Basics of Mental Health and Clinical Psychiatry
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Lecture 40
Forensic Psychiatry

Hello everyone. Let us start lecture number 40 that is Forensic Psychiatry.

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What will be the concepts that we will be covering? Medical malpractice, negligent prescription practices, confidentiality, privilege, testamentary capacity, informed consent, criminal responsibility, ethics in psychiatry, National Mental Health Program, district mental health program and Mental Health Act in brief.

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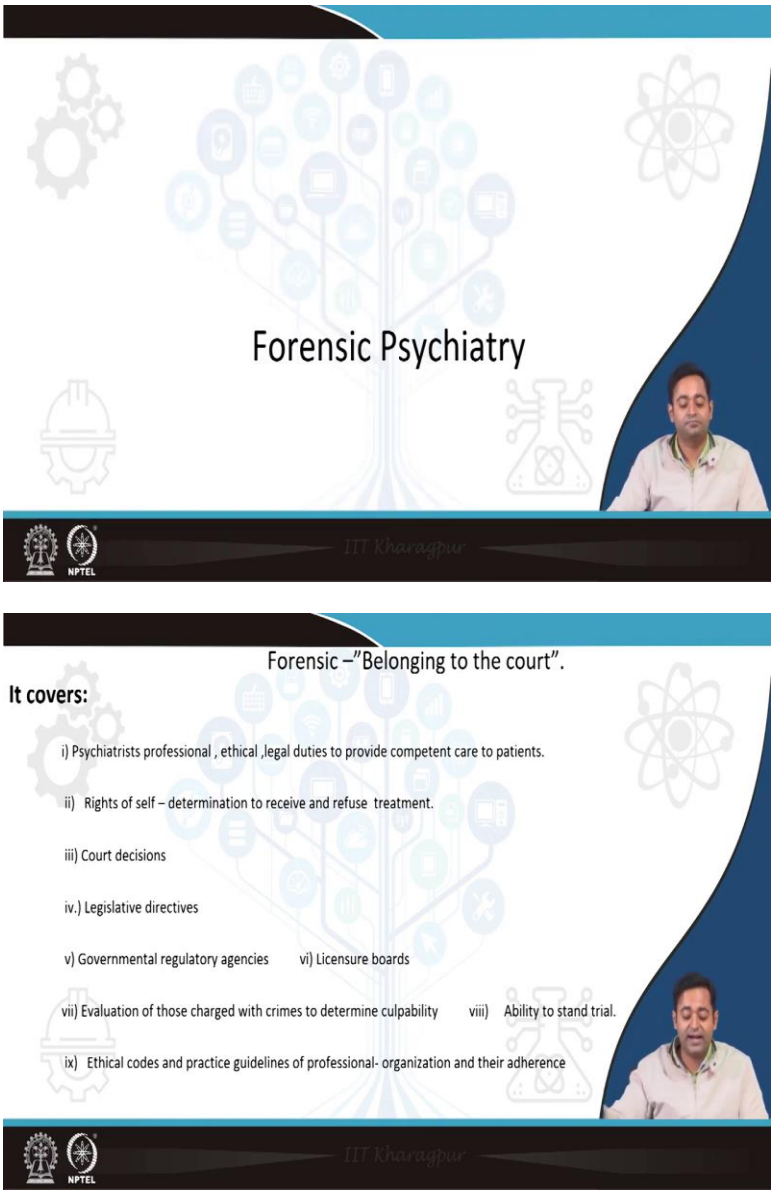

So, forensic actually belongs, the (())(0:54) word forensic belongs pertaining to the court. It covers a variety of like entities here, so the psychiatrists, professional ethical legal duties to provide competent care to patients, rights of self that is determination to receive and refuse treatment.

Court decisions pertaining to legislative directives, government and regulatory agencies, licensure boards, that is MHRB - Mental Health Review Boards, evaluation of those charged

with the crime to determine culpability, whether he is guilt or he is not. Ability to do stand trial, ethical codes, practice guidelines, all these things.

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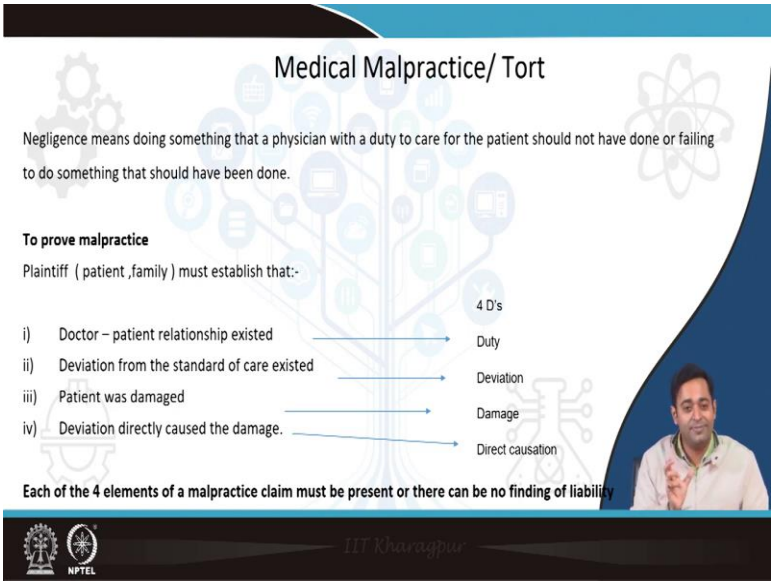

So, what is medical malpractice? So, medical malpractice, negligence means doing something which is or which should have been done or there are something which should be done, which is not done for the for the psychiatrist. So, negligence means doing something that a physician with a duty to care for the patient should have done or failing to do something which should have been done.

So, either you are supposed to do something or you should have done something which you have not properly executed. So, in order to prove this malpractice, we have four D's that is duty deviation, damage and direct causation. What are these four D's? The first is duty, what is the duty? Duty of the doctor towards the patient the doctor patient relationship has to be established. What is the deviation that the doctor has not followed a standard care or protocol, there is a deviation from that protocol.

And third is the damage the damage is due to because of that deviation but the doctor has not followed which the psychiatrist has not undergone that has resulted into a damage of the patient. And lastly, you have a direct causation. The deviation directly caused the damage. So, because of the deviation on the part of forensics, the psychiatrist or the doctor this particular damage has

occurred. Now, each of these four elements of a malpractice claim must be present in order to claim liability, this particular doctor is responsible for this particular malpractice.

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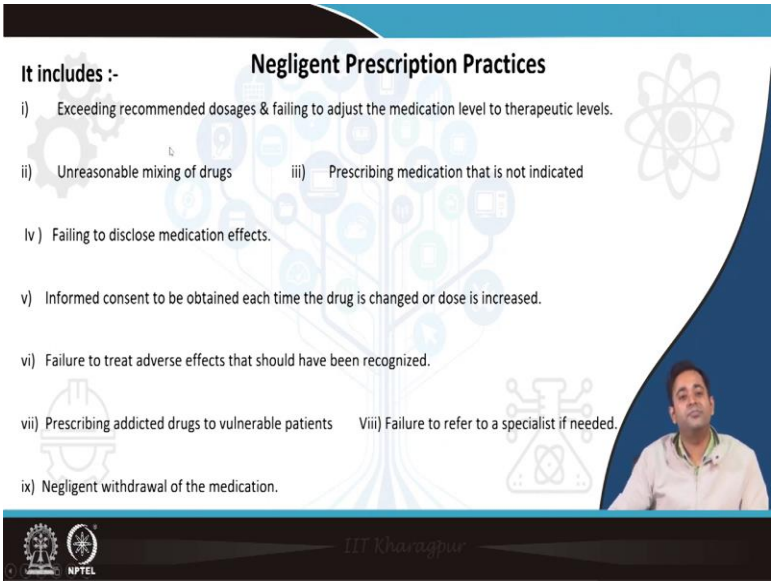

So, negligent prescription practices. So, as the name says, tells negligent. So, what can be the negligent conditions where the doctor or psychiatrist can result into prescription practices? Where you give dosages of the medicines in a higher form which is not being prescribed by the various guidelines or you are giving a lot of medications in a very limited stipulated period of time or you are prescribing medication which has not entirely indicated for this medical condition.

Or you are failing to disclose the side effect (())(03:44) the drugs which you are giving. Informed consent from the patient has to be taken before prescribing a medicine. Failure to treat adverse effects which the patient might be experiencing, the doctor is not able to treat those side effects. Prescribing addictive drugs to the vulnerable patient.

Suppose if the patient is addicted to some kind of alcohol if you are giving benzodiazepines the patient might be addicted to benzodiazepines also those (())(04:11). Failure to refer to a specialist. So if a patient is suffering from a comorbid, like if a patient has anxiety disorder or depression, and if (())(04:20) comorbid hypertension.

We need to refer or a diabetes, we need to refer to a diabetologist, endocrinologist or a cardiologist or a medicine professional who can see and treat hypertension or diabetes condition. And negligent withdrawal of the medication. So, you are abruptly stopping the medication which is given to the patient. So, these all kind of practices can lead to negligence prescription practices, which is actually a crime and it is subject to punishment.

