



[Français](#)

Mental Health Act

R.S.O. 1990, CHAPTER M.7

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Definitions

1. (1) In this Act,

“attending physician” means a physician to whom responsibility for the observation, care and treatment of a patient has been assigned; (“médecin traitant”)

“Board” means the Consent and Capacity Board continued under the *Health Care Consent Act, 1996*; (“Commission”)

“community treatment plan” means a plan described in section 33.7 that is a required part of a community treatment order; (“plan de traitement en milieu communautaire”)

“Deputy Minister” means the deputy minister of the Minister; (“sous-ministre”)

“health practitioner” has the same meaning as in the *Health Care Consent Act, 1996*; (“praticien de la santé”)

- “informal patient” means a person who is a patient in a psychiatric facility, having been admitted with the consent of another person under section 24 of the *Health Care Consent Act, 1996*; (“malade en cure facultative”)
- “involuntary patient” means a person who is detained in a psychiatric facility under a certificate of involuntary admission or a certificate of renewal; (“malade en cure obligatoire”)
- “local board of health” has the same meaning as board of health in the *Health Protection and Promotion Act*; (“conseil local de santé”)
- “medical officer of health” has the same meaning as in the *Health Protection and Promotion Act*; (“médecin-hygiéniste”)
- “mental disorder” means any disease or disability of the mind; (“trouble mental”)
- “Minister” means the Minister of Health and Long-Term Care or such other member of the Executive Council as the Lieutenant Governor in Council designates; (“ministre”)
- “Ministry” means the Ministry of the Minister; (“ministère”)
- “officer in charge” means the officer who is responsible for the administration and management of a psychiatric facility; (“dirigeant responsable”)
- “out-patient” means a person who is registered in a psychiatric facility for observation or treatment or both, but who is not admitted as a patient and is not the subject of an application for assessment; (“malade externe”)
- “patient” means a person who is under observation, care and treatment in a psychiatric facility; (“malade”)
- “personal health information” has the same meaning as in the *Personal Health Information Protection Act, 2004*; (“renseignements personnels sur la santé”)
- “physician” means a legally qualified medical practitioner and, when referring to a community treatment order, means a legally qualified medical practitioner who meets the qualifications prescribed in the regulations for the issuing or renewing of a community treatment order; (“médecin”)
- “plan of treatment” has the same meaning as in the *Health Care Consent Act, 1996*; (“plan de traitement”)
- “prescribed” means prescribed by the regulations; (“prescrit”)
- “psychiatric facility” means a facility for the observation, care and treatment of persons suffering from mental disorder, and designated as such by the Minister; (“établissement psychiatrique”)
- “psychiatrist” means a physician who holds a specialist’s certificate in psychiatry issued by The Royal College of Physicians and Surgeons of Canada or equivalent qualification acceptable to the Minister; (“psychiatre”)

“record of personal health information”, in relation to a person, means a record of personal health information that is compiled in a psychiatric facility in respect of the person; (“dossier de renseignements personnels sur la santé”)

“regulations” means the regulations made under this Act; (“règlements”)

“restrain” means place under control when necessary to prevent serious bodily harm to the patient or to another person by the minimal use of such force, mechanical means or chemicals as is reasonable having regard to the physical and mental condition of the patient; (“maîtriser”)

“rights adviser” means a person, or a member of a category of persons, qualified to perform the functions of a rights adviser under this Act and designated by a psychiatric facility, the Minister or by the regulations to perform those functions, but does not include,

(a) a person involved in the direct clinical care of the person to whom the rights advice is to be given, or

(b) a person providing treatment or care and supervision under a community treatment plan; (“conseiller en matière de droits”)

“senior physician” means the physician responsible for the clinical services in a psychiatric facility; (“médecin-chef”)

“substitute decision-maker”, in relation to a patient, means the person who would be authorized under the *Health Care Consent Act, 1996* to give or refuse consent to a treatment on behalf of the patient, if the patient were incapable with respect to the treatment under that Act, unless the context requires otherwise; (“mandataire spécial”)

“treatment” has the same meaning as in the *Health Care Consent Act, 1996*. (“traitement”) R.S.O. 1990, c. M.7, s. 1; 1992, c. 32, s. 20 (1-4); 1996, c. 2, s. 72 (1, 2, 4, 5); 2000, c. 9, s. 1; 2004, c. 3, Sched. A, s. 90 (1-3).

Meaning of “explain”

(2) A rights adviser or other person whom this Act requires to explain a matter satisfies that requirement by explaining the matter to the best of his or her ability and in a manner that addresses the special needs of the person receiving the explanation, whether that person understands it or not. 1992, c. 32, s. 20 (5).

2. Repealed: 1992, c. 32, s. 20 (7).

3. Repealed: 1992, c. 32, s. 20 (7).

4. Repealed: 1992, c. 32, s. 20 (7).

5. Repealed: 1992, c. 32, s. 20 (7).

Effect of Act on rights and privileges

6. Nothing in this Act shall be deemed to affect the rights or privileges of any person except as specifically set out in this Act. R.S.O. 1990, c. M.7, s. 6.

PART I STANDARDS

Application of Act

7. This Act applies to every psychiatric facility. R.S.O. 1990, c. M.7, s. 7.

Conflict

8. Every psychiatric facility has power to carry on its undertaking as authorized by any Act, but, where the provisions of any Act conflict with the provisions of this Act or the regulations, the provisions of this Act and the regulations prevail. R.S.O. 1990, c. M.7, s. 8.

Advisory officers

9.(1) The Minister may designate officers of the Ministry or appoint persons who shall advise and assist medical officers of health, local boards of health, hospitals and other bodies and persons in all matters pertaining to mental health and who shall have such other duties as are assigned to them by this Act or the regulations.

Powers

(2) Any such officer or person may at any time, and shall be permitted so to do by the authorities thereat, visit and inspect any psychiatric facility, and in so doing may interview patients, examine books, records and other documents relating to patients, examine the condition of the psychiatric facility and its equipment, and inquire into the adequacy of its staff, the range of services provided and any other matter he or she considers relevant to the maintenance of standards of patient care. R.S.O. 1990, c. M.7, s. 9.

Provincial aid

10. The Minister may pay psychiatric facilities provincial aid in such manner, in such amounts and on such conditions as he or she considers appropriate. 1997, c. 15, s. 11 (1).

PART II HOSPITALIZATION

Where admission may be refused

11. Despite this or any other Act, admission to a psychiatric facility may be refused where the immediate needs in the case of the proposed patient are such that hospitalization is not urgent or necessary. R.S.O. 1990, c. M.7, s. 11.

Admission of informal or voluntary patients

12. Any person who is believed to be in need of the observation, care and treatment provided in a psychiatric facility may be admitted thereto as an informal or voluntary patient upon the recommendation of a physician. R.S.O. 1990, c. M.7, s. 12.

Child as informal patient

13.(1) A child who is twelve years of age or older but less than sixteen years of age, who is an informal patient in a psychiatric facility and who has not so applied within the preceding three months may apply in the approved form to the Board to inquire into whether the child needs observation, care and treatment in the psychiatric facility. R.S.O. 1990, c. M.7,

s. 13 (1); 1992, c. 32, s. 20 (6); 2000, c. 9, s. 2 (1).

Application deemed made

(2) Upon the completion of six months after the later of the child's admission to the psychiatric facility as an informal patient or the child's last application under subsection (1), the child shall be deemed to have applied to the Board in the approved form under subsection (1). R.S.O. 1990, c. M.7, s. 13 (2); 1992, c. 32, s. 20 (6); 2000, c. 9, s. 2 (2).

Considerations

(3) In determining whether the child needs observation, care and treatment in the psychiatric facility, the Board shall consider,

- (a) whether the child needs observation, care and treatment of a kind that the psychiatric facility can provide;
- (b) whether the child's needs can be adequately met if the child is not an informal patient in the psychiatric facility;
- (c) whether there is an available alternative to the psychiatric facility in which the child's needs could be more appropriately met;
- (d) the child's views and wishes, where they can be reasonably ascertained; and
- (e) any other matter that the Board considers relevant. R.S.O. 1990, c. M.7, s. 13 (3); 1992, c. 32, s. 20 (6).

Powers of Board

(4) The Board by an order in writing may,

- (a) direct that the child be discharged from the psychiatric facility; or
- (b) confirm that the child may be continued as an informal patient in the psychiatric facility. R.S.O. 1990, c. M.7, s. 13 (4); 1992, c. 32, s. 20 (6).

No limitation

(5) Nothing in this section prevents a physician from completing a certificate of involuntary admission in respect of the child. R.S.O. 1990, c. M.7, s. 13 (5).

Panels of three or five members

(6) Despite subsection 73 (1) of the *Health Care Consent Act, 1996*, the chair shall assign the members of the Board to sit in panels of three or five members to deal with applications under this section. 1996, c. 2, s. 72 (6).

Procedure

(7) Subsection 39 (6) and section 42 of this Act and clause 73 (3) (a), subsection 73 (4) and sections 74 to 80 of the *Health Care Consent Act, 1996* apply to an application under this section, with necessary modifications. 1996, c. 2, s. 72 (6).

Informal or voluntary patient

14. Nothing in this Act authorizes a psychiatric facility to detain or to restrain an informal or voluntary patient. R.S.O. 1990, c. M.7, s. 14.

Application for psychiatric assessment

15.(1) Where a physician examines a person and has reasonable cause to believe that the person,

- (a) has threatened or attempted or is threatening or attempting to cause bodily harm to himself or herself;
- (b) has behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him or her; or
- (c) has shown or is showing a lack of competence to care for himself or herself,

and if in addition the physician is of the opinion that the person is apparently suffering from mental disorder of a nature or quality that likely will result in,

- (d) serious bodily harm to the person;
- (e) serious bodily harm to another person; or
- (f) serious physical impairment of the person,

the physician may make application in the prescribed form for a psychiatric assessment of the person. R.S.O. 1990, c. M.7, s. 15 (1); 2000, c. 9, s. 3 (1).

