

1. Financial statements

1.1 Opinion

The audit of the financial statements of the Private Health Services Regulatory Council for the year ended 31 December 2022 comprising the statement of financial position as at 31 December 2022 and the statement of financial performance statement of changes in net assets and cash flow statement and notes to financial statements for the year then ended including a summary of significant accounting policies, was carried out under my direction in pursuance of provisions in Article 154(1) of the Constitution of the Democratic Socialist Republic of Sri Lanka read in conjunction with provisions of the National Audit Act, No. 19 of 2018 and Finance Act, No. 38 of 1971. My comments and observations which I consider should be presented in Parliament appear in this report.

In my opinion, except for the effects of the matters described in paragraph, “Basis for Qualified Opinion “ of this report, the financial statements give a true and fair view of the financial position of the Regulatory Council as at 31 December 2022, and its financial performance and cash flows for the year then ended in accordance with Sri Lanka Public Sector Accounting Standards.

1.2 Basis for Qualified Opinion

My opinion is qualified based on the matters described in paragraph 1.5 of this report.

I conducted my audit in accordance with Sri Lanka Auditing Standards (SLAuS). My responsibilities, under those standards are further described in the Auditor’s Responsibilities for the Audit of the Financial Statements section of my report. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

1.3 Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation of financial statements that give a true and fair view in accordance with Sri Lanka Public Sector Accounting Standards and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Regulatory Council’s ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless

management either intend to liquidate the Regulatory Council or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Regulatory Council's financial reporting process.

As per Sub-section 16(1) of the National Audit Act, No. 19 of 2018, the Regulatory Council is required to maintain proper books and records of all its income, expenditure, assets and liabilities, to enable annual and periodic financial statements to be prepared of the Council.

1.4 Auditor's Responsibilities for the Audit of the Financial Statements

My objective is to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Sri Lanka Auditing Standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Sri Lanka Auditing Standards, I exercise professional judgment and maintain professional scepticism throughout the audit. I also:

- Appropriate audit procedures were designed and performed to identify and assess the risk of material misstatement in financial statements whether due to fraud or errors in providing a basis for the expressed audit opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- An understanding of internal control relevant to the audit was obtained in order to design procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Regulatory Council's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the management.
- Conclude on the appropriateness of the management's use of the going concern basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Regulatory Council's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my audit report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report.

However, future events or conditions may cause the Regulatory Council to cease to continue as a going concern.

- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

The scope of the audit also extended to examine as far as possible, and as far as necessary the following;

- Whether the organization, systems, procedures, books, records and other documents have been properly and adequately designed from the point of view of the presentation of information to enable a continuous evaluation of the activities of the Regulatory Council and whether such systems, procedures, books, records and other documents are in effective operation;
- Whether the Regulatory Council has complied with applicable written law, or other general or special directions issued by the governing body of the Regulatory Council;
- Whether the Regulatory Council has performed according to its powers, functions and duties; and
- Whether the resources of the Regulatory Council had been procured and utilized economically, efficiently and effectively within the time frames and in compliance with the applicable laws.

1.5 Audit Observations on the Preparation of Financial Statements
1.5.1 Accounting Deficiencies

Audit Observation -----	Comment of the Management -----	Recommendation -----
The suspense balance of Rs. 232,400 resulted in due to accounts not being tallied, had been disclosed as a balance in the funds transfer account instead of making necessary adjustments after being identified.	Agreed with the audit observation.	Financial statements should be prepared and presented for the ensuing year by correcting the error.

1.5.2 Going Concern of the Council

Audit Observation -----	Comment of the Management -----	Recommendation -----
As there existed a negative balance of Rs. 44,635,902 relating to net current assets as at 31 December 2022, a short term bankruptcy was existed with the Council. Furthermore, the Council sustained losses continuously since the year 2017; and hence, the balance of accumulated fund amounting to Rs. 33,719,154 as at 31 December 2016, had gradually decreased by 74 per cent thus reaching the value of Rs. 8,867,199 as at 31 December 2022.	Agreed with the audit observation.	All the private medical institutions functioning in the country should be registered thereby increasing the revenue whilst minimizing the expenses of the Council. As such, action should be taken to avoid the short term bankruptcy and minimize losses.

1.6 Accounts Payable and Receivable

Audit Observation -----	Comment of the Management -----	Recommendation -----
A balance of Rs. 41,880,735 remained payable as at the commencement of the year 2022 out of the 50 per cent share to be remitted to the Provincial Councils from the registration fees levied by the Regulatory Council. Action had been taken to settle only 15 per cent equivalent to Rs. 8,059,678 out of the payable sum totaling Rs. to Rs. 52,577,735 inclusive of the sum of Rs. 10,697,000 payable for the year under review.	Agreed with the audit observation.	Action should be taken in accordance with provisions mentioned in the Act in that connection.

