




THE MENTAL HEALTH ACT, 2001
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ACT NO. 1 OF 2001

I ASSENT


{ AMANI ABEID KARUME }
PRESIDENT OF ZANZIBAR
AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

07th JUNE 2001

**AN ACT TO PROVIDE FOR THE CARE AND PROTECTION
OF PERSONS WITH MENTAL DISORDERS**

ENACTED by the House of Representatives of Zanzibar.

Short title
and
commencement.

1. This Act may be cited as the Mental Health Act, 2001 and shall come into operation immediately upon being assented to by the President.

Interpretation.

2. In this Act, unless the context otherwise requires –

“A senior Medical Officer” means a person designated by the Minister amongst the Medical Officers to head and supervise clinical matters in a mental health care setting;

“Care” means diagnostic and therapeutic interventions for the benefit of health, including institutions-based treatment, community-based treatment and social integration and rehabilitation;

“Commissioner of Police” means the Commissioner of Police of Zanzibar and include the Regional Commander of Police whose jurisdiction is concerned;

“Medical personnel” means a health care provider whose professional qualification is of the highest category amongst staff on duty at a



Mental health care setting, according to order of priority medical doctors; psychiatric, nurses and medical assistants;

"Mental disorder" means a significant occurrence of a mental or behavioral disorder classified in the latest edition of the International Classification of Diseases published by the World Health Organization;

"Mental health care setting" means one or more services providing mental health care and other health services in a health care setting;

"Mental health coordinator" means a person appointed by the Minister pursuant to section 5 of this Act to coordinate the mental health care;

"Minister" means the Minister responsible for health matters;

"Nursing officer in charge" means a nurse designated by the Minister to head and supervise nursing in a mental health care setting;

"Principal Secretary" means the principal Secretary of the Ministry responsible for health matters;

"Applicant" means a person subjected to an application for involuntary admission;

"Visiting Judge" means a Justice from the High Court designated in accordance with section 15 (1) of this Act.

Dignity, Rights and freedoms.

3.(1) Any person who suffers with mental disorder shall be provided with health care under conditions that maintain and guarantee human dignity.

(2) The care of persons with mental disorders shall be provided in keeping with human rights and freedoms enjoyed by all citizen, the exercise of which can be limited only if an exception is provided for in legislation for a specific purpose and provided that the limitation is imposed in the least intrusive and restrictive manner.



Mental Health
Care Plan.

4.(1) The Minister shall, every three years, issue a statement on Mental Health Care Plan which shall, inter alia, incorporate the following elements:-

- (a) plans for the adequate maintenance of at least one mental health care setting in each of Unguja and Pemba Islands;
- (b) plans for the training of mental health care providers;
- (c) plans for the adequate supply of food, clothes and essential hygienic materials for inpatients;
- (d) plans of the development of good practice guidelines in mental health care;
- (e) plans for the adequate supply of medicines for the entire mental patient population;
- (f) plans for the development of a rehabilitation's programme aimed at mental health patients;
- (g) plans for the promotion of mental health and prevention of mental disorders, to the patients with priority to the school and work environments;
- (h) an earmarked district and detailed budget for mental health care, to be presented as such in the annual government budget;
- (i) plans for the gathering, compiling and analysis of relevant data on the status of mental health.

(2) The Minister shall submit that statement on the Mental Health Care Plan before the House of Representatives.

(3) The Minister shall implement the Mental Health Care Plan and evaluate its results.

(4) The first Mental Health Care Plan shall be issued and initiated within 12 months from the date of commencement of this Act.



Mental Health
Coordinator.

5. The Minister shall appoint a Mental Health Coordinator to coordinate the Mental Health Care in Zanzibar.

Mental Health
Board.

6.(1) There shall be a Mental Health Board which Shall advise the Minister on mental health and on the implementation of the provisions of this Act.

(2) The Mental Health Board shall be composed of nine members appointed by the Minister for three years term as follows:-

- (a) a Regional Court Magistrate or a person qualified to be a Regional Court Magistrate as the Chairperson;
- (b) the Mental Health Coordinator as the Secretary;
- (c) the Senior Medical Officer of each mental health care setting;
- (d) a psychiatrist;
- (e) one member from the Ministry of Youth, Labour, Women and Children Development;
- (f) two members from Non Governmental Organizations;
- (g) one member of the House of Representatives.

Mental Health
Care Settings.

7. There shall be at least one independently-operated mental health care setting in each of Unguja and Pemba Islands which shall be under the charge of a Senior medical officer who is a psychiatrist assisted by a senior nursing officer and an administrative officer who shall all report to the Mental Health Coordinator.

Voluntary Care.

8.(1) Any person who is believed to suffer from a mental disorder is entitled to apply to a mental health care setting to receive care in a voluntary manner.

(2) The parent or guardian of a minor may apply on behalf of the minor and the application shall be informal



and carry no administrative burden except standard identification documents which identified him as a parent or guardian.

(3) Upon admission, a medical personnel shall conduct an examination on the applicant to determine whether this applicant suffers from a mental disorder and shall confirm the admission unless no mental disorder can be diagnosed.

(4) Patients admitted under this section are voluntary and are free to leave the mental health care setting once allowed by his medical doctor treating him.

(5) The medical doctor treating him may, if he thinks fit, institute legal procedures to make the patient involuntary.

Involuntary Procedures

9.(1) A medical personnel on duty in a mental health care setting shall have the authority and be under a duty to:

- (a) conduct a psychiatric examination of the person brought to the setting for this purpose; and
- (b) decide whether or not the person should be involuntarily admitted in accordance with subsection (2).

(2) A person believed to suffer from a mental disorder shall be admitted for treatment into a mental health care setting without consent on the part of that person only if a medical personnel conduct a psychiatric examination and diagnoses that the person suffers from a mental disorder and should be admitted.

(3) When there is clear and convincing evidence, through the report of one or more credible witness, that:

- (i) the applicant a danger for the health or security of himself or of others as a direct consequence of the mental disorder in question; and



- (ii) at least one positive sign of this danger, such as an act, an attempt or a threat on the part of that person is reported.

(4) The medical personnel has clear and convincing clinical evidence that the patient in question is dangerous and that he should continue to be admitted in the health care center.

Unfitness to
Stand Trial.

10.(1) Any person accused of committing a crime and found by a court to be unfit to stand trial on account of a mental disorder shall be confined in a mental health care setting and deemed a patient having been admitted involuntarily.

(2) The senior medical officer shall be under duty to inform the court upon significant improvement in the mental health of a patient found not criminally responsible on account of mental disorder and the court shall order the patient to be brought before the court for assessment and further action.

Confinement.

11.(1) Any person admitted to a mental health care setting involuntarily shall be confined therein and be offered treatment.

(2) During confinement, a patient is, in particular, entitled to:

- (a) confidentiality about the patient's health status;
- (b) freedom to communicate in writing with others in a confidential manner;
- (c) opportunities to meet with visitors, including private meetings upon request;
- (d) freedom to read and write;
- (e) significant opportunities to spend time in open air if the patient so wishes;

(3) Notwithstanding the provision of subsection (2) of this section during confinement, a patient may be



subjected to the following restrictions in the exercise of patient's rights of freedoms:-

- (a) restriction of movement, as is necessary to maintain separate wards and separate rooms;
- (b) restrictions of movement, behaviors and other rights in manner and for a time period as are necessary for a patient who, by decision of a medical personnel, constitutes an immediate threat to self or others or experiences a crisis situation.

(4) A person admitted involuntarily to mental health care setting who leaves the setting without permission may be taken back informally by someone authorized by the Senior Medical Officer In-charge or, if force needs to be employed, by a police officer and this shall be documented in the patient's medical record by the Senior Medical Officer In-charge.

Admission
Formalities.

12.(1) Upon the admission of a patient, the admitting medical personnel or someone delegated by him shall:-

- (a) inform the patient of the reasons for admission as soon as the patient is found to be able to understand;
 - (b) inform the relatives in attendance at the time of admission of the reasons for admission;
- (2) Document the specific reason for admission in the patient's medical record;
- (a) inform the patient and the patient's representative if any, of the patient's right and freedoms, both verbally and handing a copy in Kiswahili or English of the Patient Information sheet appearing in schedule A;
 - (b) complete and forward the admission report in the form of schedule B to the Senior Medical Officer in-charge.



(3) Upon the admission of a patient, the Senior Medical Officer in-charge or some one delegated by him shall;

- (a) file the admission report;
- (b) forward a copy of the admission report to the Attorney-General to have the appointment of a guardian considered if the Senior Medical Officer in-charge is of the opinion that:
 - (i) the mental disorder is of a nature which may compromise the assets of the patient; and
 - (ii) the patient owns meaningful assets.
- (c) enter the name and date of birth of the patient in a register kept for this purpose;
- (d) list personal belongings in the possession of the patient upon admission in the register maintained for this purpose and store them in a safe place until discharge.

(4) The Attorney-General's Office shall go to court to have a guardian appointed to the patient pursuant to section 18 if it is deemed necessary

Treatment .

13.(1) Each medical personnel shall be under a duty to the patients that they provided with quality health care suited to their needs and in keeping with accepted medical standards.

(2) The medical personnel shall document all health care acts posed on a patient in the patients medical record.

Accounts.

14.(1) The Senior Medical Officer in charge and Nursing Officer in charge shall maintain and administer an internal individual account for each patient admitted in the setting.



(2) In each account the Medical Officer in charge and Nursing Officer in charge shall compile any monetary benefits belonging to or accruing to a patient, including any allowances provided to patients in consideration for work performed while hospitalized.

(3) The Senior Medical Officer in charge and Nursing Officer in charge shall allow patients to use a reasonable proportion of the assets compiled therein personnel expenses.

(4) Any unspent balances of these accounts shall be:

- (a) transferred under the responsibility of a guardian upon appointment or at the request of such; or
- (b) transferred to the patient himself, upon discharge; or
- (c) transferred to the estate, in the event of the opening of a succession.

(5) The Senior Medical Officer in charge and Nursing Officer in charge shall prepare an annual report stating the operations on and the balance of each account and shall make it available to the Mental Health Board and Visiting Judge within 30 days of the end of the year.

Visiting Judge.

15(1) The Chief Justice shall designate a Judge from the High Court to act as Visiting Judge under this Act for a renewable period of one year.

(2) The Visiting Judge shall visit each mental health care settings every 90 days and perform the following duties.

- (a) to review the need to maintain involuntary confinements of patients so that all patients are considered at least once every 180 days;
- (b) to hear and meet privately with patients and staffs upon request;



- (c) to inspect the facilities;
- (3) The Visiting Judge shall be empowered to:
 - (a) discharge patients upon a finding that they do not meet the criteria set out in section 9(1);
 - (b) make orders which deemed necessary in pursuance of the objectives of this Act;
- (4) Upon each visit, the Visiting Judge shall complete a visiting report and, within 30 days, forward a copy, along with any order made by him, to the Principal Secretary.
- (5) The Visiting Judge shall notify the Attorney Generals Chambers to have the appointments of a guardian considered if the Visiting Judge is of the opinion that:
 - (a) the mental disorder is of nature which may compromise the assets of the patient; and
 - (b) the patient owns meaningful assets.

Temporary
Leave.

16.(1) A patient admitted involuntarily may, by decision in writing of a medical personnel documented in the patient's medical record, be granted temporary leave from the mental health care setting for a maximum period of 90 days, provided that adequate family or community support is available to take charge of the patient.

(2) During the leave, the patient shall be deemed to continue to be a patient admitted involuntarily but shall be exempted from confinement in the manner documented in the patient's medical record.

(3) The treating physician may require a patient to whom a leave is granted to abide by certain conditions aimed at facilitating reintegration and at ensuring adequate treatment.

(4) A patient who fails to abide by a leave condition or who fails to return to the mental health care setting upon termination of the leave shall be considered as having left a mental health setting without permission



(5) A temporary leave can be renewed once.

Discharge of

Involuntary Patient.

