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| A/RES/46/119  75th plenary meeting  17 December 1991      46/119. The protection of persosn with mental illness and  the improvement of mental health care    The General Assembly,    Mindful of the provisions of the Universal Declaration of Human  Rights, the International Covenant on Civil and Political Rights, the  International Covenant on Economic, Social and Cultural Rights and other  relevant instruments, such as the Declaration on the Rights of Disabled  Persons and the Body of Principles for the Protection of All Persons under  Any Form of Detention or Imprisonment,    Recalling its resolution 33/53 of 14 December 1978, in which it  requested the Commission on Human Rights to urge the Subcommission on  Prevention of Discrimination and Protection of Minorities to undertake, as a  matter of priority, a study of the question of the protection of those  detained on the grounds of mental ill-health, with a view to formulating  guidelines,    Recalling also its resolution 45/92 of 14 December 1990, in which it  welcomed the progress made by the working group of the Commission on Human  Rights in elaborating a draft body of principles for the protection of persons  with mental illness and for the improvement of mental health care on the basis  of a draft submitted to the Commission by the Subcommission on Prevention of  Discrimination and Protection of Minorities,    Taking note of Commission on Human Rights resolution 1991/46 of 5 March  1991, in which the Commission endorsed the draft body of principles that  had been submitted to it by the working group and decided to transmit it, as  well as the report of the working group, to the General Assembly, through the  Economic and Social Council,    Taking note also of Economic and Social Council resolution 1991/29 of 31  May 1991, in which the Council decided to submit the draft body of  principles and the report of the working group to the General Assembly,    Taking note further of the recommendations of the Commission on Human  Rights in its resolution 1991/46 and of the Economic and Social Council in its  resolution 1991/29 that, on the adoption by the General Assembly of the draft  body of principles, the full text thereof should be given the widest possible  dissemination and that the introduction to the body of principles should at  the same time be published as an accompanying document for the benefit of  Governments and the public at large,    Taking note of the note by the Secretary-General, the annex to which  contains the draft body of principles and the introduction to the body of  principles,    1. Adopts the Principles for the Protection of Persons with Mental  Illness and for the Improvement of Mental Health Care, the text of which is  contained in the annex to the present resolution;    2. Requests the Secretary-General to include the text of the  Principles, together with the introduction, in the next edition of the  publication entitled "Human Rights: A Compilation of International  Instruments";    3. Requests the Secretary-General to give the Principles the widest  possible dissemination and to ensure that the introduction is published at the  same time as an accompanying document for the benefit of Governments and the  public at large.    ANNEX  Principles for the Protection of Persons with Mental Illness  and for the Improvement of Mental Health Care    Application  The present Principles shall be applied without discrimination on any  grounds, such as disability, race, colour, sex, language, religion, political  or other opinion, national, ethnic or social origin, legal or social status,  age, property or birth.  Definitions  In the present Principles:    (a) "Counsel" means a legal or other qualified representative;    (b) "Independent authority" means a competent and independent  authority prescribed by domestic law;    (c) "Mental health care" includes analysis and diagnosis of a person's  mental condition, and treatment, care and rehabilitation for a mental  illness or suspected mental illness;    (d) "Mental health facility" means any establishment, or any unit of  an establishment, which as its primary function provides mental health  care;    (e) "Mental health practitioner" means a medical doctor, clinical  psychologist, nurse, social worker or other appropriately trained and  qualified person with specific skills relevant to mental health care;    (f) "Patient" means a person receiving mental health care and includes  all persons who are admitted to a mental health facility;    (g) "Personal representative" means a person charged by law with the  duty of representing a patient's interests in any specified respect or  of exercising specified rights on the patient's behalf, and includes the  parent or legal guardian of a minor unless otherwise provided by  domestic law;    (h) "The review body" means the body established in accordance with  principle 17 to review the involuntary admission or retention of a  patient in a mental health facility.    General limitation clause    The exercise of the rights set forth in the present Principles may be  subject only to such limitations as are prescribed by law and are necessary to  protect the health or safety of the person concerned or of others, or  otherwise to protect public safety, order, health or morals or the fundamental  rights and freedoms of others.    Principle 1  Fundamental freedoms and basic rights    1. All persons have the right to the best available mental health care,  which shall be part of the health and social care system.    