

Mental Health Nursing

Psychiatric Nursing

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MENTAL HEALTH ACT 1987

□ HISTORY:

- Mental health act was drafted by parliament in 1987
- Came into effect in all the states and union territories of India in April 1993
- Replaces the Indian lunacy act of 1912
- Which had earlier replaced the Indian lunatic asylum act of 1858

MENTAL HEALTH ACT 1987

□ Definition of the Act

“An act to consolidate and amend the law relating to the treatment and care of mentally ill persons, to make better provision with respect to their property and affairs and for matters connected therewith or incidental thereto”

SALIENT FEATURES OF THE ACT

Mental health act is divided into **10 chapters** consisting of **98 sections**

- Chapter I: Deals with preliminaries of the act
- Chapter II: Deals with establishment of mental health authorities at central and state levels
- Chapter III: Deals with establishment and maintenance of psychiatric hospitals and nursing homes

- Chapter IV: Deals with the procedures of admission and detention of mentally ill in psychiatric hospitals
- Chapter V: It deals with the inspection, discharge, leaves of absence and removal of mentally ill persons
- Chapter VI: It deals with the judicial inquisition regarding alleged mentally ill persons possessing property and its management.

- Chapter VII: It deals with the maintenance of mentally ill persons in a psychiatric hospital or psychiatric nursing homes
- Chapter VIII: It deals with the protection of human rights of mentally ill persons
- Chapter IX: It deals with the penalties and procedures for infringement of guidelines of the act
- Chapter X: It deals with miscellaneous matters not covered in other chapters of the act

OBJECTIVES OF THE ACT

1. To establish central and state authorities for licensing and supervising the psychiatric hospitals
2. To establish such psychiatric hospitals and nursing homes
3. To provide a check on working of these hospitals
4. To provide for the custody of mentally ill persons who are unable to look after themselves and are dangerous for themselves and or, others
5. To protect the society from dangerous manifestations of mentally ill

6. To regulate procedure of admission and discharge of mentally ill persons
7. To safeguard the rights of these detained individuals
8. To protect citizens from being detained unnecessarily
9. To provide the maintenance charges of mentally ill
10. To provide legal aid to poor mentally ill criminals at state expenses
11. To change offensive terminologies of Indian Lunacy act to new soother ones

CHAPTER I - PRELIMINARY

❑ TERMS USED

- **DISTRICT COURT:**
a city Civil Court, the principal Civil Court of original jurisdiction, or any other Civil Court competent to deal with all or any of the matters specified in this Act
- **INSPECTING OFFICER:**
means a person authorized by the State Government or by the licensing authority to inspect any psychiatric hospital or psychiatric nursing home
- **LICENSE:** means a license granted under Sec.8
- **LICENSEE:** means the holder of a licence

- **MAGISTRATE:** - Metropolitan Magistrate; the Chief Judicial Magistrate, Sub-Divisional Judicial Magistrate or such other Judicial Magistrate of the first class
- **MEDICAL OFFICER:** means a gazetted medical officer in the service of Government
- **MENTALLY ILL PERSON:** means a person who is in need of treatment by person of any mental disorder other than mental retardation
- **MINOR:** person who has not completed the age of 18 years

- **MENTALLY ILL PRISONER:** Is a mentally ill person, ordered for detention in a psychiatric hospital, jail or other places of safe custody
- **PSYCHIATRIC HOSPITAL / NURSING HOME:** hospital or nursing home established or maintained by the Government or any other person for the treatment and care of mentally ill

NEW TERM

PREVIOUSLY USED TERMS

Psychiatric hospital/Nursing home

Asylum

Mentally ill person

Lunatic

Mentally ill prisoner

Criminal Lunatic

Chapter II - Mental Health Authorities

Deals with the procedures for establishment of mental health authorities at central and state levels

CENTRAL AUTHORITY

- Shall be subject to the superintendence, direction and control of the central government
- Shall be in charge of regulation, development, direction and co-ordination with respect to mental health services under the central government
- Supervise the psychiatric hospitals and psychiatric nursing homes and other mental health service agencies under the control of the central government
- Advise the central government on all matters relating to mental health

