

CAYMAN ISLANDS



MENTAL HEALTH COMMISSION ACT

(2024 Revision)

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Law 14 of 2013-25th March, 2013

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Consolidated and revised this 31st day of December, 2023.



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MENTAL HEALTH COMMISSION ACT

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PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the *Mental Health Commission Act (2024 Revision)*.

Interpretation

2. In this Act —

“**Commission**” means the Mental Health Commission established by section 3 of this Act;

“**member**” means a member of the Commission and includes the Chairperson and Deputy Chairperson;

“**Minister**” means the Minister responsible for health; and

“**prescribed**” means prescribed by regulations made under this Act.

PART 2 - MENTAL HEALTH COMMISSION

Mental Health Commission established

3. There is hereby established the Mental Health Commission, which shall have the powers and duties conferred or imposed upon it by this Act.



Constitution, membership, etc., of Commission

4. (1) The Commission shall consist of the following nine members all of whom shall be appointed by the Cabinet —
- (a) two attorneys-at-law;
 - (b) two persons who are registered under Schedule 5, 6 or 7 of the *Health Practice Act (2021 Revision)* and, in addition, have training or experience in mental health;
 - (c) one medical doctor registered under Schedule 4 of the *Health Practice Act (2021 Revision)* who, in addition, has a specialisation in psychiatry;
 - (d) one medical doctor registered under Schedule 4 of the *Health Practice Act (2021 Revision)* who, in addition, has training in or experience in mental health; and
 - (e) three members of the public, that is, persons who are not registered under the *Health Practice Act (2021 Revision)* and have never been members of any of the professions registered under that Act.
- (2) One of the members shall be designated as Chairperson and two as Deputy Chairpersons, at least two of the three having been appointed under subsection (1)(a), (b) and (c).
- (3) Appointments made under subsection (1) shall be published in the Gazette.
- (4) Members shall hold office for a term not exceeding three years and be eligible for re-appointment.
- (5) The members shall hold and vacate office in accordance with the terms of their appointment.
- (6) The Commission may act despite a vacancy in its membership, including a vacancy in the office of Chairperson or Deputy Chairpersons.
- (7) The Cabinet may terminate a member's appointment if the member —
- (a) has been adjudged bankrupt;
 - (b) is unable by reason of physical or mental illness to perform that person's functions;
 - (c) has been absent from three consecutive meetings of the Commission without the consent of the Chairperson of the Commission; or
 - (d) for any other reason.
- (8) Where any member ceases to be a member before the normal expiration of that member's office, the Cabinet may appoint another person to hold that office until the time the said member's office would have expired.
- (9) Members who are not public servants may, in the discretion of the Cabinet, be paid such allowances in respect of attendance at the meetings of the Commission as the Cabinet may determine and for the purpose of this subsection the



attendance of any member at a meeting of the Commission shall be certified by the Chairperson of that meeting.

- (10) A written notice or other document required to be served on the Commission may be served by leaving the notice or document at the office of the Commission or by sending it through the post in a prepaid letter addressed to the Commission at its office.

Meetings of Commission

5. (1) The Commission shall meet as often as it thinks necessary for the performance of its functions and shall, without limiting the generality of this provision, meet at least four times in a year.
- (2) Three members present including the Chairperson, or one of the Deputy Chairpersons, at any meeting of the Commission shall constitute a quorum.
- (3) At a meeting of the Commission —
- (a) in the absence of the Chairperson, the Chairperson shall designate one of the two Deputy Chairpersons to preside;
 - (b) in the absence of the Chairperson and the two Deputy Chairpersons, the Chairperson shall designate another member to preside;
- and where the Chairperson is unable to designate someone to act —
- (c) and both Deputy Chairpersons are able to attend, the members present at the meeting shall designate one of the two Deputy Chairpersons to preside;
 - (d) and at least one of the Deputy Chairpersons is able to attend, that Deputy Chairperson shall preside; and
 - (e) and both Deputy Chairpersons are not able to attend, the members present shall designate one of their number to preside.
- (4) A question or matter to be determined by the Commission at any meeting shall be decided by a majority of the votes of the members present and voting.
- (5) Where there is a tie, the Chairperson shall exercise a casting vote.
- (6) Except to the extent already regulated by this section, the Commission shall regulate its own procedure.
- (7) The Commission may —
- (a) act through a committee; and
 - (b) delegate any of its functions or powers to such committee and to any of their own number and to the public officers of the Commission,
- except that where the Commission sets up a committee which consists of members other than members of the Commission or the public officers of the Commission, it may only act or delegate its functions or powers to such committee with the prior approval of the Cabinet.

