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THE BALOCHISTAN GAZETTE

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NO. 178 QUETTA SATURDAY NOVEMBER | 3. 2001.

GOVERNMENT OF BALOCHISTAN
LAW DEPARTMENT.

NOTIFICATION.

Dated Quetta. the 3rd November. 2001.

No. Legis:2-92/Law/98. The following Ordinance made by the Governor of Balochistan on 27th October. 2001. is hereby published for general information:-

BALOCHISTAN ORDINANCE NO. XLIV OF 2001.

THE BALOCHISTAN HOSPITAL REGULATORY AUTHORITY
ORDINANCE. 2001.

AN

ORDINANCE

to provide for the regulation of Hospital based
health services in the Province of Balochistan.

Preamble WHEREAS. it is expedient to provide for the
establishment of Hospital Regulatory Authority in the
Province of Balochistan, and matters connected therewith
or ancillary thereto, in the Province of Balochistan, in the
manner hereinafter appearing:

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Short title, extent and commencement.

Definitions,

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AND WHEREAS the Governor of Balochistan is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of Article 4 of the Provisional Constitution (Amendment) Order, 1999 (Chief Executive's Order No. 9 of 1999), and in exercise of all powers enabling him in that behalf, the Governor Balochistan is pleased to make and promui.ute the following Ordinance: -

I. (1) This Ordinance may be called The Balochistan Hospital Regulatory Authority Ordinance, 2001.

(2) It extends to the whole of the province of Balochistan.

(3), It shall come in to force at once.

2. In this Ordinance, the context otherwise requires, the following terms shall have the meaning hereby respectively assigned to them that is to say: -

(a) "Accreditation" means the process of officially recognizing, registering, categorizins, and licensing a hospital:

(b) "Accredited Hospital" means a hospital

, officially recognized and licensed to provide clinical services in the province, guaranteed to provide a certain level of professional quality according to its recognized category;

(c) "Authority" means the Balochistan Hospital Regulatory Authority:

(d) "Hospital" means a place of health care delivery where a person can be admitted and kept for any duration of more than 20 hours. with the intention of therapeutic intervention. or. as determined by the Authority.

(e) "Licensee" means a Hospital duly issued a License to operate by the Authority in the

province:

General Provision

Establishment Authority.

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(f) "Province" means the Province of Balochistan:

(g) "Physician" means a medical graduate holding MBBS or equivalent qualification recognized by the Pakistan Medical and Dental Council.

The term also includes a qualified Dental Graduate holding BDS ~ or — equivalent qualification recognized by the Pakistan Medical and Dental Council. The term also includes postgraduate doctors in any discipline recognized for practice of medical science by the Pakistan Medical and Dental Council;

(h) "Rules" mean rules made under _ this ordinance:

(i) "Regulations" mean regulations made under this Ordinance.

3 The aim of the Authority is to undertake all measures insofar as possible, to ensure safety, protection and promotion of human life through a quality assurance system which is comprehensive and insofar as possible ensures a minimum standard of hospital based health care. in both the public and private sectors in the province, for the population of Balochistan. And to ensure perpetual and sustained development of such services in the province, to an internationally acceptable standards for such services. And to regulate the costs of these services in such a manner which is mutually beneficial and affordable for the public and the provider of such services.

4. (1) As soon as may be, but not later than thirty of days. after commencement of this Ordinance. the

Government shall, by notification in the official gazette. establish an authority to be known as the Balochistan Hospital Regulatory Authority, comprising of Chairman, and other members, as prescribed hereunder: -

(a) A retired Judge of Supreme Court or High Court, or retired Government Functionary with a vast experience of management to be nominated by the Governor. shall be the Chairman of Authority:

(b) The Secretary to the Government of Balochistan, Health Department shall be Vice-Chairman of Authority.

(c) The Director General, Health Services Balochistan, shall be a member;

(d) The Principal, Bolan Medical College, Quetta. shall be member;

(e) Two persons being owner/administrator of a Private Hospital in the Province, at least one of whom shall be from outside Quetta. to be nominated by the Government in consultation with the Authority, shall be members;

(f) President, Pakistan Medical Association. Balochistan, or representative thereof, shall be a member;

(g) Two eminent citizens, one of whom shall be a female. will be nominated by the Government as members.

(2) The members shall have 15 years of relevant professional experience to their credit.

(3) The Chairman or a member shall, unless he resigns or is removed from office earlier as hereinafter provided, hold office for a term of four year and shall be a eligible tor reappointment for a similar term.

(4) No act or proceeding of the Authority shall be invalid by reason only of the existence of a vacancy in. or defect in, the constitution of the authority.

(5) The Principal office of the Authority shall be in Quetta and it may set-up sub-offices at such place or places, as it may deem appropriate.

