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SENATE

S.B. No. 2910

RECEIVED BY: 

Introduced by SENATOR PIA S. CAYETANO

AN ACT PROMULGATING A NATIONAL MENTAL HEALTH POLICY TOWARDS  
THE ENHANCEMENT OF INTEGRATED MENTAL HEALTH SERVICES, THE  
PROMOTION AND PROTECTION OF PERSONS UTILIZING MENTAL HEALTH  
SERVICES, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES

EXPLANATORY NOTE

The right of all Filipinos to have a healthy life is protected under Article 2, Section 15 of the Philippine Constitution which states that "the State shall protect and promote the right to health of the people and instill health consciousness among them." An important dimension of this right to health is mental health because "health," as defined in the World Health Organization Constitution, is "a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity."

In the Philippines, there are studies that reveal the extent of the mental health needs of the country's population. The Global School Based Health Survey (WHO 2011) shows that 16% of students between 13-15 years old have "ever seriously considered attempting suicide during the past year" while 13% have "actually attempted suicide one or more times during the past year." A study conducted by the Department of Health among government employees in Metro Manila revealed that 32% out of 327 respondents have experienced a mental health problem in their lifetime (DOH 2006). Almost one per 100 households (0.7%) has a member with mental disability (DOH-SWS 2004) while intentional self-harm is the ninth leading cause of death among 20-24 years old (DOH 2003).

Compounding these problems, persons with mental illness are vulnerable to abuse in healthcare settings. A recent report of the UN Special Rapporteur on Torture raised alarm on the prevalence of practices which can be considered "cruel and inhumane, degrading treatment" or even torture in health care settings. The report cites that persons with psychosocial disabilities, including those with long term sensory and intellectual impairments who have been neglected or detained in a variety of settings, from psychiatric to social care institutions or other residential centers, may be subject to all kinds of abuses or violence.

It is in this context that international bodies like the WHO have advocated for mental health legislation with a "rights-based" approach. In its 2003 document entitled "Mental Health Legislation and Human Rights," the WHO noted the following: "(1) People with mental disorders constitute a vulnerable section of society. (2) Mental health legislation is necessary for protecting the rights of people with mental disorders. (3) Mental health legislation is concerned with more than care and treatment. It provides a legal framework to address critical mental health issues such as access to care, rehabilitation and aftercare, full integration of people with mental disorders into the

community, and the promotion of mental health in different sectors of society. (4) There is no national mental health legislation in 25% of countries with nearly 31% of the world's population. (5) Mental health legislation is an integral part of mental health policy and provides a legislative framework for achieving the goals of such policy."

The purpose of this bill is to incorporate and institutionalize comprehensive mental health services into the national health system of the Philippines. The aim is to render available, accessible, affordable and equitable quality mental health care and services to Filipinos, especially the poor, underserved and high-risk population.

In this context, passage of the Bill is earnestly requested.

  
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*Be it enacted by the Senate and House of Representatives of the Philippines in  
Congress assembled:*

ARTICLE I

TITLE, POLICY, OBJECTIVES AND DEFINITION OF TERMS

SECTION. 1. *Short Title.*-This Act shall be known as the "Philippine Mental  
Health Act of 2015".

SEC. 2. *Declaration of Policy.* – The 1987 Philippine Constitution mandates  
that the State shall protect and promote the right to health of the people, adopt an  
integrated and comprehensive approach to health development giving priority to the  
needs of the underprivileged, sick, elderly, disabled, women and children.

The Universal Declaration of Human Rights, the International Covenant on  
Economic, Social and Cultural Rights, and the International Covenant on Civil and  
Political Rights, further provide for the right to equality and non-discrimination, dignity  
and respect, privacy and individual autonomy, information and participation of all  
people.

