

LEGISLATIVE ORDER amending, adding and abrogating various provisions of the General Health Act on Mental Health and Addictions.

[On the margin, seal bearing the National Emblem and reading: United Mexican States - Presidency.]

I, **ANDRÉS MANUEL LÓPEZ OBRADOR**, President of the United Mexican States, hereby notify its inhabitants:

That the Honorable Congress of the Union has referred to me the following

LEGISLATIVE ORDER

"THE GENERAL CONGRESS OF THE UNITED MEXICAN STATES HEREBY ORDERS:

THE AMENDMENT, ADDITION AND ABROGATION OF VARIOUS PROVISIONS OF THE GENERAL HEALTH ACT ON MENTAL HEALTH AND ADDICTIONS.

Section 1. The following provisions of the General Health Act are hereby amended: sections 72; 73, current first paragraph and items I, II, III, IV, V, VII, VIII and current IX; 74; current 74 Bis, 75; 76, first paragraph; and 77. The following provisions are hereby added to the General Health Act: third, fourth, fifth, sixth, seventh, eighth, ninth and tenth paragraph to section 51 Bis 2; section 72 Bis; section 72 Ter; a first paragraph, displacing the current one, and items IX, X and XI, displacing the current IX in the order, to section 73; 73 Bis; 73 Ter; 74 Ter; 75 Bis and 75 Ter. The following provisions of the General Health Act are hereby abrogated: item V Bis of section 73; Chapter I of Title 11, and section 184 Bis. In view of the foregoing, the relevant provisions of said Act shall be as follows:

Section 51 Bis 2. ...

...

Informed consent, which is an essential part of the right to health, from the point of view of both individual freedom and the safeguards for the enjoyment of the highest attainable standard of health.

Informed consent is a person's express agreement, in writing, to receiving a medical diagnosis or treatment.

All public and private health care providers shall be required to provide accurate and complete information to the person, in an accessible, timely and comprehensible manner, including information on the purpose, benefits and expected risks of and alternatives to a given treatment in order to ensure that services are provided on the basis of voluntary and informed consent.

Upon ensuring that the information is understood through the necessary means and support measures, health care service users shall have the right to accept or reject those services.

In situations where a person cannot give their consent to treatment at a given time through any means, there is no document stating their intention in advance, and their condition is such that, if treatment is not immediately given, their life is exposed to imminent risk or their physical integrity is exposed to irreversible damage, the health care provider shall act immediately to preserve the life and health of the user. The provider shall then include this in the medical record and submit a report to the Ethics Committee and the competent judicial authority stating the relevant reasons.

In the case of children and adolescents, health care providers shall be required to implement reasonable age-appropriate accommodations and support measures so that their intention and preferences shall be taken into account in determining the type of procedures to be followed in order to guarantee their recovery and well-being.

Reasonable accommodations shall include necessary and appropriate modifications and adaptations that do not impose a disproportionate or undue burden, where required in a given situation, in order to guarantee that people with disabilities may enjoy or exercise, on equal terms, all human rights and fundamental freedoms.

A person shall not be regarded as unable to give their consent if they are deemed to be mistaken or oblivious to their actions.

Section 72. Mental health and addiction prevention services shall be given priority in health policies and shall be provided pursuant to the Mexican Constitution and international treaties on human rights. The State shall guarantee universal, equal and equitable access to health care and addiction-related services for persons within the national territory.

All persons have the right to enjoy the highest attainable standard of mental health, without discrimination based on ethnic or national origin, skin color, culture, sex, gender, age, disability, social status, financial position, health condition, legal status, religion, physical appearance, genetic features, migratory status, pregnancy, language, views, sexual preferences, identity and gender expression, political affiliation, marital status, dialect, criminal record or any other sort of discrimination affecting human dignity and aimed at nullifying or impairing the rights and freedoms of persons.

For the purpose of this Law, mental health means a physical, mental, emotional and social status determined by the person's interaction with society and related to the full exercise of human rights; whereas addiction shall mean a physical and psycho-emotional condition that generates dependency or need for a substance, activity or relationship.

Section 72 Bis. The ultimate purpose of health care services is the recovery and wellbeing of persons, as well as the full realization of their individual potential for coexistence, work and recreation.

Recovery varies from one person to another, in accordance with individual preferences, and it implies a person's empowerment so that they may lead an autonomous life, by overcoming or dealing with the trauma.

Health care shall be provided with a community- and recovery-based approach, with utmost respect for the human rights of the user of such service, in accordance with the principles of interculturality, interdisciplinarity, integrality, intersectorality, gender perspective and social participation.

Section 72 Ter. Health care and behavioral addictions include all actions referred to in section 33 of this Law.

Section 73. Health care and addiction services and programs shall give priority to community-based, integral, interdisciplinary, intercultural and intersectoral care, with a gender perspective and social participation, from primary care to general hospitals.

