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The Mental Healthcare Act, 2017

(ACT NO. 10 OF 2017)

[*As on the* 1*st August*, 2026]

LIST OF ABBREVIATIONS USED

G.S.R.	*for*	General Statutory Rules.
S.O.	,,	Statutory Order.
Notifn.	,,	Notification.

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THE MENTAL HEALTHCARE ACT, 2017

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THE MENTAL HEALTHCARE ACT, 2017

ACT NO. 10 OF 2017

[7*th April*, 2017.]

An Act to provide for mental healthcare and services for persons with mental illness and to protect, promote and fulfil the rights of such persons during delivery of mental healthcare and services and for matters connected therewith or incidental thereto.

WHEREAS the Convention on Rights of Persons with Disabilities and its Optional Protocol was adopted on the 13th December, 2006 at United Nations Headquarters in New York and came into force on the 3rd May, 2008;

AND WHEREAS India has signed and ratified the said Convention on the 1st day of October, 2007;

AND WHEREAS it is necessary to align and harmonise the existing laws with the said Convention.

BE it enacted by Parliament in the Sixty-eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—(*1*) This Act may be called the Mental Healthcare Act, 2017.

(*2*) It shall extend to the whole of India.

(*3*) It shall come into force on such date[1] as the Central Government may, by notification in the Official Gazette, appoint; or on the date of completion of the period of nine months from the date on which the Mental Healthcare Act, 2017 receives the assent of the President.

2. Definitions.—(*1*) In this Act, unless the context otherwise requires,—

(*a*) "advance directive" means an advance directive made by a person under section 5;

(*b*) "appropriate Government" means,—

(*i*) in relation to a mental health establishment established, owned or controlled by the Central Government or the Administrator of a Union territory having no legislature, the Central Government;

(*ii*) in relation to a mental health establishment, other than an establishment referred to in sub-clause (*i*), established, owned or controlled within the territory of—

(*A*) a State, the State Government;

(*B*) a Union territory having legislature, the Government of that Union territory;

(*c*) "Authority" means the Central Mental Health Authority or the State Mental Health Authority, as the case may be;

(*d*) "Board" means the Mental Health Review Board constituted by the State Authority under sub-section (*1*) of section *73 in such manner as may be prescribed;

(*e*) "care-giver" means a person who resides with a person with mental illness and is responsible for providing care to that person and includes a relative or any other person who performs this function, either free or with remuneration;

(*f*) "Central Authority" means the Central Mental Health Authority constituted under section 33;

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1. 29th May, 2018, *vide* Notification No. S.O. 2173(E), dated 29th May 2018, *see* Gazette of India, Extraordinary, Part II, sec. 3(*ii*).

* By Corrigenda dated 7th April, 2017.

(*g*) "clinical psychologist" means a person—

(*i*) having a recognised qualification in Clinical Psychology from an institution approved and recognised, by the Rehabilitation Council of India, constituted under section 3 of the Rehabilitation Council of India Act, 1992 (34 of 1992); or

(*ii*) having a Post-Graduate degree in Psychology or Clinical Psychology or Applied Psychology and a Master of Philosophy in Clinical Psychology or Medical and Social Psychology obtained after completion of a full time course of two years which includes supervised clinical training from any University recognised by the University Grants Commission established under the University Grants Commission Act, 1956 (3 of 1956) and approved and recognised by the Rehabilitation Council of India Act, 1992 (34 of 1992) or such recognised qualifications as may be prescribed;

(*h*) "family" means a group of persons related by blood, adoption or marriage;

(*i*) "informed consent" means consent given for a specific intervention, without any force, undue influence, fraud, threat, mistake or misrepresentation, and obtained after disclosing to a person adequate information including risks and benefits of, and alternatives to, the specific intervention in a language and manner understood by the person;

(*j*) "least restrictive alternative" or "least restrictive environment" or "less restrictive option" means offering an option for treatment or a setting for treatment which—

(*i*) meets the person's treatment needs; and

(*ii*) imposes the least restriction on the person's rights;

(*k*) "local authority" means a Municipal Corporation or Municipal Council, or Zilla Parishad, or Nagar Panchayat, or Panchayat, by whatever name called, and includes such other authority or body having administrative control over the mental health establishment or empowered under any law for the time being in force, to function as a local authority in any city or town or village;

(*l*) "Magistrate" means—

(*i*) in relation to a metropolitan area within the meaning of clause (*k*) of section 2 of the Code of Criminal Procedure, 1973 (2 of 1974), a Metropolitan Magistrate;

(*ii*) in relation to any other area, the Chief Judicial Magistrate, Sub-divisional Judicial Magistrate or such other Judicial Magistrate of the first class as the State Government may, by notification, empower to perform the functions of a Magistrate under this Act;

(*m*) "medical officer in charge" in relation to any mental health establishment means the psychiatrist or medical practitioner who, for the time being, is in charge of that mental health establishment;

(*n*) "medical practitioner" means a person who possesses a recognised medical qualification—

(*i*) as defined in clause (*h*) of section 2 of the Indian Medical Council Act, 1956 (102 of 1956), and whose name has been entered in the State Medical Register, as defined in clause (*k*) of that section; or

(*ii*) as defined in clause (*h*) of sub-section (*1*) of section 2 of the Indian Medicine Central Council Act, 1970 (48 of 1970), and whose name has been entered in a State Register of Indian Medicine, as defined in clause (*j*) of sub-section (*1*) of that section; or

(*iii*) as defined in clause (*g*) of sub-section (*1*) of section 2 of the Homoeopathy Central Council Act, 1973 (59 of 1973), and whose name has been entered in a State Register of Homoeopathy, as defined in clause (*i*) of sub-section (*1*) of that section;

(*o*) "Mental healthcare" includes analysis and diagnosis of a person's mental condition and treatment as well as care and rehabilitation of such person for his mental illness or suspected mental illness;

(*p*) "mental health establishment" means any health establishment, including Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy establishment, by whatever name called, either wholly or partly, meant for the care of persons with mental illness, established, owned, controlled or maintained by the appropriate Government, local authority, trust, whether private or public, corporation, co-operative society, organisation or any other entity or person, where persons with mental illness are admitted and

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reside at, or kept in, for care, treatment, convalescence and rehabilitation, either temporarily or otherwise; and includes any general hospital or general nursing home established or maintained by the appropriate Government, local authority, trust, whether private or public, corporation, co-operative society, organisation or any other entity or person; but does not include a family residential place where a person with mental illness resides with his relatives or friends;

(*q*) "mental health nurse" means a person with a diploma or degree in general nursing or diploma or degree in psychiatric nursing recognised by the Nursing Council of India established under the Nursing Council of India Act, 1947 (38 of 1947) and registered as such with the relevant nursing council in the State;

(*r*) "mental health professional" means—

(*i*) a psychiatrist as defined in clause *(*y*); or

(*ii*) a professional registered with the concerned State Authority under section 55; or

(*iii*) a professional having a post-graduate degree (Ayurveda) in Mano Vigyan Avum Manas Roga or a post-graduate degree (Homoeopathy) in Psychiatry or a post-graduate degree (Unani) in Moalijat (Nafasiyatt) or a post-graduate degree (Siddha) in Sirappu Maruthuvam;

(*s*) "mental illness" means a substantial disorder of thinking, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognise reality or ability to meet the ordinary demands of life, mental conditions associated with the abuse of alcohol and drugs, but does not include mental retardation which is a condition of arrested or incomplete development of mind of a person, specially characterised by subnormality of intelligence;

(*t*) "minor" means a person who has not completed the age of eighteen years;

(*u*) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(*v*) "prescribed" means prescribed by rules made under this Act;

(*w*) "prisoner with mental illness" means a person with mental illness who is an under-trial or convicted of an offence and detained in a jail or prison;

(*x*) "psychiatric social worker" means a person having a post-graduate degree in Social Work and a Master of Philosophy in Psychiatric Social Work obtained after completion of a full time course of two years which includes supervised clinical training from any University recognised by the University Grants Commission established under the University Grants Commission Act, 1956 (3 of 1956) or such recognised qualifications, as may be prescribed;

(*y*) "psychiatrist" means a medical practitioner possessing a post-graduate degree or diploma in psychiatry awarded by an university recognised by the University Grants Commission established under the University Grants Commission Act, 1956 (3 of 1956), or awarded or recognised by the National Board of Examinations and included in the First Schedule to the Indian Medical Council Act, 1956 (102 of 1956), or recognised by the Medical Council of India, constituted under the Indian Medical Council Act, 1956, and includes, in relation to any State, any medical officer who having regard to his knowledge and experience in psychiatry, has been declared by the Government of that State to be a psychiatrist for the purposes of this Act;

(*z*) "regulations" means regulations made under this Act;

(*za*) "relative" means any person related to the person with mental illness by blood, marriage or adoption;

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* By corrigenda dated 7th April, 2017.

(*zb*) "State Authority" means the State Mental Health Authority established under section 45.

(*2*) The words and expressions used and not defined in this Act but defined in the Indian Medical Council Act, 1956 (102 of 1956) or the Indian Medicine Central Council Act, 1970 (48 of 1970) and not inconsistent with this Act shall have the meanings respectively assigned to them in those Acts.

CHAPTER II

MENTAL ILLNESS AND CAPACITY TO MAKE MENTAL HEALTHCARE AND TREATMENT DECISIONS

3. Determination of mental illness.—(*1*) Mental illness shall be determined in accordance with such nationally or internationally accepted medical standards (including the latest edition of the International Classification of Disease of the World Health Organisation) as may be notified by the Central Government.

(*2*) No person or authority shall classify a person as a person with mental illness, except for purposes directly relating to the treatment of the mental illness or in other matters as covered under this Act or any other law for the time being in force.

(*3*) Mental illness of a person shall not be determined on the basis of,—

(*a*) political, economic or social status or membership of a cultural, racial or religious group, or for any other reason not directly relevant to mental health status of the person;

(*b*) non-conformity with moral, social, cultural, work or political values or religious beliefs prevailing in a person's community.

(*4*) Past treatment or hospitalisation in a mental health establishment though relevant, shall not by itself justify any present or future determination of the person's mental illness.

(*5*) The determination of a person's mental illness shall alone not imply or be taken to mean that the person is of unsound mind unless he has been declared as such by a competent court.

4. Capacity to make mental healthcare and treatment decisions.—(*1*) Every person, including a person with mental illness shall be deemed to have capacity to make decisions regarding his mental healthcare or treatment if such person has ability to—

(*a*) understand the information that is relevant to take a decision on the treatment or admission or personal assistance; or

(*b*) appreciate any reasonably foreseeable consequence of a decision or lack of decision on the treatment or admission or personal assistance; or

(*c*) communicate the decision under sub-clause (*a*) by means of speech, expression, gesture or any other means.

(*2*) The information referred to in sub-section (*1*) shall be given to a person using simple language, which such person understands or in sign language or visual aids or any other means to enable him to understand the information.

(*3*) Where a person makes a decision regarding his mental healthcare or treatment which is perceived by others as inappropriate or wrong, that by itself, shall not mean that the person does not have the capacity to make mental healthcare or treatment decision, so long as the person has the capacity to make mental healthcare or treatment decision under sub-section (*1*).

CHAPTER III

ADVANCE DIRECTIVE

5. Advance directive.—(*1*) Every person, who is not a minor, shall have a right to make an advance directive in writing, specifying any or all of the following, namely:—

(*a*) the way the person wishes to be cared for and treated for a mental illness;

(*b*) the way the person wishes not to be cared for and treated for a mental illness;

(*c*) the individual or individuals, in order of precedence, he wants to appoint as his nominated representative as provided under section 14.

(*2*) An advance directive under sub-section (*1*) may be made by a person irrespective of his past mental illness or treatment for the same.

(*3*) An advance directive made under sub-section (*1*), shall be invoked only when such person ceases to have capacity to make mental healthcare or treatment decisions and shall remain effective until such person regains capacity to make mental healthcare or treatment decisions.

(*4*) Any decision made by a person while he has the capacity to make mental healthcare and treatment decisions shall over-ride any previously written advance directive by such person.

(*5*) Any advance directive made contrary to any law for the time being in force shall be *ab initio* void.

6. Manner of making advance directive.—An advance directive shall be made in the manner as may be specified by the regulations made by the Central Authority.

7. Maintenance of online register.—Subject to the provisions contained in clause (*a*) of sub-section (*1*) of section *82, every Board shall maintain an online register of all advance directives registered with it and make them available to the concerned mental health professionals as and when required.

8. Revocation, amendment or cancellation of advance directive.—(*1*) An advance directive made under section 6 may be revoked, amended or cancelled by the person who made it at any time.

(*2*) The procedure for revoking, amending or cancelling an advance directive shall be the same as for making an advance directive under section 6.

9. Advance directive not to apply to emergency treatment.—The advance directive shall not apply to the emergency treatment given under section *94 to a person who made the advance directive.

10. Duty to follow advance directive.—It shall be the duty of every medical officer in charge of a mental health establishment and the psychiatrist in charge of a person's treatment to propose or give treatment to a person with mental illness, in accordance with his valid advance directive, subject to section 11.

11. Power to review, alter, modify or cancel advance directive.—(*1*) Where a mental health professional or a relative or a care-giver of a person desires not to follow an advance directive while treating a person with mental illness, such mental health professional or the relative or the care-giver of the person shall make an application to the concerned Board to review, alter, modify or cancel the advance directive.

(*2*) Upon receipt of the application under sub-section (*1*), the Board shall, after giving an opportunity of hearing to all concerned parties (including the person whose advance directive is in question), either uphold, modify, alter or cancel the advance directive after taking into consideration the following, namely:—

(*a*) whether the advance directive was made by the person out of his own free will and free from force, undue influence or coercion; or

(*b*) whether the person intended the advance directive to apply to the present circumstances, which may be different from those anticipated; or

(*c*) whether the person was sufficiently well informed to make the decision; or

(*d*) whether the person had capacity to make decisions relating to his mental healthcare or treatment when such advanced directive was made; or

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* By corrigenda dated 7th April, 2017.

(*e*) whether the content of the advance directive is contrary to other laws or constitutional provisions.

(*3*) The person writing the advance directive and his nominated representative shall have a duty to ensure that the medical officer in charge of a mental health establishment or a medical practitioner or a mental health professional, as the case may be, has access to the advance directive when required.

(*4*) The legal guardian shall have right to make an advance directive in writing in respect of a minor and all the provisions relating to advance directive, *mutatis mutandis*, shall apply to such minor till such time he attains majority.

12. Review of advance directives.—(*1*) The Central Authority shall regularly and periodically review the use of advance directives and make recommendations in respect thereof.

(*2*) The Central Authority in its review under sub-section (*1*) shall give specific consideration to the procedure for making an advance directive and also examine whether the existing procedure protects the rights of persons with mental illness.

(*3*) The Central Authority may modify the procedure for making an advance directive or make additional regulations regarding the procedure for advance directive to protect the rights of persons with mental illness.

13. Liability of medical health professional in relation to advance directive.—(*1*) A medical practitioner or a mental health professional shall not be held liable for any unforeseen consequences on following a valid advance directive.

