

1961  
April  
1999-07-02-6228  
nr 2

MENTAL HEALTH ACT

of 28 April 1961

(Amended by the Acts of 8 March 1963 no. 1, 5 June 1964, no 31, 25 May 1966, 19 June 1969 no. 54 and no. 60, 19 June 1970 no. 51, 15. April 1977 no. 28, 1 June 1979 no. 26, 13 June 1980 nr. 35, 12 June 1981 no. 26, 18 May 1984 no. 29, 14 December 1984 no. 81, 24 May 1985 no. 33 and 31 May 1985 no. 41.

CHAPTER I

Purpose and organization

§ 1.

According to this Act, mental health care comprises:

1. psychiatric pre-care as mentioned in § 12.
2. examination, treatment or care in psychiatric hospital, psychiatric clinic or polyclinic, psychiatric institution for children and adolescents, psychiatric day institution and psychiatric care in private home under supervision.
3. psychiatric after-care as mentioned in § 13.

§ 2.

Each county shall be responsible for the planning, organization and function of institutions as stated in § 1 so that the population within its area may be provided with the necessary mental health care.

Two or more counties may cooperate in fulfilling the tasks referred to in subsection one of this paragraph. The King may prescribe such collaboration if required in order to ensure effective mental health care in certain areas.

The counties concerned shall work out a plan for carrying out their tasks according to the first and second subsection. The plan shall be approved by the King, who may also make amendments to the plan. When considered necessary, the King may decide that the plan shall be taken up for revision.

In case of disagreement and failure to reach an amicable agreement, the King shall decide the sharing of costs incurred through collaboration as described in subsection two, and with binding effect on the parties concerned. The King may decide that such disputes are to be settled by an arbitrary committee according to specific rules.

Institutions and private home care as mentioned in § 1 shall be approved by the King. The King may issue provisions concerning planning, construction, alteration, equipment and operation of such institutions, and also with regard to their supervision. These provisions may also include directives concerning the establishment of a board for the institution, concerning approval of the responsible head of the institution, the authority to appoint senior personnel, concerning standards for the staffing of the institution, directives as to the qualifications required for the individual posts, concerning approval of account- and auditing arrangements and concerning private

home care. Furthermore the provisions may include rules as to restrictions on the patients' right to send and receive letters and parcels, and restrictions on the admission to use coercive measures in psychiatric institutions. The King can lay down rules on the admission to use coercive medical treatment.

Ecah county shall establish and operate at least one psychiatric ward with a duty to receive patients according to § 6 in the Hospital Act of 19 June 1969 no. 57 for emergency service.

## CHAPTER II

### Examination, Admission and Discharge.

#### § 3.

If any person, due to his mental condition, is unable to make arrangements for the medical assistance and mental health care necessary to him, and if his next-of-kin fail to or neglect to arrange for such attention and care, the public authorities shall arrange for his examination by a medical doctor and otherwise take the necessary steps to have him brought under mental health care and protection.

Should the doctor after a personal examination consider it necessary, the patient may, at the request of his next-of-kin or the public authorities, be either admitted to and kept in hospital or detained in some other place where proper care can be provided, however not for longer than three weeks without his own expressed consent, unless the conditions under § 5 apply.

The doctor shall inform the patient of his right to appeal the decision to the Control Commission. The appeal has no delaying effect unless the doctor decides otherwise.

#### § 4.

Any person who by his own will request admission to a psychiatric institution may be admitted if the senior medical officer or the doctor responsible for the psychiatric care is of the opinion that admission to the institution is beneficial to the patient in view of his mental condition, and that the patient himself is capable of making this decision. The patient shall be discharged without delay if he should so desire.

The senior medical officer of a psychiatric hospital or clinic may, if he considers it desirable for reasons of treatment, make it a condition for admission that the patient may be detained in the institution for up to three weeks from the time of admission, and if the patient should leave, that he may be brought back by force if necessary. Any agreement on admission on conditions as mentioned shall be in writing and signed by the parties involved.

If the patient is under 16 years of age, the person or persons who have parental custody may on his behalf consent to admission according to subsection one of this paragraph, or sign an agreement as referred to in subsection two. If the minor has passed his twelfth birthday and does not himself consent to admission or to the agreement, the

senior medical officer shall bring the question of admission or agreement before the Control Commission for final decision.

A decision by the senior medical officer to set conditions for admission as mentioned in subsection two, shall be based on clear criteria and may be brought before the Control Commission for appeal by the patient or his next-of kin or guardian.

The Directorate of Health may permit senior medical officers of other hospitals to admit patients for psychiatric treatment under the rules in subsection two of this paragraph, and may also decide that certain psychiatric hospitals shall be excepted from the requirement to admit patients for voluntary hospitalization according to the first and second subsection of this paragraph.

