

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

17th CONGRESS
First Regular Session

HOUSE BILL NO. 3796



Introduced by REP. TEDDY BRAWNER BAGUILAT

AN ACT PROMOTING MENTAL HEALTH, PROMULGATING A POLICY TOWARDS THE NATIONAL MENTAL HEALTH ENHANCEMENT OF INTEGRATED MENTAL HEALTH SERVICES AND ESTABLISHMENT OF A PHILIPPINE MENTAL HEALTH COUNCIL

EXPLANATORY NOTE

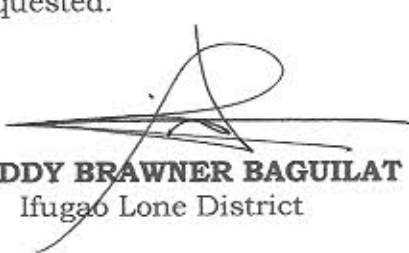
In a survey conducted by the Department of Health among 327 government employees in Metro Manila, 32% were found to have experienced mental health problems. Almost one per 100 households (0.7%) has a member with mental disability (DOH-SWS, 2004). As early as 2003, intentional self-inflicted cases were already found to be the 9th leading cause of death among 20-24 years old Filipino adults (DOH 2003). The incidence of suicide in males increased from 0.23 to 3.59 per 100,000 between 1984 and 2005 while rates rose from 0.12 to 1.09 per 100,000 in females (Redaniel and Gunnell, 2011). Individuals with chronic mental illness, children, overseas Filipino workers and those in areas of armed conflict have higher risk of getting mental health problems.

Further adding to the woes of those afflicted with mental health illnesses is the shortage in qualified mental health professionals. At present, there are only an estimated 490 psychiatrist and 1000 nurses working in psychiatric care, and even less general practitioners trained in early assessment and management of common mental health problem in the community. The number of addiction specialist, psychologists, occupational therapists, guidance counselors and social workers are extremely inadequate to meet the mental health needs of the 100 million Filipinos.

There are two mental hospitals, 46 outpatient facilities, four day treatment facilities, 19 community-based psychiatric inpatient facilities and 15 community residential (custodial home-care) facilities for the whole country. Almost all mental health facilities are in the major cities, while the only mental hospital in the National Capital Region houses only 4,200 beds.

This bill seeks to integrate mental health services into the national health system in order to meet the needs of those who lack access to readily-available, affordable and equitable mental health care, especially the poor. It proposes to create the Philippine Council for Mental Health as an attached agency of the Department of Health, to provide a rational and unified response to mental health problems, concerns and efforts through the formulation and implementation of the National Mental Health Care Delivery System.

For the reason cited, the passage of this bill is earnestly requested.


TEDDY BRAWNER BAGUILAT
Ifugao Lone District

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HEALTH SERVICES AND ESTABLISHMENT OF A PHILIPPINE
MENTAL HEALTH COUNCIL

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 201"

SECTION 2. Declaration of Policy. It is hereby declared the policy of the State to uphold the basic right of all Filipinos to mental health and to respect the fundamental rights of people who require mental health services. As enshrined in the Universal Declaration of Human Rights, and the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights, the State acknowledges that persons with mental disabilities have the right to equality and non-discrimination, dignity and respect, privacy and individual autonomy, information and participation. The State further 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 appropriate to their needs and based on nationally and internationally-accepted standards.

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 which lays down the policies and guidelines for the protection from harm of persons with mental disabilities and the improvement of mental health care.

Through the passage of this Mental Health Act, the State commits to the promotion and protection of the rights of the person with mental needs and the belief that addressing their profound social disadvantage enhances their significant contribution in the civil, political, economic, social and cultural spheres.

SECTION 3. Objectives. This Act seeks to:

- 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 mental health care

system that responds to mental health needs of Filipinos in equity with their physical health needs.

- b. Protect the rights and freedom of persons with mental health needs and the reduction of the burden and consequences of mental ill-health, mental and brain disorders and disabilities.
- c. Provide the direction for a coherent, rational and unified response to the national mental health issues.

SECTION 4. Definition of Terms. The following terms, as used in this Act, shall mean the following:

- a) "Mental health" refers to a state of well-being in which every individual realizes his or her own potential can cope with the normal stresses of life, can work productively and fruitfully, and is able to make contribution to her or his community.
- b) "Mental illness" refers to mental or psychiatric disorder characterized by the existence of recognizable changes in the thoughts, feelings and general behavior of an individual brought about by neurobiological and or psychological causes manifested by behavioral symptoms with associated mental and or emotional conditions.
- c) "Psychosocial problem" refers to a condition that indicates the existence of recognizable disturbances in an individual's behavior, thoughts and feelings brought about and closely related to sudden, extreme or prolonged stressors in the physical or social environment.
- d) "Patient" refers to a person receiving/utilizing mental health care and treatment or psychosocial intervention from mental health care facility or clinic.
- e) "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 behalf unless the patient lacks mental capacity, or otherwise fails to appoint a legal representative in writing, in which case the legal representative shall be taken to be in the following order:
 - i. the spouse, if any, unless permanently separated from the patient and 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; or
 - ii. sons and daughters over the age of eighteen (18) years old; or
 - iii. either parent by mutual consent; or
 - iv. a person appointed by a decree of a court to represent the patient.
- f.) "Mental health professional" refers to a person with formal education and training in mental health and behavioral sciences such as but not limited to, a psychiatrist, psychologist, psychiatric nurse or psychiatric social worker.

