

1988 BILL 29

Third Session, 21st Legislature, 37 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 29

MENTAL HEALTH ACT

THE MINISTER OF HOSPITALS AND MEDICAL CARE

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 29

1988

MENTAL HEALTH ACT

(Assented to , 1988)

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

Definitions

1 In this Act,

- (a) "admission certificate" means a certificate issued pursuant to section 2;
- (b) "board" means
 - (i) the board of an approved hospital under the *Hospitals Act* that is designated in whole or in part as a facility,
 - (ii) a board of a hospital under the *Provincial General Hospitals Act* that is designated in whole or in part as a facility, or
 - (iii) if a facility is not an approved hospital under the *Hospitals Act* or a hospital under the *Provincial General Hospitals Act*, the person in charge of the facility;

- (c) “facility” means a place or part of a place designated in the regulations as a facility;
- (d) “formal patient” means a patient detained in a facility pursuant to 2 admission certificates or 2 renewal certificates;
- (e) “guardian” includes
 - (i) the parent or guardian of a minor.
 - (ii) the Children’s Guardian with respect to a child who is the subject of a temporary guardianship order or a permanent guardianship agreement or order under the *Child Welfare Act*, and
 - (iii) a guardian appointed under the *Dependent Adults Act* with authority over the matters referred to in section 10(2)(g) and (h) of that Act;
- (f) “mental disorder” means a substantial disorder of thought, mood, perception, orientation or memory that grossly impairs
 - (i) judgment,
 - (ii) behaviour,
 - (iii) capacity to recognize reality, or
 - (iv) ability to meet the ordinary demands of life;
- (g) “Minister” means, with respect to any provision of this Act, the member or members of the Executive Council designated by the Lieutenant Governor in Council;
- (h) “nearest relative” means, with respect to a formal patient,
 - (i) the adult person first listed in the following paragraphs, relatives of the whole blood being preferred to relatives of the same description of the half-blood and the elder or eldest of 2 or more relatives described in any paragraph being preferred to the other of those relatives regardless of gender:
 - (A) spouse;
 - (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
 - (ii) any adult person the board designates in writing to act as the nearest relative if there is no nearest relative within any description in subclause (i) or if, in the opinion of the board, the nearest relative determined under subclause (i) would not act or is not acting in the best interest of the formal patient;

(i) "patient" means a person who is admitted to a facility as an in-patient, or as an out-patient for diagnosis or treatment services, or both;

(j) "psychiatrist" means a person who is registered under the *Medical Profession Act* and who has been granted specialty recognition in psychiatry by the College of Physicians and Surgeons of Alberta;

(k) "psychosurgery" means 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 intractable physical pain or epilepsy where those conditions are clearly demonstrable;

(l) "renewal certificate" means a certificate issued pursuant to section 8;

(m) "review panel" means a review panel established pursuant to section 34;

(n) "spouse", with respect to a formal patient, includes a person who although not married to the patient cohabited with the patient as his spouse immediately preceding the patient's admission to a facility.

PART 1

ADMISSION AND DETENTION

Admission
certificate

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

- (a) suffering from mental disorder,
- (b) in a condition presenting or likely to present a danger to himself or others, and
- (c) unsuitable for admission to a facility other than as a formal patient,

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

Person detained
under Criminal
Code

3 If a person has been detained under the *Criminal Code* (Canada) as unfit to stand trial, not criminally responsible on account of mental disorder or not guilty by reason of insanity and the person's detention under the *Criminal Code* (Canada) is about to expire, a physician is authorized to examine the person and assess the person's mental condition and may, if the prerequisites for the issuance of an admission certificate set out in section 2 are met, issue an admission certificate in the prescribed form with respect to the person.

Effect of 1
admission
certificate

4(1) One admission certificate is sufficient authority

- (a) to apprehend the person named in the certificate and convey him to a facility and for any person to care for, observe, assess,

detain and control the person named in the certificate during his apprehension and conveyance to a facility, and

(b) to care for, observe, examine, assess, treat, detain and control the person named in the certificate for a period of 24 hours from the time when the person arrives at the facility.

(2) The authority to apprehend a person and convey him to a facility under subsection (1)(a) expires at the end of 72 hours from the time when the certificate is issued.

Examination of person detained

5(1) When a person is conveyed to a facility under section 10, 12 or 24 or detained in a facility pursuant to 1 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 he 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 1 admission certificate, that person shall be released on the expiry of 24 hours from the time when he arrived at the facility unless, within that time, another admission certificate is issued with respect to that person.

Contents of admission certificate

6 An admission certificate shall show

(a) the name of the person in respect of whom the certificate is issued,

(b) the name and address of the physician issuing it,

(c) the date and time at which the personal examination was conducted,

(d) the facts on which the physician formed his opinion that the person is

(i) suffering from mental disorder,

(ii) in a condition presenting or likely to present a danger to himself or others, and

(iii) unsuitable for admission to a facility other than as a formal patient,

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

(e) the name of the facility where the person was examined or, if the person is not in a facility, the name and address of the facility to which the person is to be conveyed, and

(f) the date and time of issue.

Effect of 2 admission certificates

7(1) Two admission certificates are sufficient authority to care for, observe, examine, assess, treat, detain and control the person named in them in a facility for a period of 1 month from the date the 2nd admission certificate is issued.

(2) No person shall be detained as a formal patient at a facility unless at least 1 of the admission certificates is issued by a member of the staff of that facility.

Renewal
certificates

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

- (a) suffering from mental disorder,
- (b) in a condition presenting or likely to present a danger to himself 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.

(2) At least 1 of the physicians who issue renewal certificates under this section shall be a member of the staff of the facility at which the formal patient is detained and at least 1 of the certificates shall be issued by a psychiatrist.

