

2007 Bill 31

Third Session, 26th Legislature, 56 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 31

MENTAL HEALTH AMENDMENT ACT, 2007

REVEREND ABBOTT

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 31

2007

MENTAL HEALTH AMENDMENT ACT, 2007

(Assented to _____, 2007)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends RSA 2000 cM-13

1 The *Mental Health Act* is amended by this Act.

2 Section 1 is amended

(a) by adding the following after clause (c):

(c.1) “community treatment order” means a community
treatment order issued under section 9.1;

(b) in clause (i) by striking out “with respect to a formal
patient,” **and substituting** “with respect to a formal patient
or a person who is subject to a community treatment order,”;

(c) in clause (i)(ii) by striking out “in the best interest of the
formal patient” **and substituting** “in the best interest of the
formal patient or the person who is subject to a community
treatment order”.

3 Section 2(b) is repealed and the following is substituted:

(b) likely to cause harm to the person or others or to suffer
substantial mental or physical deterioration or serious
physical impairment, and

Explanatory Notes

1 Amends chapter M-13 of the Revised Statutes of Alberta 2000.

2 Definitions.

3 Section 2 presently reads:

2 When a physician examines a person and is of the opinion that the person is

(a) suffering from mental disorder,

4 Section 5 is amended by striking out “section 10,” wherever it occurs and substituting “section 9.6, 10,”.

5 Section 6(d)(ii) is repealed and the following is substituted:

- (ii) likely to cause harm to the person or others or to suffer substantial mental or physical deterioration or serious physical impairment, and

6 Section 8(1)(b) is repealed and the following is substituted:

- (b) likely to cause harm to the person or others or to suffer substantial mental or physical deterioration or serious physical impairment, and

- (b) *in a condition presenting or likely to present a danger to the person or others, and*
- (c) *unsuitable for admission to a facility other than as a formal patient,*

the physician may, not later than 24 hours after the examination, issue an admission certificate in the prescribed form with respect to the person.

4 Section 5 presently reads:

5(1) When a person is conveyed to a facility under section 10, 12 or 24 or detained in a facility pursuant to one admission certificate, the board shall ensure that the person is examined as soon as possible by a physician on the staff of the facility.

(2) When a person is conveyed to a facility under section 10, 12 or 24, that person shall be released on the expiry of 24 hours from the time when that person arrived at the facility unless, within that time, 2 admission certificates are issued with respect to that person.

(3) When a person is detained pursuant to one admission certificate, that person shall be released on the expiry of 24 hours from the time when that person arrived at the facility unless, within that time, another admission certificate is issued with respect to that person.

5 Section 6(d) presently reads:

6 An admission certificate shall show

- (d) *the facts on which the physician formed the physician's opinion that the person is*
 - (i) *suffering from mental disorder,*
 - (ii) *in a condition presenting or likely to present a danger to the person or others, and*
 - (iii) *unsuitable for admission to a facility other than as a formal patient,*

distinguishing the facts observed by the physician from the facts communicated to the physician by others,

6 Section 8(1) presently reads:

8(1) The period of detention of a formal patient may be extended when 2 physicians, after a separate examination by each of them, are of the opinion that the formal patient is

7 Section 9(d)(ii) is repealed and the following is substituted:

- (ii) likely to cause harm to the person or others or to suffer substantial mental or physical deterioration or serious physical impairment, and

8 The following is added after section 9:

Community treatment order

9.1(1) Two physicians, one of whom must be a psychiatrist, may issue a community treatment order with respect to a person who is a formal patient if

- (a) one or more of the following apply:
 - (i) during the immediately preceding 2-year period the person has been detained as a formal patient for at least 60 days;
 - (ii) during the immediately preceding 2-year period the person has been detained as a formal patient on 3 or more separate occasions;
 - (iii) the person has previously been subject to a community treatment order;
- (b) the issuing physicians, after separate examinations of the person by each of them within the immediately preceding 72 hours, are both of the opinion that the

- (a) suffering from mental disorder,*
- (b) in a condition presenting or likely to present a danger to the person or others, and*
- (c) unsuitable to continue at a facility other than as a formal patient,*

and each issues a renewal certificate in the prescribed form within 24 hours after the examination.

