

# A BILL

## FOR

AN ACT TO PROVIDE FOR THE ENHANCEMENT AND REGULATION OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES, PROTECT PERSONS WITH MENTAL HEALTH NEEDS AND ESTABLISHMENT OF NATIONAL COMMISSION FOR MENTAL AND SUBSTANCE ABUSE SERVICES, FOR THE EFFECTIVE MANAGEMENT OF MENTAL HEALTH IN NIGERIA AND FOR OTHER RELATED MATTERS

*Sponsored by Senator Oloriegbe, Yahaya Ibrahim*

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows-

### PART I - OBJECTIVE AND APPLICATION

1. The Objectives of this Act are to-

Objective

(a) provide direction for a coherent, rational and unified response to the challenges relating to the delivery of mental health and substance abuse services in Nigeria;

(b) protect the rights and freedoms of persons with mental ill-health and substance use related disorders;

(c) ensure a better quality of life through access to an integrated, well-planned, effectively organised and efficiently delivered mental health care and substance abuse service in Nigeria;

(d) provide a legal framework for the regulation of mental health and substance abuse related service delivery in Nigeria; and

(e) protect persons with mental and substance abuse disorders from discrimination, victimization and unfair treatment by employers, academic institutions and other agencies.

2. The provisions of this Act shall apply to mental health and substance abuse practitioners, mental health service providers and mental

Application

1 health and substance abuse treatment facilities in Nigeria.

2 PART II - ESTABLISHMENT, FUNCTION AND POWERS OF THE NATIONAL  
3 COUNCIL FOR MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

Establishment  
of the National  
Commission for  
Mental Health  
and Substance  
Abuse Services

4 3.-(1) There is established a Commission to be known as the National  
5 Commission for Mental health and Substance Abuse Services (in this Act  
6 referred to as "the Commission").

7 (2) The Commission-

8 (a) shall be a body corporate with perpetual succession and a common  
9 seal;

10 (b) may sue and be sued in its corporate name; and

11 (c) may acquire, hold and dispose of any property for the purpose of  
12 carrying out any of its functions under this Act.

Object of the  
Commission

13 4. The object of the Commission is to:

14 (a) Propose mental health and substance abuse policies and facilitate  
15 their implementation;

16 (b) Implement mental health and substance abuse policy;

17 (c) Promote mental health and facilitate the provision of humane care  
18 including treatment and rehabilitation in a least restrictive environment; and

19 (d) Promote a culturally appropriate, affordable, and accessible and  
20 equitably distributed, integrated and specialised mental health care that will  
21 involve both the public and the private sectors.

Functions and  
powers of the  
Commission

22 5. The Commission shall-

23 (a) Formulate, develop, implement and review policies and  
24 guidelines on mental health and substance abuse related issues in consultation  
25 with all relevant stakeholders;

26 (b) develop a comprehensive and integrated national plan and  
27 program on mental health and substance abuse related issues;

28 (c) conduct regular monitoring and evaluation in support of policy  
29 formulation and planning on mental health and substance abuse related issues;

30 (d) promote and facilitate collaboration among agencies and

1 disciplines for the implementation of policies, plans of mental health and  
2 substance abuse related programs;

3 (e) provide overall technical supervision and ensure compliance  
4 with policies, programs and projects within the comprehensive framework  
5 of the National Mental Health Care Delivery System;

6 (f) collaborate with health care system at the primary, secondary  
7 and tertiary levels and specialised services to provide mental health service  
8 as necessary;

9 (g) protect the rights and responsibilities of persons with mental  
10 and substance use disorder;

11 (h) collaborate with relevant regulatory bodies to ensure  
12 compliance with accreditation and other standards of mental healthcare.

13 (i) Collaborate with other healthcare service providers to ensure  
14 the best care for persons with mental and substance use disorders;

15 (j) Ensure and guarantee the fundamental human rights and safety  
16 of persons with mental and substance use disorder against discrimination  
17 and stigmatization;

18 (k) Ensure that in-patient mental health care services are of an  
19 equitable standard to physical in-patient care;

20 (l) as much as possible facilitate access to educational, vocational  
21 leisure opportunities for patients receiving mental health and substance  
22 abuse disorder care;

23 (m) create inter-agency committees, project task forces, and other  
24 groups as may be necessary for the implementation of policies and programs  
25 under this Act;

26 (n) serve as a clearing house to the Ministry of Health, for the  
27 licensing, developing and implementation of minimum standards for the  
28 delivery of Mental health and Substance Abuse Services in health facilities  
29 providing Mental health or Substance Abuse Services in Nigeria;

30 (o) have the power to impose administrative sanctions from time to

- 1 time on defaulting facilities;
- 2 (p) have the power to enter, search and seal any facility subject to the
- 3 provisions of this Act;
- 4 (q) have powers to enforce compliance with the provisions of this Act;
- 5 and
- 6 (r) perform such other duties or functions as may be necessary for the
- 7 effective implementation of this Act;
- 8 (s) shall take steps to enlighten and inform mental health and
- 9 substance abuse service users of their rights;
- 10 (t) the commission in carrying out their duties shall ensure integrated
- 11 multi disciplinary services.
- 12 6.-(1) There is established for the Commission a Governing Board (in
- 13 this Act referred to as "the Board").
- 14 (2) The Board shall consist of the following-
- 15 (a) the chairperson shall be a retired mental health service provider
- 16 with considerable experience in the field of mental health;
- 17 (b) the Chief Executive/ Executive Secretary of the Commission shall
- 18 be a qualified and practicing Psychiatrist of not less than 10 years' experience
- 19 as a Consultant Psychiatrist and not less than level 15;
- 20 (c) a representative of the public sector, who shall be a Medical
- 21 Director of one of the Federal Neuropsychiatric Hospitals in Nigeria;
- 22 (d) the President (or his representative) of the Association of
- 23 Psychiatrists in Nigeria;
- 24 (e) the President (or his representative) of the Association of
- 25 Psychiatric Nurses of Nigeria;
- 26 (f) the President (or his representative) of the National Association of
- 27 Clinical Psychologists of Nigeria;
- 28 (g) the chairman (or his representative) of the Association of medical
- 29 Social Workers of Nigeria;
- 30 (h) the President (or his representative) of the National Association of