1.7 Non-compliances with Laws, Rules, Regulations and Management Decisions, etc.

Reference to Laws, Rules, and Regulations, etc.	Non-compliance	Comment of the Management	Recommendation
(a) Operational Manual issued by the Department of Public Enterprises dated 16 November 2021.			
(i) Paragraph 3.1	Although approval of the Treasury should have been obtained for the staff, it had not been so done by the Regulatory Council.	Agreed with the audit observation.	Action should be taken in accordance with provision mentioned in the Operational Manual.
(ii) Paragraph 6.6	The annual report including the annual financial statements should be tabled in Parliament along with the audit report within a period of 05 months after the end of the year of finance. Nevertheless, the Regulatory Council had not tabled the annual report of the year 2021 even by 25 March 2023.	Agreed with the audit observation.	Action should be taken in accordance with provision mentioned in the Operations Guide.
(iii) Paragraph 7.5	Monthly, quarterly and annual	Agreed with the audit observation.	- Do.

performance reports should be presented to the Treasury and the Line Ministry. Nevertheless, it had not been so done in the year under review.

- (b) Guidelines issued by the Department of Public Enterprises on 16 November 2021.

- (i) Paragraph 2.3

A strategic plan, Action Plan, and annual budget should be prepared and approved by the Board of Governance, and they should be furnished to the Director General of the Department of Public Enterprises through the Secretary to the Line Ministry. However, it had not been so done.

Agreed with the audit observation.

Action should be taken in accordance with provisions given in the Guideline.

- (c) Public Enterprises Circular, No. PED 09/2022, dated 21 December 2002,

Employees of an institution that had sustained losses in the preceding year of finance, should not be paid the bonuses during

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Disciplinary action should be taken against the officers who violated the provisions of Circulars.

- the year under review.
Nevertheless, a sum of Rs. 424,100 had been paid as bonus.
- (d) Public Administration Circular No. 03/2017 dated 19 April 2017. All the Government institutions should use finger scanners to record the arrival and departure times of Government officers; and hence, a finger scanner had been purchased on 24 July 2020 at an expenditure of Rs. 57,240, but the machine had not been used even in the year 2022. Although this matter had been pointed out even in the preceding year, the parties responsible had not drawn attention thereon.
- Do. Provisions of Circulars should be followed.
- (e) Paragraph 4.2 of the Government Procurement Guidelines. A main Procurement Plan should be prepared by an entity by including procurement activities envisaged for at least 03 ensuing
- Do. Action should be taken in accordance with provisions of the Government Procurement Guidelines.

years.
Nevertheless, a Procurement Plan had been prepared by the Regulatory Council only for the year under review.

2. Financial Review
2.1 Financial Results

The operating result of the year under review was a loss of Rs. 5,372,457 as compared to the corresponding loss of Rs. 692,194 for the preceding year, thus observing a deterioration of Rs. 4,680,263 in the financial result. Decrease in registration income and increase in administrative expenses had mainly attributed to said deterioration.

3. Operating Review
3.1 Management Inefficiencies

Audit Observation	Comment of the Management	Recommendation
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(a) Cabinet approval had been granted on 09 July 2015 to amend Section 3 (5) of the Private Medical Institutions (Registration) Act, No. 21 of 2016 by including provisions such as, an annual proposal should be submitted by the provincial Director of Health Services along with the annual budget relating to the development of private health sector prior to transferring 50 per cent of the annual registration fee collected by the Regulatory Council to the Provincial Chief Secretaries, and a report on expenses and activities should be presented by the end of the year.	Agreed with the audit observation.	Action should be taken in accordance with provisions of the Act, and the Section of the Act should be amended expeditiously in accordance with the Cabinet approval.

Although a period of 07 years had elapsed since the receipt of Cabinet approval, the Act had not been amended, and only a part of the 50 per cent sum of the registration fee had been given to the Provincial Directors of Health Services.

- (b) No provision whatsoever had been made in the Act to incur expenses of the Provincial Councils, but a sum of Rs. 1,397,040 had been paid by the Regulatory Council in the year under review as telephone allowances, transport expenses and salaries of the officers attached to the Provincial Director of Health Services, Western Province. In terms of Section 3(5) of the said Act, that sum had been deducted from the registration fee revenue payable to the Western Provincial Council.
- Do. Provisions of the Act should be followed.

