

THE PAKISTAN MEDICAL COMMISSION (ENFORCEMENT) REGULATIONS, 2021

Islamabad, the 19th February, 2021

In exercise of the powers conferred by section 40 of the Pakistan Medical Commission Act, 2020 (XXXIII of 2020), the Pakistan Medical Council, is pleased to make the following regulations, namely:

THE PAKISTAN MEDICAL COMMISSION (ENFORCEMENT) REGULATIONS, 2021.

1. Short title and Commencement. — (1) These regulations may be called the Pakistan Medical Commission (Enforcement) Regulations, 2021.

(2) They shall come into force at once.

PART – I

2. Definitions. — (1) In these regulations, unless there is anything repugnant in the subject or context, –

(a) "Act" means the Pakistan Medical Commission Act, 2020 (XXXIII of 2020);

(b) "Applicable Documents" means the rules and regulation issued in pursuance of the Act from time to time, license and registration issued under the Act, codes, guidelines, standing operating procedures, directive, decision and any documents, instruments, approvals or authorizations issued or granted by the Commission in exercise of its powers under the Act;

(c) "Complainant" means any person filing a complaint under regulation 7;

(d) "Council" means the Medical and Dental Council constituted under the Act;

(e) "Disciplinary Committee" means the Disciplinary Committee constituted under section 32 of the Act;



(f) "Delinquent" means a person adjudged, by the Disciplinary Committee or the Council to be in violation of the provisions of the Act or the applicable documents;

(g) "Information" means any information regarding contravention of provisions of the applicable documents of which cognizance is to be taken by the Disciplinary Committee or the Council;

(h) "License" means a license granted under Act and shall include provisional, temporary and full license;

(2) The words and expressions used in these regulations, but not defined herein shall have the same meaning as are assigned to them in the Act.

PART – II

3. **Disciplinary Action.** — The Council shall appoint a Disciplinary Committee to take disciplinary action against any full license holder or any recognized institution in respect of medical negligence, misconduct or violation of any obligation under the Act or any rules, regulations or directions of the Commission or applicable documents other than offences provided for under subsection (1), (2), (3), (4) and (5) of section 34 of the Act.

4. **Disciplinary Committee.** — The Disciplinary Committee shall consist of three members of the Council of which one shall be the member having legal qualification to hear all disciplinary matters. The Member Legal of the Authority shall act as Secretary to the Disciplinary Committee. The Council shall appoint one member as the chairman of the Disciplinary Committee.

5. **Initiation of Proceedings.** — (1) Disciplinary Committee shall initiate proceedings:

- (a) on the complaint of any person or authority; or
- (b) on its own motion on information received.

6. **Appointment of Expert.** — For each matter to be heard by the Disciplinary Committee the Executive Member of the Authority shall select at least one licensed practitioner as an expert having



a minimum fifteen years standing in the specialty to which the complaint or information received relates to assist the Disciplinary Committee at the hearing. The written opinion of the expert shall be appended with the decision of the Disciplinary Committee and shall form part of the record.

PART – III

7. **Complaint.** — (1) Any person may file a complaint or provide information in writing against a full license holder or a recognized institution in respect of professional negligence or misconduct or violation of any obligation under the Act or any rules, regulations or directions of the Commission.

(2) A complaint shall be submitted to the Secretary of the Disciplinary Committee by registered post or through the online complaint cell at Pakistan Medical Commission website.

8. **Contents of Complaint.** — (1) A complaint under these regulations shall state –

- (a) name of the person making the complaint;
- (b) address in Pakistan for delivery of notice/document;
- (c) telephone number, fax number and electronic mail address, if available;
- (d) mode of service of notice/documents to be used;
- (e) name and address(es) of respondent(s); and
- (f) name and address of authorized representative, if any;

(2) The complaint shall contain ---

- (a) a brief statement of facts;
- (b) a summary of the alleged contravention;
- (c) a succinct representation in support of each contravention;
- (e) all documents/evidence in support of each of the presentations; and
- (f) relief(s) sought

PART – IV

9. **Procedure.** — (1) The complaint shall after scrutiny be registered and recorded with a unique complaint number. Upon registration the Secretary to the Disciplinary Committee may seek further particulars from the complainant if so required.