(3) Two renewal certificates are sufficient authority to care for, observe, examine, assess, treat, detain and control the person named in them,

- (a) in the first case where 2 renewal certificates are issued, for a period of not more than 1 additional month,
- (b) in the 2nd case where 2 renewal certificates are issued, for a period of not more than 1 additional month, and
- (c) in the 3rd case and in each subsequent case where 2 renewal certificates are issued, for a period of not more than 6 additional months.

Contents of
renewal
certificate

9 A renewal certificate shall show

- (a) the name of the person in respect of whom the certificate is issued,
- (b) the name and address of the physician issuing it,
- (c) the date on which the personal examination was conducted,
- (d) the facts on which the physician formed his opinion that the person is
 - (i) suffering from mental disorder,
 - (ii) in a condition presenting or likely to present a danger to himself or others, and
 - (iii) unsuitable to continue at a facility other than as a formal patient,

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

- (e) the name of the facility where the person was examined, and
- (f) the date and time of issue.

Warrant for
apprehension

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 himself 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 himself or others, and
- (b) an examination can be arranged in no other way,

he may issue a warrant to apprehend that person for an examination.

(3) If the provincial judge issues a warrant under this section, he shall also issue brief written reasons for the issuance of the warrant.

(4) A hearing under this section shall be recorded in accordance with the *Mechanical Recording of Evidence Act*.

(5) A warrant under this section

- (a) may be directed to any peace officer and shall name or otherwise identify the person with respect to whom the warrant is issued, and
- (b) is authority for a peace officer to apprehend the person named or identified in the warrant and convey him to a facility for examination.

(6) While a person is being conveyed to a facility under the authority of a warrant, the warrant is sufficient authority to care for, observe, assess, detain and control the person named or identified in the warrant.

(7) Where a peace officer has not apprehended a person within 7 days of the date of the warrant, the warrant ceases to be effective unless, before the expiry of the 7-day period, a provincial judge extends the duration of the warrant under section 11.

Extension of
warrant

11(1) On the application of a peace officer, a provincial judge may extend the duration of a warrant issued under section 10 for a period of up to 7 days from the day on which the warrant expires under that section.

(2) If, in the opinion of a peace officer, it would be impracticable to appear personally before a provincial judge to apply for an order in accordance with subsection (1), the peace officer may make the application by telephone or other means of telecommunication to a provincial judge.

(3) The information on which an application for an order by telephone or other means of telecommunication is based shall be given on oath and shall be recorded verbatim by the judge who, as soon as practicable, shall cause the record or a transcription of the record, certified by the judge as to time, date and contents, to be filed with the clerk of the court.

(4) For the purposes of subsection (3), an oath may be administered by telephone or other means of telecommunication.

(5) The information submitted by telephone or other means of telecommunication shall include

(a) a statement of the circumstances that make it impracticable for the peace officer to appear personally before a provincial judge, and

(b) a statement as to any prior application for an extension under this section in respect of the same person of which the peace officer has knowledge.

(6) A provincial judge who is satisfied that an application made by telephone or other means of telecommunication

(a) conforms to the requirements of subsection (5), and

(b) discloses reasonable grounds for dispensing with personal appearance for the purpose of making an application under subsection (1)

may make an order extending the duration of the warrant for a period of up to 7 days from the day on which the warrant expires under section 10.

(7) If a provincial judge makes an order under subsection (6),

(a) the judge shall complete and sign an order in the prescribed form, noting on its face the time, date and place at which it was made,

(b) the peace officer, on the direction of the judge, shall complete, in duplicate, a facsimile of the order in the prescribed form, noting on its face the name of the provincial judge making the order and the time, date and place at which it was made, and

(c) the judge shall, as soon as practicable after the order has been made, cause the order to be filed with the clerk of the court.

(8) An order made by telephone or other means of telecommunication is not subject to challenge by reason only that the circumstances were not such as to make it reasonable to dispense with personal appearance for the purpose of making an application under subsection (1).

Peace officer's
power

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 himself or others,

(c) the person should be examined in the interests of his own safety or the safety of others, and

(d) the circumstances are such that to proceed under section 10 would be dangerous,

he may apprehend the person and convey him to a facility for examination.

(2) While a person is being conveyed to a facility under subsection (1), the authority in that subsection is sufficient authority to care for, observe, assess, detain and control the person.

(3) When a peace officer conveys a person to a facility under this section, he shall complete a statement in the prescribed form for the use of the facility, setting out

- (a) the name of the person conveyed, if known,
- (b) the date, time and place at which the person was apprehended, and
- (c) the grounds on which the peace officer formed his belief under subsection (1).

Remand to
facility for
examination

13(1) A person who, pursuant to the *Criminal Code* (Canada) or the *Young Offenders Act* (Canada), is remanded to custody for observation may be admitted to, examined, treated and detained in and discharged from a facility in accordance with the law.

(2) A person who, pursuant to the *Criminal Code* (Canada) or the *Young Offenders Act* (Canada), is detained for treatment may be admitted to, examined, treated and detained in and discharged from a facility in accordance with the law.

PART 2

ADMINISTRATION

Duties toward
patients

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

(a) the board shall inform the formal patient and make a reasonable effort to inform his guardian, if any, and, unless the patient objects, his 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, his guardian, if any, 1 person designated by the patient and, unless the patient objects, his nearest relative a written statement of

- (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 thereof, including copies of the admission certificates or renewal certificates,
- (iii) the function of review panels,
- (iv) the name and address of the chairman 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 his 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 his 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.

Communications
by and to
patients

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

Visiting hours

16(1) A patient may receive visitors during hours fixed by the board unless a physician considers that a visitor would be detrimental to the patient's health.

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

Confidentiality
of diagnoses,
records, etc.