3.2 Operating Inefficiencies

Audit Observation	Comment of the Management	Recommendation
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(a) The Director General of Health Services had informed in the year 2017 that a survey be conducted through Provincial Directors of Health Services on private medical institutions maintained in the province and information thereon be furnished. Accordingly, information relating to 315 MOH offices had been received up to 25 March 2023 whereas information relating to 46 MOH offices had not been furnished. According to the	Agreed with the audit observation.	All the private medical institutions should be registered in terms of provisions of the Act. The responsibility of taking legal action against the private medical institutions

information made available, 6002 private medical institutions had been identified by the Regulatory Council, but only 1208 institutions had been registered in the year under review. As such, exercising the responsibilities vested in the Regulatory Council remained weak.

failing to do so, should not be neglected by the Regulatory Council.

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| (b) | All the private medical institutions should be registered in terms of provisions in Sub-section 2(1) of the Private Medical Institutions (Registration) Act, No. 21 of 2006. However, the Regulatory Council had not put in place a methodology to identify the medical institutions eligible for registration, register them, and implement the provisions in Section 04 against the institutions failing to register. | Agreed with the audit observation. | Provisions of the Act should be followed. |
| (c) | A proper methodology could not be put in place even by the end of the year under review as per Section 09 of the said Act in order to develop and supervise the standards maintained by the registered private medical institutions, implement a procedure to evaluate the existing standards, certify that minimum qualifications would be entertained in recruiting staff, and verify the quality of patient care services and execute the activities. | Agreed with the audit observation. | Provisions of the Act should be followed. |
| (d) | Contrary to Section 13(1) of the said Act, action had not been taken to specify and implement a proposal in order for the Minister to accredit the private medical institutions through a directive published in Gazette under | - Do. | - Do. |

- instructions of the Council.
- (e) Action had not been taken as per Paragraph (g) of Sub-section 18 (2) of the said Act to prepare the procedure or practice to be followed in entertaining any complaint against any private medical institution or person attached thereto from any interested or aggrieved person and the final disposal thereof. - Do. - Do.
- (f) The National Health Policy of Sri Lanka 2016-2025 and the Health Master Plan (2016-2025) relating thereto with recommendations from the President had been approved at the meeting of the Cabinet held on 18 June 2017 following the Cabinet Memorandum No. 17/1366/718/084 presented by the Minister of Health, Nutrition and Indigenous Medicine on 25 June 2017. The issues identified in the unregulated private health sector and the proposed strategies had been mentioned under 2.8-Thematic Area in Curative Service of the said Master Plan. Furthermore, as mentioned under the heading "Strengthening and development of regulation in the private health sector" under Curative Service in Volume ii of the strategic development plan for national health policy printed on instructions of the Sectoral Oversight Committee of Parliament of Democratic Socialist Republic of Sri Lanka (Articles 43 and 44 of the Constitution), the Director General of Health Services should be the Chairman of the

Council; the Director for development of the private health sector should be the Secretary of the Private Health Services Regulatory Council ; Directors of Health Services for the 09 provinces along with the Registrar of Sri Lanka Medical Council should be appointed ex-officio; and, as 16 members would be appointed by the Minister including 09 representatives of the Private Hospitals and Nursing Homes Association, the number of members appointed ex-officio would be outnumbered by those being appointed by the Minister. Hence, the constitution of the Council had become challenged. It was further stated that inclusion of private care givers into the private health services regulatory mechanism and the Regulatory Council would be contradictory to the best practices and this would be peculiar to Sri Lanka as well as the region of Southeast Asia.; whether the current regulatory mechanism functioned productively or not was a matter of challenge; on the other hand, this had affected the decision making process and presence of private health sector in the composition of the Council, hence the Ministry should recognize the sovereignty and more authority in the regulations thereby including members with more powers; and the process of amending the Private Medical Institutions (Registration) Act, No. 21 of 2006 had been commenced in order to

specifically define the term “Authorized Officers”.

However, it was verified as per the observations given below that the responsible parties had not taken action to minimize the said issues in the strategic development plan of national health and amend the Act with relevant changes; and the said strategies had not been followed in activities such as, conducting meetings of the Council and taking decisions, appointment of sub-committees, and assembly of those sub-committees and taking decisions.

