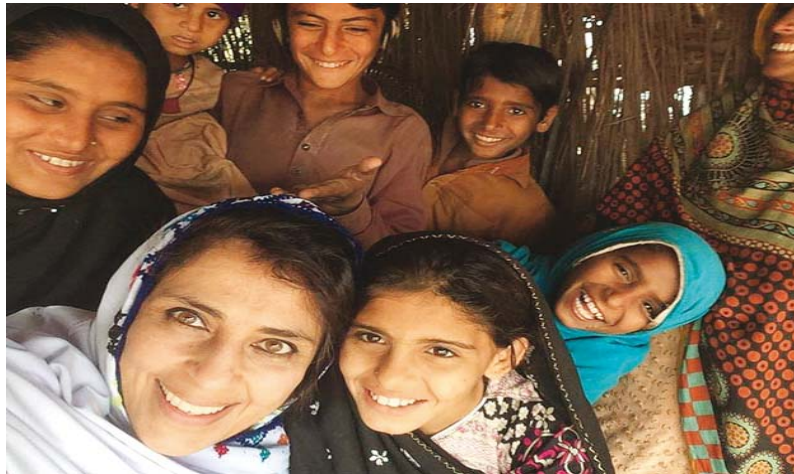


KHYBER PAKHTUNKHWA
HEALTH CARE COMMISSION



**Regulations Developed under the Khyber Pakhtunkhwa Healthcare
Commission Act 2015 to Facilitate its Implementation**

March 2016

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Acronyms

CEO	Chief Executive Officer
CFO	Chief Financial Officer
DFID	Department for International Development, UK
DOH	Department of Health

KHYBER PAKHTUNKHWA HEALTHCARE COMMISSION REGULATIONS, 2016

HCC	Healthcare Commission
HCE	Healthcare Establishment
HRA	Health Regulatory Authority
HRM	Human Resource Management
HSRU	Health Sector Reform Unit
IMR	Infant Mortality Rate
JD	Job Description
KP	Khyber Pakhtunkhwa
KPHCC	Khyber Pakhtunkhwa Healthcare Commission
LHW	Lady Health Workers
MSDS	Minimum Standards of Service Delivery
TRF+	Technical Resource Facility+
U5MR	Under 5 Mortality Rate

1 Regulations of Procedure

1. Short title, commencement and applicability

- (1) These Regulations may be called the Regulations of Procedure of the Khyber Pakhtunkhwa Health Care Commission, 2016.
- (2) These Regulations shall come into force with immediate effect.

2. Definitions

- (1) In these regulations, unless there is anything repugnant in the subject or context:
 - (i) "Commission" shall mean the Khyber Pakhtunkhwa Health Care Commission established under the Khyber Pakhtunkhwa Health Care Commission Act, 2015.
 - (ii) "Act" means the Khyber Pakhtunkhwa Health Care Commission Act, 2015.
- (2) All other terms and expressions used but not defined in these rules shall have the same meaning as are assigned to them in the Act.

3. Composition of the Commission:

The commission will comprise of a body of commissioners which includes ten members, as laid down in the Act and a provincial/regional/ district setup responsible for the execution and implementation of the vision, policies and guidelines of the commission under the overall responsibility of Chief executive. The regional and district setup will be established as per need, scope of work and available funds and in phased manner.

4. Broad Functions of Commission:

The members of the commission will develop vision, policies, direction and guidelines for overall functions of the Health care commission. It will also oversee the performance of the provincial directorate and peripheral operational wings. It will also be responsible for ensuring for financial discipline and quality assurance at various health care institutions through defined structure/mechanisms as spelled out in the rules or regulations as the case maybe.

5. Composition of the Members of the Commission

- (1) The Commission shall comprise of ten (10) Members as laid out in the Act. Three of these members shall be official members nominated by virtue of the office they hold in the relevant Government Department. The remaining seven members shall be non-official members.
- (2) The Members of the Commission shall elect a Chairperson of the Commission from amongst the non-official members. A vice-chairperson shall also be elected who shall perform the responsibilities of the Chairperson in his absence.
- (3) The Chairperson of the Members of the Commission shall:
 - (i) ensure that the Members of the Commission are properly working and all matters relevant to the governance of the Commission are placed on the agenda of meetings of the Members of the Commission;
 - (ii) conduct the meetings of the Members of the Commission including fixing the agenda; and
 - (iii) ensure that all the official and non-official members are enabled and encouraged to fully participate in the deliberations and decisions of the Commission. The Chairperson has a responsibility to lead the Members of the Commission and ensure its effective functioning and continuous development, he shall not be involved in day to day operations; and
- (4) Any casual vacancy on the Members of the Commission created by the death, retirement, resignation or removal of a non-official member shall be filled up by the government as laid out in the Act.

6. Powers and functions of the Members of the Commission

- (1) The Members of the Commission shall adopt a vision or mission statement and corporate strategy for the Commission. The role of the Members of the Commission is to set direction, provide leadership and vision, approve Annual Business and Financial Plans and delegate the powers of management and operations to the Executive Management Team.
- (2) In addition to, and pursuant to the powers of the Members of the Commission enumerated in the Act, the Members of the Commission shall exercise the following powers:
 - (i) Consider and approve for circulation, the financial statements that have been prepared and duly certified by the Chief Executive Officer and the Chief

Financial Officer under their respective signatures and recommended by the Audit Committee to the Members of the Commission for decision.

- (ii) Approve within one month of the close of first, second and third quarter of the Commission's year of account, the report on profit and loss account for, and balance-sheet as at the end of, that quarter, whether audited or otherwise, prepared by the Management. The annual report including annual financial statements, if any, shall also be placed on the Commission's website.
- (iii) Review the monthly accounts prepared and circulated amongst the Members of the Commission by the Management.

(3) The Members of the Commission shall exercise their powers and carry out its executive and fiduciary duties with a sense of objective judgment and independence in the best interest of the Commission. This provision shall apply to all official and non-official members.

(4) The Members of the Commission shall appoint an Executive Management Team headed by a Chief Executive Officer / Managing Director, including the Chief Financial Officer, and the Internal Auditor of the Commission. The Members of the Commission shall also determine and approve their remuneration and terms and conditions of employment of the Executive Management Team. The role of the Executive Management Team will be to translate the vision of the Members of the Commission into reality, implement the decisions of the Members of the Commission, execute the annual business and financial plans as approved by the Members of the Commission and manage operations.

(5) The Chief Executive Officer, the Chief Financial Officer or the Internal Auditor of Commission shall not be removed except with the approval of the Members of the Commission.

(6) The Members of the Commission shall appoint the external auditors of the Commission and also set their terms of engagement and compensation.

(7) The Members of the Commission shall ensure that professional standards and corporate values are in place that promotes integrity for the Members of the Commission, senior management and other employees in the form of a "Code of Conduct". This code shall articulate acceptable and unacceptable behaviors. The Members of the Commission shall ensure that appropriate steps are taken to communicate throughout the Commission, the code of conduct it sets together with supporting policies and procedures, including posting the same on the Commission's website. The Members of the Commission shall also ensure that adequate systems and controls are in place for the identification and redress of grievances arising from unethical practices.

7. Term of Members of the Commission

(1) A non-official member, once appointed, shall hold office for a period of three years, unless he resigns or is removed in accordance with the provisions of the Act. The removal of a member shall only take place in the event of misconduct or if the member has not performed up to the standard, determined through a performance evaluation. For the purpose of this clause, misconduct includes:

- (i) indulging in a competing professional or personal conflict of interest situation which has not been disclosed according to the relevant rules of the Commission;
- (ii) using the funds, assets and resources of the Commission without due diligence and care;
- (iii) failing to treat the colleagues and the staff of the Commission with respect, or using harassment in any form of physical or verbal abuse;
- (iv) making public statements on matters of public interest or about the internal matters of the Commission without authorization by the Members of the Commission;
- (v) receiving gifts or other benefits from any sources external to the Commission offered to him in connection with his duties on the Members of the Commission; or
- (vi) misusing their official position to gain personal or financial advantage or assuming other obligations in private institutions or for persons which may cause embarrassment in the performance of their official duties or functions as a Member of the Commission.

8. Meetings of the Members of the Commission

(1) The Members of the Commission shall meet at least once, each quarter of a year, to ensure that it discharges its duties and obligations efficiently and effectively.

(2) Written notices of meetings, including the agenda, duly approved by the Chairperson, shall be circulated not less than seven days before the meetings, except in the case of emergency meetings, where the notice period may be reduced or waived by the Members of the Commission.

(3) The Chairperson of the Commission shall ensure that minutes of meetings of the Members of the Commission are appropriately recorded by approving them under his signature. The minutes of meetings shall be circulated after approval of the Chairperson, to members, not later than fourteen days thereof.

(4) In the event that a member of the Commission is of the view that his dissenting note has not been satisfactorily recorded in the minutes of a meeting, s/he may refer the matter to the Chairperson.

(5) A meeting of the Members of the Commission held and attended through teleconference or video-conference shall be a valid meeting, as long as its proceedings are properly recorded.

9. Information to be placed for decision by the Members of the Commission

(1) The Members of the Commission shall establish appropriate arrangements to ensure it has access to all relevant information, advice and resources necessary to enable it to carry out its role effectively. Significant issues shall be placed before the Members of the Commission for its information and consideration, in order to formalize and strengthen the corporate decision making process.

(2) For the purpose of sub-rule (1), significant issues shall, inter-alia, include the following:

- (a) cash flow projections, forecasts and long term plans; budgets including capital, manpower and expenditure budgets, along with variance analyses;
- (b) internal audit reports, including cases of fraud or major irregularities;
- (c) management letters issued by the external auditors;
- (d) details of joint ventures or collaboration agreements or agreements;
- (e) promulgation or amendment of a law, rule or regulation or, enforcement of an accounting standard or such other matters as may affect the Commission;
- (f) status and implications of any lawsuit or judicial proceedings of material nature, filed by or against the Commission;
- (g) any show cause, demand or prosecution notice received from any revenue or regulatory authority, which may be material;
- (h) material payments of government dues, such as income tax, excise and customs duties, and other statutory dues, if any;
- (i) policies related to the award of contracts, and purchase and sale of materials;
- (j) default in payment of principal or interest, including penalties on late payments and other dues, to a creditor, bank or financial institution or default in payment of public deposit;

- (k) annual, quarterly, monthly or other periodical accounts as are required to be approved by the Members of the Commission for circulation amongst its members; and
- (l) related party transactions.

10. Formation of Committees

(1) The Members of the Commission shall set up the committees to support it in performing its functions efficiently, and for seeking assistance in the decision making process, namely:

- a) Technical Advisory Committee for the Members of Commission (Body of Commissioners) :
- b) Technical Committees
- c) Finance and Grant Committee
- d) Performance Review Committee, to deal with all employee related matters including recruitment, training, remuneration, performance evaluation, succession planning, and measures for effective utilization of the employees of the Commission; and
- e) Continuous Quality Improvement Committee as prescribed by the Act.
- f) Any other committees or panel of experts on need basis for getting technical advice.

(2) The committees shall be chaired by non-official members. Each Committee will elect its own vice Chairperson from among the members of the Committee. Each Committee shall appoint a Secretary from among the relevant Directors of the Commission. The existence of such committees shall not absolve the Members of the Commission from their collective responsibility for all matters. Such committees shall have written terms of reference that define their duties, authority and composition, and shall report to the full Commission. The minutes of their meetings shall be circulated to all committee members.

