

# Mental Health Laws in France

A historical review

Aurora Jeanroy, WHOCC representative



# Mental Health Laws in France

## Legal framework - Law of June 30, 1838: a foundational act

Law of June 30, 1838 known as the *loi sur les aliénés* – law on the ‘insane’.

- First law defining a public policy for mental illness in France.
- Article 1 of Chapter I states that "every county is required to have a public institution specifically designed to welcome and treat the insane."

# Mental Health Laws in France

## Legal framework - Law of June 30, 1838: a foundational act

The Law of June 30, 1838 provided for two types of hospitalization:

- "Automatic placement" at the request of the Police Prefect, the State's regional representative
- "Voluntary placement" at the request of a third party

All people were hospitalized without their consent.

# Mental Health Laws in France

## Legal framework - Amendment of Law of June 30, 1838 by Law of June 27, 1990

It took more than 150 years for the 1838 Law to be amended.

This amendment was carried by the Law of June 27, 1990 "on the rights and protection of patients hospitalized due to mental illness and on the terms of their hospitalization."

# Mental Health Laws in France

## Legal framework - Amendment of Law of June 30, 1838 by Law of June 27, 1990

Voluntary admission into care becomes the standard, involuntary admission is the exception.

Three modalities of care are thus defined:

- Voluntary admission
- Care provided at the request of a third party
- Care provided at the request of the Police Prefect

# Mental Health Laws in France

## Principle: Voluntary admission

"A person **may not, without their consent** or, as the case may be, without the consent of their legal representative, **receive psychiatric care**, except in the cases provided for in Chapters II to IV of this title and those provided for in Article 706. -135 of the Code of Criminal Procedure. (...)."

***Article L. 3211-1 of the French Public Health Code***

# Mental Health Laws in France

## Principle: Voluntary admission

"A person who is the subject of psychiatric care with their consent for mental disorders is said to be in voluntary psychiatric care. They possess the same rights relating to the exercise of individual liberties as other patients do.

**This mode of care is preferred when the condition of the person allows it."**

***Article L. 3211-2 of the French Public Health Code***

# Mental Health Laws in France

## Exception: Involuntary admission

### **Involuntary admission: striking a balance between the right to health and the respect for public order**

It is up to the legislators, in the words of the Constitutional Council, to ensure the conciliation between, on the one hand, the **protection of the health** of persons living with mental illnesses as well as the prevention of breaches of **public order** necessary to the safeguarding of constitutional rights and principles, and on the other hand, the exercise of constitutionally guaranteed freedoms, including the **freedom of movement**, the respect for privacy and the individual freedom entrusted to the judicial authority.



# Mental Health Laws in France

## Exception: Involuntary admission

**Involuntary admission: striking a balance between the right to health and the respect for public order**

The request for a preliminary ruling of October 26, 2010 recalls the following principle:

“Forced hospitalization is an attack on the exercise of the right to individual freedom, and to remain valid, it must be **suitable, necessary and proportionate** to the objectives of care. ”

# Mental Health Laws in France

## Modalities of psychiatric care in France

Principle: Voluntary admission

Exception: Involuntary admission

**Procedures for admission into care at the request of a third party (SDT):**

- "classic" SDT
- "imminent danger" SDT
- "emergency" SDT

**Procedures for admission into care at the request of the State Representative (SDRE):**

- Admission by prefectural decree
- Admission by temporary municipal decree
- Admission of a detainee
- Admission of a person following a decision of lack of criminal liability

# Mental Health Laws in France

## First exceptional procedure: Third-Party Request (SDT)

Two cumulative basic conditions for an inpatient hospitalization common to the three SDT procedures:

- Mental disorder makes it impossible for the person to consent
- Mental condition requires immediate care with constant medical supervision to justify inpatient hospitalization

# Mental Health Laws in France

**Second exceptional procedure: care at the request of a representative of the state (SDRE)**

## Basic conditions :

- The person lives with a mental disorder that requires care
- That mental disorder compromises the safety of persons or seriously affects public order

