

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

SECTION. 1. Short Title.-This Act shall be known as the "Philippine Mental Health Act of 2016".

SECTION 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, indigenous peoples, 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 commits itself to promoting the psychosocial well-being of its people, and supporting processes that engenders resilience and growth-

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

In line with these commitments, the State recognizes the applicability of the provisions and the implementing rules and regulations of Republic Act 7277 , otherwise known as, "Magna Carta for Disabled Persons," to persons with mental health needs. It also acknowledges that Republic Act 9422, otherwise known as, "An Act Amending Republic Act 7277, otherwise known as the Magna Carta for Disabled Persons, and for Other Purposes" and Republic Act 10754, otherwise known as, "Act Expanding the Benefits and Privileges of Persons With Disability (PWD)," and their implementing rules and regulations are likewise applicable to persons with mental health needs.

The Objectives of this Act are as follows:

- a) Ensure a community of Filipinos who are mentally healthy, able to contribute to the development of the country and attain a better quality of life through access to an integrated, well-planned, effectively organized and efficiently delivered mental health care system that responds to their psychiatric, neurologic and psychosocial health needs in equity with their physical health needs;
- b) Promote mental health, protection of the rights and freedoms of persons with psychiatric, neurologic and psychosocial health needs;
- c) Provide the direction for a coherent, rational, and unified response to the nation's mental health problems.,

SECTION 3. Scope And Coverage This shall apply to all sectors, disciplines and institutions whose functions and activities contribute to the achievement of the objectives of this Act. The mental health problems referred to in this Act include psychiatric, neurologic, and psychosocial disorders.

SECTION 4. Definition of Terms. For the purposes of this Act, the following terms shall be defined as follows:

a) "Confidentiality" refers to the relationship of trust and confidence created or existing between service users and their mental health professionals, and mental health workers. It also applies to any person who, in any official capacity, has acquired or may have acquired such confidential information.

b) "Legal Representative" refers to a person who is legally designated either by the service user or court to assume the role of a supported or substituted decision maker.

i) A person, not necessarily a relative, designated in a notarized document designated by the service user

ii) Spouse, unless permanently separated from the **service user** as rendered by a court of competent jurisdiction or has deserted or has been deserted by the patient for any period which has not come to an end;

iii) Sons and daughters above eighteen years old;

iv) Either parent by mutual consent; or

v) A person appointed by a decree of a Court to represent the patient.

c) "Mental Disorder" refers to neurologic or psychiatric condition characterized by the existence of recognizable, clinically significant disturbance in an individual's cognition, emotion regulation, or behavior that reflects a genetic or acquired dysfunction in the neurobiological, psychosocial, or developmental processes underlying mental functioning. The determination of psychiatric and neurologic disorders shall be based on scientifically accepted medical nomenclature.

d) "Mental Health" refers to a state of psychosocial well being in which every individual realizes his or her own potential, can cope with the normal stresses of life, can be resilient in the face of extreme life events, can work productively and fruitfully, and is able to make a positive contribution to his or her community.

e) **"Mental Incapacity"** refers to the is the inability to:

- 1) Understand the information given concerning the nature of the disorder;
- 2) Understand the consequences that his/her decisions and actions have for his/her own life or health and for the life or health of others, which may be serious and irreversible;
- 3) Understand that treatment might mitigate or remedy the condition and that lack of treatment might aggravate it;
- 4) Understand the information about the nature of treatment proposed, including the means of treatment its direct effects and its possible side effects; and
- 5) Effectively communicate with other regarding his/her condition and his/her consent to treatment or hospitalization.

f) **"Mental Health Facility"** refers to any establishment, or any unit of an establishment, which has, as its primary function the provision of mental health care or services.

g) **"Mental Health Professional"** refers to a medical doctor, clinical psychologist, nurse, social worker or appropriately trained and qualified person with specific skills relevant to the provision of mental health services .

h) **"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.

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

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

k) **"Service user"** refers to a person receiving psychiatric, neurologic services as well as psychosocial care.

l) **"Substituted decision making"** is an act of making decision on behalf of the service user in situations where the latter is assessed by a health professional as mentally incapacitated.

m) **"Supported decision-making"** is the act of assisting a service user in expressing a preference, intention or decision with coherence. It acknowledges that the service user retains a decision-making capability.