17(1) In this section,

(a) "board" means the board or person in charge of a diagnostic and treatment centre;

(b) "diagnostic and treatment centre" or "centre" means a place established by the Minister pursuant to section 49(a) or (b) and includes a facility that is not an approved hospital under the *Hospitals Act* or a hospital under the *Provincial General Hospitals Act*;

(c) "legal representative" means an executor or administrator of the estate of a deceased person, the guardian or trustee of a dependent adult under the *Dependent Adults Act* or the guardian of a minor;

(d) "mentally competent" means able to understand the subject-matter in respect of which consent is requested and able to appreciate the consequences of giving or refusing consent.

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

(3) For the purpose of assessing the standards of care furnished to persons in a diagnostic and treatment centre or 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 in writing by the Minister may require that all or

any of the following be sent to the Minister or any person designated by the Minister:

- (a) medical and other records in a centre;
 - (b) extracts from and copies of those 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 to them 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 the 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 any other person providing diagnostic or treatment services to that person.
- (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 to a fine of not more than \$2000.
- (6) Notwithstanding subsection (4) or any other law, the Minister, a person authorized by the Minister, a board, an employee of a board or a physician 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,
 - (b) with the written consent of the person to whom the diagnosis, record or information relates or his legal representative, or without that consent if the person is not mentally competent and does not have a legal representative, to any person, if in the opinion of the person making the disclosure it is in the best interests of the person to whom the diagnosis, record or information relates to disclose that information,
 - (c) to a department or agency of the Government or to a physician if that department, agency or physician is responsible for providing continued treatment to the person to whom the diagnosis, record or information relates,
 - (d) to the Public Guardian if the diagnosis, record or information is, in the opinion of the person making the disclosure, relevant to the making of a guardianship order under the *Dependent Adults Act* in respect of the person to whom the diagnosis, record or information relates,
 - (e) to the Public Trustee if the diagnosis, record or information is, in the opinion of the person making the disclosure, relevant to the making of a trusteeship order under the *Dependent Adults Act* in respect of the person to whom the diagnosis, record or information relates,

(f) to a review panel that is to hear or is hearing an application from the person to whom the diagnosis, record or information relates, or to the Court of Queen's Bench for the purposes of an appeal under section 43,

(g) to a person conducting bona fide research or a medical review if the disclosure is made in a manner that ensures confidentiality of the diagnosis, record or information,

(h) to a Director of Medical Services under the *Occupational Health and Safety Act* when 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 that is related to the person's occupation or one or more of his former occupations,

(i) to The Workers' Compensation Board, the Alberta Hospital Association or a provincial hospital insurance authority if the information is required in order to establish responsibility for payment,

(j) to the Department of National Health and Welfare (Canada) for purposes in connection with the *Canada Health Act* (Canada),

(k) to a medical records school for training purposes if the disclosure is made in such a manner that names and identities of the persons to whom the records relate are not revealed or made identifiable,

(l) to a board of review appointed pursuant to the *Criminal Code* (Canada) that is to review the case of the person to whom the diagnosis, record or information relates,

(m) to the council of the College of Physicians and Surgeons or an investigating committee under the *Medical Profession Act* or the Professional Conduct Committee or the Appeals Committee under the *Nursing Profession Act*, if

(i) an officer of the College or the Alberta Association of Registered Nurses, as the case may be, makes a written request for the diagnosis, record or information 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* or section 72 of the *Nursing Profession Act* to attend as a witness or to produce documents,

(n) to a person conducting a preliminary investigation, the Discipline Committee or the Board under the *Dental Profession Act* if

(i) an officer of The Alberta Dental Association makes a written request for it and the disclosure is consented to by the patient or his legal representative, or

(ii) the disclosure is made in compliance with a notice under section 56 of the *Dental Profession Act* to attend as a witness or to produce documents,

(o) to a local board under the *Public Health Act* if the local board has assumed responsibility for any care or treatment of the patient,

(p) to the Health Disciplines Board or

(i) to the Committee of a designated health discipline governed by a Committee, or

(ii) in the case of a designated health discipline governed by a health discipline association, to the conduct and competency committee established by the health discipline association,

if the disclosure is made in compliance with a notice under section 20 of the *Health Disciplines Act*, and

(q) to a person conducting a preliminary investigation or the Discipline Committee under the *Psychology Profession Act* if

(i) an officer of the Psychologists Association of Alberta makes a written request for it and the disclosure is consented to by the patient or his legal representative, or

(ii) the disclosure is made in compliance with a notice under section 41 of the *Psychology Profession Act* to attend as a witness or to produce documents.

(7) Notwithstanding subsection (4) or any other law, if the Provincial Court issues a subpoena pursuant to the *Child Welfare Act*, a physician, a board, an employee of a board, the Minister or a person authorized by the Minister shall release, in accordance with that Act, any diagnosis, record or information in respect of the child to whom the proceedings before the Provincial Court relate or with respect to a guardian of that child.

(8) The person in charge of a diagnostic and treatment centre shall, after the discharge of a patient from the centre for the purpose of transferring him to another centre, hospital or nursing home inside or outside Alberta, forward to that other centre, hospital or nursing home copies of the appropriate records of diagnostic and treatment services provided in respect of that patient for the use of that other centre, hospital or nursing home.

(9) Notwithstanding subsection (4) or any other law, a medical examiner appointed under the *Fatality Inquiries Act* is entitled to inspect and make copies of any diagnosis, record or information relating to a person receiving diagnostic and treatment services in a centre.

(10) Notwithstanding subsection (4) or any other law, when the Minister, a person authorized by the Minister, a board, an employee of a board, 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 a court for an order directing the person having the diagnosis, record or information to release it or a copy of it to the person to whom the informa-

tion relates or his legal representative or to some other person named in the order.