Same

(1.1) Where a physician examines a person and has reasonable cause to believe that the person,

- (a) has previously received treatment for mental disorder of an ongoing or recurring nature that, when not treated, is of a nature or quality that likely will result in serious bodily harm to the person or to another person or substantial mental or physical deterioration of the person or serious physical impairment of the person; and
- (b) has shown clinical improvement as a result of the treatment,

and if in addition the physician is of the opinion that the person,

- (c) is apparently suffering from the same mental disorder as the one for which he or she previously received treatment or from a mental disorder that is similar to the previous one;
- (d) given the person's history of mental disorder and current mental or physical condition, is likely to cause serious bodily harm to himself or herself or to another person or is likely to suffer substantial mental or physical deterioration or serious physical impairment; and
- (e) is incapable, within the meaning of the *Health Care Consent Act, 1996*, of consenting to his or her treatment in a psychiatric facility and the consent of his or her substitute decision-maker has been obtained,

the physician may make application in the prescribed form for a psychiatric assessment of the

person. 2000, c. 9, s. 3 (2).

Contents of application

(2) An application under subsection (1) or (1.1) shall set out clearly that the physician who signs the application personally examined the person who is the subject of the application and made careful inquiry into all of the facts necessary for him or her to form his or her opinion as to the nature and quality of the mental disorder of the person. R.S.O. 1990, c. M.7, s. 15 (2); 2000, c. 9, s. 3 (3).

Idem

(3) A physician who signs an application under subsection (1) or (1.1),

- (a) shall set out in the application the facts upon which he or she formed his or her opinion as to the nature and quality of the mental disorder;
- (b) shall distinguish in the application between the facts observed by him or her and the facts communicated to him or her by others; and
- (c) shall note in the application the date on which he or she examined the person who is the subject of the application. R.S.O. 1990, c. M.7, s. 15 (3); 2000, c. 9, s. 3 (4).

Signing of application

(4) An application under subsection (1) or (1.1) is not effective unless it is signed by the physician within seven days after he or she examined the person who is the subject of the examination. R.S.O. 1990, c. M.7, s. 15 (4); 2000, c. 9, s. 3 (5).

Authority of application

(5) An application under subsection (1) or (1.1) is sufficient authority for seven days from and including the day on which it is signed by the physician,

- (a) to any person to take the person who is the subject of the application in custody to a psychiatric facility forthwith; and
- (b) to detain the person who is the subject of the application in a psychiatric facility and to restrain, observe and examine him or her in the facility for not more than 72 hours. R.S.O. 1990, c. M.7, s. 15 (5); 2000, c. 9, s. 3 (6).

Justice of the peace's order for psychiatric examination

16.(1) Where information upon oath is brought before a justice of the peace that a person within the limits of the jurisdiction of the justice,

- (a) has threatened or attempted or is threatening or attempting to cause bodily harm to himself or herself;
- (b) has behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him or her; or
- (c) has shown or is showing a lack of competence to care for himself or herself,

and in addition based upon the information before him or her the justice of the peace has reasonable cause to believe that the person is apparently suffering from mental disorder of a

nature or quality that likely will result in,

- (d) serious bodily harm to the person;
- (e) serious bodily harm to another person; or
- (f) serious physical impairment of the person,

the justice of the peace may issue an order in the prescribed form for the examination of the person by a physician. R.S.O. 1990, c. M.7, s. 16 (1); 2000, c. 9, s. 4 (1).

Same

(1.1) Where information upon oath is brought before a justice of the peace that a person within the limits of the jurisdiction of the justice,

- (a) has previously received treatment for mental disorder of an ongoing or recurring nature that, when not treated, is of a nature or quality that likely will result in serious bodily harm to the person or to another person or substantial mental or physical deterioration of the person or serious physical impairment of the person; and
- (b) has shown clinical improvement as a result of the treatment,

and in addition based upon the information before him or her the justice of the peace has reasonable cause to believe that the person,

- (c) is apparently suffering from the same mental disorder as the one for which he or she previously received treatment or from a mental disorder that is similar to the previous one;
- (d) given the person's history of mental disorder and current mental or physical condition, is likely to cause serious bodily harm to himself or herself or to another person or is likely to suffer substantial mental or physical deterioration or serious physical impairment; and
- (e) is apparently incapable, within the meaning of the *Health Care Consent Act, 1996*, of consenting to his or her treatment in a psychiatric facility and the consent of his or her substitute decision-maker has been obtained,

the justice of the peace may issue an order in the prescribed form for the examination of the person by a physician. 2000, c. 9, s. 4 (2).

Idem

(2) An order under this section may be directed to all or any police officers of the locality within which the justice has jurisdiction and shall name or otherwise describe the person with respect to whom the order has been made. R.S.O. 1990, c. M.7, s. 16 (2); 2000, c. 9, s. 4 (3).

Authority of order

(3) An order under this section shall direct, and, for a period not to exceed seven days from and including the day that it is made, is sufficient authority for any police officer to whom it is addressed to take the person named or described therein in custody forthwith to an

appropriate place where he or she may be detained for examination by a physician. R.S.O. 1990, c. M.7, s. 16 (3); 2000, c. 9, s. 4 (4).

Manner of bringing information before justice

(4) For the purposes of this section, information shall be brought before a justice of the peace in the prescribed manner. 2000, c. 9, s. 4 (5).

Action by police officer

17. Where a police officer has reasonable and probable grounds to believe that a person is acting or has acted in a disorderly manner and has reasonable cause to believe that the person,

- (a) has threatened or attempted or is threatening or attempting to cause bodily harm to himself or herself;
- (b) has behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him or her; or
- (c) has shown or is showing a lack of competence to care for himself or herself,

and in addition the police officer is of the opinion that the person is apparently suffering from mental disorder of a nature or quality that likely will result in,

- (d) serious bodily harm to the person;
- (e) serious bodily harm to another person; or
- (f) serious physical impairment of the person,

and that it would be dangerous to proceed under section 16, the police officer may take the person in custody to an appropriate place for examination by a physician. 2000, c. 9, s. 5.

Place of psychiatric examination

18. An examination under section 16 or 17 shall be conducted by a physician forthwith after receipt of the person at the place of examination and where practicable the place shall be a psychiatric facility or other health facility. R.S.O. 1990, c. M.7, s. 18.

Change from informal or voluntary patient to involuntary patient

19. Subject to subsections 20 (1.1) and (5), the attending physician may change the status of an informal or voluntary patient to that of an involuntary patient by completing and filing with the officer in charge a certificate of involuntary admission. R.S.O. 1990, c. M.7, s. 19; 2000, c. 9, s. 6.

Duty of attending physician

20.(1) The attending physician, after observing and examining a person who is the subject of an application for assessment under section 15 or who is the subject of an order under section 32,

- (a) shall release the person from the psychiatric facility if the attending physician is of the opinion that the person is not in need of the treatment provided in a psychiatric facility;

- (b) shall admit the person as an informal or voluntary patient if the attending physician is of the opinion that the person is suffering from mental disorder of such a nature or quality that the person is in need of the treatment provided in a psychiatric facility and is suitable for admission as an informal or voluntary patient; or
- (c) shall admit the person as an involuntary patient by completing and filing with the officer in charge a certificate of involuntary admission if the attending physician is of the opinion that the conditions set out in subsection (1.1) or (5) are met. R.S.O. 1990, c. M.7, s. 20 (1); 2000, c. 9, s. 7 (1).

Conditions for involuntary admission

[\(1.1\)](#) The attending physician shall complete a certificate of involuntary admission or a certificate of renewal if, after examining the patient, he or she is of the opinion that the patient,

- (a) has previously received treatment for mental disorder of an ongoing or recurring nature that, when not treated, is of a nature or quality that likely will result in serious bodily harm to the person or to another person or substantial mental or physical deterioration of the person or serious physical impairment of the person;
- (b) has shown clinical improvement as a result of the treatment;
- (c) is suffering from the same mental disorder as the one for which he or she previously received treatment or from a mental disorder that is similar to the previous one;
- (d) given the person's history of mental disorder and current mental or physical condition, is likely to cause serious bodily harm to himself or herself or to another person or is likely to suffer substantial mental or physical deterioration or serious physical impairment;
- (e) has been found incapable, within the meaning of the *Health Care Consent Act, 1996*, of consenting to his or her treatment in a psychiatric facility and the consent of his or her substitute decision-maker has been obtained; and
- (f) is not suitable for admission or continuation as an informal or voluntary patient. 2000, c. 9, s. 7 (2).

Physician who completes certificate of involuntary admission

[\(2\)](#) The physician who completes a certificate of involuntary admission pursuant to clause (1) (c) shall not be the same physician who completed the application for psychiatric assessment under section 15. R.S.O. 1990, c. M.7, s. 20 (2).

Release of person by officer in charge

[\(3\)](#) The officer in charge shall release a person who is the subject of an application for assessment under section 15 or who is the subject of an order under section 32 upon the completion of 72 hours of detention in the psychiatric facility unless the attending physician has released the person, has admitted the person as an informal or voluntary patient or has admitted the person as an involuntary patient by completing and filing with the officer in

charge a certificate of involuntary admission. R.S.O. 1990, c. M.7, s. 20 (3).

Authority of certificate

(4) An involuntary patient may be detained, restrained, observed and examined in a psychiatric facility,

(a) for not more than two weeks under a certificate of involuntary admission; and

(b) for not more than,

(i) one additional month under a first certificate of renewal,

(ii) two additional months under a second certificate of renewal, and

(iii) three additional months under a third or subsequent certificate of renewal,

that is completed and filed with the officer in charge by the attending physician. R.S.O. 1990, c. M.7, s. 20 (4).

Conditions for involuntary admission

(5) The attending physician shall complete a certificate of involuntary admission or a certificate of renewal if, after examining the patient, he or she is of the opinion both,

(a) that the patient is suffering from mental disorder of a nature or quality that likely will result in,

(i) serious bodily harm to the patient,

(ii) serious bodily harm to another person, or

(iii) serious physical impairment of the patient,

unless the patient remains in the custody of a psychiatric facility; and

(b) that the patient is not suitable for admission or continuation as an informal or voluntary patient. R.S.O. 1990, c. M.7, s. 20 (5); 2000, c. 9, s. 7 (3, 4).

Change of status, where period of detention has expired

(6) An involuntary patient whose authorized period of detention has expired shall be deemed to be an informal or voluntary patient. R.S.O. 1990, c. M.7, s. 20 (6).

