



Chapter-XIV Legal issues in Mental Health Nursing

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SPECIFIC OBJECTIVES

- > Define the Mental Health Act-1987.
- > Enlist the reasons for enactment of mental health act.
- > Discuss the objectives of Indian Mental Health Act.
- > Explain the salient features of the Act in detail.
- > Explain the Mental Health Care Bill-2013
- > List down the chapters of Mental Health Care Bill-2013.
- > Discuss the basic rights of Mentally ill patient.
- > Explain the legal responsibility of mentally ill patient.
- > Discuss the roles and responsibilities of a nurse during admission and discharge procedure.
- > Explain the legal responsibility of a nurse.

INDIAN MENTAL HEALTH ACT

- > The Indian Mental Health Act was drafted by the parliament in 1987, but it came into effect in all states and Union Territories of India in April 1993. This act replaces the Indian Lunacy Act of 1912.



REASON FOR ENACTMENT

- The attitude of the society towards the mentally ill
- It has become outmoded with the rapid advancement of medical sciences



OBJECTIVES OF THE IMHA

- To regulate admission into psychiatric hospitals and psychiatric nursing homes.
- To protect society from the presence of mentally ill persons.
- To protect citizens from being detained in psychiatric hospitals/nursing homes without sufficient cause.
- To regulate maintenance charge of psychiatric hospitals.



- ❑ To provide facilities for establishing guardianship of mentally ill person who are incapable of managing their own affairs.
- ❑ To establish central and state authorities for mental health services.
- ❑ To regulate powers of the government for establishing, licensing and controlling psychiatric hospitals.
- ❑ To provide legal aid to mentally ill persons



SAILENT FEATURES OF THEACT

□ **Chapters- 10**

> **Sections- 98**



CHAPTER I

> It contains preliminary information. Some definitions included in this are:

Psychiatric hospital/Nursing Home

> Mentally ill Person

Psychiatrist

Reception order



Outdated definitions are changed based on newer concepts and knowledge:

Old term

Lunatic

Lunatic Asylum

Criminal lunatic

New term

Mentally ill person

Psychiatric hospital

Mentally ill prisoner



CHAPTER II

- Establishment of central and state authorities for regulations and coordinations of mental health services.



CHAPTER III

- > It provides guidelines for establishment and maintenance of psychiatric hospitals/nursing homes.



CHAPTER IV

- > It deals with the procedures for admission and detention in psychiatric hospitals/nursing homes.



TYPES OF ADMISSION

VOLUNTARY ADMISSION

Request by a major/guardian of the minor for admission to medical officer



Medical officer makes enquiries within 24



hours If the medical officer is satisfied for

admission Voluntary admission is made

ADMISSION UNDER SPECIAL CIRCUMSTANCES

Patient is unwilling or unable to make request admission, a relative makes an application to the medical officer on behalf of the patient.

↓
Medical officer makes enquiries within 24 hours

↓
If the medical officer is satisfied for admission

↓
Involuntary admission is made

ADMISSION UNDER AUTHORITY OR ORDER:

- Reception order on application
- > Reception order on production of a mentally ill person before a magistrate
- Reception order after inquest
- > Admission and detention of a mentally ill prisoner.

Reception Order On Application:

Application is made by a relative/friend to
the magistrate



Application should be supported by two
medical certificates



magistrate obtains consent from the medical
officer-in-charge of mental hospital



Admission under reception order is made

Reception Order On Production Of A Mentally Ill Person Before A Magistrate

Mentally ill patient exhibiting violent behavior
detained by police officer



Produced in the court within 24 hours of
detention



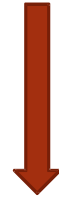
Application is supported by two medical
certificates



Magistrate issue reception order

Reception Order After Inquest

Inquest of a mentally ill patient by district court



In the interest of such person district court
directs for admission



Admission is made

Admission And Detention Of A Mentally Ill Prisoner

A mentally ill prisoner may be admitted into mental hospital on the order of the presiding officer or a court.

