

EXTRAORDINARY
GOVERNMENT



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G A Z E T T E

KHYBER PAKHTUNKHWA

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KHYBER PAKHTUNKHWA HEALTH CARE COMMISSION

NOTIFICATION

Dated Peshawar, the 6th December, 2021

No. HCC/HO/Admin/2021/12439.---- In exercise of the powers conferred under Section 31 read with Section 6(o) of the Khyber Pakhtunkhwa Health Care Commission Act, 2015. Anti-quackery Regulations duly approved by the Khyber Pakhtunkhwa Healthcare Commission are hereby notified.

Sd/-xxxx
Chief Executive Officer
KP-Health Care Commission

Khyber Pakhtunkhwa Healthcare Commission

In pursuance of preamble read with section 2 (O), 6(2) (O) and section 28 of Khyber Pakhtunkhwa Healthcare Commission Act, 2015 for banning quackery in all its forms and manifestations and for dealing with quacks and in exercise of the powers conferred under sub-section (1) (2) of Section 31 Khyber Pakhtunkhwa Healthcare Commission Act 2015, the Commission is pleased to make the following Regulations.

Chapter 1

Introduction

1. Short title and commencement. - (1) These Regulations shall be called the Khyber Pakhtunkhwa Healthcare Commission Regulations for banning quackery in all its forms and manifestations and for dealing with quacks, 2021.

- (2) These Regulations shall extend to the whole of the Khyber Pakhtunkhwa.
- (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 the following expressions, shall have the meanings as given under: -

- (a) "Act" means the Khyber Pakhtunkhwa Healthcare Commission Act, 2015;
- (b) "Anti-quackery Cell" means the Anti-Quackery Cell established at the Khyber Pakhtunkhwa Healthcare Commission as provided for herein;
- (c) "Competent Authority" means such Committee(s) comprising of one or more members(s) as nominated by the Commission from within its staff, not - below the rank of Deputy Director, and authorized by the Commission, from time to time, to take necessary action under the provisions of the Act, any Regulations and in particular these Regulations, to tackle the menace of Quackery and also to pass such orders, including but not limited to interim orders, as deemed necessary, on complaints and / or Reports submitted before the Commission and exercise all or any such powers as provided for in the Act, including but not limited to sealing of such Health Care Establishments (s) where quackery is being practiced in any form whatsoever and to ensure that quackery is stopped and eradicated in all its forms and manifestations;

(d) "Employee" means such worker(s) or healthcare service provider(s) which are or have been rendering any kind of services at the Healthcare Establishment, including but not limited to doctors, consultants, nurses, paramedics and administrative staff, whether serving under written or unwritten agreement(s) for service or of service and include such persons which are not qualified to render such services at the Healthcare Establishment;

- (e) "Proprietor" means such person who owns the premises at which a quack is rendering health services and includes any such person who may also be the Owner, Manager, In-charge of the Healthcare Establishment;

- (f) "Quackery" means any person who does not qualify to be registered or licensed by the Commission or licensed person/institutions in public and private sectors that are providing services other than licensed
- (g) "Quack" means if he/she is;
 - i. Duly qualified but not validly registered with Pakistan Medical & Dental Council/PMC, Council for Tibb and Homeopathy and Nursing Council;
 - or
 - ii. Neither qualified nor registered with the relevant council
 - or
 - iii. Duly qualified and validly registered but providing services beyond the provisions of his registration
 - or
 - iv. Neither duly qualified nor validly registered but practicing under the name of a qualified and validly registered medical practitioner
- (h) "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. -;
- (i) "Registration" means where the context so requires, either registration as provided for under the provisions of clause (o) of Section 2 or that of the Healthcare Service Provider as provided for under Section 2 of the Act.
- (j) "Report" means such reports as are submitted to the Commission on the prescribed format, by the various authorized officers and or persons who are duly authorized by the Commission or on its behalf, from time to time, - pertaining to the activities of quacks and those relating to quackery, within the Province of Khyber Pakhtunkhwa
- (k) "Standards" include Minimum Service Delivery Standards (MSDS), developed by Commission from time to time.

