

1972 Bill 83

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First Session, 17th Legislature, 21 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 83**

**The Mental Health Act, 1972**

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THE MINISTER OF HEALTH AND SOCIAL DEVELOPMENT

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First Reading . . . . .

Second Reading . . . . .

Third Reading . . . . .

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# BILL 83

1972

## THE MENTAL HEALTH ACT, 1972

(Assented to \_\_\_\_\_, 1972)

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

### 1. In this Act

- (a) "admission certificate" means a certificate issued by a therapist pursuant to section 17;
- (b) "conveyance and examination certificate" means a certificate issued by a therapist pursuant to section 13;
- (c) "Director" means the Director of Mental Health Services;
- (d) "facility" means a place designated by the regulations as a facility for the observation, care, treatment, control and detention of persons suffering from mental disorder;
- (e) "facility director" means the chief executive officer of a facility or a person designated in writing by him as facility director;
- (f) "formal patient" means a person admitted to and detained in a facility pursuant to admission certificates or detained in a facility pursuant to renewal certificates;
- (g) "informal patient" means a person admitted to a facility under section 11 or who becomes an informal patient pursuant to section 19;
- (h) "licensing board" means the Therapists Licensing Board established pursuant to section 4;
- (i) "mental disorder" means lack of reason or lack of control of behaviour;
- (j) "Minister" means the Minister of Health and Social Development;
- (k) "patient" means
  - (i) a formal patient,
  - (ii) an informal patient,
  - (iii) a person detained pursuant to a warrant of the Lieutenant Governor, and
  - (iv) a person remanded pursuant to section 33;

## **Explanatory Notes**

General: The Mental Health Act, 1972 will provide enabling legislation to facilitate the development of mental health care services of comparable quality to be found in other areas of the health care field. The development will ensure the equal availability of these services to all the people of Alberta.

It is intended to switch the principal locus of care from Government operated, large centralized hospitals to board operated regional, general hospitals with services and facilities of different types being developed locally under the direction or on the advice of regional boards. Mental health services will be incorporated wherever possible within the existing health care structures.

To further facilitate these developments it is the intention of Government to set minimum standards of care and encourage the increased participation of additional trained personnel from other professions including social work, psychology and nursing. The responsibilities of these professionals will be governed by this Act, the licensing board and the regulations.

It is the intention of Government to safeguard the rights of the individual, society and those working in the field of mental health by providing legal checks and balances and the ready availability of appeal or review mechanisms. Compulsory treatment powers will be used only where it is clearly necessary to safeguard those concerned.

### **I. Definitions.**

- (l) "nearest relative" means,
  - (i) with respect to a person suffering from mental disorder, the person first listed in the following paragraphs who is residing in Alberta, relatives of the whole blood being preferred to relatives of the same description of the half-blood and the elder or eldest of two or more relatives described in any paragraph being preferred to the other of those relatives regardless of sex
    - (A) husband or wife,
    - (B) son or daughter,
    - (C) father or mother,
    - (D) brother or sister,
    - (E) grandfather or grandmother,
    - (F) grandson or granddaughter,
    - (G) uncle or aunt,
    - (H) nephew or niece,
 or, where the person suffering from mental disorder is a ward of the Crown under *The Child Welfare Act*, it means the Minister of Health and Social Development,
  - but
  - (ii) where
    - (A) there is no nearest relative within any description in subclause (i), or
    - (B) in the opinion of the facility director, the nearest relative determined under subclause (i) would not act or is not acting in the best interests of a person suffering from mental disorder,
 it means such person as the facility director designates in writing to act as the nearest relative;
- (m) "physician" means a person registered as a medical practitioner under *The Medical Profession Act*;
- (n) "prescribed" means prescribed in the regulations;
- (o) "renewal certificate" means a certificate issued by a therapist pursuant to section 19;
- (p) "solicitor" means a member of The Law Society of Alberta;
- (q) "therapist" means any person who is the holder of a licence as a therapist issued by the licensing board.



**PART 1**  
**GENERAL**

**2.** (1) In accordance with *The Public Service Act* there may be appointed a Director of Mental Health Services and an Associate Director of Mental Health Services and such other employees as may be required for the purposes of this Act.