(6) In case of a vacancy. or vacancies, occurring due to any reason other than completion of term ot office, the Government shall appoint a member of the Authority.

(7) In case of completion of term of office of members to the Authority. the Government shall notify the new nomination, at least thirty days in the advance of such an event.

Resignation and

~ Removal of Members.

Chairmen, etc to
be public Servants

Remuneration etc, of

Staff and advisors. etc.

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5; A member may resign from his office by submitting his resignation to the Government, or he may be removed from being a member to the Authority by the Government, if upon inquiry by the Chairman he is found unable to perform the functions of his office because of mental or physical incapability or misconduct.

6. The Chairman, members, staff, experts, consultants, advisors, and other employees of the Authority, when acting or purporting to act in pursuance of any of the provisions of this Ordinance, or the rules or regulation, shall be deemed to be public servant within the meaning of section 21 of the Pakistan penal Code. 1860(Act XLV of 1860).

7. The Chairman and members, who are in active service, shall be eligible for remuneration for functions performed to carry out the purposes of this Ordinance. which may be determined by the Government. *

8. (1) To carry out the purposes of this Ordinance the Authority. 'in consultation with the Government. may from time to time, employ officers, members to its staff. experts, consultants, advisors, and other employees on such terms and condition as it may deem fit.

{2} All officers, members of staff. experts. consultants, advisors, and other employees employed by

the Authority shall not be deemed to be civil servants within the meaning of the Balochistan Civil servants Act. 1974. ;

(3) The Authority may seek assistance from a qualified person as deemed fit for the assignment by the Authority, as Evaluator. as prescribed in the rules, to

_ investigate, verify. or to undertake any other task assigned

by the Authority. The Evaluator will be eligible to receive

remuneration for his professional services. to be determined by the Authority:

Provided, that in case of prejudice or a valid apprehension of any other discrimination by any Evaluator. ain incumbent being inspected may register

Meetings of the

Funds

Accounts

Power of grant

License to Hospitals

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complaint with the Authority, which will dispose the matter in accordance with the rules.

9. (1) The Secretary to the Authority, on directions of

Chairman, shall call the meetings of the authority.

The Authority shall however meet at least once in each quarter.

(2) The quorum for meetings in which a decisions is to be taken shall be 3/4" of working members to the Authority, provided that reasonable notice has been received by all members of time. place, and the matters requiring decision of the Authority in such a meeting.

(3) In absence of the Chairman the meetings shall be presided by the Vice-Chairman.

(4) All decisions of the Authority will be taken by majority of members present, and in case of a tie. the presiding member shall exercise a casting vote.

(5) All orders, determinations, and decisions of the Authority shall! be taken in writing and shall identify the determination of the Chairman and of each member,

10. The Authority shall be funded from:

(a) Grants from the Provincial Governn.ent, including an initiating grant; and,

(b) Fees and fines collected by it as prescribed under the rules.

II. (1) The Authority shall maintain complete and accurate books of accounts of its actual expenses and receipts.

(2) The Accounts of the Authority shall be audited annually by Director Audit Balochistan.

[2. (1) The Authority shall have the exclusive power, to be exercised in the manner prescribed in the rules, to register. and grant, extend, modify, amend. suspend, or revoke a license in respect of creation, operation, and any

other related matter, of a hospital in the province:

Provided, that the matter of issuing licenses to the hospitals in the public sector shall be subject to such conditions and manner as may be prescribed in the rules.

(2) All applications for the grant of any license shall contain such information and be in such format as may be determined by the Authority.

(3) Any Hospital shall, before commencement of its services, or within fifteen days of its commencement submit to the Authority application for registration and license.. The Authority shall arrange for completion of formalities and inspection at the cost of the Hospital concerned, and decide its license status within 60 days of such an application, subject to the provision of the rules.

(4) A License issued by the Authority shall be subject to such terms, conditions, restriction, or category, as may be determined by the Authority:

(5) Any Hospital found deficient at the stage of initial issue of license, or at a later inspection. will be given a grace period of ninety days to complete such a deficiency, or as prescribed in the rules. After which if the deficiency still is not met in a satisfactory manner the Authority may direct closure of such a Hospital, or any other action as may be determined by the Authority:

Provided that, a grace period of six months. or as determined by Authority. will be allowed, after establishment of the Authority, for all Hospitals to get registration and a valid license from the Authority. After which no hospital, which is not so registered, with the Authority, would be allowed to operate in the province. or any other action, as the Authority may deem fit.

Provided that, the application of sub-section (1) to sub-section (5) in case of health care facilities and hospitals in the public sector, the Authority — shall determine special manner. standards, and conditions, to be prescribed under the rules, to be published in the official gazette.