Idem, where period of detention has not expired

(7) An involuntary patient whose authorized period of detention has not expired may be continued as an informal or voluntary patient upon completion of the approved form by the attending physician. R.S.O. 1990, c. M.7, s. 20 (7); 2000, c. 9, s. 7 (5).

Examination of certificate by officer in charge

(8) Forthwith following completion and filing of a certificate of involuntary admission or of a certificate of renewal, the officer in charge or his or her delegate shall review the certification documents to ascertain whether or not they have been completed in compliance with the criteria outlined in this Act and where, in his or her opinion, the documents are not properly completed, the officer in charge shall so inform the attending physician and, unless the person is re-examined and released or admitted in accordance with this section, the officer

in charge shall release the person. R.S.O. 1990, c. M.7, s. 20 (8); 2000, c. 9, s. 7 (6).

Judge's order for examination

21.(1) Where a judge has reason to believe that a person who appears before him or her charged with or convicted of an offence suffers from mental disorder, the judge may order the person to attend a psychiatric facility for examination.

Senior physician's report

(2) Where an examination is made under this section, the senior physician shall report in writing to the judge as to the mental condition of the person. R.S.O. 1990, c. M.7, s. 21.

Judge's order for admission

22.(1) Where a judge has reason to believe that a person in custody who appears before him or her charged with an offence suffers from mental disorder, the judge may, by order, remand that person for admission as a patient to a psychiatric facility for a period of not more than two months.

Senior physician's report

(2) Before the expiration of the time mentioned in such order, the senior physician shall report in writing to the judge as to the mental condition of the person. R.S.O. 1990, c. M.7, s. 22.

Condition precedent to judge's order

23. A judge shall not make an order under section 21 or 22 until he or she ascertains from the senior physician of a psychiatric facility that the services of the psychiatric facility are available to the person to be named in the order. R.S.O. 1990, c. M.7, s. 23.

Contents of senior physician's report

24. Despite this or any other Act or any regulation made under any other Act, the senior physician may report all or any part of the information compiled by the psychiatric facility to any person where, in the opinion of the senior physician, it is in the best interests of the person who is the subject of an order made under section 21 or 22. R.S.O. 1990, c. M.7, s. 24.

Detention under the *Criminal Code* (Canada)

25. Any person who is detained in a psychiatric facility under Part XX.1 of the *Criminal Code* (Canada) may be restrained, observed and examined under this Act and provided with treatment under the *Health Care Consent Act, 1996*. 2000, c. 9, s. 8.

Communications to and from patients

26.(1) Except as provided in this section, no communication written by a patient or sent to a patient shall be opened, examined or withheld, and its delivery shall not in any way be obstructed or delayed.

Where communication may be withheld

(2) Where the officer in charge or a person acting under his or her authority has reasonable and probable cause to believe,

- (a) that the contents of a communication written by a patient would,

- (i) be unreasonably offensive to the addressee, or
 - (ii) prejudice the best interests of the patient; or
- (b) that the contents of a communication sent to a patient would,
- (i) interfere with the treatment of the patient, or
 - (ii) cause the patient unnecessary distress,

the officer in charge or a person acting under his or her authority may open and examine the contents thereof and, if any condition mentioned in clause (a) or (b), as the case may be, exists, may withhold such communication from delivery. R.S.O. 1990, c. M.7, s. 26 (1, 2).

Exceptions

[\(3\)](#) Subsection (2) does not apply to a communication written by a patient to, or appearing to be sent to a patient by,

- (a) a barrister and solicitor;
- (b) a member of the Board; or
- (c) a member of the Assembly. R.S.O. 1990, c. M.7, s. 26 (3); 1992, c. 32, s. 20 (6).

Leave of absence

[27.\(1\)](#) The attending physician may, subject to subsection (3), place a patient on a leave of absence from the psychiatric facility for a designated period of not more than three months if the intention is that the patient shall return to the facility. 2000, c. 9, s. 9.

Same

[\(2\)](#) The officer in charge may, upon the advice of the attending physician, place a patient on a leave of absence from the psychiatric facility for a designated period of not more than three months. 2000, c. 9, s. 9.

Terms and conditions

[\(3\)](#) The attending physician and the patient shall comply with such terms and conditions for the leave of absence as the officer in charge may prescribe. 2000, c. 9, s. 9.

Exception

[\(4\)](#) This section does not authorize the placing of a patient on a leave of absence where he or she is subject to detention otherwise than under this Act. 2000, c. 9, s. 9.

Unauthorized absence

[28. \(1\)](#) Where a person who is subject to detention is absent without leave from a psychiatric facility, a police officer or any other person to whom the officer in charge has issued an order for return shall make reasonable attempts to return the person and may, within one month after the absence becomes known to the officer in charge, return the person to the psychiatric facility or take the person to the psychiatric facility nearest to the place where the person is apprehended. 2000, c. 9, s. 10.

Detention during return

(2) A patient who is being returned under subsection (1) may be detained in an appropriate place in the course of his or her return. R.S.O. 1990, c. M.7, s. 28 (2).

Period of detention upon return

(3) For the purposes of this Act, a patient who is returned under subsection (1) may be detained for the remainder of the period of detention to which he or she was subject when his or her absence became known to the officer in charge. R.S.O. 1990, c. M.7, s. 28 (3).

Where not returned

(4) Where a patient is not returned within one month after his or her absence became known to the officer in charge, he or she shall, unless subject to detention otherwise than under this Act, be deemed to be discharged from the psychiatric facility. R.S.O. 1990, c. M.7, s. 28 (4).

Prohibitions

(5) No person shall do or omit to do any act for the purpose of aiding, assisting, abetting or counselling a patient in a psychiatric facility to be absent without authorization. R.S.O. 1990, c. M.7, s. 28 (5).

Transfer of patients from one facility to another

29. (1) Upon the advice of the attending physician, the officer in charge of a psychiatric facility may, if otherwise permitted by law and subject to arrangements being made with the officer in charge of another psychiatric facility, transfer a patient to such other psychiatric facility upon completing a memorandum of transfer in the approved form. R.S.O. 1990, c. M.7, s. 29 (1); 2000, c. 9, s. 11.

Transfer of records from one facility to another

(1.1) The officer in charge of the psychiatric facility from which the patient is transferred may transfer the patient's record of personal health information to the officer in charge of the psychiatric facility to which the patient is transferred. 2004, c. 3, Sched. A, s. 90 (4).

Authority to detain

(2) Where a patient is transferred under subsection (1), the authority to detain him or her continues in force in the psychiatric facility to which he or she is so transferred. R.S.O. 1990, c. M.7, s. 29 (2).

Treatment in public hospital

30.(1) Upon the advice of the attending physician that a patient requires hospital treatment that cannot be supplied in the psychiatric facility, the officer in charge may, if otherwise permitted by law, transfer the patient to a public hospital for such treatment and return him or her to the psychiatric facility upon the conclusion thereof.

Powers of superintendent

(2) Where a patient is transferred under subsection (1), the superintendent of the public hospital has, in addition to the powers conferred upon him or her by the Act under which the hospital operates, the powers under this Act of an officer in charge of a psychiatric facility in

respect of the custody and control of the patient. R.S.O. 1990, c. M.7, s. 30.

Transfer of patients to institutions outside Ontario

31. Where it appears to the Minister,

- (a) that a patient in a psychiatric facility has come or been brought into Ontario from elsewhere and his or her hospitalization is the responsibility of another jurisdiction; or
- (b) that it would be in the best interests of a patient in a psychiatric facility to be hospitalized in another jurisdiction,

the Minister may, upon compliance in Ontario with necessary modifications with the laws respecting hospitalization in such other jurisdiction, by warrant in the approved form authorize his or her transfer thereto. R.S.O. 1990, c. M.7, s. 31; 2000, c. 9, s. 12.

Mentally disordered person coming into Ontario

32.(1) Where the Minister has reasonable cause to believe that there may come or be brought into Ontario a person suffering from mental disorder of a nature or quality that likely will result in,

- (a) serious bodily harm to the person; or
- (b) serious bodily harm to another person,

unless the person is placed in the custody of a psychiatric facility, the Minister by an order in the prescribed form may authorize any one to take the person in custody to a psychiatric facility and the order is authority to admit, detain, restrain, observe and examine the person in the psychiatric facility. R.S.O. 1990, c. M.7, s. 32.

Delegation of Minister's powers

(2) The Minister may, in writing, delegate his or her powers under subsection (1) to the Deputy Minister or to any officer or officers of the Ministry subject to such limitations, conditions and requirements as the Minister may set out in the delegation. 2000, c. 9, s. 13.

Duty to remain and retain custody

33. A police officer or other person who takes a person in custody to a psychiatric facility shall remain at the facility and retain custody of the person until the facility takes custody of him or her in the prescribed manner. 2000, c. 9, s. 14.

Community treatment order

33.1 (1) A physician may issue or renew a community treatment order with respect to a person for a purpose described in subsection (3) if the criteria set out in subsection (4) are met. 2000, c. 9, s. 15.

Same

- (2)** The community treatment order must be in the prescribed form. 2000, c. 9, s. 15.

Purposes

- (3)** The purpose of a community treatment order is to provide a person who suffers

from a serious mental disorder with a comprehensive plan of community-based treatment or care and supervision that is less restrictive than being detained in a psychiatric facility. Without limiting the generality of the foregoing, a purpose is to provide such a plan for a person who, as a result of his or her serious mental disorder, experiences this pattern: The person is admitted to a psychiatric facility where his or her condition is usually stabilized; after being released from the facility, the person often stops the treatment or care and supervision; the person's condition changes and, as a result, the person must be re-admitted to a psychiatric facility. 2000, c. 9, s. 15.

