



Republika e Kosovës
Republika Kosovo - Republic of Kosovo
Kuvendi - Skupština - Assembly

Law No. 05/L-025

ON MENTAL HEALTH

The Assembly of the Republic of Kosovo,

Based on Article 65 (1) of the Constitution of the Republic of Kosovo,

Approves

LAW ON MENTAL HEALTH

CHAPTER I
GENERAL PROVISIONS

Article 1
Purpose

This law aims to protect and promote mental health, prevent the problems associated with it, guaranteeing the rights and improving the quality of life for persons with mental disorders.

Article 2
Scope

This law defines the procedures, conditions for the protection of mental health by providing health care, proper social environment for people with mental disorders and preventive policies for the protection of mental health.

Article 3 Definitions

1. Terms used in this Law shall have the following meanings:

1.1. **Mental Health** - mental health is defined as a state of well-being in which the individual realizes his/her potential, can face the normal stresses of life, can work productively and contribute to himself/herself and to the community;

1.2. **Mental disorder** - substantial disorder of thought, feeling, perception, orientation or memory that impairs behavior, judgment and capacity to recognize the reality or ability of a person to meet the requirements of life as a result of mental illness, mental backwardness when associated with pathological aggressive behavior, or seriously irresponsible as well the disorders with alcohol and drug abuse.

1.3. **Mental health institution** - health institution that offers diagnostic opportunities, treatment and rehabilitation of persons with mental disorders.

1.4. **Psychiatrist** - specialist physician in field of psychiatry or neuropsychiatry.

1.5. **Children** - a person who has not attained the age of eighteen (18) years;

1.5.1. **Minor** - a person between the ages of fourteen (14) and eighteen (18) years;

1.5.1.1. **Young adult** - a person between the ages of fourteen (14) and sixteen (16) years;

1.5.1.2. **Adult juvenile** - a person between the ages of sixteen (16) and eighteen (18) years.

1.6. **Multidisciplinary Teams** - teams composed of specialists from several fields such as physicians, nurses, psychologists, social workers, psychosocial advisors, work therapists, logopeds, development therapists or other professionals, who act in a coordinated manner, according to the respective protocols for maintaining and improving mental health;

1.7. **Admission to the Health Institution** - the procedure from arrival or bringing of a person for control or admission to the decision for voluntary treatment or involuntary stoppage in that institution;

1.8. **Mental Health Care** - set of actions and measures that affect the determination of the diagnosis of mental disorders and treatment and rehabilitation of persons with mental disorders, as well as all other measures that affect the prevention of these disorders;

1.9. **Informed Approval** - approval given by a person who has the ability to understand the content of approval and consequences of granting or denial of approval;

1.10. **Rehabilitation** - restoration and preservation of social adaptation skills of a person with mental disorder;

1.11. **Stigma** - behavior of contempt, humiliation or disrespect to a person with mental disorders;

1.12. **Treatment** - set of operations assessment, diagnosis, treatment and rehabilitation, which involves the relationship between the patient and multidisciplinary team, the care institutions for mental health and other actors involved in health care;

1.13. **Voluntary treatment** - treatment by the request or consent of the person suffering from mental disorder or at the request of the legal representative;

1.14. **Involuntary treatment** - treatment of a person who suffers from a serious mental disorder, which is made without his/her approval and confirmed by a court decision;

1.15. **Electroconvulsive therapy** - the treatment of mental disorders through the use of electricity to the treatment of specific cases resistant to other forms of treatment;

1.16. **Hospital and University Clinical Service in Kosovo (HUCSK)** – independent health organization of a special public interest in the level of secondary and tertiary health care, as a legal entity with specific rights, obligations, responsibilities and authorizations defined by the Law on Health;

1.17. **Psychiatric and legal commission** - professional committee which evaluates the mental condition of a client/patient.

Article 4

Protection and promotion of mental health

Protection and promotion of mental health is carried out through measures that contribute to provision or restoring mental equilibrium of the individual, by strengthening individual capacities, promoting the integrity, improving acceptance and fighting discrimination and stigma in his social environment.

