

Mental Health Review Boards

(Haryana State Mental Health Authority Rule 18, 2024)

1. Mental Health Review Boards- (1) For the purpose of constituting mental health review boards under Section 73, the State Authority shall, in consultation with the State Government, take decision on the number of such boards to be constituted in the State, their location and jurisdiction, having regard to the following, namely-

- a) The expected or actual workload of the board to be constituted;
- b) the number of mental health establishments existing in the State;
- c) the number of persons with mental illness in the State;
- d) the population of the place where such board is to be constituted;
- e) the geographical and climatic conditions of the place where such board is to be constituted

Provided that at least one board shall be constituted for each district and where there is no Psychiatrist, Psychiatrist from Govt. Hospital or Medical College of adjoining district shall be enrolled on the panel of the board till a regular Psychiatrist is appointed.

2. (1) Each Board shall consist of—

- a) Additional District Judge of District (Chairperson);
- b) Additional Deputy Commissioner or District Social Welfare Officer;
- c) Civil Surgeon of the district or his representative not below the rank of Senior Medical Officer;
- d) Senior Psychiatrist posted in the district or hospital from adjoining district if no Psychiatrist available in the district;
- e) One member who shall be person with mental illness or care givers or persons representing organisations of persons with mental illness or care givers or non-governmental organisations working in the field of mental health and **one former addict**.

(2) A person shall be disqualified to be appointed as the chairperson or a member of a Board or be removed by the State Authority, if he—

- a) has been convicted and sentenced to imprisonment for an offence which involves moral turpitude; or
- b) is adjudged as an insolvent; or
- c) has been removed or dismissed from the service of the Government or a body corporate owned or controlled by the Government; or

- d) has such financial or other interest as is likely to prejudice the discharge of his functions as a member; or
- e) has such other disqualifications as may be prescribed by the Central Government.

(3) A chairperson of a board may resign his office by notice in writing under his hand addressed to the Chairperson of the State Authority and on such resignation being accepted, the vacancy shall be filled by the next senior most judicial officer.

(4) Member of a Board may resign his office by notice in writing under his hand addressed to the Chairperson of the State Authority and on such resignation being accepted, the vacancy shall be filled by appointment of a person, belonging to the category under sub-section (1) of section 74.

3. Other disqualifications for Chairperson or member of board- (1) in addition to the disqualifications specified in clauses (a) to (d) of sub section (2) of Section 74, a Chairperson or a member of the board appointed by the State Authority shall stand disqualified for the purposes of said sub section (2), if he holds –

- i. any full time or part-time assignment that prevents him from giving adequate time and attention to the work of the board under the provisions of the Act and Rules made thereunder; or
- ii. any office in any political party during his tenure of office in the board.

(2) The State Authority may remove the Chairperson or a member of the board if a complaint is received against such person and on enquiry by competent authority appointed for the purpose by the State Authority, it is found that there is substance in such complaint and that the conduct of such person is unbecoming of the office he holds:

Provided that if such complaint is against a Chairperson who had been a Judicial Officer, the complaint shall be forwarded to the Registrar of the concerned High Court for enquiry by the competent authority.

(3) The State Authority may suspend the Chairperson or a member of the board immediately if a criminal case is registered against such person and revoke such suspension if such person is acquitted of the charges framed against him in such case.

4. (1) The chairperson and members of the Board shall hold office for a term of five years or up to the age of seventy years, whichever is earlier and shall be eligible for reappointment for another term of five years or up to the age of seventy years whichever is earlier.

(2) The appointment of chairperson and members of every Board shall be made by the Chairperson of the State Authority.

(3) The honorarium and other allowances payable to, and the other terms and conditions of service of, the chairperson and members of the Board shall be such as may be prescribed by the State Government.

5. (1) The decisions of the Authority or the Board, as the case may be, shall be by consensus, failing which by a majority of votes of members present and voting and in the event of equality of votes, the president or the chairperson, as the case may be, shall have a second or casting vote.

(2) The quorum of a meeting of the Authority or the Board, as the case may be, shall be three members.

6. (1) Any person with mental illness or his nominated representative or a representative of a registered non-governmental organisation, with the consent of such a person, being aggrieved by the decision of any of the mental health establishment or whose rights under this Act have been violated, may make an application to the Board seeking redressal or appropriate relief.

(2) There shall be no fee or charge levied for making such an application.

