

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

SEVENTEENTH CONGRESS
First Regular Session

House Bill No. **5676**



Introduced by HONORABLE SCOTT DAVIES S. LANETE, M.D.

EXPLANATORY NOTE

Article 2, Section 15 of the 1987 Constitution declares, "The State shall protect and promote the right to health of the people and instill health consciousness among them." Article III, Section 1 likewise declares, "No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws."

Numerous articles have surfaced bringing to light the inadequacy of the country's mental health care system and the lack of policies that protect people suffering from mental illness. Those inflicted with a mental illness are often exposed to the ills of society. They are often discriminated by those of sound mind and treated as if they do not belong to the human species. Worse, in some cases, they are branded as dangerous and violent individuals making others avoid contact with them.

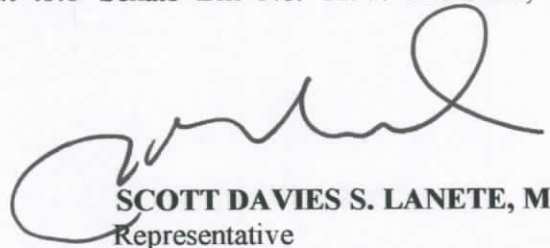
As a consequence, people with mental illness and their families generally have low self-confidence making them unable to fully participate in society. The stigma of being mentally ill or having a mentally ill relative forces people to retreat into the darkness of their homes, never wanting to socialize with others.

These mentally ill people need the State's help. Thus, there is a need to establish a program that will ensure that these people's rights will be protected and that they will be empowered to live normally, just like any person in society.

Hence, this Bill seeks to improve mental health care services by establishing guidelines in treatment and handling of persons afflicted with a mental illness. By doing so, the State will be fulfilling its responsibility in promoting the health of its people and provide its citizens additional aid in combating illness. Through this Bill, it is envisioned that there will be an improvement in the mental health care industry that will translate to a happier and satisfied citizenry.

In fact, the Senate of the Philippines has already passed a similar bill. On 6 October 2016, the Senate of the Philippines voted to approve Senate Bill No. 1190, otherwise known as the "Philippine Mental Health Act of 2016", authored by Hon. Risa Hontiveros.

The ball is now in the hands of the House of Representatives and this representation, for purposes of expediency, has adopted *in toto* Senate Bill No. 1190. Therefore, the immediate passage of this Bill is sought for.

A handwritten signature in black ink, appearing to read 'Scott Lanete', with a large, stylized loop at the end.

SCOTT DAVIES S. LANETE, M.D.

Representative

Third District, Province of Masbate

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House Bill No. **5676**

Introduced by HONORABLE SCOTT DAVIES S. LANETE, M.D.

**AN ACT ESTABLISHING A NATIONAL MENTAL HEALTH POLICY FOR THE
PURPOSE OF ENHANCING THE DELIVERY OF INTEGRATED MENTAL
HEALTH SERVICES, PROMOTING AND PROTECTING PERSONS UTILIZING
PSYCHIATRIC, NEUROLOGIC AND PSYCHOLOGICAL HEALTH SERVICES,
APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES**

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

ARTICLE I

Policy, Objectives, and Definitions

SECTION 1. *Short Title.* – This Act shall be known as the “Mental Health Act of 2016.”

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.

The State thus commits itself to promoting the well-being of its people by, among others, ensuring that mental health is valued, promoted and protected; mental disorders are prevented; and persons affected by these disorders are able to access high quality, culturally appropriate health and social care in a timely way to, exercise the full range of human rights, and participate fully in society and at work free from stigmatization and discrimination.

Policies, plans and laws for mental health shall comply with obligations under the United Nations Convention on the Rights of Persons with Disabilities and other international and regional human rights conventions. Thus, the State expressly recognizes the applicability of Republic Act (R.A.) No. 7277, as amended, otherwise known as the “Magna Carta for Disabled Persons”, to persons with mental disorders, as defined herein.

Section 3. *Objectives.* The objectives of this Act are, as follows:

- (a) Strengthen effective leadership and governance for mental health by, among others, formulating, developing, and implementing national policies, strategies, programs, and regulations relating to mental health;

(b) Develop and establish a comprehensive, integrated, effective, and efficient national mental health care system responsive to the psychiatric, neurologic, and psychosocial needs of the Filipino people;

(c) Protect the rights and freedoms of persons with psychiatric, neurologic, and psychosocial health needs; and

(d) Strengthen information systems, evidence and research for mental health.

