

PUNJAB VIDHAN SABHA

BILL NO.18-PLA-2020

**THE PUNJAB CLINICAL ESTABLISHMENTS (REGISTRATION
AND REGULATION) BILL, 2020**

A

BILL

to provide for the registration and regulation of clinical establishments in the State of Punjab and for matters connected therewith or incidental thereto.

BE it enacted by the Legislature of the State of Punjab in the Seventy-first Year of the Republic of India as follows:-

**CHAPTER I
PRELIMINARY**

1. (1) This Act may be called the Punjab Clinical Establishments (Registration and Regulation) Act, 2020. Short title, application and commencement.
- (2) It shall apply to the entire State of Punjab.
- (3) It shall come into force on such date as the State Government may, by notification, appoint:

Provided that different dates may be appointed for different categories and capacities of clinical establishments and for different recognised systems of medicine.

2. In this Act, unless the context otherwise requires,— Definitions.
- (a) "clinical establishment" means,-
- (i) a hospital, maternity home, nursing home, dispensary, clinic, sanatorium or an institution, by whatever name called, that offers services and facilities providing diagnosis, treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicine established and administered or maintained by any person or body of persons, whether incorporated or not; or
- (ii) a place established as an independent entity or part of a clinical establishment referred to in sub-clause (i), in connection

with the diagnosis or treatment of diseases where pathological, bacteriological, genetic, radiological, chemical, biological investigations or other diagnostic or investigative services with the aid of laboratory or other medical equipment, are usually carried on, established and administered or maintained by any person or body of persons, whether incorporated or not, and shall include a clinical establishment owned, controlled or managed by:-

- (a) the Government or a department of the Government;
- (b) a trust, whether public or private;
- (c) a corporation (including a society) registered under a Central, Provincial or State Act, whether or not owned by the Government;
- (d) a local authority; and
- (e) a single doctor,

but does not include the clinical establishments owned, controlled or managed by the Armed Forces.

Explanation. — For the purpose of this clause, "Armed Forces" means the forces constituted under the Army Act, 1950, the Air Force Act, 1950 and the Navy Act, 1957:

- (b) "District Register of Clinical Establishments" means the register maintained by the concerned District Registration Authority;
- (c) "District Registration Authority" means the District Registration Authority for Clinical Establishments established under section 9 of this Act.
- (d) "notification" means a notification published in the Official Gazette;
- (e) "prescribed" means prescribed by rules made under this Act;
- (f) "Punjab State Appellate Authority" means the Punjab State Appellate Authority for Clinical Establishments established under section 34 of this Act;
- (g) "Punjab State Council" means the Punjab State Council for Clinical Establishments established under section 3 of this Act;
- (h) "Punjab State Master Register" means the Punjab State

Master Register of Clinical Establishments maintained by the Punjab State Council, and compiled and updated by the State Registrar of Clinical Establishments on behalf of the said Council;

- (i) "qualified medical practitioner" means a medical practitioner registered in the State of Punjab with the statutory State Council or the statutory National Council constituted or established for the registration of medical practitioners in any recognised system of medicine;
- (j) "qualified nurse" means a nurse registered in the State of Punjab with the statutory State Council or the statutory National Council constituted or established for the registration of nurses;
- (k) "qualified para-medical person" means a person holding a qualification recognised by the State Government from a recognised institution wherein there is no statutory State or National Council or body for the registration of such manpower;
- (l) "recognised system of medicine" means Allopathy, Yoga, Naturopathy, Ayurveda, Homoeopathy, Siddha and Unani System of medicines or any other system of medicine as may be recognised by the State Government;
- (m) "registration" means registration of clinical establishments under this Act by the State Registration Authority or the concerned District Registration Authority, as the case may be, and the expression registration or registered shall be construed accordingly;
- (n) "service provider" means a qualified medical practitioner, qualified nurse, qualified para-medical person, social worker or other appropriately trained and qualified person with specific skills relevant to particular health care services, including the management of clinical establishment, and any reference to service provider shall mean the same unless specifically stated otherwise;
- (o) "service recipient" means a person who seeks, accesses or receives any treatment or health care, as an outpatient or inpatient, from any clinical establishment or service provider;
- (p) "standards" means such conditions, as the State Government may prescribe for the registration and regulation of clinical establishments;

- (q) "State Government" means the Government of the State of Punjab in the Department of Health and Family Welfare;
- (r) "State Register of Clinical Establishments" means the register maintained by the State Registration Authority; and
- (s) "State Registration Authority" means the State Registration Authority for Clinical Establishments established under section 7 of this Act.

CHAPTER II

PUNJAB STATE COUNCIL FOR CLINICAL ESTABLISHMENTS

Establishment
of the Punjab
State Council.

3. (1) With effect from such date as the State Government may, by notification appoint in this behalf, there shall be established for the purposes of this Act, a Punjab State Council to be called the Punjab State Council for Clinical Establishments.