(3) The Members of the Commission shall concern themselves with policy formulation and oversight and not the approval of individual transactions except those that are of an extraordinary nature or involve materially large amount.

11. Finance and Grants Committee

(1) The Members of the Commission shall establish a Finance and Grants Committee. The names of members of the Finance and Grants Committee shall be disclosed in each annual report of the Commission.

(2) The Chairman of the Members of the Commission as well as the Chief Executive Officer of the Commission shall not be members of the Finance and Grants Committee.

(3) The Chief Financial Officer, the Internal Auditor, shall attend all meetings of the Finance and Grants Committee at which issues relating to accounts and audit are discussed; provided that at least once a year, the Finance and Grants Committee shall meet the external auditors without the presence of the Chief Financial Officer and the internal auditor being, to ensure independent communication between the external auditors and the Audit Committee. Provided further that at least once a year, the Finance and Grants Committee shall meet the internal auditor and other members of the internal audit function without the Chief Financial Officer and the external auditors being present.

(4) The Members of the Commission shall determine the terms of reference of the Finance and Grants Committee. The terms of reference shall be in writing, and shall specify the mandate of the Finance and Grants Committee. The Finance and Grants Committee shall have full and explicit authority to investigate any matter within its terms of reference and shall be provided with adequate resources and access to all relevant information.

(5) The Finance and Grants Committee shall, inter-alia, be responsible for recommending to the Members of the Commission, the appointment of external auditors by the Commission and shall consider any questions of resignation or removal of external auditors; audit fees, and provision by external auditors of any service to the Commission in addition to audit of its financial statements. In the absence of strong grounds to proceed otherwise, the Members of the Commission shall act in accordance with the recommendations of the Finance and Grants Committee in all these matters. However, the Members of the Commission shall not be deemed to absolve itself of its overall responsibility for the functions delegated to the Finance and Grants Committee.

(6) The terms of reference of the Finance and Grants Committee may also include the following:

- (i) determination of appropriate measures to safeguard the Commission's assets;
- (ii) review of financial results;
- (iii) review of quarterly, half-yearly and annual financial statements of the Commission, prior to their approval by the Members of the Commission, focusing on:

- (a) major judgment areas; significant adjustments resulting from the audit; and
- (b) any changes in accounting policies and practices.

(7) The Finance and Grants Committee shall appoint a Secretary of the Committee, who shall circulate minutes of its meetings to the all Members of the Commission, members of the Committee, Executive Management Team, Directors and the Chief Financial Officer, within fourteen days of the meeting. Internal Auditor of the Commission may be appointed as the Secretary to the Committee.

12. The Performance Review Committee

(1) The Members of the Commission shall establish a Human Resources Committee, a majority of whose members, including its chairman, shall be from the non-official members. The head of the Human Resources department of the Commission shall be one of its members and shall attend all of its meetings.

(2) The Human Resources Committee shall meet at least once each quarter. The Members of the Commission shall determine the terms of reference of the Human Resources Committee in writing, and shall specify its mandate. The Human Resources Committee shall have full and explicit authority to investigate any matter within its terms of reference and shall be provided with adequate resources and access to all relevant information.

(3) The Human Resources Committee shall, inter-alia, be responsible for recommending to the Members of the Commission the appointment of the Chief Executive Officer, the Chief Financial Officer and other senior management personnel. It shall consider any questions of resignation or removal of senior management; their compensation packages, benefits; tenure and performance evaluation. In the absence of strong grounds to proceed otherwise, the Members of the Commission shall act in accordance with the recommendations of the Human Resources Committee in all these matters. However, the Members of the Commission shall not be deemed to absolve itself of their overall responsibility for the functions delegated to the Audit Committee.

(4) The terms of reference of the Human Resource Committee may also include the following:

- (i) implementation of the Human Resource management rules
- (ii) determination of the organizational structure of the Commission;
- (ii) review of annual performance of senior management;
- (iii) review and recommendation regarding the human resource needs of the Commission;

- (iv) annual increments, performance bonuses; training requirements and other pecuniary matters regarding the human resource employed by the Commission;
- (v) develop a formal and transparent procedure for fixing the remuneration packages of directors and employees. No employee shall be involved in deciding his own remuneration. The remuneration packages shall encourage value creation within the Commission. These shall be subject to prior approval of the Members of the Commission. Levels of remuneration shall be sufficient to attract and retain the employees needed to run the Commission successfully.

(7) The Director Business Support Services of the Commission will be the Secretary to the Committee, who shall circulate minutes of its meetings to the all Members of the Commission and the members of the Committee, executive management team and the Directors within fourteen days of the meeting.

13. Technical Advisory Committee

(1) The Technical Advisory Committee shall be formed by the Commission and shall operate in accordance with the provisions of the Act. The Commission may formulate several technical committees including Complaints and Patients' Rights Committee and Clinical and Performance Audit Committee etc.

14. Technical Committess To be constituted on need base/temporary/permanat to provide support in the functions of the commission as spelled out in the Act.

(i)The Complaints and Patients' Rights Committee will focus on providing advice on matters pertaining to complaints lodged from time to time and will also aim to work closely with the Communications team of the Commission to help improve the awareness of the beneficiaries about the grievance redress system of the Commission. This Committee will comprise of the Members of the Commission and may also co-opt members from outside the Commission, based on a specific criteria set out for this purpose by the Commission. The Director Complaints Management and Patients' Rights will be the Secretary to this Committee.

15. Continuous Quality Improvement Committee will focus on setting and reviewing standards for the quality of care, providing advice for the matters pertaining to licensing, certification and accreditation of healthcare establishments. This Committee can have members form among the Members of the Commission and can also co-opt members from time to time, based on a specific criteria set out for this purpose by the Commission. The Committee will also be responsible for capacity building of the HCEs. The Director Registration and Licensing shall be the Secretary to this

Committee. The Committee will meet at least once each quarter but can also meet more often as needed from time to time.

16. Performance evaluation

(1) The Members of the Commission shall monitor and assess the performance of senior management on a periodic basis, at least once a year, and hold them accountable for accomplishing objectives, goals and key performance indicators set for this purpose.

17. Related party transactions

(1) The details of all related party transactions shall be placed before the Audit Committee

of the Commission and upon recommendations of the Audit Committee, and the same shall be placed before the Members of the Commission for review and approval.

(2) The related party transactions which are not executed at arm's length price shall also be placed separately at each Commission meeting along with necessary justification for consideration and approval of the Members of the Commission on recommendation of the Audit Committee of the Commission.

(3) The Members of the Commission shall approve the pricing methods for related party transactions that were made on the terms equivalent to those that prevail in arm's length transaction only if such terms can be substantiated.

(4) Commission shall maintain a party wise record of transactions, in each financial year, entered into with related parties in that year along with all such documents and explanations. The record of related party transaction shall include the following particulars in respect of each transaction:

(i) name of related party;

(ii) nature of relationship with related party;

(iii) nature of transaction;

(iv) amount of transaction; and

(v) terms and conditions of transaction, including the amount of consideration received or given.

(5) Every member of the Commission, if he or his relative, is in any way, directly or indirectly, concerned or interested in any contract or arrangement entered into, or to be entered into, by or on behalf of the Commission shall disclose the nature of his concern or interest at a meeting of the directors.

(6) Any other officer (including the Chief Executive Officer and other executives) of the Commission, if he or his relative, is in any way, directly or indirectly, concerned or interested in any proposed contract or arrangement by the company shall disclose to the Commission through a communication to the Chief Financial Officer, the nature and extent of his interest in the transaction. Such officer and the Commission shall ensure that such information is properly placed and considered by any forum where the matter relating to such proposed contract or arrangement is to be discussed and approved.

(7) If a member or officer has an existing interest, before joining the Commission, s/he shall disclose such interest to the Members of the Commission, which shall take such facts into consideration for any current and future decision making.

18. Appointment and supervision of senior management of the Commission

(1) The Chief Executive Officer of the Commission shall be responsible for the management of the Commission and for its procedures in financial and other matters, subject to the oversight and directions of the Members of the Commission, in accordance with the Act. His responsibilities include implementation of strategies and policies approved by the Members of the Commission, making appropriate arrangements to ensure that funds and resources are properly safeguarded and are used economically, efficiently and effectively and in accordance with all statutory obligations. The qualifications of the Chief Executive Officer shall be as enumerated in the Act. He shall act as the secretary to the Commission. In this capacity, he shall ensure that the minutes are duly taken, recorded and circulated to the Members of the Commission either by the Chief Executive Officer himself or his nominee, no later than fourteen days after a meeting of the Members of the Commission.

(2) The Chief Financial Officer shall be responsible for ensuring that appropriate advice is given to the Members of the Commission on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control. No person shall be appointed as the Chief Financial Officer of the Commission unless he is a member of a recognized body of professional accountants with at least ten years relevant experience; and holds a relevant degree from a university recognized by the Higher Education Commission.

(3) The Chief Financial Officer shall also be responsible for ensuring that Commission procedures are followed, and that all applicable laws, rules and regulations and other relevant statements of best practice are complied with. The Chief Financial Officer shall attend all meetings of the Members of the Commission, provided that the Chief Financial Officer shall not be deemed to be a member or entitled to cast a vote at meetings of the Members of the Commission. Provided further that he shall not attend such part of a meeting of the Members of the Commission, which involves consideration of an agenda item relating to them or that relating to the Chief Financial Officer.

19. Internal Audit

- (1) The Internal Auditor, who shall head of the internal audit function of the Commission, shall be accountable to the Audit Committee and have unrestricted access to the Audit Committee.
- (2) No person shall be appointed to the position of the internal auditor unless he is considered and approved as "fit and proper" for the position by the Audit Committee. No person shall be appointed as the Internal Auditor of the Commission unless he has at least ten years of relevant audit experience; is a member of a recognized body of professional accountants; or of certified internal auditors; or certified fraud examiner; or certified internal control auditor; and a person holding a relevant appropriate degree from a university recognized by the Higher Education Commission.
- (3) The Commission shall ensure that internal audit reports are provided for the review of external auditors. The external auditors shall discuss any major findings in relation to the reports with the Audit Committee, which shall report matters of significance to the Members of the Commission.
- (4) The internal audit function shall have an audit charter, duly approved by the Audit Committee and shall work, as far as practicable, in accordance with the standards for the professional practice of internal auditors issued by the Institute of Internal Auditors Inc., (the global professional organization of internal audit profession).

20. External Auditors

- (1) The accounts of commission related to annual grant in aid given by the government in lieu of services rendered by the commission to the public institutions will be audited by the Auditor general of Pakistan or his representative.
- (2) The Members of the Commission shall appoint a reputable external auditor to audit the Commission's annual accounts, being a corporate body. When carrying out audit the external auditors shall take into account the specific requirements of any other relevant regulations, ordinances or ministerial directives which affect the audit mandate and any special auditing requirements. In assessing materiality, the external auditor must, in addition to exercising professional judgment, consider any legislation or regulation which may impact that assessment.
- (3) The external auditors shall report to the Members of the Commission and Audit Committee the matters of audit interest, as laid down in the International Standards on Auditing. The external auditor shall furnish a management letter to the Members of the Commission not later than thirty days from the date of the audit report.