The State recognizes its obligations as a State-Party to the UN Convention on  
the Rights of Persons with Disabilities under Article 4 of the present Convention "to  
ensure and promote the full realization of all human rights and fundamental freedoms  
for all persons with disabilities without discrimination of any kind on the basis of  
disability." Likewise, the State aligns itself with the UN General Assembly resolution  
46/119 of December 17, 1991, on the Principles for the Protection of Persons with  
Mental Illness and the Improvement of Mental Health Care that lays down the policies  
and guidelines for the protection from harm of persons with mental disabilities and the  
improvement of mental health care.

In line with all these, it is hereby declared the policy of the State to uphold the  
basic right of all Filipinos to mental health and respect the fundamental rights of people  
who require mental health services. The State thus recognizes that people with mental  
disabilities by virtue of the nature and/or severity of their illness, have specific  
vulnerabilities and therefore need special care that is appropriate to their needs based  
on national and internationally-accepted standards.



1       The State commits to the promotion and protection of the rights of persons with  
2 psychosocial and mental health needs and the belief that addressing their profound  
3 social disadvantage enhances their significant contribution in the civil, political,  
4 economic, social and cultural spheres.

5       **SEC. 3. Objectives.** –The objectives of this Act are as follows:

6       a) Ensure a community of Filipinos who are mentally healthy, able to contribute  
7 to the development of the country and attain a better quality of life through access to an  
8 integrated, well-planned, effectively organized and efficiently delivered mental health  
9 care system that responds to their mental health needs in equity with their physical  
10 health needs;

11       b) Promote mental health, protection of the rights and freedoms of persons with  
12 mental health needs and the reduction of the burden and consequences of mental ill-  
13 health, mental and brain disorders and disabilities; and

14       c) Provide the direction for a coherent, rational, and unified response to the  
15 nation's psychosocial and mental health problems, concerns and efforts.  
16

17       **SEC. 4. Definition of Terms.** – For the purpose of this Act, the following terms  
18 shall be defined as follows:

19       a) ***“Allied Professionals”*** refer to any formally educated and trained non-mental  
20 health professionals.

21       b) ***“Carer”*** refers to a person who may or may not be the service user's next of kin  
22 nor relative but maintains a close personal relationship with the service user and  
23 manifests concern for his welfare.

24       c) ***“Confidentiality”*** refers to the relationship of trust and confidence created or  
25 existing between service users and their mental health professionals, mental health  
26 workers and allied professionals. It also applies to any person who, in any official  
27 capacity, has acquired or may have acquired such confidential information.  
28

29       d) ***“Legal Representative”*** refers to a substitute decision-maker charged by law  
30 with the duty of representing a service user in any specified undertaking or of exercising  
31 specified rights on behalf of the service user that will redound to the latter's well-being  
32 taking into consideration the latter's wishes.  
33

34       e) ***“Mental Disability”*** refers to impairments, activity limitations, and individual and  
35 participatory restrictions denoting dysfunctional aspects of interaction between an  
36 individual and his environment.

37       f) ***“Mental Health”*** refers to a state of well being in which every individual realizes  
38 his or her own potential, can cope with the normal stresses of life, can work productively  
39 and fruitfully, and is able to make a contribution to his or her community.

40       g) ***“Mental Health Facility”*** refers to any establishment, or any unit of an  
41 establishment, which has, as its primary function, mental health care or services.  
42

h) *"Mental Health Professional"* refers to a medical doctor, clinical psychologist, nurse, social worker or other appropriately trained and qualified person with specific skills relevant to mental health care.

i) *"Mental Health Services"* refer to psychosocial, psychiatric or neurologic activities and programs along the whole range of the mental health support spectrum including enhancement, prevention, treatment and aftercare which are provided by mental health facilities and mental health professionals.

j) *"Mental Health Workers"* refer to trained volunteers or advocates engaged in mental health promotion and services under the supervision of mental health professionals.