Section 4. Definitions. For the purposes of this Act, the following definitions shall apply:

(a) "Confidentiality" means ensuring that the personal and health information related to persons with psychiatric, neurologic, and psychosocial health needs is kept private, safe from access or use by or disclosure to persons or entities who are not authorized to access, use, or possess such information.

(b) "Discrimination" means any distinction, exclusion or restriction which has the purpose or effect of impairing or nullifying the recognition or exercise, on an equal basis with others, of all human rights and fundamental freedoms.

(c) "Informed Consent" refers to the voluntary acceptance of a plan for treatment by a service user who is not mentally incapacitated, after full disclosure by the attending mental health professional of information regarding the plan of treatment, its risks, benefits, and available alternatives.

(d) "Legal Representative" refers to a person who is designated by the service user or appointed by a court of competent jurisdiction, to act as a supported or substitute decision maker.

(e) "Mental Disorder" refers to a neurologic or psychiatric condition characterized by the existence of a recognizable, clinically-significant disturbance in an individual's cognition, emotional 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.

(f) "Mental Health" refers to a state of psychosocial well-being in which the individual realizes his or her own abilities, copes adequately with the normal stresses of life, displays resilience in the face of extreme life events, works productively and fruitfully, and is able to make a positive contribution to the community.

(g) "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.

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

(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.

(j) "Mental Health Workers" refer to trained personnel, volunteers or advocates engaged in mental health promotion, providing services under the supervision of a mental health professional.

(k) "Mental Incapacity" refers to medically determined, temporary or permanent inability on the part of a service user or any other person affected by a mental disorder, to:

(i) Understand information given concerning the nature of a mental disorder;

(ii) Understand the consequences of one's decisions and actions on one's life or health, or the life or health of others;

(iii) Understand information about the nature of the treatment proposed, including methodology, direct effects, and possible side-effects; and

(iv) Effectively communicate consent to treatment or hospitalization, or information regarding one's own condition.

(l) "Psychiatric Emergencies" refer to conditions presenting a serious and immediate threat to the health and well-being of a service user or any other person affected by a mental disorder, or to the health and well-being of others, such as, but not limited to, threatened or attempted suicide, acute intoxication, severe depression, acute psychosis, or violent behavior, requiring immediate psychiatric intervention.

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

(n) "Service User" refers to a person receiving psychiatric, neurologic, or psychosocial services or care.

(o) "Substituted Decision Making" is the act of making decisions on behalf of a service user in situations where the latter has been assessed by a mental health professional to be mentally incapacitated, consistent with the service user's written directives, if available.

(p) "Supported Decision Making" is the act of assisting a service user who retains decision-making ability, or who is not otherwise mentally incapacitated as defined herein, in coherently expressing a mental health-related preference, intention or decision.

ARTICLE II

Rights of Persons with Mental Health Needs, their Families & Legal Representatives, and Mental Health Professionals

Section 5. *Rights of Persons with Mental Health Needs.* Without prejudice to the provisions of this Act or any other applicable law, a service user or any other person with mental health needs shall have the right to:

- (a) Freedom from social, economic, and political discrimination and stigmatization, whether committed by public or private actors;
- (b) Exercise all their inherent civil, political, economic, social, religious, educational, and cultural rights respecting individual qualities, abilities, and diversity of background, without discrimination on the basis of physical disability, age, gender, sexual orientation, race, color, language, religion or national, ethnic, or social origin of the service user concerned;
- (c) Received evidence-based or informed treatment of the same standard and quality as that of other persons similarly situated, regardless of age, sex, socioeconomic status, race, ethnicity or sexual orientation;
- (d) Access essential health and social services that enable them to recover and achieve the highest attainable standard of mental health without risk of impoverishing themselves or their families;
- (e) Receive mental health services at all levels of the health care systems;
- (f) Receive comprehensive and coordinated treatment that integrates holistic prevention, promotion, rehabilitation, care and support aimed at addressing mental and physical health care needs and facilitating recovery, through a multi-disciplinary, user-driven treatment and recovery plan;
- (g) Psychosocial care and clinical treatment in the least restrictive environment and manner;
- (h) Humane treatment free from solitary confinement, torture, and cruel, inhumane, harmful or degrading treatment;
- (i) Aftercare and rehabilitation within the community whenever possible for the purpose of facilitating social reintegration;
- (j) Adequate information regarding psychosocial and clinical assessments and available multidisciplinary health services;
- (h) Participate in mental health advocacy, policy, planning, legislation, service provision, monitoring, research and evaluation;
- (i) Confidentiality of all information, communications, and records, whatever form or medium stored, regarding the service user, any aspect of the service user's mental health, or