(2) The Secretary shall within fourteen days of the complaint being received issue a notice to the person or institution against whom the complaint has been registered along with a complete copy of the complaint to show cause as to why punitive action be not taken against them.

(3) The show cause notice shall specify the following, namely: -

- (i) the alleged violation;
- (ii) identity of the person filing a complaint;
- (iii) the time period, not exceeding thirty days, for the submission of a response to the show cause notice.

(4) The said person or institution shall, within the time specified in this behalf in the show cause notice, submit a written and detailed response to the show cause notice.

(5) The response submitted by the respondent shall be communicated to the complainant within three days of receipt and the complainant may within fourteen days file re-joinder to the reply filed by the respondent. A copy of the re-joinder if submitted shall be provided to the respondent.

(6) The complaint on completion of the pleadings shall be fixed for personal hearing of the parties before the Disciplinary Committee at its next sitting and shall not be later than sixty days of completion of the pleadings.

(7) The parties may appear in person or through a duly appointed representative at the hearing before the Disciplinary Committee. The hearing may be attended in person or through video link.

(8) The Disciplinary Committee may grant an adjournment sought by a party for sufficient reasons subject to costs being paid by the party seeking adjournment to the other party representing costs incurred by the other party to attend the hearing.

(9) In the event on the day fixed for hearing, including day of hearing re-fixed on adjournment, if any party or parties to the proceeding do not appear even after service of notice, or seek an adjournment to which the committee does not accede to, the Disciplinary Committee may for



reasons to be recorded continue proceedings in the absence of such party or parties not appearing and an ex-party decision may be made.

(10) Where the Disciplinary Committee accepts the response to the show cause notice, it shall record the reasons for acceptance thereof and shall order the matter closed.

(11) Where the Disciplinary Committee rejects the response to the show cause notice, it shall:

- (i) record the reasons for rejection of the response;
- (ii) declare the said person or institution to be a delinquent in terms of the declaration; and
- (iii) impose a suitable punitive penalty.

(12) The Disciplinary Committee shall hear and decide each complaint within ninety days of issuance of show cause notice. Decision shall be communicated to the parties and shall also be notified to all concerned public or private authorities or institutions to whom such decision pertains or by whom enforcement is required.

(13) Proceedings and the decisions of the Disciplinary Committee shall be deemed to be approved and rendered by the Council in terms of subsection 1 of section 32 of the Act. A review of any decision of the Disciplinary Committee as may be sought by any party shall be heard by the Council.

10. Withdrawal of Complaint. — The Disciplinary Committee may permit the withdrawal of a complaint at any stage of the proceeding or may for reasons to be recorded refuse a withdrawal and proceed with the complaint in the absence of the complainant.

11. Frivolous Complaint. — (1) Any vexatious or frivolous complaint by any person may be dismissed by the Disciplinary Committee. The Disciplinary Committee's decision on the aforesaid complaint being frivolous or vexatious shall be made on the basis of facts and circumstances of each case.



(2) Any person found to have filed a false and frivolous complaint shall be required to pay the costs incurred by the accused and a further penalty being a fine to be determined by the Disciplinary Committee.

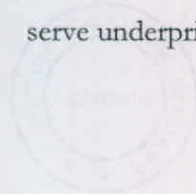
12. Powers of Disciplinary Committee. — For the purpose of disciplinary hearing, the Disciplinary Committee shall exercise all the powers of a civil court under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely:

- (a) Summoning and enforcing the attendance of any witness and examining him on oath;
- (b) discovery and production of any document or other material object producible as evidence from any hospital or institution;
- (c) accept evidence on affidavits or other manner acceptable to the Committee;
- (d) requisitioning of any public record; and
- (e) issuing of a commission for the examination of any witness, document or both.

