

NATIONALIST MOVEMENT PARTY GROUP PRESIDENCY OF THE GRAND NATIONAL ASSEMBLY OF TURKEY
Date: 02.03.2018
Number: 2018/2695

TO THE GRAND NATIONAL ASSEMBLY OF TURKEY

The proposal for Mental Health Act, prepared by me, is attached hereto along with its reasons.

I kindly request you to take the necessary actions.

Respectfully,

(SIGNATURE)
Deniz DEPBOYLU
Aydin Member of the
Grand National Assembly of Turkey

PRESIDENCY OF GRAND NATIONAL ASSEMBLY OF TURKEY	
Ancillary Committee	- Human Rights Inquiry - Justice - National Education, Culture, Youth and Sports - Plan and Budget - Interior - Equality of Opportunity for Women and Men
Main Committee	Health, Family, Labor and Social Affairs
Date:	March 16, 2018 Basis Number: 2/2179

**GRAND NATIONAL ASSEMBLY OF TURKEY
DEPARTMENT OF LAWS AND RESOLUTIONS**

March 02, 2018

Number:

**TRANSFERRED TO
THE ELECTRONIC DOCUMENT MANAGEMENT
SYSTEM**

**GRAND NATIONAL ASSEMBLY OF TURKEY
GENERAL DOCUMENT**

March 02, 2018

Number: 243889

GENERAL PREAMBLE

The laws and acts constitute the significant and strong corporate and social contracts for the purpose of protection of the rights of the individuals in the society as well as for the purpose maintenance of a peaceful and secure life in order to determine the social order and duties and responsibilities.

The individuals have physical, economic and mental difficulties in complicating life conditions, which become more difficult increasingly, and the problems of the beneficiaries and providers in the field of mental health services are increasing in parallel therewith.

In order to deal with any and all of such problems in a conscious and scheduled manner, we urgently need any social contract, under which the rights, limits and authorities/powers are determined clearly and explicitly, i.e. "Mental Health Act".

All of the developed countries and the most of the developing countries have any "Mental Health Act". Any and all of the mental health acts of such countries have been regulated in a manner to cover the voluntary and involuntary (compulsory) treatment and social healing of the individuals, who have been affected by the mental health problems on significant basis, and who have the conditions for psycho-social disability.

Unfortunately, no mental health act has been available in our Country until today. Any failure in regulating the mental health services under the legal framework has caused the internal limits of responsibilities to be uncertain. Even worse, the field of mental health has been exposed to exploitation by those who have not been educated and trained with respect to the mental health. Such issue particularly causes the persons, who wish to receive mental health service, to be exploited on economical basis, and also it causes their health to be jeopardized due to incorrect practices.

The purpose of this draft act is to protect the rights of the beneficiaries, in particular, and to develop any discipline in the field of mental health services since the number of individuals, who need to receive assistance/support due to the problems, stress, anxiety, trauma and mental diseases caused by the daily life, is increasing rapidly day by day.

The social surveys, which have been carried out in many countries, indicate that the mental diseases are much more prevalent than thought. In consequence of the surveys performed within the period of last 10 years with respect to the data of the 17 different countries for the last 12 months, the presence of any mental health has been found to be between 4.5% and 26%. Also in consequence of the study for the Mental Health Profile of Turkey, which represents the entire society in our country, the prevalence of 12 months has been found to be 17.2%. Such percentages indicate that one of the six persons in society has mental disease at a level to be diagnosed.

Based on the data obtained by the World Health Organization, the situation with respect to such matter is not pleasant in Turkey, either. The number of persons with the complaint of depression has reached the 3 million 260 thousand.

The rates of suicides have increased by the 50 percent within the last 40 years in our country. About 29 thousand persons have passed away within the last 10 years as a consequence of committing a suicide. The 27 percent of such figure consists of the females while 73 percent thereof consist of the males. In 2015, the number of suicides resulting in death increased by 1.3 percent in comparison with the previous year, and it reached the 3 thousand 211 persons. 34.3 percent of the persons committing a suicide consists of the individuals within the age of 15-29.

In the scientific studies, which have been carried out with respect to the suicide, it is stated that the individuals, who attempt suicide, have the problems in relation to the sense of awareness, the feeling of guilt and the feelings causing the anxiety and depression. Consequently, the individual prone to anxiety and the depressive feelings developing in such individuals, and also the feelings of anger and anxiety may be considered some of the reasons of the suicide. It may be possible for the persons, who are prone to the suicide, to prevent the suicide cases by enabling such persons to easily access the mental health services and to receive professional assistance.

Based on the data, obtained from the Ministry of Health, it has been determined that the 8 million 179 thousand persons used antidepressants in 2014. Also, based on such data, the number of females, using antidepressants, is two times the number of males using antidepressants. The rate of use of antidepressants has increased by 56 percent within the last 5 years in Turkey. Consumption of antipsychotic has increased up to 12 million 158 thousand boxes from 7 million 201 thousand boxes within the last 5 years.

Considering the problems with respect to the addiction, the mental health services become prominent once again since we are faced with the fact that the age of the initial use of the narcotic drugs has decreased down to the age of ten, and that the rate of use thereof has increased accordingly. Also, based on the statements of AMATEM (Alcohol and Substance Addiction Treatment Center), we know that 26 thousand 812 additive persons applied to Istanbul AMATEM in the first six months of 2017, and that a great majority of such persons consisted of the persons using narcotic drugs.

Moreover, considering the violence against the women, children and other creatures, with whom we share our life, the individuals' skills to conflict and solve problem, stress management, need for the support with respect to the anger control/management become prominent, as well.

In consequence of the study for Mental Health Profile in Turkey, it has been determined that 14% of the persons with the mental problem has consulted any specialist. Such rate indicated that thousands of persons, who need treatment, have not received any treatment. In addition to the fact that the mental diseases are frequently seen, they cause loss of ability, in other words, incapacitation of the individuals. In contrary to many physical diseases, the mental diseases appear in the young ages, and the most of them are of chronic nature, and also they may even continue for a life time.

The mental health diseases affect the life of the persons as much as the physical diseases on minimum basis, and they cause labor loss. The direct and indirect economic costs of such diseases are higher. Neuropsychiatric cases consist of the 31% of the life spending with the loss of ability. In order of primary reasons for the life spending with the loss of ability, 5 of the first 20 medical cases consist of the mental problems (unipolar depression, disorders arising from use of alcohol, schizophrenia, bipolar affective disorder, and Alzheimer and other dementia).

Therefore, among the mental needs for our country, providing the community education in a manner to ensure the early diagnosis and treatment of the mental diseases, and taking the protective and preventive measures, and providing the easily accessible, prevalent and high-quality mental health services are of great importance. The most significant stage to achieve such matter is to create the statutory regulations, which will ensure the disciplinary activities towards the persons, applying the service, the services to be provided, the institutions and organizations to assume responsibility, along with the "Mental Health Act".

The general tendency in the field of mental health within the last 40 years concentrates on implementation of the human-, community-, and healing-oriented understanding as well as on preparation of the laws/acts accordingly. While forming the sections of the text of the Act Draft, it has been discussed until reaching an agreement through the opinions and suggestions of the representatives of the nine different organizations and NGO (Non-Governmental Organization), which constitute the participants, and any and all efforts have been made in order to ensure that the Act has the content in a manner to cover the preventive mental health services, as well.

The primary purpose of the Act is to regulate the voluntary and involuntary (compulsory) treatment of the individuals, who satisfy the requirements for the psycho-social disability; however, the specialists, who serve in the field of the mental health, and who are naturally covered by such commission, but, who have not any professional chamber and laws/acts in our country, as well as how the job descriptions of such specialists are specified under the Act have necessarily constituted the subject of this Act. The long period of discussion and exchange of opinions have been performed with respect to such descriptions, and the text, to be presented to any and all workers to serve in such field, has been agreed accordingly. The draft has been submitted for the opinion of any and all persons serving in such field, and any verbal and written feedback with respect to such matter has been collected. Thereafter, the act draft has been finalized during the two meetings held.

The primary purpose of the "Proposal for Mental Health Act" prepared is to defend the rights of the persons receiving service in the field of mental health.

FOUNDATIONS FOR THE SECTIONS

SECTION 1 – This Section specifies the purpose of the Mental Health Act

SECTION 2 – This Section defines the subjects covered by the Mental Health Act.

SECTION 3 – This Section defines the persons and cases specified under the Mental Health Act.

SECTION 4 – This Section aims at describing, in detail, the rights, which are defined under the UN Convention on the Rights of the Persons with Disabilities, the UN Convention on the Rights of Child and the Law on Persons with Disabilities with respect to receipt of mental health and support services, for the individuals with the psycho-social disability, as well as at setting forth the principles required to be taken as basis with respect to implementation of the provisions prescribed under the mental health act.

SECTION 5 – This Section arranges the Section 5 of the UN Convention on the Rights of the Persons with Disabilities, which regulates the prohibition of discrimination based on the disability, and the provisions, which are specified in parallel with the regulations available in the Section 4 of the Law on Persons with Disabilities, specifically for the persons with the psycho-social disability. This Section aims at securing the right of the persons, who have the developmental disorder, mental problem or difficulty, to receive healthcare and support services within the institutions and organizations, providing general medical services, in the same manner as the individuals, who do not have such problems or difficulties.

