

MINISTRY OF HEALTH AND FAMILY WELFARE
(DEPARTMENT OF HEALTH AND FAMILY WELFARE)

NOTIFICATION

New Delhi, the 29th May, 2018

G.S.R.508 (E).—In exercise of the powers conferred by the proviso to sub-section (2), read with sub-sections (1) and (4) of section 121 of the Mental Healthcare Act, 2017 (10 of 2017), the Central Government hereby makes the following rules, namely:—

CHAPTER – I

PRELIMINARY

1. Short title, extent and commencement.— (1) These rules may be called the Mental Healthcare (State Mental Health Authority) Rules, 2018.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. Definitions. – (1) In these rules, unless the context otherwise requires, -
 - (a) “Act” means the Mental Healthcare Act, 2017 (10 of 2017);
 - (b) “Form” means a Form appended to these rules;
 - (c) “non-official member” means a member of the State Authority nominated under clauses (g) to (n) of sub-section (1) of section 46 of the Act;
 - (d) “section” means section of the Act.

(2) The words and expressions used herein and not defined, but defined in the Act or, as the case maybe, in the Indian Medical Council Act, 1956 (102 of 1956) or in the Indian Medicine Central Council Act, 1970 (48 of 1970), in so far as they are not inconsistent with the provisions of the Act, shall have the meanings as assigned to them in the Act or, as the case may be, in those enactments.

CHAPTER II

STATE MENTAL HEALTH AUTHORITY

3. Nomination of *ex officio* members of State Authority.— (1) The State Government shall nominate Secretary or Principal Secretary in the Department of Health as Chairperson of the State Authority under clause (a) of section (1) of section 46 .
(2) The State Government shall nominate Joint Secretary in charge of mental healthcare in the Department of Health, the Director of Health Services or Director of Medical Education and Joint Secretary in the Department of Social Welfare as *ex officio* members of the State Authority respectively under clauses (b), (c) and (d) of sub-section (1) of section 46 .
(3) The State Government shall nominate three persons, not below the rank of Joint Secretary in the Departments of Home, Finance and Law, to be *ex officio* members of State Authority under clause (e) of sub-section (1) of section 46 .
4. Norms for selection of non-official members of State Authority.— A person shall not be selected as a non-official member of State Authority unless, he—

- (a) is an Indian National;
- (b) is of the age not exceeding sixty-seven years;
- (c) possesses qualification and experience as specified in rule 5.

5. Qualification and experience of non-official members of State Authority.— (1) The State Government shall nominate one person who is an eminent psychiatrist as a member of the State Authority under clause (g) of sub-section (1) of section 46 .

(2) The State Government shall nominate one mental health professional, one psychiatric social worker, one clinical psychologist and one mental health nurse, having a minimum of fifteen years' experience in their respective fields and registered as mental health professionals with the State Authority, as members of the State Authority respectively under clauses (h), (i), (j) and (k) of sub-section (1) of section 46 .

(3) The State Government shall nominate two persons each from the following categories as members of the State Authority respectively under clauses (l), (m) and (n) of sub-section (1) of section 46 , namely: —

- (a) persons representing persons who have or have had mental illness;
- (b) persons representing care-givers of persons with mental illness or organisations representing care-givers; and
- (c) persons representing non-governmental organisations which provide services to persons with mental illness.

6. Invitation of application for the posts of non-official members of State Authority.— A vacancy for the post of non-official member of the State Authority shall be given wide publicity through open advertisement in at least two daily newspapers (one English and one local language) having wide circulation in the State and the advertisement shall also be made available on the website of the Department of Health.

7. Selection Committee for nomination of non-official members of State Authority.— The Selection Committee for nomination of non-official members of the State Authority shall consist of a Chairperson who shall be the Chairperson of the State Authority and two independent experts of eminence in the field of mental healthcare, to be nominated by the State Government.

8. Procedure for nomination of non-official members of State Authority.— (1) The Selection Committee constituted under rule 7 shall consider all applications received by the Department and scrutinize such applications which fulfill the requirements of section 46 and rules 4 and 5.