(*2*) The medical practitioner or mental health professional shall not be held liable for not following a valid advance directive, if he has not been given a copy of the valid advance directive.

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CHAPTER IV

NOMINATED REPRESENTATIVE

14. Appointment and revocation of nominated representative.—(*1*) Notwithstanding anything contained in clause (*c*) of sub-section (*1*) of section 5, every person who is not a minor, shall have a right to appoint a nominated representative.

(*2*) The nomination under sub-section (*1*) shall be made in writing on plain paper with the person's signature or thumb impression of the person referred to in that sub-section.

(*3*) The person appointed as the nominated representative shall not be a minor, be competent to discharge the duties or perform the functions assigned to him under this Act, and give his consent in writing to the mental health professional to discharge his duties and perform the functions assigned to him under this Act.

(*4*) Where no nominated representative is appointed by a person under sub-section (*1*), the following persons for the purposes of this Act in the order of precedence shall be deemed to be the nominated representative of a person with mental illness, namely:—

(*a*) the individual appointed as the nominated representative in the advance directive under clause (*c*) of sub-section (*1*) of section 5; or

(*b*) a relative, or if not available or not willing to be the nominated representative of such person; or

(*c*) a care-giver, or if not available or not willing to be the nominated representative of such person; or

(*d*) a suitable person appointed as such by the concerned Board; or

(*e*) if no such person is available to be appointed as a nominated representative, the Board shall appoint the Director, Department of Social Welfare, or his designated representative, as the nominated representative of the person with mental illness:

Provided that a person representing an organisation registered under the Societies Registration Act, 1860 (21 of 1860) or any other law for the time being in force, working for persons with mental illness, may temporarily be engaged by the mental health professional to discharge the duties of a nominated representative pending appointment of a nominated representative by the concerned Board.

(*5*) The representative of the organisation, referred to in the proviso to sub-section (*4*), may make a written application to the medical officer in-charge of the mental health establishment or the psychiatrist in-charge of the person's treatment, and such medical officer or psychiatrist, as the case may be, shall accept him as the temporary nominated representative, pending appointment of a nominated representative by the concerned Board.

(*6*) A person who has appointed any person as his nominated representative under this section may revoke or alter such appointment at any time in accordance with the procedure laid down for making an appointment of nominated representative under sub-section (*1*).

(*7*) The Board may, if it is of the opinion that it is in the interest of the person with mental illness to do so, revoke an appointment made by it under this section, and appoint a different representative under this section.

(*8*) The appointment of a nominated representative, or the inability of a person with mental illness to appoint a nominated representative, shall not be construed as the lack of capacity of the person to take decisions about his mental healthcare or treatment.

(*9*) All persons with mental illness shall have capacity to make mental healthcare or treatment decisions but may require varying levels of support from their nominated representative to make decisions.

15. Nominated representative of minor.—(*1*) Notwithstanding anything contained in section 14, in case of minors, the legal guardian shall be their nominated representative, unless the concerned Board orders otherwise under sub-section (*2*).

(*2*) Where on an application made to the concerned Board, by a mental health professional or any other person acting in the best interest of the minor, and on evidence presented before it, the concerned Board is of the opinion that,—

(*a*) the legal guardian is not acting in the best interests of the minor; or

(*b*) the legal guardian is otherwise not fit to act as the nominated representative of the minor,

it may appoint, any suitable individual who is willing to act as such, the nominated representative of the minor with mental illness:

Provided that in case no individual is available for appointment as a nominated representative, the Board shall appoint the Director in the Department of Social Welfare of the State in which such Board is located, or his nominee, as the nominated representative of the minor with mental illness.

16. Revocation, alteration, etc., of nominated representative by Board.—The Board, on an application made to it by the person with mental illness, or by a relative of such person, or by the psychiatrist responsible for the care of such person, or by the medical officer in-charge of the mental health establishment where the individual is admitted or proposed to be admitted, may revoke, alter or modify the order made under clause (*e*) of sub-section (*4*) of section 14 or under sub-section (*2*) of section 15.

17. Duties of nominated representative.—While fulfilling his duties under this Act, the nominated representative shall—

(*a*) consider the current and past wishes, the life history, values, cultural background and the best interests of the person with mental illness;

(*b*) give particular credence to the views of the person with mental illness to the extent that the person understands the nature of the decisions under consideration;

(*c*) provide support to the person with mental illness in making treatment decisions under section 89 or section 90;

(*d*) have right to seek information on diagnosis and treatment to provide adequate support to the person with mental illness;

(*e*) have access to the family or home based rehabilitation services as provided under clause (*c*) of sub-section (*4*) of section 18 on behalf of and for the benefit of the person with mental illness;

(*f*) be involved in discharge planning under section 98;

(*g*) apply to the mental health establishment for admission under section 87 or section 89 or section 90;

(*h*) apply to the concerned Board on behalf of the person with mental illness for discharge under section 87 or section 89 or section 90;

(*i*) apply to the concerned Board against violation of rights of the person with mental illness in a mental health establishment;

(*j*) appoint a suitable attendant under sub-section (*5*) or sub-section (*6*) of section 87;

(*k*) have the right to give or withhold consent for research under circumstances mentioned under sub-section (*3*) of section 99.

CHAPTER V

RIGHTS OF PERSONS WITH MENTAL ILLNESS

18. Right to access mental healthcare.—(*1*) Every person shall have a right to access mental healthcare and treatment from mental health services run or funded by the appropriate Government.

(*2*) The right to access mental healthcare and treatment shall mean mental health services of affordable cost, of good quality, available in sufficient quantity, accessible geographically, without discrimination on the basis of gender, sex, sexual orientation, religion, culture, caste, social or political beliefs, class, disability or any other basis and provided in a manner that is acceptable to persons with mental illness and their families and care-givers.

(*3*) The appropriate Government shall make sufficient provision as may be necessary, for a range of services required by persons with mental illness.

(*4*) Without prejudice to the generality of range of services under sub-section (*3*), such services shall include—

(*a*) provision of acute mental healthcare services such as outpatient and inpatient services;

(*b*) provision of half-way homes, sheltered accommodation, supported accommodation as may be prescribed;

(*c*) provision for mental health services to support family of person with mental illness or home based rehabilitation;

(*d*) hospital and community based rehabilitation establishments and services as may be prescribed;

(*e*) provision for child mental health services and old age mental health services.

(*5*) The appropriate Government shall,—

(*a*) integrate mental health services into general healthcare services at all levels of healthcare including primary, secondary and tertiary healthcare and in all health programmes run by the appropriate Government;

(*b*) provide treatment in a manner, which supports persons with mental illness to live in the community and with their families;

(*c*) ensure that the long term care in a mental health establishment for treatment of mental illness shall be used only in exceptional circumstances, for as short a duration as possible, and only as a last resort when appropriate community based treatment has been tried and shown to have failed;

(*d*) ensure that no person with mental illness (including children and older persons) shall be required to travel long distances to access mental health services and such services shall be available close to a place where a person with mental illness resides;

(*e*) ensure that as a minimum, mental health services run or funded by Government shall be available in each district;

(*f*) ensure, if minimum mental health services specified under sub-clause (*e*) of this sub-section* are not available in the district where a person with mental illness resides, that the person with mental illness is entitled to access any other mental health service in the district and the costs of treatment at such establishments in that district will be borne by the appropriate Government:

Provided that till such time the services under this sub-section are made available in a health establishment run or funded by the appropriate Government, the appropriate Government shall make rules regarding reimbursement of costs of treatment at such mental health establishment.

(*6*) The appropriate Government shall make available a range of appropriate mental health services specified under sub-section (*4*) of section 18 at all general hospitals run or funded by such Government and basic and emergency mental healthcare services shall be available at all community health centres and upwards in the public health system run or funded by such Government.

(*7*) Persons with mental illness living below the poverty line whether or not in possession of a below poverty line card, or who are destitute or homeless shall be entitled to mental health treatment and services free of any charge and at no financial cost at all mental health establishments run or funded by the appropriate Government and at other mental health establishments designated by it.

(*8*) The appropriate Government shall ensure that the mental health services shall be of equal quality to other general health services and no discrimination be made in quality of services provided to persons with mental illness.

(*9*) The minimum quality standards of mental health services shall be as specified by regulations made by the State Authority.

(*10*) Without prejudice to the generality of range of services under sub-section (*3*) of section 18, the appropriate Government shall notify Essential Drug List and all medicines on the Essential Drug List shall be made available free of cost to all persons with mental illness at all times at health establishments run or funded by the appropriate Government starting from Community Health Centres and upwards in the public health system:

Provided that where the health professional of ayurveda, yoga, unani, siddha, homoeopathy or naturopathy systems recognised by the Central Government are available in any health establishment, the essential medicines from any similar list relating to the appropriate ayurveda, yoga, unani, siddha, homoeopathy or naturopathy systems shall also be made available free of cost to all persons with mental illness.

(*11*) The appropriate Government shall take measures to ensure that necessary budgetary provisions in terms of adequacy, priority, progress and equity are made for effective implementation of the provisions of this section.

Explanation.—For the purposes of sub-section (*11*), the expressions—

(*i*) "adequacy" means in terms of how much is enough to offset inflation;

(*ii*) "priority" means in terms of compared to other budget heads;

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* By Corrigenda dated 7th April, 2017.

(*iii*) "equity" means in terms of fair allocation of resources taking into account the health, social and economic burden of mental illness on individuals, their families and care-givers;

(*iv*) "progress" means in terms of indicating an improvement in the State's response.

19. Right to community living.—(*1*) Every person with mental illness shall,—

(*a*) have a right to live in, be part of and not be segregated from society; and

(*b*) not continue to remain in a mental health establishment merely because he does not have a family or is not accepted by his family or is homeless or due to absence of community based facilities.

(*2*) Where it is not possible for a mentally ill person to live with his family or relatives, or where a mentally ill person has been abandoned by his family or relatives, the appropriate Government shall provide support as appropriate including legal aid and to facilitate exercising his right to family home and living in the family home.

(*3*) The appropriate Government shall, within a reasonable period, provide for or support the establishment of less restrictive community based establishments including half-way homes, group homes and the like for persons who no longer require treatment in more restrictive mental health establishments such as long stay mental hospitals.

20. Right to protection from cruel, inhuman and degrading treatment.—(*1*) Every person with mental illness shall have a right to live with dignity.

(*2*) Every person with mental illness shall be protected from cruel, inhuman or degrading treatment in any mental health establishment and shall have the following rights, namely:—

(*a*) to live in safe and hygienic environment;

(*b*) to have adequate sanitary conditions;

(*c*) to have reasonable facilities for leisure, recreation, education and religious practices;

(*d*) to privacy;

(*e*) for proper clothing so as to protect such person from exposure of his body to maintain his dignity;

(*f*) to not be forced to undertake work in a mental health establishment and to receive appropriate remuneration for work when undertaken;

(*g*) to have adequate provision for preparing for living in the community;

(*h*) to have adequate provision for wholesome food, sanitation, space and access to articles of personal hygiene, in particular, women's personal hygiene be adequately addressed by providing access to items that may be required during menstruation;

(*i*) to not be subject to compulsory tonsuring (shaving of head hair);

(*j*) to wear own personal clothes if so wished and to not be forced to wear uniforms provided by the establishment; and

(*k*) to be protected from all forms of physical, verbal, emotional and sexual abuse.

21. Right to equality and non-discrimination.—(*1*) Every person with mental illness shall be treated as equal to persons with physical illness in the provision of all healthcare which shall include the following, namely:—

(*a*) there shall be no discrimination on any basis including gender, sex, sexual orientation, religion, culture, caste, social or political beliefs, class or disability;

(*b*) emergency facilities and emergency services for mental illness shall be of the same quality and availability as those provided to persons with physical illness;

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(*c*) persons with mental illness shall be entitled to the use of ambulance services in the same manner, extent and quality as provided to persons with physical illness;

(*d*) living conditions in health establishments shall be of the same manner, extent and quality as provided to persons with physical illness; and

(*e*) any other health services provided to persons with physical illness shall be provided in same manner, extent and quality to persons with mental illness.

(*2*) A child under the age of three years of a woman receiving care, treatment or rehabilitation at a mental health establishment shall ordinarily not be separated from her during her stay in such establishment:

Provided that where the treating Psychiatrist, based on his examination of the woman, and if appropriate, on information provided by others, is of the opinion that there is risk of harm to the child from the woman due to her mental illness or it is in the interest and safety of the child, the child shall be temporarily separated from the woman during her stay at the mental health establishment:

Provided further that the woman shall continue to have access to the child under such supervision of the staff of the establishment or her family, as may be appropriate, during the period of separation.

(*3*) The decision to separate the woman from her child shall be reviewed every fifteen days during the woman's stay in the mental health establishment and separation shall be terminated as soon as conditions which required the separation no longer exist:

Provided that any separation permitted as per the assessment of a mental health professional, if it exceeds thirty days at a stretch, shall be required to be approved by the respective Authority.

(*4*) Every insurer shall make provision for medical insurance for treatment of mental illness on the same basis as is available for treatment of physical illness.

22. Right to information.—(*1*) A person with mental illness and his nominated representative shall have the rights to the following information, namely:—

(*a*) the provision of this Act or any other law for the time being in force under which he has been admitted, if he is being admitted, and the criteria for admission under that provision;

(*b*) of his right to make an application to the concerned Board for a review of the admission;

(*c*) the nature of the person's mental illness and the proposed treatment plan which includes information about treatment proposed and the known side effects of the proposed treatment;

(*d*) receive the information in a language and form that such person receiving the information can understand.

(*2*) In case complete information cannot be given to the person with mental illness at the time of the admission or the start of treatment, it shall be the duty of the medical officer or psychiatrist in charge of the person's care to ensure that full information is provided promptly when the individual is in a position to receive it:

Provided that where the information has not been given to the person with mental illness at the time of the admission or the start of treatment, the medical officer or psychiatrist in charge of the person's care shall give the information to the nominated representative immediately.

23. Right to confidentiality.—(*1*) A person with mental illness shall have the right to confidentiality in respect of his mental health, mental healthcare, treatment and physical healthcare.

(*2*) All health professionals providing care or treatment to a person with mental illness shall have a duty to keep all such information confidential which has been obtained during care or treatment with the following exceptions, namely:—

(*a*) release of information to the nominated representative to enable him to fulfil his duties under this Act;

(*b*) release of information to other mental health professionals and other health professionals to enable them to provide care and treatment to the person with mental illness;

(*c*) release of information if it is necessary to protect any other person from harm or violence;

(*d*) only such information that is necessary to protect against the harm identified shall be released;

(*e*) release only such information as is necessary to prevent threat to life;

(*f*) release of information upon an order by concerned Board or the Central Authority or High Court or Supreme Court or any other statutory authority competent to do so; and

(*g*) release of information in the interests of public safety and security.

24. Restriction on release of information in respect of mental illness.—(*1*) No photograph or any other information relating to a person with mental illness undergoing treatment at a mental health establishment shall be released to the media without the consent of the person with mental illness.

(*2*) The right to confidentiality of person with mental illness shall also apply to all information stored in electronic or digital format in real or virtual space.

25. Right to access medical records.—(*1*) All persons with mental illness shall have the right to access their basic medical records as may be prescribed.