#### § 5.

Any person suffering from a serious mental illness may be committed to hospital without his own consent if his next-of-kin or public authorities so requires and if the senior medical officer decides that - in view of the patient's mental condition - admittance to hospital is essential in order to prevent the patient coming to any harm or that the prospects of cure or considerable improvement would otherwise be lost, or that the patient represents a serious danger to himself or others.

The senior medical officer may through the Control Commission request the procurement and recording of statements of evidence considered important as a basis for deciding whether the statutory requirements for admission to hospital are present. The rules in § 9, second sentence of the second section and the third sentence of the tenth section, apply correspondingly.

Any person who is admitted to hospital may be retained there without his own consent if the conditions under the first section are present. This does not apply, however, if the admission to hospital has taken place pursuant to § 4.

The patient, his next-of-kin or the public authority which has requested hospitalization may appeal the senior medical officer's decision to the Control Commission. This also applies if the senior medical officer has refused to admit the patient or to retain him in hospital. The appeal has no delaying effect unless the Control Commission decides otherwise.

When a person is committed to or retained in hospital pursuant to this §, the senior medical officer shall notify the Control Commission without delay. If the patient is committed to hospital or detained there at the request of public authorities, the senior medical officer shall also inform his next-of-kin.

The patient and his next-of-kin shall always be informed of their right to appeal the question of admittance to hospital or of discharge, likewise complaints concerning treatment, to the Control Commission.

## § 5 a.

The Director General of Health can according to a complaint reverse a decision by the Control Commission not to admit to the hospital a patient who is applied transferred from another institution o.a. This complaint system only concerns transfers which are applied pursuant to § 5 in this law and only for these groups:

- a. Patients in institutions which are operated according to this law. However, transfer between institutions operated by the same county is excluded from the complaint system.
- b. Patients who pursuant to this law are admitted to other types of institutions. letter a, second sentence, can be correspondingly applied.
- c. Prisoners in institutions under the prison authorities.

Decisions as mentioned in the first subsection can not be reversed as far as it is based on the ground that the patient does not fulfill the conditions according to § 5, first subsection, for admission without his own consent.

The right to complain to the Director General of Health in cases as mentioned in the first subsection, can be exercised by the patient, the chief physician concerned or the doctor who is responsible for the care of the patient (letters a and b), by the prisoner or the prison authority in charge or by the prosecuting authority (letter c). Those who have the right to complain to the Director General of Health, also have the right to request transfer as mentioned in the first subsection, and have a right to appeal the decision to the Control Commission.

The decisions made by the Director General of Health are not binding for later decisions according to this law.

## § 6.

Discharge from hospital of a patient who is committed to hospital by authority of § 5, may be requested by the patient himself, or if he is incapable in this respect, by his next-of-kin.

When discharge has been requested, the patient can not be detained in the hospital unless the senior medical officer decides that the conditions set up in § 5, first subsection, are present. The provisions of the second subsection of § 5 apply correspondingly when the senior medical officer has to decide whether the legal conditions for discharge are present. If the senior medical officer refuses to discharge the patient, his decision may be appealed to the Control Commission, which shall in any case be notified of his refusal.

Even if there is no request as described in the first subsection, the patient may be discharged in compliance with the senior medical officer's decision if the conditions for detaining him in hospital in accordance with the second subsection are no longer fulfilled. The senior medical officer's decision can be brought before the Control Commission by the patient himself or by his next-of-kin or by the public authority which has requested his committal to hospital. Such appeal has a delaying effect.

The second and third sentence of the sixth subsection in § 5 shall apply correspondingly to decisions taken pursuant to the second and third subsection.

§ 7<sup>1</sup>.

Chapters III-IV in the Act concerning Administrative Procedure are not applicable to cases as mentioned in this chapter.

The provision in the first subsection of § 7, as well as §§ 5 and 6 are similarly applicable where mental care is provided elsewhere than in hospital, when the patient without his own consent is under care and protection. The decisions to be made according to this chapter by the senior medical officer are in such cases to be made by the doctor responsible for the patient's mental care.

CHAPTER III

Supervision, Inspection and Appeal.

§ 8.

Wherever patients are under mental health care pursuant to this Act, there shall be a Control Commission which in accordance with provisions issued by the Ministry makes such decisions as are especially ascribed to it, and further exercises such supervision as considered necessary to the welfare of the patients.

The Control Commissions are appointed by the Ministry, which also decides the district to be supervised by each commission. Within its district the Commission shall supervise all patients who are under mental health care without their own consent, as well as other patients who want such supervision.

The commission shall be composed of one legally trained person, preferably with experience as a judge, one medical doctor and two other members, each with a personal deputy. The legally trained acts as chairman of the commission. The members are appointed for a period of six years. On the first occasion of appointments being made after the entry into force of this Act, two of the members shall be appointed for three years.