- (8) Where a member has a direct pecuniary interest in a matter being considered by the Commission and is present at a meeting of the Commission at which the matter is the subject of consideration, that member shall, as soon as practicable after its commencement, disclose that fact and shall not take part in the consideration or discussion of the matter or vote on any question with respect to it, and shall be excluded from the meeting for the duration of the consideration, discussion and voting procedure.
- (9) A member who fails to comply with subsection (8) commits an offence and is liable —
- (a) on summary conviction to a fine of twenty thousand dollars and to imprisonment for two years; or
 - (b) on conviction on indictment to a fine of fifty thousand dollars and to imprisonment for five years,
- unless that member proves that, at the time when the matter was the subject of consideration at that meeting, that that member did not know or could not be reasonably have been expected to know that the said member had a direct pecuniary interest.
- (10) A disclosure made under subsection (8) shall be recorded in the minutes of the meeting.
- (11) Failure to make a disclosure under this section does not invalidate the act or proceeding concerned.
- (12) The deliberations of the Commission shall be confidential but the Commission shall cause any decision which affects the members of the public to be published in the Gazette, on a website or in a newspaper published in the Islands.
- (13) Neither the Commission nor any member of a committee or employee of the Commission shall be liable in damages for anything done or omitted in the discharge of their respective functions under this Act unless it is shown that the act or omission was in bad faith.

Secretary to the Commission

6. (1) The chief officer in the Ministry responsible for health shall, on such terms and conditions as the chief officer thinks fit, appoint a part-time Secretary to the Commission, and, without limiting the generality of this power, in determining the terms of conditions may specify which provisions of the *Public Service Management Act (2018 Revision)* and *Personnel Regulations (2022 Revision)* shall apply or not apply to the Secretary.
- (2) The Secretary shall record and keep, or cause to be kept, all minutes of the meetings, proceedings and decisions of the Commission but shall have no right to vote.



Functions of Commission: *Quasi- judicial*

7. The functions of the Commission shall be to —
- (a) hear and determine appeals made under sections 6(3), 8(4) and 9(5) of the *Mental Health Act (2023 Revision)*;
 - (b) conduct reviews under section 6(4) of the *Mental Health Act (2023 Revision)*;
 - (c) hear and determine appeals made under section 9(5) of the *Mental Health Act (2023 Revision)* with regard to treatment orders and exercise the powers referred to in section 9(3) of that Act in relation thereto;
 - (d) hear and determine appeals made under section 12(7) of the *Mental Health Act (2023 Revision)*; and
 - (e) hear and determine appeals made under section 16(4) of the *Mental Health Act (2023 Revision)*.

Functions of Commission: Recommendations to Health Practice Commission and Councils, etc.

8. The functions of the Commission are to —
- (a) submit an annual report to the Minister responsible for health on the needs and performance of the Islands' mental health system, including complaints, which report shall be tabled in the Cayman Islands Parliament;
 - (b) review and advise on scopes of practice and codes of ethics for practitioners, which codes shall be prepared by the relevant registering Council;
 - (c) provide policy advice to the relevant registering Council, including the minimum requirements, for registration in order to be licensed in a category referred to in the Schedule;
 - (d) advise the Health Practice Commission regarding mental health facilities; and
 - (e) advise the Health Practice Commission regarding medical research and clinical trials in mental health.

Functions of Commission: general

9. The functions of the Commission are to —
- (a) advise and guide other government agencies to such extent as they may require;
 - (b) obtain and compile statistics on mental illness;
 - (c) oversee and deliver mental health training and sensitisation sessions for prison officers, constables and any other persons who may, in the