1 Occupational Therapists;

2 (i) representative of the Human Rights Commission;

3 (j) representative of the National Primary Health Care  
4 Development Agency not less than a Director; and

5 (k) minister of health to appoint three other members (one service  
6 user and two non-governmental organisations), one of which shall be a  
7 woman; one of the NGOs shall represent those involved in advocacy,  
8 promotion and rehabilitation, while the other shall represent service user  
9 (clients') groups.

10 7.-(1) The Executive secretary shall have a single term of five  
11 years;

Tenure of office  
of members of  
the Board

12 Other members of the board including the Chairman shall hold office-

13 (a) for a term of four years which may be renewed for a further term  
14 of four years and no more; and

15 (b) on such terms and conditions as may be specified in his letter of  
16 appointment.

17 (2) Notwithstanding the provisions of sub-section (1) of this  
18 section, the office of a member of the Board shall become vacant, where-

19 (a) his term of office has expired;

20 (b) he develops any illness that makes him incapable of carrying  
21 out his duties;

22 (c) he becomes bankrupt;

23 (d) he is convicted of a felony or of any offence involving  
24 dishonesty or corruption;

25 (e) he resigns his office by notice in writing under his hand  
26 addressed to the President;

27 (f) he ceases to hold the office on the basis of which he becomes a  
28 member of the Board;

29 (g) he dies; and,

30 (h) he possessed a professional qualification on the basis of which

1 he was a member and he is disqualified or suspended, other than at his own  
2 request, from practicing his profession in any part of Nigeria by the order of  
3 any competent authority made in respect of him personally;

4 (i) He no longer holds the position on the basis of which he was  
5 appointed as a member as a result of resignation, completion of tenure, removal  
6 from office or for any reason.

7 (3) Where a vacancy occurs in the Commission, the president shall  
8 appoint a successor who shall represent the same interest as that member  
9 whose exit created the vacancy.

10 (4) The resignation mentioned under sub-section (2) (e) of this section  
11 shall be effective on the receipt of the letter by the President.

Appointment  
and functions  
of the Chief  
Executive of the  
Mental Health  
and Substance  
Abuse Commission

12 8.-(1) There shall be a Chief Executive who shall be the Accounting  
13 Officer of the Mental Health and Substance Abuse Commission and the  
14 Secretary to the Board.

15 (2) The Chief Executive shall be appointed by the President on the  
16 recommendation of the Minister

17 (3) The Chief Executive shall hold office for a single term of five  
18 years and on the terms and conditions specified in the letter of appointment.

19 (4) The Chief Executive is responsible for coordination of the  
20 planning, organization, administration, monitoring and evaluation of mental  
21 health and substance abuse services in the country.

22 (5) The Chief Executive shall perform any other functions determined  
23 by the Board.

24 (6) The Chief Executive may delegate a function to an officer of the  
25 Commission but shall not be relieved from the ultimate responsibility for the  
26 performance of the delegated function.

27 (7) The Chief Executive shall provide the Minister through the Board  
28 with technical advice on mental health that may be required.

29 (8) The Chief Executive shall have a secretariat with designated  
30 personnel to assist with the running of the Council



1 at the primary, secondary, and tertiary levels of health care, in communities,  
2 facilities, prisons, children's homes, educational establishments and other  
3 areas of need to:

- 4 (i) promote mental health,
- 5 (ii) prevent and treat mental disorder,
- 6 (iii) rehabilitate and counsel persons with mental disorder.

Appointment of  
other staff of the  
Commission

7 13.-(1) The Commission may from time to time, appoint or second  
8 such number of staff for the efficient performance of its functions under this  
9 Act.

10 (2) The staff of the Commission appointed under subsection (1) of this  
11 section, shall be appointed on such terms and conditions as the Commission  
12 may determine in line with the guidelines for similar appointments in the  
13 public service of the Federation.

14 (3) The Commission may make rules relating to the Conditions of  
15 service of staff of the Commission, including rules that may provide for-

- 16 (a) appointment, promotion and disciplinary control of all staff of the  
17 Commission;
- 18 (b) appeals by staff against disciplinary measures; and
- 19 (c) such other matters that are necessary for the efficient performance  
20 of its functions under this Act.

Service in the  
Commission

21 14.-(1) Service in the Commission shall be Pensionable under the  
22 Pension Reforms Act, 2014 and accordingly staff of the Commission shall, in  
23 respect of their services, be entitled to such pension and retirement benefits as  
24 are prescribed for person with equivalent grades in the public service of the  
25 Federation.

26 (2) Notwithstanding the provisions of subsection (1) of this section,  
27 the Commission may appoint a person to an office on such terms and  
28 conditions which preclude the grant of pension in respect to that office.



## 1 PART III - MENTAL HEALTH REVIEW TRIBUNAL

2 15.-(1) There is established by the Board a Mental Health Review Tribunal. Mental Health  
Review tribunal

3  
4 (2) The Board shall, through the Mental and Substance Abuse  
5 Council, for the purpose of dealing with applications and reference by and in  
6 respect of patient under this Act constitute for each State or group of States,  
7 such number of Mental Health Review Tribunals, as it shall approve.

