

THE MENTAL HEALTH BILL, 2019

MEMORANDUM

The objects of this Bill are to—

- (a) provide for the promotion and protection of the rights of persons with mental illness, mental disorder, mental impairment or mental disability;
- (b) establish the National Mental Health Council and provide for its functions;
- (c) provide for mental health services in correctional facilities;
- (d) give effect to certain provisions of the United Nations Convention on the Rights of Persons with Disabilities, Principles for the protection of persons with mental illness and the improvement of mental care General Assembly Resolution 46/119 of 17th December, 1991 and other international human rights instruments to which Zambia is a State Party;
- (e) repeal the Mental Disorders Act, 1949; and
- (f) provide for matters connected with, or incidental to, the foregoing.

A. MWANSA,
Solicitor-General

THE MENTAL HEALTH BILL, 2019

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY PROVISIONS

Sections

1. Short title
2. Interpretation
3. General principles for determination of condition of mental patient

PART II

LEGAL CAPACITY AND RIGHTS OF MENTAL PATIENTS

4. Legal Capacity
5. Duty to respect and uphold rights and dignity of mental patients
6. Prohibition of discrimination, degrading treatment and use of derogatory names
7. Promotion of mental health and preventive programmes

PART III

THE NATIONAL MENTAL HEALTH COUNCIL

8. Establishment of National Mental Health Council
9. Seal of Council
10. Functions of the Council
11. Board of Council
12. Functions of Board
13. Delegation of functions of Board
14. Director-General and other staff

PART IV

MENTAL HEALTH SERVICES

15. Access to mental health services

PART V

RIGHTS AND RESPONSIBILITIES OF MENTAL PATIENTS

16. Right of mental patient
17. Responsibilities of mental patient
18. Privacy, dignity and confidentiality

PART VI

STANDARDS OF CARE AND TREATMENT

19. Standards of treatment and care
20. Notice of health care standards and rights
21. Minimum standards for mental health facilities

PART VII

CONSENT

22. Consent to admission, treatment, care, rehabilitation and palliation services and admission to health facility
23. Proxy consent to treatment
24. Advance decisions

PART VIII

ADMISSION, TREATMENT, CARE, REHABILITATION OR PALLIATION

25. Admission, treatment, care, rehabilitation or palliation
26. Involuntary admission and treatment in emergency

PART IX

SPECIAL TREATMENT

27. Special treatment
28. Clinical or experimental research and development of drugs

PART X

CRIMINAL PROCEDURES FOR FORENSIC MENTAL PATIENTS

29. Designation of health facility for forensic mental patients
30. Admission of forensic mental patient to designated health facility
31. Referral of forensic mental patients between designated health facilities
32. Forensic mental patient who absconds
33. Periodic review of mental health status of forensic mental patient

PART XI

MENTAL ILL INMATES AND UNCONVICTED INMATES

34. Assessment of mental health status of inmate
35. Treatment, care, rehabilitation and palliation of inmates with mental illness
36. Referral of mentally ill inmate or unconvicted inmate to designated health facility
37. Review of mental health status of mentally ill inmate
38. Discharge procedure of mentally ill inmate

PART XII

GENERAL PROVISIONS

39. Regulations
40. General penalty
41. Repeal of Mental Disorder Act, No. 21 1949
42. Savings and transitional provisions

SCHEDULE

A BILL

ENTITLED

An Act to provide for the promotion and protection of the rights of persons with mental illness, mental disorder, mental impairment or mental disability; to establish the National Mental Health Council and provide for its functions; provide for mental health services in correctional facilities; give effect to certain provisions of the United Nations Convention on the Rights of Persons with Disabilities, Principles for the protection of persons with mental illness and the improvement of mental care General Assembly Resolution 46/119 of 17th December, 1991 and other international human rights instruments to which Zambia is a State Party; repeal the Mental Disorders Act, 1949; and provide for matters connected with, or incidental to, the foregoing.

[

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Mental Health Act, 2019. Short title
- 5 2. In this Act unless the context otherwise requires— Interpretation
 - “Board” means the Board of Council constituted under section 11;
 - “child” has the meaning assigned to the word in the Constitution; Cap. 1
 - 10 “Council” means the National Mental Health Council established under section 8;
 - “community leader” means a civil society leader, chief, headperson, minister of religion or any person of good standing in a community;

N.A.B. 1, 2019

	“community mental health service” means a mental health service within a community;	
	“correctional centre” means an institution where a mental patient who commits an offence is held in custody for treatment and rehabilitation;	5
	“court” means a court of competent jurisdiction;	
Act No. 6 of 2012	“discrimination” has the meaning assigned to the word in the Persons with Disabilities Act, 2012;	
	“emergency” includes a situation where there is immediate and imminent danger to the health and safety of a person or others and it is demonstrated that the time required to comply with substantive procedures would cause sufficient delay and harm to the concerned mental patient or others;	10
	“forensic mental patient” means a person who is referred to a mental health facility by a court for assessment in order to determine whether or not that person is mentally fit to stand trial, or to be held criminally responsible for an offence;	15
	“health care provider” means a person registered and licensed under the Health Professions Council of Zambia or the General Nursing Council of Zambia or, any other health regulatory body;	20
Act No. 24 of 2009	“health facility” has the meaning assigned to the words in the Health Professions Act, 2009;	
Act No. 24 of 2009	“health practitioner” has the meaning assigned to the words in the Health Professions Act, 2009;	25
	“in-charge” means an officer with commensurate authority to superintend the management of a health facility;	
	“informed consent” means consent obtained freely, without threats or improper inducements, after appropriate disclosure to the mental patient of adequate and clear information in a form and language understood by the mental patient on—	30
	(a) the diagnostic assessment;	
	(b) the purpose, method, likely duration and expected benefit of the proposed treatment;	35
	(c) alternative modes of treatment, including those less intrusive; and	
	(d) possible pain or discomfort, risks and sideeffects of the proposed treatment;	40