No one can be appointed as a member of a Control Commission concerned with the inspection of any part of the mental health care services for which he himself by his official occupation is responsible.

The members of the commissions are pledged to secrecy regarding any information of private nature which comes to their knowledge in the course of their duties. Violation is punishable under the Penal Code's rules concerning public officials.

## § 9.

Before the Control Commission makes a final decision in a case where it may be decided that a patient without his own consent is to be committed to or detained in hospital or in another place according to this Act, the patient or the person acting on his behalf shall have the opportunity of stating his views.

The Chairman must also take care that all aspects of the case are clarified as far as possible. It is the duty of anyone required as a witness or expert to appear before the Commission under the rules applying to main proceedings in the county courts.

The Control Commission may request a recorded statement of evidence by the county court if a witness is not bound to appear before the Commission, or if his attendance would entail unreasonable expenditure or inconvenience, or if this way of obtaining evidence is considered particularly practical for other reasons.

A privately engaged lawyer appointed pursuant to the Act of Free Legal Aid and Advice has the right of access to all information pertaining to the case, and to be present during the examination of the parties themselves and their witnesses. In so far as the Commission considers it advisable, this also applies to the patient himself or the person acting on his behalf.

If possible the Commission shall give its decision within two weeks after the complaint being submitted. If this time limit cannot be kept, the reason for the delay must be explained in connection with the decision.

The decision is to be taken at a meeting of the Commission with all members present. If the votes are equally divided, the Chairman has the casting vote. The rules concerning disqualification in Chapter 6 of the Courts of Justice Act apply similarly to the members of the Commission.

The decision of the Commission must be based on valid grounds.

The Act on Administrative Procedure applies to cases which are dealt with in the Control Commission - insofar as there is no other provision in this Act. The King may lay down supplementary provision concerning the proceedings.

If an appeal has been dismissed by the Control Commission, a further appeal cannot be filed before six months have elapsed.

For copies and certifications issued by the Control Commission or by county courts no fee is paid. Nor are fees paid for taking of evidence according to subsection three. Anyone who, pursuant to the provisions of the present § of this law, appears before the Control Commission to testify, may claim such compensation as is stipulated for witnesses and experts.

§ 9 a.

The decision of the Control Commission pursuant to § 9 concerning commission to hospital or refusal to discharge may be appealed to the courts by the patient or his next-of-kin under the rules in Chapter 33 of the Act of 13 June 1915 concerning Judicial Procedure in Civil Cases (The Civil Disputes Act).

When announcing its decision, the Control Commission shall inform the patient or the person acting on his behalf of his right to demand that the case be brought before the court. If the person concerned claims court proceedings, he shall be given guidance and assistance.

CHAPTER IV.

Patients outside hospitals.

§ 10.

Psychiatric hospitals and clinics may - without formal discharge - transfer patients to psychiatric nursing homes, psychiatric day institutions, homes for after-care and care in private homes which are associated with and under the supervision of the psychiatric hospital or clinic.

Consent to such association shall be granted by the Ministry.

§ 11.

If a person is under psychiatric care in nursing home or private home not associated as described in § 10, the public health officer or other medical doctor authorized by the Director General of Health Services shall be responsible for his care.

The local public health officer shall approve of the private care home and sanction the contract concerning the care of the patient.

Furthermore the care in private homes shall be supervised as the King may decide.

§ 12.

Whenever an application is made for mental health care as described in § 1, no. 2, the patient shall be given the pre-care considered necessary until he is admitted or until it is confirmed that he has been helped or will be helped in some other way.

Questions regarding pre-care and arrangements for other forms of mental health care for a patient under pre-care may be brought before the Control Commission concerned by the patient himself or his next-of-kin or by the public authorities which has requested the care.

## § 13.

Patients under mental health care in institutions/homes as described in § 1, no. 2, shall remain under such psychiatric after-care as considered desirable if the patient himself or his next-of-kin so request.

The King shall lay down specific rules regarding after-care, therein stipulating with the Parliament's approval which contributions may be included in after-care treatment.

Decisions concerning after-care shall be taken by the medical doctor who is responsible for the care of the patient. The patient himself, his next-of-kin or the public authority which has requested his admission to hospital may appeal the doctor's decision to the Control Commission.

After one year of such after-care the patient shall be discharged, unless the Control Commission consents to a prolongation. If so, the prolongation shall be allowed for one year at a time.

## CHAPTER V.

## Expenditure.

## § 14.

It is incumbent upon the owner of a health institution designated under § 1 to meet the costs of the planning, construction, expansion, alteration and the equipment of the institution.

## § 15.

The National Health Insurance gives annual subsidies to the costs of operating health institutions included in plans as designated in § 2, and the counties' expenses to private home care. The subsidy is included in the joint limited subsidy to the health and social services in the counties.

