Law of Georgia on Psychiatric Care

Georgia as a democratic state, recognizing that mental health as a fundamental component of the human health constitutes an indispensable condition for the well-being of society, and that protection of the rights of people with mental disorders is an obligation of the state, defines by this Law the legal and institutional basis for psychiatric care.

Chapter I
General Provisions

Article 1. Objectives of the Law

Objectives of this Law are the following:

a) Ensure access to and continuity of psychiatric care for people with mental disorders, as well as protection of their rights, freedoms and dignity;

b) Specify the rights and obligations of the personnel working in the field of psychiatry.

Article 2. Sphere of regulation

1. This Law specifies the forms of psychiatric care for people with mental disorders as well as their rights and defines the rules and terms of work for the personnel involved in the field of psychiatry.

2. This Law applies to the citizens of Georgia, stateless persons and the citizens of foreign countries being on the territory of Georgia, who need psychiatric care.

Article 3. Legal basis for psychiatric care

The legal basis of psychiatric care is composed of the Constitution of Georgia, international conventions, to which Georgia is a part, this Law as well as other statutory acts and bylaws.

Article 4. Definitions of the terms used in this Law

The terms used in this Law for the purposes of said Law have the following meaning:

a) Mental disorder – a basic functional disorder or a group of symptoms expressing disorder that results in personal dysfunction and disturbance in the process of adaptation to the environment; mental disorder is diagnosed in accordance with the international medical standards;

b) Patient – a person with mental disorder, who is provided with psychiatric care;

c) Psychiatric care – a complex of measures aiming for examination and treatment of the person with mental disorder, prevention of exacerbation, and support the social adaptation and community reintegration of such person;
d) **Psychiatric institution** – a medical institution or unit of the medical institution having relevant license for providing psychiatric care;

e) **Personnel working in the field of psychiatry** – a doctor, psychologist, nurse, carer, social worker or any other person, who, on the basis of the special training and qualification given in accordance with the rule established by Georgian legislation, has the right to provide psychiatric care;

f) **Decision-making capacity** – an ability of person to evaluate the state of his/her mental health, the purpose of medical intervention and expected outcome of the medical treatment;

g) **Legal representative of the patient** – a parent, if the patient is under 16, a patient’s guardian or carer;

h) **Patient’s relative** – parents, children, spouse, sister and brother, grandparents, grandchildren and/or other relative in ascending or descending line as stipulated by the Civil Code of Georgia; as well as a person permanently living with the patient;

i) **Person under examination** – a person undergoing psychiatric examination for the purpose of assessing his/her mental health state;

j) **Informed consent** – a person’s or his/her legal representative’s consent on receiving psychiatric care, after providing the latter with complete, objective, timely and comprehensible information about his/her disorder and medical intervention;

k) **Commission of psychiatrists** – a commission composed of at least two specialists, which makes decisions in accordance with the rule established by this Law;

l) **Clinical head of psychiatric institution** – a member of administration of psychiatric institution, who leads the process of psychiatric care.

**Chapter II**

**Patient’s Rights and Protection Guarantees**

**Article 5. Patient’s basic rights**

1. Patient shall be guaranteed:

   a) Humane attitude with a full respect of his/her dignity;

   b) An adequate treatment according to the patient’s medical indication, under the least restrictive conditions, at the place nearest to his/her place of residence, and by the methods approved by the Ministry of Health, Labor and Social Affairs of Georgia;

   c) The right to get complete, objective, timely and comprehensible information about his/her disease and proposed medical intervention. In case the patient is incapable or has a diminished decision-making capacity, a legal representative, or, in case of absence of the latter, a relative of the patient shall be informed on the above-said;

   d) The right to familiarize with relevant medical records; scope and form of the information issued to the patient and the third person shall be specified by doctor;

   e) The right to reject treatment, other than in cases stipulated in Articles 16 and 18 of this Law. If the patient is incapable or is under 16, his/her legal representative, or, in case of absence of the latter, a relative of the patient has the right to make an appropriate decision
(Participation of the patient in decision-making is mandatory taking into consideration his/her age and mental state);

f) The right to a lawyer – administration of psychiatric institution is prescribed to arrange a meeting of the patient with lawyer without any third person. Exceptions are made in cases when the patient’s mental health state does not allow to do so;

g) The right to complain and appeal to court or official bodies;

h) The rights to vote and participate in private legal proceedings unless recognized incapable by court;

i) The right to receive an appropriate medical care at the health care institutions of no-psychiatric profile;

j) The right to enjoy all kinds of social benefits;

k) The right to enjoy recreational and resort services;

l) The right to education, professional training and retraining;

m) Other rights and freedoms envisaged by Georgian legislation.