Article 5
General principles of care in mental health services

1. General principles of care in mental health services are:
 - 1.1. equal treatment and without discrimination of persons with mental disorders, in order to respect the physical integrity and human dignity;
 - 1.2. the provision of health care for persons with mental disorder in a less restrictive environment, mainly at the community level, to avoid at the maximum the displacement from family environment and to facilitate the social integration and rehabilitation;
 - 1.3. creation of facilities through programs and projects to be implemented by competent bodies for these people and their families with a view to their inclusion in society;
 - 1.4. provision of care for persons with mental disorders from multidisciplinary teams that respond in a complex manner to the medical, psychological, social and rehabilitation needs;
 - 1.5. exercise the rights of persons with mental disorders in accordance with international acts applied in Kosovo;
 - 1.6. in all instances where persons are under the age of eighteen (18) years, shall be taken as the guiding factor in deciding the principle of the best interest of the child.

Article 6
The rights of persons with mental disorders

1. Persons with mental disorders enjoy:
 - 1.1. the rights and freedoms guaranteed by the Constitution;
 - 1.2. the right to receive health services accessible and effective in equal terms as all other patients;
 - 1.3. the right to treatment and protection, based on respect for their individuality and dignity;
 - 1.4. the right to accept or not the proposed diagnostic and therapeutic intervention, except other cases specified in this law;
 - 1.5. the right to be informed of their rights, and to be part of preparation of the individual treatment plan;

- 1.6. the right to claim compensation for damage caused by error in treatment or possible ill treatments;
 - 1.7. the right to request reconsideration of forced hospitalization or treatment;
 - 1.8. the right to confidentiality on data due to their state of health;
 - 1.9. the right not to be compelled by force to be examined in view of medical terms in order to determine a possible mental disorder, except of cases in accordance with procedures prescribed in this law;
 - 1.10. the right to provide appropriate living, hygienic, nutritional and security conditions;
 - 1.11. the right to appeal to the provision of mental health services;
2. Exercise of the rights of persons with mental disorders may be limited only in cases provided legal provisions in force. These limits depend on the client's medical condition and can not violate the essence of freedoms and human rights guaranteed by international conventions recognized by the Constitution of the Republic of Kosovo.

Article 7 Confidentiality

Persons conducting activities anticipated in this law, are obligated to maintain the confidentiality of all information received by the patient in health care institution. These persons are exempted from the obligation of professional secrecy maintenance only when the information is given to the doctor treating the patient and/or social welfare organizations and bodies that are entitled by law to request this information in accordance with legal provisions in force for the protection of personal data.

Article 8 Protection from discrimination and inhuman treatments

1. People with mental disorders are provided effective protection from discrimination and any form of behavior that incites discrimination, according to the law and the legal provisions in force.
2. It shall be prohibited any violation, humiliation, torture, inhuman treatment or punishment against person with mental disorders.

Article 9
Removing or limiting the ability to act

1. Removing or limiting the ability to act for persons with mental disorders is prohibited, except the cases as provided with the legal provisions in force. In special cases, this measure can be proposed at the request of the psychiatric - legal commission. The respective decision is made by the court in accordance with the legal provisions in force.
2. Scope, powers, composition and mandate of the psychiatric-legal commission, shall be governed by bylaws issued by the Ministry of Health.
3. Holder of mental health service specialized with beds and/or other persons who have legitimate interests must notify the basic court if they ascertain that the legal guardian of a person with a mental disorder does not fulfil its obligations. In this case, the court decides to replace the guardian.
4. Measures in case of non-compliance, cooperation and care of the family member/legal guardian towards patient with serious mental disorder is regulated by a special sub-legal act issued by the Ministry of Health.

CHAPTER II
MENTAL HEALTH SERVICES

Article 10
Categories of services

1. Health services, through which mental health care is provided are:
 - 1.1. Primary health care
 - 1.2. Secondary Health Care
 - 1.3. Tertiary Health Care.

Article 11
Primary health care service

1. Primary health care service for mental health is the service provided by family doctors and nursing service, who perform their activity in primary health care institutions.

2. Primary health care service is based on the basic package of primary health care services where is included identification, referral and follow-up of the client with mental disorders.