(3) The external auditor shall be a firm of auditors which itself or its concerned partner shall be compliant with the International Federation of Accountants Guidelines on Code of Ethics, as applicable in Pakistan.

2 Registration and Licensing Regulations

In exercise of powers conferred under Section 32 of the Khyber Pakhtunkhwa Healthcare Commission Act, 2015, the Commission is pleased to make following regulations:

CHAPTER 1

INTRODUCTION

(1) Short Title and Commencement: (1) These regulations may be called the Khyber Pakhtunkhwa Health Care Commission Registration, Licensing and Complaints Management regulations, 2016.

(2) These regulations should extend to all healthcare establishments of Khyber Pakhtunkhwa both in the Public and Private sector.

(a) owned, managed or administered by Government or non-profit organizations, charities, trusts, corporate sector or by any person, or group of persons incorporated or not; and

(b) operated and managed under allopathic system, complementary and alternative medical treatment system recognized in Pakistan.

(3) These regulations shall come into force at once.

(2) **Definitions:** In these regulations, unless there is anything repugnant in the subject or context, the following terms shall have the meanings given as under

- a. "Act" means Khyber Pakhtunkhwa Health Care Commission Act, 2015.
- b. "Applicant" means healthcare establishment and / or healthcare service provider who has applied for license or its renewal as the case may be.
- c. "Employee" means such service providers who have been rendering services at the Healthcare Establishments, including but not limited to doctors, consultants, nurses, paramedics and administrative staff, whether serving under written or un-written agreement(s) for service or of service.
- d. "Fee" means the amount of money fixed by the Commission of Khyber Pakhtunkhwa Health Care Commission for the purposes of granting registration and licenses to Healthcare Establishments keeping in view factors, including but not limited to, the services to be rendered thereat, their bed strength as well as for the purposes of servicing the provisions of the Khyber Pakhtunkhwa Act, 2015 and includes such additional fee(s) as fixed by the

Members of the Commission, from time to time, for the particular purpose(s), specified herein.

- e. "Licensee" means any person or Healthcare Establishment who holds a regular license issued by the commission
- f. "Quality Assurance and Compliance Committee" means such a Committee as is established by a Healthcare Establishment and/or Healthcare Service Provider, as the case may be, and entrusted with the responsibility and capacity to ensure compliance with the governing law and the instructions, corrective orders issued by the Commission in accordance with the Act and Rules/regulations.
- g. "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.
- h. "Regulations" means Khyber Pakhtunkhwa Health Care Commission Licensing Regulations, 2016.
- i. "Standards" means the standards set by the Commission for the primary and secondary level of care and any other standards, manuals etc. as set out by the Commission from time to time.
- j. "Aggrieved person" means a patient/client who is not satisfied with the services rendered to him/her by the Healthcare Establishment and includes his next of kin or any other person duly authorized by him.
- k. "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 word "Case" and "Complaint", as the context may require, are being used interchangeably in these Rules.
- l. "Case Worker" includes any competent authority or an officer of the Commission who is authorized to investigate and/or process complaints.
- m. "Complainant" means any "aggrieved person" or "aggrieved Healthcare Service Provider" who makes a Complaint to the Commission
- n. "Complaint" means grievance occurring in respect of any of such instances, including but not limited to, those as contained in Rule 47 and submitted by an Aggrieved Person or an Aggrieved Healthcare Service Provider or any information brought into the knowledge of the Commission through a third source, as the case may be.
- o. "Expert" means a person with appropriate 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.
- p. "False Complaint" means a frivolous Complaint made with an intention to harass, defame, embarrass and/or to pressurize the party complained against and is so roved to be false, after the investigation by the Commission.

- q. "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 involved parties to reach a settlement of the complaint under review.
 - r. "Inspection" means but is not limited to the process of examining any apparatus, appliance, equipment, instrument, product, goods, food supplies, systems or items used or found in, or any practice or procedure being carried out or otherwise connected with fulfilling the requirements as set out in the Standards to ensure quality of care, at a Healthcare Establishment.
 - s. "Maladministration" means poor or failed administration by a Healthcare Establishment and includes
 - i. A decision, process, recommendation, act of omission or commission, which is contrary to law, rules, is a departure from established practice or procedure, unless it is bonafide and for valid reasons; is pervasive, arbitrary, or unreasonable, unjust, biased, oppressive, or discriminatory; or is based on irrelevant grounds;
 - 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 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.
 - t. "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.
 - u. "Medical Record" including but not limited to, comprehensive medical history, examination(s), investigation(s) and treatment of the patient/client along with the progress notes.
 - v. "Notice" means any information communique sent to a concerned party by the Competent Authority or Case Worker or any authorized officer, as the case may be.
 - w. "Penalties" mean such penalties as may be prescribed by the Commission from time to time under the provisions of the Act.
- (3) 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 developed and issued by the Commission, from time to time, for achieving the purposes of the Act.

CHAPTER 2

DIRECTORATE OF REGISTRATION AND LICENSING

- (4) **Licensing Management System:** (1) The Commission shall have an internal Registration and Licensing Management System under the Directorate of Registration and Licensing for registration and licensing, renewal, cancellation and suspension of registration and of license of healthcare establishments and performing such other tasks for the purposes of ensuring that the healthcare services are rendered in accordance with the provisions of the Act, Rules, Standards, Reference Manuals and corrective orders etc.
- (2) All Healthcare Establishments/Healthcare Service Providers, as the case may be, shall establish their own Quality Assurance and Compliance Committees for the purposes of interacting on their behalf with the Commission and shall be responsible for all steps involved in the process of being registered and obtaining the requisite license.
- (3) The Quality Assurance and Compliance Committee of the Commission may consist of one member or more, as considered appropriate by the Members of the Commission, keeping in view the size and capacity of Healthcare Establishment. Such a Committee should be duly authorized to undertake and/or commit to the Directorate/Commission, as the case may be, for ensuring compliance with the Act and these Rules, on behalf of the said Healthcare Establishment.
- (5) **Decisions by the Members of the Commission:** Any HCE or representative thereof having concerns with the processing of the registration and licensing matters can file a dispute to be addressed by the Members of the Commission, which will be resolved by the Members of the Commission in meetings.
- (6) **Decisions by Directorate of Registration and Licensing:** Except for the matters as specified in the Rule 5, all other matters pertaining to registration, inspection and licensing shall be decided by the Directorate of Registration and Licensing.

CHAPTER 3

REGISTRATION AND IMPLEMENTATION

- (7) **Responsibility for compliance.** (1) It shall be the responsibility of every new private Healthcare Establishment/Healthcare Service Provider to apply for Registration to the Commission through the Directorate of Registration and Licensing within the time as set out by the Commission.

(2) The public sector Healthcare Establishment shall be considered as registered Healthcare Establishment and regulated by assessment for Licensing in accordance with the Rules for Licensing under Chapter 4 and 5 of these Rules.

(3) A Healthcare Establishment already registered under the Khyber Pakhtunkhwa Medical and Health Institutions and Regulation of Health Care Services Ordinance, 2002 (Khyber Pakhtunkhwa Ord. No XLV of 2002), shall register itself under Khyber Pakhtunkhwa Health Care Commission Act, 2015 and shall renewed its registration in accordance with the provisions of the Act and Rules.

(8) Unregistered Healthcare Establishment/Healthcare Service Provider. An unregistered Healthcare Establishment/Healthcare Service Provider found to be providing healthcare services without having applied for Registration, shall be liable to pay a fine, which may extend up to Rupees Five Hundred Thousands (Rs. 500,000/-).

(9) Application for Registration. (1) Every existing Healthcare Establishment/Healthcare Service Provider shall apply for registration with the Commission in accordance with the registration forms as specified by the Commission from time to time.

(2) The Commission if it deems appropriate may combine the application form for Registration and Licensing. The healthcare establishment would get a receipt of acknowledgement on receiving the Application for Registration and Licensing.

(3) Every new private Healthcare Establishment/Healthcare Service Provider shall, either prior to commencement of operations or as soon as such a provider is registered with Pakistan Medical and Dental Council, Council for Tibb, Council for Homeopathy or Nursing Council, whichever is earlier, apply for registration with the Commission, in accordance with the form specified by the Commission.

(4) All the public sector Healthcare Establishments shall be considered as registered Healthcare Establishment and regulated by assessment for Licensing in accordance with the Rules for Licensing under Chapter 4 and 5 of these Rules.

(5) The Directorate of Registration and Licensing shall maintain a register of all the Healthcare Establishments/Healthcare Service Provider providing healthcare services in the province of Khyber Pakhtunkhwa containing such details and information as considered necessary by the Commission. This will include but will not be limited to the employees, equipment, facilities, etc.

(6) The Director of the Directorate of Registration and Licensing shall be the competent authority to issue Registration Certificate under the provisions of the Act and these Rules.

CHAPTER 4

LICENSING AND IMPLEMENTATION

- (10) **Compliance Responsibility.** It shall be the responsibility of every Healthcare Establishment, either in the capacity of being an Applicant or a Licensee, as the case may be, to apply for License in accordance with the provisions of the Act and these rules.
- (11) **Application for Licenses.** The healthcare service provider shall make an application for a license to the Commission in the prescribed form which shall be accompanied by such particulars, documents and fees as the Commission may prescribe.
- (12) **Combined application for Registration and License.** (1) The Commission if it deems appropriate may combine the application form for Registration and Licensing. The healthcare establishment would get a receipt of acknowledgement on receiving the Application for Registration and Licensing.
- (2) The HCE shall be visited for the purposes of inspection by the HCC any time within 6 months or any other timeline as deemed appropriate by the Commission, from the date of receipt of the application form for Registration and Licensing.
- (13) **Unlicensed Healthcare Establishments.** No person, including but not limited to association of persons, authority, body, company, corporation, firm, individual, partnership, proprietorship or other entity, nor any Government, or Local Government shall establish, operate, conduct and/or maintain, as the case may be, in the Province of Khyber Pakhtunkhwa, any Healthcare Establishment for human beings without a License issued by the Commission in accordance with the criteria laid down by the Commission for Licensing.
- (14) **License not transferrable.** A License issued under these rules shall neither be assignable or transferrable, unless a written permission is granted by the Commission, in accordance with these rules, with reasons recorded in writing, pertaining to issues of merger, acquisition or change of proprietorship of the HCEs.
- (15) **Display of License.** A License issued by the Commission shall be visibly posted at the Healthcare Establishment at a prominent location.
- (16) **Types of Licenses.** (1) A *Provisional License* shall be issued by the Commission to such an Applicant whose application is complete in all respects, in accordance with the provisions of the Act and Rule 11 of these Rules.

(2) A *Conditional License* shall be issued by the Commission to such an applicant who has already been granted a Provisional License and, after the inspection, has achieved overall compliance of 60% or more (aggregated score) provided no indicator score is less than 50%.

(3) A *Regular License* shall be issued by the Commission to such an Applicant whose application is accepted by the Commission after inspection and finding that the Applicant fully complies with the provisions of the Act, Rules as well as the standards specified by the Commission. The Regular License will be time bound and the Commission will prescribe the term from time to time.

(17) Licensing Procedure. (1) A Healthcare Establishment shall apply for a License on the prescribed form and relevant documents. Either prior to the commencement of the operation of a Healthcare Establishment, or six (6) months prior to the expiry of the existing License, the Applicant must file an application for License or renewal thereof, as the case may be, on the Forms specified by the Commission

(2) The Commission shall, on receipt of an application, complete with all required documents under Rule 11, issue a provisional license to the healthcare establishment and shall prepare a plan for inspection.