17.(1) A medical personnel shall be under a duty to discharge a patient admitted to a mental health care setting involuntarily as soon as:

- (a) the patient does not meet the conditions set forth for admission in section 9(1) (b); or
- (b) an order to that effect is made by a Visiting Judge or a court of competent jurisdiction.

(2) Upon discharge, the Senior Medical Officer in charge shall refer the patient to a designated personnel in the community to assist the patient in reintegrating in the society and shall document the discharge and the person so designated in a register maintained for that purpose.

(3) The Senior Medical Officer in charge shall have the authority to institute a new legal procedures of returning a patient in the Mental Health Care in accordance with the provision of subsection (1) (b) if he is satisfied that patient is entitled to be confirmed in the Mental Health Care

Powers of
the High Court.

18.(1) The High Court may, upon request of an interested party or of its own motion made order for the care, well – being and management of the affairs of a person found to be unable to decide on these matters by reason of a mental disorder.

(2) Upon request by an interested party, the High Court shall, by order, appoint a guardian in charge of the care, well – being and affairs of a person if it is found that the person is likely to be unable to decide on these matters on his own for a significant period of time by reason of a mental disorder.

(3) The High Court shall provide the person concerned with an opportunity to be heard prior to making any order under this section and shall notify the person after any order is made.

(4) Orders taken under subsection (2) shall be reviewed upon request by an interested party stating new



facts and shall be automatically reviewed by the High Court every three years.

(5) The High Court shall, by order, terminate the guardianship when it is found that the condition set forth in subsection (2) is no longer exist.

Guardianship.

19.(1) The guardian appointed under section 18 shall be under a duty to take decisions which are in the best interest of the person under protection and shall call for and consider the opinion of the person protected prior to taking a decision.

(2) The guardian shall be empowered to consent on behalf of the protected person in accordance with the Court order and for financial matters not exceeding a total value of what the court will consider to be reasonable.

(3) The guardian shall, yearly and upon the termination of guardianship, file with the High Court a report describing all decisions taken on behalf on the protected person and providing a financial statement of his management.

(4) The High Court shall, within 60 days review all reports filed under the provisions of this Act.

(5) The High Court shall, upon request by an interested party, review any decision taken by the guardian.

Police.

20.(1) It shall be the duty of the Commissioners of police to have the Police forces intervene in a timely and appropriate fashion upon a request for assistance or report involving a person with mental disorder by an interested party.

(2) It shall be within the powers and the duty of the Commissioners of Police to ensure that any one reasonably suspected of fulfilling the conditions for involuntary confinement set forth in subsection 9(2) is timely brought to a mental health care setting.

(3) It shall be within the powers and duty of the Commissioners of Police to confine someone subject to subsection (21) in a suitable place until the person can be



brought to a mental health care setting provided that such confinement is necessary and no longer than 48 hours.

Recourses.

21.(1) An interested party dissatisfied with decision regarding person confined or treated on account of mental disorder may apply to the Visiting Judge sitting in the High Court for the review.

(2) Recourses to the High Court shall require no specific format provided that a legible written submission is received by the court.

(3) Any interested party appearing before the court under this Act is entitled to be represented by advocate.

Offences and Liabilities.

22.(1) Any person who breaches any of the provisions of this Act commits an offence and shall be liable on conviction to a fine of not less than 50,000 shillings.

(2) In particular, any person commits an offence who intentionally does or attempts to do, by action or omission, any of the following:

- (a) to participate in the wrongful commitment of someone in a mental health care setting;
- (b) to assist or permit a patient admitted involuntary to a mental health care setting to escape;
- (c) to commit any act of cruelty, abuse or neglect towards a patient;
- (d) to fail to comply with any duty assigned under the provisions of this Act.

(3) It shall be the duty of all persons acting in official capacity under this Act to denounce behaviors or practices known to or which should be reasonably suspected by these persons to constitute offence under this Act to the Attorney General.

(4) Official functions performed in official capacity, in good faith and without gross negligence under this Act shall be immune from civil liability.



Default by
Visiting Judge

23(1) The Senior Medical Officer shall be under a duty to notify the Principal Secretary within 30 days after a Visiting Judge has not carried out a visit under section 15.

