



राष्ट्रीय मानव अधिकार आयोग National Human Rights Commission

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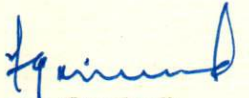
September 28, 2020

Subject: Human Rights Advisory on Right to Health in context of Covid-19

National Human Rights Commission (NHRC) is mandated by the Protection of Human Rights Act, 1993 to promote and protect the human rights of all in the country. Towards fulfilment of its mandate, the Commission is deeply concerned about the rights of the vulnerable and marginalised sections of the society which have been disproportionately impacted by the COVID-19 pandemic and the resultant lockdowns.

2. In order to assess the impact of the pandemic on realization of the rights of the people, especially the marginalised / vulnerable sections of the population, the NHRC constituted a Committee of Experts on Impact of Covid-19 Pandemic on Human Rights and Future Response including the representatives from the Civil Society Organizations, independent domain experts and the representatives from the concerned ministries/ departments.
3. On the basis of impact assessment done by the Committee of Experts and recommendations made by it, the Commission hereby issues an advisory on "Right to Health in context of Covid-19" as given in the annexure.
4. All the concerned authorities are requested to implement the recommendations made in the advisory and to submit the action taken report for information of the Commission.

Encl: As above


(Jaideep Govind)
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National Human Rights Commission

Advisory on Right to Health in context of COVID-19

Background

The outbreak of COVID-19 in India has caused an unprecedented humanitarian crisis with a total of 4,465,863 cases and more than 9 lakh active cases as on 10th September, 2020 making India to have the second highest caseload of COVID-19 in the world. The continuing rise in the number of COVID-19 cases is putting enormous strain on the health system in the country. Even before the eruption of the COVID-19 epidemic, the public health infrastructure in many states is struggling to meet population healthcare requirements, and the diversion of this already overstretched system for meeting the COVID-19 crisis is impacting access to healthcare for patients with other severe ailments. Routine care for tuberculosis, HIV/AIDS, mental health disorders and other chronic ailments have been affected, along with reproductive and child health services including deliveries and immunization, due to restrictions imposed by the lockdown, and the engagement of frontline health workers in COVID-19 duties. Even the emergency trauma care has also been hit due to the disruption in transportation, and reduced availability of staff to handle emergencies.

In response to the above situation, the Central and the State Governments are taking special measures to provide much needed healthcare to people. They have insured private hospitals temporarily to provide COVID-19 care free of charge to its citizens and capped the costs of treatment. The government has been proactive in taking measures for reducing the difficulties emerging due to the pandemic for people of the country. Measures concerning employment, healthcare, migration, economic stimulus, as well as measures to ease the lockdown gradually with proper guidelines for every aspect are being taken by the Central Government as well as the State governments.

However, patients may need guidance enabling them to obtain required care in public health facilities, and the guidelines and measures to be followed by the private healthcare sector is not always followed. There are repeated instances of patients facing problems in getting admission to designated COVID-19 facility, overcharging, denial of treatment, stigmatization, discrimination, patients not being provided formal reports etc.

All such issues faced by the residents of India, which include not only the patients, but healthcare providers, family of the patients and the society at large, indicates violation of human rights. The rationale of this advisory is to bridge the gap, complement and support the existing advisories and guidelines thereby empowering each individual and strengthening our healthcare system.

Given the need for systematic protection of health rights and patients' rights, and keeping in view the human rights imperative to ensure that all patients with COVID-19 are able to access required healthcare without financial or other barriers, NHRC is issuing the following advisories:

1. Advisory related to access to Healthcare

- 1.1 **Access to free healthcare for COVID-19 patients in public health system and engaged facilities:** COVID-19 patients who approach public health facilities should receive treatment free of cost to the patient. This may be through available public health facilities, or engaged private health facilities empanelled by the government.
- 1.2 **Access to healthcare for non-COVID patients:** Patients with conditions other than COVID-19 should continue to receive essential healthcare from public health facilities.
- 1.3 **Access to testing for COVID-19:** COVID-19 testing should be provided free of cost to those approaching government laboratories or hospitals, based on referral by a medical practitioner. Concerning person who directly approach private laboratories for testing of COVID-19, maximum rates may be fixed..
- 1.4 **Access to transport for patients:** Patients with COVID or non-COVID conditions may be provided ambulance services to reach hospitals timely.
- 1.5 **Access to cashless payment for COVID-19 treatment:** There should be cashless facility for COVID-19 treatment in all hospitals, and insurance agencies should cover treatment of COVID-19 for all policyholders having hospitalization coverage.

