

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. 1040



Introduced by Representative Ron P. Salo

EXPLANATORY NOTE

Mental health is a fundamental component of a person's overall health and well-being. As defined by World Health Organization (WHO), health is "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity." The Filipino's right to health is enshrined in Article II, Section 15 of the Philippine Constitution.

Perhaps because of social and cultural stigma attached to being afflicted with mental disorder, mental health has not been given sufficient attention in the Philippines despite studies highlighting the need for a more intensive mental health service delivery system. The Department of Health reported more than 8,000 cases of mental disorders in 2015, with schizophrenia comprising a large percentage at 3,457 making it on top of the 10 leading causes of morbidity (National Center for Mental Health, 2016). There were more than 2,000 cases of bipolar affective disorder, followed by psychotic disorder and depression. As early as 2004, a DOH-commissioned Social Weather Stations survey found that almost one per 100 households (0.7%) has a family member who has a mental disorder. The WHO reported 2,558 cases of suicide in the country in 2012. The WHO Global School-Based Health Survey in 2011 showed that 16% of students between 13-15 years old have seriously considered attempting suicide, while 13% have actually attempted suicide at least once.

The State has limited resources to adequately address the large and growing number of mental health problems. The 2011 WHO Mental Health Atlas approximated that 5% of the total health budget goes to mental health services. However, majority of primary health care doctors and nurses have not received official in-service training on mental health within the last 5 years, and there are no available officially approved manuals on the management and treatment of mental disorders in most primary health care clinics.

In addition to limited access to proper health care services, persons with mental disorders are also vulnerable to abuse. In a Special Report in March 2015, the United Nations (UN) Special Rapporteur on Torture and other Cruel, Inhuman or

Degrading Treatment or Punishment cited incidents of ill-treatment of children with mental disorders in so-called prayer camps (alternative residential facilities), such as shackling to the walls, floors or trees and forced fasting. An earlier report in 2013 cited severe abuses, such as neglect, mental and physical abuse and sexual violence, committed against people with psychosocial and intellectual disorders in health-care settings. Certainly, in those instances, instead of getting cured, their conditions get aggravated.

Thus, responding to mental health issues with a “human rights-based” approach has been highlighted by international bodies such as the UN and the WHO. Very recently, on 29 June 2016, the UN General Assembly adopted a Resolution affirming the need for States to integrate human rights perspective into mental health services. WHO, in its 2003 Mental Health Legislation and Human Rights document (WHO Document), stressed that “all people with mental disorders have the right to receive high quality treatment and care delivered through responsive health care services,” and that “they should be protected against any form of inhuman treatment and discrimination.”

The WHO Document also underscored the need for mental health legislation to protect the rights of people with mental disorders. The document states that mental health legislation: (i) can provide a legal framework for addressing critical issues such as community integration of persons with mental disorders, provision of high quality care, protection of civil rights and the protection and promotion of rights in other critical areas such as housing, education and employment; and (ii) can play an important role in promoting mental health and preventing mental disorders.

This proposed law aims to address the growing mental health needs of Filipinos by formulating and institutionalizing a national mental health care delivery system that will ensure available, accessible, affordable, equitable, responsive, and high quality mental health care services, especially the marginalized and high-risk population. This law also aims to promote mental health and well-being of all Filipinos.

Hence, immediate passage of this bill is earnestly sought.


Ron P. Salo
KABAYAN Party List

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**AN ACT PROMOTING MENTAL HEALTH,
PROVIDING FOR A NATIONAL MENTAL HEALTH CARE DELIVERY SYSTEM,
ESTABLISHING A PHILIPPINE MENTAL HEALTH COUNCIL,
APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES**

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

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

SEC. 2. Declaration of Policy. – It is hereby declared the policy of the State to protect, promote, and fulfill the right of all Filipinos to mental health. It shall promote mental health and well-being of the people, respect the rights of the people who require mental health services, and protect the rights of all people with mental disabilities. The State shall provide mental health care services appropriate to their needs and based on nationally and internationally-accepted standards.

The state recognizes that people with mental disorders are a vulnerable section of society. Because of the nature and/or severity of their illness, people with mental disorders may face discrimination, marginalization, and other vulnerabilities that increase the likelihood of violation of their human rights. Hence, the State shall endeavor to develop plans, policies, programs, mechanisms and measures to address these discrimination, marginalization and vulnerabilities.

The State reaffirms its commitment as a State-Party to the UN Convention on the Rights of Persons with Disabilities, to undertake measures to "ensure and promote the full realization of all human rights and fundamental freedoms for all persons with disorders without discrimination of any kind on the basis of disability," and to promote respect for their inherent dignity. In line with this, the State guarantees its obligation under the UN General Assembly Resolution 46/119, which adopts the principles for the protection of persons with mental illness and for the improvement of mental health care, to implement the said principles through appropriate legislative, judicial, administrative, educational and other measures.