- g.) "Mental health worker" refers to a trained volunteer or advocate engaged in mental health promotion and services under the supervision of a mental health professional.
- h.) "Allied professional" refers to any trained or certified non-psychiatric physician, social worker, nurse, occupational therapist, counselor, priest, minister, pastor, nun, trained or certified non-psychiatric individual or non-physician.
- i.) "Mental disability" refers to impairments, activity limitations, and individual and participatory restrictions denoting dysfunctional aspects of interaction between an individual and his environment.
- j.) "Mental or psychological incapacity" is the inability to:
 - i. understand the information given concerning the nature of the disorder;
 - ii. understand the consequences that his/her decisions and actions have for their own life or health
 - iii. understand that treatment might mitigate or remedy the condition and that lack of treatment might aggravate it;
 - iv. understand information about the nature of treatment proposed, including the means of treatment, its direct effects and its possible side effects
 - v. effectively communicate with others regarding their condition and their consent to treatment or hospitalization.

The caregiver shall be a person who may or may not be the person's next of kin or relative who maintains a close personal relationship with the patient and manifest concern for his welfare.

- k.) "Psychiatric Emergencies" are conditions which may present a serious threat to a person's well-being or that of others, and require immediate psychiatric interventions, such as attempted suicide, acute intoxication, severe depression, acute psychosis, or violent behavior.
- l.) "Discrimination on the basis of disability" means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation.

SECTION 5. Rights of Persons with Mental Health Needs. Without prejudice to anything provided in 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 individual qualities, abilities and diverse backgrounds, and without any discrimination on grounds of physical disability, age, gender, sexual orientation, race, color, language, religion or national or ethnic or social origin of the patient concerned;

- b.) Receive treatment of the same quality and standard as other individuals;
- c.) Receive treatment which addresses holistically their needs through a multidisciplinary care plan approach;
- d.) Receive treatment in the least restrictive environment and in the least restrictive manner;
- e.) Receive care primarily in the community;
- f.) After-care and rehabilitation when possible in the community so as to facilitate their social inclusion
- g.) Be adequately informed about the disorder and the multidisciplinary services available to cater for their needs and the treatment options available;
- h.) Actively participate in the formulation of the multidisciplinary treatment plan.

SECTION 6. Right to Therapeutic Environment. The State through its authorized agencies shall ensure conditions for a safe, therapeutic and hygienic environment with sufficient privacy in mental health facilities.

SECTION 7. Prohibition on Torture and Cruel Treatment. The State through its authorized agencies shall ensure that all public and private mental health institutions are protecting the rights of patients against cruel, inhuman and degrading and/ or torture. It shall prohibit forced or inadequately remunerated labor by patients within mental health institutions. This does not include activities justified as part of an accepted therapeutic treatment.

SECTION 8. Prohibition on Solitary Confinement. The use of solitary confinement shall be prohibited.

SECTION 9. Respect for Human Rights. The Commission on Human Rights is authorized to conduct inspection of all places where psychiatric patients 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, and to ensure that no patients therein are treated in a manner less than humane or are victims or torture and other cruel, inhuman and degrading treatment.

SECTION 10. Alternatives to Health. As the primary duty-bearer shall develop alternatives to institutionalization, especially community-based treatment, in particular with a view to receiving persons discharged from hospitals. Such alternatives should meet the needs expressed by persons with mental disorders and respect the autonomy, choices, dignity and privacy of the person concerned.

SECTION 11. Complaints and Investigation. The Department of Health, Commission on Human Rights or Department of Justice shall receive all complaints of improprieties and abuses in mental health care and shall initiate appropriate investigation and action. The patient / legal representative shall be entitled to a competent counsel of his own choice. In case he cannot afford one, he/she will be assisted by the Public Attorney's Office or any legal aid institution of choice.