2. Advisory related to observance of Patients' Rights Charter

- 2.1 **Display of Patients' Rights Charter:** Patients' rights and responsibilities (given in annexure), issued by Ministry of Health and Family Welfare, Govt. of India, to the chief secretaries of all States/UTs vide D.O. No. Z.28015/09/2018-MH-II/MS dated 2nd June, 2019 which was based on NHRC Patients' Rights' Charter, should be prominently displayed (in state language and English) and observed in all public and private hospitals and health facilities. Patients' rights charter should be displayed on the website of each State health department.
 - 2.2 **Ensuring implementation of Patients' rights charter:** State governments may ensure monitoring of display and implementation of the charter, while operationalising grievance redressal mechanism for patients who may have complaints regarding its implementation.
- ### 3. Advisory related to right to information:
- 3.1 **Providing Information to Patients:** All patients have the right to information, including daily updates, about the illness, investigations, treatment and possible complications. This information along with 'Standard Patient Guidance Protocol for COVID-19' should be shared with the patients and caregivers in a language that is understandable to them. Hospitals should ensure that relatives / caregivers of serious/ critical COVID patients are updated on the condition of the patients at least on a daily basis.

- 3.2 Availability of medical services:** Information regarding COVID facilities, regulated cost of treatment, availability of free or subsidised beds, services and detailed rates for various kinds of medical care in the hospital or quarantine centre may be displayed outside each facility, public or private, as well as on digital media. The information related to non-COVID services offered by all public and private facilities may be displayed along with timings for the same. Wherever certain public health facilities have been converted into dedicated COVID facilities, this information should be widely publicised, while informing the public regarding the alternative local health facilities which have been designated to provide non-COVID care.
- 3.3 Transparency of Rates:** An itemized bill must be given to every patient, including cost of medicines, professional fees, PPE, various investigations, treatment of co-morbidities, etc.
- 3.4 COVID Dashboards:** The COVID-19 related websites / dashboards / Apps of state governments and municipal corporations may be updated covering health provisions, programmes and entitlements, regarding isolation, quarantine and treatment centres in public and private sectors (district or locality wise) with the currently available number of ICU beds, oxygen beds and ventilator support beds available in each facilities.
- 3.5 Helpdesk (24x7):** All state governments may operate a 24x7 centralised call centre facility, linked with nodal person(s) designated in each district for helping the patients and their caregivers, and also for providing the information on availability of beds.
- 3.6 Integrated Disease Surveillance Programme (IDSP) dashboard:** The IDSP portal should be updated immediately, and information on various data points pertaining to major communicable diseases should be entered and updated on a regular basis. The current focus on tracking COVID-19 should in no way compromise surveillance of other major communicable diseases.

4. Advisory related to records and reports:

- 4.1 Timeline for Report:** It may be ensured that people receive their COVID-19 test reports within a reasonable time, preferably within 24 hours of the sample being submitted to the laboratory.
- 4.2 Medical Records:** The right to access all medical records, discharge summary or death summary along with original copies of all investigations which have been performed during the hospital stay may be ensured.
- 4.3 Online Reports:** Civic bodies and State governments may consider sharing COVID test results online in a confidential manner, whereby patients can check their status through confidential test ID cards provided only to the patient. It may be done through a printed test report, email, or SMS message and it may be given only to the patient or designated caregiver.
- 4.4 Death Certificate:** All relevant records and death certificates related to the patient should also be duly and timely handed over.

5. Advisory related to emergency medical care: No patient should be denied emergency medical care for both COVID and non-COVID conditions. The state must ensure prompt and free initiation of the treatment process without demanding advance payment, provided to the patient irrespective of paying capacity. For non-COVID patients approaching a dedicated COVID hospital, system may be set up to ensure referral, transport and admission to the alternative local non-COVID facility, whenever required.

6. Advisory related to confidentiality, human dignity and privacy:

6.1 Respect and Dignity: Human dignity of every patient in all situations must be maintained, with no stigmatizing or public labeling of COVID-19 patients. Use of force should be avoided while taking COVID-19 positive people to hospitals or quarantine facilities; this should be done through persuasion after providing appropriate information.

