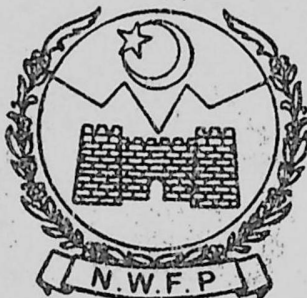


EXTRAORDINARY

GOVERNMENT



Diary No. 711
Date 26/11/02
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G A Z E T T E

North-West Frontier Province

Published by Authority

PESHAWAR, FRIDAY, 1ST NOVEMBER, 2002.

GOVERNMENT OF THE NORTH-WEST FRONTIER PROVINCE,
LAW DEPARTMENT.

NOTIFICATION

1st November, 2002.

No. Legis:1(9)/83/7821.—The following Ordinance by the Governor of the North-West Frontier Province is hereby published for general information:-

THE NORTH-WEST FRONTIER PROVINCE MEDICAL HEALTH INSTITUTIONS AND REGULATION OF HEALTH-CARE SERVICES ORDINANCE, 2002.

N.-W.F.P. ORDINANCE NO. XLVII OF 2002.

AN ORDINANCE

to consolidate the laws relating to medical institutions and public health institutions and to regulate on sound physical and technical footings the private practice of medical practitioners, surgeons and other related staff of the said institutions, and the services being rendered by a private hospital, nursing home or maternity home, clinic, including medical, dental and x-ray clinics, clinical laboratory and a blood bank, other than those owned or administered by Government, a Local Government or any other body or authority incorporated by law.

WHEREAS it is expedient to establish and improve medical and health institutions and to give them an autonomous character in order to provide quality health care for the people of the Province of the North-West Frontier;

WHEREAS it expedient to regulate on sound physical and technical footings the private practice of medical practitioners, surgeons and other related staff of the said institutions, and the services being rendered by a private hospital, nursing home or maternity home, clinic, including medical, dental and x-ray clinics, clinical laboratory and a blood bank, other than those owned or administered by Government, a Local Government or any other body or authority incorporated by law, in the manner hereinafter appearing;

AND WHEREAS the Governor of the North-West Frontier province is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of Emergency of the fourteenth day of October, 1999, as amended upto date, and the Provisional Constitution Order No. 1 of

1999, read with Article 4 of the Provisional Constitution (Amendment) Order No. 9 of 1999, and in exercise of all powers enabling him in that behalf, the Governor of the North-West Frontier Province is pleased to make and promulgate the following Ordinance:

CHAPTER-I

PRELIMINARY

1. **Short title, extent, application and commencement.**— (1) This Ordinance may be called the North-West Frontier Province Medical and Health Institutions and Regulation of Health-Care Services Ordinance, 2002.

(2) It extends to whole of the North-West Frontier Province.

(3) It shall apply to private institutions, practitioners and other persons engaged in health-care service and such other institutions as Government may establish or may have established under the North-West Frontier Province Medical and Health Institutions Reforms Act, 1999 (N.-W.F.P. Act No. XII of 1999), hereinafter referred to as 'the repealed Act', or as may, from time to time, be notified by Government, in case of a medical institution or a health institution already functioning on the commencing day of the repealed Act.

(4) It shall come into force at once.

CHAPTER-II

DEFINITIONS

2. **Definition.**— In this Ordinance, unless the context otherwise requires,-

- (a) "Administrator" or "Director" or "Chief Executive" means the administrative head of a medical institution;
- (b) "blood bank" means an institution or premises where dealing in human blood is carried on;
- (c) "clinic" means a premises where only consultation with diagnostic facilities, other than x-ray plant and clinical laboratory is available, under any system of medicine such as Allopathic, Homoeopathic, ayurvedic, Tibb or traditional medicine;
- (d) "commencing day" means the day on which the repealed Act came into force;
- (e) "dental clinic" means an institution or premises where outdoor dental treatment is available;
- (f) "existing institution" means a medical institution or a health institution functioning in the public sector or directly under Government on the commencing day of the repealed Act;
- (g) "Government" means the Government of the North-West Frontier Province;
- (h) "health institution" means a hospital, nursing home or maternity home, clinic, including medical, dental and x-ray clinics, clinical laboratory and a blood bank, delivering health-care services to the public at large without having teaching arrangements, whether in public or private sector, including institution owned by autonomous or semi-autonomous corporate organization;