(*2*) The mental health professional in charge of such records may withhold specific information in the medical records if disclosure would result in,—

(*a*) serious mental harm to the person with mental illness; or

(*b*) likelihood of harm to other persons.

(*3*) When any information in the medical records is withheld from the person, the mental health professional shall inform the person with mental illness of his right to apply to the concerned Board for an order to release such information.

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26. Right to personal contacts and communication.—(*1*) A person with mental illness admitted to a mental health establishment shall have the right to refuse or receive visitors and to refuse or receive and make telephone or mobile phone calls at reasonable times subject to the norms of such mental health establishment.

(*2*) A person with mental illness admitted in a mental health establishment may send and receive mail through electronic mode including through e-mail.

(*3*) Where a person with mental illness informs the medical officer or mental health professional in charge of the mental health establishment that he does not want to receive mail or email from any named person in the community, the medical officer or mental health professional in charge may restrict such communication by the named person with the person with mental illness.

(*4*) Nothing contained in sub-sections (*1*) to (*3*) shall apply to visits from, telephone calls to, and from mail or e-mail to, and from individuals, specified under clauses (*a*) to (*f*) under any circumstances, namely:—

(*a*) any Judge or officer authorised by a competent court;

(*b*) members of the concerned Board or the Central Authority or the State Authority;

(*c*) any member of the Parliament or a Member of State Legislature;

(*d*) nominated representative, lawyer or legal representative of the person;

(*e*) medical practitioner in charge of the person's treatment;

(*f*) any other person authorised by the appropriate Government.

27. Right to legal aid.—(*1*) A person with mental illness shall be entitled to receive free legal services to exercise any of his rights given under this Act.

(*2*) It shall be the duty of magistrate, police officer, person in charge of such custodial institution as may be prescribed or medical officer or mental health professional in charge of a mental health establishment to inform the person with mental illness that he is entitled to free legal services under the Legal Services Authorities Act, 1987 (39 of 1987) or other relevant laws or under any order of the court if so ordered and provide the contact details of the availability of services.

28. Right to make complaints about deficiencies in provision of services.—(*1*) Any person with mental illness or his nominated representative, shall have the right to complain regarding deficiencies in provision of care, treatment and services in a mental health establishment to,—

(*a*) the medical officer or mental health professional in charge of the establishment and if not satisfied with the response;

(*b*) the concerned Board and if not satisfied with the response;

(*c*) the State Authority.

(*2*) The provisions for making complaint in sub-section (*1*), is without prejudice to the rights of the person to seek any judicial remedy for violation of his rights in a mental health establishment or by any mental health professional either under this Act or any other law for the time being in force.

CHAPTER VI

DUTIES OF APPROPRIATE GOVERNMENT

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29. Promotion of mental health and preventive programmes.—(*1*) The appropriate Government shall have a duty to plan, design and implement programmes for the promotion of mental health and prevention of mental illness in the country.

(*2*) Without prejudice to the generality of the provisions contained in sub-section (*1*), the appropriate Government shall, in particular, plan, design and implement public health programmes to reduce suicides and attempted suicides in the country.

30. Creating awareness about mental health and illness and reducing stigma associated with mental illness.—The appropriate Government shall take all measures to ensure that,—

(*a*) the provisions of this Act are given wide publicity through public media, including television, radio, print and online media at regular intervals;

(*b*) the programmes to reduce stigma associated with mental illness are planned, designed, funded and implemented in an effective manner;

(*c*) the appropriate Government officials including police officers and other officers of the appropriate Government are given periodic sensitisation and awareness training on the issues under this Act.

31. Appropriate Government to take measures as regard to human resource development and training, etc.—(*1*) The appropriate Government shall take measures to address the human resource requirements of mental health services in the country by planning, developing and implementing educational and training programmes in collaboration with institutions of higher education and training, to increase the human resources available to deliver mental health interventions and to improve the skills of the available human resources to better address the needs of persons with mental illness.

(*2*) The appropriate Government shall, at the minimum, train all medical officers in public healthcare establishments and all medical officers in the prisons or jails to provide basic and emergency mental healthcare.

(*3*) The appropriate Government shall make efforts to meet internationally accepted guidelines for number of mental health professionals on the basis of population, within ten years from the commencement of this Act.

32. Co-ordination within appropriate Government.—The appropriate Government shall take all measures to ensure effective co-ordination between services provided by concerned Ministries and Departments such as those dealing with health, law, home affairs, human resources, social justice, employment, education, women and child development, medical education to address issues of mental health care.

CHAPTER VII

CENTRAL MENTAL HEALTH AUTHORITY

33. Establishment of Central Authority.—The Central Government shall, within a period of nine months from the date on which this Act receives the assent of the President, by notification, establish, for the purposes of this Act, an Authority to be known as the Central Mental Health Authority.

34. Composition of Central Authority.—(*1*) The Central Authority shall consist of the following, namely:—

(*a*) Secretary or Additional Secretary to the Government of India in the Department of Health and Family Welfare—chairperson *ex officio*;

(*b*) Joint Secretary to the Government of India in the Department of Health and Family Welfare, in charge of mental health—member *ex officio*;

(*c*) Joint Secretary to the Government of India in the Department of Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homeopathy—member *ex officio*;

(*d*) Director General of Health Services—member *ex officio*;

(*e*) Joint Secretary to the Government of India in the Department of Disability Affairs of the Ministry of Social Justice and Empowerment—member *ex officio*;

(*f*) Joint Secretary to the Government of India in the Ministry of Women and Child Development—member *ex officio*;

(*g*) Directors of the Central Institutions for Mental Health—members *ex officio*;

(*h*) such other *ex officio* representatives from the relevant Central Government Ministries or Departments;

(*i*) one mental health professional as defined in item (*iii*) of clause (*r*) of sub-section (*1*) of section 2 having at least fifteen years experience in the field, to be nominated by the Central Government—member;

(*j*) one psychiatric social worker having at least fifteen years experience in the field, to be nominated by the Central Government—member;

(*k*) one clinical psychologist having at least fifteen years experience in the field, to be nominated by the Central Government—member;

(*l*) one mental health nurse having at least fifteen years experience in the field of mental health, to be nominated by the Central Government—member;

(*m*) two persons representing persons who have or have had mental illness, to be nominated by the Central Government—members;

(*n*) two persons representing care-givers of persons with mental illness or organisations representing care-givers, to be nominated by the Central Government—members;

(*o*) two persons representing non-governmental organisations which provide services to persons with mental illness, to be nominated by the Central Government—members;

(*p*) two persons representing areas relevant to mental health, if considered necessary.

(*2*) The members referred to in clauses (*h*) to (*p*) of sub-section (*1*), shall be nominated by the Central Government in such manner as may be prescribed.

35. Term of office, salaries and allowances of chairperson and members.—(*1*) The members of the Central Authority referred to in clauses (*h*) to (*p*) of sub-section (*1*) of section 34 shall hold office as such for a term of three years from the date of nomination and shall be eligible for reappointment:

Provided that a member shall not hold office as such after he has attained the age of seventy years.

(*2*) The chairperson and other *ex officio* members of the Authority shall hold office as such chairperson or member, as the case may be, so long as he holds the office by virtue of which he is nominated.

(*3*) The salaries and allowances payable to, and the other terms and conditions of service of, the chairperson and other members shall be such as may be prescribed.

36. Resignation.—A member of the Central Authority may, by notice in writing under his hand addressed to the Central Government, resign his office:

Provided that a member shall, unless he is permitted by the Central Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon the office or until the expiry of his term of office, whichever is the earliest.

37. Filling of vacancies.—The Central Government shall, within two months from the date of occurrence of any vacancy by reason of death, resignation or removal of a member of the Authority and three months before the superannuation or completion of the term of office of any member of that Authority, make nomination for filling up of the vacancy.

38. Vacancies, etc., not to invalidate proceedings of Central Authority.—No act or proceeding of the Central Authority shall be invalid merely by reason of—

(*a*) any vacancy in, or any defect in the constitution of, the Authority; or

(*b*) any defect in the appointment of a person as a member of the Authority; or

(*c*) any irregularity in the procedure of the Authority not affecting the merits of the case.

39. Member not to participate in meetings in certain cases.—Any member having any direct or indirect interest, whether pecuniary or otherwise, in any matter coming up for consideration at a meeting of the Central Authority, shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Central Authority, and the member shall not take any part in any deliberation or decision of the Authority with respect to that matter.

40. Officers and other employees of Central Authority.—(*1*) There shall be a chief executive officer of the Authority, not below the rank of the Director to the Government of India, to be appointed by the Central Government.

(*2*) The Authority may, with the approval of the Central Government, determine the number, nature and categories of other officers and employees required by the Central Authority in the discharge of its functions.

(*3*) The salaries and allowances payable to, and the other terms and conditions of service (including the qualifications, experience and manner of appointment) of, the chief executive officer and other officers and employees of the Central Authority shall be such as may be specified by regulations with the approval of the Central Government.

41. Functions of chief executive officer of Central Authority.—(*1*) The chief executive officer shall be the legal representative of the Central Authority and shall be responsible for—

(*a*) the day-to-day administration of the Central Authority;

(*b*) implementing the work programmes and decisions adopted by the Central Authority;

(*c*) drawing up of proposal for the Central Authority's work programmes;

(*d*) the preparation of the statement of revenue and expenditure and the execution of the budget of the Central Authority.

(*2*) Every year, the chief executive officer shall submit to the Central Authority for approval—

(*a*) a general report covering all the activities of the Central Authority in the previous year;

(*b*) programmes of work;

(*c*) the annual accounts for the previous year; and

(*d*) the budget for the coming year.

(*3*) The chief executive officer shall have administrative control over the officers and other employees of the Central Authority.

42. Transfer of assets, liabilities of Central Authority.—On the establishment of the Central Authority—

(*a*) all the assets and liabilities of the Central Authority for Mental Health Services constituted under sub-section (*1*) of section 3 of the Mental Health Act, 1987 (14 of 1987) shall stand transferred to, and vested in, the Central Authority.

Explanation.—The assets of such Central Authority for Mental Health Services shall be deemed to include all rights and powers, and all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such properties as may be in the possession of such Unique Identification Authority of India and all books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(*b*) without prejudice to the provisions of clause (*a*), all data and information collected during enrolment, all details of authentication performed, debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for such Central Authority for Mental Health Services immediately before that day, for or in connection with the purpose of the said Central Authority for Mental Health Services, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Central Authority;

(*c*) all sums of money due to the Central Authority for Mental Health Services immediately before that day shall be deemed to be due to the Central Authority; and

(*d*) all suits and other legal proceedings instituted or which could have been instituted by or against such Central Authority for Mental Health Services immediately before that day may be continued or may be instituted by or against the Central Authority.

43. Functions of Central Authority.—(*1*) The Central Authority shall—

(*a*) register all mental health establishments under the control of the Central Government and maintain a register of all mental health establishments in the country based on information provided by all State Mental Health Authorities of registered establishments and compile update and publish (including online on the internet) a register of such establishments;

(*b*) develop quality and service provision norms for different types of mental health establishments under the Central Government;

(*c*) supervise all mental health establishments under the Central Government and receive complaints about deficiencies in provision of services;

(*d*) maintain a national register of clinical psychologists, mental health nurses and psychiatric social workers based on information provided by all State Authorities of persons registered to work as mental health professionals for the purpose of this Act and publish the list (including online on the internet) of such registered mental health professionals;

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(*e*) train all persons including law enforcement officials, mental health professionals and other health professionals about the provisions and implementation of this Act;

(*f*) advise the Central Government on all matters relating to mental healthcare and services;

(*g*) discharge such other functions with respect to matters relating to mental health as the Central Government may decide:

Provided that the mental health establishments under the control of the Central Government, before the commencement of this Act, registered under the Mental Health Act, 1987 (14 of 1987) or any other law for the time being in force, shall be deemed to have been registered under the provisions of this Act and copy of such registration shall be furnished to the Central Authority.

(*2*) The procedure for registration (including the fees to be levied for such registration) of the mental health establishments under this section shall be such as may be prescribed by the Central Government.

44. Meetings of Central Authority.—(*1*) The Central Authority shall meet at such times (not less than twice in a year) and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be specified by regulations made by the Central Authority.

(*2*) If the chairperson, for any reason, is unable to attend a meeting of the Central Authority, the senior-most member shall preside over the meeting of the Authority.

(*3*) All questions which come up before any meeting of the Authority shall be decided by a majority of votes by the members present and voting and in the event of an equality of votes, the chairperson or in his absence the member presiding over shall have a second or casting vote.

(*4*) All decisions of the Central Authority shall be authenticated by the signature of the chairperson or any other member authorised by the Central Authority in this behalf.

(*5*) If any member, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any manner coming up for consideration at a meeting of the Central Authority, he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the member shall not take part in any deliberation or decision of the Authority with respect to that matter.

CHAPTER VIII

STATE MENTAL HEALTH AUTHORITY

45. Establishment of State Authority.—Every State Government shall, within a period of nine months from the date on which this Act receives the assent of the President, by notification, establish, for the purposes of this Act, an Authority to be known as the State Mental Health Authority.

46. Composition of State Authority.—(*1*) The State Authority shall consist of the following chairperson and members:—

(*a*) Secretary or Principal Secretary in the Department of Health of State Government—chairperson *ex officio*;

(*b*) Joint Secretary in the Department of Health of the State Government, in charge of mental health—member *ex officio*;

(*c*) Director of Health Services or Medical Education—member *ex officio*;

(*d*) Joint Secretary in the Department of Social Welfare of the State Government—member *ex officio*;

(*e*) such other *ex officio* representatives from the relevant State Government Ministries or Departments;

(*f*) Head of any of the Mental Hospitals in the State or Head of Department of Psychiatry at any Government Medical College, to be nominated by the State Government—member;

(*g*) one eminent psychiatrist from the State not in Government service to be nominated by the State Government—member;

(*h*) one mental health professional as defined in item (*iii*) of clause (**r*) of sub-section (*1*) of section 2 having at least fifteen years experience in the field, to be nominated by the State Government—member;

(*i*) one psychiatric social worker having at least fifteen years experience in the field, to be nominated by the State Government—member;

(*j*) one clinical psychologist having at least fifteen years experience in the field, to be nominated by the State Government—member;

(*k*) one mental health nurse having at least fifteen years experience in the field of mental health, to be nominated by the State Government—member;

(*l*) two persons representing persons who have or have had mental illness, to be nominated by the State Government—member;

(*m*) two persons representing care-givers of persons with mental illness or organisations representing care-givers, to be nominated by the State Government—members;

(*n*) two persons representing non-governmental organisations which provide services to persons with mental illness, to be nominated by the State Government—members.

(*2*) The members referred to in clauses (*e*) to (*n*) of sub-section (*1*), shall be nominated by the State Government in such manner as may be prescribed.

47. Term of office, salaries and allowances of chairperson and other members.—(*1*) The members of the State Authority referred to in clauses (*e*) to (*n*) of sub-section (*1*) of section 46 shall hold office as such for a term of three years from the date of nomination and shall be eligible for reappointment:

Provided that a member shall not hold office as such after he has attained the age of seventy years.

