

THE PUNJAB HEPATITIS ORDINANCE 2017
(XV OF 2017)

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TEXT

¹THE PUNJAB HEPATITIS ORDINANCE 2017
(XV OF 2017)

[10 November 2017]

AN
ORDINANCE

to provide for surveillance, diagnosis and treatment of hepatitis

It is necessary to provide for the surveillance, diagnosis and treatment of hepatitis, for the enforcement of measures to prevent and control its spread and for incidental purposes.

Provincial Assembly of the Punjab is not in session and Governor of the Punjab is satisfied that circumstances exist which render it necessary to take immediate action.

In exercise of the powers conferred under clause (1) of Article 128 of Constitution of the Islamic Republic of Pakistan, Governor of the Punjab is pleased to make and promulgate the following Ordinance:

1. Short title, extent and commencement.— (1) This Ordinance may be cited as the Punjab Hepatitis Ordinance 2017.

- (2) It extends to whole of the Punjab.
- (3) It shall come into force at once.

2. Definitions.— In this Ordinance:

- (a) “Director General” means the Director General Health Services, Punjab;
- (b) “Government” means Government of the Punjab;
- (c) “healthcare facility” means a hospital, diagnostic center, medical clinic, nursing home, maternity home, dental clinic, homeopathy clinic, *tibb* clinic, acupuncture clinic, physiotherapy clinic or any other premises or conveyance, wholly or partly, used for providing healthcare services;
- (d) “health inspector” means a health inspector appointed under the Ordinance and includes a person vested with the powers of a health inspector;
- (e) “hepatitis” means hepatitis-B or hepatitis-C;
- (f) “hepatitis test” means a medical procedure administered for diagnostic or clinical purposes to determine the presence or otherwise of hepatitis virus in an individual;
- (g) “hepatitis transmission” means the transfer of hepatitis to an uninfected person through any mode of transmission;
- (h) “infant” means a child below the age of one year;
- (i) “medical practitioner” means a doctor registered with Pakistan Medical and Dental Council;
- (j) “Ordinance” means the Punjab Hepatitis Ordinance 2017;

¹This Ordinance was Promulgated by the Governor of the Punjab on 09 November 2017; and, was published in the Punjab Gazette (Extraordinary), dated: 10 November, pp.3163-3170

- (k) "patient" means a person who has been diagnosed as suffering from hepatitis virus infection;
- (l) "prescribed" means prescribed by the rules;
- (m) "rules" means the rules made under the Ordinance;
- (n) "surgical procedure" means a procedure involving incision of any part of human body with any instrument for medical purposes and includes a dental procedure, ear or nose piercing or circumcision; and
- (o) "Surveillance System" means the system of surveillance established under the Ordinance.

3. Surveillance System.— (1) The Government shall, by notification, establish a Surveillance System for the prevention, diagnosis and treatment of hepatitis and for the support of patients.

- (2) The Surveillance System shall be responsible for:
 - (a) provision of services for the diagnosis of hepatitis, treatment of patients and for counseling the patients and their families;
 - (b) provision of risk-reduction information, emotional support and other social and health safety measures for the patients;
 - (c) conduct of surveillance and epidemiological studies of the patients;
 - (d) collection and analysis of data and record of patients including vaccination history and, subject to the Ordinance, keep confidential that data and record;
 - (e) developing guidelines and arranging training for medical practitioners and healthcare workers for the prevention, detection, diagnosis, treatment, therapeutic decision-making and against transmission and spread of hepatitis;
 - (f) coordination with educational institutions for purposes of awareness campaigns about hepatitis;
 - (g) devising and commissioning of communication and awareness strategies for the prevention and treatment of hepatitis;
 - (h) ensuring periodic hepatitis tests for healthcare workers and members of the population vulnerable to hepatitis; and
 - (i) such other matters as may be prescribed or as the Government may assign.

(3) The Surveillance System shall be run, managed and carried out, in the prescribed manner, under the direct supervision and control of the Director General.

(4) The Director General may, by general or special order, cause the Surveillance System or a part thereof, to be carried out by any officer subordinate to him or by such other person as may be prescribed.

4. Responsibility of a healthcare facility.— (1) The information about a patient as a result of hepatitis test at a healthcare facility shall immediately be sent to the Director General by that healthcare facility in the prescribed manner.