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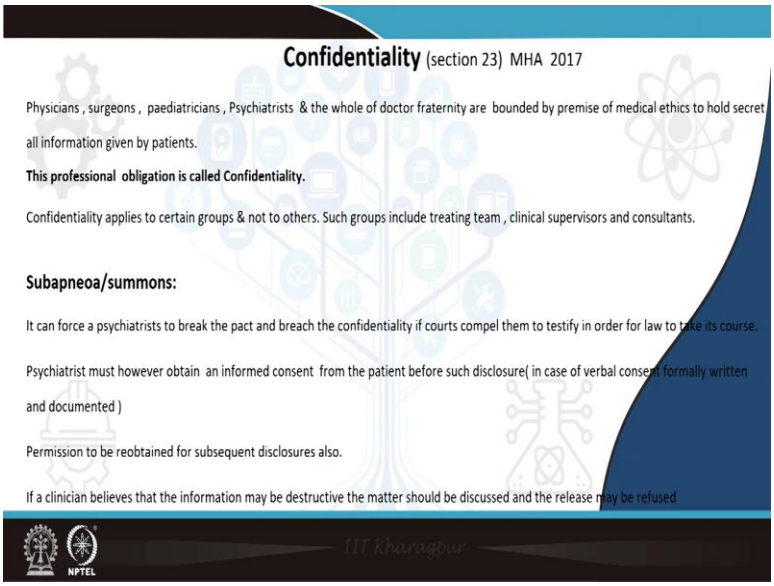

What is confidentiality? Now, this comes under Section 23 of Mental Health Act 2017. Physician's surgeons, pediatrician, psychiatrist, the all have the doctor fraternity, they are bounded by the premise of medical ethics to hold the secret of information when the patient comes and seek help to you.

So, this professional obligation is called on confidentiality. It applies to certain groups and not to others. Such groups include treating team, clinical supervisors and consultants. Now, Subapneoa and summons what are they? It can force a psychiatrist to break the packed, these other conditions whether confidentiality comes to cease and breach the confidentiality if code compels them to testify in order to law to takes its course.

Psychiatrists must however obtain informed consent from the patient before each disclosure. Now suppose if there is a patient who's undergoing a trial due to some certain crime, he or she

must the forensic the psychiatrist or the doctor who is presenting him in the court should take a prior consent before disclosing a secret information from his own patient out there in the court.

And each time a disclosure is made from the patient towards the psychiatrist or a doctor who is go out and disclose this in court. There has to be informed consent each time taken. If a clinician believes that the information may be destructive the matter should be discussed and released, maybe thereafter.

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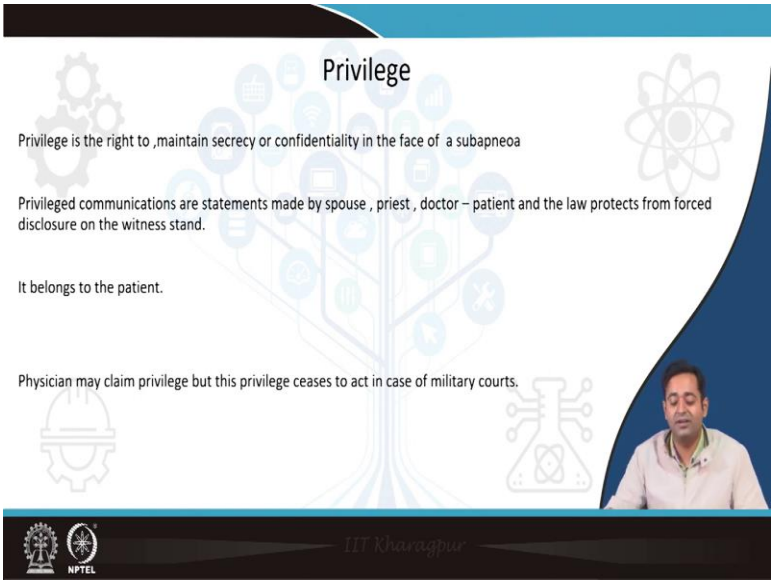

What is the privilege? Privilege is the right to maintain secrecy or confidentiality in the face of subapneoa that is summons. These privilege communications are statements made by spouses, priest, doctor patient and the law protects force disclosure of witness, on the witness stand. It belongs to the patient, this privilege belongs to the patient. There is a privilege which is present for the doctor also, but it ceases to act in cases of military courts.

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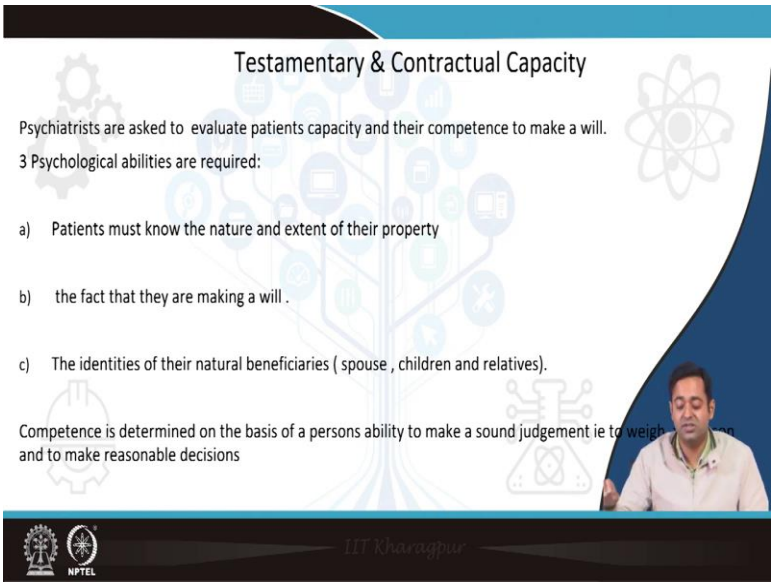

What is testamentary and contractual capacity? The psychiatrists are asked to evaluate patient's capacity and their competence to make a will. There are three psychological capabilities which are actually checked. Patients must know the nature and extent of the property, the fact that they are making a will.

And the identities for whom the will is being made, the beneficiary, the spouse, the children, the relatives. And competence is determined on the basis of a person's ability to make sound judgment, that is to weigh to analyze, to rationalize and to make reasonable decisions.

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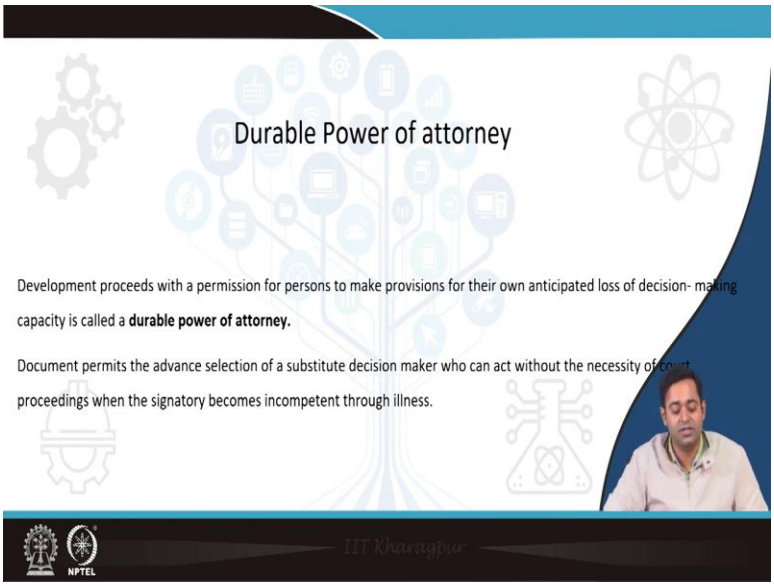

What is the durable power of attorney? Durable power of attorney is this means this a permission for persons to make provisions for their own anticipated loss and making capacity. So, this particular patient if he thinks that I am going to undergo a certain kind of surgery, following which I might not be able to survive.

So, during that point of time, certain decisions of my life has to be taken care of by somebody else who is rationally productive to take those kinds of decisions. So, he has to be a mature adult, that can take those decisions. So, he can actually give those powers to a person. So, this is called durable power of attorney, where the patient of the rights of the patient of taking those decisions is actually given to a some other person.

Who has to be a adult mature, that is more than 18 years of age and should be capable of rationally taking those decisions, which is going to help in the or for the betterment of the patient in due, in near future. So, document permits the advanced selection of a substitute decision maker who can act without the necessity of court precedents, when the signatory becomes incompetent through illness.

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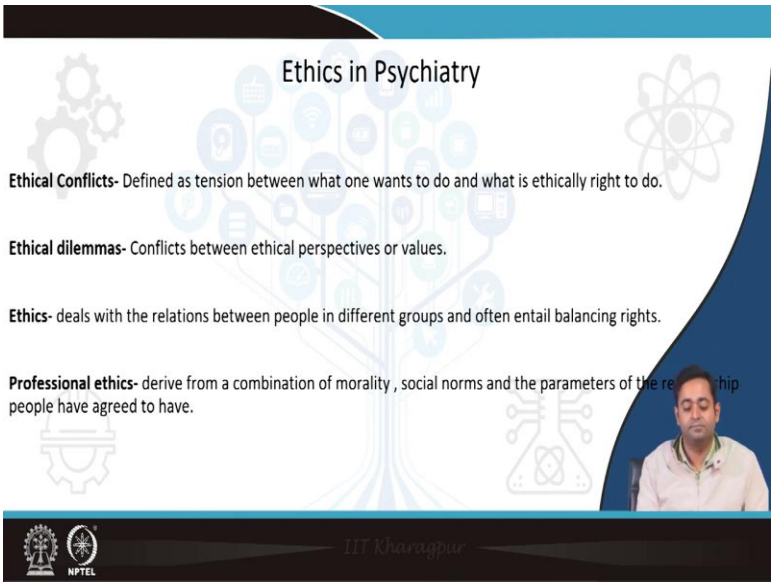

Ethics in psychiatry, there are certain ethics that needs to be followed. Ethical conflicts is defined as a tension between what one wants to do and what ethically right what ethically right to do. Ethical dilemmas are the ethical perspectives of or values that okay this are the propositions and these are the cons, (())(09:20) pros over cons, this can be weighed out.

Ethics, it deals with the relations between people in different groups and often entails balancing rights. And professional ethic is derived from a combination of morality, social norms, and the parameters of the relationship people have agreed to have.

