

(H.B. 3275)
(Conference)

No. 408

(Approved October 2, 2000)

AN ACT

To establish prevention, treatment, recovery and rehabilitation needs for mental health; to create the “Bill of Rights” for adults and minors who receive mental health services; to make uniform all matters related to the proceedings concerning these rights; to establish the basic principles of the levels of care for mental health services; to repeal Act No. 116 of June 12, 1980, known as the “Mental Health Code of Puerto Rico,” and to establish penalties.

STATEMENT OF MOTIVES

Mental health is the state of well being as a result of the functional interaction between the person and his/her environment, and the harmonious interaction between him/herself and several factors, such as his/her perception of reality and interpretation of the same; his/her primary biological needs and the way of satisfying the same; his/her psychic, mental and spiritual potential and the way of elevating the same to their highest level; his/her sense of humor and capacity to enjoy the genuine pleasures life offers us; the confidence in him/herself and the acknowledgment of his/her limitations; the satisfaction upon achievements and strength of mind upon defeats; the acknowledgement of social rights and obligations as basic needs for the sound and pacific coexistence; solidarity with the values he/she believes in, and respect and tolerance for the ones he/she disagrees with; the capacity to grow and mature depending on his/her own life experiences and those of others; the affective resonance upon happy and sad situations; and lastly, the capacity to give and receive love generously.

We ratify that overseeing the mental health of our country is and must be a matter of full interest for the government of Puerto Rico. Mental health is a main element for a peaceful coexistence and a good quality of life.

The Mental Health Code of Puerto Rico was created by virtue of Act No. 116 of June 12, 1980, as amended. Since then, the life of Puerto Ricans has changed significantly during the last decades. These changes have been characterized by a significant increase in the incidence of mental disorders in adults and minors. In order to face the demands of the increase of these disorders, as well as the need to provide adequate mental health services for the persons who need them, a series of reforms have emerged, including the Health Reform of Puerto Rico, with the incorporation of managed care, and mental health insurances and coverage for all the medical indigent, which has had a transcendental effect on the mental health services offered in Puerto Rico, thus providing new options for treatment, recovery and rehabilitation in the mental health field.

In order to guarantee that these services be offered within the quality standards established by this Act, it is important that the government intervenes in the implementation of the processes of technical assistance, facilitation, monitoring during the process, as well as evaluation and licensing of all the institutions that provide mental health services.

In accordance with the changes that we have experienced during the past years and with the commitment the Government of Puerto Rico has to provide greater access to excellent health services, and based on the urgent need our society has to improve the mental health of its citizens in the dawn of a new millennium, and with the ultimate purpose of achieving that we live in peaceful coexistence and harmony, this Act has the firm purpose of recording the incorporation of all those social, technological and sociological innovations in the health field that would strengthen family and community life, attending our

cultural and social environment, thus guaranteeing all citizens that receive it, the rights established in our constitutional structure.

This Act also highlights the importance and transcendence community and pastoral organizations have in relation to the prevention, treatment, recovery and rehabilitation of persons who suffer mental problems related to alcohol and controlled substance abuse. These organizations have historically proven to be highly efficient handling this social problem, and have proven to be zealous guards of our country's welfare.

The intention of this Legislature is that the foregoing act does not diminish, in any way, the leeway that community-based organizations have traditionally had to handle the aforementioned problem. Any interpretation to the effect that the field of action of these organizations would be reduced with the approval of this Act would be contrary to the intentions of this Legislature.

We also acknowledge and support the huge effort that re-educated and rehabilitated ex-addicts make following the guiding light of their commitment to eliminate the social malady of alcohol and controlled substances abuse, participating in community programs that pursue the re-education and rehabilitation of other addicts.

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The Mental Health Code of Puerto Rico has the following main objectives and purposes: to update all treatment, recovery and rehabilitation needs; to protect any population affected by mental disorders with adequate services for the person; to unequivocally establish their rights to receive mental health services, including minors; to promote the eradication of prejudices and stigmas against any person who suffers a mental disorder; to provide precise guidelines to mental health professionals as to the rights of people who receive mental health services; to determine all necessary processes to safeguard all rights provided in this Act; to bring into line all changes undergone by the institutions that provide services with

the establishment of the Health Reform; emphasize and establish the basic principles and levels of care in the services rendered; to highlight the recovery and rehabilitation aspects as integral parts of the treatment, as well as prevention.

Section 1.04. - Principles that Shall Govern the Mental Health Care System

The principles that govern the interpretation of this Act are the following:

(a) Access to the services; which includes the following components:

- 1) Availability of the services to be rendered, which shall be in accordance with the needs and characteristics of the population to be served, with their age and stage of development, gender, socio-cultural context, diagnosis, severity of the symptoms and signs, level of care needed, and the current and prospective capacity to function. The perspective of the integral development of a person shall be part of the provision of the services to be offered.
- 2) The adequate proportion and location of the mental health services shall be accessible, especially to communities with high incidence of mental disorders.
- 3) Emergency and hospitalization services that are offered everyday, twenty-four (24) hours a day. The rest of the levels of care shall be offered within a schedule depending on the needs of the population being attended.
- 4) A referral or collaborative system allowing that persons with emotional and mental disorders participate, when appropriate, in other governmental and community services needed to complete their recovery process.

(b) Continued Care System:

The treatment, recovery and rehabilitation services for persons with mental disorders shall be of continuous care based upon the intensity levels of care,

supervision and administration thereof, which shall correspond to the severity level of the symptoms, signs and diagnosis. As the person recovers, he/she would evolve through each level of care of greater autonomy. The person shall then continue to receive the next service corresponding to the process of recovery and evolution of his/her disorder. The continued care shall contain services, from the levels of greater intensity, which shall be ascending into levels of greater autonomy, according to his/her diagnosis, severity of the symptoms and signs, and the general functioning level that he/she presents and gradually acquires, which shall be represented by the diverse services of coordinated care. These are organized in levels of greater intensity and greater autonomy. The purpose is to promote that the person moves from a level of greater intensity to one of greater autonomy. The levels are perceived according to the severity of the symptoms and signs and the person's behavior. This services concept includes the following services, such as, emergency, hospitalization, intensive outpatient, partial hospitalization, maintenance outpatient, with or without medications, and transitional services, among others. The latter include residential programs organized by gender, age and stage of life, pre-readiness services, pre-vocational or occupational, halfway homes, recovery homes, long-term care homes, and in cases of alcohol and controlled substances abuse, community-based organizations, among others.

(c) Comprehensive Care System

The care to be rendered shall be developed as a system, in which all care needed by a population with mental disorders, or at risk, shall be planned, including those services that would be provided as necessary in the community and in other agencies for the person and his/her family. Some of the necessary elements for the development of a comprehensive system are:

- 1) Early Identification and Intervention: it is based on solving the emotional or mental disorder in a more effective, economical and

humane way, at its beginnings when there is less deterioration (in mild and moderate levels), which means that the intervention shall occur as early as possible in the development of the mental or emotional disorder.

- 2) Evaluation: this procedure establishes a methodology for the clinical and professional determination of the nature of the problem, the diagnosis, the severity of the symptoms and signs, the factors that contribute to its development, and the identification of the personal and family resources that may help in the recovery. All the above-mentioned are important for the development of an individualized treatment, recovery and rehabilitation plan.
- 3) Ambulatory Treatment: is the level of less intensive care and greater autonomy. It consists of regular visits of the person and his/her family to the mental health facility to receive, if necessary, the following services, such as individual, group, family or couple's psychotherapy and pharmacotherapy, among others.
- 4) Maintenance Ambulatory Services with Medication: this service shall offer evaluation and re-evaluation of a mental disorder diagnosed as chronic, providing pharmacotherapy for specific periods for the clinical revision, according to the care standards that govern good professional practices and the prescription of medications.
- 5) Intensive Outpatient Services: this is a less intensive level of care, in comparison with the hospitalization and partial hospitalization. In it, the person goes to treatment at least three (3) times a week or twelve (12) hours a week, putting into practice the individualized plan by an inter- or multidisciplinary team.

- 6) Partial Hospitalization: is a structured and intensive ambulatory treatment program in which the person attends from four (4) to five (5) days a week, with approximately from fifteen (15) to eighteen (18) intervention hours by an inter- or multidisciplinary team, who shall put into practice the individualized treatment plan.
- 7) Emergencies: this service shall be accessible during non-working hours, seven (7) days a week. It provides evaluation, stabilization of symptoms and signs, hospitalization and, if necessary, referral to the corresponding treatment in another level of care.
- 8) Hospitalization: it refers to the less restrictive service alternative in which treatment and rehabilitation are offered by means of having a person admitted to a hospital.
- 9) Transitional Services: these are intermediate services between a greater intensity service and one of less supervision and structure, in order to prepare the person to deal with his/her environment, according to his/her diagnosis and the severity of the symptoms and signs at that time. Its goal is the person's recovery so that he/she may be able to function adequately in the community using the skills that aid him/her to achieve his/her autonomy. These services are characterized for having different levels of supervision, so that the person may evolve according to his/her recovery. This system should allow referrals at the level of care according to his/her condition, without having to go through all the levels.

d) Person's Autonomy:

The person's autonomy refers to his/her capacity to make a decision for him/herself according to his/her clinical condition, to choose between the several options presented as the treatment, recovery and rehabilitation services to be

offered. Treatment and care shall be based on the promotion of the best practices of self-determination and personal responsibility consistent with his/her own needs and desires. Autonomy shall be protected whenever possible, and according to his/her condition, when not possible, he/she shall be protected to the maximum. The following principles and guidelines shall be followed:

- 1) Participation: any person who receives services in the care system shall be involved in every aspect of the arrangement of his/her care, treatment and support, according to his/her individual capacity.
 - 2) Consent for Care: care, treatment and support programs shall consider that which is the closest possible to the preferences of the person who receives such services, provided it is adequate to his/her capacity and condition.
 - 3) The least restrictive alternative: treatment, care and support shall be provided to those persons who receive services in the least invasive and restrictive manner possible, within an environment that offers him/her safety and an effective care.
- e) In the Best Interest of the Person

The criterion for imposing orders, whether for evaluation or treatment, shall be based on the person's best interest, a concept that shall vary depending upon the context in which it is used. For the purposes of this Act, the following shall be taken into consideration:

The person's best interest, except in cases of alcohol and controlled substances abuse, shall be based on the clinical opinion and recommendations made by the group of professionals, inter- or multidisciplinary, and on the person's past and present wishes, if he/she is qualified therefor. In order to have a better understanding of the person's best interest, his/her participation shall be promoted,

depending on his/her possibilities and capabilities, as well as the participation of other persons, such as family members or significant others.

f) Representation and Right to Express for Participants of Mental Health Services

Any person who requires mental health services, and the parents or legal guardian of a person who receives mental health services have the right to express his/her needs or satisfaction and to make recommendations regarding the services being received or offered. They have the right to contribute, make recommendations, and to participate, per se or through a representative, in the development and planning of strategies and services he/she needs.

g) Compulsory Evaluation

This principle establishes that a court can order to any person who shows mental disorder conduct and who is in immediate risk of harming himself/herself or others or damaging property, to submit to a comprehensive evaluation to determine which of the mental health services treatment he/she needs.

h) Involuntary Admission to a Determined Level of Care Based on the Needs Identified in the Evaluation

The involuntary admission to a level of care of greater intensity shall be used when the person shows a conduct related to a mental disorder, and that physical injury to the self or others, or damages to property could immediately be caused, when the severity of the symptoms and signs so do indicate, according to the best practices of psychology, psychiatry and modern medicine, or when the person has shown significant threats that could have the same results after the immediate evaluation and the comprehensive evaluation; this involuntary admission could be extended to another level of less intensive care. If there is no will nor consent from the person, his/her parents, legal guardians to participate in the treatment, the court may order involuntary treatment, even if in a less intensive level and greater

autonomy, according to what is recommended by the inter- or multidisciplinary team and to the procedures established by this Act.

i) Principles for the Early Intervention of Disorders Related to Alcohol and Drug Abuse, and of Anti-social Conduct in Minors.

With the purpose of avoiding that problems related to alcohol and drug abuse and to anti-social conduct in minors turn into bigger problems, outreach strategies should be established for this type of population when the problem's level of severity is mild and moderate in order to initiate treatment before the condition turns into a bigger problem, so that early intervention may be allowed before they evolve into substance dependence, violence, unlawful activity and anti-social conduct.

j) Services for Adults with Acute Mental Disorders

Adults who suffer acute mental disorders shall be provided with continued congruent and comprehensive services, according to the disorder, and the level of severity and care by category, through collaborations between the public and private sectors so as to develop the following initiatives among the providers of mental health services:

- 1) Support and promote the family-oriented and community oriented services, as well as of case management;
- 2) Support and promote the development of support groups for persons who suffer mental and emotional disorders, and their families;
- 3) Promote the participation of consumers, their families or representatives in the planning of mental health services;
- 4) Establish maintenance programs with medication, when applicable to the person's treatment and disorder, in accordance with the regulations established by Federal

entities and the Mental Health and Addiction Services Administration;

- 5) Develop collaborative services or strategies to participate in outreach activities and/or provide services to those persons who are identified as in need of treatment under these strategies;
- 6) Establish priorities in the treatment of persons with substance dependence or abuse and with special attention to those persons with dependence on injected or intravenous substances.
- 7) Offer intervention strategies to prevent relapses for disorders related to substance abuse and dependence, and to deal effectively with symptoms and signs, and with precipitating circumstances related to other disorders.

k) Multi-strategic collaborative Interventions in Vulnerable and High Incidence Communities

Communities that experiment the impact of violence in a sustained and consistent manner, also require the intervention of sustained therapeutic interventions from the corresponding government agencies and community-based organizations to work with the different manifestations of violence, and the precipitating factors of mental and emotional disorders. It is also required that insurers and providers collaborate with the community intervention with the necessary services in order to attend the persons in said communities who suffer emotional and mental disorders, whether in early intervention or at any severity level.

Section 1.05. - Applicability of the Act

This Act shall apply to any person who needs, requests, receives or has received mental health services; to any institution, public or private, that plans, manages or coordinates such services; and to any network of mental health providers, direct or indirect, including but not limited to:

- (a) Psychiatric hospitals, psychiatric units, units of behavioral medicine and substance detoxification, general hospitals that provide these services;
- (b) Transitional and residential services, emergencies, partial or diurnal, intensive ambulatory, and ambulatory with medication management, ambulatory;
- (c) Rehabilitation services;
- (d) Community outreach services;
- (e) Services in several environments;
- (f) Mental health administration and coordination services.

Section 1.06. – Definitions

Except otherwise provided in this Act, the following terms shall have the following definitions:

- (a) “Abuse” – means any action or omission by a mental health professional, private or public institution, or by any other person toward the adult or minor who receives mental health services, during his/her process of treatment, recovery and rehabilitation. The abuse may be manifested as:
 - (1) Physical Abuse – any act or omission resulting in physical harm to the person, or other forms of harm such as sexual abuse, including any form that may cause death.
 - (2) Emotional Abuse – any omission of a necessary action, excessive unjust or improper action in which the adult or the

minor, is humiliated, insulted, intimidated, threatened, or persecuted, among others, or his/her autonomy to receive clinical services or while receiving them has been ignored.

- (b) “Administration” – means the Mental Health and Addiction Services Administration.
- (c) “Administrator” – means the Administrator of the Mental Health and Addiction Services Administration.
- (d) “Adult” – means any person of eighteen (18) years of age or more. For the purposes of this Act, any minor who has been legally emancipated shall receive services for minors.
- (e) “Security Agent” – means any state or municipal police officer, or any custody officer duly identified as such.
- (f) “Isolation” – means the therapeutic measure consisting of the involuntary confinement of an adult or minor with mental disorders, in a room, isolated from others, in which he/she is physically restricted from leaving for a certain period, and requires specific care and proceedings.
- (g) “Release” – means the suspension order, final or temporary, of the services offered by a providing institution to any person, be it through voluntary or involuntary admission.
- (h) “Express Authorization” – means the process by which a person, freely, without any threat, intimidation or coercion, issues a written authorization to a third party to receive or obtain his/her confidential information, pursuant to the procedure provided in this Act.
- (i) “Capacity to Give Consent” – means the physical and mental condition that allows a person to make any decision at a specific time.

- (j) “Certificate” – means the document issued by a psychiatrist, a clinical doctor, clinical psychologist or person authorized therefor, which describes aspects of the mental health treatment of the person subject to treatment with a specific purpose, such as a court order, petition by an attorney or request from an insurance company.
- (k) “Certification for Involuntary Admission or Compulsory Treatment” – means the document issued to the Court by the psychiatrist, in consultation with the inter- or multidisciplinary team to the court, when involuntary admission is requested for a person who needs to receive mental health services, be it hospitalization or another level of care with greater autonomy, which shall contain the recommendation based on the clinical need to receive said services justified by the severity of the symptoms and signs.
- (l) “Acute condition” – means a clinical manifestation characterized by beginning very quickly and having an intense biological, psychological, social and behavioral conducts, which makes it necessary that the person receive treatment, recovery and rehabilitation mental health services. The person may or may not show evident or known triggering factors, which frequently cause that a person is put at risk of causing damage, injury or death to the self, others or property.
- (m) “Confidentiality” – means the right that a person who receives mental health services has to communicate orally or in writing without it being disclosed to third parties when there is no express authorization from him/her, except when otherwise provided in this Act.
- (n) “Informed Consent” – means a determination made by an adult or his/her guardian, or by the father, mother or a legal guardian of a

minor, to receive or reject a mental health service or any other procedure resulting from a dialogue in which the provider of mental health services informed the person subject to receive such services, or the parent with patria potestas, or legal guardian, the nature, need and scope of these mental health services.

- (ñ) “Custody” – means the care and vigilance given to a person, and includes the following types of custody:
 - (1) Legal Custody – the one granted by a court, in addition to the one parents have over a minor.
 - (2) Provisional Custody – the one granted to a person temporarily by a government agency empowered to do so.
 - (3) Emergency Custody – the one carried out in cases when if not carried out immediately, the person represents a risk to his/her safety and welfare, that of other persons and to property.
 - (4) Custody in Fact – is the custody delegated during his/her absence by the person with patria potestas or the legal guardian of the minor to a person over twenty-one (21) years of age.
- (o) “Clinical Director” – means the mental health professional responsible for directing, coordinating and implementing the best practices for mental health treatments in the services offered by the providing institution.
- (p) “Medical Emergency”- means the sudden and unexpected start of a mental or physical health condition that requires immediate medical attention and that if not provided, would result in the injury of an organ, part of the body or could put the person, another person or property at risk of damage or death.

- (q) “Psychiatric Emergency” – means the clinical symptoms characterized by an alteration of the thoughts, of the perception of reality, of the affects or feelings, or of the person’s actions or conduct that needs immediate or emergency therapeutic intervention in which of the intensity of the symptoms and signs, and representing an immediate risk to the person, another person or property at risk of damage or death.
- (r) “Severe Mental Disease” – means severe mental disorders in adults as specified in Federal Public Law 102-321, as amended, known as the “Alcohol, Drug Abuse and Mental Health Services Administration Reorganization Act.”
- (s) “Mental Disorder” – means the alteration of the person’s performance of chemical, physical, biological or psycho-biosocial origin, severe or chronic, that significantly affects sensory perception, the talent or fundamental state of mind, judgment or the capacity to interpret reality objectively, as well as the ability to face satisfactorily and with minimal stress daily life demands, such as family coexistence, social behavior and work.
- (t) “Nurse” – means the person authorized by the Board of Female and Male Nurse Examiners to practice the nursing profession, as provided by Act No. 9 of October 11, 1987, as amended, known as the “Act to Regulate the Practice of Nursing in the Commonwealth of Puerto Rico.”
- (u) “Interdisciplinary Team” – means the team composed of three (3) or more mental health professionals of different disciplines who provide mental health services with the capacity, and the professional and legal faculty to diagnose and prescribe treatment in the different areas

of human performance and capacities, and by other professionals related to the person's condition, all working in the same scenario. The interdisciplinary team is distinguished by its cooperative and consensual work, which is characterized by the interaction of all the professionals with the patient during his/her treatment, a discussion of the case with full knowledge of the contributions of each profession or discipline, and the application of the best practices of the field, for the recovery of the person.

- (v) "Multidisciplinary team" – means a work group composed of three (3) or more mental health professionals of different disciplines, who provide mental health services with the capacity, and the professional and legal faculty to diagnose and prescribe treatment in the different areas of human performance and capacities, and by other professionals related to the person's condition, all working in the same scenario. They serve the same population, within the same category in order to develop the treatment, recovery and rehabilitation for the person's best performance, according to his/her situation and diagnosis. This team works on consultation and may communicate through the clinical record and discussions of the case. A providing institution may use this team when, for any reason, is not able to gather an interdisciplinary team to diagnose and prescribe the corresponding treatment.
- (w) "Therapeutic Team" – means the group of health professionals that includes specialists in different behavioral areas that integrate into a single clinical task to implement the treatment, recovery and rehabilitation plan developed by the team of inter- or multidisciplinary professionals.

- (x) “Evaluation” – means the procedure carried out by a psychiatrist, clinical psychologist or another professional within the professions related to mental health, who is authorized to diagnose and prescribe treatment within his/her profession or specialty, certified and licensed to practice his/her profession in Puerto Rico. Said evaluation shall be the product of a direct clinical examination with instruments according to the corresponding level of care and environment when conducting it, which shall contain the findings of the patient’s medical history, his/her emotional, mental and physical conditions at the time it is conducted, diagnostic impressions applicable to each situation in particular, and specific recommendations as to the immediate handling and prognosis of the patient.
- (y) “Clinical Record” – means the organized and detailed compilation of data and information related to the medical treatment and health care that a person receives from a mental health professional or provider.
- (z) “Family Member” – means the spouse or relatives up to the fourth degree of consanguinity or affinity of a person who receives mental health services, such as his/her parents, children, grandparents, siblings, uncles and aunts, grandchildren, and nephews and nieces.
- (aa) “Mental Health Faculty” – means the group of mental health professionals of the highest level in each of their specialties, who are duly certified by their respective examining boards and licensed to practice in the jurisdiction of Puerto Rico, hold the highest hierarchy in the mental health providing institutions, and supervise and support other professionals who are legally authorized to practice their professions.

- (bb) “Community Treatment Expert Guides” - means the person or group of persons, with or without a mental health academic degree (group of peers) rehabilitated or re-educated in a community-based non-profit corporation and duly registered in the State Department of the Commonwealth of Puerto Rico who, due to their experience, personal achievements, and for being duly trained and certified by these organizations, do attend, orientate and support persons who have alcohol and controlled substance dependence so they can achieve re-education and rehabilitation, using a bio-psychosocial and spiritual approach.
- (cc) “Hospitalization” – means the highest level of psychiatric care, which is characterized by the continuous and frequent intervention of professional and technological resources 24 hours a day, in order to achieve a prompt stabilization of the symptoms and signs that, due to their severity, make it necessary, so that the person may continue his/her recovery and treatment in another level of less intensive care and greater autonomy within the mental health care system.
- (dd) “Involuntary Admission” – means admission to a mental health service ordered by the court upon evaluation by a psychiatrist in consultation with the inter- or multidisciplinary team certifying the need for this service, when there is no consent for such from the adult or parent with patria potestas or custody over the minor, or the person’s legal guardian.
- (ee) “Voluntary Admission” – means the determination made by an adult capable of consent to go to or be admitted into a providing institution and receive a mental health service after an evaluating process so determines, or the determination made by the parent with patria

potestas, or a minor's legal guardian, to be admitted into the providing institution, provided that the severity of the symptoms and signs so does justify. In both cases, this determination shall be made after having been duly informed of the conditions, rights and duties of the decision made.