(2) The powers and duties conferred or imposed upon the Director by this Act or the regulations may be exercised or performed by the Associate Director or any other person designated by the Minister.

**3.** (1) The Minister may establish and operate places for the observation, care, treatment, control and detention of persons suffering from mental disorder.

(2) The Minister, with the approval of the Lieutenant Governor in Council, may enter into agreements with appropriate authorities of the Government of Canada or of any province or territory in Canada for the reception, observation, care, treatment and detention in a facility in Alberta of persons suffering from mental disorder.

**4.** (1) Subject to subsection (2), the Minister may appoint a licensing board called the "Therapists Licensing Board" in accordance with the regulations.

(2) The licensing board shall be composed of a majority of persons who are not employed on a full-time basis by the Government.

(3) The licensing board shall license a person as a therapist in accordance with the regulations.

**5.** The Lieutenant Governor in Council may establish a Provincial Mental Health Advisory Council consisting of such persons as he considers necessary to advise the Minister on the planning, development, standards, co-ordination and evaluation of mental health services in Alberta.

**6.** (1) The Lieutenant Governor in Council may, by regulation, establish areas within Alberta as regional mental health areas.

(2) Where a regional mental health area is proposed to be or has been established, the Lieutenant Governor in Council may establish a Regional Mental Health Council for that area.

(3) The Lieutenant Governor in Council shall appoint members to a Regional Mental Health Council in accordance with the regulations.

**2. Appointment of staff.**

**3. Power of the Minister to establish and operate facilities and to make agreements.**

**4. Therapists Licensing Board.**

**5. Provincial Mental Health Advisory Council.**

**6. Regional Mental Health Councils.**

(4) The Regional Mental Health Council shall advise any person, agency, organization or other body on any aspect of mental health that it considers necessary or desirable.

(5) A Regional Mental Health Council has the powers, duties and functions given to it by the regulations.

**7.** (1) The Minister shall establish one or more review panels.

(2) Each review panel shall be composed of

(a) two therapists, one of whom shall be a physician,  
and

(b) a solicitor.

(3) The Minister may appoint one or more alternate members in accordance with subsection (2) and where for any reason a member of a review panel cannot act, he shall be replaced by an appropriate alternate member who shall act until the hearing and investigation is complete, and when so acting, an alternate member is a member for all purposes.

(4) The Minister shall designate one of the members of each review panel to be chairman of the review panel and another to be vice-chairman.

(5) A quorum for a review panel is the three members or alternate members appointed pursuant to this section.

(6) A decision of a majority of the members is the decision of the review panel.

(7) The Minister may periodically review the appointment of members and alternate members to review panels and make such changes as he considers advisable.

**8.** (1) No person who is actively serving as a member of the staff of a facility is eligible to sit as a member or alternate member of a review panel when the panel is considering an appeal from a formal patient of the facility with which he is connected.

(2) No person who is

(a) related by blood or marriage to an appellant, or

(b) a therapist who is treating or who has treated an appellant,

is eligible to be appointed as, or to sit as a member or alternate member of a review panel for an appeal by that appellant.

**7.** Establishment of review panels.

**3.** Prohibitions for participation on review panels.

**9.** (1) A review panel shall hear and investigate appeals in accordance with this Act and for that purpose the members of the review panel have all the powers of a commissioner appointed under *The Public Inquiries Act*.

(2) The Minister shall provide such secretarial, legal, consultative and other assistance to each review panel as may be required.

## **PART 2**

### **ADMISSION TO A FACILITY**

**10.** Where any person is refused admission to a facility, the facility director or a person on his behalf shall inform the person refused admission and where possible the referring source, of the reasons for the refusal and may refer the person to another facility or service, in which case the referring source, if any, shall be informed of any alternative arrangements made.

#### **Informal Admission**

**11.** (1) Any person may be admitted to a facility as an informal patient in accordance with the rules of the facility.

(2) A person who is at least 16 years of age and who is capable of expressing his own wishes may, on his own request, be admitted as an informal patient, notwithstanding any right of custody or control vested by law in his parent or guardian.