- (2) The Punjab State Council shall consist of the following, namely:-
- (a) Administrative Secretary, Department of Health : Chairperson
and Family Welfare, Punjab;
 - (b) Director Health and Family Welfare, Punjab; : Member-
Secretary
 - (c) Director Health Services (Family Welfare), : Member
Punjab;
 - (d) Director Health Services (Social Insurance), : Member
Punjab;
 - (e) Directors of different recognised systems of :Members
medicine of the State Government, including
but not limited to the Director, Ayurveda, Punjab
and the Head of Homoeopathic Department,
Punjab;
 - (f) President of the Punjab Medical Council; : Member
 - (g) President of the Punjab Dental Council; : Member
 - (h) Registrar of the Punjab Nurses Registration : Member
Council;
 - (i) Registrar of the Punjab State Pharmacy : Member
Council;

- (j) one representative to be elected by the executive of the Board of Ayurvedic and Unani Systems of Medicine, Punjab; : Member
- (k) one representative of the State Branch of the Indian Medical Association; : Member
- (l) one representative from the field of paramedical systems to be nominated by the State Government; : Member
- (m) two representatives from amongst the State level consumer groups or reputed Non Governmental Organisations working in the field of healthcare to be nominated by the State Government; and : Members
- (n) one Law Officer to be nominated by the State Government. : Member

(3) The nominated and elected Members shall hold office for a term of three years, but shall be eligible for re-nomination for a maximum of one additional term not exceeding three years:

Provided that the person so nominated or elected, as the case may be, shall hold office for as long as he or she holds the appointment of the office or the position by virtue of which he or she was nominated or elected to the Council.

(4) The Punjab State Council may, subject to the previous approval of the State Government, make bye laws fixing a quorum and regulating its own procedure and the conduct of business to be transacted by it.

(5) The Punjab State Council shall meet at least once in three months.

(6) The functions of the Punjab State Council may be exercised notwithstanding any vacancy therein.

4. The Punjab State Council shall have the following functions and powers, namely: –

- (a) maintain the Punjab State Master Register;
- (b) sending monthly returns for updating the National Register as may be required by the Central Government or the National Council established under the Clinical Establishments

Functions and powers of the Punjab State Council.

(Registration and Regulation) Act, 2010 (Central Act No. 23 of 2010):

- (c) representing the State of Punjab in the National Council as may be required by the Central Government or the National Council established under the Clinical Establishments (Registration and Regulation) Act, 2010 (Central Act No. 23 of 2010);
- (d) publication, on an annual basis, of report regarding the status of implementation of this Act;
- (e) constituting any Committee to perform any of its roles and functions;
- (f) issuing such directions, including furnishing returns, statistics and other information for the proper functioning of clinical establishments, and any such directions, as may be issued from time to time, shall be binding;
- (g) associating with itself, any person or body whose assistance or advice it may require in carrying out its functions under any of the provisions of this Act; and
- (h) any other functions, as may be determined by the State Government, from time to time.

Disqualification
of a Member of
the Punjab State
Council.

5. A person shall be disqualified from being appointed as a Member of the Punjab State Council, if, he,-

- (a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the State Government, involves moral turpitude; or
- (b) is an undischarged insolvent; or
- (c) is of unsound mind and stands so declared by a competent court, or
- (d) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government or any other statutory body of the Government, or
- (e) has, in the opinion of the State Government, such financial or other interest in the Punjab State Council as is likely to affect prejudicially the discharge by him of his functions or duties as a Member.

CHAPTER III

REGISTRATION AND STANDARDS FOR CLINICAL ESTABLISHMENTS

6. (1) The Director Health and Family Welfare, Punjab shall be the State Registrar of Clinical Establishments. State Registrar of Clinical Establishments.
- (2) It shall be the responsibility of the State Registrar of Clinical Establishments to compile and update the Punjab State Master Register on behalf of the Punjab State Council.
7. (1) With effect from such date as the State Government may, by notification appoint in this behalf, there shall be established for the purposes of this Act, a State Registration Authority to be called the State Registration Authority for Clinical Establishments. State Registration Authority.
- (2) The State Registration Authority shall consist of the following, namely: –
- (i) Director, Health and Family Welfare, Punjab: Chairperson
 - (ii) one Deputy Director, office of Director, Health and Family Welfare, Punjab to be nominated by the State Government;
 - (iii) one Law Officer to be nominated by the State Government; and
 - (iv) Nodal Officer in the office of Director, Health and Family Welfare, Punjab, for this Act.
8. The State Registration Authority shall perform the following functions, namely:- Functions of the State Registration Authority.
- (i) registration of clinical establishments with one hundred or more beds;
 - (ii) publish, in a manner, as may be prescribed,-
 - (a) a list of provisionally registered clinical establishments with one hundred or more beds;
 - (b) a list of clinical establishments, with one hundred or more beds, who submit evidence for permanent registration; and
 - (c) a list of expired registrations;

- (iii) enter and search unregistered clinical establishments with one hundred or more beds after due notice, as may be prescribed;
- (iv) inspection and inquiry of the registered clinical establishments with one hundred or more beds through a multi-member inspection team in such manner, as may be prescribed;
- (v) recover penalties;
- (vi) compile and maintain the State Register of Clinical Establishments;
- (vii) establish a Grievance Redressal Cell for any grievances or complaints related to the clinical establishments with one hundred or more beds, in such manner, as may be prescribed;
- (viii) any other work related to the registration of clinical establishments with one hundred or more beds; and
- (ix) such other functions, as may be determined by the State Government from time to time.