6.2 Deceased Patients : Bodies of deceased COVID-19 patients should be treated with due respect and handed over to the family / caretakers as soon as possible after death has been declared, while ensuring that all infection control protocols are followed.

6.3 Confidentiality: Information regarding the patient may need to be communicated to Health authorities in the interest of public health considerations, but besides this such information should not be revealed to others except the patient and designated caregivers.

7. Advisory related to non-discrimination:

7.1 Non- discrimination: All patients and persons seeking healthcare have the right to be treated in a non-discriminatory manner, free from any prejudice related to caste, religion, ethnicity, gender, and sexual orientation, linguistic, geographical or social origins. Accordingly, no form of discriminatory behavior must take place concerning any COVID-19 patient under care of the hospital / COVID care center.

7.2 Unconditional treatment: No person should be denied treatment in a public or private hospital due to the lack of a negative COVID-19 test result. COVID-19 test may be arranged by the hospital if considered necessary on clinical grounds.

7.3 Homeless Persons: Policy must be made for testing and treatment of homeless / destitute persons. If a Photo ID of the person is not available, it may not be insisted upon.

7.4 Accessibility: Access to healthcare for elderly persons, differently abled persons, sex workers, LGBTQI persons, various other vulnerable groups may be prioritized and ensured during the COVID situation without discrimination.

8. Advisory related to safety and quality care, according to standards:

8.1 Quality Health Assurance: Right to receive quality health care according to currently accepted norms and guidelines may be ensured for COVID patients and suspects in health facilities and quarantine centres.

8.2 Availability of Drugs: Essential drugs and therapeutics for various forms of COVID-19 care must be readily available in public health facilities as well as through outreach measures where required. Essential therapeutics may be given free of cost, with priority

to vulnerable and lower income sections and those covered by Government healthcare schemes for free care.

- 8.3 Treatment at Private Hospital:** Governments should ensure that the rates are regulated in private hospitals. Due measures may be taken to widely publicise these rates along with available facilities and there must be no hidden costs. Adequate quality of care may be ensured for COVID-19 patients who are treated in private hospitals free of cost or at regulated cost. Regular inspection by Government teams must be ensured to check if they adhere to the regulated rates and quality standards.
- 8.4 Safety and Support:** Right to safety and security including for female patients, minors, PWD and elderly persons, as well as right to access to support in the hospital and quarantine premises may be ensured.
- 8.5 Facilities at Quarantine Centers :** Various essential amenities should be ensured in all Covid Care Centers and institutional quarantine facilities including availability of clean and potable drinking water, adequate nutritious diet with regular meal times, hygienic living space, adequate number of clean bathrooms and toilets, regular change of bed linen, sanitation and disinfection of the premises, availability of recreation and reading material, facility for meeting relatives with proper safety and distancing, and access to personal support through phones etc. Appropriate facilities for women such as separate bathrooms and availability of sanitary napkins must be ensured, along with ensuring their safety. Daily medical check-up, availability of medical staff, linkage to COVID Hospitals for referral, and availability of ambulance services may be ensured as per MOHFW guidelines.
- 8.6 Support to COVID positive persons in home isolation:** After ascertaining that management at home is appropriate, COVID positive persons in home isolation to be monitored by field staff through personal visits and / or telephonic consultation, while ensuring prompt access to transport and further treatment at health facilities when required.
- 8.7 Mental Health Assistance and Counseling:** Pre and Post testing counseling may be provided to patients affected with Covid-19 by a mental health professional to deal with various issues including fear, apprehensions, anxiety, etc., along with providing information regarding precautions to be followed, guidelines for seeking further care, and sources of additional support.
- 8.8 Promoting Community Based Assistance:** Participation of volunteers/ Civil Service Organizations should be encouraged with proper precautions ensured for them, to provide logistical help to the patients who do not have immediate attendants.
- 8.9 Advisory related to Post-COVID Follow-Up:** The 'Post COVID management protocol' issued by the Ministry of Health and Family Welfare should be widely publicised and also be added on Aarogya Setu application. The same may also be sent on mobile by automated text to the patients recovered from Covid-19, to guide and help the people for coping with the post- COVID impacts, if any.

9. Advisory related to Clinical trials and Experimental treatments:

9.1 Providing information and informed consent: Trial participants should be provided adequate information prior to enrolment in a clinical trial or experimental treatment. Participants must be given consent form in advance before their joining the trial with explanation of the consent form, and should be offered choice of signing it. Obtaining of such informed consent in writing should be mandatory for enrolling all participants in the trial.