8 16.-(1) The Board shall appoint members of the Tribunal. Composition of  
the Tribunal

9 (2) The Tribunal at each sitting consists of-

10 (a) a chairperson who is a legal practitioner of not less than ten  
11 years standing nominated by the Attorney General,

12 (b) a consultant psychiatrist,

13 (c) Three other persons; a medical social worker, a clinical  
14 psychologist, psychiatric nurse practitioner, or an occupational therapist, at  
15 least one of whom is a woman; and

16 (d) a service user.

17 17.-(1) The Tribunal shall function in protecting the interests of Functions of the  
Tribunal  
18 patients who are subject to the provisions of this Act.

19 (2) The Tribunal shall hear and investigate complaints in respect of  
20 persons detained under this Act.

21 (3) The Tribunal shall review and monitor:

22 (a) cases of involuntary admissions and treatment processes;

23 (b) long-term stay voluntary admissions; and

24 (c) treatments that require a second opinion.

25 (4) The Tribunal, after necessary consultation with experts, shall  
26 provide guidance on minimizing intrusive and irreversible treatments,  
27 seclusion or restraint; also to ensure that informed consent is obtained and  
28 approve requests for intrusive or irreversible treatments.

29 (5) The Tribunal shall in the performance of its function determine  
30 its own procedures.

1 (6) The Tribunal shall ensure that all its proceedings are properly  
2 recorded and documented.

Discharge by  
the tribunal

3 18.-(1) The Tribunal may direct the discharge of a person detained  
4 under this Act despite a previous order of a court or Tribunal except in the case  
5 of a serious offence and may make the recommendations that it considers  
6 necessary to the head of the facility.

7 (2) The Tribunal shall direct the discharge of a patient where it is  
8 satisfied:

9 (a) that the patient is no longer suffering from mental disorder;

10 (b) that it is not necessary in the interest of the health or safety of the  
11 patient or for the protection of other persons that the patient should continue to  
12 be detained;

13 (c) that the patient if released is not likely to act in a manner  
14 dangerous to the patient or to others; and

15 (d) that admission is no longer the least restrictive form of treatment  
16 for the patient.

Review of orders

17 19. The Tribunal may review a previous decision made by it.

Application for  
review

18 20.-(1) An application may be made to the Tribunal by or in respect of  
19 a person detained under this Act.

20 (2) The application may request:

21 (a) a review of the conditions under which that person is detained,

22 (b) a discharge, or

23 (c) any other appropriate action to be taken with respect to the  
24 circumstances of the mental disorder of that person.

25 (3) The Tribunal shall review the case and respond to the applicant  
26 within twenty-one days except where the application is against a new  
27 admission, in which case the response shall be within three days.

28 (4) Where a person is not satisfied with the decision of the Tribunal,  
29 that person may seek redress in a court of appeal.



1 to education, vocational training, leisure, recreational activities, full  
2 employment and participation in civil, economic, social, cultural and political  
3 activities and any specific limitations on these rights shall be in accordance  
4 with an assessment of capacity.

5 (5) A person with mental and substance use disorder is entitled to  
6 humane and dignified treatment at any time with respect to personal dignity  
7 and privacy.

8 (6) A person with mental and substance use disorder in a treatment  
9 facility, has:

10 (a) the right to wear personal clothes while in a treatment facility and  
11 to maintain personal belongings subject to space, limitations, and appropriate  
12 treatment plan;

13 (b) the right to have access to and spend personal money for personal  
14 purchases unless the mental capacity of the person does not allow that;

15 (c) the right to information provided by newspapers and other media  
16 provided it is not in conflict with appropriate treatment plan;

17 (d) the right to be informed within twenty-four hours of admission to a  
18 facility of their rights in a form and language which the patient understands and  
19 how to exercise such rights, but where the patient is mentally incapacitated, the  
20 legal representative or the career shall be entitled to such information;

21 (e) the entitlement to a legal practitioner of his choice and where he  
22 cannot afford the services of a legal practitioner, the Legal Aid Council of  
23 Nigeria or National Human Right Commission shall provide legal assistance to  
24 the patient;

25 *Standards of Treatment*

26 A person with mental and substance use disorder shall:

27 (7) receive treatment of the same quality and standard in a safe and  
28 conducive environment as any other person with physical health conditions;

29 (8) Receive the highest attainable standard of mental healthcare.

30 (9) receive treatment, which addresses holistically their needs

1 through a multi disciplinary care plan approach;

2 (10) receive treatment in the least restrictive environment and  
3 restrictive manner,

4 (11) be protected from torture, cruel, inhuman and degrading  
5 treatment;

6 (12) receive aftercare programs and rehabilitation, where possible,  
7 in the community in order to facilitate their social inclusion;

8 (13) shall have access to psychotropic drugs and any other  
9 biopsychosocial interventions at different levels of care as appropriate.

10 (14) actively participate in the formulation of the multi disciplinary  
11 treatment plan;

12 *Access to information*

13 (15) A patient shall be informed about their mental state of health  
14 and the multi disciplinary services available to cater for their needs, the  
15 treatment options available and their treatment plan;

16 (16) Where the patient is incapable of understanding the treatment,  
17 the personal representative of that patient shall have access to this  
18 information.