District
Registration
Authority.

9. (1) With effect from such date as the State Government may, by notification appoint in this behalf, there shall be established for the purposes of this Act, a District Registration Authority for each district to be called the District Registration Authority for Clinical Establishments.

(2) Each District Registration Authority shall consist of the following, namely:-

- (i) Civil Surgeon of the respective district; : Chairperson
- (ii) District Family Welfare Officer of the : Member
respective district;
- (iii) one representative of the District Attorney : Member
of the respective district; and
- (iv) District Nodal Officer in the office of Civil : Member
Surgeon of the respective district, for this
Act.

Functions of
the District
Registration
Authority.

10. Each District Registration Authority shall perform the following functions, namely:-

- (i) registration of all clinical establishments of the respective district, except the clinical establishments having one hundred or more beds;

- (ii) publish, in a manner, as may be prescribed,-
 - (a) a list of clinical establishments registered by it provisionally;
 - (b) a list of clinical establishments, who submit evidence for permanent registration; and
 - (c) a list of expired registrations;
- (iii) enter and search any unregistered clinical establishment of the respective district, except the clinical establishment having one hundred or more beds after due notice, as may be prescribed;
- (iv) inspection and inquiry of the clinical establishments registered under it through a multi-member inspection team in such manner, as may be prescribed;
- (v) recover penalties;
- (vi) compile and maintain the District Register of Clinical Establishments of the respective District;
- (vii) establish a Grievance Redressal Cell in the respective district for any grievances or complaints related to the clinical establishments, in such manner, as may be prescribed;
- (viii) any other work related to the registration of clinical establishments to be registered by it; and
- (ix) such other functions, as may be determined by the State Government from time to time.

11. No person shall keep or carry on a clinical establishment without being duly registered by the concerned registration authority in respect thereof and except under and in accordance with the terms of registration granted thereof. Registration certificates for clinical establishments.

Explanation I.—For the purpose of this section “person” includes a body, group or association of individuals, an organization, a firm, a trust or society (whether registered or not) or a company registered under any law for the time being in force.

Explanation II.—For the purposes of this section, “carry on” means to provide the service recipient in a clinical establishment with any kind of service including consultation, treatment, diagnosis, or nursing care.

Classification of clinical establishments. 12. (1) Clinical establishments shall be classified into such categories, as may be prescribed from time to time.

(2) Different standards may be prescribed for various categories of clinical establishments.

Application for provisional certificate of registration. 13. (1) Every person intending to open, keep or carry on a clinical establishment shall submit an application in the prescribed proforma along with the prescribed fee to the concerned registration authority for the purposes of registration in respect of a clinical establishment. The concerned registration authority shall make provisions for submission of applications also and registration thereto.

(2) Every application made under sub-section (1) shall contain such particulars and be accompanied by such declarations and documents of the clinical establishment and the standards of services and skills being provided by it, as may be prescribed.

(3) Any change in address or other particulars mentioned under sub-section (2) shall be communicated by the applicant or the person carrying on the clinical establishment to the concerned registration authority not later than thirty days after such change with a specific mention as to the exact date when such change occurred.

(4) No applicant under sub-section (1) shall try to obtain the registration by means of misrepresentation of facts, fraudulent practices, falsifying documents, or using unfair means.

Provisional certificate. 14. The concerned registration authority shall, within a period of thirty days from the date of receipt of such application, grant to the applicant a certificate of provisional registration in such form and containing such particulars and such information, as may be prescribed.

No inquiry prior to grant of provisional registration. 15. (1) The concerned registration authority shall not conduct any inquiry prior to the grant of provisional registration.

(2) Notwithstanding the grant of the provisional certificate of registration, the concerned registration authority shall, within the prescribed period from the grant of provisional registration, cause to be published in such manner, as may be prescribed, all particulars of the clinical establishment so registered provisionally.

Validity of provisional registration. 16. Subject to the provisions of section 18, every provisional registration shall be valid for a period of six months from the date of issue of the certificate of provisional registration.

17. (1) Only in unavoidable or special circumstances, the provisional registration may be extended for such period, in such manner and subject to the payment of such fees, as may be prescribed.

Extension of provisional registration.

(2) The application for extension of provisional registration shall be made thirty days before the expiry of the validity of the certificate of provisional registration and in case the application for extension is made after the expiry of the provisional registration, the concerned registration authority shall allow the extension of provisional registration upon the payment of such enhanced fees, as may be prescribed.