k) *"Mental Illness"* refers to neurologic or psychiatric disorder characterized by the existence of recognizable, clinically significant disturbance in an individual's cognition, emotion regulation, or behavior that reflects a dysfunction in the neurobiological, psychosocial, or developmental processes underlying mental functioning. Socially deviant behavior (e.g., political, religious, or sexual) and conflicts primarily between the individual and society are not mental disorders unless the deviance or conflict results for a dysfunction in the individual, as described above.

l) *"Mental Incapacity"* refers to the:

1. Absence of mental capacity resulting to the inability to carry on the everyday affairs of life or to care for one's person or property with reasonable discretion; or
2. Inability to understand the consequences that his/her decisions and actions have for his/her own life or health and for the life and health of others, which may be serious and irreversible.

m) *"Psychosocial Problem"* refers to a condition that indicates the existence of disturbances in the individual's behavior, thoughts and feelings brought about by sudden, extreme or prolonged stressors in the physical or social environment.

n) *"Service user"* refers to a person receiving mental health care and includes all persons who are admitted to a mental health facility.

## ARTICLE II RIGHTS OF PERSONS WITH MENTAL HEALTH NEEDS

**SEC. 5. *Rights of Persons with Mental Health Needs.*** – Without prejudice to the provisions of this Act and unless prevented by law, persons with mental health needs shall have the right to:

a) Exercise all their inherent civil, political, economic, social, religious, educational and cultural rights respecting individual qualities, abilities and diverse backgrounds and without any discrimination on grounds of physical disability, age, gender, sexual orientation, race, color, language, civil status, religion or national or ethnic or social origin of the service user concerned;

b) Receive treatment of the same quality and standard as other individuals in a safe and conducive environment;



1 c) Receive treatment which addresses holistically their needs through a  
2 multidisciplinary care plan approach;

3 d) Receive treatment in the least restrictive environment and in the least  
4 restrictive manner;

5 e) Be protected from torture, cruel, inhumane, harmful, discriminatory, or  
6 degrading treatment;

7 f) Receive aftercare and rehabilitation when possible in the community so as to  
8 facilitate their social inclusion;

9 g) Be adequately informed about the disorder and the multidisciplinary services  
10 available to cater to their needs and the treatment options available;

11 h) Actively participate in the formulation of the multidisciplinary treatment plan;

12 i) Give free and informed consent before any treatment or care is provided and  
13 such consent shall be recorded in the service user's clinical record. This is without  
14 prejudice to the service user's right to withdraw consent;

15 j) Acquire a responsible legal representative and carer of their choice consistent  
16 with Section 3(d), whenever possible;

17 k) Confidentiality of all information, communication and records about  
18 themselves, illness and treatment in whatever form stored, which information shall not  
19 be revealed to third parties without their consent unless;

20  
21 i. There is a law that requires disclosure;

22 ii. It can be argued that the person has provided express or implied  
23 consent to the disclosure; and

24 iii. There is good reason to believe that specific persons or groups are  
25 placed in serious, credible threat of harm if such disclosure is not made.  
26

27 l) Be entitled to a competent counsel of his/her own choice. In case he/she  
28 cannot afford one, the Public Attorney's Office or any legal aid institution of his/her own  
29 choice will assist him/her.

### 30 ARTICLE III

#### 31 DUTIES AND RESPONSIBILITIES OF GOVERNMENT AGENCIES

32 SEC. 6. *Duties and Responsibilities of the Department of Health (DOH.)* – It  
33 is the duty and responsibility of the DOH to:

34 a) Ensure conditions for a safe, therapeutic and hygienic environment with  
35 sufficient privacy in mental health facilities and shall be responsible for the  
36 licensing, monitoring and assessment of all mental health facilities;

37 b) Ensure that all public and private mental health facilities are protecting the  
38 rights of service users against cruel, inhuman and degrading treatment and/or  
39 torture; and

40 c) Develop alternatives to institutionalization, such as community-based  
41 treatment with a view of receiving persons discharged from hospitals.