The Secretariat for Health, health care institutions and the governments of the federal entities, in coordination with the competent authorities, shall promote and support:

I. Continuous educational, sociocultural and recreative activities contributing to mental health and addiction prevention, preferably for vulnerable groups;

II. Dissemination of guidance for the promotion of mental health, as well as awareness and prevention of mental disorders and disorders due to the use of psychoactive substances, as well as addictions;

III. Implementation of programs for preventing and controlling the use of psychoactive substances and addictions;

IV. Actions and campaigns for promoting the rights of the population, as regards mental health and addictions, as well as for raising awareness in order to reduce stigmas and discrimination, with a view to favoring timely access to health care;

V. Strategic implementation of health care and addiction services at facilities that are part of the comprehensive health care service network of the National Health System, to bridge the care gap;

V Bis. Derogated.

VI. ...

VII. Participation by external human rights observers, implementation of an oversight mechanism, and implementation of programs to promote, protect and guarantee human rights at any health care facility;

VIII. Detection of population groups at risk of having mental disorders or disorders caused by the use of psychoactive substances and addictions, preferably children, adolescents and members of vulnerable groups;

IX. Creation of immediate response teams for crisis situations, trained in techniques to mitigate the escalation of crises;

X. Mental health training and education for health care personnel within the National Health System;

XI. Development of actions and programs to detect, address and prevent suicide, and

XII. Other actions directly or indirectly contributing to the prevention, treatment, recovery and promotion of mental health among the population.

Section 73 Bis. Public institutions of the National Health System shall provide access to mental health care services, services relating to the use of psychoactive substances, and addiction-related services in compliance with the following principles:

I. Proximity to the place of residence of people using mental health care services and people who use psychoactive substances or have addictions;

II. Respect for the dignity and human rights of people, with an approach that takes into account gender, equity, intersectionality and interculturality, emphasizing the prevention, early detection and promotion of mental health, including actions aimed at preventing disorders caused by the use of psychoactive substances and addictions;

III. Promotion and development of measures to sensitize about mental health, eradicate stigmas and stereotypes, and to create greater awareness among society and health care personnel, in order to reduce all types of discrimination against people using mental health care services and persons who use psychoactive substances or have addictions;

IV. Reduction of the damage caused by various risk factors affecting people using mental health care services and the people who use psychoactive substances or have addictions;

V. Priority care for vulnerable people, such as children, adolescents, women, older adults, persons with disabilities, indigenous persons, Afro-Mexican persons, people experiencing homelessness and poverty, migrants, victims of violence and persons discriminated on the grounds of sexual orientation or gender identity;

VI. Primary health care as the pillar for community-based mental health care and addiction treatment services, within the framework of the health care model;

VII. Continuous and interdisciplinary comprehensive care and access as required by people using mental health care services and persons who use psychoactive substances or have addictions, and

VIII. Participation by relatives and mutual help organizations to provide care.

Section 73 Ter. In order to fight stereotypes or other broadly disseminated, oversimplified and often mistaken ideas or images regarding the people requiring mental health and addiction treatment services, mental health authorities and service providers shall:

- I. Implement training programs for health care professionals, teachers and educational authorities;
- II. Launch social communication campaigns with clear language, accessible formats and linguistic appropriateness through various media, including both conventional media and other information technologies, aimed at the broader population, for the purpose of conveying a respectful image of the dignity and human rights of people requiring mental health and addiction treatment services, while protecting confidentiality and the right not to be identified as a person with psychosocial disabilities;
- III. Develop educational programs on mental health with a focus on human right and a gender perspective for families, schools and work centers, and
- IV. Disseminate programs through the mass media, using clear language, accessible formats and linguistic appropriateness.

Section 74. With a view to guaranteeing access to and the continuity of mental health care and addiction treatment services, primary out-patient care facilities shall be available and psychiatric services shall be provided in general hospitals, advanced regional hospitals and national health care facilities.

Furthermore, for the purpose of eradicating the asylum model, no hospitals shall be built specializing only in psychiatry, and current psychiatric hospitals shall gradually be converted into out-patient centers or general hospitals within the integrated health care service network.

Section 74 Bis. The Secretariat for Health, applying a human rights approach, shall state the priority measures to be adopted in relation to mental health and addiction to guarantee access to prevention and care services in this field.

Section 74 Ter. Users of mental health care services shall have the following rights:

- I. Right to the best mental health care possible, with an intercultural and gender perspective and ensuring linguistic appropriateness, which includes non-discriminatory treatment and respect for the dignity of persons, at facilities within the National Health System network;
- II. Right to supported decision making and advance directives regarding informed consent;
- III. Right to informed consent of the patient in relation to the treatment to be given;
- IV. Right not to be subjected to isolation measures, coerced restraint or any other practice amounting to cruel, inhuman or degrading treatment or, where applicable, any other measure aimed at mitigating crisis escalation;
- V. Right to a comprehensive and interdisciplinary diagnosis and to treatment based on an individually prescribed plan recorded in the relevant medical records, reviewed regularly and revised as necessary in accordance with the patient's evolution, guaranteeing respect for the dignity of the human person and their human rights;
- VI. Right not to be subjected to irreversible or any other treatment that affects the integrity of the person;
- VII. Right to be treated or cared for in their community or as near as possible to the place where their relatives or friends reside;
- VIII. Right to confidentiality of any information concerning their health;
- IX. Right to have access to mental health care and addiction treatment services; and
- X. Any other right set forth under the national legislation and any binding international treaties and conventions to which Mexico is a party.