SECTION 6 – This Section describes the principles for protection of the mental health and for prevention of the mental diseases as well the arrangements, required to be performed in the various fields, in accordance with the fundamental rights, which are defined under the UN Convention on the Rights of Child, the Universal Declaration of Human Rights and the Constitution, and with the scope of the community mental health services available in the National Mental health Action Plan, and also with the principles defined by the World Health Organization and accepted globally.

SECTION 7 – The right to access the mental health services and supports in their own environment, and the rights, which may be exercised legally with respect to use of such services and supports, are the benefit of both the persons with the mental health problem and any and all citizens of the Republic of Turkey. This Section aims at securing the right of the persons with the serious mental health problem to receive the mental health and support services, which will establish the healing of such persons, integrity of such persons with the society, and also self-sufficiency in economical terms, in the least restrictive environment, and on a voluntary basis, and as the most extensive manner as possible. It also aims at ensuring that the persons with disabilities, who are specified under the United Nations Convention and Law on Persons with Disabilities, as defined under the Section 1 to Section 30 hereof with respect to the Rights of the Persons with Disabilities, benefit from any and all rights and freedoms fully and equally together with the other individuals.

SECTION 8 – This Section describes the principles for the manner of implementation of the rights, defined in the content of the Human Rights and Biomedicine Convention and the Law on Persons with Disabilities, and the principles, required to be implemented, during the process for receipt of the medical service in case of any mental disorder and disability.

SECTION 9 – This Section describes the services and practices protecting and developing the mental health of the person and/or persons, who act as the healthcare provider of the individual with the mental disorder, and also the arrangements strengthening the healthcare-providing roles of such persons.

SECTION 10 – This Section aims at protecting the mental health of the service providers in the field of the mental health, like the beneficiaries, by taking into the different aspects of the field of mental health from the other fields of medical practice, and at eliminating the deformations arising from the nature of the professional practices, and at protecting the educational and personal rights of such service providers, and at ensuring that such service providers carry out their profession in a secure environment, and at increasing the skills of such service providers, and also at protecting their mental health.

SECTION 11 – This Section aims at defining the limits of responsibility of the members of profession, institutions and the relevant parties with respect to how and under which circumstances the personal information, obtained directly or indirectly by the members of profession for Mental Health during performance of their profession, will be retained and for which reasons and how such information will be disclosed, based on the rating of the personal information as specified under the Section 3 “Definitions” hereof.

SECTION 12 – This Section aims at defining that the mental health and diseases specialists are authorized to diagnose any mental disorder or disease, by observing the Law Nr. 1219 on the Mode of Execution of Medicine and Medical Sciences and the international medical conventions, and at preventing any unauthorized persons and members of profession from making any diagnose for such purpose, and at protecting the community healthcare.

SECTION 13 – This Section aims at specifying the quality and principles of the healing services, and at emphasizing the importance of the team work with respect to such services, and at defining the requirement for remaining within the limits of profession with respect to the introductions to be performed by the members of profession for mental health for the beneficiaries.

SECTION 14 – This Section determines the principles for the healing-oriented services, concentrating on provision of a high-quality life for the users of the service as well as on the requirements specific to the individual, for the purpose of emphasizing the healthcare and healing in addition to the treatment and rehabilitation under the Mental Health Declaration for Europe (2005) - World Health Organization, and increasing the well-being of the individuals, whose mental health has deteriorated, as specified under the Mental Health Action Plan for Europe (2013 – 2020) - World Health Organization, and arranging the services, which increase the healing, and also integrating the term of healing into the first rank.

SECTION 15 – This Section tries to describe that the processes for the involuntary treatment and hospitalization into the hospitals and healthcare institutions with respect to the persons with the mental disease are required to be carried out under which circumstances. Also, this Section aims at determining the procedures for obtaining the informed consent of the patient, and for making any supported decision, and for limiting the freedom of the patient for treatment purposes upon obtainment of the consent of the legal representative of the patient.

SECTION 16 – This Section aims at how the court will be notified of restriction of the freedom of the persons with the mental disease following the medical requirement in the event that such persons are required to be hospitalized and treated on involuntary basis, and at how the court will perform the decision and audit processes, and at how the objection against the decisions made will be raised, and at how the assistance processes will be performed, by taking into the human rights and patient rights.

SECTION 17 – This Section specifies that the transactions in relation to the patients sent by the courts for the purpose of observation, protection and treatment, medical measure, treatment measure, supervised release, etc. are required to be carried out as specified under the laws other than the Mental Health Act. Accordingly, this Section aims at providing the mental health services in compliance with the purpose of each act/law.

SECTION 18 – This Section aims at auditing the mental health services, which have also the restrictive treatment nature, with the support of the independent boards and governmental organs in order to ensure the access to such services and to carry out such services in compliance with the international standards, under which the human rights and freedoms are taken as basis.

SECTION 19 – This Section aims at how the independent boards, which will audit the mental health services, will be established, and at defining the members consisting of such boards, and at defining the working principles and the duties and responsibilities of such boards.

SECTION 20 – This Section aims at providing information about the operation of the boards established and managed by the beneficiaries.

SECTION 21 – This Sections aims at describing the institutions and organizations with respect to the payments of the services provided under the Mental Health Act.

SECTION 22 – This Section describes the penal sanctions to be imposed in the event that the members of profession for mental health fail to fulfill their duties and responsibilities under the Mental Health Act, and in the event that the persons, other than the members of profession as specified hereunder, carry put any practice.

SECTION 23 – This Section constitutes the effect of this Act.

SECTION 24 - This Section constitutes the enforcement of this Act.

PROPOSAL FOR MENTAL HEALTH ACT

CHAPTER ONE

Purpose, Scope, Definitions and Principles

Purpose

SECTION 1 - The primary purpose of this Act is to identify the fundamental principles for protection of mental health of the public and individual and provision of healthy development in mental terms, and to identify the individuals suffering from mental health problem, and to define the relevant service standards, and to ensure that the individuals, who need to access to the services and supports for mental health, receive such services and supports, they need, as the most extensive manner as possible and on voluntary basis, and that they are included in their own healing processes, and also to provide the preventive, supportive and remedial services, to be provided accordingly, through the least restrictive and the most appropriate methods, as far as possible, in accordance with the principles for human rights and children's right. Also, this Act aims to ensure establishment of social bonds, and arrangement and audit of any network of services to provide self sufficiency economically.

Scope

SECTION 2 - This Act covers the procedures and principles for the supportive, preventive, therapeutic and remedial services, which keep the development, and which ensure acquirement of independent life skills, in the field of mental health as well as for educational and social support services and audits, and it also covers the duties, powers and responsibilities of the relevant Ministries, the competent administrations and other public institutions and organizations.

Definitions

SECTION 3 - (1) The following terms used hereunder shall have the following meanings assigned thereto:

a) Beneficiary shall mean any individual, who benefits from the mental development, prevention, protection, healing and support services as defined in the Section 2 hereof;

b) Healthcare provider shall mean any person, who feels responsibility for the well-being of the adult beneficiary, and who uses her/his reasonable efforts for such purpose, and who defends such beneficiary, if and when required, and who is trusted and accredited by the beneficiary, and who may or may not have any relationship by affinity with the beneficiary;

c) Legal representative shall mean the parents/custodian of the minors, or the person, who has been assigned by the court in order to represent the person, not having the capacity to act due to the minority, mental disease or disability, in accordance with the Turkish Civil Code;

ç) Representative of patient rights shall mean any social worker assigned to assist and support the patient, whose capacity of judgment with respect to the decision on hospitalization or medical and/or psychological response has been lost considerably or fully, or his/her legal representative to make any decision during all stages of hospitalization and treatment, and to be informed about his/her statutory rights, and to support them, and to ensure the communication of the patient or her/his legal representative with the public or private institutions. The representatives of patient rights may not have any hierarchical relationship with the employee of the institution providing the healthcare service and with the administrative and medical officials of the institutions providing the healthcare service;

d) Self-defender shall mean any individual, who has received service in the field of the mental health, and who defends her/his right, and who may make any decision for her/his behalf;

e) Mental development shall mean the process ensuring that any individual may demonstrate a healthy functionality in physical, social, affective, mental, educational and professional fields during all of the life cycles ranging from the infancy to the elderliness;

f) Mental health shall mean the state of well-being, which each individual is aware of her/his own potential, and which s/he can deal with the ordinary difficulties of the life, and which s/he can work in a productive and efficient manner, and also which s/he can contribute to the environment where s/he lives. It is the condition that the individual does not have any disease and weakness, and also it is the complete well-being on physical, mental and social basis;

g) Mentally developmental disorder shall mean the mental disorders, which occur due to any failure in normal development of the brain or mind or due to deterioration thereof afterwards, and which cause temporary or permanent disorder with respect to the mental, emotional and psycho-social functions;

ğ) Mental disease shall mean the temporary or permanent mental inadequacy and disorders, which lead to any failure in key mental functions, body, social relations or functionality, and which required medical response such as psychotherapy, pharmacotherapy or other biological treatments. It covers the disorders arising from mental disease, weakness of mind, and use of alcohol, stimulant and drug (harmful use or addiction), as defined under the laws, as well as the mental disorders as defined under the classification of disease by World Health Organization;

h) Mental difficulty shall mean the conditions, which force the mental health and/or functionality of any person, and which may require any person to receive psycho-education, psychological consultation, developmental support, social support, psycho-social support, psychotherapy and other medical response services, and which are not covered by the mental disease;

