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NOTIFICATION AND NOTICES BY THE HIGH COURT, BUILDINGS AND ROADS,
IRRIGATION, ELECTRICITY, AGRICULTURE, JAILS, EDUCATION, HEALTH
SERVICES, INDUSTRIES DEPARTMENT AND COMMISSIONER OF DIVISIONS
AND MISCELLANEOUS

The Punjab Healthcare Commission
Complaint Management Regulations, 2014

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PUNJAB HEALTHCARE COMMISSION

Lahore, the ^{9th} July, 2014
NOTIFICATION

No. REG.Compl-1/2014 In exercise of the powers conferred by sub-section (1) of Section 40 read with Section 4 and Section 23 of the Punjab Healthcare Commission Act, 2010 (Act XVI of 2010), the Commission is pleased to make the following regulations:

CHAPTER-I
INTRODUCTION

1. **Short Title and Commencement.** – (1) These Regulations may be called the Punjab Healthcare Commission Complaint Management Regulations, 2014.
 - (2) These Regulations shall extend to the whole of the Punjab.
 - (3) These Regulations shall come into force at once.
2. **Definitions.** – (1) In these Regulations unless there is anything repugnant in the subject or context:
 - a) “Act” means the Punjab Healthcare Commission Act, 2010.
 - b) “Aggrieved Healthcare Service Provider” means any Healthcare Service Provider or member of the Healthcare Establishment or its staff who is harassed by any person or has suffered damage to the Healthcare Establishment.
 - c) “Aggrieved Person” means a patient/client who is not satisfied with the service rendered to him by the Healthcare Establishment and includes his next of kin or any other person duly authorized by him.
 - d) “Case” means any such matter which is taken up by the Commission to probe and take further necessary action, within the scope of the Act and has not been filed before it as a Complaint. The words ‘Case’ and ‘Complaint, as the context may require, are being used interchangeably in these Regulations.
 - e) “Case Worker” includes any competent authority or an officer of the Commission who is authorized to investigate and/or process complaints.
 - f) “Charter” means such Charter(s) as issued by the Commission from time to time, relating to the rights and responsibilities of Patients/Clients and others, as well as that relating to the rights and responsibilities of the Healthcare Establishments.

- g) "Client" includes a recipient of any healthcare service or such services that are similar to forms of medical, dental or surgical care but are not provided in connection with a medical condition.
- h) "Competent Authority" means the Board, the Complaint Management Sub-Committee of the Board or any other officer authorized by the Board or the said Sub-Committee to decide whether to proceed with a complaint or not, and includes such an officer who is authorized by the Commission to submit the recommendations on complaints, if so proceeded with.
- i) "Complainant" means any 'aggrieved person' or 'aggrieved Healthcare Service Provider who makes a Complaint to the Commission.
- j) "Complaint" means grievance occurring in respect of any of such instances, including but not limited to, those as contained in Regulation 6 and submitted by an Aggrieved Person or an Aggrieved Healthcare Service Provider, as the case may be.
- k) "Directorate" means Directorate of Complaints of the Commission.
- l) "Expert" means a person with a high degree of skill and knowledge in a particular subject, who has relevant and up to date expertise with regard to issues in the case and having qualification and experience in the relevant field or specialty, as the case may be.
- m) "False Complaint" means a frivolous or vexatious Complaint made with an intention to harass, defame, embarrass and or to pressurize the party complained against and is so proved to be false, after the investigation by the Commission.
- n) "Hearing" includes proceedings before the Competent Authority or the Case Worker, as the case may be, in order to ascertain facts or issues arising in a Complaint by involving one, any or all concerned parties.
- o) "Inspection" means process of examining any apparatus, appliance, equipment, instrument, product, goods or items used or found in, or any practice or procedure being carried out, at a Healthcare Establishment.
- p) "Maladministration" means poor or failed administration by a Healthcare Establishment and includes:-
- i) A decision, process, recommendation, act of omission or commission which:-
- (a) is contrary to law, rules or regulations or is a departure from established practice or procedure, unless it is bonafide and for valid reasons; or

