

Definitions.

2. In this act, unless the context otherwise requires,—

(a) “appropriate Government” means—

(i) in relation to a hospital established, owned or controlled by the Central Government, or the administrator of the Union Territory, having no Legislature, the Central Government;

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(ii) in relation to a hospital, other than the hospital referred to in sub clause (i), established within the territory of—

(a) a State, the State Government;

(b) a Union territory having Legislature, the Government of that Union territory.

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(b) “hospital” means any recognised hospital providing healthcare facilities and services and includes—

(i) a hospital established, owned or controlled by the appropriate Government or a local authority;

(ii) an aided hospital receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority;

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(iii) a hospital belonging to a specified category; and

(iv) an unaided hospital not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority.

(c) “hospital Management Committee” means any Committee or Authority having power to direct or Control any or all of the operations of the hospital;

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(d) “individual” means any person with Indian citizenship according to the Citizenship Act, 1955.

57 of 1955.

(e) “local authority” means a Municipal Corporation or Municipal Council or Zila Parishad or Nagar Panchayat or Panchayat, by whatever name called, and includes such other authority or body having administrative control over the hospital or empowered by or under any law for the time being in force to function as a local authority in any city, town, or village.

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(f) “person belonging to disadvantaged group” means a person belonging to the Scheduled Caste, the Scheduled Tribe, the socially and educationally backward class or such other group having disadvantage owing to social, cultural, economical, geographical, linguistic, gender or such other factor;

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(g) “person belonging to weaker section” means a person belonging to such a family whose annual income is lower than the minimum limit specified by the appropriate Government;

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(h) “specified category” means category of hospitals specified in the Clinical Establishments (Registration and Regulation) Act, 2010.

3 of 2010.

(i) “underlying determinants of health” means factors affecting health other than direct diseases and includes facilities of safe drinking water and adequate sanitation, clean air, safe food, adequate nutrition, healthy working and environmental conditions, and health-related education.

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3. (1) Every individual shall have a right to free and compulsory health care facilities and services in any hospital in geographical proximity. Right to Free and Compulsory Health Care facilities and services.
- (2) For the purpose of sub-section (1), no individual shall be liable to pay any kind of charges or expenses which may prevent him or her from availing healthcare services.
- 5 4. (1) Where in a hospital, there is a lack of healthcare and medical facilities, an individual shall have a right to seek transfer or refer to any other hospital. Right to seek to transfer or referred to other hospital.
- (2) Where an individual is required to move from one hospital to another, either within a State or outside, for any reason whatsoever, such individual shall have a right seek transfer to any other hospital, for getting medical treatment.
- 10 (3) For seeking transfer/referral in such other hospital, the Head or In-charge of the hospital where such individual was last admitted, shall immediately issue the transfer/referral certificate:
- Provided that delay in producing transfer/ referral certificate shall not be a ground for either delaying or denying admission in such other hospital:
- 15 Provided further that the head or In-charge of the hospital delaying issuance of transfer/ referral certificate shall be liable for disciplinary action under the service rules applicable to him or her.
5. (1) Every individual shall have the right to basic necessities of life affecting the health conditions. Right to Universal Health.
- 20 (2) Every individual shall have the right to opportunity to enjoy the highest attainable level of health.
- (3) Every individual shall have a right to universal health in and around his or her surroundings, which may include “underlying determinants of health”.
- 25 6. Failing to provide the “underlying determinants of health” to an individual without sufficient and reasonable cause, the appropriate Government shall provide compensation to the individual as per provisions of this Act. compensation or failure to provide underlying determinants of health.
7. The appropriate Government shall establish, within such areas of limits of neighbourhood, as may be prescribed, a hospital, where it is not so established, within three years from the Commencement of this Act. Establishment of new hospitals.
- 30 8. (1) The Central Government and the State Government shall have concurrent responsibility for providing funds for carrying out the provisions of this Act. Central and State Government to provide funds.
- (2) The Central Government shall prepare the estimates of capital and recurring expenditure for the implementation of the provisions of the Act.
- 35 (3) The Central Government shall provide to the State Governments, as grants-in-aid of revenues, such percentage of expenditure as it may determine, from time to time, in consultation with the State Governments for the purposes of this Act.
- (4) The Central Government may make a request to the President to make a reference to the Finance Commission to examine the need for additional resources to be provided to any State Government so that the said State Government may provide its share of funds for carrying out the provisions of the Act.
- 40 (5) The State Government shall, after taking into consideration of the sums provided by the Central Government and its other resources, be responsible to provide funds for implementation of the provisions of the Act.
- (6) The Central Government shall,—
- 45 (a) develop and enforce standards for training of doctors;
- (b) provide technical support and resources to the State Government for promoting innovations, researches, planning and capacity building.