- (i) "Health Regulatory Authority" means an authority constituted by Government under section 20, for the purposes mentioned in the said section;
- (j) "hospital" means an institution or premises where both outdoor and indoor medical treatment is provided to patients;
- (k) "institution" means a medical institution or, as the case may be, a health institution;
- (l) "institutional private practice" means private practice within the premises of an institution in the prescribed manner;
- (m) "laboratory" means a premises where specimens are tested for medical investigation;
- (n) "medical clinic" means an institution or premises where only out door medical treatment is provided to patients by qualified medical practitioners registered with the Pakistan Medical and Dental Council; Homeopathy Council, or Tibb Council;
- (o) "medical institution" means an institution in the public sector or directly under Government having teaching arrangement in addition to the delivery of health-care services to the public at large;
- (p) "nursing or maternity home" means an institution or premises where only in door medical care is provided;
- (q) "prescribed" means prescribed by rules or regulations made under this Ordinance;
- (r) "private medical institution" means a hospital, nursing or maternity home, clinic, including medical, dental and x-ray clinics, clinical laboratory and a blood bank, other than those owned or administered by Government, a Local Government or any other body or authority incorporated by law;
- (s) "private practice" means the practice of consultative, procedural and/or diagnostic nature by a medical practitioner or any other person related to medical profession under any system of medicine such as Allopathic, Homeopathic, Ayurvedic, Tibb or traditional medicine in the private sector, in relation to a patient who voluntarily opts for it and includes practice of the same nature by an employee of a medical institution or a public health institution, within the premises of his institution, after duty-hours;
- (t) "proprietor" means a person or a body of persons, including a society or an association, to whom a private medical institution belongs;
- (u) "x-ray clinic" means a premises where facilities for x-ray diagnosis are available.

CHAPTER-III

PUBLIC MEDICAL INSTITUTIONS AND HEALTH INSTITUTIONS

3. Establishment of institution.— (1) Government may, by notification in the official Gazette,-

- (a) establish such medical institutions and health institutions as it may deem necessary; and

- (b) apply this Ordinance to any existing institution:

Provided that an institution established or notified under the repealed Act shall be deemed to have been established or, as the case may be, notified under this Ordinance.

(2) A medical institution or a health institution established under this Chapter or an existing institution to which this Chapter applies or is applied shall be, or, as the case may be, shall become, a body corporate having perpetual succession and a common seal, with power to acquire, hold and, subject to sub-section (3), dispose of movable and immovable property and may by its name sue and be sued.

(3) No immovable property shall be disposed of by an institution, except with the prior approval of Government.

4. **Objects of the institutions.**— The objects of a public institution shall be-

- (a) to undertake all functions required for providing medical education, training and health facilities to the people; and
- (b) to perform such other functions as are assigned to it by Government.

5. **Administration.**— (1) The administration and management of the affairs of a medical institution shall, subject to the general supervision and control of Government, vest in the Management Council appointed in accordance with the provisions of section 6 of this Ordinance.

(2) The administration and management of the affairs of a public health institution shall, subject to general supervision and control of Government, vest in the Management Committee appointed in accordance with the provisions of section 7 of this Ordinance.

6. **Management Council.**— (1) There shall be a Management Council to administer and manage the affairs of a medical institution, which shall consist of-

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| (i) | the Chief Executive of the medical institution; | Chairman |
| (ii) | the Dean/Principal of the medical institution; | Member |
| (iii) | the Medical Superintendent of the hospital administered by the medical institution; | Member |
| (iv) | the Director Finance and Departmental Grants Committee or the Officer-in-Charge of the said Committee of the medical institution by whatever designation known; | Member |
| (v) | not less than three and not more than five non-official persons to be nominated by Government. | Members |
| (vi) | a member of the officers and staff members performing institutional private practice; and | Member |
| (vii) | any other co-opted member. | Member. |

(2) A non-official member shall, unless otherwise directed by Government, hold office for a period of three years and shall be eligible for re-appointment.

(3) The Medical Superintendent shall also act as Secretary of the Management Council.

7. **Management Committee.**— (1) There shall be a Management Committee to administer and manage the affairs of a public health institution which shall consist of—

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|-------|---|----------|
| (i) | District Coordinating Officer; | Chairman |
| (ii) | District Health Officer concerned; | Member |
| (iii) | Medical Superintendent; | Member |
| (iv) | not less than two and not more than three non-official members from renowned social workers to be nominated by the District Government concerned; | Members. |
| (v) | a representative of Government; | Member |
| (vi) | a member of the officers and staff members performing institutional private practice; and | Member |
| (vii) | any other co-opted member. | Member. |

(2) A non-official member shall, unless otherwise directed by Government, hold office for a period of three years and shall be eligible for re-appointment.

(3) The Medical Superintendent shall also act as Secretary to the Management Committee.