7 Section 9(d) presently reads:

9 A renewal certificate shall show

- (d) the facts on which the physician formed the physician's opinion that the person is*
 - (i) suffering from mental disorder,*
 - (ii) in a condition presenting or likely to present a danger to the person or others, and*
 - (iii) unsuitable to continue at a facility other than as a formal patient,*

distinguishing the facts observed by the physician from the facts communicated to the physician by others,

8 Community treatment order; duration of order; renewal of order; termination of order; amendment of order; apprehension for non-compliance.

person is likely to cause harm to the person or others or to suffer substantial mental or physical deterioration or serious physical impairment if the person does not receive continuing treatment or care while living in the community,

- (c) the treatment or care the person requires exists in the community, is available to the person and will be provided to the person,
- (d) in each issuing physician's opinion, the person is able to comply with the treatment or care requirements set out in the community treatment order, and
- (e) either
 - (i) consent to the issuing of the community treatment order has been obtained,
 - (A) if the person is competent, from the person, or
 - (B) if the person is not competent, in accordance with section 28(1),
 - or
 - (ii) in the opinion of the issuing physicians
 - (A) the person has, while living in the community, exhibited a history of not obtaining or continuing with treatment or care that is necessary to prevent the likelihood of harm to others, and
 - (B) a community treatment order is reasonable in the circumstances and would be less restrictive than retaining the person as a formal patient.

(2) A community treatment order must

- (a) be in the prescribed form,
- (b) identify the issuing physicians,

- (c) set out the dates on which and the places where the examinations referred to in subsection (1) took place,
- (d) set out the facts on which the issuing physicians formed the opinions referred to in subsection (1),
- (e) set out the treatment or care referred to in subsection (1)(c),
- (f) identify the person who is responsible for the supervision of the community treatment order and any reporting obligations in respect of the community treatment order in accordance with the regulations,
- (g) satisfy any other requirement provided for in the regulations, and
- (h) be signed by the issuing physicians.

(3) The certificates of admission or renewal for a formal patient are cancelled on the issuance of a community treatment order.

Duration of order

9.2 A community treatment order expires 6 months after the day it is issued unless

- (a) it is renewed in accordance with section 9.3, or
- (b) it is cancelled under section 9.5 or 9.6 before its expiry.

Renewal of order

9.3(1) A community treatment order may be renewed at any time before its expiry for a period of 6 months in accordance with the regulations.

(2) There is no limit on the number of renewals under subsection (1).

(3) The requirements of section 9.1 apply, with the necessary changes, to the renewal of a community treatment order.

Amendment of order

9.4 A community treatment order may be amended by a psychiatrist in accordance with the regulations.

Cancellation of order

9.5 A psychiatrist may at any time cancel a community treatment order in accordance with the regulations if any of the criteria set out in section 9.1(1)(b) to (d) cease to apply.

Apprehension for non-compliance

9.6(1) If a psychiatrist has reasonable grounds to believe that a person who is subject to a community treatment order has failed to comply with the community treatment order, the psychiatrist may issue an order in the prescribed form to a peace officer that authorizes the peace officer

- (a) to apprehend the person who is named in the order and to convey the person to a facility named in the order for an examination,
- (b) to take reasonable measures, including the entering of premises and the use of physical restraint, to apprehend the person who is named in the order and to take the person into custody for the purpose of conveying the person to the facility, and
- (c) while the person is being conveyed, to care for, observe, detain and control the person.

(2) An order under this section expires 30 days after the date it is issued.