ı) Mental/Psycho-Social Disability shall mean the state of exposure to the attitudes and environmental conditions limiting the full and efficient participation of any individual in the society under the equal conditions with the other individuals due to loss of their mental and psychological skills at various levels. Any individual with mental/psycho-social disability shall be called as the disabled hereunder;

ı) Treatment shall mean any and all kinds of medical responses performed for the purpose of healing any unhealthy individual;

j) Healing shall mean the process of change, which covers that any individual with the mental health problem achieves her/his potential, by benefiting from the internal and external supportive sources, and that s/he maintains such process in any environment and society, which is preferred by her/him, and where s/he can assume any responsibility with respect to her/his healing process;

k) Service/Treatment/Healing Plan shall mean any written document, which describes, in detail, the mental health services and supports that have been individualized in a manner to be appropriate for the beneficiary, and which is coordinated by any member determined by the mental health service team, and which is accepted by the person. In the event that the beneficiary constitutes any child, then the service plan shall also include the educational needs;

l) Service/Treatment/Healing Team shall mean any group, members of which are determined based on the needs of the beneficiary, and together which the members of the profession for different mental health provide the healing/treatment/healthcare services, and in which the opinion of the beneficiary or any relative thereof is also received;

m) Social support shall mean the source exchange, which is performed between the person, receiving the support, and her/his environment, and the purpose of which is to strengthen her/his current situation in a positive manner, and which is perceived by the person receiving or providing the support;

n) Developmental support shall mean the responses applied in order to ensure that the skills, which are required to be available in the individuals whose development has failed or hesitated, or deteriorated afterwards based on the age, or which have been lost, are acquired;

o) Psycho-Social Support shall mean any and all kinds of responses assisting any individual to deal with the stress factors in the school, at home or in the other environments;

ö) Peer Support and Self-Help Groups shall mean the groups providing the social, emotional and behavioral supports, which are presented to each other by the persons or peers experiencing similar problems;

p) Healing-oriented mental health practices shall mean the practices intended to ensure that the beneficiaries become aware of their strengths and capacities, and to enhance their skills with respect to assuming the responsibility for their own healing process, and supporting their competencies for achievement of their purposes, wishes and expectations, and deciding for and on their own behalf, and also managing themselves;

r) Population-based mental health services shall mean the entire services, the purpose of which is to support the mental health and development of any and all individuals available in the society and to prevent the mental disorders, and which prioritizes the active participation of the persons with the psychosocial disability and their families in the health, education, employment and social life;

s) Individual-centered planning shall mean any population-based service model, which centers the abilities, preferences and needs of any individual experiencing psychological or mental problem during the process of life planning;

ş) Making a decision by support shall mean the support provided to any person with the psychological and mental disability, as a legal consequence of the individual-centered planning, in order to ensure that such individual makes the choices in relation to her/his life on her/his own, by collaborating with any service team, including the representative of patient rights, for the purpose of supporting adoption of any decision for and on her/his behalf and supporting her/his autonomy;

t) Giving instructions in advance shall mean the condition in which any person, who has the capacity of judgment, determines which medical operations are approved by her/him, through the instructions given by such person in advance, in the event that such person loses her/his capacity of judgment;

u) Voluntary treatment shall mean the outpatient or inpatient treatment of the patients in consequence of being deemed necessary upon the examination, performed by any adult or child/adolescent psychiatry specialist, provided that such patients have been fully informed about the practice and upon grant of their consent thereto with their free will;

ü) Critical Situation shall mean any situation, element, factor or course with the possibility to lead to negative consequences such as prevention of development, and any disease, damage, loss or life threat;

v) Treatment performed without obtaining consent (Involuntary treatment) shall mean application of any treatment to any patient in opposition to her/his desire/will in consequence of being deemed necessary by any adult or child/adolescent psychiatry specialist physician upon examination performed by such physician in the cases, where the patient harms herself/himself or any other persons and/or gets harmed due to the mental disease, and where no other treatment opportunities are available. In the event that the patient is child or adolescent, then the patient may be treated upon obtaining permission from her/his parents/custodian or legal representative, and/or from her/his legal representative if s/he is restricted, or upon the decision of the court;

y) Involuntary hospitalization shall mean hospitalization of any patient in any psychiatry clinic in opposition to her/his desire/will, - in opposition to the her/his and/or her/his legal representative's desire/will in case of children and adolescents - in consequence of being deemed necessary by any child, adolescent or adult psychiatry specialist upon examination performed by such specialist in the cases, where any risk potential is available due to the mental disease, and where no other treatment opportunities are available;

z) Compulsory hospitalization and/or treatment shall mean hospitalization and/or treatment of any person upon decision of the court regardless of grant of consent by such person and her/his legal guardian as required by the laws other than the mental health act;

aa) Optional (Conditional) treatment shall mean the outpatient or inpatient treatment applied upon the decision of the court and preference of the relevant person, as an option for the arrestment or penalty, the details of which have been regulated under the laws, for the purpose of ensuring the treatment of such person;

bb) Consent shall mean that the patient grants her/his consent with respect to the medical and/or psychological response with her/his free will and in an informed manner. In the event that the patient is a child or adolescent, then the permission of her/his parents/custodian or legal representative, and/or her/his legal representative if s/he is disabled, shall be obtained for such purpose. Even in the cases, where the consent of her/his legal representative is satisfactory, it shall be ensured that the child and adolescent or the disabled, who has the capacity of judgment either partially or wholly, are informed and participated in the decisions on her/his treatment;

cc) Capacity of judgment shall mean that the patient has the ability to reasonably understand and assess the results, with which the consentor may encounter during the medical and/or psychological response recommended, or which may arise when the consentor rejects such response, as defined under the Civil Code Nr. 4721. The fact that whether or not those who suffer from any mental disease or the disabled persons have the capacity to grant consent shall be determined by the adult or child/adolescent psychiatry specialist physicians. In respect of the children and adolescents, the right to grant consent and the capacity to grant consent, based on the capacity of judgment, shall be determined in compliance with the age groups;

çç) Informed consent shall mean the consent obtained through informing the relevant person and her/his legal representative about the reason, purpose, type, method, risks, possible impact, side effect and results of the treatment to be applied to the person by any member of the profession for mental health, as well as about the possible risks, which may occur in case of rejection of the treatment, and also about the alternative treatment opportunities before application of any and all kinds of medical and psychological responses planned;

dd) Measures limiting the freedom of movement shall mean that the freedom of movement of any person, whose capacity of judgment has deteriorated partially or wholly, may be limited physically only in the cases, where the other measures are not satisfactory, or where it is certain from the very first that they will not be satisfactory, and where such limitation is intended to prevent the situations, which jeopardize the life or body integrity of the relevant person or any third person, and to eliminate any significant danger in the community life. The procedures and principles for application of the measures shall be determined by the regulation;

ee) Protective/Preventive mental health services shall mean the regulations on elimination of the factors causing occurrence of the mental diseases and disabilities;

a. Primary prevention shall mean the services intended to strengthen the well-being through preventing occurrence of the mental health problems towards any individual, group or system, who/which has not been affected yet, as soon as the conditions, threatening the healthy life, start to occur as well as through supporting the healthy mental development and skill acquirement of the children, and ensuring acquirement of any behavior, information and attitude, which will enhance the well-being of the individuals;

b. Secondary prevention shall mean the services intended for early determination of any problem towards the individuals, who have recently started to experience the mental health problems, or who have recently started to exhibit the behaviors at risk, and for healing of such problems without becoming chronic;

c. Tertiary prevention shall mean the services intended to prevent the loss or reduction of ability, caused by the mental health problems, and to rehabilitate those which have already occurred, and to develop those which are incomplete, and to protect and maintain the remaining undisturbed functions, and accordingly to heal the individual;

ff) Psychotherapeutic response shall mean the responses intended to achieve the targets for performance of the well-being by means of the emotional, spiritual/intellectual, behavioral and systemic responses, based on the will or need of any individual or the individuals, and for increase in the functionality of life, or for strengthening of the mental health, and they shall constitute the applications in the various stages ranging from the medical and psychological response to the psycho-social consultation service. The efforts and competencies of the members of the profession for mental health shall be determined by the relevant regulation;

gg) Vulnerability shall mean resistance to the factors, deteriorating the mental health on personal basis, such as exposure to the war, disaster, poverty and discrimination as well as exposure to environmental, age, sex, sexual orientation, state of health, life style and exposure to the traumatic events such as displacement or migration under the circumstances where such factors are highly available, and it shall also mean the lack of the ability to remain healthy, and the difficulty in being able to carry out the fundamental vital functions, the failure in establishment of communication with the other persons, and the failure in self-protection against the attacks, misbehaviors/misconducts and abuses;