2. Lawyer and/or the legal representative of the patient have the right to familiarize with any kind of documentation about the patient and ask for copies. Request for documentation and for copies should be submitted to the administration of the psychiatric institution in written form.

Article 6. Partial restriction of patient's rights

1. Restriction of patient’s professional activities shall be defined in accordance with the rule established by Georgian legislation. List of said professional activities shall be approved on the basis of the Order of the Minister of Labor, Health and Social Affairs of Georgia.

2. Restriction of patient’s rights solely on the basis of mental disorder is inadmissible. Any kind of restriction determined by Georgian legislation should be based not only on the diagnosis of mental disorder but on the mental health state of person and the level of his/her social adaptation.

Article 7. Recognizing patient incapable

1. The patient shall be recognized incapable solely by court.

2. Administration of psychiatric institution shall be prescribed to apply court with request of recognizing patient incapable and appointing a legal representative for him/her, on the basis of the conclusion of the commission of psychiatrists confirming that, due to mental disorder, the patient is incapable to realize the meaning of his/her behavior and manage it accordingly.

3. Decision on recognizing patient incapable shall be made by court according to the Civil Code of Georgia and the rules established by Civil Procedure Code of Georgia.

4. In case specified in Paragraph 2 of this Article, the legal representative of the patient, or, in case of absence – his/her relative shall be informed on the fact of addressing the court by the administration of psychiatric institution immediately.
Chapter III
Psychiatric Care

Article 8. Psychiatric care

1. Person with mental disorder shall be provided with psychiatric care according to the medical indication, on the basis of his/her request and/or informed consent except for the cases stipulated by Articles 16 and 18 of this Law.

2. If the person is under 16, or recognized incapable, psychiatric care should be provided upon a request and/or an informed consent of his/her legal representative (Patient’s participation is mandatory taking into consideration his/her age and mental state).

3. Psychiatrists, within the scope of their competence, are independent in making decision, and, shall be guided by the medical indication and professional ethics, and act in accordance with the Georgian legislation when providing psychiatric care.

4. Only the methods authorized by the Ministry of Health, Labor and Social Affairs of Georgia shall be applied for examination, treatment and psychosocial rehabilitation of the patient.

Article 9. Examination and diagnosis

1. Mental disorder is diagnosed according to the standards approved by the Ministry of Labor, Health and Social Affairs of Georgia. Only a doctor with the relevant license has the right to make a diagnosis of mental disorder.

2. Family or professional conflict, discrepancy with moral, religious, cultural or political values prevalent in the society can not constitute the basis for making diagnosis of mental disorder.

3. A fact of treatment in psychiatric institution in the past shall not be considered as a key factor while assessing the present state of mental health of the person.

4. When examining a patient, a psychiatrist shall be prescribed to introduce him/herself and inform the patient about the purpose of examination except for the cases when it may exacerbate the patient’s health state. Decision on restriction of and/or non-providing any information to the patient as well as the basis of making such decision shall be reflected in medical records.

Article 10. Treatment

1. Treatment of the patient should be carried out on the basis of his/her informed consent, or if the patient is under 16 or recognized incapable – of his/her legal representative; which is confirmed by the patient’s or his/her legal representative’s signature fixed in the medical records.

2. Patient’s refusal of treatment is fixed in the medical records.

3. Treatment with active biological methods (shock, convulsive, other) can be applied only following the relevant medical indication, upon patient’s or his/her legal representative’s informed consent and on the basis of the conclusion of the psychiatrists’ commission.
Article 11. Financing psychiatric care

1. Sources of financing psychiatry care are the following:
   a) State financing;
   b) Expenses covered by patient;
   c) Grants and other donations;
   d) Other revenues envisaged by Georgian legislation.

2. State shall provide psychiatric care for people with mental disorders by financing state programs and state targeted programs.