- performance of their functions, be expected to deal with mental health patients;
- (d) approve a list of overseas mental health facilities for the purpose of referral of patients;
 - (e) advise the Cabinet with regard to the exercise of the powers conferred on Cabinet under section 20(a) of the *Mental Health Act (2023 Revision)* to declare “places of safety”;
 - (f) make recommendations to the Minister regarding mental health research;
 - (g) research and establish protocols and guidelines for mental health advocacy and approve persons to act as advocates;
 - (h) establish and maintain a programme which provides information to the general public concerning mental illness and co-occurring disorders and related conditions
 - (i) consider ways to involve the general public in the decisions concerning the policy on mental illness and co-occurring disorders and related conditions;
 - (j) review and evaluate the community’s mental health needs, services and special problems with a view to making recommendations on policy and research to the Minister responsible for mental health; and
 - (k) advise on the establishment of programmes for the provision of on-going care for persons living in the Cayman Islands for the treatment of persons with mental illness or co-occurring disorders and persons with related conditions; and
 - (l) review the progress of patients transferred overseas under section 14 of the *Mental Health Act (2023 Revision)* and recommend to the Cabinet when it is appropriate to return such patients to the Islands;
 - (m) review and offer advice to the Elections Office regarding the eligibility of mental health patients;
 - (n) review every six months the progress of remand prisoners deemed unfit to plead and submit it to the chief officer, Judicial Administration;
 - (o) give policy advice to the Minister responsible for health on any aspect of the local mental health system; and
 - (p) perform such other functions as the as the Cabinet may determine.

Incidental powers and cautions of Commission

- 10.** (1) In carrying out its functions under this Act, the Commission may —
- (a) collaborate with such persons as it considers necessary or expedient in the collection, compilation and publication of statistics relating to the provision of mental health services in the Islands;



- (b) with the approval of the Cabinet, enter into arrangements with any department of the Government for the use of the personnel, facilities and services of that department to any extent not incompatible with that department's operation.
- (2) No publication of statistics under subsection (1)(a) shall contain any particulars so arranged as to enable any person to identify any particulars relating to any individual person.

Delegation of functions

11. A delegation by the Commission under section 5(7) —

- (a) does not preclude the Commission from exercising or performing at any time any of the functions or duties so delegated;
- (b) may be conditional, qualified or limited in such manner as the Commission may think fit; and
- (c) may be amended at any time by the Commission.

Advice of Commission to Health Practice Commission and Councils

12. In any matter relating to the professions specified in Schedules 1, 2 and 3, the Commission may, on its own initiative or upon request by the Health Practice Commission or the relevant Council, give general or specific advice to the Health Practice Commission or Council concerned to such extent as may be specified in the *Health Practice Act (2021 Revision)* this Act or any other Law.

Minister may give policy directions to Commission

13. The Minister may, after consultation with the Commission, give it such policy or general directions as to the exercise by the Commission of its functions as appear to be necessary or expedient in the public interest.

Regulations

14. The Cabinet may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed for giving effect to the purposes of this Act and, in particular —

- (a) requiring particulars and information to be supplied at prescribed times by persons in prescribed areas for prescribed periods; and
- (b) prescribing information which is to be supplied to the Commission and the form in which it shall be submitted; and
- (c) outlining the matters that the Commission shall take into account in performing its functions under this Act.

SCHEDULE 1

(Section 12)

PROFESSIONS OF MEDICAL DOCTORS

Medical doctors (where dealing with mental health)



SCHEDULE 2

(Section 12)

PROFESSIONS OF NURSING

Registered mental health nurses

Clinical nurse specialists (where dealing with mental health)

Nurse practitioners (where dealing with mental health)

Registered nurses (where dealing with mental health)

Advanced practice nurses (where dealing with mental health)

Registered general nurses (where dealing with mental health)



SCHEDULE 3

(Section 12)

PROFESSIONS OF MENTAL HEALTH PRACTITIONERS

Mental health counsellors

Clinical psychologists (where dealing with mental health)

Psychotherapists (where dealing with mental health)

Substance abuse counsellors (where dealing with mental health)

Psychologists, Doctoral and Master's Level (where dealing with mental health)

Counsellors (where dealing with mental health)

Therapists (where dealing with mental health)

Social workers (where dealing with mental health)

Publication in consolidated and revised form authorised by the Cabinet this 30th day of January, 2024.

Kim Bullings
Clerk of Cabinet





ENDNOTES

Table of Legislation history:

SL #	Law/Act #	Legislation	Commencement	Gazette
1/2023		Mental Health (Amendment) Act, 2022 (Commencement) Order, 2023	25-Jan-2023	LG5/2023/s1
	9/2022	Mental Health Commission (Amendment) Act, 2022	26-Jan-2023	LG41/2022/s3
	56/2020	Citation of Acts of Parliament Act, 2020	3-Dec-2020	LG89/2020/s1
38/2013		Mental Health Commission Law, 2013 (Commencement) Order, 2013	1-Nov-2013	GE87/2013/s3
	14/2013	Mental Health Commission Law, 2013	1-Nov-2013	LG41/2013/s5

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