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	(c) the individual or individuals, in order of precedence, he wants to appoint as his nominated representative as provided under section 14.	
	<p>(2) An advance directive under sub-section (1) may be made by a person irrespective of his past mental illness or treatment for the same.</p> <p>(3) An advance directive made under sub-section (1), shall be invoked only when such person ceases to have capacity to make mental health care or treatment decisions and shall remain effective until such person regains capacity to make mental health care or treatment decisions.</p>	
	(4) Any decision made by a person while he has the capacity to make mental health care and treatment decisions shall over-ride any previously written advance directive by such person.	
	(5) Any advance directive made contrary to any law for the time being in force shall be <i>ab initio</i> void.	
	6. (1) An advance directive shall be made in writing on a plain paper with the person's signature or thumb impression on it and attested by two witnesses and be,—	Manner of making advance directive.
	(a) registered with the Board in the district where the person is ordinarily resident; or	
	(b) signed by a medical practitioner certifying that the person has capacity to make mental health care and treatment decisions at the time of making the advance directive and that the person has made the advance directive of his own free will:	
	<p>Provided that where the advance directive,—</p> <p>(a) has been made in accordance with the procedure laid down in this sub-section; and</p> <p>(b) contains a refusal for all future medical treatment for mental illness,</p> <p>such advance directive shall be valid only after it has been submitted to the relevant Board and the Board following a hearing, has certified the validity of the advance directive:</p> <p>Provided further that in case a person has written an advance directive which has not been registered with the Board or signed by a medical practitioner as referred to in the first proviso, the Board may decide the validity of such advance directive as and when required to do so.</p>	
	(2) No fee shall be charged for registering the advance directive with the concerned Board or signing by a medical practitioner as required under sub-section (1).	

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	7. Subject to the provisions contained in clause (a) of sub-section (1) of section 91, every Board shall maintain an online register of all advance directives registered with it and make them available to the concerned mental health professionals as and when required.	Maintenance of online register.
	8. (1) An advance directive made under sub-section (1) of section 6 may be revoked, amended or cancelled by the person who made it at any time.	Revocation, amendment or cancellation of advance directive.
	(2) The procedure for revoking, amending or cancelling an advance directive shall be the same as for making an advance directive under sub-section (1) of section 6.	
	9. The advance directive shall not apply to the emergency treatment given under section 103 to a person who made the advance directive.	Advance directive not to apply to emergency treatment.
	10. (1) It shall be the duty of every medical officer in charge of a mental health establishment and the psychiatrist in charge of a person's treatment to propose or give treatment to a person with mental illness, in accordance with his valid advance directive, subject to section 11.	Duty to follow the advance directive.
	11. (1) Where a mental health professional or a relative or a care-giver of a person desires not to follow an advance directive while treating a person with mental illness, such mental health professional or the relative or the care-giver of the person may make an application to the concerned Board to review, alter, modify or cancel the advance directive.	Power to review, alter, modify or cancel advance directive.
	(2) Upon receipt of the application under sub-section (1), the Board may, after giving an opportunity of hearing to all concerned parties (including the person whose advance directive is in question), either uphold, modify, alter or cancel the advance directive after taking into consideration the following, namely:— (a) whether the advance directive was made by the person out of his own free will and free from force, undue influence or coercion; or (b) whether the person intended the advance directive to apply to the present circumstances, which may be different from those anticipated; or (c) whether the person was sufficiently well informed to make the decision; or (d) whether the person had capacity to make decisions relating to his mental health care or treatment when such advanced directive was made; or (e) whether the content of the advance directive is contrary to other laws or constitutional provisions.	
	(3) The person writing the advance directive and his nominated	