STATE AUTHORITY

- Shall be subject to the superintendence, direction and control of the state government
- Shall be in charge of regulation, development, direction and co-ordination with respect to mental health services under the state government
- Supervise the psychiatric hospitals and psychiatric nursing homes and other mental health service agencies under the control of the state government
- Advise the state government on all matters relating to mental health

CHAPTER III - PSYCHIATRIC HOSPITALS AND PSYCHIATRIC NURSING HOMES

It lays down the guidelines for

- Establishment and maintenance of psychiatric hospitals and nursing homes
- Provision for licensing authorities to process applications for license

❑ The Central Government may established or maintain psychiatric hospitals or psychiatric nursing homes for:

- the admission and care of mentally ill persons

❑ Separate psychiatric hospitals and psychiatric nursing homes may be established or maintained for:

- those who are under the age of sixteen years
- those who are addicted to alcohol or other drugs which lead to behavioral changes in a persons
- those who have been convicted of any offence

□ LICENCE

- no person shall established or maintain a psychiatric hospital or psychiatric nursing home
- unless he holds a valid licence granted to him
- by Central Government or State Government

- **Application for licence**

A person, who intends to establish or maintain a psychiatric hospital or psychiatric nursing home, shall, unless the said person already holds a valid licence, make an application to the licence authority for the grant of a licence

- **Duration and renewal of licence**

- A licence shall not be transferable or heritable
- Every licence shall, unless revoked earlier, be valid for a period of five years from the date on which it is granted

CHAPTER IV : ADMISSION AND DETENTION IN PSYCHIATRIC HOSPITAL

- **ADMISSION ON VOLUNTARY BASIS**
- **ADMISSION UNDER SPECIAL CIRCUMSTANCES**
- **RECEPTION ORDERS**

❑ **ADMISSION ON VOLUNTARY BASIS**

- **Request by major for admission as voluntary patient**
- **Request by guardian for admission of a ward**

❖ **Regulation with respect to, voluntary patient:**

- On receipt of a request, the medical officer-incharge shall make an inquiry within a period of 24 hours and if satisfied, he may admit such application as a voluntary patient
- Every voluntary patient admitted shall be bound to abide by regulations as may be made by the medical officer

❑ **DISCHARGE OF VOLUNTARY PATIENTS**

- The medical officer-in-charge on a request made in that behalf :
 - ✓ by any voluntary patient
 - ✓ by the guardian, if he is a minor
- Discharge the patient within 24 hours of the receipt of such request
- If medical officer-in-charge is satisfied that the discharge will not be in the interest of the patient, he shall:
 - within 72 hours of a request constitute a Board consisting of two medical officers and seek its opinion
 - if the Board is of the opinion that patient needs further treatment
 - medical officer should continue his treatment for a period not exceeding ninety days at a time

❑ ADMISSION UNDER SPECIAL CIRCUMSTANCES:

- Any mentally ill persons who does not, or is unable to, express his willingness for admission
- may be admitted and kept as an in-patient in a psychiatric hospital
- on an application made in that behalf by a relative or a friend of the mentally ill persons
- if the medical officers-in-charge is satisfied that in the interest of the mentally ill persons it is necessary so to do

❑ RECEPTION ORDERS

➤ Application for reception order:

- An application for a reception order may be made by
 - the medical officer-in-charge
 - the spouse or other relative of the mentally ill

➤ Where a medical officer-in-charge is satisfied that :

- the treatment in the psychiatric hospital is required to be continued for more than six months
- It is in the interests of the health & safety of the mentally ill person or for the protection of others

- The application is to be made to magistrate within the local limits of jurisdiction of the psychiatric hospital

➤ **Every application shall be:**

- Signed and verified in the prescribed manner
- Shall be accompanied by two medical certificates
- From two medical practitioners of whom one shall in the service of government

□ Duties of police officers in respect of certain mentally ill persons:

Every officer in charge of a police station –

- May take into protection any person found wandering within the limits of his station whom he believes to be mentally ill & incapable of taking care of himself, and dangerous by reason of mental illness
- No person shall be detained without being informed, his relatives or friends, if any
- Every person shall be produced before the nearest Magistrate within a period of twenty-four hours

❑ Admission after Inquisition:

- If any district court holding an inquisition regarding any person who is found to be mentally ill
- By order such person shall be admitted and kept as an inpatient in a psychiatric hospital

❑ Admission and detention of mentally ill prisoner:

- An order under Sec. 30 of the Prisoners Act, Sec. 330 or Sec. 335 of the Code of Criminal Procedure 1973
- directing the reception of a mentally ill
- shall be sufficient authority for the admission of such person into any psychiatric hospital

CHAPTER V - INSPECTION, DISCHARGE, LEAVE OF ABSENCE AND REMOVAL OF MENTALLY ILL PERSONS

□INSPECTION:

- Not less than three visitors shall at least once in every month
- Make a joint inspection of every part of the psychiatric hospital
- Shall enter in a book kept for that purpose such remarks as they deem appropriate in regard to the management and condition
- The visitors shall not be entitled to inspect any personal records of an in-patient of confidential nature

□ DISCHARGE:

- **Discharge by medical officer**
- **Discharge on application**
- **Discharge on request**
- **Discharge of person subsequently found on inquisition to be of sound mind**

❑ Discharge by medical officer:

- On the recommendation of two medical practitioners one of whom shall preferably be a psychiatrist
- By order in writing, the medical officer shall direct the discharge of any person from the psychiatric hospital
- Other than a voluntary patient

❑ Discharge on application

- Any person detained in a psychiatric hospital under an order and in pursuance of an application
- shall be discharged on an application made in that behalf to the medical officer in charge
- Provided that no person shall be discharged if the medical officer in charge certifies in writing that the person is dangerous and unfit to be at large

❑ Discharge on request

- Any person (not being a mentally ill prisoner) detained in pursuance of an order, who feels that he has recovered from his mental illness, may make an application to the Magistrate, for his discharge from the psychiatric hospital
- The application made shall be supported by a certificate either from the medical officer in charge or from a psychiatrist
- The Magistrate may, after making such inquiry as he may deem fit, pass an order discharging the person or dismissing the application.

❑ Discharge of person subsequently found on inquisition to be of sound mind

- If any person detained in a psychiatric hospital in pursuance of a reception order is subsequently found
- on an inquisition to be of sound mind or
- capable of taking care of himself and
- managing his affairs
- The medical officer-in-charge shall discharge such person from such hospital or nursing home

- **LEAVE OF ABSENCE**

- An application for leave of absence may be made to the medical officer-incharge:-
 - by the husband or wife of the mentally ill
 - relative of the mentally ill person duly authorized by the husband or wife or
 - by the person on whose application the mentally ill person was admitted

- Every application shall be accompanied by a bond undertaking :-
 - To take proper care of the mentally ill person
 - To prevent the mentally ill person from causing injury to himself or to others, and
 - To bring back the mentally ill person to the psychiatric hospital on the expiry of leave
- The medical officers-in-charge may grant leave of absence for such period as deemed necessary
 - The total number of days shall not exceed sixty days

❑ REMOVAL

- Any mentally ill person other than a voluntary patient subject to any general or special order of the state government
- Be removed from any psychiatric hospital or psychiatric nursing home to any other psychiatric hospital or psychiatric nursing home
- Within the state, or to any other state with the consent of the government of that other state

Chapter VI

**Judicial Inquisition Regarding Alleged Mentally Ill
Persons Possessing Property, Custody of His Person &
Management of his Property**

- If a mentally ill person is possessed of property
- An application for holding an inquisition, to the District Court within the local limits, into the mental condition of such person may be made either :—
 - by any of his relatives, or
 - by a public curator or
 - by the Advocate-General of the State or
 - by the Collector ‘where the property is land’

- The duty of the Court is to determine judicially whether the person alleged is incapable of managing himself or his affairs & is really mentally ill in this sense
- If so, the District Court or the Collector of the District may appoint any suitable person to be his guardian
- the District Court or the Collector shall appoint any suitable person to be the manager of property possessed by the mentally ill