19 (17) Shall have access to the information collected about them  
20 unless, in the opinion of the mental health professional, revealing such  
21 information may cause harm to the person's health or put at risk the safety of  
22 others;

23 (18) be entitled to contest any decision to withhold any information  
24 pursuant to paragraph (20) of this sub-section, either personally or through a  
25 legal practitioner of his choice;

26 *Privacy and autonomy*

27 (19) The rights of a person with mental disorder include freedom to  
28 receive in private, visits from a legal practitioner, relatives and any other  
29 visitors, unless the attending psychiatrist or head of the facility considers it  
30 unsafe;

1 (20) give free and informed consent, where possible, before any  
2 treatment or care is provided and such consent shall be recorded in the patient's  
3 clinical record;

4 (21) notwithstanding the provision of paragraph (23) of this section,  
5 the patient shall have the right to withdraw consent;

6 (22) have the right to confidentiality of all information about  
7 themselves, illness and treatment in whatever form stored and such  
8 information shall not be disclosed to third parties without their consent unless-

9 (a) there is a life-threatening emergency when information is urgently  
10 required to save lives,

11 (b) it is in the interest of public safety,

12 (c) it is ordered by a court of competent jurisdiction, or

13 (d) the person requesting for such information is entitled by law to  
14 receive it;

15 (23) be entitled to effective participation in the development of  
16 mental health legislation, including their carer and legal practitioner; and

17 (24) not be subjected to solitary confinement.

#### 18 *Employment Rights*

19 (25) An employer shall not terminate the employment of a worker  
20 merely on the grounds of present or past mental disorder or while the worker is  
21 receiving treatment for mental disorder;

22 (26) Where an employer has reasonable cause to believe that a worker  
23 is suffering from mental disorder severe enough to affect the work output of the  
24 worker, the employer may assist the worker to seek medical advice in  
25 accordance with the prescribed procedure;

26 (27) The employer may engage the worker at a level where the worker  
27 can best perform for medical reasons but where the worker is found to be unfit  
28 for employment the employer may terminate the contract of employment of the  
29 worker in accordance with the prescribed procedure;

30 (28) A worker aggrieved by a medical report provided in accordance

1 with this Act may seek redress from the Mental Health review Tribunal.

2 25.-(1) Every public healthcare facility should have provision for  
3 integrated mental and substance use treatment at all levels for the purposes  
4 of effective implementation of the provisions of this Act.

Establishment  
of Mental Health  
and Substance  
Abuse Services

5 (2) Such a facility should meet the minimum standard specified in  
6 the national mental and substance abuse guideline/policy

7 (3) Notwithstanding subsection (1) of this section, the Minister  
8 may designate any hospital with requisite facilities as mental health  
9 facilities.

10 (4) Notwithstanding subsection (1) of this section, the Minister  
11 shall ensure the implementation of section 12 subsection(1)a

12 PART V - TREATMENT, ADMISSION AND DISCHARGE OF PATIENTS

13 26.-(1) The Commission shall set minimum standards for  
14 programmes for the treatment of Mental and Substance Use related  
15 disorders.

Programmes  
for Treatment

16 (2) The Commission shall maintain and periodically publish list of  
17 licensed treatment centres in Nigeria.

18 27.-(1) This part applies to any patient referred to in any section of  
19 this Act.

Consent to  
Treatment and  
Treatment of  
children (minors)

20 (2) The following forms of medical treatment for mental and  
21 substance abuse related disorders shall require consent:

22 (a) any surgical operation for destroying brain tissue or for  
23 destroying the function of the brain tissue; and

24 (b) such other forms of treatment requiring explanation of known  
25 risks to the patient to enable the patient to decide whether or not to accept  
26 such form of treatment.

27 (3) A patient shall not be given any form of treatment unless:

28 (a) the responsible medical officer or a registered medical  
29 practitioner has certified in writing that the patient is capable of  
30 understanding the nature, purpose, any likely effects of the treatment and

1 has consented to it; or

2 (b) the medical officer referred to in paragraph (a) of this subsection  
3 certifies in writing that the patient has not consented to the treatment for reason  
4 of incapacitation or other, but that having regard to the likelihood of its  
5 alleviating or preventing a deterioration of his condition, the treatment should  
6 be given.

7 (4) A patient may, at any time before the completion of treatment for  
8 which he had previously given consent, withdraw such consent in writing if he  
9 so desires.

10 (5) Subsections (2) (a) and (b) of this section shall not apply to any  
11 treatment:

12 (a) which is immediately to save the patient's life or ensure their  
13 safety;

14 (b) which (not being irreversible) is immediately necessary to prevent  
15 a deterioration of his condition;

16 (c) which (not being irreversible or hazardous) is immediately  
17 necessary to alleviate serious suffering by the patient; or

18 (d) which (not being irreversible or hazardous) is immediately  
19 necessary and represents the minimum interference necessary to prevent the  
20 patient from violence or being a danger to himself or to others.

21 (6) In all circumstances the responsible medical officer shall consider  
22 the condition of the patient, the need to obtain consent from the nearest relative,  
23 periods of lucid intervals and his/her personal moral decision to obtain consent.

24 (7) Mental health care of a Child:

25 (a) A child receiving psychiatric treatment shall as much as possible,  
26 be treated in a least restrictive environment;

27 (b) In cases where they may require admission, children shall be  
28 admitted separately from adults, and their developmental needs shall be taken  
29 care of as necessary;

30 (c) Parents or guardians of children under the age of eighteen years



1       undergoing psychiatric treatment shall represent them in matters;  
2       concerning the mental well-being of the children including consent to  
3       treatment. In event the parent's position is not in the best interest of the child,  
4       a temporary guardianship should be appointed. The guardianship may be  
5       related to the child or professionally assigned;

6               (d) Special provision will be made for the admission of children  
7       whose conduct may at any time be harmful to themselves or other patients;

8               (e) Irreversible treatments such as sterilisation or psychosurgery  
9       for mental disorders shall not be administered to any child with mental ill  
10      health or intellectual disability;

11              (f) The opinions of children shall be taken into consideration in  
12      issues of their care including treatment, depending on their age and their  
13      capacity.

14              (g) The rights of the minors receiving mental health care will be in  
15      line with their rights in the Child Rights Act and the health provisions of the  
16      African charter on the rights of a child to which Nigeria is a signatory;

17              (h) Discrimination against children with developmental  
18      disabilities will be deemed a criminal act and perpetrators will be punished.