(3) An informal patient may discharge himself from a facility upon giving notice in writing to the facility director of his intention to do so.

**12.** Notwithstanding section 11, an informal patient may become a formal patient where two therapists, at least one of whom is a physician, after separate examinations by each of them, are of the opinion that the informal patient

- (a) is suffering from mental disorder,
- (b) is in a condition presenting a danger to himself or others, and
- (c) is unsuitable for continuation at the facility as an informal patient,

and admission certificates are signed by each of them in accordance with section 17.

**9.** Duty of review panels.

**10.** Self-explanatory.

**11.** Informal admission to a facility.

**12.** Informal patient may become a formal patient.

### **Formal Admission**

**13.** Where a therapist examines a person and is of the opinion that the person is

- (a) suffering from mental disorder, and
- (b) in a condition presenting a danger to himself or others,

he may, not later than 72 hours after the examination, issue a conveyance and examination certificate in the prescribed form with respect to the person.

**14.** (1) A conveyance and examination certificate is sufficient authority for any person to convey the person named therein to a facility within 72 hours of the time it was issued.

(2) Where a person is conveyed to a facility pursuant to a conveyance and examination certificate, the conveyance and examination certificate is sufficient authority

- (a) for one or more therapists to examine the person named therein, and
- (b) to detain the person named therein for a period of 12 hours from the time he arrived at the facility.

**15.** A conveyance and examination certificate shall show

- (a) the name of the therapist issuing it,
- (b) the date and time the personal examination was conducted,
- (c) the facts upon which the therapist formed his opinion that the person
  - (i) was suffering from mental disorder, and
  - (ii) was in a condition presenting a danger to himself or others,distinguishing the facts observed by him from the facts communicated to him by others, and
- (d) the date and time the certificate was issued.

**16.** (1) A person detained in a facility pursuant to a conveyance and examination certificate shall be examined as soon as possible.

(2) Unless two admission certificates are issued with respect to a person detained under a conveyance and examination certificate within 12 hours of the time he arrives at the facility, the person shall be released.

**17.** (1) Where two therapists, at least one of whom is a physician, after separate examinations by each of them, are of the opinion that a person is

- (a) suffering from mental disorder,

**13. Conveyance and examination certificate.**

**14. Effect of a conveyance and examination certificate.**

**15. Contents of conveyance and examination certificate.**

**16. Release of person detained pursuant to a conveyance and examination certificate.**

**17. Issue and contents of admission certificates.**

- (b) in a condition presenting a danger to himself or others, and
- (c) unsuitable for admission to a facility as an informal patient,

each shall issue an admission certificate in the prescribed form.

(2) An admission certificate shall show

- (a) the name of the therapist issuing it,
- (b) the date and time the personal examination was conducted,
- (c) the facts upon which the therapist formed his opinion that the person
  - (i) was suffering from mental disorder, and
  - (ii) was in a condition presenting a danger to himself or others,distinguishing the facts observed by him from the facts communicated to him by others, and
- (d) the date and time the certificate was issued.

**18.** (1) Two admission certificates are sufficient authority to detain and treat the person named therein, in a facility, for a period of one month from the date the second admission certificate is issued.

(2) Where the person named in two admission certificates is not in a facility, the certificates are sufficient authority to convey the person named therein to a facility within 72 hours of the date the second admission certificate was issued.

**19.** (1) The authorized period of detention of a formal patient may be extended where two therapists, at least one of whom is a physician, after separate examinations by each of them, are of the opinion that the formal patient is

- (a) suffering from mental disorder,
- (b) in a condition presenting a danger to himself or others, and
- (c) unsuitable for continuation at the facility as an informal patient,

and each therapist issues a renewal certificate in the prescribed form.

(2) Two renewal certificates are sufficient authority to detain and treat the person named therein as follows:

- (a) in the case of the first two renewal certificates, for a period of not more than two additional months;
- (b) in the case of the second two renewal certificates, for a period of not more than six additional months;

**18.** Authority of admission certificates.

**19.** Period of detention.

- (c) in the case of each two subsequent renewal certificates, for a period of not more than six additional months.

(3) A formal patient whose authorized period of detention under admission certificates or renewal certificates expires shall thereupon be deemed to be an informal patient and shall be informed of that fact.

