

In pursuance of the provision of clause (3) of article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of Notification No. 139621/XXVIII-3-2023-E file No-31629, dated July 24, 2023 for general information.

No. 139621/XXVIII-3-2023-E file No-31629
Dated Dehradun, July 24, 2023

NOTIFICATION

In exercise of the powers conferred by sub-section (2) of section 121 of the Mental Healthcare Act, 2017 (10 of 2017), the State Government with the previous approval of the Central Government, makes the following Rules, namely:-

THE UTTARAKHAND MENTALHEALTHCARE (STATE MENTAL HEALTH AUTHORITY) RULES, 2023

CHAPTER— I PRELIMINARY

- Short title, extent and commencement**
1. (1) These rules may be called the Uttarakhand Mental Healthcare (State Mental Health Authority) Rules, 2023.
 - (2) They shall come into force on the date of their publication in the Official Gazette.
- Definitions**
2. (1) In these rules, unless the context otherwise requires;-
 - a) "Act" means the Mental Healthcare Act, 2017 (10 of 2017);
 - b) "Form" means a Form appended to these rules;
 - c) "non-official member" means a member of the State Authority nominated under clauses (g) to (n) of sub-section (1) of section 46 of the Act;
 - d) "section" means section of the Act.
 - (2) The words and expressions used herein and not defined, but defined in the Act or, as the case may be, in the Indian Medical Council Act, 1956 (102 of 1956) or in the Indian Medicine Central Council Act, 1970 (48 of 1970), in so far as they are not inconsistent with the provisions of the Act, shall have the meanings assigned to them in the Act or, as the case may be, in those enactments.

CHAPTER II

STATE MENTAL HEALTH AUTHORITY

Nomination of ex-officio members of State Authority

3. (1) The State Government shall nominate Secretary or Principal Secretary in the Department of Health as Chairperson of the State Authority under clause (a) of section (1) of section 46.

(2) The State Government shall nominate Joint Secretary in charge of mental healthcare in the Department of Health, Director General of Medical Health and Family Welfare Department or Director General of Medical Education and Joint Secretary in the Department of Social Welfare as ex officio members of the State Authority respectively under clauses (b), (c) and (d) of sub-section (1) of section 46.

(3) The State Government shall nominate three persons, not below the rank of Joint Secretary in the Departments of Home, Finance, Law, Social welfare and Women empowerment and child development to be ex officio members of State Authority under clause (e) of sub-section (1) of section 46.

Norms for selection of non-official members of State Authority

4. A person shall not be selected as a non-official member of State Authority unless, he-

- Is an Indian National;
- Is of the age not exceeding sixty-seven years;
- Possesses qualification and experience as specified in rule 5.

Qualification and experience of non-official members of State Authority

5. (1) The State Government shall nominate one person who is an eminent psychiatrist as a member of the State Authority under clause (g) of sub-section (1) of section 46.

(2) The State Government shall nominate one mental health professional, one psychiatric social worker, one clinical psychologist and one mental health nurse, having preferably of fifteen years' experience in their respective fields and registered as mental health professionals with the State Authority, as members of the State Authority respectively under clauses (h), (i), (j) and (k) of sub-section (1) of section 46.

(3) The State Government shall nominate two persons each from the following categories as members of the State Authority respectively under clauses (l), (m) and (n) of

sub-section (1) of section 46, namely:—

- a) Persons representing persons who have or have had mental illness;
- b) Persons representing care-givers of persons with mental illness or organisations representing care-givers; and
- c) Persons representing non-governmental organisations which provide services to persons with mental illness.

Invitation of application for the posts of non-official members of State Authority

6. A vacancy for the post of non-official member of the State Authority shall be given wide publicity through open advertisement in at least two daily newspapers (one English and one local language) having wide circulation in the State and the advertisement shall also be made available on the website of the Department of Health.

Selection Committee for nomination of non-official members of State Authority

7. The Selection Committee for nomination of non-official members of the State Authority shall consist of a Chairperson who shall be the Chairperson of the State Authority and two independent experts of eminence in the field of mental healthcare, to be nominated by the State Government.

Procedure for nomination of non-official members of State Authority

8. (1) The Selection Committee constituted under rule 7 shall consider all applications received by the Department and scrutinize such applications which fulfill the requirements of section 46 and rules 4 and 5.
- (2) The Selection Committee shall, having regard to the provisions of the Act and these rules, decide about the suitability of the applicants for being selected as members of the State Authority:

Provided that in case of persons to be nominated under sub-rule (3) of rule 5, preference shall be given to the persons with ten years of experience in dealing with persons with mental illness.

- (3) The State Government shall nominate the persons selected by the Selection Committee as members of the State Authority.

Term of office and allowances of non-official members of State Authority

9. (1) Every non-official member nominated under rule 8 shall hold his office for a term of three years at a time from the date of his nomination.
- (2) Every non-official member attending the meeting of the State Authority shall be entitled to sitting allowance, travelling allowance, daily allowance and such other

allowances as are applicable to non-official members of the Commissions and Committees of the State Government attending the meeting of such Commission or Committee.

Furnishing
Information

of 10.

The State Government may call for information concerning the activities of the State Authority or the Board periodically or as and when required by it and the State Authority or the Board, as the case may be, shall furnish such information in Form-A.

CHAPTER III

PROVISIONAL REGISTRATION OF MENTAL HEALTH ESTABLISHMENTS BY STATE AUTHORITY

Procedure
provisional
registration of
mental health
establishments by
State Authority

for 11.