SECTION 12. Oversight and Quasi-Judicial Procedures. The State shall mandate the appointment of a Focal Commissioner on Mental Health under the

Philippine Council for Mental Health with the following functions and duties:

- a.) Promote and safeguard the rights of persons utilizing mental health services and their caregivers;
- b.) Review any policies and make such recommendations to any competent authority to safeguard or to enhance the rights of such persons and to facilitate their social inclusion and wellbeing;
- c.) Investigate any complaint alleging breach of patient's rights and take any subsequent action which may be required to protect the welfare of that person;
- d.) Investigate complaints about any aspect of care and treatment provided by a licensed facility or a healthcare professional and take any decisions or make any recommendations that are required;
- e.) Conduct regular inspections, at least annually, of all licensed facilities to ascertain that the rights of patients and all the provisions of this Act are being upheld. During such visit he shall have unrestricted access to all parts of the licensed facility and the right to interview in private any consenting patient in such facility;
- f.) Report any case amounting to a breach of human rights within a licensed facility to the appropriate competent authority recommending the rectification of such a breach and take any other proportional action he deems appropriate
- g.) Report to the appropriate competent authority any health care professional for breach of human rights or for contravening any provision of this Act and this without prejudice to any other proportional action that he may deem necessary to take;
- h.) Prepare an annual report of activities to be submitted to the Department of Health. In the performance of his functions, the Focal Point Commissioner on Mental Health shall consult with Healthcare professionals, service users and caregivers, and other relevant stakeholders

SECTION 13. Duties of Health Authorities. Health authorities shall have the following duties:

- a.) Ensure that guidelines and protocols for minimizing restrictive care are established.
- b.) Inform patients of their rights. Every patient, whether in voluntary or involuntary treatment, should be fully informed about the treatment to be prescribed and the reason for recommending it and given the opportunity to refuse treatment or any other medical intervention. Informed consent must be sought from all psychiatric patients at all times except in instances of mental or psychological incapacity as defined in Section 3 of this Act.
- c.) Ensure that any involuntary medical treatment and restraint, physical or chemical, for those with mental disorder can only be used to the extent strictly necessary under the following conditions:
 - i. Psychiatric emergencies;
 - ii. That the treatment without consent and restraint is at the order of an attending physician whose orders must be reviewed as soon as possible and not to exceed one month by a qualified psychiatrist;

- iii. That the decision subject to involuntary treatment is resorted to only when all other means of control have been attempted and failed.
 - iv. That such a decision is overseen by the head of the institution/medical or mental health facility strictly following approved guidelines which include clear criteria for regulating the application and termination of such interventions;
 - v. Only for the shortest possible period of time as assessed by a psychiatrist or attending physician on supervision by a psychiatrist.
 - vi. Recorded and subjected to regular external independent monitoring
- d.) Must certify that the patient who has been subjected to any intervention without consent has been debriefed as soon as the mental condition meaningfully permits it and he / she and legal guardian/substitute decision-maker must have access to the medical record.
- e.) Must keep a register on involuntary treatment and procedures.
- f.) Must ensure that the rights, will and preferences of the patient are respected as far as possible. A legal representative/substitute decision-maker shall:
- i. Be allowed only for reasons of mental incapacity following established judicial procedures;
 - ii. Apply for the shortest time possible;
 - iii. Be free of conflicts of interest and undue influence from family members or the institution where the person is treated or others;
 - iv. Be subject to regular review by a competent, independent and impartial authority or judicial body;
 - v. Be overseen by an independent monitoring body;
 - vi. Be subjected to appeal by the person or a trusted next of kin.
- g.) Must ensure that families or other primary caregivers are entitled to information about the person with a mental disorder unless the patient refuses the divulging of such information.
- h.) Must involve family members or other primary caregivers in the formulation and implementation of the patient's individualized the treatment plan.
- i.) Must make transparent and accessible to the person affected, its family and to the public in general the decision to apply involuntary treatment must be as this is an essential factor for building and maintaining mutual confidence.
- j.) Must mandate the creation of an appropriate body which will ensure compliance with the requirements and procedures provided by this act.

- k.) Must provide the patient under treatment and hospitalization without consent access to an independent mechanism of complaint and compensation for any inappropriate treatment provided. Complaint mechanisms must:
- i. Be designed in a manner that is sensitive to the particular needs of the patient;
 - ii. Provide the individual with the necessary assistance to lodge a complaint and the complaint mechanism must be empowered to inquire effectively and independently into the circumstances leading to the complaint;
 - iii. Be mandated to initiate disciplinary sanctions or pass the case to the prosecuting authorities with a view to initiating a criminal investigation against a person or persons found guilty of misconduct;
 - iv. Ensure that complaints are dealt with in a speedy manner.

SECTION 14. Philippine Council for Mental Health. The Philippine Council for Mental Health, herein after 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 mental health problems, concerns and efforts through the formulation and implementation of the National Mental Health Care Delivery System.

SECTION 15. National Mental Health Care Delivery System. 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 delivery of mental health care to all its stakeholders by qualified, competent, compassionate and ethical mental health professionals and mental health workers.

