

**Comments on the draft Rajasthan Right to Health Care Bill, 2022**

**Submitted by: Health Systems Transformation Platform\*, New Delhi on 24 March 2022**

We would like to congratulate the Government of Rajasthan for recognising health care as a right and being the first state in the country to introduce a legislation in this regard. It is commendable that the draft Bill lays down the rights and duties of the care users and the care providers (both in the public and in the private sectors), along with the obligations of the state government.

However, there are certain issues which we would like to bring to your kind attention and suggest ways to further strengthen the Bill. Hope you will find our suggestions useful and consider them while finalising the draft.

<b>Chapter, Section, Clause of the draft Bill</b>	<b>Problem/issue with the concerned clause</b>	<b>Proposed change</b>	<b>Reason for proposing the change</b>
Chapter I, Section 2 Definitions e) "capacity to consent" means ability of an individual, including a minor or <b>mentally challenged person</b> , assessed by the relevant health service provider on an objective basis..."	It is incorrect to use the term "mentally challenged person" in the present context.	Replace, "mentally challenged person" with "a person with mental illness/ disability".	The proposed change is in accordance with the terminology used in Central legislations, i.e., Mental Healthcare Act, 2017 and Rights of Persons with Disabilities Act, 2016.
Chapter I, Section 2 Definitions (v) Health impact assessment	The draft Bill defines health impact assessment but there is no further mention of how it would be put into practice.	Consider adding a clause in Chapter III- Obligation of the Government that health impact assessment of new projects, programmes, technology etc. would be conducted.	As a preventive measure, it is important to ensure that no harm is done to people's health, even if unintended, in undertaking any new initiative.
Chapter I, Section 2 Definitions (tt) "Resident": Person who is a bonafide resident of the state or is currently residing in the state.	The definition of 'resident' as given in the draft Bill does not cover persons who may be visiting or travelling through the state.	Replace 'Resident' with 'People', defined as "all those persons who may need health care while they are in the state of Rajasthan".	Since need for health care may arise at any moment, the term 'resident' may be replaced with 'people' to provide a more comprehensive coverage under the legislation.
Chapter II, Section 3 Right of Residents	Certain crucial Rights are excluded in Section 3.	May please include the following Rights: Right to seek services such as laboratory investigations, purchase of medicines and other	There are several instances when patients suffer because service providers do not follow these practices. Enshrining these in the

		<p>consumables from vendors of their choice.</p> <p>Right to be given an estimate of cost of health care before initiating treatment.</p> <p>Right to be provided itemised bill with break-up of costs before making the payment.</p> <p>Right to be provided emergency health care in case of a serious/life threatening situation irrespective of the ability to pay.</p> <p>Right to be provided health care without having to necessarily make advance payment.</p> <p>Right against discrimination: No person shall be subject to any discrimination in any form or manner, by the Government or any other person or body of persons, whether public or private, in access to health care services and health care establishments, on one or more of the grounds of sex, class, monetary or other economic status, place of birth, age, marital status, actual or perceived health status, sexual orientation, physical or mental disability, occupation, religion, language, political or other opinions, caste, civil, political, social or other status or affiliation, race, or any other ground.</p> <p>Right to be treated with dignity and to be free from any inhuman, cruel</p>	<p>legislation would help in more ethical delivery of health care services. An example:</p> <p><a href="https://timesofindia.indiatimes.com/india/private-hospitals-making-over-1700-profit-on-drugs-consumables-and-diagnostics-study/articleshow/62997879.cms">https://timesofindia.indiatimes.com/india/private-hospitals-making-over-1700-profit-on-drugs-consumables-and-diagnostics-study/articleshow/62997879.cms</a></p> <p>In accordance with Article 14 of the Constitution of India, it is important to ensure people's right to equality in accessing health care without any discrimination</p>
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		or degrading treatment, at the hands of Government or any other person or body of persons, whether public or private, in the matter of health rights.	
Chapter IV Section 9: Constitution and Duties of State Executive Committee Section 11: Constitution and Duties of District Health Authority.	While the composition of the State Health Authority includes representatives of patients' groups, the same are missing from the other two bodies that the Bill proposes.	Representatives of patients' groups may be included in the State Executive Committee and District Health Authority as they are the implementing bodies.	Patients'/Users' voices need to be heard both in policy formulation and implementation as they are the ones who are directly impacted by such measures. Therefore, their inclusion in the implementing bodies is equally important.
Chapter IV, Section 12 (d)	With respect to fixing the cost of health care at private health care facilities and displaying rates in public domain, reference may be given to the Clinical Establishments Act, 2010 which has similar provisions and has been adopted by the state of Rajasthan.	To Section 12, clause (d) add "as also prescribed under the Clinical Establishments (Registration and Regulation) Act, 2010 which has been adopted by the Government of Rajasthan".	This would help in laying emphasis on the importance of fixing costs and displaying them publicly.
Chapter VI, Section 16: Bar of jurisdiction.	This Section restricts people's access to judicial recourse.	The Section may be deleted.	It would be unconstitutional to hamper people's right to seek legal remedy if the grievance redressal mechanism provided for in the legislation does not resolve a dispute satisfactorily.

Note: We would be happy to provide any further information/clarification.

Contact Person: Ms. Pallavi Gupta, Specialist, Health Systems Governance, Health Systems Transformation Platform, New Delhi. [pgupta@hstp.org.in](mailto:pgupta@hstp.org.in).

\* About Health Systems Transformation Platform (HSTP) ([hstp.org.in](http://hstp.org.in))

Health Systems Transformation Platform (HSTP) was conceptualised as a Centre of Excellence under the guidance of Prof. (Late) Maharaj Kishan Bhan, renowned scientist and visionary in 2017 with a grant from Sir Ratan Tata Trusts. In May 2018, HSTP was incubated within the Tata Trusts family and registered as Forum for Health Systems Design and Transformation, a not for profit company (section 8) under the Indian Companies Act 2013. Our mission is to enable Indian health systems to respond to people's needs. We do this in collaboration with Indian and Global expertise through research for health systems design, enhancing stakeholders' capabilities and fostering policy dialogue. Our multi-disciplinary team with expertise in health financing, service delivery, governance and health policy and systems research works under the able guidance of the Chief Executive Officer, Mr. Rajeev Sadanandan, former Additional Chief Secretary, Government of Kerala.

As part of the Health Systems Governance work, we conducted a study, 'Regulation of Health Care Delivery in India – A Landscape Study' to review health legislations with a focus on health care delivery in India and document the strengths, gaps, and challenges. The study report is available [here](#).