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THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 53

COMPASSIONATE INTERVENTION ACT

THE MINISTER OF MENTAL HEALTH AND ADDICTION

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 53

2025

COMPASSIONATE INTERVENTION ACT

(Assented to , 2025)

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Preamble

WHEREAS substance use and addiction impacts many Albertans
and these impacts can worsen without access to appropriate

interventions along a spectrum of care that support an individual's journey to recovery;

WHEREAS an individual with severe substance use or addiction issues may not seek out the care, treatment and health supports the individual needs to address those issues;

WHEREAS compassionate health and recovery-focused legislation is needed to facilitate timely intervention and treatment for individuals who are likely to cause harm to themselves or to others due to severe substance use or addiction issues; and

WHEREAS the key tenet of compassionate intervention is to support the timely stabilization, assessment and treatment of individuals with severe substance use or addiction issues while minimizing negative impacts on individual rights and freedoms and respecting the dignity and worth of each individual;

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

Definitions

1 In this Act,

- (a) "applicant" means an adult who applies for an assessment order under section 17;
- (b) "apprehend" means to detain an individual without that individual's consent under the authority of this Act;
- (c) "apprehension order" means an apprehension order issued under section 25;
- (d) "assessment order" means an assessment order issued under section 25;
- (e) "assessment report" means a report prepared by a treatment team in accordance with section 39;
- (f) "capacity" means that a person is able to understand the information relevant to a treatment decision and appreciate the consequences of giving or refusing to give consent for a treatment;

- (g) “care plan hearing” means a hearing conducted in accordance with sections 41 to 43 to determine whether a care plan order should be issued;
- (h) “care plan order” means an order issued under section 48;
- (i) “child and family services authority” means an entity with statutory authority under a law of Alberta to provide child and family services;
- (j) “client” means an individual who
 - (i) is the subject of an apprehension order, assessment order or care plan order, and
 - (ii) has been apprehended as the result of an apprehension order or has been admitted to a compassionate intervention facility;
- (k) “Commission” means the Compassionate Intervention Commission established by section 7(1);
- (l) “Commissioner” means the member of the Commission designated as the Commissioner under section 7(4);
- (m) “community-based care plan order” means a care plan order to be carried out outside of a compassionate intervention facility that will require
 - (i) bed-based treatment where overnight accommodation is provided to a client for all or part of the term of the order, or
 - (ii) non-bed-based treatment involving interventions designed to support clients in recovery, such as counselling, day programs and medication-assisted treatment;
- (n) “community-based service provider” means a service provider as defined in the *Mental Health Services Protection Act* or other entity designated as a community-based service provider under section 15;
- (o) “compassionate intervention facility” means a facility or part of a facility designated as a compassionate intervention facility under section 14;

- (p) “compassionate intervention facility service provider” means a service provider as defined in the *Mental Health Services Protection Act* designated as a compassionate intervention facility service provider under section 14;
- (q) “designated supervisor” means a designated supervisor appointed or designated under section 13;
- (r) “discharge order” means an order that terminates a client’s assessment order or care plan order and results in the client’s immediate discharge from a compassionate intervention facility or from the care of a community-based service provider, as the case may be;
- (s) “discharge report” means a discharge report prepared under section 40(1), 51(1)(b), 54(3)(b) or 64(2);
- (t) “family member” means
 - (i) an individual’s parent, guardian, spouse or adult interdependent partner, child, sibling, grandparent or grandchild, or
 - (ii) an adult designated by the Commission under section 18 as a family member;
- (u) “guardian” includes
 - (i) a guardian under the *Adult Guardianship and Trusteeship Act*, and
 - (ii) a guardian as defined in the *Child, Youth and Family Enhancement Act*;
- (v) “health information” means health information as defined in the *Health Information Act*;
- (w) “lawyer member” means a member of the Commission who is an active member in good standing with the Law Society of Alberta;
- (x) “medical director” means the medical director appointed or designated under section 12;
- (y) “Mental Health Patient Advocate” means the Mental Health Patient Advocate appointed under section 45(1) of the *Mental Health Act*;

- (z) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (aa) “non-compliance report” means a non-compliance report submitted under section 52(1) or 54(1);
- (bb) “peace officer” means a peace officer as defined in the *Peace Officer Act*;
- (cc) “personal information” means information about an identifiable individual;
- (dd) “physician member” means a member of the Commission who is a regulated member in good standing with the College of Physicians and Surgeons of Alberta who has completed a certification or program prescribed by the regulations;
- (ee) “police officer” means a police officer as defined in the *Police Act*;
- (ff) “progress report” means a progress report prepared under section 51(1)(a), 52(2) or 54(3)(a);
- (gg) “provincial health agency” means the provincial health agency established under the *Provincial Health Agencies Act* for the mental health and addiction health services sector;
- (hh) “public member” means a member of the Commission who is neither a lawyer nor a physician;
- (ii) “secure care plan order” means a care plan order to be carried out in a secure inpatient setting within a compassionate intervention facility;
- (jj) “statutory director” means the person designated as the statutory director under section 11;
- (kk) “treatment” includes anything done for a therapeutic, preventive or other health-related purpose to treat substance use or addiction, including observation, monitoring, assessment, the provision of clinical advice and the prescribing or administering of a drug as defined in the *Pharmacy and Drug Act*;

- (ll) “treatment team” means the persons employed, contracted or otherwise engaged by a compassionate intervention facility service provider or community-based service provider who are involved in providing treatment to a client in accordance with this Act.

