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

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-

(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 illness 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 health services.
health and substance abuse treatment facilities in Nigeria.

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

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

(2) The Commission-

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

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

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

4. The object of the Commission is to:

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

(b) Implement mental health and substance abuse policy;

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

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

5. The Commission shall-

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

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

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

(d) promote and facilitate collaboration among agencies and
disciplines for the implementation of policies, plans of mental health and
substance abuse related programs;

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

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

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

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

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

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

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

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

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

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

(o) have the power to impose administrative sanctions from time to
time on defaulting facilities;

(p) have the power to enter, search and seal any facility subject to the provisions of this Act;

(q) have powers to enforce compliance with the provisions of this Act;

and

(r) perform such other duties or functions as may be necessary for the effective implementation of this Act;

(s) shall take steps to enlighten and inform mental health and substance abuse service users of their rights;

(t) the commission in carrying out their duties shall ensure integrated multi disciplinary services.

6.- (1) There is established for the Commission a Governing Board (in this Act referred to as "the Board").

(2) The Board shall consist of the following-

(a) the chairperson shall be a retired mental health service provider with considerable experience in the field of mental health;

(b) the Chief Executive/ Executive Secretary of the Commission shall be a qualified and practicing Psychiatrist of not less than 10 years' experience as a Consultant Psychiatrist and not less than level 15;

(c) a representative of the public sector, who shall be a Medical Director of one of the Federal Neuropsychiatric Hospitals in Nigeria;

(d) the President (or his representative) of the Association of Psychiatrists in Nigeria;

(e) the President (or his representative) of the Association of Psychiatric Nurses of Nigeria;

(f) the President (or his representative) of the National Association of Clinical Psychologists of Nigeria;

(g) the chairman (or his representative) of the Association of medical Social Workers of Nigeria;

(h) the President (or his representative) of the National Association of
Occupational Therapists;

(i) representative of the Human Rights Commission;

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

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

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

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

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

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

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

(a) his term of office has expired;

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

(c) he becomes bankrupt;

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

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

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

(g) he dies; and,

(h) he possessed a professional qualification on the basis of which
he was a member and he is disqualified or suspended, other than at his own
request, from practicing his profession in any part of Nigeria by the order of
any competent authority made in respect of him personally;

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

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

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

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

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

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

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

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

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

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

(8) The Chief Executive shall have a secretariat with designated
personnel to assist with the running of the Council
9.- (1) The Board shall meet at least once every three months for the dispatch of business at the times and in the places determined by the chairperson.

(2) The chairperson shall, at the request in writing of not less than one-third of the membership of the Board, convene an extraordinary meeting of the Board at the place and time determined by the chairperson.

(3) The quorum at a meeting of the Board is six members of the Board or a greater number determined by the Board in respect of an important matter.

(4) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board elected by the members present from among their number shall preside.

(5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of equality of votes, the person presiding shall have a casting vote.

(6) The Board may co-opt a person to attend a meeting of the Board but that person shall not vote on a matter for decision at the meeting. (7) The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

(8) Subject to this section, the Board may determine the procedure for its meetings.

10.- (1) The Board may establish committees consisting of members of the Board or non-members or both to perform a function.

11.- (1) Members of the Board and members of a committee of the Board shall be paid the allowances approved by the government

12.- (1) The Commission shall:

(a) utilise existing facilities at the primary, secondary, and tertiary levels of health care;

(b) promote the principle of integrated multi-disciplinary services
at the primary, secondary, and tertiary levels of health care, in communities, facilities, prisons, children's homes, educational establishments and other areas of need to:

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

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

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

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

(a) appointment, promotion and disciplinary control of all staff of the Commission;

(b) appeals by staff against disciplinary measures; and

(c) such other matters that are necessary for the efficient performance of its functions under this Act.

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

(2) Notwithstanding the provisions of subsection (1) of this section, the Commission may appoint a person to an office on such terms and conditions which preclude the grant of pension in respect to that office.
PART III - MENTAL HEALTH REVIEW TRIBUNAL

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

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

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

(2) The Tribunal at each sitting consists of-

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

(b) a consultant psychiatrist,

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

(d) a service user.

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

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

(3) The Tribunal shall review and monitor:

(a) cases of involuntary admissions and treatment processes; 

(b) long-term stay voluntary admissions; and 

(c) treatments that require a second opinion.

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

(5) The Tribunal shall in the performance of its function determine its own procedures.
(6) The Tribunal shall ensure that all its proceedings are properly recorded and documented.

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

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

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

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

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

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

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

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

(2) The application may request:

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

(b) a discharge, or

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

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

(4) Where a person is not satisfied with the decision of the Tribunal, that person may seek redress in a court of appeal.
21. Section (9) shall apply to the Tribunal except that the chairperson, the psychiatrist and one other member constitute a quorum for the Tribunal and the Tribunal shall meet as required.

22. The chairperson of the Tribunal shall submit an annual report of the Tribunal to the Minister through the Board.

23. Members of the Tribunal shall be paid allowances approved by government.

**PART IV - RIGHTS OF PERSONS WITH MENTAL AND SUBSTANCE USE RELATED DISORDERS AND RESPONSIBILITIES OF GOVERNMENT REGARDING PROVISION OF EFFECTIVE MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES**

24. Rights of Persons in need of mental health and substance abuse services Without prejudice to the provisions of this Act, persons in need of mental and substance abuse services, shall-

*Non-discrimination*

(1) (a) exercise their civil, political, economic, social, religious, educational and cultural rights, without any discrimination on the ground of physical disability, age, gender, race, language, religion, ethnicity or nationality of the patient;

(b) be entitled to the fundamental human rights and freedoms as provided for in the Constitution.

(2) irrespective of the cause, nature or degree of past or present mental disorder have the same fundamental rights as a fellow citizen.

(3) as a tenant or employee who develops mental disorder, not be (a) evicted from the place of residence of that person, or

(b) dismissed from the place of employment of that person on the basis of mental disorder.

*Basic human Rights*

(4) A person with mental and substance use disorder has the right to enjoy a decent life as normal and as full as possible which includes, the right
to education, vocational training, leisure, recreational activities, full
employment and participation in civil, economic, social, cultural and political
activities and any specific limitations on these rights shall be in accordance
with an assessment of capacity.

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

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

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

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

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

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

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

Standards of Treatment

A person with mental and substance use disorder shall:

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

(8) receive the highest attainable standard of mental healthcare.

(9) receive treatment, which addresses holistically their needs
through a multi disciplinary care plan approach;

(10) receive treatment in the least restrictive environment and

restrictive manner,

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

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

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

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

Access to information

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

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

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

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

Privacy and autonomy

(19) The rights of a person with mental disorder include freedom to
receive in private, visits from a legal practitioner, relatives and any other
visitors, unless the attending psychiatrist or head of the facility considers it
unsafe;
(20) give free and informed consent, where possible, before any
treatment or care is provided and such consent shall be recorded in the patient's
clinical record;

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

(22) have the right to confidentiality of all information about
themselves, illness and treatment in whatever form stored and such
information shall not be disclosed to third parties without their consent unless-
(a) there is a life-threatening emergency when information is urgently
required to save lives,

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

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

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

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

(24) not be subjected to solitary confinement.

Employment Rights

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

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

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

(28) A worker aggrieved by a medical report provided in accordance
with this Act may seek redress from the Mental Health Review Tribunal.

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

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

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

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

PART V - TREATMENT, ADMISSION AND DISCHARGE OF PATIENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) Mental health care of a Child:

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

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

(c) Parents or guardians of children under the age of eighteen years
undergoing psychiatric treatment shall represent them in matters;
concerning the mental well-being of the children including consent to
treatment. In event the parent's position is not in the best interest of the child,
a temporary guardianship should be appointed. The guardianship may be
related to the child or professionally assigned;

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

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

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

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

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

(8) Care of Persons with intellectual disability:

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

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

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

28. Any person who requires treatment for mental and substance
use related disorders, may be admitted voluntarily into any hospital or other
29.- (1) A person meets the criteria for involuntary admission if there is reason to believe the person is suffering from mental disorder and because of such disorders-

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

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

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

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

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

(5) Any law enforcement officer or designated personnel may lawfully transport an individual whom they reasonably believe is a person in need of mental health treatment without the consent of said individual, to or from a designated treatment facility for the purpose of carrying out the provisions of this Law. Admission to treatment is however on the basis of the judgment of the medical practitioner and not the law enforcement officer.
(6) Upon admission of the person in need of mental health treatment, the facility shall evaluate and treat the individual as medically necessary and appropriate for the required time period not exceeding 28 days beginning from the day of admission. He may however be detained thereafter if he becomes liable for compulsory admission again by virtue of a subsequent application, order, or direction under any of the provisions of this act.