(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, other Regulations, 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, unless the context requires otherwise.

ANTI-QUACKERY CELL

2. (1) The Commission shall establish an Anti-Quackery Cell for receiving and managing Reports / Complaints relating to the activities of the quacks or such others who may be found indulging in various forms of quackery and shall perform such

(3) The said officer(s) shall seal the premises and seize all or any relevant evidence, which he may deem necessary, including but not limited to prescription slips, medicines being given and or administered to the patients by persons who do not have valid registration from any of the above mentioned Councils, and forward the same to the Commission along with the Report. He may also record statements of the patients and or their attendants who may be willing to appear before the Commission as a witness.

(4) In cases, where statement(s) of a patient or his attendant is recorded, the same shall also be forwarded to the Commission along with the Report.

(5) A recovery memorandum shall also be prepared at the premises/site in the presence of the Owner, Manager, In-charge of the Health care Establishment and the Proprietor, as the case may be and the signatures of the said persons, as may be present at the said premises shall also be obtained by the said Officer, along with his thumb impressions. In case, such person(s) are not willing to do so, it would be sufficient for the said Officer to note their refusal to do so. The said officer (s) shall record the statement of a person in the premises as witness if he is willing to do so.

(5-A) (1) The said Officer(s) shall also be authorized to seal the said premises, in case it is found that the person(s) rendering any kind / sort of healthcare services thereat, do not have a valid registration from either of the above mentioned Councils and /or, the requisite Certificate of Registration and a valid license issued by the Commission. The said Officer(s) shall accordingly seal the said premises in view of the provisions of Sections 6 (2) (o) and section 28 of the Regulation. The said Officer(s) shall also seal the said premises, in public interest, in case it is found that quackery is taking place at the said premises.

(2) The Officer (s) shall prepare a memorandum of sealing the said premises and obtain signatures of the Owner, Manager, In-charge of the Healthcare Establishment and the Proprietor,

(3) as the case may be, on the prescribed format.

(4) The said Officer (s) shall ensure, before sealing the said premises that there are no such patients at the said premises, which may need immediate treatment and management. In case, he is of the opinion that any such patient is present at the said premises, then the said officer shall make all such necessary arrangements for immediate shifting of such patient(s), in order to safeguard and protect the life of the said patient(s), as the case may be.

(5) The said Officer (s) may also issue such directions regarding any medicines or other perishable items found at the said premises, as he may deem fit for the purposes of protecting the same from expiring or decaying, as the case may be, if so requested by any person or an employee at the said premises.

(6) The said Officer(s) shall, after locking and sealing the premises with the very keys of the premises, hand over the said keys to the Owner, Manager, In-charge of the Healthcare Establishment or the Proprietor, as the case may be. In case the Owner, Manager, In-charge of the Healthcare Establishment or the Proprietor leaves the premises or absconds himself during or after the visit by the said officer, the keys of the sealed premises shall be submitted to the Commission along with the Report."

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PROCEDURE AT THE HEARING BEFORE THE COMMITTEES

6. (1) In case, a person approaches the Commission in view of the Report, submitted to it by the Visiting / Reporting Officer, such a person shall submit his stance in writing with supporting documents, if any, along with an affidavit duly verified by the Oath Commissioner. Such a person must also submit the following documents with the written response, as the case, may be, without fail: -

- i) Ownership documents or Tenancy Agreement relating to the said premises; ::
- ii) Copy of his National Identity Card along with that of the owner of the premises;
- iii) Present address;
- iv) Permanent address;
- v) Telephone Numbers:

Work _____,
Home _____ &
Mobile _____ J _____

vi) Copy Utility Bills of Electricity/Water/Gas

vii) Details of all the employees of the Healthcare Establishment along with their credentials and supporting documents.