any treatment or care received by the service user, which information, communications, and records shall not be disclosed to the third parties without the written consent of the service user concerned or the service user's legal representative, unless;

- (i) Such disclosure or required by law or pursuant to an order issued by a court of competent jurisdiction;
- (ii) A life-threatening emergency exists and such disclosure is necessary to prevent harm or injury to the service user or to other persons;
- (iii) The service user is a minor and the attending mental health professional reasonably believes that the service user is a victim of child abuse;
- (iv) Such disclosure is required in connection with an administrative, civil, or criminal case against a mental health professional or worker for negligence or a breach of professional ethics, to the extent necessary to completely adjudicate settle, or resolve any issue or controversy involved therein; or
- (v) Such disclosure is in the interest of public safety or national security.
- (j) Give informed consent before treatment or care is provided, including the right to withdraw such consent. Such consent shall be recorded in the service user's clinical record;
- (k) Participate in the development and formulation of the psychosocial care or clinical treatment plan to be implemented;
- (l) Unless the service user has been determined or declared to be mentally incapacitated, designate or appoint a person of legal age to act as his or legal representative through a notarized document executed for that purpose. If the service user has been determined or declared to be mentally incapacitated, or otherwise fails to designate or appoint a legal representative, the following persons shall act as the service user's legal representative, in order of preference:
 - (i) The spouse, if any, unless permanently separated from the service user by a decree issued by a court of competent jurisdiction, or unless such spouse has abandoned or been abandoned by the service user for any period which has not yet come to an end;
 - (ii) Non-Minor Children;
 - (iii) Either parent appointed by mutual consent, if the service user is not a minor; or
 - (iv) A person appointed by the court.
- (m) Legal representation, through competent counsel of the service user's choice. In case the service user cannot afford the services of counsel, the Public Attorney's Office, or a legal aid institution of the service user or representative's choice, shall assist the service user;

(n) Access to their clinical records unless, in the opinion of the attending mental health professional, revealing such information would cause harm to the service user's health or put the safety of others at risk. When any such clinical records are withheld, the service user or his or her legal representative may contest such decision with the internal review body created pursuant to this Act authorized to investigate and resolve disputes, or with the Commission on Human Rights; and

(o) Information, within twenty-four (24) of admission to a mental health facility, of the rights enumerated in this section in a form and language understood by the service user.

Section 6. *Rights of Family Members and Legal Representatives.* The family members and duly designated or appointed legal representative of the service user shall have the right to:

- (a) Receive appropriate psychosocial support from the relevant government agencies;
- (b) With the consent of the concerned service user, participate in the formulation, development, and implementation of the service user's individualized treatment plan;
- (c) Apply for release and transfer of the service user to an appropriate mental health facility; and
- (d) Participate in mental health advocacy, policy, planning, legislation, service provision, monitoring, research and evaluation.

Section 7. *Rights of Mental Health Professionals.* Mental health professionals shall have the right to:

- (a) A safe and supportive work environment;
- (b) Continuous education and training;
- (c) Participate in the planning, development, and management of mental health services;
- (d) Contribute to the development and regular review of standards for evaluating mental health services provided to service users;
- (e) Participate in the development of mental health policy and service delivery guidelines;
- (f) Except in emergency situations, manage and control all aspects of his or her practice, including whether or not to accept or decline a service user for treatment; and
- (g) Advocate for the rights of a service user, in cases where the service user's wishes are at odds with those of his family or legal representative.