- (ff) "Institutionalization" – means the state that a patient reaches due to an excessive and improper use of the psychiatric hospitalization, as the only option of treatment or deficiency of the release plan without appropriate follow-up. It can also arise due to lack of services that are crucial for the person's recovery. This entails mental deterioration and habits of variable intensity due to disuse, dependence, and impeding the person from acquiring the autonomy needed to cope out of the hospital's restrictive environment. The institutionalization usually happens in psychiatric hospitals, but it can also happen in any environment or level of therapeutic care that fosters and promotes dependence, and that does not stimulate the patient's autonomy.
- (gg) "Providing institution" – means any juridical person, public or private, fully or partially engaged in planning, administering and rendering mental health treatment, rehabilitation and recovery services; and that operates with professionals authorized to practice as such, pursuant to the laws of Puerto Rico.
- (hh) "Case Handler" – means the mental health or behavioral sciences professional, or the person with a certificate issued by the Department of Health for such purposes, who knows the system's resources to access all the comprehensive services needed for the recovery and rehabilitation of a person with a mental disorder. In addition, he/she

follows-up the implementation of the person's individual treatment, recovery and rehabilitation plan.

- (ii) "Minor" – means any person less than eighteen (18) years of age. An emancipated minor shall be empowered to make decisions, provided he/she has the capacity to consent. For the purposes of this Act, an emancipated minor shall be considered an adolescent, with respect to the treatment services to be rendered.
- (jj) "Justified Clinical Need for Treatment" – means the clinical determination that arises from the evaluation made to a person according to the standards accepted by the different mental health disciplines as clinical option for treatment, recovery and rehabilitation due to the severity of the symptoms and signs in order to stop the progress of the disease, improve the person's condition and keep him/her at a socially accepted performance level, according to the severity of the symptoms and signs. The purpose of this determination, which is included in the person's clinical record, is to inform and support the need for initiating or continuing to render mental health services.
- (kk) "Levels of Care" – means the different degrees of intensity and frequency in the medical, psychiatric, psychological, social and rehabilitation treatments that lead a person to perform at the most independent level possible.
- (ll) "Orientation and Coordination Offices of the Mental Health and Addiction Services Administration" – means the linking mechanism between mental health services consumers, the network of private direct and indirect providers and the governmental, municipal and community entities for each health and reform region, in order to

access the comprehensive services required by a person with Severe emotional and mental disorders.

- (mm) “Consumer Orientation and Claim Processing Offices” – means the professional and educational organism that shall have the legal responsibility of providing and orientating mental health consumers about the services that are offered. It shall equally handle and solve claims and complaints presented by consumers for the services received or lack thereof.
- (nn) “Community-based organizations” – These shall be understood to mean any non-profit religious group and community organization duly organized under the laws of the Department of State of Puerto Rico, which according to its doctrine or philosophy, develops services programs which consist of orientation, counseling, help, support, community treatment and rehabilitation services rendered to a person who suffers problems related to the use of alcohol and controlled substances.
- (ññ) “Pass” – means the permit given to a person who receives mental health services to be absent from the providing institution for a determined period of time and based upon clinical reasons.
- (oo) “Release Plan” – means the document produced by the therapeutic team which summarizes and records in writing the person’s clinical condition, the results of the treatment, the level of recovery reached, and the recommendations and arrangements made at the time of changing from one level of care to another according to his/her needs. The release plan shall be available for immediate use no less than 24 hours before transferring or releasing the person to the corresponding level of care.

- (pp) “Dangerousness” – means the state determined by the existence of an imminent risk of causing damage due to a mental disorder. For the purposes of this subsection, dangerousness shall be considered to be when:
- (1) there exists a high probability of causing damage, or physical or psychological injury to another person as revealed by the patient’s actions, intentions or threats, based on the opinion of a psychiatrist, clinical psychologist, or social worker with clinical experience;
 - (2) within twenty-four (24) hours prior to the evaluation, the patient has made threats, attempted suicide or caused severe bodily injuries to the self; or has carried out actions putting his/her life at risk; or has carried out actions that indicate that he/she cannot handle his/her everyday life without supervision or help from other persons for not having the capacity to feed, protect or care for the self, thus increasing the probabilities of death, substantial bodily injury or physical weakness to a level that would put his/her life at risk;
 - (3) the person carries out, attempts or threatens to damage or destroy his/her property or that of another person due to a mental health disorder.
- (qq) “Person Who Receives Mental Health Services” – means any adult or minor who receives mental health services.
- (rr) “Mental Health Support Personnel” – means all the professionals in different disciplines and levels of academic preparation who are trained to give support to the performance and necessary operations of the mental health services system. It also includes any other person or

group whose participation is necessary and pertinent for treating and handling the condition of the person who receives mental health services. All support personnel shall comply with the requisites of law to practice his/her profession in Puerto Rico.

- (ss) “Individualized Treatment, Recovery and Rehabilitation Plan” – means the design and implementation of a series of strategies directed to support strengths and to deter, counteract, limit or eliminate problems and difficulties identified by mental health professionals on the person evaluated, at the time and level of care he/she is at.
- (tt) “Mental Health Professionals” – means those professionals in different disciplines and levels of mental health-related academic preparation who provide services and comply with the laws of Puerto Rico to practice their profession.
- (uu) “Indirect Mental Health Provider” – means any mental health services insurer or organization, public or private, duly organized in Puerto Rico to offer or bound to render health services pursuant to the provisions of Act No. 77 of June 19, 1957, as amended, known as the “Insurance Code of Puerto Rico”, as well as any plan organized and authorized by any special law.
- (vv) “Clinical Psychologist” – means the professional licensed by the Psychologists’ Examining Board of the Commonwealth of Puerto Rico, as defined in Act No. 96 of June 4, 1983, as amended, known as the “Act to Regulate the Practice of the Profession of Psychology.”
- (ww) “Psychiatrist” – means the medical doctor specialized in general psychiatry, of children or adolescents, or in other sub-specialties known and duly certified, who is authorized to practice as medical doctor in Puerto Rico and with authority to practice the specialty or

sub-specialty, as certified by the Board of Medical Examiners of Puerto Rico.

- (xx) “Claim” – means the statement made verbally, behaviorally or by any other means of expression, by which a person states his/her dissatisfaction or displeasure with the treatment or service received or lack thereof, in his/her inter-relationship with an institution engaged in rendering mental health services that provides direct or indirect services.
- (yy) “Complaint” – means the written statement expressing dissatisfaction with the treatment or services received or lack thereof, by the person, in his/her inter-relationship with an institution engaged in rendering mental health services that provides direct or indirect services.
- (zz) “Referral” – means the document issued by any health professional authorized to practice his/her profession pursuant to the laws of the Government of Puerto Rico, which states the need for a person to be evaluated in order to determine if he/she needs or not mental health services.
- (aaa) “Rehabilitation” – means the acquisition, restoration or compensation of skills and capacities to a satisfactory level of functionality of a person, according to his/her condition, diagnosis and prognosis on the basic skills to achieve an autonomous life and an affective, intellectual, working, academic satisfaction that would allow him/her to perform in all the aspects mentioned above.
- (bbb) “Recovery” – means the remission of symptoms and signs, and the resolution of situations for each level of care corresponding to the severity and level of functionality the patient acquires as he/she improves his/her state, and acquires knowledge and autonomy to

manage his/her condition, prevents relapses and effectively handles them. Among the most imminent resolution of situations, there is the acceptance of the condition and its treatment, as well as its limits, alternatives, triggering factors and resistance factors, among others.

- (ccc) “Restriction” – means the therapeutic measure that makes use of physical and mechanical means to involuntarily limit movement of all or part of the body, in order to control physical activity and protect the person subject to the restriction, thus avoiding injury to the self or others, or damage to property. The use of means to protect the person, such as rails, helmets and/or mechanisms such as orthopedic equipment, braces, wheel chairs and other equipment or artifacts to support the person’s posture or aid him/her in obtaining or maintaining the functions of the body, shall not be considered as a restriction.
- (ddd) “Severity” – means the intensity of the symptoms and signs that result in a significant obstacle to the person’s social, working and occupational functionality at the time it is diagnosed.
- (eee) “Community-Based Services” – means those services of treatment a person receives within his/her community with the purpose of keeping him/her integrated in it, and able to perform with the support of his/her community group.
- (fff) “Collaborative System” – means the interagency and community system of joint and collaborative work. Said system is characterized by the identification of a common problem in a common population, which through the arrangement of integrated services receives comprehensive services, thus involving an allocation of economic, professional and technological resources that correspond to the needs

of said population. These agencies have the legal responsibility of handling different manifestations of the problem and its triggering factors.

- (ggg) “Quality Assurance System” – means the systematic compilation of data and efficiency factors for executing and implementing mental health treatment services and procedures in each level of care according to the protocol by disorder, age, gender and severity. This system forms part of the normal standards and procedures of the institution providing mental health services as a mechanism that allows the faculty to assure their quality.
- (hhh) “Petition for Mental Health Services” – means the action to request mental health services for treatment, recovery and rehabilitation in a providing institution.
- (iii) “Social Worker” – means the social work professional with a degree from an accredited institution, who has evidence of College of Social Workers membership, with license issued by the Board of Examiners of Social Workers, pursuant to Act No. 171 of May 11, 1940, as amended.
- (jjj) “Emotional Disorder” – means the diagnosis of a mental disorder from the Diagnostic and Statistical Manual of Mental Disorders - in its fourth and subsequent editions, (DSM IV), including the biological etiology. All of these disorders have episodic, recurrent or persistent signs, although they vary in terms of severity and level of disability, and shall be present at the time or during the previous year. It is applied to children between ages zero to seventeen (0-17), where childhood is demarcated, between ages zero and twelve (0-12) and adolescence, between thirteen and eighteen years of age (13-18).

- (kkk) “Transportation” – means the action of moving a person from one place to another in a vehicle appropriate for his/her condition, which in the case a psychiatric emergency shall include an ambulance certified by the Public Service Commission and the Health Department.
- (lll) “Transfer” – means the action by which an institution makes a change in the responsibility of treating a person within the same institution, from one unit to another, from one service to another, or from one therapist to another. The change in treatment responsibility is also considered as a transfer when the transfer is made from one health institution to another. The transfer shall be made in a coordinated manner in order to continue rendering the service and treatment, according to the level of care person requires.
- (mmm) “Acute Treatment” – means the prompt and intense intervention by mental health professionals to attend a person with an acute clinical condition in order to avoid, stop or decrease the symptoms and signs of the condition and its consequences. Among others, it may include intervention during crisis, use of psychoactive drugs, hospitalization, restriction and isolation.
- (nnn) “Compulsory Treatment” – means the treatment ordered by the court, under penalty of contempt, upon recommendation from the inter- or multidisciplinary team to be given to a person with a mental disorder who, although he/she does not meet the severity requisites, represents danger to the self to others, or to property, and meets the requirements for another level of care, such as ambulatory care, partial hospitalization or maintenance with medication.

- (ooo) “Complementary Treatment” – means the therapeutic services not included in the basic services of the mental health services system, which may help in the recovery process of a person with a mental disorder, as recommended by mental health professionals, such as art, sports and others.
- (ppp) “Community Treatment” – means the strategies and efforts established by community-based organizations directed to the rehabilitation of persons who suffer alcohol and controlled substances abuse problems.
- (qqq) “Legal Guardian” – means the person designated by the court to be in charge of the care and custody of a person and his/her property, upon the corresponding declaration of disability issued by the court.

CHAPTER II – GENERAL RESPONSIBILITIES OF MENTAL HEALTH SERVICE PROVIDERS AND GENERAL PROVISIONS FOR ADULTS AND MINORS

Section 2.01. – Special Considerations for Persons with Severe Mental Disorders

Populations with severe mental diseases, by level of intensity and multiple needs of their conditions, require particular and special attention regarding their mental health care systems in order to make the decision of participating in the treatment and continue with it, as well as to achieve and keep the stabilization of the symptoms and signs.

The considerations for persons with acute mental health disorders, that is adults, adolescents, children, by gender, according to the definitions established in mental diseases classification manuals in effect and Federal regulations and structural criteria for services to these populations, are established in this Chapter pursuant to the provisions of Public Law 102-321 of June 10, 1992, as amended,

known as the “Alcohol, Drug Abuse and Mental Health Services Administration Reorganization Act.”

Section 2.02. – Criteria for Severe Emotional Disorders in Children and Adolescents

The criteria that shall be considered for severe mental disorders in children and adolescents shall be the following:

- (a) That he/she is less than eighteen (18) year old.
- (b) That at the present time or during the past year, he/she has been diagnosed with a mental, emotional or behavioral disorder.
- (c) That he/she complies with the criteria specified for treatment, pursuant to the Diagnostic and Statistical Manual of Mental Disorders – Fourth Revision (DSM IV), the ICD-10, or the manuals in effect at the time.
- (d) That said disorder resulted from a functional disability that interferes or limits the child or minor’s ability of function with his/he family, in school or in the community.

Section 2.03. – Prohibition of Hospitalization or Treatment Without Clinical Criteria

Lack of interest or inability of the parent with patria potestas or custody, the legal guardian or the person with custody or duty to provide care or shelter to a person shall not be a reason to be admitted to a mental health hospital institution. If this is the case, the director of the institution shall file a petition with the court to assure the corresponding care and protection. The practice of hospitalizing a person without meeting the adequate clinical criteria shall be penalized pursuant to the provisions of this Act.

The criteria to be met by any person so that a Court may order compulsory psychiatric treatment, be it ambulatory or through hospitalization, are:

(a) that there is a situation of imminent danger where the person may harm the self, others or damage property;

(b) that the person shows that he/she is not able to make any decision or control his/her behavior;

(c) that a specific behavioral test is required in a period immediately before the petition is filed;

(d) that there is evidence of lack of less intensive alternatives with equal opportunities to correct or improve the person's symptoms and signs; and

(e) that it is shown that the treatment or measure requested would be clinically beneficial.

No person shall be hospitalized involuntarily nor receive compulsory treatment unless there is clear and convincing proof, to the court's satisfaction, that there is a need for said hospitalization or treatment, according to the criteria established in this Section.

Section 2.04. – Certificate of Specialized Treatment in Isolation, Restriction and Electroconvulsive Therapy

Every mental health professional empowered by this Act to order restriction, isolation or electroconvulsive therapy shall complete training in the use and application of these therapeutic methods, credited by the applicable certificate. The provisions of this Section are subject to the regulations provided these purposes by the Administration.

Section 2.05. – Protocol Requisite for the Use of Isolation, Restriction and Electroconvulsive Therapy

Every entity that provides mental health hospital services that uses therapeutic isolation, restriction and electroconvulsive therapy procedures shall have a protocol that incorporates the best practices and standards in the treatment

of persons with mental or emotional disorders, according to the parameters established by the medical organisms that regulate these therapeutic procedures, and pursuant to the requirements of the Administration.

Section 2.06. – Services Manual

Every institution that provides ambulatory health services shall have a descriptive services manual, which shall include, as a minimum, the following:

- (a) The criteria of admission that must be met any person who requests the services;
- (b) The age and level of care of the applicants;
- (c) The model of the individualized treatment, recovery and rehabilitation plan;
- (d) The composition of the personnel the institution shall have, as well as their qualifications, provided that this Section shall not apply in those cases of private mental health professional offices.

Section 2.07. – Notice of Confidentiality Right

As long as the person who receives mental health services can communicate rationally, the mental health services provider shall notify him/her in writing and orally, at the time of the initial evaluation or as soon as possible after it, of his/her right to confidentiality. He/She shall be also informed that any violation of the provisions that protect confidentiality is a crime, pursuant to the provisions of subsection (b) of Section 14.08 of this Act, and he/she shall receive a written notice of the proper procedures to notify any case of violation. The notification required in this Section shall be made to the parent with patria potestas or custody, or to the legal guardian, in all cases in which mental health services are provided to a minor or a disabled person.

The mental health professional assigned through institutional regulation to conduct the notification provided in this Section shall include the contents of said notification in the clinical record, as well as the date and time when it was provided, in a form provided by the Administration, which shall be signed by the recipient so that it may be understood to be completed.

Section 2.08. – Inspection of Clinical Record

Persons who receive mental health services may inspect their clinical records provided the inter or multidisciplinary team within the institution determines that the person who receives it is mentally capable to interpret reasonably the information, provided it does not include any information that may constitute a risk to third parties. He/She may also have a copy of the complete record upon written request to that effect and payment of the corresponding fees. The providing institution shall assign a mental health professional to explain any matter related to the information contained in the clinical record.

Any other person expressly authorized, as provided in this Act, by the person who receives mental health services, by the court or by his/her legal guardian, may inspect the clinical record inside the institution, obtain a summary of the record and copy of any document expressly authorized upon payment of the corresponding fees, as long as the reproduction of the documents does not constitute the complete record.

The parent with patria potestas or custody, or the legal guardian of the minor who receives mental health services shall have the right to examine, inside the institution, said minor's record exclusively in the matters related to the diagnosis, severity, prognosis, treatment plan, medications, recommendations to the family, and the amount and types of therapies offered. Any other information requested by these persons shall have the express authorization of the minor if he/she is fourteen (14) years old or older, or from the Court when the minor does not authorize the

inspection of the information requested, or if the minor is thirteen (13) years old or younger. In addition, he/she may obtain copy or a summary thereof upon written request to that effect and the payment of the corresponding fees.

When the person who received mental health services dies, any request presented by a family member up to the fourth degree of consanguinity or affinity to inspect or obtain copy of any part or the complete record shall require a court order.

In all cases, and upon any inspection or copy of the record, the providing institution shall offer orientation as to the possible consequences of disclosing the information contained therein.

The corresponding payment for copies of any part or the complete record shall not exceed one hundred percent (100%) of the real cost of the original. For those cases in which the person does not have the financial means to pay for the cost of the copies, the procedure to follow shall be established through the regulations enacted by the Administration.

Section 2.09. – Reports

Any report that does not constitute a clinical record and contains direct or indirect information about the person who receives or has received mental health services shall use codes to refer to the person, and shall not include in any of its parts, any name nor nickname. This Section does not prohibit the disclosure of information in those cases in which Federal and state laws apply for the protection of the person who receives mental health services.

Section 2.10. – Express Authorization; Requisites

The express authorization required pursuant to this Act shall meet the following requisites:

- (a) the specific name of the providing institution authorized to disclose the information;

(b) the name of the natural or juridical person authorized to receive the information;

(c) the name of the person who authorizes the disclosure. When is not the person who receives mental health services, a sworn statement shall be included stating the source of his/her authority to give consent.

(d) the specific information to be disclosed, which shall not include psychological, social or family data, or any specific content of dialogues during any session;

(e) the purpose for which the information requested shall be used; and the signature and date when the consent is given.

The express authorization shall be made in a written document, which shall expire six (6) months after the signature and date of issuance, without detriment to authorizer's right to repeal it at any time.

Section 2.11. – Quality Assurance System

Any institution that provides services of the mental health care system shall have a quality assurance system for the services rendered, which shall include and oversee the keeping of the quality of said services, and the adequate use of the procedures administered to patients, according to the best practices in the mental health field. This system shall oversee, study and keep informed the Clinical Director and the Mental Health Faculty of the institutions, above all, of everything related to the services and practices implemented in it. The Administration shall specify through regulations the scope of these quality systems, compatible with the Federal regulations for these populations.

It shall be the responsibility of the mental health service providers to keep a compilation of basic statistical data that provide indicators of the incidence of mental disorders and substance abuse, according to the characteristics of the population. Said statistical data shall be informed to the Administration.

Section 2.12. - Consumer Orientation and Complaint Processing Offices

All mental health service providers shall have consumer orientation offices of the services they offer. In the case of the health reform, the same shall be located in centrally located places in the area of greater concurrence of the region. These offices shall process any complaint filed by the consumers on the services he/she receives. Complaints shall be handled until the consumer's need for services is satisfied.

Section 2.13. – Clinical Record

All providing institutions shall keep and maintain a precise, clear and legible record of each person who receives mental health services in it. This record shall include all the requisites established in the laws and regulations approved by the Secretary of Health, in addition to the following information:

- (a) the circumstances under which the person was evaluated or admitted, depending on the case;
- (b) the documents for said admission;
- (c) the clinical findings made by a qualified professional who renders mental health services;
- (d) the diagnosis and diagnostic impression;
- (e) the Individualized Treatment, Recovery and Rehabilitation Plan
- (f) the Prognosis and estimated release date;
- (g) any change that may arise in his/her state.

The clinical record shall be the property of the person who receives mental health services, held under the custody of the providing institution, and shall not be removed from the same, except otherwise provided by a court order. The Director of the institution shall oversee its confidentiality. To that effect, the institution shall provide all the necessary resources to establish mechanisms to protect the

confidentiality, disclosure and the clinical information contained in the record against unlawful use, non-authorized access, and alteration of the same.

In the case the patient needs his/her record because he/she is moving to another place in the world, or decides to change to another health providing service, the institution shall furnish said record to the new service provider, once the patient has authorized it in writing.

Section 2.14. - Duty to Safeguard Confidentiality

Non-authorized disclosure of information related to a person who receives mental health services is hereby prohibited, including any third party who has received this information, be it verbally or in writing, upon express authorization, whether or not said information is contained in the record.

The person who receives mental health services shall offer his/her express authorization for sending the information via fax. If accessibility of the information is through computerized or electronic systems, it shall be protected by security codes or any other acceptable security system. The Administrator shall adopt regulations for said purposes. The person sending the information, as well as its recipient, shall comply with the regulations. It is furthermore prohibited to disclose information about the person with a mental disorder that has been supplied by a third party, and that may cause bodily injury or put at risk said party or another person.

The duty to safeguard the confidentiality of the information related to a person who receives mental health services in any providing institution shall apply to all those professionals that render said services, and to the support personnel, including indirect health services providers. This duty shall extend to any person who is receiving or shall receive mental health services, even after his/her death.

Section 2.15. - Prohibition to Disclose to Third Party for All Those Who Receive Confidential Information

Any person who receives confidential information is hereby prohibited from its disclose to any third party.

Any confidential information disclosed under the terms of this Act shall be accompanied by a document stating that the information disclosed is protected by the applicable provisions and regulations of confidentiality, and that the same prohibit the person who receives the information from its disclosure to a third party.

Section 2.16. - Disclosure to Authorized Personnel of the Juvenile and Criminal Justice System

When the person receives mental health treatment services as a condition established by a court for his/her probation, conditional release, etc., the providing institution may disclose to the personnel so authorized by the Criminal or Juvenile Justice System, as the case may be, only the information needed to carry out the supervision required to comply with the condition imposed by the court. The person who receives the information may only disclose it to comply with his/her official rights in relation to the condition imposed by the court.

Section 2.17. - Prohibition as to the Use of Identification Cards

No mental health service provider shall require to the person who receives said services to carry an identification card or any other object that would identify him/her as a person who receives mental health services while outside the institution that provides said services.

Section 2.18. – Duty to Warn Third Parties at Risk or under Threat of Harm

When a person informs a psychiatrist, clinical psychologist or social worker of a threat to physically harm a third party, the psychiatrist, clinical psychologist or social worker shall have the duty to warn said third party of the possibility of a

threat, when he/she may be reasonably identified, after complying with the provisions of this Section.

In case the threat to harm a third party is informed to another mental health professional, he/she shall immediately notify it to the psychiatrist, clinical psychologist or social worker in charge of rendering mental health services to the person, and shall so state it in detail in the clinical record.

Duty to warn the psychiatrist, clinical psychologist or social worker, shall arise after:

(a) Having identified, evaluated and verified the existence of a threat to harm a third party in particular; and

(b) Having established that, upon taking into consideration the risk factors associated with violence, there is a great probability that said threat could be carried out.

Once the threat is notified, the psychiatrist, clinical psychologist or social worker shall warn the threatened person, and shall carry out the following actions:

(a) Provided it is therapeutically indicated, he/she shall inform the person who proffers the threat of the duty to warn that he/she has pursuant to this Act;

(b) Notify the threat to the police station closest to the residence of the third party put at risk;

(c) Notify the third party of the threat to harm him/her, handling this situation with tact and caution; and

(d) If he/she has reasonable basis to believe that the third party is not able to understand or is a minor, he/she shall notify a family member of the existence of the threat.

In those situations in which the risk is informed while the person is hospitalized, the psychiatrist, clinical psychologist or social worker shall notify the Clinical Director, and shall so state it in detail in the clinical record.

When a psychiatrist, clinical psychologist or social worker determines that a particular situation requires carrying out the duty to give warning, he/she shall be exempted from any civil liability, provided there is no gross negligence in the course of his/her duty. Moreover, mental health professionals who, in good faith, carry out their duty to warn shall not incur a violation of the physician-patient relationship, pursuant to the provisions of Section 26 of the Rules of Evidence of 1979, as amended.