(2) The Selection Committee shall, having regard to the provisions of the Act and these rules, decide about the suitability of the applicants for being selected as members of the State Authority:

Provided that in case of persons to be nominated under sub-rule (3) of rule 5, preference shall be given to the persons with ten years of experience in dealing with persons with mental illness.

(3) The State Government shall nominate the persons selected by the Selection Committee as members of the State Authority.

9. Term of office and allowances of non-official members of State Authority.— (1) Every non-official member nominated under rule 8 shall hold his office for a term of three years at a time from the date of his nomination.

(2) Every non-official member attending the meeting of the State Authority shall be entitled to sitting allowance, travelling allowance, daily allowance and such other allowances as are applicable to non-official members of the Commissions and Committees of the State Government attending the meeting of such Commission or Committee.

10. Furnishing of information.-- The State Government may call for information concerning the activities of the State Authority or the Board periodically or as and when required by it and the State Authority or the Board, as the case may be, shall furnish such information in Form-A.

CHAPTER III

PROVISIONAL REGISTRATION OF MENTAL HEALTH ESTABLISHMENTS BY STATE AUTHORITY

11. Procedure for provisional registration of mental health establishments by State Authority.—(1) Every mental health establishment in a State, except the mental health establishment under the Control of the Central Government, shall be registered with the State Authority.

(2) Every mental health establishment referred to in sub-rule (1) shall submit an application for provisional registration to the State Authority in Form-B, containing details as specified therein, along with a fee of rupees twenty thousand by way of a demand draft drawn in favour of the Chairperson, State Mental Health Authority payable at the place where the State Authority is situated.

(3) The State Authority shall, on being satisfied that the mental health establishment fulfils all the requirements as specified in sections 65 and 66, grant to such mental health establishment, a provisional registration certificate in Form-C.

12. Validity and renewal of certificate of registration.-- The provisional registration certificate granted under sub-rule (3) of rule 11 shall be valid for a period of twelve months from the date of such grant and an application for renewal of such certificate shall be made in Form-B within thirty days before the date of expiry of the period of validity of such certificate and in case application is not made within the specified period, the mental health establishment concerned shall be liable to pay renewal fee of rupees twenty thousand by way of a demand draft drawn in favour of the Chairperson, State Mental Health Authority payable at the place where the State Authority is situated.

13. Issue of duplicate certificate.-- Where a certificate of registration granted to a mental health establishment is destroyed or lost or mutilated or damaged, the State Authority may issue a duplicate certificate on an application made by such establishment along with a fee of rupees two thousand by way of a demand draft drawn in favor of the Chairperson, State Mental Health Authority payable at the place where the State Authority is situated.

14. Maintenance of digital register.-- A category-wise register in Form-D of all registered mental health establishments shall be maintained by the State Authority in digital format in accordance with the provisions of section 71.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

15. Accounts and audit of State Authority.-- (1) The State Authority shall maintain accounts of its income and expenditure relating to each year and prepare an annual statement of accounts consisting of income and expenditure account and the balance sheet.

(2) Annual statement of accounts shall be submitted for audit not later than 30th June each year in the common accounting format prescribed from time to time by the Ministry of Finance for the central autonomous bodies or as nearer thereto as the circumstances admit.

(3) The annual statement of accounts prepared under sub-rule (1) shall be signed on behalf of the State Authority by the officer in-charge of accounts and the Chief Executive Officer and shall be approved by the State Authority.

16. Annual report of the State Authority. – (1) The State Authority shall prepare its annual report in Form-E and forward it to the State Government within nine months of the end of the financial year for being laid before each House of State Legislature.

(2) The annual report shall give a full account of the activities of the State Authority during the previous year and shall include the audited accounts of the year and the report of the Comptroller and Auditor General of India thereon.

CHAPTER V

AUDIT, INSPECTION AND ENQUIRY OF MENTAL HEALTH ESTABLISHMENTS

17. Audit of mental health establishments.– (1). The State Authority shall, for the purpose of conducting audit of registered mental health establishments in the State, authorize one or more of the following persons to ensure that such mental health establishments comply with the minimum standards specified under the Act, namely:—

- (a) a representative of the District Collector or District Commissioner of the district where the mental health establishment is situated;
- (b) a representative of the State Human Rights Commission of the State where the mental health establishment is situated;
- (c) a Psychiatrist who is in Government service;
- (d) a Psychiatrist who is in private practice;
- (e) a mental health professional who is not a psychiatrist;
- (f) a representative of a non-governmental organization working in the area of mental health;
- (g) representatives of the care-givers of persons with mental illness or organisations representing care-givers; and
- (h) representatives of the persons who have or have had mental illness.