Application of Act

Criteria for issuance of orders

2(1) An apprehension order, assessment order or care plan order may only be issued under this Act with respect to an individual who is likely to cause harm without intervention under this Act.

(2) For the purposes of this Act, “harm” means

- (a) in the case of a minor, substantial harm to the minor or to others as a result of the minor’s substance use or addiction, or
- (b) in the case of an adult, substantial harm to the adult or to others within a reasonable time as a result of the adult’s substance use or addiction.

Likelihood of adult to cause harm

3(1) For the purposes of this Act, whether an adult is likely to cause harm to that adult must be assessed by considering whether one or more of the following factors demonstrates that the adult is likely to cause harm to the adult:

- (a) the severity of the adult’s substance use or addiction, as determined in accordance with section 5;
- (b) whether the adult has a history of overdoses, frequent interactions with paramedics or frequent visits to a hospital emergency department as a result of the adult’s substance use or addiction;
- (c) whether the adult has experienced or is experiencing substantial mental or physical deterioration as a result of the adult’s substance use or addiction;
- (d) whether the adult has a substantially diminished ability to address the adult’s basic needs of daily living as a result of the adult’s substance use or addiction alone or in combination with other factors;

- (e) whether the adult has previously been admitted to a compassionate intervention facility;
- (f) whether the adult's substance use or addiction has negatively impacted key aspects of the adult's life, such as the adult's health, employment or relationships;
- (g) whether the adult has engaged in high-risk behaviours as a result of the adult's substance use or addiction;
- (h) any other factor related to the adult's substance use or addiction that the Commission considers relevant.

(2) For the purposes of this Act, whether an adult is likely to cause harm to others must be assessed by considering whether one or more of the following factors demonstrates that the adult is likely to cause harm to others:

- (a) the severity of the adult's substance use or addiction, as determined in accordance with section 5;
- (b) whether the adult is neglecting or unable to care for another person in the adult's care as a result of the adult's substance use or addiction;
- (c) whether the adult is engaging in substantial harmful behaviour toward a person under the adult's care;
- (d) whether the adult is negatively impacting community safety as a result of the adult's substance use or addiction;
- (e) any other factor related to the adult's substance use or addiction that the Commission considers relevant.

Likelihood of minor to cause harm

4(1) For the purposes of this Act, whether a minor is likely to cause harm to that minor must be assessed by considering whether one or more of the following factors demonstrates that the minor is likely to cause harm to the minor:

- (a) the age of the minor, the type of substance being used and the minor's history of substance use or addiction;
- (b) the severity of the minor's substance use or addiction, as determined in accordance with section 5;

- (c) whether the minor has a history of overdoses, interactions with paramedics or visits to a hospital emergency department as a result of the minor's substance use or addiction;
- (d) whether the minor has experienced or is experiencing mental or physical deterioration as a result of the minor's substance use or addiction;
- (e) whether the substance use or addiction has negatively impacted key aspects of the minor's life, such as the minor's education, health, employment or relationships;
- (f) whether the minor has previously been admitted to a protective safe house under the *Protection of Children Abusing Drugs Act* or to a compassionate intervention facility;
- (g) whether the minor has had one or more interactions with a child and family services authority in the previous 6 months as a result of the minor's substance use or addiction;
- (h) whether the minor has engaged in high-risk behaviours as a result of the minor's substance use or addiction;
- (i) any other factor related to the minor's substance use or addiction that the Commission considers relevant.

(2) For the purposes of this Act, whether a minor is likely to cause harm to others must be assessed by considering whether one or more of the following factors demonstrates that the minor is likely to cause harm to others:

- (a) the severity of the minor's substance use or addiction, as determined in accordance with section 5;
- (b) whether the minor is engaging in harmful behaviours that are negatively impacting other persons, including family members and friends, as a result of the minor's substance use or addiction;
- (c) whether the minor is negatively impacting community safety as a result of the minor's substance use or addiction;

- (d) any other factor related to the minor's substance use or addiction that the Commission considers relevant.

Severity of substance use or addiction

5 For the purposes of this Act, the severity of an individual's substance use or addiction must be assessed by considering the extent to which one or more of the following factors apply to the individual:

- (a) the individual demonstrates a pattern of severe intoxication or severe impairment due to substance use;
- (b) the individual demonstrates a poorly controlled or unstable medical condition caused by, exacerbated by or otherwise related to the individual's substance use or addiction;
- (c) the individual demonstrates an inability to meet the individual's basic needs of daily living.

Application of Act to minors

6(1) When applying this Act to a minor, all persons who exercise authority or make decisions related to the minor must do so in the best interests of the minor.

(2) For the purposes of this Act, a minor is presumed to lack the capacity to make independent treatment decisions unless a treatment team has determined that the minor has capacity.

(3) Unless a treatment team has determined that a minor has capacity, a guardian of the minor or other person specified by the regulations may make a treatment decision on behalf of the minor in accordance with section 81 except in respect of treatment referred to in section 80(2).

(4) The Commission, a member of the Commission, the statutory director, the medical director, a designated supervisor, the treatment team and any member of the treatment team making a decision relating to a minor must involve any guardian of the minor in the decision-making process and must do so in accordance with the regulations, if any.

Commission and Members

Establishment of Commission

- 7(1)** The Compassionate Intervention Commission is established.
- (2)** The Commission shall be composed of lawyer members, physician members and public members appointed by the Lieutenant Governor in Council.
- (3)** A member of the Commission may be appointed for a term not exceeding 3 years.
- (4)** The Lieutenant Governor in Council shall designate one of the lawyer members as the Commissioner of the Commission.
- (5)** The Commissioner shall serve as the chair of the Commission and shall manage and lead the operations of the Commission.
- (6)** The Commissioner may designate a lawyer member as acting Commissioner, who may act in the place of the Commissioner if the Commissioner is temporarily unable to act or if the Commissioner identifies a real or perceived conflict of interest with the Commissioner acting in respect of a particular matter.
- (7)** A member of the Commission continues to hold office until
 - (a)** the member resigns,
 - (b)** the appointment of the member is terminated, or
 - (c)** the term of the member expires.
- (8)** A member of the Commission may receive remuneration, at a rate prescribed by the Lieutenant Governor in Council, for service as a member of the Commission and may receive reasonable living and travelling expenses incurred in the course of the member's duties at a rate determined by the Lieutenant Governor in Council.

General powers and duties of Commission

- 8(1)** The Commission must receive and review applications and conduct hearings, non-compliance reviews and appeals in accordance with this Act and the regulations.
- (2)** The Commission may, in accordance with this Act and the regulations,

- (a) dismiss applications for assessment orders,
- (b) issue and terminate apprehension orders and assessment orders,
- (c) issue, uphold, amend, renew and terminate care plan orders,
- (d) dismiss applications for the review of a care plan order,
- (e) issue discharge orders,
- (f) grant appeals, and
- (g) grant leaves of absence.

(3) The Commission may require any person, organization as defined in the *Personal Information Protection Act*, public body as defined in the *Freedom of Information and Protection of Privacy Act* or custodian as defined in the *Health Information Act* to

- (a) provide information or answer any questions the Commission considers necessary for the determination of a matter before the Commission, and
- (b) attend a hearing and provide evidence at a hearing if the Commission considers it necessary for the determination of a matter before the Commission.

(4) The Commission may exercise other powers and perform other duties and functions in accordance with this Act and the regulations.

Powers of members of Commission

9 Members of the Commission have all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act* except the powers, privileges and immunities referred to in sections 4 to 6 of that Act.

Procedures

10 Subject to this Act and the regulations, the Commission may make rules of procedure and rules respecting quorum for the conduct of its business and hearings.

Directors and Designated Supervisors

Statutory director

11(1) The Minister may designate a member of the public service of Alberta as statutory director.

(2) The statutory director may exercise powers and perform duties and functions in accordance with this Act and the regulations.

(3) The statutory director may delegate the statutory director's powers, duties and functions under this Act in writing to any employee of the Minister's department.

Medical director

12(1) The provincial health agency must appoint or designate a medical director.

(2) The medical director must be a regulated member in good standing with the College of Physicians and Surgeons of Alberta with experience in providing treatment to individuals with substance use and addiction issues who has completed a certification or program prescribed by the regulations.

(3) The medical director must

- (a)** oversee the treatment of clients in compassionate intervention facilities in accordance with orders issued under this Act,
- (b)** establish binding policies or procedures the medical director considers necessary to provide direction to treatment teams at compassionate intervention facilities when performing a treatment team's functions under this Act, and
- (c)** ensure the assessment reports, progress reports, discharge reports and non-compliance reports treatment teams develop comply with this Act and support client recovery.

(4) The medical director may

- (a)** review a decision of a treatment team at a compassionate intervention facility, and
- (b)** provide directions that the medical director considers appropriate to a treatment team at a compassionate

intervention facility to ensure that the treatment team is acting in accordance with this Act and the terms of an order under this Act.