(11) An application under subsection (10) 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 proceedings are taken, or

(b) by way of originating notice to the Court of Queen's Bench, in any other case.

(12) An application under subsection (10) shall be heard in private 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 of it, is on the respondent to the motion.

Refusal of admission to facility

18(1) When any person is conveyed to a facility pursuant to 1 admission certificate and another admission certificate is not issued with respect to that person, the board shall inform the person and, if the person does not object, the referring source, of the reasons why another certificate was not issued and may refer the person to another facility or service, in which case the referring source shall, unless the person objects, be informed of any alternative arrangements made.

(2) Nothing in this section or section 19 abrogates or restricts the authority conferred on a board by the *Hospitals Act*, the *Provincial General Hospitals Act* or any other Act.

Treatment and security of patients

19(1) On the admission of a patient to a facility, the board of the facility shall provide the diagnostic and treatment services that the patient is in need of and that the staff of the facility is capable of providing and able to provide.

(2) The board of a facility in which a formal patient is detained shall determine what level of security is reasonably required for each patient in view of all the circumstances and thereafter provide it and review the necessary level of security at intervals of not more than 6 months.

Leave of absence

20(1) Notwithstanding any admission certificates or renewal certificates issued with respect to a formal patient, the board of a facility may grant a formal patient leave of absence from the facility.

(2) Leave of absence may be granted on any terms and conditions prescribed by the board and without restricting the generality of the foregoing may include a condition that the formal patient remain under the supervision and subject to the treatment of any person or persons designated by the board.

(3) When a formal patient is on a leave of absence granted under this section, the board may by notice in writing given to

(a) the patient, or

(b) the person supervising the patient,

revoke the leave of absence and recall the formal patient to the facility.

(4) When a formal patient refuses or neglects to return to the facility or when the board is unable to serve a notice in writing pursuant to

subsection (3), the board may declare the patient to be absent without leave and issue an order in the prescribed form ordering any peace officer to return the patient to the facility.

(5) Nothing in this section authorizes the granting of a leave of absence to a formal patient who is detained in or remanded to a facility pursuant to the *Criminal Code* (Canada) or the *Young Offenders Act* (Canada).

Return of formal patient to facility

21(1) If a formal patient leaves a facility when leave of absence has not been granted, the board may issue an order in the prescribed form ordering a peace officer to return the patient to the facility.

(2) On receipt of

- (a) an order under subsection (1), or
- (b) an order under section 20.

every peace officer is empowered to apprehend, without warrant, the person named in the order and to return that person to the facility.

(3) A person who is returned to a facility under this section or section 20 may be detained for the remainder of the authorized period of detention to which he was subject when his absence was discovered or, if the certificates relating to that person expired during the period the person was absent from the facility, the person shall be deemed to be a person in respect of whom 1 admission certificate is issued when he is apprehended by a peace officer under this section or section 20.

(4) An order of the board under this section or section 20 shall state the date of expiration of the admission certificates or renewal certificates, as the case may be.

Transfer to another facility

22(1) A board may, if otherwise permitted by law and if arrangements have been made with the board of another facility, transfer a formal patient to that facility on completing a memorandum of transfer in the prescribed form.

(2) When a formal patient is transferred under subsection (1), the authority conferred by any certificates relating to the patient continues in force in the facility to which he is transferred.

Transfer for hospital treatment

23(1) When a formal patient requires hospital treatment that cannot be provided in the facility, the board may, if otherwise permitted by law, transfer the patient to a hospital for treatment and return him to the facility on the conclusion of the treatment.

(2) When a formal patient is transferred under subsection (1), the board of the hospital or a person designated by it has, in addition to the powers and duties conferred on it by any other Act, the powers and duties under this Act of a board in respect of the custody and control of the patient.

Transfer into Alberta

24(1) When the Minister has reasonable and probable grounds to believe that a person who is

- (a) suffering from mental disorder,

(b) in a condition presenting or likely to present a danger to himself or others, and

(c) unsuitable for admission to a facility other than as a formal patient.

may come or be brought into Alberta, the Minister may issue a certificate in the prescribed form authorizing a peace officer or other person to apprehend the person named in the certificate and convey him to a facility for examination.

(2) While a person is being conveyed to a facility under subsection (1), the authority in that subsection is sufficient authority to care for, observe, assess, detain and control the person.

Transfer out
of Alberta

25 When it appears to the Minister

(a) that a formal patient has come or been brought into Alberta and that his 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 Minister may, on compliance in Alberta with the laws of the other jurisdiction with all necessary modifications, issue a transfer in the prescribed form to authorize a transfer of the formal patient to the other jurisdiction.

PART 3

TREATMENT AND CONTROL

Mental
competence

26 For the purposes of this Part, a person is mentally competent to make treatment decisions if he is able to understand the subject-matter relating to the decisions and able to appreciate the consequences of making the decisions.

Competence to
make treatment
decisions

27(1) A physician who is of the opinion that a formal patient is not mentally competent to make treatment decisions shall complete and file with the board a certificate in the prescribed form.

(2) The physician shall include in the certificate written reasons for the opinion that the formal patient is not mentally competent.

(3) The board shall give to the formal patient, his guardian, if any, and, unless the patient objects, his nearest relative a copy of the certificate and written notice that the patient is entitled to have the physician's opinion reviewed by a review panel if the patient applies for the review by sending a notice of application to the chairman of the review panel in the prescribed form.

(4) If an application is made to a review panel to review a physician's opinion that a formal patient is or is not mentally competent to make treatment decisions, neither a physician nor the board shall act on the opinion pending the outcome of the application.

(5) A finding by a court or by a review panel that a formal patient is mentally competent or is not mentally competent applies only for the purposes of this Part.

