

S.no	Criteria	1998 Rules	2016 Rules
8.	Standards for dioxin and furan ^{s**}	Not defined	0.1 ng TEQ/Nm ³
9.	Monitoring of implementation	Not defined	Ministry of Environment, Forest and Climate Change should review the implementation of the rules in the country once a year. State Pollution Control Board [SPCB] of each state shall constitute district level monitoring committee under the chairpersonship of district collector or district magistrate or additional district magistrate to monitor the compliance of the above BMW rules. The district level monitoring committee shall submit its report once every 6 months to the SPCB

* Nm³ refers to **normal cubic meter** – It is the volume of a gas at temperature 0°C. It is in contrast to **standard cubic meter** [Sm³] which is the volume of a gas at temperature 20°C.

** Pollutants like polychlorinated dibenzodioxins (PCDDs) and polychlorinated dibenzofurans (PCDFs) are expressed as nanograms of dioxin toxic equivalent per Nm³ (ng TEQ/Nm³) [Toxic **E**quivalency (TEQ)]

VIII. Consumer Protection Act, 2019

The *Consumer Protection Bill, 2019* was introduced in the Lok Sabha by the Minister of Consumer Affairs, Food and Public Distribution, Mr. **Ram Vilas Paswan** on **July 8, 2019**. It was passed by the Lok Sabha on **July 30** and by the Rajya Sabha on **Aug 6** of the same year. It received President's assent on **Aug 9, 2019** and was published in the Gazette of India on the same day. The Bill replaces the 33-year-old *Consumer Protection Act, 1986*.

Note 1: COPRA 2019

This appendix mentions *only the changes that the COPRA 2019 has brought about*. Rest of the provisions are same as **COPRA 1986**. For these the reader may refer to **ch 2**.

Table 4: Major provisions of the Consumer Protection Act, 2019

Chapter	Title	Sections	Total sections
I	Preliminary	1–2	2
II	Consumer Protection Councils	3–9	7
III	Central Consumer Protection Authority	10–27	18
IV	Consumer Disputes Redressal Commission	28–73	46
V	Mediation	74–80	7
VI	Product Liability	81–87	7
VII	Offences and Penalties	88–93	6
VIII	Miscellaneous	94–107	14
Total sections			107

NB – In the discussion and tables below, sections of the **COPRA 2019** are mentioned as numerals with the prefix 's'. Thus [s47] means [section 47 of Consumer Protection Act, 2019]

A. Preliminary [s1-2]

Consumer

The definition of 'consumer' has been expanded to include persons who engage in **offline or online transactions** through electronic means or by tele-

shopping or direct selling or multi-level marketing [s2(7)].

Service

Service now means service of any description which is made available to potential users and *includes, but not limited to*, the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, telecom, boarding or lodging or both, housing construction, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service [s2(42)].

Comments – Although the definition is silent on medical services, it tacitly includes it. The operative part of the definition, which includes medical services is "*includes, but not limited to.*" Thus there is no relief for doctors in COPRA 2019, although earlier there was lot of talk about it.

B. Consumer Protection Councils [s3-9]

- The central govt. shall establish an advisory council - the **Central Consumer Protection Council** [Central Council] [s3(1)]. It would consist of:
 - The Minister-in-charge of the Department of Consumer Affairs in the Central Govt. He/She shall be the Chairperson.
 - Some other official or non-official members [details not yet prescribed] [s3(2)]

IX. National Medical Commission Act, 2019

National Medical Commission Act, 2019 [NMC Act, 2019] was passed following reports of corruption in the functioning of the MCI. There were specific charges of bribery while granting recognition to medical colleges. It was the brainchild of a high-level committee headed by former NITI Aayog Chairperson **Arvind Panagariya**.

Historical note 1: National Medical Commission Act, 2019

- NMC Act 2019's precursor, *The National Medical Commission (NMC) Bill, 2019* was tabled in the **Lok Sabha** by Union Health Minister **Dr. Harsh Vardhan** in the Lok Sabha on **July 22, 2019**.
- Lok Sabha passed it on **July 29, 2019**.
- Rajya Sabha passed it on **Aug 1, 2019**.
- The Bill received assent of the president on **Aug 8, 2019**.
- Published in the Gazette of India on the same day, *i.e.* **Aug 8, 2019**.

