

A
Bill

to prohibit violence against healthcare service providers, patients and their attendants and to prevent damage or loss to property in healthcare service facilities in the Province of the Khyber Pakhtunkhwa.

WHEREAS it is expedient to prohibit violence against healthcare service providers, patients and their attendants, prevent damage or loss to property in healthcare service facilities in the Province of Khyber Pakhtunkhwa and to ensure uninterrupted provision of healthcare services and for matters connected therewith or incidental thereto;

It is hereby enacted by the Provincial Assembly of Khyber Pakhtunkhwa as follows:

CHAPTER-I
GENERAL

1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Healthcare Service Providers and Facilities (Prevention of Violence and Damage to Property) Act, 2020.

- (2) It shall extend to the whole of the Province of Khyber Pakhtunkhwa.
- (3) It shall come into force at once.

2. Definitions.---In this Act, unless the context otherwise requires,-

- (a) **“arms”** arms shall have the same meaning as assigned to it in the Khyber Pakhtunkhwa Arms Act, 2013 (Khyber Pakhtunkhwa Act No. XXIII of 2013);
- (b) **“damage”** includes wrongful loss or harm to property, whether in whole or in part, with or without taking possession of the property that renders it inadequate for its designated purpose or wholly or partially incapable of performing its function;
- (c) **“Government”** means the Government of Khyber Pakhtunkhwa;
- (d) **“healthcare services”** means the administrative, curative, rehabilitative, preventive, promotive and supportive services for the control of diseases, injuries or disabilities as well as measures ensuring the health of mothers, infants and young children and includes activities that ensure or provide support or access for persons in need of these healthcare services or activities such as searching for, collecting, treating or transporting persons in need of healthcare or the

administration of healthcare service facilities;

- (e) **“healthcare service facilities”** include health care centres, hospitals, healthcare teaching hospitals, diagnostic centres, blood banks, medical clinics, nursing homes, maternity homes, dental clinics, all registered alternative medicine health care facilities, physiotherapy clinics, medical camps, first-aid posts, or any other premises or conveyance that is wholly or partly used for providing healthcare services in the public and private sectors;
- (f) **“healthcare service providers”** in relation to b healthcare service facility means the administrative, clinical, support and auxiliary staff including students in healthcare and includes the following-
- (i) registered medical and dental or alternative medicine practitioners including those having provisional registration;
 - (ii) registered nurses;
 - (iii) medical students;
 - (iv) nursing students;
 - (v) paramedics;
 - (vi) all registered alternative medicine’s practitioners
 - (vii) paramedical students;
 - (viii) pharmacists;
 - (ix) Lady Health Workers;
 - (x) polio workers;
 - (xi) volunteers;
 - (xii) management staff; and
 - (xiii) non-clinical staff;
- (g) **“mental anguish”** means extreme pain, distress of mind, severe misery or mental suffering;
- (h) **“obstruction”** means any act that hinders the provision of healthcare services;
- (i) **“Penal Code”** means the Pakistan Penal Code, 1860 (Act No. XLV of 1860);
- (j) **“property”** means any property, movable or immovable in possession of or under the control of any healthcare service facility or healthcare

service provider in relation to his professional duty;

- (k) **“patient”** means any recipient of healthcare services;
- (l) **“relevant authority”** means a competent authority in relation to healthcare services facilitates or healthcare services providers as provided in any other laws, rules and regulations of the Federal Government or Provincial Government, as the case may be;
- (m) **“section”** means a section of this Act; and
- (n) **“violence”** means and include harassment, provocation or use of force against a person, group or community, or healthcare service facility which results in mental anguish, injury or death to the healthcare service providers or beneficiary of healthcare services, or results in interruption of healthcare services provision or damage to such property and shall not include-
- (i) collateral or defensive violence, if any, caused by the law; and
- (ii) enforcing agencies or security personnel of the healthcare service facility on duty.

CHAPTER-II **OFFENCES AND PENALTIES**

3. Prohibition of violence.---No person shall use violence against a healthcare service provider, patient or his attendants or any other person within a healthcare service facility.

4. Penalty for contravention of section 3.---(1) Whoever contravenes the provisions of section 3, shall be punished with penalties prescribed in the Penal Code.

(2) Where an act, in contravention of section 3, causes injury or death or which in the ordinary course of nature is likely to cause injury or death. The person shall be liable to punishment under the relevant provisions of the Penal Code:

Provided that in case of injury to a healthcare service provider or to the patient or his attendant, as the case may be, in addition to the punishment specified above, the accused shall also be liable to compensate such healthcare service provider, patient or his attendant, as the case may be, in the form of arsh and daman as are provided in relevant provisions of the Penal Code.

(3) If an act, in violation of section 3, causes mental anguish only without causing any bodily injury or harm to a healthcare service provider, patient or his attendants, as the case may be, the person causing such mental anguish shall be liable to compensate such healthcare service provider, patient or his attendant, as

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the case may be, in such an amount as may be determined by the court.

5. Prohibition of damage to Property.---No person shall cause damage or loss to property owned by or under the care of healthcare service providers or healthcare facilities in connection with or incidental to their activities in healthcare service facilities.