8. **Conduct of business.**— (1) All decisions of the Management Council or, as the case may be, Management Committee shall be taken by majority of votes; provided that, in case of equality of votes, the Chairman of the Council or, as the case may be, Committee shall have a second or casting vote.

(2) No act or proceeding of the Management Council or, as the case may be, Management Committee shall be invalid merely on the ground of existence of any vacancy or defect in the constitution thereof.

(3) It shall be lawful for the Management Council or, as the case may be, Management Committee to start functioning as soon as it is notified by Government in the official Gazette.

9. **Chief Executive.**— (1) Government shall, in relation to a medical institution, appoint a whole time Chief Executive possessing such qualification and on such terms and conditions as it may determine.

(2) The Chief Executive shall exercise such powers and perform such duties and functions as may be assigned to him by Government or as may be prescribed.

(3) Till such time as a Chief Executive is appointed under sub-section (1), Government may appoint any person to work as Chief Executive for the interim period.

10. **Management of health institution.**— The Management Committee constituted under section 7 shall administer and manage the affairs of the health institution in such manner as may be prescribed; provided that till rules or, as the case may be, regulations are made, the Management Committee shall, in the exercise of its powers or performance of its duties, strictly follow the directions issued by Government from time to time.

11. **Employees of the public institution.**— (1) Subject to sub-section (2), the Management Council, in relation to a medical institution, and the Management Committee, in relation to a public health institution, may appoint such persons in the service of the institution concerned as deemed necessary and on such terms and conditions as may be prescribed:

Provided that such employees shall be appointed on contract basis and shall not be considered as Civil Servants or Government Servants.

(2) All persons serving in connection with the affairs of an institution to which this Chapter applies or is applied shall continue to serve the institution on the same terms and conditions as applicable to them immediately before the issuance of the notification under sub-section (3) of section 1 till further orders.

(3) If at any time, a public institution reverts to Government for running under its own administration and management for any reason, the employees appointed under sub-section (1), shall continue to serve the institution on the same terms and conditions as applicable to them immediately before such reversion.

(4) The private practice of employees of medical institutions and health institutions, mentioned in sub-section (1) and (2), shall be prohibited with immediate effect, except within the premises of the medical institutions or health institutions, and subject to such terms and conditions as may be prescribed:

Provided that residential accommodation within such premises shall, for all intents and purposes of this section, be deemed to be a place outside such premises.

(5) Subject to the foregoing provisions of this Ordinance and the direction, if any, of Government, the concerned Management Council or Committee or body or authority shall be authorised and responsible for the administrative arrangements and other related matters for carrying out the institution-based practice within the boundaries of respective institutions.

(6) Notwithstanding anything to the contrary contained in this Ordinance, Government may, from time to time, approve and notify any other place for such private practice, in addition to the boundaries of the aforesaid institutions.

12. **Sub-Committees.**— (1) The Management Council or, as the case may be, the Management Committee may, beside constituting the following sub-committees, constitute such other sub-committees as it may deem necessary for giving effect to the provisions of this Ordinance:—

- (a) the Executive Sub-Committee;
- (b) the Finance and Departmental Grants Sub-Committee;
- (c) the Registration and Medical Ethics Sub-Committee;
- (d) the Establishment and Medical Staff Sub-Committee;
- (e) the Nursing and Paramedics Sub-Committee; and
- (f) Academic, Research and Publication Sub-Committee.

(2) Subject to the provisions of this Ordinance and the rules made thereunder, a sub-committee constituted under sub-section (1) shall perform such functions as may be prescribed or otherwise specified by the Management Council or, as the case may be, the Management Committee.

13. **Delegation of powers.**— The Management Council or, as the case may be, the Management Committee may delegate to any person or a sub-committee any of its powers, duties or functions.

14. **Private practice.**— Subject to such terms and conditions as may be prescribed, Government may allow institutional private practice to be carried out by the doctors of the institutions.

15. **Retention of fee.**— Notwithstanding anything contained in any law or rules, the institutions shall retain receipts from various fees levied by Government or the institution to meet recurring and development expenditure of the institution.

16. **Funds.**— (1) There shall be a fund to be known by the name of the public institution which shall vest in the institution and to which shall be credited all sums received by the institution; provided that the fund established under the repealed Act shall be deemed to have been established under this Ordinance.

(2) The fund shall consist of-

- (a) grants from Government in such manner as may be notified;
- (b) receipts from User Charges as specified by Government or the institution from time to time in such manner as may be prescribed;
- (c) voluntary contributions or donations; and
- (d) grants from other sources.

(3) The funds shall be kept in such custody and shall be utilized and regulated in such manner as prescribed by rules.