(3) If a person is conveyed to a facility under the authority of an order under this section, as soon as practicable, but in any case within 72 hours after arrival, an examination of the person must be conducted by 2 physicians, one of whom must be a psychiatrist, to determine whether

- (a) the community treatment order should be cancelled and the person should be released without being subject to a community treatment order,
- (b) the community treatment order should be continued with any necessary amendments, or
- (c) the community treatment order should be cancelled and admission certificates issued in accordance with sections 2 and 6.

Designated physician

9.7(1) Notwithstanding sections 9.1, 9.3, 9.4, 9.5 or 9.6 but subject to the regulations, where no psychiatrist is available to issue, renew, amend or cancel a community treatment order, a board or a regional health authority may designate a physician for the purpose of issuing, reviewing, amending or cancelling a community treatment order.

(2) If a board or a regional health authority designates a physician under subsection (1), the designated physician may issue, renew, amend or cancel a community treatment order only after consultation with a psychiatrist.

9 Section 10 is amended

(a) by repealing subsection (1)(b) and substituting the following:

(b) likely to cause harm to the person or others or to suffer substantial mental or physical deterioration or serious physical impairment

(b) by adding the following after subsection (1):

(1.1) Anyone who has reasonable and probable grounds to believe that a person who is subject to a community treatment order is not complying with the community treatment order may bring an information under oath before a provincial judge.

(c) by repealing subsection (2)(a) and substituting the following:

(a) the person is

(i) likely to cause harm to the person or others or to suffer substantial mental or physical deterioration or serious physical impairment, or

(ii) subject to a community treatment order and is not complying with the community treatment order,

and

9 Section 10(1) and (2) presently read:

10(1) Anyone who has reasonable and probable grounds to believe that a person is

- (a) suffering from mental disorder, and*
- (b) in a condition presenting or likely to present a danger to the person or others*

may bring an information under oath before a provincial judge.

(2) If the provincial judge is satisfied that

- (a) the person is in a condition presenting or likely to present a danger to the person or others, and*
- (b) an examination can be arranged in no other way,*

the provincial judge may issue a warrant to apprehend that person for an examination.

10 Section 12(1)(b) is repealed and the following is substituted:

- (b) the person is
 - (i) likely to cause harm to the person or others or to suffer substantial mental or physical deterioration or serious physical impairment, or
 - (ii) subject to a community treatment order and is not complying with the community treatment order,

11 Section 14 is amended

(a) by adding the following after subsection (1):

(1.1) When a community treatment order is issued, amended or renewed, a person designated in accordance with the regulations

- (a) shall prepare a written statement of
 - (i) the reason, in simple language, for the issuance, amendment or renewal of the community treatment order,
 - (ii) the authority for the issuance, amendment or renewal of the community treatment order,
 - (iii) information regarding the function of review panels,
 - (iv) the name and address of the chair of the appropriate review panel, and
 - (v) the right of the person who is subject to the community treatment order to apply to the review

10 Section 12(1) presently reads:

12(1) When a peace officer has reasonable and probable grounds to believe that

- (a) a person is suffering from mental disorder,*
- (b) the person is in a condition presenting a danger to the person or others,*
- (c) the person should be examined in the interests of the person's own safety or the safety of others, and*
- (d) the circumstances are such that to proceed under section 10 would be dangerous,*

the peace officer may apprehend the person and convey the person to a facility for examination.

11 Section 14 presently reads:

14(1) When 2 admission certificates or 2 renewal certificates are issued with respect to a patient,

- (a) the board shall inform the formal patient and make a reasonable effort to inform the patient's guardian, if any, and, unless the patient objects, the patient's nearest relative, of*
 - (i) the reason, in simple language, for the issuance of the admission certificates or renewal certificates, and*
 - (ii) the patient's right to apply to the review panel for cancellation of the admission certificates or renewal certificates,*

and

- (b) the board shall give the formal patient, the patient's guardian, if any, one person designated by the patient and, unless the patient objects, the patient's nearest relative a written statement of*

panel for cancellation of the community treatment order,

and

- (b) shall give the written statement and a copy of the issued, amended or renewed community treatment order
 - (i) to the person who is subject to the community treatment order,
 - (ii) to any person who exercises authority under section 28(1) to make treatment decisions on behalf of the person who is subject to the community treatment order,
 - (iii) to any persons providing treatment or care to the person pursuant to the community treatment order, and
 - (iv) to any other person prescribed in the regulations.