PART – V

13. Penalty. — (1) The Disciplinary Committee may in respect of:

- a) Major offence to includes offences of false representation of qualifications, gross negligence, harassment, violation of mandatory provision of code of ethics, practicing without corresponding qualifications or privileges, admission of students over and above the allocated strength in college or house jobs, violation of mandatory conditions of recognition and registration of practitioners or institutions and violation of a mandatory provision of the Act, rules or regulations framed thereunder;
 - (i) impose a fine upto Rs.50 million or as may be provided under the Act for a specific offence;
 - (ii) suspend license upto five years;
 - (iii) cancel license permanently;
 - (iv) withdraw privileges at the hospital/institution where license holder is working;
 - (v) serve underprivileged people free of cost upto 12 months;



b) Minor offences to include failure to renew license or obtain revalidation, misconduct not amounting to negligence, violation of a non mandatory provision of code of ethics, violation of privileges, violation of a non mandatory condition of recognition and registration of practitioners or institutions, violation of a non mandatory provision of the Act, rules or regulations framed thereunder or violation of a direction issued by the Authority;

- (i) impose a fine upto Rs.1 million or as may be provided under the Act for a specific offence;
- (ii) suspend license upto one year;
- (iii) undergo training for one year;
- (iv) reprimand or issue a warning;
- (v) temporarily restricted from performing certain procedures or seeing certain types of patients or privileges be placed on observation for a period extending to one year.

(2) Considering the facts and circumstances and gravity of issue involved, the Disciplinary Committee may decide to take further remedial action based on any or combination of penalties mentioned above including imposing for a major offence a penalty imposable for a minor offence in addition to a penalty stipulated for a major offences.

(3) In imposing any penalty under sub-regulation (1), the Disciplinary Committee shall keep in view the proportionality of the penalty to the gravity of the violation.

(4) The penalty specified in these regulations shall be without prejudice to any other penalties which may be imposed under the Act or applicable documents.

(5) If any person or entity upon whom a fine is imposed as a penalty and fails to pay the same within fourteen days of the issuance of the decision of the Disciplinary Committee, the license or recognition of the person or entity shall be deemed suspended and shall remain suspended until such time as the fine is paid.



(6) If any person or entity is imposed with restrictions or any other penalty other than a fine and fails to comply with the same or violates the terms of such penalty, the person or entity shall be punishable with penalty provided for under the major penalties.

14. Reference to Medical Tribunal. — The Disciplinary Committee in addition to imposition of a penalty provided for under these regulations or otherwise may refer an offence for criminal prosecution to the Medical Tribunal if the same falls within the jurisdiction of the Medical Tribunal for trial and such reference and prosecution before the Medical Tribunal shall not be deemed to be a re-trial or imposition of penalty for the same offence;

Provided if the Disciplinary Committee has imposed a fine and thereafter, referred the matter for criminal prosecution to the Medical Tribunal, the penalty sought by the Commission and imposable by the Medical Tribunal would be limited to punishment of imprisonment only.

15. Appeal. — (1) The delinquent may prefer an appeal against the decision of the Disciplinary Committee before the Medical Tribunal within thirty days of the date of communication of the decision.

PART - VI

16. Public register. — (1) The Commission shall maintain a register in which there shall be entered —

- (a) all decisions that the Commission is required to publish under these regulations;
- (b) all the complaints; and
- (c) all summaries of notices published under these regulations.

(2) Subject to payment of inspection fee of Rs.500, the register shall be open to public inspection by prior appointment, at the Commission's office.

17. Inspection and certified copies of documents. — (1) A party to the proceedings, may on an application in writing in that behalf addressed to the Secretary to the Disciplinary Committee, be



allowed to inspect or obtain copies of the documents or records submitted during proceedings on payment of fee as notified by the Council.

(2) An inspection shall be allowed only in the presence of an officer so authorized by the Secretary to the Commission;

Provided that the inspection of documents shall be allowed under the supervision of and subject to the time limits to be prescribed by the Secretary to the Commission.



Secretary
Pakistan Medical Commission