CHAPTER V

It deals with the procedure to be followed for the discharge of mentally ill persons.



VOLUNTARY DISCHARGE:

Medical officer in-charge of psychiatric hospital on recommendation from two medical practitioners preferably a psychiatrist, can issue directions for discharge of the patient.

DISCHARGE OF A PATIENT ADMITTED UNDER SPECIAL CIRCUMSTANCES

A relative or a friend may make an application to the medical officer for care and custody of the patient.

DISCHARGE OF PATIENT ADMITTED ON RECEPTION ORDER:

- > An applicant who feels that the patient has recovered from illness may make an application for discharge to the magistrate.
- > A certificate should accompany such as an application from medical officer in-charge of the psychiatric hospital.
- > If the magistrate deems fit, he may issue an order for discharge.

DISCHARGE OF A PATIENT ADMITTED BY POLICE

In cases where the police detain the mentally ill individual in hospital, he may be discharged after the family members agree in writing to take proper care, and the medical officer-in-charge opines that he is fit to be discharged.

DISCHARGE OF A MENTALLY ILL PRISONER:

The hospital authorities have to report every 6 months about the person's state of mind to the authority, which had ordered detention.

LEAVE OF ABSENCE

- > It means they may be given time limited leave, to leave the hospital with permission to visit family members. On application by a relative or others medical officer-in-charge and a bond duly signed stating that the patient will be taken proper care and prevented from injuries, leave of absence may be granted for maximum 60 days.

CHAPTER VIII

- > It is the latest addition to the Act that contains a very novel and explicit provisions for protection of human rights of mentally ill persons.



CHAPTER IX

- > It deals with procedures followed for the establishment and maintenance of psychiatric hospitals/nursing homes.



CHAPTER X

- > It deals with clarification pertaining to certain procedures to be followed by the medical officer-in-charge of the psychiatric hospital/nursing home.



THE MENTAL HEALTH CARE BILL, 2013

- THE KEY FEATURES OF THE BILL

- Every person shall have the right to access mental health care and treatment from services run or funded by Government.
- A mentally-ill person shall have the right to make an advance directive that states how he wants to be treated for the illness during a mental health situation and who his nominated representative shall be.

- > Every mental health establishment has to be registered with the relevant Central/State Mental Health Authority.
- > The mental health Review commission will be a quasi-judicial body that will periodically review the use of and the procedure for making advance directives and advise the Government on protection of the rights of mentally ill persons.

- > A person who attempts suicide shall be presumed to be suffering from mental illness at that time and will not be punished under the Indian Penal Code.

- Electro-convulsive therapy is allowed only with the muscle relaxants and anesthesia. The therapy is prohibited in minors.

CHAPTERS

- > Chapter 1- Preliminary information on definitions, short titles.
- > Chapter 2- mental illness and capacity to make mental healthcare and treatment decisions.
- > Chapter 3- Advance Directive
- Chapter 4- Nominated representative
- > Chapter 5- Rights of persons with mental illness.
- > Chapter 6- Duties of appropriate Government

- Chapter 7- Central mental health authority.
- > Chapter 8- State mental health authority.
- > Chapter 9- Finance, accounts and audit.
- > Chapter 10- Mental health establishments.
- > Chapter 11- Mental health review commission.
- > Chapter 12- Admission, treatment and discharge.
- > Chapter 13- Responsibilities of other agencies.

- > Chapter 14- Restriction to discharge functions by professionals not covered by professions.
- > Chapter 15- Offences and Penalties.
- > Chapter 16- Miscellaneous

BASIC RIGHTS OF MENTALLY ILL PATIENTS

Some of the rights of psychiatric patients:

- > The right to wear their own clothes
- > The right to have individual storage space for their private use
- > The right to keep and use their own personal possessions.
- > The right to spend a sum of their money for their own expenses.



- > The right to have reasonable access to all communication media like telephone, letter writing and mailing.
- > The right to see visitors every day.
- > The right to treatment in the least restricted setting.
- > The right to hold civil service status.
- > The right to refuse ECT.
- > The right to manage and dispose of property and execute wills.