(4) A formal patient whose authorized period of detention under admission certificates or renewal certificates has not expired may be continued as an informal patient upon completion of a certificate in the prescribed form, by two therapists, at least one of whom is a physician and thereupon the person named therein ceases to be a formal patient and shall be informed of that fact.

**20.** A renewal certificate shall show

- (a) the name of the therapist issuing it,
- (b) the date that the personal examination was conducted,
- (c) the facts upon which the therapist formed his opinion that the person
  - (i) was suffering from mental disorder, and
  - (ii) was in a condition presenting a danger to himself or others,distinguishing the facts observed by him from the facts communicated to him by others, and
- (d) the date the certificate was issued.

**21.** (1) Where information upon oath is brought before a provincial judge that a person

- (a) is suffering from mental disorder,
  - (b) is in a condition presenting a danger to himself or others, and
  - (c) refuses to be examined by a therapist,
- the judge may, if he is satisfied that
- (d) the person should be examined in the interests of his own safety or the safety of others, and
  - (e) an examination can be arranged in no other way,
- issue an order to apprehend that person for an examination.

(2) An order under this section may be directed to all or any peace officers and shall name or otherwise describe the person with respect to whom the order has been made.

(3) Where a peace officer apprehends a person pursuant to an order under this section, the person shall be deemed to be a person in respect of whom a conveyance and examination certificate has been issued.

**20.** Contents of renewal certificate.

**21.** Order for examination by a provincial judge.

- 22.** (1) Where a peace officer observes a person
- (a) apparently suffering from mental disorder,
  - (b) in a condition presenting a danger to himself or others, and
  - (c) acting in a manner that in a normal person would be disorderly,
- the peace officer may, if he is satisfied that
- (d) the person should be examined in the interests of his own safety or the safety of others, and
  - (e) the circumstances are such that to proceed under section 21 would be dangerous,
- convey the person to a facility for an examination.
- (2) A person conveyed to a facility pursuant to subsection (1) shall be deemed to be a person in respect of whom a conveyance and examination certificate has been issued.

### **PART 3**

#### **RIGHTS OF PATIENTS**

- 23.** (1) Upon a person becoming
- (a) a formal patient, or
  - (b) the subject of renewal certificates,
- the formal patient and his nearest relative shall
- (c) be informed of the reason for his admission or the issuance of renewal certificates in simple language, and
  - (d) be given a written statement of
    - (i) the authority for his detention and the period thereof,
    - (ii) the function of the review panel,
    - (iii) the name and address of the chairman of the appropriate review panel, and
    - (iv) his right of appeal to the review panel.
- (2) In the event of language difficulty, the facility director shall obtain a suitable interpreter and provide the explanation and written statement referred to in subsection (1), in the language spoken by the formal patient or his nearest relative.
- (3) In addition to giving an explanation and written statement pursuant to this section, the facility director shall, having regard to the circumstances in each case in which the formal patient desires to exercise his right of appeal, do such other things as the facility director considers expedient to facilitate the submission of an appeal.

**22.** Powers of peace officer.

**23.** Duty to explain to a formal patient his right of appeal when the authority for his detention changes.

**24.** No communication written by a patient in a facility or to a patient in a facility shall be opened, examined or withheld and its delivery shall not in any way be obstructed or delayed by the facility director or a member of the staff at a facility.

**25.** (1) A patient shall not be prevented from receiving visitors at hours fixed by the facility director unless a therapist considers that a visitor would be detrimental to the patient's health.

(2) Notwithstanding subsection (1), a solicitor acting for a patient may visit the patient at any time.

**26.** (1) A formal patient, or a person on his behalf, may submit an appeal in the prescribed form to the chairman of the review panel that the admission certificates or the renewal certificates, as the case may be, be terminated.

(2) The Minister, the Director or a facility director may submit an appeal under subsection (1) on behalf of the formal patient, but where an appeal is so made, the word "appellant" wherever it occurs in Part 1, this Part and section 49, subsection (1), means the formal patient and not the Minister, the Director or a facility director.