Power to prescribe fee,
issue guidelines, and
procedures, for
Operations of Hospitals
and patient care therein,
in the Province of
Balochistan

Powers to grant
Accreditation status to
Hospitals in the
Province

Formation of Committees

Power to inspect and
Monitor Hospitals
in the Province

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13. The Authority shall have exclusive powers to prescribe by regulations published in the official gazette, guidelines and operating standards for equipment, premises, personnel, material, procedures, emergency medical services, and any other matter related with the

set-up and operations of a hospital. And to ensure that all receipts of fees are properly documented:

Provided that, the authority shall ensure that within ninety days, of it being constituted, or as determined by Authority, formal declaration of such regulations is made. to be amended from time to time in light of technical development and other requirements. as prescribed in the rules.

14. (1) Notwithstanding anything repugnant to the provisions of section 13, the Authority shall have exclusive powers, to be exercised in the manner prescribed in the rules, to grant accreditation status to any Hospital:

Provided that, after a Hospital is accredited to be in a certain accreditation category, such a hospital shall not, Offer to the public any services above its accreditation Status unless it is so allowed by the Authority, as prescribed in the rules. ‘

(2) The Authority may issue certificate and respective. monogram to a hospital, which shall be properly displayed in such a Hospital, so that anybody accessing such a Hospital knows the accreditation status of such a facility.

15. The Authority, as it may deem fit: constitute Committees, for the purpose of carrying out the objectives of this Ordinance. The Authority shall determine the composition, functions, and other matters pertaining to such committees.

16. (1) The Authority shall have the power to cause inspection of Hospitals in the province, at any time, or as may be prescribed by the Authority, for the purposes of this Ordinance.

Powers and functions
of the Authority

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(2) The Authority shall have the power to explore, investigate, or do any other action to be determined by the Authority, on any case reported to it, or suo moto, in respect of any hospital or facility in the province, and make recommendations in this regard, and pursue the implementation of such recommendations by quarters concerned.

Vs (1) In particular and without prejudice to the generality of the foregoing powers, the Authority shall have the powers and functions: -

(a) To develop and declare standards of health care services provided at— the Hospitals, and all such facilities that may be categorized as Hospitals, operating within the jurisdiction and geographical boundaries of the province of Balochistan. And make regulations in this respect.

(b) To develop and exercise ways and means to monitor, and review the observance of the standards by the Hospitals in the Province, and initiate all necessary punitive action if so becomes required:

(c) To develop, initiate, and — facilitate implementation of standard Medical Audit system in the Province. And therein to provide an independent platform for a peer review system in the Province:

(d) To prescribe, review, approve and regulate fees and charges pertaining to Hospital services, and treatment procedures and practices:

(e) To monitor and enforce compliance by licensees with conditions of their accreditation and license:

(f) To protect interests of patients and public, in accordance with — the provisions under this Ordinance;

(g) To resolve complaints and other claims

against licensees for contravention of this Ordinance:

(h) Resolve problems and other issues to ensure smooth implementation of this Ordinance and achievement of its objectives for protection of human health;

(i) To formulate sub-committees and assign appropriate persons as their members, to undertake any tasks consequential to the realization of the health protection and promotion objectives of — this Ordinance;

(j) To prescribe a uniform reporting system for professional services performed, and accounting by the Hospitals in the Province;

(k) To impose and collect, fines for contravention of the provisions of this Ordinance;

(1) To prescribe and collect license fees and other charges in respect of any of its functions at such rates as may be determined. from time to time, in accordance with the rules;

(m) To develop and implement training programmes to improve Hospital °

services in the Province:

(n) To undertake mass awareness and public education campaigns to promote health services utilization by the population:

(o) To tender technical advice to the Government and authorities concerned to improve Hospital services in the Province, and on all such matters as may be required:

(p) To exercise all such powers as may be incidental or consequential to the performance of any of its functions or the exercise of any of its powers: and,

(q) To undertake any assignment directed by the Government.

Relationship with the
Balochistan Clinical
Laboratory, Authority

Offences, Penalty, and
Procedures

Bt

[8. Notwithstanding any powers under this Ordinance. rules and regulations, the Authority shall work as the senior body to the Balochistan Clinical Laboratory Authority, as and when it comes in force:

Provided that, in case of conflict with the Balochistan Clinical Laboratory Authority. the Chairman of the Balochistan Hospital Regulatory Authority shall constitute a Special Committee to resolve such a conflict. The Special Committee shall decide such a case within thirty days. and the decision of such a Special Committee shall be final and binding.