- (i) Taking into account the facts such as, the Minister in charge of the subject had appointed 57 per cent of the total number of members or 16 of the 28 members of the Regulatory Council comprising 09 representatives of the Private Hospitals and Nursing Homes Association and 03 members representing 03 trade unions comprising medical professionals who maintained a large number of private medical institutions in the country; provided that the quorum for a meeting of the Regulatory Council was 07, possibility existed for 07 of the 16 members to conduct a general meeting thereby taking decisions; and, owners of private medical institutions being regulated
- Action had been taken by virtue of the powers vested in the Council in terms of Private Medical Institutions (Registration) Act, No. 21 of 2006.
- As mentioned in the Health Master Plan (2016-2025) approved by the Cabinet, measures should be taken to amend the Private Medical Institutions (Registration) Act, No. 21 of 2006 in a manner that a Board of Governance capable of taking decisions for public interest would be appointed.

by the Regulatory Council becoming members of the Regulatory Council, a conflict of interest was observed.

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| (ii) | Due to poor participation of the members appointed ex-officio in the meetings, percentage of the participation of members appointed by the Minister would become higher, thus observing that those members would have more influence in taking decisions of the Council. It was observed in audit that the percentage of participation of the members appointed by the Minister in 23 of 43 meetings (53 per cent) held during 2018-2022 ranged between 50 per cent and 73 per cent. | - | Do | - | Do |
| (iii) | Of the 43 meetings held by the Regulatory Council during 2018-2022, eight meetings had been chaired by representatives of the Private Hospitals and Nursing Homes Association. In this context, it was not satisfactory in audit that the decisions relating to the private health service had been taken by the Council impartially and for betterment of the public. | - | Do. | - | Do. |
| (iv) | As the Private Medical Institutions (Registration) Act, No. 21 of 2006 had not mentioned directives on the number of sessions and durations for meetings of | - | | - | Action should be taken without delay to amend the Act by including provisions in this |

- the Board of Governance, meetings had been held during 2018-2022 on the discretion of members.
- (v) Chairman of the Council had participated in 03 of 10 meetings held in the year 2018 whereas he had participated in only 03 of the 09 meetings held in the year 2019 whilst all the 05 meetings held in the year 2020 had not been attended by him. The Chairman attended 5 of the 08 meetings held in the year 2021 whereas he attended only 06 of 11 meetings held in the year 2022.
- (vi) The Registrar of the Sri Lanka Medical Council had participated in 04 of the 10 meetings held in the year 2018 whereas he had participated in all 09 meetings held in the year 2019. Of the 05 meetings held in the year 2020, he had attended 03 meetings, and 04 of the 08 meetings held in the year 2021 had been attended by him. Furthermore, he had attended a minimum of 03 meetings out of 11 meetings held in the year 2022.
- (vii) Participation of 09 Provincial Directors of Health Services in the meetings of the Regulatory Council held during 2018-2022 was unsatisfactory.
- connection.
- Do. Participation of the members appointed ex-officio in the meetings must be improved.
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- Do - Do.

- (viii) It was revealed in the examination on the participation of representatives of the 03 associations, vis, Independent Medical Practitioners Association-IMPA appointed by the Minister, Sri Lanka Dental Association and Society of General Medical Practitioners Association in the meetings held during the 05 preceding years that a percentage of over 60 had been represented by the Independent Medical Practitioners Association-IMPA and Sri Lanka Dental Association whereas a percentage of 25-56 had been represented by the Society of General Medical Practitioners Association
- Do. Members should be encouraged for participation in the meetings.
- (ix) The observations made further included : percentage of the representative of the accounting sector participating in the meetings of the Council during the 05 preceding years stood between 38 - 73 per cent; participation of the representative of the management sector remained as low as 0-40 per cent; the representative of legal sector had not attended any meeting during 2019 - 2021 and during the period of next 03 years, his participation varied between 18 - 40 per cent ; and, the
- Do. - Do.

representative of nursing sector showed a percentage of 20 – 63 per cent in his participation in the meetings held during 2018 – 2021.

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| (x) | Participation of 07 out of 09 representatives of the Private Hospitals and Nursing Homes Association in the 43 meetings held during 2018-2022 showed a percentage of 42 – 79 in average. Furthermore, one of those members had participated in only 06 of the 10 meetings held in the year 2018 whereas only one member had attended all the meetings held during that said 05 year period. Although 131 private hospitals had registered under the Private Health Services Regulatory Council in the year 2021, members had continuously been appointed to the Council representing only several hospitals. Two of the 09 members had been appointed representing the same hospital. | - | Do. | - | Do. |
| (xi) | In terms of Section 6(4) of the Act, an appointed member shall be deemed to have vacated office if such member absents himself from three consecutive meetings of the Council without any reason, which the council considers as being an acceptable excuse. Nevertheless, it had not been | - | Do | | Action should be taken in terms of provisions of the Act. |

so done for the members failed to attend 03 consecutive meetings.

