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ORDINANCE NO. III OF 2014

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ORDINANCE

further to amend the Pakistan Medical and Dental Council

Ordinance, 1962

WHEREAS it is expedient further to amend the Pakistan Medical and Dental council Ordinance, 1962 (XXXII of 1962) for the purposes hereinafter appearing;

AND WHEREAS the Senate and the National Assembly are not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan the President is pleased to make and promulgate the following Ordinance, namely:—

1. **Short title and commencement.**—(1) This Ordinance may be called the Pakistan Medical and Dental Council (Amendment) Ordinance, 2014.

(2) It shall come into force at once.

2. **Substitution of section 36B, Ordinance XXXII of 1962.**—In the Pakistan Medical and Dental Council Ordinance, 1962 (XXXII of 1962), for section 36B, the following shall be substituted, namely:—

“36B *Transitory Provisions.*—(1) On the commencement of this Ordinance, the members notified by the Federal Government and acting as the Council and Executive Committee shall stand de-notified and shall cease to act as or be a member of the Council or Executive Committee, as the case may be, forthwith.

(2) The Federal Government shall, by notification in the official Gazette, constitute a Management Committee consisting of seven professionals from the field of medicine, law and finance to exercise all the powers vested in the Council by the Ordinance. The Federal Government shall nominate one of the aforesaid seven persons as the Chairperson of the said Committee:

Provided that any person who has been a member of the Council, or has worked for the Council in any capacity, during the period of last ten years, shall not be appointed as a member of the Management Committee.

(3) The Management Committee shall meet at such times and places as it deems fit.

(4) Five members of the Management Committee shall constitute the quorum for holding its meetings.

(5) In particular and without prejudice to the generality of the powers of the Management Committee, as mentioned in sub-section (2), the management Committee shall have the following powers, namely:—

(a) hold free and fair elections of the Council within one hundred and twenty days from the commencement of this Ordinance;

- (b) examine, investigate and fix responsibility for mismanagement, mal-administration and wrongdoing, if any, in the affairs of the Council in the last regime and report the same to the Federal Government for appropriate action under the law; and
- (c) resolve the issues relating to deficiencies regarding teaching faculties of medical and dental colleges.

(6) Notwithstanding anything contained in the Ordinance, the Management Committee shall have the power to review any decision already taken by the Council or its Executive Committee:

Provided that in case any other matters, including but not limited to policy issues, which are or may become necessary to be dealt with shall be referred to the Federal Government for its consideration.

(7) The Chairperson and members shall be entitled to such honorarium and traveling and other allowances as determined by the Federal Government.

(8) No act or proceedings of the Management Committee shall be invalid merely by the reason of,—

- (a) any vacancy in, or defect in the constitution of, the Management Committee; or;
- (b) any irregularity in the procedure of the Management Committee not affecting the merits of the matter dealt with by it.

(9) A member having any financial or other interest in any matter coming before the Management Committee for decision shall disclose his interest in the matter before he may, if allowed by the Management Committee, participate in such proceedings.

(10) The Federal Government and the Management Committee shall at all times be guided by the needs of the medical profession and keep in view the public interest, while taking any decisions with regard to the Council and its work.

(11) The Management Committee shall stand dissolved as soon as the new Council got elected and notified under the Ordinance by election under sub-section (5).

(12) Notwithstanding anything contained in any law, order or judgment of any Court including the Superior Courts, commitment or any agreement, for the time being in force, the provisions of this Ordinance shall prevail."

STATEMENT OF OBJECTIVES

The Pakistan Medical & Dental Council Ordinance, 1962 governs the PMDC. It was amended from time to time but in the year 2012 major amendments were made in it. Through these amendments a number of significant changes were made to alter its character from a professional led regulator to a profession led regulator. The powers of the Federal Government were mitigated to an extent of virtual non-existence. The balance of membership envisaged in the original law was tilted in such a way that those who were being regulated were ensured a place within the said body to make them the regulators.

The policing power of the State needs to be resorted to, for the purposes of servicing the larger public interests through proper regulation of the medical and dental profession. It is common knowledge that the said Regulator has been serving the self-interests of the said profession. The noblest of the profession known to mankind, is being regulated by the profession itself. Unfortunately, rather than acting as the sole Regulator in the field, it has now become an "Association of Doctors". It has failed to protect the interests of the public.

Globally too, States having realized the need to re-establish the doctor-patient confidence level, are working on the concept of 'patient-safety first'. This purpose is being achieved by effectively regulating the Regulators.

It is imperative to bring about the requisite change through an Ordinance, which is the only method to pull PMDC out from its current problems. This would serve the public interest and remove the blemish of regulatory capture brought in due to the amendments made in 2012, which in turn has weakened public trust in the government and is contributing a sense that our political system is not capable of meeting the challenges faced by the PMDC today.

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