18. Where the categories of clinical establishments in respect of which standards have been notified by the State Government, provisional registration shall not be granted or extended beyond,-

Time limit for provisional registration.

- (i) the period of two years from the date of notification of the standards in case of clinical establishments which came into existence before the commencement of this Act;
- (ii) the period of two years from the date of notification of the standards for clinical establishments which come into existence after the commencement of this Act but before the notification of the standards; and
- (iii) the period of six months from the date of notification of standards for clinical establishments which come into existence after the standards have been notified.

19. Application for permanent registration by a clinical establishment shall be made to the concerned registration authority in such form and be accompanied by such fees, as may be prescribed.

Application for permanent registration.

20. The clinical establishment shall submit evidence of having complied with the prescribed minimum standards in such manner, as may be prescribed.

Verification of application.

21. (1) No permanent registration shall be granted in respect of a clinical establishment, unless it has, -

Conditions for permanent registration.

- (a) provided such minimum standards of accommodation, as may be prescribed;
- (b) engaged such minimum number of service providers and other categories of employees with such qualification(s), as may be prescribed;
- (c) made arrangements for such minimum standards of facilities and services including emergency care and referral services, as may be prescribed;

- (d) installed such equipment and machineries, as may be prescribed;
- (e) made such arrangements for the disposal of Bio-Medical Waste as prescribed under the Bio-Medical Waste Management Rules, 2016 made by the Government of India, Ministry of Environment, Forest and Climate Change;
- (f) made provisions for the maintenance of such records and registers in such form and containing such particulars, as may be prescribed; and
- (g) fulfilled such other condition(s), as may be prescribed.

(2) Every registration granted under sub-section (1) shall be subject to the following terms and conditions, namely:-

- (a) conditions laid down in sub-section (1) are continuously complied with;
- (b) necessary precautions are observed so as to ensure that the clinical establishment is not being used for any unsocial or immoral purpose;
- (c) the clinical establishment does not resort to any unethical practice whatsoever;
- (d) all such measures are taken to keep the clinical establishment in such satisfactory, sanitary and hygienic condition, as may be prescribed.
- (e) all such information is displayed in such manner, as may be prescribed;
- (f) all such reports in such form containing such particulars and such necessary documents are submitted to such authorities at such intervals or on demand, as may be prescribed;
- (g) such medical and other reports, records and documents are made available to the registration authority or the service recipient or his representative on demand, as may be prescribed;
- (h) a report is submitted to the concerned authority immediately in case a person, who has been received in or accommodated or both in the clinical establishment, is found to be suffering from any such infectious or dangerous disease or other condition, as may have been notified by the State Government,

especially those covered under the Epidemic Diseases Act, 1897;

- (i) every clinical establishment maintains a Public Grievance Redressal Mechanism for lodging of any complaint regarding treatment, improper billing, deficiency in service, attending staff's behaviour etc. and for timely assured redressal thereof;
- (j) every clinical establishment sets up a proper Help Desk to maintain regular and proper communication with the service recipients or their representatives regarding treatment being provided, recipient's condition, regular billing etc. and their proper counseling;
- (k) every clinical establishment immediately after coming into force of this Act, maintains comprehensive medical records and provides a set of all medical records and treatment details along with the discharge summary at the time of discharge of the service recipient;
- (l) every clinical establishment having more than one hundred beds may endeavour to set up a Fair Price Medicine Shop and a Fair Price Diagnostic Centre;
- (m) no person is subject to any discrimination in any form or manner, by the clinical establishment in access to facilities, goods, care and services, including admission, on any of the grounds of nationality, sex/gender, physical or mental disability, occupation, religion, sect, language, caste, political or other opinion or affiliation, actual or perceived health status and disease condition like Human Immunodeficiency Virus (HIV) infection or Acquired Immunodeficiency Syndrome (AIDS) or such other diseases like Covid-19 and other emerging and as yet unknown infectious diseases, as may be prescribed, or such other arbitrary grounds;
- (n) the clinical establishment actively participates in the implementation of all National and State Health Programmes including the prevention of spread of communicable diseases in such manner as the State Government may specify from time to time and furnish periodical reports related thereto as per prescribed formats to the authorities concerned;
- (o) the clinical establishment at all times, ensures compliance

with all the applicable laws including any rules, regulations, instructions, guidelines, notifications, circulars and by-laws;

- (p) the clinical establishment provides treatment within the staff and facilities available, to provide first aid to all the victims of road traffic accidents, rail accidents, air accidents, explosions, natural disasters and calamities who come or are brought to the clinical establishment. After providing the first aid and making all possible available efforts to stabilize such patients, the clinical establishment shall be at liberty to refer them to an appropriate Government hospital or medical college; and
- (q) such other terms and conditions, as may be prescribed.

Standards for permanent registration.

22. Permanent registration shall be granted only when a clinical establishment fulfils the prescribed standards for registration by the State Government.

Allowing or disallowing of registration.