Article 12 **Secondary health care Service**

1. Mental health services at secondary level of health care are part of HUCSK and they are represented by:

- 1.1. Department of Psychiatric units within General Hospitals.
- 1.2. Mental health centers in the community and Integrating houses;
- 1.3. Center for Integration, rehabilitation, socialization of the chronic psychiatric sick people in Shtime.

Article 13 **Tertiary health care Service**

1. Mental health services at secondary level are provided at the HUCSK in the following:

- 1.1. Clinic of Psychiatry;
- 1.2. Respective institution of Forensic Psychiatry;
- 1.3. Respective institution of Addiction Diseases.

Article 14 **Mental health services for children**

1. Mental health services for children are an integral part of the services in all categories of mental health services as provided for in Article 10, sub paragraph 1.1, Article 12, paragraph 1, sub-paragraph 1.1, and Article 13 paragraph 1 sub-paragraph 1.1 of this Law.

2. In mental health hospital services, children cannot be placed in common areas with adults.

3. Children opinion should be taken into account in cases of involuntary treatment and in deciding involuntarily concerning the age and maturity of a child.

Article 15
Management of mental health Services

1. Mental health services in primary health care are managed on the basis of the Statute of the Main Family Medical Centers, whereas mental health services in secondary and tertiary health care are managed on the basis of the Statute of SHSKUK.
2. At all levels of mental health services are applied unique treatment programs based on scientific data and protocols proposed by professional health chambers in the country and approved by the Ministry of Health.

CHAPTER III
AWARENESS IN CONNECTION TO MENTAL DISORDERS

Article 16
Care at family

1. State responsible authority guarantees psychological, psycho-pedagogical support, personal or family assistance services as well as financial support through schemes foreseen by legal provisions for persons with disabilities or persons with mental disorders.
2. Families with persons with mental disorders, in cooperation with state responsible institutions and nonprofit organizations that deal with the care, treatment and rehabilitation of persons with mental disorders, care and support for the integration of these persons in their family, community and society.
3. Local government bodies and Centers for Social Work within their competence, in collaboration with health structures, take all measures to support people with mental disorders and their families.

Article 17
Vocational rehabilitation

1. Persons with mental disorders are entitled to benefit from the policies of vocational training and rehabilitation when their medical health condition and educational conditions allow such a thing.
2. The way the benefit and inclusion of persons with mental disorders in these policies are determined by the legal provisions in force.

Article 18
Mental health in residential institutions of social care

1. Persons who are in residential social care institutions are offered counseling, treatment, rehabilitation and mental health care equally and according to health standards, approved by the Ministry of Health.
2. The way of organization and provision of services, as provided in paragraph 1. of this Article shall be determined by special sub-legal act proposed by the Ministry of Health in cooperation with the Ministry of Labour and Social Welfare, adopted by the Government.

CHAPTER IV
TREATMENT IN SPECIALIZED MENTAL HEALTH SERVICES WITH BEDS

Article 19
Voluntary treatment

1. A person with mental disorders receives voluntary treatment in service of specialized mental health care with beds, following the issuance of written approval from him, provided the preliminary information.
2. Approval for minors or persons with limited capacity to act issues the guardian or their legal representative. In cases when the minor or person with limited capacity is capable to express his/her opinion and however is subject of treatment by the request of his/her guardian or legal representative, he/she has the right to appeal against such a decision to the court with independent representation.
3. Informed consent is obtained through discussion with the patient about the nature and purpose of the proposed therapeutic intervention. The content of the discussion and informed approval form are part of the patient's medical card. The patient signs for approval issuance in the card as well as in the form of informed approval.
4. A person with mental disorders is referred to specialized mental health services care with beds, after preliminary examination by the doctor in primary health care, mental health services in the community mental health services in the community or other public or private ambulance health services.
5. A person with a mental disorder, the guardian or his legal representative have the right to request termination, refusal or complain about the treatment at any moment in the process, a thing which can be challenged only when the criteria for involuntary treatment are fulfilled.