19              (8) Care of Persons with intellectual disability:

20              (a) A person shall not be admitted to a mental health facility merely  
21      for intellectual disability unless there is evidence of gross misbehaviour or  
22      perceptual disturbances;

23              (b) If a person with intellectual disability is admitted to a mental  
24      health facility for mental health care, the person shall have separate  
25      accommodation/section on the ward;

26              (c) Intrusive or irreversible treatment shall not be administered on  
27      a person with intellectual disability unless authorised by the mental health  
28      council.

29              28. Any person who requires treatment for mental and substance  
30      use related disorders, may be admitted voluntarily into any hospital or other

Involuntary  
Admission of  
persons with  
mental disorders

1 facility approved for that purpose pursuant to this Act.

2 29.-(1) A person meets the criteria for involuntary admission if there  
3 is reason to believe the person is suffering from mental disorder and because of  
4 such disorders-

5 (a) Has inflicted, or threatened or attempted to inflict, or unless  
6 admitted is likely to inflict physical harm on himself or another; or

7 (b) Is in need of treatment for mental disorder and by reason of the  
8 illness, his judgment has been impaired that the person is incapable of  
9 appreciating his need for such treatment and of making any rational decision in  
10 regard thereto.

11 (2) The temporary treatment order will place the named person under  
12 the care, observation or treatment in a psychiatric hospital or any other facility  
13 which is approved under this Act for the care of involuntary patients, in as least  
14 restrictive an environment as is compatible with the health and safety of the  
15 person and society.

16 (3) A person in need of mental health treatment shall be involuntarily  
17 admitted to a designated inpatient treatment programme upon a written request  
18 to the Medical Director of the treatment facility is for involuntary treatment  
19 that provides a factual basis for the request by anyone with knowledge that an  
20 individual may be a person in need of treatment and the written certification by  
21 a mental health professional that the individual is a person in need of treatment  
22 as provided for in this Law.

23 (4) The refusal to undergo treatment does not in itself constitute  
24 evidence of lack of judgment as to the need for treatment.

25 (5) Any law enforcement officer or designated personnel may  
26 lawfully transport an individual whom they reasonably believe is a person in  
27 need of mental health treatment without the consent of said individual, to or  
28 from a designated treatment facility for the purpose of carrying out the  
29 provisions of this Law. Admission to treatment is however on the basis of the  
30 judgment of the medical practitioner and not the law enforcement officer.

1           (6) Upon admission of the person in need of mental health  
2 treatment, the facility shall evaluate and treat the individual as medically  
3 necessary and appropriate for the required time period not exceeding 28  
4 days beginning from the day of admission. He may however be detained  
5 thereafter if he becomes liable for compulsory admission again by virtue of a  
6 subsequent application, order, or direction under any of the provisions of  
7 this act.

8           (7) Admission of a Minor:

9           (a) A minor may be admitted to a mental health establishment only  
10 after following the procedure laid down in this section;

11           (b) The nominated representative of the minor shall apply to the  
12 medical officer in charge of a mental health establishment for admission of  
13 the minor to the establishment;

14           (c) Upon receipt of such an application, the medical officer or  
15 psychiatrist in charge of the mental health establishment may admit such a  
16 minor to the establishment, if he examines the minor on the day of admission  
17 or in the preceding seven days and he concludes based on the examination  
18 and, if appropriate, on information provided by others, that-

19           (i) the minor has a mental illness of a severity requiring admission  
20 to a mental health establishment;

21           (ii) admission shall be in the best interests of the minor, with regard  
22 to his or her health, well-being or safety, taking into account the wishes of  
23 the minor if ascertainable and the reasons for reaching this decision;

24           (iii) the mental health care needs of the minor cannot be fulfilled  
25 unless he is admitted; and

26           (iv) all community-based alternatives to admission have been  
27 shown to have failed or are demonstrably unsuitable for the needs of the  
28 minor.

29           (d) A minor so admitted shall be accommodated separately from  
30 adults, in an environment that takes into account his age and developmental

1 needs and is at least of the same quality as is provided to other minors admitted  
2 to hospitals for other medical treatments;

3 (e) A minor shall be given treatment with the informed consent of his  
4 nominated representative;

5 (f) If the nominated representative no longer supports admission of  
6 the minor under this section or requests discharge of the minor from the mental  
7 health establishment, the minor shall be discharged by the mental health  
8 establishment only if such an action is in the best interest of the minor;

9 (g) The Commission shall ensure that all programs must include child  
10 and adolescent mental health relevant strategies based on evidence and  
11 culturally appropriate strategies.

Recommendation  
to court for  
temporary  
involuntary  
treatment

12 30.-(1) A person may make an application to a court for the  
13 involuntary admission and treatment of a person believed to be suffering from  
14 severe mental disorder, where-

15 (a) the person named is at personal risk or a risk to other people, or

16 (b) there is a substantial risk that the mental disorder will deteriorate  
17 seriously.

18 (2) The temporary treatment order will place the named person under  
19 the care, observation or treatment in a psychiatric hospital or any other facility  
20 which is approved under this Act for the care of involuntary patients, in as least  
21 restrictive an environment as is compatible with the health and safety of the  
22 person and society.

23 (3) The recommendation shall be given on oath to the court and shall  
24 be supported by two medical recommendations one from a medical  
25 practitioner and the other from a mental health practitioner.

26 (4) The recommendation shall specify in full detail-

27 (a) the reasons why it is considered that person is a proper subject for  
28 care, observation or treatment;

29 (b) the facts on which the opinion has been formed, distinguishing  
30 facts observed personally from those observed by somebody else;

1 (c) that person is suspected to lack capacity to make informed  
2 treatment decisions, and

3 (d) that the treatment is necessary to bring about an improvement in  
4 the person's condition, restore capacity to make treatment decisions, prevent  
5 serious deterioration or prevent injury or harm to self or others.