23. The concerned registration authority shall pass an order immediately after the expiry of the prescribed period and within the next thirty days thereafter either:-

- (a) allowing the application for permanent registration; or
(b) disallowing the application:

Provided that the concerned registration authority shall record its reasons in writing, if it disallows an application for permanent registration.

Certificate of permanent registration and its renewal.

24. (1) The concerned registration authority shall, if it allows an application of the clinical establishment, issue a certificate of permanent registration in such form and containing such particulars, as may be prescribed.

(2) The certificate shall be valid for a period of five years from the date of issue.

(3) The application for renewal of permanent registration shall be made within three months before the expiry of the validity of the certificate of permanent registration in such form and alongwith such fees, as may be prescribed.

(4) In case the application of renewal referred in sub-section (3) is not submitted within the stipulated period, the concerned registration authority may allow renewal of permanent registration on payment of such enhanced fees and penalties, as may be prescribed.

25. The certificate of provisional or permanent registration shall be affixed in a conspicuous place in the clinical establishment in such manner so as to be visible to everyone visiting such establishment. Display of certificate of registration.
26. In case the certificate of provisional or permanent registration is lost, destroyed, mutilated or damaged, the concerned registration authority shall issue a duplicate certificate on the request of the clinical establishment and on the payment of such fees, as may be prescribed. Duplicate certificate.
27. (1) The certificate of provisional or permanent registration shall be non-transferable. Certificate to be non-transferable.
- (2) In the event of change of ownership or management, or change of category, or location, or upon the withdrawal or addition of some facility provided, the clinical establishment shall inform the concerned registration authority of such change in such manner, as may be prescribed and such clinical establishment shall apply afresh for the grant of certificate of registration alongwith such fees, as may be prescribed.
- (3) In the event of ceasing to function as a clinical establishment, the certificate of registration in respect of such clinical establishment shall be surrendered to the concerned registration authority.
28. The concerned registration authority shall cause to be published within such time and in such manner, as may be prescribed, the names of such clinical establishments whose registration has expired. Publication of expiry of registration.
29. (1) If, at any time after any clinical establishment has been registered and the concerned registration authority on receiving a complaint and on getting such complaint duly investigated in the manner prescribed, is satisfied,— Cancellation or suspension of registration.
- (a) that the conditions of the registration are not being complied with; or
 - (b) that there exists any of the grounds which would have entitled the concerned registration authority to refuse the application for registration; or
 - (c) that the person entrusted with the management of the clinical establishment has violated any of the directions including any notice of improvement from the concerned registration authority; or
 - (d) that the person entrusted with the management of the clinical establishment has contravened any of the provisions of this Act or rules made thereunder; or
 - (e) that the clinical establishment has not complied with the improvement notice issued under section 31 of this Act,

the concerned registration authority, may issue a show cause notice as to why its registration under this Act should not be cancelled or suspended for the reasons to be mentioned in the notice.

(2) If after giving a reasonable opportunity of being heard to the clinical establishment, the concerned registration authority is satisfied that there has been a breach of any of the provisions of this Act or the rules made thereunder, it may, by an order, without prejudice to any other action that it may take against such clinical establishment, cancel or suspend its registration.

Inspection of
clinical
establishment.

30. (1) Inspection by the concerned registration authority or a multi-member inspection team referred to in sub-section (2) shall be mandatory before the issuance of certificate of permanent registration.

(2) The concerned registration authority or a multi-member inspection team authorised by it, which shall comprise of at least three members of impeccable integrity, shall have the right to cause an inspection of, or inquiry in respect of any registered clinical establishment, its building, laboratories and equipment and also of the work conducted or done by the clinical establishment, in such manner as may be prescribed and to cause an inquiry to be made in respect of any other matter connected with the clinical establishment and such clinical establishment shall be entitled to be represented thereat.

Provided that such inquiry can be conducted only after a complaint for breach of the declarations or terms and conditions, is received by the concerned registration authority.

(3) Every inspection team authorized under this section shall conduct the inspection and submit a report to the concerned registration authority within seven days of completion of such inspection in such manner, as may be prescribed.

(4) The inspection team conducting the inspection shall record its observation or inspection note in the inspection book to be kept at the clinical establishment for this purpose.

Improvement
notice.

31. If the concerned registration authority has reasonable ground by way of the receipt of any complaint, for believing that any clinical establishment has failed to comply with any provision of this Act or the rules made thereunder, the concerned registration authority may, after ascertaining the opinion of the concerned clinical establishment thereon, by an improvement notice served on that clinical establishment,-

- (a) state the grounds for believing that the clinical establishment has failed to comply with any provision of this Act or the rules made thereunder;
- (b) specify the matters which constitute the clinical establishment's failure to comply;
- (c) specify the measures which, in the opinion of the concerned registration authority, the clinical establishment must take, in order to ensure compliance; and
- (d) require the clinical establishment to take those measures, or measures which are at least equivalent to them, within a reasonable period (not more than one month) as may be specified in the notice.