# Mental Health Laws in France

## Latest French reform: the Law of July 5, 2011

- Strengthens individual rights
- Strengthens the provision of medical exams to the hospitalized person
- The hospitalized person is notified of the admission decision pertaining to them
- The hospitalized person is notified of their rights and their right to appeal the decision
- Makes it mandatory to seek the opinion of the hospitalized person
- Strengthens checks by external authorities
- Introduces a case check for each involuntary admission by an independent judge - *Juge des libertés et de la détention* (JLD)

# Mental Health Laws in France

## Latest French legislative progress

- Legal review by the judge

Within a period of 12 days from involuntary admission into care, a judge interviews the hospitalized person (if their condition allows it), who is assisted by a lawyer, in order to control the validity of the procedure.

**In the event of irregular procedure, or if the judge considers that there are no grounds for the hospitalization, the judge may lift the hospitalization measure.**

# Mental Health Laws in France

## Latest French legislative progress

- January 26, 2016: legal framework for seclusion and restraint measures

**Article L3222-5-1** – Seclusion and restraint are **last resort** practices. They may be performed only to prevent **immediate or imminent harm to the patient or others**, by the **decision** of a psychiatrist, taken for a **limited period**. Their implementation must be **strictly supervised** by the institution through health professionals designated for this purpose.

A **register** is kept in each facility authorized to provide psychiatry care and designated by the general director of the regional health agency to provide involuntary psychiatric care pursuant to Chapter I of Article L.3222-1. For each measure of seclusion or restraint, this register mentions the name of the psychiatrist who decided on the measure, its date and time, its duration and the names of the health professionals who monitored it. The register, which can be established in digital format, must be presented, upon request, to the departmental committee of psychiatric care, to members of parliament, and to the General Controller of Places of Deprivation of Liberty - *Contrôleur général des lieux de privation de liberté* or to delegates.

Each facility prepares an annual **report** on measures of seclusion and restraint, the policy defined to limit the use of these measures and an assessment of its implementation. This report is sent for an opinion to the Users' Committee provided for in Article L.1112-3 and to the Supervisory Board provided for in Article L.6143-1.

# Mental Health Laws in France

## Latest French legislative progress

- The legal framework of seclusion and restraint measures

Ministerial Instruction of March 29, 2017 on the policy to reduce the practices of seclusion and restraint in authorized health institutions in psychiatry designated by the Director General of the Regional Health Agency to provide involuntary care

- **Last resort**, justified by the person's clinical condition
- Measure taken by a psychiatrist, needs to be **justified**
- Justification showing previous measures were unsuccessful
- Measure applied in a dedicated space, designed for this purpose
- Decision must not be solely based on security or disciplinary imperatives
- No decision can be anticipated, made in advance or preventively ("if necessary")



# Mental Health Laws in France

## Territorial structure: the principle of mental health sectors

- Since the Law of December 31, 1970 on hospital reform, each French county is divided into geodemographic sectors.
- A "**sector**" aims to meet the demand for care of the population living in that area by offering various services closer to home.
- Each sector is entrusted to a psychiatrist who works in collaboration with a multi-disciplinary team of caregivers, psychologists, educators and socio-educational assistants.

# Mental Health Laws in France

## Territorial structure: the principle of sectors

- Since this Law, the structure of mental health and psychiatric care has evolved considerably, going from being exclusively located in hospitals, to outpatient or at-home care, closer to the people.
  - ***Example in the next presentation***

# WHO Collaborative Center (WHOCC)



211, rue Roger Salengro  
59260 Lille-Hellemmes – France

---

[www.ccomssantementalelillefrance.org](http://www.ccomssantementalelillefrance.org)  
g



@CCOMSLille



[www.facebook.com/CCOMSLille](http://www.facebook.com/CCOMSLille)