6 (5) The judicial review thereof shall determine-

7 (a) Whether the involuntary patient's confinement is based upon  
8 sufficient cause;

9 (b) Whether the involuntary patient is a person in need of  
10 treatment; and

11 (c) Whether a less restrictive placement such as out-patient  
12 treatment is more appropriate. Such hearings shall preceded by adequate  
13 notice to the involuntary patient or his/her legal representation, and the  
14 involuntary patient or his/her legal representation shall be entitled to be  
15 present at all such hearings.

16 (6) The court shall ensure on behalf of the patient-

17 (a) representation by counsel at all judicial proceedings, such  
18 counsel to be court-appointed if the involuntary patient cannot afford to  
19 retain counsel;

20 (b) examination by an independent psychiatrist and have such  
21 persons testify as a witness on the patient's behalf, such witness to be court-  
22 appointed if the involuntary patient cannot afford to retain such witness.

23 (c) Reasonable discovery, the opportunity to summon and cross-  
24 examine witnesses, to present evidence on the person's own behalf and to all  
25 other procedural rights afforded litigants in civil causes. The privilege  
26 against self- incrimination shall be applicable to all proceedings under this  
27 Law and the patient's testimony, if any, shall not otherwise be admissible in  
28 any criminal proceedings against the patient;

29 (d) To have a full record made of the proceedings, including  
30 findings adequate for review. All records and pleadings shall remain

1 confidential unless the court for good cause orders otherwise.

2 (7) Notwithstanding the pendency of the action or any order  
3 previously entered by the court, if at any time after the petition is filed the staff  
4 of the facility determines that the involuntary patient is no longer in need of  
5 involuntary treatment, the facility may so certify in writing and discharge the  
6 patient, and shall promptly notify the court of its discharge, and the court may  
7 dismiss the action.

8 (8)(a) An involuntary patient is entitled to change his own status to  
9 that of a voluntary patient if a member of the staff of the facility certifies that:

10 (i) The patient is reasonably capable of understanding the nature of  
11 the decision to change status; and

12 (ii) Such a change is in the patient's best interest. If such a change in  
13 status is challenged within 2 days by the patient's next of kin or legal  
14 representative, the court will schedule a hearing to finally determine the  
15 matter;

16 (b) The court may increase the time for performance for a reasonable  
17 period upon a showing of good cause;

18 (c) The Magistrate Court judge shall declare a sitting of the court to be  
19 a sitting of the Mental Treatment Court for the purposes of this Law.

20 (9) No person shall be involuntarily admitted for substance abuse  
21 treatment except they have developed a disorder listed in section 30 subsection  
22 (1) (b) of this ACT. The condition referred to in section 30 subsection 4 of this  
23 ACT also applies.

24 31.-(1) The court shall examine the facts or hold an enquiry within  
25 forty-eight hours to determine the state of mind of that person.

26 (2) The court may summon witnesses or administer oaths.

27 (3) Where the court is satisfied that person is suffering from severe  
28 mental disorder and meets the requirements of section 31 subsection 5, the  
29 court may order placement of that person under care, observation or treatment

1 in a psychiatric hospital for a period not exceeding one month as determined  
2 by the court.

3 32.-(1) The patient, the family of the patient or the personal Appeal  
4 representative of the patient shall be informed of the reasons for the  
5 admission and their rights with respect to appeal to the Tribunal.

6 (2) A patient or primary care giver has the right to appeal against  
7 involuntary admission or treatment.

8 (3) A patient has the right to seek an independent medical opinion.

9 (4) A patient or primary care giver has the right to seek counsel or  
10 be represented in an appeal or complaint procedure and has right of access to  
11 the medical record of the patient.

12 (5) Access to the medical record of a patient by the primary care  
13 giver is subject to the consent of the patient or the personal representative of  
14 the patient.

15 33.-(1) A psychiatrist or head of a facility may recommend the  
16 placement of a person under a temporary treatment court order for a  
17 prolonged treatment in a psychiatric hospital if the psychiatrist or head of a  
18 facility is of the opinion that the severity of the condition warrants it.

Order for  
prolonged  
treatment

19 (2) This recommendation shall take into consideration the welfare  
20 of that person and the safety of the public.

21 (3) A patient or caregiver has the right to attend and participate in  
22 appeal and complaints procedures.

23 (4) The recommendation shall be made before the expiry of the  
24 court order for temporary treatment or its extension and shall be made on  
25 oath to the Tribunal.

26 (5) The recommendation shall-

27 (a) specify in full detail the reasons why that person is considered a  
28 proper subject for prolonged treatment,

29 (b) specify the nature and severity of the diagnosed mental  
30 disorder, the likelihood of complete or partial recovery, and the period

1 which, in the opinion of the psychiatrist or head of a facility, is reasonably  
2 required to effect a complete or partial recover, and

3 (c) specify in full detail the facts on which the opinion is based,  
4 distinguishing facts observed personally from facts communicated by others.

5 (6) The patient shall meet the criteria stated in section 42.

6 (7) The Tribunal shall examine the person in a place considered  
7 convenient or hold an enquiry to determine the state of mind of that person, and  
8 for that purpose-

9 (a) the Tribunal may summon witnesses or administer oaths, and

10 (b) the Tribunal may order the placement of that person under  
11 prolonged treatment in a psychiatric hospital if from the examination or  
12 enquiry the person meets the criteria of section 31 and prolonged treatment is  
13 the least restrictive treatment available.

Length of  
prolonged  
treatment order

14 34.-(1) The period of the prolonged treatment order shall not exceed  
15 twelve months at a time.