(2) The Committee may, if deemed necessary, instruct the Visiting / Reporting Officer to submit his views / comments in writing, on the stance / response submitted before the Committee.

(3) If a registered person approaches the Committee for the de-sealing of the site/premises being used for rendering Healthcare Services, then he shall also submit the details of his employment(s) / other professional engagements, specifying the time that he spends at the various Healthcare Establishments, as the case may be, along with the above mentioned documents.

(4) A person, who applies for de-sealing of the site/premises being used for rendering Healthcare services, shall apply for Registration with the Khyber Pakhtunkhwa Healthcare Commission. He will then apply for a license for the said Healthcare Establishment being used for rendering Health Care Services, in accordance with the provisions of the Act.

In such cases, keeping in view the larger public interest, the Committee or the undertaking of the Healthcare Service Provider that the basic requisite qualified staff shall be present at the said Healthcare Establishment along with necessary equipment / facilities required for the Healthcare Services' being offered thereat and once the Committee is satisfied that these aspects have been catered for, an order in writing shall be passed, to permit such a Healthcare Establishment to start rendering healthcare services, in terms of the said order.

(5) In case none approaches the Commission, the Committee may wait for a period of fifteen (15) days or such other time as deemed fit by the said Committee and instruct the Visiting / Reporting Officer to re-check the position at the site/premises. On receiving the report, the Committee shall issue a notice to the relevant person(s) as detailed in the Report, to attend the proceedings of the Committee on a fixed date at a fixed time.

The Visiting / Reporting Officer shall also state in the report about the Proprietor of the premises/site (if already not provided).

(6) The Committee may issue a notice to the relevant person(s) on the basis of the Report submitted to the Commission, to attend the proceedings of the Committee on a fixed date at a fixed time.

(7) If the Committee is satisfied that despite service of notice, the relevant person is not attending the proceedings of the Committee, it may direct the local police or any other Executive Authority or law enforcement agency to produce such person or any other relevant person before the Committee. In case when non appears before the Committee, the premises/site shall remain sealed

(8) In such cases where only the Proprietor of the premises / site approaches or appears before the Committee, he shall be directed to ensure that his premises / site shall not be used for illegal activities and that if he is found to have repeated his act, he shall be reported to the police. He shall also be directed to submit an undertaking in this regard.

(9) The Commission may maintain a register of the details of the persons who approaches the Committees for de-sealing of the premises/site including the details of the capacity in which such person chooses to apply for the de-sealing of the said premises/site and the ultimate fate of the said Report/application, as the case may be.

POWER TO PASS ORDERS

7. (1) The Competent Authority, may pass such orders, including but not limited to the following orders, in view of the Report or allegations contained in the Report / Complaint, 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 any such instructions, directions or orders as deemed necessary;
- g) Confirm the Act/order of sealing of the said premises / site or undo the same after hearing the Owner, Manager, In-charge of the Healthcare Establishment or the Proprietor, as the case may be, having satisfied itself about the genuineness of the Certificate of Registration(s) and that of the requisite license;
- h) Issue such directions as deemed necessary and appropriate to ensure that quackery is stopped and eventually eradicated, in all its forms and manifestations from the province;
- i) liaison and 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 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 compliance report be submitted before it.

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

(3) In any case, if the Committee, after hearing the concerned persons concludes, that a person who is duly registered with either of the Pakistan Medical & Dental Council/PMC or Council for Homeopathy or Council for Tibb or Council for Nursing or Council for Paramedics, is rendering unsubstantiated and unjustified support to an unregistered person(s). in any manner whatsoever, then his such conduct shall be reported to the relevant Council, for necessary action.

In such a situation the Committee shall impose a fine, which may extend to ten hundred thousand rupees, upon such a person who was found to be practicing quackery at the said premises and the healthcare service provider, individually or collectively, as the case may be.

