



MENTAL HEALTH ACT 2017

Ms. Archana Chhetri
Clinical Psychologist
New STNM

MENTAL HEALTHCARE ACT, 2017

Features of the Act

- ❖ Decriminalization of suicide
- ❖ Restriction on use of Electro-Convulsive Therapy and Psychosurgery
- ❖ Special clause for women and children related to admission, treatment, sanitation and personal hygiene
- ❖ Nominated representative
- ❖ Provision of advance directive



INTRODUCTION

- India Ratified the **United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)** in October, 2007.
- Mental Health Act 1987, was not adequate to protect the rights of persons with mental illness.
- To fulfil this obligation of UNCRPD, the new Mental Health Care Bill was set in process

- This act superseded the previously existing Mental Health Act, 1987, which was passed on 22 May, 1987.
- Enacted by parliament in the 68th year of the Republic of India.
- The Mental Health Care Act, 2017 consist of 16 chapters and contains 126 clauses.

PARADIGM SHIFT



PREAMBLE

- An Act To Provide For Mental Healthcare And Services For Persons With Mental Illness.
- 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.

Definition

◦ MENTAL ILLNESS(MI)

‘Substantial disorder of **thinking, mood, perception, orientation or memory, that grossly impair judgement, behaviour, capacity** to recognize 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, especially characterized by sub normality of intelligence”.

Overview Of The Act

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Overview Of The Act

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**SALIENT SECTIONS
UNDER EACH
CHAPTER**

CHAPTER I- PRELIMINARY

- It contains basic definitions:
 - **Advance directives:** A written document made by a person expressing their wishes.
 - **Authority:** The Central Mental Health Authority and State Mental Health Authority.
 - **Care-giver:** Person who resides with a person with mental illness and is responsible for providing care to that person and include a relative or any other person who performs this function, either free or with remunerations.
 - **Board:** The Mental Health Review Board constituted by the State Authority

CHAPTER I- PRELIMINARY

- **Family:** A group of persons related to blood, Adoption or. marriage.
- **Mental Health Professional** – means either a Psychiatrist, Clinical Psychologist, Psychiatric Social Worker, Mental Health Nurse or a professional having a post-graduate degree (Ayurveda) in Mano Vigyan Avum Manas Roga or a post-graduate degree (Homeopathy) in Psychiatry or a post-graduate degree (Unani) in Moalijat (Nafasiyatt) or a post-graduate degree (Siddha) in Sirappu Maruthuvam.

CHAPTER I- PRELIMINARY

- **Mental Health Care:** Analysis, diagnosis and treatment as well as care and rehabilitation of a person for his mental illness or suspected mental illness.
- **Mental Health Establishment:** means any health establishment, including Ayurveda, Yoga and Naturopathy, Unani, Siddha and Homoeopathy establishments and includes any general hospital or general nursing home, either wholly or partly meant for the care of persons with Mental illness; does not include a family residential place where a person with mental illness resides with his relative or friends.
- **Minor:** Not completed 18 years

CHAPTER I- PRELIMINARY

- **Informed Consent:** Consent given for a specific intervention without any force, undue influence, fraud, threat, mistake or misinterpretation, and obtained after disclosing to a person adequate information including risk and benefits of, and alternatives to, the specific intervention in a language and manner understood by the person.
- **Prisoner with Mental Illness:** It means a person with mental illness who is an under-trial or convicted of an offence and detained in a jail or prison.

CHAPTER II: Capacity To Make Mental Healthcare And Treatment Decisions

- Mental illness shall be determined in accordance with nationally **or internationally** accepted medical standards.
- No person or authority shall classify a person as a person with mental illness, except for purposes directly relating to the treatment or in other matters as covered under this Act.
- Mental illness of a person shall not be determined on the basis of political, economic or social status or membership of a cultural, racial or religious group, or for any other reason not directly relevant to the mental health status of the person.

Capacity To Make Mental Healthcare And Treatment Decisions.

Every person, including a person with mental illness shall be deemed to have capacity to make decisions regarding their mental health care or treatment, if such person has ability to

- a) **Understand** the information relevant to the mental health care or treatment decision;
- a) **Retain** that information
- a) **Use** or weigh that information as part of the process of making the mental health care or treatment **decision**
- a) **Communicate** his decision by any means



CHAPTER III: Advance Directive (5-12)

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:

**The Way The Person
Wishes To Be Cared For
And Treated For A
Mental Illness**

**The Way The Person
Wishes Not To Be Cared
For And Treated For A
Mental Illness**

**The Individual Or
Individuals, In Order Of
Precedence, He
Wants To Appoint As His
Nominated Representative**

Procedure to register.....

- AD can be registered only by an adult and for minors, a legal Guardian can apply

➤PWMI will document in a form/paper and register to MHRB of the resident area

It is to be signed by NRs and 2 witnesses during registration

➤MHRB will maintain online register of ADs and make it available to PWMI and NR within 14 days of registration and to MHP when required

➤PWMI or NR should inform the MHP regarding the AD if it is already registered

- May be made by a person irrespective of his **past** mental illness or treatment for the same.
- Invoked only when the person **ceases** to have capacity to make decisions.
- Effective until such person **regains** capacity to make decisions.
- An advance directive made may be **revoked, amended or cancelled** by the person who made it at any time.



- It shall be the duty of every MHE to propose or give treatment to a person with mental illness, in accordance with his **valid AD**
- The **legal guardian** shall have right to make an AD in writing in respect of a minor till such time he attains majority.
- Review of advance directives- The Central Authority can make regulations and modifications to protect patients' rights
- A MHP shall not be held liable for not following a valid **AD**, if the family member has not given them a copy of the valid **AD**. (Sec 13)
- A MHP shall not be held liable for any unforeseen consequences on following a valid advance directive.

