

**CONTRIBUTIONS FOR ARTICLE 25 (HEALTH), CONVENTION ON THE  
PROTECTION AND PROMOTION OF THE RIGHTS AND DIGNITY OF  
PERSONS WITH DISABILITIES\***

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**Article 25  
HEALTH**

States Parties recognise that persons with disabilities have the right to the enjoyment of the highest attainable standard of physical and mental health without discrimination on the basis of a disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to **health facilities, services, care, treatments and goods** and health related rehabilitation services. In particular, States Parties shall:

1) **Comment: the accessibility should refer to other aspects related with health services such as facilities, care, treatments and goods in order to clarify to Member States which health interventions are needed. The language is consistent with General Comment 14 of the UN Committee on Economic, Social and Cultural Rights.**

- (a) ensure that **national policies, laws and programs provide** persons with disabilities, with the same level of **health facilities, services, care, treatment and goods** as provided other persons, including sexual and reproductive health services and population-based public health programmes; within the same system as other members of society.
- 2) **Comment: The current language in paragraph (a) is not clear about which public health instruments are going to enshrine the provisions on implementation of health facilities, services, care, treatments and goods for persons with disabilities. It is important to underline that at least the national policies, laws and programs should make a reference to these services, goods, etc.**
- (b) initiate programmes run by multidisciplinary teams of health personnel for early detection of disabilities and early intervention, to prevent and reduce avoidable disability, and at the same time and to extend comprehensive rehabilitation services to enhance abilities. This needs to have strong linkages with the education and employment sectors; (and) to be done with

full participation of persons with disabilities, their families, and the organizations of persons with disabilities; **and respecting other aspects that are essential for the full development of the human personality such as personal integrity, liberty and security of person, judicial protection and the informed consent in the context of medical or scientific experimentation.**

**3) Comment: Early interventions to “prevent”, “detect” and/or “reduce” disability may involve practices that affect the bodily, mental or moral integrity of the person (Examples: psychosurgeries, forced sterilizations, experimentation without consent, etc.); therefore, it is important to emphasize on the State responsibility of protecting the personal integrity, personal freedom, security of person, etc. of persons with disabilities *vis a vis* a multidisciplinary team which in many occasions will be responsible from a human rights law point of view.**

(c) provide these **health facilities, services, care, treatments and goods** as close as possible to people's own communities and making use of local resources when possible. These **health facilities, services, care, treatments and goods** also need to have good standards of accessibility including in rural areas and to have a strong and easy linkage with the referral or specialized services when needed.

(d) require health professionals to provide the same quality of **health facilities, services, care, treatments and goods** to persons with disabilities as to others?? **(Is it necessary to emphasize so much the difference, why not to say “require health professionals to provide quality of care to persons with disabilities and on the basis...”)** and on the basis of free and informed consent by, (where necessary)??, (raising awareness) **promoting and protecting the human rights, fundamental freedoms** of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards **consistent with international human rights** norms for public and private healthcare;

**4) Comment: It is not enough with “raising awareness”. It is essential to “always” provide quality of care according to human rights norms and standards and that those ethical standards be drafted incorporating the human rights obligations accepted by States at the domestic level (Constitutional law) and at the international/regional level (human rights, treaties, declarations and standards)**

(e) ensure that all health personnel have access to adequate methods and technologies, be adequately trained and equipped to provide good medical

and health care to persons with disabilities with an aim to preserve or improve their level of functioning **and being fully aware of the State responsibilities according national and international human rights law**

**5) Comment: In some cases technologies could hinder the exercise of human rights if they are not applied with a clear understanding of persons' rights, liberties and autonomy. States must be aware that their care personnel should be trained on the national and international human rights obligations that applied in both, the public health in general and the disability context and at the same time these public health officials shall be aware of the procedures and exceptions to limit human rights under international human rights law in order to avoid arbitrary restrictions of human rights and freedoms.**

- (f) provide an equal focus on all levels of care, primary, secondary and tertiary, which includes corrective or reconstructive methods, assistive devices, and other measures, to optimize abilities.
- (g) ensure health related rehabilitation **facilities, services, care, treatments, and goods** with the aim to promote equal participation, enhance quality of life, and reduce physical, social and attitudinal barriers.
- (h) ensure the provision of commonly needed assistive devices; prostheses and orthoses, and equipment such as wheelchairs, hearing aids, canes and those required by persons with intellectual/cognitive disabilities; and to support the development, production, distribution and servicing of these devices as important measures to assure that persons with disabilities can achieve the equalization of opportunities **and the exercise of civil, political, economic, social and cultural rights and fundamental freedoms on equal footing respect to other persons.** In case of non availability within the country, special measures need to be made to make them available at an affordable price

**6) Comment: the assistive means are not only essential for equalizing the opportunities of persons with disabilities but also (in many cases) as a *conditio sine qua non* in order to exercise and enjoy the most basic human rights and fundamental freedoms. Therefore, it is important that the above mentioned paragraph make the connection with other human rights and freedoms in the context of public health in order to underline the importance of the assistive means, tools, devices or procedures.**

- (i) prohibit discrimination against persons with disabilities in all aspects of **economic, social, civic and political life**, including the provision of

health or life insurance, where permitted by national law, and assure that these are provided in a fair, reasonable manner **and respecting the right to privacy and other basic human rights and freedoms of persons with disabilities.**

**7) Comment: It would be important to emphasize that provisions on health and life insurance have consequences not only on social issues, but also on economic, social, cultural, civil and political life which in many instances will hinder or facilitate the exercise of rights and freedoms. The protection and respect of the right to privacy, at least as a standard that could be further developed by the State Parties according to their domestic laws is essential as part of the international standards propose by the Convention.**

\* PAHO's comments have included the language proposed and submitted to the UN Secretariat by WHO in its proposal of Article 25.