Criteria for order

- (4) A physician may issue or renew a community treatment order under this section if,
- (a) during the previous three-year period, the person,
 - (i) has been a patient in a psychiatric facility on two or more separate occasions or for a cumulative period of 30 days or more during that three-year period, or
 - (ii) has been the subject of a previous community treatment order under this section;
 - (b) the person or his or her substitute decision-maker, the physician who is considering issuing or renewing the community treatment order and any other health practitioner or person involved in the person's treatment or care and supervision have developed a community treatment plan for the person;
 - (c) within the 72-hour period before entering into the community treatment plan, the physician has examined the person and is of the opinion, based on the examination and any other relevant facts communicated to the physician, that,
 - (i) the person is suffering from mental disorder such that he or she needs continuing treatment or care and continuing supervision while living in the community,
 - (ii) the person meets the criteria for the completion of an application for psychiatric assessment under subsection 15 (1) or (1.1) where the person is not currently a patient in a psychiatric facility,
 - (iii) if the person does not receive continuing treatment or care and continuing supervision while living in the community, he or she is likely, because of mental disorder, to cause serious bodily harm to himself or herself or to another person or to suffer substantial mental or physical deterioration of the person or serious physical impairment of the person,
 - (iv) the person is able to comply with the community treatment plan contained in the community treatment order, and
 - (v) the treatment or care and supervision required under the terms of the community treatment order are available in the community;

- (d) the physician has consulted with the health practitioners or other persons proposed to be named in the community treatment plan;
- (e) subject to subsection (5), the physician is satisfied that the person subject to the order and his or her substitute decision-maker, if any, have consulted with a rights adviser and have been advised of their legal rights; and
- (f) the person or his or her substitute decision-maker consents to the community treatment plan in accordance with the rules for consent under the *Health Care Consent Act, 1996*. 2000, c. 9, s. 15.

Exception

(5) Clause (4) (e) does not apply in any of the following circumstances:

1. If a rights adviser has made best efforts to locate the person subject to the order, the person could not be located and the rights adviser so informs the physician.
2. If the person subject to the order refuses to consult with a rights adviser and the rights adviser so informs the physician.
3. If, for the renewal of the order, the Public Guardian and Trustee is the substitute decision-maker for the person subject to the order. 2010, c. 1, Sched. 17, s. 1.

Content of order

(6) A community treatment order shall indicate,

- (a) the date of the examination referred to in clause (4) (c);
- (b) the facts on which the physician formed the opinion referred to in clause (4) (c);
- (c) a description of the community treatment plan referred to in clause (4) (b); and
- (d) an undertaking by the person to comply with his or her obligations as set out in subsection (9) or an undertaking by the person's substitute decision-maker to use his or her best efforts to ensure that the person complies with those obligations. 2000, c. 9, s. 15.

Protection from liability, substitute decision-maker

(7) The substitute decision-maker who, in good faith, uses his or her best efforts to ensure the person's compliance and believes, on reasonable grounds, that the person is in compliance is not liable for any default or neglect of the person in complying. 2000, c. 9, s. 15.

Legal advice

(8) The person who is being considered for a community treatment order, or who is subject to such an order, and that person's substitute decision-maker, if any, have a right to retain and instruct counsel and to be informed of that right. 2000, c. 9, s. 15.

Obligations of person

(9) If a person or his or her substitute decision-maker consents to a community treatment plan under this section, the person shall,

- (a) attend appointments with the physician who issued or renewed the community treatment order, or with any other health practitioner or other person referred to in the community treatment plan, at the times and places scheduled from time to time; and
- (b) comply with the community treatment plan described in the community treatment order. 2000, c. 9, s. 15.

To whom copies of order and plan to be given

(10) The physician who issues or renews a community treatment order under this section shall ensure that a copy of the order, including the community treatment plan, is given to,

- (a) the person, along with a notice that he or she has a right to a hearing before the Board under section 39.1;
- (b) the person's substitute decision-maker, where applicable;
- (c) the officer in charge, where applicable; and
- (d) any other health practitioner or other person named in the community treatment plan. 2000, c. 9, s. 15.

Expiry of order

(11) A community treatment order expires six months after the day it is made unless,

- (a) it is renewed in accordance with subsection (12); or
- (b) it is terminated earlier in accordance with section 33.2, 33.3 or 33.4. 2000, c. 9, s. 15.

Renewals

(12) A community treatment order may be renewed for a period of six months at any time before its expiry and within one month after its expiry. 2000, c. 9, s. 15.

Subsequent plans

(13) Upon the expiry or termination of a community treatment order, the parties may enter into a subsequent community treatment plan if the criteria set out in subsection (4) are met. 2000, c. 9, s. 15.

Early termination of order pursuant to request

33.2(1) At the request of a person who is subject to a community treatment order or of his or her substitute decision-maker, the physician who issued or renewed the order shall review the person's condition to determine if the person is able to continue to live in the community without being subject to the order. 2000, c. 9, s. 15.

Same

(2) If the physician determines, upon reviewing the person's condition, that the circumstances described in subclauses 33.1 (4) (c) (i), (ii) and (iii) no longer exist, the physician shall,

- (a) terminate the community treatment order;
- (b) notify the person that he or she may live in the community without being subject to the community treatment order; and
- (c) notify the persons referred to in clauses 33.1 (10) (b), (c) and (d) that the community treatment order has been terminated. 2000, c. 9, s. 15.

Early termination of order for failure to comply

33.3 (1) If a physician who issued or renewed a community treatment order has reasonable cause to believe that the person subject to the order has failed to comply with his or her obligations under subsection 33.1 (9), the physician may, subject to subsection (2), issue an order for examination of the person in the prescribed form. 2000, c. 9, s. 15.

Community treatment order not terminated

(1.1) A community treatment order is not terminated by the issuance of an order for examination under this section. 2010, c. 1, Sched. 17, s. 2.

Conditions for issuing order for examination

- (2)** The physician shall not issue an order for examination under subsection (1) unless,
- (a) he or she has reasonable cause to believe that the criteria set out in subclauses 33.1 (4) (c) (i), (ii) and (iii) continue to be met; and
 - (b) reasonable efforts have been made to,
 - (i) locate the person,
 - (ii) inform the person of the failure to comply or, if the person is incapable within the meaning of the *Health Care Consent Act, 1996*, inform the person's substitute decision-maker of the failure,
 - (iii) inform the person or the substitute decision-maker of the possibility that the physician may issue an order for examination and of the possible consequences, and
 - (iv) provide assistance to the person to comply with the terms of the order. 2000, c. 9, s. 15.

Return to physician

(3) An order for examination issued under subsection (1) is sufficient authority, for 30 days after it is issued, for a police officer to take the person named in it into custody and then promptly to the physician who issued the order. 2000, c. 9, s. 15.

Assessment on return

- (4)** The physician shall promptly examine the person to determine whether,
- (a) the physician should make an application for a psychiatric assessment of the person under section 15;
 - (b) the physician should issue another community treatment order where the person, or

- his or her substitute decision-maker, consents to the community treatment plan; or
- (c) the person should be released without being subject to a community treatment order.
2000, c. 9, s. 15.

Early termination of order on withdrawal of consent

33.4(1) A person who is subject to a community treatment order, or his or her substitute decision-maker, may withdraw his or her consent to the community treatment plan by giving the physician who issued or renewed the order a notice of intention to withdraw consent.
2000, c. 9, s. 15.

Duty of physician

(2) Within 72 hours after receipt of the notice, the physician shall review the person's condition to determine if the person is able to continue to live in the community without being subject to the order. 2000, c. 9, s. 15.

Order for examination

(3) If the person subject to the community treatment order fails to permit the physician to review his or her condition, the physician may, within the 72-hour period, issue in the prescribed form an order for examination of the person if he or she has reasonable cause to believe that the criteria set out in subclauses 33.1 (4) (c) (i), (ii) and (iii) continue to be met.
2000, c. 9, s. 15.

Return to physician

(4) An order for examination issued under subsection (3) is sufficient authority, for 30 days after it is issued, for a police officer to take the person named in it into custody and then promptly to the physician who issued the order. 2000, c. 9, s. 15.

Assessment on return

- (5)** The physician shall promptly examine the person to determine whether,
- (a) the physician should make an application for a psychiatric assessment of the person under section 15;
 - (b) the physician should issue another community treatment order where the person, or his or her substitute decision-maker, consents to the community treatment plan; or
 - (c) the person should be released without being subject to a community treatment order.
2000, c. 9, s. 15.

Accountability

33.5(1) A physician who issues or renews a community treatment order, or a physician who is appointed under subsection (2), is responsible for the general supervision and management of the order. 2000, c. 9, s. 15.

Appointment of other physician

(2) If the physician who issues or renews a community treatment order is absent or, for any other reason, is unable to carry out his or her responsibilities under subsection (1) or under section 33.2, 33.3 or 33.4, the physician may appoint another physician to act in his or

her place, with the consent of that physician. 2000, c. 9, s. 15.

Responsibility, named providers

(3) A person who agrees to provide treatment or care and supervision under a community treatment plan shall indicate his or her agreement in the plan and is responsible for providing the treatment or care and supervision in accordance with the plan. 2000, c. 9, s. 15.

Responsibility of other persons

(4) All persons named in a community treatment plan, including the person subject to the plan and the person's substitute decision-maker, if any, are responsible for implementing the plan to the extent indicated in it. 2000, c. 9, s. 15.

Protection from liability, issuing physician

33.6 (1) If the physician who issues or renews a community treatment order or a physician appointed under subsection 33.5 (2) believes, on reasonable grounds and in good faith, that the persons who are responsible for providing treatment or care and supervision under a community treatment plan are doing so in accordance with the plan, the physician is not liable for any default or neglect by those persons in providing the treatment or care and supervision. 2000, c. 9, s. 15.

Same, other persons involved in treatment

(2) If a person who is responsible for providing an aspect of treatment or care and supervision under a community treatment plan believes, on reasonable grounds and in good faith, that a person who is responsible for providing another aspect of treatment or care and supervision under the plan is doing so in accordance with the plan, the person is not liable for any default or neglect by that person in providing that aspect of treatment or care and supervision. 2000, c. 9, s. 15.

Same, physician

(3) If a person who is responsible for providing an aspect of treatment or care and supervision under a community treatment plan believes, on reasonable grounds and in good faith, that the physician who issued or renewed the community treatment order or a physician appointed under subsection 33.5 (2) is providing treatment or care and supervision in accordance with the plan, the person is not liable for any default or neglect by the physician in providing the treatment or care and supervision. 2000, c. 9, s. 15.

Reports

(4) The physician who issues or renews a community treatment order or a physician appointed under subsection 33.5 (2) may require reports on the condition of the person subject to the order from the persons who are responsible for providing treatment or care and supervision under the community treatment plan. 2000, c. 9, s. 15.

