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In reply please
refer to:

Your reference:

Ms Iqra Zainul Abedin
Clerk to Sub-Committee on Mental Health
in the Irish Parliament
Leinster House
Dublin 2
D02 XR20
Irlande

26 April 2022

Dear Ms Zainul Abedin,

Comments on the Mental Health Health Amendment Bill 2021

With reference to your letter dated 6 April 2020, the World Health Organization (WHO) would like to draw your attention to technical guidance concerning the development of mental health related law as part of the Guidance on community mental health services: promoting person-centred and rights-based approaches. launched in June 2021 (see link: <https://www.who.int/publications/i/item/9789240025707>).

As you will note on page 187 of this document, the following recommendations are made:

1. To actively engage persons with mental health conditions and psychosocial disabilities and their organizations in law reform processes in order to ensure that laws and regulations promote and protect their rights and meet their needs and requirements;
2. To introduce capacity-building for key stakeholders including decision makers (members of parliament, senators, local, regional and national legislatures etc.) before the initiation of the law reform;
3. To establish law review processes to identify legislation that needs to be abolished, modified or adopted to align national legislative frameworks, including mental health laws, with the CRPD;
4. To remove all discriminatory provisions in law related to education, employment, social welfare, housing, health, justice, the right to have a family, and to participate in political and public life;
5. To repeal guardianship and other substitute decision-making legislation and replace with laws that recognize legal capacity and promote supported decision-making, including the use of advance plans and best interpretation of will and preference;
6. To establish laws and regulations that promote the rights of people with mental health conditions and psychosocial disabilities to make care and treatment decisions for themselves and, in line with the CRPD, include throughout advance planning documents (that cannot be over-ruled by services during crisis) and supported decision-making options;

7. To ensure that laws require that admission and treatment are always based on the free and informed consent of people using services, including medication, ECT and other irreversible interventions, such as sterilization;
8. To include in health and mental health laws and regulations provisions that provide alternatives to involuntary admission, treatment and other coercive practices including seclusion and restraint
9. To include in laws and regulations provisions that provide for support and accommodations, including supported decision-making, safe spaces of respite and de-escalation strategies, during crisis or emergency situations;
10. To set out procedures in law and regulations for determining people's will and preference or best interpretation of will and preferences if the person is not able to communicate them;
11. To modify civil and criminal legislation to ensure that regulations on the legal liability and the duty of care of service providers and families do not encourage or result in coercive practices;
12. To build in accountability mechanisms to report, retrain, dismiss, or penalize staff who breach human rights;
13. To establish mechanisms and laws to monitor services for people with mental health conditions and psychosocial disabilities, including robust systems to investigate complaints, and ensure meaningful participation of persons with psychosocial disabilities and their organizations in such activities; and
14. To ensure provision of free legal aid services that are available and accessible.

If you require any further information regarding this matter, please do not hesitate to contact us.

Yours sincerely,



Dr Ren Minghui
Assistant Director-General
Universal Health Coverage/Communicable and
Noncommunicable Diseases