Section 2.19. – Duty to Warn of Suicide Risk or Self-mutilation

When a person informs a psychiatrist, clinical psychologist or social worker of his/her intention of committing suicide or self-mutilation, the psychiatrist, clinical psychologist or social worker shall have the duty to warn a family member of the possibility of trying to carry out said act.

In case the intention to commit suicide or self-mutilation is informed to another mental health professional, he/she shall immediately notify it to the psychiatrist, clinical psychologist or social worker in charge of rendering mental health services to the person, and shall so state it in detail in the clinical record.

The duty to warn the psychiatrist, clinical psychologist or social worker, shall arise after:

(a) Having identified and evaluated the existence of an intention to commit suicide or self-mutilation; and

(b) Having stated that after taking into consideration the risk factors associated with suicide and self-mutilation, there is a great probability that said intention could be carried out.

Once the intention to commit suicide or self-mutilation is notified, the psychiatrist, clinical psychologist or social worker shall give warning, and shall carry out the following actions:

(a) Provided it is therapeutically indicated, he/she shall inform the person who states his/her intention to commit suicide or self-mutilation of the duty to warn that he/she has pursuant to this Act;

(b) Notify a family member of the threat, handling this situation with tact and caution.

In those situations in which the professional believes that the person stating his/her intention to commit suicide or self-mutilation meets the criteria to be hospitalized, he/she shall initiate the procedures for the person's voluntary or involuntary hospitalization.

In case the intention to commit suicide or self-mutilation is informed while the person is hospitalized, the psychiatrist, clinical psychologist or social worker shall notify the Clinical Director, and shall so state it in detail in the clinical record.

When a psychiatrist, clinical psychologist or social worker determines that a particular situation requires carrying out the duty to give warning, he/she shall be exempted from any civil liability, provided there is no gross negligence in the course of his/her duty. Moreover, mental health professionals who, in good faith, carry out their duty to warn shall not incur a violation of the physician-patient relationship, pursuant to the provisions of Section 26 of the Rules of Evidence of 1979, as amended.

Section 2.20. - Bearing Arms Inside the Institution

It is hereby prohibited to bear arms inside any mental health institution. This prohibition excludes state police officers and armed security guards in extraordinary public safety conditions.

Section 2.21. – Adoption of Norms and Procedures

The director of each providing institution shall adopt the norms, regulations and procedures that are necessary within his/her institution to guarantee compliance with all the provisions of this Act, and which may broaden or extend, but not restrict or limit, the rights guaranteed to the person who receives mental health services.

All the rules and procedures related to the implementation of this Act shall be revised annually. Said process shall be documented and shall form part of the licensing requisites of all providing institutions.

Section 2.22. – Reconsideration of Determination of Admission, Transfer, Release or Change of Status

All providing institutions shall develop and implement a procedure for reconsidering and revising all clinical determinations.

When a person is denied entrance or admission, or is notified that he/she shall be transferred or released, or that his/her condition shall change and opposes to it, the director of the institution shall inform the person of the procedure to follow. This procedure shall include the following:

(a) Once the person is notified of the determination, or in the case of a minor, his/her parent with patria potestas or custody or the legal guardian, he/she shall have the right to request from the Director, or his/her representative, a written reconsideration of the same, within the next twenty-four (24) hours.

(b) The Director or his/her representative shall evaluate and make a determination within twelve (12) hours after the written reconsideration is received and shall inform his/her decision to the petitioner.

(c) If the person is not satisfied with the determination made by the Director or his/her representative, he/she may file a request for review

before the Review Committee of the institution that offers mental health services.

In case of an indirect mental health service provider, the procedures established for said entities shall apply.

Section 2.23. - Review Committee

A psychiatrist and an inter- or multidisciplinary team, different from the one that treats the person, as defined in this Act, which shall be designated by the Director of the institution, shall compose the Review Committee. As part of this Committee, a representative from an independent community-based organization shall be designated to represent the public interest. Said Committee shall be empowered to review the determinations made by the Clinical Director or his/her representative, when the procedure to reconsider has been followed pursuant to the provisions of the preceding Section. Once the request for revision is received, the Committee shall open a file of the procedures, which shall form part of the person's clinical record. The Committee shall have two (2) working days to conduct a review hearing. The petitioner or his/her representative shall have the right to be heard and to present evidence in said hearing. Within forty-eight (48) hours after the hearing is held, the Committee shall submit its findings of facts and conclusions in writing to the petitioner or his/her representative, and to the Director of the Institution. If the petitioner does not agree, he/she may file an injunction before the Court of First Instance.

When any of the members of the Review Committee is related with the situation to be considered, he/she shall disqualify him/herself from the case.

The Committee shall conduct its procedures in such a way as to guarantee an impartial hearing and due process of law.

Section 2.24. - Responsibility Towards the Family

Family members of the adult who receives mental health services shall be treated with respect and dignity. Family members shall have the opportunity to provide information to the professionals in charge of the treatment. They shall also receive educational information related to the nature of the disorders, medications and their side effects, support services available and support groups, as well as assistance in crisis management strategies. All providing institutions shall furnish this information.

Section 2.25. – Presence of a Family Member

When a mental health professional requires the presence of the legal guardian of an adult, or the parent with custody or patria potestas, or the legal guardian of a minor who receives mental health services, the family member shall respond immediately. When the family member, or legal guardian, refuses to respond without any justified reason, after having been duly summoned on two (2) consecutive occasions, the director of the providing institution, upon petition from the mental health professional, may resort to the Court of First Instance to request that an order to appear be issued under penalty of contempt. Said order shall be served by a court marshal not later than twenty-four (24) hours after its date of issuance. The providing institution shall notify the court if the person appeared or not.

Section 2.26. – Duty to Publish

The rights stated in this Act shall be posted in a visible place at all institutions that provide mental health services, and copy of these rights shall be delivered to the persons who receive services by virtue thereof. In addition, the responsibilities of the persons who receive mental health services shall be posted in a visible place.

CHAPTER III – BILL OF RIGHTS OF ADULTS WHO RECEIVE MENTAL HEALTH SERVICES

Section 3.01. – Bill of Rights

The provisions of this Chapter shall be interpreted so as to protect and promote the dignity of the human being through recognition of the essential rights for his/her treatment and rehabilitation.

Section 3.02. – Protection of Constitutional Rights

Any adult who receives mental health services shall continue to enjoy his/her rights, benefits and privileges pursuant to the Constitution of the United States of America and the Constitution of Puerto Rico, as well as state and Federal laws, while receiving evaluation or treatment and rehabilitation, and during the process of admission, transfer or release in any providing institution.

Section 3.03. – Presumption of Mental Competency

It is presumed that all persons are mentally competent, except otherwise determined by a court. The judicial determination of disability under Section 703 of the Civil Code of Puerto Rico, as amended, shall be distinct and separate from the judicial proceeding to determine if an adult should be subject to involuntary admission.

It shall be presumed that any person with a mental or emotional disorders has the potential to recover and rehabilitate upon receiving mental health services adequate to his/her diagnosis and the severity of his/her symptoms and signs.

Section 3.04. – Limitation of Rights

The rights established by this Act for adults who receive mental health services are applicable to those adults serving a sentence or confined in penal or forensic-psychiatric institutions, as long as they are not in conflict with the security measures established in the institution.

Section 3.05. – General Rights

Any adult who needs, requires and/or receives mental health services shall have the following rights:

- (a) to receive medical, psychiatric and psychological attention in its preventive, clinical, recovery and rehabilitation phases for the protection of his/her health and general well-being;
- (b) to practice a profession, occupation or trade, according to his/her knowledge and capacity, taking into consideration his/her mental disorder and level of functionality;
- (c) to request employment and be employed within existing employment opportunities available, without being discriminated against for reason of mental disorder, and to participate in workshops and receive the technical or professional orientation and help that shall allow him/her to develop his/her potential;
- (d) to have access to public services and benefits of housing, social welfare, health, food, transportation, education and employment;
- (e) to act individual by or collectively while searching for solutions to his/her problems and grievances;
- (f) to be heard, listened to and consulted in all matters that affect his/her condition and progress;
- (g) to receive ambulatory medical-hospital services without being discriminated for having a mental disorder.

Section 3.06. – Specific Rights

Any adult who needs, requires or receives mental health services shall be entitled to the following specific rights:

a) Access to Services

Every adult shall have access to mental health services in accordance with the sub-specialization by stage of life, gender, disorder, age and level of care, depending on his/her diagnosis and the severity of his/her symptoms and signs at the time. The treatment services shall be rendered continuously, depending on the severity of the symptoms and signs to achieve recovery in a reasonable level of functionality. To that effect, adults who receive mental health services shall not be object of discrimination or prejudice, and shall have access to said services, without distinction of diagnosis and severity of his/her emotional disorder. This right shall not be limited due to the existence of any physical condition or disability. There shall be no distinction between a mental disorder and any other medical condition in terms of the access to be given to the person who needs the services.

The use of mental health services shall be determined by the inter- or multidisciplinary team, based on the justified clinical need, which, in turn, shall be based the diagnosis and severity of the symptoms and signs of the mental disorder, as defined in the classification manuals in effect at the time.

He/she shall also have the right to receive the therapeutic services of pharmacotherapy, psychotherapy, support services and others corresponding to his/her diagnosis and severity of the symptoms and signs, pursuant to the best clinical parameters.

Every mental health service provider, direct or indirect, shall have the obligation to render services within the first five (5) calendar days of the request, provided it is not related to a psychiatric emergency. All direct or indirect mental health providers are hereby prohibited from having waiting lists exceeding the five (5)-day term established in this Section to offer services for those who request them.

b) Right not to be identified as a mental health patient

Any adult who receives mental health services shall have the right not to be identified as a patient, or as a former patient, except when the person so requests it pursuant to the procedure established in this Act.

c) Notification of Rights; Limitations

Any adult who requests mental health services has the right to receive notification at the time of being admitted or hospitalized in the providing institution, or as soon as possible after the same, of the rights guaranteed pursuant to this Act.

To that effect and in accordance with Section 2.07 of this Act, the director of the institution or his/her representative shall advise the adult receiving the mental health services, the person designated by him/her, or his/her legal guardian in the case of those legally declared as mentally disabled. In the case of adults who request services voluntarily, the director of the institution or his/her representative shall expressly inform him/her of the right to be released from the institution within the shortest term possible. If the adult has been admitted voluntarily, he/she, or his/her legal guardian, family member or any other person so designated by the adult who receives mental health services shall receive a petition for release form.

Moreover, he/she shall receive a written document of the operating norms of the institution, which shall include, among others, the procedures to decide placement, to review said placement, and the claims and complaints procedures. In addition, during the process of admission or hospitalization, the person shall receive a detailed explanation of any limitations he/she may suffer while hospitalized, and the obligation that they result from a justified medical determination made by the inter or multidisciplinary team and are included in the clinical record. Admissible limitations shall also be notified to the closest family member, the legal guardian or the attorney, if any.

No limitation shall apply when the communication is between an adult, his/her representative, legal tutor, attorney or the court, or between the adult and another individual on matters related to administrative or legal procedures.

d) Individualized Treatment, Recovery and Rehabilitation Plan

Every adult shall have the right to have an inter or multidisciplinary, safe and human Individualized Treatment, Recovery and Rehabilitation Plan designed for him/her, within the least restrictive environment possible, according to his/her condition.

Any adult who receives the services shall participate in the preparation and revision of the plan to the degree to which said participation is possible. In addition, the participation from his/her closest family member shall be required. The case handler shall be responsible for giving follow-up to the implementation of the inter or multidisciplinary Individualized Treatment, Recovery and Rehabilitation Plan. The clinical record shall contain the signature of all the professionals participating in the elaboration of the plan, and that of the adult or family member who represents him/her during its preparation.

e) Informed Consent

Every adult shall have the right to know everything related to the services or treatments proposed by his/her inter or multidisciplinary Individualized Treatment, Recovery and Rehabilitation Plan, for mental health services, before consenting to it. Every time an adult receives mental health services, regardless of the level of care, his/her informed consent shall be obtained, or that of his/her legal guardian, in the case of an adult who has not been legally declared disabled. The information and orientation shall be offered in a language and tone that the person can understand.

The minimum required information that the adult shall receive for his/her consent to be considered as being duly informed, shall be the following:

- (1) The diagnosis and clinical description of his/her health condition;
- (2) the recommended treatment;
- (3) the risks and consequences of accepting or rejecting the treatment;
- (4) other alternatives for treatment available, even though they are less indicated;
- (5) benefits, risks and consequences of the alternatives for treatment;
- (6) the corresponding prognosis;
- (7) the possibility of side effects and irreversible damages caused by the treatments or use of certain recommended medications.

As an exception, in case of a medical, psychiatric or dental emergency, the treatments necessary to stabilize the emergency situation may be offered without prior informed consent from the adult. The reason and determination of an emergency shall be included in the adult's clinical record, and shall be notified as soon as possible to the closest family member or his/her legal guardian, as the case may be.

f) Refusal to Receive Treatment

Any adult who receives services in a providing institution may, per se or through his/her legal guardian, exercise the right to refuse any type of service within his/her Individualized Treatment, Recovery and Rehabilitation Plan. This refusal applies to medications and to any other type of service within his/her Individualized Treatment, Recovery and Rehabilitation Plan. If the adult refuses to receive said services, they shall not be provided, although it shall be included in the clinical record.

The Director or his/her representative shall inform the adult or legal guardian of alternate services and treatments available, the risks and consequences that said adult may suffer when refusing to receive said services, and the prognosis of receiving or refusing to receive the same. However, if the services or treatments

required by the adult's Treatment and Rehabilitation Plan are necessary to handle a psychiatric emergency situation, they shall be provided. The psychiatrist shall include in the clinical record the emergency circumstances in which it was necessary to order said service or treatment. The adult shall be notified of said decision as soon as he/she can understand the information, or his/her legal guardian. This notification shall appear in the clinical record.

Under no circumstance shall an order be issued to receive or refuse a service or to administer medications as a punishment or as a condition for the adult's release.

g) Freedom of Communication

Every adult who receives services in a providing institution shall have the right to communicate in private, with no censorship or obstacle, with any person he/she chooses. This communication may be accomplished by telephone, mail or visits, as described below:

1) Correspondence – The Director of the providing institution shall make sure that the correspondence is received and deposited in the mail. He/She shall also provide writing materials and stamps when the adult who receives mental health services does not have the means to obtain them. All the letters, regardless of the addressee, shall be sent to thereto, without being examined by the authorities of the institution that provides mental health services.

2) Telephone – The Director of the Institution that provides mental health services shall make sure that telephones are accessible and shall establish in writing the places and times for their reasonable use. Any adult who does not have the means to obtain one, shall receive funds for the reasonable use of the telephone, be it for local calls or long distance.

3) Visits – The Director of the providing institution shall be responsible for guaranteeing the existence of an adequate place so that adults subject to

hospitalization may receive visitors. To that effect, he/she shall make public the schedule and place for said visits.

The providing institution shall establish the rules for communication through other means, such as facsimile, electronic mail or messenger service.

Notwithstanding the above, written communication, use of the telephone and visits to adults shall be reasonably limited by the director of the providing institution or his/her representative when there exists a clinical determination that justifies it, provided said limitation has the purpose of protecting the adult or third parties from being harmed, persecuted, harassed or intimidated. The decision to limit this right shall be taken into consideration by the inter- or multidisciplinary team, included in the clinical record, and duly justified and notified to the adult. The person's family member, legal guardian or attorney shall be also notified.

No limitation whatsoever shall apply between the adult, his/her representative, legal guardian, attorney or the court, or between the adult and another person, when the communication is about matters associated with administrative or judicial proceedings.

h) Personal Effects

Every adult who receives mental health services in a providing institution may possess, use and keep his/her personal effects in an assigned and safe place provided for such purposes.

Possession and use of certain types of personal property may be limited by the director of the providing institution or his/her representative when necessary in order to protect the adult or others from any physical injury. When the adult is released, all of his/her personal property shall be returned.

i) Money and Deposits

Every adult shall have the right to manage his/her own assets, including his/her valuable belongings while receiving services in a mental health institution.

The hospital or residential providing institution shall establish the necessary rules and procedures according to the regulations promulgated to that effect by the Administration to ensure that the money of the adults who receive services therein are protected against theft, loss or illegal appropriation. To that effect, the rules and procedures shall include the following:

(1) any person who receives services in these institutions may use his/her money as he/she wishes. However, no adult who has been prohibited from using his/her money by court order may do so.

(2) no personnel of the hospital or residential institution shall be designated to receive money from social security, pensions, annuities, trusts or any other direct form of payment or assistance of the adults hospitalized in institutions that provide mental health services, except in those cases in which a court order designates the personnel as custodian of said money. In addition, a designation may occur by virtue of a law or regulation related to the disposition of rights from social security, pension or any other benefit; and

(3) any adult in a hospital or residential institution that provides mental health services may request the deposit of any funds pertaining to it in any financial institution in Puerto Rico.

j) Labor or Work

Any adult under treatment in a providing institution may voluntarily agree to render labor or work for the institution. However, the adult may not be obligated to carry out said labor or work. It is hereby provided that when the work or labor in the institution involves economic benefits, the adult shall receive salaries and benefits in proportion with the work carried out, and pursuant to the applicable federal and state laws.

It is hereby provided as an exception that it may be required that the adult carry out maintenance duties or tasks in his/her room, and any other duty or task as part of his/her Treatment, Recovery, and Rehabilitation Plan with no compensation. The assignment of these tasks or duties shall be included in the clinical record as part of the Treatment, Recovery, and Rehabilitation Plan.

Community-based organizations may request, as part of their methodology of community treatment and rehabilitation, that participants of said programs carry out duties without economic compensation, provided the participant has voluntarily agreed. However, said duties shall not attempt against the participant's dignity and physical integrity, nor be contrary to the constitutional clause that prohibits involuntary servitude.

Notwithstanding the above, under no circumstance may any adult be required to carry out duties or tasks as retaliation or punishment.

k) Claims and Complaints

Any adult may, per se or through his/her legal guardian, exercise his/her right to present claims or complaints in relation to any violation to the rights described in this Act. The providing institution shall have the obligation to warn the adult who receives mental health services and his legal guardian of the right he/she has for his/her claim or complaint to be solved in an impartial proceeding, in a fair and timely manner. When the petitioner does not agree with the determination made, he/she may seek remedy at the Court of First Instance.

Every providing institution shall establish a system to handle claims and complaints related to the treatment and service being offered pursuant to this Act. The proceeding established to present claims and complaints shall be informed to the adult who receives mental health services, his/her legal guardian, family members, visitors and personnel who work in the institution.

Every claim and complaint shall be handled and solved within a term of thirty (30) days after having been duly presented. The adult or his/her legal guardian shall be notified in writing of the final determination made on his/her claim even after having been released.

The Services Manuals stipulated in Sections 6.03 and 10.04, respectively, shall include a section titled Proceedings for the Presentation and Solution of Claims and Complaints, which shall consist of a description, in simple words, of the steps to be followed by adults, minors and their families who need to use these mechanisms.

1) Experimental or Exploratory Procedures

No adult shall be submitted to experimental or exploratory procedures that are not approved by the corresponding Federal and state organisms. To participate in the same, the adult or his/her legal guardian, as the case may be, shall give written and legally effective informed consent.

The minimum information that shall be offered to a participant of these procedures shall be made in comprehensible and non-coercive language, and shall consist of:

(1) a document stating that the procedure constitutes a scientific experiment or investigation; its purposes, the duration of the patient's participation in the procedure; a description of the procedures to be used and which parts of them are experimental.

(2) the risks and nuisances that may be reasonably foreseen;

(3) a description of the benefits that may be reasonably expected by the participant or others;

(4) disclosure of alternate procedures or treatments that may benefit or have more advantageous results for the participant than the experimental or exploratory procedure;

(5) a document stating the scope and degree of confidentiality under which the adult's identity shall be kept;

(6) in investigations that involve risks, it shall be informed if compensation or medical treatment shall be offered for damages resulting from the procedure, and the full extent of the treatments, in addition to the place in which to obtain additional information about them;

(7) an explanation with respect to the persons to be notified, in case the participant has any questions or suspects to any damages related to the procedure;

(8) a document stating that participation in the procedure is voluntary and refusal to participate or to discontinue at any moment does not involve penalty or loss of any benefit to which the participant may be entitled. The adult subject to any experimental or exploratory procedure shall be notified in writing at least seventy-two (72) hours before beginning the procedure, excluding Saturdays, Sundays and holidays; and

(9) any other criteria established through regulation by the Administrator.

The adult has the right to end his/her participation in the experimental procedure, before or during the procedure.

m) Scientific Research

Any petition to conduct scientific research related to an adult who receives mental health services in public or private institutions shall be directed to the Administrator or the director of the institution that provides these services, respectively, who shall request the approval from the Evaluating Committee of the requesting institution, in order to evaluate the proposals submitted for investigation according to its recommendations. The preceding shall be carried out pursuant to the standards established by the Federal and State Government for scientific

investigation processes. The committee shall issue its recommendation within fifteen (15) days after its receipt. Afterwards, the Administrator or the director of the providing institution shall notify to the interested party its determination on the investigation.

No adult shall be submitted to any scientific investigation without having first obtained his/her authorization or that of his/her legal guardian, as the case may be, through a written and legally effective informed consent.

The basic information that shall be offered to the person or his/her legal guardian in a comprehensible and non-coercive language and shall consist of:

(1) a document stating that the procedure constitutes a scientific investigation; its purposes, the duration of the patient's participation in the procedure; a description of the procedures to be used and which parts of them are experimental.

(2) the risks and nuisances that may be reasonably foreseen;

(3) a description of the benefits that may be reasonably expected by the participant or others;

(4) disclosure of alternate procedures or treatments that may benefit or have more advantageous results for the participant than the scientific investigation procedure;

(5) a document stating that adult's identity shall be kept in strict confidentiality;

(6) in investigations that involve risks, it shall be informed if compensation or medical treatment shall be offered for damages resulting from the procedure, and the full extent of the treatments, in addition to the place in which to obtain additional information about them;

(7) an explanation with respect to the persons to be notified, in case the participant or his/her legal guardian has any question or suspects any damages related to the procedure;

(8) a document stating that participation in the procedure is voluntary and that refusal to participate, or to discontinue it at any time does not involve a penalty or loss of benefits of any kind to which the participant may be entitled; and

(9) any other criteria established through regulation by the Administrator.

The persons in charge of conducting the investigation shall comply with the rules of confidentiality established in this Act. The Director of the institution shall safeguard the confidentiality of the information of the adult who receives mental health services in relation to any type of scientific or exploratory investigations.

n) Language

Every adult who receives mental health services has the right to know and be informed about everything related to his/her evaluation, treatment, recovery and rehabilitation, and therefore, when there is a need to give an explanation to the adult who receives mental health services and he/she does not know or understand the language in which it is offered, the institution shall be bound to provide to the adult, or his/her legal guardian, the translator or interpreter necessary to achieve an effective communication. This provision includes those cases in which the nature of the limitation is auditory or of speech. For the purposes of this provision, family members of the person who receives mental health services are not banned from serving as interpreters, provided the adult so determines it.

All written documentation furnished to the adult shall be issued in the language he/she understands. Everything possible shall be done for an effective communication. In those cases in which the adult has visual limitations, the

institution shall be bound to advise him/her of the right to have the documents read out loud by the person of his/her choice, who shall also sign each and all the documents that have been read, pursuant to the adult's petition and determination. The provisions of this section shall be included in the clinical record of the adult who receives mental health services.

ñ) Right to Request Participation of Support Groups or Persons

Upon designation of the inter- or multidisciplinary team, the patient shall have the right to request the participation of any support person or group, be it religious or related to the diagnosed condition.

o) Right to Receive Support from the Patient's Mother, Father, Guardian and Protection or Assistance Agencies for the Person at the Time of Release

Every person admitted to a facility shall have the right to receive support from his/her parents, family members, significant others and agencies with protection services and the obligation to provide shelter and the adequate level of care, as well as the personnel trained to adequately serve persons with mental disorders in a less restrictive environment with greater autonomy.

p) Transportation

Every person shall have the right to transportation in an adequate vehicle, including ambulances certified by the Public Service Commission and the Department of Health when the severity of the symptoms and signs so requires it to transport him/her to the facility where he/she will receive treatment.