(b) by repealing subsection (2) and substituting the following:

(2) In the event of language difficulty, the board or the designated person referred to in subsection (1.1), as the case may be, shall obtain a suitable interpreter and provide the information and the written statement referred to in subsection (1) or (1.1),

- (a) in the case of a formal patient, in the language spoken by the formal patient or the patient's guardian, or
- (b) in the case of a person who is subject to a community treatment order, in the language spoken by the person or the person's guardian.

(c) by repealing subsections (3) and (4) and substituting the following:

(3) In addition to giving a written statement pursuant to this section, the board or the designated person referred to in subsection (1.1), as the case may be, shall do any other things

- (i) *the reason, in simple language, for the issuance of the admission certificates or renewal certificates,*
- (ii) *the authority for the patient's detention and the period of it, including copies of the admission certificates or renewal certificates,*
- (iii) *the function of review panels,*
- (iv) *the name and address of the chair of the review panel for the facility, and*
- (v) *the right to apply to the review panel for cancellation of the admission certificates or renewal certificates.*

(2) In the event of language difficulty, the board shall obtain a suitable interpreter and provide the information and the written statement referred to in subsection (1) in the language spoken by the formal patient or the patient's guardian.

(3) In addition to giving a written statement pursuant to this section, the board shall, having regard to the circumstances in each case in which the formal patient desires to exercise the patient's right to apply for cancellation of admission certificates or renewal certificates, do any other things the board considers expedient to facilitate the submission of an application.

(4) If a formal patient has designated another person to receive notices, the board shall also mail a copy of all notices and information required to be given to the patient to the person designated at the address provided by the patient.

the board or the designated person considers expedient to facilitate the submission of an application.

(4) If a formal patient or a person who is subject to a community treatment order has designated another person to receive notices, the board or the designated person referred to in subsection (1.1), as the case may be, shall also mail a copy of all notices and information required to be given to the patient or the person who is subject to a community treatment order to the person designated at the address provided by the patient or the person who is subject to a community treatment order.

(d) by adding the following after subsection (4):

(5) When a community treatment order expires or is cancelled, the designated person referred to in subsection (1.1) shall give notice of the expiry or cancellation, along with any recommendations for treatment,

- (a) to the person who was subject to the community treatment order,
- (b) to the persons who were given a written statement under section 14(1.1)(b), and
- (c) to the person's family doctor, if known.

12 Section 28 is repealed and the following is substituted:

Treatment decisions on behalf of formal patient or person subject to community treatment order

28(1) For the purposes of this Act other than section 29(5), treatment decisions may be made on behalf of a formal patient or a person who is subject to a community treatment order, where the patient or person is a minor or is not mentally competent, by a person who is apparently mentally competent, is available and is willing to make the decisions and is

- (a) the agent of the formal patient or the person who is subject to a community treatment order,
- (b) the guardian of the formal patient or the person who is subject to a community treatment order,

12 Section 28 presently reads:

28(1) For the purposes of this Part other than section 29(5), treatment decisions may be made on behalf of a formal patient who is a minor or who is not mentally competent by a person who is apparently mentally competent, is available and willing to make the decision and is

- (a) the formal patient's agent,*
- (b) the formal patient's guardian,*
- (c) in a case where the formal patient does not have a guardian or agent or the agent is not available or not willing or cannot be contacted after every reasonable effort has been made, the patient's nearest relative as defined in section 1(i)(i), or*