CHAPTER IV: Nominated Representative (NR)

- Every person who is not a minor shall have the right to appoint a **Nominated Representative (NR)**
- The nomination shall be made in writing on plain paper with the person's signature or thumb impression of the person referred to.
- The person appointed as the **NR** 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 MHP.
- NR should follow the Supported/Shared decision making.

CHAPTER IV: Nominated Representative (NR)

- Any appointed **NR**, the patient themselves, or a family member, as well as the treating psychiatrist, can apply for revoking the **NR** list.

- MHRB has the power to amend the NR.

- If no NR is appointed or available or NR refuses to do their duties following people can be appointed by MHRB (Order of precedence)
 1. A relative
 2. A caregiver

CHAPTER IV: Nominated Representative (NR)

3. A suitable person appointed as such by the concerned board

4. If no such person is available, the Board shall appoint the Director, Department of Social Welfare or his designated representative as NR

○ Temporary NR- By Psychiatrist

Duties Of Nominated Representative

Appoint A Suitable Attendant

Consider their Current and Past Wishes And their Best Interests

Provide Support for taking decisions related to Admission discharge etc.

Seek Information On Diagnosis And Treatment

Access To The Family Or Home Based Rehabilitation Services

Involved In Admission And Discharge

Right To Give Or Withhold Consent For Research

For Minors??



CHAPTER V: RPWMI (Sec 18-28)

18. Right To Access Mental Healthcare.
19. Right To Community Living.
20. Right To Protection From Cruel, Inhuman And Degrading Treatment.
21. Right To Equality And Non-discrimination.
22. Right To Information.
23. Right To Confidentiality.
24. Restriction On Release Of Information In Respect Of Mental Illness.
25. Right To Access Medical Records.
26. Right To Personal Contacts And Communication.
27. Right To Legal Aid.
28. Right To Make Complaints About Deficiencies In Provision Of Services.

Right To Access Mental Health Care (Sec. 18)

- State has responsibility for providing all types of services (In-Patient/Out-Patient/Rehabilitation)
- Should be affordable in cost, good quality and quantity at par with physical illness.
- Compensatory: If right to access MHC is not available at the district level compensation has to be provided for seeking treatment from elsewhere.
- Free treatment for BPL/Destitute

CHAPTER V: RPWMI (Sec 18-28)

1. Right to **access** mental health care *without discrimination*

Provisions—

- a) Outpatient and Inpatient,
- b) Halfway Homes,
- c) Sheltered Accommodation
- d) Supported Accommodation
- e) Home-Based Rehabilitation
- f) Hospital and Community-Based Rehabilitation
- g) Child And Old Age Mental Health Services



Right To Protection From Cruel, Inhuman And Degrading Treatment Treatment (Sec. 20)

- a) Safe And Hygiene Environment.
- b) Adequate Sanitary Condition
- c) Education and Religious Practices within the MHE
- d) Privacy, Clothing of choice
- e) **Not to be forced** to undertake any work in MHE and to receive Appropriate Renumeration for work when undertaken
- f) Adequate Provision Preparing For Living In The Community.

Right To Protection From Cruel, Inhuman And Degrading Treatment Treatment (Sec. 20)

- g) Wholesome food, articles of personal hygiene in particular, women's personal hygiene
- h) No compulsory tonsuring
- i) To wear own personal clothes if so wished and not to be forced to wear uniforms provided by the establishment, and
- j) To be protected from all forms of physical, verbal, emotional and sexual abuse.

Right to Equality And Non-discrimination(sec. 21)

- Equality to person with physical illness(es) in the provision of all health care.
- Obligation of the state to provide emergency services for MI such as ambulance, adequate and appropriate living conditions similar to physical illness.
- Health insurance for those with MI - insurers to make provisions for medical insurance for treatment of MI on the same basis as is available for treatment of physical illness.

RIGHT TO INFORMATION(SEC.22)

As per the act, PWMI and his NR shall have the right to the following information

- i. Reason for Admission
- i. Review of Admission Procedure
- i. Information about the treatment/procedure in the patient's language.

Right To Confidentiality (Sec. 23)

- Duty to keep information confidential
- Exceptions are-
 - a) NR
 - b) Other MHP and HP to enable them to provide care and treatment.
 - c) Dangerous to self or others
 - d) Medical emergencies
 - e) In the interest of public safety and security.
 - f) Judicial proceedings.

Right To Access Medical Records (Sec. 25)

- All PWMI shall have the right to access their basic medical records as may be prescribed.
- MHP's may withhold specific information in the medical records as and when necessary.
- Shall inform the PWMI of his right to apply to the concerned board.

Chapter VI: Duties of Appropriate Government

- **Promotion** of Mental Health and Preventive Programs.
- Creating **Awareness** about Mental Health and Illness and reducing stigma associated with mental illness.
- Appropriate Government to take measures as regard to human resource development and training, etc.
- Coordination within the appropriate Government agencies

Chapter VIII: State Mental Health Authority (SMHA)

A Statutory body which is required to oversee the overall implementation of the MHCA

- Principal Secretary or Secretary, Department of Health- **Chairperson**
- Mission Director, NHM, Dept of Health and Family Welfare gov of Sikkim- **Ex Officio Member**
- State Programme Officer in charge of Mental Health, Department of Health- **Ex Officio member**
- Secretary, Department of Social Welfare- **Ex officio member**
- Secretary, Home Department- **Ex officio member**
- Secretary, Finance Department- **Ex officio member**
- Secretary Law Department- **Ex officio member**
- Member Secretary, Sikkim State legal Services Authority- **Ex officio member**
- HoD Psychiatry, New STNM Hospital- **Ex officio member**
- Eminent Psychiatrist- Non-official member
- Psychiatric Social Worker- Non-official member
- Clinical Psychologist- Non-official member
- Mental Health Nurse- non-official member
- Two Representatives of persons who have or had a mental illness- Non-official member
- Two representatives of caregiver of persons with mental illness or organisation representing caregivers- non-official member
- Two Representatives of NGOs providing services to persons with mental illness- Non-official member