- (b) is perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory ; or
 - (c) is based on irrelevant grounds ; or
 - (d) involves the exercise of powers or the failure or refusal to do so; and
- ii) Neglect, inattention, delay, incompetence, inefficiency and/or ineptitude, in the administration or discharge of duties and responsibilities including but not limited to, administrative irregularities, abuse of power, incorrect action or failure to take any action, failure to foresee and take comprehensive precautionary measures against possible mishaps, failure to provide the requisite information, failure to investigate, failure to reply, misleading or inaccurate statements, inadequate liaison, corrupt behaviour, incorrect or illegal administration of a drug to a patient/client, incorrect or incomplete entry in a document or violation of human rights.
- q) "Malpractice" includes improper, unskilled, immoral, illegal, or unethical professional conduct by a Healthcare Service Provider or a person working at a Healthcare Establishment and being the proximate cause of injury or harm to another person.
 - r) "Medical Record" includes documents including but not limited to, comprehensive medical history, examination(s), investigation(s) and treatment of the patient/client along with the progress notes.
 - s) "Notice" means any information communiqué sent to a concerned party by the Competent Authority or Case Worker or any authorized officer, as the case may be.
 - t) "Penalties" mean such Penalties as may be prescribed by the Commission from time to time under the provisions of the Act.
 - u) "Reference Manual" means such manuals as prepared by the Commission from time to time for achieving purposes of the Act, containing sets of guidelines for the Healthcare Establishments relating to implementation of the Standards for improved healthcare service delivery and system.
 - v) "Regulations" mean the Punjab Healthcare Commission Complaint Management Regulations, 2014.
 - w) "Standards" include Minimum Service Delivery Standards as notified by the Government.
 - x) "Sub-Committee of the Board of Commissioners" means the Complaint

Management Sub-Committee of the Board of Commissioners or such other Sub-Committees as may be constituted by the Commission for such specific purposes and with such powers as may be deemed appropriate by it, from time to time, for the purposes of the Act.

- (2) All other words and expressions used in these Regulations but not defined herein shall have the same meanings as are assigned to them in the Act, Standards, Reference Manual or guidelines for the Healthcare Establishments and or such other instructions or orders including but not limited to, any other directives relating to the improvement of healthcare services and or healthcare service delivery systems, as prepared and issued by the Commission, from time to time, for achieving the purposes of the Act.

CHAPTER-II COMPLAINT MANAGEMENT SYSTEM

3. **The Complaint Management System-**(1) The Commission shall have an internal Complaint Management System under the Directorate of Complaints for receiving, managing and resolving complaints, submitted to it or such matters as are taken up by the Commission on its own, or as per the provisions of the Act, for welfare of the public, with a view to protect public interest and or improving healthcare services or the healthcare delivery systems.
- (2) All Healthcare Establishments shall establish their own complaint management systems as prescribed by the Standards and the Reference Manual.
- (3) The Commission may provide technical support to facilitate Healthcare Establishments in establishing their complaint management systems, in light of the Reference Manual.
- (4) All Healthcare Establishments shall immediately implement the Charters issued by the Commission.

CHAPTER-III REGISTRATION OF COMPLAINT

4. **Making a Complaint:** - (1) An Aggrieved Person shall first make a Complaint to the concerned Healthcare Establishment in line with the Complaint Management System as established under sub-regulation (2) of Regulation 3.

Provided that the Aggrieved Healthcare Service Provider may submit a Complaint directly to the Commission.

- (2) If the Complaint of the Aggrieved Person is not duly redressed by the concerned Healthcare Establishment, the Aggrieved Person may make a Complaint to the Commission as provided in the Act.

Provided that the Commission may take notice of any instance or allegation of maladministration, malpractice or failure in the provision of healthcare services, coming into its knowledge from any source, whatsoever, regarding a healthcare matter, Healthcare Establishment or related to it, as the case may be.

- (3) In case the complaint is of such a nature that it can best be, in the opinion of the Competent Authority, redressed by the Healthcare Establishment and it is also in the interest of the Complainant that the same is sent to the said Healthcare Establishment, it may after hearing the Complainant and if necessary, the Healthcare Establishment, pass

such orders with such necessary directions as may be deemed appropriate.

- (4) Every Complaint shall be supported by a written affidavit, bearing the signature or thumb impression of the Complainant, as the case may be, and it should be duly notarized or attested by the member of the staff of the Commission, so authorized by it in this regard. If the requisite Affidavit is not submitted in support of the Complaint within the stipulated time, the Competent Authority may close the Complaint.
- (5) The said Affidavit should be submitted along with the complaint. However, a period of fourteen (14) days may be granted to the Complainant for submitting the same in support of the complaint. In case of a reference or motion, the Affidavit must be submitted within fourteen (14) days of the direction made by the Competent Authority in this regard.
- (6) The Affidavit, amongst other assertions, in support of the complaint must also contain the following:
- (a) That the allegations contained in the Complaint are true and correct to the best of the knowledge and belief of the Complainant;
 - (b) No suit, appeal, or any other proceedings in connection with the subject matter of the Complaint are pending before any court of competent jurisdiction;
 - (c) No allegation contained in the Complaint is without reasonable and justifiable ground(s) and that it is not being made simply with an intention to harass, defame, embarrass and/or to pressurize the party complained against;
 - (d) In case the Complaint is proved to be false, the Complainant shall be liable to pay the fine, which may extend to rupees two hundred thousand;