SECTION 16. Duties and Functions. The Council shall exercise the following duties with regard to Mental Health Education and Information as a health service:

- a. Review and formulate policies and guidelines on mental health issues and 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 programs 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 cause to be conducted 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 such inter-agency committees, project task forces, and other groups necessary to implement the policy and program framework of this Act; and
- j. Perform such other duties and functions necessary to carry out the purposes of this Act.

SECTION 17. Inter-agency Mechanisms. The Council shall collaborate with the following agencies:

- a. DOST and attached agencies like PITAHC and PCHRD to advance research on basic and clinical studies into mental illness and complementary and alternative treatment;
- b. DepEd and CHED to develop school based mental health promotion, screening and referral systems;
- c. PHILHEALTH to make sure that availability of insurance packages is in place with substantial equity to physical disorders with similar impact to the patient as measured by Disability Adjusted Life Years or similar instrumentation;
- d. TESDA, DSWD, DA, DTr, SENR and DILG and other agencies to develop vocational opportunities via innovative systems like Care, Farms, Psychosocial Rehabilitation and similar modalities with program design and planning in conjunction with psychiatrists and other mental health specialists;
- e. DOLE to promote diversity and equal protection in the workplace mandating companies to develop programs to enhance mental wellness and work accommodations for the mentally ill employees;
- f. NEDA to envision programs to promote the mental wealth of our nation, including inclusive growth among the mentally ill;
- g. The National Center for Health promotion shall lead the formulation of the standard and the development of mental health information education and communication and advocacy strategies to ensure the promotion of a totally healthy and less stressful lifestyle for the Filipinos;
- h. National Epidemiological Center to develop and update the epidemiology of mental diseases and services available in the country in the form of a census or a similar instrument. Research into epidemiology, risk factors, treatment and management of mental disorders should be given a priority. It shall ensure the development or enhancement of national reporting and surveillance systems and methodologies and the generation, availability accessibility barring exchange and distribution of information and knowledge on mental health and the establishment of the national registry of mental and

neurological cases;

- i. Philippine Statistical Authority to formulate and integrate mental health protective risk factors and other such data that may help in the formulation of policies towards mental wellness and prevention of mental illness;
- j. Commission on Human Rights on matters pertaining to human rights issues, particularly, the protection of persons utilizing mental health services and the prevention of cruel, inhuman and degrading treatment in mental health care facilities.

SECTION 18. Composition. The Council shall be composed of the following:

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

The members of the Council shall be appointed by the President from among the nominees of their respective organizations within 30 days from the date of effectivity of this Act.

SECTION 19. Term of Office. The members of the Council shall serve for a term of 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.

SECTION 20. 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 convened by the Chairman or upon written request of at least three (3) of its members. The presence of a majority of the members of the council shall constitute a quorum.

SECTION 21. Per Diem. The members of the Council shall receive reasonable per diems and transportation allowance as may be fixed by the Council for any meeting actually attended.

SECTION 22. Executive Director. The Council shall appoint an Executive Director who shall serve for a term of three (3) years. The Executive Director shall be eligible for one (1) reappointment and shall be removed from office except in accordance with existing laws.

The Executive Director shall have the following duties and functions:

- a. Act as Chief Executive Officer of the Council and assume full responsibility in implementing its purposes and objectives;
- b. Maintain a close and functional relationship with the Department of Health and other government and private entities concerning mental health care;
- c. Formulate, develop, and implement, subject to the approval of the Council, measures that will effectively carry out the policies laid down by the Council;
- d. Execute and administer all approved policies, programs and measures

and allocate appropriate resources for their implementation;

- e. 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,
- f. Represent the Council in all of its official transactions or dealings and authorize legal contracts, annual reports, financial statements, and other documents.

SECTION 23. Salary. The Executive Director shall receive a salary to be fixed by the Council in accordance with the Salary Standardization Law.

SECTION 24. Advisory Board. The Philippine Council for Mental Health Council shall the create advisory board consisting of Mental Health care users, caregivers and professionals, representatives of the DOH as well as visiting bodies under national and international obligations of the State.

SECTION 25. Implementing Rules and Regulations. Within (90) days from the effectivity of this Act, the Secretary of Health shall, in coordination with the Council, formulate the rules and regulations necessary for the effective implementation of this Act.

SECTION 26. Appropriation. The initial amount of Php Fifty Million pesos (Php 50 000.00) is hereby appropriated for the initial implementation of this Act. Thereafter, any amount as may be necessary to carry out the provisions of this Act shall be included in the General Appropriations Act. Regional hospitals shall be provided with financial support to maintain their own Mental Health Unit capable of catering to 50 to 100 patients. Local Government Units should require business establishments to donate from one to three percent (1% to 3%) of their gross sales to support the Mental Health Program of the City. Donations will be treated as tax shelter by the BIR.

SECTION 27. 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 28. 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.

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

Approved: