

## **STATE MENTAL HEALTH RULES, 1990**

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## **STATE MENTAL HEALTH RULES, 1990**

In exercise of the powers conferred by the proviso to sub-section (2) of Section 94 of the Mental Health Act, 1987 (14 of 1987), read with S.22 of the General Clauses Act, 1987, the Central Government hereby makes the following rules, namely:-

### CHAPTER 1

#### Preliminary

#### **1. Short title and commencement :-**

- (1) These rules may be called the State Mental Health Rules, 1990.
- (2) They shall come into force in a State on the date of commencement of the Act in that State.

#### **2. Definitions :-**

In these rules unless the context otherwise requires;-

- (a) "Act" means the Mental Health Act, 1987 (14 of 1987);
- (b) "applicant" means the person who makes an application to the licensing authority for grant of a licence;
- (c) "Authority" means the State Mental Health Authority constituted under Section 4 of the Act;
- (d) "Chairman" means the Chairman nominated under Rule 5;
- (e) "Form" means Form annexed to these rules;
- (f) "licence" means licence granted under Section 8 of the Act;
- (g) "member" means a member of the Authority appointed under Rule 3 ;
- (h) "membership" means membership of the Authority established under Section 4 of the Act;
- (i) "non-official Member" means a member appointed under sub-rule (2) of Rule 3;
- ( j) "Official Member" means a member appointed under sub-rule

(1) of Rule 3;

(k) "Secretary" means Secretary to the Authority appointed under rule 13;

(l) Words and expressions used herein and not defined but defined in the Act shall respectively have the meanings assigned to them in the Act.

## CHAPTER 2

State Mental Health Authority

### **3. Constitution of the Authority :-**

The Authority shall consist of the following members, namely :-

(1) Official Members:

(a) Secretary, Department of Health;

(b) Joint Secretary, Department of Health dealing with Mental Health;

(c) Director of Health Services;

(d) Medical Superintendent, Government Mental Hospital or Head of the Department of Psychiatry, Government Medical College and Hospital.

(2) Non-official Members: Three members including one social worker, one Clinical Psychologist and one Medical Psychiatrist, who in the opinion of the State Government, have special interest in the field of Mental Health.

### **4. Disqualification :-**

A person shall be disqualified for being appointed as a member or shall be removed from membership by the State Government, if he,-

(a) has been convicted and sentenced to imprisonment for an offence which in the opinion of the State Government involves moral turpitude; or

(b) is an undischarged insolvent ; or

(c) is of unsound mind and stands so declared by a competent court ; or

(d) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government.

## **5. Chairman :-**

(1) The State Government may nominate any official member to act as the Chairman of the Authority.

(2) The Chairman shall cease to hold office when he ceases to be a member of the Authority.

## **6. Term of office of members :-**

(1) Every official member shall hold office as such member so long as he holds the office by virtue of which he was so appointed.

(2) Every non-official member shall hold office for a period of three years from the date of his appointment and shall be eligible for re-appoint- ment.

(3) A non-official member may at any time resign from membership of the Authority by forwarding his letter of resignation to the Chairman and such resignation shall take effect only from the date on which it is accepted.

(4) Where a vacancy occurs by resignation of a non-official member under sub-rule (3) or otherwise, the State Government shall fill the vacancy by appointing from amongst category of persons referred to in sub-rule (2) of Rule 3 and the person so appointed, shall hold office for the remainder of the term of office of the member in whose place he was so appointed.

(5) Where the term of office of any non-official member is about to expire, the State Government may appoint a successor at any lime within three months before the expiry of the term of such member but the successor shall not assume duty until the term of the member expires.

## **CHAPTER 3**

### **Proceedings of the Authority**

## **7. Meetings of the Authority :-**

(1) The Authority shall ordinarily meet once in every six months at such time and place as may be fixed by the Chairman: Provided that the Chairman-

(i) may call a special meeting at any time to deal with any urgent matter requiring the attention of the Authority;

(ii) shall call a special meeting if he receives a requisition in writing

signed by not less than four members and stating the purposes for which they desire the meeting to be called.