- (e) That the Complainant undertakes to keep the Commission informed of his address and contact details and shall regularly attend the hearings on the dates fixed by the Commission and fully understands that if he absents himself, for no sufficient reason despite three consecutive notices, or wilfully delays the proceedings of the Commission in its opinion, then he shall be liable to pay the costs as awarded by the Commission and that the Commission shall decide the Complaint as per the governing law;
 - (f) In case a Complaint was made to the Healthcare Establishment, the same was not redressed by it;
 - (g) That he has not filed a Complaint on the same subject matter before the Commission nor the same matter is already pending before the Commission and further that the subject matter has not already been decided by any forum.
 - (h) In case of death of a Patient where there is no autopsy report, the Complainant must give an undertaking to the effect that he is ready and willing to get the same through the process of exhumation and post-mortem and provide the same to the Commission at the earliest.
- (7) The Punjab Healthcare Commission shall not entertain a Complaint:
- (a) If a Complaint is not duly signed or does not bear a thumb impression and the requisite Affidavit is not submitted by the Complainant within stipulated time; or
 - (b) If the Complaint is anonymous or pseudonymous; or
 - (c) The Complaint is time-barred under subsection (2) of Section 23 of the Act; or
 - (d) The subject matter of the Complaint is sub-judice before a court of competent jurisdiction on the date of receipt of the Complaint, reference or motion; or
 - (e) The subject matter of the Complaint does not fall within the purview of the Act.
- (8) Every Complaint shall be accompanied with the following:
- (a) Copy of Complainant's valid Computerized National Identity Card or any other document depicting his identity;
 - (b) Medical records; if any

- (c) Receipts; if any
- (d) Correspondence with the concerned Healthcare Establishment, Healthcare Service Provider or other authorities, if any, as the case may be; and
- (e) Other relevant documents in support of the Complaint.

Scanned copies, photocopies and duplicates will suffice at the time of submission of the Complaint.

- (9) Where the Complaint is made on a reference by the Government or Provincial Assembly of the Punjab or on motion of the Supreme Court of Pakistan or Lahore High Court, the date of receipt shall be taken as the date on which such reference or motion was made to the Commission; and if the matter involves an aggrieved party, then the date of receipt shall be taken as the date on which the said aggrieved party submits the affidavit in accordance with the sub-regulation (4) of Regulation 4. In both the situations, the Case or the Complaint may be proceeded with and decided in the manner as if it has been made directly to the Commission, by a Complainant, or otherwise as directed by the Competent Authority.
5. **Receipt and Registration of Complaint: -(1)** On receipt of a Complaint, the person in-charge of the Complaint Registration Desk shall,
- (a) Enter information in the Complaint Management Register managed by the Directorate and allot a Complaint registration number.
 - (b) Forward the Complaint to concerned Competent Authority of the Directorate.
- (2) The Competent Authority shall after reviewing the Complaint decide regarding its maintainability in accordance with the Act, rules and Regulations. In case the Complaint is maintainable, the Competent Authority shall instruct the Directorate to:
- (a) Issue acknowledgment receipt to the Complainant
 - (b) Issue notices to the party (ies) complained against, as provided for herein;
- (3) When a Complaint is filed by more than one person, the first person shall be taken as the Complainant for the purposes of correspondence and shall be informed accordingly.

CHAPTER IV SCOPE OF COMPLAINTS

6. **Scope -** (1) The Commission may accept for the purposes of hearing and passing appropriate orders etc. and or for taking such remedial steps etc. as per law, a Complaint regarding medical negligence, maladministration malpractice or failure in the provision of healthcare services or any other act or omission including but not limited to, any of the following, in order to determine if the same is against the accepted medical standards/norms:
- (a) Inordinate delay in provision of medical care;
 - (b) Inadequate or incorrect communication of information about diagnostics, risks or any other related subjects;
 - (c) Failure to follow standard medical procedures;
 - (d) Failure to implement or comply with the Standards;
 - (e) Failure to take informed consent unless extenuating circumstances exist;
 - (f) Failure to maintain adequate services for clinical management including but not limited to, assessment, diagnosis, treatment and follow up;
 - (g) Undertaking the management of a patient without the availability of requisite competence, human resource, equipment or other facilities related thereto.
 - (h) Inadequate clinical assessment and/or diagnosis;
 - (i) Failure to keep, maintain or secure record including medical record, in accordance with the Standards and the Reference Manual;
 - (j) Failure to implement and or follow recognized standards regarding infection control;
 - (k) Failure to provide post-operative care according to the Standards;
 - (l) Failure to foresee and take comprehensive precautionary measures against system failures and/or possible mishaps;
 - (m) Inappropriate and unjustifiable costs of services or procedures;
 - (n) Violation of rights provided in the Charters;
 - (o) Inadequate medical consultation or advice and/or treatment at the appropriate level;

- (p) Inadequate recordkeeping;
 - (q) Failure to follow prescription procedures as per the Standards;
 - (r) Failure to prevent unnecessary diagnosis and or treatment;
 - (s) Failure to install systems to prevent cases of sexual harassment, and or improper conduct, such as unbecoming of a Healthcare Service Provider;
 - (t) Failure to release patient records or a true copy;
 - (u) Failure to install systems to prevent substance abuse;
 - (v) Billing or documentary fraud;
 - (w) Flawed medical condition(s) or qualification(s) of the staff and other members of the Healthcare Establishment, whether rendering healthcare services or not and including but not limited to, those having contractual relationship with the Healthcare Establishment or the Healthcare Service Provider, as the case may be;
 - (x) Failure to ensure prevention of Patient abandonment or neglect;
 - (y) Failure to follow the relevant law;
 - (z) Harassment of Healthcare Service Provider or member of the staff of the Healthcare Establishment including but not limited to, verbal, psychological or physical harassment;
 - (aa) Damage to the reputation of the Healthcare Establishment;
 - (bb) Damage to the property of the Healthcare Establishment;
 - (cc) Quackery; or
 - (dd) Sale of drugs without prescription.
- (2) A Complaint may be rejected *in limine* if the same is incompetent and/or not maintainable under the Act, or under sub regulation (1), or does not require any investigation for any other reason in view of the Competent Authority.
- (3) If the Complaint has been rejected by the Competent Authority under sub-regulation (2), the Complainant may, within thirty (30) days from the date of the receipt of the decision of the Competent Authority, being other than the Board itself, may file a Representation before the Board of the Commissioners challenging the same.
- (4) The decision of the Board of the Commission on the Representation shall be final.

7. **General Welfare of the Public:** (1) Where the Commission is of the view that it would be in the public interest to probe or look into any instance or allegation, involving any of the Healthcare Establishment(s) or any such matter as provided for under the Act, or the Regulations, which affects or relates to or may affect or relate to the general welfare of the public, as the case may be, it may itself, or direct any other Competent Authority to do the needful.
- (2) The Commission shall in all such matters take the same as a Complaint and shall issue Notices to all the concerned parties directing them to submit their written response to the issue at hand.
- (3) The Commission may assign any of its member of the Staff to assist in the matter and take such necessary steps as may be required under the law and submit the report for its consideration and for any further instructions or directions, as the case may be, along with recommendations, if any.
- (4) In cases where the allegations or the circumstances of a matter are of extremely serious nature or steps are required to be taken on a large scale, the matter may be placed before the Complaint Management Sub-Committee of the Board on urgent basis, for its consideration and appropriate directions.

CHAPTER-V COMPLAINT HANDLING

8. **Entrustment of Complaints** - For probing into a Complaint through its Complaint Management System, the Competent Authority may do the same itself or entrust it to a Case Worker and take all necessary steps as may be required while exercising powers including but not limited to, as specified under subsection (10) of Section 4 and for achieving the purposes of the Act.
9. **Initial Meeting with Complainant-** (1) If necessary, the Case Worker may call for an initial meeting with the Complainant for clarity of facts and for the purposes of requiring him to provide any document or information in the possession/knowledge of the Complainant.
- (2) If after the initial meeting with the Complainant, the Case Worker comes to the conclusion that in view of the facts and circumstances of the matter, or the evidence placed on record, there is some other issue which also needs to be looked into by the Commission, he may put up a separate Note to the Competent Authority in this regard, while stating the reasons for doing so and if approved by the said authority, the particulars of the allegation or the facts on which they are based shall be added.

Provided that the Competent Authority shall grant its approval only if it considers that the addition be made in the public interest to determine the real issues.

Provided further that if any amendment or addition is being sought to be made subsequently, then a Notice shall be issued to the party complained against and the Competent Authority shall hear the matter before making any decision in this regard.

