

1976 Bill 79

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Second Session, 18th Legislature, 25 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# **BILL 79**

**THE MENTAL HEALTH AMENDMENT ACT, 1976**

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DR. BACKUS

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First Reading .....

Second Reading .....

Third Reading .....

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*Bill 79*  
*Dr. Backus*

## **BILL 79**

1976

### **THE MENTAL HEALTH AMENDMENT ACT, 1976**

*(Assented to , 1976)*

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

*1. The Mental Health Act, 1972 is hereby amended.*

*2. The following section is added after section 50:*

**50.1** (1) For the purposes of this section,

(a) "diagnostic and treatment centre" or "centre" means a place established by the Minister pursuant to section 3, subsection (1) and includes a facility that is not an approved hospital under *The Alberta Hospitals Act*;

(b) "legal representative" means an executor or administrator of the estate of a deceased person, the committee of the estate of a person who is a mentally incompetent person or the guardian of a person or estate of a person who is a minor.

(2) The Minister shall cause a record to be kept of the diagnostic and treatment services provided to every person in a diagnostic and treatment centre.

(3) For the purposes of assessing the standards of care furnished to persons in a diagnostic and treatment centre, improving mental health care facilities or procedures or for any other purpose considered by the Minister to be in the public interest, the Minister or any person authorized by the Minister may require that all or any of the following be sent to the Minister or any person designated by the Minister:

## **Explanatory Notes**

- 1. This Bill will amend chapter 118 of the Statutes of Alberta, 1972.**
- 2. This section is designed to ensure confidentiality of diagnoses, records and information relating to persons who are treated in mental health facilities that are not approved hospitals under The Alberta Hospitals Act or in places established by the Minister pursuant to section 3, subsection (1) of The Mental Health Act. This section is similar to section 35 of The Alberta Hospitals Act which ensures confidentiality of information in approved hospitals.**

- (a) medical and other records in a centre;
- (b) extracts from and copies of such records;
- (c) diagnoses, charts or information available in respect of any person receiving diagnostic and treatment services in a centre.

(4) Information obtained from records maintained in a diagnostic and treatment centre or from persons having access thereto shall be treated as private and confidential information in respect of the person receiving diagnostic and treatment services in the centre and shall be used solely for the purposes described in subsection (3), and such information shall not be published, released or disclosed in any manner that would be detrimental to the personal interest, reputation or privacy of that person or that person's attending physician or therapist.

(5) Any person who knowingly and wilfully releases or discloses information described in subsection (4) to a person not authorized to receive it is guilty of an offence and is liable upon summary conviction to a fine of not more than \$500.

(6) Notwithstanding subsection (4) or any other law, the Minister, a person authorized by the Minister, a physician or a therapist may disclose any diagnosis, record or information relating to a person receiving diagnostic and treatment services in a centre

- (a) to the person to whom the diagnosis, record or information relates or his legal representative, or
- (b) to a department or agency of the Government or a physician where that department, agency or physician is responsible for providing continued treatment to the person to whom the diagnosis, record or information relates, or
- (c) to a review panel established pursuant to section 19 that is to hear or is hearing an application from the person to whom the diagnosis, record or information relates, or
- (d) to a department or agency of the Government when the disclosure is necessary in the administration of this Act or in the best interests of the person to whom the diagnosis, record or information relates, or



- (e) to a person conducting bona fide research or medical review if the disclosure is made in such manner as to ensure confidentiality of the diagnosis, record or information, or
- (f) to the Director of Medical Services appointed under *The Occupational Health and Safety Act* where the diagnosis, record or information relates to an accident that occurred in respect of the person's occupation or one or more of his former occupations or to a disease which is related to the person's occupation or one or more of his former occupations, or
- (g) to a Workers' Compensation Board, the Alberta Hospital Association or a provincial hospital insurance authority, if the information is required in order to establish its liability for payment, or
- (h) to the Department of National Health and Welfare for purposes in connection with the *Medical Care Act* (Canada) or the *Hospital Insurance and Diagnostic Services Act* (Canada), or
- (i) to a medical records school for training purposes if the disclosure is made in such a manner that individual names of the persons to whom the records relate are not revealed or made identifiable, or
- (j) to the council of the College of Physicians and Surgeons of the Province of Alberta or an investigating committee under *The Medical Profession Act, 1975* if
  - (i) an officer of the College makes a written request therefor and the disclosure is consented to by the person to whom the diagnosis, record or information relates or his legal representative, or
  - (ii) the disclosure is made in compliance with a notice under section 49 of *The Medical Profession Act, 1975* to attend as a witness or to produce documents.

(7) Notwithstanding subsection (4) or any other law, where the Minister, a person authorized by the Minister or a physician

- (a) is unable to disclose any diagnosis, record or information relating to a person by reason of subsection (4), or



(b) refuses to disclose any diagnosis, record or information relating to a person pursuant to subsection (6),

the person or his legal representative may apply to the court for an order directing the person having such diagnoses, records or information to release them or a copy of them to the person to whom the information relates or his legal representative or to such other person named in the order.

(8) An application under subsection (7) shall be made

(a) on motion in the course of any action or proceedings to which the person to whom the diagnosis, record or information relates or his legal representative is a party, to a judge of the court in which the action or proceeding is taken, or

(b) by way of originating notice to the Supreme Court of Alberta or the District Court, in any other case.

(9) An application under subsection (7) shall be heard in camera and on the hearing of the motion the onus of showing why the order should not be made for the release of the diagnosis, record or information, or a copy thereof, is on the respondent to the motion.

*3. This Act comes into force on the day upon which it is assented to.*