ARTICLE III

Duties & Responsibilities of Government Agencies

Section 8. *Duties and Responsibilities of the Department of Health (DOH).* To achieve the policy and objectives of this Act, the DOH shall:

- (a) Formulate, develop, and implement a national mental health program;
- (b) Ensure that a safe, therapeutic, and hygienic environment with sufficient privacy exists in all mental health facilities and, for this purpose, shall be responsible for the regulation, licensing, monitoring, and assessment of all mental health facilities;
- (c) Integrate mental health into the routine health information system and identify, collate, routinely report and use core mental health data disaggregated by sex and age, and health outcomes, including data on completed and attempted suicides, in order to improve mental health service delivery, promotion and prevention strategies;
- (d) Improve research capacity and academic collaboration on national priorities for research in mental health, particularly operational research with direct relevance to service development and implementation and the exercise of human rights by persons with mental disorders, including the establishment of centers of excellence;
- (e) Ensure that all public and private mental health institutions uphold the right of patients to be protected against torture or cruel, inhumane, and degrading treatment;
- (f) Coordinate with the Philippine Health Insurance Corporation to ensure that insurance packages equivalent to those covering physical disorders of comparable impact to the patient, as measured by Disability-Adjusted Life Year or other methodologies, are available to patients affected by mental disorders;
- (g) Prohibit forced or inadequately remunerated labor within mental health facilities, unless such labor is justified as part of an accepted therapeutic treatment program; and
- (h) Develop alternatives to institutionalization, particularly community-based approaches to treatment aimed at receiving patients discharged from hospitals, meeting the needs expressed by persons with mental health disorders, and respecting their autonomy, decisions, dignity, and privacy.

Section 9. *Duties and Responsibilities of the Commission on Human Rights (CHR).* The CHR shall:

- (a) Establish mechanisms to investigate, address, and act upon impropriety and abuse in the treatment and care received by service users, particularly when such treatment or care is administered or implemented involuntarily;
- (b) Inspect mental health facilities to ensure that service users therein are not being subjected to cruel, inhumane, or degrading conditions or treatment;
- (c) Investigate all cases involving involuntary treatment, confinement, or care of service users, for the purpose of ensuring strict compliance with domestic and international standards respecting the legality, quality, and appropriateness of such treatment, confinement, or care; and
- (d) Appoint a focal commissioner for mental health tasked with protecting and promoting the rights of service users and other persons utilizing mental health services or confined in

mental health facilities, as well as the rights of mental health professionals and workers. The focal commissioner shall, upon a finding that a mental health facility, mental health professional, or mental health worker has violated any of the rights provided for in this Act, take all necessary action to rectify or remedy such violation, including recommending that an administrative, civil, or criminal case be filed by the appropriate government agency.

Section 10. Duties and Responsibilities of Mental Health Facilities. Mental health facilities shall:

- (a) Establish policies, guidelines, and protocols for minimizing the use of restrictive care and involuntary treatment;
- (b) Inform service users of their rights under this Act and all other pertinent laws and regulations;
- (c) Provide every service user, whether admitted for voluntary or involuntary treatment, with complete information regarding the plan of treatment to be implemented;
- (d) Ensure that informed consent is obtained from service users prior to the implementation of any medical procedure or plan of treatment or care, except when the service user concerned is mentally incapacitated, as defined herein;
- (e) Ensure that involuntarily treatment or restraint, whether physical or chemical, is only administered or implemented pursuant to the following safeguards and conditions, and only to the extent that such treatment or restraint is necessary:
 - (i) During psychiatric or neurological emergencies;
 - (ii) Upon the order of the service user's attending physician, which order must be reviewed by a board-certified psychiatrist within one (1) month from date of issuance, or as soon as possible;
 - (iii) When all other means of treatment or restraint have proven unsuccessful; and
 - (iv) That such involuntarily medical treatment or restraint shall be: in strict accordance with guidelines approved by the appropriate authorities, which must contain clear criteria regulating the application and termination of such medical intervention; used for the shortest period of time possible, as assessed by a board-certified psychiatrist or by the service user's attending physician in the supervision of a board-certified psychiatrist; and fully documented and subject to regular external independent monitoring and audit.
- (f) Maintain a register containing information on all medical treatments and procedures involuntarily administered to service users;
- (g) Ensure that legal representatives are designated or appointed only after the requirements of this Act and the procedures established for the purpose have been observed,

which procedures should respect the autonomy and preferences of the patient as far as possible; and

(h) Establish an internal review body to monitor and ensure compliance with the provisions of this Act, as well as receive, investigate, resolve, and act upon complaints brought by service users or their families and legal representatives against the mental health facility or any mental health professional or worker.