32. (1) If,-

- (a) any clinical establishment is convicted of an offence under this Act; or
- (b) the clinical establishment is being kept or carried on without a valid certificate of registration; or
- (c) the registration of the clinical establishment is cancelled or suspended; or
- (d) the concerned registration authority is satisfied that an imminent danger to the health and safety of any member of the public or patient exists with respect to that clinical establishment,

Prohibition
order.

the concerned registration authority may, after giving such clinical establishment an opportunity of being heard, by an order, impose the following prohibitions, namely:-

- (i) a prohibition on the use of the process or treatment for the purposes of the service delivery by the clinical establishment, and/or
- (ii) a prohibition on the use of the premises or equipment for the purposes of the service delivery by the clinical establishment.

(2) Every order made under sub-section (1) shall take immediate effect:

Provided that the concerned registration authority, after issuance of prohibition order shall take such steps, to restrain immediately the clinical establishment from carrying on health care related services, as may be prescribed.

Power to enter. 33. The concerned registration authority or such officers as may be authorised by it, may, if there is any reason to suspect that anyone is carrying on a clinical establishment without due registration, enter and search in the manner prescribed, at any reasonable time and the clinical establishment, shall offer reasonable facilities for inspection or inquiry and be entitled to be represented thereat:

Provided that no such person shall enter the clinical establishment without an authority letter from the concerned registration authority.

CHAPTER IV

PUNJAB STATE APPELLATE AUTHORITY

Punjab State
Appellate
Authority.

34. (1) With effect from such date as the State Government may, by notification appoint in this behalf, there shall be established for the purposes of this Act, the Punjab State Appellate Authority to be called the Punjab State Appellate Authority for Clinical Establishments.

(2) The Punjab State Appellate Authority shall consist of the following, namely:-

- (i) Administrative Secretary, Department of Health and Family Welfare, Punjab, Chairperson
- (ii) Director Health Services (Family Welfare), Punjab, Member
- (iii) one Law Officer to be nominated by the State Government, Member

Functions of
Punjab State
Appellate
Authority

35. The Punjab State Appellate Authority shall,-

- (i) be the appellate authority to hear appeals against the orders of the State Registration Authority and the District Registration Authority; and
- (ii) perform such other functions, as may be determined by the State Government.

Appeal and
revocation.

36. (1) Any person, aggrieved by,-

- (i) the failure of the concerned registration authority in communicating the allowing or disallowing of an application for registration to a clinical establishment within the prescribed period; or
- (ii) an order of the concerned registration authority refusing to allow registration or extend or renew a registration certificate, or

- (iii) an order of cancellation or suspension of a registration certificate; or
 - (iv) an improvement notice; or
 - (v) prohibition order;
 - (vi) or any other order of the concerned registration authority,
- may, prefer an appeal to the Punjab State Appellate Authority

(2) Every appeal under sub-section (1) shall be made in such manner, in such form, within such period and shall be accompanied by such fee, as may be prescribed:

Provided that the Punjab State Appellate Authority may entertain an appeal referred to in sub-section (1) after the expiry of the prescribed period if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(3) Cancellation of registration may be revoked by the Punjab State Appellate Authority after considering the appeal.

(4) The decision of the Punjab State Appellate Authority shall be final and binding.

CHAPTER V

REGISTERS OF CLINICAL ESTABLISHMENTS

37. (1) The concerned District Registration Authority shall maintain in such form and containing such particulars, as may be prescribed, a register to be known as the District Register of Clinical Establishments in respect of all the clinical establishments of that District, except the clinical establishments having one hundred or more beds.

District Register of Clinical Establishments.

(2) The concerned District Registration Authority shall within a period of two years from its establishment, compile, publish and maintain in digital format a register of clinical establishments registered by it and enter the particulars of the certificates so issued in a register to be maintained for such purpose.

38. (1) The State Registration Authority shall maintain in such form and containing such particulars, as may be prescribed, a register to be known as the State Register of Clinical Establishments in respect of the clinical establishments having one hundred or more beds.

State Register of Clinical Establishments.

(2) The State Registration Authority shall within a period of two years

from its establishment, compile, publish and maintain in digital format a register of clinical establishments registered by it and enter the particulars of the certificates so issued in a register to be maintained for such purpose.

Punjab State
Master Register.

39. (1) The Punjab State Council shall maintain in such form and containing such particulars, as may be prescribed, a register to be known as the Punjab State Master Register of Clinical Establishments in respect of all the clinical establishments registered in the State of Punjab.

(2) It shall be the responsibility of the State Registrar of Clinical Establishments to compile and update the Punjab State Master Register on behalf of the Punjab State Council.

(3) The Punjab State Master Register would be subsequently digitized within two years.

(4) The Punjab State Council on behalf of the State Government shall supply to the Central Government, a copy of the Punjab State Master Register and inform the Central Government of all additions to and other amendments in the said register, for a particular month by the 15th day of the following month.

CHAPTER VI

PENALTIES

Penalty.

40. Whosoever contravenes any provision of this Act shall, if no penalty is provided elsewhere, be punishable in accordance with the rules made under this Act.