- (xii) It was observed that failure of the Private Health Services Regulatory Council established in the year 2007 in achieving the key objectives of the Private Medical Institutions (Registration) Act, No. 21 of 2006 during the 15 year period up to 2022 was directly attributed by the said facts. The Regulatory Council could not at least revise the registration fees that had been decided in the year 2007, during the 15 preceding years.

- Do. Action should be taken to amend the Private Medical Institutions (Registration) Act, No. 21 of 2006 in a manner that members to the governing body capable of taking decisions on public interest would be appointed as had been required by the Health Master Plan (2016-2025) approved by the Cabinet.

- (g) In terms of Section 11 of the Private Medical Institutions (Registration) Act, No. 21 of 2006, 08 committees had been appointed, namely, registered applications evaluation committee, office management committee, training committee, fee levying committee, complaint investigation committee, grading committee, guideline committee, and technical evaluation and waste management committee. The following matters were observed in the audit conducted on the appointment of those sub-committees and the functions there of.

- (i.) Considering that 22 - 60 per cent of the members

- Do. Action should be taken to amend

appointed to 08 sub-committees of the Regulatory Council as of December 2022 represented the Private Hospitals and Nursing Homes Association, it was observed in audit that there was no transparency in the impartiality of those sub-committees in achieving the expected objectives.

the Private Medical Institutions (Registration) Act, No. 21 of 2006 in a manner that members to the governing body capable of taking decisions on public interest would be appointed as had been required by the Health Master Plan (2016-2025) approved by the Cabinet. As for the appointment of sub-committees, action should be taken to appoint committees comprising members capable of taking decisions impartially and independently.

- (ii.) One of the 09 representatives of the Private Hospitals and Nursing Homes Association had been appointed to all the 08 sub-committees whilst some of the representatives had been appointed to many committees. - Do.
- (iii.) Provided the fact that representation of the members appointed by the - Do.

- Do.
- Do.

Minister to the 08 sub-committees ranged between 56 -88 per cent inclusive of 09 members representing the Private Hospitals and Nursing Homes Association appointed by the Minister to the governing body of the Regulatory Council, it remained questionable in audit as to whether the decisions taken / to be taken by those committees would be impartial, whether a proper service would be rendered to the general public based on decisions taken by a committee with such a composition, and whether the private medical institutions functioning in the country would be regulated to ensure fairness for the general public.

(iv.) Nine members had been appointed to the registered applications evaluation committee to evaluate the registered applications. Although the governing body comprised a member qualified in legal affairs to evaluate as to whether the applications received for registration have fulfilled the relevant legal criteria and take decisions on the legal background on which the registration would be rejected, he had not been selected for this sub-

- Do. Experts in the governing body should be appointed to the relevant sub-committee based on their expertise.

committee.

(v.) Ten members had been appointed to the office management committee. A representative from the finance division represented the governing body to provide consultancy for issues relating to finance, but he had not been selected for this sub-committee. Five of 10 members of the sub-committee represented the Private Hospitals and Nursing Homes Association, and 08 members including those 05 members had been appointed to the governing body by the Minister. Considering that a sub-committee with such a composition had been appointed for taking decisions on office affairs, it was observed that an unfavorable effect would prevail over the independence of office affairs and decision making process of the officers relating to regulation of private medical institutions. Had the staff of the institution taken decisions on the regulation of private medical institutions or exercised the laws, rules or regulations relating to the regulation, and in case that matters relating to the staff are taken for discussion by this sub-committee, it is

- Do. Members of the governing body having expertise in their respective areas, should be appointed to the relevant sub-committees. Such appointments should be made in a manner that no conflicts of interest would occur as owners of private medical institutions have become members of sub-committees.

observed considering the composition of the committee that there existed the possibility for the sub-committee to take decisions that will influence the staff, or cause an unfavorable or favorable impact on the staff.

- (vi.) Seven of the 08 members of training sub-committee had been appointed by the Minister to the governing body. Considering the composition of the sub-committee, it was observed that objects mentioned in Section 09 of the Private Medical Institutions (Registration) Act, No. 21 of 2006, such as, ensuring that minimum qualifications for recruitment and minimum standards of training of personnel, are adopted by all Private medical Institutions, shall not be realistic. As for this composition of the sub-committees, no authority had been vested in the Regulatory Council through the Act to train the personnel of private medical institutions though, the Regulatory Council had spent sums of Rs. 2,424,698 and Rs. 540,484 in the years 2019 and 2020 respectively to conduct a training programme named "Refresher Gap Filling" for
- Do. As owners of private medical institutions becoming members of sub-committees, such appointments should be made in a manner that no conflict of interest would occur. Action should not be taken by deviating from instructions given in Guidelines and provisions of the Act.

