

## **Important Sections Relevant to Admission, Discharge and Treatment Related Aspects**

Five types of Admissions as per MHA, 2017:

1. Section-85, 86: Independent Admission.
2. Section-89: Supported Admission (30 days)
  - a. Family/Caregiver – Section 89 with 14(4) (b)(c )
  - b. NGO- Section 89 with 14(4) (e) and 14 (5)
3. Section-90: Supported Admission (>30 days)
4. Section-102: MM order admissions
5. Section-103: Admission of Prisoners.

\*Related clause section 94: Emergency Treatment for 72 hours

### **I. Capacity to make mental healthcare and treatment decisions – Section 4 of MHA, 2017**

1. Every person, including a person with mental illness shall be deemed to have capacity to make decisions regarding his mental healthcare or treatment if such person has ability to—
  - (a) Understand the information that is relevant to take a decision on the treatment or admission or personal assistance; or

(b) Appreciate any reasonably foreseeable consequence of a decision or lack of decision on the treatment or admission or personal assistance; or

(c) Communicate the decision under sub-clause (a) by means of speech, expression, gesture or any other means.

2. The information referred to in sub-section (1) shall be given to a person using simple language, which such person understands or in sign language or visual aids or any other means to enable him to understand the information.
3. Where a person makes a decision regarding his mental healthcare or treatment which is perceived by others as inappropriate or wrong, that by itself, shall not mean that the person does not have the capacity to make mental healthcare or treatment decision, so long as the person has the capacity to make mental healthcare or treatment decision under sub-section (1)

II. Admission of person with mental illness as independent patient in mental health establishment - Section 85 of MHA, 2017

1) For the purposes of this Act, “independent patient or an independent admission” refers to the admission of person with mental illness, to a mental health establishment, who has the capacity to make mental healthcare and treatment decisions or requires minimal support in making decisions.

(2) All admissions in the mental health establishment shall, as far as possible, be independent admissions except when such conditions exist as make supported admission unavoidable

III. Independent admission and treatment – Sec 86 of MHA, 2017

1. Any person, who is not a minor and who considers himself to have a mental illness and desires to be admitted to any mental health establishment for treatment may request the medical officer or mental health professional in charge of the establishment to be admitted as an independent patient
2. On receipt of such request under sub-section (1), the medical officer or mental health professional in charge of the establishment shall admit the person to the establishment if the medical officer or mental health professional is satisfied that
  - (a) The person has a mental illness of a severity requiring admission to a mental health establishment;
  - (b) The person with mental illness is likely to benefit from admission and treatment to the mental health establishment;
  - (c) The person has understood the nature and purpose of admission to the mental health establishment, and has made the request for admission of his own free will, without any duress or undue influence and has the capacity to make mental healthcare and treatment decisions without support or requires minimal support from others in making such decisions
3. If a person is unable to understand the purpose, nature, likely effects of proposed treatment and of the probable result of not accepting the treatment or requires a very high level of support approaching hundred per cent. support in making decisions, he or she shall be deemed unable to understand the purpose of the

admission and therefore shall not be admitted as independent patient under this section.

4. An independent patient shall not be given treatment without his informed consent.
5. The mental health establishment shall admit an independent patient on his own request, and shall not require the consent or presence of a nominated representative or a relative or care-giver for admitting the person to the mental health establishment.
6. Subject to the provisions contained in section 88 an independent patient may get himself discharged from the mental health establishment without the consent of the medical officer or mental health professional in charge of such establishment.

IV. Admission of Minor- Section 87 of MHA, 2017

1. A minor may be admitted to a Mental Health Establishment only after following procedure laid down in this section
2. The nominated representative of the minor shall apply to the medical officer in charge of a mental health establishment for admission of the minor to the establishment.
3. Upon receipt of such an application, the medical officer or mental health professional in charge of the mental health establishment may admit such a minor to the establishment, if two psychiatrists, or one psychiatrist and one mental health professional or one psychiatrist and one medical practitioner, have independently examined the minor on the day of admission or in the preceding seven days and both independently conclude based on the examination and, if appropriate, on information provided by others, that

(a) the minor has a mental illness of a severity requiring admission to a mental health establishment;

(b) admission shall be in the best interests of the minor, with regard to his health, well-being or safety, taking into account the wishes of the minor if ascertainable and the reasons for reaching this decision;

(c) the mental healthcare needs of the minor cannot be fulfilled unless he is admitted; and

(d) all community based alternatives to admission have been shown to have failed or are demonstrably unsuitable for the needs of the minor

4. A minor so admitted shall be accommodated separately from adults, in an environment that takes into account his age and developmental needs and is at least of the same quality as is provided to other minors admitted to hospitals for other medical treatments.
5. The nominated representative or an attendant appointed by the nominated representative shall under all circumstances stay with the minor in the mental health establishment for the entire duration of the admission of the minor to the mental health establishment.
6. In the case of minor girls, where the nominated representative is male, a female attendant shall be appointed by the nominated representative and under all circumstances shall stay with the minor girl in the mental health establishment for the entire duration of her admission.