A. Salient Features

The Act has 61 sections and 1 Schedule. It is simply called '**The Schedule**'. The 61 sections are divided into 8 chapters. s60 of NMC Act repealed IMC Act, 1956.

Table 6: Major provisions of the NMC Act, 2019

Chapter	Title	Sections	Total sections
IX	Preliminary	1-2	2
X	The National Medical Commission	3-10	8
XI	The Medical Advisory Council	11-13	3
XII	National Examination	14-15	2
XIII	Autonomous Boards	16-34	19
XIV	Recognition of Medical Qualifications	35-40	6
XV	Grants, Audit and Accounts	41-44	4
XVI	Miscellaneous	45-61	17
Total sections			61

NB – In the discussion and tables below, sections of the **NMC Act, 2019** are mentioned as numerals with the prefix 's'. Thus [s3] means **section 3 of National Medical Commission Act, 2019**.

B. National Medical Commission [s3-10]

According to the new Act, now there will be a **National Medical Commission [NMC]**, which will replace the earlier **Indian Medical Council**. Its head office will be at New Delhi [s3].

Comments - A very important change is that now most members will be nominated by the central/state govt. See Table 8 for other details.

Removal of Chairperson/Member [s7]

Central govt. may remove Chairperson or any other Member if he

- has been adjudged an insolvent.
- has been convicted of an offence which, in the opinion of the Central Govt., involves moral turpitude.
- has become physically or mentally incapable of acting as a Member.
- is of unsound mind and stands so declared by a competent court.
- has acquired such financial or other interest as is likely to affect prejudicially his functions as a Member.**

(f) **has so abused his position as to render his continuance in office prejudicial to public interest [s7(1)].**

If the member is being removed under last 2 clauses, he shall be given a reasonable opportunity of being heard in the matter [s7(2)].

Comments – Earlier the central govt. did not have any power to remove the chairman of MCI. Now he can be easily removed, especially if he is found to be engaged in corrupt practices.

Secretariat for the Commission [s8]

- There shall be a Secretariat for the Commission.
- It will be headed by a Secretary. He will be appointed by the central govt.
- His term will be 4 years and he shall not be eligible for any extension or re-appointment.
- His functions will be assigned to him by the Commission.

Meetings of the Commission [s9]

The Commission shall meet at least once every quarter [3 months].

S.no	Criteria	IMC Act 1956	NMC Act 2019
3.	Manner of formation of governing body	As can be seen above, majority of the MCI comprised members who were elected from amongst members of the medical faculty of universities and State Medical Registers.	All the members of the NMC will be appointed or nominated by the central govt.; none will be elected [<i>this was a major cause of concern for medical fraternity</i>]
4.	Role of Search Committee in appointing Chairperson of the governing body and members [s5]	No such Search Committee was there	There will be a 7- member Search Committee which will recommend the chairperson of the NMC and 3 members. This, Search Committee shall include: Cabinet secretary [Chairperson] 3 experts possessing outstanding qualifications and experience of >25 years in the field of medical education, public health education and health research, to be nominated by the central govt. 1 more expert to be nominated by the central govt. 1 person, possessing outstanding qualifications and experience of >25 years in the field of management, law, economics or science and technology, to be nominated by the central govt. Health Secretary, Govt. of India
5.	Declaration of assets by chairperson and members [to promote lack of corruption and increase transparency] [s6(6)]	No declaration had to be given	The Chairperson and every member of the NMC shall make declaration of his <i>assets and liabilities at the time of entering and leaving office</i> . The Chairperson and each member is also required to declare their professional and commercial engagement or involvement in the prescribed form and manner. Such aforementioned declarations shall also be published on the website of the Commission
6.	Prohibition of acceptance of other employment [to promote lack of corruption and increase transparency] [s6(7)]	Chairperson or members could accept any employment after leaving job with MCI	The Chairperson or members, after leaving the respective offices, shall not accept any employment [as a consultant or an expert, in any private medical institution, whose matter has been dealt with by him] for a period of 2 years. However, he can accept employment from central govt. or a state govt.