16 (2) An order for prolonged treatment of up to twelve months shall be  
17 reviewed at six months by the Tribunal.

Procedure for  
certificate of  
urgency

18 35.-(1) Despite section 31, in an emergency case where it is expedient  
19 either for the welfare of a person suspected to be suffering from mental disorder  
20 or for public safety because of the person suspected to be suffering from mental  
21 disorder, a police officer, a relative or any other person with or without the  
22 assistance of a police officer may take the person to a facility or mental health  
23 facility for a certificate of urgency to be issued under sub-section (2).

24 (2) At the facility or mental health facility a registered medical  
25 practitioner shall examine the person and if the person meets the criteria for  
26 treatment as an emergency case, the medical practitioner shall issue a  
27 certificate of urgency and place the person under care, observation and  
28 treatment.

29 (3) Where immediate admission to a facility or mental health facility  
30 is impracticable, the person shall be received and detained in any other place of



1 safe custody for a period not exceeding forty-eight hours pending transfer to  
2 a mental health facility.

3 36.-(1) A person received into a mental health facility under a  
4 certificate of urgency may be detained in that mental health facility as an  
5 urgent case for a period not exceeding seventy-two hours.

Duration of  
admission for  
urgent case

6 (2) Where the person detained is not discharged before seventy-  
7 two hours by the psychiatrist or head of the facility, information shall be  
8 given to the Tribunal in accordance with section 30 within that period unless  
9 the person opts to become a voluntary patient.

10 (3) Where a court order for temporary treatment is not obtained  
11 within the seventy-two hours, the person detained shall be released at the  
12 expiry of that period or can opt to become a voluntary patient.

13 37.-(1) Where a Police Officer or a staff of Social Welfare  
14 Department of Government finds in a place to which the public has access, a  
15 person who appears to him to be suffering from mental disorder and to be in  
16 immediate need of care or control, the police officer or social welfare  
17 worker, as the case may be, may if he thinks it necessary to do in the interest  
18 of that person or for the protection of other persons, remove that person to a  
19 place of safety with a view to making an application for his treatment and  
20 care under this Act.

Removal of  
Patient to a place  
of safety

21 (2) A person removed to a place of safety under this section may be  
22 detained there for period not exceeding 72 hours for the purpose of enabling  
23 him to be examined by a medical practitioner and of making any necessary  
24 arrangements for his treatment or care.

25 (3) A police officer or any other person required or authorised by  
26 this Act to take any person into custody or to convey or to detain any person  
27 shall for the purposes of taking him into custody or conveying or detaining  
28 him, have all the powers, authority, protection and privilege of a police  
29 officer in the ordinary course of his duties as such.

30 (4) If any person being in lawful custody by virtue of this section

1 escapes, he may be retaken and returned to the hospital or place of safety:

2 (a) by the person who had his custody 'immediately before the escape;

3 (b) by any officer or the staff of the hospital, his nearest relative or his  
4 guardian, or by a police officer if at the time of his escape he was liable to be  
5 detained in a hospital.

Grant of Leave  
from Hospital

6 **38.-(1)** The responsible medical officer may grant to any patient who  
7 is for the time being liable to be detained in a hospital under this Act, leave to be  
8 absent from the hospital subject to such considerations necessary in the interest of  
9 the patient or for the protection of other persons.

10 (2) Leave of absence may be granted under this Section either in  
11 definitely or for a specified period; and where leave is granted for a specified  
12 period, that period may be further extended as the responsible medical officer  
13 may deem fit.

14 (3) The responsible medical officer may by notice in writing' to the  
15 patient or to the person for the meantime in charge of the patient, revoke the  
16 Leave of absence for the recall of the patient to the hospital if it appears to him  
17 that it is necessary so to do in the interest of the patient's health and safety and  
18 the protection of others

19 (4) A patient to whom a leave of absence is granted, under this section  
20 shall not be recalled under Subsection (3) of this Section after he has ceased to  
21 be liable to be detained under this Act.

22 (5) In all cases of removal of patient to hospital for the first time or  
23 removal of a patient who breaches the condition of leave of absence, the police  
24 shall be available to render assistance

Order of  
Discharge of a  
of a Patient

25 **39.-(1)** An order for discharge in respect of a patient detained under  
26 any section of this part of this Act may be made:

27 (a) by the responsible medical officer or by the medical director of the  
28 hospital, where the patient is detained pursuant to an application for admission  
29 of observation; or

30 (b) by the responsible medical officer, the medical director, or by the

1 nearest relation, where the patient is detained pursuant to an application for  
 2 admission for treatment. In other cases, the order shall be made pursuant to  
 3 the responsible medical officer's report that the circumstances leading to his  
 4 detention in the first place no longer exist

5 40.-(1) Subject to the provisions of this section, the patient's  
 6 nearest relative may at anytime apply for the discharge of a patient detained  
 7 in hospital.

Order of discharge  
of nearest relative

8 (2) The nearest relative of the patient in making such an application  
 9 shall give a notice in writing in that regard not less than 72 hours to the  
 10 medical director. In the event that the responsible medical officer furnishes  
 11 the medical director of the hospital a report within 72 hours that in his  
 12 opinion the patient, if discharged, would be likely to act in a manner  
 13 dangerous to himself and to other persons: in which case-

14 (a) the application by the relative will not be granted;

15 (b) no further application for discharge of that patient shall be  
 16 entertained from that relative during a period of 3 months beginning with  
 17 the date of the medical report; and

18 (c) the medical director of the hospital shall cause the nearest  
 19 relative of the patient to be informed of his right to apply to a Mental Health  
 20 Review Tribunal in respect of the patient within a period of 28 days  
 21 beginning with the day on which he is so informed.