Nursing Officers employed at private hospitals. Moreover, only 03 of the 08 members had attended the meeting of the sub-committee held on 10 June 2022. It had been decided at the meeting of the sub-committee held on the said day that common training centers be established at 04 hospitals including the one the representative of which was a member of the sub-committee. Moreover, this matter had been taken for discussion at the meeting of the training sub-committee held on 21 October 2022 and 03 February 2023. A Medical Officer of one of the 03 hospitals that had been proposed to be selected as individual training centers, had lodged a complaint on 22 June 2022 mentioning about the staff of the hospital and saying that a Medical Director had not been employed there fulltime since 2014 (although a fulltime Medical Officer should be employed as per Guideline 02 of the Private Health Services Regulatory Council). It was observed in the audit on relevant documents that a case was being tried at the Labor Tribunal against this hospital.

(vii.) It was observed in audit that legal complaints had

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Experts in the governing body

been received relating to the fees charged by private hospitals, but the member relating to legal affairs had not been appointed to the sub-committee appointed in that connection. Of the 09 members of this committee, 07 including 04 representatives of the Private Hospitals and Nursing Homes Association had been appointed by the Minister to the governing body. Considering this composition of sub-committee, it was observed that independent and fair decisions would not be taken with respect to public representation on fees charged by private hospitals. As such, an environment conducive to regulate the fees charged by private hospitals had not been created.

- (viii.) Eight members had been appointed to the sub-committee for investigating the complaints. This committee comprised 05 members appointed by the Ministry including 04 members of the Private Hospitals and Nursing Homes Association. It was observed that this composition of the committee would be a hindrance to impartially investigating the complaints on private medical

should be appointed to sub-committees based on their competence. As owners of private medical institutions becoming members of the sub-committees, such appointments should be made in a manner that no conflicts of interest occur.

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institution thus failing to provide solutions for public interest.

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| <p>(ix.) Conducting the meetings of 08 sub-committees appointed by the Regulatory Council had been done in miscellaneous ways in each year. Some of the sub-committees had assembled in a very limited number of instances during a year.</p> | <p>- Do.</p> | <p>Action should be taken to amend the Act by including provisions in this connection.</p> |
| <p>(x.) Quorum for the meetings of any sub-committee had not been decided, and according to the information made available to the Audit, the number of members attended the meetings, represented less than 50 per cent of the total number of members.</p> | <p>- Do.</p> | <p>- Do.</p> |
- h) According to Section 18 (2) (g) of the Private Medical Institutions (Registration) Act, No. 21 of 2006, "The Minister may make regulations as per Section 18 (1) of this Act relating to the procedure or practice to be followed in entertaining any complaint against any Private Medical Institution or person attached thereto from any interested or aggrieved person, and the final disposal thereof". However, no evidence was made available to the Audit that the Minister had made regulations relating to this matter, and a Guideline titled "PHSRC Guideline 05- Complaint Handling Procedure" consisting of 02 pages

and 12 matters had been prepared by the Private Health Services Regulatory Council on 19 March 2021. The following matters were observed in that connection.

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| (i.) | The legal provision based on which the Private Health Services Regulatory Council had made regulations in that manner, was not verified in audit, and that consent of the Minister in charge had been received on the said Guideline, was not verified as well. Furthermore, the Minister had not either published the Guideline as a directive in the Gazette or obtained Parliamentary approval thereon. | Complaints will be investigated through the officer authorized by the Act. | Regulations should be made and published in the Gazette in terms of provisions of the Act, and action should be taken to present such regulations in Parliament seeking approval. |
| (ii.) | The maximum period of time to be spent by each party in solving the complaints, had not been mentioned in the Guideline so prepared. | -Do. | Durations for solving the complaints should be mentioned. |
| (iii.) | Despite being informed that complaints received by the Private Health Services Regulatory Council had been forwarded to the sub-committee on complaints, it remained doubtful as to whether fairness was ensured for the complaints due to existence of issues relating to the composition of sub-committee, and the decisions taken. | - Do. | Action should be taken to appoint a sub-committee to investigate complaints with a composition capable of taking independent decisions. |
| (iv.) | A methodology had not been mentioned in this Guideline to acknowledge | - Do. | Provisions in this regard should be included in the |

