act as arrears of land revenue under the Punjab Land Revenue Act 1967 imposed by the Commission.

34. Failure to comply with the decision of the Healthcare Commission.— Any person who, in the opinion of the Commission, fails to comply with the final decision or

recommendation of the Healthcare Commission, the Healthcare Commission may impose a fine which may extend to five hundred thousand rupees on the person.

35. Removal of difficulties.— 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.

36. Regulations.— (1) The Commission may make regulations for carrying out the purposes of this Act.

(2) Without prejudice to the generality of sub-section (1), 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; and
- (m) 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 two newspapers of wide circulation for eliciting public opinion thereon within a period of not less than fifteen days from the date of publication.

37. Rules.— (1) The Government may, by notification in the official Gazette, make rules for giving effect to the provisions of this Act.

(2) The power to make rules conferred by this section shall be subject to the condition of previous publication and, before making any rule, the draft thereof shall be published in the official Gazette for eliciting public opinion thereon within a period of not less than fifteen days from the date of publication.

STATEMENT OF OBJECTS AND REASONS

Government of Punjab has embarked upon a comprehensive set of reform measures in the health sector. The specification of these measures in the form of the Health Policy followed the work of the Working Group on Health and the involvement of a wide range of stakeholders. The health policy addresses thirty three “issues” under three broad categories:

- Governance and Larger Systemic Issues
- Primary and Secondary Health Care
- Tertiary Health Care

The establishment of the Health Care Commission is included amongst eight governance and larger systemic issues:

- Capacity Constraints and Systemic Weaknesses
- Restructuring of the DGHS Office
- PHF Restructuring
- Ownership and Implementation of Reform
- Private Sector Mainstreaming and Public Private Partnerships
- Creation of Punjab Health Commission
- Medical Research

Thus it is important to recognize that this specific initiative forms part of a larger set of initiatives intended to be mutually reinforcing and coherent as a whole..

The establishment of the Health Care Commission is a pivotal measure intended to have impact across the full range of reform activities. Our understanding of it is that it will derive its authority from the highest level in the Province and through legislation will be vested with the means of guiding, influencing, and directing where necessary all matters related to the quality of health care delivery whether in the public or private sectors. It will have associated roles related to capacity strengthening and improving the use of resources for health care. It will act as both a leading body and catalyst for health care reform in Punjab. To undertake this role effectively it will act ‘at arms length’ from other institutions in the health sector.

The Commission will oversee six areas of activity:

- Health service organizational standards
- Clinical governance
- Patients rights and responsibilities
- Inspection, audit and investigation
- Supporting capacity strengthening
- Promoting effective and efficient resource use

The Commission will have a leading role in all of these areas but will determine those matters it will directly execute itself; those where it will Commission work of individuals or other organizations under contract to it; and those where it will provide direction, guidance, and information to other institutions.

The Commission will be the licensing authority for health service delivery organizations and have the statutory power to order the suspension of service delivery. It is anticipated that it will also become the accrediting authority for health service delivery organizations. The Commission will not be a direct purchaser of health care services but will act in a regulatory role within the health market, providing guidance and if necessary direction on the content of contracts and the relationships between service purchasers and providers. **These roles will be developed step-by-step over time**, rigorous at each stage, but in a way as to not cause unnecessary disruption in service delivery. It will build upon and complement the work of other organizations with a remit for assessing aspects of quality.

Commission will have powers of cognizance of violation and impose fine on healthcare providers. Healthcare Commission will receive complaints against healthcare

providers. Will also have powers to direct health services providers to pay damages to the victims of the delinquent act of the health service provider. Appeal against the orders of Commission shall lie with the District and Sessions Judge.

The work of the Commission can build upon work already undertaken in respect of Minimum Service Delivery Standards, Standard Operating Procedures, Standardized Medical Protocols, and Job Descriptions. It will also build upon the work undertaken in the assessments of Autonomous Medical Institutions and being refined in the form of assessment tools. The Commission will require time to review these contributions and develop them into robust instruments.

Within the management arrangements of the Commission the six areas will be organizationally separated and integration will be achieved at the level of the CEO, the governing body/Board, and Technical advisory committee. It will be our expectation that the Technical advisory committee will be broadly representative and inclusive in its membership; that the governing body/Commissioners of the Board will be appointed by the Government, highly capable, and be the key point of accountability of the CEO that it will appoint.

The Commission staffing will be expert and relatively lean. It is anticipated that the maximum number of professional and management staff will be in the order of 150. In the Punjab there are in excess of 250 Hospitals (public and private) and upwards of 25,000 other medical facilities (not including traditional and herbal practitioners). The implication of this is that first line responsibilities for quality assurance and dealing with complaints will lie within frameworks established by the Commission.

The Commission will establish collaborative relationships with similar organizations internationally and with organizations with similar and associated functions for other sectors in Punjab and Pakistan. The UK Care Quality Commission (CQC) has already agreed in principle to such collaboration. Such collaboration may extend to joint accreditation by the Commission and one or more national and international accrediting organizations.

All these measures require a comprehensive legislation on this subject. Hence this Bill.

MINISTER INCHARGE