(2) The first meeting of the Authority to be held in any calendar year shall be the annual meeting for that year.

**8. Subjects for special meeting :-**

Where a meeting referred to in the proviso to sub-rule (1) of rule 7 has been convened, only the subjects for the consideration of which the meeting was convened, shall be discussed.

**9. Subjects for the Annual Meeting :-**

At the Annual Meeting of the Authority, the following subjects shall be considered and disposed of, namely :-

(a) Review of the progress of implementation of the various provisions of the Mental Health Act during the preceding one year;

(b) other business on the agenda, and

(c) any other business brought forward with the consent of the Chair- man or where he is absent with the consent of the Officer presid- ing at the meeting.

**10. Procedure for holding meetings :-**

(1) Every notice calling for a meeting of the Authority shall,-

(a) specify the place, date and hour of the meeting;

(b) be served upon every member of the Authority not less than twenty-one clear days in the case of annual meeting and fifteen clear days in the case of other meetings before the day appointed for the meeting.

(2) The Secretary shall prepare and circulate to the members alongwith the notice of the meeting, an agenda for such meeting showing the business to be transacted.

(3) A member who wishes to move a resolution on any matter included in the agenda, shall give notice thereof to the Secretary not less than seven days before the date fixed for the meeting.

(4) A member who wishes to move any motion not included in the agenda shall give notice thereof to the Secretary not less than fourteen days before the date fixed for the meeting.

**11. Proceedings of the Authority :-**

(1) The Chairman or in his absence any member authorised by him, shall preside at the meetings of the Authority.

(2) The quorum for the meeting of the Authority shall be four members.

(3) If within half an hour from the time appointed for holding a meeting of the Authority, quorum is not present, the meeting shall be adjourned to the sameday in the following week at the same time and place and the presiding officer of such meeting shall inform the members, present and send notice to other members.

(4) If at the adjourned meeting also, quorum is not present within half an hour from the time appointed for holding the meeting, the members present shall constitute the quorum.

(5) In the adjourned meeting if the Chairman is not present and no member has been authorised to preside at such meeting, the members present shall elect a member to preside at the meeting.

(6) Each member including the Chairman shall have one vote. In the case of an equality of votes, the Chairman or any member presiding over such meeting, shall in addition, have a casting vote.

(7) All decisions of the meeting of the Authority shall be taken by a majority of the members present and voting.

### **12. Approval by circulation :-**

Any business which may be necessary for the Authority to transact except such as may be placed before the annual meeting, may be carried out by circulation among all members and any resolution so circulated and approved by a majority of members shall be valid and binding as if such resolution had been passed at the meeting of the Authority.

### **13. Secretary to the Authority :-**

(1) The Chairman shall cause to be appointed a Secretary to the Authority from amongst persons possessing post graduate degree in Psychiatry and having three years; experience in the field of psychiatry.

(2) The Secretary shall be a full-time or part-time servant of the Authority and shall function as the Administrative Officer of the Authority.

(3) The Secretary shall be responsible for the control and

management of office accounts and correspondence.

(4) The Secretary shall attend and take notes of the proceedings of the meeting of the Authority.

(5) The Secretary shall cause to be appointed such members of the ministerial and non-ministerial staff which are essential for efficient functioning of the Authority.

(6) The Secretary shall exercise such other powers and discharge such other functions as may be authorised in writing by the Chairman for the efficient functioning of the Authority.

**14. Forwarding of copies of the proceedings of the Authority to the State Government :-**

The Secretary shall forward copies of the proceedings of the Authority to the State Government periodically.

CHAPTER 4

Licence

**15. Application for licence :-**

(1) Every application for a licence under sub-section (1) or sub-section (2) of Section 7 of the Act shall be,\_\_\_

(a) made to the licensing authority in Form I or Form II as the case may be;

(b) Accompanied by a fee of rupees two hundred in the form of a bank draft drawn in favour of the licensing authority.

**16. Grant of licence :-**

If the licensing authority is satisfied that the applicant fulfils the conditions laid down in clauses (a), (b) and (c) of Section 8 of the Act, it shall grant the licence in Form III.