(1) Every mental health establishment in a State, except the mental health establishment under the Control of the Central Government, shall be registered with the State Authority.

(2) Every mental health establishment referred to in sub-rule (1) shall submit an application for provisional registration to the State Authority in Form-B, containing details as specified therein, along with a fee of rupees two thousand by way of a demand draft drawn in favour of the Chairperson, State Mental Health Authority payable at the place where the State Authority is situated.

(3) The State Authority shall, on being satisfied that the mental health establishment fulfils all the requirements as specified in sections 65 and 66, grant to such mental health establishment, a provisional registration certificate in Form-C.

Validity
renewal
certificate
registration

and 12.
of
of

The provisional registration certificate granted under sub-rule (3) of rule 11 shall be valid for a period of twelve months from the date of such grant and an application for renewal of such certificate shall be made in Form-B within thirty days before the date of expiry of the period of validity of such certificate and in case application is not made within the specified period, the mental health establishment concerned shall be liable to pay renewal fee of rupees twenty thousand by way of a demand draft drawn in favour of the Chairperson, State Mental Health Authority payable at the place where the State Authority is situated.

Issue of duplicate certificate 13. Where a certificate of registration granted to a mental health establishment is destroyed or lost or mutilated or damaged, the State Authority may issue a duplicate certificate on an application made by such establishment along with a fee of rupees two thousand by way of a demand draft drawn in favor of the Chairperson, State Mental Health Authority payable at the place where the State Authority is situated.

Maintenance of digital register 14. A category-wise register in Form-D of all registered mental health establishments shall be maintained by the State Authority in digital format in accordance with the provisions of section 71.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

Accounts and audit of State Authority 15 (1) The State Authority shall maintain accounts of its income and expenditure relating to each year and prepare an annual Statement of accounts consisting of income and expenditure account and the balance sheet.

(2) Annual statement of accounts shall be submitted for audit not later than 30th June each year in the common accounting format prescribed from time to time by the Ministry of Finance for the central autonomous bodies or as nearer thereto as the circumstances admit.

(3) The annual statement of accounts prepared under sub-rule (1) shall be signed on behalf of the State Authority by the officer in-charge of accounts and the Chief Executive Officer and shall be approved by the State Authority.

Annual report of the State Authority 16. (1) The State Authority shall prepare its annual report in Form-E and forward it to the State Government within nine months of the end of the financial year for being laid before each House of State Legislature.

(2) The annual report shall give a full account of the activities of the State Authority during the previous year and shall include the audited accounts of the year and the report of the Comptroller and Auditor General of India thereon.

CHAPTER V

AUDIT, INSPECTION AND ENQUIRY OF MENTAL HEALTH ESTABLISHMENTS

- Audit of mental health establishments** 17. (1) The State Authority shall, for the purpose of conducting audit of registered mental health establishments in the State, authorize one or more of the following persons to ensure that such mental health establishments comply with the minimum standards specified under the Act, namely:-
- a representative of the District Collector or District Commissioner of the district where the mental health establishment is situated;
 - a representative of the State Human Rights Commission of the State where the mental health establishment is situated;
 - a Psychiatrist who is in Government service;
 - a Psychiatrist who is in private practice;
 - a mental health professional who is not a psychiatrist;
 - a representative of a non-governmental organization working in the area of mental health;
 - representatives of the care-givers of persons with mental illness or organisations representing care-givers; and
 - representatives of the persons who have or have had mental illness.
- (2) For conducting audit of registered mental health establishment, the State Authority shall charge a fee of rupees ten thousand by way of a demand draft drawn in favour of the Chairperson, State Mental Health Authority payable at the place where the Authority is situated.
- Inspection and inquiry of mental health establishments** 18. (1) The State Authority may, suo moto or on a complaint received from any person with respect to non-adherence of minimum standards specified by or under the Act or contravention of any provision thereof, order an inspection and inquiry of any mental health establishment, to be made by one or more of the following persons, namely:-
- A Psychiatrist in Government service;
 - A Psychiatrist in private practice;
 - A mental health professional who is not a psychiatrist;

- (d) A representative of a non-governmental organization working, in the area of mental health;
- (e) a police officer in charge of the police station under whose jurisdiction, the mental health establishment is situated;
- (f) a representative of the District Collector or District Commissioner of the district where the mental health establishment is situated.

(2) The State Authority or the person authorized by it under sub-rule (1) may, if it has reasons to believe that a person is operating a mental health establishment without registration or is not adhering to the minimum standards specified by or under the Act or has been contravening any of the provisions of the Act or the rules and regulations made thereunder, enter and search such mental health establishment.

(3) During search, the State Authority or the person authorized by it may require the mental health professional in charge of the mental health establishment to produce the original documents relating to its registration with the State Authority and it shall be obligatory on the part of the mental health establishment to produce such documents.

(4) Within two days of completing search of the mental health establishment under sub-rule (3), a written report of the findings of such search shall be submitted to the Chairperson of the Authority.

(5) The Chairperson of the State Authority, shall, on receipt of the written report under sub-rule (4), take such action as it deems fit, against the defaulting mental health establishment in accordance with the provisions of the Act.

Minimum standards

19. The Minimum standards prescribed for the establishment and operation of state mental health establishments will be subject to the above rules.

Removal of difficulties

20. The basic nature of the Mental Health Care (State Mental Health Authority) Rules, 2018 shall be kept unchanged, but if there is any difficulty in implementation under these rules, then the Hon'ble Chief Minister will be authorized to make changes and additions for this.