(3) Only one appeal may be made to a review panel by a formal patient or a person on his behalf with respect to each two admission certificates or each two renewal certificates issued, but the Minister, the Director or a facility director may appeal at any time.

(4) Upon receipt by the chairman of a review panel of an appeal, the review panel shall forthwith carry out whatever hearing and investigation it considers necessary to speedily determine the validity of the appeal and may invite the appellant and other persons considered by the review panel to be affected by the appeal, to testify or produce evidence relating thereto.

**27.** (1) All proceedings of a review panel shall be conducted in private and no member of the public is entitled to be present during any hearing, investigation or deliberation of a review panel, except with the permission of the Minister, on the recommendation of the chairman of the review panel.

(2) The appellant and his representative have the right to be personally present during the presentation of any evidence to the review panel, but if in the opinion of the review panel there may be an adverse effect on the appellant's health by his presence, the appellant may be excluded, but in that event the review panel shall appoint a person to act on his behalf if he does not already have a representative.

**24.** Communications by and to patients.

**25.** Visitors.

**26.** Procedure regarding appeal.

**27.** Investigation and right to be heard.

(3) The appellant or a person acting on his behalf has the right of cross-examination.

(4) Except as permitted by this Act or the regulations, no person shall publish any report of a hearing, investigation or deliberation by a review panel or the names of any persons concerned therewith.

**28.** (1) Within 14 days of the receipt of an appeal, or such longer period as the Minister allows, the review panel shall hear and investigate the appeal.

(2) The review panel shall order that the admission certificate or the renewal certificates, as the case may be, be terminated only where it is satisfied that the appellant is no longer in a condition presenting a danger to himself or others.

(3) Within the period specified in subsection (1), the chairman of the review panel shall make a written report of the decision of the review panel and shall forthwith send a copy of it to the appellant or the person acting on the appellant's behalf, and the appellant's nearest relative.

(4) The written report of the decision of the review panel shall include a statement of the right to apply to the Supreme Court under section 29 for an order revoking the admission certificates or renewal certificates, as the case may be.

(5) Where the appeal to the review panel was made by the Minister, the Director or a facility director, the chairman of the review panel shall send a copy of the report to the appellant and to the Minister, the Director or the facility director, as the case may be.

(6) The facility director shall take or cause to be taken whatever action may be required to give effect to the decision of the review panel.

**29.** (1) The appellant or a person acting on his behalf, if dissatisfied with the decision of the review panel under section 28, may apply to the Supreme Court within one month of the date of the decision, for an order revoking the admission certificates or the renewal certificates, as the case may be.

(2) The application shall be made by originating notice of motion.

(3) The notice of motion shall be served upon

(a) the Minister,

(b) the facility director of the facility in which the applicant is a formal patient, and

(c) such other persons as the Court may direct,

**23.** Report by review panel.

**29.** Appeal from decision of review panel.

not less than 15 days before the motion is returnable and the practice and procedure of the Court pertaining to applications by originating notice of motion applies, so far as it is applicable, to an application under this section, except as otherwise provided by this section.

(4) The application shall be supported by an affidavit of the applicant setting forth fully all the facts in support of the application.

(5) In addition to the evidence adduced by the applicant, the Court may direct such further evidence to be given as it considers necessary.

(6) An order of the Court under this section is not subject to appeal.

(7) The Court may make whatever order as to the costs of the application as it considers fit.

(8) Where the Court orders that the admission certificates or the renewal certificates be revoked, as the case may be, the facility director shall comply with the order upon being served with a true copy thereof.

### **Discharge**

**30.** (1) Where a person is discharged from a facility, a therapist shall, where possible, give notice of the discharge

- (a) to the nearest relative, if the person discharged agrees, and
- (b) to the referring source.

(2) Where a person 16 years of age or over who has been discharged from a facility refuses or is unwilling to leave the facility, the facility director may cause the person to be removed from the facility.

**31.** (1) The facility director shall terminate the admission certificates or renewal certificates, as the case may be, of a formal patient where

- (a) he is directed to do so in accordance with
  - (i) an order of the Supreme Court pursuant to section 29, or
  - (ii) a decision of a review panel,or
- (b) he receives a certificate of discharge in the prescribed form signed by two therapists at least one of whom is a physician that the formal patient is no longer in need of the observation, care, treatment, control and detention provided in a facility.