(*2*) The chairperson and other *ex officio* members of the State Authority shall hold office as such chairperson or member, as the case may be, so long as he holds the office by virtue of which he is nominated.

(*3*) The salaries and allowances payable to, and the other terms and conditions of service of, the chairperson and other members shall be such as may be prescribed.

48. Resignation.—A member of the State Authority may, by notice in writing under his hand addressed to the State Government, resign his office:

Provided that a member shall, unless he is permitted by the State Government to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor enters upon office or until the expiry of his term of office, whichever is the earliest.

49. Filling of vacancies.—The State Government shall, within two months from the date of occurrence of any vacancy by reason of death, resignation or removal of a member of the Authority and three months before the superannuation or completion of the term of office of any member of that Authority, make nomination for filling up of the vacancy.

* By Corrigenda dated 7th April, 2017.

50. Vacancies, etc., not to invalidate proceedings of State Authority.—No act or proceeding of the State Authority shall be invalid merely by reason of—

(*a*) any vacancy in, or any defect in the constitution of, the State Authority; or

(*b*) any defect in the appointment of a person as a member of the State Authority; or

(*c*) any irregularity in the procedure of the Authority not affecting the merits of the case.

51. Member not to participate in meetings in certain cases.—Any member having any direct or indirect interest, whether pecuniary or otherwise, in any matter coming up for consideration at a meeting of the State Authority, shall, as soon as possible after the relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the State Authority, and the member shall not take any part in any deliberation or decision of the State Authority with respect to that matter.

52. Officers and other employees of State Authority.—(*1*) There shall be a chief executive officer of the State Authority, not below the rank of the Deputy Secretary to the State Government, to be appointed by the State Government.

(*2*) The State Authority may, with the approval of the State Government, determine the number, nature and categories of other officers and employees required by the State Authority in the discharge of its functions.

(*3*) The salaries and allowances payable to, and the other terms and conditions of service (including the qualifications, experience and manner of appointment) of, the chief executive officer and other officers and employees of the State Authority shall be such as may be specified by regulations with the approval of the State Government.

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53. Functions of chief executive officer of State Authority.—(*1*) The chief executive officer shall be the legal representative of the State Authority and shall be responsible for—

(*a*) the day-to-day administration of the State Authority;

(*b*) implementing the work programmes and decisions adopted by the State Authority;

(*c*) drawing up of proposal for the State Authority's work programmes;

(*d*) the preparation of the statement of revenue and expenditure and the execution of the budget of the State Authority.

(*2*) Every year, the chief executive officer shall submit to the State Authority for approval—

(*a*) a general report covering all the activities of the Authority in the previous year;

(*b*) programmes of work;

(*c*) the annual accounts for the previous year; and

(*d*) the budget for the coming year.

(*3*) The chief executive officer shall have administrative control over the officers and other employees of the State Authority.

54. Transfer of assets, liabilities of State Authority.—On and from the establishment of the State Authority—

(*a*) all the assets and liabilities of the State Authority for Mental Health Services constituted under sub-section (*1*) of section 4 of the Mental Health Act, 1987 (14 of 1987) shall stand transferred to, and vested in, the State Authority.

Explanation.—The assets of such State Authority for Mental Health Services shall be deemed to include all rights and powers, and all properties, whether movable or immovable, including, in particular, cash balances, deposits and all other interests and rights in, or arising out of, such

properties as may be in the possession of such State Authority for Mental Health Services and all books of account and other documents relating to the same; and liabilities shall be deemed to include all debts, liabilities and obligations of whatever kind;

(*b*) without prejudice to the provisions of clause (*a*), all data and information collected during enrolment, all details of authentication performed, debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for such State Authority for Mental Health Services immediately before that day, for or in connection with the purpose of the said State Authority for Mental Health Services, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the State Authority;

(*c*) all sums of money due to the State Authority for Mental Health Services immediately before that day shall be deemed to be due to the State Authority; and

(*d*) all suits and other legal proceedings instituted or which could have been instituted by or against such State Authority for Mental Health Services immediately before that day may be continued or may be instituted by or against the State Authority.

55. Functions of State Authority.—(*1*) The State Authority shall—

(*a*) register all mental health establishments in the State except those referred to in section 43 and maintain and publish (including online on the internet) a register of such establishments;

(*b*) develop quality and service provision norms for different types of mental health establishments in the State;

(*c*) supervise all mental health establishments in the State and receive complaints about deficiencies in provision of services;

(*d*) register clinical psychologists, mental health nurses and psychiatric social workers in the State to work as mental health professionals, and publish the list of such registered mental health professionals in such manner as may be specified by regulations by the State Authority;

(*e*) train all relevant persons including law enforcement officials, mental health professionals and other health professionals about the provisions and implementation of this Act;

(*f*) discharge such other functions with respect to matters relating to mental health as the State Government may decide:

Provided that the mental health establishments in the State (except those referred to in section 43), registered, before the commencement of this Act, under the Mental Health Act, 1987 (14 of 1987) or any other law for the time being in force, shall be deemed to have been registered under the provisions of this Act and copy of such registration shall be furnished to the State Authority.

(*2*) The procedure for registration (including the fees to be levied for such registration) of the mental health establishments under this section shall be such as may be prescribed by the State Government.

56. Meetings of State Authority.—(*1*) The State Authority shall meet at such times (not less than four times in a year) and places and shall observe such rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) as may be specified by regulations made by the State Authority.

(*2*) If the chairperson, for any reason, is unable to attend a meeting of the State Authority, the senior-most member shall preside over the meetings of the Authority.

(*3*) All questions which come up before any meeting of the State Authority shall be decided by a majority of votes by the members present and voting and in the event of an equality of votes, the chairperson or in his absence the member presiding over shall have a second or casting vote.

(*4*) All decisions of the State Authority shall be authenticated by the signature of the chairperson or any other member authorised by the State Authority in this behalf.

(*5*) If any member, who is a director of a company and who as such director, has any direct or indirect pecuniary interest in any manner coming up for consideration at a meeting of the State Authority, he shall, as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting and such disclosure shall be recorded in the proceedings of the Authority, and the member shall not take part in any deliberation or decision of the State Authority with respect to that matter.

CHAPTER IX

FINANCE, ACCOUNTS AND AUDIT

57. Grants by Central Government to Central Authority.—The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Central Authority grants of such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

58. Central Mental Health Authority Fund.—(*1*) There shall be constituted a Fund to be called the Central Mental Health Authority Fund and there shall be credited thereto—

(*i*) any grants and loans made to the Authority by the Central Government;

(*ii*) all fees and charges received by the Authority under this Act; and

(*iii*) all sums received by the Authority from such other sources as may be decided upon by the Central Government.

(*2*) The Fund referred to in sub-section (*1*) shall be applied for meeting the salary, allowances and other remuneration of the chairperson, other members, chief executive officer, other officers and employees of the Authority and the expenses of the Authority incurred in the discharge of its functions and for purposes of this Act.

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59. Accounts and audit of Central Authority.—(*1*) The Central Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government, in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Authority to the Comptroller and Auditor-General of India.

(*3*) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the office of the Authority.

(*4*) The accounts of the Authority as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon, shall be forwarded annually to the Central Government by the Authority and the Central Government shall cause the same to be laid before each House of Parliament.

60. Annual report of Central Authority.—The Central Authority shall prepare in every year, in such form and at such time as may be prescribed by the Central Government, an annual report giving a full account of its activities during the previous year, and copies thereof along with copies of its annual accounts and auditor's report shall be forwarded to the Central Government and the Central Government shall cause the same to be laid before both Houses of Parliament.

61. Grants by State Government.—The State Government may, after due appropriation made by State Legislature by law in this behalf, make to the State Authority grants of such sums of money as the State Government may think fit for being utilised for the purposes of this Act.

62. State Mental Health Authority Fund.—(*1*) There shall be constituted a Fund to be called the State Mental Health Authority Fund and there shall be credited thereto—

(*i*) any grants and loans made to the State Authority by the State Government;

(*ii*) all fees and charges received by the Authority under this Act; and

(*iii*) all sums received by the State Authority from such other sources as may be decided upon by the State Government.

(*2*) The Fund referred to in sub-section (*1*) shall be applied for meeting the salary, allowances and other remuneration of the chairperson, other members, chief executive officer, other officers and employees of the State Authority and the expenses of the State Authority incurred in the discharge of its functions and for purposes of this Act.

63. Accounts and audit of State Authority.—(*1*) The State Authority shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government, in consultation with the Comptroller and Auditor-General of India.

(*2*) The accounts of the State Authority shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the State Authority to the Comptroller and Auditor-General of India.

(*3*) The Comptroller and Auditor-General of India and any other person appointed by him in connection with the audit of the accounts of the State Authority shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the office of the State Authority.

64. Annual report of State Authority.—The State Authority shall prepare in every year, in such form and at such time as may be prescribed by the State Government, an annual report giving a full account of its activities during the previous year, and copies thereof along with copies of its annual accounts and auditor's report shall be forwarded to the State Government and the Government shall cause the same to be laid before the State Legislature.

CHAPTER X

MENTAL HEALTH ESTABLISHMENTS

65. Registration of mental health establishment.—(*1*) No person or organisation shall establish or run a mental health establishment unless it has been registered with the Authority under the provisions of this Act.

Explanation.—For the purposes of this Chapter, the expression "Authority" means—

(*a*) in respect of the mental health establishments under the control of the Central Government, the Central Authority;

(*b*) in respect of the mental health establishments in the State [not being the health establishments referred to in clause (*a*)], the State Authority.

(*2*) Every person or organisation who proposes to establish or run a mental health establishment shall register the said establishment with the Authority under the provisions of this Act:

Provided that the Central Government, may, by notification, exempt any category or class of existing mental health establishments from the requirement of registration under this Act.

Explanation.—In case a mental health establishment has been registered under the Clinical Establishments (Registration and Regulation) Act, 2010 (23 of 2010) or any other law for the time being in force in a State, such mental health establishment shall submit a copy of the said registration along with an application in such form as may be prescribed to the Authority with an undertaking that the

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mental health establishment fulfils the minimum standards, if any, specified by the Authority for the specific category of mental health establishment.

(*3*) The Authority shall, on receipt of application under sub-section (*2*), on being satisfied that such mental health establishment fulfils the standards specified by the Authority, issue a certificate of registration in such form as may be prescribed:

Provided that till the period the Authority specifies the minimum standards for different categories of mental health establishments, it shall issue a provisional certificate of registration to the mental health establishment:

Provided further that on specifying the minimum standards for different categories of mental health establishments, the mental health establishment referred to in the first proviso shall, within a period of six months from the date such standards are specified, submit to the Authority an undertaking stating therein that such establishment fulfils the specified minimum standards and on being satisfied that such establishment fulfils the minimum standards, the Authority shall issue a certificate of registration to such mental health establishment.

(*4*) Every mental health establishment shall, for the purpose of registration and continuation of registration, fulfil—

(*a*) the minimum standards of facilities and services as may be specified by regulations made by the Authority;

(*b*) the minimum qualifications for the personnel engaged in such establishment as may be specified by regulations made by the Authority;

(*c*) provisions for maintenance of records and reporting as may be specified by regulations made by the Authority; and

(*d*) any other conditions as may be specified by regulations made by the Authority.

(*5*) The Authority may—

(*a*) classify mental health establishments into such different categories, as may be specified by regulations made by the Central Authority;

(*b*) specify different standards for different categories of mental health establishments;

(*c*) while specifying the minimum standards for mental health establishments, have regard to local conditions.

(*6*) Notwithstanding anything in this section, the Authority shall, within a period of eighteen months from the commencement of this Act, by notification, specify the minimum standards for different categories of mental health establishments.

66. Procedure for registration, inspection and inquiry of mental health establishments.—(*1*) The mental health establishment shall, for the purpose of registration, submit an application, in such form, accompanied with such details and fees, as may be prescribed, to the Authority.

(*2*) The mental health establishment may submit the application in person or by post or online.

(*3*) Every mental health establishment, existing on the date of commencement of this Act, shall, within a period of six months from the date of constitution of the Authority, submit an application for its provisional registration to the Authority.

(*4*) The Authority shall, within a period of ten days from the date of receipt of such application, issue to the mental health establishment a certificate of provisional registration in such form and containing such particulars and information as may be prescribed.

(*5*) The Authority shall not be required to conduct any inquiry prior to issue of provisional registration.

(*6*) The Authority shall, within a period of forty-five days from the date of provisional registration, publish in print and in digital form online, all particulars of the mental health establishment.

(*7*) A provisional registration shall be valid for a period of twelve months from the date of its issue and be renewable.

(*8*) Where standards for particular categories of mental health establishments have been specified under this Act, the mental health establishments in that category shall, within a period of six months from date of notifying such standards, apply for that category and obtain permanent registration.

(*9*) The Authority shall publish the standards in print and online in digital format.

(*10*) Until standards for particular categories of mental health establishments are specified under this Act, every mental health establishment shall, within thirty days before the expiry of the validity of certificate of provisional registration, apply for a renewal of provisional registration.

(*11*) If the application is made after the expiry of provisional registration, the Authority shall allow renewal of registration on payment of such fees, as may be prescribed.

(*12*) A mental health establishment shall make an application for permanent registration to the Authority in such form and accompanied with such fees as may be specified by regulations.

(*13*) The mental health establishment shall submit evidence that the establishment has complied with the specified minimum standards in such manner as may be specified by regulations by the Authority.

(*14*) As soon as the mental health establishment submits the required evidence of the mental health establishment having complied with the specified minimum standards, the Authority shall give public notice and display the same on its website for a period of thirty days, for filing objections, if any, in such manner as may be specified by regulations.

(*15*) The Authority shall, communicate the objections, if any, received within the period referred to in sub-section (*14*), to the mental health establishment for response within such period as the Authority may determine.

(*16*) The mental health establishment shall submit evidence of compliance with the standards with reference to the objections communicated to such establishment under sub-section (*15*), to the Authority within the specified period.

(*17*) The Authority shall on being satisfied that the mental health establishment fulfils the specified minimum standards for registration, grant permanent certificate of registration to such establishment.

(*18*) The Authority shall, within a period of forty-five days after the expiry of the period specified under this section, pass an order, either—

(*a*) grant permanent certificate of registration; or

(*b*) reject the application after recording the reasons thereof:

Provided that in case the Authority rejects the application under clause (*b*), it shall grant such period not exceeding six months, to the mental health establishment for rectification of the deficiencies which have led to rejection of the application and such establishment may apply afresh for registration.

(*19*) Notwithstanding anything contained in this section, if the Authority has neither communicated any objections received by it to the mental health establishment under sub-section (*15*), nor has passed an order under sub-section (*18*), the registration shall be deemed to have been granted by the Authority and the Authority shall provide a permanent certificate of registration.

67. Audit of mental health establishment.—(*1*) The Authority shall cause to be conducted an audit of all registered mental health establishments by such person or persons (including representatives of the local community) as may be prescribed, every three years, so as to ensure that such mental health establishments comply with the requirements of minimum standards for registration as a mental health establishment.

(*2*) The Authority may charge the mental health establishment such fee as may be prescribed, for conducting the audit under this section.