The subsidy will be distributed to the counties in accordance with rules laid down by the King.

The Ministry may put down special terms for payment of the subsidy to each single county.

The Ministry may require to be shown the budget, accounts and other data concerning the operation of the institutions.

## § 16.

The county covers the expenses for the operating of health institutions included in a plan as designated in § 2, and the costs of running private home care as well as other expenditure in order to carry through mental health care.

The Government gives annual subsidies to the proprietors of university clinics founded on the additional expenses involved in teaching medical students.



For patients resident in another county the expences for care as well as other expenditure necessary to carry on psychiatric health care are refunded by the county in which the patient has his place of residence. The Ministry issues detailed directives for calculating the costs of the care and may determine a fixed refundment rate to be applied for one or several groups of institutions. In calculating the reimbursement claim from university clinics, a deduction equal to the subsidy granted by the Government according to section two of this paragraph shall be made.

The expenses for treating patients in state institutions are refunded by the county in which the patient has his place of residence.

The National Insurance Scheme covers the expenses related to the care for persons who are not resident in Norway, but are insured according to the National Insurance Act. For persons who have no rights under the National Insurance Act, the expenses are met by the National Insurance Scheme if the person is entitled to grants according to a mutual Social Insurance Convention with another country. In other cases the expenses are paid by the patient himself. If it is not possible for the patient to pay the expenses himself, the expenses shall be covered by the institution where the patient was admitted for care. However, if the patient under a temporary stay in Norway is committed to hospital pursuant to §§ 3 or 5, the expenses shall be paid by the State. Before payment of the expenditure is ordered, it is incumbent upon the owner of the hospital to apply for coverage by the patient as far as he is entitled to coverage of the expenditure via another public insurance scheme or via private insurance.

#### § 17.

Cases of doubts as to which municipality a mentally sick person covered by this Act is a resident, shall be decided by the Ministry. The decision shall be based on the rules in § 6 of the Social Welfare Act.

Until the question of domicile is decided, the expenses shall be met in accordance with § 16 by the county where the mentally sick person stayed when the question of mental health care arose.

#### § 18.

The Governor of the county in which the mentally sick person's municipality of domicile lies, or, in cases where such a municipality of domicile is not established, the Governor of the county in which the question of mental health care first arose, may, if any other course would be clearly unreasonable, require that the expenses paid by the municipality are to be wholly or partially refunded by the estate left at the death of the mentally sick person, when no more than 10 years have passed since the expenses were paid. Insofar as the claim for reimbursement is made, it shall be met by the estate of the deceased on an equal basis with unsecured claims. If the surviving spouse has taken over the estate in accordance with the rules concerning undivided estate or a will, reimbursement may be claimed from the deceased's share of the estate. If the estate is subject to private division, the heirs shall each and separately be liable for the claim in proportion to the share of the inheritance each has received.

Provided there has been a public notice for creditors, the claim must be lodged within the limit of the time given in the public notice, otherwise the claim no longer apply.

The county governor's decision may be reversed by the Ministry.<sup>1)</sup>

#### § 19.

The senior medical officer may decide that the patient himself shall wholly or partly pay the cost of after-care if this is considered reasonable, his economic circumstances taken into consideration.

The senior medical officer's decision may be brought before the Control Commission by the patient or his next-of-kin within three weeks of the decision being announced to them.

#### § 20.

The Government shall meet the expenses of

- a) all fees to the members of the Control Commission and necessary office expenses for the Commission,
- b) remuneration to witnesses and appointed experts as well as payments for announcements and summonses to attend.

The Ministry stipulates the fees under a) and makes the decisions regarding the necessary office arrangements for the Commissions.

### CHAPTER VI.

#### Miscellaneous provisions.

#### § 21.

Under this Act the patient's next-of-kin means spouse, children who have come of age, parents or the person having parental authority, brothers and sisters who have come of age, grandparents or guardian, on the condition that the person in question has been in continuous contact with the patient.

If several groups are so related to the patient as stated in the first section of this paragraph, the sequence therein listed should be followed unless particular reasons apply otherwise. The King may by administrative provisions stipulate who shall be regarded as the patient's next-of-kin in relation to the individual provisions in this Act, thus what action is to be taken if there is disagreement between people within the same relationship-group.

The King shall lay down detailed provisions as to the interpretation of the term "public authority" in this Act and the duties attached to such authority.

<sup>1)</sup> The decision is delegated to the Directorate of Health.

## § 22.

The provisions in this Act which apply to the counties are correspondingly applicable to the county borough of Oslo.

## § 23.

(Annuled from 1 January 1985.)

## § 24.

The King shall lay down specific rules for the implementation of this Act.

## § 25.

This Act shall enter into force from such time as the King decides.<sup>1)</sup>

<sup>1)</sup> 1 July 1961.