X. Mental Healthcare Act 2017 [MHCA, 2017]

*Mental Healthcare Act 2017 is the Act currently in vogue in India. It was passed keeping in view the glaring shortcomings of Mental Health Act 1987. There was also a need to work on the country's international obligation toward the mentally ill people as per the Convention on Rights of Persons with Disability (2007) and its optimal protocol.*¹

Historical note 1 – Legislative history of Mental Healthcare Act 2017

- Convention on Rights of Persons with Disabilities and its Optional Protocol was adopted on the Dec 13, 2006 at UN Headquarters in New York.
- India signed and ratified this Convention on Oct 1, 2007.
- The Convention came into force on May 3, 2008.
- Since it became necessary to align and harmonize the existing Indian laws with this Convention, Shri Gulam Nabi Azad [Minister of Health and Family Welfare] introduced the Mental Healthcare Bill on Aug 19, 2013. However the Bill lapsed due to the dissolution of the Lok Sabha.
- The Bill was reintroduced by the next Govt in 2016. It was first passed in the Rajya Sabha on Aug 8, 2016.²
- Then passed in Lok Sabha unanimously on Mar 27, 2017.
- Got presidential assent on Apr 7, 2017.
- Came into force from July 7, 2018.

Salient features

1. Structure of the Act – The Act starts with a preamble, followed by 126 sections divided into 16 chapters.

Table 10: Major features of Mental Healthcare Act, 2017

Chapter	Sections	Title	Mainly deals with
I	1-2	Preliminary	Definitions
II	3-4	Mental Illness And Capacity To Make Mental Healthcare And Treatment Decisions	How to determine mental illness
III	5-13	Advance Directive	It deals with the Advance directives

1 Mishra A, Galhotra A. Mental Healthcare Act 2017: Need to Wait and Watch. *Int J Appl Basic Med Res.* 2018 Apr-Jun;8(2):67-70.

2 Rao GP, Math SB, Raju MS, et al. Mental Health Care Bill, 2016: A boon or bane?. *Indian J Psychiatry.* 2016;58(3):244-9.

Study in depth 1: ECT – Modified and unmodified

- ECT is the introduction of an electrical current through the brain to induce a **grand mal seizure**. How this corrects the mental illness is not clear, but there are several theories. One of these states that ECT ↑es the **brain-derived neurotrophic factor (BDNF)** level in people who do not respond to antidepressant drugs.
- **Modified ECT** means that prior to the procedure a short-acting **general anesthesia** and a **muscle-relaxant** are given. Without muscle relaxants, the risk of bone fractures [esp. bilateral hip fractures], teeth damage, tendon, and muscle damage is **drastically increased**. The administration of ECT under anesthesia but without a muscle relaxant *does not constitute modified ECT*.
- In **unmodified ECT** the person is completely awake until they are knocked out by the electricity. It is not a favored mode, yet it continues to be followed, especially in developing countries, because of lack of anesthesiologic support in ECT clinics, urgent need for ECT, contraindications for use of anesthesia/succinylcholine etc.
- The **practice of ECT** across the world was **unmodified** since 1938 when ECT was introduced. In 1952 succinylcholine was introduced as a practical, short-acting muscle relaxant to reduce ECT-related musculoskeletal complications. The famous **Bolam case [Ch 2]**, in which the patient suffered fractures, occurred 2 years later in 1954.

Table 2: Quick summary of ECT guidelines in MHCA, 2017

- ECT cannot be given as part of the emergency treatment
- ECT without the use of muscle relaxants and anesthesia is prohibited
- ECT in minors can only be given if the treating psychiatrist feels the need to use ECT, and that too after obtaining informed consent from the guardian of the patient and prior permission of the Mental Health Review Board

10. Chapter XIV [s106 only]

This is the smallest chapter, containing only 1 section [s106]. s106 says that *no mental health professional or medical practitioner shall discharge any duty or perform any function not authorized by this Act or specify or recommend any medicine or treatment not authorized by the field of his profession.*

Comments 4

This section is meant to prevent medical practitioners from trying experimental and novel treatment techniques, or perform any other experimentation on mentally ill persons.