C. Functions of the State Mental Health Authorities

S.No.	Functions of State Mental Health Authorities
1.	Registration of all MHEs in the State except those registered under the CMHA.
2.	Maintain and publish (including online) a register of such establishments.
3.	Develop quality and service provision norms for different types of MHEs in the State.
4.	Supervise all MHEs in the State.
5.	Receive complaints about deficiencies in provision of services.
6.	Register clinical psychologists, mental health nurses, and psychiatric social workers in the State to work as MHPs and publish the list of such registered MHPs as specified by the regulations of the SMHA.
7.	Train all relevant persons including law enforcement officials, MHPs and other health professionals about the provisions of the MHCA.
8.	Discharge other functions with respect to matters relating to mental health as the State Government decides.

Chapter X: Mental Health Establishments (65-72)

- Every person or organization who proposes to establish or run a MHE shall register with CMHA or SMHA.
- All Central Government MHE to apply to the CMHA in form B of CMHA rules with demand draft of 20,000 rupees drawn in favor of Chairperson, CMHA.
- Registration process is made simple and easy.
- Provisional Registration is issued within 10 days and is valid for 12 months.
- Permanent registration(within 30 days)

Chapter XI: Mental Health Review Board (Sec: 73-84)

- The State Authority shall by notification, constitute Boards in accordance as prescribed by the Central Government
- MHRBs - Ensure protection of the rights
- In Sikkim (as per notification no 44, H & FW 23-24 dated 14/8/23)
 - Legal Remembrance cum Law Secretary, Law Department- **CHAIRPERSON**
 - Sub-Divisional Magistrate, Gangtok District, District Collectorate- **MEMBER**
 - HOD Medicine, STNM- **Member**
 - HOD Psychiatry, STNM- **Member**
 - President Freedom Rehabilitation Centre, Tathangchen- **MEMBER**
 - President, Association of Social Health of India, Gangtok- **MEMBER**

**GOVERNMENT OF SIKKIM
HEALTH AND FAMILY WELFARE DEPARTMENT
TASHILING SECRETARIAT, GANGTOK**

No. 44 / H & FWD/ 2023-24

Dated: 14/8/2023

NOTIFICATION

In exercise of the powers conferred under section 73 and 74 of the Mental Health Care Act, 2017 (Act No. 10 of 2017), the State Mental Health Review Board is hereby constituted in the State of Sikkim, consisting of the following members; namely:-


- | | |
|---|---------------|
| 1. Legal Remembrancer cum Law Secretary, Law Department | : Chairperson |
| 2. Sub-Divisional Magistrate, Gangtok District, District Collectorate | : Member |
| 3. HoD Medicine, STNM Hospital, Sochakgang, Gangtok | : Member |
| 4. HoD Psychiatry, STNM Hospital, Sochakgang, Gangtok | : Member |
| 5. President, FREEDOM Rehabilitation Centre, Tathangchen | : Member |
| 6. President, Association of Social Health of India, Gangtok | : Member |

This supersedes previous Notification No. 87/HC, HS&FW/2018; Dated: 18.01.2018.

This is issued with the concurrence of Home Department and Law & Parliamentary Affairs Department.

By order and in the name of the Governor.




Tshewang Gyachho, SCS,
Secretary to the Government of Sikkim,
Health and Family Welfare Department.
[File No: 119/NCD/HC,HS&FW]

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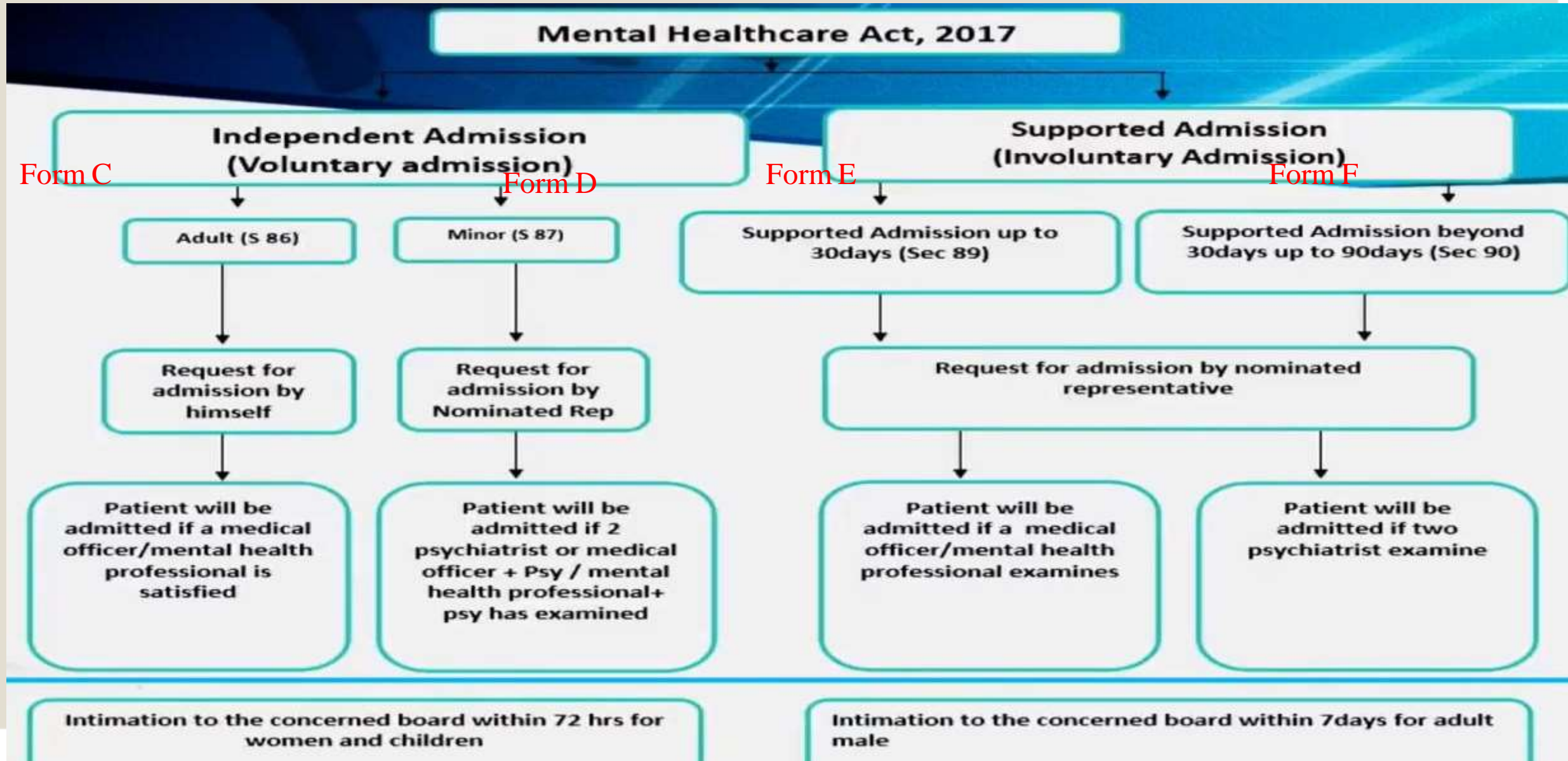
Power and Functions of MHRB