2. All persons with a mental illness, or who are being treated as such  persons, shall be treated with humanity and respect for the inherent dignity  of the human person.    3. All persons with a mental illness, or who are being treated as such  persons, have the right to protection from economic, sexual and other forms of  exploitation, physical or other abuse and degrading treatment.    4. There shall be no discrimination on the grounds of mental illness.  "Discrimination" means any distinction, exclusion or preference that has the  effect of nullifying or impairing equal enjoyment of rights. Special measures  solely to protect the rights, or secure the advancement, of persons with  mental illness shall not be deemed to be discriminatory. Discrimination does  not include any distinction, exclusion or preference undertaken in accordance  with the provisions of the present Principles and necessary to protect the  human rights of a person with a mental illness or of other individuals.    5. Every person with a mental illness shall have the right to exercise all  civil, political, economic, social and cultural rights as recognized in the  Universal Declaration of Human Rights, the International Covenant on  Economic, Social and Cultural Rights, the International Covenant on Civil  and Political Rights and in other relevant instruments, such as the  Declaration on the Rights of Disabled Persons and the Body of Principles  for the Protection of All Persons under Any Form of Detention or  Imprisonment.    6. Any decision that, by reason of his or her mental illness, a person  lacks legal capacity, and any decision that, in consequence of such  incapacity, a personal representative shall be appointed, shall be made only  after a fair hearing by an independent and impartial tribunal established by  domestic law. The person whose capacity is at issue shall be entitled to be  represented by a counsel. If the person whose capacity is at issue does not  himself or herself secure such representation, it shall be made available  without payment by that person to the extent that he or she does not have  sufficient means to pay for it. The counsel shall not in the same proceedings  represent a mental health facility or its personnel and shall not also  represent a member of the family of the person whose capacity is at issue  unless the tribunal is satisfied that there is no conflict of interest.  Decisions regarding capacity and the need for a personal representative shall  be reviewed at reasonable intervals prescribed by domestic law. The person  whose capacity is at issue, his or her personal representative, if any, and  any other interested person shall have the right to appeal to a higher court  against any such decision.    7. Where a court or other competent tribunal finds that a person with  mental illness is unable to manage his or her own affairs, measures shall be  taken, so far as is necessary and appropriate to that person's condition, to  ensure the protection of his or her interests.    Principle 2  Protection of minors    Special care should be given within the purposes of the Principles and  within the context of domestic law relating to the protection of minors to  protect the rights of minors, including, if necessary, the appointment of a  personal representative other than a family member.    Principle 3  Life in the community    Every person with a mental illness shall have the right to live and  work, to the extent possible, in the community.    Principle 4  Determination of mental illness    1. A determination that a person has a mental illness shall be made in  accordance with internationally accepted medical standards.    2. A determination of mental illness shall never be made on the basis of  political, economic or social status, or membership in a cultural, racial or  religious group, or for any other reason not directly relevant to mental  health status.    3. Family or professional conflict, or non-conformity with moral, social,  cultural or political values or religious beliefs prevailing in a person's  community, shall never be a determining factor in the diagnosis of mental  illness.    4. A background of past treatment or hospitalization as a patient shall not  of itself justify any present or future determination of mental illness.    5. No person or authority shall classify a person as having, or otherwise  indicate that a person has, a mental illness except for purposes directly  relating to mental illness or the consequences of mental illness.    Principle 5  Medical examination    No person shall be compelled to undergo medical examination with a view  to determining whether or not he or she has a mental illness except in  accordance with a procedure authorized by domestic law.    Principle 6  Confidentiality    The right of confidentiality of information concerning all persons to  whom the present Principles apply shall be respected.  /...  Principle 7  Role of community and culture    1. Every patient shall have the right to be treated and cared for, as far  as possible, in the community in which he or she lives.    2. Where treatment takes place in a mental health facility, a patient shall  have the right, whenever possible, to be treated near his or her home or the  home of his or her relatives or friends and shall have the right to return to  the community as soon as possible.    3. Every patient shall have the right to treatment suited to his or her  cultural background.  Principle 8  Standards of care    1. Every patient shall have the right to receive such health and social  care as is appropriate to his or her health needs, and is entitled to care and  treatment in accordance with the same standards as other ill persons.    