11. Chapter XVI [s110-126]

It is the **largest chapter in the Act**, and contains 17 sections. It deals with miscellaneous provisions. The most important is **decriminalization of suicide**.

a. Attempt to commit suicide [s115]

Before this Act, anyone who attempted suicide was booked **u/s 309 IPC**, faced charges and prosecution. The *greatest criticism of this section* was that a person who attempted suicide under severe stress, *was punished once again* by imprisoning him for 1 year. Thus instead of attempting to treat the person's stress, the law gave him another blow, causing him further stress.

Now, this chapter adds the following sections to decriminalize suicide.

- **s115(1)** of the Mental Healthcare Act 2017 attempts to decriminalize suicide. It presumes severe stress in case of attempt to commit suicide, until proved otherwise. Furthermore, such person will not be punished u/s 309 IPC.
- **s115(2)** of the same Act **puts a duty on the Government** 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.

B. Limitations

- The Act has been called a '*patient-centric*' Act by most analysts, yet it has its shortcomings.
- The act mainly focuses on the *rights of the PMI only for the period they are taking treatment in a hospital*. It is silent about the care of the PMI in the community, when they are not taking treatment.⁴
- As this act provides advance directives it increases the work of psychiatrist whose number is already very less in India.
- The idea of **Mental Health Review Boards** is good, but it contains only **1 psychiatrist**. This is considered insufficient.
- The act mandates the provision of medical health services run or funded by the government be available in every district of the country [s18(5)(e)]. However this has not happened so far, because of already inadequate medical infrastructure at district and sub-district levels, and the huge finances involved.
- It includes AYUSH doctors but not mental health nurses and psychologists as mental health professionals.
- This act makes a bold step to decriminalize suicide. However some studies have found that most students between 12-19 years of age commit suicide due to pressure of study. There should have been a provision to include a **qualified counselor** in every institution.

XI. Ulysses contracts

In cases of psychiatric patients who become episodically disordered [e.g. **bipolar disorder, repeated schizophrenic psychosis**], one can give **precommitment directives**. This means that when they are in a fit state of mind, they can instruct their physician or anybody else to do or not to do certain things, if they become mentally ill in the future. Such *directives* are known as **Ulysses contracts** [*syn, precommitment directives, psychiatric advance directives, voluntary commitment contracts*].⁵

⁵ Dresser RS. Ulysses and the psychiatrists: a legal and policy analysis of the voluntary commitment contract. *Harv Civ Rights-Civil Lib Law Rev.* 1982 Winter;16(3):777-854.

Historical note 2

The name **Ulysses contract** comes from Homer's story of **Ulysses** [also known by the *Greek variant Odysseus*] who took measures to protect himself from being bewitched by the songs of the Sirens. Ulysses had himself tied to the mast of his ship and ordered his men not to listen to him should he command or even beg to be released while hearing the songs of the Sirens [Fig. 3].



Fig. 3: In the classical Homer's story, "Odyssey", Ulysses had himself tied to the mast of his ship in advance, so that when he loses self-control under the song of beautiful sirens, he may not jump to his death in the sea ["Ulysses & the Sirens", by English Victorian Neoclassical painter, Herbert James Draper (1863 – 1920)]. Ulysses contracts signed by mentally ill patients are named after him [also see Figure 2, where Ulysses is feigning insanity].



Fig. 4: Ulysses ploughing the sea shore in a futile attempt to show he was insane [first instance of feigned insanity]. The child on the seashore is Telemachus, his own child, kept there by Palamedes to see if he really was insane [also see Fig. 3, for another Ulysses related forensic concept].

Sirens were beautiful females who sang such melodious songs, that even normal men would become mad and leap to their death in the sea.

Such directives are a good way of allowing patients to maintain control over their own lives; especially in foreseeable moments of crisis when to some extent they have lost direct control. Patients and psychiatrist defend precommitment directives as instruments that strengthen patient's autonomy, because with the use of these devices patients can establish how they wish to be treated when they are no longer able to decide autonomously.⁶

⁶ van Willigenburg T, Delaere P. Protecting autonomy as authenticity using Ulysses contracts. *J Med Philos.* 2005 Aug;30(4):395-409.