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	representative shall have a duty to ensure that the medical officer in charge of a mental health establishment or a medical practitioner or a mental health professional, as the case may be, has access to the advance directive when required.	
	(4) The legal guardian shall have right to make an advance directive in writing in respect of a minor and all the provisions relating to advance directive, <i>mutatis mutandi</i> , shall apply to such minor till such time he attains majority.	? the age of majority
Review of advance directives.	12. (1) The Commission shall regularly and periodically review the use of advance directives and make recommendations in respect thereof.	
	(2) The Commission in its review under sub-section (1) shall give specific consideration to the procedure for making an advance directive and also examine whether the existing procedure protects the rights of persons with mental illness.	
	(3) The Commission may modify the procedure for making an advance directive or make additional regulations regarding the procedure for advance directive to protect the rights of persons with mental illness.	
Liability of medical health professional in relation to advance directive.	13. (1) A medical practitioner or a mental health professional shall not be held liable for any unforeseen consequences on following a valid advance directive.	
	(2) The medical practitioner or mental health professional shall not be held liable for not following a valid advance directive, if he has not been given a copy of the valid advance directive.	
	CHAPTER IV NOMINATED REPRESENTATIVE	
Appointment and revocation of Nominated representative.	14. (1) Notwithstanding anything contained in clause (c) of sub-section (1) of section 5, every person who is not a minor, shall have a right to appoint a nominated representative. (2) The nomination under sub-section (1) shall be made in writing on plain paper with the person's signature or thumb impression of the person referred to in that sub-section. (3) The person appointed as the nominated representative shall not be a minor, be competent to discharge the duties or perform the functions assigned to him under this Act, and give his consent in writing to the mental health professional to discharge his duties and perform the functions assigned to him under this Act.	
	(4) Where no nominated representative is appointed by a person under sub-section (1), the following persons for the purposes of this Act in the order of precedence shall be deemed to be the nominated representative for a person with mental illness, namely:—	
	(a) the individual appointed as the nominated representative	

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	in the advance directive under clause (c) of sub-section (1) of section 5; or	
	(b) a relative or if not available or not willing to be the nominated representative of such person; or	
	(c) a care giver, or if not available or not willing to be the nominated representative of such person; or (d) a suitable person appointed as such by the concerned Board; or (e) if no such person is available to be appointed as a nominated representative, the Board shall appoint the Director, Department of Social Welfare, or his designated representative, as the nominated representative of the person with mental illness:	
21 of 1860.	<p>Provided that a person representing an organisation registered under the Societies Registration Act, 1860 or any other law for the time being in force, working for persons with mental illness, may temporarily be engaged by the mental health professional to discharge the duties of a nominated representative pending appointment of a nominated representative by the concerned Board.</p> <p>(5) The representative of the organisation, referred to in the proviso to sub-section (4), may make a written application to the medical officer in charge of the mental health establishment or the psychiatrist in charge of the person's treatment, and such medical officer or psychiatrist, as the case may be, shall accept him as the temporary nominated representative, pending appointment of a nominated representative by the concerned Board.</p> <p>(6) A person who has appointed any person as his nominated representative under this section may revoke or alter such appointment at any time in accordance with the procedure laid down for making an appointment of nominated representative under sub-section (1).</p> <p>(7) The Board may, if it is of the opinion that it is in the interest of the person with mental illness to do so, revoke an appointment made by it under this section, and appoint a different representative under this section.</p>	
	<p>(8) The appointment of a nominated representative, or the inability of a person with mental illness to appoint a nominated representative, shall not be construed as the lack of capacity of the person to take decisions about his mental health care or treatment.</p> <p>(9) All persons with mental illness shall have capacity to make mental health care or treatment decisions but may require varying levels of support from their nominated representative to make decisions.</p>	
Nominated representative of	15. (1) Notwithstanding anything contained in section 14, in	

