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EU CONSULTATION ON MENTAL HEALTH

PROPOSAL BY THE EUROPEAN PHARMACEUTICAL LAW GROUP

"THE RIGHT TO MENTAL HEALTH"

EUROPEAN PHARMACEUTICAL LAW GROUP

European Pharmaceutical Law Group (hereinafter, **Eupharlaw**) is a private law firm with an active interest in public health and pharmaceutical issues. It was created with the aim of providing a vehicle for communication between the pharmaceutical sector in Spain and the other members of the European Union. It also seeks to participate actively in any forums and consultations that could have a bearing on future political, economic and/or legislative measures relating to the sector.

In view of the above, following the public consultation made by the European Commission aimed at obtaining proposals from governments, organisations, professionals and individuals pursuing the implementation of future mental health strategies, we hereby submit this proposal.

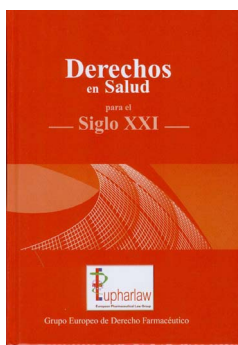
Each individual citizen, irrespective of whether or not they are suffering from an illness, has basic health rights, including the **right to mental health**. At Eupharlaw, we have been actively involved in ensuring that such health rights become effective and that they are provided for by law.

HEALTH RIGHTS FOR THE 21st CENTURY

The **List of Ten Basic Health Rights for the 21st Century** was presented by Eupharlaw in Spain on 24 March 2004. It was drawn up by a group of experts, and it is intended that it will eventually take the form of a Charter of Citizens' Rights for the European Union as a whole.

At Eupharlaw, we have consistently defended that **each individual citizen is entitled to receive comprehensive information regarding the therapeutic treatment** that they are going to follow, and must be allowed to **participate actively** when determining the form of such treatment.

The List of Ten Basic Health Rights, which was drawn up by Eupharlaw and published in a monograph volume below, **was submitted to the European Commission in October 2004** as part of the public consultation launched by the European Commissioner for Health and Consumer Protection, which aimed to set forth new health policy guidelines in Europe.



List of Ten Basic Health Rights

- I.- The right to clinical and therapeutic information on biotechnology and human genomes.
- II.- The right to mental health.
- III.- The right to occupational health.
- IV.- The right to food safety.
- V.- The right to the full protection of the environment and sustainable development.
- VI.- The right to sexual and reproductive health.
- VII.- The right to personal health data protection.
- VIII.- The right to health education.
- IX.- The right to pharmaceutical care.
- X.- The right of citizens to have access to health services.

Eupharlaw's primary objective is to promote therapeutic information to the citizen, as well as active participation in the decision-making process regarding the treatment to be followed, the content of such treatment, and correct compliance, thereby making each citizen jointly responsible for their health together with all other persons participating in the therapeutic treatment process.

The **principle of patient autonomy** is the cornerstone of such health rights. The List of Ten Basic Health Rights has been well received by the public health authorities.

Indeed, five of the rights claimed were enshrined in the text of the European Constitution.

TOWARDS THE ATTAINMENT OF THE BASIC RIGHT TO MENTAL HEALTH

Aware of the importance of mental health in the EU, as well as the need to implement strategies at EU level, Eupharlaw seeks to attain and consolidate the right of each individual citizen to mental health, and establish such right as a basic health right.

Eupharlaw proposes the following ideas for establishing the right to mental health as a basic health right:

- Mental health should encompass all its various aspects (personal health, family health and occupational health), as they are all fundamental to ensuring the patient's balanced mental health.
- Such right should include quality health assistance and resources so as to give national health systems the cover they require, as serious deficiencies still exist.

Guiding Principles:

- **Mental health is an inextricable part of each citizen's health** ("health does not exist without mental health"). It must therefore be protected by the same rights granted for our health as a whole (information, confidentiality, health education, etc.).
- **The promotion and protection of mental health depends on a broad range of circumstances arising in very different areas:** education, the media, law and order, employment conditions, social rights and other citizens' rights. As a result, an inter-institutional and inter-disciplinary approach is needed, which in turn must materialize in the recognition of the relevant rights.

1. The right to the promotion and protection of mental health

1.1.- The right to respect of human, social and citizens' rights.

1.2.- The right of citizens to receive information on the circumstances favouring the positive development of mental health (personal realization).