ğğ) Members of the profession for mental health

- a. Adult Psychiatry** shall mean the physicians, who have successfully completed the education for specialization in adult psychiatry, under the standards defined by the profession organization serving in such field, in the adult psychiatry departments of the universities or educational hospitals, and who have been authorized to serve in such field, accordingly;
- b. Child and Adolescent Psychiatry** shall mean the physicians, who have successfully completed the education for specialization in child and adolescent psychiatry, under the standards defined by the profession organization serving in such field, in the child and adolescent psychiatry departments of the universities or educational hospitals, and who have been authorized to serve in such field, accordingly;
- c. Psychologist** shall mean any profession member, who has completed her/his undergraduate study in psychology, and who has been authorized to serve in such field, accordingly;
- ç. Clinic Psychologist** shall mean any profession member, who has studied for master's degree and/or doctoral degree in the field of clinic psychology upon completion of the undergraduate study, or who has studied for doctoral degree in clinic psychology upon completion of scientific preparatory study of one year under the psychology undergraduate program and clinic psychology graduate study, accordingly;
- d. Psychological consultant** shall mean any profession member, who has completed the Guidance and Psychological Counseling undergraduate program, and who has been authorized to serve in such fields, accordingly;
- e. Social Worker/Social Service Specialist** shall mean any profession member, who has completed the at least four-year undergraduate study in the department of "Social Service" of the universities, and who has been authorized to serve in such field, accordingly;
- f. Psychiatry clinic nurse** shall mean any profession member, who has received the title of nurse upon graduation from the undergraduate programs of the department of nursing of the universities, and who has completed the study certified by the Ministry of Health under the certificate of "nursing services for the psychiatry units";
- g. Specialist psychiatry nurse** shall mean any nurse, who has completed the program for Mental Health and Psychiatry Nursing/Psychiatry Nursing Graduate Study (with/without thesis) and/or Doctoral Study, which is conducted in the Graduate School of Health Sciences of the universities;
- ğ. Child development specialist** shall mean any profession member, who has graduated from the faculty and school of health sciences, under which the undergraduate education is provided in the field of pediatric development, and who has been authorized to serve in such field, accordingly;
- h. Practitioner/Family Physician** shall mean any physician, who has graduated from the medical faculty, and who has been authorized to serve medical service in the prophylactic/first stage;
- hh) Personal Mental Health Information:** The personal details of the mental health beneficiary shall be defined and classified gradually based on the significance and confidentiality/privacy level as follows:
- a.** Personal details independent from the state of health (age, full name, date and place of birth, etc.);
- b.** The details for application filed to the healthcare organization (date of application, the institution, to which application is filed, and the application number);
- c.** General medical information (medical diagnoses and treatments applied);
- ç.** Comprehensive medical information (medical history, complaint, clinical status, comprehensive clinical examination, medical analyses other than the psychological tests, clinical course);

d. The confidential/private information obtained during the medical treatment and/or psychological response, social examination and response (life history and private information) and psychological test details;

e. Private records kept by any profession member, providing mental health service, during the medical and/or psychological response (the interview notes, which are kept during any practice such as psychotherapy, and which also include the details for the specialist).

Principles

SECTION 4-

For the purpose of implementation of this Act:

a) The government, including any and all of its bodies and institutions, shall be obliged to ensure the actual equality of the person, who have developmental disorder, mental problem or difficulty, with any and all citizens with respect to accessing the physical and mental health, and to eliminate the factors preventing exercise of their rights, and to protect such persons against any discrimination, and it shall also be obliged to take the measures and perform reasonable adjustments with respect to positive discrimination in order to protect mental health of any and all vulnerable groups.

b) In respect of performance of the services covered hereby, the principles and procedures prescribed under the UN Convention on the Rights of the Persons with Disabilities, the UN Convention on the Rights of Child and the Law on Persons with Disabilities shall also apply.

c) It is required to plan and implement the team works and collaborative works, under which any and all relevant persons and organizations are expected to participate in order to prevent the mental health problems in any and all fields of the social life and in order to protect the individual and social well-being.

ç) It is required to ensure the right to determine any person's own future and the right to receive the mental health services and supports, prescribing the integration with the society, on sufficient basis, within a sufficient period, in the sufficient extent and under the sufficient quality, and also it is required to prevent misuse of labor forces. In respect of the persons with mental disabilities, the protective measures shall be taken against the possibility for misuse and discrimination both at the workplaces and during employment.

d) The beneficiary individual is required not to be considered as any object of the diseases or symptoms, but an autonomous subject, and it is required to concentrate on the individual, receiving service as any human, rather than the problem/disease.

e) It is required to put the beneficiary individual in the center of the mental health service relations, and to concentrate on the individual development, social context, social network, social bonds, and also to take into account such person's life history and healing process, under which the needs of such person are described, with respect to planning of such services.

f) It is required to be as possible as voluntary to receive the mental health and support services. The involuntary hospitalizations is required to be performed only under the highly restricted circumstances, and after any and all legal protections are ensured, and after it is observed that the involuntary treatment is considered as ultimate remedy in consequence of trying the least restrictive hospitalization alternatives failing with respect thereto, in compliance with the UN Convention on the Rights of the Persons with Disabilities and the UN Convention on the Rights of Child.

SECTION 5 - Prevention of Discrimination in respect of Access to the Other Healthcare Services

It shall be ensured that the healthcare services are provided to the persons, who have developmental disorder, mental problem or difficulty, in a complete and full manner without any discrimination within the institutions and organizations providing general healthcare services.

CHAPTER TWO

SECTION 6 – Protective, Preventive and Improving Mental Health Services

(1) The Ministry of Health shall take the following measures by means of preparation and conduct of the regulation and determination of the standards in cooperation with the Ministry of Family and Social Policy, Ministry of National Education, Ministry of Interior, Ministry of Justice and Ministry of Labor and Social Security as well as by means of preparation and conduct of the projects and campaigns together with the relevant institutions and organizations, for the purpose of ensuring that the individuals grow with the healthy mental features as of the childhood period, and preventing any factor deteriorating the mental health, and increasing the factors improving the mental health, and diagnosing the mental diseases in an early manner, and treating such diseases in an efficient manner, and preventing such diseases from becoming chronic, and ensuring that the individuals with the mental diseases maintain a healthy and socially functional life, and preventing the disability and early death, which may arise in connection with the disease, and also protecting the human dignity:

a. Providing service to the child, family, the professionals contacting with the child and society by means of assessment and monitoring of the mental, language, motor, self-care, social and emotional development areas as well as by means of supportive developmental programs, from the birth until the adolescence period, in order to ensure that the children can live in a healthy environment and to increase their life qualities;

b. Popularizing the developmental and educational services, from the babyhood until the adolescence period, and providing psychoeducation to the children, their families and the professionals contacting with the children;

c. Protecting the physical and mental health of the parents as of the early pregnancy period in order to prevent occurrence of neurological/mental diseases in the children, and protecting the same against the substance-use, and raising awareness of the unwanted pregnancy, marriage under the age of 18 and risks of parenting, and providing the high-risk families with the planned trainings in such fields and with the psycho-social support;

ç. Performing comprehensive social scanning processes with respect to the mental health problems frequently observed in the society, and determining the risk factors, and detecting the groups at risk and creating the protective and preventive mental health programs, accordingly;

d. Turning the schools and associated institutions into the centers planning the preventive services in an integrated manner in the fields of both education and mental health within the environments where the high-risk factors are available with respect to the mental problems;

e. Creating the service and support networks in the fields of the educational system and employment under the preventive mental health services;

f. Popularizing the crisis units/units for response to the violence, and increasing the efficiency thereof;

g. Receiving the opinions of the members of profession, who conduct the school psychological consultant services and other support services in relation to the mental health, as well as of the beneficiaries and other relevant stakeholders in order to implementation of the preventive mental health services at the professional level and in a systematical manner, and programming, updating and implementing the same in compliance with the scientific criteria;

ğ. Being aware of the individuals living under the circumstances, where the risk factors defined with respect to the emotional, physical and sexual misconduct and the negligence, are available, and collaborating with the associated organizations with respect to the preventive activities, and identifying the children and adolescents, who have suffered from negligence and misconduct, and supporting that they are protected by the government, if and when required;

h. Popularizing the foster care system in a primary manner to cover the relatives, who are determined to be safe in from the point of the child upon the social study report, and ensuring that the children, living on the streets and/or institution, are taken under the protection of any family;

i. Creating the programs intended to make up the developmental differences of the individuals, covered by the vulnerability defined hereunder, in the academic, career and personal/social fields and to ensure acquirement of skills for dealing with the daily life difficulties and mental difficulties, and implementing such programs, and offering psycho-social support services to the individuals;

i. Providing supportive psycho-social services to the individuals, who have suffered from and/or witnessed the various traumatic events that have occurred artificially or naturally;

j. Developing the remote and online response services, and determining the criteria of such services, and employing the members of profession, who can provide such services, and who are defined hereunder;

k. Determining and developing the appropriate standards for any and all kinds of means of broadcasting and communication, which contain the violence to the extent deteriorating the mental health of the children, in particular, and which may cause any damage to the child, and ensuring that such standards are inspected by the relevant institutions and organizations;

l. Preventing the peer victimization behaviors between the children and young persons, and predetermining and protecting the children with high-risk of being exposed to the peer victimization, and supporting the bully and victim children in psychological, psycho-social and psychoeducational terms;

m. Providing parent and peer education, and strengthening the personal and social skills, and preventing access to the relevant substance/drug, and ensuring the social awareness and support, and guiding such children and young persons to the healthy and functional behaviors, in order for protection of the children and young persons against the addictions;

n. Ensuring the necessary response for the mental health of the children, pushed to crime, and the adults sentenced, and also ensuring the continuity in such field, and establishing the planned trainings in order for protection of the individuals from repetitive criminal actions and re-integration thereof into the social life, and ensuring that the individuals access such program;

o. Providing the primary healthcare workers, the school personnel available in the teaching staff and the personnel serving at the healthcare organizations with the training for the purpose of acquirement of information, skill and attitude, as well as the practical training, at the schools and workplaces with respect to both diagnosing the mental problems in an early manner and assisting the academic, career and personal/social development;

ö. Taking the measures to prevent the persons with the mental problems from being excluded and branded, and raising the awareness against the branding and discrimination;

p. Providing and maintaining the necessary and sufficient number of the educated humans in order to perform such services;

r. Performing the Mental Health advocacy, and developing "Mental Health Advocacy" programs for such purpose in collaboration with the relevant non-governmental organizations of the relevant ministries.