(2) The Principal Secretary shall be under a duty to forward a reminder letter to the Visiting Judge that be in more than 30 days in default of carrying out this duty.

(3) The Minister shall be under a duty to file a formal letter of complaint to the Chief Justice with copy to the Attorney General should the Visiting Judge be in default of carrying out the duties set out in section 15 for more than 90 days.

Powers of Minister.

24. The Minister may make regulations prescribing matters that are required or permitted under this Act or are necessary or convenient to be prescribed to give effect to the objectives of this Act, including:

- (a) the implementation of the Mental Health Care Plan to be devised in application of section 4;
- (b) the establishment and management of mental health care settings;
- (c) the designation of the health care providers authorized to prescribe medication to persons with mental disorders.

Revision of
the Act.

25.(1) Five years after the entry into force of this Act, and subsequently every ten years, the Mental Health Board shall be under a duty to submit a report to the Minister evaluating the operation and effective of this Act and formulating the recommendations for changes.

(2) The report referred to in subsection (1) of this section of the Mental Health Board shall be presented by the Minister to the House of Representatives within six months of its reception.

Repeal.

26. The Mental Patient Decree, Cap. 72 is hereby repealed.



**Schedule A
Patient Information Sheet
(Mental Health Care Act)**

(Official version to be available in both Kiswahili and English)

(insert name of patient)

Note : Check relevant portion cross out the portion which is not applicable.

Voluntary Admission

You have been admitted to a hospital setting to receive mental health care as a result of your own request or that of your parent. If you are aged 18 or over, you are free to leave at will. However, you are advised to inform your treating physician before leaving in order to avoid any harmful interruption of treatment and to facilitate your return home.

Involuntary Admission

You have been admitted to a hospital setting to receive mental health care by order of the authorities. The exercise of some of your rights and freedoms may be temporarily restricted. You will be discharged from the hospital (you will be free to go) when it is felt that you do not constitute a danger to the health or security of yourself or others.

A Visiting Judge comes to the hospital every 90 days. The Visiting Judge is there to protect your interests and independent from the hospital. You are entitled to ask to meet in private with the visiting Judge. You may inform the Visiting Judge of any complaint.

You are entitled to benefit from the same dignity, rights and freedoms as patients in any other types of hospital.

Please note that :

- (a) You are entitled to discuss the elements of your treatment with your treating doctor;
- (b) You are entitled to;
 - (i) be kept away from patients suffering from highly disruptive disorders which may jeopardize your recovery;
 - (ii) be kept with a separate group of patients suffering from a similar health disorder, if you so wish;



- (iii) confidentiality about your health status, unless directives are given by the Court or Attorney General.
- (iv) freedom to communicate in writing with others in a confidential manner
- (v) opportunities to meet with visitors, including private meetings upon request
- (vi) freedom to read and write
- (vii) significant opportunities to spend time in open air if you so wish
- (viii) use of personal belongings
- (ix) adequate food

Schedule B Admission Report

(This Schedule should be finalized by the authorities of the Ministry of Health and Attorney General's chambers in light of requirements they feel are needed. For ease of reference, it is recommended that it be no longer than one page)

Proposed Contents

Identification of persons seeking admission (and grounds for request)

Identification of patient (name and surname, sex, civil status, occupation, address, date of previous hospitalization).

Full identification of relatives (if available)

Examination report (summary of case history, diagnosis, treatment prescribed)

Grounds for admission (e.g. voluntary admission, finding of dangerousness)

Reported positives act as evidence of dangerousness, if applicable

Decision to admit

Free space for written comments by Visiting Judge



Schedule C

Report of Visiting Judge

(This Schedule should be finalized by the authorities of the Ministry of Health and Attorney General's Chambers in light of requirements they feel are needed. For ease of reference, it is recommended that it be no longer than one page)

Proposed contents

Name of patients seen/met

Findings

Order

Passed in the House of Representatives on the 31 January, 2001.

A handwritten signature in blue ink that reads "Khamis Juma Chande".

{ KHAMIS JUMA CHANDE }
CLERK OF THE HOUSE OF REPRESENTATIVES