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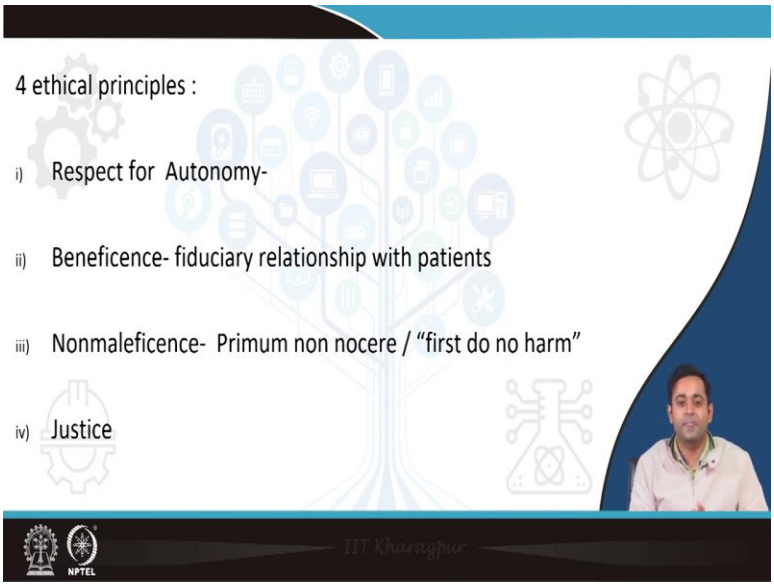

There are basically four ethical principles, respect for autonomy, patient is allowed to take decisions on his own, beneficences. The there is a fiduciary relationship with the patients where the doctors, the therapists, they are actually under the obligation to act on the part of theirs that whatever treatment they are going to give, they are going to, which is going to benefit for the patient.

Non maleficence means, you are first and foremost thing is that before giving any treatment, we should minimize the harm as first as much as possible. So, if at all we are not giving any treatment, which means which is going to prove beneficial to the patient, you are going to harm the patient. So, that is Primum non nocere and lastly, it is justice. Justice means you have equitable distribution of the rights for the benefit or the upliftment of the masses, that is the rich poor, belonging to lowest (())(10:42) there should be equitable distribution of the rights.

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What is an informed consent? Informed consent is the process in which a healthcare provider educates a patient about the risks about the benefits alternatives a patient has in a given procedure or a intervention. Patient must be competent to make a voluntary decision about whether to undergo a procedure or intervention.

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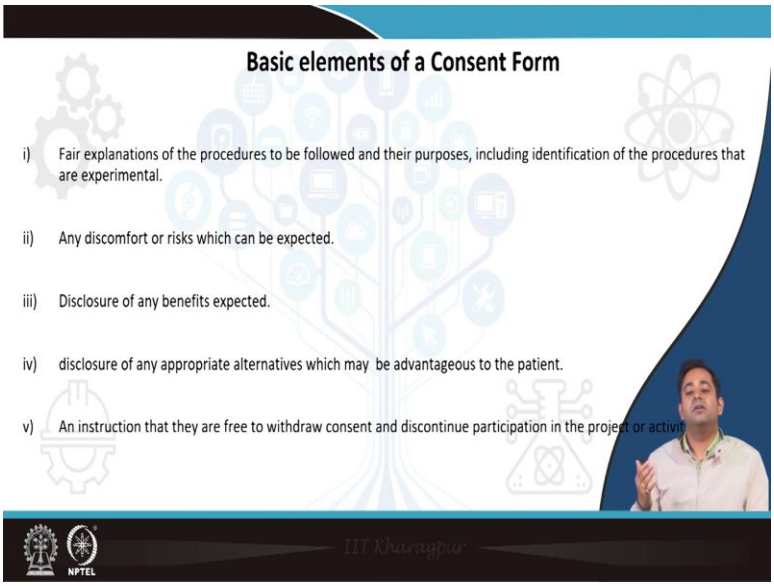

What are the basic elements of a consent form fair explanations, the whatever be the consequences, whatever be the acts, which is going to occur, the deleterious consequences of the

procedures which is do occur, it should be properly documented and told beforehand, any discomfort or side effects, this involved should be expressed or told.

Disclosure of any benefits expected if at all, there is this therapy or this instrumental procedure, if it is given to a patient perform for a patient, what are the advantages, what are the benefits patient might have disclosure of any appropriate alternatives, which may be advantageous to the patient. So, you have to tell the alternative ways of getting treatment if there are any alternatives available, apart from the primary objective of what the patient is getting right now.

So, we have to tell, we need to tell the therapist need to tell the doctor need to tell that see, there are some alternatives which are available that can be given or that can be considered. An instruction, that they are free to withdraw the consent and discontinue participation.

So, in the consent form, you have this one more thing that at any time during the treatment process, this patient can actually withdraw and withdraw his consent of not cooperating in the procedure, which is the patient is currently underway right now. If he feels dissatisfied or if there is a danger which is associated on the part of patient.

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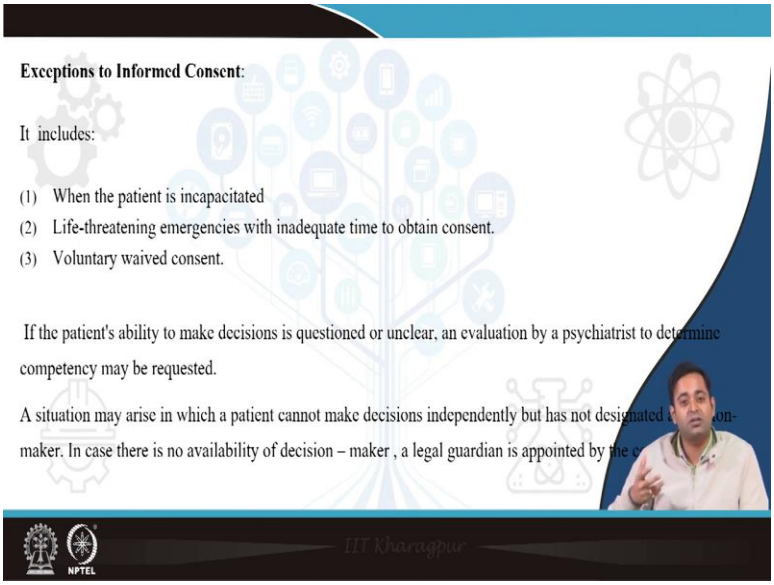

What are the exceptions to the informed consent? It includes when the patient is incapacitated when the he or she has not or she does not have, he does not have the capacity to take rational decisions. There is a life-threatening emergencies with inadequate time to obtain consent, or

there is voluntary waived consent when the patient is (())(13:18) given the consent that okay, I am not going to pay.

If the patient's ability to make decisions is questioned or unclear, and evaluation by a psychiatrist to determine competency may be requested. And a situation may arise which a patient cannot make decisions independently, but has not designated a decision maker. The court appoints a proxy, who can actually take a decision on the part on behalf of the patient or by a legal guardian appointed by the court.

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So, children (())(13:52) to informed consent. So, in terms of children, who are typically under the age 17 years of age, further informed consent is the term is not informed consent, but it is informed permission. And these are actually given by the parents, the local guardians, the caretakers, who actually give consent to perform certain kinds of procedures or treatment or therapy.

So, an exception to this rule is legally emancipated child, who may actually give informed consent, what are the conditions for that emancipated child who are under 18 years but married serving in the military able to prove financial independence and mothers of children, who are married or not. So, legislation regarding minors are informed consent is state based and it

depends upon the laws which are prevalent in that particular state. So, we need to be aware about that.

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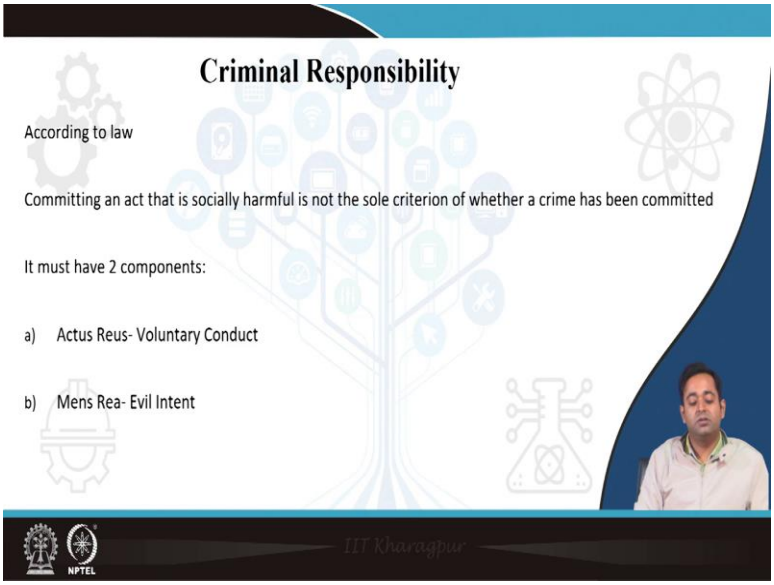

So, coming to criminal responsibility. So according to law, committing an act that is socially harmful, is not the sole criterion. So, when a crime is being committed, so it must have two components that is Actus Reus and Mens Rea. Actus Reus voluntarily conduct that is you are doing an act and Mens Rea means evil intent. An evil intent for which you are performing a voluntary act.

