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LAWS RELATING TO PSYCHIATRY IN INDIA

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ABSTRACT

In India the mental health act was introduced in the year of 1987 for the welfare of mentally ill persons. The mental health act as 10 chapters dealing with admission and discharge of the mentally ill persons. This act use term mentally ill person which was early known as lunatic.

Key words:

Law, Law and Psychiatry

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INTRODUCTION

The Indian Lunacy Act, 1912 has been the governing act for many years in India. Presently it is in the process of being replaced by the Mental Health Act, 1987. **The Mental Health Act, 1987** is the act that governs the welfare of mentally ill in our country. It controls the procedures of treatment and care of the mentally ill. This act has provisions which take care of the property and other affairs of the mentally ill. It protects the human rights of the mentally ill.

The mental health act has 10 chapters dealing with various matters connected with mentally ill people. This act uses the term mentally ill person which was earlier known as lunatic. The word lunatic asylum is replaced by the word mental health hospital. A criminal lunatic is now known as mentally ill prisoner.

Admission Procedures in psychiatric Hospital

Admission procedures of mentally ill persons in a psychiatric hospital differs from admission of patients with physical diseases in a general hospital. In India, admission procedures of mentally ill persons in mental health hospitals are governed by the Mental Health Act, 1987. As per the Act, the admission in mental health hospitals or nursing home is to be done in one of the following manner-

Voluntary admission

- On the patient's request, if he is a major
- By the parent or legal guardian if he is a minor

Admission under special circumstances

This is involuntary admission. It is done when the mentally ill person does not or cannot express his willingness for admission. The duration for admission cannot exceed 90 days.

Reception order on petition

By a petition from the patient's relatives, followed by certification by two doctors and a reception order from a magistrate.

Reception order other than on petition

Admission of a dangerous and wandering person by a reception order from a judicial magistrate or by a commissioner of police.

Judicial inquisition (Enquiry).

Admission of men tally ill prisoners (criminal lunatics)

Three types of admissions can be made through a reception order. An order under: The Prisoners Act III, 1900: Mentally ill prisoner who becomes mentally ill during their imprisonment (convicts). Section 330 of the Criminal Procedure Code Persons who committed a crime but is not in a position to stand for trial because of his impaired mental functions (under trial prisoners). Section 335 of the Criminal Procedure Code: Persons who committed a crime due to their mental illness. They are guilty (accepts their crime) but are mentally ill. Hence they are not given punishment but admitted in a mental health hospital for treatment (guilty but insane).

Special Admission Procedures for Military Persons

- Section 144 of the Air Force Act, 1950
- Section 145 of the Army Act, 1950
- Section 143 or 144 of the Navy Act, 1957.

Discharge Procedure

For civil patients A person has to be discharged if he applies for discharge within 24 hours in the case of voluntary admission. A relative or guardian can also apply. The discharge of the civil patients admitted through reception orders has to be made by the visiting committee.

Discharge of mentally ill prisoners (Criminals)

Persons admitted under Section 335 Cr.P.C. can be discharged by the Criminal Committee after a stipulated time and if the person has been showing continued improvement in his mental status. Persons admitted under Section 330 and Act III is to be sent back to prison after improvement.

The Responsibility of the Nurse in a mental health Hospital

The nurse should have a good understanding of the law related to psychiatry. She should have a good knowledge of the admission procedure- of the mentally ill in a mental health hospital. In view of the medicolegal aspects of mental health cases, case files are to be kept under safe custody. She should maintain confidentiality about her patient's particulars. She should be watchful and sincere in her duties, not only to give better care of the patient but also because of the implication" of the civil rights movement and consumer councils. The nurse should get informed consent from patient and / or his relatives before:

- Admission on voluntary basis
- Electro convulsive therapy
- Disulfiram therapy in alcoholism and pentathol analysis (narco analysis).

A written consent from the patient (on a specified form provided for the purpose), if he is able to sign, should always be taken. If he is unable to sign, the form must be signed by his guardian or by both, the patient and a close relative. Before getting the consent of the patient or his legal guardian, full explanation is necessary with regard to the risks involved in the treatment to be given to the patient. Nurses working in a ward where mentally ill prisoners are admitted should be very watchful for attempt to escape. These patients may also have suicidal and / or homicidal tendencies. This should be recognised and watched carefully.

Legal Role of the Nurse

Professional nursing practice is not determined by simply following patient's rights. Rather it is interplay between the patient's rights, the legal role of the nurse and concern for quality mental health care:

Three roles

- Provider of services.
- Employee or contractor of services.
- Private citizen

Nurses as Provider

- Duty to warn or protect.
- Responsible record keeping
- Informed consent.
- Substituted consent
- Confidentiality
- Standard Nursing Care
- Knowledge of Legal Aspects

Nurse as an Employee

This involves the practitioner rights and responsibilities in relation to employers, partners, consultants, and other professional colleagues.

- Economic security
- Professional future and
- Peer relationship

Nurses as a Citizen

The third role of the nurse play is that of a citizen, the role is particularly significant all other roles, rights, responsibilities and privileges are awarded because of the inherent rights of citizenship. Our form of democratic government, grants their rights as inherent.

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