1.3.- The right of particularly vulnerable groups to ongoing protection of their mental health, as well as the equal protection of those persons who are temporarily exposed to circumstances that could imply a risk to their mental health, encouraging formulas for crisis intervention (this would required specific actions for each individual case).

1.4.- The right to the commitment of the media to promoting values favouring mental health.

1.5.- The right to school and university health education and work training schemes that cover the area of mental health.

1.6.- The right of health professionals (general practitioners, nurses, teachers and professors, and professionals working in the media sector) to receive training on mental health issues as part of their occupational training.

1.7.- The right of parents to receive training and support for the promotion of mental health at home.

1.8.- The right to receive support from the public authorities so as to implement "self-help" activities and other types of community activities.

1.9.- The right to have access, both individually and collectively, to mental health services.

2. The right to preventive intervention with regard to mental illnesses.

Although primary prevention of mental illnesses is not very well defined, and it is difficult to differentiate such prevention from the promotion/protection activities mentioned above, the following rights should be highlighted in connection with secondary and tertiary prevention:

2.1.- The right to receive mental health assistance in primary health care, and to have access to specialised mental health services when so required by the seriousness and complexity of the problem concerned.

2.2.- The right to care and treatment for mental health problems/mental illnesses within the community, without the danger of being stigmatised and with as few restrictions as possible, providing the necessary information so that the user of the services may opt, as far as possible, for receiving the treatment best suited to their personal circumstances.

2.3.- The right to receive comprehensive mental health services (including psychobiological, psychosocial, individual and family/community aspects), which guarantee the continuity of the health care provided, and offer sufficiently broad assistance and types of intervention, ranging from crisis intervention to psychosocial rehabilitation treatment and home care required by specific circumstances.

2.4.- The right to receive specific advice or treatment (preventive or therapeutic) from professionals competent in the area of mental health, when the individual is exposed to circumstances implying certain risks (see 1.4), requiring that the various institutions (schools, colleges and universities, social care services, and court authorities....) actively coordinate with the mental health services.

2.5.- The right of mental patients suffering from disorders producing persistent dysfunctions in their mental health to receive rehabilitation treatment, together with the related assistance for obtaining accommodation/housing and work.

2.6.- The right of carers and family members of chronic mental patients to be given guidance and material and psychological support compensating the responsibility assumed.

2.7.- The right of each individual citizen to receive assurance that any measure restricting their fundamental freedoms is provided for by the law and controlled over time, and that any such restriction immediately ceases upon recovery by the persons concerned of their mental capacity to care for themselves.

2. 8.- The right to the protection of personal data and the right to privacy.

3. The right to quality services.

3.1.- The right to diagnosis methods and treatment of guaranteed quality.

3.2.- The right to be assured that the health service in question has a "guide to good clinical practices" ensuring the minimum quality of the service.

3.3.- The right to adequate financing of the service in order to guarantee the above characteristics.

3.4.- The right to receive guarantees that the professionals providing the service are given ongoing training to update their professional knowledge.

4. The right to therapeutic information and consent in the research, manufacturing, marketing, prescriptions and dispensing of mental health drugs.

4.1.- The right to sufficient research into mental illnesses.

4.2.- The right to therapeutic information in clinical trials conducted in order to research mental health drugs.

4.3.- The right to be provided with adequate, up-to-date and accurate therapeutic information in the patient information leaflet enclosed with this type of medicine.

4.4.- The right to be provided with adequate, up-to-date and accurate therapeutic information from pharmaceutical laboratories, doctors, pharmacists and other health professionals, as well as from specialist media and the public health authorities.

4.4.- The right of the minor to receive adequate, up-to-date and accurate therapeutic information.

CONCLUSIONS REGARDING THE RIGHT TO MENTAL HEALTH

On the basis of the considerations set out in this proposal, Eupharlaw deems that EU law should provide specific regulations protecting the right to mental health.

It also believes that it is essential to provide a basic conceptual framework for future, individual and collective health, which must be driven by the collaboration and dialogue of all stakeholders and sectors involved. As yet, citizens' health rights are not sufficiently guaranteed in all their various facets, given that due to different factors, some better known than others, "the health of any population is actually something that must be achieved, or even discovered, on a daily basis"¹.

We would like our proposal to stimulate further ideas, and wish to contribute to the issues set out above by creating a forum for multi-disciplinary discussion.

¹ Amarilla, Manuel. President' speech on the foundation of European Pharmaceutical Law Group. Madrid, 2001.

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