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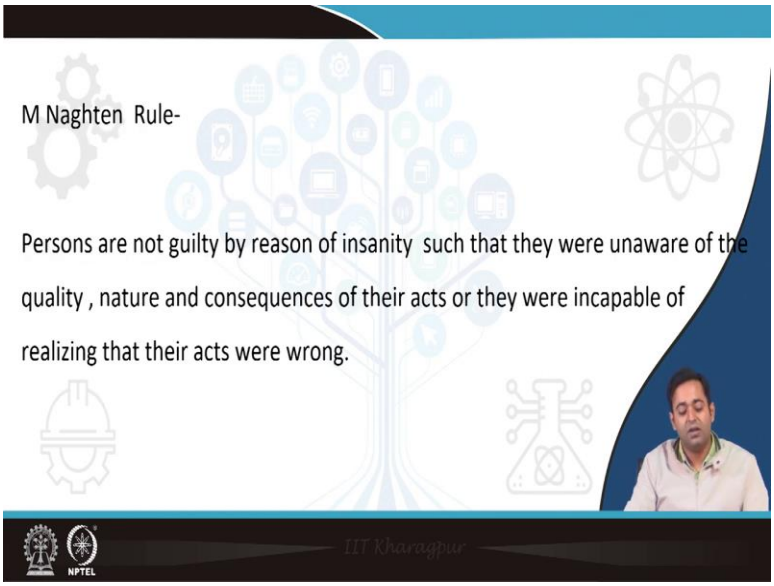

Together to things in order to tell that okay this is this particular act is an offensive a crime. So, you have M Naghten rule among criminal responsibility. Persons who are not guilty by reason of insanity such that they were unaware of the quality nature and consequences of their acts, or they were incapable of realizing that the acts were wrong.

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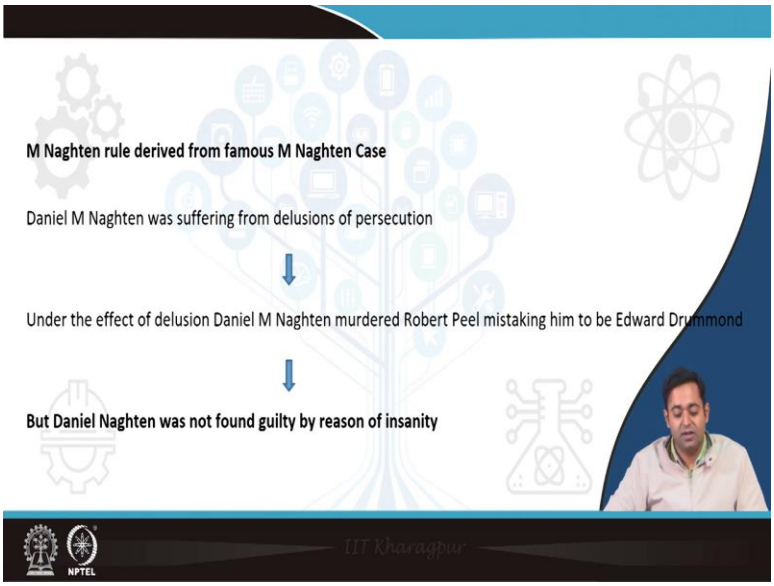

So M Naghten rule derived from famous M Naghten case, what was the case this Daniel M Naghten was suffering from a delusion of perception, he was suffering from a delusional

disorder. So, under the effect of delusion. This Daniel M Naghten this he murdered Robert P, who was mistaken as the like him to be Edward drummer's assistant. So, he was not found guilty of the crime, because by reason of insanity.

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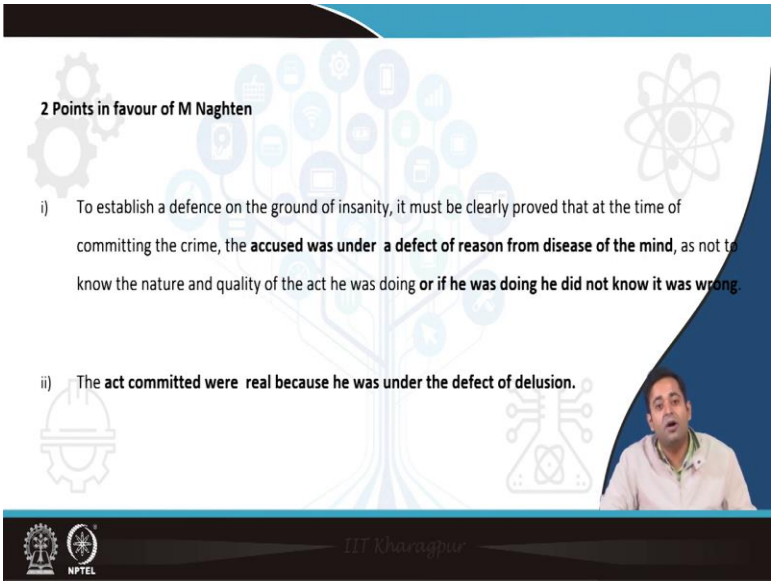

Now why? There were two points in favor of him, M Naghten to establish a defense on the grounds of insanity, it must be clearly proved that at the time of committing the crime, the accused was under a defect of reason, from (())(16:24) of the mind, he was harboring a delusion, the defect of mind. As to the nature of and the quality of the act, he was doing, or if he was doing too, he did not know that it was wrong.

So, because of the diseased mind, because of the delusion, he did it, he did not have the possess knowledge of whether the nature and quality of acts which he was going to do was wrong. And the act committed were real, because he was under the effect of delusion. So, whatever the crime which he committed, was actually implicated under the delusion, it was (())(17:01) diseased mind, which was actually performing this kind of crime. So, he was actually defended on the grounds of insanity.

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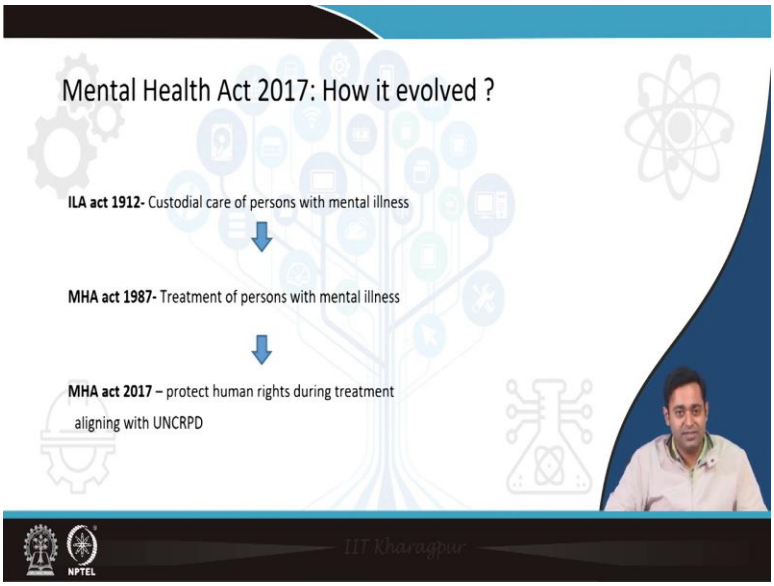

Let us come to Mental Health Act 2017. How has it evolved? Now, if you look at Indian Lunacy Act, this was the first act which came into this at 1912. This was actually catering the custodial care of persons with mental illness, which later on in 1987, Mental Health Act was first time form, which were actively involved with the treatment of mental illness.

And in 2018, where the UNCRPD United Nations Convention on the Rights of Persons with Disabilities Act, in the lining with this UNCRPD, those protection of the human rights and those of the mental illnesses, they were actually being encountered. So, they were actually involved. MHA actually deals with the rights and protections of the, they actually deals with the protections of the rights and persons with mental illnesses and disabilities.

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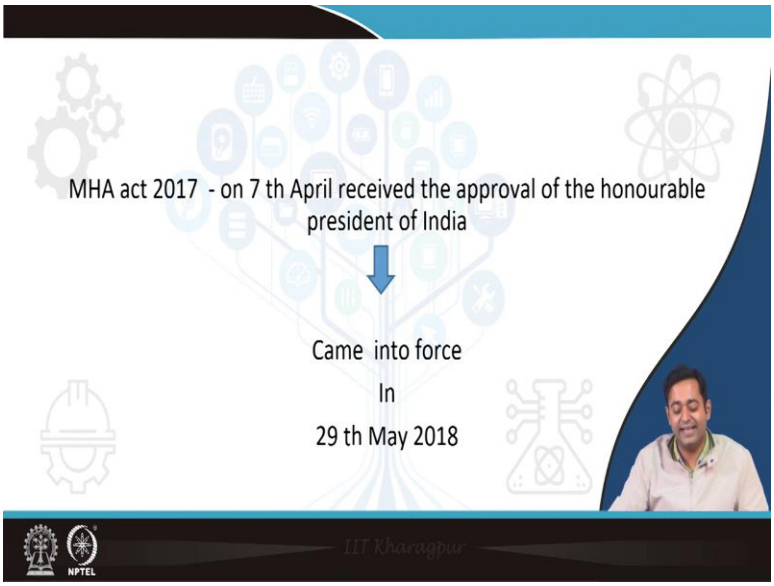

So, on 7th of April, the approval for this came into existence and on 29th of May 2018, it came into force.

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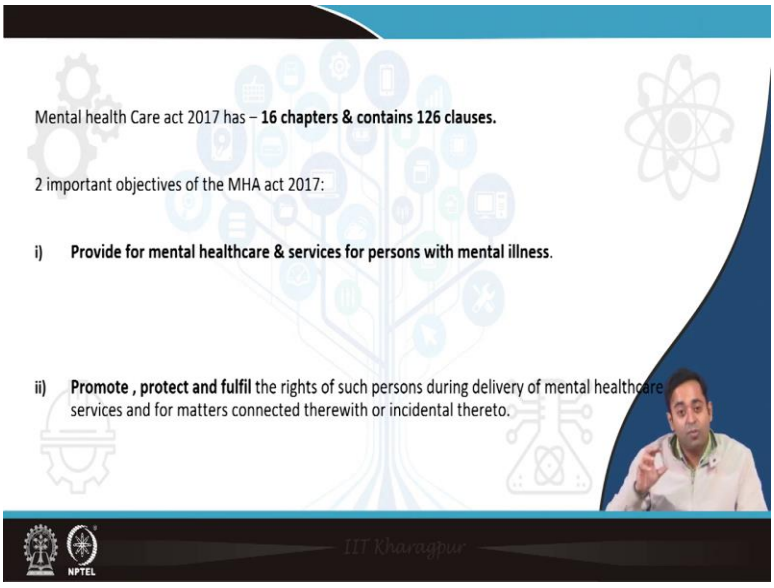

So Mental Health Care Act has basically 16 chapters, it contains 126 clauses. There are two important objectives provide mental health care and services for persons with mental illnesses. You have promote, you need to promote, protect and fulfill the rights of such persons during delivery of mental health care, and services. And for matters connected with incidental thereto.