- (c) in a case where the formal patient or the person who is subject to a community treatment order does not have an agent or guardian or the agent or guardian is not available or not willing or cannot be contacted after every reasonable effort has been made, the patient's or person's nearest relative as defined in section 1(i)(i), or
 - (d) in a case where the formal patient or the person who is subject to a community treatment order does not have a person referred to in this section, the Public Guardian.
- (2)** A person referred to in subsection (1)(a) or (c) shall not exercise the authority given by that subsection unless the person
- (a) has been in personal contact with the formal patient or the person who is subject to a community treatment order over the preceding 12-month period,
 - (b) is willing to assume the responsibility of making treatment decisions, and
 - (c) makes a statement in writing certifying the person's relationship to the formal patient or the person who is subject to a community treatment order and the facts set out in clauses (a) and (b).
- (3)** A person authorized by subsection (1)(a) or (c) shall make the treatment decisions in accordance with what the person believes to be the best interest of the formal patient or the person who is subject to a community treatment order.
- (4)** In order to determine the best interest of the formal patient or the person who is subject to a community treatment order, a person referred to in subsection (1)(a) or (c) shall have regard to the following:
- (a) whether the mental condition of the patient or the person will be or is likely to be improved by the treatment;
 - (b) whether the patient's or person's condition will deteriorate or is likely to deteriorate with the treatment;
 - (c) whether the anticipated benefit from the treatment outweighs the risk of harm to the patient or person;

- (d) in a case where the formal patient does not have a person referred to in this subsection, the Public Guardian.*
- (2) A person referred to in subsection (1)(a) or (c) shall not exercise the authority given by that subsection unless the person*
 - (a) has been in personal contact with the formal patient over the preceding 12-month period,*
 - (b) is willing to assume the responsibility for making treatment decisions, and*
 - (c) makes a statement in writing certifying the person's relationship to the formal patient and the facts set out in clauses (a) and (b).*
- (3) A person authorized by subsection (1)(a) or (c) to make treatment decisions on behalf of a formal patient shall make the decisions in accordance with what the person believes to be the best interest of the patient.*
- (4) In order to determine the best interest of the formal patient in relation to treatment, a person referred to in subsection (1)(a) or (c) shall have regard to the following:*
 - (a) whether the mental condition of the patient will be or is likely to be improved by the treatment;*
 - (b) whether the patient's condition will deteriorate or is likely to deteriorate without the treatment;*
 - (c) whether the anticipated benefit from the treatment outweighs the risk of harm to the patient;*
 - (d) whether the treatment is the least restrictive and least intrusive treatment that meets the requirements of clauses (a), (b) and (c).*
- (5) If the attending physician is of the opinion that a formal patient is not mentally competent to make treatment decisions and the patient objects to treatment, the treatment shall not be given pursuant to a treatment decision made by a person referred to in subsection (1)(a) or (c) unless a 2nd physician is also of the opinion that the patient is not mentally competent to make treatment decisions.*
- (6) If treatment decisions are made by a person referred to in subsection (1)(a) or (c) on a formal patient's behalf, that person's statement in writing as to the person's relationship with the patient and as to the facts mentioned in subsection (2)(a) and (b) can be relied on, unless it is not reasonable to believe the statement.*
- (7) If a person acting on a treatment decision makes reasonable inquiries for persons entitled to make the decision, the person so*

(d) whether the treatment is the least restrictive and least intrusive treatment that meets the requirements of clauses (a), (b) and (c).

(5) If the attending physician is of the opinion that a formal patient is not mentally competent to make treatment decisions and the patient objects to treatment, the treatment shall not be given pursuant to a treatment decision made by a person referred to in subsection (1)(a) or (c) unless a 2nd physician is also of the opinion that the patient is not mentally competent to make treatment decisions.

(6) In the case of a person who is subject to a community treatment order, the community treatment order must be issued in accordance with section 9.1.