(*3*) The Authority may issue a show cause notice to a mental health establishment as to why its registration under this Act not be cancelled, if the Authority is satisfied that—

(*a*) the mental health establishment has failed to maintain the minimum standards specified by the Authority; or

(*b*) the person or persons or entities entrusted with the management of the mental health establishment have been convicted of an offence under this Act; or

(*c*) the mental health establishment violates the rights of any person with mental illness.

(*4*) The Authority may, after giving a reasonable opportunity to the mental health establishment, if satisfied that the mental health establishment falls under clause (*a*) or clause (*b*) or clause (*c*) of sub-section (*3*), without prejudice to any other action which it may take against the mental health establishment, cancel its registration.

(*5*) Every order made under sub-section (*4*) shall take effect—

(*a*) where no appeal has been preferred against such order, immediately on the expiry of the period specified for preferring of appeal; and

(*b*) where the appeal has been preferred against such an order and the appeal has been dismissed, from the date of the order of dismissal.

(*6*) The Authority shall, on cancellation of the registration for reasons to be recorded in writing, restrain immediately the mental health establishment from carrying on its operations, if there is imminent danger to the health and safety of the persons admitted in the mental health establishment.

(*7*) The Authority may cancel the registration of a mental health establishment if recommended by the Board to do so.

68. Inspection and inquiry.—(*1*) The Authority may, *suo motu* or on a complaint received from any person with respect to non-adherence of minimum standards specified by or under this Act or contravention of any provision thereof, order an inspection or inquiry of any mental health establishment, to be made by such person as may be prescribed.

(*2*) The mental health establishment shall be entitled to be represented at such inspection or inquiry.

(*3*) The Authority shall communicate to the mental health establishment the results of such inspection or inquiry and may after ascertaining the opinion of the mental health establishment, order the establishment to make necessary changes within such period as may be specified by it.

(*4*) The mental health establishment shall comply with the order of the Authority made under sub-section (*3*).

(*5*) If the mental health establishment fails to comply with the order of the Authority made under sub-section (*3*), the Authority may cancel the registration of the mental health establishment.

(*6*) The Authority or any person authorised by it may, if there is any reason to suspect that any person is operating a mental health establishment without registration, enter and search in such manner as may be prescribed, and the mental health establishment shall co-operate with such inspection or inquiry and be entitled to be represented at such inspection or inquiry.

69. Appeal to High Court against order of Authority.—Any mental health establishment aggrieved by an order of the Authority refusing to grant registration or renewal of registration or cancellation of registration, may, within a period of thirty days from such order, prefer an appeal to the High Court in the State:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.

70. Certificates, fees and register of mental health establishments.—(*1*) Every mental health establishment shall display the certificate of registration in a conspicuous place in the mental health establishment in such manner so as to be visible to everyone visiting the mental health establishment.

(*2*) In case the certificate is destroyed or lost or mutilated or damaged, the Authority may issue a duplicate certificate on the request of the mental health establishment and on the payment of such fees as may be prescribed.

(*3*) The certificate of registration shall be non-transferable and valid in case of change of ownership of the establishment.

(*4*) Any change of ownership of the mental health establishment shall be intimated to the Authority by the new owner within one month from the date of change of ownership.

(*5*) In the event of change of category of the mental health establishment, such establishment shall surrender the certificate of registration to the Authority and the mental health establishment shall apply afresh for grant of certificate of registration in that category.

71. Maintenance of register of mental health establishment in digital format.—The Authority shall maintain in digital format a register of mental health establishments, registered by the Authority, to be called the Register of Mental Health Establishments and shall enter the particulars of the certificate of registration so granted in a separate register to be maintained in such form and manner as may be prescribed.

72. Duty of mental health establishment to display information.—(*1*) Every mental health establishment shall display within the establishment at conspicuous place (including on its website), the contact details including address and telephone numbers of the concerned Board.

(*2*) Every mental health establishment shall provide the person with necessary forms to apply to the concerned Board and also give free access to make telephone calls to the Board to apply for a review of the admission.

CHAPTER XI

MENTAL HEALTH REVIEW BOARDS

73. Constitution of Mental Health Review Boards.—(*1*) The State Authority shall, by notification, constitute Boards to be called the Mental Health Review Boards, for the purposes of this Act.

(*2*) The requisite number, location and the jurisdiction of the Boards shall be specified by the State Authority in consultation with the State Governments concerned.

(*3*) The constitution of the Boards by the State Authority for a district or group of districts in a State under this section shall be such as may be prescribed by the Central Government.

(*4*) While making rules under sub-section (*3*), the Central Government shall have regard to the following, namely:—

(*a*) the expected or actual workload of the Board in the State in which such Board is to be constituted;

(*b*) number of mental health establishments existing in the State;

(*c*) the number of persons with mental illness;

(*d*) population in the district in which the Board is to be constituted;

(*e*) geographical and climatic conditions of the district in which the Board is to be constituted.

74. Composition of Board.—(*1*) Each Board shall consist of—

(*a*) a District Judge, or an officer of the State judicial services who is qualified to be appointed as District Judge or a retired District Judge who shall be chairperson of the Board;

(*b*) representative of the District Collector or District Magistrate or Deputy Commissioner of the districts in which the Board is to be constituted;

(*c*) two members of whom one shall be a psychiatrist and the other shall be a medical practitioner;

(*d*) two members who shall be persons with mental illness or care-givers or persons representing organisations of persons with mental illness or care-givers or non-governmental organisations working in the field of mental health.

(*2*) A person shall be disqualified to be appointed as the chairperson or a member of a Board or be removed by the State Authority, if he—

(*a*) has been convicted and sentenced to imprisonment for an offence which involves moral turpitude; or

(*b*) is adjudged as an insolvent; or

(*c*) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

(*d*) has such financial or other interest as is likely to prejudice the discharge of his functions as a member; or

(*e*) has such other disqualifications as may be prescribed by the Central Government.

(*3*) A chairperson or member of a Board may resign his office by notice in writing under his hand addressed to the Chairperson of the State Authority and on such resignation being accepted, the vacancy shall be filled by appointment of a person, belonging to the category under sub-section (*1*) of section 74.

75. Terms and conditions of service of chairperson and members of Board.—(*1*) The chairperson and members of the Board shall hold office for a term of five years or up to the age of seventy years, whichever is earlier and shall be eligible for reappointment for another term of five years or up to the age of seventy years whichever is earlier.

(*2*) The appointment of chairperson and members of every Board shall be made by the Chairperson of the State Authority.

(*3*) The honorarium and other allowances payable to, and the other terms and conditions of service of, the chairperson and members of the Board shall be such as may be prescribed by the Central Government.

76. Decisions of Authority and Board.—(*1*) The decisions of the Authority or the Board, as the case may be, shall be by consensus, failing which by a majority of votes of members present and voting and in the event of equality of votes, the president or the chairperson, as the case may be, shall have a second or casting vote.

(*2*) The quorum of a meeting of the Authority or the Board, as the case may be, shall be three members.

77. Applications to Board.—(*1*) Any person with mental illness or his nominated representative or a representative of a registered non-governmental organisation, with the consent of such a person, being aggrieved by the decision of any of the mental health establishment or whose rights under this Act have been violated, may make an application to the Board seeking redressal or appropriate relief.

(*2*) There shall be no fee or charge levied for making such an application.

(*3*) Every application referred to in sub-section (*1*) shall contain the name of applicant, his contact details, the details of the violation of his rights, the mental health establishment or any other place where such violation took place and the redressal sought from the Board.

(*4*) In exceptional circumstances, the Board may accept an application made orally or over telephone from a person admitted to a mental health establishment.

78. Proceedings before Board to be judicial proceedings.—All proceedings before the Board shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code (45 of 1860).

79. Meetings—The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be specified by regulations made by the Central Authority.

80. Proceedings before Board.—(*1*) The Board, on receipt of an application under sub-section (*1*) of section *77, shall, subject to the provisions of this section, endeavour to hear and dispose of the same within a period of ninety days.

(*2*) The Board shall dispose of an application—

(*a*) for appointment of nominated representative under clause (*d*) of sub-section (*4*) of section 14;

(*b*) challenging admission of a minor under section 87;

(*c*) challenging supported admission under sub-section (*10*) or sub-section (*11*) of section 89,

within period of seven days from the date of receipt of such applications.

(*3*) The Board shall dispose of an application challenging supported admission under section 90 within a period of twenty-one days from the date of receipt of the application.

(*4*) The Board shall dispose of an application, other than an application referred to in sub-section (*3*), within a period of ninety days from the date of filing of the application.

(*5*) The proceeding of the Board shall be held *in camera*.

(*6*) The Board shall not ordinarily grant an adjournment for the hearing.

(*7*) The parties to an application may appear in person or be represented by a counsel or a representative of their choice.

(*8*) In respect of any application concerning a person with mental illness, the Board shall hold the hearings and conduct the proceedings at the mental health establishment where such person is admitted.

(*9*) The Board may allow any persons other than those directly interested with the application, with the permission of the person with mental illness and the chairperson of the Board, to attend the hearing.

(*10*) The person with mental illness whose matter is being heard shall have the right to give oral evidence to the Board, if such person desires to do so.

(*11*) The Board shall have the power to require the attendance and testimony of such other witnesses as it deems appropriate.

(*12*) The parties to a matter shall have the right to inspect any document relied upon by any other party in its submissions to the Board and may obtain copies of the same.

(*13*) The Board shall, within five days of the completion of the hearing, communicate its decision to the parties in writing.

(*14*) Any member who is directly or indirectly involved in a particular case, shall not sit on the Board during the hearings with respect to that case.

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* By Corrigenda dated 7th April, 2017.

81. Central Authority to appoint Expert Committee to prepare guidance document.—(*1*) The Central Authority shall appoint an Expert Committee to prepare a guidance document for medical practitioners and mental health professionals, containing procedures for assessing, when necessary or the capacity of persons to make mental health care or treatment decisions.

(*2*) Every medical practitioner and mental health professional shall, while assessing capacity of a person to make mental healthcare or treatment decisions, comply with the guidance document referred to in sub-section (*1*) and follow the procedure specified therein.

82. Powers and functions of Board.—(*1*) Subject to the provisions of this Act, the powers and functions of the Board shall, include all or any of the following matters, namely:—

(*a*) to register, review, alter, modify or cancel an advance directive;

(*b*) to appoint a nominated representative;

(*c*) to receive and decide application from a person with mental illness or his nominated representative or any other interested person against the decision of medical officer or mental health professional in charge of mental health establishment or mental health establishment under section 87 or section 89 or section 90;

(*d*) to receive and decide applications in respect non-disclosure of information specified under sub-section (*3*) of section 25;

(*e*) to adjudicate complaints regarding deficiencies in care and services specified under section 28;

(*f*) to visit and inspect prison or jails and seek clarifications from the medical officer in-charge of health services in such prison or jail.

(*2*) Where it is brought to the notice of a Board or the Central Authority or State Authority, that a mental health establishment violates the rights of persons with mental illness, the Board or the Authority may conduct an inspection and inquiry and take action to protect their rights.

(*3*) Notwithstanding anything contained in this Act, the Board, in consultation with the Authority, may take measures to protect the rights of persons with mental illness as it considers appropriate.

(*4*) If the mental health establishment does not comply with the orders or directions of the Authority or the Board or wilfully neglects such order or direction, the Authority or the Board, as the case may be, may impose penalty which may extend up to five lakh rupees on such mental health establishment and the Authority on its own or on the recommendations of the Board may also cancel the registration of such mental health establishment after giving an opportunity of being heard.

83. Appeal to High Court against order of Authority or Board.—Any person or establishment aggrieved by the decision of the Authority or a Board may, within a period of thirty days from such decision, prefer an appeal to the High Court of the State in which the Board is situated:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.

84. Grants by Central Government.—(*1*) The Central Government may, make to the Central Authority grants of such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.

(*2*) The grants referred to in sub-section (*1*) shall be applied for,—

(*a*) meeting the salary, allowances and other remuneration of the chairperson, members, officers and other employees of the Central Authority;

(*b*) meeting the salary, allowances and other remuneration of the chairperson, members, officers and other employees of the Boards; and

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(*c*) the expenses of the Central Authority and the Boards incurred in the discharge of their functions and for the purposes of this Act.

CHAPTER XII

ADMISSION, TREATMENT AND DISCHARGE

85. Admission of person with mental illness as independent patient in mental health establishment.—(*1*) For the purposes of this Act, "independent patient or an independent admission" refers to the admission of person with mental illness, to a mental health establishment, who has the capacity to make mental healthcare and treatment decisions or requires minimal support in making decisions.

(*2*) All admissions in the mental health establishment shall, as far as possible, be independent admissions except when such conditions exist as make supported admission unavoidable.

86. Independent admission and treatment.—(*1*) Any person, who is not a minor and who considers himself to have a mental illness and desires to be admitted to any mental health establishment for treatment may request the medical officer or mental health professional in charge of the establishment to be admitted as an independent patient.

(*2*) On receipt of such request under sub-section (*1*), the medical officer or mental health professional in charge of the establishment shall admit the person to the establishment if the medical officer or mental health professional is satisfied that—

(*a*) the person has a mental illness of a severity requiring admission to a mental health establishment;

(*b*) the person with mental illness is likely to benefit from admission and treatment to the mental health establishment;

(*c*) the person has understood the nature and purpose of admission to the mental health establishment, and has made the request for admission of his own free will, without any duress or undue influence and has the capacity to make mental healthcare and treatment decisions without support or requires minimal support from others in making such decisions.

(*3*) If a person is unable to understand the purpose, nature, likely effects of proposed treatment and of the probable result of not accepting the treatment or requires a very high level of support approaching hundred per cent. support in making decisions, he or she shall be deemed unable to understand the purpose of the admission and therefore shall not be admitted as independent patient under this section.

(*4*) A person admitted as an independent patient to a mental health establishment shall be bound to abide by order and instructions or bye-laws of the mental health establishment.

(*5*) An independent patient shall not be given treatment without his informed consent.

(*6*) The mental health establishment shall admit an independent patient on his own request, and shall not require the consent or presence of a nominated representative or a relative or care-giver for admitting the person to the mental health establishment.

(*7*) Subject to the provisions contained in section 88 an independent patient may get himself discharged from the mental health establishment without the consent of the medical officer or mental health professional in charge of such establishment.

87. Admission of minor.—(*1*) A minor may be admitted to a mental health establishment only after following the procedure laid down in this section.

(*2*) The nominated representative of the minor shall apply to the medical officer in charge of a mental health establishment for admission of the minor to the establishment.

(*3*) Upon receipt of such an application, the medical officer or mental health professional in charge of the mental health establishment may admit such a minor to the establishment, if two psychiatrists, or one psychiatrist and one mental health professional or one psychiatrist and one medical practitioner,

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have independently examined the minor on the day of admission or in the preceding seven days and both independently conclude based on the examination and, if appropriate, on information provided by others, that,—

(*a*) the minor has a mental illness of a severity requiring admission to a mental health establishment;

(*b*) admission shall be in the best interests of the minor, with regard to his health, well-being or safety, taking into account the wishes of the minor if ascertainable and the reasons for reaching this decision;

(*c*) the mental healthcare needs of the minor cannot be fulfilled unless he is admitted; and

(*d*) all community based alternatives to admission have been shown to have failed or are demonstrably unsuitable for the needs of the minor.