28(1) For the purposes of this Part, 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 guardian, or
- (b) in a case where the formal patient does not have a guardian, the patient's nearest relative as defined in section 1(h)(i).

(2) A person referred to in subsection (1)(b) shall not exercise the authority given by that subsection unless he

- (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 his relationship to the formal patient and the facts set out in clauses (a) and (b).

(3) A person authorized by subsection (1)(b) 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)(b) shall have regard to the following:

- (a) whether or not 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 or not the anticipated benefit from the treatment outweighs the risk of harm to the patient;
- (d) whether or not 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)(b) unless a second 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)(b) 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 acting is not liable for failure to request the decision from the person entitled to make the decision on the formal patient's behalf.

Objection to
treatment

29(1) If a formal patient who is mentally competent to make treatment decisions or a person referred to in section 28(1) objects to any treatment the patient is receiving or will receive at a facility, the attending physician shall not administer the treatment unless the review panel makes an order under this section.

(2) A board or an attending physician who considers it in the best interests of a formal patient to administer treatment to which the patient or a person referred to in section 28(1) objects may apply in the prescribed form to a review panel for an order directing that the treatment may be administered.

(3) Before it makes an order under this section the review panel must be satisfied after hearing the evidence of the attending physician and any other evidence it considers relevant that

(a) the attending physician has examined the formal patient,

(b) the proposed treatment is in the best interest of the formal patient having regard to the following:

(i) whether or not the mental condition of the patient will be or is likely to be improved by the treatment;

(ii) whether the patient's condition will deteriorate or is likely to deteriorate without the treatment;

(iii) whether or not the anticipated benefit from the treatment outweighs the risk of harm to the patient;

(iv) whether or not the treatment is the least restrictive and least intrusive treatment that meets the requirements of sub-clauses (i), (ii) and (iii).

(4) In addition to the evidence referred to in subsection (3), the review panel may authorize the examination of the formal patient by a psychiatrist who is not a member of the medical staff of the facility for the purpose of obtaining his opinion as to whether the proposed treatment is in the best interests of the patient having regard to the considerations referred to in clause (b) of that subsection.

(5) Notwithstanding anything in this section, an attending physician shall not perform psychosurgery on a formal patient unless

(a) the patient consents to the psychosurgery, and

(b) a review panel makes an order under this section directing that the psychosurgery may be performed.

Control

30 The authority to control a person under this Act is authority to control the person without his consent to the extent necessary to prevent serious bodily harm to the person or to another person by the minimal use of such force, mechanical means or medication as is reasonable, having regard to the physical and mental condition of the person.

PART 4
DISCHARGE

Cancellation
or expiry of
certificates

31(1) A board shall comply with and take any action necessary to comply with a decision of a review panel concerning admission certificates or renewal certificates.

(2) When a formal patient no longer meets the criteria for the issuance of admission certificates or renewal certificates, a physician shall cancel the admission certificates or renewal certificates, as the case may be.

(3) If the admission certificates or renewal certificates of a formal patient expire or are cancelled, he is thereupon in the facility on a voluntary basis subject to the by-laws of the board and shall be informed of that fact.

Removal after
discharge

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

(a) to his guardian, if any, and

(b) to his 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.

(2) When a patient is eligible for discharge and refuses or is unwilling to leave the facility, the board of the facility after consultation with the patient's physician, a committee of the medical staff established to consider such matters, or the Minister, may

(a) declare that the patient is no longer in need of the services provided by that facility or of the services provided in a particular ward, section or unit of that facility, and is eligible for transfer or discharge, or

(b) arrange for the transfer of the patient

(i) to another ward, section or unit of the facility,

(ii) to an approved hospital, or

(iii) to a nursing home or other accommodation.

(3) Any patient who has been declared eligible for transfer or discharge as provided in this section and who refuses or fails to leave when requested to do so is a trespasser.

(4) Any other person who remains on facility premises without the consent of the board or a representative of the board and fails or refuses to leave the premises when requested to do so is a trespasser.

Return to
correctional
facility

33(1) Whether or not admission certificates or renewal certificates have been issued with respect to a person who is sent to a facility for treatment after having been sentenced to a correctional facility, he may apply to the chairman of the review panel for the facility for an order transferring him back to a correctional facility.

- (2) A review panel hearing an application under subsection (1) may
 - (a) make the order applied for,
 - (b) cancel the admission certificates or renewal certificates, if any, or
 - (c) refuse to make the order applied for or to cancel the admission certificates or renewal certificates.
- (3) When a review panel makes an order transferring a person from a facility to a correctional facility or cancels admission certificates or renewal certificates under this section, the board of the facility in which the person is detained shall
 - (a) comply with the order, or
 - (b) if admission certificates or renewal certificates are cancelled, arrange to have the person returned to a correctional facility.

**PART 5
REVIEW PANELS**

Review panels

- 34(1)** The Minister shall, in respect of each facility,
- (a) appoint a chairman and a vice-chairman, who must be lawyers, and
 - (b) appoint a roster of eligible persons to act as the other members

of review panels to hear applications under sections 27, 29, 33, 38 and 39.

(2) A vice-chairman shall act in the absence or inability to act of the chairman.

(3) When an application under section 27, 29, 33, 38 or 39 is made to the chairman of the review panel for a facility, the chairman shall appoint the other members of the review panel from the roster established by the Minister.

(4) A review panel shall be composed of

- (a) the chairman or a vice-chairman,
- (b) a psychiatrist,
- (c) a physician, and
- (d) a member of the general public.

(5) The persons appointed under this section shall not be appointed for a term exceeding 5 years, except that a person may be reappointed when 2 years has elapsed since the termination of his most recent previous appointment.

(6) The Minister shall provide secretarial, legal, consultative and interpretation services and other assistance to review panels.