(2) The following measures shall be taken in order to protect the persons and groups covered by the vulnerability as defined hereunder:

a. The persons shall have the equal rights before the laws regardless of sex, religion, language, identity, sexual orientation, political view differences. No citizenship may be regarded for the persons, who are of immigrant nature, and who stay at the refuge locations with respect to access to the rights to health.

b. In case of no other explicit option, then the children shall be placed to the mental healthcare locations. In such cases, the children shall be monitored in any other location separately from the adult individuals. The location, where the children stay, shall be established in compliance with their age and developmental stage. The children and/or their legal representatives shall have the right to health on full basis. The appropriate conditions shall be provided in order to ensure that the children are to stay together with their mothers, who are accepted by the women's shelter, and who are received into the prison.

c. The access to the healthcare services, transportation, appropriate mental healthcare and equal opportunities with respect to the treatment shall be provided to the women. A full privacy and the locations, where they can sleep separately from the males, shall be established during the hospitalization or follow-up.

CHAPTER THREE

Rights of the Beneficiaries, Healthcare Providers and Service Providers and Obligations of the Government

SECTION 7 – Right of the Persons with the Mental Health Problems to Receive Service and Select

(1) The following rights, which have been defined under the universal law principles, international conventions agreed by the constitution and human rights and freedoms recognized under the laws, of the persons with the mental health problem shall be secured and protected by the government in accordance with this Act:

a. The right to be equal with any and all citizens and not to suffer from any discrimination, and the right to protection of the mental and physical health, and the right of children and adolescents to grow and receive education;

b. The right not be exposed to the inhuman and insulting/degrading practices during the process of receipt of service;

c. The right to protect of the details in relation to the disease as a part of the private life;

ç. The right to receive mental health service and supports, which will establish the healing of the person, integration thereof with the society and economic self-sufficient, in a manner to be as possible as comprehensive, on voluntary basis, in any least restrictive environment;

d. The right to heal on the population basis in accordance with the international principles, and to access the other mental treatment, rehabilitation and healthcare services, and to receive such services in any environment, which is the most appropriate for their needs;

e. The right to participation in the service and treatment planning as a central and integral member of the treatment team together with the other relevant persons, by taking their own targets as the basis;

f. The right to be informed about any and all current mental health services and supports by means of any appropriate instruments, tools and methods in a manner that they can understand;

g. The right to receive the mental health services and supports, which will supports the healing, integration with the society and economic self-sufficiency, at a sufficient rate, within a sufficient period, in the sufficient extent and quality;

ğ. The right to have any representative or defender, who is selected by the person, and who will assist the beneficiary to obtain the mental health services and supports, and who will attend the meeting in relation to the service plan;

h. The right of the beneficiary to access to the drugs free of charge in the event that the medication is inevitable;

ı. The right of the beneficiary to communicate with the outer world and to accept any visitor at the rate, s/he needs, as long as her/his medical status is appropriate within the period, during which s/he stays at the institution by means of the compulsory hospitalization in any restricted environment.

(2) The decision on receipt of any mental health service/support or termination of receipt thereof may not affect the right of the person to receive the other mental health services or supports in the present or future.

(3) The practices in relation to the service or opportunity regulations, issued by the public institutions and organizations, local administrations or private organizations, shall not be regulated in a manner to lead to the fact that the persons with the mental health problems or disability will incompletely benefit from any right to access to the general healthcare, accommodation, education, working and social security.

(4) Any and all civil rights (marriage, becoming a mother and father, growing their children, being able to work, having a job or property and carrying out financial transactions, travelling and residing at any place they wish, receiving driving license, access to the healthcare, receiving education, filing any legal action and proceeding, and fair hearing, voting, communicating freely, etc.), which are granted to the citizens under the laws, of the persons with the mental health problem shall be protected by this Act.

(5) In the event that any security measure is required to be enforced with respect to any person due to her/his mental problem, then the law enforcement officers, who will perform such enforcement, are required to have received any training in consistent with the principles of this Act.

SECTION 8 - The right to grant and reject informed consent

a) The person shall have the right to be informed timely and sufficiently in a manner to ensure active participation thereof in the medical, psychotherapeutic response, psychological, psycho-social response and healing process. The personnel, who is responsible for providing information, is required to provide the relevant information personally in order to the fact that the right to be informed has been able to exercised. The person shall have the right to withdraw her/his consent s/he has granted.

b) In the event that the person does not grant such informed consent, then the healthcare provider or defender shall be provided with the medical information, and it shall be ensured that the person questions the information in detail. In the event that the person is not restricted, then the family members or any other person may not make any necessary decision for and on behalf of the person under any circumstance. In the event that the person is in a position not to grant her/his consent for treatment, and that the treatment is required to be administered urgently, then the provisions, prescribed under the section of involuntary treatment, shall apply.

c) The individuals, who benefit from the mental health services on voluntary or involuntary basis, shall have the right to grant their consent for any certain treatment and certain drugs, and also to reject the treatment. Any person shall have the right to reject the treatment before any risk has not occurred yet; however, in the event that the person is under any close hazard with respect to damaging herself/himself or any other persons, and in case of emergencies, then the provisions, prescribed under the section of involuntary treatment, shall apply, and any petition for cancellation of such written consent shall be filed to the court of peace.

SECTION 9 - The Rights of the Healthcare Providers

a) The right to access easily to the team managing the healing treatment plan while accompanying the beneficiary, to whom it provides healthcare, and the right to obtain any information about how it will support such person during the healing process;

b) The right to participate in the service and treatment process in the event that the beneficiary grant her/his consent for such purpose, and that such participation does not constitute any risk or disadvantage for the treatment;

c) The right to receive support for psychotherapy, psychological consultation, social support and response to any crisis in the institution, where they receive service, or in the location, where they live, under the psycho-social and economic difficulties they experience during the disease and healing process;

ç) The right to access the drug free of charge and the right to receive information and support with respect to use of drugs in the event that the medication is required for the beneficiary;

d) The right to be exposed to the inhumane and insulting/degrading practices.

SECTION 10 – The Right of the Service Providers

The member of profession, who are authorized to provide mental health service, shall have the following rights, arising from the specificity of the mental health service, in addition to the working and professional rights arising from the international conventions agreed as well as from the laws:

a) The members of profession for the mental health shall have educational opportunities in compliance with the applicable international standards in order to fulfill their responsibility for elimination of their professional illiteracy and for continuous self-development, and they shall also have the right to access such opportunities within the working hours. The undergraduate, graduate and postgraduate education, training any member of profession for mental health, should be at the level to ensure the necessary requirements in order to provide mental health services on the human, society and healing basis as specified under the principles and scope of the Act in connection with the right to education.

b) The member of profession for mental health shall have the right to withdraw from providing service, excluding the cases where compulsory treatment is required, provided that the emergency medical treatment has been administered, and that any service plan to ensure the continuity of the mental health service, in the event that the beneficiary shall fully reject the response, which is deemed appropriate by such members, while they provide their service, and in case of occurrence of any ethical problem, which will prevent continuity of the service, or any request, which is not appropriate for the nature of the service, or any security problem. In the cases where any emergency response is required, the response may be delayed until the security is ensured in case of availability of any security problem, which may pose any life-threatening hazard for the members of profession.

c) In case of occurrence of any risk, with respect to which direct damage is possible, while any member of profession for mental health, then the necessary security measures shall be provided by the law enforcement officers on primary basis and without any delay upon service of notification by such member of profession with respect to such matter.

ç) In the event that the individual, who receives the mental health service, damages or, is damaged by, herself/himself and/or any relative thereof, which requires compulsory notification for the purpose of security measures, the personal details of the member of profession, who serves such notification as part of his/her job, shall be kept confidential and private upon the request thereof, and/or if and when required. In respect of those who fail to protect such confidentiality and privacy, the relevant sections of the Turkish Criminal Code shall apply.

d) The institutions, which provide mental health service, shall be obliged to take any primarily preventive measure to protect the mental health of their employees, who are the members of profession for mental health.

e) In the event that any member of profession, who has been assigned for the mental health service, starts to suffer from any secondary psychic trauma due to her/his job, or from any mental difficulty or disorder due to other professional reasons, then any and all treatment expenses and any loss arising from the disability shall be borne the institution assigning such member.

f) In respect of the members of profession for mental health service, the social rights, which are considered to occur due to the nature of the service provided, and which arise from mental and physical deformation, shall be reflected to the social assurance and retirement period of such members in compliance with the regulations issued by the institutions, under which the members serve, with respect to the professional deformation.

g) The members of profession for mental health service shall be employed and assigned based on the education and competency they have received and obtained.