(3) Every application referred to in sub-section (1) shall contain the name of applicant, his contact details, the details of the violation of his rights, the mental health establishment or any other place where such violation took place and the redressal sought from the Board.

(4) In exceptional circumstances, the Board may accept an application made orally or over telephone from a person admitted to a mental health establishment.

7. All proceedings before the Board shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

8. The Board shall meet at such times and places and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be specified by regulations made by the State Authority.

9. (1) The Board, on receipt of an application under sub-section (1) of section 85, shall, subject to the provisions of this section, endeavour to hear and dispose of the same within a period of ninety days.

(2) The Board shall dispose of an application—

- a) for appointment of nominated representative under clause (d) of sub-section (4) of section 14;
- b) challenging admission of a minor under section 87;
- c) challenging supported admission under sub-section (10) or sub-section (11) of section 89, within a period of seven days from the date of receipt of such applications.

(3) The Board shall dispose of an application challenging supported admission under section 90 within a period of twenty-one days from the date of receipt of the application

(4) The Board shall dispose of an application, other than an application referred to in sub-section (3), within a period of ninety days from the date of filing of the application.

(5) The proceeding of the Board shall be held *in camera*.

(6) The Board shall not ordinarily grant an adjournment for the hearing.

(7) The parties to an application may appear in person or be represented by a counsel or a representative of their choice.

(8) In respect of any application concerning a person with mental illness, the Board shall hold the hearings and conduct the proceedings at the mental health establishment where such person is admitted.

(9) The Board may allow any persons other than those directly interested with the application, with the permission of the person with mental illness and the chairperson of the Board, to attend the hearing.

(10) The person with mental illness whose matter is being heard shall have the right to give oral evidence to the Board, if such person desires to do so.

(11) The Board shall have the power to require the attendance and testimony of such other witnesses as it deems appropriate.

(12) The parties to a matter shall have the right to inspect any document relied upon by any other party in its submissions to the Board and may obtain copies of the same.

(13) The Board shall, within five days of the completion of the hearing, communicate its decision to the parties in writing.

(14) Any member who is directly or indirectly involved in a particular case, shall not sit on the Board during the hearings with respect to that case.

10. (1) Subject to the provisions of this Act, the powers and functions of the Board shall, include all or any of the following matters, namely:—

- a) to register, review, alter, modify or cancel an advance directive;
- b) to appoint a nominated representative;
- c) to receive and decide application from a person with mental illness or his nominated representative or any other interested person against the decision of medical officer or mental health professional in charge of mental health establishment or mental health establishment under section 87 or section 89 or section 90;

- d) to receive and decide applications in respect non-disclosure of information specified under sub-section (3) of section 25;
- e) to adjudicate complaints regarding deficiencies in care and services specified under section 28;
- f) to visit and inspect prison or jails and seek clarifications from the medical officer in-charge of health services in such prison or jail.

(2) Where it is brought to the notice of a Board or the Central Authority or State Authority, that a mental health establishment violates the rights of persons with mental illness, the Board or the Authority may conduct an inspection and inquiry and take action to protect their rights.

(3) Notwithstanding anything contained in this Act, the Board, in consultation with the Authority, may take measures to protect the rights of persons with mental illness as it considers appropriate.

(4) If the mental health establishment does not comply with the orders or directions of the Authority or the Board or wilfully neglects such order or direction, the Authority or the Board, as the case may be, may impose penalty which may extend up to 5,00,000/- Rupees on such mental health establishment and the Authority on its own or on the recommendations of the Board may also cancel the registration of such mental health establishment after giving an opportunity of being heard.

11. Any person or establishment aggrieved by the decision of the Authority or a Board may, within a period of thirty days from such decision, prefer an appeal to the High Court of the State in which the Board is situated:

Provided that the High Court may entertain an appeal after the expiry of the said period of thirty days, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of thirty days.

12. (1) The State Government may, make to the State Authority grants of such sums of money as the State Government may think fit for being utilised for the purposes of this Act.

(2) The grants referred to in sub-section (1) shall be applied for,—

- a) meeting the salary, allowances and other remuneration of the chairperson, members, officers and other employees of the State Authority;
- b) meeting the salary, allowances and other remuneration of the chairperson, members, officers and other employees of the Boards; and
- c) the expenses of the State Authority and the Boards incurred in the discharge of their functions and for the purposes of this Act.