

Bill No. 340 of 2019

THE MENTAL HEALTHCARE (AMENDMENT) BILL, 2019

By

SHRI RAJIV PRATAP RUDY, M.P.

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BILL

to amend the Mental Healthcare Act, 2017.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Mental Healthcare (Amendment) Act, 2019.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 2 of the Mental Healthcare Act, 2017 (hereinafter referred to as the principle Act),—

Amendment of section 2.

(a) after clause (g), the following clauses shall be inserted, namely:—

'(ga) "counselor" means a medical practitioner possessing a post-graduate degree or diploma in counseling psychology awarded by an university recognised by the University Grants Commission established under the University Grants

Commission Act, 1956, or awarded or recognised by the National Board of Examinations and included in the First Schedule to the Indian Medical Council Act, 1956, or recognised by the Medical Council of India, constituted under the Indian Medical Council Act, 1956, and includes, in relation to any State, any medical officer who having regard to his knowledge and experience in Counseling Psychology, has been declared by the Government of that State to be a Counseling Psychologist for the purposes of this Act;

(*gb*) "establishment" means a shop, a commercial establishment, residential hotel, restaurant, eating-house theatre or other places of public amusement or entertainment to which the relevant State's Shops and Establishment Act applies and includes such other establishment as the appropriate Government may, by notification in the Official Gazette, declare to be an establishment for the purpose of this Act;'; and

(*b*) the existing clause (*zb*) shall be remembered as clause (*zc*) and before the clause (*zc*) as so remembered, the following clause shall be inserted, namely:—

'(*zb*) "school" means any recognised school imparting secondary and senior secondary education.'

Insertion of new Chapter XIII A. **3.** After Chapter XIII of the principal Act, the following Chapter and section thereunder shall be inserted, namely:—

"CHAPTER XIII A

RESPONSIBILITIES OF SCHOOLS AND ESTABLISHMENTS

Responsibilities of Schools and Establishments. **105A. (1) Every school or establishment with more than fifty persons either employed or enrolled shall have at least one empanelled counselor to be appointed by the school or establishment.**

(2) the counselor shall visit the establishment or school for at least thirty-two hours in fifteen days or at such frequency as may be prescribed.

(3) The remuneration of the counselor shall be as per a formal contract signed between the counselor and the school or establishment.

(4) the counselor shall not be involved with the school establishment in any other capacity, including board membership, share holding, administrative or professional responsibilities or in any other capacity that would constitute a conflict of interest with respect to his responsibilities as an empanelled counselor at the school or establishment."

Amendment of section 121. **4.** In section 121 of the principal Act, in sub-section (4), after clause(s), the following clause shall be inserted, namely:—

"(*sa*) frequency of visit of counselor to schools and establishments under sub-section (2) of section 105A;";

STATEMENT OF OBJECTS AND REASONS

The Mental Healthcare Act of 2017 was enacted to recognise, protect and promote the rights of persons with mental illnesses and promote their access to mental healthcare in the country. The 2011 Census pointed out that there are 15,05,624 persons with mental illnesses in the country. Reports by international organizations like WHO and national institutes like Today, there is a need to recognise the challenges related to mental health at workplace. NIMHANS highlight the severity of the situation in multiple reports in the recent years. Today, there is a need to recognise the challenges related to mental health at workplace. Issues of workplace discrimination, stress, verbal and sexual abuse etc. are being highlighted every now and then. The National Mental Health Survey points out that there are an estimated 150 million Indians in need of mental healthcare services. While the institutional efforts so far have been aimed at providing access to mental healthcare to the common man, a preventive and early identification mechanism would contribute significantly in reducing the institutional deficiencies in addressing this challenge.

With this background, the Bill aims to—

- (1) make it mandatory for establishments, including schools, institutions and corporate offices, to have an empanelled counselor; and
- (2) address a possible conflict of interest for such counselors.

Hence this Bill.

NEW DELHI;
November 6, 2019.

RAJIV PRATAPRUDY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides appointment of counselors in schools or establishments. The Bill, therefore, if enacted would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees one thousand crore per annum is likely to be involved from the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill provides for the State Government to make rules regarding frequency of visit of counselor to schools or establishments. As the rules will relate to matters of detail only, the delegation of legislative power is of normal character.

ANNEXURE

EXTRACT FROM THE MENTAL HEALTHCARE ACT, 2017

	*	*	*	*
Definitions.	2.	(1) In this Act, unless the context otherwise requires,—		
	(a)	*	*	*
	*	*	*	*
	(g)	"clinical psychologist" means a person—		
		(i) having a recognised qualification in Clinical Psychology from an institution approved and recognised, by the Rehabilitation Council of India, constituted under section 3 of the Rehabilitation Council of India Act, 1992; or		
		(ii) having a Post-Graduate degree in Psychology or Clinical Psychology or Applied Psychology and a Master of Philosophy in Clinical Psychology or Medical and Social Psychology obtained after completion of a full time course of two years which includes supervised clinical training from any University recognised by the University Grants Commission established under the University Grants Commission Act, 1956 and approved and recognised by the Rehabilitation Council of India Act, 1992 or such recognised qualifications as may be prescribed;		
	*	*	*	*
	(zb)	"State Authority" means the State Mental Health Authority established under section 45.		
	*	*	*	*
Power of Central Government and State Governments to make rules.	121.	(1) *	*	*
	(2)	*	*	*
	(3)	*	*	*
	(4)	In particular, and without prejudice to the generality of the foregoing power, rules made under sub-section (2) may provide for all or any of the following matters, namely:—		
	(a)	*	*	*
	*	*	*	*
	*	*	*	*
	(s)	the standard and procedure to which the Central or State Health Authority shall confirm under sub-section (6) of section 103;		
	*	*	*	*

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BILL

further to amend the Mental Healthcare Act, 2017.

(Shri Rajiv Pratap Rudy, M.P.)