

Bill No. 44 of 2024

THE MENTAL HEALTHCARE (AMENDMENT) BILL, 2024

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 Seventy-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Mental Healthcare (Amendment) Act, 2024.

Short title and
commencement.

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

Amendment of section 2.	<p>2. In section 2 of the Mental Healthcare Act, 2017 (hereinafter referred to as the principle Act),–</p> <p>(a) after clause (g), the following clauses shall be inserted, namely:–</p> <p>‘(ga) “counsellor” means a medical practitioner possessing a post-graduate degree or post-graduate diploma in counselling 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 Examination and included in the First Schedule to the National Medical Commission Act, 2019 or recognised by the National Medical Commission, constituted under the National Medical Commission Act, 2019, and includes, in relation to any State, any medical officer who having regard to his knowledge and experience in Counselling Psychology, has been declared by the Government of that State to be a Counselling Psychologist for the purposes of this Act;</p> <p>(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</p> <p>(b) the existing clause (zb) shall be remember as clause (zc) and before the clause (zc) as so remembered, the following clause shall be inserted, namely:–</p> <p>‘(zb) “school” means any recognized school imparting secondary or senior secondary education.’.</p>	10 of 2017 5 3 of 1956 30 of 2019 10 30 of 2019 15 20
Insertion of new Chapter XIII.A.	<p>3. After Chapter XIII of the principal Act, the following Chapter and section thereunder shall be inserted, namely:–</p> <p style="text-align: center;">“CHAPTER XIII.A RESPONSIBILITIES OF SCHOOLS AND ESTABLISHMENTS</p> <p>105A. (1) Every school or establishment with more than fifty persons either employed or enrolled shall have at least one empanelled counsellor to be appointed by the school or establishment.</p> <p>(2) The counsellor shall visit the establishment or school for at least thirty-two hours in fifteen days or at such frequency as may be prescribed.</p> <p>(3) The remuneration of the counsellor shall be as per a formal contract signed between the counsellor and the school or establishment.</p> <p>(4) The counsellor 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 counsellor at the school or establishment.”.</p>	25 30 35 40
Responsibilities of Schools and Establishments.		
Amendment of section 121.	<p>4. In section 121 of the principal Act, in sub-section (4), after clause (s), the following clause shall be inserted, namely:–</p> <p>“(sa) frequency of visit of counsellor to schools and establishments under sub-section (2) of section 105A;”.</p>	40

STATEMENT OF OBJECTS AND REASONS

The Mental Healthcare Act of 2017 was enacted to recognize, 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 NIMHANS highlight the severity of the situation in multiple reports in the recent years. Today, there is a need to recognize 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 counsellor; and
- (2) address a possible conflict of interest for such consellers.

Hence this Bill.

NEW DELHI;
June 18, 2024.

RAJIV PRATAP RUDY

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides appointment of counsellors 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 counsellor 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 (10 OF 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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LOK SABHA

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BILL

to amend the Mental Healthcare Act, 2017.

(Shri Rajiv Pratap Rudy, M.P.)