(3) The Commission, before issuing the Regular or Conditional License, will inspect the healthcare establishment, which is to be licensed, or cause such healthcare establishment to be inspected by an inspection team.

(4) Applicants must demonstrate satisfactory evidence of compliance with all the laws and the rules as applicable in this regard, from time to time.

(5) The Applicant shall retain a copy of the application and its attachments as submitted to the Directorate of Registration and Licensing.

(6) The Commission will have the right to seek further information before issuing a Provisional License.

(7) A Regular or the Conditional License, as the case may be, based on the inspection of the Healthcare Establishment by the Commission, must be issued within time as may be fixed by the Commission, from the date of acceptance of the application. The Applicant will inform the Commission about the fulfilment of the condition after which the Commission will undertake an inspection and then issue a Regular License.

(8) The Commission may reject the Application for License or its renewal, as the case may be, if, despite Notice issued by the Directorate, the Applicant fails to provide the requisite information and/or supporting documents required by the Directorate, within the timeline given by it.

(9) An Applicant whose application has been rejected, may re-apply after complying with all the requisite requirements, as prescribed. The inspection process will have to be undertaken before the license can be issued.

(10) Subject to categories and timelines for the initial Licensing as laid down by the Commission, an unlicensed Healthcare Establishment shall be liable to pay a fine, which may extend up to Rupees Five Hundred Thousand (Rs. 500,000/-), if found to be providing healthcare services without having applied for the requisite License or without having a License, as the case may be.

(18) **Refusal to issue a License.** The Commission may refuse to issue a License to the Applicant if it finds misrepresentation, materially incorrect or insufficient information on the application, or the premises does not meet the requirements for issuing a license.

(19) **Term of Licenses.** (1) The term of the Provisional License shall be for a period of six (6) months, within which time the HCE shall upgrade itself to meet the standards set by the HCC and request for inspection for the Regular License. In case the HCE cannot meet the Standards within six months, it may seek extension in the term of the Provisional License for another three months. Failing to meet this timeline, the HCE will not be allowed to operate and the HCC may seal the HCE altogether.

(2) The term of the Conditional License shall be for a maximum period of six (6) months within which the Healthcare Establishment shall be responsible to become fully compliant with the Act, Rules, the Standards and the necessary orders passed by the Commission in this regard. In case the HCE cannot meet the Standards within six months, the HCC may fully or partially seal the HCE, depending on the nature of the Condition.

(3) For the purposes of issuance of the Regular License to the Healthcare Establishment which has been given Conditional License on initial inspection, shall only be entitled to have a maximum of three (3) inspections within the period of six (6) months.

(4) If the Healthcare Establishment holding Conditional License fails to get a Regular License in the period prescribed in sub-rule 3 of the Rule 19 of these rules, the Conditional License shall be withdrawn and the said Healthcare Establishment shall be deemed to have Provisional License and the HCC may fully or partially seal the HCE, depending on the nature of the Condition, and / or impose fines and penalties as deemed appropriate.

(5) If the Healthcare Establishment fails to qualify for a Regular License in a period of one (1) year, following inspections by the Commission, the Commission will have the powers to pass directions regarding the cessation of services and closure of the said Healthcare Establishment and imposition of fines and penalties.

(6) A Healthcare Established closed by the Commission under the provisions in sub-rule 5 of the Rule 19, may re-apply for the License after an undertaking on Affidavit that it has met the requisite standards as identified by the Commission, upon which an inspection will be commissioned by the HCE and the licensing process will be followed ab initio.

(7) The Regular Licence issued to the Healthcare Establishment shall be valid for a fixed period of five (5) years. The Applicant, to whom Regular License has been issued, shall re-apply for Renewal six (6) months prior to the completion of the five (5) year period.

(8) The Healthcare Establishment completing the five (5) year period of Regular License, will be inspected and re-assessed. If the Commission concludes on re-assessment that the said Healthcare Establishment does not meet the requisite Standards, the Commission may issue Conditional Licence as deemed appropriate, to the Applicant. Upon renewal of the Regular License, its term shall be for a period of five (5) years from the date of renewal.

(20) Geographical Specification of the License. (1) The License issued by the Commission shall only be for the premises identified in the application.

(2) Healthcare Establishments operated by the same Applicant or Licensee on different grounds (Geographically apart) shall have separate Licenses which are to be applied separately.

(3) One License shall be issued to the Applicant or Licensee who has separate facilities located in physically separated structures on the same ground (within the same boundary wall).

(21) Specifications of the License. Any kind of License shall specify the following clearly but is not limited to:

(1) Name of the Healthcare Establishment;

(2) Name(s) of the owner;

(3) The location and address of the building(s);

(4) The total number of beds;

(5) The effective date, Type and Term of License as specified in the Rule 16 and 19 of these Rules;

(6) The services being provided at the Healthcare Establishment

(7) The name of the Chief Executive Officer / Administrator / Manager of the HCE (if different from the owner)

(8) The name of the Complaints Officer of the HCE with the phone number and email for receiving complaints

(22) Changes in scope of services, structures and ownership of the Licensed Healthcare Establishments. (1) Any change in the Licensed capacity including but not limited to the services rendered at the already Licensed Healthcare Establishment, shall not be implemented without the Applicant or the Licensee having prior written approval, permission and/or the requisite License for the same from the Commission, as the case may be.

(2) Any change in the structure/construction or new construction, addition or alteration in any manner, as the case may be, shall got approved from the competent authority and notified to the Commission. This does not apply to minor alterations and the routine maintenance and repairs that do not affect the scope of the services and the primary functional operations or the number of beds.

(3) Any change in the ownership of the private Healthcare Establishments and change of in-charge, administrator or the Chief Executive Officer (in case of the public sector facilities), must be reported to the Commission as soon as possible but within 30 working days.

(4) Any change in the personnel in terms of their qualifications, competencies or departing from / joining the HCE must be reported to the Commission as soon as possible but within 30 working days.

(5) An amended license shall be issued in this regard by the Commission on application of the Applicant, on terms and conditions as deemed appropriate by the Commission, including but not limited to payment of additional fee(s) as fixed by the Commission, for the said particular purpose(s), from time to time.

(23) Verification by the Commission. (1) Before issuing a Regular License, the Commission shall verify or require the verification of the following;

(i) Approvals regarding construction documents

(ii) Approvals/certifications from other related authorities, including but not limited to the fire and environment etc, as the case may be;

(iii) Application to be complete in all respects;

(iv) Deposit of full License Fee;

(v) Compliance with the instructions issued after the on-site survey conducted by the Commission or the Inspection Team, as the case may be;

- (vi) Compliance with the Act, Rules, Standards, any instructions and/or corrective orders passed by the Directorate of Registration and Licensing or the Commission, as the case may be, while processing and/or considering the Application keeping in view the survey and/or the inspection report, as the case may be.
- (2) The Commission shall also review the Annual Healthcare Establishment Update Information documentation and on its acceptance, issue the Regular License.
- (i) Details of all the employees, who are and/or have been rendering services at the Healthcare Establishment during the last one year from the date of Application for issuance of License.
- (ii) Any other information relating to the working of the Healthcare Establishment, as considered necessary or appropriate by the Directorate for the purposes of enhancing clinical governance.
- (3) The Commission may deny to issue or renew a License when it finds that the Applicant has failed or refused to comply with the provisions of the Act and/or these Rules, as the case may be, for the purposes of obtaining the said License.
- (24) Amending, Modifying or refusing to renew a License.** The Commission may Amend, Modify or refuse to renew a License in accordance with the Act, Rules, Standards, Reference Manual and/or instructions or directions passed by the Commission, as the case may be, for reasons to be recorded in writing, setting out which requirements have not been fulfilled by the HCE.
- (25) Grounds for Suspension and/or Revocation of License.** The Commission may revoke and/or suspend a License in accordance with the provisions of the Act and these Rules. The Healthcare Establishment whose License is suspended or revoked may re-apply for the License after an undertaking on Affidavit that it has met the requisite standards as identified by the Commission, upon which an inspection will be undertaken before the License can be issued by the Commission.
- (26) Emergency Suspension of service(s).** If the Commission at any time, on inspection of a Healthcare Establishment, observes that a particular condition(s) can be an immediate threat to the health and safety of the patients at the Healthcare Establishment, or lead to an emergency, the Commission by its duly authorized employees may, issue orders for emergency suspension of such services or facilities as deemed appropriate by the Commission and adjust for the duty of care of any patients under treatment in that healthcare establishment.
- (27) Cancellation of the Conditional License.** The Commission shall have the powers to cancel the Conditional License, if the Healthcare Establishment fails to meet any of the condition(s), instructions directions etc issued by the Commission, upon personal service of the written notice to the Applicant, or, if the Applicant

cannot be reached for personal service, by personal service to the person in charge.

(28) Sealing/De-sealing of the Healthcare Establishment. The Commission shall have the powers to seal a Healthcare Establishment if it finds that the Healthcare Establishment has violated the Act, Rules, Standards, Reference Manual and/or instructions or directions passed by the Commission, as the case may be, despite notices by the Commission. The Healthcare Establishment may re-apply for the License after providing an undertaking on Affidavit that it has met the requisite standards as identified by the Commission, and the Commission after verification on inspection of the sealed Healthcare Establishment, shall decide on de-sealing of the said Healthcare Establishment.

(29) Hearing opportunity for the Healthcare Established before cancellation of License. Before passing the orders for cancellation of the Conditional or the Regular License, the Healthcare Establishment shall be given the opportunity of being heard.

(30) Appeals. (1) Any person who is aggrieved by any order of the Commission including the

- (a) Refusal of the Commission to issue or renew a license;
- (b) Decision of the Commission to suspend or revoke a license;
- (c) Order of closing down of a Healthcare Service Provider or Healthcare Establishment, as the case may be, or making improvements in the Healthcare Establishment;
- (d) Order relating to equipments, apparatus, appliances, or other things at a Healthcare Service Provider or Healthcare Establishment;
or
- (e) Imposition of fine and penalties by the Commission.

may, within thirty days from the date of communication of the order of the Commission, prefer an appeal in writing to the District and Sessions Judge.

(2) Healthcare Service Providers shall provide legal aid to a person, working in the Healthcare Establishment, pertaining to the matters related to this Act.

(31) Building Lease and Plans. (1) In case, the building of the Healthcare Establishment is not owned by the Applicant or it is taken on lease, the Healthcare Establishment shall clearly show which party to the agreement is responsible for repair and maintenance of the property. The Commission shall be notified in five (5) working days of any changes to the lease agreement that may alter the responsibility for repair and maintenance, and compliance with these rules.

(2) For all practical purposes, the owner / administrator / manager / CEO of the HCE will be held responsible for ensuring that the conditions are met. In case, the conditions are not fulfilled, the Commission will have a right to take corrective action in terms of partially or fully closing down the HCE as appropriate.

(3) A set of building plan and specifications for each building used in the provision of the healthcare services, drawn to scale, must be provided to the Commission. Building plans and specifications for alteration in the physical environment or utilities of the Healthcare Establishment, that materially affect patient care, must be duly approved by the Competent authority and submitted to the Commission prior to the implementation of the proposed changes

(32) Number of Beds. The Healthcare Establishment must clearly indicate the number of beds for each of the service rendered or to be rendered, as the case may be. This information should be provided at the time of filing the application. The Application form should require these details from the HCE.