If the person has economic means, such as health coverage to pay for transportation expenses, these shall be paid by said coverage. In the case of persons who receive mental health services or interventions under the Health Reform, the entity contracted to handle and coordinate health services shall be responsible for covering the transportation expenses.

q) Right to Support When There Is a Moral Responsibility

Any adult person who, for reason of consanguinity or moral obligation, be it because he/she has benefited financially or received any other benefit from the person who receives mental health services, or that needs or receives mental health services, shall be bound to provide the necessary support and shall make sure that the person with a mental disorder can participate in the services directed toward his/her recovery, according to his/her level of capacity.

r) Legal Representation upon Involuntary Admission

Any adult involuntarily admitted shall have the right to be represented by an attorney. If the person is indigent and has not been able to hire an attorney, the court shall appoint one to represent him/her during the hearing.

s) Less Intensive Level of Care with Greater Autonomy

Every person has the right to receive adequate treatment, according to his/her diagnosis and level of care, and therefore his/her hospitalization shall be for the shortest period possible, until he/she can be transferred to a less intensive level of care.

t) Responsibility of the Persons Who Receive Mental Health Services in Puerto Rico

It is hereby established that the persons who receive mental health services shall comply with the following responsibilities:

- (1) assume responsibility for his/her recovery according to his/her abilities;
- (2) participate in self-sufficiency and community support activities and programs; and
- (3) the guardians or persons in charge of the person who receives mental health services shall have the responsibility of taking the person to his/her treatments, participating in activities, counseling and family

therapies recommended for the progress of the person with mental disorders.

CHAPTER IV. – MENTAL HEALTH CARE SYSTEM FOR ADULTS

Section 4.01. – Levels of Care

Mental health services shall be rendered in the level of care with greater autonomy and therapeutically more effective within the concept of the mental health care system, according to the diagnosis and the severity of the symptoms and signs at the time the person is evaluated. In any level of treatment the use of medications may be required according to the diagnosis and the severity of the symptoms and signs at the time the person is evaluated.

The levels of mental health care include services that range from the most intensive, such as the Psychiatric Hospital, to those with greater autonomy, such as ambulatory services.

Levels of care in order of greater intensity or greater autonomy are:

- (1) Psychiatric hospitals
- (2) Psychiatric units
- (3) General hospitals
- (4) Transitional and residential services
- (5) Emergencies
- (6) Partials
- (7) Diurnal
- (8) Intensive outpatient
- (9) Ambulatory
- (10) Maintenance treatment with or without medications

Section 4.02. – Adults Who Require Mental Health Hospital Services

Any adult with a mental disorder with a severity of symptoms and signs at the time of the evaluation indicating that he/she may cause physical injury to the

self or others, or damages to property, or when he/she has made significant threats that base the same results, or when the condition of the adult requesting the services could substantially deteriorate if not offered adequate treatment on time shall require mental health hospital services pursuant to the procedures established in this Act.

Conditions related to the use of controlled substances that degenerate into a mental disorder are included in this provision, provided the conditions stated in this Section arise.

Section 4.03. – Initial Evaluation; Adults Admitted to Institutions that Provide Mental Health Services

Any adult who, voluntarily or involuntarily, begins to receive mental health services in a providing institution, such as emergency rooms, emergencies, and total or partial hospitalizations, shall receive the following services within twenty-four (24) hours:

- (a) medical record;
- (b) a physical examination;
- (c) laboratory tests;
- (d) a psychiatric evaluation;
- (e) a psychological evaluation;
- (f) a social evaluation; and
- (g) a Global Assessment of Functioning (GAF) Scale evaluation (DSM - IV Axis V), or as per the clinical manual in effect at the time.

The results of the evaluations, analysis and examination shall be used to determine the level of care that corresponds to the severity of the symptoms and signs at the time, and the Individualized Treatment, Recovery and Rehabilitation Plan. This Plan shall be formulated in writing, within the first seventy-two (72) hours upon beginning to render the services to the minor and reviewed at least

during the first ten (10) days, as a result of the inter- or multidisciplinary works carried out by the professionals in charge.

Section 4.04. – Therapeutic Restriction

The restriction shall be applied only in hospital institutions and centers that have emergency or acute care units, and shall be used as established in the protocols of standards of the best practices of mental health and according to the provisions of this Act. The restriction shall be used as therapy without impairing human dignity. Its application shall be reserved as an extreme resource to be used when the person is in immediate danger of harming the self or others, or damaging property. Before restricting any adult, his/her physical condition shall be taken into consideration, provided that under no circumstance shall it be used as punishment, disciplinary action or for the convenience of the institution's personnel.

Any mental health professional with faculty to order, administer and observe the restriction shall complete training in the use and application of this therapeutic procedure in adults. The provisions of this Section are subject to the regulations that the Administration shall promulgate for these purposes. The restriction shall take place when there is a written order issued by a psychiatrist to that effect, who after having observed the adult is clinically convinced that there is a need to use restriction. The examination shall include an evaluation of the physical condition and the mental state of the adult. It is required to include the restriction order in the clinical record, which shall also include specific data, observations, purposes for its use, time and any other pertinent evidence that supports its use.

The closest family member or legal guardian, as the case may be, shall be notified as soon as possible, of the use of restriction. It shall be mandatory to conduct a review of the use of restriction as soon as possible. The Mental Health Faculty and the Clinical Director shall keep minutes of said review stating the

reasons that support the use of restriction in order to conduct a professional audit of the team members.

No restriction order shall be valid for more than twelve (12) hours after its issuance. The restriction applied by virtue of said order shall not exceed more than four (4) hours, after which the psychiatrist shall conduct a new evaluation. If the results of the evaluations show that the restriction needs to continue, the psychiatrist shall issue a new order, which shall be included in the clinical record.

In case of an emergency that requires the immediate use of this method, and the psychiatrist is not available, it may be temporarily started by a physician or registered nurse, or a member of the inter or multidisciplinary team duly trained and certified on this method, who after consulting by phone with a psychiatrist and having personally observed the patient, is clinically convinced that the use of restriction is indicated in order to keep adult from causing harm to the self or others, or damage to property. Once the psychiatrist is available, he/she shall conduct an evaluation to include the written order in the clinical record as soon as possible, but in no case shall it be after four (4) hours of the initial use of the emergency restriction. The need for a restriction order shall be included in the clinical record. If after locating the psychiatrist, he/she does not authorize to continue with the restriction, it shall immediately cease. The psychiatrist who orders a restriction shall immediately notify so in writing to the Clinical Director and the inter- or multidisciplinary team. A registered nurse trained and certified on this method shall be assigned to observe the adult, at least every fifteen (15) minutes, without detriment to the patient's right to privacy, and shall include his/her observations in the clinical record in a legible, clear and precise manner.

Restriction orders of up to four (4) hours may be implemented during all or part of the twelve (12)-hour period. Said period shall be computed from the moment the restriction order was issued. Once begun, it shall cease as soon as it is

clinically unnecessary. The restriction shall be removed every two (2) hours for not less than fifteen (15) minutes, unless said removal is clinically contraindicated.

Once the restriction is used during the twelve (12)-hour period, it shall not be used again on the same adult for the next two (2) calendar days, unless there is a justified order for a psychiatric re-evaluation upon authorization from the Clinical Director of the hospital institution.

The Clinical Director shall review all the restriction orders on a daily basis, and shall investigate the reasons recorded for the same. In addition, he/she shall keep a register of the restrictions used and shall render a yearly report to the Administration.

The institution shall establish in writing a protocol for therapeutic restriction according to the provisions contained in this Section. Said document shall include information about the mental health professionals who are empowered to begin the restriction in case of an emergency, pursuant to the provisions of this Act. Any health professional empowered to begin, order and observe a restriction, must have completed a training and be certified in the use and application of this therapeutic procedure. The provisions of this Section are subject to the regulations and licensing requirements of the institutions that provide mental health services that the Administration shall promulgate for these purposes.

Section 4.05. – Therapeutic Isolation

Isolation shall only be used as a therapeutic method to keep the adult from causing harm to the self or others, or damage to property. Its use shall be limited to hospital institutions and mental health centers that have acute care units. Under no circumstance shall it be used as punishment, disciplinary action or for the convenience of the institution's personnel.

Isolation shall only be used when there is a written order issued by a psychiatrist to that effect, who after having observed the adult, is clinically

convinced that there is a need to use restriction. The examination shall include an evaluation of the physical condition and the mental state of the adult.

The isolation order shall be included in the clinical record, which shall also include the reasons for which it was issued, and the closest family member or legal guardian shall be notified of the use of isolation as soon as possible. The isolation order shall also include the duration of said isolation and the aspects to be observed. An isolation order shall be valid for twelve (12) hours. Each isolation period shall require that the psychiatrist issue a new order after having conducted a direct evaluation of the person. The psychiatrist who orders the isolation shall immediately notify its use in writing to the institution's director and the inter or multidisciplinary team.

The isolation shall be used during a period of not more than eight (8) hours, computed after it begins. Once isolation has been used during said period, it shall not be used again on the same adult during the following two (2) calendar days. The provisions of this Section are subject to the regulations and licensing requirements for the institutions that provide mental health services that the Administration shall promulgate for these purposes.

The psychiatrist who orders the isolation shall designate a registered nurse trained and certified on this method to observe the adult, at least every fifteen (15) minutes, without detriment to the patient's right to privacy, and to include his/her observations in the clinical record in a legible, clear and precise manner.

Isolation rooms shall be duly prepared pursuant to the federal and state protocols in effect in order to avoid harm to/for the adult.

It shall be mandatory to conduct, as soon as possible, a review of the use of therapeutic isolation registered in minutes by the Mental Health Faculty and the Clinical Director stating the reasons that support the use of this method in order to establish the professional auditability of the team members.

The Clinical Director shall notify or review all isolation orders on a daily basis, and shall render a yearly report to the Administration.

The institution shall establish in writing a protocol for therapeutic isolation according to the provisions contained in this Section.

Section 4.06. - Electroconvulsive Therapy

No adult shall receive electroconvulsive therapy treatment without prior written consent and authorization.

In the case this treatment is indicated for the adult, but that due to his/her condition, he/she cannot give consent and does not have a designated legal guardian, a hearing shall be held for the Court to determine if the treatment is appropriate or not and issue an order to that effect. Said hearing shall be held summarily in the court closest to the institution, within eight (8) hours after the petition, when it is established under oath that if this treatment is not used, it could result in imminent danger to the person who receives mental health services.

In the case of psychiatric emergencies where the use of this therapeutic method is needed to save the patient's life, the determination to use it shall be made by the psychiatrist, in consensus with the therapeutic inter- or multidisciplinary team. The Director of the hospital institution shall review all the orders for electroconvulsive therapy under the emergency criteria, and shall render a yearly report to the Administration, within thirty (30) days of the following year.

The adult for whom electroconvulsive therapy treatment is considered and his/her legal guardian, if any, shall be notified at least forty-eight (48) hours prior to the treatment. In case of emergency, the treatment may be given after forty-eight (48) hours or before. The inter or multidisciplinary therapeutic team that designs the case shall discuss it and notify its recommendations to the Clinical Director. Every adult shall have the right to refuse this treatment at any time after having accepted it.

Every institution that provides mental health services and offers electroconvulsive therapy treatment shall have a protocol that includes the accepted standards of the American Psychiatric Association (APA) and the entities that regulate the application of said therapy, in addition to the regulations that the Administration shall promulgate for these purposes. Said protocol shall be revised annually. It shall be the responsibility of the entity that provides mental health services to be up to date on scientific advances that may alter the procedure or application of this type of treatment.

Section 4.07. – Voluntary Admission

Every person of eighteen (18) years of age or more may request Voluntary Admission to a mental health service with a written petition signed by him/her and a psychiatrist, after an evaluation and discussion of the case with the inter- or multidisciplinary team determines that said adult should be admitted.

The written request for admission shall also contain a simple statement without technicalities stating that the adult understands he/she has the right to be released within the shortest term possible, except in those cases when during said term a petition is filed in court accompanied by a certificate stating that the adult shall be subject to involuntary admission.

Section 4.08. – Petition for Release; Change of Status; Hearing

Within twenty-four (24) hours after the petition for release, the adult shall be evaluated by a psychiatrist in consultation with the inter or multidisciplinary team, who shall determine if the adult represents a danger to the self or others, or to property, as an indicator of a mental disorder. If there is no evaluation, the adult shall be released immediately. If as a result of the petition for release, and after the evaluation, the psychiatrist, in consultation with the inter- or multidisciplinary team, determines that the adult represents danger, an Order for Involuntary Admission shall be requested, which shall not exceed fifteen (15) days and the

change of status from voluntary to involuntary, within the following twenty-four (24) hours. During this process, the adult shall remain hospitalized. The procedures of involuntary admission provided by this act shall be continued.

Section 4.09. – Renewal of Consent; Revision of Record

The psychiatrist, along with the inter- or multidisciplinary team, in charge of the care and treatment of the adult shall have up to ten (10) days, after the involuntary admission, to conduct a re-evaluation in order to determine the need to continue with the hospital treatment, recovery and rehabilitation services or in another level of care. The result of said evaluation shall be notified to the adult and included in the clinical record. A written confirmation shall be requested from the adult in order to confirm the hospital service. This procedure shall continue every ten (10) days after the first revision is conducted while hospitalization lasts.

In those cases in which in the psychiatrist's best judgment, and in consultation with the inter- or multidisciplinary team, it is determined that the adult represents immediate danger to the self or others, or to property and he/she does not give consent to continue receiving treatment services, a Petition to Order Involuntary Admission shall be requested from court, which shall exceed fifteen (15) days, and the change of status from voluntary to involuntary.

Section 4.10. – Other Levels of Care

The Court, before determining if the adult should be admitted voluntarily, shall consider other adequate levels of care according to the diagnosis and severity of the symptoms and signs at the time. It may order that the adult be submitted to treatment in any other level of care of the basic services that complement his/her treatment, recovery and rehabilitation plan, in an institution that provides mental health services or a community-based organization. In addition, it shall consider the recommendations presented by the psychiatrist and the inter or multidisciplinary team responsible for the adult's initial evaluation. Said

recommendations shall be detailed in the report, which in turn, shall include a comprehensive evaluation with a preliminary Individualized Treatment, Recovery and Rehabilitation Plan applicable to the level of care recommended, and any other information that the court may deem necessary. The regulations established by the Administration shall include specifications of the contents and form of the Individualized Treatment, Recovery and Rehabilitation Plan by level of care.

The Court shall, however, have authority to modify an order for treatment in another level of care if the adult subject of the order does not comply with the same or if the mental health professionals determine that the response to the treatment is not adequate for the condition. Before modifying the order, the Court shall receive a report from the director of the service or level of care specifying the reasons why the order should be modified. The Court shall schedule a hearing in which the adult shall be duly notified, and in which he/she shall have the opportunity to express his/her opinion when the order for compulsory treatment is reconsidered. The adult shall be accompanied by a legal representative during the hearing.

If the Court repeals the order for compulsory treatment, and orders that the adult be hospitalized, a marshal shall take all the necessary steps to coordinate transportation for the adult.

Section 4.11. – Compulsory Treatment

Any person who, as a result of the initial evaluation, does not require the level of care of hospitalization intensity, but represents a risk to the self or others, and to property, and requires a level of care of greater autonomy, the psychiatrist, along with the inter- or multidisciplinary team of professionals, shall recommend to the court to order compulsory participation in a level of care with less intensity and greater autonomy, under penalty of contempt if he/she does not attend. The institution in charge of the administration of the compulsory treatment shall be

bound to notify the court of the patient's attendance and the progress of the treatment, or the evolution of the clinical condition. The reports shall be submitted to the court quarterly, until the person's situation, by the symptoms and signs so justify it, and this report may move the court to determine that the person does not represent a risk to the self or others, or to property.

Section 4.12. – Involuntary Admission; Hospitalization

Any adult who meets the necessary requirements to receive mental health services, but does not allow it or is not able to allow it, shall be evaluated to determine involuntary admission to a providing institution. Said evaluation shall require the Court's intervention. The Court shall order a direct evaluation by a psychiatrist in consultation with the inter or multidisciplinary team, who shall determine if the adult should receive treatment, recovery and rehabilitation for his/her mental disorder.

No person shall be admitted involuntarily, unless there exists clear and convincing evidence to the Court's satisfaction that he/she represents a risk to the self or others, or to property, and needs to be admitted.

Section 4.13. – Twenty-four Hour (24) Temporary Detention

If as a result of a personal observation, a security agent or any other citizen has reason to believe that a person of eighteen (18) years of age or more requires immediate treatment in order to protect him/her from physical damage to the self or others, or to property, he/she may present to the Court of First Instance with venue, a sworn petition for a twenty-four hour (24) temporary detention so that an inter- or multidisciplinary team may conduct an evaluation of the adult. Said petition may be filed in the court closest to the residence of the person who is understood to need mental health services or in the court closest to the place where that person is located.

The court may grant said petition, provided the sworn petition contains and supports the following:

(a) detailed reasons that are grounds to state that the adult should be admitted involuntarily, including a description of the acts or significant dangers that support said statement, as well as the place and date they occurred, with names, exact address, telephone number and personal data of the persons who witnessed the acts, if any;

(b) the name and address of the spouse, legal guardian or closest family member; and if there are none of these, the name or address of any other person, entity or institution with interest in the adult subject to evaluation for involuntary admission. If the petitioner is unable to supply the corresponding names and addresses, he/she shall state the steps that were taken to obtain this information and the specific measures followed, even if they were unsuccessful; and

(c) the relationship between the petitioner and the adult subject to evaluation for involuntary admission, as well as a statement by the petitioner as to having or not any type of interest with said adult, as the case may be, but not limited to any economic or litigious interest, be it civil or criminal.

Once the abovementioned requisites have been presented and the merits of the petition evaluated, the Court may issue an Order for Temporary Detention, for a term of not more than twenty-four (24) hours.

Once the adult arrives at the providing institution, he/she shall be kept in observation. He/she shall be evaluated and given the pertinent treatment, according to the severity of the symptoms and signs at the time, for a period not to exceed than twenty-four (24) hours. This Order expires within three (3) calendar days after its issuance date.

If based on the results of the evaluation and observation made, the psychiatrist, in consultation with the inter or multidisciplinary team, determines

that the adult does not meet the hospitalization criteria, he/she shall be released immediately or be referred to another level of care, if necessary. The court shall be notified of said determination and of the pertinent recommendations within a term not more than seventy-two (72) hours.

If, on the contrary, the psychiatrist, in consultation with the inter- or multidisciplinary team, determines that hospitalization is the indicated level of care, he/she shall render a certification of said determination so that the closest family member, legal guardian, or a representative of the institution, as may apply, may try to request an involuntary admission.

Section 4.14. – Petition for a Fifteen (15)-Day Involuntary Admission

Every petition for involuntary admission for a maximum term of fifteen (15) days shall be filed in court within the twenty-four (24) hours provided by the Order for Temporary Detention previously issued by the court. The same shall be accompanied by a certification from the psychiatrist, which shall be known, as the First Certification, and shall establish that the adult meets the criteria for involuntary admission and immediate hospitalization in a hospital institution or any other providing institution in order to receive treatment. Said First Certification shall establish the following:

(a) that the psychiatrist, in consultation with the inter- or multidisciplinary team, evaluated the adult within the twenty-four (24) hours prior to filing the first Request for Admission;

(b) the observations and determination of the psychiatrist, in consultation with the inter- or multidisciplinary team, to the effect that the adult meets the admission criteria as established in this Act;

(c) evidence that the adult has received a copy of the rights established in this Act; and

(d) the names and professional data of the members of the intervening inter- or multidisciplinary team.

Once the First Certification is received, the Court shall issue an Order for Involuntary Admission for a term not to exceed fifteen (15) days, which shall be subject to the provisions stated hereinafter, which shall be known as Fifteen (15)-Day Involuntary Admission. Upon issuing the order, the Court shall schedule a follow-up hearing that shall be held within the next five (5) working days in order to evaluate the extension or suspension of the Involuntary Admission. The Court shall notify to the adult, as well as to his/her closest family member or legal guardian, if any, the date, time and place of the hearing.

If during the hearing, the court finds that the adult should continue receiving involuntary treatment services, the first Order for Admission shall remain in effect until the end of the original established term of fifteen (15) days, or until the person is able to continue the ambulatory recovery and rehabilitation process, whichever happens first. When the court, based on the recommendations presented by the psychiatrist in consultation with the inter or multidisciplinary team and the evidence presented, determines that the involuntary admission should not continue, it shall order the immediate release of the adult. However, it may order that the person participate in another, less restrictive level of care and with greater autonomy, if recommended to keep the adult from causing immediate harm to the self or others, or damage to property.

Within twenty-four (24) hours of the issuance of the First Order for Involuntary Admission, the adult, his/her family member in charge, legal guardian, attorney or representative, as the case may be, shall receive a copy of the First Certification and of the order issued by the Court.

Section 4.15. – Petition for Order to Extend Involuntary Admission

When necessary, the Court may order an extension for hospitalization, which shall not exceed fifteen (15) additional days. To that effect, the Director of the mental health institution or his/her representative, per se or by request from the person's family member or legal guardian, shall file in court a Petition for Order to Extend Involuntary Admission. Said petition shall be accompanied by a Second Certification issued by a psychiatrist along with the inter or multidisciplinary team. In those cases in which the adult is receiving detoxification services, this Second Certification may be issued by a physician, along with an inter- or multidisciplinary team. The petition shall be filed in court up to three (3) days before the end of the initial period of fifteen (15) days. Within forty-eight (48) hours upon filing the Petition for Order to Extend Involuntary Admission, the court, after holding hearings, shall determine if the second hospitalization period requested is appropriate. While this process is in progress, the adult shall remain hospitalized.

This Certification shall include the following:

(a) evidence of the design and implementation of the Individualized Treatment, Recovery and Rehabilitation Plan of the inter- or multidisciplinary team;

(b) a statement that the psychiatrist or the physician, as applicable, along with the inter- or multidisciplinary team, re-evaluated the adult according to the plan and determined the need for the adult to continue receiving involuntary services;

(c) a detailed description of the revised Individualized Treatment, Recovery and Rehabilitation Plan, that includes a reasonable prognosis of the benefits it is expected for the adult receive during the continuation of the involuntary admission;

(d) identification and processing by the case handler of the resources used to place the patient in the level of care necessary and convenient for his/her condition, once he/she has fulfilled the purposes of the treatment in the hospital;

(e) a Release Plan prepared by the psychiatrist in consultation with the inter- or multidisciplinary team, for the case handler to follow-up, a copy of which shall be given to the patient or to his/her legal guardian, if any;

(f) name and professional circumstances of the inter- or multidisciplinary team that intervenes in the certification.

If upon expiration of the initial fifteen (15)-day term the Petition for Order to Extend Involuntary Admission and its corresponding certification are not filed in court on time, the institution shall then proceed to immediately release the adult and it shall so notify to the Court.

If in the hearing, the court finds that the adult shall continue to receive involuntary treatment services, it may order an extension of the involuntary hospitalization for a term not to exceed fifteen (15) days.

Within twenty-four (24) hours after the issuance of the Petition for Order to Extend Involuntary Admission, a copy of the Second Certification and of the order issued by the Court shall be given to the adult, his/her family member in charge, legal guardian, attorney or representative, as the case may be.

Section 4.16. – Petition for Release of Involuntary Admission

Any adult who has been admitted involuntarily in a providing institution through a court order may file a petition to the court requesting his/her release. The adult subject of involuntary admission, or a family member, legal guardian or representative, may file the petition for release. The petition shall include:

(a) name of the person;

(b) a copy of the Order(s) for Involuntary Admission issued by the court;

(c) an explanation or justification for petitioning to be released.

When a Petition for release is filed, the court shall schedule a hearing within the next five (5) days as of the date the petition was filed. The Court shall state the date, time and place the hearing shall be held, sending a copy to the adult-petitioner, his/her attorney, legal guardian and Director of the providing institution.

If the court determines that the adult must not continue involuntarily admitted, he/she shall be released and said determination shall be notified to the adult, his/her attorney, legal guardian and the Director of the institution.

If the court determines that the adult must continue involuntarily admitted, the original order may continue pursuant to the provisions of this Act.