	the receipt of complaints and inform the complainants about follow-up actions. Furthermore, no attention had been brought in the Guideline to establish a mechanism to submit complaints on-line.		Guideline.
i)	A database had not been maintained formally relating to the complaints received by the Regulatory Council during the preceding years. A request had been made by the Regulatory Council on 15 February 2023 that a period of 06 weeks be given to provide information requested through the letter dated 03 February 2023 for auditing. The requested information had not been furnished to the Audit even up to the date of audit on 04 May 2023.	- Do.	Action should be taken to furnish the information requested for auditing in terms of Sections 7 and 42 (a) of the National Audit Act, No. 19 of 2018.
j)	The Regulatory Council had not maintained a register on complaints. Hence, there existed no mechanism to clearly identify the information such as, number of complaints received annually, source of complaint, further action taken on complaints, and number of cases solved.	- Do.	Action should be taken to maintain the register containing information on all the complaints received in an updated manner.
k)	The Regulatory Council had appointed a sub-committee, comprising 08 members in the period 2017-2019, and 07 members in the period 2020-2021 in order to examine / investigate the complaints / pleas received from the general public relating to private medical institutions. Although various complaints had been received from miscellaneous	- Do.	A methodology should be prepared and put in place to investigate all the complaints received.

parties all throughout the year, no adequate sessions of sub-committee meetings had been held to provide solutions through discussions. The number of sub-committee meetings held from the year 2017 up to 27 January 2023 was 12 only and participation of members in 07 meetings therefrom remained less than 50 per cent. Over 50 per cent of the members appointed by the Minister to the Governing body comprised the number of participants in 08 of 12 sub-committee meetings held. It was also observed that the member on legal affairs had participated in only 03 of those 12 meetings.

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| <p>l) Complaints against private medical institutions received in 80 instances had been taken for discussion from time to time at 12 meetings of the sub-committee relating to complaints held from 2017 up to 27 January 2023. Forty three out of the said 80 complaints equivalent to 54 per cent were related to 09 prominent private hospitals that represented the governing body of the Regulatory Council whereas 37 complaints or 46 per cent of the total number of complaints had been received against all other private hospitals in the country. It was observed that those complaints were on the issues relating to fees being charged unfairly, matters on medical and other staff, treatments, professional ethics, and deaths of patients, as well as</p> | <p>- Do.</p> | <p>All the complaints received should be investigated without delay thus providing relief for the aggrieved parties. Necessary action should be taken to avoid recurrence of similar situations.</p> |
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- problems related to kidney trafficking.
- m) During the 03 preceding years, 39 complaints had been received by the Consumer Affairs Authority against private medical institutions. It was obvious that 22 of those 39 complaints equivalent to 56 per cent, were against the private hospitals which represented the governing body of the Private Health Services Regulatory Council. Having considered the fact that members of the Private Hospitals and Nursing Homes Association representing the governing body of the Private Health Services Regulatory Council, had received complaints in such a manner, it was observed in audit that the governing body would not be capable of setting precedents for the regulation of other private medical institutions in the country.
- n) The Audit was not provide with evidence to the effect that the regulations made in terms of Section 18 (2) (b) of the Private Medical Institutions (Registration) Act, No. 21 of 2006, had been presented in Parliament and obtained approval in accordance with provisions in Section 18 (4) of the Private Medical Institutions (Fees) Act, No. 02 of 2007 as had been published in Gazette Extraordinary No. 1526/7 dated 04 December 2007. Furthermore, despite being mentioned that those regulations had been made in terms of Section 18 (2) (b) of the Act, it was observed that the
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- Inefficiencies in the regulations published in the Gazette should be corrected, thus taking action to present in Parliament seeking approval.

Minister had been authorized to make such regulations under Section 18 (2) (h) of the Act. According to Regulations (2) and (3) of the Regulations on Private Medical Institutions (Fees) No. 02 of 2007, fees charged by a medical professional, dental surgeon, medical consultant, or a professional in general practicing their respective profession, an institution providing health care services or every private medical institution registered under this Act, should comply with regulations given in the said Gazette notification. Nevertheless, it was observed that private medical institutions had not done so, and no action had been taken formally in that connection.