(33) Water supply and Sanitation. The Applicant or the Licensee must provide evidence that the water supply and Sanitation facilities at the Healthcare Establishment are in accordance with all the applicable laws, rules and regulations pertaining to water supply and Sanitation.

(34) Fire safety inspection. Prior to the issuance of the Regular License, and annually thereafter, the Commission must receive a written statement signed by the Competent authority (Civil Defence Officer or the Municipal Official designated to make fire safety inspections), to the effect that the premises comply with fire safety standards.

(35) Construction and Renovation. (1) Any construction of new buildings for occupancy as a Healthcare Establishment and/or additions, renovations, alterations or repairs of existing buildings must comply with the local laws and the copies of the relevant record in this regard shall be properly maintained by the Healthcare Establishment.

(2) Upon completion of the project and prior to occupancy, the following information must be received by the Commission before a license is issued;

(a) Architect's Letter of certification, as applicable, that the construction conforms to the certified drawings and specifications that were prepared according to the authorisation granted for the same by the Competent Authority.

(b) Approval from Fire Safety Department

(c) All such documentation evidencing that the requirements under the Act, Rules, Standards, Reference Manual, any other instructions or orders passed by the Commission have been fulfilled; &

(d) Copies of policies and procedures, contractual agreements, staffing plans, or material(s) necessary to ascertain compliance with these Rules

(36) Fees.

(1) The Registration and License fee(s) shall be as prescribed by the Commission, from time to time, and shall be non-refundable.

(2) The Registration and License fee is to be submitted along with the application for the Registration and shall be for a fixed period of five (5) years.

(3) The Healthcare Establishment granted with a Conditional License, shall pay the License fee as prescribed by the Commission.

(4) The additional fee(s) may be charged for every change(s) and/or amendments to a license(s) as prescribed by the Commission, from time to time.

(37) Laws and Codes. The applicant must provide evidence from the appropriate municipal or other relevant authorities, indicating compliance with all laws and/or codes, as the case may be, relating to the type of Healthcare Services for which the license is being applied for.

(38) Accreditation Credentials. A copy of the latest accreditation Certificate by an accrediting body, for any purpose, must be on file with the Commission, if the Applicant/Licensee has been so accredited.

CHAPTER 5

INSPECTION

(39) Inspections. (1) All inspections shall be carried out as prescribed under the Section 14 of the Act and these Rules. The Commission may, by order in writing, appoint an inspector or an inspection team to perform the functions and exercise the powers of the Commission in relation to inspections under the Act and these Rules subject to such conditions and limitations as the Commission may specify in this behalf.

(2) The inspections will be conducted for issuance, renewal and amendment of a License, on receipt of a compliant, for de-sealing a healthcare establishment or for suspected violation of the Act, Rules, Standards, Reference Manual, any other instructions or orders passed by the Commission.

(3) The HCC will inform the HCE about the dates of the inspection at least one week in advance in case of issuance or amendment of the license. But in cases of inspections carried out in response to a complaint or suspected violation of the Act, Rules, Standards, Reference Manual, any other instructions or orders

passed by the Commission, shall be carried out without any notice to the Concerned Healthcare Establishment.

(4) In case no complaint is received against a licensed HCE, or there is no other cause to undertake mid-term inspection, a Licensed Healthcare Establishment shall be inspected at least once in every three (3) years, unless otherwise decided by the Commission.

(5) **Statement of Deficiencies.** The Commission shall issue a statement of deficiencies as a consequence of determination that a deficiency, omission, or violation of the Act, Rules, Standards, Reference Manual, any other instructions or orders, including but not limited to a plan of correction, passed by it has occurred. The Commission shall also issue a timeline to comply with the same.

(6) **Remedial action.** The Commission may, in the event of deficiencies of the Healthcare Establishment, issue directions to implement its plan of action, or take additional corrective actions as specified by it.

(7) **Response of the Applicant/Licensee.** Within ten (10) days of receipt of the Statement of Deficiencies, the Applicant or the Licensee, may request for a meeting to provide evidence to dispute the findings of the Inspection Team, if the Applicant/Licensee disagrees with the Statement of Deficiencies by the Commission.

(40) **Inspection Team.** (1) The Commission will engage a team of qualified professionals as Inspectors who will report to the Director of Registration and Licensing. No inspection will be conducted by a single inspector under any circumstances.

(2) The Commission will draw upon a Panel of Experts including the renowned subject specialists comprising of the niche medical, surgery, allopathic, homeopathic, tibb, paramedical disciplines and will also include general engineers, equipment engineers, building engineers, legal experts who will be included in the inspection team to support the HCC Inspectors in verifying if an HCE fulfils the Standards and requirements as set out by the Commission. This Panel of Experts will not be permanent employees of the Commission but will be engaged as expert consultants and advisors on the basis of an agreed compensation / honoraria as decided by the Commission from time to time.

(41) **Right of Entry.** (1) An Application for a License or its renewal pursuant to these Rules would constitute a permission for complete acquiescence to any entry or inspection for which the license is sought in order to facilitate verification of the information submitted on, or in connection with, such an application.

(2) The Commission and/or any duly designated representative shall have the right to enter upon and into premises of the Applicant or a Licensee, as the case may be, pursuant to these Rules at any time without threat of injury, verbal

abuse, or harassment and in the spirit of mutual cooperation in order to determine the status of compliance with the Act, Rules, Standards, Reference Manual, any other instructions or orders passed by the Commission. In case any person tries to interfere with the inspection process, the Commission will have a right to impose a fine of Rupees 500,000/-.

(3) Right of Entry shall entitle Commission and/or its authorized personal full access to all the relevant records, documents and reports at the said premises, as required for the purpose of these Rules or other applicable law.

(4) Right of Entry gives the Commission authorization to copy records, documents and reports either manually or by photocopy unless otherwise protected by law, at no expense to the Commission.

(5) The Inspection Team may inspect any apparatus, appliance, equipment, instrument, product, goods or item used or found in, or any practice or procedure being carried out at a Healthcare Establishment or by a Healthcare Service Provider.

(6) Where, in the opinion of the Inspection Team, the use of any apparatus, appliance, equipment, instrument, product, goods or item; or the carrying out of any practice or procedure in a Healthcare Establishment, is dangerous or detrimental to any person therein or otherwise unsuitable for the purpose for which it is used or carried out, it shall immediately report the matter in writing to the Commission along with the necessary details. On receipt of report the Commission may act according to the provisions in the Act and these Rules.

(7) The Commission may impose a fine which may extend to fifty thousand rupees (Rs. 50,000/-) upon a health care establishment who,-

(a) Refuses or fails, without reasonable cause, to furnish any information to the inspection team;

(b) Gives any false or misleading information to the inspection team.

(c) Obstructs the authorised person in conducting the inspection for the purposes of the Act and as prescribe din the Rules.

(42) Except in the case of a prosecution for an offence under this Act, a member of the Inspection Team shall not be bound to give evidence in any proceedings in respect of, or to produce any document containing, any information which has been obtained from any Healthcare Service Provider or a Healthcare Establishment in the course of carrying out any investigation, inspection, enquiry or performing any duty or function under the Act and these Rules.

(43) A member of the Inspection Team shall not disclose any information at any forum which is contained in the medical record, or which relates to the condition, treatment or diagnosis, of any person, as may have come to his knowledge in the

course of carrying out any investigation, inspection, enquiry or performing any duty or function under the Act and these Rules unless allowed in writing by the Commission. In case the authorised officers undertake misconduct in his regard, they shall be processed against as prescribed in the Human Resource Management Rules and relevant policies of the Commission.

3 **Complaints Management and Patients' Rights Regulations**

CHAPTER 6

COMPLAINT MANAGEMENT SYSTEM

(44) **Complaint Management System.** (1) The Commission shall have a Complaints Management System under the Directorate of Complaints Management and Patients' Rights 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.

(2) The Members of the Commission may constitute a Committee on Complaints Management and Patients' Rights, if needed.

(3) All the Healthcare Establishments shall have their own complaint management system as prescribed by the Standards and the Reference Manual.

(4) The Commission may provide technical support to facilitate Healthcare Establishments in establishing their complaint management system, in the light of the Reference Manual.

(5) The Director of the Directorate of Complaints Management and Patients' Rights or his appointee shall be the Competent Authority to provide decisions in view of the recommendations received from the Complaints Management Committee or the Case Workers, as the case may be, after recording the reasons in writing, on the complaints received.

(6) The aggrieved party, Complainant or the Healthcare Establishment, as the case may be, may appeal to the Members of the Commission, if not satisfied with the decision.

(7) The aggrieved party may, within thirty days from the date of communication of the order of the Commission, prefer an appeal in writing to the District and Sessions Judge.

(45) **Registration of 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-rule 3 of the Rule 44 of these Rules.

(2) If the Complaint of the Aggrieved person is not addressed by the concerned Healthcare Establishment within thirty (30) days from the date of submission of the complaint, the Aggrieved person may make a Complaint to the Commission as provided in the Act,.

(3) Every Complaint should be accompanied by an affidavit, bearing signature or the thumb impression, as the case may be, and it should be duly notarized or attested by an authorized member of the staff of the Commission. The Affidavit should clearly indicate that the information provided in the Complaint are true to the best knowledge of the Complainant; no suit, appeal or any proceedings are pending in any court of competent jurisdiction regarding the complaint; no allegation in the Complaint is made without reasonable and justifiable ground(s) and without any malicious intent to defame, harass, embarrass and/or pressurize the party complained against.

(4) Every Complaint shall also be accompanied by a copy of the National Identity Card, address of the Aggrieved person, Medical records (if any), correspondence with the concerned Healthcare Establishment (if any) and other documents in support of the Complaint.

(5) In case the Complaint is proved to be false, the Complainant shall be liable to pay fine, which may extend to two hundred thousand (Rs. 200,000/-).

(6) The Khyber Pakhtunkhwa Healthcare Commission shall not entertain the complaint if

(a) It is not accompanied by the requisite affidavit as elaborated in the sub-rule 3 of the Rule 45;

(b) The complaint is anonymous or pseudonymous;

(c) The Complaint is time barred under sub-rule 2 of the Rule 45;

(d) The subject matter is sub-judice before a court of competent jurisdiction on the date of receipt of the complaint;

(e) The subject matter of the Complaint does not fall within the purview of the Act.

(46) Receipt and Registration of the Complaint. (1) The Commission after receiving the Complaint shall review it to decide on its maintainability in accordance with the Act and these Rules. If the Complaint is maintainable, the Directorate of Complaints Management and Patient's Rights shall issue acknowledge receipt to the Complainant and notices to the party (ies) complained against.

(47) Scope of Complaints. (1) The Commission may accept a Complaint regarding medical negligence, maladministration, malpractice or failure in provision of the healthcare services in accordance with the Act and these Rules.

(2) A Healthcare Service Provider or Healthcare Establishment may be declared guilty of medical negligence on one of the following two findings:-

(a) The Healthcare Establishment where a Healthcare Service Provider renders services does not have the requisite human resource and equipment which it professes to have possessed; or

(b) The Healthcare Service Provider or any of his associates do not possess the skills that they claim to possess, or they fail to exercise reasonable competence while rendering Healthcare Services.