(7) If treatment decisions are made by a person referred to in subsection (1)(a) or (c) on behalf of a formal patient or a person who is subject to a community treatment order, that person's statement under subsection (2)(c) can be relied on unless it is not reasonable to believe the statement.

(8) If a person acting on a treatment decision makes reasonable inquiries for persons entitled to make the decisions, the person so acting is not liable for failure to request the decision from the person entitled to make the decision on behalf of the formal patient or the person who is subject to a community treatment order.

13 Section 32(1) is amended by striking out “and” at the end of clause (a), adding “and” at the end of clause (b) and adding the following after clause (b):

(c) to the patient's family doctor, if known, along with the discharge summary, including any recommendations for treatment,

acting is not liable for failure to request the decision from the person entitled to make the decision on the formal patient's behalf.

13 Section 32(1) presently reads:

32(1) When a patient is discharged from a facility, the board shall, where reasonably possible, give notice of the discharge

(a) to the patient's guardian, if any, and

(b) to the patient's nearest relative, unless the patient being discharged objects,

and, when applicable, shall state in the notice whether a certificate of incapacity issued under the Dependent Adults Act exists with respect to the patient.

14 Section 38 is amended

(a) by adding the following after subsection (1):

(1.1) A person who is subject to a community treatment order, the person's agent, the person's guardian or a person on behalf of the person who is subject to a community treatment order may apply to a review panel for cancellation of the community treatment order by sending a notice of application to the chair of the appropriate review panel in the prescribed form.

(b) in subsection (2) by adding “or person who is subject to a community treatment order” after “formal patient” wherever it occurs;

(c) in subsection (3)

(i) by adding “person who is subject to a community treatment order,” after “a formal patient,”;

(ii) by adding “or on behalf of the person who is subject to a community treatment order” after “patient’s behalf”;

(iii) by striking out “or 2 renewal certificates” and substituting “, 2 renewal certificates or a community treatment order”;

(iv) by striking out “those certificates” and substituting “those certificates or that order”;

(d) in subsection (4)

(i) by adding “person who is subject to a community treatment order,” after “a formal patient,”;

(ii) by adding “or on behalf of the person who is subject to a community treatment order” after “patient’s behalf”.

15 Section 40 is amended

(a) by repealing subsection (1)(a) to (c) and substituting the following:

(a) to the patient or the person who is subject to a community treatment order, the patient’s or person’s

14 Section 38 presently reads:

38(1) A formal patient, the patient's agent, the patient's guardian or a person on the patient's behalf may apply to a review panel for cancellation of

(a) admission certificates, or

(b) renewal certificates,

by sending a notice of application to the chair of the appropriate review panel in the prescribed form.

(2) A board may submit an application under subsection (1) on behalf of a formal patient, but when an application is so made the word "applicant" wherever it occurs in this Part means the formal patient and not the board.

(3) Subject to subsection (4), a formal patient, guardian, person on the patient's behalf or a board that has made an application under this section with respect to 2 admission certificates or 2 renewal certificates may make further applications with respect to those certificates.

(4) No further application made under this section by a formal patient, guardian, person on the patient's behalf or a board shall be considered by a review panel if the chair of the review panel reasonably believes

(a) that the application is frivolous, vexatious or not made in good faith, or

(b) that there has been no significant change in circumstances since the previous hearing by the review panel.

15 Section 40 presently reads:

40(1) On receipt of an application under section 33 or 38 or when an application is deemed to be made under section 39, the chair of a review panel shall give at least 7 days' notice of the date, time, place and purpose of the hearing

agent and the patient's or person's guardian or another person referred to in section 28(1), if any,

- (b) to one person designated by the patient or the person who is subject to a community treatment order, to the nearest relative, unless the patient or the person objects, and to any other person that the chair considers may be affected by the application and should be notified,
- (c) in the case of a person who is subject to a community treatment order, to the issuing psychiatrist under section 9.1(1) or the designated physician under section 9.7(1), as the case may be, and to the person responsible for the supervision of the community treatment order,
- (d) in the case of a formal patient, to the board of the facility in which the patient is detained, and
- (e) to the applicant.

