

# *The Mental Healthcare Act, 2017*

- **What is Mental Health?**

Mental health, defined by the World Health Organization, is "a state of well-being in which the individual realises his or her own abilities, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to his or her community". The WHO stresses that mental health is "more than just the absence of mental disorders or disabilities". It is concerned with our emotional and psychological well-being and overall happiness, playing a tremendous impact on how we feel, think, and decide.

Some of the common mental illnesses include:

- Bipolar disorder
- Persistent depressive disorder
- Generalised anxiety disorder
- Major depressive disorder
- Obsessive-compulsive disorder
- Post-traumatic stress disorder (PTSD)
- Schizophrenia
- Social anxiety disorder

- **Why is Mental Health Essential?**

Mental health affects our overall well-being, making us who we are and shaping our thoughts and identity. Mental health is vital to create and maintain meaningful relationships and work productively, resulting in significant contributions being made by an individual to one's society.

Mental health is reflected in our physical health. Mental health is imperative at every stage of life, from childhood to adulthood. Nine hundred seventy million people worldwide have been reported to have a mental health disorder, but these are just known cases. Given the known underreporting and inadequate data coverage of mental health across most countries (but especially within lower-income nations), we may even consider this a minimum estimate. What is more, concerning is the stigma and discrimination attached to it by society, undermining these issues. People will never get the treatment they need if this is the situation.

- **What is the Mental Healthcare Act 2017?**

**An Act to provide for mental healthcare and services for persons with mental illness and protect, promote, and fulfil such persons' rights during delivery of mental healthcare and services and for matters connected in addition to that or incidental to that. This Act superseded the previously existing Act, The Mental Health Act 1987.**

**The current Act entails the following provisions, which have been revised from the previous Act:**

- **Decriminalising attempted suicide which was punishable under Section 309 of the Indian Penal Code.**
- **Fulfilling India's international obligation according to the Convention on Rights of Persons with Disabilities and its Optional Protocol.**
- **Recognising the agency of people with mental illness and allowing them to make decisions regarding their health, given that they have the appropriate knowledge to do so.**
- **Allowing insurers to make provisions for medical insurance for the treatment of mental illness on the same basis that is available for the treatment of physical ailments.**
- **Including the necessity of setting up mental health establishments across the country**
- **Creating a mental health review board that will act as a regulatory body for mental health-related industries.**
- **A person with mental illness shall not be subjected to seclusion or solitary confinement. Physical restraint may only be used in particular circumstances.**
- **Restricting the usage of electroconvulsive therapy (ECT), muscle relaxants and anaesthesia to only emergency cases. Further, ECT is prohibited from using on minors. Psychosurgery can only be performed with the informed consent of the patient.**
- **Requiring the government to set up the Central Mental Health Authority at the national level and State Mental Health Authority in every state where every mental health practitioner has to be registered.**

- **What are the responsibilities of agencies under this act?**

- A police officer shall report to the Magistrate if he/she has reason to believe that a mentally ill person is being ill-treated or neglected.
- Any wandering person will be taken under protection by a police officer and will be subjected to a medical officer's examination. Based on such review, they will be either admitted to a mental health establishment or be taken to his/her residence or an establishment for homeless persons.
- No person taken into protection shall be detained in the police lock-up or prison in any circumstances.
- If a person with mental illness is homeless or found wandering in the community, a First Information Report of a missing person shall be lodged at the concerned police station. The station house officer shall have a duty to trace the family of such a person and inform the family about the person's whereabouts.

- **What should be done in case of the violation of the above act?**

- Mental health entities that are not registered shall be liable to a penalty that may extend to ₹ 50,000 for the first infringement, up to ₹ 2 lakh for a second contravention, and up to ₹ 5 lakh at subsequent violations.
- A mental health professional working in a mental health establishment that is not registered under this Act shall be liable to a penalty that may extend to twenty-five thousand rupees.
- Where a company has committed an offence under this Act, every person who, at the time the crime 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.
- The punishment for violating provisions under this Act will be imprisonment up to 6 months or Rs: 10,000 or both. Repeat offenders can face up to 2 years in jail or a fine of Rs. 50,000–5 lakhs or both.
- Whoever fails to pay the amount of penalty, the State Authority may forward the order to the district's Collector, and if such a person owns any property or resides or

carries on his business or profession or where the mental health establishment is situated; the Collector shall recover from such persons or mental health establishment the amount specified there under as if it were an arrear of land revenue. All sums realised by way of penalties shall be credited to the Consolidated Fund of India.