

MENTAL HEALTH ACT

Most of the provisions in the Mental Health Act number 180 dated 13th May 1978 were subsequently incorporated into Act number 833 dated 23rd December 1978 which established the National Health Service.

Readers may find below an ample excerpt of the articles of the Act which pertain to psychiatric institutions.

Article 33 – Regulations concerning voluntary and compulsory assessment and treatment.

- Medical assessment and treatment is usually voluntary.
- In the cases pertaining to this Law and those explicitly provided for in State laws, health authorities may order compulsory medical assessment and treatment in conformity with Article 32 of the Constitution. Human dignity and political and civil rights including, as far as possible, an individual's right to choose their physician and the facility in which to receive treatment must be respected.
- Compulsory medical assessment and treatment shall be ordered by Mayors in their capacity as health authorities, upon a medical practitioners' well-grounded recommendation.
- Compulsory assessment and treatment shall be implemented by local public health facilities and services and, when hospitalisation is required, in public hospitals or facilities operating within the National Health Service.
- Compulsory assessment and treatment provided for under the previous sections shall be supplemented by initiatives aimed at attaining patients' consent and involvement. The Local Health Service shall endeavour to limit such compulsory assessments and treatments by means of education projects concerning health and prevention and a systematic interaction between the services and the community.
- During compulsory treatment patients shall be entitled to communicate with whoever they deem appropriate.
- Applications to the Mayor to revoke or amend an order for compulsory treatment or protraction thereof may be submitted by any citizen and the Mayor shall reach a decision within 10 days. Orders to revoke, amend or protract compulsory treatment shall be adopted by means of the same procedure used in the original order.

Article 34 Voluntary and compulsory medical assessment and treatment for patients with a mental condition.

- Regional laws shall regulate the establishment of specialised divisions for services related to the prevention, treatment and rehabilitation of mental illness within the scope of the Local Health and General Health Protection Services.
- The provisions under section two of the previous Article may be applied to patients with a mental condition.
- Initiatives for prevention, treatment and rehabilitation of patients with a mental condition are generally performed by the local services and facilities, excluding hospitals, under section one.
- **Compulsory medical treatment for patients with a mental condition may provide that patients be admitted to hospital only in cases in which the disorder requires urgent treatment, the individual is non-compliant and the circumstances prevent that prompt and appropriate care may be provided in outpatient services.**
- Any order to arrange for compulsory medical treatment as an inpatient should be preceded by the endorsement of the well-grounded recommendation submitted by a medical practitioner in the Local Health Service provided for in section three of Article 33.
- In the cases stated in the previous section, patient's shall be admitted to a general hospital in the specific psychiatric diagnosis and care wards within the Department of Mental Health that provides outpatient services, in order to ensure continuity of care. The number of beds available in the aforementioned hospital wards shall be established by the Regional Health Scheme.

Article 35 - Procedure for compulsory medical assessment and treatment in hospital for patients with a mental condition and jurisdictional protection

- The Mayor's order for inpatient compulsory medical treatment shall be issued no later than 48 hours from the endorsement provided for in Article 34, section 4, and the medical practitioner's well-grounded recommendation provided for in Article 33, section 3, and a Town Council messenger shall inform the district Tutelary Judge of such within 48 hours.
- Having gathered information and arranged for any necessary inspection, the Tutelary Judge shall issue a well-grounded decree endorsing or rejecting the order and shall inform the Mayor of such within the following 48 hours. Should the Judge reject the order, the Mayor shall instruct that the compulsory medical treatment in hospital be ceased.
- Should the order provided for in section 1 of this Article be issued by the Mayor of a town in which the patient is not resident, the order shall be notified to the Mayor of the town and the Tutelary Judge of the jurisdiction where the patient is actually resident. Should the order provided for in section 1 of this Article apply to foreign nationals or stateless persons, the Prefect shall notify the order to the Ministry of the Interior and the relevant Consulate.
- Should compulsory medical treatment need to be extended beyond seven days or prolonged, the medical practitioner in charge of the Local Health Service's psychiatric facility is obliged to

promptly convey a well-grounded recommendation to the Mayor who ordered the patient to be admitted to hospital. The Mayor shall then inform the Tutelary Judge of such circumstances by means of the procedure and for the purposes provided for in sections 1 and 2 of this Article specifying the expected period of treatment.