(*4*) A minor so admitted shall be accommodated separately from adults, in an environment that takes into account his age and developmental needs and is at least of the same quality as is provided to other minors admitted to hospitals for other medical treatments.

(*5*) The nominated representative or an attendant appointed by the nominated representative shall under all circumstances stay with the minor in the mental health establishment for the entire duration of the admission of the minor to the mental health establishment.

(*6*) In the case of minor girls, where the nominated representative is male, a female attendant shall be appointed by the nominated representative and under all circumstances shall stay with the minor girl in the mental health establishment for the entire duration of her admission.

(*7*) A minor shall be given treatment with the informed consent of his nominated representative.

(*8*) If the nominated representative no longer supports admission of the minor under this section or requests discharge of the minor from the mental health establishment, the minor shall be discharged by the mental health establishment.

(*9*) Any admission of a minor to a mental health establishment shall be informed by the medical officer or mental health professional in charge of the mental health establishment to the concerned Board within a period of seventy-two hours.

(*10*) The concerned Board shall have the right to visit and interview the minor or review the medical records if the Board desires to do so.

(*11*) Any admission of a minor which continues for a period of thirty days shall be immediately informed to the concerned Board.

(*12*) The concerned Board shall carry out a mandatory review within a period of seven days of being informed, of all admissions of minors continuing beyond thirty days and every subsequent thirty days.

(*13*) The concerned Board shall at minimum, review the clinical records of the minor and may interview the minor if necessary.

88. Discharge of independent patients.—(*1*) The medical officer or mental health professional in charge of a mental health establishment shall discharge from the mental health establishment any person admitted under section 86 as an independent patient immediately on request made by such person or if the person disagrees with his admission under section 86 subject to the provisions of sub-section (*3*).

(*2*) Where a minor has been admitted to a mental health establishment under section 87 and attains the age of eighteen years during his stay in the mental health establishment, the medical officer in charge of the mental health establishment shall classify him as an independent patient under section 86 and all provisions of this Act as applicable to independent patient who is not minor, shall apply to such person.

(*3*) Notwithstanding anything contained in this Act, a mental health professional may prevent discharge of a person admitted as an independent person under section 86 for a period of twenty-four hours so as to allow his assessment necessary for admission under section 89 if the mental health professional is of the opinion that—

(*a*) such person is unable to understand the nature and purpose of his decisions and requires substantial or very high support from his nominated representative; or

(*b*) has recently threatened or attempted or is threatening or attempting to cause bodily harm to himself; or

(*c*) has recently behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him; or

(*d*) has recently shown or is showing an inability to care for himself to a degree that places the individual at risk of harm to himself.

(*4*) The person referred to in sub-section (*3*) shall be either admitted as a supported patient under section 89, or discharged from the establishment within a period of twenty-four hours or on completion of assessments for admission for a supported patient under section 89, whichever is earlier.

89. Admission and treatment of persons with mental illness, with high support needs, in mental health establishment, up to thirty days (supported admission).—(*1*) The medical officer or mental health professional in charge of a mental health establishment shall admit every such person to the establishment, upon application by the nominated representative of the person, under this section, if—

(*a*) the person has been independently examined on the day of admission or in the preceding seven days, by one psychiatrist and the other being a mental health professional or a medical practitioner, and both independently conclude based on the examination and, if appropriate, on information provided by others, that the person has a mental illness of such severity that the person,—

(*i*) has recently threatened or attempted or is threatening or attempting to cause bodily harm to himself; or

(*ii*) has recently behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him; or

(*iii*) has recently shown or is showing an inability to care for himself to a degree that places the individual at risk of harm to himself;

(*b*) the psychiatrist or the mental health professionals or the medical practitioner, as the case may be, certify, after taking into account an advance directive, if any, that admission to the mental health establishment is the least restrictive care option possible in the circumstances; and

(*c*) the person is ineligible to receive care and treatment as an independent patient because the person is unable to make mental healthcare and treatment decisions independently and needs very high support from his nominated representative in making decisions.

(*2*) The admission of a person with mental illness to a mental health establishment under this section shall be limited to a period of thirty days.

(*3*) At the end of the period mentioned under sub-section (*2*), or earlier, if the person no longer meets the criteria for admission as stated in sub-section (*1*), the patient shall no longer remain in the establishment under this section.

(*4*) On the expiry of the period of thirty days referred to in sub-section (*2*), the person may continue to remain admitted in the mental health establishment in accordance with the provisions of section 90.

(*5*) If the conditions under section 90 are not met, the person may continue to remain in the mental health establishment as an independent patient under section 86 and the medical officer or mental health

professional in charge of the mental health establishment shall inform the person of his admission status under this Act, including his right to leave the mental health establishment.

(*6*) Every person with mental illness admitted under this section shall be provided treatment after taking into account,—

(*a*) an advance directive if any; or

(*b*) informed consent of the patient with the support of his nominated representative subject to the provisions of sub-section (*7*).

(*7*) If a person with the mental illness admitted under this section requires nearly hundred per cent. support from his nominated representative in making a decision in respect of his treatment, the nominated representative may temporarily consent to the treatment plan of such person on his behalf.

(*8*) In case where consent has been given under sub-section (*7*), the medical officer or mental health professional in charge of the mental health establishment shall record such consent in the medical records and review the capacity of the patient to give consent every seven days.

(*9*) The medical officer or mental health professional in charge of the mental health establishment shall report the concerned Board,—

(*a*) within three days the admissions of a woman or a minor;

(*b*) within seven days the admission of any person not being a woman or minor.

(*10*) A person admitted under this section or his nominated representative or a representative of a registered non-governmental organisation with the consent of the person, may apply to the concerned Board for review of the decision of the medical officer or mental health professional in charge of the mental health establishment to admit the person to the mental health establishment under this section.

(*11*) The concerned Board shall review the decision of the medical officer or mental health professional in charge of the mental health establishment and give its findings thereon within seven days of receipt of request for such review which shall be binding on all the concerned parties.

(*12*) Notwithstanding anything contained in this Act, it shall be the duty of the medical officer or mental health professional in charge of the mental health establishment to keep the condition of the person with mental illness admitted under this section on going review.

(*13*) If the medical officer or mental health professional in charge of the mental health establishment is of the opinion that the conditions specified under sub-section (*1*) are no longer applicable, he shall terminate the admission under this section, and inform the person and his nominated representative accordingly.

(*14*) Non applicability of conditions referred to in sub-section (*13*) shall not preclude the person with mental illness remaining as an independent patient.

(*15*) In a case, a person with the mental illness admitted under this section has been discharged, such person shall not be readmitted under this section within a period of seven days from the date of his discharge.

(*16*) In case a person referred to in sub-section (*15*) requires readmission within a period of seven days referred to in that sub-section, such person shall be considered for readmission in accordance with the provisions of section 90.

(*17*) If the medical officer or mental health professional in charge of the mental health establishment is of the opinion that the person with mental illness admitted under this section in the mental health establishment requires or is likely to require further treatment beyond the period of thirty days, then such medical officer or mental health professional shall be duty bound to refer the matter to be examined by two psychiatrists for his admission beyond thirty days.

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90. Admission and treatment of persons with mental illness, with high support needs, in mental health establishment, beyond thirty days (supported admission beyond thirty days).—(*1*) If a person with mental illness admitted under section 89 requires continuous admission and treatment beyond thirty days or a person with mental illness discharged under sub-section (*15*) of that section requires readmission within seven days of such discharge, he shall be admitted in accordance with the provisions of this section.

(*2*) The medical officer or mental health professional in charge of a mental health establishment, upon application by the nominated representative of a person with mental illness, shall continue admission of such person with mental illness, if—

(*a*) two psychiatrists have independently examined the person with mental illness in the preceding seven days and both independently conclude based on the examination and, on information provided by others that the person has a mental illness of a severity that the person—

(*i*) has consistently over time threatened or attempted to cause bodily harm to himself; or

(*ii*) has consistently over time behaved violently towards another person or has consistently over time caused another person to fear bodily harm from him; or

(*iii*) has consistently over time shown an inability to care for himself to a degree that places the individual at risk of harm to himself;

(*b*) both psychiatrists, after taking into account an advance directive, if any, certify that admission to a mental health establishment is the least restrictive care option possible under the circumstances; and

(*c*) the person continues to remain ineligible to receive care and treatment as a independent patient as the person cannot make mental healthcare and treatment decisions independently and needs very high support from his nominated representative, in making decisions.

IndiaCode

(*3*) The medical officer or mental health professional in charge of the mental health establishment shall report all admissions or readmission under this section, within a period of seven days of such admission or readmission, to the concerned Board.

(*4*) The Board shall, within a period of twenty-one days from the date of last admission or readmission of person with mental illness under this section, permit such admission or readmission or order discharge of such person.

(*5*) While permitting admission or readmission or ordering discharge of such person under sub-section (*4*), the Board shall examine—

(*a*) the need for institutional care to such person;

(*b*) whether such care cannot be provided in less restrictive settings based in the community.

(*6*) In all cases of application for readmission or continuance of admission of a person with mental illness in the mental health establishment under this section, the Board may require the medical officer or psychiatrist in charge of treatment of such person with mental illness to submit a plan for community based treatment and the progress made, or likely to be made, towards realising this plan.

(*7*) The person referred to in sub-section (*4*) shall not be permitted to continue in the mental health establishment in which he had been admitted or his readmission in such establishment merely on the ground of non-existence of community based services at the place where such person ordinarily resides.

(*8*) The admission of a person with mental illness to a mental health establishment under this section shall be limited to a period up to ninety days in the first instance.

(*9*) The admission of a person with mental illness to a mental health establishment under this section beyond the period of ninety days may be extended for a period of one hundred and twenty days at the first instance and thereafter for a period of one hundred and eighty days each time after complying with the provisions of sub-sections (*1*) to (*7*).

(*10*) If the Board refuses to permit admission or continuation thereof or readmission under sub-section (*9*), or on the expiry of the periods referred to in sub-section (*9*) or earlier if such person no longer falls within the criteria for admission under sub-section (*1*), such person shall be discharged from such mental health establishment.

(*11*) Every person with mental illness admitted under this section shall be provided treatment, after taking into account—

(*a*) an advance directive; or

(*b*) informed consent of the person with the support from his nominated representative subject to the provision of sub-section (*12*).

(*12*) If a person with mental illness admitted under this section, requires nearly hundred per cent. support from his nominated representative, in making decision in respect of his treatment, the nominated representative may temporarily consent to the treatment plan of such person on his behalf.

(*13*) In a case where consent has been given under sub-section (*12*), the medical officer or mental health professional in charge of the mental health establishment shall record such consent in the medical records of such person with mental illness and review on the expiry of every fortnight, the capacity of such person to give consent.

(*14*) A person with mental illness admitted under this section, or his nominated representative or a representative of a registered non-governmental organisation with the consent of the person, may apply to the concerned Board for review of the decision of the medical officer or mental health professional in charge of medical health establishment to admit such person in such establishment and the decision of the Board thereon shall be binding on all parties.

(*15*) Notwithstanding anything contained in this Act, if the medical officer or mental health professional in charge of the mental health establishment is of the opinion that the conditions under sub-section (*1*) are no longer applicable, such medical officer or mental health professional shall discharge such person from such establishment and inform such person and his nominated representative accordingly.

(*16*) The person with mental illness referred to in sub-section (*15*) may continue to remain in the mental health establishment as an independent patient.

91. Leave of absence.—The medical officer or mental health professional in charge of the mental health establishment may grant leave to any person with mental illness admitted under section 87 or section 89 or section 90, to be absent from the establishment subject to such conditions, if any, and for such duration as such medical officer or psychiatrist may consider necessary.

92. Absence without leave or discharge.—If any person to whom section 103 applies absents himself without leave or without discharge from the mental health establishment, he shall be taken into protection by any Police Officer at the request of the medical officer or mental health professional in-charge of the mental health establishment and shall be sent back to the mental health establishment immediately.

93. Transfer of persons with mental illness from one mental health establishment to another mental health establishment.—(*1*) A person with mental illness admitted to a mental health establishment under section 87 or section 89 or section 90 or section 103, as the case may be, may subject to any general or special order of the Board be removed from such mental health establishment and admitted to another mental health establishment within the State or with the consent of the Central Authority to any mental health establishment in any other State:

Provided that no person with mental illness admitted to a mental health establishment under an order made in pursuance of an application made under this Act shall be so removed unless intimation and reasons for the transfer have been given to the person with mental illness and his nominated representative.

(*2*) The State Government may make such general or special order as it thinks fit directing the removal of any prisoner with mental illness from the place where he is for the time being detained, to any mental health establishment or other place of safe custody in the State or to any mental health establishment or other place of safe custody in any other State with the consent of the Government of that other State.

94. Emergency treatment.—(*1*) Notwithstanding anything contained in this Act, any medical treatment, including treatment for mental illness, may be provided by any registered medical practitioner to a person with mental illness either at a health establishment or in the community, subject to the informed consent of the nominated representative, where the nominated representative is available, and where it is immediately necessary to prevent—

(*a*) death or irreversible harm to the health of the person; or

(*b*) the person inflicting serious harm to himself or to others; or

(*c*) the person causing serious damage to property belonging to himself or to others where such behaviour is believed to flow directly from the person's mental illness.

Explanation.—For the purposes of this section, "emergency treatment" includes transportation of the person with mental illness to a nearest mental health establishment for assessment.

(*2*) Nothing in this section shall allow any medical officer or psychiatrist to give to the person with mental illness medical treatment which is not directly related to the emergency treatment specified under sub-section (*1*).

(*3*) Nothing in this section shall allow any medical officer or psychiatrist to use electro-convulsive therapy as a form of treatment.

(*4*) The emergency treatment referred to in this section shall be limited to seventy-two hours or till the person with mental illness has been assessed at a mental health establishment, whichever is earlier:

Provided that during a disaster or emergency declared by the appropriate Government, the period of emergency treatment referred to in this sub-section may extend up to seven days.

95. Prohibited procedures.—(*1*) Notwithstanding anything contained in this Act, the following treatments shall not be performed on any person with mental illness—

(*a*) electro-convulsive therapy without the use of muscle relaxants and anaesthesia;

(*b*) electro-convulsive therapy for minors;

(*c*) sterilisation of men or women, when such sterilisation is intended as a treatment for mental illness;

(*d*) chained in any manner or form whatsoever.

(*2*) Notwithstanding anything contained in sub-section (*1*), if, in the opinion of psychiatrist in charge of a minor's treatment, electro-convulsive therapy is required, then, such treatment shall be done with the informed consent of the guardian and prior permission of the concerned Board.

96. Restriction on psychosurgery for persons with mental illness.—(*1*) Notwithstanding anything contained in this Act, psychosurgery shall not be performed as a treatment for mental illness unless—

(*a*) the informed consent of the person on whom the surgery is being performed; and

(*b*) approval from the concerned Board to perform the surgery,

has been obtained.

(*2*) The Central Authority may make regulations for the purpose of carrying out the provisions of this section.

IndiaCode

97. Restraints and seclusion.—(*1*) A person with mental illness shall not be subjected to seclusion or solitary confinement, and, where necessary, physical restraint may only be used when,—

(*a*) it is the only means available to prevent imminent and immediate harm to person concerned or to others;

(*b*) it is authorised by the psychiatrist in charge of the person's treatment at the mental health establishment.

(*2*) Physical restraint shall not be used for a period longer than it is absolutely necessary to prevent the immediate risk of significant harm.

(*3*) The medical officer or mental health professional in charge of the mental health establishment shall be responsible for ensuring that the method, nature of restraint justification for its imposition and the duration of the restraint are immediately recorded in the person's medical notes.

(*4*) The restraint shall not be used as a form of punishment or deterrent in any circumstance and the mental health establishment shall not use restraint merely on the ground of shortage of staff in such establishment.

(*5*) The nominated representative of the person with mental illness shall be informed about every instance of restraint within a period of twenty-four hours.

(*6*) A person who is placed under restraint shall be kept in a place where he can cause no harm to himself or others and under regular ongoing supervision of the medical personnel at the mental health establishment.

(*7*) The mental health establishment shall include all instances of restraint in the report to be sent to the concerned Board on a monthly basis.

(*8*) The Central Authority may make regulations for the purpose of carrying out the provisions of this section.

(*9*) The Board may order a mental health establishment to desist from applying restraint if the Board is of the opinion that the mental health establishment is persistently and wilfully ignoring the provisions of this section.

98. Discharge planning.—(*1*) Whenever a person undergoing treatment for mental illness in a mental health establishment is to be discharged into the community or to a different mental health establishment or where a new psychiatrist is to take responsibility of the person's care and treatment, the psychiatrist who has been responsible for the person's care and treatment shall consult with the person with mental illness, the nominated representative, the family member or care-giver with whom the person with mental illness shall reside on discharge from the hospital, the psychiatrist expected to be responsible for the person's care and treatment in the future, and such other persons as may be appropriate, as to what treatment or services would be appropriate for the person.

(*2*) The psychiatrist responsible for the person's care shall in consultation with the persons referred to in sub-section (*1*) ensure that a plan is developed as to how treatment or services shall be provided to the person with mental illness.

(*3*) The discharge planning under this section shall apply to all discharges from a mental health establishment.

99. Research.—(*1*) The professionals conducting research shall obtain free and informed consent from all persons with mental illness for participation in any research involving interviewing the person or psychological, physical, chemical or medicinal interventions.

(*2*) In case of research involving any psychological, physical, chemical or medicinal interventions to be conducted on person who is unable to give free and informed consent but does not resist participation in such research, permission to conduct such research shall be obtained from concerned State Authority.

IndiaCode

(*3*) The State Authority may allow the research to proceed based on informed consent being obtained from the nominated representative of persons with mental illness, if the State Authority is satisfied that—

(*a*) the proposed research cannot be performed on persons who are capable of giving free and informed consent;

(*b*) the proposed research is necessary to promote the mental health of the population represented by the person;

(*c*) the purpose of the proposed research is to obtain knowledge relevant to the particular mental health needs of persons with mental illness;

(*d*) a full disclosure of the interests of persons and organisations conducting the proposed research is made and there is no conflict of interest involved; and

(*e*) the proposed research follows all the national and international guidelines and regulations concerning the conduct of such research and ethical approval has been obtained from the institutional ethics committee where such research is to be conducted.

(*4*) The provisions of this section shall not restrict research based study of the case notes of a person who is unable to give informed consent, so long as the anonymity of the persons is secured.

(*5*) The person with mental illness or the nominated representative who gives informed consent for participation in any research under this Act may withdraw the consent at any time during the period of research.

CHAPTER XIII

RESPONSIBILITIES OF OTHER AGENCIES

100. Duties of police officers in respect of persons with mental illness.—(*1*) Every officer in-charge of a police station shall have a duty—

(*a*) to take under protection any person found wandering at large within the limits of the police station whom the officer has reason to believe has mental illness and is incapable of taking care of himself; or

(*b*) to take under protection any person within the limits of the police station whom the officer has reason to believe to be a risk to himself or others by reason of mental illness.

(*2*) The officer in-charge of a police station shall inform the person who has been taken into protection under sub-section (*1*), the grounds for taking him into such protection or his nominated representative, if in the opinion of the officer such person has difficulty in understanding those grounds.

(*3*) Every person taken into protection under sub-section (*1*) shall be taken to the nearest public health establishment as soon as possible but not later than twenty-four hours from the time of being taken into protection, for assessment of the person's healthcare needs.

(*4*) No person taken into protection under sub-section (*1*) shall be detained in the police lock up or prison in any circumstances.

(*5*) The medical officer in-charge of the public health establishment shall be responsible for arranging the assessment of the person and the needs of the person with mental illness will be addressed as per other provisions of this Act as applicable in the particular circumstances.

(*6*) The medical officer or mental health professional in-charge of the public mental health establishment if on assessment of the person finds that such person does not have a mental illness of a nature or degree requiring admission to the mental health establishment, he shall inform his assessment to the police officer who had taken the person into protection and the police officer shall take the person to the person's residence or in case of homeless persons, to a Government establishment for homeless persons.

(*7*) In case of a person with mental illness who is homeless or found wandering in the community, a First Information Report of a missing person shall be lodged at the concerned police station and the station house officer shall have a duty to trace the family of such person and inform the family about the whereabouts of the person.

101. Report to Magistrate of person with mental illness in private residence who is ill-treated or neglected.—(*1*) Every officer in-charge of a police station, who has reason to believe that any person residing within the limits of the police station has a mental illness and is being ill-treated or neglected, shall forthwith report the fact to the Magistrate within the local limits of whose jurisdiction the person with mental illness resides.

(*2*) Any person who has reason to believe that a person has mental illness and is being ill-treated or neglected by any person having responsibility for care of such person, shall report the fact to the police officer in-charge of the police station within whose jurisdiction the person with mental illness resides.

(*3*) If the Magistrate has reason to believe based on the report of a police officer or otherwise, that any person with mental illness within the local limits of his jurisdiction is being ill-treated or neglected, the Magistrate may cause the person with mental illness to be produced before him and pass an order in accordance with the provisions of section 102.

102. Conveying or admitting person with mental illness to mental health establishment by Magistrate.—(*1*) When any person with mental illness or who may have a mental illness appears or is brought before a Magistrate, the Magistrate may, order in writing—

(*a*) that the person is conveyed to a public mental health establishment for assessment and treatment, if necessary and the mental health establishment shall deal with such person in accordance with the provisions of the Act; or

(*b*) to authorise the admission of the person with mental illness in a mental health establishment for such period not exceeding ten days to enable the medical officer or mental health professional in charge of the mental health establishment to carry out an assessment of the person and to plan for necessary treatment, if any.

(*2*) On completion of the period of assessment referred to in sub-section (*1*), the medical officer or mental health professional in charge of the mental health establishment shall submit a report to the Magistrate and the person shall be dealt with in accordance with the provisions of this Act.

103. Prisoners with mental illness.—(*1*) An order under section 30 of the Prisoners Act, 1900 (3 of 1900) or under section 144 of the Air Force Act, 1950 (45 of 1950), or under section 145 of the Army Act, 1950 (46 of 1950), or under section 143 or section 144 of the Navy Act, 1957 (62 of 1957), or under section 330 or section 335 of the Code of Criminal Procedure, 1973 (2 of 1974), directing the admission of a prisoner with mental illness into any suitable mental health establishment, shall be sufficient authority for the admission of such person in such establishment to which such person may be lawfully transferred for care and treatment therein:

Provided that transfer of a prisoner with mental illness to the psychiatric ward in the medical wing of the prison shall be sufficient to meet the requirements under this section:

Provided further that where there is no provision for a psychiatric ward in the medical wing, the prisoner may be transferred to a mental health establishment with prior permission of the Board.

(*2*) The method, modalities and procedure by which the transfer of a prisoner under this section is to be effected shall be such as may be prescribed.

(*3*) The medical officer of a prison or jail shall send a quarterly report to the concerned Board certifying therein that there are no prisoners with mental illness in the prison or jail.

(*4*) The Board may visit the prison or jail and ask the medical officer as to why the prisoner with mental illness, if any, has been kept in the prison or jail and not transferred for treatment to a mental health establishment.

(*5*) The medical officer in-charge of a mental health establishment wherein any person referred to in sub-section (*1*) is detained, shall once in every six months, make a special report regarding the mental and physical condition of such person to the authority under whose order such person is detained.

(*6*) The appropriate Government shall setup mental health establishment in the medical wing of at least one prison in each State and Union territory and prisoners with mental illness may ordinarily be referred to and cared for in the said mental health establishment.

(*7*) The mental health establishment setup under sub-section (**6*) shall be registered under this Act with the Central or State Mental Health Authority, as the case may be, and shall conform to such standards and procedures as may be prescribed.

104. Persons in custodial institutions.—(*1*) If it appears to the person in-charge of a State run custodial institution (including beggars homes, orphanages, women's protection homes and children homes) that any resident of the institution has, or is likely to have, a mental illness, then, he shall take such resident of the institution to the nearest mental health establishment run or funded by the appropriate Government for assessment and treatment, as necessary.

(*2*) The medical officer in-charge of a mental health establishment shall be responsible for assessment of the person with mental illness, and the treatment required by such persons shall be decided in accordance with the provisions of this Act.

105. Question of mental illness in judicial process.—If during any judicial process before any competent court, proof of mental illness is produced and is challenged by the other party, the court shall refer the same for further scrutiny to the concerned Board and the Board shall, after examination of the person alleged to have a mental illness either by itself or through a committee of experts, submit its opinion to the court.

CHAPTER XIV

RESTRICTION TO DISCHARGE FUNCTIONS BY PROFESSIONALS NOT COVERED BY PROFESSION

106. Restriction to discharge functions by professionals not covered by profession.—No mental health professional or medical practitioner shall discharge any duty or perform any function not authorised by this Act or specify or recommend any medicine or treatment not authorised by the field of his profession.

CHAPTER XV

OFFENCES AND PENALTIES

107. Penalties for establishing or maintaining mental health establishment in contravention of provisions of this Act.—(*1*) Whoever carries on a mental health establishment without registration shall be liable to a penalty which shall not be less than five thousand rupees but which may extend to fifty thousand rupees for first contravention or a penalty which shall not be less than fifty thousand rupees but which may extend to two lakh rupees for a second contravention or a penalty which shall not be less than two lakh rupees but which may extend to five lakh rupees for every subsequent contravention.

(*2*) Whoever knowingly serves in the capacity as a mental health professional in a mental health establishment which is not registered under this Act, shall be liable to a penalty which may extend to twenty-five thousand rupees.

(*3*) Save as otherwise provided in this Act, the penalty under this section shall be adjudicated by the State Authority.

(*4*) Whoever fails to pay the amount of penalty, the State Authority may forward the order to the Collector of the district in which such person owns any property or resides or carries on his business or profession or where the mental health establishment is situated, and the Collector shall recover from such persons or mental health establishment the amount specified thereunder, as if it were an arrear of land revenue.

* By Corrigenda dated 7th April, 2017.

(*5*) All sums realised by way of penalties under this Chapter shall be credited to the Consolidated Fund of India.

108. Punishment for contravention of provisions of the Act or rules or regulations made thereunder.—Any person who contravenes any of the provisions of this Act, or of any rule or regulation made thereunder shall for first contravention be punishable with imprisonment for a term which may extend to six months, or with a fine which may extend to ten thousand rupees or with both, and for any subsequent contravention with imprisonment for a term which may extend to two years or with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees or with both.

109. Offences by companies.—(*1*) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in-charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent the commission of such offence.

(*2*) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.

CHAPTER XVI

MISCELLANEOUS

110. Power to call for information.—(*1*) The Central Government may, by a general or special order, call upon the Authority or the Board to furnish, periodically or as and when required any information concerning the activities carried on by the Authority or the Board, as the case may be, in such form as may be prescribed, to enable that Government, to carry out the purposes of this Act.

(*2*) The State Government may, by a general or special order, call upon the State Authority or the Board to furnish, periodically or as and when required any information concerning the activities carried on by the State Authority or the Board in such form as may be prescribed, to enable that Government, to carry out the purposes of this Act.

111. Power of Central Government to issue directions.—(*1*) Without prejudice to the foregoing provisions of this Act, the Authority shall, in exercise of its powers or the performance of its functions under this Act, be bound by such directions on questions of policy, other than those relating to technical and administrative matters, as the Central Government may give in writing to it from time to time:

Provided that the Authority shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(*2*) The decision of the Central Government whether a question is one of policy or not shall be final.

112. Power of Central Government to supersede Central Authority.—(*1*) If at any time the Central Government is of the opinion—

(*a*) that on account of circumstances beyond the control of the Central Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(*b*) that the Central Authority has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act; or

(*c*) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification and for reasons to be specified therein, supersede the Central Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Central Authority to make representations against the proposed supersession and shall consider representations, if any, of the Central Authority.

(*2*) Upon the publication of a notification under sub-section (*1*), superseding the Central Authority,—

(*a*) the chairperson and other members shall, as from the date of supersession, vacate their offices as such;

(*b*) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Central Authority shall, until the Central Authority is reconstituted under sub-section (*3*), be exercised and discharged by the Central Government or such authority as the Central Government may specify in this behalf;

(*c*) all properties owned or controlled by the Central Authority shall, until the Central Authority is reconstituted under sub-section (*3*), vest in the Central Government.

(*3*) On or before the expiration of the period of supersession specified in the notification issued under sub-section (*1*), the Central Government shall reconstitute the Central Authority by a fresh appointment of its chairperson and other members and in such case any person who had vacated his office under clause (*a*) of sub-section (*2*) shall not be deemed to be disqualified for re-appointment.

(*4*) The Central Government shall cause a notification issued under sub-section (*1*) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

113. Power of State Government to supersede State Authority.—(*1*) If at any time the State Government is of the opinion—

(*a*) that on account of circumstances beyond the control of the State Authority, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(*b*) that the State Authority has persistently defaulted in complying with any direction given by the State Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act; or

(*c*) that circumstances exist which render it necessary in the public interest so to do,

the State Government may, by notification and for reasons to be specified therein, supersede the State Authority for such period, not exceeding six months, as may be specified in the notification:

Provided that before issuing any such notification, the State Government shall give a reasonable opportunity to the State Authority to make representations against the proposed supersession and shall consider representations, if any, of the State Authority.

(*2*) Upon the publication of a notification under sub-section (*1*) superseding the State Authority,—

(*a*) the chairperson and other members shall, as from the date of supersession, vacate their offices as such;

(*b*) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the State Authority shall, until the State Authority is reconstituted under sub-section (*3*), be exercised and discharged by the State Government or such authority as the State Government may specify in this behalf;

(*c*) all properties owned or controlled by the State Authority shall, until the State Authority is reconstituted under sub-section (*3*), vest in the State Government.

(*3*) On or before the expiration of the period of supersession specified in the notification issued under sub-section (*1*), the State Government shall reconstitute the State Authority by a fresh appointment of its chairperson and other members and in such case any person who had vacated his office under clause (*a*) of sub-section (*2*) shall not be deemed to be disqualified for re-appointment.

(*4*) The State Government shall cause a notification issued under sub-section (*1*) and a full report of any action taken under this section and the circumstances leading to such action to be laid before the State Legislature at the earliest.

114. Special provisions for States in north-east and hill States.—(*1*) Notwithstanding anything contained in this Act, the provisions of this Act shall, taking into consideration the communication, travel and transportation difficulties, apply to the States of Assam, Meghalaya, Tripura, Mizoram, Manipur, Nagaland, Arunachal Pradesh and Sikkim, with following modifications, namely:—

(*a*) under sub-section (*3*) of section 73, the chairperson of the Central Authority may constitute one or more Boards for all the States;

(*b*) in sub-section (*2*) of section 80, reference to the period of "seven days", and in sub-section (*3*) of that section, reference to the period of "twenty-one days" shall be construed as "ten days" and "thirty days", respectively;

(*c*) in sub-section (*9*) of section 87, reference to the period of "seventy-two hours" shall be construed as "one hundred twenty hours", and in sub-sections (*3*) and (*12*) of that section, reference to a period of "seven days" shall be construed as "ten days";

(*d*) in sub-section (*3*) of section 88, reference to the period of "twenty-four hours" shall be construed as "seventy-two hours";

(*e*) in clauses (*a*) and (*b*) of sub-section (*9*) of section 89, reference to the period of "three days" and "seven days" shall be construed as "seven days" and "ten days" respectively;

(*f*) in sub-section (*3*) of section 90, reference to the period of "seven days" and in sub-section (*4*) of that section, reference to the period of "twenty-one days" shall be construed as "ten days" and "thirty days" respectively;

(*g*) in sub-section (*4*) of section 94, reference to the period of "seventy-two hours" shall be construed as "one hundred twenty hours".

(*2*) The provisions of clauses (*b*) to (*g*) of sub-section (*1*) shall also apply to the States of Uttarakhand, Himachal Pradesh and Jammu and Kashmir* and the Union territories of Lakshadweep and Andaman and Nicobar Islands.

(*3*) The provisions of this section shall cease to have effect on the expiry of a period of ten years from the commencement of this Act, except as respects things done or omitted to be done before such cesser, and upon such cesser section 6 of the General Clauses Act, 1897 (10 of 1897), shall apply as if this Act had then been repealed by a Central Act.

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* *Vide* notifn. no. S.O. 3912(E), dated 30th October, 2019, this Act is made applicable to the Union territory of Jammu and Kashmir and the Union territory of Ladakh.

115. Presumption of severe stress in case of attempt to commit suicide.—(*1*) Notwithstanding anything contained in section 309 of the Indian Penal Code (45 of 1860) any person who attempts to commit suicide shall be presumed, unless proved otherwise, to have severe stress and shall not be tried and punished under the said Code.

(*2*) The appropriate Government shall have a duty to provide care, treatment and rehabilitation to a person, having severe stress and who attempted to commit suicide, to reduce the risk of recurrence of attempt to commit suicide.

116. Bar of jurisdiction.—No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Authority or the Board is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

117. Transitory provisions.—The Central Government may, if it considers so necessary in the interest of persons with mental illness being governed by the Mental Health Act, 1987 (14 of 1987), take appropriate interim measures by making necessary transitory schemes.

118. Chairperson, members and staff of Authority and Board to be public servants.—The chairperson, and other members and the officers and other employees of the Authority and Board shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

119. Protection of action taken in good faith.—No suit, prosecution or other legal proceeding shall lie against the appropriate Government or against the chairperson or any other member of the Authority or the Board, as the case may be, for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or regulation made thereunder in the discharge of official duties.

120. Act to have overriding effect.—The provisions of this Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

121. Power of Central Government and State Governments to make rules.—(*1*) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(*2*) Subject to the provisions of sub-section (*1*), the State Government may, with the previous approval of the Central Government, by notification, make rules for carrying out the provisions of this Act:

Provided that the first rules shall be made by the Central Government, by notification.

(*3*) In particular, and without prejudice to the generality of the foregoing power, rules made under sub-section (*1*) may provide for all or any of the following matters, namely:—

(*a*) qualifications relating to clinical psychologist under sub-clause (*ii*) of clause *(*g*) of sub-section (*1*) of section 2;

(*b*) qualifications relating to psychiatric social worker under clause *(*x*) of sub-section (*1*) of section 2;

(*c*) the manner of nomination of members of the Central Authority under sub-section (*2*) of section 34;

(*d*) the salaries and allowances payable to, and the other terms and conditions of service of, the chairperson and other members of the Central Authority under sub-section (*3*) of section 35;

(*e*) the procedure for registration (including the fees to be levied for such registration) of the mental health establishments under sub-section (*2*) of section 43;

* By Corrigenda dated 7th April, 2017.

(*f*) the manner of nomination of members of the State Authority under sub-section (*2*) of section 46;

(*g*) the salaries and allowances payable to, and the other terms and conditions of service of, the chairperson and other members of the State Authority under sub-section (*3*) of section 47;

(*h*) the procedure for registration (including the fees to be levied for such registration) of the mental health establishments under sub-section (*2*) of section 55;

(*i*) the form of accounts and other relevant records and annual statement of accounts under sub-section (*1*) of section 59;

(*j*) the form in, and the time within which, an annual report shall be prepared under section 60;

(*k*) the form of accounts and other relevant records and annual statement of accounts under sub-section (*1*) of section 63;

(*l*) the form in, and the time within which, an annual report shall be prepared under section 64;

(*m*) the manner of constitution of the Board by the State Authority for a district or groups of districts in a State *under sub-section (*3*) of section 73;

(*n*) other disqualifications of chairperson or members of the Board under clause (*e*) of sub-section (*2*) of section *74;

(*o*) any other matter which is required to be, or may be, specified by rules or in respect for which provision is to be made by rules.

(*4*) In particular, and without prejudice to the generality of the foregoing power, rules made under sub-section (*2*) may provide for all or any of the following matters, namely:—

(*a*) the manner of proof of mental healthcare and treatment under sub-section (*1*) of section 4;

(*b*) provision of half-way homes, sheltered accommodation and supported accommodation under clause (*b*) of sub-section (*4*) of section 18;

(*c*) hospitals and community based rehabilitation establishment and services under clause (*d*) of sub-section (*4*) of section 18;

(*d*) basic medical records of which access is to be given to a person with mental illness under sub-section (*1*) of section 25;

(*e*) custodial institutions under sub-section (*2*) of section 27;

(*f*) the form of application to be submitted by the mental health establishment with the undertaking that the mental health establishment fulfils the minimum standards, if any, specified by the Authority, under the *Explanation* to sub-section (*2*) of section 65;

(*g*) the form of certificate of registration under sub-section (*3*) of section 65;

(*h*) the form of application, the details, the fees to be accompanied with it under sub-section (*1*) of section 66;

(*i*) the form of certificate of provisional registration containing particulars and information under sub-section (*4*) of section 66;

(*j*) the fees for renewal of registration under sub-section (*11*) of section 66;

(*k*) the person or persons (including representatives of the local community) for the purpose of conducting an audit of the registered mental health establishments under sub-section (*1*) and fees to be charged by the Authority for conducting such audit under sub-section (*2*) of section 67;

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* By Corrigenda dated 7th April, 2017.

(*l*) the person or persons for the purpose of conducting and inspection or inquiry of the mental health establishments under sub-section (*1*) of section 68;

(*m*) *the manner to enter and search of a mental health establishment operating without registration under sub-section (*6*) of section 68;

(*n*) the fees for issuing a duplicate certificate under sub-section (*2*) of section 70;

(*o*) the form and manner in which the Authority shall maintain in digital format a register of mental health establishments, the particulars of the certificate of registration so granted in a separate register to be maintained under section 71;

(*p*) constitution of the Boards under sub-section (*3*) of section 73;

(*q*) the honorarium and other allowances payable to, and the other terms and conditions of service of, the chairperson and members of the Board under sub-section (*3*) of section 75;

(*r*) method, modalities and procedure for transfer of prisoners under sub-section (*2*) of section 103;

(*s*) the standard and procedure to which the Central or State Health Authority shall *conform under sub-section *(*7*) of section 103;

(*t*) the form for furnishing periodical information under section 110; and

(*u*) any other matter which is required to be, or may be, specified by rules or in respect for which provision is to be made by rules.

122. Power of Central Authority to make regulations.—(*1*) The Central Authority may, by notification, make regulations, consistent with the provisions of this Act and the rules made thereunder, to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) *the manner of making an advance directive under section 6;

(*b*) additional regulations, regarding the procedure of advance directive to protect the rights of persons with mental illness under sub-section (*3*) of section 12;

(*c*) the salaries and allowances payable to, and the other terms and conditions of service (including the qualifications, experience and manner of appointment) of, the chief executive officer and other officers and employees of the Central Authority under sub-section (*3*) of section 40;

(*d*) the times and places of meetings of the Central Authority and rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) under sub-section (*1*) of section 44;

(*e*) the minimum standards of facilities and services under clause (*a*) of sub-section (*4*) of section 65;

(*f*) the minimum qualifications for the personnel engaged in mental health establishment under clause (*b*) of sub-section (*4*) of section 65;

(*g*) *the provisions for maintenance of records and reporting under clause (*c*) of sub-section (*4*) of section 65;

(*h*) any other conditions under clause (*d*) of sub-section (*4*) of section 65;

(*i*) categories of different mental health establishment under clause (*a*) of sub-section (*5*) of section 65;

* By Corrigenda dated 7th April, 2017.

(*j*) the form of application to be made by the mental health establishment and the fees to be accompanied with it under sub-section (*12*) of section 66;

(*k*) *the manner of submitting evidence under sub-section (*13*) of section 66;

(*l*) the manner of filing objections under sub-section (*14*) of section 66;

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(**m*) regulations under sub-section (*2*) of section 96 and under sub-section (*8*) of section 97;

(**n*) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

123. Power of State Authority to make regulations.—(*1*) The State Authority may, by notification, make regulations, consistent with the provision of this Act and the rules made thereunder, to carry out the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) the minimum quality standards of mental health services under sub-section (*9*) of section 18;

(*b*) the salaries and allowances payable to, and the other terms and conditions of service (including the qualifications, experience and manner of appointment) of the chief executive officer and other officers and employees of the State Authority under sub-section (*3*) of section 52;

(*c*) the manner in which the State Authority shall publish the list of registered mental health professionals under clause (*d*) of sub-section (*1*) of section 55;

(*d*) the times and places of meetings of the State Authority and rules of procedure in regard to the transaction of business at its meetings (including quorum at such meetings) under sub-section (*1*) of section 56;

(*e*) the form of application to be made by the mental health establishment and the fees to be accompanied with it under sub-section (*12*) of section 66;

(*f*) the manner of filing objections under sub-section (*14*) of section 66;

(*g*) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be made by regulations.

124. Laying of rules and regulations.—(*1*) Every rule made by the Central Government and every regulation made by the Central Authority under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, as the case may be, or both Houses agree that the rule or regulation, as the case may be, should not be made, the rule or regulation, as the case may be, shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation, as the case may be.

(*2*) Every rule made by the State Government and every regulation made by the State Authority under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

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* By Corrigenda dated 7th April, 2017.

125. Power to remove difficulties.—(*1*) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(*2*) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

126. Repeal and saving.—(*1*) The Mental Health Act, 1987 (14 of *1987) is hereby repealed.

(*2*) Notwithstanding such repeal,—

(*a*) anything done or any action taken or purported to have been done or taken (including any rule, notification, inspection, order or declaration made or any document or instrument executed or any direction given or any proceedings taken or any penalty or fine imposed) under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act;

(*b*) the Central Authority for Mental Health Services, and the State Authority for Mental Health Services established under the repealed Act shall, continue to function under the corresponding provisions of this Act, unless and until the Central Authority and the State Authority are constituted under this Act;

(*c*) any person appointed in the Central Authority for Mental Health Services, or the State Authority for Mental Health Services or any person appointed as the visitor under the repealed Act and holding office as such immediately before the commencement of this Act, shall, on such commencement continue to hold their respective offices under the corresponding provisions of this Act, unless they are removed or until superannuated;

(*d*) any person appointed under the provisions of the repealed Act and holding office as such immediately before the commencement of this Act, shall, on such commencement continue to hold his office under the corresponding provisions of this Act, unless they are removed or until superannuated;

(*e*) any licence granted under the provisions of the repealed Act, shall be deemed to have been granted under the corresponding provisions of this Act unless the same are cancelled or modified under this Act;

(*f*) any proceeding pending in any court under the repealed Act on the commencement of this Act may be continued in that court as if this Act had not been enacted;

(*g*) any appeal preferred from the order of a Magistrate under the repealed Act but not disposed of before the commencement of this Act may be disposed of by the court as if this Act had not been enacted.

(*3*) The mention of the particular matters in sub-section (*2*) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeal.

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* By Corrigenda dated 7th April, 2017.

STATEMENT OF OBJECTS AND REASONS

The United Nations Convention on the Rights of Persons with Disabilities, which was ratified by the Government of India in October, 2007, made it obligatory on the Government to align the policies and laws of the country with the Convention. The need for amendments to the Mental Health Act, 1987 was felt by the fact that the related law, i.e., the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 was also in the process of amendment. The Mental Health Act, 1987 could not protect the rights of persons with mental illness and promote their access to mental health care in the country.

2. In light of above, it is proposed to bring in a new legislation by repealing the Mental Health Act, 1987, and—

(*a*) Recognising that:

(*i*) Persons with mental illness constitute a vulnerable section of society and are subject to discrimination in our society;

(*ii*) Families bear financial hardship, emotional and social burden of providing treatment and care for their relatives with mental illness;

(*iii*) Persons with mental illness should be treated like other persons with health problems and the environment around them should be made conducive to facilitate recovery, rehabilitation and full participation in society;

(*iv*) The Mental Health Act, 1987 was insufficient to protect the rights of persons with mental illness and promote their access to mental health care in the country;

(*b*) And in order to:

(*i*) Protect and promote the rights of persons with mental illness during the delivery of health care in institutions and in the community;

(*ii*) Ensure health care, treatment and rehabilitation of persons with mental illness, is provided in the least restrictive environment possible, and in a manner that does not intrude on their rights and dignity. Community-based solutions, in the vicinity of the person's usual place of residence, are preferred to institutional solutions;

(*iii*) Provide treatment, care and rehabilitation to improve the capacity of the person to develop his or her full potential and to facilitate his or her integration into community life;

(*iv*) Fulfil the obligations under the Constitution and the obligations under various International Conventions ratified by India;

(*v*) Regulate the public and private mental health sectors within a rights framework to achieve the greatest public health good;

(*vi*) Improve accessibility to mental health care by mandating sufficient provision of quality public mental health services and non-discrimination in health insurance;

(*vii*) Establish a mental health system integrated into all levels of general health care; and

(*viii*) Promote principles of equity, efficiency and active participation of all stakeholders in decision making.

3. The Bill seeks to achieve the above objects.

GHULAM NABI AZAD.

NEW DELHI;
The 7th August, 2013

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