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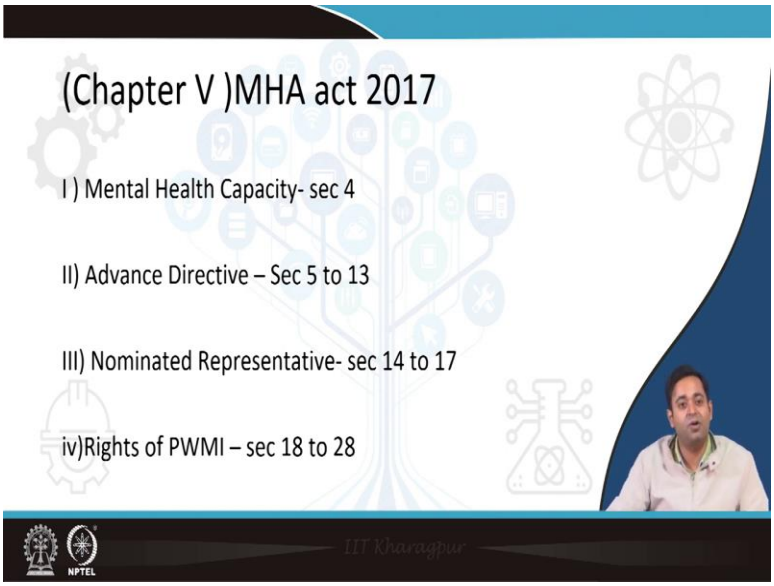

So basically, chapter 5 MHA is the essence of the Mental Health Act, what are the its derivatives, important components. Mental health capacity that is section 4 advanced directives, that is section 5 to 13. Nominated representative from section 14 to section 70 and rights of persons with mental illness that is section 18 to 28.

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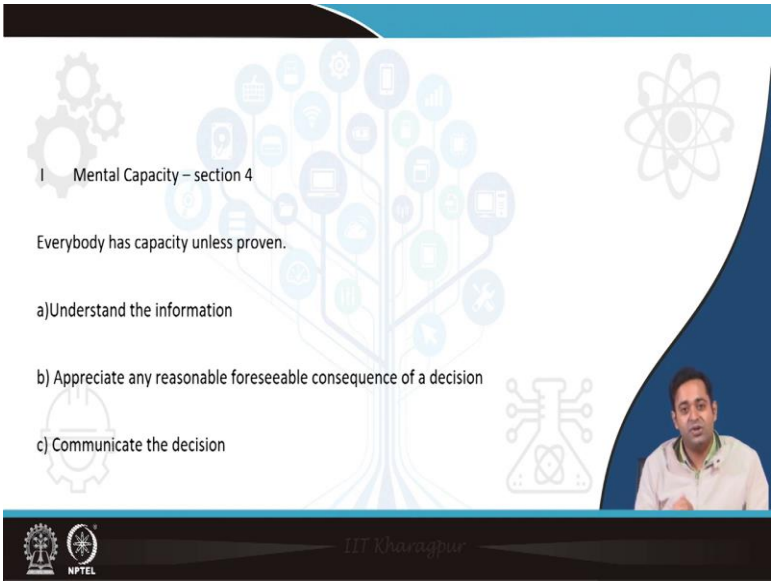

So mental health capacity, which is section 4, it has basically three components that has to be assessed. Patient should understand the information given to them, he should be able to or she should be able to appreciate any reasonable foreseeable consequences of a decision.

So, whatever the decision patient is going to take, he should be able to rationalize, okay, this is the decision I am going take and this is the consequences that I might be able to face, that I might be able to, I am going to face this kind of situation if I am going to act in a kind of manner in this particular manner. And lastly is he is able to communicate the decision of his to the person, who is (())(19:52).

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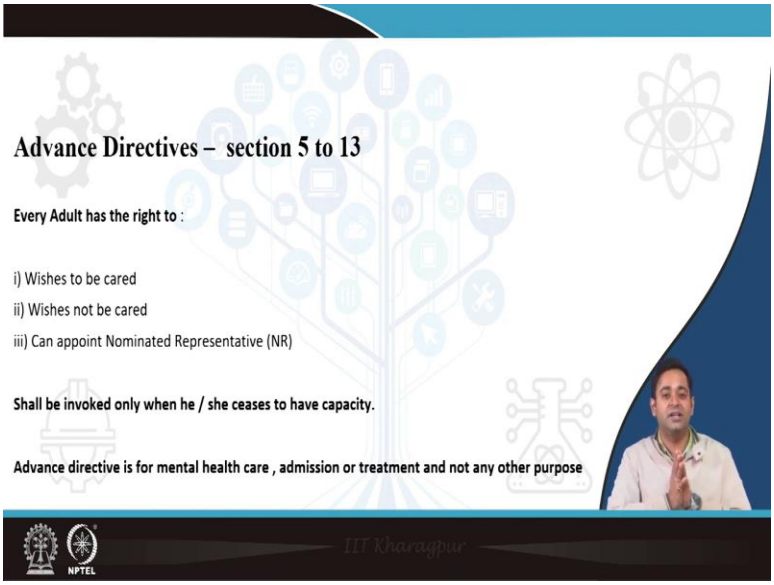

What is advanced directives? Every adult has the right do wishes to be cared and wishes not to be cared. Now, this is the way that I have to be like, I need to be wished for, that this is the way I have to be cared for and this is not the way I should be cared for. So, and can appoint a nominative representative. So, this comes in the circumstances when the patient has lost his capacity of rational decision making.

So, this can come into instances where the patient has gone into a coma, very importantly, this advanced directives it comes into play when the patient loses his capacity to take rational decision-making processes. So, he gives this responsibility to a health care proxy, who actually

takes the responsible decision making those the priority the responsibility of taking the decision in those stages, where the patient is not able to take care of himself and take a valid decision.

So, in those kinds of instances, this actually this job of his is actually given to somebody else to take the decision. So, this is for the mental health care, this advance directive is basically for the mental health care for the treatment or the admission, but it is not for any other purposes apart from these three.

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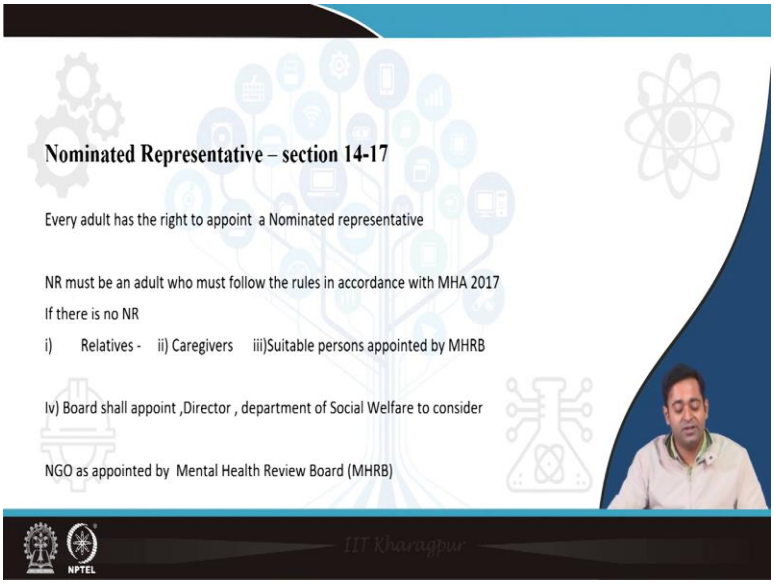

So, nominated representative is an adult who must be more than 18 years of age and NR must be an adult who must follow the rules in accordance with the MHA 2017. So, if there is no NR that is no normative representative, relatives, caregivers, suitable persons appointed by MHRB that is Mental Health Review Board can be taken.

Board shall appoint the director or the department of social welfare to consider for a nominated representative who can be nominated representative for the patient. NGO as appointed by mental health review board also. This can also be a condition where the mental health review board can appoint if there is no availability of nominated representative.

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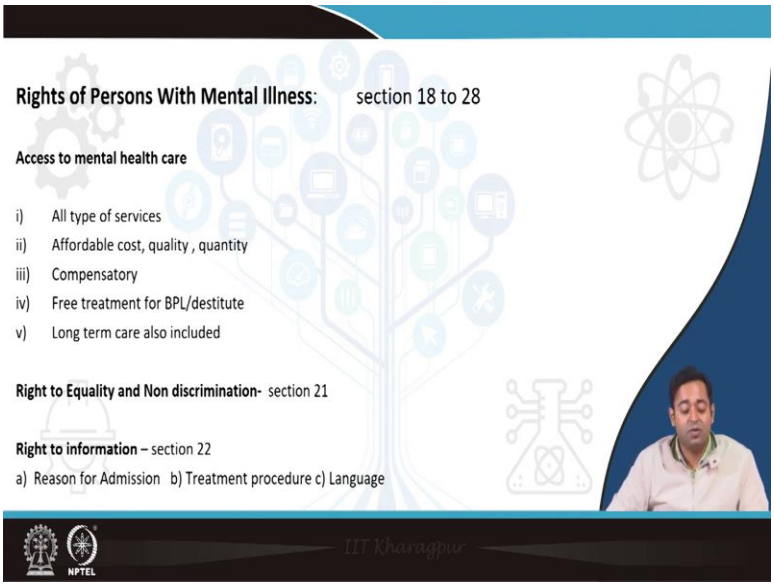

So right so persons with mental illness. What are the rights access to mental health care, that is all types of services affordable costs, quality, quantity, compensatory requirements, if there is free treatment for below poverty line patients, long term care if required. Right to equality and non-discrimination, right to information, the reason for admission, treatment procedure language, all those things are there in right of person with mental illnesses.