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a minor.	case of minors, the legal guardian shall be their nominated representative, unless the concerned Board orders otherwise under sub-section (2).	
	(2) Where on an application made to the concerned Board, by a mental health professional or any other person acting in the best interest of the minor, and on evidence presented before it, the concerned Board is of the opinion that,—	
	(a) the legal guardian is not acting in the best interests of the minor; or	
	(b) the legal guardian is otherwise not fit to act as the nominated representative of the minor,	
	it may appoint, any suitable individual who is willing to act as such, the nominated representative of the minor with mental illness: Provided that in case no individual is available for appointment as a nominated representative, the Board shall appoint the Director in the Department of Social Welfare of the State in which such Board is located, or his nominee, as the nominated representative of the minor with mental illness.	
	16. The Board, on an application made to it by the person with mental illness, or by a relative of such person, or by the psychiatrist responsible for the care of such person, or by the medical officer in charge of the mental health establishment where the individual is admitted or proposed to be admitted, may revoke, alter or modify the order made under clause (e) of sub-section (4) of section 14 or under sub-section (2) of section 15.	Revocation, alteration, cancellation of Nominated Representative by Board.
	17. While fulfilling his duties under this Act, the nominated representative shall—	Duties of nominated representative.
	(a) consider the current and past wishes, the life history, values, cultural background and the best interests of the person with mental illness.	
	(b) give particular credence to the views of the person with mental illness to the extent that the person understands the nature of the decisions under consideration;	
	(c) provide support to the person with mental illness in making treatment decisions under section 98 or section 99;	
	(d) have right to seek information on diagnosis and treatment to provide adequate support to the person with mental illness;	
	(e) have access to the family or home based rehabilitation services as provided under clause (c) of sub-section (4) of section 18 on behalf of and for the benefit of the person with mental illness;	

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	(f) be involved in discharge planning under section 107;	
	(g) apply to the mental health establishment for admission under section 96, section 98 or section 99;	
	(h) apply to the concerned Board on behalf of the person with mental illness for discharge under section 96, section 98 or section 99;	
	(i) apply to the concerned Board against violation of rights of the person with mental illness in a mental health establishment;	
	(j) appoint a suitable attendant under sub-section (5) of section 96 or sub-section (6) of section 96;	
	(k) have the right to give or withhold consent for research under circumstances mentioned under sub-section (3) of section 108.	
	CHAPTER V RIGHTS OF PERSONS WITH MENTAL ILLNESS	
Right to access mental health care.	18. (1) Every person shall have a right to access mental health care and treatment from mental health services run or funded by the appropriate Government.	
	(2) The right to access mental health care and treatment shall mean mental health services of affordable cost, of good quality, available in sufficient quantity, accessible geographically, without discrimination on the basis of gender, sex, sexual orientation, religion, culture, caste, social or political beliefs, class, disability or any other basis and provided in a manner that is acceptable to persons with mental illness and their families and care-givers.	
	(3) The appropriate Government shall make sufficient provision as may be necessary, for a range of services required by persons with mental illness.	
	(4) Without prejudice to the generality of range of services under sub-section (3), such services shall include— (a) provision of acute mental health care services such as outpatient and inpatient services; (b) provision of half-way homes, sheltered accommodation, supported accommodation; (c) provision for mental health services to support family of person with mental illness or home based rehabilitation; (d) hospital and community based rehabilitation establishments and services;	

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	(e) provision for child mental health services and old age mental health services.	
	(5) The appropriate Government shall,— (a) integrate mental health services into general health care services at all levels of health care including primary, secondary and tertiary health care and in all health programmes run by the appropriate Government;	
	(b) provide treatment in a manner, which supports persons with mental illness to live in the community and with their families; (c) ensure that the long term care in a mental health establishment for treatment of mental illness shall be used only in exceptional circumstances, for as short a duration as possible, and only as a last resort when appropriate community based treatment has been tried and shown to have failed;	
	(d) ensure that no person with mental illness (including children and older persons) shall be required to travel long distances to access mental health services and such services shall be available close to a place where a person with mental illness resides; (e) ensure that as a minimum, mental health services run or funded by Government shall be available in each district; (f) ensure , if minimum mental health services specified under sub-clause (e) of sub-section (4) are not available in the district where a person with mental illness resides, that the person with mental illness is entitled to access any other mental health service in the district and the costs of treatment at such establishments in that district will be borne by the appropriate Government: Provided that till such time the services under this sub-section are made available in a health establishment run or funded by the appropriate Government, the appropriate Government shall make rules regarding reimbursement of costs of treatment at such mental health establishment.	
	(6) The appropriate Government shall make available a range of appropriate mental health services specified under sub-section (4) of section 18 at all general hospitals run or funded by such Government and basic and emergency mental health care services shall be available at all community health centres and upwards in the public health system run or funded by such Government.	???
	(7) Persons with mental illness living below the poverty line whether or not in possession of a below poverty line card, or who are destitute or homeless shall be entitled to mental health treatment and services free of any charge and at no financial cost at all mental health establishments run or funded by the appropriate	