(3) The recognized and known complications of a medical or surgical treatment are not considered as medical negligence.

(4) A complaint may be rejected in limine if the same is incompetent and/or is not maintainable under the Act and these Rules, or does not require any other investigation for any other reason in view of the Competent Authority.

(5) If the complaint has been rejected by the Competent Authority under sub-rule 4 of the Rule 47, the Complainant, may within thirty (30) days from the date of the receipt of the decision of the Competent Authority, being other than the Members of the Commission, may file a Representation before the Members of the Commission challenging the same.

(6) The decision of the Members of the Commission on the Representation shall be final.

(48) Severity of Complaint. (1) The severity of an act of medical negligence, maladministration, malpractice, or any other act or omission that resulted in compromised healthcare service will be categorized as

(a) Severe – which has resulted in or contributed to the death of the patient

(b) Moderate – which has resulted in or contributed to the permanent loss of function or a part of body

(c) Mild – which has resulted in or contributed to the temporary loss of function of a part of body, or it has delayed the process of recovery from a medical condition

(2) The Commission after ascertaining the severity of a Complaint as per provision in the sub-rule 1 of the Rule 48 of these Rules, may penalise the aggrieved Healthcare Establishment as below:

(a) For cases of severe and moderate nature due to gross negligence – A fine which may extend up to one million Rupees (Rs. 1,000,000/-)

and/or Closure of Healthcare Establishment or both with reference to the professional bodies for taking action under their rules and laws.

In cases where criminal negligence has been proved, the matter may also be referred for criminal proceedings under the PPC and CrPC (existing judicial system) .

(b) For cases of moderate nature/moderate negligence – A fine which may extend up to five hundred thousand Rupees (Rs. 500,000/-) and/or Closure of Healthcare Establishment.

(c) For cases of mild nature/mild negligence – A fine which may extend up to five hundred thousand Rupees (Rs. 500,000/-).

(49) Competent Authority for handling the complaints. (1) The following will be the competent authority in each type of complaint:

(a) For cases of severe and moderate nature – the competent authority will be the Director Complaints and Patients' Rights.

(b) For cases of moderate nature – the competent authority will be the Additional Director Complaints and Patients' Rights.

(c) For cases of mild nature – the competent authority will be the Assistant Director Complaints and Patients' Rights.

(2) The Competent Authority will dispose of a complaint by issuing a quasi-judicial speaking order, based on the principles of natural justice.

(3) The Competent Authority may seek help and advice from the Panel of Experts, depending on the type of the complaint, as the case may be. The Panel of Experts will provide non-binding advice in writing to the Competent Authority.

(4) The Competent Authority will be supported by Case Workers who will be permanent employees of the Commission and will be qualified professionals from the discipline of relevance to the operations of the Commission.

(5) The Case Workers will report to the Director of Complaints and Patients' Rights who will assign them to work on different cases of complaints for supporting the Competent Authority from time to time.

(50) General Welfare of the Public. (1) When the Commission is of the view that it would be in 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 Rules, 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 Competent Authority to do the needful.

(2) The Commission shall in all such matters take the same as Complaint and shall issue Notices to all the concerned parties directing them to submit their written response to the issue at hand.

(51) **Complaint Handling.** (1) For probing into a Complaint through its Complaints Management and Patients' Rights system, the Competent Authority may do it itself or entrust it to a Case Worker.

(2) 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.

(3) If the Case Worker concludes after initial meeting with the Complainant 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/she 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.

(52) **Response from Party(ies) complained against.** (1) In response of every complaint registered, a written response shall be asked from the party(ies) complained against to be filled within ten (10) working days from the date of notice issued to them, in this regard.

(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 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 the it's address and contact details and shall regularly attend the dates fixed for hearing by the Commission and understands that if it absents itself, for no sufficient reason despite three consecutive notices, or wilfully delays the proceedings of the Commission, then he/she shall be liable to pay the costs as awarded by the Commission and that the Commission shall decide Complaint as per the governing law;

(53) Hearing of Complaints. (1) The concerned party(ies) shall be served Notice for the purpose of 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) Prior to administering oath, every witness shall be 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 thumb impression on the written statement, as the case may be.

(5) The evidence placed on the record shall become the property of the Commission

(6) Every party shall the right to ask questions from the witness(es) of the other parties.

(7) The Case Worker or the Competent Authority may ask any question from any of the party or the witnesses or the Expert(s) for the purposes of deciding the issue involved in the matter.

(54) 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;

- collect evidence(s); or
- 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
- take sample(s) for evaluation; and/or
- make sketch(es) or take photographs.

(55) Consultation with Expert(s). (1) Opinions of the 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 and these Rules.

(3) The Expert(s) so appointed shall disclose his/her conflict of interest, if any, to the Competent Authority, as soon as he/she is 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.

(4) The expert opinion submitted to the Competent Authority shall be communicated to all the parties to the complaint.

(5) If any of the parties to the complaint are not satisfied with the expert opinion, it may either, submit his/her questions in writing to the Competent Authority for clarification by the same Expert(s) who provided the opinion, or apply to the Competent Authority to present the matter to other Expert(s) for second opinion. In such a situation, where a party apply to the Competent Authority for a second opinion, shall be liable to pay for the fee for the Expert(s) as determined by the Competent Authority.

(6) 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 have a second opinion in such a situation, then the party who submitted the written questions for clarification from the Expert(s), shall not be liable to pay for the second opinion.

(7) At the end of the written opinion of the Expert(s), there must be statement that

(i) the Expert(s) understands his/her duty to the Competent Authority;
and

(ii) he/they have complied with that duty

(8) In case there are difference of opinions between the Experts providing first and second opinion, the Competent Authority may direct that a joint meeting is held between the Experts, for the purpose to identify and discuss expert issues involved in the proceedings; and where possible, reach an agreed position on those issues.

(9) Following the discussion between the Experts, they must submit a statement to the Competent Authority showing those issues on which they agree; and those issues on which they disagree and summary of their reasons for their disagreement.

(10) The Competent Authority may appoint an Expert or panel of experts it deems necessary in cases where the disagreements between the Experts are of serious nature, in order to resolve the controversy. The opinion of such an Expert or panel of experts shall be final.

(56) **Confidentiality of the Information.** 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.

(57) **Powers to pass Interim Orders.** (1) Where in view of the allegations contained in the Complaint, 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 protect 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 the Healthcare Establishment;

(d) issue any directions to any other authority within the scope of the Act;

(e) pass any conditional orders relating to the manner in which the healthcare services are being delivered or to improve the healthcare delivery system at any given Healthcare Establishment;

(f) Communicate with the Pakistan Medical and Dental Council (PMDC), Council for Homeopathy, Council for Tibb, Pakistan 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.

(2) 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 to be submitted before it regarding the compliance of the same.

(3) The Competent Authority shall have the powers to issue, amend, alter, affirm or revoke any Interim Orders after hearing all the parties concerned in the matter, after due Notice.

(58) **Disposal of the Complaint.** The investigation of a 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 Complaint is not maintainable as per the provisions in the sub-rule 6 of the Rule 45 of these Rules;

(b) The complaint was found incompetent or proved false;

(c) The Complainant fails to provide evidence and/or record, in his possession, required to decide the Complaint within stipulated period of time or extension thereof;

(c) 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;

(d) The Complaint is withdrawn by the Complainant during the course of investigation with the approval of the Competent Authority

(e) Where decision of the Complaint is declared by the Competent Authority;

(f) Where the subject matter of the Complaint has already been adjudicated upon by a Court of Competent jurisdiction and there are no further steps required to be taken by the Competent Authority under the Act;

(g) Where the Competent Authority comes to the conclusion that such steps have been directed to be taken by the Healthcare Establishment for compliance thereof and that no further action is required on the part of the Commission, in the Public Interest.

(59) Report by Case Workers. (1) In all instances where a 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

(b) To present the case to the Complaints Management and Patients' Rights Committee constituted by the Members of the Commission for its recommendations, further instructions or the decision, if needed.

(2) The Complaints Management and Patients' Rights Committee if so desires or on the instructions of the Members of the Commission may order a case to be re-investigated and may also summon and hear parties in a meeting.

(60) Decision on Cases/Complaints. (1) The Competent Authority shall decide all the matters after recording reasons in writing.

(2) All the final decisions are to be taken by the Complaints Management and Patients' Rights Committee, through a process of voting.

The appeal against the decision of complaints management and patients' right committee will be made to the members of the commission, while the ultimate appeal against the judgement of HCC will be to the districts and session judge in accordance with the Act.

(3) 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.

Offence: (a) Reference clause 28 of the Act, Practice of Quackery is a non-bailable and cognizable offence. Quackery done by a person who does not qualify otherwise any provision of the Act shall be punished as explained in the Act. The said cases will be referred to first class magistrate for criminal proceedings.

(61) Executive Authorities to aid the Commission. All executive authorities shall aid the Commission pursuant to the provisions in the Section 27 of the Act, for

- (i) Compliance of the decision 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 Rules or the Act.

4 Human Resource Management Regulations

Short Title and Commencement:

1. These Regulations may be cited as the Khyber Pakhtunkhwa Healthcare Commission Human Resource Management Regulations 2016; and, these shall come into force at once.
2. These shall apply to the whole of KP including PATA.

Definitions

3. In these Regulations unless the context otherwise requires:
 - a. "Act" means the Khyber Pakhtunkhwa (KP) Healthcare Commission Act 2015;
 - b. "Chairperson of the Commission" shall mean the person appointed as Chairperson of the KP Healthcare Commission according to Section 6 of the Act;
 - c. "Commission" means the KP Healthcare Commission (HCC) established under Section 3 of the Act;
 - d. "Competent Authority" means an authority notified by the Commission from time to time;
 - e. "Financial Year" means the period from 1st July to 30th June both days inclusive;
 - f. "Government" means Government of the Khyber Pakhtunkhwa;
 - g. "Instruments" means Rules made by the Government and Commission approved Regulations made pursuant to the Act, and Commission approved Manuals made pursuant to the prevailing Regulations as periodically amended and or modified by the Members of the Commission;
 - h. "Management" means the Chief Executive Officer, Executive Management Team that includes individuals at the highest level of organizational management who have the day to day responsibilities of managing the HCC and hold specific executive powers, in accordance with the Act and Instruments;
 - i. "Regulations" mean all regulations made and /or approved by the Members of the Commission pursuant to the Act; duly notified, as amended and or modified by the Members of the Commission or with authority of the Members of the Commission delegated from time to time in accordance with the Act;
 - j. "Performance Period" means a period of one year from 1st January to 31st December for which an employee is given specific roles. In case of appointments during the calendar year, the performance period will be determined from the time of joining the HCC or otherwise notified by the Commission;

- k. "Selection Criteria" means a set of multi-indicator weighted criteria prescribed by the Commission for each position advertised by the HCC;
- l. "Selection Panel" means a Panel comprising of Members of the Commission and senior HCC personnel responsible for selecting candidates for the positions advertised by HCC;
- m. Words and expressions used but not defined in these Rules shall, unless the context otherwise requires, have the same meanings as assigned to them in the Act.