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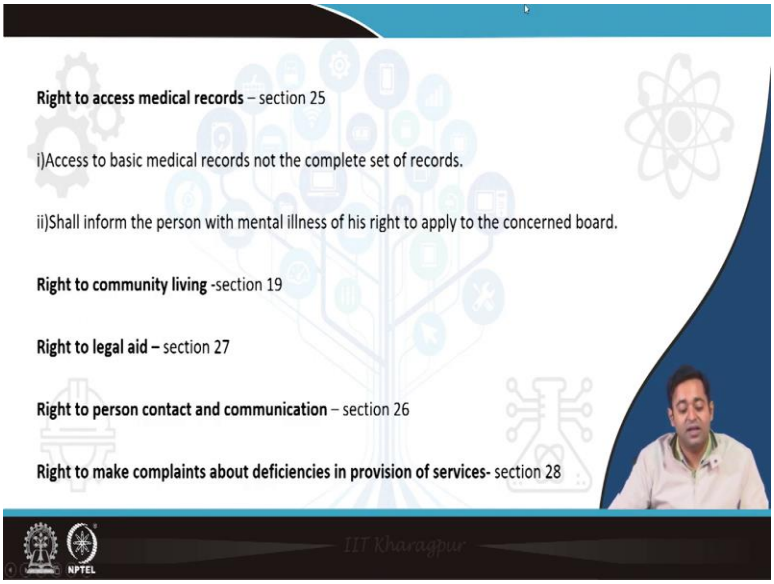

Rights to access medical records, like basic medical records or demographic data, this can be given to a patient a psychiatric patient, if it is found that he or she is not a danger to the society. Otherwise, he should not be given the information of medical records from the psychiatric tertiary care center or the hospital. Right to community living as normal patients has the right as so is available with the psychotic patients.

They are allowed to live openly in the society with others, right to legal aid, they are also having the equal right have the lawyers, which are looking after their cases when they are in trouble. Right to person contact and communication, right to make complaints about deficiencies in professional services. So, all these rights are entertained by the mental health patients.

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So section 121 deals with rights of persons with mental illness 21, subsection 1 and 3 central Mental Health Authority Mental Health Review Board. Section 121 1 subsection and subsection 4 deal with statement authority, anyone with mental capacity and 122 with central mental health authority.

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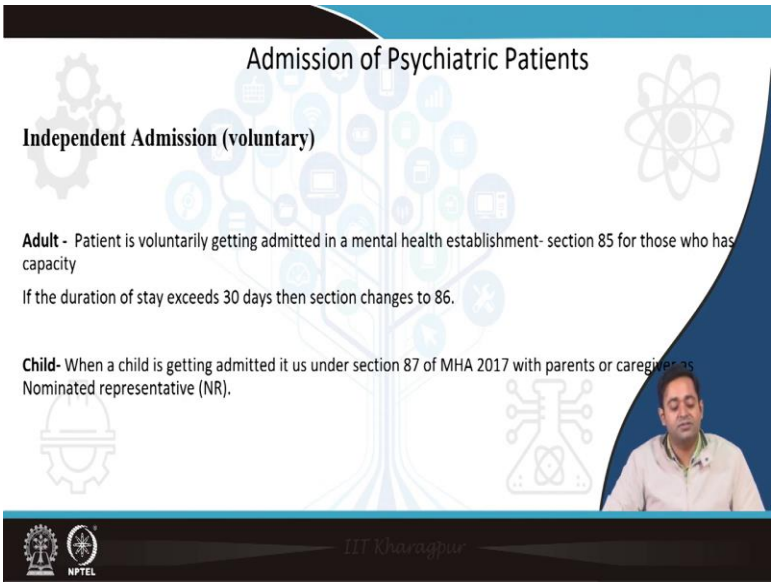

So let us come to admissions of psychiatric in patients. So, there are basically two types independent or voluntary admission and you have supported or involuntary admissions. In independent admission that is voluntary admissions. Considering cases of adult and child for an adult patient is voluntarily to getting admitted in a mental health establishment.

For those section 85 is implicated, if the patient is having capacity. And if the patient is staying for more than 30 days in mental health establishment, the session changes from 85 to 86. So, for a case of child, the child is getting admitted in a mental health establishment this goes in accordance with the Mental Health Act that is an NRS has to request for the admission.

This NR can be (())(24:41) representative, can be in the form of parents, caretaker or local guardian who request that okay this particular patient of mine this particular child of mine requires treatment and needs to get admission in medical establishment. Admission of child is under Section 87 of Mental Health Act 2017.

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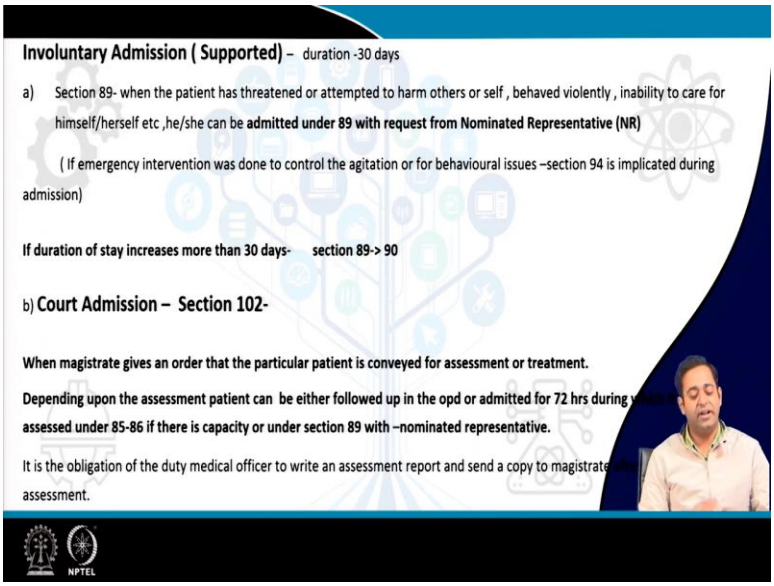

So, let us start with involuntary admission that is supported admissions. So, as compared to voluntary admission. Involuntary admission is when the patient does not have capacity or there is no insight of the illness. So, here the patient, when the patient has threatened or attentive to harm others or self or behave violently, inability to care for himself or herself, he or she can be admitted under section 89 with request from the nominated representative that is the NR.

So, if the patient is not having insight of the undergoing illness, psychiatric illness. So, the patient who is the accompanying person with the patient, he becomes a nominative representative, he can be a family member or a caregiver or friends, anyone. So, it is on the request of the NR that is nominative representative the patient can be admitted telling that this this is a patient who is actually not capable of living in the community and he has been creating an atmosphere of or is causing harm to self or to others.

So, this type of problems, if the nominative representative comes up with think this particular patient can be admitted under section 89 of Mental Health Act 2017. So, the duration is what 30 days and if and if the duration of 30 days exceeds for this particular patient the stay and it gets converted from 89 to session 90. So, there is a provision of section 94 also in this where there is an emergency intervention to control the agitation or behavioral issues in the part of the therapist who is treating the patient.

So, then the section 94 is indicated. So, the patient is ambiguous section nine along with section 94. It names along with section 94. Next is coat admission, which is under Section 102 of the MHA. So, when magistrate gives an order that the particular patient is being conveyed for assessment or treatment, so depending upon the assessment, patient can be either followed up in the OPD or admitted for 72 hours during which the assessment can be done.

And if it is found out that during those 3 days or 72 hours, the patient voluntarily accepts that okay, this is a problem I am suffering from then he or she might be getting admitted under section 85 or 86 of the MHA act or if the patient does not understand the severity or gravity of the situation and there is no insight or the capacity for the patient.

It can also be admitted under section 89 with the NRS the friends and family as nominative representative. So, it is a duplicate obligation of the duty medical officer to write an assessment report and send a copy to a magistrate after completion of the assessment. This has to be done in case of sections 102.

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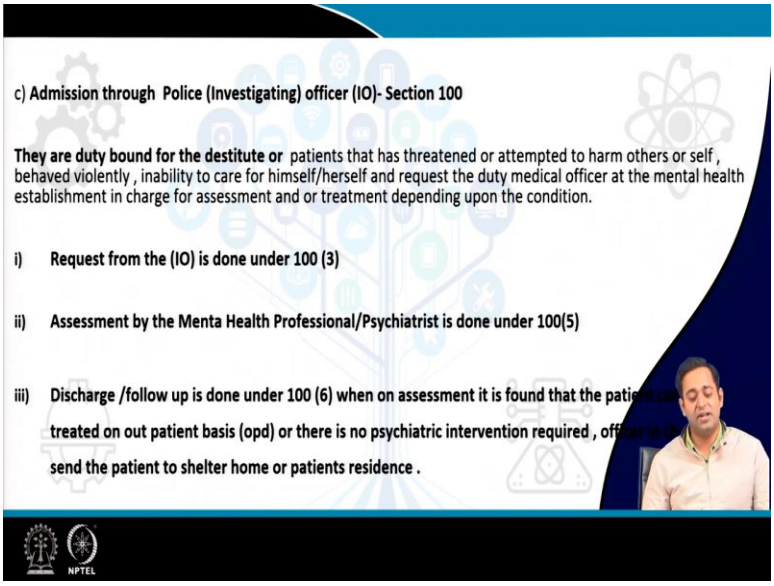

Next is admissions through police are investigating officer. So, this is a section which comes under of the MHA act. So, these are this investigating officers they are duty bound for the destitute or the patients that has threatened or attempted to harm others or self-behave violently, or they have inability to care for themselves and they are causing destruction of the nearby areas.

So this can be done by the request of the duty medical officer at the mental health establishment in charge for assessment and treatment depending upon the condition.