6. Voluntary treatment of a person with mental disorders in specialized mental health service with beds cannot serve for any occasion for the purpose of reviewing the ability to work, except in specific cases when requested by respective Commission within the Ministry of Labour and Social Welfare.

Article 20

Involuntary treatment

1. Subject of involuntary treatment is the person who involuntarily is subject to mental health service specialized with beds or after being admitted voluntarily is held involuntarily, according to the Commission's determination of specialist doctors.

1.1. scope, powers, composition and mandate of the Committee of specialist doctors, shall be governed by bylaws issued by the Ministry of Health.

2. Cases for which is deemed that a person with mental disorders should be treated involuntarily are when:

2.1. there is a severe mental disorder that limits his / her ability to understand or control his / her behavior;

2.2. without involuntary treatment the person endangers life, health or safety of himself or the others;

2.3. existing possibilities for health treatment in community are exhausted and necessary medication is provided only by laying on mental health care specialized with beds, in accordance with as less as possible restrictive principles of treatment;

2.4. opinion of the affected person is considered;

2.5. there are not available measures with less interference to provide necessary care.

3. The decision for involuntary treatment of a person is taken by the Commission of specialist doctors only after having conducted his examination. The person with mental disorder, his close family members or legal guardian have the right to be informed of the reasons for taking such decision and the rights that the patient enjoys in this state.

4. Involuntary treatment of a person with mental disorders in mental health service specialized with beds cannot serve for any occasion for the purpose of reviewing the capacity for work.

5. Treatment procedures and the patient information and other interested persons are made according to the law.

Article 21

The rights of the person who shall be subject to involuntary treatment

1. The patient, who is subject to involuntary treatment, is entitled:
 - 1.1 to be provided with information in all cases for his rights;
 - 1.2 to represent personally legitimate interests in procedural actions of involuntary hospitalization. In situations where the health condition does not allow, these interests are represented by legal representative;
 - 1.3. to be guaranteed legal protection in all procedural actions in which he participates, as well as in procedural actions, dealing directly with him and where he is not present;
 - 1.4. to explain in writing within forty-eight (48) hours reasons for involuntary treatment;
 - 1.5. to appeal the decision of involuntary treatment to the competent court;
 - 1.6. the right to respect the private and family life including, also, the privacy of communication and correspondence.

Article 22

The procedure for admission to specialized mental health services with beds for persons who need involuntary treatment

1. A person found in the circumstances envisaged in Article 19 of this law, is sent to mental health services with specialized with beds by medical personnel of emergency services, a person close to him/her or by any officer or other person who is aware of his/her health condition.
2. Kosovo police, at the request of the medical staff, helps him in performing medical examinations and transfer of the person in the service of mental health care specialized with beds, and provides temporary protection of his property. In case of lack of immediate assistance of medical personnel, Kosovo Police is forced to accompany the person in the presence of family members or other relatives in the closest emergency medical service.
3. The doctor in the service of mental health care specialized with beds, who decides on the involuntary treatment of a person shall immediately inform the police or medical personnel that has accompanied, and other family members who accompany and legal representative, if present. A person has the right to communicate with persons next to him or his legal representative.

4. The doctor in the service of mental health care specialized with beds, who decides on involuntary treatment, describes in detail in the medical card all procedures followed and provides notification of the chief of the service for involuntary hospitalization, within twenty-four (24) hours.

Article 23 **Review of involuntary treatment**

1. Head of mental health service specialized with beds orders in written in the medical card the reassessment of the health status of the person involuntarily admitted. Re-evaluation is performed by Commission of specialist physicians who has not taken part in the initial hospitalization procedure of admission and involuntary treatment.

2. After re-evaluation of health status, the medical staff fills in the medical card with all necessary information and refers it to service superintendent if involuntary treatment is grounded or ungrounded or there are no medical reasons to hold the person in such conditions.

3. If, after reassessment, the head of service determines that there are no medical reasons to hold the person under conditions of involuntary treatment and orders the immediate removal of the person from involuntary treatment. The decision of the chief of service and his reasons are noted in details in the medical file.