SECTION 5. Rights and Privileges of Persons with Mental Health Needs. - Without prejudice to the provisions of this Act and unless prevented by law, each person shall have the right to:

- a) Be free from social and political discrimination, stigmatization and criminalization of their mental health conditions.
- b) 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;
- c.) Receive mental health services and education at all levels of the health care system
- d) Be provided with options of evidence-based or evidence-informed psychosocial care and/or clinical treatment of the same quality and standard as other individuals in a safe and conducive environment;
- e) Receive psychosocial care and/or clinical treatment which addresses holistically their needs through a multidisciplinary care plan approach;
- f) Receive psychosocial care and/or clinical treatment in the least restrictive environment and in the least restrictive manner;
- g) Be protected from torture, cruel, inhumane, harmful, discriminatory, or degrading treatment;
- h) Receive aftercare and rehabilitation when possible in the community so as to facilitate their social reintegration;
- i) Be adequately informed about the psychosocial and/or clinical assessment and the multidisciplinary services available.;
- j) Actively participate in the formulation of the multidisciplinary psychosocial care and/or clinical treatment plan;
- k) Give informed consent before, during and after any treatment or care is provided. Such consent shall be required and recorded in the service user's clinical record unless diagnosed to be mentally incapacitated. This includes the service user's right to withdraw such consent;
- l) Acquire a responsible legal representative of their choice as defined in Section 4 ;
- m) Assured of the confidentiality of all information, communication and records about themselves, illness and treatment in whatever form stored, which information shall not be revealed to third parties without consent of the concerned person, unless:
 - 1) There is a law that requires disclosure;
 - 2) It can be argued that the person has provided express consent to the disclosure;
 - 3) There is a life threatening emergency when information is urgently required to prevent harm or injury to the person or others; or
 - 4) Ordered by a competent court.

- n) Be entitled to a competent counsel of his/her own choice.
- o) Be informed within twenty-four hours of admission in a facility of his or her rights in a form and language which he/she understands.

SECTION 6. Rights of Family Members or other Legal Representatives. Family members or other legal representatives shall have the right to:

- a.. To avail of appropriate psychosocial support from relevant agencies of government;
- b. Become involved in the formulation and implementation of the patient's individualized treatment plan, provided the service user gives his/her consent;
- c. Apply for the release and transfer of offenders found to be suffering from a mental disorder to an appropriate mental health facility; and
- d. Be involved in the development of mental health policy, legislation and service planning;

SECTION 7. Rights of Mental Health Professionals.

- a. A mental Health Professional has the right to practice their profession free from threat or harm.
- b. A mental health professional appearing in court as expert witnesses shall not be bound by confidentiality *provided* adequate informed consent has been secured from the evaluatee.
- c. A mental health professional may withhold information to the service user if the latter is deemed mentally incapacitated as defined in Section 4.
- d. In cases wherein the service user's wishes are at odds with his family's wishes, the mental health professional has the right to advocate for the rights of the service user.
- e. A mental health professional may choose the individuals who can avail of their services except in emergency situations
- f. A mental health professional has the right to their reputation. Patients or alleged patients who malign the name of a psychiatrist may be brought to court by the latter. In such cases, privilege is deemed waived as to the patient information needed by the court to adjudicate the case.

SECTION 8. Duties and Responsibilities of the Department of Health (DOH). It is the duty and responsibility of the DOH to:

- a implement a national mental health program which shall include wellness for everyday living, psychosocial support for those experiencing extreme life circumstances, and mental health services for those with mental disorders
- b. Ensure the development of mental health services and education within the primary health care services of the community in coordination with the Department of the Interior and Local Government;

- c. Ensure conditions for a safe, therapeutic and hygienic environment with sufficient privacy in mental health facilities and shall be responsible for the licensing, monitoring and assessment of all mental health facilities;
- d. Ensure that all public and private mental health facilities are protecting the rights of service users against cruel, inhuman and degrading treatment and/or torture;
- e. Foster and support community-based rehabilitation for service users by:
 - i. the establishing least restrictive alternatives to institutionalization, community-based programs designed to integrate persons with mental disorders into the society. Such alternatives should meet expressed need of service users respecting their autonomy, choices, dignity and privacy.;
 - ii. supporting community rehabilitation programs which will provide facilities for persons with mental disorders needing rehabilitation and trainings in areas such as self-assisted living and social adjustment skills; and
 - iii. mandating workplaces to create a supportive environment for persons with mental disorders, providing protection of their rights, arranging for them to undertake work appropriate to their ability, guaranteeing they receive equal medical benefits.
- f. Prevent and take action against abuses and human rights violations in the conduct of mental health services through the the Department of Health, the Commission on Human Rights, and the Department of Justice. They shall receive all complaints and initiate appropriate investigation and action.