6. Penalty for contravention of section 5.---Whoever contravenes the provisions of section 5, shall be punished with-

- (a) imprisonment for a term which may extend to three years or with fine equivalent to the market value of the property damaged or lost at the time of commission of offence or with both, if an act causes irreparable wrongful damage or loss to property having value equivalent to or exceeding one hundred thousand rupees; or
- (b) imprisonment for a term which may extend to one year or with fine equal to the cost of repairing the damaged property including the cost of deprivation of healthcare services to the public or with both, if an act causes reparable wrongful damage or loss to property the value of which is equivalent to or exceeding one hundred thousand rupees; or
- (c) imprisonment for a term which may extend to one month or with the fine or with both, if an act which causes wrongful damage or loss to property having value less than one hundred thousand rupees:

Provided that where loss to property constitutes other offences to property, it shall be dealt with under the relevant provisions of the Penal Code.

7. Prohibition of obstruction or disruption of health care service.---No person shall cause disruption or obstruction of healthcare services in a healthcare facility.

8. Penalty for contravention of section 7.---Whoever contravenes the provisions of section 7 shall be punished with-

- (a) imprisonment for a term which may extend to three years or with fine which may extend to one million rupees but shall not be less than fifty thousand rupees or with both, if an act causes obstruction of healthcare services; or
- (b) imprisonment for a term which may extend to one year or with fine which may extend to one million rupees but shall not be less than fifty thousand rupees or with both, if an act which in the ordinary course of nature is likely to cause interruption in the provision of healthcare services.

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9. Prohibition of carrying weapons into a healthcare facility.---No person shall keep, carry or display arms of any kind including licensed weapons within the premises of a healthcare service facility:

Provided that the provisions of this section shall not apply to the carrying of arms officially allowed for security purposes to the law enforcing agencies or security personnel of a healthcare service facility on duty.

10. Penalty for contravention of section 9.---Whoever contravenes the provisions of section 9 shall be punished with imprisonment for a term which may extend to six months but shall not be less than one month or with fine which may extend to one million rupees but shall not be less than fifty thousand rupees or with both.

11. False charge of offence.---Where it is proved at any stage that no violation of the provisions of this Act was committed and the charge revealed against the accused was false and malicious, the person levelling such false charge shall be proceeded under the relevant provisions of the Penal Code.

CHAPTER-III **RESPONSIBILITIES**

12. Responsibilities of healthcare service facilities and healthcare service providers.---(1) In addition to any other responsibility of a healthcare service facility or a healthcare service provider under any law for the time being in force, it shall be the responsibility of each healthcare service facility to ensure that the healthcare service providers explain the procedures of treatment before and during the treatment to the complete understanding of the patients or their designated relatives in a presentable and comprehensible manner.

(2) It shall be the responsibility of each healthcare service provider, performing duties in a healthcare service facility to furnish in writing, the complete information about medical treatment provided by such healthcare service facility, to the patients or his designated relatives, who seek treatment in the said facility in a presentable and comprehensible manner.

(3) It shall be the responsibility of each healthcare service provider to safeguard patient confidentiality and to maintain the highest standards of ethical conduct and not to discriminate amongst patients except on the basis of medical need and to provide emergency care as a humanitarian duty.

(4) It shall be the responsibility of each healthcare service facility to ensure that the healthcare service providers adhere to the responsibilities specified in sub-section (1), (2) and (3) or in any other law for the time being in force and also to address complaints of any violation in respect of the same, followed by appropriate action against the concerned healthcare service provider or the concerned person in the healthcare service facility, as the case may be, by the relevant authority.

Explanation: "appropriate action" for the purposes of this section means disciplinary action, suspension, cancellation or revocation of license for medical practice/profession, sealing of the healthcare facility or any other suitable action prescribed in laws, rules, regulations and standard operating procedures of the Federal Government or Government, as the case may be.

(5) Each healthcare facility shall be bound to provide a copy of the whole or part of the patient's information sheet or medical record on demand to the patient concerned or his designated attendant.

CHAPTER-IV
MISCELENEOUS

13. Act to be in addition to and not in derogation of any other law.---Except as otherwise expressly provided, the provisions of this Act shall be in addition to and not in derogation of the provisions of any other law for the time being in force.

14. Cognizance of offence.---No court other than Magistrate of the First Class shall try an offence, punishable under this Act on the report of a Police Officer not below the rank of a sub-inspector.

15. Application of the Code of Criminal Procedure, 1898.---The provisions of the Code of Criminal Procedure, 1898 (Act No. V of 1898), shall *mutatis mutandis* apply to the procedural matters including trials and bails etc. under this Act.

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

STATEMENT OF OBJECTS AND REASONS

The healthcare persons and institutions play a vital role in promoting social health and wellbeing. It is therefore, paramount to ensure protection and security of the healthcare persons and institutions against any kind of violence and threat.

The Bill seeks to ensure the protection and security of healthcare persons and institutions and to prohibit violence against healthcare service providers, patients and their attendants, prevent damage or loss to property in healthcare service facilities in the Province of Khyber Pakhtunkhwa and to ensure uninterrupted provision of healthcare services.

Peshawar,
Dated: / /2020


MINISTER-IN-CHARGE

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