The act says :-

“No person, who is the legal heir of a mentally ill person shall be appointed under Sec. 53, 54 or 55 to be the guardian of such mentally ill person or the manager of his property unless the District Court or the Collector considers that such appointment is for the benefit of the mentally ill person”

The guardian of a mentally ill person or the manager of the property or both appointed under this Act shall be paid, from out of the property of the mentally ill person, such allowance as the appointing authority may determine

Duties of guardian and manager :

- the care of the mentally ill person or his property or of both
- the maintenance of the mentally ill person and of such members of his family as are dependent on him
- If the person appointed as guardian is different from the person appointed as the manager, the manager of his property shall pay to the guardian allowance as fixed by the authority

- A manager is empowered to exercise the same powers in the management of the property of the mentally ill person as the mentally ill person would have exercised as owner of the property had he not been ill
- The manager shall, however, not mortgage, create any charge on, or, transfer by sale, gift etc. any immoveable property without the prior permission of the District Court
- Manager has to furnish inventory and annual accounts in respect of the property of the mentally ill person to the appointing authority

Chapter VII

Liability To Meet Cost of Maintenance of Mentally Ill Persons Detained in Psychiatric Hospital Or Nursing Home

- The cost of maintenance of a mentally ill person detained as an in-patient in any psychiatric hospital or psychiatric nursing home shall, unless otherwise provided for by any law, be borne by the Government of the State
- When a mentally ill person has an estate or any person legally bound to maintain such person, an application may be made to the District Court for payment of cost of maintenance of mentally ill person

Chapter VIII

Protection of Human Rights of Mentally III Persons

- No mentally ill person shall be subjected during treatment to any indignity (whether physical or mental) or cruelty
- No mentally ill person under treatment shall be used for purposes of research, unless –
 - . *such research is of direct benefit to him for purposes of diagnosis or treatment, or*
 - . *such person, being a voluntary patient, has given his consent in writing or the guardian on his behalf, has given his consent in writing*
- No letters or other communications sent by or to a mentally ill persons under treatment shall be intercepted, detained or destroyed

Chapter IX

Penalties & Procedure

❑ Penalty in contravention of Chapter III

- Any person who establishes or maintains a psychiatric hospital or nursing home in contravention of the Chapter III shall be punishable with :
 - imprisonment for a term which may extend to **three months**, or
 - with fine which may extend to **two hundred rupees**, or
 - with both
- In the case of a second or subsequent offence:
 - with imprisonment for a term which may extend to **six months**, or
 - with fine which may extend to **one thousand rupees**, or
 - with both

❑ **Penalty for improper reception of mentally ill person**

- Any person who receives or detains or keeps a mentally ill person in a psychiatric hospital or nursing home otherwise than in accordance with the provision of this Act, shall be punishable with
 - imprisonment for a term which may extend to **two years** or
 - with fine which may extend to **one thousand** rupees, or
 - with both.

❑ **Penalty for contravention by a manager**

- Any manager who contravenes the provisions shall, be punishable with :
 - fine which may extend to **two thousand** rupees and
 - may be detained in a civil prison till he complies with the said provisions.

❑ **General provision for punishment of other offences**

- Any person who contravenes any of the provisions of this Act be punishable with
 - imprisonment for a term which may extend to **six months**, or
 - with fine which may extend to **five hundred** rupees, or
 - with both

Chapter X

Miscellaneous

This chapter deals with clarification pertaining to certain procedure to be followed by medical officer incharge of psychiatric hospital.

Medical officer prepare the report of hospital in every 6 month and will send to the authority.

❑ Report by medical officer

- the medical officer should make a report about the mental and physical condition of the discharged person to the authority under whose orders the mentally ill person was detained in the psychiatric hospital

❑ Pension, etc. of mentally ill payable by Government

- The pay, pension, gratuity or any allowance is payable by any Government, the officer in charge may pay
 - to the person having charge of the mentally ill person so much of the said sum as he thinks fit
 - the cost of maintenance to any person dependent on him for maintenance