Community treatment plans

33.7 A community treatment plan shall contain at least the following:

1. A plan of treatment for the person subject to the community treatment order.
2. Any conditions relating to the treatment or care and supervision of the person.

3. The obligations of the person subject to the community treatment order.
4. The obligations of the substitute decision-maker, if any.
5. The name of the physician, if any, who has agreed to accept responsibility for the general supervision and management of the community treatment order under subsection 33.5 (2).
6. The names of all persons or organizations who have agreed to provide treatment or care and supervision under the community treatment plan and their obligations under the plan. 2000, c. 9, s. 15.

No limitation

33.8 Nothing in sections 33.1 to 33.7 prevents a physician, a justice of the peace or a police officer from taking any of the actions that they may take under section 15, 16, 17 or 20. 2000, c. 9, s. 15.

Review

33.9(1) The Minister shall establish a process to review the following matters:

1. The reasons that community treatment orders were or were not used during the review period.
2. The effectiveness of community treatment orders during the review period.
3. Methods used to evaluate the outcome of any treatment used under community treatment orders. 2000, c. 9, s. 15.

First review

(2) The first review must be undertaken during the third year after the date on which subsection 33.1 (1) comes into force. 2000, c. 9, s. 15.

Subsequent reviews

(3) A review must be completed every five years after the first review is completed. 2000, c. 9, s. 15.

Report

(4) The Minister shall make available to the public for inspection the written report of the person conducting each review. 2000, c. 9, s. 15.

Discharge of patients

34.(1) A patient shall be discharged from a psychiatric facility when he or she is no longer in need of the observation, care and treatment provided therein.

Exception

(2) Subsection (1) does not authorize the discharge into the community of a patient who is subject to detention otherwise than under this Act. R.S.O. 1990, c. M.7, s. 34.

Conflict

34.1 Where there is a conflict between the *Personal Health Information Protection Act, 2004* and section 35 or 35.1 of this Act or any provision of this Act relating to the issuance or

renewal of a community treatment order or the treatment, care or supervision of a person in accordance with a community treatment plan, the provisions of this Act apply. 2004, c. 3, Sched. A, s. 90 (5).

Personal health information

35. (1) In this section,

“patient” includes former patient, out-patient, former out-patient and anyone who is or has been detained in a psychiatric facility. 2004, c. 3, Sched. A, s. 90 (7).

Disclosure, etc., for purpose of detention or order

(2) The officer in charge of a psychiatric facility may collect, use and disclose personal health information about a patient, with or without the patient’s consent, for the purposes of,

- (a) examining, assessing, observing or detaining the patient in accordance with this Act; or
- (b) complying with Part XX.1 (Mental Disorder) of the *Criminal Code* (Canada) or an order or disposition made pursuant to that Part. 2004, c. 3, Sched. A, s. 90 (7).

Disclosure to Board

(3) In a proceeding before the Board under this or any other Act in respect of a patient, the officer in charge shall, at the request of any party to the proceeding, disclose to the Board the patient’s record of personal health information. 2004, c. 3, Sched. A, s. 90 (7).

Disclosure of record

(4) The officer in charge may disclose or transmit a person’s record of personal health information to or permit the examination of the record by,

- (a) a physician who is considering issuing or renewing, or who has issued or renewed, a community treatment order under section 33.1;
- (b) a physician appointed under subsection 33.5 (2);
- (c) another person named in the person’s community treatment plan as being involved in the person’s treatment or care and supervision upon the written request of the physician or other named person; or
- (d) a prescribed person who is providing advocacy services to patients in the prescribed circumstances. 2004, c. 3, Sched. A, s. 90 (7).

Substitute Decisions Act, 1992

(4.1) The officer in charge shall disclose or transmit a clinical record to, or permit the examination of a clinical record by, a person who is entitled to have access to the record under section 83 of the *Substitute Decisions Act, 1992*. 1992, c. 32, s. 20 (13); 1996, c. 2, s. 72 (12).

(4.2) Repealed: 1996, c. 2, s. 72 (13).

Disclosure pursuant to summons

(5) Subject to subsections (6) and (7), the officer in charge or a person designated in writing by the officer in charge shall disclose, transmit or permit the examination of a record

of personal health information pursuant to a summons, order, direction, notice or similar requirement in respect of a matter in issue or that may be in issue in a court of competent jurisdiction or under any Act. R.S.O. 1990, c. M.7, s. 35 (5); 2004, c. 3, Sched. A, s. 90 (8).

Statement by attending physician

(6) Where the disclosure, transmittal or examination of a record of personal health information is required by a summons, order, direction, notice or similar requirement in respect of a matter in issue or that may be in issue in a court of competent jurisdiction or under any Act and the attending physician states in writing that he or she is of the opinion that the disclosure, transmittal or examination of the record of personal health information or of a specified part of the record of personal health information,

- (a) is likely to result in harm to the treatment or recovery of the patient; or
- (b) is likely to result in,
 - (i) injury to the mental condition of a third person, or
 - (ii) bodily harm to a third person,

no person shall comply with the requirement with respect to the record of personal health information or the part of the record of personal health information specified by the attending physician except under an order made by the court or body before which the matter is or may be in issue after a hearing from which the public is excluded and that is held on notice to the attending physician. R.S.O. 1990, c. M.7, s. 35 (6); 1992, c. 32, s. 20 (14); 2004, c. 3, Sched. A, s. 90 (8).

Matters to be considered by court or body

(7) On a hearing under subsection (6), the court or body shall consider whether or not the disclosure, transmittal or examination of the record of personal health information or the part of the record of personal health information specified by the attending physician,

- (a) is likely to result in harm to the treatment or recovery of the patient; or
- (b) is likely to result in,
 - (i) injury to the mental condition of a third person, or
 - (ii) bodily harm to a third person,

and for the purpose the court or body may examine the record of personal health information, and, if satisfied that such a result is likely, the court or body shall not order the disclosure, transmittal or examination unless satisfied that to do so is essential in the interests of justice. R.S.O. 1990, c. M.7, s. 35 (7); 2004, c. 3, Sched. A, s. 90 (8).

Return of clinical record to officer in charge

(8) Where a clinical record is required pursuant to subsection (5) or (6), the clerk of the court or body in which the clinical record is admitted in evidence or, if not so admitted, the person to whom the clinical record is transmitted shall return the clinical record to the officer in charge forthwith after the determination of the matter in issue in respect of which the

clinical record was required. R.S.O. 1990, c. M.7, s. 35 (8).

[\(8.1\)](#) Repealed: 2004, c. 3, Sched. A, s. 90 (9).

Disclosure in proceeding

[\(9\)](#) No person shall disclose in a proceeding in any court or before any body any information in respect of a patient obtained in the course of assessing or treating the patient, or in the course of assisting in his or her assessment or treatment, or in the course of employment in the psychiatric facility, except,

- (a) where the patient is mentally capable within the meaning of the *Personal Health Information Protection Act, 2004*, with the patient's consent;
- (b) where the patient is not mentally capable, with the consent of the patient's substitute decision-maker within the meaning of the *Personal Health Information Protection Act, 2004*; or
- (c) where the court or, in the case of a proceeding not before a court, the Divisional Court determines, after a hearing from which the public is excluded and that is held on notice to the patient or, if the patient is not mentally capable, the patient's substitute decision-maker referred to in clause (b), that the disclosure is essential in the interests of justice. 2004, c. 3, Sched. A, s. 90 (10).

Board proceedings

[\(10\)](#) Subsection (9) does not apply to a proceeding before the Board under this or any other Act, or to an appeal from a decision of the Board. 1992, c. 32, s. 20 (17).

Other proceedings

[\(11\)](#) Subsection (9) does not apply to a proceeding before a court or any other body that is commenced by or on behalf of a patient and that relates to the assessment or treatment of the patient in a psychiatric facility. 1992, c. 32, s. 20 (18).

[\(12\)](#) Repealed: 2004, c. 3, Sched. A, s. 90 (11).

Consultation permitted

[35.1\(1\)](#) Despite any other Act or the regulations made under any other Act, a physician who is considering issuing or renewing a community treatment order with respect to a person may consult with a member of a regulated health profession or of the Ontario College of Social Workers and Social Service Workers or any other person to determine whether the order should be issued or renewed. 2000, c. 9, s. 17.

Sharing of information

[\(2\)](#) Despite any other Act or the regulations made under any other Act, a member of a regulated health profession acting within the scope of practice of his or her profession or a member of the Ontario College of Social Workers and Social Service Workers or any other person named in a community treatment plan as participating in the treatment or care and supervision of a person who is subject to the order may share information with each other relating to the person's mental or physical condition for the purpose of treating, caring for and

supervising the person in accordance with the plan. 2000, c. 9, s. 17.

Disclosure

[\(3\)](#) Except as provided in subsection (1), no person shall disclose the fact that a person is being considered for or is subject to a community treatment order without the consent of the person or the person's substitute decision-maker. 2000, c. 9, s. 17.

Prohibition

[\(4\)](#) A person who receives personal information under subsection (1) or (2) shall not disclose that information except in accordance with this section. 2000, c. 9, s. 17.

Definition

[\(5\)](#) In this section,

“regulated health profession” means a health profession set out in Schedule 1 of the *Regulated Health Professions Act, 1991*. 2000, c. 9, s. 17.

Patient access to clinical record

[36.](#) Despite subsection 90 (12) of Schedule A to the *Health Information Protection Act, 2004*, this section, as it read immediately before that subsection came into force, continues to apply to a request for access that a patient made under this section before that subsection came into force. 2004, c. 3, Sched. A, s. 90 (12).

[36.1](#) Repealed: 2004, c. 3, Sched. A, s. 90 (13).

[36.2](#) Repealed: 2004, c. 3, Sched. A, s. 90 (14).

[36.3](#) Repealed: 2004, c. 3, Sched. A, s. 90 (15).

[37.](#) Repealed: 1992, c. 32, s. 20 (23).

Notice of certificate

[38. \(1\)](#) An attending physician who completes a certificate of involuntary admission or a certificate of renewal shall promptly give the patient a written notice that complies with subsection (2) and shall also promptly notify a rights adviser. 1992, c. 32, s. 20 (24).