- Whether the patient is discharged or remains in hospital the medical practitioner cited in the previous section is obliged to inform the Mayor should the circumstances requiring compulsory medical treatment no longer exist, as likewise of any unexpected impossibility to continue such treatment. The Mayor shall inform the Tutelary Judge of such circumstances within 48 hours.
- If necessary, the Tutelary Judge shall adopt any urgent provisions required to preserve and manage the patient's assets.
- In case of failure to provide the information under sections 1, 4 and 5 of this Article the order shall cease to have effect and shall be regarded as malfeasance in office, unless there are sufficient grounds to consider this as an even more serious offence.
- Individuals who have endured compulsory medical treatment and citizens who have an interest may file an appeal against the order endorsed by the Tutelary Judge in the Court having territorial jurisdiction. A Mayor may file a similar appeal against the failure to endorse the order providing for compulsory medical treatment within 30 days of the time limit set by section 2 of this Article.
- During the court trial, the parties may appear without defense counsel and be represented by a person with a warrant of attorney printed at the bottom of the appeal or in a separate deed. An appeal may be filed in Court by registered mail with proof of delivery.
- The appearance of the parties is established by the President of the Court who records the summons at the bottom of the appeal which the clerk to the court shall serve to the parties and the Public Prosecutor.
- Having acquired the order for compulsory medical treatment and consulted the Public Prosecutor, the President of the Court may interrupt the treatment even prior to the appearance.
- The Court shall reach a decision concerning a request for abeyance within ten days. Having consulted the Public Prosecutor, gathered the information and evidence ordered by the Court or requested by the parties, the Court shall decide in chambers. Any appeal and subsequent orders are exempt from stamp-duty. The Court's ruling is not subject to registration.

Article 64 - Temporary regulations concerning psychiatric care

- Within the scope of the Regional Health Scheme, the Region shall regulate a gradual abandonment of psychiatric and neuropsychiatric hospitals and re-allocate to other purposes all existing facilities and those in construction as soon as they become available. The Region shall also establish the expiry date for the temporary derogation of the law by which mental hospitals may keep those patients, admitted prior to 16th May 1978, who wish to remain and

are in need of inpatient psychiatric treatment. Said derogation shall in any case expire no later than the final date of 31st December 1980. Any agreement between public bodies and private clinics which exclusively provide mental care must be rescinded within the aforementioned final date.

• In any case it is illegal to build new mental hospitals, use existing hospitals as general hospitals' specialised mental divisions, establish psychiatric divisions or wards inside general hospitals or to use psychiatric, neurological or neuropsychiatric divisions and wards as such.

• In conformity with the regulations established in Articles 66 and 68 below, Regions shall also regulate the allocation to the Local Health Services of the assets and personnel of the Public Institutions for Care and Charity and other public bodies which, at the time this law shall enter into force, admit and care for patients with a mental condition in a hospital on behalf of, or under an agreement with, Provincial Governments as likewise the assets and personnel of the Provincial Governments in charge of psychiatric and mental health facilities and services. Should such facilities and services concern several Regions, these shall act in agreement.

• As from 1st January 1979, Regions shall establish the psychiatric services provided for in Article 35 by employing the personnel of public psychiatric services. Should public psychiatric facilities be unavailable within the Provincial district, Regions - acting within the scope of their Health Schemes and for the purpose of establishing facilities for the protection of mental health within the Local Health Service - shall regulate the allocation of the personnel of private psychiatric facilities which, at the time this law shall enter into force, provide assistance under an agreement. When necessary the Region shall also authorise the employment of any additional personnel which may prove indispensable for the operation of such facilities by means of a competitive State exam.

• Awaiting the adoption of the Regional Health Schemes indicated in section 1, the services provided for in section 5, Article 34 shall be arranged in conformity with Presidential Decree number 128 dated 27th March 1969 for the purpose of ensuring a continuity of treatment for the protection of mental health and shall have no more than fifteen beds. Prior to the adoption of the delegated provisions under Article 47, the medical functions of managers, head physicians, aids and auxiliaries in mental hospitals shall be as established under Articles 4, 5 and 7 of Presidential Decree number 128 dated 27th March 1969.

• Awaiting the adoption of the Regional Health Schemes under section 1, the vetoes governed by Article 6 of Legislative Decree 264 dated 8th July 1974, subsequently amended and incorporated into Law 386 dated 17th August 1974, shall be extended to the psychiatric and neuropsychiatric hospitals managed by Public Institutions for Care and Charity or other public bodies and Provincial Authorities. Any scheduled state examinations shall nevertheless be held according to the procedures implemented by each body before this Law entered into force.

• The health workers mentioned in Article 27, item i) of the Presidential Decree 616 dated 24th July 1977 include the nursing staff provided for in the Royal Decree 615 dated 16th August 1909. Subject to the provisions under of Article 6, item a) herein, the Region shall provide

refresher courses and retrain the nursing staff in view of the abandonment of psychiatric hospitals and the new tasks to be assigned to such personnel in the overall services for the protection of mental health provided by Local Health Services.

The provisions of the last section of Article 7 of Law 180 of 13th May 1978 remain in force.