- o) The Private Medical Institutions (Registration) Regulations No. 01 of 2007 formulated by the Minister of Health under Section 18 read in conjunction with Section 03 of the Private Medical Institutions (Registration) Act, No. 21 of 2006, had been published in the Gazette Extraordinary No. 1489/18 dated 22 March 2007. Nevertheless, the Audit was not provided with evidence that those Regulations had been presented in Parliament and obtained approval in terms of Section 18 (4) of the Act. Although it was mentioned under Regulation 04 of the Private Medical Institutions (Registration) Regulations No. 01 of 2007 that the registration certificate should comply to the Format given in Schedule "C", the relevant

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Schedule had been named as "A". Nevertheless, the said Schedule "C" had been revised through a notification published in Gazette Extraordinary No. 1510/08 dated 13 August 2007, and it was mentioned therein that "*The person registered for maintaining a private medical institution should supply goods and services of higher quality and standard in scientific and medical terms whilst maintaining a staff comprising trained medical personnel, and the institution should be properly maintained by ensuring that no expired drugs are issued*".

Furthermore, the staffs to be maintained by each private medical institution had been mentioned in the Guidelines published by the Private Health Services Regulatory Council as well. Nevertheless, it was observed in the sample audit conducted on complaints received in the preceding years that, contrary to those Guidelines, goods and services of higher quality and standard in scientific and medical terms had not been supplied, and staffs comprising trained medical personnel had not been maintained.

- p) Instances in which the complaints received against private medical institutions had been investigated by the Western Provincial Office of the Director of Health Services or such complaints had been investigated by the Investigations and Flying Squad of the Ministry of Health, were observed by the

Audit. The following observations are made in that connection.

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| <p>(i.) Despite being observed in examining reports of the Investigations and flying Squad of the Ministry of Health that a team of officers had involved in such raids, but only the relevant Medical Officer had been involved in investigations on complaints carried out by the Western Provincial Office of the Director of Health Services. Thus, it remained doubtful as to whether solutions were reached accurately and impartially.</p> | <p>- Do</p> | <p>A methodology should be put in place to investigate the complaints. A team of officers should be appointed ensuring independence and transparency.</p> |
| <p>(ii.) In the wake of examining the reports of complaints made available to the Audit, it was observed that some of the recommendations given lacked impartiality and fairness. It was further observed in audit that an extensive delay had occurred from the date of receipt of the complaint until being investigated.</p> | <p>- Do.</p> | <p>A team of officers capable of ensuring independence and transparency should be appointed, and the reports of investigation should be presented without delay.</p> |
| <p>q) As a specific timeframe for registration had not been mentioned either in the Act or the Regulations, certificates of registration had been issued for the relevant year whenever monies had been received for registering the private medical institutions. As no fines had been charged, there was a delay for the Regulatory Council in receiving the</p> | <p>- Do.</p> | <p>It is necessary to decide on a specific period in which the private medical institutions should be registered, and necessary action should be taken to charge a fine</p> |

revenue that should have been received at the beginning of the year.

from the institutions failing to do so.

04. Accountability and Good Governance

4.1 Internal Audit

Audit Observation

Comment of the Management

Recommendation

An Internal Audit Unit should have been established in terms of Paragraph 4.4 of the Guidelines issued by the Department of Public Enterprises on 16 November 202, but the Regulatory Council had not done so.

Agreed with the audit observation.

Provisions of Circulars should be followed.

4.2 Audit Committee

Audit Observation

Comment of the Management

Recommendation

According to Management Audit Circular No. DMA/1-2019 dated 12 January 2019, four meetings of the audit and management committee each for one quarter, should be conducted per year. Nevertheless, no audit and management committee meetings had been conducted by the Regulatory Council for the year under review. Although this failure had been pointed out during the 03 preceding years, the parties responsible had not drawn their attention thereon.

Agreed with the audit observation.

Action should be taken in accordance with provisions of Circulars.

4.3 Sustainable Development Goals

Audit Observation	Comment of the Management	Recommendation
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<p>As the Regulatory Council had not been aware of “2030 Agenda of the United Nations ” on sustainable development as per the Circular No. NP/SP/SDG/17 dated 14 August 2017 issued by the Secretary to the Ministry of National Policies and Economic Affairs, action had not been taken to recognize the sustainable development goals, targets, milestones in reaching those targets, and the indicators to measure the achievement of goals relating to the activities under scope of the Regulatory Council. Although this issue was pointed out during the 03 preceding years, the parties responsible had not brought their attention thereon.</p>	<p>Agreed with the audit observation.</p>	<p>The Regulatory Council should become aware of the “2030 Agenda of the United Nations ” on sustainable development and the relevant Circular thereby taking action to recognize the sustainable development goals, targets, milestones in reaching such targets, and the indicators to measure the achievement thereof with respect to the activities under their scope.</p>