- Register, Review, Alter, Modify, Cancel Advance Directive;
- Appoint NR
- Receive & Decide On Applications In Respect To Non-disclosure Of Information, Complains From PWMI, MO, Nrs
- Address Applications And Dispose-
 - Within **7 Days** (In **10 Days** In NE)
 - Appointment Of NR
 - Challenged Admission Under 89 (Supported Admission)
 - Challenged Admission Of Minor Under 87 (Minor)

Power and Functions of MHRB

- Within **21 Days (30 Days For NE)**
 - Challenged Admission Under 90
 - Other Application Within **90 Days**
- Visit And Inspect Prison Or Jails And Seek Clarifications
- Any proceedings under MHRB is considered a legal proceedings
- Penalties for non-compliance
 - Upto 5 lakhs
 - Termination of MHE registered
- Can challenge MHRB decisions in HC

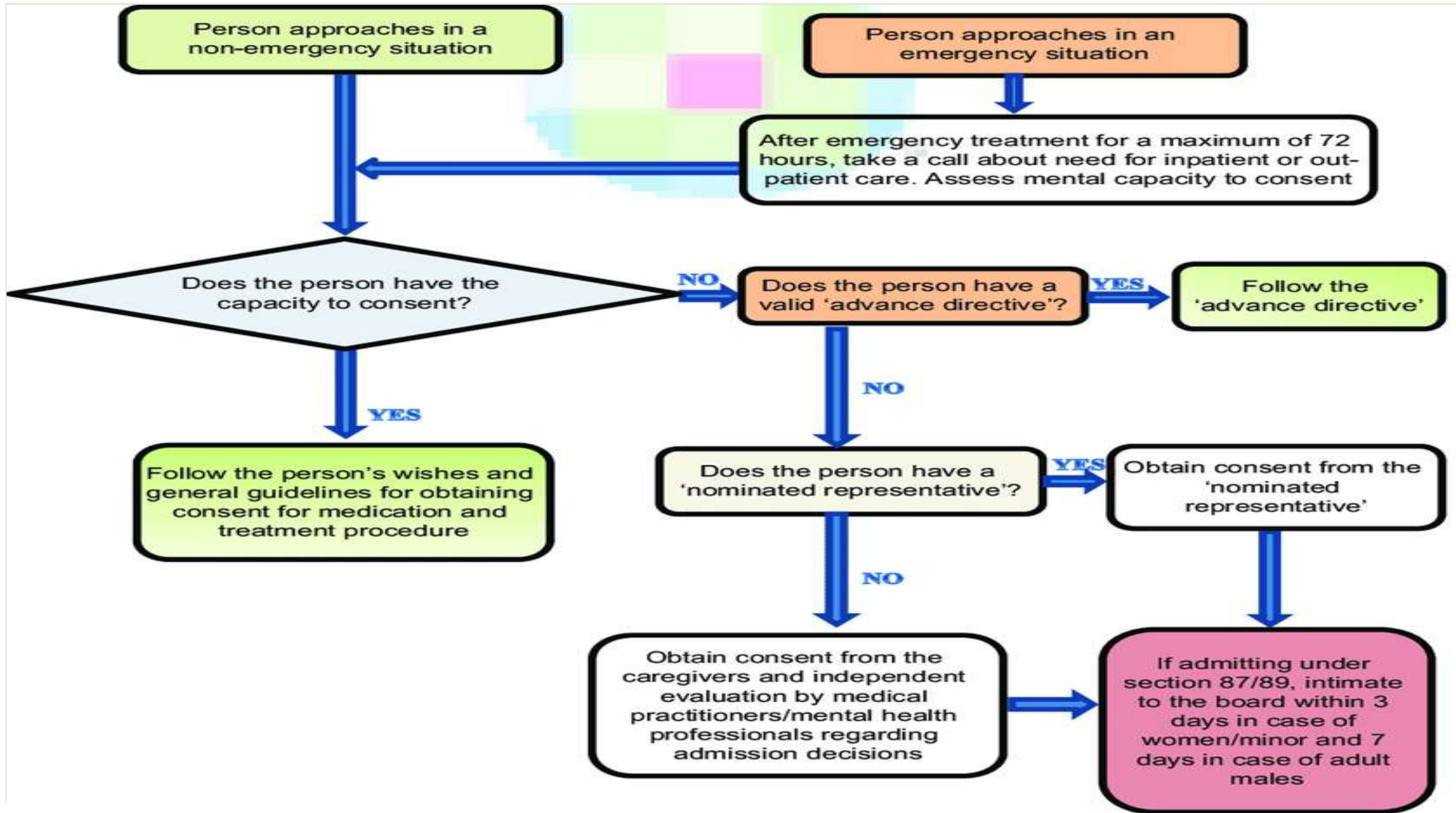
CHAPTER XII: Admission, Treatment and Discharge (S85-90)