Duties of appropriate Governments.

9. The appropriate Government shall,—

(a) provide free and compulsory healthcare facilities and services to every individual;

Explanation.—The term “free and compulsory healthcare” means obligation of the appropriate Government to provide free and compulsory healthcare facilities to every individual; 5

(b) entitle every individual with universal health facilities.

Explanation.—The term “universal health” means, the underlying determinants of health affecting the health of an individual.

(c) ensure availability of a hospital; 10

(d) ensure that the individual belonging to weaker section and the individual belonging to disadvantaged group are not discriminated against and prevented from availing healthcare facilities and underlying determinants of health facilities on any grounds;

(e) provide infrastructure including hospital, medical staff and learning equipments; 15

(f) ensure and monitor admission of individuals in hospitals;

(g) ensure good quality healthcare facilities and underlying determinants of health facilities conforming to the standards and norms as may be specified; and

(h) ensure timely entitlement of healthcare facilities and underlying determinants of health facilities. 20

Responsibilities of Hospitals and Doctors.

10. (1) For the purposes of this Act, a hospital shall provide free and compulsory healthcare facilities and services to all individuals admitted therein;

(2) The privately owned hospitals providing free and compulsory healthcare facilities and services shall be reimbursed expenditure so incurred by it to the extent to per-individual expenditure incurred by the State, or the actual amount charged from the individual, whichever is less, in such manner as may be prescribed: 25

Provided that such reimbursement shall not exceed per-individual expenditure incurred by a hospital specified in clause (b) of section 2:

Provided further that where such hospital is already under obligation to provide free healthcare facilities and services to a specified number of individuals on account of it having received any land, building, equipment or other facilities, either free of cost or at a concessional rate, such hospital shall not be entitled for reimbursement to the extent of such obligation. 30

(3) Every hospital shall provide such information as may be required by the appropriate Government or the local authority, as the case may be. 35

Protection against physical or mental harassment.

11. (1) No individual shall be subjected to physical punishment or mental harassment in providing free healthcare facilities and services;

(2) Whoever contravenes the provisions of sub-section (1) shall be liable to disciplinary action under the service rules applicable to such person.

12. No hospital shall be established or recognised under section 18, unless it fulfils the norms and standards specified in the Act. 40

Formations of Hospital Management Committee.

13. (1) There shall be constituted a Management Committee, in the manner prescribed, consisting of not more than ten members including the Chairperson for every hospital under this Act.

(2) The Hospital Management Committee shall perform the following functions, namely:— Functions of the Hospital Management Committee.

(a) monitor the working of the hospital;

(b) prepare and recommend hospital development plan;

5 (c) monitor the utilisation of the grants received from the appropriate Government or local authority or any other source; and

(d) perform such other functions as may be prescribed.

14. (1) A doctor appointed in a hospital described under clause (b) of section 2, shall perform the following duties, namely:— Duties of doctors.

10 (a) maintain regularity and punctuality in attending hospital;

(b) conduct and complete the treatment of the individual in accordance with the provisions;

(c) admit and treat the individual timely;

15 (d) assess the learning ability of each individual and accordingly supplement additional instructions, if any, as required;

(e) regularly inform family members of the individual undergoing treatment and apprise them about the recovery, progress and relevant updates about the health of the individual; and

(f) perform such other duties as may be prescribed.

20 (2) A doctor committing default in performance of duties specified in sub-section (1), shall be liable to disciplinary action under the service rules applicable to him or her: Disciplinary action against defaulting doctors.

Provided that before taking such disciplinary action, reasonable opportunity of being heard shall be afforded to such doctor.

25 (3) The grievances, if any, of the doctor shall be redressed in such manner as may be prescribed.

15. Within six months from the date of commencement of this Act, the appropriate Government and the local authority shall ensure that the Doctor-Patient Ratio, as may be specified is maintained in each hospital. Maintaining doctor-patient ratio.

38 of 2019. 30 **16.** (1) The National Medical Commission constituted under The National Medical Commission Act, 2019 shall, in addition to the functions assigned to them under that Act, also perform the following functions, namely:— Additional Functions of the National Medical Commission.

(a) examine and review the safeguards for rights provided by or under this Act and recommend measures for their effective implementation;

35 (b) inquire into complaints relating to individual's right to free and compulsory health care and universal health; and

39 of 2019. (2) The Commission shall, while inquiring into any matters relating to individual's right to free and compulsory health care and universal health, have the same powers as assigned to them respectively under the said National Medical Commission Act, 2019.