22 41. A facility which is not accredited by the Commission and  
 23 licensed or recognised by the Minister shall not admit involuntary patients  
 24 for treatment.

Non-accredited  
facilities and  
involuntary  
patients

#### 25 PART VI - ADMISSION OF PATIENTS CONCERNED WITHIN CRIMINAL

##### 26 PROCEEDINGS

27 42.-(1) Where a person is convicted before a High Court of a  
 28 criminal offence, or before a Magistrate's Court of an offence punishable on  
 29 summary conviction with imprisonment, the court may by a hospital order  
 30 authorize his admission for observation in a hospital if it has cause to suspect

Admission of a  
Criminal patient

1 that the person may be suffering from mental disorder

2 (2) Where the court is satisfied, on written evidence made within  
3 seven days of admission of two medical practitioners, one of whom is  
4 recognized to have special experience in the diagnosis and treatment of mental  
5 disorders, that:

6 (a) the offender is suffering from mental disorder, severe mental  
7 impairment or dissocial disorder;

8 (b) the mental disorder is of a severe nature or degree which warrants  
9 the detention of the patient in a hospital for medical treatment; and

10 (c) the offender is likely to benefit from such treatment with respect to  
11 future criminal tendency and behaviour.

12 The court may decide that the most suitable method of disposing of the case is  
13 by means of an order under this section.

14 (3) Where an order is made under this section, the Court shall cause  
15 the further detention of the criminal in the hospital where the initial assessment  
16 of his mental state was made for further treatment until the patient (criminal) is  
17 assessed as having made sufficient improvement to be discharged there from,  
18 and a report in that respect from the medical practitioners who made the initial  
19 assessment placed before the court

20 (4) On receiving such a report, the Court shall order the discharge of  
21 the patient from hospital within three days of receiving the report.

22 Where the patient has not made satisfactory progress with treatment pursuant  
23 to Subsection (3) of Section 20 within six months of the initial order, and a  
24 report in that respect from the medical practitioners referred to in Section 20 is  
25 placed before the court, the court shall, in the interest of public safety issue a  
26 compulsory order for the detention and treatment of the patient for another  
27 period of six months and for multiple periods of six months thereafter provided  
28 that:

29 (a) the patient shall be advised on his right to appeal to the Mental  
30 Health Review Tribunal; and

1 (b) a medical report on the desirability of subsequent detention and  
2 treatment of the patient in the interest of public safety is made on each  
3 occasion.

4 43.-(1) Where the Court receives a report from the medical  
5 practitioners referred to in Section 20 to the effect that the mental disorder  
6 from which the patient is suffering is of such severity as to warrant  
7 maximum restriction of that patient, the Court shall issue a compulsory  
8 order with restriction provided that the patient shall be advised on his right to  
9 appeal to the Mental Health Review Tribunal of his case.

Compulsory Order  
with restriction

10 (2) A compulsory order with restriction shall not be issued by a  
11 Court unless the Court in its wisdom and having regard to all the  
12 circumstances including the nature, character and antecedents of the  
13 offender and to the other available options (including terms of  
14 imprisonment) of dealing with him that the most suitable method of  
15 disposing of the case taking into cognizance the issue of public safety is by  
16 means of an order under this section.

17 44.-(1) If in the case of a child or young person brought before a  
18 juvenile or other court-

The Child  
Offender

19 (a) the court is satisfied that the young person is in need of care or  
20 protection that his parent or guardian is unable to control him, as the case  
21 may; and

22 (b) the conditions which under Section 20 of this Act are required  
23 to be satisfied for the making of a hospital order in respect of a person  
24 convicted as herein mentioned are so far as applicable, satisfied in the case  
25 of the child or young person; the court shall have the like power to make a  
26 hospital order or guardian as if the child or young person had been convicted  
27 by the court of an offence punishable on summary conviction with  
28 imprisonment and provisions of the said Section 20 shall with the necessary  
29 modifications and substitutions apply accordingly.

Removal to  
Hospital of a  
Prisoner

1                   45.-(1) If in the case of a person serving a sentence of imprisonment,  
2     the Minister or the Governor, as the case may be is satisfied by the report, of a  
3     medical practitioner who has special experience in the diagnosis and treatment  
4     of mental disorders:

5                   (a) that the said person is suffering from a mental disorder, severe  
6     mental impairment or dissocial disorder; and

7                   (b) that the mental disorder is of a nature or degree which warrants the  
8     detention of the patient in a hospital for medical treatment, the Minister or  
9     Governor may, if he is of opinion having regard to the public interest and all the  
10    circumstances that it is expedient to do so, direct by warrant, that the person be  
11    so removed and detained in such hospital as may be specified in the directive.

12                  (2) The transfer directive in the context of Subsection (1) of this  
13    section shall have the like force as a hospital order made in accordance with the  
14    provisions of Section 20 of this Act.

15                  (3) The foregoing provisions of this section shall apply for the  
16    purpose of the transfer of any person in custody pending trial as they apply for  
17    the purpose of any person serving a sentence of imprisonment.

18                  (4) For the purposes of this Section:

19                  (a) the Minister shall exercise the power to give a transfer directive in  
20    the case of a person convicted of an offence committed under any enactment  
21    made by the Government of the Federation; and

22                  (b) the Governor shall exercise the power to issue a directive in  
23    respect of a person convicted for an offence committed under an enactment  
24    made by the Government of a State.

25                                   PART VII - PROPERTY AND AFFAIRS OF PATIENTS

Application of  
Patient's properties

26                   46. The provisions of this part shall apply in respect of a person, who  
27    in the considered opinion of a High Court Judge based on competent medical  
28    evidence is incapable by reason of mental disorder of managing and  
29    administering his property and affairs; and a person whom the Judge is satisfied  
30    to refer to as a patient for purpose of this Part of this Act.