10. **Response from Party(ies) complained against-(1)** In respect of every Complaint registered under Regulation 5, a written response shall be asked from the party(ies) complained against to be filed within ten (10) working days from the date of the Notice issued to them, in this regard.

Provided that where circumstances so require detailed record relevant to the Complaint may also be required from the respondent(s) along with a written response.

- (2) A copy of the Complaint along with all its record, if any, shall also be sent with the Notice calling for a written response.
- (3) A party complained against shall also file an affidavit, which must include, amongst other assertions, in support of its response, where appropriate, the following information to the effect that: -
- (a) The statements made in the response are true to the best of knowledge and belief of the said party;
 - (b) If any suit, appeal, or any other proceedings in connection with the subject matter of the Complaint are pending before any court of competent jurisdiction or not; and
 - (c) The said party undertakes to keep the Commission informed of its address and contact details and shall regularly attend the dates fixed for hearing by the Commission and fully understands that if it absents itself, for no sufficient reason despite three consecutive notices, or wilfully delays the proceedings of the Commission, then he shall be liable to pay the costs as awarded by the Commission and that the Commission shall decide the Complaint as per the governing law;

11. **Duty to Act with utmost Good Faith** -It shall be the duty of all the persons appearing before the Commission in any capacity whatsoever, to act with utmost good faith at all times and assist the Commission in performing its duties and also for achieving the purposes of the Act.

12. **Hearing of Complaints-** (1) Due Notice shall be given to all concerned for the purposes of the hearing by the Case Worker or the Competent Authority, as the case may be.

- (2) Summoning orders may be issued to the Complainant and the party(ies) complained against along with their witness(es).
- (3) The Competent Authority may after hearing all the concerned parties, order a joint hearing and decision of such complaints which are against the same Healthcare Establishment or relate to same or similar allegations against one


or more Healthcare Establishments, provided that the same shall not, in view of the Competent Authority, prejudice the case of any of the said parties.

- (4) The Competent Authority may in its discretion, for reasons to be recorded in writing, permit a party to be assisted through a legal counsel. An application in this regard may be submitted by a party so requesting, stating: -
- (a) the name of the legal counsel and his specialities or experience in the relevant field of law along with supporting documents in this regard, if any; and
 - (b) the reasons or issues due to which it may be necessary for the applicant to be so assisted.

The Competent Authority may for sufficient reasons to be recorded in writing, disallow any such application. However, when such an application is allowed, then at all times the said party must accompany its legal counsel and all proceedings shall be conducted by the Case Worker or the Competent Authority, as the case may be, in the presence of the parties to the Complaint.

- (5) Before administering oath, every witness shall be duly informed that the statement is to be recorded in writing and that it shall be read over to him in the language that he understands. On confirmation of the statement as recorded in writing, the witness shall put his signatures or his thumb impression on the same, as the case may be.
- (6) The evidence placed on record shall become the property of the Commission
- (7) Every party shall have a right to ask questions from the witness (es) of the other parties.
- (8) The Case Worker or the Competent Authority may ask any question from any party or the witnesses or the Expert(s) for the purposes of deciding the issue involved in the matter.
13. **Adjournment:** Any proceedings or hearing of a complaint may or may not be adjourned by the Case Worker or the Competent Authority, as the case may be, on its own motion or on the application of any of the parties, after recording reasons in writing and only in the interest of justice.

Provided that no proceedings or hearing of a complaint shall be adjourned when the Case Worker or the Competent Authority, as the case may be, come to the conclusion that the party seeking adjournment(s) is adopting delay tactics which would seriously hamper the disposal of the case within the period of Ninety (90) days and it shall not be in the public interest to further delay the matter. In such a situation and in other cases as envisaged herein such a party shall be proceeded against ex-parte after a clear written warning in this regard.