(7) Admission of a Minor:

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

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

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

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

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

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

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

(d) A minor so admitted shall be accommodated separately from adults, in an environment that takes into account his age and developmental
needs and is at least of the same quality as is provided to other minors admitted
to hospitals for other medical treatments;

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

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

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

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

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

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

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

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

(4) The recommendation shall specify in full detail-

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

(b) the facts on which the opinion has been formed, distinguishing
facts observed personally from those observed by somebody else;
(c) that person is suspected to lack capacity to make informed
treatment decisions, and
(d) that the treatment is necessary to bring about an improvement in
the person's condition, restore capacity to make treatment decisions, prevent
serious deterioration or prevent injury or harm to self or others.
(5) The judicial review thereof shall determine-
(a) Whether the involuntary patient's confinement is based upon
sufficient cause;
(b) Whether the involuntary patient is a person in need of
treatment; and
(c) Whether a less restrictive placement such as out-patient
treatment is more appropriate. Such hearings shall preceded by adequate
notice to the involuntary patient or his/her legal representation, and the
involuntary patient or his/her legal representation shall be entitled to be
present at all such hearings.
(6) The court shall ensure on behalf of the patient-
(a) representation by counsel at all judicial proceedings, such
counsel to be court-appointed if the involuntary patient cannot afford to
retain counsel;
(b) examination by an independent psychiatrist and have such
persons testify as a witness on the patient's behalf, such witness to be court-
appointed if the involuntary patient cannot afford to retain such witness.
(c) Reasonable discovery, the opportunity to summon and cross-
examine witnesses, to present evidence on the person's own behalf and to all
other procedural rights afforded litigants in civil causes. The privilege
against self-incrimination shall be applicable to all proceedings under this
Law and the patient's testimony, if any, shall not otherwise be admissible in
any criminal proceedings against the patient;
(d) To have a full record made of the proceedings, including
findings adequate for review. All records and pleadings shall remain
confidential unless the court for good cause orders otherwise.

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

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

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

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

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

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

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

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

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

(3) Where the court is satisfied that person is suffering from severe
mental disorder and meets the requirements of section 31 subsection 5, the
court may order placement of that person under care, observation or treatment
in a psychiatric hospital for a period not exceeding one month as determined
by the court.

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

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

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

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

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

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

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

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

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

(5) The recommendation shall-
(a) specify in full detail the reasons why that person is considered a
proper subject for prolonged treatment,

(b) specify the nature and severity of the diagnosed mental
disorder, the likelihood of complete or partial recovery, and the period
which, in the opinion of the psychiatrist or head of a facility, is reasonably required to effect a complete or partial recovery, and

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

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

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

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

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

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

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

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

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

(3) Where immediate admission to a facility or mental health facility is impracticable, the person shall be received and detained in any other place of
safe custody for a period not exceeding forty-eight hours pending transfer to a mental health facility.

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

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

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

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

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

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

(4) If any person being in lawful custody by virtue of this section
escapes, he may be retaken and returned to the hospital or place of safety:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PART VI - ADMISSION OF PATIENTS CONCERNED WITHIN CRIMINAL
PROCEEDINGS

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

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

(a) the offender is suffering from mental disorder, severe mental
impairment or dissociative disorder;

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

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

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

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

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

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

(a) the patient shall be advised on his right to appeal to the Mental
Health Review Tribunal; and
(b) a medical report on the desirability of subsequent detention and
treatment of the patient in the interest of public safety is made on each
occasion.

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

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

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

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

(b) the conditions which under Section 20 of this Act are required
to be satisfied for the making of a hospital order in respect of a person
convicted as herein mentioned are so far as applicable, satisfied in the case
of the child or young person; the court shall have the like power to make a
hospital order or guardian as if the child or young person had been convicted
by the court of an offence punishable on summary conviction with
imprisonment and provisions of the said Section 20 shall with the necessary
modifications and substitutions apply accordingly.
45.- (1) If in the case of a person serving a sentence of imprisonment, the Minister or the Governor, as the case may be, is satisfied by the report of a medical practitioner who has special experience in the diagnosis and treatment of mental disorders:

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

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

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

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

(4) For the purposes of this Section:

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

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

PART VII - PROPERTY AND AFFAIRS OF PATIENTS

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