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	Government and at other mental health establishments designated by it.	
	<p>(8) The appropriate Government shall ensure that the mental health services shall be of equal quality to other general health services and no discrimination be made in quality of services provided to persons with mental illness.</p> <p>(9) The minimum quality standards of mental health services shall be as specified by regulations made by the State Authority.</p>	
	(10) Without prejudice to the generality of range of services under sub-section (3) of section 18, the appropriate Government shall notify Essential Drug List and all medicines on the Essential Drug List shall be made available free of cost to all persons with mental illness at all times at health establishments run or funded by the appropriate Government starting from Community Health Centres and upwards in the public health system:	
	Provided that where the health professional of ayurveda, yoga, unani, siddha, homoeopathy or naturopathy systems recognised by the Central Government are available in any health establishment, the essential medicines from any similar list relating to the appropriate ayurveda, yoga, unani, siddha, homoeopathy or naturopathy systems shall also be made available free of cost to all persons with mental illness.	
	(11) The appropriate Government shall take measures to ensure that necessary budgetary provisions in terms of adequacy, priority, progress, and equity are made for effective implementation of the provisions of this section.	
	(12) The Central Government shall lay an annual report before the Parliament and the State Governments shall lay an annual report before the State Legislature giving therein the details regarding the progress made towards achieving access to mental health care in the country.	
	<p><i>Explanation.</i>— For the purposes of sub-section (11), the expressions—</p> <p>(i) “adequacy” means in terms of how much is enough to offset inflation;</p> <p>(ii) “priority” means in terms of compared to other budget heads;</p> <p>(iii) “equity” means in terms of fair allocation of resources taking into account the health, social and economic burden of mental illness on individuals, their families and care-givers;</p> <p>(iv) “progress” means in terms of indicating an improvement in the state's response.</p>	
Right to community living.	<p>19. Every person with mental illness shall,—</p> <p>(a) have a right to live in, be part of and not be segregated</p>	

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	from society; and (b) not continue to remain in a mental health establishment merely because he does not have a family or is not accepted by his family or is homeless or due to absence of community based facilities.	
	(2) The appropriate Government shall, within a reasonable period, provide for or support the establishment of less restrictive community based establishments including halfway homes, group homes and the like for persons who no longer require treatment in more restrictive mental health establishments such as long stay mental hospitals.	
Right to protection from cruel, inhuman and degrading treatment	20. (1) Every person with mental illness shall have a right to live with dignity.	
	(2) Every person with mental illness shall be protected from cruel, inhuman or degrading treatment in any mental health establishment and shall have the following rights, namely:—	
	(a) to live in safe and hygienic environment;	
	(b) to have adequate sanitary conditions;	
	(c) to have reasonable facilities for leisure, recreation, education and religious practices;	
	(d) to privacy;	
	(e) for proper clothing so as to protect such person from exposure of his body to maintain his dignity;	
	(f) to not be forced to undertake work in a mental health establishment and to receive appropriate remuneration for work when undertaken;	
	(g) to have adequate provision for preparing for living in the community;	
	(h) to have adequate provision for wholesome food, sanitation, space, and access to articles of personal hygiene, in particular, women's personal hygiene be adequately addressed by providing access to items that may be required during menstruation;	
	(i) to not be subject to compulsory tonsuring (shaving of head hair);	
	(j) to wear own personal clothes if so wished and to not be forced to wear uniforms provided by the establishment; and	
	(k) to be protected from all forms of physical, verbal, emotional and sexual abuse.	
Right to equality and non-	21. (1) Every person with mental illness shall be treated as equal to persons with physical illness in the provision of all health	