14. **Inspection-(1)** If necessary an inspection team may visit the Healthcare Establishment or the concerned area including but not limited to, for the following purposes:
- i) collect evidence(s); or
 - ii) 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; or
 - iii) take sample(s) for further evaluation; and/or
 - iv) make sketch(es) or take photographs.
- (2) The Commission may order the inspection of any Healthcare Establishment, for reasons recorded in writing, with or without prior notice being given to the said Healthcare Establishment, on a report submitted to it by the Directorate. Such a report shall be prepared by the said Directorate on the basis of the information and or the record before it and on considering the contents of the same, while keeping the seriousness of the matter in mind, it reaches a conclusion that: -
- (a) in the light of facts and circumstances, it is necessary to preserve the evidence;
 - (b) there are chances that the record/evidence, including but not limited to patient medical record and/or other relevant record may be changed, altered or destroyed.
 - (c) remove the evidence from within the jurisdiction of the Commission; or
 - (d) it will be in the general public interest to so inspect the said Healthcare Establishment.
 - (e) Any one of the above reasons.
- The Commission may grant specific permission, in writing, in this regard after thoroughly taking into consideration the report and any other material placed before it.
- (3) The Inspection Team shall carry out the inspection in accordance with the directions issued by the Commission, including the direction that any such inspection shall be carried out while ensuring the safety of the said team. The Commission may, if it considers appropriate, direct that any local authority including but not limited to, the police, to assist the said team in carrying out the inspection.



15. **Consultation with Expert(s)**-(1) Opinion of expert(s) may be obtained whenever considered necessary by the Competent Authority.
- (2) As many Experts as may be considered necessary by the Competent Authority may be engaged on such terms and conditions, as deemed appropriate for carrying out the purposes of the Act.
 - (3) If the Competent Authority deems necessary or where a party specifically applies for obtaining an expert opinion, the Competent Authority, if considers appropriate, may appoint expert(s) for the said purposes.
 - (4) The expert(s) so appointed shall disclose his conflict of interest, if any, to the Competent Authority, as soon as he is so appointed. If there is any conflict of interest, the Competent Authority shall appoint any other expert(s), as the case may be, from the relevant field.
 - (5) The Competent Authority may decline the request of any party for an expert opinion, if it concludes that the matter in dispute pertains to a factual dispute that does not require an expert opinion.
 - (7) The expert opinion submitted to the Competent Authority shall be communicated to all the parties to the Complaint.
 - (8) If any of the parties to the complaint is discontented with the expert opinion, it may either, submit his questions in writing to the Competent Authority for clarification by the same expert(s) whose opinion was obtained or apply to the Competent Authority to present the matter to other expert(s) for second opinion. In such a case, a list of the Experts in the relevant field shall be provided to the said party, specifying the qualification(s) and experience of each expert, to choose an expert of his choice for the required second opinion.

Provided that the party applying to the Competent Authority, to present the matter for a second opinion, shall be liable to pay the fee for the Expert(s) so chosen by him on the basis of the qualification(s) and experience.

- (9) Where a party opts to submit written questions for clarification by the same expert(s) whose opinion was obtained by the Competent Authority, may do so within ten (10) working days of service of the expert opinion and it must be only for the purposes of clarification of the earlier opinion.

Provided that such questions shall be presented once only and such a party shall not be allowed to seek a second opinion after receiving clarifications.



Provided further that if the Competent Authority, after having gone through the clarifications provided by the Expert(s), for reasons recorded in writing, may seek a second opinion in such a case. If the Competent Authority decides to obtain a second opinion in such a situation, then the party which opted to submit written questions for clarification by the Expert(s), shall not be liable to pay for the second opinion from the Expert(s) so chosen by the Competent Authority, in this regard. -

- (10) The answers of the Expert(s) to the questions put in the manner mentioned above, shall be treated as part of the expert opinion.
- (11) It shall be the duty of the expert(s) to assist the Competent Authority on a matter within his expertise.
- (12) That at the end of the opinion of the expert(s), there must be a statement that:
 - (i) the expert(s) understands his duty to the Competent Authority; and
 - (ii) he/they have complied with that duty.
- (13) Where a party applies for a second opinion, the Competent Authority may at any stage direct that a joint meeting be held between the experts, in case there is a difference of opinion between them, for the purposes of requiring them to:
 - (i) identify and discuss the expert issues involved in the proceedings; and
 - (ii) where possible, reach an agreed opinion on those issues.
- (14) Following the discussion between the experts, they must submit a statement to the Competent Authority showing:
 - (i) those issues on which they agree; and
 - (ii) those issues on which they disagree and summary of their reasons for disagreement.
- (15) In any case, the Competent Authority may prefer the opinion of one expert over the other, but it shall record reasons in writing for doing so including but not limited to, his expertise in the relevant field and supporting material, if submitted by him.