Monetary
penalty for
non-registration.

41. (1) Whosoever carries on a clinical establishment without registration shall, on first contravention, be liable to a monetary penalty which may extend to fifty thousand rupees, for second contravention with a monetary penalty which may extend to two lakh rupees and for any subsequent contravention with a monetary penalty which may extend to five lakh rupees and may also invite disciplinary action, as may be prescribed.

(2) Whosoever knowingly serves in a clinical establishment which is not duly registered under this Act shall, on first contravention, be liable to a monetary penalty which may extend to twenty-five thousand rupees, for second contravention with a monetary penalty which may extend to one lakh rupees and for any subsequent contravention with a monetary penalty which may extend to two lakh and fifty thousand rupees.

(3) For the purpose of adjudging under sub-sections (1) and (2), the

concerned registration authority shall hold an inquiry in the prescribed manner after giving the person concerned a reasonable opportunity of being heard for the purpose of imposing any monetary penalty.

(4) While holding an inquiry, the concerned registration authority shall have the power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the concerned registration authority, may be useful for or relevant to the subject matter of the inquiry and if, upon such inquiry, it is satisfied that the person has failed to comply with the provisions specified in sub-sections (1) and (2), it may by order impose the monetary penalty as specified in the said sub-sections to be deposited within thirty days of the order in the account referred to in sub-section (8) of section 42.

(5) While determining the quantum of monetary penalty, the concerned registration authority shall take into account the category, size and type of the clinical establishment and local conditions of the area in which the clinical establishment is situated.

(6) Any person aggrieved by the decision of the concerned registration authority may prefer an appeal to the Punjab State Appellate Authority within such period, as may be prescribed.

(7) The manner of filing the appeal referred to in sub-section (6) shall be such, as may be prescribed.

(8) The Punjab Medical Council or the concerned Registration Council or body shall be informed about the name of the doctor or service provider who has committed more than three offences.

42. (1) Whosoever wilfully disobeys any direction lawfully issued by the concerned registration authority or by any person empowered under this Act to give such direction, or obstructs any person or authority in the discharge of any duty or functions which such person or authority is required or empowered under this Act to discharge, shall be liable to such monetary penalty, as may be prescribed.

Disobedience of direction, obstruction and refusal of information.

(2) Whosoever being required by or under this Act to supply any information, wilfully withholds such information or wilfully provides such information which he knows to be false or which he does not believe to be true, shall be liable to such monetary penalty, as may be prescribed.

(3) For the purpose of adjudging under sub-sections (1) and (2), the concerned registration authority shall hold an inquiry in the prescribed manner after giving the concerned person a reasonable opportunity of being heard for

the purpose of imposing any monetary penalty.

(4) While holding an inquiry, the concerned registration authority shall have the power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which in the opinion of the concerned registration authority, may be useful for or relevant to the subject matter of the inquiry and if, on such inquiry, it is satisfied that the person has failed to comply with the provisions specified in sub-sections (1) and (2), it may by order impose the monetary penalty referred to in the said sub-sections to be deposited within thirty days of the order in the account referred to in sub-section (8).

(5) While determining the quantum of monetary penalty, the concerned registration authority shall take into account the category, size and type of the clinical establishment and local conditions of the area in which the clinical establishment is situated.

(6) Any person aggrieved by the decision of the concerned registration authority may prefer an appeal to the Punjab State Appellate Authority within such period, as may be prescribed.

(7) The manner of filing the appeal referred to in sub-section (6) shall be such, as may be prescribed.

(8) All monetary penalties levied under this Act shall be credited to such account as the State Government may by order specify in this regard.

Penalty for
minor
deficiencies.

43. Whosoever contravenes any provision of this Act or any rule made thereunder resulting in deficiencies that do not pose any imminent danger to the health and safety of any patient and can be rectified within a reasonable time, shall be liable for such punishment, as may be prescribed alongwith monetary penalty which may extend upto ten thousand rupees for first contravention, upto fifty thousand rupees for second contravention and upto one lakh rupees for any subsequent contravention.

Contravention
by companies

44. (1) Where a person committing contravention of any of the provisions of this Act or of any rule made thereunder, is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company itself, shall be deemed to be guilty of such contravention and shall be liable to pay such monetary penalty, as may be prescribed:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention

was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule made thereunder has been committed by a company and it is proved that such contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of such contravention and shall be liable to pay such monetary penalty, as may be prescribed.

Explanation.- For the purpose of this section,—

- (a) "company" means a body corporate and includes a firm or other association of individuals; and
- (b) "director", in relation to a firm, means a partner in the firm.

45. (1) Where an offence under this Act has been committed by any Department of Punjab Government within such period, as may be prescribed after the commencement of this Act, the concerned service provider employed or engaged by such Department shall be deemed to be guilty of such offence and shall be liable to be proceeded against and punished according to the provisions of this Act and the rules made thereunder:

Offences by
Government
Departments.

