

THE MENTAL HEALTH ACT, 2019

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GOVERNMENT OF ZAMBIA

ACT

No. 6 of 2019

Date of Assent: 11th April, 2019

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.

[11th April, 2019

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

2. In this Act unless the context otherwise requires—

Interpretation

“Board” means the Board of the Council constituted under section 11;

“child” has the meaning assigned to the word in the Constitution;

Cap. 1

“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;

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- Act No. 6
of 2012
- “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;
- “court” means a court of competent jurisdiction;
- “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;
- “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;
- “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;
- 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;
- “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—
- (a) the diagnostic assessment;
 - (b) the purpose, method, likely duration and expected benefit of the proposed treatment;
 - (c) alternative modes of treatment, including those less intrusive; and
 - (d) possible pain or discomfort, risks and side effects of the proposed treatment;

“informed decision” means a decision by a mental health services user about a diagnostic or therapeutic procedure, based on choice, which requires the decision to be voluntary and that the mental patient has the capacity for choice, which rests on the following key elements:

- (a) possession of a set of values and goals for which the mental patient need to make a decision;
- (b) ability to understand information and communicate decisions; and
- (c) ability to reason and deliberate;

“involuntary admission” means the detention and provision of mental health services to a mental patient who—

- (a) is incapable of making an informed decision due to their mental health status; or
- (b) unreasonably withholds or refuses to give informed consent but requires those services for that person’s own protection or for the protection of others;

“mental capacity” means the capability to make independent informed decisions and to act on that decision and understand the consequences of the decision made and action taken;

“mental disability” means long-term psycho-social impairment which may hinder a person’s full and effective participation in society on an equal basis with others;

“mental disorder” means diagnosis of a mental condition, impairment or disability in the absence of demonstrable organic etiological factor also referred to as functional neurosis or psychosis;

“mental health” means a state of well-being in which a person realises that person’s potential to cope with the normal stresses of life, can work productively and is able to make a contribution to the person’s community;

“mental health care” includes analysis and diagnosis of a person’s mental condition, and treatment, care, rehabilitation and palliation for a mental illness or suspected mental illness;

“mental health facility” means an establishment, or unit of an establishment which provides mental health care as its primary function;