Chapter XII: Admission, Treatment and Discharge

TYPES OF ADMISSION – MHA 2017

TYPE OF ADMISSION	SECTION
INDEPENDENT	SECTION 86
ADMISSION OF A MINOR	SECTION 87
SUPPORTED ADMISSION	SECTION 89
SUPPORTED ADMISSION > 30 days	SECTION 90



Independent Discharge S-88

- **On request by the patient admitted under S 86**
 - Application via Form G
 - In case of minor S 87- Application via Form H by NR
- **MHP can prevent** the discharge for 24 hours to assess the Mental Capacity.
- **Discharge Planning (S 98)** -Very essential, applicable for all type of admission.
- **Leave of absence(S-91)-**
 - ❖ The medical officer or mental health professional may grant leave to any person with mental illness admitted under section 87,89 or 90, to be absent from the establishment.
 - ❖ Application via Form I

EMERGENCY TREATMENT

- "Emergency Treatment" includes transportation of the person with mental illness to a nearest mental health establishment for assessment.
- **WHO CAN TREAT-** Any **Registered Medical Practitioner** subject to **informed consent** from the **NR**.
- **WHEN?** – When it's necessary to prevent
 - a) **Death or irreversible harm to health**
 - b) Person **inflicting serious harm to himself/ others**
 - c) Person causing **damage to property**.



Emergency Treatment (Sec 94)

- Any medical treatment, including treatment for MI, may be provided by any registered MP to a person with MI. either at a health establishment or in the community, and where it is immediately necessary to prevent-
 - (a) death or irreversible harm to the health of the person
 - (b) the person inflicting serious harm to himself or to others
 - (c) the person causing serious damage to property belonging to himself or to others where such behavior is believed to flow directly from the person's mental illness.
- Where the nominated representative is available, Informed Consent is to be taken.
- Limited to first 72 hours or till the person with mental illness has been assessed at a mental health establishment, whichever is earlier and may extend up to seven days during disaster or emergency declared by government.

PROHIBITED PROCEDURES:

ECT Without The Use Of Muscle Relaxants And Anaesthesia

Electro-convulsive therapy for minors

Sterilisation Of Men Or Women

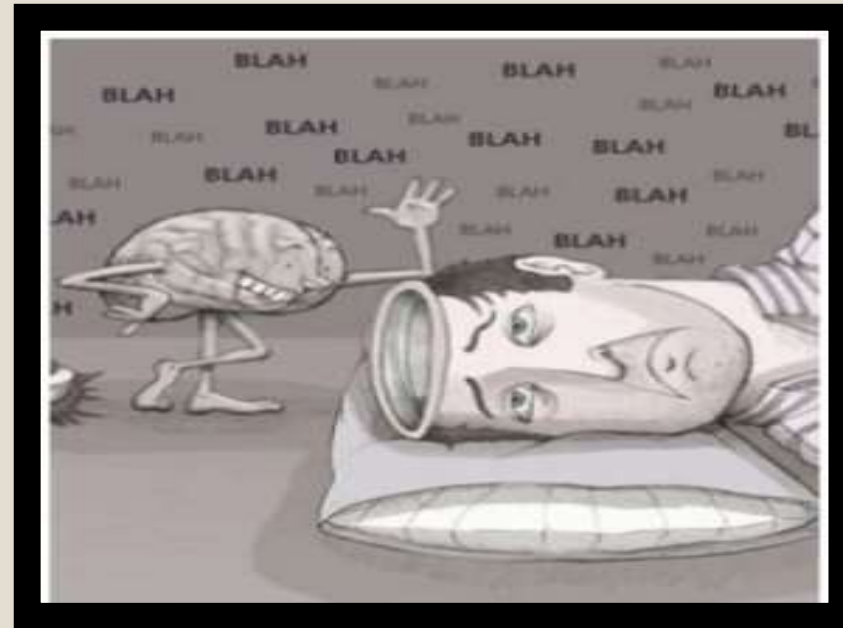


Chained In Any Manner Or Form Whatsoever



PSYCHOSURGERY

- Psychosurgery as treatment only with patient's informed Consent and Mental health Review Board or concerned.



Prohibited Treatment (Sec 95-96)

- (a) Electro-convulsive therapy without the use of muscle relaxants and anesthesia.
 - (b) Electro-convulsive therapy for minors.
 - (c) Sterilization of men or women, when such sterilization is intended as a treatment for mental illness
 - (d) Chained in any manner or form
-
- Restriction of psychosurgery for patients with mental illness (Chapter XII, Section 96). Should Apply and permission should be taken from the concerned MHRB before performing psychosurgery.