9.2 Voluntary participation: Trial participants should be made aware that their participation is voluntary, and that they can withdraw at any stage without prejudice or loss of future treatment.

9.3 Compensation: Adequate compensation may be paid to all participants involved in trials of COVID-19 interventions who suffer serious adverse events (SAE) or suffer fatality.

9.4 Significance of Clinical Trials: All clinical trials should be conducted only if they offer significant social value, and the products emerging from such trials should be made accessible to all without any discrimination.

9.5 Monitored emergency use of unregistered and experimental interventions (MEURI): During use of such experimental medications aside from clinical trials) for treating COVID-19 by either public or private healthcare providers, due protection of patients' right should be ensured. This includes obtaining informed consent from each patient, to be sought after providing the patient relevant information in writing, and by rigorously following ICMR guidelines concerning Monitored emergency use of unregistered and experimental interventions.

10. Advisory related to patient education:

10.1 Ensuring Awareness through mass media: Effective mass communication should be done by State governments through various media, to disseminate information regarding COVID-19 to all sections of the population in order to spread awareness. Information on COVID health facilities, testing facilities, programmes and entitlements including information on free care or regulated rates for treatment in private sector hospitals, should be made widely available to the public.

10.2 Publicising Information in Health facilities: Attractive and comprehensible messages conveyed through mass media or posters may be displayed in various health facilities and other public places.

10.3 Counseling : All persons getting tested for COVID-19 have the right to counselling, both pre-test and post-test, in the language of their choice, either in person or over telephone, regarding the illness, precautions, care and treatment and relevant sources of further information and support.

11. Advisory related to being heard and seeking redressal:

- 11.1 Grievance Redressal Mechanism:** All states may establish an effective and accessible health grievance redressal mechanism including provision of Appellate authority, which is linked with a toll free and round the clock state level complaint line (operated in languages commonly spoken in the state). This would enable people to lodge complaints and seek prompt and effective redressal regarding various issues like availability and quality of care, harassment, discrimination, overcharging, denial of treatment, admission or cashless facility, and other issues concerning COVID-19 or non-COVID treatment by both public and private hospitals.
- 11.2 Grievance Redressal Person at Health Institution:** Every Covid Care Centre, quarantine centre, Covid Health Care Centre, and Dedicated Covid Hospital must have a designated grievance redressal person, whom patients and caregivers can approach to register their concerns and complaints, and also provide feedback about the treatment and care they have received at the facility.
- 11.3 Grievance redressal officer at District / City level:** The Health department / Municipal Corporation may designate an official at district / city level to respond to complaints which have not been resolved at institution level. Multi-stakeholder grievance redressal oversight committees including civil society representatives may be set up at District / Municipal corporation level, which would regularly review status of processing complaints, and would recommend action on unresolved or common issues.
- 11.4 Sharing Directory:** The name and phone number of the Grievance redressal officer, along with the contact number of the Grievance redressal oversight committee at district/city level may be prominently displayed at key locations in the health facility.
- 11.5 Complaint Database:** A state level, live, publicly-accessible database may be maintained of all the complaints received with details of numbers resolved or pending.

12. Advisory related to Provisioning of Essential Healthcare Services:

- 12.1 Providing Healthcare Services:** Adequate capacity and services for treating COVID-19 patients and provision of essential healthcare services for non-COVID patients in public hospitals may be ensured.
- 12.2 Utilization of Unused / Underused Facilities:** Facilities that are unused for a long time for COVID-19 related services may actively be engaged to provide essential non-COVID healthcare services.
- 12.3 Augmentation of health workforce:** Strategies to augment health workforce availability may be adopted including expedited filling up of existing vacancies, re-deploying staff from non-affected areas, engaging freshly graduated post-graduate doctors after accelerated orientation in COVID care, utilizing retirees who are capable of working

especially for non-COVID services, and hiring / requisitioning private sector health workforce capacity.

- 12.4 Blood Transfusion Services:** State governments must operationalise the national guidance related to blood transfusion services in light of COVID-19 issued by MOHFW, to ensure sufficient availability of blood for all patients requiring transfusions.
- 12.5 Improving testing facilities:** Steps may be taken by State and Central Government to cover a larger number of populations by increasing the number of available testing laboratories and expanding their capacity.