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discrimination.	care which shall include the following, namely:—	
	(a) there shall be no discrimination on any basis including gender, sex, sexual orientation, religion, culture, caste, social or political beliefs, class or disability;	
	(b) emergency facilities and emergency services for mental illness shall be of the same quality and availability as those provided to persons with physical illness;	
	(c) persons with mental health services shall be entitled to the use of ambulance services in the same manner, extent and quality as provided to persons with physical illness;	
	(d) living conditions in health establishments shall be of the same manner, extent and quality as provided to persons with physical illness; and	
	(e) any other health services provided to persons with physical illness shall be provided in same manner, extent and quality to persons with mental illness.	
41 of 1999.	(2) The Insurance Regulatory Development Authority established under the Insurance Regulatory Development Authority Act, 1999 shall endeavour to ensure that all insurers make provisions for medical insurance for treatment of mental illness on the same basis as is available for treatment of physical illness.	
Right to information.	22. (1) A person with mental illness and his nominated representative shall have the rights to the following information, namely:—	
	(a) the provision of this Act or any other law for the time being in force under which he has been admitted, if he is being admitted, and the criteria for admission under that provision;	
	(b) of his right to make an application to the concerned Board for a review of the admission;	
	(c) the nature of the person's mental illness and the proposed treatment plan which includes information about treatment proposed and the known side effects of the proposed treatment;	
	(d) receive the information in a language and form that such person receiving the information can understand.	
	(2) In case complete information cannot be given to the person with mental illness at the time of the admission or the start of treatment, it shall be the duty of the medical officer or psychiatrist in charge of the person's care to ensure that full information is provided promptly when the individual is in a position to receive it:	
	Provided that where the information has not been given to the person with mental illness at the time of the admission or the start of treatment, the medical officer or psychiatrist in charge of the	

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	person's care shall give the information to the nominated representative immediately.	
Right to confidentiality.	23. (1) A person with mental illness shall have the right to confidentiality in respect of his mental health, mental health care, treatment and physical health care.	
	(2) All health professionals providing care or treatment to a person with mental illness shall have a duty to keep all such information confidential which has been obtained during care or treatment with the following exceptions, namely:—	
	(a) release of information to the nominated representative to enable him to fulfil his duties under this Act;	
	(b) release of information to other mental health professionals and other health professionals to enable them to provide care and treatment to the person with mental illness;	
	(c) release of information if it is necessary to protect any other person from harm or violence;	
	(d) only such information that is necessary to protect against the harm identified shall be released;	
	(e) release of information in the case of life threatening emergencies where such information is urgently needed to save lives;	
	(f) release of information upon an order by concerned Board or the Commission or High Court or Supreme Court or any other statutory authority competent to do so;	
	(g) release of information in the interests of public safety and security.	
Restriction on release of information in respect to mental illness.	24. (1) No photograph or any other information relating to a person with mental illness undergoing treatment at a mental health establishment shall be released to the media without the consent of the person with mental illness;	
	(2) The right to confidentiality of person with mental illness shall also apply to all information stored in electronic or digital format in real or virtual space.	
Right to access medical records.	25. (1) All persons with mental illness shall have right to access their medical records.	
	(2) The psychiatrist in charge of such records may withhold specific information in the medical records if disclosure would result in,—	
	(a) serious mental harm to the person with mental illness; or	
	(b) likelihood of harm to other persons.	
	(3) When any information in the medical records is withheld from the person, the psychiatrist shall inform the person with	