SECTION 11 – Obligation for Privacy and Notification

a) Independently from availability or non-availability of any mental problem or complaint; the records kept during the examination, treatment, psychotherapy, psychological consultant, social study, research, developmental assessment and rehabilitation processes, performed by the persons authorized for the mental health professions, and any and all personal information available in the documents created shall not be disclosed any third party unless required by the statutory obligations or without obtaining the consent (which will confirm the legal basis) of the person, or the consent of the person and/or parents/custodian/legal representative thereof based on the age in the event that the person is child or adolescent. The healthcare workers and healthcare institutions shall be responsible for ensuring and maintaining such confidentiality and privacy.

b) Excluding the statutory obligations, in respect of any disclosure to the relatives, the persons serving in the field of healthcare and the other relevant persons and institutions in favor of the person with respect to protection and improvement of the mental health of the person, the consent of the person, or the consent of the person and/or parents/custodian thereof based on the age in the event that the person is child or adolescent is required to be available. No disclosure may be performed even if the person has granted her/his consent for such purpose, by taking into account any pecuniary and non-pecuniary damage to the person due to disclosure of the medical data to the third persons in favor of the high-benefit of the person, provided that its reason is specified, in writing, in her/his medical records.

c) The right of the person, or the person and/or parents/custodian thereof based on the age in the event that the person is child or adolescent, to access the data containing the medical information of the persons shall be reserved. The disclosure of the data, containing the key medical information of the children and adolescents, shall be decided by the child and adolescent psychiatry specialist in favor of the high benefit of the child. However; in respect of the mental health assessments and treatments, the access of the person to the comments of the mental health specialist, the psychological examinations, clinic consultation, social study and developmental assessment notes, other than the standard key medical information, may be restricted either partly or wholly by taking into account the possibility of negative impact thereof on the person. The psychotherapy notes may be allowed to be accessible upon the joint consent of the person and therapist, excluding the medical and statutory obligation, due to the fact that such notes contain the personal definition and comments of the therapist.

ç) The exceptions in relation to disclosure of the personal medical information shall be limited to the possibility for any explicit-predictable damage to the person or third persons physically, mentally or economically, and also they shall be limited to be exposed to any crime and the obligations based on the court decision. In case of such exceptions, the requirement for consent of the person shall not be sought; however, the person or legal representative thereof shall be informed to the extent of the opportunities.

d) The written or official consent of the person is required to be obtained in order to prevent the possibility for the loss of right due to disclosure of the medical data. In case of any failure to obtain the consent of the person, or in case of incapability of the person to grant her/his consent, then the medical data of the person shall be disclosed to the authorized persons and institutions on gradual basis to the extent required by the statutory obligation provided that the person is informed about such matter. The healthcare institution and/or mental health specialist is not required to provide such information unless the institution, which requests the medical data, notifies why such medical data is requested, what is the purpose of use of such data, what is the scope of such data, who will access/see such data, and how the data security will be ensured. In case of persistence on request for information despite the confidentiality obligation, then the requesting party shall assume the statutory liability. In case of any inconsistency between the reason of the request and the scope of the data requested, then the mental health specialist shall be authorized to apply any limitation for the purpose of requesting the scope of the information provided that s/he will specify the reason thereof.

e) Excluding the medical obligations for the explicit and predictable benefit of the person, the personal privacy is required to be protected. The institutions shall be responsible for ensuring the conditions in compliance with the principles for the privacy of the patients.

f) In the cases, which are required to be notified due to the medical or statutory reasons, the mental health officer shall primarily be obliged to protect and treat the person mentally. The primary treatment obligation shall not remove/cancel the notification requirement. In the event that any case, which is required to be notified, is determined, then the official proceedings shall be initiated by the healthcare institution or organization, and the healthcare workers may request that their identity is kept confidential for security reasons.

g) The healthcare institutions and organizations shall be obliged to protect the personal privacy of the patients with respect to the works requiring data transfer such as statistics, charging of services, etc. The persons, who apply for the purpose of mental problem or consultant, should be informed about the conditions, under which their medical information will be kept confidential, as well as about the exceptional situations.

ğ) It is an essential principle to ensure the confidentiality and security of the environment, under which the service is provided, during the examination, assessment and treatment interviews in relation to the mental health. The authorized persons and executives of the government or institution shall be obliged to comply with such principle.

(1) The interview environment for mental health shall be created based on the medical requirements within the institutions and organizations where healthcare service is provided, and the institution or organization management shall be responsible for creation of the environment based on the medical requirements while the members of profession for mental health shall be responsible for the practices.

(2) No person shall be present at the interview environment for any purpose other than healthcare service. The persons, who are not provide any healthcare service, shall not be present at the interview environment and participate in the interview process for any purpose other than the training even if they have any of such professions. The students of the vocational health school shall have the same ethical and professional responsibilities for privacy as the members of profession.

(3) No persons, who are not authorized to healthcare service, shall be present at the mental health assessment and treatment interviews unless the person with the mental health problem has any possibility to damage herself/himself or any other person on explicit and predictable basis. In case of any possibility to damage, then the interview shall be performed after any necessary security measures are taken. In the event that the environment is not secure, then the healthcare worker shall be entitled to withdraw from the interview.

(4) In case of availability of any statutory obligation or force, which prevents the privacy in the interview environment, then the member of profession for mental health shall be responsible for reporting such matter, in writing, in the event that such matter affects the assessment and the person's right to health.

(5) Any member of profession for mental health shall be obliged to act in compliance with the applicable national and international regulations on research and training ethics in case of use of the medical information about the persons for research or training purposes. The identity details of the person may not be used for training purposes under any circumstance, excluding the cases specified in Section 11/b even if the consent of the person has been obtained for such purpose. The details for the mental status should be protected, retained and limited like the biological material. The texts of consent for the visual or audible records kept for training purposes provided that the identity details of the person is kept confidential should explicitly state how many times and where such medical information will be used, and to whom and how such information will be provided, and when and how such information will be disposed of, and that the person shall be entitled to withdraw at any time s/he wishes even if s/he has granted her/his consent for such purpose.

CHAPTER FOUR

Diagnosis and Treatment of the Mental Diseases and Healing-Oriented Services

The service types that will be adjusted to our country and applied experimentally through the works to be carried out by the professional specialists based on the principles and guidelines, the framework of which is drawn hereunder, shall be included in the statutory legislation by means of the separate regulations.

SECTION 12 – Diagnosis of the Mental Diseases

The mental health and diseases specialist physicians, and the other physicians in case of absence of such specialists, shall be authorized to diagnose any mental disorder or disease. The child and adolescent psychiatrists shall be authorized to diagnose the mental developmental disorders and mental diseases of the children. In case of absence thereof, the adult psychiatrists may be authorized to diagnose the same.

SECTION 13 – Nature of the Treatment- and Healing-Oriented Services

a) The purpose of any and all units providing service is to provide healing-oriented services, under which the beneficiary is put in the center, and which support the independent life within the society, and which is based on the team work.

b) Based on the situation, under which the service will be provided, the professionals serving at the institutions providing care and training, and the peers in the schools, and, outside the school, the groups consisting of those who have benefited or are benefiting from the mental health services may be included in the process of provision of such services, in addition to the members of profession.

c) In respect of the diagnosis and treatment of the mental diseases, no written and visual announcement may be made in a manner not to be in consistent with the professional competency and limits, as specified above, and in a manner to mislead the beneficiaries.

ç) The institutions and organizations, providing mental health service, shall be obliged to employ in a sufficient number of members of profession for mental health with the sufficient qualifications.

d) In respect of the individuals with the mental disorders, the healthcare services should be carried out by the specialist psychiatry nurses and/or the nurses, who hold the certificate of authorization for psychiatry nursing as approved by the Ministry of Health, in the institutions (hospitals, healthcare centers, etc.) where such individuals receive inpatient treatment service.

SECTION 14 - Implementation of the Healing-Oriented Services

a) The healing-oriented services shall be provided within the institutions, which have been certified by the Ministry of Education in order to provide mental health service. Such institutions shall constitute (1) the units providing mental health service in the hospitals and on the outpatient basis under the public institutions, and (2) any and all institutions and units providing mental health service under the private medical services, and (3) the non-governmental organizations, in which the members of profession authorized to provide mental health service, and which have been established by the beneficiaries and their relatives.

b) The continuity of the inpatient treatment, outpatient treatment, healthcare within the society and/or among the other healthcare/support services and appropriate reference and transfer shall be ensured.

c) The healing-oriented services shall also be provided to the relatives to the individuals with the mental health problem.

ç) In case of crises and risks, the restrictive measures, which is specified in the next chapter hereof, shall be applied in the least restrictive manner and in accordance with the principles prescribed under the Act.

d) In respect of the healing-oriented services, the social support systems shall be arranged along with the treatment in order to strengthen the well-being during the treatment process of the individual.

e) The registered mental healthcare organization shall ensure, by taking into account the participation of the person or his/her legal representative or defender, that the most appropriate physical and psycho-social functionality level of the beneficiary is restored, and that any service/treatment/healing plan, aiming the continuity, is available.

f) It should be ensured that the physical conditions and nature of the institutions, in which the inpatient treatment and rehabilitation services are received, are in compliance with the human right standards.