ARTICLE IV

Community Mental Health Services

Section 11. *Community Mental Health Services.* Within the general health care system, the following mental health services shall be developed and integrated into the primary health care system at the community level:

(a) Basic mental health services , which shall be made available at all local government units down to the barangay level;

(b) Community resilience and psychological well-being training in all barangays, including the availability of mental health and psychosocial support services during and after natural disasters and other calamities;

(c) Training and capacity-building programs for local mental health workers in coordination with mental health facilities and departments of psychiatry in general or university hospitals.

(d) Support services for families and co-workers of service users, mental health professionals, and mental health worker; and

(e) Dissemination of mental health information and promotion of mental health awareness among the general population.

Section 12. *Psychiatric, Psychosocial, and Neurologic Services in Regional, Provincial, and Tertiary Hospitals.* All regional, provincial, and tertiary hospitals shall provided the following psychiatric, psychosocial and neurologic services

(a) Short-term, in -patient hospitals care in a small psychiatric ward for services user exhibiting acute psychiatric symptoms;

(b) Partial hospital care for those exhibiting psychiatric symptoms or experiencing difficulties vis-à-vis their personal and family circumstances;

(c) Out-patient services in close collaboration with existing mental health programs at primary health centers in the same area;

(d) Home care services for service users with special needs as a result of, among others, long-term hospitalization, non-compliance with or inadequacy of treatment, and absence of immediate family;

(e) Coordination with drug rehabilitation centers vis-à-vis the care, treatment, and rehabilitation of persons suffering from addiction and other substance-induced mental disorders; and

(f) A referral system involving other public and private health and social welfare service providers, for the purpose of expanding access to programs aimed at preventing mental illness and managing the condition of persons at risk of developing mental, neurologic, and psychosocial problems.

ARTICLE V

Education, Research, and Development

Section 13. *Integration of Mental Health into the Educational System.* The State shall ensure the integration of the mental health into the educational system, as follows:

(a) Age-appropriate content pertaining to mental health shall be integrated into the curriculum at all educational levels; and

(b) Psychiatry and neurology shall be a required subjects in all medical and allied health courses, including post-graduate courses in health.

Section 14. *Capacity- Building, Reorientation, and Training.* In close coordination with mental health facilities, and the departments of psychiatry in general and university hospitals, mental health professionals and workers shall undergo capacity-building, reorientation, and training to develop their ability to deliver evidence-based, culturally-appropriate and human rights-oriented mental health services, with an emphasis on the community and public health aspects of mental health.

Section 15. *Research and Development.* Research and development shall be undertaken, in collaboration with academic institutions, psychiatric, neurologic, and related associations, and non-government organizations, to produce the information, evidence, and research necessary to formulate and develop a culturally relevant national mental health program incorporating indigenous concepts and practices related to mental health.

High ethical standards in mental health research shall be promoted to ensure that: research is conducted only with the free and informed consent of the persons involved; researchers do not receive any privileges, compensation or remuneration in exchange for encouraging or recruiting participants; potentially harmful or dangerous research is not undertaken; and all research is approved by an independent ethics committee, in accordance with applicable law.

ARTICLE VI

Miscellaneous Provisions

Section 16. *Implementing Rules & Regulations.* The Secretary of Health shall issue the Implementing Rules & Regulations necessary for the effective implementation of this Act within ninety (90) days from the effectivity thereof.

Section 17. *Appropriations.* The amount necessary for the initial implementation of the provisions of this Act shall be charged against the current year's appropriations of the Department of Health. Thereafter, five percent (5%) of the annual excise tax on alcohol and tobacco products collected by the government shall be earmarked for the implementation of this Act.

Section 18. *Separability Clause.* If a court of competent jurisdiction declares any provision of this Act unconstitutional or invalid, the remaining provisions not affected thereby shall continue to be in full force and effect.

Section 19. *Repealing Clause.* All laws, decrees, executive orders, department or memorandum orders and other administrative issuances or parts thereof which are inconsistent with the provisions of this Act are hereby modified, superseded or repealed accordingly.

Section 20. *Effectivity.* This Act shall take effect fifteen (15) days after publication in the Official Gazette or in at least two (2) newspapers of general circulation.

APPROVED.