

Balochistan Hospital Regulatory Authority Ordinance 2001

PREAMBLE

1 Short title, extent and commencement

2 Definitions

3 General Provision

4 Establishment Authority

5 Resignation and Removal of Members

6 Chairmen; etc. to be Public Servant

7 Remuneration etc., of

8 Staff and advisors, etc.

9 Meetings of the authority

10 Funds

11 Accounts

12 Power of grant Licence to Hospital

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

14 Powers to grant Accreditations status to Hospital in the Province

15 Promotion of Committees

16 Power to inspect and Monitor Hospital Facilities

17 Powers and functions of the Authority

18 Relationship with the Balochistan Clinical Laboratory Authority

19 Offences, Penalty and Procedure

20 Disposal of the equipment, material etc.

21 Cognizance of Offence

22 Power to make rules

23 Power to make regulations

24 Immunity

25 Relationship to other Laws

26 Sum payable to the Authority to be recoverable as find revenue arrears

27 Removal of difficulty

Balochistan Hospital Regulatory Authority Ordinance 2001

ORDINANCE XLIV OF 2001

BALUCHISTAN HOSPITAL REGULATORY AUTHORITY ORDINANCE, 2001

An Ordinance to provide for Regulation of Hospital based health services in the Province of Balochistan

[Gazette of Balochistan, Extraordinary, 3rd November, 2001]

No.Legis.2-92/Law/98, dated 3-11-2001.--The following Ordinance made by the Governor of Balochistan on 27th October, 2001, is hereby published for general information:--

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;

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 of Balochistan is pleased to make and promulgate the following Ordinance:--

1. Short title, extent and commencement.---(1) This Ordinance may be called the Balochistan Hospital Regulatory Authority Ordinance, 2001.

(2) It extend to the whole of the Province of Balochistan.

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

2. Definitions. ---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, categorizing, 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

(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 Licence to operate by the Authority in the Province:

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

(g) "Physician" means a medical graduate holding M.B.B.S or equivalent qualification recognized by the Pakistan Medical and Dental Council. The term also includes a qualified Dental Graduate holding B.D.S. 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" means rules made under this Ordinance;

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

3. General Provision. ---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. Establishment Authority. ---(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 years and shall be a eligible for reappointment for a similar term.

(4) No act or proceedings 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 of 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.

5. Resignation and Removal of Members.---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. Chairmen; etc. to be Public Servant.---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. Remuneration etc., of.---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. Staff and advisors, etc.---(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 conditions 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, an incumbent being inspected may register complaint with the Authority,, which will dispose the matter in accordance with the rules.

9. Meetings of the authority. --- (1) The Secretary to the Authority, on directions of the 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 decision is to be taken shall be 3/4th 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 the 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 Funds, ---The Authority shall be funded from

(a) Grants from the Provincial Government, including an initiating grant; and,

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

11. Accounts.---(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.

12. Power of grant Licence to Hospital.---(1) The Authority shall have the exclusive power, to be exercised in the manner prescribed in the rules, t

13. Power to prescribe fee, issue guidelines, and procedures, for Operations of Hospitals and patient care therein, in the Province of Balochistan;---The Authority shall have exclusive powers to prescribe by regulations published in ,the official gazette, guidelines and operating standards for equipment, premises, personnel, material, procedure, emergency medical services, and any other matter related with the set-up and. operation 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 its 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. Powers to grant Accreditations status to Hospital in the Province.---(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 accreditations status to any Hospital:

Provided that, After a Hospital is accredited to be in a certain accreditations 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. Promotion of Committees.---The Authority, as it may deem fit; constitute Committees, for the purpose of carrying out of objectives of this Ordinance. The Authority shall determine the composition, functions, and other matters pertaining to such committees.

16. Power to inspect and Monitor Hospital Facilities. ---(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.

(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 motu, 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:

17. Powers and functions of the Authority. ---(1) In particular and without prejudice to the generality of the forgoing 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 standard 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 of a peer review system in the Province;

(d) To prescribe, review, approve and regulate fees and charges pertaining to Hospital

18. Relationship with the Balochistan Clinical Laboratory Authority. ---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. Offences, Penalty and Procedure. ---(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 licence 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 rules 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 persons 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 years, or with fine up to rupees three hundred thousand 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 record, material, procedure, or situation, without lawful excuse, or obstruct .an Evaluator or any other officer of the Authority, form 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 thousand, 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 employees, 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.

20. Disposal of the equipment, material etc.---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 related materials, in respect of which contravention has been made, be confiscated and disposed off in the manner as decided by the Court.

21. Cognizance of Offence.---(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. Power to make rules.---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. Power to make regulations. --- (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 thereunder.

(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. Immunity. ---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 anything which

is, in good faith done or intended to be done in pursuance of this Ordinance or of any rule or order, made thereunder:

Provided that the unscrupulous actions of the Authority the Chairman, or any Member, or a member of any of its Committee, 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. Relationship to other Laws.---The provisions of this Ordinance shall be in addition to and not in derogation of any other law for the time being in force.

26. Sum payable to the Authority to be recoverable as find revenue arrears.---All sums payable to the Authority in accordance with provisions of this Ordinance, rules, and regulation, shall be as recoverable as arrears of land revenue.

27. Removal of difficulty.---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.