Recruitment

- 4. The HCC will have full powers to recruit personnel for the purposes of delivering the mandate of the Commission.
- 5. The recruitment will be based totally on merit, adopting a process of open competition and wider publicity.
- 6. HCC will be an equal opportunities employer without any discrimination based on religion, sex, caste, creed or ethnicity.
- 7. Individuals who have hiring responsibility have an institutional obligation to advance the standard of equal employment opportunity and the affirmative action goals of the HCC by conducting employment searches, which generate diverse pools of applicants from which qualified candidates, can be interviewed and selected.
- 8. HCC will set out the Job Description (JD) for each role before it is advertised along with selection criteria.
- 9. HCC will advertise each role widely. The recruitment to vacant posts will be made through newspaper adverts, HCC website, and internationally recognized and well-established web portals etc.
- 10. Upon receipt of applications, HR team will review the applications against the criteria and person specifications as set out in the JD and will screen the candidates on prescribed forms and will submit their reports to the Director Business Support Services.
- 11. A panel will be formulated for each role and the selection can be based on a variety of processes as deemed fit by the HCC, including interview, assessment centre, aptitude and personality testing etc. Interviews are best conducted in person but in exceptional circumstances can also be organised over Skype, videoconference or phone.
- 12. All hiring will be done through performance-based contracts, which will be reviewed regularly and will be extendable based on performance.
- 13. All personnel of HCC will have the right to apply for the higher position thus advertised. The personnel aiming to apply for a higher role will go through the same selection process as a new candidate and if the personnel of HCC qualify for the role based on the selection criteria, they can be given preference by the HCC for reasons recorded in writing.

14. Government employees can apply for the advertised roles and can be selected if they fulfil the selection criteria. However, they will have to be subjected to the same rigour of performance assessment.

Probation

15. A person appointed to any post in the Commission will be on probation for a period of 90 days on duty. On satisfactory completion of probation, the employment will be regularized.
16. If the services and performance of any individual is not satisfactory during the period of probation, the probation may be extended for a further period or the services of the individual can be terminated at the discretion of the appointing authority.
17. If after a lapse of six months, after completion of the period of probation, no orders are issued by the competent authority, it shall be deemed that the individual has completed the period of probation satisfactorily.

Training and Development

18. Induction training will be provided to all the newly recruited personnel by HCC.
19. HR team will devise an Induction Pack, which will include all the relevant information about the HCC for the role and will also organise for an induction workshop for the new hires.
20. Capacity building and regular training to enable the personnel stay connected with the state of the art developments in the field of healthcare regulation will be encouraged and the HCC will help organise or sponsor such capacity building opportunities for the personnel.
21. Foreign training courses can also be organised by the HCC for the personnel.

Performance Management

22. A robust performance management system will be set up by the HCC to create an organisational culture, which is based on an Environment of Continued Improvement.
23. The personnel will be given annual targets, which will be part of their annual work plan and their performance will be assessed against these targets at the end of each year.
24. The supervisor will devise these targets for the personnel at the start of the period and the targets will be devised upon detailed consultation with the employee. The employee will have the right to disagree with the targets assigned for reasons to be recorded in writing.
25. The supervisor will be responsible to ensure that all the required resources, which are integral for completion of these targets by the employee are provided to the personnel to enable them meet the assigned targets.
26. At the end of each period, the supervisor and the employee will engage in a consultative discussion about achievement of the targets. This will be an opportunity

to identify any systemic issues, which may be constraining achievement of targets or to identify areas of further training that may be required for the employee for improving their performance over the next period.

27. A mid year review is also encouraged, so that course corrections can be made without waiting till the end of the period.
28. The performance management system will be in-built with an incentive mechanism. The high performing personnel will be entitled to 'bonus' and reward, which will be prescribed by the Members of the Commission from time to time.

Performance Improvement

29. Performance improvement may be suggested whenever HCC management believes that an employee's performance is less than satisfactory and can be resolved through adequate counselling. Corrective counselling is completely at the discretion of the management.
30. The supervisor/manager will determine the course of action best suited to the circumstances. The steps in performance improvement are as follows:
31. **Verbal counselling** — As the first step in correcting unacceptable performance or behaviour, the supervisor/manager should review pertinent job requirements with the employee to ensure his or her understanding of them. The supervisor/manager should consider the severity of the problem, the employee's previous performance appraisals and all of the circumstances surrounding the particular case. Stating that a written warning, probation or possible termination could result if the problem is not resolved should indicate the seriousness of the performance or misconduct. The supervisor will document the verbal counselling in the employee's personal file, although the supervisor/manager may direct that the written warning be removed after a period of time, under appropriate circumstances.
32. **Written counselling** — If the unacceptable performance or behaviour continues, the next step should be a written warning. Certain circumstances, such as violation of a widely known policy or requirement, may justify a written warning without first using verbal counselling. The written warning defines the problem and how it may be corrected. The seriousness of the problem is again emphasized, and the written warning shall indicate that probation or termination or both may result if improvement is not observed. Written counselling becomes part of the employee's personnel file, although the supervisor/manager may direct that the written warning be removed after a period of time, under appropriate circumstances.
33. **Disciplinary Probation** — If the problem has not been resolved through written counselling or the circumstances warrant it, or both, the individual should be placed on probation. Probation is a serious action in which the employee is advised that termination will occur if improvement in performance or conduct is not achieved within the probationary period. The employee's supervisor/manager, after review of the employee's corrective counselling documentation, will determine the length of probation. Typically, the probation period should be at least two weeks and no longer

than 90 days, depending on the circumstances. A written probationary notice to the employee is prepared by the supervisor/manager.

Re-employment

34. Former full-time employees who were employed in a regular position for two or more years and who resigned in good standing, may be considered for re-employment provided their qualifications are suitable for a vacant position.
35. A former employee who is re-employed will be treated as either a new hire or a reinstatement.
36. Re-instatement will occur if re-employment occurs within six-months of the termination date.
37. A re-hire will occur if re-employment occurs after six-months from the date of termination.
38. The former employees will have to go through the same recruitment process as any new hire even in case of re-instatement.
39. The re-instatement will mean that the employee can get the salary it was last drawing with benefits (based on increments and bonuses etc.), which may be different in case of a new hire.

Benefits and Compensation

40. The personnel of HCC will be entitled to competitive, market based salary and benefits.
41. The Members of the Commission will not be treated as employees of the HCC, will not receive monthly salary but will receive honoraria as decided by the Members of the Commission from time to time.
42. The Commission will notify the compensation packages of the roles upon approval of the Members of the Commission and will review the same from time to time.
43. The Commission may decide to conduct market research to ascertain the salary bands for each tier of the personnel depending on the complexity and challenge of the JD and the terms of reference for the roles. Emphasis will be placed on monetising the customary perks of similar level of positions.
44. Benefits like group life and group medical insurance can be incorporated into the compensation packages.
45. Other benefits pertaining to pension and superannuation can be provided to the personnel of the HCC as prescribed by the Members of the Commission from time to time.
46. For the staff, which falls in the cadre of public sector Class IV equivalent, social health protection will be provided without receiving contributions from them, within limits as prescribed by the Members of the Commission from time to time.

47. Public servants will have the right to receive the HCC market salaries if they are recruited through a competitive process, as per the rules and notification prescribed by the government from time to time.

Leave

48. Casual Leave (CL) – Every employee of the commission is entitled to (one) 01 day casual leave for each thirty (30) days block of duty performed by him/her subject to a maximum of twelve (12) days of casual leave in one calendar year. CL can be prefixed/suffixed with all types of holidays / leaves. CL will not be carried forward to next calendar year and will lapse at the end of the ensuing calendar year.
49. Medical Leave (ML) – Medical leave of up to 15 days may be granted in one year, in case of sickness of the employee and not his / her dependants. Medical certificate from a Doctor would be required in case of absence of four days or more, availed at once. Medical leave may be combined with other leaves.
50. Earned Leave (EL) – EL is admissible to an employee at the rate of 1 /18 of the period spent on duty subject to a maximum of 15 days in a year. Earned leave can be prefixed /suffixed with other holiday / leaves. This leave will roll over to the next year, if not availed and can be encashed.
51. Leave without Pay (LWoP) – Confirmed employees who have completed their probation and have served for at least 3 years in the Commission, may seek leave without pay for up to 2 years. HCC will fill in their position on fixed term contracts with other individuals.

Misconduct

52. An employee found to be engaged in activities such as, but not limited to, theft of office property, insubordination, conflict of interest or any other activities showing wilful disregard of interests or policies of the HCC will be terminated as soon as the supervisor/manager and management team have concurred with the action.
53. Any employee who is terminated due to misconduct will not be re-employed again by the HCC.

Exit

54. Resignation – An employee of HCC who wants to terminate his tenure can do so upon serving a notice of not less than 30 days.
55. Termination – HCC may terminate an employee by serving a notice of 30 days. However, in cases where an employee's performance is not satisfactory or if he indulges into Misconduct, the HCC may terminate the employee's services with immediate effect.
56. Lay-off – the HCC may decide to lay off employees based on a variety of reasons as approved by the Commission from time to time. 30 days' notice will be served by the

Commission in case of laying off employees. If the circumstances require immediate termination, HCC will compensate the employees by paying equal to one month's full salary in advance.

Grievance Redress

57. If an employee feels aggrieved with a decision or action of the HCC, they can file a grievance before the Members of the Commission, which will be redressed according to regulations to be developed by the Commission, in the light of good practices, based on the principle of natural justice.

Conflict of Interest

58. Employees of the KP Healthcare Commission who act on its behalf have an obligation to avoid activities or situations, which may result in a conflict of interest or the appearance of conflict of interest.
59. Employees must not use their HCC positions to influence outside organizations or individuals for the direct financial, personal or professional benefit of themselves, members of their families or others with whom there is a personal relationship.
60. In case of any conflict of interest, it will need to be disclosed immediately.

Consulting and Other Outside Activities

61. HCC recognizes that all employees have expertise, talents, and knowledge, which have value to outside organizations — public and private. Association with outside organizations, if these do not pose any conflict of interest, can benefit the client or organization served, contribute to the professional growth and/or reputation of the employee as well as bring credit and goodwill to the HCC subject to the rules as set out by the Commission from time to time.

5 Financial Regulations

Short Title and Commencement

1. These Regulations shall be called the Khyber Pakhtunkhwa Health Care Commission Financial Management Regulations 2016.

Definitions

2. In these Regulations unless there is anything repugnant to the subject or context

- a) "Act" means the Khyber Pakhtunkhwa Health Care Commission Act 2015.
- b) "Appropriation" means the authorization to meet the specified expenditure of funds at the disposal of the assigning authority.
- c) "Assets" means property of any kind, having useful life of more than one year.
- d) "Bank" means the bank(s) approved by the Commission
- e) "Budget" means the estimated receipts and expenditures of the Commission for the Financial Year duly recommended by the Finance and Grants Committee of the Commission and passed by the Commission
- f) "CEO" means the Chief Executive Officer of the Commission
- g) "Commission" means the Khyber Pakhtunkhwa Health Care Commission.
- h) "Chief Financial Officer" means a person appointed as the Chief Financial Officer of the Commission and any officer subordinate to him who is authorized by the Chief Financial Officer in writing to exercise delegated authority
- i) "Financial Statements" means the Balance Sheet and the Income and Expenditure Account of the Commission for the financial year
- j) "Financial Year" means the period of 12 months commencing from the first day of July of the calendar year and ending on the 30th day of June of the following calendar year.
- k) "Finance & Grants Committee" means Finance and Grants Committee established under the KPHCC Act 2015.
- l) "Fund" means the Fund established under Section 24 of the Act
- m) "Internal Auditor" means the person appointed as the Internal Auditor of the Commission to perform internal audit of the Commission.
- n) "Internal Auditing" is an independent, objective assurance and consulting activity designed to add value and improve an organization's operations. It helps an organization accomplish its objectives by bringing systematic,

disciplined approach to evaluate and improve the effectiveness of the risk management, control and governance processes.¹

- o) "Recurring Expenditure" means expenditure which is incurred periodically.
- p) "Re-Appropriation" means transfer of fund from one account head to other head

Basic Principles of Accounting

3. These regulations are based on the following basic accounting principles.

3.1 Going Concern

The Commission is a statutory body established by the government, backed by an Act of the Provincial Assembly and is viewed as a going concern entity which means that the Commission will continue to operate indefinitely. Consequently, the assets of the Commission shall be recorded based on their original cost and not on the fair market value. Assets are assumed to be used for an indefinite period of time and not intended to be sold immediately.