Quorum and voting

35(1) A quorum for a review panel is the 4 members referred to in section 34(4).

(2) Each member of the review panel is entitled to 1 vote, and in the event of a tie vote, the chairman or vice-chairman has a 2nd vote.

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

Persons prohibited as members of review panel

36(1) No person who is a member of the staff of a facility is eligible to sit as a member of a review panel when the panel is considering an application relating to a patient in that facility.

(2) A person who is

(a) related by blood or marriage to the patient,

(b) a spouse of the patient,

(c) a psychiatrist or physician or other person who is treating or who has treated the patient, or

(d) a lawyer who is acting or who has acted for the patient

is not eligible to be appointed as a member or to sit as a member of a review panel for an application relating to that patient.

Authority of review panel

37(1) A review panel shall hear and consider applications in accordance with this Act and the regulations and for that purpose the members of the review panel have all the powers, duties and immunities of a commissioner appointed under the *Public Inquiries Act*.

(2) All proceedings of a review panel shall be conducted in private and, subject to subsection (3), no person has the right to be present without the prior consent of the chairman.

(3) The applicant and his representative have the right to be personally present during the presentation of any evidence to the review panel and to cross-examine any person who presents evidence to the review panel.

(4) Where an application is made to a review panel and the review panel is of the opinion that disclosure of information to the patient might seriously endanger the safety of another person, the review panel may refuse to disclose the information to the patient.

Application for hearing

38(1) A formal patient, his guardian or a person on his 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 chairman 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 his 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 his behalf or a board shall be considered by a review panel if the chairman 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.

Review after
6 months

39 If a formal patient has been subject to admission certificates or renewal certificates, or both, for a continuous period of 6 months and neither he nor his representative has during that period applied for a review of the certificates, or an application for review of certificates has been withdrawn or cancelled during that period, the patient shall be deemed to have applied to the chairman of the review panel for the facility in which the patient is detained, who shall cause a review panel to hear and consider cancellation of the certificates relating to the patient.

Notice of hearing

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 chairman of a review panel shall give at least 7 days' notice of the date, time, place and purpose of the hearing

(a) to the applicant and his guardian, if any,

(b) to 1 person designated by the patient, to the nearest relative, unless the patient objects, and to any other person that the chairman considers may be affected by the application and should be notified,

(c) to the board of the facility in which the patient is detained, and

(d) in the case of an application under section 27, to the physician whose opinion is being reviewed.

(2) On receipt of an application under section 27 or 29, the chairman of a review panel shall give reasonable notice of the date, time, place and purpose of the hearing

(a) to the patient and his guardian or the person referred to in section 28(1)(b), if any,

(b) to 1 person designated by the patient, the nearest relative, unless the patient objects, and any other person that the chairman considers may be affected by the application and should be notified,

(c) to the applicant, and

(d) to the board of the facility in which the patient is detained.

(3) A hearing shall 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 and his guardian, if any, within 7 days of the receipt of an application under either of those sections by the chairman.

(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 of the receipt by the chairman 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 chairman may adjourn a hearing under section 33, 38 or 39 for any period up to 21 days and, if the patient or his representative requests the adjournment, for a further period or periods.

Decision of
review panel

41(1) A review panel may

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

(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 his guardian, if any, of the decision and send a copy of the decision in the prescribed form to every person referred to in subsection (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 of the applicant 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.

Onus

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,
- (c) it is in the best interests 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.

Appeal to Court
of Queen's Bench

43(1) Within 14 days of the receipt of an order or a written decision of a review panel under this Act, the applicant or formal patient may appeal the order or decision to the Court of Queen's Bench.

(2) The appeal shall be made by originating notice.

(3) The notice shall be served on

- (a) the Minister,
- (b) the board of the facility in which the patient is detained, and
- (c) any other persons the Court directs,

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

(4) An appeal under this section shall be a rehearing of the matter on the merits, and in addition to any further evidence adduced, the Court may direct that any transcript or minutes taken by the review panel at the original hearing of the evidence be put in evidence on the appeal and that further evidence be given as it considers necessary.

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

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

(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,
- (b) rescind or refuse to rescind the order of a review panel under section 29, or
- (c) make any other order it considers just.

(8) An appeal under this section shall be heard in private unless the Court otherwise directs.

PART 6

MENTAL HEALTH PATIENT ADVOCATE

Definition	44 In this Part, "Patient Advocate" means the Mental Health Patient Advocate appointed under section 45.
Patient Advocate	45(1) The Lieutenant Governor in Council shall appoint a Mental Health Patient Advocate, who shall investigate complaints from or relating to formal patients. (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.
Employees and advisors	46(1) In accordance with the <i>Public Service Act</i> there may be appointed any employees required to assist the Patient Advocate in performing his duties under this Act. (2) The Patient Advocate may engage the services of lawyers, psychiatrists or other persons having special knowledge in connection with his duties under this Act.
Annual report	47(1) As soon as possible after the end of each year, the Patient Advocate shall prepare and submit to the Minister a report summarizing his activities in that year. (2) On receiving a report under subsection (1), the Minister shall lay a copy of the report before the Legislative Assembly if it is then sitting, and if not, within 15 days after the commencement of the next ensuing sitting.

