July 17, 2009

Our Activities to Eliminate Disqualifying Clauses on Disability

Research Fellow of READ Secretary-general, Citizens' Committee to Eliminate Disqualifying Clauses on Disability

Topics

- What is "Disqualifying Clause"?
- How disability movement changed the laws and regulations
- ☐ Information and knowledge we gained through international exchanges
- ☐ Issues remained

1. "Disqualifying Clause" as a Legal Barrier

- Restrictions of Overall Social Activities including Job Licenses, Technical Licenses and Usage of Public Facilities
- □ Based on Negative Attitude toward Persons with Disabilities---"Disability=state of incapacity and/or danger"
- →Infringement of Human Rights on the Ground of Disabilities

Examples of Typical Disqualifying Clauses

☐ Until 2001

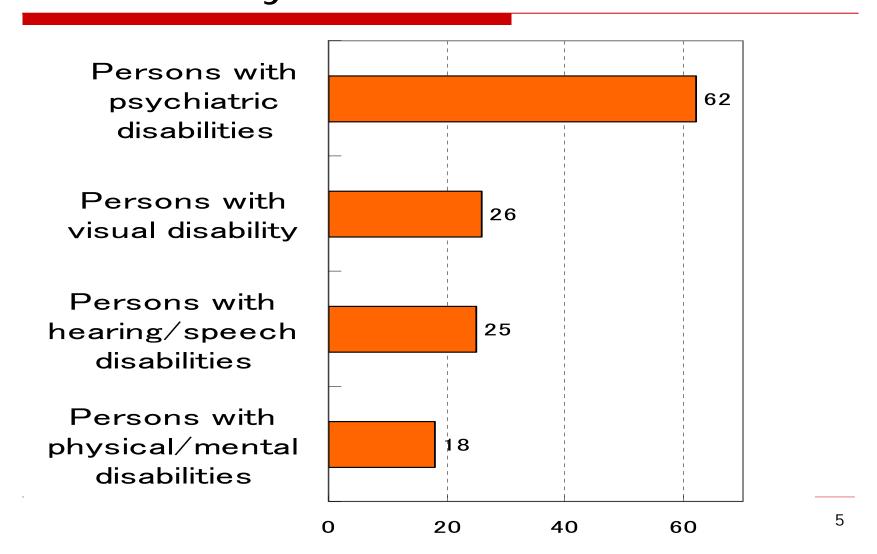
Persons who cannot see or hear shall not be issued a certificate. Persons with mental illness may be refused a certificate.

☐ After 2001

Persons who cannot carry out tasks of () due to his/her physical/mental impairment may be refused a certificate.

() "tasks of medical doctor", "manipulation of construction machine" etc.

63 licenses breakdown by category of disability Unit: licenses, as of 1999



2. Information gained through international exchanges

- Unreason of viewing "disability as incapacity and/or danger"
- Not only removing barriers but also changing environment that enables persons with disabilities to receive necessary supports as human rights.

(ex) driving license, availability of public housing

3. History of One Century

- □ Disqualifying clauses already existed in 1870s. License for hunting rifle, Eligibility for election of local government, •••
- 1993 "Basic Law for Disabled Persons" was enacted. The Government launched 10year plan concerning disability measures, announcing to remove four barriers.

Four barriers mean (1) physical, (2) legal, (3) informational and (4)attitudinal barriers.

Ms.Hayase

- Pharmacist
- hearingimpaired
- July 17, 2001
- Mainichi-Shimbun Newspaper

楽剤師になるのが夢だっ 、子供のころから自分も早瀬さんの母も薬剤師 さん(名)が17日、坂口力厚生労働相から免許証を交由に免許申請を却下された東京都豊島区の早瀬久美東和師の国家試験に合格しながら、聴覚障害を理 月に国家試験に合格した。 治薬科大を卒業後の88年4

薬剤師免許証を手にした早瀬久美さん―厚 生労働省で17日午前11時55分、森顕治写す

- 1998 Ms. Hayase, who had passed the national examination for pharmacist, was refused to obtain pharmacist certificate due to her disability.
- 1998-9 "Central Council for the promotion of disability measures" was held to discuss the amendment of disqualifying clauses
- 1999 Government, as its first commitment, issued "Reviewing disqualifying clauses relating to persons with disabilities" and selected 63 licenses.

·Mr.Fukushima

- then councilor of Central Council on the Promotion of Disability Measures
- deaf-blind

Photo:

http://www.rcast.utokyo.ac.jp/en/people/staf f-fukushima_satoshi.html



- 2001 About a half of 63 licenses selected by the government were amended. Ms. Hayase obtained a pharmacist certification.
- 2002 Council on the Promotion of Asia-Pacific Decade of Persons with Disabilities conducted a survey of disqualifying clauses and held a workshop.
- 2003-2008 Doctor license was given to the totally blind person for the first time, and a hearing-impaired person

Mr.Osato

- **Psychiatrist**
- totally blind
- November 24, 2005
- Mainichi-Shimbun Newspaper