(4) The fund account shall be maintained at such Bank or Treasury as may be notified by Government.

17. **Budget, audit and accounts.**— (1) The budget of a public institution shall be approved and its accounts shall be maintained and audited in such manner as may be prescribed by rules.

(2) Government may order financial, medical and managerial monitoring and audit, on quarterly basis, through a third party nominated by it and paid for by the institution concerned immediately on issuing any such direction by Government.

(3) Government shall consolidate the audit reports of all public institutions and cause the same to be presented to the Provincial Assembly in respect of each financial year.

(4) The Chief Executive of the institution at the close of a financial year shall render accounts of income and expenditure of the institution to the Accountant General, North-West Frontier Province, for incorporation in the Civil Accounts of the Province by the 31st July of each year.

18. **Public servants.**— All persons acting or purporting to act in pursuance of any of the provisions of this Ordinance shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code.

CHAPTER-IV

PRIVATE HEALTH INSTITUTIONS

19. **Registration of Health Institution.**— No private health institution shall be established or run unless it is registered with the Regulatory Authority and holds a valid certificate issued by such authority; provided that a health institution in existence on the date coming into force of this Ordinance may, without registration, continue to function for a period not exceeding thirty days from such date, and in case an application has been made under section 21, it may continue to function without registration until the application is rejected.

20. **Health Regulatory Authority.**— (1) As soon as may be after the commencement of this Ordinance, there shall be established the North-West Frontier Province Health regulatory Authority, hereinafter referred to as the Authority.

(2) The Authority shall consist of four Members, besides the Chairperson and Director General Health Services, whether known by the same title or otherwise to be appointed by Government as under:

- (a) two members shall belong to the medical profession; and
- (b) the remaining two members shall belong to different fields as may be determined by Government.

(3) All business of the Authority shall be transacted in such manner as may be prescribed.

(4) **Functions.**— The Authority shall perform the following functions:

- (a) registration of private Health Institutions;
- (b) monitoring, through the concerned Management Council or, as the case may be, Management Committee, the institutional private practice;
- (c) setting standards for establishment of facilities for clinical care, health institutions, medical institutions (private and public) as may be defined under relevant laws/rules in Government and private sector;
- (d) setting standards and define yardsticks for provisions of preventive, promotive, curative, re-habilitative, environmental and occupational health;
- (e) setting standards for regulation and provisions on modern and scientific lines for the practice of traditional medicines including ayurvedic, homeopathic Tibb, etc;
- (f) setting standards for the practice of medical, dentistry, nursing and para medical profession in accordance with the requirements of their regulatory bodies concerned, wherever applicable, and for issuance of license/permit for practice in North-West Frontier Province for the members of such professions;
- (g) dealing with and deciding cases of mal-practice or violation of standards in the private sector with a view to safeguarding patients rights to good health;
- (h) undertaking research work, regular review and updating of its standards in line with national and international experience;
- (i) undertaking any other functions assigned to it by Government from time to time, suo moto or as requested by it.

21. **Application for Registration.**— (1) Any person intending to establish a health institution, and any person intending that a private health institution already in existence on the coming into force of this Ordinance, should be continued as such, shall make an application to the Regulatory authority on the prescribed form accompanied by the prescribed registration fee:

Provided that in case of any such institution already in existence, the application shall be made within sixty days of the coming into force of this Ordinance:

Provided further that, notwithstanding the registration of a health institution under this Ordinance, no person shall establish a blood bank either independently or as part of a clinical laboratory, except with the permission of the Authority as per international standards and safe blood transfusion practices.

22. **Disqualification.**— (1) No person shall be allowed to establish or run a private health institution if he-

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- (a) is a minor; or
- (b) is found to be of unsound mind by a court of competent jurisdiction; or
- (c) is declared insolvent; or
- (d) has been found guilty of criminal mis-appropriation or criminal breach of trust or cheating or any other offence involving moral turpitude or an abetment of or attempt to commit, any such offence, by a court of competent jurisdiction; provided that this disqualification will not operate if a period of three years has elapsed since the completion of the sentence imposed on any person in respect of any such offence.

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(2) No private health institution shall be registered under this Ordinance unless it maintains such standard and is equipped with such staff, services and amenities as are for the time being prescribed.

23. **Procedure for registration.**— (1) On receipt of an application under section 21, the Regulatory Authority shall make or cause to be made such enquires and inspections as it considers necessary to satisfy itself that the applicant does not suffer from any of the disqualifications under section 22 and otherwise maintains the standard, if any, prescribed under sub-section (2), of section 22:

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Provided that if the Regulatory Authority finds that the applicant does not maintain the standard prescribed under sub-section (2) of section 22, it may direct the applicant to improve the conditions to its satisfaction within such period as may be specified.