PART 7

GENERAL

Delegation	48(1) The Minister may in writing delegate any of the powers, duties or functions conferred or imposed on him under this Act or the regulations, including the power to form an opinion, to any person for any purpose in connection with the administration of this Act. (2) Subsection (1) does not apply to any power of the Minister to make regulations. (3) A board may delegate to any employees or other persons on the staff of the facility any of its powers and duties under this Act or the regulations.
Powers of Minister	49 The Minister may do anything he considers advisable for preventing circumstances that may lead to mental disorder and distress and for promoting and restoring mental health and well-being and, without limiting the generality of the foregoing, may (a) establish and operate places for the observation, examination, care, treatment, control and detention of persons suffering from mental disorder,

(b) make available diagnostic and treatment centres to provide mental health services, including in-patient services, clinical services in the community, community residential services, rehabilitation services, consultation, public education, research and prevention, in various locations in Alberta,

(c) enter into agreements

(i) to obtain services under this Act and for the prevention and treatment of mental illness, and

(ii) with appropriate authorities of the Government of Canada or the government of a province for the reception, observation, examination, care, treatment and detention in a facility in Alberta of persons suffering from mental disorder,

and

(d) charge fees for any service or materials provided or research done under this Act.

Mental health
advisory
committees

50(1) The Minister may establish 1 or more mental health advisory committees to act in an advisory capacity in connection with any matter specified by the Minister.

(2) The Minister may, with respect to any committee established under this section,

(a) appoint or provide for the appointment of its members;

(b) prescribe the term of office of its members;

(c) designate a chairman and a vice-chairman;

(d) authorize, fix and provide for the payment of remuneration to its members.

(3) A committee established pursuant to this section may exercise any powers and perform any duties and functions that the Minister confers or imposes on it in connection with mental health matters.

Regional mental
health areas

51 The Minister may establish areas within Alberta as regional mental health areas for the purposes of this Act.

Validity of
documents

52 An admission certificate, renewal certificate, certificate under section 27, warrant, 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 in it or in any proceedings in connection with it.

Regulations

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).
- (2) If there is a conflict between the regulations under subsection (1)(d) and the *Provincial General Hospitals Act* or the *Hospitals Act* or the regulations under either of those Acts, the regulations under subsection (1)(d) prevail.
- (3) If the Lieutenant Governor in Council designates a place as a facility, he may by regulation
 - (a) provide for which purposes under this Act or the regulations that place is designated as a facility;
 - (b) make inapplicable to a facility or any class of facility any of the provisions of this Act or the regulations.
- (4) The Minister may make regulations
 - (a) prescribing the remuneration and expenses to be paid to members of review panels;
 - (b) requiring review panels to submit annual reports to the Minister and governing the contents of those reports;
 - (c) governing forms and their use.

Transitional

54(1) *In this section, "former Act" means the Mental Health Act, chapter M-13 of the Revised Statutes of Alberta 1980.*

- (2) *On the commencement of this Act,*
 - (a) *a person in respect of whom a conveyance and examination certificate under section 14 of the former Act or 1 admission certificate under section 18 of the former Act has been issued shall be deemed to be a person in respect of whom 1 admission certificate is issued under this Act,*
 - (b) *a person in respect of whom 2 admission certificates have been issued under section 18 of the former Act shall be deemed to be a person in respect of whom 2 admission certificates have been issued under this Act,*
 - (c) *a person in respect of whom 2 renewal certificates have been issued under section 20 of the former Act shall be deemed to be a person in respect of whom 2 renewal certificates have been issued under this Act,*
 - (d) *a person in respect of whom a warrant has been issued under section 20 of the former Act shall be deemed to be a person in respect of whom a warrant has been issued under section 10 of this Act,*
 - (e) *a person in respect of whom a certificate has been issued under section 41 of the former Act shall be deemed to be a person in respect of whom a certificate is issued under section 24 of this Act, and*

(f) a person in respect of whom a transfer has been issued under section 42 of the former Act shall be deemed to be a person in respect of whom a transfer is issued under section 25 of this Act.

(3) If a hearing of a review panel has commenced before the commencement of this Act, it shall be continued to its conclusion as if this Act had not come into force and the former Act had remained in force.

(4) A place or part of a place designated as a facility designated under the former Act shall be deemed to be a facility under this Act.

Consequential

55(1) *The Alberta Municipal Financing Corporation Act is amended in section 1(h.1) by striking out “Part 5 of the Mental Health Act” and substituting “the Provincial General Hospitals Act”.*

(2) *The Department of Community and Occupational Health Act is amended in section 11(1)(b)(iv) by striking out “the board of management of a Provincial General Hospital” and substituting “a board”.*

(3) *The Fatality Inquiries Act is amended*

(a) *in section 22(3)*

(i) *by striking out “37(4)” and substituting “17(4)”;*

(ii) *by striking out “37(7)” and substituting “17(9)”;*

(b) *in section 40(1.1) by striking out “37(4)” and substituting “17(4)”.*

(4) *The Financial Administration Act is amended in section 2(5)*

(a) *in clause (e) by striking out “the board of management of a Provincial General Hospital” and substituting “a board”;*

(b) *by repealing clause (e.1).*

(5) *The Health Facilities Review Committee Act is amended in section 1(b)(ii.1) by striking out “Mental Health Act” and substituting “Provincial General Hospitals Act”.*

(6) *The Hospitals Act is amended*

(a) *in section 1(1)(c) by striking out “or severe mental disorder”;*

(b) *in section 26(e) by striking out “, by direction of a hospital board or a representative of the board, and on the recommendation of a member of the medical staff of a hospital,”;*

(c) *in section 30(3)(b) by adding “or a Mental Health Hospital” after “Hospital”;*

(d) *in section 40*

(i) *in subsection (4) by striking out “not more than \$100 and in default of payment to a term of imprisonment not exceeding 15 days” and substituting “not more than \$2000”;*

(ii) *by repealing subsection (5)(a) and substituting the following:*

(a) *divulge any diagnosis, record or information to the patient to whom the diagnosis, record or information relates or to his legal representative,*

(a.1) with the written consent of a patient or his guardian or without that consent if the patient is not mentally competent and does not have a guardian, divulge any diagnosis, record or information relating to the patient to any person, if in the opinion of the person making the disclosure it is in the best interests of the patient to disclose the information,