Contents of notice to patient

[\(2\)](#) The written notice given to the patient shall inform the patient,

- (a) of the reasons for the detention;
- (b) that the patient is entitled to a hearing before the Board;
- (c) that the patient has the right to retain and instruct counsel without delay; and
- (d) that the patient has the right to apply to the Board for a transfer to another psychiatric facility as described in section 39.2. 2010, c. 1, Sched. 17, s. 3.

Rights adviser

[\(3\)](#) The rights adviser shall promptly meet with the patient and explain to him or her the significance of the certificate, the right to have it reviewed by the Board and, where applicable, the right to apply to the Board for a transfer. 2010, c. 1, Sched. 17, s. 3.

[\(4\)](#), (5) Repealed: 2004, c. 3, Sched. A, s. 90 (16).

Notice of child's right

[\(6\)](#) Whenever a child has a right to apply to the Board under section 13, the officer in charge shall promptly give the child a written notice of the fact that indicates the child is entitled to a hearing before the Board, and shall also promptly notify a rights adviser. 1992, c. 32, s. 20 (24).

Rights adviser

[\(7\)](#) The rights adviser shall promptly meet with the child and explain to him or her the right to apply to the Board under section 13. 1992, c. 32, s. 20 (24).

Exception

[\(8\)](#) Subsections (3) and (7) do not apply if the person himself or herself refuses to meet with the rights adviser. 1992, c. 32, s. 20 (24); 2004, c. 3, Sched. A, s. 90 (17).

Assistance

[\(9\)](#) At the person's request, the rights adviser shall assist him or her in making an application to the Board and in obtaining legal services. 1992, c. 32, s. 20 (24).

Notice of application or order

[38.1\(1\)](#) The attending physician of a person who is the subject of an application for assessment under section 15 or an order under section 32 shall promptly give the person a written notice of the application or order.

Same

[\(2\)](#) The notice shall state the reasons for the detention and shall indicate that the person has the right to retain and instruct counsel without delay. 1992, c. 32, s. 20 (24).

Application for review by patient, etc.

[39. \(1\)](#) An involuntary patient, or any person on his or her behalf, may apply to the Board in the approved form to inquire into whether or not the prerequisites set out in this Act for admission or continuation as an involuntary patient are met. 2000, c. 9, s. 21 (1).

When application may be made

[\(2\)](#) In addition to the applications under subsection (4), an application under subsection (1) may be made,

(a) when a certificate of involuntary admission respecting the patient comes into force;
or

(b) when any certificate of renewal respecting the patient comes into force. 2000, c. 9, s. 21 (2).

Application for review by Minister, etc.

[\(3\)](#) An application under subsection (1) may be made at any time by the Minister, the Deputy Minister or the officer in charge in respect of any involuntary patient. R.S.O. 1990, c. M.7, s. 39 (3).

Where notice deemed to have been given

(4) On the completion of a fourth certificate of renewal and on the completion of every fourth certificate of renewal thereafter, the patient shall be deemed to have applied in the approved form under subsection (1) to the Board unless he or she has already applied under clause (2) (b). 2000, c. 9, s. 21 (3).

Waiver

(5) A waiver by an involuntary patient of an application or of the right to an application mentioned in subsection (4) is a nullity. R.S.O. 1990, c. M.7, s. 39 (5).

Panels of three or five members

(5.1) Despite subsection 73 (1) of the *Health Care Consent Act, 1996*, the chair shall assign the members of the Board to sit in panels of three or five members to hear applications under this section. 1996, c. 2, s. 72 (24).

Composition and quorum of panels

(6) The following rules apply with respect to the composition and quorum of panels of the Board that hear applications under this section:

1. A three-member panel shall consist of a psychiatrist, a lawyer and a third person who is neither a psychiatrist nor a lawyer. Despite clause 73 (3) (b) of the *Health Care Consent Act, 1996*, all the members of the panel are required to make up the quorum.
2. A five-member panel shall include one or two psychiatrists and one or two lawyers. The other member or members shall be persons who are neither psychiatrists nor lawyers. A majority of the members of the panel constitutes a quorum. A psychiatrist, a lawyer and a member who is neither a psychiatrist nor a lawyer are required to make up the quorum. 1992, c. 32, s. 20 (25); 1996, c. 2, s. 72 (25).

Procedure

(7) Clause 73 (3) (a), subsection 73 (4) and sections 74 to 80 of the *Health Care Consent Act, 1996* apply to an application under this section, with necessary modifications. 1996, c. 2, s. 72 (26).

Application for review by person subject to community treatment order

39.1(1) A person who is subject to a community treatment order, or any person on his or her behalf, may apply to the Board in the approved form to inquire into whether or not the criteria for issuing or renewing a community treatment order set out in subsection 33.1 (4) are met. 2000, c. 9, s. 22.

When application may be made

(2) An application under subsection (1) may be made each time a community treatment order is issued or renewed under section 33.1. 2000, c. 9, s. 22.

Deemed application

(3) When a community treatment order is renewed for the second time and on the occasion of every second renewal thereafter, the person shall be deemed to have applied to the

Board in the approved form under subsection (1) unless an application has already been made under that subsection. 2000, c. 9, s. 22.

Notice to Board

(4) When a physician renews a community treatment order for the second time and on the occasion of every second renewal thereafter, he or she shall give notice of the renewal to the Board in the approved form. 2000, c. 9, s. 22.

Waiver

(5) A waiver by the person who is subject to the community treatment order of an application or of the right to an application mentioned in subsection (3) is a nullity. 2000, c. 9, s. 22.

Review of community treatment order

(6) On the hearing of an application, the Board shall promptly review whether or not the criteria for issuing or renewing the community treatment order set out in subsection 33.1 (4) are met at the time of the hearing of the application. 2000, c. 9, s. 22.

Confirm or revoke order

(7) The Board may, by order, confirm the issuance or renewal of the community treatment order if it determines that the criteria mentioned in subsection (6) are met at the time of the hearing, but, if the Board determines that those criteria are not met, it shall revoke the community treatment order. 2000, c. 9, s. 22.

Application of order

(8) An order of the Board under subsection (7) applies to the community treatment order in force immediately before the making of the Board's order. 2000, c. 9, s. 22.

Parties

(9) The physician who issues or renews the community treatment order, the person subject to it or any other person who has required the hearing and such other persons as the Board may specify are parties to the hearing before the Board. 2000, c. 9, s. 22.

Procedure

(10) Subsections 39 (5.1), (6) and (7) apply to an application under this section with necessary modifications. 2000, c. 9, s. 22.

Application for transfer

39.2 (1) An involuntary patient, any person on his or her behalf or the officer in charge of the psychiatric facility where the patient is currently detained may apply to the Board in the approved form to determine whether the patient should be transferred to another psychiatric facility named in the application. 2010, c. 1, Sched. 17, s. 4.

When application may be made

(2) An application under subsection (1) may be made after the completion of a fourth certificate of renewal and after the completion of every fourth certificate of renewal thereafter, if the application is submitted 12 months after the final disposition of the most recent application to the Board. 2010, c. 1, Sched. 17, s. 4.

Exception

(3) Despite subsection (2), an involuntary patient, or any person on his or her behalf, may make a new application to the Board within 12 months of the final disposition of the most recent application if the Board grants leave in advance. 2010, c. 1, Sched. 17, s. 4.

Board may grant leave

(4) The Board may grant leave for a new application if it is satisfied that there has been a material change in circumstances that justifies a reconsideration of the patient's transfer from one psychiatric facility to another. 2010, c. 1, Sched. 17, s. 4.

Notice to Minister and proposed receiving facility

(5) Upon receiving an application under this section, the Board shall promptly give notice of the application to the Minister and the officer in charge of the psychiatric facility named in the application. 2010, c. 1, Sched. 17, s. 4.

Parties

(6) The officer in charge of the patient's current psychiatric facility, the officer in charge of the psychiatric facility named in the application under this section, the patient or any other person who has applied to the Board for a hearing on behalf of the patient are parties to the proceeding before the Board. 2010, c. 1, Sched. 17, s. 4.

Minister entitled to be heard

(7) The Minister is entitled to be heard, by counsel or otherwise, at the hearing. 2010, c. 1, Sched. 17, s. 4.

Minister may be a party

(8) On application by the Minister, the Board shall designate the Minister as a party to a proceeding before the Board under this section. 2010, c. 1, Sched. 17, s. 4.

Power to order transfer

(9) The Board may, if the patient does not object, order the patient to be transferred to the psychiatric facility named in the application. 2010, c. 1, Sched. 17, s. 4.

Criteria to consider

(10) In determining whether a transfer should be ordered, the Board shall consider whether,

- (a) the psychiatric facility named in the application is able to provide for the patient's care and treatment;
- (b) the psychiatric facility named in the application is able to safely manage any risk the patient poses to the patient or another person;
- (c) the transfer is in the patient's best interests;
- (d) the transfer is likely to improve the patient's condition or well being;
- (e) the transfer is likely to foster the patient's reintegration into the community; and
- (f) an attempt has been made to transfer the patient under section 29. 2010, c. 1,

Sched. 17, s. 4.

Procedure

[\(11\)](#) Subsections 39 (5.1), (6) and (7) apply to an application under this section with necessary modifications. 2010, c. 1, Sched. 17, s. 4.

Effect of transfer order

[\(12\)](#) If the Board orders a transfer, the patient's current psychiatric facility shall transfer, and the psychiatric facility named in the application shall admit the patient within the period of time specified by the Board. 2010, c. 1, Sched. 17, s. 4.

Same

[\(13\)](#) Subsections 29 (1.1) and (2) apply to a transfer ordered under this section with necessary modifications. 2010, c. 1, Sched. 17, s. 4.

Hearing deemed abandoned

[40.](#) Except as provided in subsection 48 (6) or (11), where an appeal is taken against a certificate of involuntary admission or a certificate of renewal and the time period for the certificate under subsection 20 (4) expires before a decision is rendered, the appeal shall be deemed to be abandoned whether or not the certificate is renewed. R.S.O. 1990, c. M.7, s. 40.

Review of admission or renewal

[41.\(1\)](#) On the hearing of an application, the Board shall promptly review the patient's status to determine whether or not the prerequisites set out in this Act for admission as an involuntary patient continue to be met at the time of the hearing of the application. R.S.O. 1990, c. M.7, s. 41 (1); 1992, c. 32, s. 20 (6).