- (16) The Competent Authority may appoint an expert or a panel of experts if it deems necessary in cases where the disagreement between the experts is of a serious nature, in order to resolve the controversy. The opinion of such an expert or panel of experts shall be final.
- (17) The Competent Authority may direct any of the parties to provide all the necessary information/record to the expert(s) through the Commission, as the case may be, required for the purposes of rendering the opinion.
- (18) The expert(s) may request the Competent Authority to issue directions for assistance in carrying out the assignment. In such a case, the Competent Authority shall issue such directions as deemed appropriate.
- (19) The opinion of the expert should be independent, objective and unbiased, and should be on the matters within his expertise. He should make it clear when a question or issue involved in the matter referred to him falls outside his expertise, or when he is not able to reach a definite opinion, for example, because he has insufficient information.
- (20) The opinion of the expert must be addressed to the Competent Authority and must include:
- (i) details of his qualifications;
 - (ii) details of any literature or other material upon which he has relied for preparing his opinion;
 - (iii) a statement setting out the substance of all facts and instructions, if any given to him, which are relevant to the opinion given by him or upon which his opinion is based;
 - (iv) where possible, state who carried out any examination, measurement test or experiment which he has used for the report, give the qualifications of that person and also state whether or not the test or experiment has been carried out under his supervision;
 - (v) a summary of the conclusions reached;
 - (vi) if he is not able to give his opinion without qualification, state the qualification;
 - (vii) where there are facts in dispute, the expert should not express a view in favour of one or other disputed set of facts, unless because of h

learning and experience, he perceives one set of facts as being improbable or less probable, in which case he may express that view, and should give reasons for the same;

- (viii) a statement that he understands his duty to the Competent Authority and that he has complied and will continue to comply with that duty.
- (21) The expert must not be asked to, and must not, amend, expand or alter any part of the report in a manner which distorts his true opinion. However, he may be invited to amend or expand a report to ensure accuracy and internal consistency, completeness, relevance to the issues and clarity. Before disclosing his opinion, he should be given the opportunity to review, and if so necessary, to update the contents of his opinion.
- (22) The expert(s) must at all times maintain complete confidentiality about the matters presented to him for the expert opinion.
- (23) None of the parties shall be permitted to approach the expert(s) in any manner, whatsoever.
16. **Further Investigations-** Where circumstances so require, further investigations may be conducted in any of the following manner by:
- Compelling any person to produce any document;
 - Requiring either party to submit further comments or answers;
 - Revisiting and inspecting the concerned area; or
 - Summoning any person for hearing and recording evidence.
 - Any other act which may assist in deciding the issues at hand.
17. **Information to be kept Confidential -** (1) It shall be the duty of all involved in any proceedings pending before the Commission to keep all the information brought before the Commission including but not limited to the details of the proceedings of the Commission, confidential.
- (2) During the pendency of any proceedings before the Commission, no person shall do any act or cause it to be done in any manner that may embarrass or result into harassment to either the Healthcare Establishment or its staff or the Healthcare Service Provider or the Complainant, as the case may be. The Competent Authority may pass any interim order, in this regard, including but not limited to, restraining such a person to immediately take such steps to restore the honour/prestige of the person so affected and/or to take such steps which may mitigate the loss already caused.



- (3) In appropriate cases where the Commission has reasons to believe that any person is being unduly embarrassed or harassed, it may itself take or cause to be taken such mitigating measures as it deems necessary, in this regard.

CHAPTER VI POWERS TO PASS INTERIM ORDERS

18. **Powers to pass Interim Orders:** - (1) Where in view of the allegations contained in the Complaint or amended as provided under Regulation 9, the Competent Authority may pass including but not limited to, any of the following Interim Orders, ex-parte, while recording the reasons thereof, in view of the facts and circumstances of the matter, in order to safeguard the public interest and for achieving the purposes of the Act: -
- a) issue orders of restraint;
 - b) issue directions to the Provincial Government;
 - c) issue directions to a Healthcare Establishment;
 - d) pass any conditional orders relating to the manner in which healthcare services are being delivered or to improve the healthcare delivery system at any given Healthcare Establishment;
 - e) issue any directions to any other authority within the scope of the Act;
 - f) issue such instructions as deemed necessary; and or
 - g) issue any such directions or orders as deemed appropriate for the purposes of Regulation 17;
 - h) Communicate with the Pakistan Medical and Dental Council (PMDC), Council for Homeopathy, Council for *Tibb*, Nursing Council or any other authority competent to handle the matter and to assist the Commission in deciding the matter, in the larger Public Interest.

Provided that the Competent Authority may also further direct that any of the Interim Orders so passed by it may be for a particular period/duration of time or that the same be implemented within a particular time frame and that a report be submitted before it regarding the compliance of the same.

- (2) The Competent Authority shall have the power to issue, amend, alter affirm or revoke any interim orders after hearing all the parties concerned in the matter, after due Notice.

