

A Bill to ensure healthcare services by the private sector through regulation & registration of private Hospitals, Nursing Homes, Clinics, Dispensaries, Diagnosis Labs, Blood Banks etc. and matter thereto:

1. short title, extent and commencement

- i) This Bill may be called the Punjab Regulation of Clinical Establishment Bill, 2001.
- ii) It extends to the whole of the State of Punjab.
- iii) It shall come into force from such date as the State Government may by Notification in the official gazette appoint in this behalf.

Explanation: -

The Act may commence on different dates for different categories of Clinical Establishment.

2. Definitions: -

- i) "State Government" means the Govt. of Punjab.
- ii) "Clinical Establishment" means any premises used or intended to be used for providing prophylaxis, diagnosis, treatment, nursing care or rehabilitation services to persons suffering from any sickness, injury or infirmly and includes
 - a) Any premises for the reception, consultation of treatment of pregnant women before, during or after child birth.
 - b) Any clinic or pathological microbial or bio-chemical laboratory carrying out tests for diagnosis any disease.
 - c) Any establishment employing electrical electronic, electro- magnetic, ultra- sonic or other devices for diagnostic or therapeutic purposes.
 - d) Any establishment employing various, forms of Endoscopy for diagnosis or treatment.
 - e) Blood Banks, and
 - f) Any establishment providing for prophylaxis, diagnosis or treatment of dental diseases.
- iii) "To maintain a Clinical Establishment" means to examine or receive persons in a Clinical Establishment for diagnosis, treatment, prophylaxis, Nursing care or rehabilitative service.

Provided that the following activities shall not be covered under this definition.

- a) Camps organized for a short duration under approved National or State Health programs.
- b) Domiciliary services being provided at a patient's own residence.
- iv) "Competent Authority" means any person or authority appointed by the state Government by Notification to exercise and perform all or any of the powers and functions of the competent authority under this Act or Rules framed there under.
- v) "Appellate authority" means the Administrative Secretary of the Department of Health & Family Welfare, Punjab or any other authority or person appointed by the Government to perform the functions of the appellate authority.

vi) "Person" includes an association of persons, a company, a partnership firm, a trust, and a co-operative society.

vii) "Prescribed" means prescribed by rules made under this Act.

3. Prohibition to maintain Clinical Establishment without registration: -

No person shall establish or maintain a Clinical Establishment unless he holds a certification or registration regarding it under Section 5, And it is in force and has not been suspended or cancelled.

Provided that any clinical establishment in existence on the date of commencement of this Act shall cease to function on the expiry of six months from that date unless such clinical establishment has applied for registration and is so registered or till such application is so registered or till such application is disposed off.

4. Registration of Clinical Establishment

i) No person shall be eligible to be granted a certificate of registration for a clinical Establishment unless.

a) he possesses the prescribed qualification or has under his direct employment the prescribed qualified staff, and

b) the competent authority is satisfied that such clinical establishment possesses such equipment and facilities as may be prescribed.

ii) Any person who intends to establish or maintain a clinical establishment shall make an application in writing of the competent authority for registration in such form and containing such particulars and accompanied by such documents and fees as may be prescribed.

Provided that in case of a clinical Establishment which is in existence on the date of commencement of this Act, an application for registration shall be made within three months from such date.

However the competent authority may entertain an application after this date if he is satisfied that there were genuine grounds for delay in making the application.

iii) The certificate of registration issued under Section 5, shall be valid for a period of five years unless revoked or cancelled earlier under the provisions of this Act.

Provided that the certificate of registration of a clinical establishment shall automatically stand cancelled on the death of the holder thereof and any person desirous of maintaining the clinical establishment shall apply within one month for a fresh registration.

iv) Every person holding a certificate of registration in respect of a clinical establishment shall apply for renewal thereof to the competent authority at least three months before the expiry of such registration, and the provisions of the Act shall, as far as may be, apply in relation to the renewal thereof as they apply in relation to the original registration

5. GRANT OF REGISTRATION CERTIFICATE

i) On receipt of application for registration the competent authority shall, either himself or through any

other officer appointed for the purpose, hold an enquiry to satisfy himself that the application has complied with all the requirements of this Act and the rules made thereunder.

ii) If after the enquiry, the competent authority is of the opinion that the applicant has not complied with the requirements of this Act and the rules made thereunder, it shall give to the applicant, in the prescribed manner a notice of its intention to refuse registration, stating therein the grounds for such action and shall give him a period of 30 days to show cause why the registration be not refused.

iii) After considering the cause, if any, shown by the transferee, if the competent authority is satisfied that the applicant has not complied with the requirements of this Act & the rules made thereunder, it shall, for reasons to be recorded in writing, reject the application for registration.

Explanation: - The fact that a clinical Establishment is not under the supervision of a person having prescribed qualifications or does not have the prescribed qualified staff, or does not have proper equipment or proper accommodation shall inter- alia, be valid reasons for refusing registration.

iv) If the competent authority is satisfied that the applicant is eligible for grant of registration it shall issue the certificate of registration in the prescribed form subject to such conditions and restrictions as it may deem fit to impose under the Act/rules.

Provided that when registration is refused or is granted subject to certain conditions, the grounds for such refusal or for imposing such conditions shall be communicated to the applicant in the prescribed manner.

6. Power of entry

The competent authority or any authorized officer, may enter into any building or land for the purpose of:

- i) making any enquiry for ascertaining whether any clinical establishment is functioning in contravention of any provision of this Act or rules or regulations made thereunder, and
- ii) (doing any other act necessary for the efficient administration of this Act).

7. Prohibition on issue of misleading advertisements

No person shall issue an advertisement in any form offering any particular type of services by a clinical establishment unless the clinical establishment holds a certificate of registration authorizing it to provide such services and has on its staff personnel qualified to provide such services

8. OBLIGATIONS: -

i) Every clinical establishment shall while diagnosis or treating any person use such reasonable care and skill as any responsible and prudent physician would use while diagnosing or treating such person.

ii) Every clinical establishment shall maintain such cleanliness within its premises as is generally expected from a reputable medical establishment providing similar services.

iii) Every clinical establishment shall dispose its medical waste in accordance with the manner prescribed.

iv) Every clinical establishment shall maintain such records in such form as may be prescribed.

v) Every clinical establishment shall, within such time as may be fixed by the competent authority,

furnish such returns statistics and other information as the competent authority may from time to time require.

Provided that the clinical establishment shall not be bound to produce records relating exclusively to financial matters.

Vi) Every clinical establishment shall, first at the time of registration, and thereafter in the month of January every year, furnish to the competent authority a list of the medical and para- medical staff employed by it. Any change in the staff employed by a clinical establishment in the intervening period shall be reported to the competent authority within a period of fifteen days.

vi) No clinical establishment shall permit any person to treat or perform any clinical procedures on any individual unless such person holds the prescribed qualifications and his name is included in the list of staff furnished to the competent authority in accordance with the provisions of sub-section (vii) of this section

vii) Every clinical establishment shall display the certificate of registration at a conspicuous place in its premises.

viii) The holder of certificate of registration of a clinical establishment shall not transfer it to any other person without the permission of the competent authority.

ix) No clinical establishment shall change its premises or its name without the permission of the competent authority.

x) No clinical establishment shall provide any services other than those mentioned in the certificate of registration without prior permission of the competent authority.

9. Cancellation of registration: -

Subject to the provisions of section 10 and section 12 of the Act, and such restrictions as the government may impose, the authority granting the certificate of registration under section 5 may cancel it if the holder of the registration is convicted of any offence punishable under this Act, or if the holder of the certificate of registration or anyone acting on his behalf, with his express or implied consent, contravenes any provision of section 8 of the Act or any conditions imposed in the certificate of registration.

10. Procedure for cancellation

i) Before canceling a certificate of registration the competent authority shall give, in the prescribed manner, 30 days notice to the holder thereof, specifying the grounds for such action, and calling upon him to show cause why the certificate of registration should not be cancelled.

ii) After considering the explanation if any, offered by the holder of registration certificate or his representative, the competent authority may for reasons to be recorded in writing, cancel the certificate of registration or pass such orders as it seems fit, such orders shall be communicated in the prescribed manner to the holder of the certificate of registration.

iii) Notwithstanding anything contained in sub section (1) and (2) the competent authority may, in exceptional cases, for reasons to be recorded in writing, suspend the registration of a clinical establishment without any notice if it is of the opinion that it is necessary to do so in the public interest. Provided that such order shall be communicated to the holder of the registration certificate in the

prescribed manner within 7 days of the passing of such order.

11. Effect of cancellation and suspension

i) Any clinical establishment whose registration has been cancelled or suspended shall immediately stop receiving new patients for diagnosis or treatment, and shall stop functioning completely within one week of such cancellation or suspension.

ii) If the competent authority, after making such inquiry as it may consider necessary, is satisfied that any clinical establishment is functioning in violation of the provisions of sections 3 or sub-section (1) of section 11, it may itself take measures may appear to it to be necessary to give effect to these provisions.

12. Revocation of cancellation

Subject to such as restrictions as the state government may impose, the cancellation or suspension of a certificate of registration may be foregone or revoked by and at the sole discretion of the authority having power to cancel or suspend it, on payment by the holder registration, such penalty as such authority may impose

Provided that no cancellation or suspension shall be foregone or revoked unless the holder of the certificate of registration of his authorized representative gives an undertaking in writing to the satisfaction of the competent authority to set right, as far as possible, the contraventions made by the clinical establishment.

13. Offences and Punishment

i) Any person who, without reasonable cause, fails to comply with or contravenes the provisions of section 3 section 11 (1) of this Act shall on conviction be punished with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousands rupees, or with both.

ii) Any person without reasonable cause obstructs the entry of a person authorized under section 6 to enter into or upon any land or building shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees, or with both.

iii) Any person ho, without reasonable cause contravenes the provisions of section 7 of the Act shall be punished with imprisonment for a term which may extend to one month or with fine which may extend to five thousand rupees, or with both.

iv) All offences under this Act shall be tried summarily in accordance with the procedure prescribed for summary trials in the Court Of Criminal procedure 1973.

14. Offences by companies etc:

Where any offence under this Act has been committed by a company, firm, trust, or society, every person, who, at the time of commitment of the offence was incharge of, and was responsible for the conduct of the business of the aforementioned body shall also be deemed to be guilty of the offence and shall be liable to be punished and prosecuted accordingly.

Provided that nothing contained in this sub-section shall render such person liable to any punishment under this Act, if he proves that the offence was committed without his knowledge or that he had

exercised all due diligence to prevent the commission of such offence.

15. Prosecution & composition of offences:

- i) No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Administrative Secretary of the Department of Health & Family Welfare, Punjab or any officer authorized by him in this behalf.
- ii) The aforesaid authority may, at any time before the closure of the evidence of the prosecution, compound any offence punishable under this Act on the payment of such composition fee and subject to such conditions as may be prescribed.
- iii) Where an offence has been compounded, the offender, if in custody, shall be released and no further proceedings shall be taken against him in respect of the offence compounded.

16. Appeals

Any person aggrieved by any order of the competent authority under section 5, section 9 or section 12, or by any direction issued by the competent authority under any other provision of the Act or rules made thereunder, may within 30 days from the date of receipt of such order or direction, prefer an appeal to the Appellate Authority such form and in such manner as may be prescribed.

17. Supervision & control:

- i) The competent authority shall work under the supervision and control of the State Government or any other "supervisory authority" which the State Government may appoint for the purpose.
- ii) The State Government may, from time to time, issue directions and guidelines for the efficient and effective implementation of the Act.

18. Protection of action taken in good faith:

No suit, prosecution or other proceedings shall lie against any person for anything which is, in good faith, done or intended to be done in pursuance of this Act or the rules made thereunder.

19. Power to make rules"

The State government may by notification in the official Gazette, make rules for carrying out the purpose of this Act.

20. Bar on jurisdiction of civil Courts:-

No civil court shall have jurisdiction to entertain any suit or proceedings in respect of any direction or order issued by the State government. Competent Authority or by any authorized officer under this Act.

21. Exemptions

- i) Nothing in this Act shall apply to any clinical establishment which is wholly owned by the central government, the State Government or local authority, or by any statutory body or company wholly owned and controlled by the state government or the central government.
- ii) If the state government is of the opinion that the operation of any of the provisions of this Act causes under hardship, or circumstances exist which render it expedient to do so, it may, by a general or

specific order, exempt any class of clinical establishments or areas from all or any of the provisions of this Act, subject to such terms and conditions as it may impose.