Confirming order

[\(2\)](#) The Board by order may confirm the patient's status as an involuntary patient if the Board determines that the prerequisites set out in this Act for admission as an involuntary patient were met at the time of the hearing of the application. R.S.O. 1990, c. M.7, s. 41 (2); 1992, c. 32, s. 20 (6).

Rescinding order

[\(3\)](#) The Board by order shall rescind the certificate if the Board determines that the prerequisites set out in this Act for admission as an involuntary patient were not met at the time of the hearing of the application. R.S.O. 1990, c. M.7, s. 41 (3); 1992, c. 32, s. 20 (6).

Application of order

[\(4\)](#) An order of the Board confirming or rescinding a certificate applies to the certificate of involuntary admission or the certificate of renewal in force immediately before the making of the order. R.S.O. 1990, c. M.7, s. 41 (4); 1992, c. 32, s. 20 (6).

Parties

[42.](#) The attending physician, the patient or other person who has required the hearing and such other persons as the Board may specify are parties to the proceedings before the Board. R.S.O. 1990, c. M.7, s. 42; 1992, c. 32, s. 20 (6).

Counsel for patient under 16

43. If a patient who is less than 16 years old is a party to a proceeding before the Board under section 13 or 39 and does not have legal representation,

- (a) the Board may direct the Children's Lawyer to arrange for legal representation to be provided for the patient; and
- (b) the patient shall be deemed to have capacity to retain and instruct counsel. 1996, c. 2, s. 72 (27).

44. Repealed: 1992, c. 32, s. 20 (27).

45. Repealed: 1992, c. 32, s. 20 (27).

46. Repealed: 1992, c. 32, s. 20 (28).

47. (1) Repealed: R.S.O. 1990, c. M.7, s. 47 (1.2).

(1.1) Repealed: R.S.O. 1990, c. M.7, s. 47 (1.2).

(1.2) Spent: 1992, c. 32, s. 20 (29).

(2)-(4) Repealed: 1992, c. 32, s. 20 (30).

Appeal to court

48. (1) A party to a proceeding under this Act before the Board may appeal the Board's decision to the Superior Court of Justice on a question of law or fact or both. 1996, c. 2, s. 72 (28); 2000, c. 9, s. 23 (1).

(2) Repealed: 1992, c. 32, s. 20 (32).

Same

(3) Section 80 of the *Health Care Consent Act, 1996* applies to the appeal. 1996, c. 2, s. 72 (29).

(4) Repealed: 1992, c. 32, s. 20 (33).

Extension of discontinued certificate

(5) Where an appeal is taken against a decision by the Board to discontinue a certificate of involuntary admission, a certificate of renewal or an extension of a certificate, the certificate shall continue in effect for a period of three clear days excluding Saturday and holidays, following the decision of the Board. R.S.O. 1990, c. M.7, s. 48 (5); 1992, c. 32, s. 20 (6).

Extension of certificate for appeal

(6) Where, before a certificate of involuntary admission, a certificate of renewal or an extension of a certificate expires, a party to the appeal other than the patient or the person acting on the patient's behalf makes a motion to the court for an extension of the certificate beyond the time period for the certificate under subsection 20 (4), the court may by order extend the effectiveness of the certificate. R.S.O. 1990, c. M.7, s. 48 (6); 1992, c. 32, s. 20 (34); 1993, c. 27, Sched.

Authority of extension

- (7) An extension of a certificate under subsection (6) is effective,
- (a) for the next period of time provided for renewal of the certificate under subsection 20 (4) or any shorter period set by the court;
 - (b) until the certificate is rescinded;
 - (c) until the party appealing withdraws the appeal; or
 - (d) until the attending physician confirms under subsection (12) that the patient does not meet the criteria set out in subsection 20 (1.1) or (5),

whichever first occurs. R.S.O. 1990, c. M.7, s. 48 (7); 1999, c. 12, Sched. J, s. 33; 2000, c. 9, s. 23 (2).

Renewal of certificate

(8) Subject to subsection 20 (1.1) and (5), when a patient or a person acting on the patient's behalf withdraws an appeal, a physician may complete and file a renewal of the certificate that was under appeal. R.S.O. 1990, c. M.7, s. 48 (8); 2000, c. 9, s. 23 (3).

Authority of certificate

(9) A renewal of a certificate under subsection (8) is effective for the next period of time provided for under subsection 20 (4). R.S.O. 1990, c. M.7, s. 48 (9).

Evidence for extension

(10) The court shall not grant an extension of the certificate under subsection (6) to a party other than the patient or the person acting on the patient's behalf unless the court is satisfied that there are reasonable and probable grounds to believe that the patient's condition would justify the completion and filing of a certificate of renewal. R.S.O. 1990, c. M.7, s. 48 (10).

Effectiveness of certificate

(11) Where an appeal is taken from a decision of the Board to confirm a certificate of involuntary admission or a certificate of renewal, the certificate is effective until,

- (a) the certificate is confirmed or rescinded by the court;
- (b) the certificate is rescinded by the attending physician;
- (c) forty-eight hours after notice is given to the attending physician that the party appealing has withdrawn the appeal; or
- (d) the attending physician confirms under subsection (12) that the patient does not meet the criteria set out in subsection 20 (1.1) or (5). R.S.O. 1990, c. M.7, s. 48 (11); 1992, c. 32, s. 20 (6); 2000, c. 9, s. 23 (4).

Examination

(12) Despite subsections (1) to (10), the attending physician shall examine the patient at the intervals that would have applied under section 20 and shall complete and file with the officer in charge a statement in writing as to whether or not the patient meets the criteria set

out in subsection 20 (1.1) or (5). R.S.O. 1990, c. M.7, s. 48 (12); 2000, c. 9, s. 23 (5).

Stay of transfer pending appeal

(13) Where an appeal is taken from a decision of the Board to transfer a patient, a party to the appeal may make a motion to the court to have the transfer stayed pending the appeal. 2010, c. 1, Sched. 17, s. 5.

(14) Repealed: 1992, c. 32, s. 20 (36).

(15) Repealed: 1992, c. 32, s. 20 (37).

(16)-(18) Repealed: 1992, c. 32, s. 20 (38).

Psychosurgery

49.(1) Psychosurgery shall not be administered to an involuntary patient, to a person who is incapable of giving or refusing consent to psychosurgery on his or her own behalf for the purposes of the *Health Care Consent Act, 1996*, or to a person who is remanded or detained in a psychiatric facility pursuant to the *Criminal Code* (Canada). 1992, c. 32, s. 20 (39); 1996, c. 2, s. 72 (30).

Same

(2) Psychosurgery is any procedure that, by direct or indirect access to the brain, removes, destroys or interrupts the continuity of histologically normal brain tissue, or that inserts indwelling electrodes for pulsed electrical stimulation for the purpose of altering behaviour or treating psychiatric illness, but does not include neurological procedures used to diagnose or treat organic brain conditions, intractable physical pain or epilepsy, if these conditions are clearly demonstrable. 1992, c. 32, s. 20 (39).

Application to Board

50. If a patient or another person on a patient's behalf gives or transmits to the officer in charge an application to the Board under this or any other Act, the officer in charge shall promptly transmit the application to the Board. 1992, c. 32, s. 20 (40).

51. Repealed: 1992, c. 32, s. 20 (40).

52. Repealed: 1992, c. 32, s. 20 (40).

Documentation of use of restraint

53. (1) The use of restraint on a patient shall be clearly documented in the patient's record of personal health information by the entry of a statement that the patient was restrained, a description of the means of restraint and a description of the behaviour of the patient that required that the patient be restrained or continue to be restrained. R.S.O. 1990, c. M.7, s. 53 (1); 2004, c. 3, Sched. A, s. 90 (18).

Chemical restraint

(2) Where a chemical restraint is used, the entry shall include a statement of the chemical employed, the method of administration and the dosage. R.S.O. 1990, c. M.7, s. 53 (2).

PART III ESTATES

Examination on admission to determine capacity

54. (1) Forthwith on a patient's admission to a psychiatric facility, a physician shall examine him or her to determine whether the patient is capable of managing property. 1992, c. 32, s. 20 (41).

Examination at other times

(2) A patient's attending physician may examine him or her at any time to determine whether the patient is capable of managing property. 1992, c. 32, s. 20 (41).

Record of personal health information

(3) After an examination under subsection (1) or (2), the physician shall note his or her determination, with reasons, in the patient's record of personal health information. 1992, c. 32, s. 20 (41); 2004, c. 3, Sched. A, s. 90 (19).

Certificate of incapacity

(4) If the physician determines that the patient is not capable of managing property, he or she shall issue a certificate of incapacity in the approved form, and the officer in charge shall transmit the certificate to the Public Guardian and Trustee. 1992, c. 32, s. 20 (41); 2000, c. 9, s. 24.

Same

(5) If the circumstances are such that the Public Guardian and Trustee should immediately assume management of the patient's property, the officer in charge (or the physician who examined the patient, if the officer in charge is absent) shall notify the Public Guardian and Trustee of the matter as quickly as possible. 1992, c. 32, s. 20 (41).

Exception

- (6)** This section does not apply if,
- (a) the patient's property is under guardianship under the *Substitute Decisions Act, 1992*; or
 - (b) the physician believes on reasonable grounds that the patient has a continuing power of attorney under that Act that provides for the management of the patient's property. 2001, c. 9, Sched. B, s. 9.

Financial statement

55. When a certificate of incapacity is issued, the officer in charge shall forthwith transmit a financial statement in the approved form to the Public Guardian and Trustee. 1992, c. 32, s. 20 (41); 2000, c. 9, s. 25.

Cancellation of certificate

56. The attending physician of a patient with respect to whom a certificate of incapacity has been issued may, after examining the patient for that purpose, cancel the certificate, and the officer in charge shall transmit a notice of cancellation in the approved form to the Public

Guardian and Trustee. 1992, c. 32, s. 20 (42); 2000, c. 9, s. 26.

Examination before discharge to determine capacity

57.(1) Within twenty-one days before the discharge from the psychiatric facility of a patient with respect to whom a certificate of incapacity has been issued, the attending physician shall examine him or her to determine whether the patient is capable of managing property. 1992, c. 32, s. 20 (43).