In those cases in which the court deems necessary, it may order to transfer the adult to the hospital institution in a vehicle adequate for his/her condition, depending on the severity of the symptoms and signs at the time, in a state, municipal, or private ambulance. The health insurance shall assume the cost for said services in the case of those persons who receive mental health services under the Health Reform.

Section 4.17. – Change of Status

Before adjudicating the case in which Involuntary Admission is being discussed, the adult who receives mental health services who has been so admitted may request a change of status to a voluntary admission. The petition shall be accompanied by a certification by the psychiatrist or physician, as may apply, stating that the adult who receives mental health services and requests this change is capable of giving consent and has done so in a well-informed manner, as required by this Act. If the Court accepts this change of status, it shall then close the proceedings. The institution that provides mental health services, in turn, shall proceed pursuant to Section 4.009 of this Act.

Section 4.18. –Hearings

(a) Hearings shall be held before a court with venue, pursuant to the provisions of the Rules of Civil Procedure in effect.

(b) The adult shall be present at the hearing, except when he/she has expressly waived to do so, or when he/she has agreed to waive his/her right and expressed so through his/her attorney.

(c) If the court, *motu proprio*, or upon petition from one of the parties with just force majeure, postpones the case, the adult shall remain hospitalized pending a subsequent order from the Court. The postponement of the hearing shall not be extended for more than five (5) calendar days.

(d) The adult shall have the right to present all the evidence he/she deems convenient to contest the continuation of his/her involuntary admission. Said evidence may be oral or written. To that effect, the adult shall have the right to be examined by an independent mental health professional of his/her choice, or by one designated by the Court, who shall conduct an evaluation and issue his/her recommendations to the court. The services of said professional shall be paid by the adult object of the petition for involuntary admission or change of status, by a close relative, if any, or by the state, if the adult is indigent.

Section 4.19. – Right to Legal Representation

Every adult object of a petition to order involuntary admission shall have the right to be represented by an attorney or family advocate, whoever is available. If the adult is indigent and has not been able to hire an attorney, the Court shall appoint a public attorney. The attorney appointed by the court and the defendant should have reasonable time to prepare for the hearing.

Section 4.20. – Transfer

Any adult who receives mental health services and is in a providing institution may request to be transferred if said transfer is necessary and without

detriment to the adult, provided he/she and the receiving institution accept the transfer. The adult, closest family member or legal guardian shall be notified of the transfer with at least three (3) days in advance. If the adult's life is in imminent danger, the transfer shall take place and the closest family member or legal guardian shall be notified within twenty-four (24) hours after said transfer was made. If the adult, his/her legal guardian or closest family member has any objection to it, the institution shall give him/her the opportunity to reconsider said transfer, pursuant to Section 2.23 of this Act. During the process of reconsidering the transfer, the adult shall remain in the original institution that provides mental health services.

Section 4.21. – Passes

In those mental health cases in which is it clinically necessary or beneficial, the psychiatrist may, jointly with the inter- or multidisciplinary team, grant the pass to the adult admitted voluntarily or involuntarily, even if he/she is not fit to be released. In these cases, the court shall not need to be notified, but the closest family member or the legal guardian shall be notified of the pass granted as soon as possible.

Section 4.22. – Releases

The psychiatrist in charge of treatment, recovery and rehabilitation may, at any time, release any adult admitted voluntarily or involuntarily, after having notified the inter- or multidisciplinary team.

The psychiatrist and the inter- or multidisciplinary team of the adult to be released shall explain to him/her, his/her family or legal guardian, his/her release plan and the options for recovery, notifying the court of the findings made in those cases where the court orders an involuntary admission.

Section 4.23. – Unauthorized abandonment of the Institution; Notices

When an adult subject to involuntary admission abandons the institution without having been released, the director shall immediately notify a police officer so that he/she may be apprehended and returned to the institution. In addition, he/she shall notify the adult's family, legal guardian and the person who requested his/her admission.

When an adult subject to voluntary admission abandons the institution without having been released, the director shall immediately notify the adult's family member or legal guardian.

CHAPTER V – TRANSITIONAL SERVICES FOR ADULTS

Section 5.01. – Purposes of the Transitional Services

Transitional services shall be designed to provide experiences that are structured, consistent and specialized in different levels of supervision according to the severity of the symptoms and signs of the disorder that apply, by age and gender, and to achieve that the adult becomes adapted to his/her environment and is able to participate in another level of care of greater autonomy, until he/she can reach his/her eventual independence within the community. Their main function shall be to render treatment, recovery and rehabilitation services emphasizing the adequate development of the person's handling of daily life, in addition to offering care and custody in a safe and humane manner.

Section 5.02. – Transitional Services

Institutions that provide transitional services shall, as a minimum, provide the following:

(a) safe and human care and custody within an environment with the greatest autonomy possible according to the adult's treatment, recovery and rehabilitation needs;

(b) the corresponding individualized treatment, recovery and rehabilitation, emphasizing the skills that are necessary for everyday life given his/her clinical condition, the severity of the symptoms and signs, the stage of life where the person is, and his/her potential for recovery and rehabilitation to achieve greater autonomy in his/her environment;

(c) an adequate coordination with government and private agencies to achieve comprehensive services for the person and his/her family, in order to reach a greater self-sufficiency;

(d) attention to the mental and physical health condition of the adults admitted, as well as of their families;

(e) the promotion of family participation in the adult's Individualized Treatment, Recovery and Rehabilitation Plan, as well as orientation thereof;

(f) a balanced diet, according to the special needs of the participants of the programs;

(g) a rehabilitation, recreational, vocational and occupational plan, as may apply, to be implemented on the program or service in charge of specialized personnel.

Section 5.03. – Services Manuals

Every institution that provides transitional services shall have a services manual, which shall contain, as a minimum, the following:

- (a) the admission criteria to be met by adults who request the services;
- (b) the age, sex, disorder, diagnosis and level of functionality;
- (c) an Individualized Treatment, Recovery and Rehabilitation Plan prepared by an inter- or multidisciplinary team;
- (d) the staffing pattern that the institution shall have, as well as the qualifications thereof;

- (e) the program's philosophy and a description of the institution's environment;
- (f) the corresponding therapeutic method or activity program;
- (g) the evaluation protocol for suicide risks with its corresponding contingency provisions;
- (h) the procedure for filing and processing claims and complaints describing in simple words the steps adults and their families shall take if they need to use these mechanisms.

Section 5.04. – Levels, Stages or Services

Transitional services shall be developed by levels or stages of services, according to the needs, in the environment with the greatest autonomy possible, as it has been therapeutically indicated.

The levels or stages of service adopted by the institution that provide transitional services shall be designed in accordance with the severity of the symptoms and signs, the diagnosis and the degree of supervision required by the adult, with greater supervision, services with moderate supervision, services with minimum supervision and home services or independent being understood as such services.

It shall be permitted for adults to be directly referred to the level most appropriate for their condition, without having to go through all the levels or stages.

Section 5.05. – Involuntary Admission; Compulsory Treatment

Any adult who meets the necessary criteria to receive transitional services and represents an immediate risk to the self or others, or to property, according to the evaluations and recommendations of the psychiatrist and the inter- or multidisciplinary team, but who does not consent nor is capable of giving consent to such services, shall be object of a petition for compulsory treatment or

involuntary admission before the court, pursuant to the proceedings provided in this Act for to that effect.

CHAPTER VI - OUTPATIENT MENTAL HEALTH SERVICES FOR ADULTS

Section 6.01. – Outpatient Mental Health Services for Adults

Any adult who requires an indirect provider to receive a mental health service with greater autonomy, with or without his/her consent, in the different levels of care shall receive, among others, the following services during the first seventy-two (72) hours:

(a) a complete physical examination;

(b) a laboratory analysis;

(c) a psychiatric evaluation;

(d) a psychological evaluation;

(e) a social evaluation; and

(f) a Global Assessment of Functioning (GAF) Scale evaluation (DSM - IV Axis V, ICD-10, or the effective one at the time.

The results of the evaluations, analysis and examination shall form part of the adult's clinical record, and shall be used to establish the Individualized Treatment, Recovery and Rehabilitation Plan at the corresponding level of care with greater autonomy. The procedures shall be part of the regulations to be promulgated for these purposes.

The provisions of this Section shall not apply in the case of private offices of mental health professionals. In this case, said professionals shall make sure to comply with the standards applicable to their respective professions, based on the following guidelines, among others:

(a) Psychiatrist – shall be responsible for conducting a psychiatric evaluation to determine the immediate disposition of the case (to continue with ambulatory

treatment or to refer the patient to another level of care as required by his/her symptoms and signs). His/her clinical notes shall reflect the symptoms and signs, the diagnosis, the clinical course and the final disposition of the case, among other things.

(b) General or Specialist Physician – if the patient presents mental symptoms and signs not related to his primary line of work, it shall be the physician’s responsibility to refer him/her to a behavioral professional according to the nature and severity of the symptoms and signs. His/her clinical notes shall reflect the symptoms and signs, the diagnosis and diagnostic impression, the clinical course and final disposition, among other things.

(c) Psychologist – shall be responsible for conducting a complete psychological evaluation to determine the final disposition (to continue with ambulatory care or to refer the patient to another level of care). If during the patient’s evaluation or treatment, symptoms and signs that are not related to his primary line of work arise, the patient shall be referred to the corresponding level of care. His/her clinical notes shall reflect the symptoms and signs, the diagnosis and diagnostic impression, the clinical course and final disposition, among other things.

(d) Clinical Social Worker – shall be responsible for conducting a social evaluation to identify information related to factors and resources that may affect the adult’s condition, including his/her educational and occupational development, conditions related to the use of controlled substances, and social adjustment; family medical records, including the presence or absence of mental disorders, including those related to substances; and family profile, as well as his/her physical and economic resources.

Section 6.02. – Initial Evaluation, Treatment Recovery and Rehabilitation Plan in Another Level of Care

Any adult who has been evaluated or hospitalized, and who upon recommendation of the psychiatrist and the inter- or multidisciplinary team, has been determined to need treatment within another level of care with greater autonomy, shall have his/her release plan reviewed and put to practice within twenty-four (24) hours after the recommendation.

The evaluation and recommendations for the release plan shall form part of the adult's clinical record in the applicable level of care. Said results shall be used to establish the Individualized Treatment, Recovery and Rehabilitation Plan, which shall be reviewed according to diagnosis and the severity of the symptoms and signs for each level of care according to the best practices in the mental health field. This plan shall be formulated by an inter- or multidisciplinary team not later than fifteen (15) days after his/her admission, and shall be reviewed every fifteen (15) days in accordance with the standards of each level of care or when there is a substantial change. Once the patient has achieved the objectives of his/her Individualized Treatment, Recovery and Rehabilitation Plan, he/she shall continue to the next level of care with greater autonomy, as his/her condition allows.

Section 6.03. – Services Manuals

Every institution that provides services with greater autonomy shall have a services manual, which shall contain, as a minimum, the following:

- (a) the admission criteria to be met by adults who request the services;
- (b) the age, sex, disorder, diagnosis and level of functionality;
- (c) an Individualized Treatment, Recovery and Rehabilitation Plan prepared by an inter- or multidisciplinary team;
- (d) the staffing pattern that the institution shall have, as well as the qualifications thereof;

- (e) the program's philosophy and a description of the institution's environment;
- (f) the corresponding therapeutic modality or activity program;
- (g) the evaluation protocol for suicide risks with its corresponding contingency provisions;
- (h) the procedure for filing and processing claims and complaints describing in simple words the steps adults and their families shall take if they need to use these mechanisms.

The provisions of this Section shall not apply to private offices of mental health professionals. However, said professionals shall advise the patient on the treatment options for his/her condition, the ones they recommend and which ones they can provide according to his/her symptoms and signs, and to the diagnostic impression at the time of the initial evaluation.

CHAPTER VII – BILL OF RIGHTS OF MINORS WHO RECEIVE MENTAL HEALTH SERVICES

Section 7.01. – Bill of Rights

The provisions of this Chapter shall be interpreted so as to protect and promote the dignity of the human being through recognition of the essential rights for his/her treatment, recovery and rehabilitation.

Section 7.02. – Protection of Constitutional Rights

Any minor who receives mental health services shall continue to enjoy all his/her rights, benefits and privileges pursuant to the Constitution of the United States of America and the Constitution of Puerto Rico, as well as state and federal laws, while he/she is receiving treatment, recovery and rehabilitation, and during the process of admission, transfer or release in any providing institution.

Section 7.03. – Presumption of Mental Competency

It is presumed that all minors are mentally competent, except otherwise determined by a court. The judicial determination of disability under Section 703 of the Civil Code of Puerto Rico, as amended, shall be distinct and separate from the judicial proceeding to determine if a minor should be subject to involuntary admission. It shall be presumed that every minor with a mental or emotional disorder has the potential to recover and rehabilitate upon receiving mental health services adequate to his/her diagnosis and the severity of his/her symptoms and signs.

Section 7.04. – Limitation of Rights

The rights established by this Act for minors who receive mental health services may apply to minors liable for offenses or held in juvenile institutions, and to minor offenders in detention, provided they are not in conflict with the security measures imposed by the Court.

Section 7.05. – General Rights

Any minor who receives mental health services shall have the right to:

(a) Receive medical, psychiatric and psychological attention in its preventive, clinical, recovery and rehabilitation phases for the protection of his/her health and general well being.

(b) Receive education and training, when his/her condition permits, that fosters full development of his/her personality and that his/her human rights be acknowledged and respected. This shall be done in connection with government agencies having these responsibilities.

(c) Obtain preparation (pre-vocational readiness) or training to receive vocational, occupational or job education according to his/her general functional capacity in order to develop his/her potential, as may apply, without being discriminated against for reason of mental disorder.

(d) Act individually or collectively while searching for solutions to his/her problems and grievances;

(e) Respect his/her autonomy in everything related to matters affecting his/her life, progress, treatment, recovery and rehabilitation, according to his/her general degree of functionality.

Section 7.06. – Specific Rights

Any minor who receives mental health services shall have the following specific rights:

(a) Access to Services

Every minor shall have access to mental health services in accordance with the sub-specialization by stage of life, gender, disorder, age and level of care, depending on his/her diagnosis and to the severity of his/her symptoms and signs at the time. The treatment services shall be rendered continuously, in order to achieve recovery in a reasonable level of functionality.

The use of mental health services shall be determined according to the justified clinical basis, which, in turn, shall be based upon the diagnosis and severity of the symptoms and signs of the emotional disorder, as defined in the classifications manual in effect.

He/she shall also have the right to receive therapeutic services of pharmacotherapy, psychotherapy, support services and others corresponding to his/her diagnosis and severity of the symptoms and signs, pursuant to the best clinical parameters.

To that effect, minors who receive mental health services shall not be subject to discrimination or prejudice, and shall have access to said services, regardless of their diagnosis and the severity of his/he emotional disorder. This right shall not be limited due to the existence of any physical condition or disability. There shall be

no distinction between a mental condition and a physical condition in terms of the access to the necessary services.

In turn, every mental health services provider, shall attend to all services requests not related to an emergency within the first five (5) working days as of the filling of the request.

Notification of Rights; Limitations

Any minor identified as in need of mental health services, as well as those who request and receive mental health services, has the right to be oriented about the rights consigned herein while being evaluated or at the time of intervention, if mentally capable of completing the information. The minor's parent with patria potestas or custody, or the legal guardian, as well as the minor if his/her mental capacity allows it, and they shall be given copy of his/her rights.

No limitation shall apply between a minor, his/her attorney or the court, or between the former and another individual, when the communication deals with matters related to administrative or judicial proceedings.

(b) Conditioned Autonomy on Counseling and Treatment Requests

Every minor of fourteen (14) years of age or more, has the right to request counseling and receive mental health treatment, up to a maximum of six (6) sessions, without his/her parent's consent, pursuant to the provisions of Section 10.01 of this Act. In those cases of counseling and treatment for substance-related disorders, the initial term shall not exceed seven (7) sessions.

(c) Individualized Treatment, Recovery and Rehabilitation Plan

Every minor shall have the right to have a safe and humane Individualized Treatment, Recovery and Rehabilitation Plan designed for him/her, within the less restrictive environment possible according to his/her condition.

The plan shall be based on a clinical evaluation of the strengths and needs of the minor and his/her family. In addition, the plan shall consider and, if needed, extend to home, school and community situations.

Any minor who receives the services shall participate in the preparation and revision of the plan to the degree said participation is possible. In addition, participation from his/her closest family member shall always be required, be it the parent with patria potestas or custody, his/her legal guardian or the person with provisional custody, for the design and revision of the Individualized Treatment, Recovery and Rehabilitation Plan.

A mental health professional acting as case handler shall be responsible for giving follow-up to the implementation of the Individualized Treatment, Recovery and Rehabilitation Plan, and for accessing all the services needed for the minor's recovery. The name of said professional shall form part of the plan, which, in turn, shall form part of the minor's clinical record. The clinical record shall contain the signature of all the professionals participating in the preparation of the plan, and that of the adult or family member who represent him/her during its preparation.

(d) Special Considerations; Minors

Every health service provider shall attend to the children's special needs, from birth up to twelve (12) years of age, and that of adolescents from thirteen (13) to eighteen (18) years of age, and the inter-relationship of the signs and symptoms with the normal growing process and the development of emotional disorders.

(f) Less Intensive Level of Care with Greater Autonomy

All mental health service providers shall consider as most beneficial to keep children and adolescents with acute mental disorders joined to their families, or in similar environments or in the community, rather than considering hospitalization, which leads to separation from the family unit.

(g) Hospitalization Services and Care Segregation for Children and Adolescents

Every child between 01-12 years of age shall receive services according to his/her age and gender, in separate clinics; hospital services shall be in units or installations separately from adolescents and adults.

Adolescents from 13 to 18 years of age shall receive services according to their age and gender, in separate clinics; hospital services shall be in units or installations separately from children and adults. Combining these populations is prohibited at all times, pursuant to the aforementioned.

(h) Informed Consent of the Minor or Parent with Patria Potestas or Custody, the Legal Guardian or the Person with Provisional Custody

Every minor admitted, his/her parent with patria potestas or custody, legal guardian or person with provisional custody shall have the right to know everything related to the services and treatment proposed in the Individualized Treatment, Recovery and Rehabilitation Plan, inter- or multidisciplinary, designed by an institution that provides mental health services, before consenting to it.

Every service offered to the minor shall be explained in such a way, that all related information may be understood. The clinical record shall include a summary of the explanation and, that according to the judgment of the professional in charge, the explanation given was understood.

When a minor receives mental health services, it shall be required that his/her parent with patria potestas or custody, or legal guardian or person with provisional custody, give a written and informed consent so that the minor may receive said service with the exceptions established in this Act.

The minimum information required for consent to be considered as duly informed shall be the following:

- (1) The diagnosis and clinical description of the health condition;
- (2) the recommended treatment;
- (3) the risks and consequences of accepting or rejecting the treatment;
- (4) other available alternatives for treatment, even if they are less indicated;
- (5) benefits, risks and consequences of the alternatives for treatment;
- (6) the corresponding prognosis;
- (7) the possibility of side effects and irreversible damages caused by the treatment or the use of certain medications recommended.

As an exception, in case of a medical, psychiatric or dental emergency, the treatments necessary to stabilize the emergency situation may be offered without prior informed consent from the minor or his/her parent with patria potestas or custody, legal guardian or person with provisional custody. The reason and determination of an emergency shall be included in the minor's clinical record. It is herein provided that consent from parent with patria potestas or custody, legal guardian or person with provisional custody shall be obtained as soon as possible.

(i) Refusal of Treatment

The minor's parent with patria potestas or custody, legal guardian or person with provisional custody may refuse that said minor receive services in a providing institution. This refusal includes medications and any other type of service or therapeutic modality. The same shall be expressed and included in the clinical record. However, the health professional may use the procedures established in this

Act to provide medical treatment to the minor if he/she deems that it is clinically necessary.

The Director or his/her representative shall inform the parent with patria potestas or custody, legal guardian or person with provisional custody of alternate services and treatments available, the risks and consequences that said minor may suffer by refusing said services, and the prognosis of receiving or refusing the same. However, in case the services or treatments required by the minor's Treatment, Recovery and Rehabilitation Plan, inter- or multidisciplinary, are necessary to prevent a psychiatric or medical emergency situation in which said minor may cause immediate harm to the self or others, or damage to property, or when said services have been ordered by the court, they shall be administered. The psychiatrist shall include in the clinical record the emergency circumstances in which it was necessary to order said service or treatment. The minor shall be notified of said decision as soon as he/she may understand the information, as well his/her parent with patria potestas or custody, legal guardian or person with provisional custody. This notification shall appear in the clinical record.

Under no circumstance shall an order be issued to receive or refuse a service or to administer medications as a punishment or as a condition for the adult's release.

(j) Freedom of Communication

Every minor who receives services in a providing institution shall have the right to communicate in private, with no censorship or obstacle, with any person he/she chooses, except with persons who are the minor's victimizers of physical, psychological and sexual abuse, and when it is determined by the intervening therapeutic team that said communication would deteriorate of the minor's condition.

(1) Correspondence - The Director of the providing institution shall make sure that the correspondence is received and deposited in the mail. Minors shall receive writing materials and stamps when they do not have the means to obtain them. All the letters regardless of the addressee shall be sent thereto without being examined by the authorities of the institution that provides mental health services. Minors shall receive answers to said letters, regardless of the sender and without being examined by the authorities of the institution that provides mental health services. If the minor does not know how to read or write, and upon his/her request, he/she shall be assisted whenever he/she wishes to exercise the right to communicate in writing.

(2) Telephone - The Director of the Institution that provides mental health services shall make sure that telephones are accessible and shall establish in writing the places and times for their reasonable use. Any minor who does not have the means to obtain one, shall receive funds for the reasonable use of the telephone, be it for local calls or long distance.

(3) Visits - The Director of the providing institution shall be responsible for guaranteeing the existence of an adequate place so that minors subject to hospitalization may receive visitors. To that effect, he/she shall make public the schedule and place for said visits.

The providing institution shall establish the rules for communication through other means, such as facsimile, electronic mail or messenger service.

Notwithstanding the above, written communication, use of the telephone and visits to minors shall be reasonably limited by the director of the providing institution or his/her representative when there exists a clinical determination that

justifies it, provided said limitation has the purpose of protecting the minor or third parties from being harmed, persecuted, harassed or intimidated. The decision to limit this right shall be taken into consideration by the inter- or multidisciplinary team, included in the clinical record, and duly justified and notified to the minor, his/her parent with patria potestas or custody, legal guardian attorney, if any.

No limitation, whatsoever, shall apply between the minor, his/her father or mother, representative, legal guardian, attorney or the court, or between the minor and another person, when the communication is about to matters associated with administrative or judicial proceedings.

(k) Personal Effects

Every minor who receives mental health services in a providing institution may possess, use and keep his/her personal effects in an assigned and safe place provided for such purposes. Possession and use of certain types of personal property may be limited by the director of the providing institution or his/her representative when necessary in order to protect the minor or others from any physical injury. When the minor is released, all of his/her personal property shall be returned.

(l) Money and Deposits

Every minor, his/her father or mother, representative or legal guardian, shall have the right to manage his/her assets, including his/her valuable belongings while receiving services in a mental health institution. The hospital or residential providing institution shall establish the necessary rules and procedures according to the regulations promulgated to that effect by the Administration ensure that the money of the minors who receive services therein are protected against theft, loss or illegal appropriation. To that effect, the rules and procedures shall include the following:

(1) any minor who receives services in these institutions may use his/her money as the parent with patria potestas, legal guardian or authorized representative wishes him/her to do so.

(2) no personnel of the hospital or residential institution shall be designated to receive money from social security, pensions, annuities, trusts or any other direct form of payment or assistance of the minors hospitalized in institutions that provide mental health services, except in those cases in which a court order designates the personnel as custodian of said money. In addition, a designation may occur by virtue of a law or regulation related to the disposition of rights from Social Security, pension or any other benefit; and

(3) any parent with patria potestas, legal guardian or representative of a minor in a hospital or residential institution that provides mental health services may request the deposit of any funds pertaining to it in any financial institution in Puerto Rico.

(m) Labor or Work

Any minor under treatment in a providing institution may voluntarily agree to render labor or work for the institution. However, the minor may not be obligated to carry out said labor or work.