(2) The healthcare facility shall not itself subject the patient mentioned in subsection (1) to another hepatitis test but shall refer him to another healthcare facility for the second test after counseling him about the preventive measures.

5. Auto-disabled syringes and needles.— (1) Subject to the rules, a pharmacy, medical store or any other person shall not sell or transfer a syringe or needle except an auto-disabled syringe or needle of such measurement as is prescribed.

(2) The Government may, by notification, allow a healthcare facility or a class of healthcare facilities to use standard syringes and needles or auto-disabled syringes or needles beyond specific measurement under the supervision of a medical practitioner subject to their proper disposal.

6. Hospital waste disposal.— A healthcare facility shall ensure timely and proper disposal of hospital waste including disposal of used syringes, needles and biomedical waste.

7. Safe blood transfusion.— A person shall not inject or allow any other person to inject blood, blood component or blood product unless it is:

- (a) prescribed by a medical practitioner;
- (b) screened and safe blood in terms of the Punjab Blood Transfusion Safety Act 2016 (*XLVI of 2016*); and
- (c) transfused in the prescribed manner.

8. Dialysis and surgeries.— (1) A healthcare facility shall not conduct or allow to be conducted dialysis of a person unless he is subjected to a hepatitis test.

(2) Subject to the rules and advice of a medical practitioner, the dialysis of a patient may be conducted on the dialysis machine exclusively allocated for the dialysis of such patients.

(3) A healthcare facility or any other person shall ensure previous sterilization of equipment used in any surgical procedure including pricking of a human body.

(4) No person shall conduct a dialysis or surgical process unless he possesses the requisite competence, skill and authority for the purpose.

9. Organ transplant.— (1) A medical practitioner shall not transplant human organ or tissue of a donor to a recipient unless both of them are subjected to a prior hepatitis test.

(2) Subject to the rules and any other law, a patient may donate an organ or tissue to another patient with the same genotype of hepatitis.

10. Disclosure.— The healthcare facility may, in the prescribed manner, offer counseling and information to a patient, members of his family, any other person related to him and the healthcare workers about the possible risk of hepatitis transmission when exposed to hepatitis.

11. Diagnostic services.— (1) The Government may provide for a hepatitis test, diagnosis and treatment at any public healthcare facility.

(2) The Government shall make arrangements for the maintenance of data and record of the patients and cause transmission of such data and record to the Surveillance System.

12. Awareness.— The Government may, from time to time, launch an awareness campaign about:

- (a) the modes of transmission of hepatitis;
- (b) preventive measures for protection against hepatitis; and
- (c) general awareness on the incidence of hepatitis.

13. Duties of certain persons.— (1) The owner of a saloon, beauty parlor or barber shop shall, in the prescribed manner, display at his workplace necessary preventive measures against transmission of hepatitis.

(2) An overseas employment or studies' agency shall, in the prescribed manner, display at its business place information for the prospective overseas travellers about the risks of hepatitis transmission.

14. Testing services.— The Government may provide for a free of charge hepatitis test at any public healthcare facility or provide incentive to a private healthcare facility for the test at such subsidized rates as may be prescribed.

15. Obligations towards a pregnant woman.— (1) A healthcare facility shall conduct a hepatitis test of a pregnant woman visiting that facility for any treatment and shall ensure that she receives appropriate information and counselling on the implications of the incidence of hepatitis for her and the foetus.

(2) The healthcare facility shall advise the pregnant woman about the proper care and the follow-up tests at regular intervals.

16. Mandatory hepatitis test.— (1) No one will join a Government service or employment in relation to the affairs of the Province or a body or authority established or controlled by the Government or a factory or an establishment, unless he produces a certificate of the hepatitis test.

(2) Nothing contained in this section and subject to such exceptions as may be prescribed, shall be construed to permit an employer to refuse employment to a patient or his retention in employment on the ground that he suffers from hepatitis.

(3) In this section, the expressions 'factory' and 'establishment' shall have the same meanings as respectively assigned to them under the Factories Act, 1934 (*XXV of 1934*) and the Punjab Shops and Establishments Ordinance, 1969 (*VIII of 1969*).