LEGAL RESPONSIBILITY OF MENTALLY ILL PATIENT

> Civil responsibility

□ Criminal responsibilities



Criminal responsibilities

- > Section 84, IPC (Indian Penal Code of 1860): According to it “nothing is an offence which is done by a person who, at the time of doing it by reason of unsoundness of mind, was incapable of knowing the nature of the act or that what he was doing was either wrong or contrary to law”.



Criteria used to determine criminal responsibilities: -

- M’Naghten’s rule

- > The irresistible impulse test

- > The Durham test

- American law Institute

M' Naghten rule: -

- The individual at time of the crime did not “know the nature and quality of act”.

- If he didnot know what he was doing, he did not know that it “was wrong”

The Durham impulse test: -

- > “An accused person is not criminally responsible if his unlawful act is the product of mental disease or mental defect”.
- > In this, the casual connection between the mental abnormality and the alleged crime should be established.

Irresistible impulse act: -

- According to this rule, a person may have known an act was illegal but as a result of mental impairment lost control of their action.



American law institute test:- A person not responsible for criminal conduct if at the time of such conduct, as a result of mental disease or defect, he lacks adequate capacity either or appreciation the criminality of his conduct or to conform his conduct to the requirements of the law.

CIVIL RESPONSIBILITIES

- Management of property
 - > Marriage
- Testamentary capacity
 - > Right to vote



civil
responsibility

ROLES AND RESPONSIBILITIES OF A NURSE DURING ADMISSION- DISCHARGE PROCEDURE

Admission Procedure:

- > Setting the patient in the ward
- Welcoming to the ward
- Introducing to other staff members
- > If any patient having suicidal ideas, he should have located in a place where the patient can be closely observed.



- > The patient should be shown various facilities like bathroom, recreation etc.
- > Acquaint the patient with some of ward rules.
- > Provide appropriate information
 - History, MSE, and head to toe observation to be done.
- > Write nurses notes; enter in admission register.



Discharge procedure:

- > Nurse must ensure that the patient leaves the unit with all belongings and personal effects, has the appropriate medications with him, and appointment for follow up.
- > All necessary instructions, especially regarding his medication regimen, side-effects, etc. must be clearly given to the patient and his family members.
- > Any paper work, signing of documents should be completed. The hospital file along with all charts and notes should be sent to the medical records section.

- > The nurse should ascertain his travel plan and offer assistance if necessary.
- > The nurse must bear in mind that the patient may have mixed feelings about leaving the hospital and going back to his home environment.



LEGAL RESPONSIBILITY OF A NURSE

NURSE MUST BE AWARE OF:

- > Both the law in the state in which they practice.
- Patient's rights.
- > Criminal and civil responsibilities of mentally ill patients.
- > Legal documentation

LEGAL REPOSNSIBILITIES

Nursing malpractice:

- Malpractice involves the failure of professionals to provide proper and competent care that is given by the members of their profession, resulting in harm to the patient.



Confidentiality:

- Confidentiality refers to the non-disclosure of private information related to one individual to another, such as from patient to nurse.



Informed consent:

- > The informed consent is a process of communication between patient and a nurse that results in a patient's authorization or agreement to a specific medical intervention.



Substitute Consent:

It refers to the situation where a patient is not capable of giving their own consent to the proposed treatment. In such cases authorization is given by another individual, being a guardian appointed by the court or the kith and kin on behalf of the patient.

Before getting the consent of the patient or his legal guardian, a full explanation is necessary in regard to the risks involved in the investigation, treatment and procedures administered to the patient.

Record Keeping:

- > Nursing notes and progress records constitute legal documents and hence should be maintained carefully.
- > They should be non-judgmental and the statements made should be objective in nature.



CONCLUSION

- > To practice psychiatric-mental health nursing, nurses must understand the basic legal aspects of caring for psychiatric clients. Each state has laws attempt to balance protection of the mentally ill. Such laws attempt to balance protection of the mentally ill client's civil rights with the preservation of public safety.

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