40 (3) Where the State Medical Council has not been constituted in a State, the appropriate Government may, constitute such authority to exercise the powers conferred on, and to perform the functions assigned to it under this Act, in such manner and subject to such terms and conditions, as may be prescribed.

17. (1) Any person having any grievance relating to the right to an individual under this Act may make a written complaint to the local authority having jurisdiction. Protection of Right of Individuals.

(2) After receiving the complaint under sub-section (1), the local authority shall decide the matter as early as possible after affording a reasonable opportunity of being heard to the parties concerned.

(3) Any persons aggrieved by the decision of the local authority may prefer an appeal to the State Medical Council or the authority prescribed under sub-section (3) of section 16, as the case may be. 5

(4) The appeal preferred under sub-section (3) shall be decided by State Medical Council or the authority prescribed under sub-section (3) of section 16, as the case may be, as provided under clause (b) of sub-section (1) of section 16.

Power to issue guideline and directions.

18. (1) The Central Government may issue guidelines and give such directions to the State Government or the local authority as the case may be as it deems fit for the purposes of implementation of the provisions of this Act. 10

(2) The appropriate Government may issue guidelines and give such directions, as it deems fit, to the local authority or the Hospital Management Committee regarding implementation of the provisions of this Act. 15

(3) The local authority may issue guidelines and give such directions, as it deems fit, to the Hospital Management Committee regarding implementation of the provisions of this Act.

Protection from prosecution or legal proceeding.

19. No prosecution for offences punishable shall be instituted except with the previous sanction of an officer authorised in this behalf, by the appropriate Government, by notification. 20

20. No suit or other legal proceeding shall lie against the Central Government, the State Government, the National Medical Commission, the State Medical Commission, the local authority, the Hospital Management Committee or any person, in respect of anything which is done in good faith or intended to be done, in pursuance of this Act, or any rules or order made thereunder. 25

Act to supplement other laws.

21. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

22. (1) The appropriate Government may, by notification, make rules, for carrying out the provisions of this Act. 30

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any the following matters, namely:—

(a) the manner of giving special training and the time-limit thereof to doctor and medical staff;

(b) the area of limits for establishment of a neighbourhood hospital; 35

(c) the manner of maintenance of records of individual admitted in the hospital;

(d) the manner and extent of reimbursement of expenditure;

(e) the manner of redressing grievances of individual.

STATEMENT OF OBJECTS AND REASONS

Right to health and education are the founding pillars of any welfare state. India, after entitling the Right to Education, looks forward towards a legislation entitling Right to Health. Every nation-state is obliged to support the right to health through the allocation of maximum available resources. A rights-based approach to health requires that health programmes and schemes must prioritize the needs of those furthest behind first towards greater equity, a principle that has been echoed in the recently adopted 2030 Agenda for Sustainable Development and Universal Health Coverage, Even the WHO Constitution (1946) envisages “.....the highest attainable standard of health as a fundamental right of every human being.”

The health statistics of India are intensely worrying. According to the National Health Profile 2018, an average Indian spends a meager amount of Rs. 3 per day on his healthcare facilities. Infant Mortality Rate is still at a high figure i.e. 34 per 1000 in India. One allopathic government doctor in India, on an average, attends to a population of 11,082, which is 10 times more than the WHO recommended doctor-population ratio of 1:1,000. India is still facing a large number of casualties during break out of epidemics like Japanese Encephalitis and Swine Flu. Hence, India needs to entitle healthcare facilities to the people as a basic human right.

The Bill would also ensure free and universal healthcare facilities to every individual of India. The binding right to health would enable the last man standing to get healthcare facilities at no cost. The binding right to health would also enable the Centre and the State to allocate greater funds towards the healthcare, strengthening the healthcare system of India.

Hence, this Bill.

ABHISHEK MANU SINGHVI

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for Right to Free and Compulsory Healthcare facilities and services. Clause 7 provides for the establishment of hospitals, within such areas or limits of neighbourhood, where it is not so established, within three years from the commencement of this Act. Clause 13 provides for the establishment of hospital management committees. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is not possible at present to quantify the funds that may be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 22 of the Bill empowers the appropriate Government to frame rules by notification in the Official Gazette, to carry out the provision of the Bill. The rules to be framed by the Government pertain to matters of administrative detail only. The delegation is, therefore, normal in character.

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to provide for the right to free and compulsory healthcare services and universal health to people and for matters connected therewith and incidental thereto.

(Dr. Abhishek Manu Singhvi, M.P.)