2. Every patient shall be protected from harm, including unjustified  medication, abuse by other patients, staff or others or other acts causing  mental distress or physical discomfort.    Principle 9  Treatment    1. Every patient shall have the right to be treated in the least  restrictive environment and with the least restrictive or intrusive treatment  appropriate to the patient's health needs and the need to protect the physical  safety of others.    2. The treatment and care of every patient shall be based on an  individually prescribed plan, discussed with the patient, reviewed regularly,  revised as necessary and provided by qualified professional staff.    3. Mental health care shall always be provided in accordance with  applicable standards of ethics for mental health practitioners, including  internationally accepted standards such as the Principles of Medical Ethics  relevant to the role of health personnel, particularly physicians, in the  protection of prisoners and detainees against torture and other cruel, inhuman  or degrading treatment or punishment, adopted by the United Nations General  Assembly. Mental health knowledge and skills shall never be abused.    4. The treatment of every patient shall be directed towards preserving and  enhancing personal autonomy.  Principle 10  Medication    1. Medication shall meet the best health needs of the patient, shall be  given to a patient only for therapeutic or diagnostic purposes and shall never  be administered as a punishment or for the convenience of others. Subject to  the provisions of paragraph 15 of principle 11 below, mental health  practitioners shall only administer medication of known or demonstrated  efficacy.    2. All medication shall be prescribed by a mental health practitioner  authorized by law and shall be recorded in the patient's records.    Principle 11  Consent to treatment    1. No treatment shall be given to a patient without his or her informed  consent, except as provided for in paragraphs 6, 7, 8, 13 and 15 of the  present principle.    2. Informed consent is consent obtained freely, without threats or improper  inducements, after appropriate disclosure to the patient of adequate and  understandable information in a form and language understood by the patient  on:  (a) The diagnostic assessment;    (b) The purpose, method, likely duration and expected benefit of the  proposed treatment;    (c) Alternative modes of treatment, including those less intrusive;    (d) Possible pain or discomfort, risks and side-effects of the  proposed treatment.    3. A patient may request the presence of a person or persons of the  patient's choosing during the procedure for granting consent.    4. A patient has the right to refuse or stop treatment, except as provided  for in paragraphs 6, 7, 8, 13 and 15 of the present principle. The  consequences of refusing or stopping treatment must be explained to the  patient.    5. A patient shall never be invited or induced to waive the right to  informed consent. If the patient should seek to do so, it shall be explained  to the patient that the treatment cannot be given without informed consent.    6. Except as provided in paragraphs 7, 8, 12, 13, 14 and 15 of the present  principle, a proposed plan of treatment may be given to a patient without a    patient's informed consent if the following conditions are satisfied:    (a) The patient is, at the relevant time, held as an involuntary  patient;  /...  (b) An independent authority, having in its possession all relevant  information, including the information specified in paragraph 2 of the  present principle, is satisfied that, at the relevant time, the patient lacks  the capacity to give or withhold informed consent to the proposed plan of  treatment or, if domestic legislation so provides, that, having regard to the  patient's own safety or the safety of others, the patient unreasonably  withholds such consent;    (c) The independent authority is satisfied that the proposed plan of  treatment is in the best interest of the patient's health needs.    7. Paragraph 6 above does not apply to a patient with a personal  representative empowered by law to consent to treatment for the patient; but,  except as provided in paragraphs 12, 13, 14 and 15 of the present principle,  treatment may be given to such a patient without his or her informed consent  if the personal representative, having been given the information described in  paragraph 2 of the present principle, consents on the patient's behalf.    8. Except as provided in paragraphs 12, 13, 14 and 15 of the present  principle, treatment may also be given to any patient without the patient's  informed consent if a qualified mental health practitioner authorized by law  determines that it is urgently necessary in order to prevent immediate or  imminent harm to the patient or to other persons. Such treatment shall not be  prolonged beyond the period that is strictly necessary for this purpose.    9. Where any treatment is authorized without the patient's informed  consent, every effort shall nevertheless be made to inform the patient about  the nature of the treatment and any possible alternatives and to involve the  patient as far as practicable in the development of the treatment plan.    10. All treatment shall be immediately recorded in the patient's medical  records, with an indication of whether involuntary or voluntary.    