So, if the investigation officer is making a request, this request is coming under the section 10 that is 100 subsection 3 and the assessment by the mental health professional is done under subsection 100 subsection 5 and the discharge or the follow up depending upon the situation where the patients can be followed up or he or she is found out that the patient does not in any psychiatric treatment. So this is this comes under section 100 subsection 6.

So, it depends upon that and it is the obligation of the officer in charge. If the patient is found that there is no psychiatrist illness or the patient is followed up in the OPD. it is the duty medical it is the (())(29:23) officer which is supposed to send the patient to the shelter homes or the patient residents.

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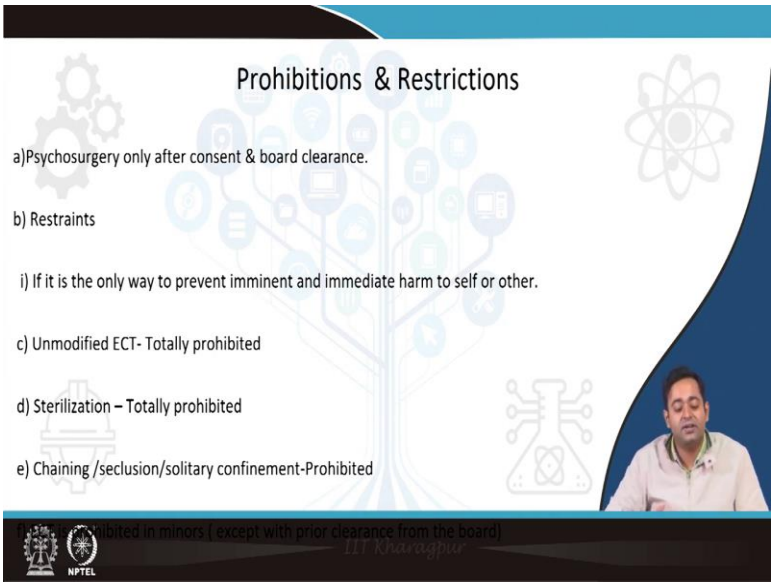

So, what are the prohibitions and restrictions? Psychosurgery only after consent and board clearance. Restraints if it is the only way to prevent imminent and immediate harm to self or others. Unmodified ECT, you are not allowed, we are not allowed to give unmodified ECT's which is totally prohibited. Sterilization procedures totally prohibited. Chaining seclusion and solitary confinement is actively prohibited.

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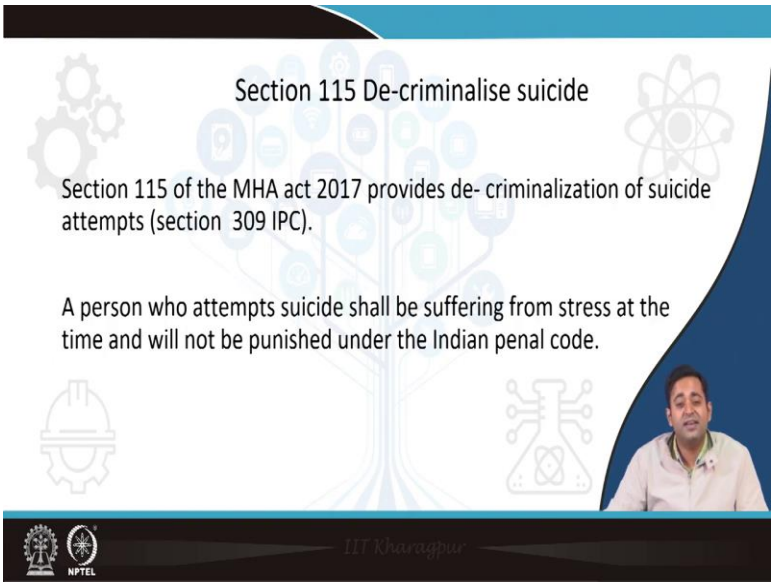

Section 115, there is decriminalization of the suicide. Now section 115 of MHA that is Mental Health 2017 provides the decriminalization of the suicide attempts, which was 309 section IPC. A person who attempts suicide shall be suffering from stress at the time and will not be punished under the Indian penal code.

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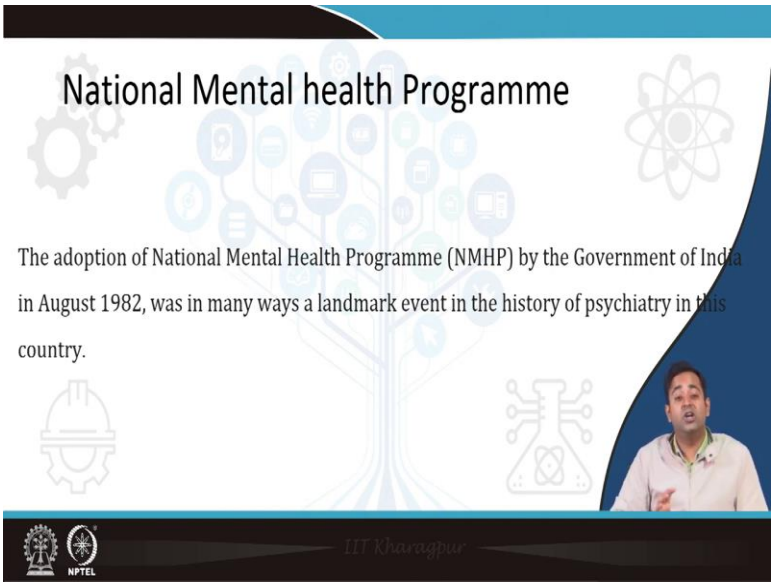

Let us, come to National Mental Health Programs. The adoption of National Mental Health Program by the government of India was in August 1982, and was in many ways a landmark event in the history of psychiatry in this country.

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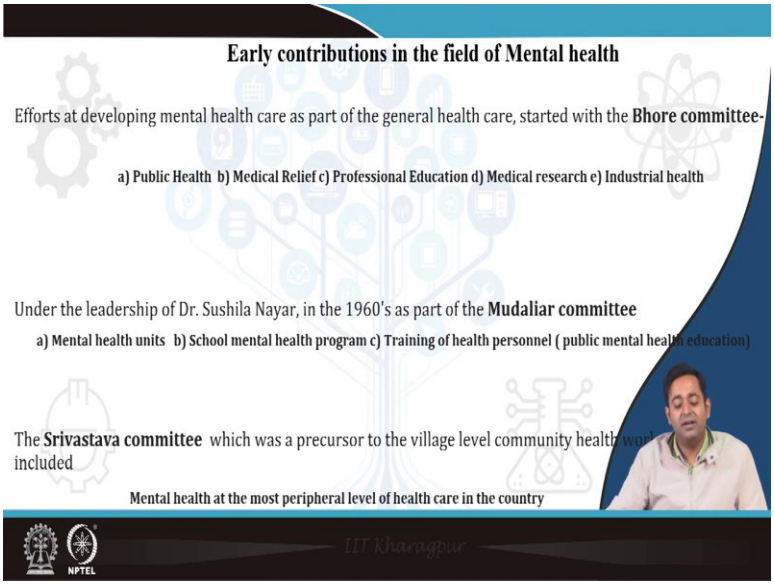

How has it evolved from there? There are only contributions in the field of mental health, efforts at developing mental health care as part of a general health care started with the board committee. So, what were the competence of the Bhore committee, public health, medical relief campaigns, professional education, medical research and industrial health (())(30:55) competence of board committee.

Next was the Mudaliar committee under the leadership of Sushila Nayar in 1960s. The components were mental health units, school mental health programs, training of mental health persons, that is public health education setups. And the last was Srivastava committee. So, these three committees, they were actively involved in the beginning for the mental health campaigns at the most peripheral level of health care in the community.

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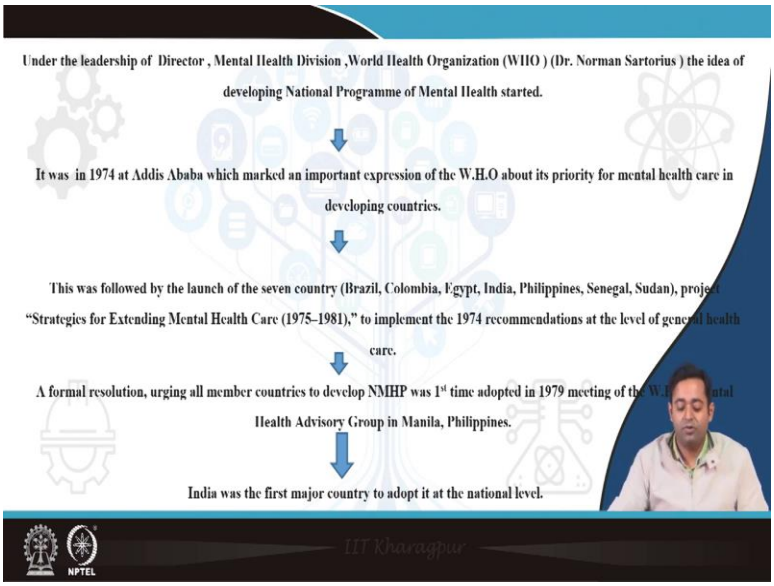

So under the leadership of director mental health division and world health organization, Norman Sartorius is the idea of developing national program for mental health started in India. So, it was in 1974. Addis Ababa, which marked an important expression of WHO, what is priority with mental health care in developing countries. India was one of the countries to start or they launched the campaign. And health advisory group was formed and India became the first country to adopt it at its national level.

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So, how it started, a small working group was constituted 1980, who was preparing a draft for the mental health, birth of national health program. So, Doctor Bisht Director of Health Services at that point of time, along with his fellow colleagues, (())(32:17) Wig, Venkoba Reo, Sharma Doctor Kapoor and Doctor Helmut sell.