Chapter IV

Primary Psychiatric Examination

Article 12. Grounds and objectives of primary psychiatric examination

1. Consultation of the person with doctor having no information about the mental state of this person is considered as primary psychiatric examination. Primary psychiatric examination shall be carried out by a doctor having appropriate license.

2. Primary psychiatric examination is carried out for the purpose to define whether a person:
   a) has a mental disorder;
   b) needs psychiatric care.

3. The grounds for primary psychiatric examination may be:
   a) Request of the person to be examined;
   b) Request of the legal representative of the person under 16 (The person’s participation is mandatory taking into consideration his/her age and mental state);
   c) Written request of the legal representative, relative or doctor of healthcare institution upon the consent of the person to be examined or without this consent, if his/her behavior raises doubts of mental disorder and creates danger for him/her and others.

Article 13. Conditions of primary psychiatric examination

The primary psychiatric examination is carried out at a psychiatric institution or, in exceptional cases, at home. Examination should be carried out in the environment where a doctor’s life and safety are protected.
Chapter V
Forms of Psychiatric Care

Article 14. Outpatient psychiatric care

1. An outpatient psychiatric institution, having an appropriate license, shall provide the primary examination and treatment of the patient, and, if necessary, shall carry out his/her observation.

2. When applying an outpatient psychiatric institution, a patient, or, if he/she is incapable or is under 16, his/her legal representative has the right to:

a) Choose institution and doctor at his/her will;

b) Interrupt examination or/and treatment at any stage according his/her will.

3. In case a patient needs an involuntary inpatient psychiatric care, an outpatient psychiatric institution shall take appropriate measures for his/her hospitalization. A doctor shall inform the patient, his/her legal representative or, on case of absence of the latter - a relative, about the decision; and in case of need, an administration of the outpatient institution shall apply to the relevant law-enforcement bodies.

4. Rule for registering patient at the outpatient psychiatric institution, keeping under observation or taking him/her off the register shall be specified on the basis of the Order of the Minister of Labor, Health and Social Affairs.

Article 15. Inpatient psychiatric care

1. Inpatient psychiatric care shall be carried out on the voluntary basis except for the cases stipulated by Article 16 and 18 of this Law, and shall be provided according to the medical indication of the patient at the inpatient institution (hereinafter - hospital) having relevant license.

2. A hospitalized patient has the right to:

a) Send and receive letters and parcels without inspection;

b) Use telephone and other means of communication according to internal regulations of the hospital;

c) Receive visitors at a specified time and place without presence of the third person;

d) Have a short-term vacation without discharging from hospital taking into consideration the his/her mental health state;

e) Purchase and keep the life essentials;

f) Perform religious rituals if it does not violate other peoples’ rights;

f) Receive audio-visual information;
g) Be involved in sports and cultural activities organized at the hospital;

h) Enjoy other rights stipulated by Article 5 of this Law.

3. A doctor has the right, in exceptional cases, to restrict above-mentioned rights of the patient for security purposes, that is fixed in medical records.

4. The labor activity of the hospitalized patient is voluntary, aims only at therapeutic and rehabilitative effect and is carried out by and under doctor’s recommendation and observation.

5. Keeping patient in the hospital above the time necessary for examination and treatment is inadmissible.

6. When discharging patient from hospital, doctor shall send the extract of the patient’s medical records to the outpatient psychiatric institution according to the place of residence of the patient and inform the latter or his/her legal representative on above-mentioned.

Article 16. Physical restriction of patient

1. Psychiatrist has the right to apply methods of physical restriction to the hospitalized patient if there is a real danger that the latter inflicts harm to him/herself or others and this danger may not be otherwise avoided.

2. Methods of physical restriction are: isolation of the patient in a specialized ward and/or physical binding.

3. Applying the methods of physical restriction shall be terminated once the danger stipulated by Paragraph 1 of this Article ends.

4. Applying methods of physical restriction or prescribing medicines for the purpose of punishment or intimidation of the patient is inadmissible.

5. Decision on applying methods of physical restriction of patient shall be made by the doctor-in-charge or duty physician that is fixed in medical records.

6. A patient who was subject to the physical restriction, his/her legal representative or in case of the absence of the latter – a relative, may appeal an advisability of the physical restriction in court.