19, (1) Whoever himself or by any other person on his behalf. or by any person under his supervision contravenes any of the provisions of this Ordinance or any Rules or any Regulations framed under this Ordinance. shall be punished with suspension or cancellation of the license in respect of such a hospital in respect of which the contravention occurred, and with imprisonment of either description for a term which may extend to three years or with fine of rupees five hundred thousand or with both.

(2) Whoever himself or by any other person on his behalf, or by any person under his supervision, willfully or recklessly undertakes any act which contravenes any of the provisions of this Ordinance or any rule or any regulation made under this Ordinance. causes physical injury to the person of another, he shall be guilty of an offence punishable with imprisonment of either description for a term which may extend to five years, or with fine up to rupees ten hundred thousand or with both.

(3) If any person himself or by any other person on his behalf, without lawful excuse, does any act with the intention of interfering, without authorization. with the operations carried out for the purposes of this Ordinance, or by any licensee, and thereby causes damage to any facility equipment, material, patient, or person, such a person shall be guilty of an offence punishable with imprisonment for a term which may extend to two year. or with fine up to rupees three hundred thousands or with both.

(4) If any person himself or by any other person on his behalf. or by any person under his supervision, conceals or connives to conceal. or falsely presents, or connives to falsely present any records. material. procedure. or situation, without lawful excuse. or obstruct an Evaluator or any other officer of the Authority. from accessing records. material. or other relevant evidence. in case of an investigation of contravention of the provisions of this Ordinance. rules or regulations, will be guilty of an offence punishable with imprisonment for a term which may extend to two years. or fine up to rupees three hundred thousands. or with both.

(5) Whoever, having been convicted of an offence under this Ordinance, rules, or regulations. is again found guilty of an offence under this Ordinance. rules. or regulations, shall be punishable — with imprisonment which may extend to five years, or with fine up to rupees ten hundred thousands, or with both.

(6) Where a person is found guilty of an offence under this Ordinance, rules. or regulations. is a company, group practice, hospital, — department, corporation, firm or institution. every director, partner. and employee, of such a company, group practice. hospital. department, corporation, firm, or institution. shall, unless proves that the offence was committed without his knowledge or consent, be guilty of the like offence,

(7) If any person is convicted of an offence under this ordinance, rules, or regulations, it shall be lawful for the authority to cause the offender's name. place of residence, place of business, the offence which has been convicted, and the penalty inflicted upon him, to be published at the expense of such person in such newspaper or in such other manner as the Authority may direct:

Provided that, the expenses of such publication shall be recoverable in the same manner as a fine is recoverable.

Disposal of the equipment

* materials, etc.

Cognizance of Offence

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Power to make rules

Power to make

regulations as

Immunity

13

"20. Where any person has been convicted of offence

under this Ordinance, Rules, or Regulations, it will be lawful for the equipment used, and any other relevant materials, in respect of which contravention has been made, be confiscated and disposed off in the manner as decided by the court.

21. (1) No court shall take cognizance of any offence punishable under this Ordinance, rules, or regulations, except on a complaint in writing by Authority or a representative hereof, duly notified in this regard in the official gazette.

(2) The provisions of Chapter XX of the Code of Criminal Procedure, 1898 (Act V of 1898), shall apply to the trial of offences punishable under this Ordinance.

22. The Authority may, with the approval of the

Provincial Government by Notification in the official gazette, make rules to carry out the purposes of this Ordinance.

23. (1) The Authority may, by notification in the official gazette, make regulations for carrying out its functions, not inconsistent with the provisions of this Ordinance and the rules made there under.

(2) Without prejudice to the generality of the foregoing powers, such regulations may provide for the appointment of its officers, members of staff, consultants, advisors, and such other persons and the terms and conditions of their services.

24. Except as expressly provided in this Ordinance, criminal or other legal proceedings shall lie against the

Authority, the Chairman, or any Member, or a member of any of its Committees, or Evaluators, or employee of the Authority, for any thing which is, in good faith done or intended to be done in pursuance of this Ordinance or of any rule or order, made there under:

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Relationship to

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other Law's

Sum pav able to the
the Authority to be
recoverable as land
revenue arrears

Removal of difficulty

Dated QUETTA, the
of RPE October, 2001.

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Provided that the unscrupulous actions of the
Authority, the Chairman, or any Member, or a member of
any of its Committees, or Evaluators, or employee of the
Authority, taken under this Ordinance, which may cause
injury or damage to any person shall not be indemnified.

25. — The provisions of this Ordinance shall be in
addition to, and not in derogation of, any other law for th>.
time being in force.

26. All sums payable to the Authority in accordance
With provisions of this Ordinance, rules, and regulations,
shall be as recoverable as arrears of land revenue.

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

JUSTICE (Rtd) AMIR-UL-MULK MENGAL
GOVERNOR BALOCHISTAN