(4) A player or sportsman shall not be allowed to participate in the Provincial games or the games held by the Provincial Sports Board unless he produces a certificate from a public healthcare facility indicating that he is not a patient.

17. Testing of prisoners.— The Jail Superintendent, shall, as soon as may be but not later than seven days after the inmate or prisoner is lodged in the prison, cause every inmate or prisoner subjected to a hepatitis test.

18. Test of persons involved in an occurrence.— (1) A court may, on its own accord or on the application of a public prosecutor or victim of an offence or an accused, direct any public healthcare facility to subject the victim or the accused to a hepatitis test when the occurrence suggests transfer of bodily fluids between them.

(2) A copy of the report from the public healthcare facility, showing the victim or the accused to be a patient, shall be supplied to each of them.

19. Voluntary vaccination.— Subject to the Ordinance and the rules, the Government may make hepatitis-B vaccine available at every public healthcare facility and provide incentive to private healthcare facilities for administering hepatitis-B vaccine to the public at such subsidized rates as may be prescribed.

20. Compulsory vaccination of infants.— (1) Subject to exemption under subsection (2), it shall be the duty of a parent or guardian to cause vaccination for hepatitis-B administered to an infant.

(2) A parent or guardian may, in relation to administering vaccine for hepatitis-B to an infant, obtain an exemption, in the prescribed form, from a medical practitioner designated by the Government for such period as is determined by the medical practitioner.

21. Healthcare facilities.— (1) The Government may establish, maintain or declare healthcare facilities to administer vaccination to all infants and shall constitute teams of healthcare workers to outreach them.

(2) A healthcare facility shall display at prominent place information about the vaccination of hepatitis-B and special programme for vaccination campaigns for the infants.

(3) A healthcare worker shall administer vaccine of hepatitis-B to all infants residing within the area allocated to him.

(4) A designated healthcare facility shall cause issuance of a certificate of vaccination of hepatitis-B to the parent or guardian of the infant to whom vaccine has been administered.

(5) A copy of the certificate under subsection (4) shall be sent to the relevant local authority for making it part of the birth register maintained by it.

22. Information of vaccination.— (1) A copy of the medical exemption under section 20 shall, within ninety days of its issuance, be sent by the parent or guardian of the infant to the relevant local authority.

(2) The local authority shall incorporate the information of vaccination under the preceding section or exemption in the birth register of the infant and shall, in the prescribed manner, communicate the information to the Surveillance System.

(3) A local authority shall not issue a birth certificate of an infant when information of hepatitis-B vaccination of that infant has not been provided to it.

23. Duty of an educational institution.— A primary or elementary school or *madrassah* shall, at the time of admission of a child, enquire about the administration of vaccination of hepatitis-B to that child and shall communicate the information to the nearest healthcare facility.

24. Vaccination of certain persons.— The Government may, by general or special order, direct that a class of persons shall, within the time specified in the order, get administered themselves vaccination of hepatitis-B and make a report of such vaccination to the Surveillance System.

25. Health Inspectors.— (1) The Government may, by notification in the official Gazette, appoint health inspectors or confer powers of a health inspector on any person for a specified area.

(2) A team of two or more health inspectors may, in the prescribed manner, inspect any healthcare facility, barber shop, saloon or any other similar place where preventive measures are required to be taken under the Ordinance.

26. Powers of Health Inspectors.— (1) A team of two or more health inspectors may:

- (a) in the prescribed manner, issue directions to any person for compliance with the provisions of the Ordinance and the rules within such reasonable time as he may determine and if that person fails to do so within the stipulated time, the health inspector may, after due notice, award him administrative penalty at the rate of rupees five thousand for each day the default continues; and
- (b) initiate prosecution against the person committing an offence under the Ordinance.

27. Penalties.— (1) A patient who intentionally transmits hepatitis to a healthy person shall be liable to imprisonment which may extend to one month and fine which may extend to fifty thousand rupees.

(2) Any person who publishes or causes publishing of the confidential health information of a patient in contravention of the Ordinance shall be liable to imprisonment

which may extend to three months and fine which may extend to one hundred thousand rupees.

(3) Any person who intentionally transmits or exposes others to the risk of hepatitis transmission or attempts to transmit hepatitis shall be liable to imprisonment which may extend to three years and fine which may extend to two hundred thousand rupees.