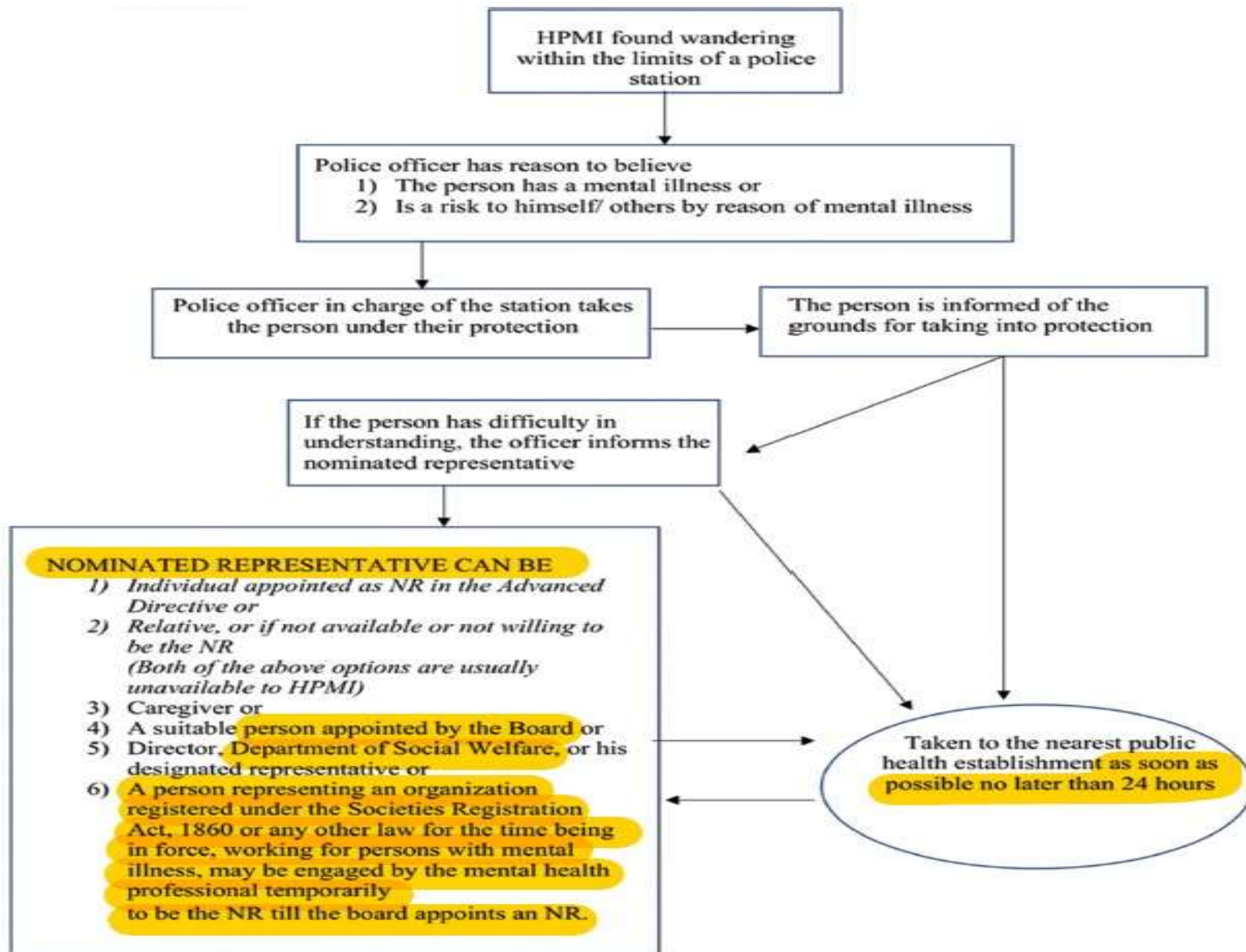
Use of Restraints And Seclusion(S- 97)

- **Seclusion or Solitary Confinement is prohibited.**
- **Physical Restraints-**
- It is the only means available to prevent imminent and immediate harm to person concerned or to others.
- It is authorized by the psychiatrist.
- During the period of restraints every vitals, symptoms progression is to be measured minutely.
- Physical restraint shall not be used for a period longer than it is absolutely necessary to prevent the immediate risk of significant harm
- The Nominated Representative shall be informed about every instance of restraint within a period of **twenty four hours**.
- The mental health professional in charge shall be responsible for ensuring that the method, nature, justification, and duration of restraint shall be recorded in medical notes.

Chapter XIII: Responsibilities of Other Agencies (Sec100-105)

Duties of police officers in respect of persons with MI (S-100)

1. To take under protection any person found wandering and believed to have mental illness or to be a risk to himself or others.
2. Police officer within 24 hours will take the person to a Public Health Establishment for assessment.
3. If medical assessment does not reveal mental illness, the person shall be taken to his residence or to a Government establishment if he is homeless.



Flowchart 1: Pathways to care for homeless persons with mental illness according to the Mental Healthcare Act of 2017. HPMI – Homeless person with mental illness; NR – Nominated representative

Chapter XIII: Responsibilities of Other Agencies (Sec100-105)

- In MHA 1987, it was not possible to discharge an homeless person with mental illness(**HPMI**) without a certificate from the District Court.
- In the MHCA 2017, the medical officer “informs” the police officer, who later, in accordance with the act, reintegrates him/her to the family or a government establishment for homeless persons (Section 100, Subsection 6).
- There is no involvement of the judiciary in either admission or discharge of **HPMI**

A police officer takes the homeless mentally ill to the public health establishment

Medical officer/Mental Health Professional
1. Arranges for the assessment of the person
2. Arranges for the NR

HPMI has a mental illness severe enough to warrant admission

HPMI has a mental illness but not severe enough to warrant admission

HPMI does not have a mental illness

Admits the HPMI for treatment

Medical officer/psychiatrist treats the person

A police officer takes the HPMI to the government establishment for a homeless person

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

- 1) Trace the family of such person and
- 2) Inform the family about the whereabouts of the person.