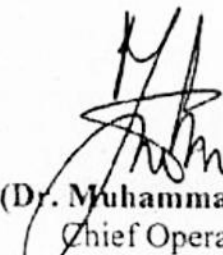
CHAPTER VII
DISPOSAL OF COMPLAINTS/CASES

19. **Disposal of Complaints/Cases**-The matter or the investigation of the Complaint/Case, as the case may be, shall on the orders of the Competent Authority, be closed in any one or more situations as detailed below:-
- a) the requisite Affidavit is not provided within the stipulated period;
 - b) the Complaint has no merit or substance in it and/or no further investigation is required;
 - c) the Complaint is proved to be false;
 - d) the Complainant fails to provide record and/or evidence, in his possession, required to decide the Complaint within stipulated period of time or extension thereof;
 - e) the Complainant fails to attend hearing(s) despite issuance of three (3) consecutive notices issued at the address as stated in the Complaint or any new address duly provided by him to the Commission;
 - f) adequate relief had already been provided to the Complainant by the Healthcare Establishment, before the Complaint was made to the Commission and the Commission comes to the conclusion after hearing all the parties to the Complaint that no further action on its part is required;
 - g) the Complainant and the party(ies) complained against agree to a proposition consequent whereof grievance is redressed without any proof of negligence, maladministration, malpractice or failure in the provision of healthcare services at the Healthcare Establishment;
 - h) no maladministration or malpractice, failure in the provision of healthcare services at the Healthcare Establishment or any other act or omission, as detailed herein, has been found by the Commission;
 - i) the Complaint was found incompetent;
 - j) the Complaint is withdrawn by the Complainant during the course of investigation with the approval of the Competent Authority;

Provided that the Competent Authority may not grant the approval if, in view of the record, it considers that such withdrawal would not be in the public interest.

- k) where the subject matter of the Complaint has already been adjudicated upon by a Court of competent jurisdiction and that there are no further steps required to be taken by the Commission under the Act;
 - l) where the subject matter of the Complaint is the same that has already been disposed of in an earlier Complaint and no further action is required to be taken by the Commission under the Act in that particular matter;
 - m) Where decision of the Complaint is declared by the Competent Authority.
 - n) Where the Competent Authority comes to the conclusion that such steps have been directed to be taken, in view of the facts and circumstances of the matter at hand, by the Healthcare Establishment or the Healthcare Service Provider for compliance thereof and that no further action is required on the part of the Commission, in the public interest.
20. **Report by Case Worker-** (1) In all matters where Complaint/Case is proposed to be closed or where the investigation is completed, the Case Worker shall present a comprehensive Report to the Competent Authority for any of the following:
- a) To pass such orders as it may deem fit and appropriate in the facts and circumstances of the case; or
 - b) To present the case to the Complaint Management Sub-Committee of the Board for its recommendations, further instructions, if any, or the decision, as the case may be.
- (2) The Complaint Management Sub-Committee if so desires or upon the directions of the Board may order a case to be re-investigated and may also summon and hear parties in a meeting.
21. **Decision** -(1) The Competent Authority shall in view of the recommendations of the Complaint Management Sub-Committee submit case before the Commission in a Board meeting for its decision regarding award of penalties, suspension and/or revocation of license, as the case may be.
- (2) The Competent Authority, as the case may be, shall decide all the matters after recording reasons in writing.
 - (3) All the decisions to be taken by the Board or the Complaint Management Sub-Committee, as the case may be, shall be taken by a vote of majority.

- (4) All decisions shall be communicated to the parties to the Complaint and such other persons as directed by the Competent Authority, in such form or manner as deemed appropriate by the Commission.
22. **Executive Authorities to aid the Commission-** All executive authorities shall aid the Commission pursuant to the provisions of Section 36 of the Act, for:
- i) Compliance of the decision or direction or any order issued by the Competent Authority;
 - ii) Investigation and inspection in respect of any Complaint; and
 - iii) Any other action required to be taken under Regulations or the Act.
23. **Fines and Penalties-** The Commission may impose a fine or penalty in respect of a Complaint in accordance with the provisions of the Act.
24. **Compliance Reports:** - (1) The Competent Authority may seek compliance reports from any authority, person or Healthcare Service Provider and the Healthcare Establishment, regarding any matter pending or decided/disposed of by the Commission.
- (2) The said report shall be placed before the Commission for its consideration and further necessary instructions, orders or directions, as deemed appropriate by the Commission.


(Dr. Muhammad Aslam Khan)
Chief Operating Officer
Punjab Healthcare Commission