CHAPTER FIVE

SECTION 15 - Involuntary Treatment and Hospitalization

a) If the behaviors of the persons with the mental disease or disability constitute any significant hazard with respect to themselves or the life and body integrity of the third persons and if non-treatment thereof causes any significant hazard in the recent period in terms of their health in the event that such persons do not have the capacity of judgment, or that they fail to grant their consent for such purpose due to their diseases, or in case of emergency medical situations, in which loss of any organ or function may be available in case of delay, the consent of the patient is not required to be obtained in order to apply the necessary treatment. Also, in case of emergency medical situations, the physician is required to be act in favor of the person, who does not have the capacity of judgment, and in compliance with the supposed will of such person. In such cases, the necessary medical response shall be applied to the patient, and it shall be recorded accordingly. In case of availability of the healthcare provider or legal representative of the patient, then such provider and representative shall be informed about the matter before performance of the healthcare, and their written consent shall be obtained for such purpose. However, in the cases where any delay constitutes any risk, it is not required to be waited in order to take any medical action. In case of such emergency medical situations, the necessary medical actions shall be taken in the event that the legal representative or parents/custodian thereof fail to grant her/his/their consent for the treatment, and the Civil Court of Peace shall be notified of such matter.

b) In the event that the person with the mental health problem is to be hospitalized in any institution on involuntary basis due to the risk as defined above, then the physician, applying the treatment, shall inform the relevant person and the legal representative thereof, if and when required, about the reason, purpose, type, method, risks and side effects of the medical treatment as well as about the possible consequences in case of failure to apply the treatment and also about the alternative treatment opportunities, and s/he shall submit such matters to such persons for the approval. In the event that any person, who does not have the capacity of judgment, has not arranged any treatment by giving instructions in advance, then the physician, who will perform the response, shall plan the necessary treatment by informing the person, who is authorized to represent such person. The person, who does not have the capacity of judgment, shall participate in the decision making process as far as possible. The healthcare provider or the representative of patient rights shall accompany the beneficiary and be included in the process in each stage of the involuntary treatment and involuntary hospitalization. The institution, applying the treatment, shall arrange the prescriptive medical measures under the treatment plan, and the relevant person shall be notified of such arrangement along with the methods for raising any objection thereto.

c) Excluding the emergencies; in the event that any more appropriate measures is not available currently with respect to the treatment or healthcare of the person with the mental health problem or disability, and that the treatment or healthcare thereof cannot be performed in any other manner/by means of any other method, then such person shall only be hospitalized in any appropriate institution upon the decision of the Civil Court of Peace. The relevant person shall be informed about the nature, reasons and possible period of the measure as well as about the full name of the person to take care of such patient within such period. The emergencies shall be reserved. The measure shall be cancelled as soon as any opportunity is found, and the rightness of the measure shall be reviewed in regular intervals in any case. The relevant person and the relative thereof may always request to be discharged from the institution. Such request shall be submitted to the court without any delay.

ç) In respect of the involuntary treatments, the law enforcement or security officers shall be obliged to take necessary security measures provided that they shall be bound by the principles prescribed hereunder with respect to the fundamental rights and obligations.

d) In the event that the patient is a minor, or that s/he does not have the capacity of judgment, then the consent of her/his legal representative shall be obtained for such purpose. It shall be ensured that the minor or the restricted person, who has the capacity of judgment on partial or entire basis, is informed about the matter and participates in the decisions on her/his treatment even in the cases where the consent of her/his legal representative is sufficient.

e) In the event that the person, with respect to whom the security problem for herself/himself or any other person has decreased to the significant extent by applying the involuntary treatment, has also the capacity of judgment, then such person's healthcare provider and/or legal representative and/or representative of human rights shall also be informed about the matter, and it shall be ensured that the treatment to be applied shall become voluntary.

f) The patient and the person accompanying the patient shall be informed, verbally and in writing, about the rights of the patient as well as the methods for raising any objection thereto during any and all hospitalization processes, regardless of the fact that the hospitalization is voluntary or involuntary.

g) Any notification shall be served with respect to assignment of any representative of patient rights upon the request of the patient for the purpose of supporting the patient with respect to making any decision before the involuntary hospitalization and for the purpose of ensuring that the patient may access her/his legal rights.

ğ) The practices restricting the freedom of movement with respect to the inpatient mental health services shall be carried out in compliance with the international conventions, to which the Republic of Turkey is a party.

h) The coordination shall be ensured by the unit of patient right with respect to determination of the representative of patient rights. The persons, serving in such fields, shall be provided with the training and the support requiring continuity, and such persons shall be sought to attend the in-service trainings on regular basis during their career.

ı) In the event that any report is issued with respect to the involuntary hospitalization when the persons, who have no legal representative even though they do not have the capacity of judgment, apply for treatment, the assignment of provisional legal representative shall be submitted to the relevant court. Any legal representative shall be assigned by the court in the first hearing. The opinion of the patient shall be received with respect to selection of legal representative, as far as possible. The court shall also take into account the patient's opinion specified by the patient, in writing, in company with any witness, in any period, during which the patient has the full capacity to act, with respect to selection of person to act as a legal representative of the patient. In case of emergencies, any provisional legal representative may be assigned.

The healthcare providers shall be considered as the party with respect to the transaction in relation to the patient until assignment of any representative by the court provided that no conflict of interest shall be available between the patient and the healthcare provider.

i) In respect of the diseases, which affect the capacity of judgment, the patient's instructions and requests, which have been given in advance by the patient with respect to the treatment to be applied to her/him as specified, in writing, by the patient in company with any witness when the patient has such capacity, as well as her/his selection for the persons, who will decide her/his treatment, shall be taken into account provided that such instructions, requests and selection shall not be in contrary to the laws and medical deontological requirements. In the event that any request, which has been specified in advance, is not applied due to any contradiction specified herein, then the reasons thereof shall explicitly be specified and recorded.

j) The patient, who is under the involuntary hospitalization circumstances, may be transferred to any other public or private mental healthcare institution by the legal representative or relatives of the patient in order to be treated. Such process shall be governed by the Civil Court of Peace. In the event that the patient is required to be transferred due to any emergency medical situation, then the relevant Civil Court of Peace shall be notified of the matter within a period of 24 hours following performance of such transfer.

SECTION 16 – Decision and Supervision Mechanisms for the Involuntary Hospitalization

a) Approval and rejection of the hospitalization of the persons, who are hospitalized involuntarily due to their mental disease, and protection of the rights of the persons, and audit of the compliance of the transaction performed with the law, and discussion and conclusion of the objections of the parties to the transactions performed shall be governed by the Civil Court of Peace, who has been assigned for such matter.

b) Any mental health and diseases specialist, who are assigned at the hospital, shall issue any medical report for the persons, who are hospitalized involuntarily, within a period of 72 hours. The report shall be submitted to the Civil Court of Peace by the hospital management within a period of 24 hours. The hearing shall be held within a period of 24 hours following the notification. In the event that the person's status, which poses any risk, has disappeared, then her/his treatment shall be continued on voluntary basis based on her/his request, or s/he shall be discharged from the hospital. In the event that the status, which poses any risk, has not disappeared, then it shall be acted in accordance with the decision of the court.

c) The involuntary hospitalization of the person with the mental disease shall be approved or rejected in the first hearing. Any mental health and diseases specialist may be assigned as an expert in order to investigate appropriateness of the involuntary hospitalization or treatment upon the objection of the patient party for the hospitalization or if and when required by the judge. In such case, the expert is required to complete her/his medical examination, and to submit her/his report within a period of 48 hours.

c) The patient shall be entitled to be represented by any attorney-at-law in the court. Any attorney-at-law shall be assigned by the bar association for the persons, who have not any attorney-at-law.

d) The patient, the legal representative of the patient or the defender of the patient, and the attorney-at-law of the patient, if available, shall be present in the hearings. If and when required by the judge, or in the event that it is not possible to take the patient out of the hospital, the hearing may be decided to be held in the hospital. In the event that it is not possible for the patient to be present in the hearing, then the necessary requirements shall be satisfied in order to ensure that the patient is seen by the judge at least one time.

e) The Judge of the Civil Court of Peace shall decide continuity or termination of the involuntary hospital or treatment after s/he reviews the report, submitted by the hospital, and the report, submitted by any expert, if s/he has been assigned, on comparative basis, and after s/he listens the parties. S/he may request any additional medical explanation or may assign any other psychiatrist, if and when deems necessary.

f) The longest period of involuntary hospitalization and treatment, may be three weeks upon the decision of the court. Such period may be extended in case of the following circumstances. In the event that the status, which poses any risk, has not disappeared, the report stating such matter shall be submitted to the court by the hospital management in the end of the second week. The hearing for extension of the period shall be held 1 (one) day before the expiration of the period. Any mental health and diseases specialist may be assigned as an expert in order to receive any medical opinion with respect to extension of the involuntary hospitalization or treatment upon the objection of the patient party for the hospitalization or if and when required by the judge. In such case, the expert is required to complete her/his medical examination, and to submit her/his report within a period of 48 hours.

g) In case of disappearance of the person's status, which poses any risk due to her/his mental health problem, the report stating such matter shall be submitted to the court by the hospital management. In the event that the court decides discharge of the patient from the hospital, then the patient shall be continued to be treated on voluntary basis or shall be discharged from the hospital based on the preference/request of the patient.