7. A minor shall be given treatment with the informed consent of his nominated representative.
  8. If the nominated representative no longer supports admission of the minor under this section or requests discharge of the minor from the mental health establishment, the minor shall be discharged by the mental health establishment
  9. Any admission of a minor to a mental health establishment shall be informed by the medical officer or mental health professional in charge of the mental health establishment to the concerned Board within a period of seventy-two hours
  10. The concerned Board shall have the right to visit and interview the minor or review the medical records if the Board desires to do so.
  11. Any admission of a minor which continues for a period of thirty days shall be immediately informed to the concerned Board.
  12. The concerned Board shall carry out a mandatory review within a period of seven days of being informed, of all admissions of minors continuing beyond thirty days and every subsequent thirty days
- V. Section 89 -Admission and treatment of persons with mental illness, with high support needs, in mental health establishment, up to thirty days (supported admission).
1. The person has been independently examined on the day of admission or in the preceding seven days, by one psychiatrist and the other being a mental health professional or a medical practitioner, and both independently conclude based on

the examination and, if appropriate, on information provided by others, that the person has a mental illness of such severity that the person,

- i. has recently threatened or attempted or is threatening or attempting to cause bodily harm to himself; or
  - ii. has recently behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him; or
  - iii. has recently shown or is showing an inability to care for himself to a degree that places the individual at risk of harm to himself;
2. The psychiatrist or the mental health professionals or the medical practitioner, as the case may be, certify, after taking into account an advance directive, if any, that admission to the mental health establishment is the **least restrictive care option** possible in the circumstances;
3. Limited to a period of Thirty days
4. At the end of the period mentioned under sub-section (2), or earlier, if the person no longer meets the criteria for admission as stated in sub-section (1), the patient shall no longer remain in the establishment under this section.
5. On the expiry of the period of thirty days referred to in sub-section (2), the person may continue to remain admitted in the mental health establishment in accordance with the provisions of section 90.
6. If the conditions under section 90 are not met, the person may continue to remain in the mental health establishment as an independent patient under section 86 and the medical officer or mental health professional in charge of the mental health

establishment shall inform the person of his admission status under this Act, including his right to leave the mental health establishment

7. If a person with the mental illness admitted under this section requires nearly hundred per cent. support from his nominated representative in making a decision in respect of his treatment, the nominated representative may **temporarily consent to the treatment plan** of such person on his behalf
8. The medical officer or mental health professional review the capacity of the patient to give consent every seven days.
9. The medical officer or mental health professional in charge of the mental health establishment shall report the concerned Board,—
  - (a) Within three days the admissions of a woman or a minor;
  - (b) Within seven days the admission of any person not being a woman or minor.
10. In a case, a person with the mental illness admitted under this section has been discharged, such person shall not be readmitted under this section within a period of seven days from the date of his discharge

VI. Section 90- Admission and treatment of persons with mental illness, with high support needs, in mental health establishment, beyond thirty days (supported admission beyond 30 days).

1. If a person with mental illness admitted under section 89 requires continuous admission and treatment beyond thirty days or a person with mental illness discharged under sub-section of that section requires readmission within seven

days of such discharge, he shall be admitted in accordance with the provisions of this section.

2. Admission criteria similar to the Section 89
3. The admission of a person with mental illness to a mental health establishment under this section beyond the period of ninety days may be extended for a period of one hundred and twenty days at the first instance and thereafter for a period of one hundred and eighty days each time after complying with the provisions
4. If the Board refuses to permit admission or continuation thereof or readmission , or on the expiry of the periods or earlier if such person no longer falls within the criteria for admission, such person shall be discharged from such mental health establishment

VII. Emergency Treatment- Section 94 of MHA, 2017

1. Notwithstanding anything contained in this Act, any medical treatment, including treatment for mental illness, may be provided by any registered medical practitioner to a person with mental illness either at a health establishment or in the community, subject to the informed consent of the nominated representative, where the nominated representative is available, and where it is immediately necessary to prevent—
  - (a) death or irreversible harm to the health of the person; or
  - (b) the person inflicting serious harm to himself or to others; or
  - (c) the person causing serious damage to property belonging to himself or to others where such behaviour is believed to flow directly from the person's mental illness.

Explanation.—For the purposes of this section, “emergency treatment” includes transportation of the person with mental illness to a nearest mental health establishment for assessment.

2. Nothing in this section shall allow any medical officer or psychiatrist to give to the person with mental illness medical treatment which is not directly related to the emergency treatment specified.
3. Nothing in this section shall allow any medical officer or psychiatrist to use electroconvulsive therapy as a form of treatment.
4. The emergency treatment referred to in this section shall be limited to seventy-two hours or till the person with mental illness has been assessed at a mental health establishment, whichever is earlier:
5. Provided that during a disaster or emergency declared by the appropriate Government, the period of emergency treatment referred to in this sub-section may extend up to seven days