7. Rule and procedures of physical restriction shall be defined by the instructions, approved by the relevant Order of the Minister of Labor, Health and Social Affairs.

Article 17. Voluntary inpatient psychiatry care

1. A patient shall be hospitalized for voluntary treatment:

   a) Upon a request and/or informed consent of the patient;
b) Upon a request and informed consent of the legal representative of the patient being under 16 (Participation of the patient is mandatory, taking into consideration his/her age and the state of mental health);

c) Upon a request and informed consent of the legal representative of the patient, recognized incapable.

2. An informed consent on hospitalization and treatment should be confirmed by patient’s or his/her legal representative’s signature fixed in the medical records.

3. A patient voluntarily hospitalized should be discharged:

a) By the decision of the commission of psychiatrists, made on the basis of the medical indication confirming that inpatient treatment is not needed any more;

b) At the request of the patient at any stage of treatment.

c) At the request of the legal representative of the patient being under 16 or incapable at any stage of treatment (Participation of the patient is mandatory taking into consideration his/her age and mental state).

5. If voluntarily hospitalized patient refuses to continue treatment but his/her mental state has changed so as it corresponds the involuntary inpatient care criteria, the treatment can be continued without the patient’s or his/her legal representative’s consent according to Article 18 of this Law.

Article 18. Involuntary inpatient psychiatric care

1. Involuntary inpatient psychiatric care shall be provided when a patient, due to his/her mental disorder lacks decision-making capacity and providing care without hospitalization of the patient is impossible; also if:

a) Delaying care may represent danger to the life and health of the patient or others;

b) Patient, by his/her actions, may inflict serious harm to him/herself or others.

2. The consent of the patient or his/her legal representative, or, in case of absence of the latter – a relative, is not mandatory for involuntary hospitalization.

3. Need for involuntary inpatient psychiatric care shall be defined by an ambulance doctor or a doctor having the relevant license. The relevant law-enforcement bodies shall be prescribed to assist in patient’s hospitalization upon request.

4. A doctor on duty in psychiatric hospital makes decision about involuntary admission. The moment of hospitalization shall be deemed as starting time for involuntary treatment.

5. A patient involuntarily hospitalized should be examined within the nearest 48 hours by a commission of psychiatrists, which will make decision on the advisability of involuntary inpatient care. Commission shall make decision by majority of votes. In case votes are equally divided, decision shall be made by the clinical head of the psychiatric institution, in case of absence of the latter – a person, who is authorized specially for the case in written form.
Different opinion of any member of commission shall be attached in written form to the decision of the commission.

6. If the medical commission decides that involuntary inpatient psychiatric care is not advisable, a patient should be discharged immediately.

7. If the medical commission finds that the criteria specified by Paragraph 1 of this Article exists, and an involuntary hospitalization is needed, a hospital’s administration shall apply court with request of issuing an appropriate order on hospitalization of the patient in order to carry out an involuntary psychiatric care within 48 hours upon hospitalization. The patient, his/her legal representative and in case of absence of the latter – a relative, as well as a diplomatic representation, in case the hospitalized person is a citizen of the foreign country - should be informed immediately about the decision of the commission.

8. The court shall be prescribed, within 24 hours, upon receiving a hospital’s administration’s request, to consider and make decision about providing an involuntary inpatient psychiatric care according to the rule established by Administrative Procedure Code. Participation of the patient when considering his/her case in court is mandatory. Patient’s interests in court can be presented by his/her legal representative, in case of absence of the latter – a relative or lawyer. If the patient does not have a lawyer, his/her interests shall be defended by a court-appointed lawyer.

9. According to court decision, length of involuntary inpatient psychiatric care shall be extended until the criteria for involuntary inpatient psychiatric care exist, but shall not exceed 3 months.

10. Medical commission shall be prescribed to consider on a monthly basis the advisability of prolonging the involuntary inpatient psychiatric care.

11. If the court does not make decision on providing an involuntary inpatient psychiatric care to the patient (or, on prolonging an involuntary inpatient psychiatric care to the already hospitalized patient), the patient should be discharged immediately.

12. If the medical commission finds advisable to continue involuntary inpatient psychiatric care for more than 3 months, the hospital administration should apply court 72 hours prior to the ending date of involuntary care. The court shall make decision within 72 hours following a hospital administration’s request according to the Administrative Procedure Code of Georgia. The hospital’s administration shall apply court with request of prolonging involuntary inpatient psychiatric care, on the basis of the relevant decision of the medical commission, until the criteria for involuntary inpatient psychiatric care exist.