It is hereby provided that the minor may be required to carry out maintenance duties or tasks in his/her room, or any other duty or task that is a part of his/her Treatment, Recovery, and Rehabilitation Plan, provided it is for the minor's benefit. The assignment of said tasks or duties shall be included in the clinical record as part of the Treatment, Recovery, and Rehabilitation Plan.

Community-based organizations may request, as part of their methodology of community treatment and rehabilitation, that participants of said programs carry out duties without economic compensation, provided the participant and his/her

guardian have voluntarily agreed. However, said duties shall not attempt against the dignity and physical integrity of the participant of any program, nor be contrary to the constitutional clause that prohibits involuntary servitude.

Notwithstanding the above, under no circumstance may any minor be required to carry out any duty or task as retaliation or punishment, or for the institution's exclusive benefit.

(n) Claims and Complaints

Any minor may, per se or through his/her parent with patria potestas or custody, legal guardian or person with provisional custody, exercise his/her right to present claims or complaints in relation to any violation to the rights described in this Act. The providing institution shall inform the right to an impartial proceeding in which said claim or complaint shall be solved in a fair and timely manner. When the petitioner does not agree with the determination made, he/she may seek remedy at the Court of First Instance.

Every providing institution shall establish a system to handle claims and complaints related to the treatment and service being offered pursuant to this Act. The procedure established to present claims and complaints shall be informed to the minor who receives mental health services, his/her father or mother, legal guardian, family members, visitors and personnel who work in the institution.

Every claim and complaint shall be handled and solved within a term of thirty (30) days. The minor, his/her parent with patria potestas, and on legal guardian shall be notified in writing of the final determination made on his/her claim even after having been released.

(ñ) Experimental or Exploratory Procedures

No minor shall be submitted to experimental or exploratory procedures that are not approved by the corresponding federal and state organisms. To participate

in the same, the minor's parent with patria potestas or legal guardian, as the case may be, shall give written and legally effective informed consent.

The minimum information that shall be offered to the minor's parent with patria potestas or custody, or legal guardian shall be made in comprehensible and non-coercive language, and shall consist of:

(1) a document stating that the procedure constitutes a scientific experiment or investigation; its purposes, the duration the minor's participation in the procedure; a description of the procedures to be used and which parts of them are experimental.

(2) the risks and nuisances that may be reasonably foreseen;

(3) a description of the benefits that may be reasonably expected by the participant or others;

(4) disclosure of alternate procedures or treatments that may benefit or have more advantageous result for the participant than the experimental or exploratory procedure;

(5) a document stating that the minor's identity shall be kept in strict confidentiality;

(6) in investigations that involve risks, it shall be informed if compensation or medical treatment shall be offered for damages resulting from the procedure, and the full extent of the treatments, in addition to the place in which to obtain additional information about them;

(7) an explanation with respect to the persons to be notified, in case the minor or his/her parent with patria potestas or custody, or legal guardian has any questions or suspects any damages related to the procedure;

(8) a document stating that participation in the procedure is voluntary and refusal to participate or to discontinue at any moment does not involve penalty or loss of any benefit to which the participant may be entitled. The

minor subject to any experimental or exploratory procedure shall be notified in writing, through his/her parent with patria potestas or custody, legal guardian or person with provisional custody, at least seventy-two (72) hours before beginning the procedure, excluding Saturdays, Sundays and holidays; and

(9) any other criteria established through regulation by the Administrator.

The minor, as well as his/her parent with patria potestas or custody, legal guardian or person with provisional custody, has the right to end his/her participation in the experimental procedure, before or during the procedure.

(o) Scientific Research

Any petition to conduct scientific research related to the minor who receives mental health services in public or private institutions shall be directed to the Administrator or the director of the institution that provides these services, respectively, who shall request the approval from the Evaluating Committee of the requesting institution, in order to evaluate the proposals submitted for investigation according to its recommendations. The preceding shall be carried out pursuant to the standards established by the Federal and State Governments for scientific investigation processes. The committee shall issue its recommendation within fifteen (15) days after its receipt. Afterwards, the Administrator or the director of the providing institution shall notify to the interested party its determination on the investigation.

No minor shall be submitted to any scientific investigation without having first obtained from his/her parent with patria potestas or custody, legal guardian, as the case may be, a written and legally effective informed consent.

The minimum information that shall be offered to the minor's parent with patria potestas or custody, or legal guardian shall be made in comprehensible and non-coercive language, and shall consist of:

(1) a document stating that the procedure constitutes a scientific investigation; its purposes, the duration of the minor's participation in the procedure; a description of the procedures to be used and which parts of them are experimental.

(2) the risks and nuisances that may be reasonably foreseen;

(3) a description of the benefits that may be reasonably expected by the participant or others;

(4) disclosure of alternate procedures or treatments that may benefit or have more advantageous results for the participant than the scientific investigation procedure;

(5) a document stating describing that minor's identity shall be kept in strict confidentiality;

(6) in investigations that involve risks, it shall be informed if compensation or medical treatment shall be offered for damages resulting from the procedure, and the full extent of the treatments, in addition to the place in which to obtain additional information about them;

(7) an explanation with respect to the persons to be notified, in case the minor or his/her parent with patria potestas or custody, or legal guardian has any question or suspects any damages related to the procedure;

(8) a document stating that participation in the procedure is voluntary and that refusal to participate, or to discontinue it at any time does not involve a penalty or loss of benefits of any kind to which the participant may be entitle; and

(9) any other criteria established through regulation by the Administrator.

The persons in charge of conducting the investigation shall comply with the rules of confidentiality established in this Act. The Director of the institution shall safeguard confidentiality of the information of the minors who receive mental health services in relation to any type of scientific or exploratory investigations.

(p) Language

Every minor who receives mental health services has the right to know and be informed about everything related to his/her evaluation, treatment, recovery and rehabilitation, and therefore, when there is a need to give an explanation to the adult who receives mental health services and he/she does not know or understand the language in which it is offered, the institution shall be bound to provide to the adult, or his/her legal guardian, the translator or interpreter necessary to achieve an effective communication. This provision includes those cases in which the nature of the limitation is auditory or of speech. For the purposes of this provision, family members of the person who receives mental health services are not banned from serving as interpreters provided the adult so determines it.

All written documentation furnished to the minor, the parent with patria potesta or custody, legal guardian or person with provisional custody, shall be issued in the language he/she understands. In those cases in which any of them has visual limitations, the institution shall be bound to advise him/her of the right to have the documents read out loud by the person of his/her choice, who shall also sign each and all the documents that he/she was asked to read. The provisions of this Section shall be included in the clinical record of the minor.

In these cases, the facts that generate the report or entry and the name of the issuer shall be clearly written into the record.

(q) Right to Request Participation of Support Groups or Persons

Upon designation of the inter or multidisciplinary team, the patient shall have the right to request the participation of any support person or group, be it religious or related to the diagnosed condition.

(r) Right to Receive Support from Mother, Father, Guardian and Protection or Assistance Agencies for the Minor at the Time of Release

Every minor admitted to a facility shall have the right to receive support from his/her parents, family members, and significant others. Agencies with protection services and the obligation to provide shelter and the adequate level of care shall provide them and the personnel trained to adequately serve minors with emotional disorders in a less restrictive environment with greater autonomy.

(s) Transportation

Every minor shall have the right to transportation in an adequate vehicle, including ambulances certified by the Public Service Commission and the Department of Health when the severity of the symptoms and signs so requires it, to transport him/her to the facility where he/she will receive treatment.

If the minor, his/her parent with patria potestas or custody, legal guardian or person with provisional custody has the economic means, such as health coverage to pay for transportation expenses, these shall be paid by said coverage. In the case of persons who receive mental health services or interventions under the Health Reform, the entity contracted to handle and coordinate health services shall be responsible for covering the transportation expenses.

(t) Responsibility of the Parent with Patria Potestas or Custody, Legal Guardian or Provisional Guardian of the Minor who Receives Mental Health Services

It is hereby established that the above-mentioned persons who have a minor receiving mental health services shall comply with the following responsibilities:

- (1) assume responsibility for his/her recovery and promote that the minor assumes this responsibility according to his/her capacities;
- (2) participate in the self-sufficiency and community support activities and programs; and
- (3) assume the responsibility of taking the minor to his/her treatments, participating in activities recommended, counseling and family therapies;
- (4) As their income allows and whenever possible, contribute toward the payment for the services, according to the criteria established by Medicaid or the co-payment amounts established by medical health plans.

(u) Right to Receive Support When There is a Moral Responsibility

Any adult person who, for reason of consanguinity or moral obligation, be it because he/she has benefited financially or received any other benefit from the minor who receives mental health services, or that needs or receives mental health services, shall be bound to provide the necessary support and shall make sure that the minor with a mental disorder can participate in the services directed toward his/her recovery, according to his/her level of capacity

(v) Legal Representation upon Involuntary Admission

Any minor involuntarily admitted shall have the right to be represented by an attorney. If the minor is indigent, his/her parent with patria potestas or custody, legal guardian or provisional guardian has not been able to hire an attorney, the court shall designate one to represent him/her during the hearing

(w) Less Intensive Level of Care with Greater Autonomy

Every minor has the right to receive adequate treatment, according to his/her diagnosis and level of care, and therefore his/her hospitalization shall be for the

shortest period possible, until he/she can be transferred to a less intensive level of care.

CHAPTER VIII. – MENTAL HEALTH CARE SYSTEM FOR MINORS

Section 8.01. – Levels of Care

Mental health services for minors shall be rendered in a therapeutically adequate environment and with greater autonomy, according to the concept of the mental health care system, and to the diagnosis and the severity of the symptoms and signs at the time the person is evaluated. The levels of mental health care shall be organized in different levels of intensity, and integrated and articulated in such a way that they assure the continuity of the treatment. Levels of mental health care include services that range from the most intensive, such as the Pediatric Hospital, to those with greater autonomy, such as ambulatory services. In any level of treatment the use of medications may be required, according to the diagnosis and the severity of the symptoms and signs at the time the minor is evaluated.

Every providing institution shall establish the mechanisms, rules and procedures to give access to comprehensive services through collaborative liaisons between different mental health agencies and providers, which shall facilitate the minor's journey through the mental health care system as his/her needs change and his/her transfer to alternatives with greater autonomy; or otherwise, to those that are clinically necessary, even though they are more intense.

In those circumstances in which the minor should be transferred to another level of greater intensity, the inter or multidisciplinary Individualized Treatment, Recovery and Rehabilitation Plan shall be reviewed in order to determine the modifications that should be made, if any, to maintain the progress of the recovery. The determination of minor's placement in the level of care with greater autonomy shall be based on the recommendation made by a child and adolescent psychiatrist, in consultation with the inter- or multidisciplinary team.

This provision shall apply to cases in which the parent with patria potestas or custody, the legal guardian or the person with provisional custody consent to the treatment, and to cases in which the court has ordered minor's admission into a providing institution.

Lack of interest or inability of the parent with patria potestas or custody, the legal guardian or the person with custody or duty to provide care or shelter shall not be a reason to admit a minor into a mental health hospital institution. If this is the case, the director of the institution shall file a petition with the court to assure care and shelter for minor. The Court may order the Department of the Family to place the minor accordingly.

Section 8.02. – Minors Who Require Mental Health Hospital Services

Any minor with a mental disorder with a severity of symptoms and signs at the time of the evaluation indicating that he/she may cause physical injury to the self or others, or damages to property, or when he/she has made significant threats that lead to the same results, or when the condition of the minor for whom the services are requested by the parent with patria potestas or custody, or the legal guardian could substantially deteriorate if not offered adequate treatment on time shall require mental health hospital services pursuant to the proceedings established in this Act.

Conditions related to the use of alcohol or controlled substances that degenerate in a mental disorder are included in this provision, provided the conditions stated in this Section arise.

A minor may be admitted into an institution that provides mental health hospital services for evaluation, treatment, recovery and rehabilitation from a mental disorder, as provided in this Act, and shall receive specialized services in a special unit for children and adolescents, who shall be segregated by age, stage of life and gender.

Section 8.03. – Purposes of the Petition for Mental Health Services for Minors

Mental health services for minors shall be requested with one or more of the following purposes:

- (a) carry out a process of screening, comprehensive evaluation and disposition;
- (b) receive Treatment, Recovery and Rehabilitation modalities;
- (c) obtain orientation, education and to be placed in support or transitional services.

Section 8.04. – Petition for Mental Health Services for Minors

A request for services for a minor shall be submitted to a providing institution or to a direct or indirect mental health provider by:

- (a) the minor him/herself, if fourteen (14) years old or more, if he/she requests ambulatory services as provided in Section 10.01 of this Act and if in the opinion of the mental health professional he/she has the capacity to understand the effects of his/her request;
- (b) the parent with patria potestas, legal guardian or person with provisional custody;
- (c) persons who have been professionally related to the minor and who, as a result of this relationship, have reasonable basis to believe that the minor needs to receive mental health services;
- (d) private or public agencies with custody of the minor, or the court.

The petition shall be presented in writing and shall contain a clear and simple statement, without technicalities, stating the reasons for requesting such services.

Section 8.05. –Screening, Comprehensive Evaluation and Treatment

Every petition or request for a level of mental health services with greater autonomy shall be initially handled with a screening process to determine the nature of the minor's problem and the need for mental health services. The screening process shall consist of, among others:

(a) advising the minor and his/her parent with patria potestas, legal guardian or person with provisional custody, of the process to be carried out, the findings and the recommendations;

(b) making a determination based upon the capacity shown by the minor as information transmitter and receptor;

(c) conducting an initial social evaluation to identify the areas of conflict and relevant information related to factors and resources that affect the minor's condition.

If through this screening, it is determined that the nature of the problem requires a kind of care unrelated to mental health services, then: the situation shall be referred to the corresponding agency, if necessary, and the parents, legal guardian or legal representative shall be advised of other services. This information shall be documented and shall be included in the clinical record. The screening shall be conducted by a mental health professional so authorized by law. If through the screening it is determined that the minor meets the criteria to receive mental health services, the mental health professional shall be required to initiate the comprehensive evaluation process and refer the minor to another type of mental health service according to minor's symptoms and signs. The comprehensive evaluation shall determine the diagnosis and level of care the minor needs to receive treatment. Here, the professional shall determine the individual and family nature of recurring or existing problems and the factors that contribute or have contributed to it. He/she shall also identify and evaluate the resources of the minor,

his/her family and community for dealing with the problem(s). The comprehensive evaluation shall include, among others,

(1) substantial information as to, or in relation to, services that have been offered to the minor by other agencies. The consent of the parent with patria potestas or custody, or the legal guardian shall be obtained for this;

(2) evaluation of the minor in the areas of functioning, among which are:

(3) the minor's identification

(4) the minor's developmental history, including educational and occupational development and social adjustment;

(5) family medical records, including the presence or absence of mental disorders

(6) family profile, as well as physical and economic resources;

(7) presence or absence of special situations, such as abuse, mistreatment or learning problems;

(8) substance use and abuse, or dependency;

(9) laboratory and toxicology tests that help diagnose mental disorders or other medical conditions;

(10) the mental, affective and physical state, and the minor's behavior at the time of receiving the service;

(11) any other information that must to be obtained from other sources, such as other professionals, document analysis or previous clinical records;

(12) conclusions and recommendations made by the mental health professional or the inter- or multidisciplinary team, diagnosis and preliminary Individualized Treatment, Recovery and Rehabilitation Plan.

The information described above shall be included in the minor's clinical record. Participation of the minor's family, custodian or legal representative shall be essential in this comprehensive evaluation process. All appropriate

measurements and evaluative instruments shall be used. They shall be valid, reliable, clinically useful and culturally competent for the population being served because they shall be useful when programming the services to be offered.

Section 8.06. – Initial Evaluation of Minors Admitted to Institutions that Provide Mental Health Services

Any minor who, voluntarily or involuntarily, begins to receive mental health services in a providing institution, such as emergency rooms, emergencies, and total or partial hospitalizations, shall receive the following services within twenty-four (24) hours:

- (a) medical record;
- (b) a physical examination;
- (c) laboratory analysis;
- (d) an evaluation conducted by a child and adolescent psychiatrist;
- (e) a psychological evaluation;
- (f) a social evaluation;
- (g) a Global Assessment of Functioning (GAF) Scale evaluation (DSM - IV Axis V), or per as the manual in effect at the time.

The results of the evaluations, analyses and tests shall be used to determine the level of care that corresponds to the severity of the symptoms and signs at the time, and the Individualized Treatment Plan. This Plan shall be formulated in writing within the first seventy-two (72) hours upon beginning to render the services to the minor, and reviewed at least within the first ten (10) days, as a result of the inter- or multidisciplinary work carried out by the professionals in charge.

Section 8.07. – Certification of Acceptance of Custody

When a minor is admitted or hospitalized in a providing institution, its director or its representative shall sign a certification accepting custody of the minor and guaranteeing that the minor shall be subject to humanitarian, responsible

and adequate treatment, in accordance with his/her needs. Said certification shall be given to the parent with patria potestas or custody, legal guardian or person with provisional custody. A copy of the same shall be included in the clinical record.

Section 8.08. - Therapeutic Restriction for Minors

The restriction shall be applied only in hospital institutions and centers that have emergency or acute care units, and shall be used as established in the protocols of standards of the best practices of mental health and according to the provisions of this Act. The restriction shall be used in a therapeutic manner without impairment to human dignity. Its application shall be reserved as an extreme recourse to be used when the minor is in immediate danger of harming the self or others, or damaging property. Before restricting any minor, his/her physical condition shall be taken into consideration, provided that under no circumstance shall it be used as punishment, disciplinary action or for the convenience of the institution's personnel.

Any mental health professional with faculty to order, administer or observe the restriction shall complete training in the use and application of this therapeutic procedure in minors, children and adolescents. The provisions of this Section are subject to the regulations that the Administration shall promulgate for these purposes. The restriction shall take place when there is a written order issued by a child and adolescent psychiatrist to that effect, or otherwise, a general psychiatrist, who shall do so after having consulted him/her, who after having personally, observed the minor is clinically convinced that there is a need to use restriction. The examination shall include an evaluation of the physical condition and the mental state of the minor. The closest family member or legal guardian shall be notified as soon as possible. It shall be required to conduct, as soon as possible, a discussion of the use of medications, and to include the restriction order in the

clinical record, which shall also include specific data, observations, purposes for its use, time and any other pertinent evidence that supports its use.

No restriction order shall be valid for more than eight (8) hours after its issuance. The restriction applied by virtue of said order shall not be extended beyond two (2) hours, in the case of minors ten (10) years of age or more, or two (2) hours in the case of minors between seven (7) and nine (9) years of age, after which the child and adolescent psychiatrist, or if unavailable, a general psychiatrist, who after consultation with the former shall conduct a new evaluation after having personally observed the minor. If the results of the evaluation show that the restriction needs to continue, the child and adolescent psychiatrist, or otherwise, a general psychiatrist, after consultation with the former, shall issue a new order, which shall be included in the clinical record.

In case of an emergency that requires the immediate use of this method, the restriction may be temporarily started by a physician or registered nurse or, a member of the inter- or multidisciplinary team duly trained and certified in this modality, after consulting a child and adolescent psychiatrist. This restriction shall be used after having personally observed the minor and if he/she is clinically convinced that the use of restriction is indicated in order to keep the minor from causing harm to the self or others, or damage to property. The need for a restriction order shall be included in the clinical record and notified as soon as possible to the minor's closest family member or legal guardian. Once the consulted child and adolescent psychiatrist is available, he/she shall conduct an evaluation in order to include the order in the clinical record, as soon as possible, within the hour after it was stated, in the case minors ten (10) years of age or more, and within half an hour in the case of minors between seven (7) and nine (9) years of age. If after locating the child and adolescent psychiatrist, he/she does not authorize to continue

with the restriction, it shall immediately cease, provided that the restriction as a therapeutic method for minors less than seven (7) years of age shall never be used.

In no case shall the initial period exceed two (2) hours in the case of minors ten (10) years of age or more, or one (1) hour in the case of minors between seven (7) and nine (9) years of age. In case the clinical condition that caused the restriction continues, the child and adolescent psychiatrist, in consultation with the inter or multidisciplinary team, shall evaluate the minor and provide for the use of other therapeutic modalities. The restriction shall be removed every half hour for not less than fifteen (15) minutes, unless said removal is clinically contraindicated, or totally when it is no longer needed to achieve the objectives that prompted this therapeutic measure.

The mental health professional, authorized pursuant to this Section, who initiates a restriction, shall require that a nurse practitioner trained and certified on this modality shall be assigned to observe the minor, at least every fifteen (15) minutes, without detriment to the patient's right to privacy, and shall include his/her observations in the clinical record in a legible, clear and precise manner.

Once the restriction is used during the eight (8)-hour period, it shall not be used again on the same minor for the next two (2) calendar days, unless there is a justified order for a psychiatric re-evaluation upon authorization from the Clinical Director of the hospital institution.

The psychiatrist ordering a restriction, shall immediately notify so in writing to the Clinical Director and the inter or multidisciplinary team. The Clinical Director and the Mental Health Faculty shall review all the restriction orders and shall investigate the reasons recorded for the same in order to establish the professional audit of the team members. The Director shall keep a register of the restrictions used and shall render a yearly report to the Administration. All

restriction orders shall be notified to the minor's closest family member or his/her legal guardian as soon as possible.

The institution shall establish in writing a protocol for therapeutic restriction according to the provisions contained in this Section. Said document shall include information about the mental health professionals who are empowered to begin the restriction in case of an emergency, pursuant to the provisions of this Act. Any health professional empowered to begin, order and observe a restriction, must have completed a training and be certified in the use and application of this therapeutic procedure. The provisions of this Section are subject to the regulations and licensing requirements of the institutions that provide mental health services that the Administration shall promulgate for these purposes.

Section 8.09 – Therapeutic Isolation

Isolation shall only be used as a therapeutic method to keep the minor from causing harm to the self or others, or damage to property. Its use shall be limited to hospital institutions and mental health centers that have acute care units. Before isolating a minor, his/her physical condition shall be taken into consideration. Under no circumstance shall it be used as punishment, disciplinary action or for the convenience of the institution's personnel.

Isolation shall only be used when there is a written order from issued by a child and adolescent psychiatrist or if unavailable, a general psychiatrist who, after consultation with the former and having personally observed the minor, is clinically convinced that there is a need to use restriction. The examination shall include an evaluation of the physical condition and the mental state of the minor.

The isolation order shall be included in the clinical record, which shall also include the reasons for which it was issued, and the minor's closest family member or legal guardian shall be notified of the use of isolation as soon as possible. An isolation order shall be valid for eight (8) hours as of its issuance. Each isolation

period shall require that the child and adolescent psychiatrist, or if unavailable, a general psychiatrist, who after consultation with the former, shall issue a new order after having conducted a direct evaluation of the minor. The psychiatrist who orders the isolation shall immediately notify in writing to the institution's director and the inter or multidisciplinary team of its use to evaluate its justification and results.

It is also provided that the isolation period shall be of one (1) hour for minors between ten (10) years of age and more. No isolation order shall be issued to minors under ten (10) years of age. If additional isolation periods are needed, the child and adolescent psychiatrist shall issue a new order. Upon expiration of said period, the minor shall be re-evaluated by the child and adolescent psychiatrist and if he/she determines that the minor represents danger to the self or others, or to property, a second isolation period may be initiated, which shall not exceed one (1) hour.

Once isolation has been used during the total period of two (2) hours, it shall not be used again on the same minor during the following two (2) calendar days, without previous consent from the child and adolescent psychiatrist.

The child and adolescent psychiatrist or if unavailable, a general psychiatrist after consultation with the former, who orders the isolation shall immediately designate a registered nurse trained and certified in this modality to personally and constantly observe the minor, and shall include his/her observations in the clinical record every fifteen (15) minutes. The person so designated shall keep communication and direct visual contact with the isolated minor, without detriment to the minor's right to privacy, Said observations shall be legible, detailed, clear and precise, and drafted in such a way as to describe the minor's behavior.

Isolation rooms shall be duly prepared, pursuant to federal and state protocols in effect in order to avoid danger to the minor.

The Clinical Director shall review all isolation orders on a daily basis and shall investigate the reasons the psychiatrist had to issue them. With the purpose of assuring professional audit of the team members and protecting the civil rights of the minor, the Clinical Director and the Mental Health Faculty shall formally review all isolation cases as soon as possible to evaluate their justification and results.