**17. Refusal of licence and manner of communicating the order :-**

(1) If the licensing authority is satisfied that the applicant does not fulfil the conditions laid down in Section 8 of the Act, it may, after giving the applicant a reasonable opportunity of being heard against the proposed refusal of licence, by order setting out the reasons therein, refuse to grant the licence.

(2) Every order refusing to grant a licence under Section 8 , shall be communicated to the applicant by sending a copy of the order by registered post to the address given in the application.

(3) A copy of the order shall also be conspicuously displayed on the notice board of the office of the licensing authority. .

**18. Application for renewal :-**

Every application for renewal of a licence under sub-section (5) of Section 9 of the Act shall be,-

(a) made to the licensing authority in Form IV,

(b) accompanied by a fee of rupees one-hundred in the form of a bank draft drawn in favour of the licensing authority.

**19. Refusal of licence :-**

(1) If the licensing authority is satisfied that the conditions mentioned in the proviso to sub-section (5) of Section 9 of the Act are not attracted, it shall, renew the licence.

(2) If the licensing authority is of the opinion that the licence should not be renewed in view of the fact the conditions mentioned in the proviso to sub-section (4) of Section 9 are attracted, it may, after giving the applicant a reasonable opportunity of being heard against the proposed refusal of renewal of the licence, by order setting out the reasons therein, refuse to renew the licence.

(3) Every order refusing to renew the licence under the proviso to subsection (5) of Section 9 shall be communicated to the applicant by sending a copy of the order by registered post to the address given in the application for renewal.

**20. Manner and conditions of maintaining Psychiatric hospitals or Psychiatric nursing homes :-**

Every Psychiatric hospital or nursing home shall be maintained subject to the condition that,-

(A) such hospital or nursing home is located only in an area approved by the local authority;

(B) such hospital or nursing home is located in a building constructed with the approval of the local authority;

(C) the building, where such hospital or nursing home is situated, has sufficient ventilation and is free from any pollution which may be detrimental to the patients admitted in such hospital or nursing home;

(D) such hospital or nursing home has enough beds to

accommodate the patients;

(E) the nurses and other staff employed in such hospital or nursing home are duly qualified and competent to handle the work assigned to them;

,

(F) the supervising officer-in-charge of such hospital or nursing home is a person duly qualified having a post graduate qualification in Psychiatry recognized by the Medical Council of India.

### **21. Time for appeal :-**

(1) Any person aggrieved by the order of the licensing authority refusing to grant or renew a licence or revoking a licence, may prefer an appeal to the State Government, within sixty days of the communication of such order: Provided that the State Government may entertain an appeal preferred after the expiry of the period specified in sub- rule (1) if it is satisfied that the applicant was prevented by sufficient cause from preferring the appeal in time.

(2) The appeal shall be in 'Form V' and shall be sent to the State Government by registered post or by appearing in person before and delivering the same to the Secretary to State Government, Department of Health or any other officer nominated by him in this behalf.

(3) Every appeal shall be accompanied with a fee of rupees five hundred.

### **CHAPTER 5**

Psychiatric Hospital and Nursing Home

### **22. Minimum facilities for treatment of out-patients :-**

The minimum facilities required for every psychiatric hospital or psychiatric nursing home for treatment of patients mentioned in Section 14 of the Act shall be as follows:-

<sup>1</sup> (1) Staff for Medical Hospital or Nursing home with hundred beds or functions thereof :-

(a) One full time qualified Psychiatrist.

(b) One Mental Health Professional Assistant (Clinical) Psychologist or Psychiatric Social Worker.

(c) Staff Nurses in the nurse: patient ratio 1:10.

(d) Attenders in the Attendant: patient ratio 1:5.

(e) Medical Officers having recognized M.B.B.S. degree: Patient ration of 1:50.

(2) Physical features.-Adequate floor space depending on the number of beds shall be provided.

(3) Support facilities.-The minimum support/facilities shall be as under:-

(a) Provision for emergency care for out-patients and for handling medical emergencies for out-patients and in-patients;

(b) A well equipped Electro Convulsive Therapy facility;

(c) Psychodiagnostic facilities;

(d) Provision for recreational/rehabilitation activities ; and

(e) Facilities for regular out-patient care.

In rule 22, for sub-rule (1) substituted in place of :- "(1) Staff for 10 bedded hospital or nursing home.- (a) One full time qualified Psychiatrist. (b) One Mental Health Professional Assistant (Clinical) Psychologist or Psychiatric Social Worker. (c) Staff Nurses in the nurse: patient ratio 1:3. (d) Attenders in the attendant: patient ratio 1:5." by the STATE MENTAL HEALTH (AMENDMENT) RULES, 2007, ON [Noti. No. F.No. V. 15011/1/2003-PH, dated on 31st May, 2007-Gaz. Of India, Exty., Pt. II-Sec. 3(i), No.252, dated on 31st May, 2007, p.1]=2007 CCS/P571/H.231].

### **23. Revocation of licence :-**

(1) Where the licensing authority is satisfied that the licence of any psychiatric hospital or nursing home is required to be revoked in pursuance of clause (a) or (b) of sub-section (1) of Section 11 of the Act, it may, after giving the licensee a reasonable opportunity of being heard against the proposed revocation, by order setting out the grounds therein, revoke the licence.

(2) Every order revoking the licence under sub-rule (1) shall be communicated to the licensee by sending a copy of the order by registered post to the address given in the application.

(3) A copy of the order shall also be conspicuously displayed on the notice board of the office of the licensing authority and in the psychiatric hospital or nursing home.

### **24. Maintenance of records :-**

'Every Psychiatric hospital or a psychiatric nursing home shall maintain the records of the treatment of patient in Form VI.

#### CHAPTER 6

Miscellaneous

### **25. Admission and detention in Psychiatric Hospital or Psychiatric Nursing Home :-**

(1) Application by Medical Officer-in-charge.

(a) The application for reception order may be made by the Medical Officer-in-charge of a Psychiatric hospital or psychiatric nursing home in 'Form VII' or

(b) by the husband, wife or any other relative of the mentally ill person in Form 'VIII'.

(2) Application from husband or wife.

(a) Every application by the husband or wife, relative or friend by a person who is alleged to be mentally ill shall be accompanied by necessary medical certificates;

(b) Such application shall be signed either by the husband or wife or a relative or a friend as the case may be, and verified by two independent witnesses;

(c) The name, address, occupation and other details of all the applicants and the attesting witnesses shall be clearly given in such application.

### **26. The qualifications and functions of the visitors :-**

(1) The qualifications of persons to be appointed as visitors under Section 37 of the Act shall be as follows:-

(a) A degree in Medicine with post graduate degree in psychiatry awarded by any University in India recognised, by the Medical Council of India and having at least ten years' standing in the profession, who has held/is holding the post of Medical Superintendent/Professor in psychiatric hospital or psychiatric wing of a hospital; or

(b) Experience as a social worker/clinical psychologist/psychiatric nurse connected with any mental hospital for a period of not less than ten years.

(3) The visitors appointed by the Government under Section 37 of

the Act shall be responsible for-

- (a) review of admission and discharge of patients;
- (b) inspection of the wards, outdoor patient department and kitchen;
- (c) facilities to be provided;
- (d) suggestion for improvement and
- (e) functioning as liaison officer between the Government and hospital.

**27. Leave or absence :-**

Every application, by relative or any other person on behalf of the patient for leave or absence under Section 45 of the Act shall be made in 'Form IX'.

**28. Interception of the letters and other communications addressed to the mentally ill persons :-**

(1) No letter or other communication addressed to a mentally ill person intended for delivery either through the postal department or otherwise shall be intercepted, detained or destroyed except under following circumstances, namely-

(i) any letter or other communication intended for delivery to a mentally ill person shall be opened only if the person having the supervisory control over the hospital or nursing home is of the opinion that such letter or communication contain any information or material which if communicated to such patient will be detrimental to his health; or

(ii) that the interception, detention or destruction of any letter or communication intended to be delivered to the mentally ill person is necessary in the interests of the public or the State.