

PreConception and PreNatal Diagnostics Techniques Act & Rules

PCPNDT ACT

- Maharashtra was first State to enact Maharashtra regulation of use of PNDT Act in 1987
- Pre Natal Diagnostic Techniques Act was passed in 1994, amended in 2003 as Preconception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act



Preamble

Prohibition of sex selection before or after conception

Regulation of pre-natal diagnostic techniques

- Detecting genetic abnormalities
- Metabolic disorders
- Chromosomal abnormalities
- Congenital malformations
- Sex linked disorders

Prevention of misuse - for sex determination

Prohibitory Provisions

Section / Rule	Prohibitory Provisions under the Act
Section 3A	Prohibition of Sex selection
Section 3B	Prohibition on sale of ultrasound machine to persons, laboratories, clinics etc not registered under the Act.
Section 5(2)	Prohibition on communication of sex of Foetus by words, signs or in any other manner
Section 6	Determination of sex prohibited
Section 22	Prohibition of advertisement relating to Pre conception and prenatal determination of sex

Regulatory Provisions

Section / Rule	Regulatory Provisions
Section 4	Regulation of per natal diagnostic techniques
Section 5(1)	Written consent of pregnant woman
Section 29 & Rule 9(4)	Maintenance and preservation of records
Section 18	Registration of Genetic counselling centres, genetic laboratories and genetic clinic
Section 19	Certificate or registration
Section 20	Cancellation or suspension of registration

Regulatory Provisions...Contd

Rule 10	Conditions for conducting pre natal diagnostic procedures
Rule 3(B)	Regulation of portable machine
Rule 8	Renewal of registration
Rule 4	Registration of genetic counseling centre, genetic laboratory, genetic clinic, ultrasound clinic and imaging centre
Rule 6(6)	Certificate of registration shall be non transferable
Rule 17	Public information
Rule 13	Intimation of changes in employees, place or equipment

Penal Provisions

Section / Rule	Penal Provisions
Section 22 (3)	Penalty for advertising under the Act
Section 23 (1)	Punishment for Medical Practitioner contravening any provision of the Act or Rules
Section 23 (2)	Suspension of registration/Removal of name from register of Medical Practitioner by State Medical Council
Section 23 (3)	Punishment for person seeking aid of pre conception or pre natal diagnosis for the purpose of sex selection
Section 24 (4)	Provision of Section 23 (3) does not apply to pregnant woman
Section 25	Anyone contravening any provision of the Act or Rules for which no penalty has been provided elsewhere

Structures under the Act

- Central Supervisory Board (Section 7)
- State Supervisory Board (Section 16A)
- State Appropriate Authority / State Advisory Committee (Section 17)
- District Appropriate Authority / District Advisory Committee

Composition of Supervisory Board

- Minister of H & FW- Chairperson
- Secretary H & FW- Vice Chairperson
- Senior officer of H & FW – Member Secretary
- Representatives of WCD, Law and Judiciary
- Ex officio women members from NGOs
- Elected Representatives
- Specialists from legal and medical field

Functions of Central Supervisory Board

- Highest decision making and advisory body
- Reviews and monitors implementation of Act
- Creates awareness on the issue
- Can suggest amendments in Act
- Meets once in six months

Functions of State Supervisory Board

- Monitors implementation of Act in the state
- Reviews activities of Appropriate Authority
- Creates Public awareness
- Sends consolidated reports to Central Supervisory Board regarding activities undertaken in the State
- Meets once in four months

Who is an Appropriate Authority (AA) under PCPNDT Act

- State Appropriate Authority (AA)- Three members team (Officer of rank of Joint Director or above of Department of Health and Family Welfare, Eminent women from NGO, Officer of Law and Judiciary Department)
 - District AA – Civil Surgeon
 - Corporation AA – Medical officer of Health
- AAs have to be notified in the official gazette.**

(S. 17)

Functions of AA

- Grant, suspend and cancel registration of clinics
- Ensure standards prescribed for clinics are followed
- Investigate complaints of breach of provision of Act
- Seek advise of advisory committee for registration of clinics or suspension or cancellation of registration and take action
- Take appropriate legal action against use of any sex selection technique by any person
- Create public awareness on issue
- Recommend to State Supervisory Board modifications required in rules of Act based on technological developments.

Duties of AA

- Search, seize or seal equipment or clinic and seize records at a genetic counselling centre, laboratory and clinic. (Section 30)
- Filing a complaint (Section 28a)
- Cancellation or suspension of Registration (Section 20).
- Report name of medical practitioner against whom charge has been framed to State Medical Council.- (Section 23 - 2)

Composition of Advisory Committee

Advisory committee consists of eight members:

- Medical Professionals (3)
- Social Workers (3)
- Legal Expert
- Officer of Information and Publicity Department

Functions of Advisory Committee

[Refer GSR 540 (E) dated 26-11-1996]

- Advice AA while granting, suspending or canceling licenses
- Meeting to be held as per need or on request of AA to consider applications, complaints of suspension/cancellation etc
- The intervening period between 2 meetings cannot be more than 60 days
- Gives feedback of general public and medical community on implementation of Act
- AA required to attend meetings of advisory committees and provide assistance in the discharge of its functions

Procedural Issues under the Act

- **Taking Cognizance-** Section 28- MM, JMFC
- **No role of police-** Considering technical and medical nature of the Act.
- **Conduct of Court trial-** Conducted as warrant cases other than on police report.
- **Nature of evidence-** Oral and documentary
- **Evidence focus-** Keep in mind Object and Reasons of the Act. No aggrieved person hence direct evidence may not be available. Importance of circumstantial evidence.
- Any contravention of any provision of Act liable for punishment with imprisonment and fine

THANK YOU