臨床研修が医師法で義務 開業するには7診療科の **内院やクリニックを自ら**)けられている。 全盲者

全盲者で2人目の医師



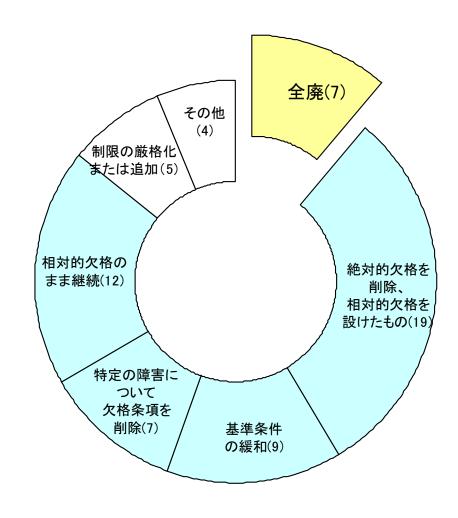
大在学中から視力が低 入里さんは東京医科療

サポート態勢充実訴え

Changes of 63 licenses

Unit: licenses, as of 2007

Absolute grounds for disqualification were deleted from laws. However, most of laws maintain relative grounds for disqualification, while only 7 laws completely eliminated disqualifying clauses on disability.



4. Activities of Disabled Persons' Organization

- Dissemination the real voices of persons with disabilities in society
- □ Unique research and analysis
- Collaboration among disability organizations of different disabilities*
 - * Cross-disability and grass-root activities and network
- Lobbying to parliamentarians in the process of reviewing laws

Collect signatures on the street

- Organized mainly by organizations of the deaf/hard-of-hearing
- Submitted 2.23 million signatures to the government in 2000
- -June 8, 1999
- -Asahi-Shimbun Newspaper

医師や薬剤師になりたいのに…



の署名を集めた。全国では150万近くが寄 せられた。大阪では9月までに15万人を集 めるのが目標。夢を持つ若者のためにも、 一日も早く欠格条項を撤廃したい、とい

厳廃へ署名集め

- As shown in the chart, in 1988, there were a lot of local ordinances which restricted persons with psychiatric disabilities to observe education board meeting, use public swimming pool etc.
- In 1999, the second research found that all such restrictions were deleted.
- Osaka Center for Mental Health and Human Rights conducted these two researches.on local governments in Osaka Prefecture.

調	査年:1988年	大阪	大阪精神医療人権センター ●=精神障害者の利用制限規定あり													
_										●=精	神障	ぎ者のオ	引用制料	艮規正 る		
	市町村名	図書館	公会堂	労働会館	体育館	プ 	ャンプ	公館	市会	年		人	会	育	公	
	名			館			ブ		館	<i>σ</i>	センター	センター		会	会	
1	市	•	•	•	•	•								•		
2	市			•			•							•		
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12	和市					•										
1	市													•		
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15	町					•		•					•			
16	町					•								•		
17	町					•										
18	町													•		
19	村													•		

Mr.Fujita

- Psychiatrist
- Hearing-impaired
- -June 2002
- -Mainichi-Shimbun Newspaper

ることもあるので高い能力 時、神経の病気のため聴力 湖病院(大津市)で勤め始 (53)は、耳が聞こえない。 精神科医の籐田保さん 見えない者、耳が聞こえな い者または口がきけない者 8てしばらくたった29歳の は免許を与えない」とい 医師法 (当時) は「目が

事談で、藤田さんは患者と ろうあ者の一言をきっかけ ができません」。手話サー クルで藤田さんが出会った

間延べの〇〇

国から訪れる。

加藤明院長

な医師。障害の有無は診療

「一般病院では意思疎通

3

5. Changes of this decade

- □ Basic ideas toward licenses are transforming that the person should becertificated if he/she can complete the tasks by using assistance and assistive means.
- ☐ From 2000-2006, Public Housing Law was amended the clauses which limited the eligibility of persons with physical, intellectual and psychiatric disabilities to reside alone in the public housings.

- □ Exams began to consider the test takers with disabilities.
- □ From 2000-2006, Public Housing Law was amended the clauses which limited the eligibility of persons with physical, intellectual and psychiatric disabilities to reside alone in the public housings.

. Important Tips for Solution

- Review and restructure existing laws and systems from the viewpoint of anti-discrimination
- □ Establish the principle that denial of reasonable accommodation is a form of discrimination
- ☐ Transform the view of persons with disabilities based on individual/medical model.

- Understand actual situations of persons with disabilities and clarify the challenges
 - (ex.) Lack of aggregated data and analysis from the gender viewpoint
- Ensure the participation of persons with disabilities from the beginning of all processes including assessment, research and review.

Access to information and communication is indispensable for participation

Citizens' Committee to Eliminate Disqualifying Clauses on Disability

- Organization without status of judicial person. No fund from the government
- Memberships: most of them are individual memberships
- Characteristics: activities regardless of types of disabilities and difference of positions
- Established in 1999

References

■ Information Booklet From No to Yes

http://www.dpi-japan.org/friend/restrict/shiryo/syoseki/NOtoYES_English.pdf

Usui Kumiko, Seyama Noriko The present and future issue of disqualifying clauses on disability Journal of Disability Studies 2008