(b) by repealing subsection (5) and substituting the following:

(5) The chair may adjourn a hearing under section 33, 38 or 39 for any period up to 21 days and, if the patient or the patient's representative, or the person who is subject to a community treatment order or that person's representative, as the case may be, requests the adjournment, for a further period or periods.

16 Section 41 is amended

(a) in subsection (1) by adding the following after clause (a):

- (a.1) with respect to an application for cancellation of a community treatment order,

- (a) *to the applicant, the applicant's agent, if any, and the applicant's guardian, if any,*
 - (b) *to one person designated by the patient, to the nearest relative, unless the patient objects, and to any other person that the chair considers may be affected by the application and should be notified, and*
 - (c) *to the board of the facility in which the patient is detained.*
- (2) *On receipt of an application under section 27 or 29, the chair of a review panel shall give reasonable notice of the date, time, place and purpose of the hearing*
- (a) *to the patient, the patient's agent and the patient's guardian or the person referred to in section 28(1)(a) or (b), if any,*
 - (b) *to one person designated by the patient, to the nearest relative, unless the patient objects, and to any other person that the chair considers may be affected by the application and should be notified,*
 - (c) *to the applicant,*
 - (d) *to the board of the facility in which the patient is detained, and*
 - (e) *in the case of an application under section 27, to the physician whose opinion is being reviewed.*
- (3) *A hearing is to be held and the review panel shall make an order or refuse to make an order under section 27 or 29 and so advise the formal patient, the patient's agent, if any, and the patient's guardian, if any, within 7 days after the receipt of an application under either of those sections by the chair.*
- (4) *A review panel shall hear and consider an application under section 33, 38 or 39 as soon as it is able to do so and in any case within 21 days after the receipt by the chair of the application under section 33 or 38 or the date on which an application is deemed to be made under section 39, as the case may be.*
- (5) *The chair may adjourn a hearing under section 33, 38 or 39 for any period up to 21 days and, if the patient or the patient's representative requests the adjournment, for a further period or periods.*

16 Section 41 presently reads:

41(1) A review panel may

- (a) *with respect to an application for the cancellation of admission certificates or renewal certificates,*

- (i) cancel the community treatment order, or
 - (ii) refuse to cancel the community treatment order;
- (b) in subsection (2)(b) by adding** “or the person who is subject to a community treatment order and the person’s guardian, if any,” **after** “if any,”;
- (c) in subsection (3) by adding** “, a community treatment order” **after** “renewal certificates”;
- (d) in subsection (4) by adding** “or a community treatment order” **after** “renewal certificates”.

17 Section 42 is amended

- (a) by renumbering it as section 42(1);**
- (b) in subsection (1) by striking out** “In a hearing” **and substituting** “Subject to subsection (2), in a hearing”;
- (c) by adding the following after subsection (1):**

- (i) *cancel the admission certificates or renewal certificates, as the case may be, that are in effect at the time of the hearing, or*
 - (ii) *refuse to cancel the admission certificates or renewal certificates;*
 - (b) *with respect to an application to review a physician's opinion under section 27,*
 - (i) *cancel the certificate referred to in that section, or*
 - (ii) *refuse to cancel the certificate;*
 - (c) *with respect to an application to direct that treatment may be administered in accordance with section 29,*
 - (i) *make an order under that section, which may be subject to any conditions that the review panel considers appropriate, or*
 - (ii) *refuse to make an order under that section.*
- (2) *A review panel shall, with respect to a decision under section 33, 38 or 39,*
- (a) *make the decision within 24 hours of hearing the application, and*
 - (b) *inform the patient and the patient's guardian, if any, of the decision and send a copy of the decision in the prescribed form to every person referred to in section 40(1) within 24 hours of making the decision.*
- (3) *If the review panel refuses to cancel admission certificates, renewal certificates or a physician's certificate under section 27 or refuses to make an order under section 29 or 33, the written report of the decision of the review panel shall include a statement of the right to appeal the decision of the review panel to the Court of Queen's Bench under section 43.*
- (4) *If the review panel decides not to cancel admission or renewal certificates, it shall give written reasons for its decision.*