Flowchart 2: Stages of care of homeless persons with mental illness in the public health establishment. HPMI – Homeless person with mental illness; NR – Nominated representative

Chapter XIII: Report To Magistrate (Sec. 101)

- Any person who has reason to believe that a person has MI and is being ill-treated or neglected shall report to the police
- 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 MI and is being ill-treated or neglected will report to the magistrate.
- Report to magistrate of PWMI in a private residence who is ill-treated or neglected (Sec.101(3))
- The magistrate may cause the PWMI to be produced before him and pass an order in accordance with the provisions of (Sec 102)

Chapter XIII: Admitting PWMI (Sec102)

- Conveying or admitting PWMI to MHE by Magistrate.
- Public health establishment. Not exceeding 10 days.
- After the psychiatrist /MO needs to deal with such person in accordance with the provision of the Act (admit under sec. 86,89,90 depending on the situation).

CHAPTER XV

- It deals with penalty and punishment.
- Unauthorized institutions will be punished 5000-50000 for 1st time, up to 2 lakhs for the 2nd time.
- Any person who does the work against the Act are liable to give up to ten thousand rupees or six months of jail or both.



Chapter XV: Offences and Penalties (107-109)

- **Penalties for establishing or maintaining mental health establishment in contravention of provisions of this Act (S 107)**

- Whoever carries on a mental health establishment without registration:
 1. First contravention :5000/- to 50,000/-
 2. Second contravention :50,000 – 2,00000/-
 3. Subsequent contravention: 2 lakh to 5 lakh
 4. Whoever knowingly serves as a mental health professional in a mental health establishment without registration, shall be liable to a penalty of 25,000/- rupees.
 5. State Authority will adjudicate this section, not by MHRB.

Any person who contravenes any of the provisions of this Act (S108)

- First contravention – imprisonment for six months or fine of ten thousand rupees or with both.
- Subsequent contravention – imprisonment for two years or with a fine of fifty thousand to five lakh rupees or with both.

Offences by companies(S-109):

- Where an offence is committed by a company, every person who at the time the offence was in-charge of the company shall be deemed to be guilty.

Chapter XVI: Miscellaneous (110 -126)

- **Sec 110: Power to call for information.**
- **Sec 111: Power of Central Government to issue directions.**
- **Sec 112: Power of Central Government to supersede Central Authority.**
- **Sec 113: Power of State Government to supersede State Authority.**
- **Sec 114: Special provisions for States in Northeast and Hill states.**
- **Sec 115 :Presumption of severe stress in case of attempt to commit suicide**

Chapter XVI: Provision for Decriminalization of Suicide

- Section 115 of the act provides for de-criminalizing suicide attempts (Section 309 IPC).
- A person who attempts suicide shall be presumed to be suffering from severe stress at that time and will not be punished under IPC/BNS

CHAPTER XVI

Decriminalization of Suicide

- Any person who attempts to commit suicide shall be presumed to be suffering from mental illness at the time of attempting suicide and shall not be liable to punishment under this section. (i.e., dissolution of IPC 309)

	MHA 1987	MHCA 2017
Terminology	Mentally Ill Assylum	PWMI, MHE, MHP
Authorities	Government	CMHA, SMHA, MHRB
Focus	Law	Rights of PWMI
New Provisions		AD, NR, Emergency Treatment, Decriminalization of Suicide Banned Unmodified ECT and MECT to minors, Prohibition of unlawful restraint e.g. chaining;

Merits of the Act

- 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.
- The act states that every citizen has right to access mental health care and treatment from facilities run or funded by the appropriate government.
- It assures free treatment to those who are homeless or below poverty line.
- The Act includes substance use disorder (SUD) specifically in the definition of mental illness. This displays the intent of policymakers toward SUD.

- A person with mental illness will also have the right to confidentiality with respect to his mental health, mental health care and treatment.
- The bill mentions that every insurer shall make provisions for medical insurance for treatment of mental illness on the same basis is available for treatment on physical illness.
- It bans electroconvulsive therapy (ECT) without anesthesia and any type of ECT to children and restricts psychosurgery.
- It also empowers the mentally ill person to choose the treatment and appoint individual as nominated representatives who can take decisions on behalf of them.
- (*Math et al. 2019*)

Criticism: MHCA 2017

- Admission procedure has become more tedious.
- Availability and approachability of MHRB.
- The Act undermines the role of family members.
- Even when admission is involuntary, Psychiatrists need to take into account AD/ consent of NR/ assess capacity periodically and treat. This is time-consuming, resource-consuming, and a hindrance to patient care and discharge of duties by the psychiatrist.

LIMITATIONS:

- The act mentions that a six member mental review board formed by the states will take decisions on what treatments to offer at government facilities. “While the idea of board is good, to have only one psychiatrist to take decision is not sufficient.”
- Some psychiatrists are also concerned that giving all patients to choose forms of treatment could hamper the process.
- As this Act provides advance directives it increases the work of psychiatrist whose number is imeagre.

- This act mentioned establishing new improvised institutions without concerning about reforming already established institutions.
- The definition of mental health is too restrictive. Going entirely by this definition, disorders like conversion disorder, phobia, panic disorders and personality disorders, which are mental illnesses as per the International Classification of diseases (ICD 10), get excluded.
- Further adding to the confusion is section 2 of MHCA 2017, which states that the determination of Mental Illness is as per national or international guidelines like ICD or the Diagnostic and Statistical Manual (DSM).
- So there is a dilemma whether to follow the definition of MHCA 2017 or ICD 10 (*Math et al. 2019*)

*Thank
you!*



Present Status of Implementation

- Only 19 States have implemented the Mental Healthcare Act so far.
- There is a requirement of 13500 psychiatrists but only 3827 are available. Against the requirement of 20250 clinical psychologists only 898 are available.