Notice of continuance

(2) If the attending physician determines that the patient is not capable of managing property, he or she shall issue a notice of continuance in the approved form, and the officer in charge shall transmit the notice to the Public Guardian and Trustee. 1992, c. 32, s. 20 (43); 2000, c. 9, s. 27.

Notice of discharge

58. When a patient in respect of whom a certificate of continuance has been issued is discharged from the psychiatric facility, the officer in charge shall transmit notice of the fact to the Public Guardian and Trustee. 1992, c. 32, s. 20 (43).

Advice to patient, notice to rights adviser

59.(1) A physician who issues a certificate of incapacity or a certificate of continuance shall promptly advise the patient of the fact and shall also promptly notify a rights adviser.

Meeting with rights adviser

(2) The rights adviser shall promptly meet with the patient and explain to him or her the significance of the certificate and the right to have the issue of the patient's capacity to manage property reviewed by the Board.

Exception

(3) Subsection (2) does not apply if the patient himself or herself refuses to meet with the rights adviser.

Assistance

(4) At the patient's request, the rights adviser shall assist him or her in making an application to the Board and in obtaining legal services. 1992, c. 32, s. 20 (43).

Application to Board for review

60.(1) A patient in respect of whom a certificate of incapacity or a notice of continuance has been issued may apply in the approved form to have the Board review the issue of his or her capacity to manage property. 1992, c. 32, s. 20 (44); 2000, c. 9, s. 28.

Procedure

(2) Except that applications may be made not more frequently than once in any six-month period, section 42 of this Act and sections 73 to 80 of the *Health Care Consent Act, 1996* apply to an application under subsection (1), with necessary modifications. 1996, c. 2, s. 72 (31).

Patient discharged

[\(3\)](#)If an application is commenced under this section by a patient in respect of whom a notice of continuance has been issued, the application may continue to be dealt with by the Board even after the patient is discharged from the psychiatric facility. 1996, c. 2, s. 72 (31).

[61.](#)Repealed: 1992, c. 32, s. 20 (45).

[62.](#)Repealed: 1992, c. 32, s. 20 (46).

[63.](#)Repealed: 1992, c. 32, s. 20 (47).

[64.](#)Repealed: 1992, c. 32, s. 20 (47).

[65.](#)Repealed: 1992, c. 32, s. 20 (48).

[66.](#)Repealed: 1992, c. 32, s. 20 (48).

[67.](#)Repealed: 1992, c. 32, s. 20 (48).

[68.](#)Repealed: 1992, c. 32, s. 20 (48).

[69.](#)Repealed: 1992, c. 32, s. 20 (48).

[70.](#)Repealed: 1992, c. 32, s. 20 (48).

[71.](#)Repealed: 1992, c. 32, s. 20 (48).

[72.](#)Repealed: 1992, c. 32, s. 20 (49).

[73.](#)Repealed: 1992, c. 32, s. 20 (50).

[74.](#)Repealed: 1992, c. 32, s. 20 (50).

[75.](#)Repealed: 1992, c. 32, s. 20 (50).

[76.](#)Repealed: 1992, c. 32, s. 20 (50).

PART IV VETERANS, ETC.

Agreement with Government of Canada authorized

[77.](#)The Lieutenant Governor in Council may authorize an agreement between Her Majesty the Queen in right of Ontario represented by the Minister and Her Majesty the Queen in right of Canada represented by the Minister of any department of the Government of Canada that is from time to time charged with the observation, care and treatment of persons who are suffering from a mental disorder whereunder that department may establish, operate, maintain, control and direct in Ontario psychiatric facilities within the meaning of this Act for the observation, care and treatment of such persons, and where such an agreement is made, it may provide that the provisions of Parts II and III of this Act and the relevant regulations, or any of them, apply with necessary modifications. R.S.O. 1990, c. M.7, s. 77.

PART V MISCELLANEOUS

[78.](#) Repealed: 2002, c. 24, Sched. B, s. 25.

Certain actions barred

79. No action lies against any psychiatric facility or any officer, employee or servant thereof for a tort of any patient. R.S.O. 1990, c. M.7, s. 79.

Offence

80. Every person who contravenes any provision of this Act or the regulations is guilty of an offence and on conviction is liable to a fine of not more than \$25,000. R.S.O. 1990, c. M.7, s. 80.

Forms

80.1 The Minister may establish forms and require their use and may require the use of forms approved by the Minister. 2000, c. 9, s. 29.

Power of Minister to designate

80.2(1) The Minister may designate and classify psychiatric facilities, and exempt any psychiatric facility or class of psychiatric facility from the application of any provision of the regulations made under clause 81 (1) (b). 2000, c. 9, s. 29.

List

(2) The Minister shall maintain a list of psychiatric facilities and their classifications, and of any exemptions from the application of any provision of the regulations made under clause 81 (1) (b). 2000, c. 9, s. 29.

Same

(3) The list referred to in subsection (2) shall be available for public inspection from the Ministry. 2000, c. 9, s. 29.

Regulations

81. (1) The Lieutenant Governor in Council may make regulations,

(a) Repealed: 2000, c. 9, s. 30 (1).

(b) in respect of psychiatric facilities or any class thereof,

(i) providing for the creation, establishment, construction, alteration, renovation and maintenance thereof,

(ii) prescribing the accommodation, facilities, equipment and services thereof,

(iii) providing for the government, management, conduct, operation, use and control thereof,

(iv) providing for the officers and employees and prescribing their qualifications,

(v) prescribing the forms, records, books, returns and reports to be made and kept in that respect and the period for which the psychiatric facility involved shall retain each, and providing for returns, reports and information to be furnished to the Ministry;

(c) prescribing additional duties of officers designated and persons appointed under subsection 9 (1);

- (d) Repealed: 1997, c. 15, s. 11 (2).
- (e) exempting any psychiatric facility or class thereof from the application of Part II;
- (f) classifying patients, and limiting the classes of patients that may be admitted to any psychiatric facility or class thereof;
- (f.1) prescribing the manner in which information may be brought before a justice of the peace for the purposes of section 16;
- (g) respecting taking custody of persons under section 33, the examination and detention of persons and the admission, detention, leave of absence, absence without authorization, transfer, discharge and placement of patients;
 - (g.1) respecting and governing community treatment orders, including the qualifications required for issuing such orders, additional duties of physicians who issue or renew such orders, additional duties of physicians who consent to an appointment under subsection 33.5 (2) and additional duties of persons who agree to provide treatment or care and supervision under a community treatment plan;
 - (g.2) designating persons or categories of persons who may review community treatment order documents to ascertain whether or not they have been completed in compliance with the criteria set out in this Act and prescribing additional duties of such persons;
 - (g.3) designating persons or categories of persons who may agree to provide treatment or care and supervision under a community treatment plan under subsection 33.5 (3) and prescribing the qualifications or requirements that a person must meet before he or she provides such treatment or care and supervision;
- (h) governing designations by psychiatric facilities or the Minister of persons or categories of persons to perform the functions of a rights adviser under this Act and governing the revocation of such designations, including,
 - (i) requiring, permitting or prohibiting designations and revocations,
 - (ii) prescribing who may make designations and revocations on behalf of a psychiatric facility,
 - (iii) prescribing qualifications or requirements that a person must meet before he or she may be designated by a psychiatric facility and qualifications or requirements that a person must meet before he or she may be designated by the Minister, and
 - (iv) prescribing obligations in relation to the provision of information about designations and revocations that have been made;
- (h.1) designating persons or categories of persons as rights advisers and prescribing the qualifications or requirements that a person must meet before he or she may provide rights advice pursuant to clause 33.1 (4) (e);

- (h.2) requiring that a physician who determines that a patient is incapable of consenting to the collection, use or disclosure of personal health information promptly,
 - (i) give the patient a written notice that sets out the advice that the regulation specifies with respect to the patient's rights, and
 - (ii) notify a rights adviser;
- (h.3) requiring the rights adviser mentioned in clause (h.2) to give the patient the explanations that the regulation specifies and governing the content of the explanations;
- (i) respecting the manner in which rights advisers must carry out their obligations under this Act or the regulations;
- (j) prescribing and governing the obligations of health practitioners, rights advisers, psychiatric facilities and others in relation to the provision of information about rights, and assistance in exercising rights, to persons who have been admitted to a psychiatric facility as patients and who are either incapable, within the meaning of the *Health Care Consent Act, 1996*, with respect to treatment of a mental disorder or are incapable, within the meaning of the *Personal Health Information Protection Act, 2004*, with respect to personal health information, including prescribing,
 - (i) the information or assistance that must be given,
 - (ii) the categories of persons who must be given the information or assistance,
 - (iii) the circumstances in which the information or assistance must be given,
 - (iv) the persons by whom the information or assistance must be given, and
 - (v) the manner and time in which the information or assistance must be given;
- (j.1) prescribing and governing the obligations of health practitioners, rights advisers, health facilities and others in relation to the provision of information about rights, and assistance in exercising rights, to persons who are subject to community treatment orders and to their substitute decision-makers, including,
 - (i) the information or assistance that must be given,
 - (ii) the categories of persons who must be given the information or assistance,
 - (iii) the circumstances in which the information or assistance must be given,
 - (iv) the persons by whom the information or assistance must be given, and
 - (v) the manner and time in which the information or assistance must be given;
- (k) governing the transfer of information among those involved in the process of providing persons with information about their rights and among those involved in the process of implementing a community treatment plan;
- (k.1) regulating the timing of the treatment of a person in a psychiatric facility or

subject to a community treatment order, if the person must be provided with information about his or her rights or if the person exercises, or indicates an intention to exercise, any of his or her rights;

(k.2) Repealed: 2004, c. 3, Sched. A, s. 90 (24);

(k.3) governing the use, disclosure and retention of personal information obtained from the disclosure, transmission or examination of a record of personal health information under subsection 35 (4);

(k.4) prescribing a person and circumstances for the purpose of clause 35 (4) (d);

(l) exempting any psychiatric facility or class thereof from the application of Part III;

(m) prescribing forms and providing for their use;

(n) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1990, c. M.7, s. 81 (1); 1992, c. 32, s. 20 (51); 1996, c. 2, s. 72 (32); 1997, c. 15, s. 11 (2); 2000, c. 9, s. 30 (1-5); 2004, c. 3, Sched. A, s. 90 (20-26).

(2), (3) Repealed: 2000, c. 9, s. 30 (6).

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