**30. Discharge from a facility.**

**31. Discharge of formal and informal patients.**

(2) Where the admission certificates or renewal certificates are terminated pursuant to this section, the formal patient shall be discharged.

(3) An informal patient shall be discharged by a facility director upon the issue of a certificate of discharge in the prescribed form signed by two therapists at least one of whom is a physician, that the informal patient is no longer in need of the observation, care, treatment and control provided in a facility.

#### **PART 4**

#### **EXAMINATION AND DETENTION AT A FACILITY PURSUANT TO AN ORDER OF COURT**

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

(2) Where an examination is made under this section, a report in writing shall be made to the judge as to the mental condition of the person.

(3) If the report indicates that the person examined needs treatment, the judge may order the person to attend a facility for treatment as an out-patient.

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

(2) Before the expiration of the time mentioned in the order under subsection (1), the person remanded shall be examined and a report shall be made to the judge as to the mental condition of the person.

**34.** (1) Notwithstanding this or any other Act or any regulation made under this or any other Act, the facility director may report all or any part of the information compiled with respect to the person named in an order referred to in section 32 or 33, to any person where in the opinion of the facility director, it is in the best interests of the person who is the subject of the order.

(2) Subsection (1) does not permit a facility director to withhold any information from a judge that would have otherwise been included in a report pursuant to section 32 or 33.

**32.** Judge's order for examination and treatment on out-patient basis.

**33.** Remand for up to two months to a facility for examination.

**34.** Information may be reported.

**35.** A judge shall not make an order under section 32 or 33 until he ascertains from the facility director that the services of the facility are available to the person to be named in the order.

**36.** (1) Any person who, pursuant to the *Criminal Code*, is remanded to custody for observation may be admitted to, examined and detained in, and discharged from a facility in accordance with the law.

(2) Any person who, pursuant to the *Criminal Code*, is detained under the authority of a warrant of the Lieutenant Governor may be admitted to, examined, treated and detained in and discharged from a facility in accordance with the law.

## **PART 5**

### **ADMINISTRATIVE**

**37.** (1) Notwithstanding any admission certificates or renewal certificates, the facility director or person authorized by him may grant a patient a leave of absence from a facility for a period not exceeding one month.

(2) Leave of absence may be granted upon such terms and conditions as may be prescribed.

(3) Subsection (1) does not authorize the granting of a leave of absence to a patient where he is subject to detention otherwise than under this Act.

**38.** (1) A facility director may, if otherwise permitted by law and subject to arrangements being made with another facility director, transfer a patient to the other facility upon completing a memorandum of transfer in the prescribed form.

(2) Where a patient is transferred under subsection (1), the authority to detain him continues in force in the facility to which he is transferred.

**39.** (1) Where a patient requires hospital treatment that cannot be supplied in the facility, the facility director may, if otherwise permitted by law, transfer the patient to a hospital for treatment and return him to the facility upon the conclusion thereof.

(2) Where a patient is transferred under subsection (1), the board of the hospital or a person designated by it has, in addition to the powers conferred upon it by any other Act, the powers under this Act of a facility director in respect of the custody, control and treatment of the patient.

**35.** Duty of judge.

**36.** Admission to facility pursuant to the Criminal Code.

**37.** Leave of absence.

**38.** Transfer of patients from one facility to another.

**39.** Hospital treatment.

**40.** Where the Director has reason to believe that a person suffering from mental disorder may come or be brought into Alberta, the Director may issue a certificate in the prescribed form and a conveyance and examination certificate shall be deemed to have been issued at the time that person comes or is brought into Alberta.

**41. Where it appears to the Director**

(a) that a formal patient has come or been brought into Alberta and his observation, care and treatment is the responsibility of another jurisdiction, or  
(b) that it would be in the best interests of a formal patient to be cared for in another jurisdiction,  
the Director may, upon compliance in Alberta with the laws mutatis mutandis of the other jurisdiction, issue a transfer in the prescribed form, to authorize his transfer thereto.