4. If, after reassessment, the head of service determines that there are reasons to hold the person under conditions of involuntary treatment, the same person continues to receive involuntary treatment in the service. Following this decision, within forty-eight (48) hours, the head of the institution where the service is provided by mental health service specialized with beds, referred by the chief of service addresses to the basic court to assess the performed procedure. A copy of the application is available to patient, a close family member and/or his legal representative.

Article 24 **Involuntary treatment by court decision**

1. The judge reviews the application submitted by the head of the institution, which provides mental health services specialized with beds, for the evaluation of involuntary treatment, not later than forty-eight (48) hours of its submission.

2. The judge's decision is implemented immediately by the mental health service specialized with beds.

3. In any case, when there are no medical reasons for involuntary treatment, head of the institution where the mental health service specialized with beds is provided, family or legal representative submit the request to the competent court to revoke the decision of the court.

Article 25
Specific medical and surgical treatments

1. Any medical and surgical treatment, including electroconvulsive therapy to people with mental health disorders, applies in any case, in the interest of the health needs of the patient, by informing and receiving the approval of the patient or his legal representative in accordance with the legal provisions in force.
2. Electroconvulsive therapy is applied after the informed approval by patient himself or his legal representative, according to protocols approved by order of the Minister of Health. Electroconvulsive therapy does not apply to minors.
 - 2.1. the commission of specialist doctors decides on the application of electroconvulsive therapy;
 - 2.2. electroconvulsive therapy can be applied only in tertiary health care institutions.
3. Electroconvulsive therapy is not applied on children.
4. Rules of professional ethics, according to which medical and surgical procedures are performed are also applied in cases of persons with mental disorders.

Article 26
Research and scientific research

Research and scientific research on persons with mental disorders shall be undertaken only after receiving the informed consent from these patients.

Article 27
Physical limitations

1. Physical limitation of persons with mental disorders applies to mental health institutions specialized with beds and includes, according to respective protocol, the following elements:
 - 1.1. keeping the person with force;
 - 1.2. forceful use of medicines;
 - 1.3. immobilization;
 - 1.4. insulation.

2. Physical limitation applies for short periods of time with clear objectives, according to protocols approved by the Ministry of Health. All procedures followed for the implementation of physical restraint and the reasons for taking them are described in detail in the patient's file.
3. During physical restraint, contact of the mental health service staff to the client must be active and ongoing, that goes beyond routine monitoring, according to protocols approved by the Ministry of Health.
4. It is forbidden the use of physical restraint as a punishment instrument or as a facilitator for the service staff.
5. Physical limitation applies in circumstances when:
 - 5.1. is authorized in writing by the psychiatrist;
 - 5.2. is performed in less restrictive/austerity form which provides security and control of the aggressive behavior of the patient;
 - 5.3. The force used is proportional to the perceived danger;
 - 5.4. Service of mental health specialized with beds has the necessary infrastructure to implement safer physical limitation by the standards approved by the Ministry of Health.
6. Client/family member, legal representative or respective state institution must be informed within forty eight (48) hours, when the client is or becomes subject to physical restraint.

CHAPTER V

MENTAL HEALTH IN INSTITUTIONS OF EXECUTION OF THE CRIMINAL DECISIONS

Article 28

Mental health in institutions of execution of the criminal decisions

1. Institutions of health for the execution of penal decisions are institutions that serve for the treatment of persons with mental disorders who have committed criminal act for whom the competent courts has ruled a forced treatment in a health institution or the inmates who exhibit mental disorders while serving a sentence.
2. Any person who is found in institutions for the execution of penal decisions and suffering from mental disorder is entitled to equal health treatment within the institutions

for the execution of penal decisions, under same standards approved by the Ministry of Health and other health institutions.

3. Ministry of Health, through mental health services, as needed provides the appropriate assistance for diagnosis, treatment and rehabilitation of patients with mental disorders who are held in the institutions for the execution of penal decisions.

4. The Ministry of Health in cooperation with the Ministry of Justice shall propose to the Government for adoption the sub-legal act, where they define the rules of organization and functioning of mental health services in institutions for the execution of penal decisions.