(iii) in subsection (6)

(A) in clause (a)(ii) by striking out “Medical Care Act (Canada) or the Hospital Insurance and Diagnostic Services Act (Canada)” and substituting “Canada Health Act (Canada)”;

(B) by repealing clause (e) and substituting the following:

(e) the board of an approved hospital may divulge any records of diagnostic and treatment services provided in respect of a patient to the Health Disciplines Board or

(i) to the Committee of a designated health discipline governed by a Committee, or

(ii) in the case of a designated health discipline governed by a health discipline association, to the conduct and competency committee established by the health discipline association,

if the disclosure is made by a member or employee of the board of the approved hospital in compliance with a notice under section 20 of the *Health Disciplines Act*;

(C) by adding the following after clause (f):

(g) the board of an approved hospital may divulge any records of diagnostic and treatment services provided in respect of a patient

(i) to the Public Guardian, if the diagnosis, record or information is, in the opinion of the person making the disclosure, relevant to the making of a guardianship order, or

(ii) to the Public Trustee, if the diagnosis, record or information is, in the opinion of the person making the disclosure, relevant to the making of a trusteeship order

under the *Dependent Adults Act* in respect of the person to whom the diagnosis, record or information relates;

(h) the board of an approved hospital may divulge any records of diagnostic and treatment services provided in respect of a patient to a board of review appointed pursuant to the *Criminal Code (Canada)* that is to review the case of the person to whom the records relate;

(i) the board of an approved hospital may divulge any records of diagnostic and treatment services provided in respect of a patient to a person conducting a preliminary investigation or the Discipline Committee under the *Psychology Profession Act* if

(i) an officer of the Psychologists Association of Alberta makes a written request for it and the disclosure is consented to by the patient or his legal representative, or

(ii) the disclosure is made by a member of the board in compliance with a notice under section 41 of the *Psychology Profession Act* to attend as a witness or to produce documents.

(iv) by repealing subsection (13) and substituting the following:

(13) In this section,

(a) “legal representative” means an executor or administrator of the estate of a deceased person, the guardian or trustee of a dependent adult under the *Dependent Adults Act* or the guardian of a minor;

(b) “mentally competent” means able to understand the subject-matter in respect of which consent is requested and able to appreciate the consequences of giving or refusing consent.

(e) by repealing section 68(a)(ii).

(7) *The Legislative Assembly Act* is amended in Part 3 of the Schedule by striking out “Board of management of a provincial general hospital” and substituting “Board of a Mental Health Hospital or a Provincial General Hospital”.

(8) *The Local Authorities Pension Act* is amended in section 1(b)(iii.1) by striking out “established under the *Mental Health Act*” and substituting “under the *Provincial General Hospitals Act*”.

(9) *The Local Authorities Pension Plan Act* is amended by repealing section 1(1)(h)(iv) and substituting the following:

(iv) the board of a mental health hospital under the *Provincial General Hospitals Act*;

(10) *The Ombudsman Act* is amended

(a) in section 1(a) by adding “or a Mental Health Hospital” before “under”;

(b) in section 12(1) by striking out “or” at the end of clause (a), adding “or” at the end of clause (b) and adding the following after clause (b):

(c) any decision, recommendation, act or omission of the Mental Health Patient Advocate or an employee of the Mental Health Patient Advocate appointed or employed under the *Mental Health Act*.

(c) in section 13(2)(b)

(i) by repealing subclause (i), and

(ii) in subclause (ii) by striking out “3(1)” and substituting “49(a) or (b)”.

(11) *The Provincial General Hospitals Act* is amended

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

(a) “board” means the board of management of a Provincial General Hospital or a Mental Health Hospital established or continued by or under this Act;

(b) “hospital” means a Provincial General Hospital or a Mental Health Hospital established or continued by or under this Act;

(b) in section 2

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

(1.1) The Alberta Hospital, Edmonton and the Alberta Hospital, Ponoka are hereby continued as Mental Health Hospitals with the following names:

(a) Alberta Hospital Edmonton;

(b) Alberta Hospital Ponoka.

(ii) in subsection (2) by adding “or Mental Health Hospitals” after “Hospitals”.

(c) in section 3 by renumbering it as section 3(1) and adding the following after subsection (1):

(2) The purposes and objects of a Mental Health Hospital are to provide for the observation, examination, assessment, care, treatment, control and detention of persons suffering from mental disorders.

(d) in section 4

(i) by renumbering it as section 4(1);

(ii) in subsection (1) by striking out “2(1)” and substituting “2”;

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

(2) The Mental Health Hospital Board, Edmonton and the Mental Health Hospital Board, Ponoka are continued as the boards of management of the Alberta Hospital Edmonton and the Alberta Hospital Ponoka, respectively.

(3) A board is not an agent of the Crown in right of Alberta.

(e) in section 7

(i) in subsection (1) by repealing clause (h);

(ii) by adding the following after subsection (2):

(2.1) In addition to its powers under subsection (2), the board of a Mental Health Hospital may, subject to the

approval of the Minister, operate out-patient clinics for the diagnosis and treatment of mental disorders in conjunction with the Mental Health Hospital under its administration and at other places in Alberta.

(f) by repealing section 12(2);

(g) in section 13(1) by striking out “and any other administrative personnel required for the efficient operation of the hospital”;

(h) by adding the following after section 13:

13.1 A board may delegate to any employees or other persons on the staff of the hospital any of its powers and duties under this Act.

Repeal

56 *The Mental Health Act, RSA 1980 cM-13, and the Mental Health Amendment Act, SA 1981 c72, are repealed on Proclamation.*

Coming
into force

57 *This Act comes into force on Proclamation.*