SECTION 9. Duties and Responsibilities of Mental Health Facilities. It is the duty and responsibility of mental health facilities to:

- a. Inform and ensure that service users understand their rights stated in Section 5;
- b. Inform every service user, whether admitted for voluntary or involuntary treatment, about the treatment to be prescribed and the reason for recommending it.
- c. Secure prior Informed consent from all service users at all times except in instances of mental incapacity as defined in Section 4;
- d. Ensure that guidelines and protocols for minimizing restrictive care are established;
- e. Ensure that any involuntary medical treatment and restraint, physical or chemical, for those with mental health can only be used to the extent strictly necessary
 - i. In psychiatric and neurologic emergencies;
 - ii. The treatment without consent and restraint is at the order of an attending physician whose orders must be reviewed by a Board certified psychiatrist as soon as possible or within one month;
 - iii. The decision to subject the patient to involuntary treatment is resorted to only when all other means of control treatment have been attempted and failed;

- iv. The head of the institution, medical or mental health facility, or his duly appointed representative, will oversee such a decision strictly following approved guidelines, which include clear criteria for regulating the application and termination of such interventions;
- v. Used only for the shortest possible period of time as assessed by a Board certified psychiatrist/ neurologist or attending physician under the supervision by a Board certified psychiatrist/neurologist; and
- vi. Recorded and subjected to regular external independent monitoring. For this purpose, the mental health facility should keep a register on involuntary treatment and procedure

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d. Ensure that the decision for the need for a legal representative shall be made only for reasons of mental incapacity and follow established judicial procedures that should ensure that respect the rights, will and preferences of the service users as defined in Section 5.

SECTION 10. Mental Health Services in the Community. Mental health services shall, within the general health care system in the community, include the following:

a. Development and integration of mental health services at the primary health care in the community through:

- i. Mental health services and psychosocial health integrated into the primary care system with the availability of basic mental health services; and
- ii. Training for community resilience and psychosocial well-being in all barangays and availability of Mental Health and Psychosocial Support Services (MHPSS) for disaster prevention and recovery.
- iii. Continuation of programs for capacity building among mental health professionals and workers-in close coordination with mental health facilities and relevant educational institutions.

c. Continuous support services and intervention for families and co-workers and

d. Advocacy and promotion of mental health awareness among the general population;

SECTION 11. Establishment of Psychiatric and Neurologic Service in Regional, Provincial and All Tertiary Level Hospitals. Psychiatric service shall be established in every regional and provincial as well as all tertiary level hospitals which shall provide the following:

- a. Short-term in-patient hospital care for those with acute psychiatric symptoms in a small psychiatric ward;
- b. partial hospital care for those with psychiatric symptoms or undergoing difficult personal and family circumstances;
- c. Out-patient clinic in close collaboration with the mental and psychosocial health programs at the primary health centers in the area;

- d. Linkage and possible supervision of home cares services for those with special needs as a consequence of long-term hospitalization, unavailable families, inadequate or non-compliance to treatment;
- e. Coordination with drug rehabilitation and centers on the care, treatment and rehabilitation of persons suffering from drug or alcohol/ substance abuse which has affected the person's mental health; and
- f. Referral system with other health and social welfare programs, both government and non-government, for programs, in the prevention and treatment of mental illness, the management of those at risk for mental health and psychosocial problems and mental illness

SECTION 12. Recognition of other forms of treatment / non-medical alternatives.

- 1. Non-medical alternatives such as physical fitness programs, sports, emotional support animals, journal writing, occupational therapies, art and music therapies, gardening, traveling, meditations, talk therapy, joining peer support groups, developing an inner circle of trust, productive manual labors, traditional healing/spiritual centers among others.
- 2. Support systems in communities, healing and recovery alternatives, psychologists, therapists and skilled and non-formal care givers, social workers, self-advocates and expertise of people who have recovered using non-medical alternatives.

SECTION 13. Integration of Mental Health in the Curriculum. The State shall ensure the integration of mental health in the educational system.

- 1. Age appropriate education should be integrated at primary, secondary and tertiary levels of education.
- 2. Psychiatry and neurology shall be a required subject in all medical and allied health courses, including postgraduate courses in health.

SECTION 14. Research and Development. Research and development shall be undertaken, in collaboration with academic institutions, psychiatric, neurologic and related associations and non-government organizations, to develop appropriate and culturally relevant mental health services.

SECTION 15. Capacity Building, Reorientation and Training. – Mental health professionals or workers whose previous education and training had not emphasized the community and public health perspective of mental health shall undergo capacity building, reorientation and training, in close coordination with relevant educational institutions and mental health facilities.

SECTION 16. Implementing Rules and Regulations (IRR). Within (90) days from the effectivity of this Act, the Secretary of Health shall, formulate the implementing rules and regulations necessary for the effective implementation of this Act.

SECTION 17. Appropriations. The amount necessary to carry out the initial implementation of this Act shall be charged against the current year's appropriation of the DOH. Thereafter, such amount as may be necessary for the continued implementation of this Act shall be included in the Annual General Appropriations Act.

SECTION 18. Separability Clause. If any provision of this Act is held invalid or unconstitutional, the remainder of the Act or the provision not otherwise affected shall remain valid and subsisting.

SECTION 19. Repealing Clause. Any law, presidential - Any law, presidential decree or issuance, executive order, letter of instruction, administrative rule or regulation contrary to or inconsistent with the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 20. Effectivity. This Act shall take effect fifteen (15) days upon its publication in at least two (2) national newspapers of general circulation.