13. Advisory related to Healthcare Workers (Regular and Contractual):

- 13.1 Personal Protection Equipments (PPEs):** All categories of health workers involved in patient care, testing, family contact, home care, patient transport, waste disposal and cleaning at any level of healthcare, in hospital or ambulatory settings, may be provided adequate quantities of quality assured personal protection equipments (PPEs). These must apply to Covid19 designated healthcare facilities as well as non- Covid-19 healthcare locations, wherever health workers are at risk of viral exposure.
- 13.2 Free Medical Care:** All healthcare workers including rehabilitation professionals who are exposed to Covid19 virus may be given all possible medical care free of cost, considering it as an occupational health hazard by the government or the private healthcare institution where the health worker is employed, as the case may be. This facility may be extended to their family also if the health workers are the source of infection.
- 13.3 Defined and humane working hours:** All healthcare workers in both public and private sector, who are engaged in Covid19 related work may be assured of defined and humane working hours, predictably functioning reliever rosters and scheduled off-duty days.
- 13.4 On duty quarantine period:** Any healthcare worker who is exposed to the virus and is at a high risk of infection and advised to quarantine then such period may be treated as 'on duty' irrespective of regular or contractual employee.
- 13.5 Benefit to worker:** All healthcare workers, whether regular or contractual engaged in Covid19 related duties may be provided similar protection with respect to: grant of exposure or infection related quarantine or isolation period as leave on duty; testing and illness care with full financial cost coverage and protected accommodation or transport for persons working till late night or early morning.
- 13.6 Job Training:** All categories of healthcare workers must be regularly provided updated information and on the job training on Covid-19, to enable them to protect themselves and perform their jobs efficiently.
- 13.7 Accommodation and Transport:** Any healthcare worker having late duty hours ending in the night or early morning may be provided safe and clean on-site or near-site accommodation and/ or safe transport by the employer.

13.8 Protection of healthcare workers: Strict legal action against individuals, groups or organisations that provoke, perpetrate or prejudicially publicise stigma or violence against health workers engaged in providing Covid-19 related services may be taken.

13.9 Timely payment of salary: Timely payment of salary/ wages, etc. may be ensured to all healthcare workers including ASHA workers, by all employers, Government or Private.

Annexure

Charter of Patients' rights and responsibilities to be displayed and observed by all Healthcare establishments, as per communication by MOHFW, Government of India.*

Patients' Rights: A Patient and his/her representative has the following rights with respect to the clinical establishment

- i. To adequate relevant information about the nature, cause of illness, proposed investigations and care, expected results of treatment, possible complications and expected costs.
- ii. To information on the Rates charged for each type of service provided and facilities available. Clinical establishment shall display the same at a conspicuous place in the local as well as in English language.
- iii. To access a copy of the case papers, patient records, investigation reports and detailed bill (itemized).
- iv. To informed consent prior to specific tests/treatment (e.g. surgery, chemotherapy etc.).
- v. To seek second opinion from an appropriate clinician of patients' choice, with records and information being provided by the treating hospital.
- vi. To confidentiality, human dignity and privacy during treatment.
- vii. To have ensured presence of a female person, during physical examination of a female patient by a male practitioner.
- viii. To non-discrimination about treatment and behavior on the basis of HIV status.
- ix. To choose alternative treatment if options are available.
- x. Release of dead body of a patient cannot be denied for any reason by the hospitals.
- xi. It is recommended that patient seeking transfer to another hospital/discharge from a hospital will have the responsibility to 'settle the agreed upon payment'.
- xii. It may be specified in the charter that no discrimination in treatment based upon his or his illness or conditions, including HIV status or other health condition, religion ethnicity, gender (including transgender), age, sexual orientation, linguistic or geographical/social origins.
- xiii. Informed consent of patient should be taken before digitization of medical records.

Patients' Responsibilities:

- i. Provide all health related information.
- ii. Cooperate with doctors during examination, treatment.
- iii. Follow all instructions.
- iv. Pay hospitals agreed fees on time.
- v. Respect dignity of doctors and other hospital staff.
- vi. Never resort to violence.

*Source: D.O. No. Z.28015/09/2018-MH-II/MS dated 2nd June, 2019 issued by the Secretary, Ministry of Health and Family Welfare, Govt. of India, to the Chief Secretaries of all States/UTs which was based on NHRC Patients' Rights Charter.