ğ) The treatment report, under which the extension or termination of the period of the involuntary hospitalization and treatment is recommended, shall be issued by the mental health and diseases specialists until 3 (three) months by taking into account the observation reports, issued by the nurses, and the social study report, issued by the social worker, and such treatment report shall be issued by the medical board of the hospital after completion of three months. Periodical examination audit shall be performed by the Civil Court of Peace.

h) The patients, who are not required to stay at the hospital, however, who are deprived of social support to the highest extent, and who cannot perform their own healthcare and protect their physical and mental health, may be placed into the appropriate institution, where they can receive such services, upon the decision of the court by taking into account the social study report issued by any social worker. Such services shall be provided by the Provincial Directorate of the ASPB (Ministry of Family and Social Policies) through the agency of the defender of the patient or the representative of patient rights without any delay.

ı) Any objection may be raised against the practices in relation to the involuntary hospitalization and treatment at any stage. Assessment of the objections in terms of procedure and essence shall be governed by the Civil Court of Peace.

SECTION 17 – Other Treatment Decisions upon the Decision of the Court

The transactions in relation to the patients sent by the courts for the purpose of observation, protection and treatment, medical measure, treatment measure, supervised release, etc. shall be carried out as specified under the TCK (Turkish Criminal Code), CMK (Code of Criminal Procedure), HMK (Code of Civil Procedure), CKK (Child Protection Code), AKK (Fair Usage Policy) and CIK (Law on Criminal Execution).

CHAPTER SIX

Audit of the Mental Health Services

SECTION – 18

The government shall be responsible for ensuring the geographical and physical accessibility of the mental health services as well as for auditing establishment and maintenance thereof based on the international standards in terms of quality.

The ministries and council shall be in charge of and responsible for providing and auditing the sufficient number of services under the sufficient quality for such purpose.

The institutions, providing mental health service, shall be obliged to ensure the internal audit with respect to provision of such services in compliance with the human rights standards with the participation of the employees serving at any and all stages, and the relevant ministries shall be obliged to carry out the administrative audit with respect to such matter.

The civil monitoring and audit of any and all institutions, facilities, services and programs, which consist of the mental health system, shall be ensured and monitored through the agency of the independent boards established upon participation of the non-governmental organizations serving in such field.

SECTION 19 – Mental Health Monitoring and Supervisory Board

(1) In respect of the monitoring and audit of any and all institutions and organizations, providing healthcare and inpatient treatment service in the field of mental health, “**Mental Health Monitoring and Supervisory Board**” shall be established in each province in addition to the internal audits of the institutions and organizations.

a) Composition of the Monitoring and Supervisory Board for Mental Health

1. The Board shall consist of at least 9 (nine) members, including 6 (six) member determined by the Provincial Directorate of the Ministry of Health, the Provincial Directorate of the Ministry of Family and Social Policies, the general provincial council (or municipal council in the metropolises), the provincial or regional Chamber of Physicians, the provincial or regional Bar Association and the competent union of healthcare workers and 3 (three) members determined by the independent, national, defending and self-defending non-governmental organizations, and it shall convene upon attendance of at least 7 (seven) members. Any and all representatives' provision of service in the field of mental health, national and international publications on the public policies, capacity to collaborate with the public institutions, membership of national and international platforms and joint ventures and capacity of defending activity shall be taken into account.

2. The Board shall be autonomous, and it shall serve independently from the institutions and organizations assigning representative.
3. The term of office of the Board shall be 2 (two) years. Any public institution, professional organization or non-governmental organization, which has assigned any member to the Board, shall determined the members, they will assign to the Boards, in accordance with their internal regulations. Those, who are assigned in such boards, may be re-elected.
4. Any of the locations, where the professional organizations or association of patients and patient relatives is situated, shall be determined and announced as the center of the Board. The meeting of the Board shall be held in such center. The professional organization or association of patients and patient relatives, which is determined as the center of the Board, shall also assume the secretarial activities.
5. The distribution of duties shall be performed in the first meeting, and the chairman, vice chairman and secretary general shall be elected accordingly. The meeting shall be managed by the Chairman, or by the Vice Chairman in case of absence of the Chairman. Secretary General shall carry out the correspondences.

b) Duties of the Board: In respect of any and all institutions and organizations, providing the healthcare and inpatient service in the field of mental health:

1. For the purpose of the efficient provision and quality of the physical conditions, working conditions, healthcare and service;
2. For the purpose of protection and development of the human rights of the person, to whom treatment, support and healthcare services are provided within such institutions and organizations;
3. For the purpose of prevention of the human rights violations and mall treatment with respect to such persons, the Board shall carry out monitoring and audit by observing the ethical principles and the requirements for the personal privacy and treatment and support services, based on the human rights and freedoms, as defined under the laws and international conventions, as well as on the purposes and principles defined under the mental health act.
4. The Board shall regularly audit the mental healthcare institutions and organizations, which are within the area of responsibility of the Board, together with at least five members at least once a year. It shall monitor the processes for the resolution of the problems determined. The institutions may also be visited if and when required, or in the event that any irregularity and failure/disorder is reported, besides the audit to be performed at regular intervals.
5. The Board shall report any failure, error and incorrect practice, it has determined during performance of monitoring and audit, to the local and central official of the relevant institution or organization or to the relevant public officer, ad it shall recommend resolutions for such purposes. It shall monitor the processes for the resolution of the problems and correction of the incorrect practices. It shall notify the relevant Ombudsman Institution, court and public opinion of the relevant matter, if and when it deems necessary.
6. In the event that it is required to be negotiated with the beneficiary during the processes of monitoring and audit, the negotiation and file reviewing processes may only be carried out by any Board member, who serves as a physician or mental health worker, based on the need, by taking into account the clinic status of the person and the recommendations of the treatment and support team.

SECTION 20 – The Boards Established and Managed by the Beneficiaries

a) The persons, who benefit or have benefited from the mental healthcare institutions and services, shall actively participate in the decision mechanisms and service audits through the agency of the boards they have established.

b) The purpose of such boards is to ensure achievement of the components of self-determination, self-defending, active participation in any and all processes and assumption of responsibilities, which constitute the basis for the population-based and healing-oriented mental health services, with respect to the persons, who benefit from the mental healthcare institutions and population-based mental health services.

c) They shall have any office, the costs and expenses of which are borne by the institutions providing service, under the umbrella of such institutions. The Board shall consist of the internal unit representatives, who will serve for a period of 2 years.

ç) The operation of the Board shall be determined in accordance with the relevant regulations.

SECTION 21 – Financial Aspects of the Mental Health Services

a) The investments and expenses in relation to the preventive, protective and healing-oriented mental health services shall be borne through the general budget of the Ministry of Health.

b) Population-based mental health, preventive mental health and rehabilitation programs shall be prioritized with respect to the general budget planning of the Ministry of Health.

c) The Ministry of Family and Social Policies shall ensure that the mental health services are provided at the same level as the general medical services in terms of quality and quantity within the institutions with respect to the healthcare of the children, elders and those having the chronic mental disease, who are within the area of responsibility thereof, and it shall bear the necessary costs and expenses through its budget.

ç) Each individual younger than age of 18 shall be considered as a child, and the government shall guarantee that such individuals benefit from the mental health services free of charge.

d) The mental health services may not be excluded from the coverage of any and all health insurances.

e) The Ministry of Labor and Social Security shall be responsible for regulating and developing the relevant private or social insurance regulations with respect to the mental health service.

f) The Ministry of Family and Social Policies shall ensure that the outpatient or inpatient treatment of the persons, who have lost their capacity to work due to their mental disease, and who do not have any health insurance, as well as medication and non-medication treatments of such persons are provided free of charge. The Ministry of Health shall take the measures in order to enable such persons to easily access the treatment institutions and opportunities.

g) The Ministry of Health, the Ministry of National Education and the Ministry of Labor and Social Security shall carry out the necessary administrative arrangements in order to ensure that the services in relation to the treatment and rehabilitation of persons, whose mental health has deteriorated, are provided free of charge, or that the prices for such services are borne, and such Ministries shall regulate protocols with the relevant public institutions or private organizations, if and when required.

ğ) The costs and expenses, incurred by the Mental Health Monitoring and Supervisory Board and the board established by the beneficiaries, shall be borne through the budget of the Provincial Directorate of Health.

h) The MEB (Ministry of National Education) and the ASPB (Ministry of Family and Social Policies) shall ensure that the members of profession for mental health, as defined hereunder, are employed with respect to preventive, developmental and healing-oriented services provided for the children, young persons and adults within the institutions reporting to such Ministries, and that such services are provided by the relevant members of profession for mental health. The costs and expenses for such services shall be borne through the budget of the Ministries.

SECTION 22 – Penal Sanctions

The service areas of the members of profession for mental health are defined hereunder, and other members of profession other than the members of profession for mental health shall not be authorized to serve in the relevant service areas. The persons, who carry out any work, for which the members of profession for mental health, defined hereunder, are authorized, without any diploma or certificate of profession, or who assume such title, shall be sentenced to the prison for a period ranging from one year to three years, and they shall be imposed by punitive fine for a period ranging from the two hundred days to five hundred days.

SECTION 23 – This Act shall come into effect on the date of its issue.

SECTION 24 – The provisions prescribed hereunder shall be governed by the Council of Ministers.