(2) For conducting audit of registered mental health establishment, the State Authority shall charge a fee of rupees ten thousand by way of a demand draft drawn in favour of the Chairperson, State Mental Health Authority payable at the place where the Authority is situated.

18. Inspection and inquiry of mental health establishments.—(1) The State Authority may, suo moto or on a complaint received from any person with respect to non-adherence of minimum standards specified by or under the Act or contravention of any provision thereof, order an inspection and inquiry of any mental health establishment, to be made by one or more of the following persons, namely:—

- (a) a Psychiatrist in Government service;

- (b) a Psychiatrist in private practice;
- (c) a mental health professional who is not a psychiatrist;
- (d) a representative of a non-governmental organization working in the area of mental health;
- (e) a police officer in charge of the police station under whose jurisdiction, the mental health establishment is situated;
- (f) a representative of the District Collector or District Commissioner of the district where the mental health establishment is situated.

(2) The State Authority or the person authorized by it under sub-rule (1) may, if it has reasons to believe that a person is operating a mental health establishment without registration or is not adhering to the minimum standards specified by or under the Act or has been contravening any of the provisions of the Act or the rules and regulations made thereunder, enter and search such mental health establishment.

(3) During search, the State Authority or the person authorized by it may require the mental health professional in charge of the mental health establishment to produce the original documents relating to its registration with the State Authority and it shall be obligatory on the part of the mental health establishment to produce such documents.

(4) Within two days of completing search of the mental health establishment under sub-rule (3), a written report of the findings of such search shall be submitted to the Chairperson of the Authority.

(5) The Chairperson of the State Authority, shall, on receipt of the written report under sub-rule (4), take such action as it deems fit, against the defaulting mental health establishment in accordance with the provisions of the Act.

Form-A

[See rule 10]

INFORMATION ON THE ACTIVITIES OF THE STATE AUTHORITY/ BOARD

1. New Regulations notified:
2. Number of orders passed during the year:
3. Meetings held during the year:
4. Number and details of mental health establishments under the control of the State Government:
5. Number and details of mental health establishments in the State or Union Territory:
6. Registration of mental health professionals by the State Authority:
7. Statement on references received from the Central Government and the State Government and action taken thereon:
8. Quality and service provision norms for different types of mental health establishments under the State Government:
9. Training imparted to persons including law enforcement officials, mental health professionals and other health professionals about the provisions and implementation of the Mental Healthcare Act, 2017:
10. Applications for registration of mental health establishments received, accepted and rejected along with reasons for such rejection:
11. Audit of Mental Health Establishments along with audit reports:
12. Complaints received regarding violation of rights of Mentally ill persons and action taken thereon
13. Details regarding guidance document for medical practitioners and mental health professionals
14. Number of cases registered regarding Sexual Harassment of Women at Workplace under section 22 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and details thereof:
15. Details of inspection and inquiry of Mental Health Establishments:
16. Number of appeals to High Court against order of Authority and status thereof:
17. Complaints received regarding deficiencies in provision of services and action taken thereon:
18. Stakeholders Consultations:
19. Inquiry initiated by the Authority/Board:
20. Administration and establishment matters:
21. Budget and Accounts with details including balance sheet, income and expenditure account, etc.:
22. Any other matter which may be relevant:

Form-B

[See rules 11(2) and 12]

APPLICATION FOR GRANT OF PROVISIONAL REGISTRATION/ RENEWAL OF PROVISIONAL
REGISTRATION OF A MENTAL HEALTH ESTABLISHMENT

To

The.....
 Department of
 State Government of

Dear Sir/ Madam,

I/we intend to apply for grant of provisional registration/ permanent registration/ renewal of provisional registration for the Mental Health Establishment namely of which I am/we are holding a valid licence/registration for the establishment/ maintenance of such hospital/nursing home. Details of the hospital/nursing home are given below:

1. Name of applicant
2. Details of licence with reference to the name of the authority issuing the licence and date.....
3. Age
4. Professional experience in Psychiatry
5. Permanent address of the applicant
6. Location of the proposed hospital /nursing home
7. Address of the proposed nursing home/hospital
8. Proposed accommodations:
 - (a) Number of rooms
 - (b) Number of beds
 - (c) Facilities provided:
 - (d) Out-patient
 - (e) Emergency services
 - (f) In-patient facilities
 - (g) Occupational and recreational facilities
 - (h) ECT facilities (n X-Ray facilities
 - (i) Psychological testing facilities
 - (j) Investigation and laboratory facilities
 - (k) Treatment facilities

Staff pattern:

- (a) Number of doctors
- (b) Number of nurses
- (c) Number of attendees
- (d) Others

I am herewith sending a bank draft for Rs..... drawn in favour of..... as application fee.

I hereby undertake to abide by the rules and regulation of the Mental Health Authority.

I request you to consider my application and grant the licence for establishment/ maintenance of psychiatric hospital/nursing home.

Yours faithfully

Signature.....

Name.....

Date.....

Form-C

[See rule 11(3)]

CERTIFICATE OF PROVISIONAL REGISTRATION/ RENEWAL OF PROVISIONAL REGISTRATION

The State Authority, after considering the application dated.....submitted by.....under section 65 (2) or section 66 (3) or section 66(10) of the Mental Healthcare Act, 2017, hereby accords provisional registration/renewal of provisional registration to the applicant mental health establishment in terms of section 66 (4) or section 66 (11), as per the details given hereunder:

Name: _____

Address _____

No of beds _____

The provisional registration certificate issued, is subject to the conditions laid down in the Mental Healthcare Act,2017 and the rules and regulations made there under and shall be valid for a period of twelve months from the date of its issue and can be renewed.

Place

Date

Registration Authority

Seal of the Registration Authority

FORM – D

(See rule 14)

Register of Mental Health Establishments

(in digital format)*

Category

Sl. No.	Name and Address of the applicant	Name of the establishment and address	Date of the application	Date and particulars of Registration	No. of beds	Remarks

*Separate table for each category of mental health establishment.

Form-E


[See rule 16 (1)]

Annual Report of State Authority

1. Introduction
2. Profile of the Authority's Members
3. Scope of Regulation
4. New Regulations/procedures etc. notified/issued
5. Orders passed by the Authority
6. Meetings of the State Mental Health Authority held during the year
7. Mental health establishments under the control of the State Government
8. Mental health establishments in the State
9. Registration of mental health professionals by the State Authorities
10. A statement on references received from Central and State Governments and action taken thereon
11. A statement on references sent to the Central and State Governments and action taken thereon by the respective Governments
12. Quality and service provision norms for different types of mental health establishments under the State Government
13. Supervision of mental health establishments under the State Government and action taken on the complaints received about deficiencies in provision of services therein
14. Training imparted to persons including law enforcement officials, mental health professionals and other health professionals about the provisions and implementation of the Mental Healthcare Act, 2017
15. Applications for registration of mental health establishments received, accepted and rejected along with reasons for such rejection.
16. Audit of Mental Health Establishments
17. Complaints received regarding violation of rights of Mentally ill persons and action taken thereon
18. Details regarding guidance document for medical practitioners and mental health professionals
19. Implementation of RTI Act, 2005
20. Details regarding Sexual Harassment of Women at Workplace under Section 22 of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.
21. Inspection and Inquiry of Mental Health Establishments
22. Appeals to High Court against order of Authority and status thereof
23. Status of review of use of advance directives and recommendations of the Authority in respect thereof.
24. Complaints received about deficiencies in provision of services and action taken thereon.
25. Stakeholders Consultations
26. Inquiry initiated by the Authority
27. Administration and establishment matters
28. Annual accounts
29. Any other matter which in the opinion of the Authority needs to be highlighted

[F. No. V-15011/09/2017-PH-I (iii)]

LAV AGARWAL, Jt. Secy.

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