

MENTAL HEALTH ACT, 1987

(For care and rehabilitation of mentally ill person)

The Mental Health Act 1987 repeals Indian Lunacy Act 1912 and Lunacy Act, 1977 (Jammu & Kashmir) and extends to whole of India. Under this Act 1987, a "Mentally ill person" means a person who is in need of treatment by reason of any mental disorder other than mental retardation (Sub. sec. (1) of Sec. 2).

Psychiatric hospitals and nursing homes can be established or run only on obtaining a license from state or central authority for mental health services, and would be regulated for proper functioning and care of the mentally ill. Psychiatric services provided from a general hospital or nursing home would not be covered by the licensing and regulating rules (Sec. 3-10).

Patients admitted on voluntary basis, if they request for discharge, are obliged to be discharged by the medical officer in charge within 24 hours of receiving the request, provided the medical officer is convinced that the discharge will not harm the interest of the voluntary patient. In such case, the medical officer would constitute a Board of two medical officers and seek their opinion. If the Board is of the opinion that such voluntary patient needs further treatment in the psychiatric hospital or psychiatric nursing home, the medical officer shall not discharge the voluntary patient but continue his treatment for a period not exceeding 90 days at a time (Sub. sec. 3 of Sec. 18).

Admission to psychiatric hospital under special circumstances can also be made on request of a relative or friend of the patient if the patient is not in a position to express willingness for admission as voluntary patient, provided the medical officer in charge is satisfied that it is in the interest of the patient to do so. This application should be accompanied by two medical certificates (one from a medical officer who is working in governmental service) stating that the person has such mental illness and it requires inpatient observation and treatment (Sub. sec. 1 & 2 Sec. 19).

No person admitted on the request of another person can be kept in the mental hospital for more than 90 days unless admitted under a Reception Order (S.S.2/Sec. 19). Apart from voluntary admission, a mentally ill person can be admitted through Reception Order. An application for reception order may be made by the Medical Officer in charge of a mental hospital, by the spouse or by any other relative of the mentally ill patient for admission to the Magistrate. The application should be accompanied by two medical certificates from two

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independent medical practitioners certifying the need for admission for treatment, and that is in the interest, for personal safety of the patient, or that of others. The medical practitioners should have seen the patient within the last ten days prior to the application. The magistrate can pass the Reception Order or Rejection to the application, after personally reviewing the documents and personally examined the alleged mentally ill (unless for reasons which he considers expedient not to personally examine). The consideration of the application should be made in the presence of the applicant, the allegedly mentally ill person, and the person appointed by the allegedly mentally ill to represent him (Sec. 22). A Reception order is valid up to 30 days only or till discharged (Sec. 31).

A mentally ill patient admitted by relative or friend can also apply to the magistrate for discharge (Sub. sec. 3 of Sec. 19).

Detailed procedures are laid down for being taken into custody by the police, confinement and security of mentally ill persons or prisoners in a mental hospital (Sec. 23, 35).

Detailed procedures are laid down for ensuring proper care and custody to a mentally ill person by his legal relatives, through the police station (Sec. 25).

The Act provides for regular, through supervision of mental hospital and nursing homes by monthly joint inspection of three visitors designated by the Central or State authority for health services (Sec. 37).

Any person (other than a prisoner) admitted to a psychiatric hospital who feels he has recovered from his mental illness can apply for discharge to the magistrate, supported by a medical certificate from the medical officer in charge of the hospital (Sec. 43): he can be allowed to take leave from the hospital on request of his relatives or friends for a specified period (Sec. 45).

Detailed procedure of safety in hospital, or during leave or absence or transfer to the another hospital has been laid down in Secs. 45, 46, 47. Similarly safe custody and protection of property of the patients has been defined in Sec. 50-77. Physical or mental cruelty of mentally ill patients is forbidden. Similarly conduct of research on a mental patient is forbidden, unless voluntarily consent is obtained. The human rights of a mentally ill person

are protected under Sec. 81. Penalties and fines for contravening the provisions of the act have been discussed. (Secs. 82-87).

Comments

1. The Mental Health Act is one of the good legislations. It came into force in 1993 however it is enacted in 1987 which shows that the Act was given low priority.
2. Mental Health Authorities are formed as a watchdog bodies to assure the quality of services. Govt. and private psychiatric hospitals need to get license from these authorities. Practicing psychiatrists have raised objection for this because other branch of medicine do not have similar regulatory bodies to access the quality of care. At the same time psychiatric hospital may be one which is providing "total care" or general hospital may be providing specialised psychiatric care.
3. Role of judiciary in admission and discharge of psychiatric patients give an impression of criminal flavour (Dutta 1995).
4. There is a need of big investment in development of infrastructure and provision of basic facilities in mental hospital which is still largely ignored.
5. The Act excluded mental retardation, dementia etc. which can not be treated. But very fact is that these conditions need gentle mental care and excluding may be against human rights of these patients.
6. Power and duties of police officers in respect to certain mentally ill persons have been laid down in Chapter 4 part B (Sect 23), of the Act. But we can see many mentally ill patients wandering in public places in conditions of total neglect and squalor. This indeed is testimony to the fact that the way section 23 is presently put to use has failed to achieve the objectives of the Act.
7. "Voluntary admission" not always real voluntary rather misused. This need to be more specific and must have experts opinion on the subject.

References

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