The institution shall establish in writing a protocol for the use of isolation according to the provisions contained in this Section. All mental health professionals empowered to order and observe a minor in isolation, shall complete training in the use and application of this therapeutic modality. The provisions of this Section are subject to the regulations that the Administration shall promulgate for these purposes, and to the licensing requirements of the institutions that provide mental health services.

Section 8.10. - Electroconvulsive Therapy

No minor shall receive electroconvulsive therapy treatment without prior express, written and informed consent and authorization from one of the following:

(a) the minor's parent with patria potestas or custody, or legal guardian, upon the opinion of one (1) child and adolescent psychiatrist, in consensus with the inter- or multidisciplinary team, who evaluates and recommends the use of this treatment and so entered in the minor's clinical record.

(b) In the case this treatment is favorable to the minor, and after making reasonable efforts, if the persons authorized to consent could not be located or denied their consent, a petition shall be filed with the court. In this case, evidence shall be presented of the need for treatment, as well as the unsuccessful attempts to locate the persons authorized by law to give consent, so that the court may be convinced and orders the use of this treatment.

In the case of psychiatric emergencies where the use of this therapeutic modality is needed to save the patient's life, the determination to use it shall be made by the psychiatrist, in consensus with the inter or multidisciplinary team. The Director of the hospital institution shall review all the orders for electroconvulsive therapy under the emergency criteria, and shall render a yearly report to the Administration.

The Clinical Director and the Mental Health faculty shall review all the orders for electroconvulsive therapy, under the established criteria, and based upon the reasons that brought about the use of this measure, order to establish the professional audit of the team members, and shall render a yearly report to the Administration.

The parent with patria potestas or custody of the minor, for whom electroconvulsive therapy treatment is considered, and the legal guardian if any, shall be notified at least forty-eight (48) hours prior to the treatment. The parent with patria potestas or custody, or the legal guardian shall have the right to refuse this treatment at any time after having accepted it. However, if there is a discrepancy regarding the acceptance or refusal of the treatment, a hearing shall be held in court to determine if the treatment shall proceed or not, and issue an order to that effect.

Every institution that provides mental health services and offers the electroconvulsive therapy modality shall have a protocol that includes the accepted standards of the American Psychiatric Association (APA) and the entities that regulate the application of said therapy, in addition to the regulations that the Administration shall promulgate for these purposes. Said protocol shall be revised annually. It shall be the responsibility of the entity that provides mental health services to be up to date on scientific advances that may alter the procedure or application of this type of treatment.

Section 8.11. – Request for Admission

Every minor, through his/her parent with patria potestas or custody, his/her legal guardian or person with provisional custody, may request admission into an institution that provides treatment, recovery and rehabilitation services for a mental disorder. The request shall be in writing and may be accompanied by a referral from a child and adolescent psychiatrist, psychiatrist, physician, clinical psychologist or social worker with experience in mental health.

This referral shall be issued provided there exists a preliminary evaluation conducted by a mental health professional. In case the services are requested for detoxification, the preliminary evaluation and the referral shall be made by a physician or a psychiatrist. Professionals responsible for this referral shall determine in writing if the minor meets the criteria for admission for this method of service as established by this Act. Within twenty-four (24) hours after the request for hospital services is presented, an inter- or multidisciplinary team shall be assigned to the minor, including a child and adolescent psychiatrist for an evaluation in order to determine if the admission is appropriate or not.

If the need for hospitalization is confirmed, the inter or multidisciplinary team shall be responsible for writing a treatment plan for the minor. Said plan shall establish the strategies to be followed to deal with the immediate cause that caused the hospitalization. If it is determined that the minor meets the criteria to receive services in a level of care with greater autonomy than hospitalization, the minor shall be referred to the mental health level of care that better corresponds to his/her specific needs.

Lack of interest or inability of the parent with patria potestas or custody, the legal guardian or the person with custody or duty to provide care or shelter shall not be a reason to admit a minor in a mental health hospital institution. If this is the

case, the director of the institution shall file a petition with the court to assure care and protection in other institutions, public or private, as the case may be.

Within twenty-four (24) hours after a minor is admitted to a hospital institution, the director or his/her representative, shall give a copy of the request for services and shall make a clear and concise report explaining the minor's condition to his/her parent with patria potestas or custody, legal guardian or person with provisional custody of the minor. The report shall also include the following:

(a) the preliminary diagnosis determined by the inter- or multidisciplinary team;

(b) the right they have to request that the minor be released within the shortest term possible, except in those cases in which during said term, a petition is filed with the court accompanied by a certification that establishes that minor should be subject to involuntary admission; and

(c) the Treatment, Recovery and Rehabilitation Plan to be followed, and the right to receive counseling and a hearing held in court.

After being admitted, any change in the status shall be explained in detail to the minor, his/her parent with patria potestas, or legal guardian.

Section 8.12. – Review of the Clinical Status

Within seventy-two (72) hours of minor's admission, the child and adolescent psychiatrist, jointly with the inter- or multidisciplinary team, shall review the minor's clinical status and clinical record in order to determine the need to continue the treatment at the current level. If extension is necessary, the person or entity that gave consent for admission shall be notified to obtain their consent to said extension. Authorization for extension of admission shall be included in minor's clinical record.

Whenever there is a substantial change and, as a maximum, every ten (10) days, the child and adolescent psychiatrist, along with the inter- or

multidisciplinary team, shall conduct an evaluation of minor's clinical status, and authorization for the extension of the hospitalization shall be renewed, while it lasts. If extension for treatment, recovery and rehabilitation is not authorized, it shall be understood as a petition for the minor to be released.

In the case that it has been impossible to stabilize the severity of the symptoms and signs, and the minor could still be in danger of harming the self or others, or damaging property, a petition shall be requested to the court to obtain an order for extension of the admission into the hospital institution, or the level of care recommended by the child and adolescent psychiatrist with the inter- or multidisciplinary team, when there is no authorization from the father, mother with patria potestas or custody, or the legal guardian or entity that approved the minor's admission, changing the status from an involuntary to voluntary.

No minor shall be admitted to hospital services, unless he/she meets the clinical criteria for hospitalization and there exists clear and convincing evidence, to the satisfaction of the person authorized to give consent that shows the need for said admission.

Section 8.13. – Admission in Case of Emergency

In case of emergency, any person eighteen (18) years of age or more may try to obtain admission for a minor, after taking all the necessary steps to locate the minor's parent with patria potestas or custody, or legal guardian. The minor shall be evaluated immediately by the child and adolescent psychiatrist, or if unavailable, the general psychiatrist after consulting with the child and adolescent psychiatrist, and with the inter- or multidisciplinary team of the providing institution, in order to establish the diagnosis and determine the level of care that corresponds to the severity of the symptoms and signs at the time.

The director of the providing institution shall continue to make efforts to locate the parent with patria potestas or custody. If the person is located and gives

written consent for the admission, the minor shall continue in the indicated and recommended level of care.

If the parent with patria potestas or custody, or the legal guardian could not be located within the next twenty-four (24) hours, or if after being located, he/she refuses to give consent for the minor's admission, or requests his/her release, a petition shall be filed before the court accompanied by a report stating the minor's condition and the recommendations from the child and adolescent psychiatrist, in consultation with the inter-or multidisciplinary team. The court shall determine whether to continue the care shall proceed, or the release of the minor, for which it shall hold a hearing to be held within seven (7) calendar days. The Court shall notify the minor, his/her attorney or the person representing him/her, and the director of the institution or his/her representative, and shall state the place, date and time of the hearing. Hospitalization of the minor shall continue until the court provides otherwise.

The court may order that the minor be released if the evaluative reports show that he/she may benefit from mental health services in a therapeutically indicated level of care with greater autonomy.

If necessary, the court shall order the Department of the Family to place the minor accordingly.

In the case the court has authorized the extension of the hospitalization, the proceedings of involuntary admission shall continue as provided by this Act.

Section 8.14. – Request for Admission by Public or Private Agencies

The authorized representative of a government or private agency may process a request for an evaluation for admission to a mental health hospital institution in behalf of a minor who is in its custody, provided the minor meets the criteria of admission to the institution and complies with the requisites established in this Act.

The child and adolescent psychiatrist, or a member of the inter- or multidisciplinary team of the providing institution shall notify in writing to the entity that referred the minor, the results of the evaluation performed and the therapeutically indicated level of care with greater autonomy that, to their best professional judgment, shall satisfy the minor's needs.

The report shall contain specific recommendations on how to handle the mental health disorder, within the institutional scenario that holds custody of the minor.

Once the minor has been clinically stabilized and released, the agency that requested the admission shall be responsible for receiving the minor immediately.

Section 8.15. – Treatment, Recovery and Rehabilitation in Another Level of Care

The court may consider other levels of care with greater autonomy if the child and adolescent psychiatrist, jointly with the inter- or multidisciplinary team so recommends it, according to the diagnosis and severity of the symptoms and signs at the time, as therapeutically indicated, before determining if the minor should be involuntarily admitted.

The court may order that the minor be submitted to treatment, recovery and rehabilitation services in another level of care with greater autonomy at a mental health hospital institution, and in cases of conditions related to alcohol and controlled substance use and abuse, one of the alternatives may be to order admission to services offered by a community-based organization. The court shall consider the recommendations that the psychiatrist or physician, as may apply, and the inter or multidisciplinary team responsible for the minor's initial evaluation present as appropriate. Said recommendations shall be clearly conceptualized and specified in a report on the comprehensive evaluation conducted, including the personalized treatment, recovery and rehabilitation plan recommended, as well as

any other information that the court deems convenient. The Individualized Treatment, Recovery and Rehabilitation Plan shall be consistent with the minor's problems and needs, and shall contain a schedule for its development. Based on the recommendations, the court shall order the level of care with greater autonomy that it deems most adequate for the minor.

Nevertheless, the court shall have the authority to modify an order for treatment in a level of care with greater autonomy, if the minor subject to the order does not comply with the same, or if the mental health professionals determine that the treatment is not adequate for his/her condition. Before modifying the order, the court shall receive a report from the program director of the level of care at which the minor is, specifying the reasons why the order should be modified. The court shall schedule a hearing of which the minor's parent with patria potestas or custody, or legal guardian shall be duly notified, and in which he/she shall have the opportunity to express his/her opinion when the order for an alternate treatment is reconsidered. The minor shall be present at the hearing, and his/her parent with patria potestas or custody, or legal guardian may be accompanied by a legal representative when the hearing is held.

If the Court repeals the order for treatment in a level of care with greater autonomy, and orders that the minor be hospitalized, a marshal or mental health services support personnel shall take all the necessary steps to coordinate transportation for the minor.

Section 8.16. – Involuntary Admission

Any minor who meets the necessary clinical criteria to receive mental health services, but his/her parent with patria potestas or custody, or legal guardian does not consent to it or is not capable of consenting to it, shall be evaluated to determine if he/she qualifies for involuntary admission or compulsory treatment in a providing institution. Said evaluation shall require the Court's intervention. The

Court shall order an evaluation by the inter or multidisciplinary team, in order to determine if the minor should receive hospital treatment and rehabilitation for his/her mental disorder.

No minor shall be admitted involuntarily, unless there exists clear and convincing evidence to the Court's satisfaction that shows the need for said admission.

Section 8.17. – Petition for a Fifteen-(15) Day Involuntary Admission

(a) Every petition for involuntary admission for a maximum of fifteen (15) days, shall be accompanied by a certification from the child and adolescent psychiatrist, or if unavailable, a general psychiatrist after consulting with the former, which shall be known as the First Certification. This First Certification shall establish that the minor meets the criteria for immediate involuntary admission in a hospital institution or any other providing institution in order to receive treatment, recovery and rehabilitation.

Said First Certification shall establish the following:

- (1) that the child and adolescent psychiatrist, or if unavailable, a general psychiatrist, after consultation with the former, and the inter- or multidisciplinary team, evaluated the minor within a term not greater than two (2) days prior to presenting the Request for Involuntary Admission;
- (2) the observations and criteria that gave rise to the determination, to the effect that the minor meets the admission criteria as established in this Act; and
- (3) evidence that the minor, and his/her parent with patria potestas or custody, or legal guardian have received copy of the rights established in this Act;

(b) Once the First Certification is received, the Court shall issue an Order for Involuntary Admission for a term not longer than fifteen (15) days, which shall be known as a Fifteen (15) Day Involuntary Admission. Upon issuing the order, the Court shall schedule a follow-up hearing that shall be held within the next seven (7) working days in order to evaluate the extension or suspension of the Involuntary Admission. The Court shall notify the date, time and place of the hearing to the minor, his/her parent with patria potestas or custody, or legal guardian or the person with provisional custody.

If during the hearing, the court finds that the minor should continue receiving involuntary treatment services, the First Order for Admission shall continue in effect until the original established term of fifteen (15) days concludes. When the child and adolescent psychiatrist, in consultation with the inter- or multidisciplinary team, recommends the release, the court, if it accepts the recommendation, shall order the immediate release of the minor in that level of care. It may also order compulsory treatment in another level of care with greater autonomy, if recommended by the child and adolescent psychiatrist and the inter- or multidisciplinary team, because the minor represent an immediate risk of harm to the self or others, or damage to property.

Within not more than twenty-four (24) hours of the issuance of the First Order for Involuntary Admission, the minor, his/her parent with patria potestas or custody, legal guardian or the person with provisional custody and his/her attorney, as the case may be, shall receive a copy of the First Certification and of the order issued to the minor by the Court.

Section 8.18. – Petition for Extension of Involuntary Admission Order

When deemed necessary, the Court may order an extension for hospitalization, which shall not exceed fifteen (15) additional days. To that effect, the Director of the mental health institution or his/her representative, per ser or by

request from the minor's parent with patria potestas or custody, or legal guardian, shall file in court a Petition to Extend an Involuntary Admission Order. Said petition shall be accompanied by a Second Certification issued by the child and adolescent psychiatrist along with the inter or multidisciplinary team in charge of the minor's treatment, provided that in cases in which the minor is receiving treatment, recovery and rehabilitation services in a detoxification center, this Second Certification may be issued by a physician and the inter- or multidisciplinary team. The petition shall be filed in court up to three (3) days before the end of the initial period of fifteen (15) days. Within forty-eight (48) hours after filing the Petition to Extend an Involuntary Admission Order, the court shall determine if the extension of the hospitalization period so requested shall proceed. While this process is in progress, the minor shall remain hospitalized.

This Certification shall include the following:

(a) evidence of the plan and implementation of the Individualized Treatment, Recovery and Rehabilitation Plan of the inter- or multidisciplinary team;

(b) a document stating that the child and adolescent psychiatrist or the physician of the detoxification center, as may apply, along jointly with the inter- or multidisciplinary team, re-evaluated the minor according to the plan reviewed the medical record, evaluated his/her progress and determined the need for the minor to continue receiving involuntary services;

(c) detailed preparation of the revised Individualized Treatment, Recovery and Rehabilitation Plan that includes a reasonable prognosis of the benefits the minor is expected to receive during the continuation of the involuntary admission;

(d) identification and processing by the case handler of the resources used to place the minor in the necessary and convenient level of care for his/her condition, once the purposes of the treatment, recovery and rehabilitation plan of the hospital are fulfilled;

(e) Release Plan worked by the child and adolescent psychiatrist in consultation with the inter- or multidisciplinary team for the case handler to follow-up, a copy of which shall be given to the parent with patria potestas or custody, or the legal guardian, if any;

(f) name and professional circumstances of the inter- or multidisciplinary team that intervenes in the certification.

If the initial fifteen (15)-day term elapses, and the Petition for Extension of Involuntary Admission Order and its the corresponding certification are not filed in court on time, the institution shall then proceed to grant immediate release to the minor and it shall so notify to the Court.

If in the hearing, the court finds that the minor shall continue to receive involuntary treatment services, it may order an extension of the involuntary hospitalization for a term not to exceed fifteen (15) days.

Within twenty-four (24) hours after the issuance of the Petition for Extension of Involuntary Admission Order, a copy of the certification and of the order issued by the Court shall be given to the parent with patria potestas or custody, legal guardian, attorney or representative, as the case may be.

Section 8.19. – Petition for Release by Parent with Patria

Potestas or Legal Guardian

When the parent with patria potestas or custody, legal guardian or person with provisional custody request that the minor involuntarily admitted be released, he/she shall be released within twenty-four (24) hours after the petition.

If the director of the institution has well-founded motives to object to the petition for release of the minor, he/she shall file a petition with the court stating the need for said services.

Lack of interest or inability of the parent with patria potestas or custody, the legal guardian or the person with provisional custody to provide care and shelter

shall not be a reason for the Court to deny issuing an order for the release of the minor. If this is the case, the court may order the intervention of the Department of the Family in order to assure that the necessary shelter and care shall be provided to the minor, in which case the Department of the Family shall assume custody of the minor.

Section 8.20. – Petition for Release; Change of Status; Hearings

Within twenty-four (24) hours after the petition for release, the minor shall be evaluated by a child and adolescent psychiatrist in consultation with the inter- or multidisciplinary team, to determine if the minor represents danger to the self or others, or to property, through violent or consistent acts that indicate there is a mental disorder. If there is no evaluation, the minor shall be released immediately. If as a result of the petition for release, and after the evaluation provided in this Section, it is determined that the minor represents immediate danger, an Order for Admission shall be requested from the Court, which shall not exceed fifteen (15) days and the change of status from voluntary to involuntary admission. The court shall schedule a hearing within the following twenty-four (24) hours. During this process, the minor shall remain hospitalized. The proceedings from voluntary to involuntary admission shall be continued, in which the court shall schedule a hearing pursuant to the provisions of this Act.

Section 8.21. – Hearings

(a) Hearings shall be held before a court with jurisdiction, pursuant to the provisions of the Rules of Civil Procedure in effect.

(b) The minor shall be present at the hearing, accompanied by his/her parent with patria potestas or legal guardian, and represented by his/her attorney.

(c) If the court, *motu proprio*, or upon petition from one of the parties with just force majeure, postpones the case, the minor shall remain hospitalized pending

a subsequent order from the Court. The postponement of the hearing shall not be extended for more than five (5) calendar days.

(d) The minor, father, mother with patria potestas or legal guardian shall have the right to present all the evidence he/she deems convenient to contest the continuation of his/her involuntary admission. Said evidence may be oral or written. To that effect, the adult shall have the right to be examined by an independent mental health professional of his/her choice, or by one so designated by the Court, who shall conduct an evaluation and issue his/her recommendations to the court. The services of said professional shall be paid by the father, mother with patria potestas or legal guardian object of the petition for involuntary admission or change of status, by a close relative, if any, or by the state, in case the minor is indigent.

When deemed necessary, the court may request the intervention of the Department of the Family in order to protect the minor's interests.

Section 8.22. – Right to Legal Representation

Every minor object of a petition to order involuntary admission shall have the right to be represented by an attorney or family advocate, according to availability. If the minor is indigent and has not been able to hire an attorney, the Court shall appoint an attorney. The attorney appointed by the court and his/her client shall have reasonable time to prepare for the hearing.

Section 8.23. – Transfer of Minor

Any minor who receives mental health services and is in a providing institution, may request to be transferred if said transfer is necessary and without detriment to the minor, provided he/she and the receiving institution accept the transfer. The minor, closest family member or legal guardian shall be notified of the transfer at least three (3) days in advance. If the minor's life is in imminent

danger, the transfer shall take place and his/her father, mother with patria potestas or legal guardian shall be notified within twenty-four (24) hours of said transfer.

If the minor, his/her father, mother with patria potestas or legal guardian has any objection to it, the institution shall give him/her the opportunity to reconsider said transfer, pursuant to Section 2.23 of this Act. During the process of reconsidering the transfer, the minor shall remain in the original institution that provides mental health services.

Section 8.24. – Passes

In those cases in which is it clinically necessary or beneficial, the child and adolescent psychiatrist, jointly with the inter- or multidisciplinary team, may grant the pass to the minor admitted voluntarily or involuntarily, even when he/she is not fit to be released. In these cases, the court shall not need to be notified, but his/her parent with patria potestas or custody or legal guardian shall be notified.

Section 8.25. – Releases

The child and adolescent psychiatrist in charge of the treatment, recovery and rehabilitation may release any minor admitted voluntarily or involuntarily, at any time after having consulted with the inter- or multidisciplinary team. The psychiatrist shall notify the parent with patria potestas or custody, or the legal guardian of the minor to be released, but his/her parent with patria potestas or custody or the legal guardian shall be notified.

The child and adolescent psychiatrist, and the inter- or multidisciplinary team of the minor to be released, shall explain to him/her, his/her family or legal guardian, of his/her release plan and the options for recovery, notifying the court of the findings made in those cases where the court ordered an involuntary admission.

Section 8.26. – Leaving of the Institution without Being Released; Notices

When the minor subject to involuntary admission leaves the institution without having been released, the director shall immediately notify a police officer

so that he/she may be apprehended and returned to the institution. In addition, he/she shall notify the parent with patria potestas, or the legal guardian and the person who requested his/her admission.

When a minor subject to voluntary admission leaves the institution without having been released, the director shall immediately notify the minor's parent with patria potestas or the legal guardian.

CHAPTER IX – TRANSITIONAL SERVICES FOR MINORS

Section 9.01. – Purposes of the Transitional Services

Transitional services shall be designed to provide experiences that are structured, consistent and specialized in different levels of supervision according to the severity of the symptoms and signs of the disorder, which may apply by age and gender, and to achieve that the minor becomes adapted to his/her environment and able to participate in another level of care of greater autonomy, until he/she can reach his/her eventual independence within the community. Their main function shall be to render treatment, recovery and rehabilitation services emphasizing on the adequate development of the minor's handling of the daily life, in addition to offering care and custody in a safe and human manner.

Section 9.02. – Transitional Services

Institutions that provide transitional services shall, as a minimum, provide the following:

- (a) safe and humane care and custody within an environment with the greatest autonomy possible according to the minor's need for treatment, recovery and rehabilitation;
- (b) the individualized treatment, recovery and rehabilitation, emphasizing the skills that are necessary for everyday life given his/her clinical condition, the severity of the symptoms and signs, his/her stage of life, and his/her

potential for recovery and rehabilitation to achieve greater autonomy in his/her environment;

(c) adequate coordination with government and private agencies to achieve comprehensive services for the minor and his/her family, in order to reach a greater self-sufficiency;

(d) attention to the mental and physical health condition of the minors admitted, as well as of their families;

(e) the promotion as well as orientation of family participation in the minor's Individualized Treatment, Recovery and Rehabilitation Plan;

(e) a balanced diet, according to the special needs of the minors participating in the programs;

(f) a rehabilitation, recreational, vocational and occupational plan, as may apply, to be implemented on the program or service in charge of specialized personnel.

Section 9.03. – Services Manuals

Every institution that provides transitional services shall have a services manual, which shall contain, as a minimum, the following:

(a) the admission criteria to be met by minors who request the services;

(b) the age, sex, disorder, diagnosis and level of functionality;

(c) an Individualized Treatment, Recovery and Rehabilitation Plan prepared by an inter- or multidisciplinary team;

(d) the staffing pattern that the institution shall have, as well as the qualifications thereof;

(e) the program's philosophy and a description of the institution's environment; and

(f) the corresponding therapeutic modality or activity program.

Section 9.04. – Levels, Stages or Services

Transitional services shall be developed by levels, stages, or services, so that the minors subject thereto may be evaluated and classified according to their needs and placement in the environment with the greatest autonomy possible and therapeutically indicated.

The levels, stages, or services adopted by the institution that provides transitional services shall be designed in accordance with the severity of the symptoms and signs, the diagnosis and the degree of supervision required by the minor, it being understood as such services with greater supervision those services with moderate supervision, services with minimum supervision and home or independent services.

The system shall permit that minors be directly referred to the level most appropriate for their condition, without having to go through all the levels or stages.

Section 9.05. – Involuntary Admission; Compulsory Treatment

Any minor who meets the necessary criteria to receive transitional services according to the evaluations and recommendations by the child and adolescent psychiatrist and the inter- or multidisciplinary team, but whose parent with patria potestas or custody, legal guardian or person with provisional custody does not consent to such services, shall be the object of a petition for compulsory treatment or involuntary admission before the court, pursuant to the procedures provided in this Act to that effect.