(4) Any person, who is under a duty to prevent transmission of hepatitis, negligently aids or abets transmission of hepatitis, shall be liable to imprisonment which may extend to six months and fine which may extend to three million rupees.

(5) Any person who violates any provisions of the Ordinance for which no punishment is otherwise provided in the Ordinance shall be liable to imprisonment for a term which may extend to one month and fine which may extend to fifty thousand rupees.

28. Offences by companies.— (1) Where an offence under the Ordinance is committed by a company or a firm, every person, who at the time of the commission of the offence, is a director or partner in that company or, as the case may be, firm, shall be liable to punishment under the Ordinance as if the offence has been committed by him.

(2) Notwithstanding anything contained in subsection (1), where it is proved that the commission of offence under the Ordinance, is caused due to negligence of any director, manager, secretary or other officer of the company or a firm, such director, manager, secretary or other officer shall also be liable to punishment under the Ordinance.

29. Cognizance.— (1) An offence under the Ordinance shall be non-cognizable and shall be tried in a summary manner in accordance with the provisions of Chapter XXII of the Code of Criminal Procedure, 1898 (*V of 1898*), except the offence under subsection (3) of section 27 of the Ordinance.

30. Compounding of offence.— (1) Subject to subsection (2), the Government or an officer authorized in this behalf by the Government, may at any stage, compound an offence under the Ordinance subject to the deposit of penalty which shall not be less than twenty-five thousand rupees.

(2) An offence committed by a previous convict under the Ordinance shall not be compounded under subsection (1).

31. Public servants.— A Health Inspector and every member of the staff engaged in the Surveillance System shall be deemed to be a public servant under section 21 of the Pakistan Penal Code, 1860 (*XLV of 1860*).

32. Monitoring and evaluation.— (1) The Director General shall, in January each year, submit a report on the incidence of hepatitis in the Province to the Government.

(2) The report shall include:

- (a) the number of recorded patients in the Province, mapping the places of highest concentrations;
- (b) reasons for increase or decrease in the number of patients;
- (c) performance of the Surveillance System and health inspectors;
- (d) recommendations for combating transmission of hepatitis and welfare of patients; and
- (e) monitoring and evaluation of performance audit for enforcement of the Ordinance.

(3) The Government shall take appropriate action and give directions in the light of the report and the Director General shall give effect to such directions.

(4) The Government shall, at least once in a year, conduct or cause to be conducted, monitoring and evaluation or performance audit of the health inspectors and Surveillance System.

(5) On the basis of the monitoring and evaluation conducted under subsection (1), the Government shall give appropriate directions to the Director General or to any other authority for purposes of improving the Surveillance System and discharge of functions under the Ordinance.

33. Delegation of powers.— The Government may direct that any power exercisable by it under the Ordinance shall, in such circumstances and under such conditions as it may determine, be exercisable also by an officer subordinate to it or by a local government or authority.

34. Indemnity.— No suit, prosecution or other legal proceedings shall lie against the Government, Director General or any other person engaged in the Surveillance System for anything which is in good faith done or intended to be done under the Ordinance or the rules.

35. Power to make rules.— (1) The Government may, by notification in the official Gazette, make rules to carry out the purposes of the Ordinance.

(2) Without prejudice to the generality of provisions of subsection (1), the rules may provide for any of the following matters:

- (a) hepatitis testing and vaccination of hepatitis-B;
- (b) epidemiological studies of the hepatitis positive patients;
- (c) recognition of testing centers and pathology laboratories for conducting hepatitis tests;
- (d) technologies for self-testing of hepatitis;
- (e) data protection of data relating to personal or infection related information of the patients;
- (f) universal precautions and post exposure prophylaxis protocols;
- (g) auto-disabled syringes and needles;
- (h) drug substitution, drug maintenance and needle-syringe exchange programme;
- (i) the procedures to be followed by the health inspectors;
- (j) hepatitis surveillance and information system; and
- (k) setting up a toll free help line.

36. Removal of difficulties.— If any difficulty arises in giving effect to the provisions of the Ordinance, the Government may, by an order, not inconsistent with the provisions of the Ordinance, remove the difficulty.