13. Once the criteria for involuntary inpatient psychiatric care do not exist, a patient should be discharged from the hospital according to the decision of commission of psychiatrists. Court shall be immediately informed about above-mentioned. Thereafter, treatment shall be voluntary and can be prolonged only upon patient’s consent that is fixed in the medical records and confirmed by the patient’s signature.

14. A patient, his/her legal representative, or, in case of absence of the latter – a relative, as well as hospital’s administration, in accordance with the rule established by the Administrative Procedure Code of Georgia, shall have the right to appeal a court’s decision on prescribing an involuntary inpatient psychiatric care or, refusal on hospitalizing the patient for providing an involuntary inpatient psychiatric care, as well as a court’s decision on prolonging the hospitalization of the patient for providing involuntary psychiatric care or refusal on prolonging hospitalization for providing involuntary psychiatric care.
Article 19. Providing involuntary inpatient psychiatric care to an unidentified person

1. In cases stipulated by Article 18 of this Law, when a person whose identity (name, last name, age, nationality, place of residence) is unknown, (further referred to as the “unidentified person”) and who needs psychiatric care, shall be provided with relevant care by psychiatric institution.

2. Decision on the involuntary hospitalization of the unidentified person shall be made by the doctor on duty. The date of hospitalization of the person shall be deemed as the starting date of involuntary hospitalization.

3. An administration of the psychiatric institution shall be prescribed to notify a city (district) police department according to the place of discovery of the patient about an involuntary hospitalization of the latter. The police department shall carry out relevant measures for identifying the person. Also, a police officer shall fill out the form describing a person’s appearance (suggested age, gender, height, hair and eye color, other personal characteristics), which will make identification of the person possible (a photo shall be attached to the form).

4. In case the grounds stipulated by Article 18 of this Law are present and the court issues an order on hospitalization of the person in order to provide an involuntary inpatient psychiatric care according to the rule established by the Administrative Procedure Code of Georgia, the unidentified person shall be assigned an identification number according to the number of the administrative case and will be named as the “unidentified patient #...”. This number shall be fixed in the order issued by judge as well as in all other documentation concerning patient. Also, an administration of the psychiatric institution has the right to give the patient a conventional name in order to simplify the contact with the latter, which shall not be disrespectful for the patient; this name shall be used only in personal contacts and shall not be fixed in the medical records.

5. In case police identifies the person after hospitalization, during legal proceedings and/or treatment, the name “the unidentified patient #...” assigned according to the Paragraph 4 of this Article and fixed in the all documentation concerning the patient shall be replaced by the identified name of the patient.

Article 20. Specialized psychiatric care

1. Specialized psychiatric care shall be provided only at the institutions having an appropriate license.

2. Specialized psychiatric care shall be provided to the patients with long-term mental disorders, who need care and therefore should be treated by maintenance therapy and rehabilitation measures.

3. A patient shall be admitted to the specialized psychiatric institution on the basis of conclusion of the psychiatrists’ commission at the request of the patient or his/her legal representative.

4. A patient shall be discharged from the hospital on the basis of conclusion of the psychiatrists’ commission at the request of:

a) The patient if he/she has independent living skills;
b) The legal representative of the patient.

**Article 21. Psychosocial rehabilitation**

1. Rehabilitation measures shall aim at preserving social contacts of the patient and developing his/her independent living skills.

2. Only methods authorized by the Ministry of Labor, Health and Social Affairs shall be used for psychosocial rehabilitation.

3. Psychosocial rehabilitation is voluntary and shall be provided at the institution having an appropriate license.

4. Patient shall have the right to interrupt rehabilitation activities at any time according to his/her will.

5. In case an involuntary inpatient psychiatric care becomes necessary during psychosocial rehabilitation, a psychiatrist shall act in accordance with Article 18 of this Law.

**Article 22. Prescribing and carrying out compulsory medical measure**

Compulsory medical measure shall be prescribed and carried out according to the rules established by the Criminal Code of Georgia and Criminal Procedure Code of Georgia.