3.2 Monetary Unit

All the financial transactions of the Commission shall be recorded in Pakistani Rupee. Thus any non financial information or non monetary information that cannot be measured in monetary units i.e. PKR will not be recorded in the accounting books of the Commission.

3.3 Historical Cost

The resources of the Commission acquired shall be recorded based on the cost of acquisition and not on the prevailing market value or future value.

3.4 Matching

For every revenue, recorded in the Commission's book, in an accounting period should have an equivalent expenses recorded, in order to show the true income of the Commission.

3.5 Accounting Period

The income and expenditure of the Commission shall be recorded over fiscal year of the government i.e. from July 01 to June 30.

3.6 Consistency

¹Official Definition of Internal Auditing by Institute Of Internal Auditors

The Commission; shall ensure that all the accounting procedures are applied consistently from one accounting period to other. This will allow fair comparison of financial information from one period to the other.

3.7 Objectivity

All the financial transactions of the Commission shall have proper and objective supporting evidence and documentation and all the financial recording of the Commission shall be performed with independence that's free of bias and prejudice.

3.8 Accrual

The Commission books will be based on the Accrual principal which means that the income of the Commission shall be recorded in the period in which it will earned, regardless of the fact when actual cash is received. Similarly, the expenses of the Commission will be recorded in the period in which expenses will be incurred regardless of the time that cash is paid.

Administration of the Fund

4. The Commission shall have a Fund set up under section 24 of the Act, to which the following amounts can be credited:

- 1) Such sums as Government may grant by way of seed money
- 2) Grant in aid in lieu of services rendered to public sector health care establishment
- 3) Donations from domestic and international donor agencies and other institutions
- 4) Grants of money and sums borrowed or raised by the Commission for the purposes of meeting any of its obligations or discharging any of its duties;
- 5) Fees, penalties or other charges imposed under this Act;
- 6) All other sums which may in any manner become payable to or vested in the Commission in respect of any matter incidental to the exercise of its functions and powers.

5. The Fund shall be expended for the purpose of:

- 1) Paying any expenditure lawfully incurred by the Commission in carrying out its functions and in exercising its powers under the Act.
- 2) Paying remuneration to employees appointed by the Commission, their provident fund contribution, superannuating allowances or gratuities.
- 3) Paying honorarium and reimbursable appropriate expenditures to the Members of the Commission, Committees of the Commission and the Panel of Experts engaged for assisting the Commission for fulfilling the functions of inspection, complaints management etc.

- 4) Acquiring land and erecting building, procuring machinery and equipment or any other material and carrying out any other work and undertakings in the performance of its functions or in exercising its Powers under the Act
- 5) Meeting the costs and charges of the contractors, inspection teams, advisors and consultants and agents hired by the Commission
- 6) Repaying any financial accommodation received or money borrowed under this Act and the profit, return or mark up or interest thereon and
- 7) Generally paying any expenditure for carrying out any provision of the Act
- 8) Public service advertisement and health care campaigns

6. Budgeting

- (1) The Commission's budget for each financial year shall be prepared by the Chief Financial Officer in the month of May every year. The Budget shall be presented before the Finance and Grants Committee for its consideration and recommendation to the Commission.
- (2) The Commission shall consider and approve the budget on the recommendations of the Finance and Grants Committee after affecting amendments if any.
- (3) The Commission may create, upgrade, re-designate and abolish posts on the recommendation of the Finance & Grants Committee.
- (4) All the revisions in the budget shall be considered and approved by the Commission.

7. Basis of Accounts

- (1) The accounts of the Commission shall be maintained according to the Accrual Basis of Accounting. The accounts shall be maintained in accordance to the Health Care Commission Accounting Procedures, Regulations and other instruments as shall be approved by the BOG.
- (2) The Chief Financial Officer of the Commissions shall be responsible for maintaining the books of accounts of the Commission.
- (3) The CEO of the Commission shall act as the Principal Accounting Officer of the Commission. The Commission shall appoint as many officers of the Commission as the Drawing and Disbursing Officer as it deem necessary for the purpose of carrying out the expenditures of the Commission.
- (4) In addition to the finance and accounts of the Commission, the Chief Financial Officer shall also be responsible for managing the Fund till such time a dedicated professional fund manager is appointed.
- (5) The Commission shall keep and operate separate bank accounts for employees' funds e.g. Pension Funds, General Provident Fund, Benevolent Fund.

- (6) All receipts from Government will be reconciled with AG regularly.

Main Books of Accounts

8. The Finance Section of the Commission shall maintain the following books of accounts
- i. Cash Book
 - ii. General Ledger
 - iii. Cheque Control Register
 - iv. Advance Register
 - v. Stock Register
 - vi. Subsidiary Ledgers

9. General Regulations

- (62) CEO will work as the Principal Accounting Officer, and will be responsible and accountable for management of the Commission funds and financial discipline.
- (63) The Funds belonging to the Commission shall be deposited in the Banks approved for the purpose by the Commission.
- (64) The Accounts shall be operated jointly by the Officers authorized by the Chief Executive Officer. The authorized bank signatory list and any amendment to the status of signatories will be communicated to the bank under the signatures of Chief Executive Officer.
- (65) The Chief Financial Officer shall prepare bank reconciliation statement monthly
- (66) All sums payable to the Commission shall be deposited either direct with the Bank of the Commission or sent to the Chief Financial Officer vide Pay orders or Bank Draft.
- (67) All moneys received in the Commission's office shall be acknowledged on the prescribed receipt under the signature of the Officer of the Commission. All moneys received will be recorded in the books of the Commission without any delay
- (68) Any person having a claim against Commission shall submit its claim along with all the supporting documents to the Finance Section of the Commission.
- (69) All such claims will be examined by the Finance Section for correctness, budget availability and its authority. If the claim will be found correct in all aspect then the Finance Section will prepare a payment voucher and submit it for the signature of Chief Financial Officer and the CEO
- (70) All payments shall ordinarily be made by crossed cheque or bank transfer.

- (71) A separate record of cheques being prepared shall be maintained by using cheque control register.
- (72) The Cheque books shall be kept under lock and key and in the personal custody of the authorized officer of the Commission.
- (73) When a cheque is cancelled, the reason for cancellation shall be recorded on the counterfoil of the cheque.
- (74) Cancelled cheques shall be carefully preserved until the accounts for the financial year have been audited
- (75) If a cheque is lost or destroyed, an intimation of the fact shall be given to the bank immediately and its payment will be stopped and a new cheque will be issued and its number will be recorded on all the supporting documents
- (76) All payment vouchers shall be serially numbered and filled separately for each month.
- (77) The Voucher numbers will be issued from the cheque control register.
- (78) All payment vouchers and their supporting documents will be cancelled by affixing "Paid" stamp paid on them.
- (79) For urgent petty expenditures, various officers shall be allowed petty cash fund.
- (80) Chief Financial Officer will set the limit for each Petty Cash Fund in consultation with the CEO. The Petty cash will not be spent more than petty cash limit. All petty cash custodians will submit the monthly cash count report and cash reconciliation reports. Cash count will be done in front of the Head of Office who would record the amount in the petty cash deposit and in the cash book and sign the document along with petty cash custodian. The petty cash custodians will be responsible to maintain all the cash accounts including cash book, cheque register, petty cash ledger and supporting documents. The Head of office will keep a spare key to the petty cash deposit. No personal expenditure will be incurred from the petty cash.
- (81) When any defalcation or loss of the Commission's money or property is discovered, an enquiry shall be initiated at once by the Chief Financial Officer and the Internal Auditor. CFO will submit the detailed report after completion of the enquiry to the CEO stating the steps taken to recover the loss.
- (82) The loss of articles may be written off under the order of the CEO, if the cost does not exceed Rs. 1,000,000. If the cost exceeds this limit, then the Commission will write off.
- (83) All advances paid by the Commission shall be recorded in the register of Advances.
- (1) Audit of Commission The Commission shall cause to be carried out audit of its accounts by an auditor who is a chartered accountant within the meaning of the Chartered Accountants Ordinance 1961 (X of 1961) which shall be appointed by the Commission .

- (2) The Audit shall be completed within six months from the end of the financial year to which it relates.
- (3) The Finance & Grants Committee shall review the audit report and take necessary actions.
- (4) Notwithstanding the audit provided in sub-Rule (1), the Auditor General shall have the power to audit or cause to be audited the accounts of the Commission.

10. Internal Audit of the Commission

- (1) The Commission shall appoint an Internal Auditor to assist the Members of the Commission. The internal auditor will report to the Finance and Grants Committee of the Commission.
- (2) The Internal Auditor will assist the Chief Executive Officer of the Commission in the areas of decision making, performance management and operational management.
- (3) The internal auditor will conduct the internal audits of the Commission to assess the adequacy, effectiveness and efficiency on the established internal controls of the Commission

11. Disclosure

- (1) At the close of the every financial year the books of the Commission shall be closed and reconciled. The following financial statements shall be prepared within the six months of the close of the of the Financial Year and submitted to the Members of the Commission for approval
 - 1) Balance Sheet
 - 2) Income and Expenditure Account
 - 3) Statement of Cash Flows
 - 4) Note to the Financial Statement

12. Purchase of Goods and Services

- (1) All the purchases of goods and services shall be made according to the Khyber Pakhtunkhwa Public Procurement of Goods, Works and Services Rules, 2013 as amended from time to time until the detailed procedures for the purchase of goods works and services have been approved by the Commission.
- (2) In case of the procurements made under donor funds the procurement shall be made according to the rules of that specific donor if spelt out in the grant agreement.
- (3) No expenditure shall be incurred or order placed without the sanction of the competent authority and inviting quotations/bids
- (4) For all contracts, a formal agreement on the stamped paper shall be executed between the Commission and the Contractor or the supplier.

- (5) Before payment is made the Director of the concerned Directorate shall certify that the work has been completed in time and according to the specifications. The certificates shall be put up to the competent authority for approving the payment.

13. Fixed Asset Register/Stock Register

- (1) All assets purchased by the Commission shall be examined, counted and recorded in the fixed asset register by the purchasing officer who shall certify that the asset according to the specifications demanded is actually received.
- (2) The Internal Auditor may conduct physical verification of the assets at any time during the year and record such certificate in the asset register.

14. Amendments to these Regulations

- (1) The system and procedures established by these Regulations may be amended from time to time on the recommendations of the Finance and Grants Committee of the Commission.