**42.** (1) Where a formal patient leaves a facility and leave of absence has not been granted, the facility director may order any peace officer to return the person to the facility.

(2) Upon receipt of an order pursuant to subsection (1), every peace officer is empowered to arrest, without warrant, the person named therein and return him to the facility.

(3) For the purposes of this Act, a formal patient who is returned to a facility under this section may be detained for the remainder of the authorized period of detention to which he was subject when his absence was discovered.

**43.** A conveyance and examination certificate, an admission certificate, renewal certificate, warrant, certificate, order, transfer or other form issued under this Act or the regulations shall not be held to be insufficient or invalid by reason only of any irregularity, informality or insufficiency therein or in any proceedings in connection therewith.

**44.** All actions, prosecutions or other proceedings against any person or the owner of a facility for anything done or omitted to be done in pursuance or intended pursuance of this Act or the regulations shall be commenced within six months after the act or omission complained of occurred and not thereafter.

**45.** No action lies against any facility or any officer or employee thereof for the tort of any patient.

**40.** Transfer into Alberta.

**41.** Transfer out of Alberta.

**42.** Formal patient leaving facility without leave of absence.

**43.** Validity of documents.

**44.** Limitation of actions.

**45.** Protection from actions.

**46.** (1) Section 40 of *The Alberta Hospitals Act* applies mutatis mutandis with respect to facilities, and the person liable for the payment of charges under that section is liable for the payment of the expenses incurred in connection with the examination, admission, detention, conveyance, care and maintenance of a patient.

(2) Where a person is admitted to and detained in a facility on the authority of a warrant of the Lieutenant Governor under the *Criminal Code*, the expenses incurred after the making of the order shall be paid by the person who would be liable under subsection (1) if the person had been admitted under the authority of this Act, except that when the person is under a sentence of imprisonment the expenses incurred during the term of the imprisonment shall be paid by the Government.

(3) Where the person liable for the payment of the expenses under subsection (1) or (2) is not possessed of sufficient means to pay the expenses, the expenses shall be paid by the Government.

**47.** (1) All expenses incurred in connection with the examination, admission, detention, conveyance, care and maintenance of any person under this Act may be paid in the first instance by the Government.

(2) The Government may recover the expenses paid by it from the person liable for payment under section 46.

**48.** (1) Where the provisions of this Act conflict with the provisions of any other Act, the provisions of this Act prevail.

(2) Where the provisions of the regulations made under this Act conflict with the provisions of the regulations made under any other Act, the provisions of the regulations under this Act prevail.

**49.** (1) The Lieutenant Governor in Council may make regulations with respect to the submission of appeals to review panels and with respect to hearings and investigations of review panels and matters incidental thereto and consequential thereon and, without limiting the generality of the foregoing, may make regulations

- (a) for regulating the methods by which information relevant to an appeal may be obtained by or furnished to a review panel or any one or more of them to visit and interview in private an appellant;
- (b) for regulating the circumstances in which, and the persons by whom, appellants may, if not desiring to conduct their own case, be represented;

**46.** Liability for maintenance.

**47.** Recovery of expenses.

**48.** Conflict.

**49.** Regulations.

- (c) for making available to any appellant copies of any documents obtained by or furnished to the review panel in connection with the appeal, and a statement of the substance of any oral information so obtained or furnished except where the review panel considered undesirable in the interests of the appellant or for other special reasons that this be done;
  - (d) conferring ancillary functions upon review panels.
- (2) The Lieutenant Governor in Council may make regulations
- (a) designating and classifying facilities, and exempting any facility or class thereof from the application of any provision of the regulations made under clause (b) ;
  - (b) in respect of facilities or any class thereof,
    - (i) providing for the creation, establishment, construction, alteration, renovation and maintenance thereof,
    - (ii) prescribing the accommodation, equipment, conduct, operations, use and control thereof,
    - (iii) providing for the government, management, conduct, operation, use and control thereof,
    - (iv) providing for the officers and staff and prescribing their qualifications,
    - (v) prescribing the forms, records, books, returns and reports to be made and kept in connection therewith and providing for returns, reports and information to be furnished to the Minister;
  - (c) governing the licensing of persons as therapists and the manner in which persons may be licensed as therapists by the licensing board;
  - (d) governing the basic qualifications and experience (or either) that a person must have before he is eligible to be licensed by the licensing board;
  - (e) prescribing examinations, training and experience a person must have before he is granted a licence from the licensing board;
  - (f) concerning the suspension and cancellation of licences;
  - (g) specifying the period of time and conditions upon which a person is granted a licence as a therapist;
  - (h) concerning renewals of licences;
  - (i) prescribing the classes of grants by way of provincial aid to any facility or class thereof and the methods of determining the amounts of grants and providing for the manner and times of payment and the suspension and withholding of grants and for the making of deductions from grants;