11. Physical restraint or involuntary seclusion of a patient shall not be  employed except in accordance with the officially approved procedures of the  mental health facility and only when it is the only means available to prevent  immediate or imminent harm to the patient or others. It shall not be prolonged  beyond the period which is strictly necessary for this purpose. All instances  of physical restraint or involuntary seclusion, the reasons for them and their  nature and extent shall be recorded in the patient's medical record. A patient  who is restrained or secluded shall be kept under humane conditions and be  under the care and close and regular supervision of qualified members of the  staff. A personal representative, if any and if relevant, shall be given  prompt notice of any physical restraint or involuntary seclusion of the  patient.    12. Sterilization shall never be carried out as a treatment for mental  illness.    13. A major medical or surgical procedure may be carried out on a person  with mental illness only where it is permitted by domestic law, where it is  considered that it would best serve the health needs of the patient and where  the patient gives informed consent, except that, where the patient is unable  to give informed consent, the procedure shall be authorized only after  independent review.  /...  14. Psychosurgery and other intrusive and irreversible treatments for mental  illness shall never be carried out on a patient who is an involuntary patient  in a mental health facility and, to the extent that domestic law permits them  to be carried out, they may be carried out on any other patient only where the  patient has given informed consent and an independent external body has  satisfied itself that there is genuine informed consent and that the treatment  best serves the health needs of the patient.    15. Clinical trials and experimental treatment shall never be carried out on  any patient without informed consent, except that a patient who is unable to  give informed consent may be admitted to a clinical trial or given  experimental treatment, but only with the approval of a competent,  independent review body specifically constituted for this purpose.    16. In the cases specified in paragraphs 6, 7, 8, 13, 14 and 15 of the  present principle, the patient or his or her personal representative, or any  interested person, shall have the right to appeal to a judicial or other  independent authority concerning any treatment given to him or her.    Principle 12  Notice of rights    1. A patient in a mental health facility shall be informed as soon as  possible after admission, in a form and a language which the patient  understands, of all his or her rights in accordance with the present  Principles and under domestic law, and the information shall include an  explanation of those rights and how to exercise them.    2. If and for so long as a patient is unable to understand such  information, the rights of the patient shall be communicated to the personal  representative, if any and if appropriate, and to the person or persons best  able to represent the patient's interests and willing to do so.    3. A patient who has the necessary capacity has the right to nominate a  person who should be informed on his or her behalf, as well as a person to  represent his or her interests to the authorities of the facility.    Principle 13  Rights and conditions in mental health facilities    1. Every patient in a mental health facility shall, in particular, have the  right to full respect for his or her:    (a) Recognition everywhere as a person before the law;    (b) Privacy;    (c) Freedom of communication, which includes freedom to communicate  with other persons in the facility; freedom to send and receive uncensored  private communications; freedom to receive, in private, visits from a counsel  or personal representative and, at all reasonable times, from other visitors;  and freedom of access to postal and telephone services and to newspapers,  radio and television;  /...  (d) Freedom of religion or belief.    2. The environment and living conditions in mental health facilities shall  be as close as possible to those of the normal life of persons of similar age  and in particular shall include:    (a) Facilities for recreational and leisure activities;    (b) Facilities for education;    (c) Facilities to purchase or receive items for daily living,  recreation and communication;    (d) Facilities, and encouragement to use such facilities, for a  patient's engagement in active occupation suited to his or her social and  cultural background, and for appropriate vocational rehabilitation measures to  promote reintegration in the community. These measures should include  vocational guidance, vocational training and placement services to enable  patients to secure or retain employment in the community.    3. In no circumstances shall a patient be subject to forced labour. Within  the limits compatible with the needs of the patient and with the requirements  of institutional administration, a patient shall be able to choose the type of  work he or she wishes to perform.    4. The labour of a patient in a mental health facility shall not be  exploited. Every such patient shall have the right to receive the same  remuneration for any work which he or she does as would, according to domestic  law or custom, be paid for such work to a non-patient. Every such patient  shall, in any event, have the right to receive a fair share of any  remuneration which is paid to the mental health facility for his or her work.    