SEC. 3. Objectives. – The following are the objectives of this Act:

- 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;
- b) Promote mental health and well-being of all Filipinos through access to an integrated, well-planned, effectively organized and efficiently delivered mental health care delivery system that provides affordable, equitable, and high quality mental health care services, and that responds to their mental health needs in equity with their physical health needs;
- c) Ensure the protection of the fundamental rights and freedoms of persons with mental health needs, and the reduction of the burden and consequences of mental ill - health, mental and brain disorders and disabilities;
- d) Provide the direction for a coherent, rational, and unified response to the nation's psychosocial and mental health problems, concerns and efforts;
- e) Integrate mental health care in the general health delivery system; and
- f) Promote a strengthened community based mental health care delivery system.

SEC. 4. Definitions. – For the purpose of this Act, the following terms shall be defined as follows:

- a) **Mental health** refers to a state of well-being in which an individual fulfills his or her own potential in every stage of human development, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to his or her community.
- b) **Mental Disorder** refers to impairments, activity limitations, and individual and participatory restrictions denoting dysfunctional aspects of interaction between an individual and his/her environment.
- c) **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.
- d) **Mental Incapacity** refers to the: (i) 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 (ii) 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.

- e) **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.
- f) **Psychiatric emergencies** are conditions which may present a serious threat to the person's wellbeing, and/or that of others requiring immediate psychiatric interventions such as in cases of attempted suicide, acute intoxication, severe depression, acute psychosis or violent behavior.
- g) **Mental Health Facility** refers to any establishment, or any unit of an establishment, which has, as its primary function, mental health care or services.
- 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) **Multidisciplinary care plan** refers to a comprehensive and holistic care/treatment plan which includes a range of interventions to address not just the psychological concerns of the service user but other factors in his/her social environment, through varied expertise of a range of mental health professionals including doctors, nurses, psychologists, social workers, occupational therapists and other therapists.
- l) **Allied Professionals** refer to any formally educated and trained non-mental health professionals, such as, but not limited to, physicians, social workers, nurses, occupational therapists, recreational therapists, priests, ministers, pastors, and nuns.
- m) **Carer** refers to a person who may or may not be the patient's next of kin or relative who maintains a close personal relationship with the patient and manifests concern for his/her welfare.
- n) **Discrimination on the basis of disorder** means any distinction, exclusion or restriction on the basis of disorder which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise on an equal basis with other human beings, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.



- o) **Legal Representative** refers to a substitute decision-maker charged by law with the duty of representing a patient in any specified undertaking or of exercising specified rights on the patient's behalf. The legal representative may also be a person appointed in writing by the patient to act on his/her behalf, unless the patient lacks mental capacity, or otherwise fails to appoint a legal representative in writing
- p) **Service user** refers to a person receiving mental health care whether admitted to a mental health facility or undergoing care or treatment outside a facility.

ARTICLE I RIGHTS OF PERSONS WITH MENTAL HEALTH NEEDS

SEC. 5. Human rights of persons with mental health needs. – All rights in the Constitution and those rights recognized under international instruments duly signed and ratified by the Philippines, in consonance with Philippine law, shall be enjoyed by persons with mental health needs without any discrimination.

Specifically, persons with mental health needs shall have the following rights:

- a) To be treated with respect and dignity;
- b) To be protected from discriminatory, degrading, and harmful treatment; torture, sexual abuse, and any other form of cruel and inhumane treatment;
- c) To be adequately informed about their illness and the multidisciplinary services available to cater to their needs and the treatment options available;
- d) To give consent free from any threats or improper inducement, before being admitted in a mental health facility, or being provided with any treatment or care
- e) To have a responsible legal representative to serve as a substitute decision-maker and to represent the interests of the service user in case the severity of the mental disorder or illness renders the service user unable to provide consent;
- f) To actively participate in the formulation of their multidisciplinary treatment plan;
- g) To receive treatment of the same quality and standard as other individuals in a safe, conducive, environment, and in the least restrictive manner;
- h) To receive treatment which addresses holistically their needs through a multidisciplinary care plan approach;
- i) To receive aftercare and rehabilitation and be supported for full integration and inclusion in the community;
- j) To have access to their clinical records unless, in the opinion of their attending mental health professional, revealing such information may cause harm to the service user or put at risk the safety of others. Where an information is unjustly withheld, the service user or his/her legal representative may contest such decision with the appropriate body in the hospital/mental health facility which is authorized to investigate and resolve disputes, or to the Commission on Human Rights;