CHAPTER X – MENTAL HEALTH SERVICES WITH GREATER AUTONOMY FOR MINORS

Section 10.01. – Conditioned Right to Request Counseling and Treatment

Any minor between fourteen (14) and eighteen (18) years of age may request and receive counseling and, if necessary, receive ambulatory mental health

treatment for a maximum period of six (6) sessions if the child and adolescent psychiatrist, psychiatrist, clinical psychologist or social worker determines that he/she is capable of making such a decision. Services shall not be denied to the minor due to lack of economic resources. During the process, the child and adolescent psychiatrist, psychiatrist, clinical psychologist or social worker shall determine the type of mental health services, if any, the minor needs and shall give his/her recommendations. If the minor needs mental health treatment services, the professional shall advise and help him/her to acknowledge the advantage of obtaining authorization from his/her parent with patria potestas or custody, or legal guardian.

However, the consent from the minor's parent with patria potestas or custody, legal guardian or person with provisional custody, shall not be necessary to authorize counseling and treatment to the minor, and they shall not be notified of said intervention without the minor's consent, except in those cases in which the child and adolescent psychiatrist, psychiatrist, clinical psychologist or social worker identifies that the minor may cause harm to the self or others, or damage to property. In cases in which the notification to the minor's parent with patria potestas or custody, legal guardian or person with provisional custody is necessary, the minor shall be informed of such. Once the parent with patria potestas or custody, legal guardian or person with provisional custody has been notified, the mental health professional shall obtain consent to conduct the applicable intervention.

In cases in which counseling or treatment on substance-related disorders, the initial term shall not exceed seven (7) sessions. It is provided that in situations where the minor needs substance detoxification services, he/she may receive all the services or treatments, including laboratory.

Confidentiality of counseling or treatment shall be kept, and no document shall be sent between the mental health provider and the minor's father, mother with patria potestas or custody, or legal guardian, until the session periods have concluded, as established in this Section.

The costs corresponding to counseling services or ambulatory treatment to minors may be charged to the minor's health insurance, if applicable. The services may also be cancelled if the minor fails to attend or the services conclude by mutual consent.

Section 10.02. – Services with Greater Autonomy for Minors

Any minor for whom it is required or begins to receive a mental health service with greater autonomy in the different levels of care, shall receive, among others, the following services during the first seventy-two (72) hours:

- (a) a complete physical examination;
- (b) laboratory tests;
- (c) a psychiatric evaluation conducted by a child and adolescent psychiatrist;
- (d) a psychological evaluation;
- (e) a social evaluation; and
- (f) a Global Assessment of Functioning (GAF) Scale evaluation

(DSM - IV Axis V), or as per the manual in effect at the time.

The results of the test, analysis and evaluations shall form part of the minor's clinical record, and shall be used to establish the Individualized Treatment, Recovery and Rehabilitation Plan at the corresponding level of care with greater autonomy. The procedures shall be included in the regulations to be promulgated for these purposes.

The provisions of this Section shall not apply in the case of private offices of mental health professionals. In this case, said professionals shall make sure to

comply with the standards applicable to their respective professions, based on the following guidelines, among others:

A) Child and Adolescent Psychiatrist – shall be responsible for conducting a psychiatric evaluation to determine the immediate disposition of the case (continue with ambulatory treatment and refer him/her to another level of care with greater autonomy as required by his/her symptoms and signs). His/her clinical notes shall reflect the symptoms and signs, the diagnosis, the clinical course and the final disposition of the case, among other things.

B) General or Specialist Physician – if the patient presents mental symptoms and signs not related to his primary line of work, it shall be the physician's responsibility to refer him/her to a behavioral professional according to the nature and severity of the symptoms and signs. His/her clinical notes shall reflect the symptoms and signs, the diagnosis and diagnostic impression, the clinical course and final disposition, among other things.

C) Psychologist – shall be responsible for conducting a complete psychological evaluation to determine the final disposition (continue with ambulatory care or refer the patient to another level of care). If during the minor's evaluation or treatment, symptoms and signs that are not related to his primary line of work arise, the minor shall be referred to the corresponding level of care. His/her clinical notes shall reflect the symptoms and signs, the diagnosis and diagnostic impression, the clinical course and final disposition, among other things.

D) Clinical Social Worker – shall be responsible for conducting a social evaluation to identify information related to factors and resources that may affect the adult's condition, including, among others, his/her educational and occupational development, conditions related to the use of controlled

substances or alcohol, and social adjustment; family medical records, including the presence or absence of mental disorders, and the family profile, as well as his/her physical and economic resources.

Section 10.03. – Initial Evaluation; Treatment, Recovery and Rehabilitation Plan in Another Level with Greater Autonomy

Any minor who has been evaluated or hospitalized, and who upon recommendation of the child and adolescent psychiatrist and the inter- or multidisciplinary team, has been determined to need treatment within another level of care with greater autonomy, shall have his/her release plan or evaluation findings reviewed and put into practice within the twenty-four (24) hours after admission.

The evaluation and recommendations or the release plan shall form part of the minor's clinical record in the level of care that may apply. Said results shall be used to establish the Individualized Treatment, Recovery and Rehabilitation Plan, which shall be reviewed according to diagnosis and the severity of the symptoms and signs for each level of care according to the best practices in the mental health field. This plan shall be prepared by an inter or multidisciplinary team not later than fifteen (15) days after admission, in accordance with the standards of each level of care or when there is a substantial change. Once the minor has achieved the objectives of his/her Individualized Treatment, Recovery and Rehabilitation Plan, he/she shall continue to the next level of care with greater autonomy, as his/her condition allows.

Section 10.04. – Services Manuals

Every institution that provides services with greater autonomy shall have a Services Manual, which shall contain, as a minimum, the following:

- (a) the admission criteria to be met by minors who request the services;
- (b) the age, sex, disorder, diagnosis and level of functionality;

(c) an Individualized Treatment, Recovery and Rehabilitation Plan prepared by an inter- or multidisciplinary team;

(d) the staffing pattern that the institution shall have, as well as the qualifications thereof;

(e) the program's philosophy and a description of the institution's environment;

(f) the corresponding therapeutic modality or activity program;

The provisions of this Section shall not apply to private offices of mental health professionals. However, said professionals shall advise the minor, his/her father, mother with patria potestas or custody, legal guardian or person with provisional custody on the treatment options for his/her condition, the ones they recommend and which ones they can provide according to his/her symptoms and signs, and to the diagnostic impression at the time of the initial evaluation.

CHAPTER XI – EVALUATION OF MINORS UNDER THE COURT'S JURISDICTION IN INSTITUTIONS THAT PROVIDE MENTAL HEALTH SERVICES TO MINORS

Section 11.01. – Order to Evaluate Minors under the Court's Jurisdiction

The court shall order that those minors who has been accused of offenses or who have been declared liable for offenses be evaluated in institutions that provide mental health services to minors, provided the presence of an emotional disorder needs to be confirmed or discarded, motu proprio or upon petition of a party.

The child and adolescent psychiatrist, along with the inter or multidisciplinary team of the institution providing services to minors, shall inform in writing to the court the results of said evaluation. These results shall include the specific recommendations for handling the minor and orientation to the family, as well as placement in the corresponding level of care.

Section 11.02. – Admission to an Institution for Children and Adolescents

If after the evaluation, it is determined that the minor under the court's jurisdiction suffers an emotional disorder, the court shall order that an inter- or multidisciplinary Individualized Treatment, Recovery and Rehabilitation Plan, be prepared and implemented, which shall include receiving all specialized services needed. Each and every services program shall be provided in special institutions for minors, according to their age, gender and clinical needs.

The minor shall meet the admission criteria for said institution. Once admitted, he/she shall be evaluated pursuant to the provisions of this Act, and the court shall be informed every three (3) months, or before, if so required by the court, or if a significant change has occurred in his/her condition, in order to determine the progress of his/her treatment, recovery and rehabilitation, as well as the corresponding recommendations. Copy of the evaluation shall be sent to the Court of First Instance, Minor's Affairs, to the Minor's Advocate and the parties, as indicated by the Court.

Section 11.03. –Request for Admission of Minors with Emotional Disorders Declared Prosecutable and Chargeable

If as a result from the evaluation ordered by the court, the child and adolescent psychiatrist, in consultation with the inter- or multidisciplinary team, determines that the minor is chargeable and prosecutable and that he/she has a mental disorder, the court, if it finds the minor is liable for offense and orders his/her admission, shall order the minor be transferred to a unit in the Administration of Juvenile Institutions specialized in mental health treatment for children and adolescents. While the minor is in the custody of the Administration of Juvenile Institutions, it shall be responsible for having the minor receive the treatment, recovery and rehabilitation mental health services required.

In case the court grants probation benefits, it shall maintain jurisdiction over the minor and shall demand, as a minimum condition among others, that the minor receive mental health services.

The Director of the specialized unit shall notify the court as soon as the minor is released from the unit, and shall send a copy of said notification along with the release plan to the Administration of Juvenile Institutions. Subsequent to the same, the court shall order whatever proceeds and shall send a copy of the order to those effects to the Administration of Juvenile Institutions.

Once the court determines that release may be granted, the minor shall be released immediately.

Section 11.04. – Minor Exonerated from Offense; Referral Order for Mental Health Services

When the court has exonerated a minor from the commission of an offense, but the evaluation shows that he/she has a mental disorder, the minor shall be referred to the mental health service recommended in said evaluation. The court shall issue a Fifteen (15)-Day Involuntary Admission Order. If it is determined that the term of fifteen (15) days is not sufficient, the procedure established in this Act shall be applied.

Section 11.05. – Report Prior to Any Disposition on the Case

Before the court makes a final decision on the case, the inter- or multidisciplinary team responsible for minor's treatment, recovery and rehabilitation shall prepare a report including the level of care, bearing in mind that it is therapeutically indicated and with greater autonomy, including the interagency coordination, a social evaluation, a preliminary treatment, recovery and rehabilitation plan, and any other information that the Court may deem convenient before the disposition of the case. The inter or multidisciplinary Individualized Treatment, Recovery and Rehabilitation Plan, shall be developed in accordance

with the requirements of this Act. If minor is admitted, the court shall consider the report to determine the disposition of the case.

Section 11.06. – Final Orders, Copy to the Minor; Review

Every court order shall be in writing, duly sealed and signed, and shall be accompanied by a clear and precise determination made by the court with respect to the minor's situation.

Copy of the order shall be given to the parent with patria potestas, or legal guardian, or the person with provisional custody of the minor who receives mental health services, or his/her attorney, and to the director of the mental health institution or the director of the level of care service where the minor was admitted. The court shall notify any of the aforementioned of their right to request reconsideration and in case of being indigent, of their right to receive a free transcript of the legal file and to be assisted by an attorney. If the parent with patria potestas, or the legal guardian wishes a revision and does have the economic means to do so, the court shall appoint an attorney.

CHAPTER XII – COLLABORATIVE SYSTEM

Section 12.01. – Manifestations of the Mental Health Problem

It is hereby acknowledged that the different manifestations of mental problems and disorders, such as domestic violence, crime, delinquency, child abuse, truancy, and the homeless population fall within the responsibility of different government service agencies, which entail a fragmented attention to the problem. Based on this premise, we establish the importance and urgency to develop interagency collaborative systems to provide integrated and comprehensive services to populations with mental disorders, which, one way or another, are also served or have the right to receive services from other agencies. Profit and non-profit private entities and corporations may collaborate in this effort.

Section 12.02. – Principles of the Collaborative System

The principles that govern this system are:

- (a) Avoid duplication of service efforts;
- (b) Provide long term and cost-effective services;
- (c) Keep a system to improve the quality of the services;
- (d) Provide the most comprehensive services possible close to their communities to populations who need them.

Section 12.03. – Work Plan

This system shall develop a master work plan which shall specify its stages, purposes, objectives, activities, and achievements, execution and result indicators, as well as the implementation dates by agencies and the populations to be served (children, adolescents, women, mothers, homeless and others), and the agencies and services corresponding to each. It shall also include the contribution from each agency in proportion to the needs identified for each population and each collaborative project, the implementation of a formative and summative evaluation for this system, and the integrated budget for the complete collaborative system and its projects. It is worth mentioning that the collaboration is a group effort.

Section 12.04. – Types of Collaborations

It is hereby established that this system may use several types and models of interagency collaborations, such as the integration of physical and professional resources, the Blended Budget for a project or creation and access to a service, collaborative planning, and complementary planning.

It is worth mentioning that the collaboration is a group effort to achieve joint planning and implementation.

Section 12.05. – Reports

This system shall render half-yearly and yearly reports to the Office of Management and Budget and to the Legislature, with the evaluations that

according to the field, are designated as formative and summative, pursuant to this Section.

Section 12.06. – Effectiveness

The effectiveness for the implementation of this system shall begin ninety (90) days after approval of this Act, to begin interagency collaborative efforts.

CHAPTER XIII – TREATMENTS RELATED TO THE ABUSE AND DEPENDENCE ON ALCOHOL AND CONTROLLED SUBSTANCES

Section 13.01. – Therapeutic Alternatives for Treating Disorders Related to Alcohol and Controlled Substance Abuse

The treatment for disorders related to alcohol or controlled substance abuse may use a wide range of therapeutic alternatives that contemplate the biosocial models that use as main focus, among others, from spiritual and cognitive modalities, to the traditional psychiatric medical model in cases in which the person presents a diagnosis of severe mental disorder.

Said treatment may include, without limitation, the following:

1. Adequate match between the level of treatment and the patient's individual needs.
2. Shall be immediately accessible, with integration and continuity throughout all levels of treatment.
3. Shall be directed toward the patient's multiple needs, not only to his/her drug use.
4. Shall be flexible, based on continued evaluations on the patient's needs that may change during the course of the treatment.
5. Treatment shall be integrated into one or more levels, and may last no less than six months of treatment, after a follow-up and lastly, an indefinite maintenance. Premature abandonment of the treatment shall be avoided.

6. Multiple types of therapies may be combined, such as cognitive, conductive and relapse prevention, pharmacotherapy and spiritual counseling, among others.

7. Treatment shall have scientific foundations and shall include periodic evaluations of its effectiveness. The adequate use of medications prescribed by a psychiatrist shall not be limited.

8. In those cases with two or more psychiatric diagnoses, all conditions shall be treated concurrently.

9. Detoxification shall be seen as the first stage in the treatment for the disease and shall be followed by an intensive treatment to avoid relapses.

10. The continuous and periodical use of drugs, including alcohol and other controlled substances, may be monitored.

11. It shall be advisable to coordinate and refer for evaluation and treatment of related diseases, such as HIV/AIDS, hepatitis, and tuberculosis, and to give counseling to patients in order to avoid physical deterioration and prevent contagion.

12. Groups of patients with disorders related to alcohol and controlled substances shall be separated from other patients with only psychiatric disorders. Groups shall also be separated by age and gender.

13. Psychiatrists, psychologists, social workers, case handlers or guides specialized in community treatment and persons in charge of giving spiritual/pastoral guidance may participate in the treatment of persons with alcohol and controlled substance abuse problems.

Section 13.02. – Non-applicability of the Provisions of this Act to Community-Based Organizations

Community-based organizations, as defined in this Act, and spiritual/pastoral guidance and social work shall not be subject to any of its

precepts that may contradict the doctrine, philosophy, model of community treatment and daily efforts by said organizations. It is hereby provided that said organizations shall continue to offer community services, pursuant to their historic, traditional and ordinary practice, and always subject to the precepts of the Constitution and the Laws of the Commonwealth of Puerto Rico.

The approval of his Act shall not represent, in any way, a variation of the rights, prerogatives and benefits that, according to the development of the community efforts described herein, community-based organizations receive.

CHAPTER XIV – GENERAL RESPONSIBILITIES OF THE MENTAL HEALTH AND ADDICTION SERVICES ADMINISTRATION

Section 14.01. – Licensing

The Administrator, as authorized by Act No. 67 of August 7, 1993, as amended, known as “The Mental Health and Addiction Services Administration Act” (ASSMCA, for its Spanish acronym), shall establish all the necessary regulations in order to license, supervise and maintain a public registry of all the institutions and facilities, public or private, engaged in providing services to prevent or treat mental disorders, alcoholism, and drug addiction; and to formulate and implement prevention and treatment programs, and establish their quality controls in order to comply with the purposes of this Act.

The authority to grant licenses established in this Section shall be the Administration’s full competence; license that it shall issue through its Licensing Division, exclusively for mental health services and facilities. Said license shall be known as the “Mental Health Services License.” The Administrator shall establish through regulation the fees that institutions shall pay when requesting or renewing the license, and establish categories between the profit and non-profit institutions. The regulation adopted to such effect shall provide, among other requisites, those for granting and renewing the license, that the applicant shall describe the

mechanisms to implement and comply with this Act, as well as the indicators used to ensure that said implementation be effective and continuous.

Section 14.02. – Regulations

The Administrator is hereby authorized to prepare all regulations that may be necessary to facilitate the implementation of this Act, within a term of six (6) months after the approval of this Act, and pursuant to Act No. 170 of August 12, 1988, as amended, known as the “Uniform Administrative Procedures Act of the Commonwealth of Puerto Rico.”

Section 14.03. – Forms and Complaints

The Administration shall prepare all the forms that may be necessary to fully comply with its obligations and responsibilities. It shall oversee the implementation of these dispositions with the users, public and private institutions that offer services. It shall conduct investigations and establish procedures to handle the complaints presented by persons who receive mental health services, their legal guardians or legal representatives.

The Administration shall keep, through its Orientation and Coordination Offices of the Mental Health and Addiction Services Administration (OOCA, Spanish acronym) a link between mental health service consumers and public and private institutions, in order to:

- (a) ensure that the consumers receive the services they are entitle to receive;
- (b) intercede in case there is no access to the services that correspond to the disorder and severity of the symptoms and signs, age and characteristics of the patient;
- (c) provide case handling and access for comprehensive services to persons with severe mental or emotional health services, in accordance with their needs;
- (d) outreach chronic and recurring populations to providing networks so they may participate and receive the treatment they need for their condition;

(e) aid in the Health Reform transitional process until the same is completed.

Section 14.04. – Review and Annual Technical Assistance System

The Administrator shall establish and implement a Review and Technical Assistance System of the providing institutions to assure quality and effectiveness of the services rendered, and to protect the best interest of the persons who receive mental health services. He/She shall design and implement a service, technical assistance and annual evaluation system. The results from the technical reviews shall be analyzed by the Administration to identify the needs in relation to the compliance with the provisions contained in this Act. The same shall be used to submit to the Administrator the recommendations that proceed, as for trainings, as well as amendments to this Act and other laws in effect related to mental health services.

To assure the quality and effectiveness of the services rendered, and protect the best interests of the persons who receive mental health services, the Administrator, after a hearing to that effect, may impose fines, deny, suspend or revoke said licenses, at any time, upon finding that an institution does not comply with the requisites established by this Act. In the case of institutions that provide treatment, recovery and rehabilitation services, and transitional services, the license granted by virtue of this Act shall be in effect for a period of two (2) years. The request for renewal shall be made in accordance with the rules and regulations the Administration promulgates to that effect.

Section 14.05. –Appropriation of Funds

The Administrator, as authorized by Act No. 67 of August 7, 1993, as amended, known as the “The Mental Health and Addiction Services Administration Act,” shall be responsible for procuring and assuring the appropriation of the budgetary funds necessary to facilitate the implementation of

and compliance with this Act. It shall be the responsibility of the Legislature and the Office of Management and Budget to allocate funds to implement this Act.

CHAPTER XV – ADDITIONAL PROVISIONS

Section 15.01. – Claim of Abuse

Any person who receives direct or indirect mental health services and who, per se, through his/her legal guardian or any other person, has well-founded motive to believe that abuse has been committed, may resort to the Court of First Instance to request to cease and desist of any act that violates the provisions of this Act.

Section 15.02. – Abuse; Notice to the Examining Board or Regulating Agencies

If determined that a mental health professional has incurred in abuse or negligence, the court shall notify said determination to the corresponding Examining Board or the Board of Examiners.

Presentation of an action pursuant to this Section is independent from any other civil criminal or administrative action provided in the current legislation and shall not impede the exercise of said actions, rights or remedies.

Section 15.03. – Prohibition to Institutionalize

Every mental health installation or facility determined to have incurred in the institutionalization of a person, adult or minor, who does not meet the clinical criteria or severity to be hospitalized in the level of care where he/she has been maintained upon stabilization of the symptoms and signs for the level of care at which the person was, thus inhibiting him/her from a level of care with greater autonomy and less intensity or restrictions, shall incur in a misdemeanor and sanctioned with a fine not greater than five thousand (5,000) dollars or imprisonment for a period not to exceed six (6) months, or both fines at the discretion of the court, plus the payment of the daily cost of the institution where the person is hospitalized, up to a maximum of thirty (30) days.

Section 15.04. – Habeas Corpus

Nothing in this Act shall prevent a person from filing a writ of Habeas Corpus. The court that grants said remedy shall send a copy of the same to the court that ordered the admission. The clerk of the court shall include the same in the record of the case.

Section 15.05. – Petition to the Court

Any petition filed before the court, pursuant to the provisions of this Act, shall be subscribed under oath, under penalty of perjury. If there is well-founded motive to believe that the petitioner has offered false information to admit a person in a providing institution, a prosecutor shall be notified immediately, who shall then proceed to investigate the facts to establish if there exists cause of action against the petitioner.

Section 15.06. – Petition for Restoration to Competency

Any person who has been declared incompetent by any court, may file a petition at any time to amend guardianship or to have his legal competency restored. The petition may be filed in the court that resolved that the person was incompetent, or in the court in whose jurisdiction the person resides. The petition shall be accompanied by a certification from the psychiatrist and by the notice of release from the institution. The psychiatrist's certification shall include the extent of the patient's ability to manage him/herself and his/her property. If said certification is not attached, the court may appoint a psychiatrist to examine the patient and file the certification of his/her competency.

Section 15.07. – Notice of Death of Persons in the Institution

When a patient who was admitted to an institution dies within the same, the director shall be obliged to notify the corresponding prosecuting office so that an autopsy is ordered. The proceedings shall be carried out pursuant to Act No. 13 of June 24, 1985, as amended, known as the "Puerto Rico Institute of Forensic

Sciences Act.” In those cases in which the person was admitted by a court order, the Director shall notify the court that issued the admission order.

Section 15.08.– Penalties

(a) Any person who violates any of the provisions of this Act shall incur in a misdemeanor and if convicted, shall be sanctioned with a fine not to exceed five thousand (5,000) dollars.

(b) Any person, natural or juridical, who discriminates in relation to any aspect relative to the access to necessary services for a person who requires mental health services, who abuses or violates the duty to protect confidentiality of information, or uses isolation, restriction or electroconvulsive therapy contrary to the provisions of this act, shall incur in a felony and shall be sanctioned with a fine of not less than five thousand (5,000) dollars or more than fifteen thousand (15,000) dollars, or imprisonment for a fixed term of three (3) years, or both penalties, at the discretion of the court.

Section 15.09. – Repeal

Act No. 116 of June 2, 1980, known as the “Mental Health Code of Puerto Rico,” is hereby repealed.

Section 15.10. –Severability

If any clause, paragraph, section, subsection, chapter or part of this Act is declared unconstitutional by a court with jurisdiction, said ruling shall not affect the validity of any of the remaining provisions. The effect of said judgment shall be limited to the clause, paragraph, section, subsection, chapter or part declared unconstitutional.

Section 15.11. – Effectiveness

This Act shall take effect ninety (90) days after its approval, except for Chapter XIV, Responsibilities of the Administration, which shall take effect sixty

(60) days after the approval of this Act, and with regard to health plans and the renewal thereof, which shall apply to those that take effect upon said approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 408 (H.B. 1740) (Conference) of the 4th Special Session of the 13th Legislature of Puerto Rico:

AN ACT to establish prevention, treatment, recovery and rehabilitation needs for mental health; to create the “Bill of Rights” for adults and minors who receive mental health services; to make uniform all matters related to the proceedings concerning these rights; to establish the basic principles of the levels of care for mental health services; to repeal Act No. 116 of June 12, 1980, known as the “Mental Health Code of Puerto Rico,” and to establish penalties,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 18th of June of 2007.

Francisco J. Domenech
Director