17 Section 42 presently reads:

42 In a hearing before a review panel or the Court of Queen's Bench under this Act, the onus is on the board of the facility in which the patient is detained to show that

- (a) *detention is required and the patient meets the criteria referred to in sections 2 and 8(1),*
- (b) *the physician's opinion under section 27 is correct,*

(2) In a hearing before a review panel or the Court of Queen’s Bench under this Act in respect of a community treatment order, the onus is on the psychiatrist or the designated physician under section 9.7(1) who issued, amended or renewed the community treatment order, as the case may be, to show that the person meets the criteria set out in section 9.1(1).

18 Section 43 is amended

(a) by adding the following after subsection (3):

(3.1) In the case of an appeal in respect of a community treatment order, in addition to being served on the persons set out in subsection (3) the notice shall be served on

- (a) the issuing psychiatrist under section 9.1(1) or the designated physician under section 9.7(1), as the case may be, and
- (b) the person responsible for the supervision of the community treatment order.

(b) in subsection (7)(a) by striking out “or renewal certificates” and substituting “, renewal certificates, a community treatment order”.

19 Section 45(1) is amended by adding “or persons who are subject to community treatment orders” after “formal patients”.

- (c) *it is in the best interest of the formal patient to administer treatment in accordance with section 29, or*
- (d) *the patient should not be returned to a correctional facility under section 33,*

as the case may be.

18 Section 43(7)(a) presently reads:

(7) The Court may

- (a) cancel or refuse to cancel admission certificates or renewal certificates or a physician's certificate under section 27, as the case may be,*

19 Section 45 presently reads:

45(1) The Lieutenant Governor in Council shall appoint a Mental Health Patient Advocate, who shall investigate complaints from or relating to formal patients and exercise any other powers and perform any other duties that are prescribed in the regulations.

(2) The Lieutenant Governor in Council may make regulations

- (a) respecting the powers and duties of the Patient Advocate;*
- (b) requiring boards to make available any information referred to in the regulations for the purpose of an investigation by the Patient Advocate.*

20 Section 53(1) is amended by adding the following after clause (d):

- (e) respecting community treatment orders;
- (f) respecting persons who may be responsible for the supervision of community treatment orders and the qualifications required for that purpose;
- (g) respecting designating physicians for the purposes of section 9.7(1);
- (h) respecting the reporting obligations in respect of community treatment orders;
- (i) respecting the issuing, renewal, amendment or cancellation of community treatment orders;
- (j) respecting requirements for notice respecting community treatment orders;
- (k) respecting the designating of persons for the purposes of section 14(1.1);
- (l) defining any terms used but not defined in this Act;
- (m) respecting any other matter that the Lieutenant Governor in Council considers necessary to carry out the intent of this Act.

21 This Act comes into force on Proclamation.

20 Section 53(1) presently reads:

53(1) The Lieutenant Governor in Council may make regulations

- (a) designating any place or part of a place as a facility;*
- (b) classifying facilities for any purpose;*
- (c) in respect of facilities or any class of facility,*
 - (i) providing for the creation, establishment, construction, alteration, renovation and maintenance of them, and*
 - (ii) providing for the government, management, conduct, operation, use and control of them;*
- (d) respecting charges and expenses and liability for charges and expenses with respect to the conveyance, observation, examination, admission, treatment, care, accommodation and maintenance of a person in a facility or in a place referred to in section 49(a) or (b).*

21 Coming into force.