- k) To have a competent counsel of his/her own choice where the service user needs legal representation; and in cases where he/she cannot afford one, he/she shall be assisted by the Public Attorney's Office;
- l) To be secure in the confidentiality of all information, about themselves, their illness and treatment in whatever form stored, which information shall not be revealed to third parties without their consent unless:
 - i. Ordered by a competent court;
 - ii. There is sufficient reason to believe that disclosure of information is in the interest of safety of the public, groups, or individuals; or conversely, that non-disclosure will place individuals, groups of individuals, or the public in serious harm or prejudice; or
 - iii. Whoever is requesting information is entitled under the law to receive such.
- m) To be informed, within 24 hours of admission in a facility, of their rights under this Act, in a language and form that they understand.

ARTICLE II

DUTIES AND RESPONSIBILITIES OF GOVERNMENT AGENCIES

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

- a) Develop, through the Philippine Mental Health Council, a comprehensive community based mental health care system, with a view to providing an alternative to institutionalization and hospital based mental health care;
- b) 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;
- c) 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; and
- d) Prohibit forced or inadequately remunerated labor within mental health institutions. This does not include activities justified as part of an accepted therapeutic treatment.

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. The CHR will formulate the specific functions and duties of the focal person

SEC. 8. Complaints. – The Department of Health, the Commission on Human Rights and/or the Department of Justice shall receive all complaints of improprieties and abuses in mental health care and shall, on their own or through coordination with each other, initiate appropriate investigation and action against those who authorized the confinement and committed the improprieties and abuses.

SEC. 9. Duties and Responsibilities of the Heads of National and Local Mental Health Facilities. – It is the duty and responsibility of the heads of national and local mental health facilities to:

- 1) Inform service users of their rights. Every service user should be fully informed about the treatment to be prescribed and the reason for recommending such, 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 where the service lacks the capacity to give or withhold consent, in which case the legal representative shall make the decision in the interest of the service user;
- 2) Ensure that the decision on 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;
- 3) Provide transparent and make accessible to the person affected and his/her family the decision to apply involuntary treatment, as this is an essential factor for building and maintaining mutual confidence;
- 4) Ensure that guidelines and protocols for minimizing restrictive care are established; and
- 5) Keep a register on involuntary treatment and procedures.

ARTICLE III MENTAL HEALTH CARE IN THE LOCAL GOVERNMENT UNITS

SEC. 10. Community Based Mental Health Care. – A comprehensive community based mental health care delivery system shall be developed, which shall have the following components:

- a) Development and integration of mental health care in the community primary health care. Basic mental health services, such as Mental Health and Psychosocial Support Services (MHPSS), shall be made available at the barangay health level. The MHPSS will ensure that mental health services are available in times of natural disasters, development aggression, and displacement.
- b) Capacity building for local mental health workers. Continuing programs for capacity building among local mental health workers shall be undertaken to equip them to provide basic mental health care in the community.
- c) Continuing support services and intervention for families and co-workers of persons with mental disorders.
- d) Research and development shall be undertaken, in collaboration with academic institutions, mental health associations and non-government organizations, to develop appropriate and culturally relevant mental health services in the community.
- e) Advocacy and promotion of mental health awareness among the general population. Training on community resilience and psychosocial well-being shall be conducted in all barangays.

SEC. 11. *Psychiatric Service in Regional and Provincial Hospitals.* – Psychiatric service shall be established in every regional and provincial 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 health program 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, centers on the care, treatment and rehabilitation of persons suffering from drug or alcohol induced mental , emotional and behavioral disorder; and
- f) Referral system with other health and social welfare programs, both government and non-government, for programs, in the prevention of mental illness, the management of those at risk for mental health and psychosocial problems and mental illness or disability.

ARTICLE IV PHILIPPINE COUNCIL FOR MENTAL HEALTH

SEC. 12. *Philippine Council for Mental Health.* – The Philippine Council for Mental Health, hereinafter referred to as the Council, is hereby established as an attached agency under the Department of Health (DOH), to provide for a coherent, rational, and unified response to the mental health problems, concerns, and efforts through the formulation and implementation of the National Mental Health Care Delivery System.

For purposes of this Act, the National Mental Health Care Delivery System shall constitute a quality mental health care program, through the development of efficient and effective structures, systems and mechanisms, that will ensure equitable, accessible, affordable, appropriate, efficient and effective mental health care to all its stakeholders by qualified, competent, and ethical mental health professionals and mental health workers.