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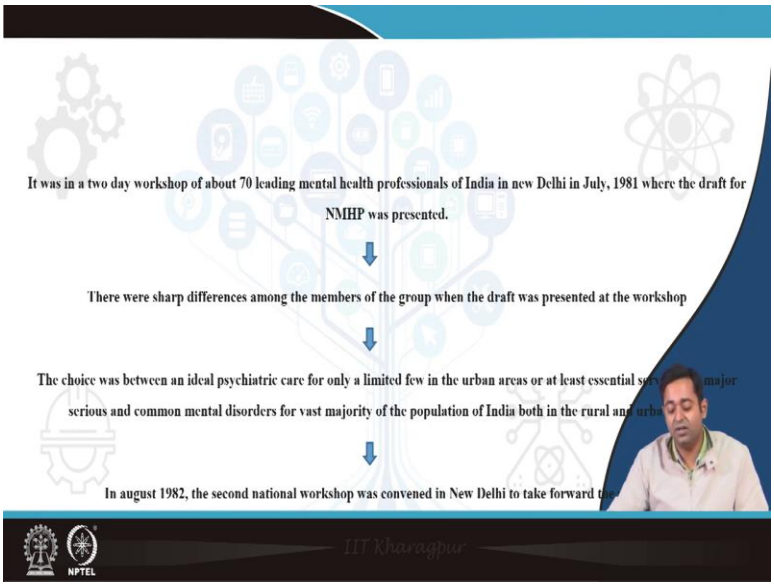

They all were actively involved in drafting a mentoring program. It was a two-day workshop, about 70 leading mental health professionals of India in New Delhi that they drafted, which (())(32:36) presented at the conference the workshop. There were sharp differences at the time a presentation, there were sharp differences among the peers who actually presented the members. When drafter presented the workshop.

The choice was between an ideal psychiatric care only for a few limited members in the urban areas or at least essential services for major serious and common mental disorders, for the vast majority of population in India, both in the rural and urban areas. So, in August 1982 the second national workshop was convened New Delhi to take forward the program from here onwards.

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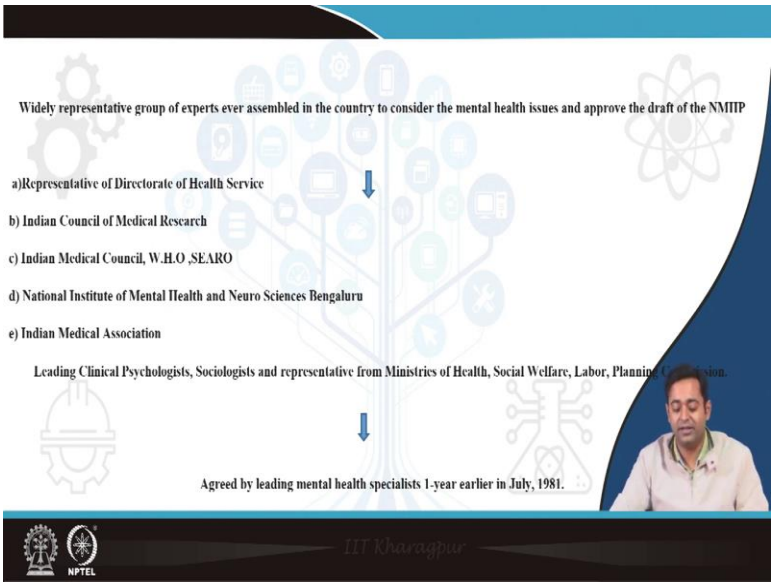

So widely representative group of experts ever assembled in the country were present at that point of time, which approved the which gives the approval of the draft of National Mental Health Program. So, these were the dignitaries who were such at that point of time. And they agreed the mental health specialist, whatever the draft, the preparation (())(33:39) the draft, they agreed upon the criteria's.

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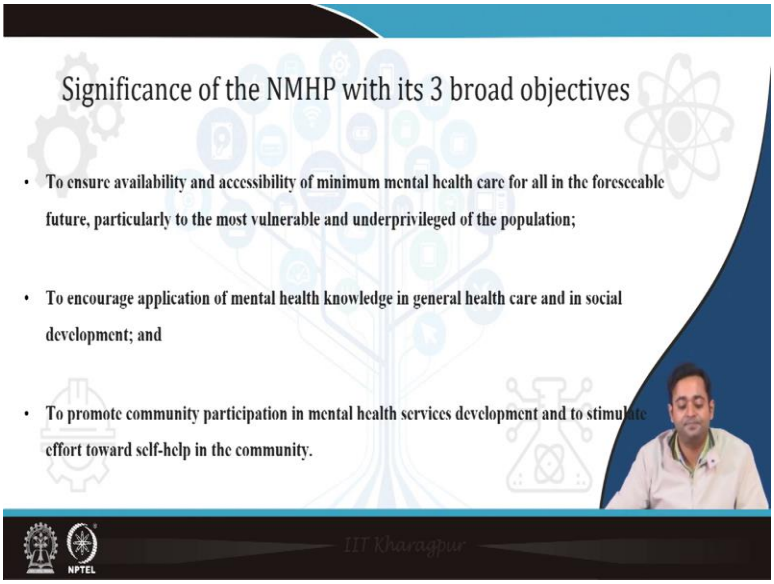

So what is the significance of NMHP that is National Mental Health Programs with its 3 broad objectives. To ensure availability and accessibility of minimum mental health care for all in the foreseeable future, particularly to the most vulnerable and underprivileged sections of the populations. To encourage application of mental health knowledge in general health care and in social development, and to promote community participation in mental health services development and to stimulate effort towards self-help to the community.

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So, in sense, so this is where the district mental health program came into existence to overcome the limitations of National Mental Health Program and to scale it up. It was perceived that the district should be administrative and implemented unit of the program and (())(34:32) Bangalore with Bellary district in Karnataka. They were the first to assess this feasibility as to how this can be shape up in the this particular program of our will be shaping up in the future.

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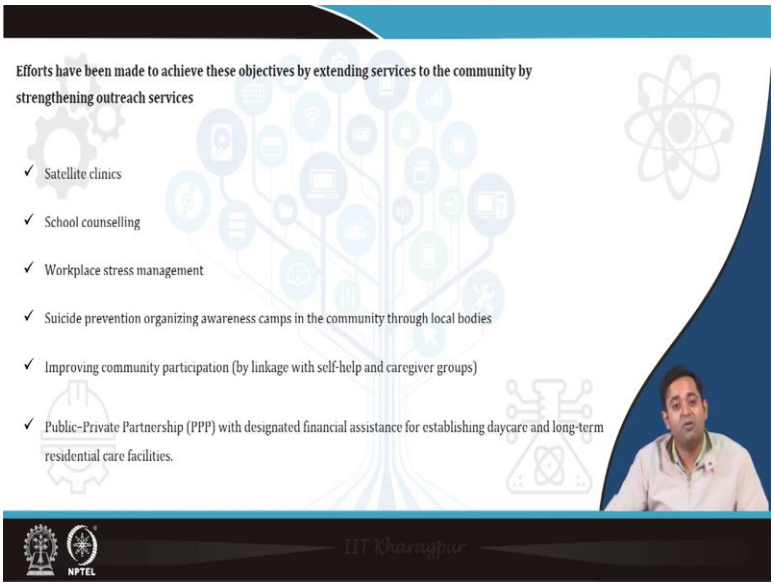

So efforts have been made to achieve these objectives by extending services to the community by strengthening outreach services. How are we doing it? By the help of satellite clinics, school counseling programs, workplace stress management programs, suicide provincial organization awareness camps, improving community participation by linking with self help groups and caregiver groups, public private participation with designated financial assistance from establishing daycare and long-term residential care facilities.

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Now strengthening of community mental health services outpatient inpatient services, setting a 24 hour dedicated helpline number to you provide information to the public about the emergency of the mental health services. Supporting centralized state mental health authorities and standardized format for recording and reporting of the continuous evaluation of the program activities.

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(())(35:38) the objectives of district mental health program, to develop and implement decentralized training camp that is in the national central level, it was national (())(35:47) program where we have decentralized it to the (())(35:50) program to provide a range of essential drugs such as antipsychotics, antidepressants, for the management of mental illnesses.

To develop a system of simple recording and reporting of care by mental health personnel. To monitor the effects of the services. To reduce the stigma by making a campaign to and treatment and rehabilitation of patients within the community by adequate provision of medicines strengthening the family support systems.

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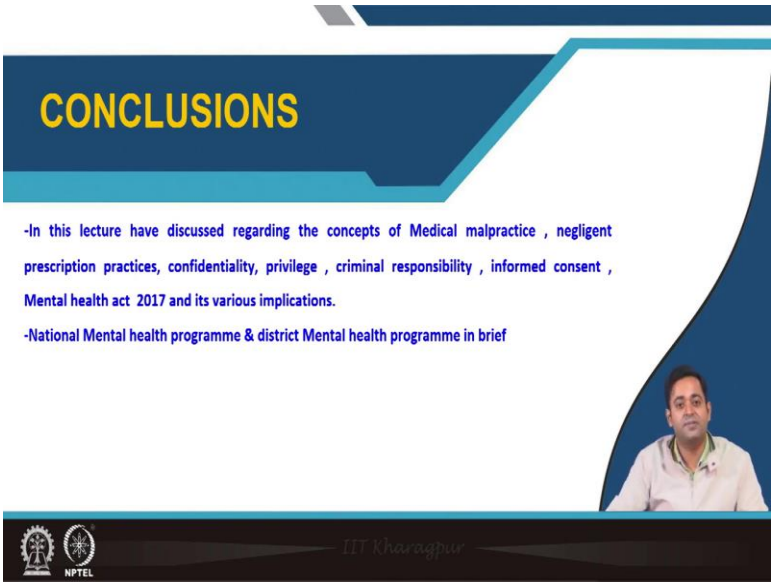

So in this lecture, we have discussed regarding the concepts of medical malpractice, negligent prescription practices, confidentiality, privilege, Mental Health Act and National Mental Health Program.

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These are my references. Thank you.