**Article 23. The rights of the patient subjected to compulsory medical measure**

A patient subjected to compulsory treatment enjoys patient’s basic rights and guarantees except for the right to choose a form of compulsory medical measure and the right to refuse treatment.

**Chapter VI**

**Forensic Psychiatric Expertise**

**Article 24. Forensic psychiatric expertise**

1. The following shall be authorized to carry out a forensic psychiatric expertise:

   a) An institution licensed by the Ministry of Labor, Health and Social Affairs of Georgia;

   b) A state institution providing legal expertise.

2. Providing forensic psychiatric expertise by the pretrial investigation bodies or an institution subordinate to these bodies is inadmissible.

3. Implementation and financing forensic psychiatric expertise shall be provided by the body (person) appointing expertise, or the state – through implementing state programs financed by the state budget or other targeted sources. Persons being under pretrial investigation shall be
escorted to the expertise institution and guarded respectively by the penitentiary department – a state body subordinated to the Ministry of Justice of Georgia.

**Article 25. The right to defense a person subject to the forensic psychiatric expertise**

A hospitalized person subject to the forensic psychiatric expertise shall have the right to legal services according to the rule established by the Georgian legislation.

**Chapter VII**

**Confidentiality**

**Article 26. Confidentiality**

1. A person who has learned about a mental disorder of the other person while carrying out his/her official duties and shall use this information to the detriment of the patient or the third person whether by negligence or deliberately shall be punished in accordance with Georgian legislation.

2. Confidential information about a person’s mental state shall be accessible for people directly involved in the process of his/her treatment and medical observation.

3. Information may be issued to the third person at the consent of the patient or his/her legal representative or by court decision.

4. Breach of confidentiality in cases other than stipulated by Paragraph 3 of this Article is admissible only if the life and/or health of the patient or the third person is exposed to danger. The relevant decision shall be made by the administration of the psychiatric institution, and this information shall be issued only to the legal representative of the patient, or, in case of the absence of the latter – a relative.

**Chapter VIII**

**Rights and Social Guarantees of the Personnel Working in the Field of Psychiatry**

**Article 27. Rights and social guarantees of the personnel working in the field of psychiatry**

1. Considering the specificity of the working environment, the personnel working in the field of psychiatry shall enjoy the following benefits:

   a) Reduced working week – 30 hours;

   b) Increased leave - 42 working days.

2. If the life and/or health of the psychiatrist is exposed to danger from the side of the patient, the doctor has the right to refuse examination and treatment of this patient.
Chapter IX
Transitional and Final Provisions

Article 28. Transitional provisions

1. Before January 1, 2007 the Minister of Labor, Health and Social Affairs of Georgia shall develop and adopt the following statutory acts:

   a) “On Approval of Procedure for Hospitalization”;

   b) “On Creation and Working Procedure of the Commission of Psychiatrists”;

   c) “On Procedures for Providing Primary Psychiatric Examination and Issuing Conclusion”;

   d) “On Approval of the Sample Form for Applying Administration of the Psychiatric Institution for Hospitalization of the Person in Order to Provide Involuntary Inpatient Psychiatric Care”;

   e) “On Approval of the Sample Form for Applying Court for Hospitalization of the Person in Order to Provide Involuntary Inpatient Psychiatric Care”;

   f) “On Procedure for Providing Compulsory In- and Outpatient Psychiatric Care”;

   g) “On Procedure for Registering Patients with Mental Disorders at the Outpatient Psychiatric Institution, Keeping Observation and Taking Them off the Register”;

   h) “On Elaborating the Special Form for Sharing Information between Psychiatric Institutions and Creation Single Database”;

   i) “Regulations on Rules and Procedures for Using Methods of Physical Restriction of the Patient with Mental Disorder”;

   j) “On Approval of the Standards of Psychosocial Rehabilitation”.

Article 29. Ineffective statutory act

Upon taking this Law into effect, the Law of Georgia “On Psychiatric Care” adopted on March 21, 1995 (Bulletins of the Parliament of Georgia, Article 559, # 23-26, 1994-95) shall be deemed ineffective.

Article 30. Effectiveness of the Law

1. This Law, except for Article 28, shall come into effect from January 1, 2007.

2. The Article 28 of this Law shall come into effect upon its promulgation.

The President of Georgia

Mikhail Saakashvili

July 14, 2006