Principle 14  Resources for mental health facilities    1. A mental health facility shall have access to the same level of  resources as any other health establishment, and in particular:    (a) Qualified medical and other appropriate professional staff in  sufficient numbers and with adequate space to provide each patient with  privacy and a programme of appropriate and active therapy;    (b) Diagnostic and therapeutic equipment for the patient;    (c) Appropriate professional care;    (d) Adequate, regular and comprehensive treatment, including supplies  of medication.    2. Every mental health facility shall be inspected by the competent  authorities with sufficient frequency to ensure that the conditions, treatment  and care of patients comply with the present Principles.  /...  Principle 15  Admission principles    1. Where a person needs treatment in a mental health facility, every effort  shall be made to avoid involuntary admission.    2. Access to a mental health facility shall be administered in the same way  as access to any other facility for any other illness.    3. Every patient not admitted involuntarily shall have the right to leave  the mental health facility at any time unless the criteria for his or her  retention as an involuntary patient, as set forth in principle 16 below,  apply, and he or she shall be informed of that right.    Principle 16  Involuntary admission    1. A person may be admitted involuntarily to a mental health facility as a  patient or,) having already been admitted voluntarily as a patient, be  retained as an involuntary patient in the mental health facility if, and only  if, a qualified mental health practitioner authorized by law for that purpose  determines, in accordance with principle 4 above, that that person has a  mental illness and considers:    (a) That, because of that mental illness, there is a serious  likelihood of immediate or imminent harm to that person or to other  persons; or    (b) That, in the case of a person whose mental illness is severe and  whose judgement is impaired, failure to admit or retain that person is likely  to lead to a serious deterioration in his or her condition or will prevent the  giving of appropriate treatment that can only be given by admission to a  mental health facility in accordance with the principle of the least  restrictive alternative.    In the case referred to in subparagraph (b), a second such mental health  practitioner, independent of the first, should be consulted where possible. If  such consultation takes place, the involuntary admission or retention may not  take place unless the second mental health practitioner concurs.    2. Involuntary admission or retention shall initially be for a short period  as specified by domestic law for observation and preliminary treatment pending  review of the admission or retention by the review body. The grounds of the  admission shall be communicated to the patient without delay and the fact of  the admission and the grounds for it shall also be communicated promptly and  in detail to the review body, to the patient's personal representative, if  any, and, unless the patient objects, to the patient's family.    3. A mental health facility may receive involuntarily admitted patients  only if the facility has been designated to do so by a competent authority  prescribed by domestic law.  Principle 17  Review body    1. The review body shall be a judicial or other independent and impartial  body established by domestic law and functioning in accordance with procedures  laid down by domestic law. It shall, in formulating its decisions, have the  assistance of one or more qualified and independent mental health  practitioners and take their advice into account.    2. The initial review of the review body, as required by paragraph 2 of  principle 16 above, of a decision to admit or retain a person as an  involuntary patient shall take place as soon as possible after that decision  and shall be conducted in accordance with simple and expeditious procedures as  specified by domestic law.    3. The review body shall periodically review the cases of involuntary  patients at reasonable intervals as specified by domestic law.    4. An involuntary patient may apply to the review body for release or  voluntary status, at reasonable intervals as specified by domestic law.    5. At each review, the review body shall consider whether the criteria for  involuntary admission set out in paragraph 1 of principle 16 above are still  satisfied, and, if not, the patient shall be discharged as an involuntary  patient.    6. If at any time the mental health practitioner responsible for the case  is satisfied that the conditions for the retention of a person as an  involuntary patient are no longer satisfied, he or she shall order the  discharge of that person as such a patient.    7. A patient or his personal representative or any interested person shall  have the right to appeal to a higher court against a decision that the patient  be admitted to, or be retained in, a mental health facility.    Principle 18  Procedural safeguards    1. The patient shall be entitled to choose and appoint a counsel to  represent the patient as such, including representation in any complaint  procedure or appeal. If the patient does not secure such services, a counsel  shall be made available without payment by the patient to the extent that the  patient lacks sufficient means to pay.    2. The patient shall also be entitled to the assistance, if necessary, of  the services of an interpreter. Where such services are necessary and the  patient does not secure them, they shall be made available without payment by  the patient to the extent that the patient lacks sufficient means to pay.    3. The patient and the patient's counsel may request and produce at any  hearing an independent mental health report and any other reports and oral,  written and other evidence that are relevant and admissible.  /...  4. Copies of the patient's records and any reports and documents to be  submitted shall be given to the patient and to the patient's counsel, except  in special cases where it is determined that a specific disclosure to the  patient would cause serious harm to the patient's health or put at risk the  safety of others. As domestic law may provide, any document not given to the  patient should, when this can be done in confidence, be given to the patient's  personal representative and counsel. When any part of a document is withheld  from a patient, the patient or the patient's counsel, if any, shall receive  notice of the withholding and the reasons for it and it shall be subject to  judicial review.    5. The patient and the patient's personal representative and counsel shall  be entitled to attend, participate and be heard personally in any hearing.    6. If the patient or the patient's personal representative or counsel  requests that a particular person be present at a hearing, that person shall  be admitted unless it is determined that the person's presence could cause  serious harm to the patient's health or put at risk the safety of others.    7. Any decision on whether the hearing or any part of it shall be in public  or in private and may be publicly reported shall give full consideration to  the patient's own wishes, to the need to respect the privacy of the patient  and of other persons and to the need to prevent serious harm to the patient's  health or to avoid putting at risk the safety of others.    8. The decision arising out of the hearing and the reasons for it shall be  expressed in writing. Copies shall be given to the patient and his or her  personal representative and counsel. In deciding whether the decision shall be  published in whole or in part, full consideration shall be given to the  patient's own wishes, to the need to respect his or her privacy and that of  other persons, to the public interest in the open administration of justice  and to the need to prevent serious harm to the patient's health or to avoid  putting at risk the safety of others.    Principle 19  Access to information    1. A patient (which term in the present Principle includes a former  patient) shall be entitled to have access to the information concerning the  patient in his or her health and personal records maintained by a mental  health facility. This right may be subject to restrictions in order to prevent  serious harm to the patient's health and avoid putting at risk the safety of  others. As domestic law may provide, any such information not given to the  patient should, when this can be done in confidence, be given to the patient's  personal representative and counsel. When any of the information is withheld  from a patient, the patient or the patient's counsel, if any, shall receive  notice of the withholding and the reasons for it and it shall be subject to  judicial review.    2. Any written comments by the patient or the patient's personal  representative or counsel shall, on request, be inserted in the patient's  file.  Principle 20  Criminal offenders    1. The present Principle applies to persons serving sentences of  imprisonment for criminal offences, or who are otherwise detained in the  course of criminal proceedings or investigations against them, and who are  determined to have a mental illness or who it is believed may have such an  illness.    2. All such persons should receive the best available mental health care as  provided in principle 1 above. The present Principles shall apply to them to  the fullest extent possible, with only such limited modifications and  exceptions as are necessary in the circumstances. No such modifications and  exceptions shall prejudice the persons' rights under the instruments noted in  paragraph 5 of principle 1 above.    3. Domestic law may authorize a court or other competent authority, acting  on the basis of competent and independent medical advice, to order that such  persons be admitted to a mental health facility.    4. Treatment of persons determined to have a mental illness shall in all  circumstances be consistent with principle 11 above.    Principle 21  Complaints    Every patient and former patient shall have the right to make a  complaint through procedures as specified by domestic law.    Principle 22  Monitoring and remedies    States shall ensure that appropriate mechanisms are in force to promote  compliance with the present Principles, for the inspection of mental health  facilities, for the submission, investigation and resolution of complaints and  for the institution of appropriate disciplinary or judicial proceedings for  professional misconduct or violation of the rights of a patient.    Principle 23  Implementation    1. States should implement the present Principles through appropriate  legislative, judicial, administrative, educational and other measures, which  they shall review periodically.    2. States shall make the present Principles widely known by appropriate and  active means.  Principle 24  Scope of principles relating to mental health facilities    The present Principles apply to all persons who are admitted to a mental  health facility.  Principle 25  Saving of existing rights    There shall be no restriction upon or derogation from any existing  rights of patients, including rights recognized in applicable international or  domestic law, on the pretext that the present Principles do not recognize such  rights or that they recognize them to a lesser extent.  A |