**SEC. 7. Duties and Responsibilities of the Commission on Human Rights (CHR).** – It is the duty and responsibility of the CHR to:

a) Establish mechanisms to investigate alleged improprieties and abuses in the use of involuntary interventions and recommend appropriate charges against the perpetrators;

b) Inspect all places where psychiatric service users are held for involuntary treatment or otherwise, to ensure full compliance with domestic and international standards governing the legal basis for treatment and detention, quality of medical care, and living standards;

c) Appoint a Focal Commissioner for Mental Health under the CHR to ensure that the rights of service users and their carers, as well as the rights of mental health professionals and workers are protected in accordance with our national laws and international obligations. The Focal Commissioner shall, whenever necessary and if there are findings of human rights violations committed by the mental health facility and/or any mental health professional and mental health worker, recommend civil, administrative or penal actions to appropriate agencies.

**SEC. 8. Duties and Responsibilities of National and Local Mental Health Facilities.** – It is the duty and responsibility of national and local mental health facilities to:

a) Inform service users of their rights. Every service user, whether admitted for voluntary or involuntary treatment, should be fully informed about the treatment to be prescribed and the reason for recommending it and be given the opportunity to refuse treatment or any other medical intervention. Informed consent must be sought from all service users at all times except in instances of mental incapacity as defined in Section 4;

b) Ensure that guidelines and protocols for minimizing restrictive care are established:

c) Keep a register on involuntary treatment and procedures; and

d) Ensure that the decision for the need for a legal representative or substitute decision-maker shall be made only for reasons of mental incapacity and shall be made following established judicial procedures which should ensure that the rights, will and preferences of the service users are respected as far as possible; and

#### ARTICLE IV

#### MENTAL HEALTH SERVICE IN THE COMMUNITY

**SEC. 9. Local Mental Health Service.** – Mental health service of local communities shall, within the general health care system, include the following:

a. Development, integration and implementation of mental health care at the primary health care in the community; and

b. Advocacy and promotion of mental health awareness among the general population in the community level.

1 ARTICLE V  
2 EDUCATION, RESEARCH AND DEVELOPMENT  
3

4 SEC. 10. *Integration of Mental Health/Psychiatry in the Curricula.* – Mental  
5 health/psychiatry shall be a required subject in all medical and allied health courses,  
6 including postgraduate courses in health.

7 SEC. 11. *Research and Development.* – Research and development shall be  
8 undertaken, in collaboration with academic institutions, mental health associations and  
9 non-government organizations, to develop appropriate and culturally relevant mental  
10 health services.

11 ARTICLE VI  
12 MISCELLANEOUS PROVISIONS

13 SEC. 12. *Implementing Rules and Regulations (IRR).* –Within (90) days from  
14 the effectivity of this Act, the Secretary of Health shall, in coordination with the  
15 Philippine Mental Health Council, as created in Executive Order No. 470 series of 1998,  
16 formulate the implementing rules and regulations necessary for the effective  
17 implementation of this Act.

18 SEC. 13. *Appropriations.*– The amount necessary to carry out the initial  
19 implementation of this Act shall be charged against the current year's appropriation of  
20 the DOH. Thereafter, such amount as may be necessary for the continued  
21 implementation of this Act shall be included in the Annual General Appropriations Act.

22 SEC. 14. *Separability Clause.* - If any provision of this Act is held invalid or  
23 unconstitutional, the remainder of the Act or the provision not otherwise affected shall  
24 remain valid and subsisting.

25 SEC. 15. *Repealing Clause.* –Any law, presidential decree or issuance,  
26 executive order, letter of instruction, administrative rule or regulation contrary to or  
27 inconsistent with the provisions of this Act is hereby repealed, modified or amended  
28 accordingly.

29 SEC. 16. *Effectivity* – This Act shall take effect fifteen (15) days upon its  
30 publication in at least two (2) national newspapers of general circulation.

31 *Approved,*