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Report on

**WEBINAR ON “THE STATUTORY FRAMEWORK OF THE
MENTAL HEALTHCARE ACT, 2017 AND CONCERNS
REGARDING IMPLEMENTATION”**

Held on: 9th February, 2021

Organised by: Rajasthan State Judicial Academy, Jodhpur

Resource Person(s):

- Dr. Shekhar Seshadri, Senior Professor, Dept. of Child and Adolescent Psychiatry, NIMHANS Bengaluru
- Mr. Saurabh Shashi Ashok, Project Officer, Policy and Law, NIMHANS Bengaluru

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- Objective of Rajasthan State Judicial Academy is to educate and sensitize its officers and other stake holders about the latest laws and procedure to achieve the constitutional mandate of securing the “Rule of Law”.
- With the restrictions on physical gathering due to the spread of novel coronavirus, the innovations in technology have come to aid us in our ever going quest for knowledge. Through the use of softwares and advancement of computer technology, it is possible to continue imparting knowledge through webinars.
- Making full use of the advances in the field of technology and keeping up with its constitutional mandate in mind, The Rajasthan State Judicial Academy on **9th February, 2021** organized a **Webinar on “The statutory framework of the Mental Healthcare Act, 2017 and concerns regarding implementation”** at **4.30 pm**, which was presided over by **Dr. Shekhar Seshadri, Senior Professor, Dept. of Child and Adolescent Psychiatry, NIMHANS Bengaluru** and **Mr. Saurabh Shashi Ashok, Project Officer, Policy and Law, NIMHANS Bengaluru**.
- The webinar was conducted under the aegis and guidance of **Hon’ble Mr. Justice Sandeep Mehta (Judge, Rajasthan High Court and Chairman, Rajasthan State Judicial Academy)**, under whose able leadership the series of webinars for providing in-service training to the Judicial Officers of the State of Rajasthan was envisaged and implemented. His Lordship also graced the webinar with his presence.
- The webinar saw a participation of 215 Judicial Magistrates from the Batch of 2013 and 2015, across the various Judgeships of the State of Rajasthan.
- **Mrs. Nandini Vyas (Director, Rajasthan State Judicial Academy)** welcomed **Hon’ble Mr. Justice Sandeep Mehta (Judge, Rajasthan High Court and Chairman, Rajasthan State Judicial Academy)**; **Dr. Shekhar Seshadri, Senior Professor, Dept. of Child and Adolescent Psychiatry, NIMHANS Bengaluru**; **Mr. Saurabh Shashi Ashok, Project Officer, Policy and Law, NIMHANS Bengaluru** and all the participants on the webinar.
- The Resource Person started the discourse by discussing basic concepts such as what is mental illness? What constitutes it and how it is classified as per the WHO guidelines?
- It was stated that Mental illness does not create presumption of lack of “mental capacity”. There exists statutory presumption in favour of mental capacity *unless* proved otherwise, as per Section 3(5) & Section 4 of the Mental Healthcare Act, 2017.
- The concepts pertaining to Advance Directive and Nominated Representatives were also explained to the participants.
- The concept of “Informed Consent” assumes great importance in this particular legislation; As per the Mental Healthcare Act, 2017, “Informed Consent” means

consent given for a specific intervention, without any force, undue influence, fraud, threat, mistake or misrepresentation, and obtained after disclosing to a person adequate information including risks and benefits of, and alternatives to, the specific intervention in a language and manner understood by the person.

- The various rights of persons with mental illness provided under Chapter V of the Act of 2017 were also discussed with the participants, these include:
 - A. Right to access Mental Healthcare (Section 18)
 - B. Right to community living (Section 19)
 - C. Right to be protected from cruel, inhumane, degrading treatment (Section 20)
 - D. Right to equality and non-discrimination (Section 21)
 - E. Right to information (Section 22)
 - F. Right to confidentiality (Section 23)
 - G. Right to access medical records (Section 25)
 - H. Right to free legal aid (Section 27)
- Treatment procedures and prohibited procedures under the Mental Healthcare Act, 2017 were also explained to the participants.

- The Resource Person explained in great detail, the provisions pertaining to administration of the Mental Healthcare Act, 2017 in the context of children.
 - The participants were also enlightened on the Grievance Redressal Mechanisms and Statutory Authorities under the Mental Healthcare Act, 2017.
 - Chapter VI of the Mental Healthcare Act, 2017 pertaining to Mental Health Review Board, its powers and functions, was also explained to the participants.
 - As per Section 115 of the Mental Healthcare Act, 2017, a person who attempts to commit suicide shall be presumed to be suffering from mental illness at that time and will not be punished under the Indian Penal Code. The government shall have a duty to provide care, treatment and rehabilitation to a person, having severe stress and who attempted to commit suicide, to reduce the risk of recurrence of attempt to commit suicide.
 - The Resource Person discussed in detail the role of the magistrates in the effective administration of the Mental Healthcare Act, 2017, the relevant provisions related to the same being:
 - a) Section 100 -Duties of police officers in respect of persons with mental illness
 - b) Section 101-Report to Magistrate of person with mental illness in private residence who is ill-treated or neglected
 - c) Section 102-Conveying or admitting person with mental illness to mental health establishment by Magistrate
 - d) Section 105-Question of mental illness in judicial process
 - Further, as per Section 116 of the Mental Healthcare Act, 2017, no civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which the Authority or the Board is empowered by or under this Act to determine, and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.
 - Some of the underlying concerns under the Mental Healthcare Act, 2017 that were discussed with the participants, include:
 - A. How to assess mental capacity?
 - B. How to factor in advance directive?
 - C. How to manage family's concerns in case of an advance directive?
 - The webinar concluded with a vote of thanks by **Ms. Poonam Durgan [Addl. Director (Academic), Rajasthan State Judicial Academy]** thanking **Hon'ble Mr. Justice Sandeep Mehta (Judge, Rajasthan High Court and Chairman, Rajasthan State Judicial Academy)** for His Lordship's guidance in conducting the webinar. Addl. Director (Academic, RSJA) further extended her most sincere gratitude to **Dr. Shekhar Seshadri, Senior Professor, Dept. of Child and Adolescent Psychiatry, NIMHANS Bengaluru** and **Mr. Saurabh Shashi Ashok, Project Officer, Policy and Law, NIMHANS Bengaluru** for imparting their valuable knowledge with regards to **“The statutory framework of the Mental Healthcare Act, 2017 and concerns regarding implementation”**.
 - The webinar concluded after expressing the most sincere gratitude to all the participants for making the webinar an interactive and fruitful discussion.
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