REFERENCES

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Admission, Treatment and Discharge

- **INDEPENDENT ADMISSION**

- Any person who considers himself to have a mental illness and desires admission, who is not a minor.
- Admitted if the medical officer or Psychiatrist is satisfied that:
 - a) Mental illness or severity requiring admission
 - b) Patient should benefit from admission and treatment

Admission, Treatment and Discharge

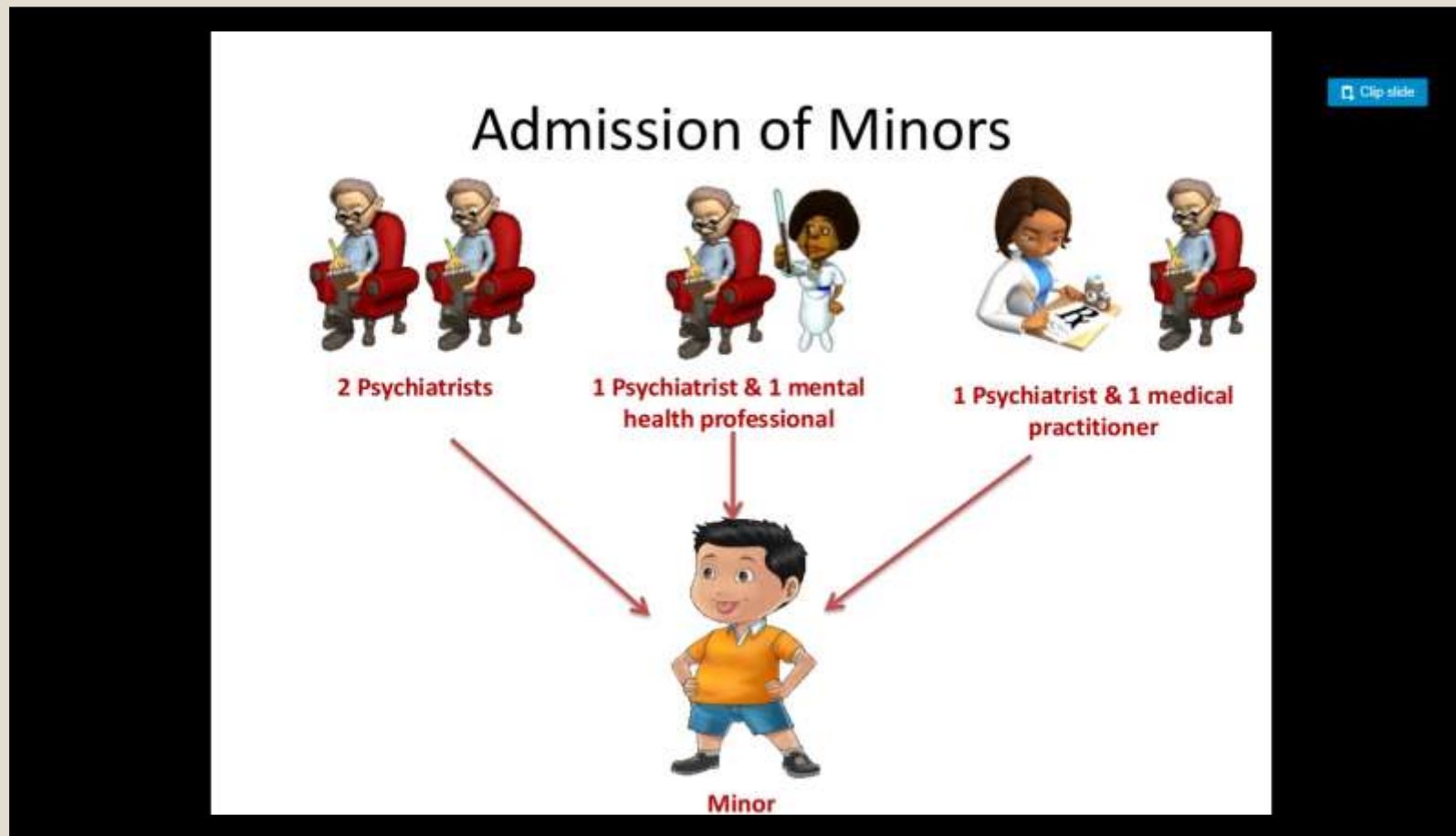
C) Request made is under **free will** and not under duress or undue influence, and has capacity to make mental health care decisions.

D) **Informed Consent**

E) **Bound** to the rules and regulations of the establishment.



ADMISSION OF MINOR



- Nominated representative to be with the **minor for the entire duration of admission.**
- Treatment for the minor with **Informed Consent of NR.**
- Any admission of a minor which continues for a period of **thirty days** shall be immediately informed to the concerned Board.



DISCHARGE OF INDEPENDENT ADMISSION

- On Request (DOR)
- Minor becoming Major under-in patient care, can decide as independent patient.



MHP may prevent the discharge of a person admitted as an independent person

under Section 86 for a period of **twenty-four hours** if—

- a) such a 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

MHP may prevent discharge of a person admitted as an independent person under Section 86 for a period of **twenty-four hours** if—

- c) behaved or is behaving violently towards another person or is causing another person to fear bodily harm from him
- d) showing an inability to care for himself to a degree that places the individual at risk of harm to himself.

Leave of Absence

- A PMI admitted maybe granted leave from the MHE by the psychiatrist After securing consent of **NR**.
- Power with the practitioner to terminate when appropriate to do so.
- If the PMI does not return- contact the person on leave, or NR

Absence without Leave or Discharge

If any person absents himself without leave or without discharge from the **MHE**:

- he shall be taken into protection by any Police Officer
- shall be sent back to the mental health establishment immediately.

Leave of Absence

The medical officer or mental health professional in charge of the mental health establishment may grant:

- Leave to any person with **MI**
- 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.