(2) If the Regulatory Authority as a result of the enquiry made by it is satisfied that the provision of the preceding sub-section have been complied with, it shall grant to the person making the application a certificate in the prescribed manner, subject to such terms and conditions as it may deem fit to impose, and shall register in the prescribed manner the medical institution in respect of which the application has been made and endorse the fact of registration on the certificate.

(3) The Regulatory Authority shall record its reasons where it refuses to grant the certificate.

(4) The person to whom the certificate is granted shall be responsible for due compliance of the provisions of this Ordinance, the rules made thereunder and the terms and conditions, if any, on which the certificate is granted.

24. **Renewal of registration.**— (1) A certificate of registration issued under section 23 shall be valid for a period of one year from 1st January to 31st December of the year during which the certificate has been issued and shall be renewable annually.

(2) If the holder of a certificate of registration wishes to get the certificate renewed, he shall, within thirty days preceding the date of expiry of the certificate, apply to the Regulatory Authority in the prescribed form accompanied by the prescribed renewal fee, and the Regulatory Authority shall, unless the applicant has rendered himself disqualified under sub-section (1) of section 22 or has contravened any of the terms and conditions of the registration, renew the certificate.

(3) The Regulatory Authority if it refuses to renew the certificate shall record reasons therefor.

(4) If a person fails to apply for the renewal of his certificate of registration within the period specified in sub-section (2), the Regulatory Authority may, instead of taking action against him under the penal provisions of this Ordinance, entertain his application for renewal of registration certificate on payment of the renewal fee with—

- (a) a penalty equal to half of the renewal fee, if the application is made within one month; or
- (b) a penalty equal to the renewal fee, if the application is made within two months; or
- (c) a penalty equal to three times of the renewal fee, if the application is made within three months;

from the last date on which the renewal was due.

25. **Cancellation or suspension of registration.**— The Regulatory Authority may, by an order in writing, cancel or suspend a certificate for such period not exceeding three months for a first breach and not exceeding six months for a second or subsequent breaches, as may be specified in the order, if it is satisfied that the private medical institution has committed a breach of any of the conditions of the certificate or has contravened any of the provisions of this Ordinance or rules made thereunder.

CHAPTER-V

GENERAL

26. **Appeal.**— Any person aggrieved by an order passed under section 25 may within thirty days of passing of the order, prefer an appeal to Government and the decision of Government on such appeal shall be final.

27. **Offences.**— (1) Contravention of any of the provisions of this Ordinance shall be punishable with simple imprisonment which may extend to six months or with fine which may extend to one million rupees or with both.

(2) The offences under this Ordinance shall be bailable.

28. **Cognizance of offence.**— No court shall take cognizance of an offence under this Ordinance, except upon a complaint made in writing by the Authority or any other person authorized by Government in that behalf.

29. **Jurisdiction of the Court.**— No court inferior to that of a Magistrate of the first class shall try an offence punishable under this Ordinance.

30. **Indemnity.**— No suit, prosecution or other legal proceedings shall lie against the Authority or any person acting or purporting to act, in good faith, under this Ordinance.

31. **Rules.**— Government may make rules for carrying out the purposes of this Ordinance.

32. **Regulation.**— The Management Council or the Management Committee may make regulations, not inconsistent with the provision of this Ordinance and the rules, for carrying out the purposes of this Ordinance.

33. **Removal of difficulties.**— If any difficulty arises in giving effect to any of the provisions of this Ordinance, Government may give such directions as it may consider necessary for the removal of such difficulty.

34. **Repeal.**— (1) The Private Medical Institutions (Regulation of Services) Ordinance, 1984 (N.-W.F.P. Ord. No. VII of 1984) and the Medical and Health Institutions Reforms Act, 1999 (N.-W.F.P. Act No. XII of 1999), are hereby repealed.

(2) Notwithstanding the repeal of the Act and Ordinance under sub-section (1), all employees serving in connection with the affairs of the Medical Institutions and public Health Institutions shall continue to serve the said institutions on the existing terms and conditions, under the supervision and control of the respective management appointed for the said institutions under this Ordinance.

(3) All rules, regulations and orders made or issued under the repealed Act and the Ordinance shall continue to be in force, unless altered, amended or repealed under this Ordinance.

Peshawar,
Dated the 29th Oct., 2002.

Lt. Gen. (Rtd.) IFTIKHAR HUSSAIN SHAH,
Governor of the North-West Frontier Province.

SALIM KHAN,
Secretary to Government of North-West Frontier Province,
Law Department.

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