Section 75. Admittance to hospitals of mental health care service users or any person using psychoactive substances or having an addiction shall only be used as a last therapeutic resource and in accordance with ethical and social principles and respecting the human rights and dignity of the person, as well as in compliance with any other requirement to be set by the Secretariat for Health or any other applicable legal provision.

Admittance to hospitals shall always be voluntary and may only be used where the therapeutic benefits for the patient exceed those of any other possible practice; it shall be implemented for as long as is strictly necessary and at the General Hospital or the pediatrics facility that is closest to the user's place of residence.

Admittance to hospitals may not be prescribed or extended for the purpose of resolving the patient's family, social, labor, housing or health care issues.

In the case of children or adolescents, priority shall be given to community alternatives and, should there be a clinical justification for admittance to a hospital, it shall be implemented in general or pediatric hospitals. The opinion of such children or adolescents shall be sought and included in the medical records. In case of disagreement with the decision to admit it gets with the child, the facility, together with the mother, father or guardian, shall consider other care alternatives.

Section 75 Bis. Treatment for or admittance to a hospital for mental health care, service users or persons who use psychoactive substances or have addictions shall be prescribed upon obtaining their informed consent.

Public and private mental health care providers shall be required to provide accurate and complete information to the person, in an accessible, timely and comprehensible manner, including information on the goals, benefits and

potential risks of and alternatives to a given treatment in order to ensure that services are provided on the basis of voluntary and informed consent. Upon ensuring that the information is understood through the necessary means and support measures, mental health care service users shall have the right to accept or reject those services.

Persons with a mental disorder or any other disorder due to the use of psychoactive substances or an addiction shall have the right to give or withhold consent to any treatment or hospital admittance. Therefore, all patients shall be assumed to have the capacity to make decisions and every effort shall be made to allow persons to voluntarily accept treatment or hospital admittance.

Section 75 Ter. Foreseeing the need for future health care services, a person shall be entitled to provide advance directives stating the type of measures they wish to be adopted in relation to their treatment, or their refusal to be treated. Those directives shall specify, as the case may be, the form, scope and duration of and guidelines for support, as well as the time or circumstances in which future support choices shall become effective. A person may revoke at any time the content of an advance directive previously adopted.

Section 76. The Secretariat for Health shall establish the official Mexican regulations for facilities providing care to mental health care service users and persons who use psychoactive substances or have addictions within the National Health System network in pursuance of the principles set out in this Act.

...

Section 77. National Health System facilities shall develop care programs for relatives and the social circle of persons having psycho-emotional problems or mental health conditions, without them affecting the will or preferences of the latter. Those programs may involve service referrals, brief psychotherapies, and promotion of support groups, among others.

TITLE ELEVEN

Addiction Treatment Programs

Abrogated

Section 184 Bis. Derogated.

Transitory Provisions

1. This Order shall become effective on the day following its publication in the Official Gazette of the Federation.
2. For the implementation and enforcement of the provisions set forth in this Order, such provisions shall be gradually applied to the three health care levels, having regard to the available resources.
3. The Federal Executive shall have a maximum term of 180 calendar days from the effective date of this Order to issue the regulatory provisions required for this Order to be applied to the administrative sphere, as well as to amend any existing provision for the sake of consistency, including the official Mexican provisions on this matter.
4. Any expense incurred in relation to the entry into force of this Order shall be charged against the approved budget of the relevant spending area and, should there be any modification in its organizational structure, accounts shall be offset in accordance with the applicable legal provisions. No budget increases shall be authorized for the current or subsequent fiscal years, or as a consequence of the entry into force of this Order.

City of Mexico. March 31, 2022.- Sen. **Olga Sánchez Cordero Dávila**, Speaker.- Representative. **Sergio Carlos Gutiérrez Luna**, President.- Senator. **Verónica Noemí Camino Farjat**, Secretary.- Representative. **Karen Michel González Márquez**, Secretary.- Signatures".

In compliance with the provisions of Article 89(I) of the Political Constitution of the United Mexican States and for its due publication and enforcement, I hereby issue this Order at the Residence of the Federal Executive, in the City of Mexico, on this 10th day of May 2022.- **Andrés Manuel López Obrador**.- Signature.- Secretary of the Interior, Mr. **Adán Augusto López Hernández**.- Signature.