Provided that nothing contained in this section shall render such service provider liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), whereby an offence under this Act has been committed by a Department of Punjab Government and it is proved that the offence has been committed by a service provider with the consent or connivance of, or is attributable to any neglect on the part of any officer, such officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished according to the provisions of this Act and the rules made thereunder.

46. Whosoever fails to pay any fine, the Punjab State Council may prepare a certificate signed by an officer duly authorised by it specifying the amount of the fine due from such person and send it to the Collector of the District in which such person owns any property or resides or carries on his business and the said Collector, upon receipt of such certificate, shall proceed to recover from such person the amount specified thereunder, as if it were an arrear of land revenue.

Recovery of
fine.

Grievance redressal. 47. There shall be such grievance redressal mechanism, as may be prescribed, whereby any member of the public may file a complaint regarding non-compliance with any provision of this Act.

CHAPTER VII MISCELLANEOUS

Protection of action taken in good faith. 48. (1) No suit, prosecution or other legal proceedings shall lie against any authority or any Member of the Punjab State Council or any officer duly authorized in this behalf in respect of anything, which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule made thereunder.

(2) No suit or other legal proceedings shall lie against any officer of the State Government in respect of any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or any rule made thereunder.

Furnishing of returns etc. 49. Every clinical establishment shall, within such time or within such extended time, as may be prescribed in that behalf, furnish to the concerned registration authority or the Punjab State Council, such returns or the statistical and other information in such manner, as may be prescribed.

Power to give directions. 50. Without prejudice to the foregoing provisions of this Act, the Punjab State Council shall have the power to issue such directions, including furnishing returns, statistical and other information for the proper functioning of clinical establishments and such directions shall be binding.

Employees of the registration authorities etc., to be public servants. 51. The employees of the registration authorities, the Punjab State Council and the Punjab State Appellate Authority shall be deemed to, when acting or purporting to act in pursuance of any of the provisions of this Act, be public servants as per the provisions of section 21 of the Indian Penal Code.

Power to remove difficulties. 52. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order so published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to it to be necessary or expedient for removal of the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before the State Legislature.

53. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power of State Government to make rules.

(2) Every rule made under this section, shall be laid, as soon as may be, after it is made, before the House of the State Legislature while it is in session for a total period of ten days, which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the successive sessions as aforesaid, the House agrees in making any modification in the rule or the House agrees that the rule should not be made, the rule shall thereafter, have effect only in such modified form or be of no effect, as the case may be. However, any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

54. (1) The Punjab Clinical Establishments (Registration and Regulation) Ordinance, 2020 (Punjab Ordinance No. 2 of 2020), is hereby repealed. Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance referred to in sub-section (1), shall be deemed to have been done or taken under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

Providing quality healthcare to the people by the clinical establishments of both the public and private sectors is among the top priority of the State Government and assumes more importance in the present emergent situation arising due to the COVID 19. There was no comprehensive Act enacted in the State of Punjab to Register & Regulate the Clinical Establishments and to prescribe minimum standards of facilities and services to be provided by the clinical establishments. Hence Government of Punjab Promulgated an Ordinance namely the Punjab Clinical Establishments (Registration & Regulation) Ordinance 2020.

The Punjab Clinical Establishments (Registration & Regulation) Ordinance 2020 aims to bring the clinical establishments under a regulatory mechanism so as to ensure that there is more transparency in their functioning, check patients disadvantage, to categorise and classify the clinical establishments, lay down various norms and standards of the facilities and services, staff norms, record maintenance, reporting etc & supporting the state during times of natural disasters, calamities & wide spread pandemics & epidemics. So there is need to present the Punjab Clinical Establishments (Registration and Regulation) Bill, 2020 in the Punjab Vidhan Sabha Session to replace the Ordinance.

Hence, the Punjab Clinical Establishments (Registration and Regulation) Bill, 2020

BALBIR SINGH SIDHU,
Health and Family Welfare Minister,
Punjab.

FINANCIAL MEMORANDUM

The proposed Act is going to be first of its kind in the State. It is difficult to make an estimate of expected revenue and expenditure. However, the financial receipts under this proposed act would be from registration fees, fees for issue of duplicate certificates, penalties and there shall be no other financial implication.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Section 53 of Punjab Clinical Establishments (Registration & Regulation) Bill 2020 empowers the State Government to make rules to carry out the purposes of this Act. The powers sought are necessary for the proper implementation of the Act and are normal in nature.

The Governor has, in pursuance of clause (1) and (3) of Article 207 of the Constitution of India, recommended to the Punjab Legislative Assembly, the introduction and consideration of the Bill.

CHANDIGARH
THE 27th AUGUST, 2020

SHASHI LAKHANPAL MISHRA,
SECRETARY.

N.B. - The above Bill was published in the Punjab Government Gazette (Extraordinary), dated the 27th August, 2020 under the proviso to rule 121 of the Rules of Procedure and Conduct of Business in the Punjab Vidhan Sabha (Punjab Legislative Assembly).