CHAPTER VI MENTAL HEALTH MONITORING

Article 29 Mental Health Professional Council

1. Mental Health Professional Council is an advisory body of the Minister of Health. The scope, competencies, composition and the mandate of the Mental Health Professional Council shall be defined with sub-legal act proposed by the Ministry of Health and approved by the Government.

2. Mental Health Professional Council advises the Minister of Health to implement the obligations which come out of this law and for significant legal review, organizational and technical in the field of mental health.

Article 30 External monitoring of the mental health service

Ombudsperson, through his mechanisms, regularly observes through periodic inspections, the respect for human rights and standards provided to persons with mental disorders in the areas of mental health service.

Article 31 Participation of nonprofit organizations

1. The Ministry of Health supports initiatives of the nonprofit organizations which aim the assistance in the realization of the strategic objectives of the Ministry of Health to develop and improve the institutions of mental health care, as well as those organizations that aim the external and independent monitoring of respect of human rights in this sector.

2. The activity of non-profit organizations in the premises of mental health care institutions is regulated based on understanding and cooperation agreements with the Ministry of Health. In any case, during this activity, these organizations comply with legislation in force and provide the necessary assurance of ethical and legal use of personal and confidential data.

Article 32
Review of requests/complaints from interest groups

1. Institutions that provide mental health services are obliged, within fifteen (15) working days, to examine all requests, complaints and proposals made by associations or other voluntary groups of patients, family members or interested persons to protect the interests of the mentally ill.

2. The interested party has the right to file an appeal against the decision of the institutions referred to in paragraph 1. of this Article, to the Ministry of Health within fifteen (15) working days. The ministry of health should respond on the appeal of the party within thirty (30) working days.

3. Against the decision of the Ministry of Health, the party has the right to appeal to the competent court within the legal deadline.

CHAPTER VII
PENALTY PROVISIONS

Article 33
Penalty Provisions

1. Violations of the provisions of this Law when not constituting a criminal offense constitute an administrative offense and are punished as follows:

1.1. violation of Article 7 disclose of professional secrecy except as otherwise provided for in this law shall be punished with deprivation of the right to practice the profession up to 3 (three) years.

1.2. violation of paragraph 1. of Article 19 performing of voluntary treatment without informed approval, shall be punished with deprivation of the right to practice the profession up to 3 (three) years.

1.3. violation of paragraph 3. of Article 20, failure to inform about the rights and the reasons for treatment shall be fined with five hundred (500) Euros;

1.4. violation of paragraph 4. of Article 22, failure to notify the chief of service timely shall be fined with five hundred (500) Euros;

1.5. violation of paragraph 4. of Article 23, failure to respect the set deadlines shall be fined with five hundred (500) Euros;

1.6.violation of Article 25, the performance of specific medical treatments and surgery, in contradiction to this Article, shall be punished with deprivation of the right to practice the profession up to 3 (three) years and a fine of one thousand (1.000) Euros;

1.7.violation of Article 26, conducting research for scientific purposes without the consent of patients receiving involuntary treatment shall be punished with deprivation of the right to practice the profession, up to 3 (three) years and a fine of one thousand (1,000) Euros;

2. Authority responsible for implementation and enforcement of fines for violations from sub-paragraph 1.2, 1.3, 1.4, 1.5, 1.6 and 1.7. of this Article is the Inspectorate of the Ministry of Health.

3. Authority responsible for implementation and enforcement of fines for violations from sub-paragraph 1.1., 1.6. and 1.7 of this Article is the Chamber of Health Professionals.

Article 34 **Issuance of sub-legal acts**

1. For implementation of this Law, within one (1) year from the date of entrance into force of this law, the Government of Kosovo and respective ministries shall issue respective sub-legal acts foreseen by this Law.

2. Sub-legal acts that are applicable now shall remain in force until the issuance of new sub-legal acts, provided that they are not in contradiction with this Law.

Article 35 **Repeals**

With the entry into force of this law, all legal provisions that are in contradiction to this Law shall be abrogated.

Article 36 **Entry into force**

This law enters into force fifteen (15) days after publication in the Official Gazette of the Republic of Kosovo

Law No. 05/L-025
24 October 2015

President of the Assembly of the Republic of Kosovo

Kadri VESELI