(4) Any person who is proved to be responsible and or involved in the act of quackery or who is proved to be practicing as quack(s) at any particular Healthcare Establishment, the Committee shall impose a fine upon such person, which may extend up to five hundred thousand rupees, depending upon the facts and circumstances of the case and keeping in view the gravity of the offence and in the case of continuing failure to comply with the orders and directions, as issued to such person, or repetition of such illegal practice, to a further fine, which shall not be less than fifty thousand rupees and shall in no case exceed ten hundred thousand rupees.

DUTY TO ACT WITH UTMOST GOOD FAITH

8. It shall be the duty of all the persons appearing before the Competent Authority, in any capacity whatsoever, to act with utmost good faith at all times and assist, in performing its duties and also for achieving the purposes of the Act.

POWER TO REFER CASES

9. The Competent Authority may if deemed necessary and appropriate, refer the case /matter to other law enforcing agencies, for appropriate proceedings under any other relevant law(s).

POWER TO PASS ORDERS FOR COMPLIANCE WITH MINIMUM SERVICE DELIVERY STANDARDS

10. The Competent Authority shall also have the power to pass orders, directing the Owner, Manager, In-charge of the Healthcare Establishment or the Proprietor, as the case may be to immediately take necessary steps for the implementation of the Minimum Service Delivery Standards, as applicable to the said Healthcare Establishment.

PROTECTION OF WHISTLEBLOWERS

11. Each Healthcare Establishment shall prominently and conspicuously post for display in a public area of the Healthcare Establishment which is readily visible to patients, residents, employees and visitors, a statement that employees and staff as well as non-employees, are protected from discrimination or retaliation for reporting a violation of the governing laws including the Act, Regulations, Standards, Reference Manual and any other orders or instructions, including but not limited to these Regulations, as passed by the Commission, from time to time. The statement shall be in English and such other language(s) as is appropriate to the demographic makeup of the community being served.

12. A Healthcare Establishment shall not suspend or terminate the employment of, discipline, or otherwise discriminate against an employee, for reporting in utmost good faith to his supervisor or the administrator of the Healthcare Establishment, the regulatory agency, and / or the Healthcare Service Provider, the Commission or any other law enforcing agency, as the case may be, any violation of the governing law including the Act, Regulations, Standards, Reference Manual and / any other orders or instructions, including but not limited to these Regulations.

ACTIONS TAKEN IN GOOD FAITH

13. No suit, prosecution or other legal proceedings shall lie against the Khyber Pakhtunkhwa Healthcare Commission, its Committees, Reporting Officers or other persons for anything which is done in good faith or intended to be done under these Regulations.

PUBLIC AWARENESS ABOUT QUACKERY

14. The Anti-Quackery Cell shall take all necessary steps to create and enhance public awareness about various forms of quackery, health problems caused by quackery and the steps taken by the Commission for eradication of quackery in all its forms and manifestations. The Commission may use print and electronic media and official website of the Commission for dissemination of all the relevant information in addition to arranging public seminars and walks etc. on the issue of quackery.

REMOVAL OF DIFFICULTIES

15. (1) The Board of the Commissioners may issue such instructions, directions or amend these Regulations, in public interest keeping in view the purpose of the Act or for the purposes of removing any difficulties that may arise in implementing these Regulations.

(2) The Anti-Quackery Cell, the Competent Authority or the Commission, as the case may be, approach the Board of the Commissioners for its guidance and or for further necessary action, if so deemed necessary for the implementation of these Regulations."

REGULAR ANTI-QUACKERY CAMPAIGNS

16. (1) Anti-Quackery campaigns shall be launched by the Anti-Quackery Cell on regular basis.

(2) The Commission shall appoint anti-quackery teams including one or more Officer (s) to inspect the healthcare establishments for the purpose of enforcement of anti-quackery regulations.

(3) The Commission shall inform the concerned executive/police authorities about the visit of anti-quackery teams in their area of jurisdiction and request them, under the law, to provide security and any other assistance that may be required for conduction of the anti-quackery campaign well within spirit and object of the law.