- (j) classifying patients and limiting the classes of patients that may be admitted to any facility or class thereof;
- (k) respecting the examination and detention of persons and the admission, detention, leave of absence, absence without leave, transfer, discharge and placement of patients;
- (l) prescribing forms and providing for their use;
- (m) establishing regional mental health areas;
- (n) establishing Regional Mental Health Councils for or for proposed regional mental health areas;
- (o) concerning the composition of, numbers or criteria for appointing members to one or more Regional Mental Health Councils;
- (p) governing the powers, duties and functions of a Regional Mental Health Council;
- (q) concerning the remuneration and expenses to be paid to the members of the licensing board, the members of the Provincial Mental Health Council, the members of Regional Mental Health Councils and the members of review panels;
- (r) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act.

## PART 6

### TRANSITIONAL PROVISIONS

**50.** In this Part, “former Act” means *The Mental Health Act*, being chapter 231 of the Revised Statutes of Alberta 1970.

**51. (1) Upon the coming into force of this Act**

- (a) a person admitted to a hospital as a voluntary patient pursuant to section 5, subsection (1) or subsection (2) of the former Act shall, for the purposes of this Act be deemed to have been admitted to a facility as an informal patient;
- (b) a person admitted to a hospital
  - (i) as a voluntary patient pursuant to section 5, subsection (1) or subsection (2) of the former Act, but who is detained thereafter pursuant to a certificate issued by a physician under section 5, subsection (4) of the former Act, or
  - (ii) as a mentally disordered person pursuant to certificates issued by two physicians pursuant to section 6, subsection (1) of the former Act, or
  - (iii) as a mentally disordered person pursuant to section 9, subsection (3) of the former Act, or

**50.** Definition.

**51.** Transitional provisions.

- (iv) as a patient under the authority of a renewal certificate pursuant to section 7, subsection (4) of the former Act

shall be deemed to be a formal patient under this Act and the certificate or certificates or any renewal thereof shall be deemed to be admission certificates the last of which is issued on the day upon which this section comes into force;

- (c) a person admitted to a hospital and detained therein
  - (i) pursuant to section 7 of the former Act, or
  - (ii) under a warrant of a justice of the peace issued pursuant to section 8, subsection (1) of the former Act

shall be deemed to be a person named in the conveyance and examination certificate;

- (d) a person admitted to a hospital and detained therein pursuant to section 9, subsection (1) of the former Act shall continue to be detained as if the order had been made in respect of a facility under this Act;
- (e) a person who has been allowed to return to his family or friends pursuant to section 24, subsection (1) of the former Act shall be deemed to have been granted a leave of absence by a therapist for a period of one month pursuant to section 37 of the former Act.

(3) Where a Superintendent has ordered a person to be returned to a hospital pursuant to section 29, subsection (1) of the former Act, the facility director shall be deemed to have ordered a peace officer to return that person to the facility.

(4) All charges, fees and expenses for which a person is liable under section 30 or 31 of the former Act, shall be deemed to be liable under this Act.

(5) An appeal to a review panel commenced before the coming into force of this Act shall be continued to its conclusion as if this Act had not come into force and the former Act had remained in force.

(6) In this section "hospital" means a hospital, institution, or other facility or any part thereof, designated by the Lieutenant Governor in Council as a hospital under the former Act.

**52.** *The Mental Health Act* is repealed.

**53.** This Act comes into force on a date or dates to be fixed by Proclamation.

**52.** Repeals chapter 231 of the Revised Statutes of Alberta 1970.