SEC. 13. *Duties and Functions.* – The Council shall exercise the following duties and functions:

- a) Review and formulate policies and guidelines on mental health concerns;
- b) Develop a comprehensive and integrated national plan and program on mental health;
- c) Conduct regular monitoring and evaluation in support of policy formulation and planning on mental health;
- d) Promote and facilitate collaboration among sectors and disciplines for the development and implementation of mental health related program within these sectors;
- e) Provide over-all technical supervision and ensure compliance with policies, programs and projects within the comprehensive framework of the National Mental Health Care Delivery System and other such activities related to the implementation of this Act, through the review of mental health services and the adoption of legal and other remedies provided by law;
- f) Plan and implement the necessary and urgent capacity building, reorientation and training programs for all mental health professionals, mental health workers and allied professionals as articulated in this Act;
- g) Review all existing laws related to mental health and recommend legislation which will sustain and strengthen programs, services and other mental health initiatives;
- h) Conduct or facilitate the implementation of studies and researches on mental health, with special emphasis on studies that would serve as basis for developing appropriate and culturally relevant mental health services in the community;
- i) Create inter-agency committees, project task forces, and other groups necessary to implement the policy and program framework of this Act;
- j) Collaborate with relevant agencies as necessary to perform its functions; and
- k) Perform such other duties and functions necessary to carry out the purposes of this Act;

SEC. 14. Composition. – The Council shall have eleven (11) members composed of the following:

- a) The Secretary of Health, as *ex officio* chairman;
- b) The Executive Director, as vice chairman and Chief Executive Officer;
- c) Two (2) representatives from the government sector;
- d) Two (2) representatives from the private health sector or consumer groups;
- e) One (1) representative from the academe;
- f) Two (2) representatives from the professional organization; and
- g) Two (2) representatives from non-government organizations involved in mental health issues; as members

The members of the Council specified under par. (c) to (g) above shall be appointed by the President of the Philippines.

SEC. 15. Term of Office. – The appointive members of the Council shall serve for three (3) years. In case a vacancy occurs in the Council, any person chosen to fill the vacancy shall serve only for the unexpired term of the member whom he succeeds.

SEC. 16. Per Diem. – The members of the Council shall receive reasonable per diem and transportation allowance subject to existing rules and regulations of the Department of Budget and Management (DBM)

SEC. 17. Quorum. – The presence of a majority of the members of the Council shall constitute a quorum.

SEC. 18. Meetings. – The Council shall meet at least once a month or as frequently as necessary to discharge its duties and functions. The Council shall be convoked by the Chairman or upon written request of at least three (3) of its members.

SEC. 19. Executive Director. – The Council shall have an Executive Director to be appointed by the President of the Philippines. He shall serve for a term of three (3) years, and shall be eligible for one (1) reappointment. He shall not be removed from office except in accordance with existing laws.

SEC. 20. Duties and Functions of the Executive Director. – The Executive Director shall have the following duties and functions:

- (1) Act as chief executive officer of the Council and assume full responsibility in implementing its purposes and objectives;
- (2) Maintain a close and functional relationship with the Department of Health and other government and private entities concerning mental health care;
- (3) Formulate, develop, and implement, subject to the approval of the Council, measures that will effectively carry out the policies laid down by the Council;
- (4) Execute and administer all approved policies, programs and measures, and allocate appropriate resources for their implementation;

- (5) Recommend to the Secretary of Health the appointment of personnel of the Council including supervisory, technical, clerical and other personnel in accordance with the staffing patterns and organizational structure approved by the Council; and
- (6) Represent the Council in all of its official transactions or dealings and authorize legal contracts, annual reports, financial statements, and other documents.

SEC. 21. Rank and Salary. – The Executive Director shall have a rank and salary equivalent to an Assistant Secretary.

SEC. 22. Appointment of Members. – Within thirty (30) days from the issuance of the Implementing Rules and Regulations (IRR) of this Act, the President of the Philippines shall appoint the members of the Council.

SEC. 23. Advisory Board. – The Philippine Mental Health Council shall create an advisory board constituting of mental health care users, carers and professionals, representatives of the DOH as well as visiting bodies under national and international obligations of the State.

ARTICLE V MISCELLANEOUS PROVISIONS

SEC. 24. Implementing Rules and Regulations (IRR). – Within (90) days from the effectivity of this Act, the Secretary of Health shall, in coordination with the Philippine Mental Health Council, as created by Executive Order No. 470 series of 1998, formulate the implementing rules and regulations necessary for the effective implementation of this Act.

SEC. 25. 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.

SEC. 26. 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.

SEC. 27. Repealing Clause. – 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.

SEC. 28. Effectivity. – This Act shall take effect fifteen (15) days upon its publication in at least two (2) national newspapers of general circulation.