(5) A treatment team must ensure that any direction issued by the medical director under subsection (4)(b) is implemented in a prompt and efficient manner, in accordance with and subject to the authorization of members of the treatment team under the *Health Professions Act* or another enactment to perform the activities required by the direction.

(6) The medical director may delegate the medical director's powers, duties and functions under this Act in writing to any employee of the provincial health agency or any physician who has entered into a service agreement with the provincial health agency to provide services in a compassionate intervention facility.

(7) The medical director may exercise other powers and perform other duties and functions in accordance with this Act and the regulations.

Designated supervisors

13(1) Each community-based service provider must appoint or designate a designated supervisor to oversee the following in accordance with the regulations, if any:

- (a) the community-based service provider's compliance with the Act and the terms of care plan orders for clients receiving treatment from the community-based service provider;
- (b) the preparation of reports by the community-based service provider, including progress reports, discharge reports and non-compliance reports;
- (c) the compliance of each client receiving treatment from the community-based service provider with the community-based care plan order that applies to each client.

(2) A designated supervisor must submit progress reports, discharge reports and non-compliance reports to the statutory director on behalf of the community-based service provider.

(3) A designated supervisor must comply with any reporting requirements established by the regulations.

(4) A designated supervisor may exercise other powers and perform other duties and functions in accordance with this Act and the regulations.

Designation of Facilities and Service Providers

Designation of compassionate intervention facilities and service providers

14(1) The Minister may designate a facility or part of a facility as a compassionate intervention facility in accordance with the regulations.

(2) The Minister must designate whether a compassionate intervention facility is a facility for adults or a facility for minors in accordance with the regulations.

(3) The Minister may designate a service provider with a licence issued under section 6 of the *Mental Health Services Protection Act* as a compassionate intervention facility service provider in accordance with the regulations.

(4) A compassionate intervention facility must be operated by a compassionate intervention facility service provider.

(5) A compassionate intervention facility service provider must report any incident causing serious injury or death to a client and must do so in accordance with the regulations, if any.

(6) A compassionate intervention facility service provider must comply with any other reporting, oversight or monitoring requirements established in the regulations.

Designation of community-based service providers

15(1) The Minister may, in the regulations, designate

- (a) a service provider with a licence issued under section 6 of the *Mental Health Services Protection Act* and that is eligible under the regulations as a bed-based community-based service provider, and
- (b) an entity that is eligible under the regulations as a non-bed-based community-based service provider.

- (2) A community-based service provider must operate in accordance with the regulations, if any.
- (3) A community-based service provider must report any incident causing serious injury or death to a client and must do so in accordance with the regulations, if any.
- (4) A community-based service provider must comply with any other reporting, oversight or monitoring requirements established in the regulations.

Treatment Teams

Treatment teams

- 16(1)** The medical director must establish a treatment team for each client on the admission of the client to a compassionate intervention facility.
- (2) If a community-based care plan order is issued, the treatment team established under subsection (1) must be dissolved and a treatment team must be established by the designated supervisor for the community-based service provider that will provide treatment to the client in accordance with the order.
- (3) A treatment team must implement and manage client-focused treatments and provide other services to clients in accordance with this Act.
- (4) A treatment team may exercise any other powers and perform any other duties or functions established by this Act or the regulations.

Assessment Order Applications and Review by Statutory Director

Application for assessment order

- 17(1)** The following persons may apply to the Commission for an assessment order by submitting an application for an assessment order to the statutory director in accordance with this section:
 - (a) an adult family member of the individual who is the subject of the application, including a person applying to be designated as a family member under section 18;
 - (b) any of the following persons who have provided care to the individual who is the subject of the application related

to the individual's substance use or addiction or a health condition exacerbated by the individual's substance use or addiction:

- (i) a nurse who is a regulated member in good standing with the College of Registered Nurses of Alberta;
 - (ii) a physician who is a regulated member in good standing with the College of Physicians and Surgeons of Alberta;
 - (iii) a psychologist who is a regulated member in good standing with the College of Alberta Psychologists;
 - (iv) a social worker who is a regulated member in good standing with the Alberta College of Social Workers;
 - (v) a paramedic who is a regulated member in good standing with the Alberta College of Paramedics;
 - (vi) an addiction counsellor;
- (c) a police officer or peace officer if the officer has had an interaction with the individual who is the subject of the application that the police officer or peace officer believes was related to the individual's substance use or addiction.

(2) No person other than a person referred to in subsection (1) may apply for an assessment order.

(3) Before submitting an application, an applicant must, in accordance with the regulations, if any, complete the pre-application information session established by the Minister under subsection (7).

(4) An application must include

- (a) a statement in the form and containing the content established by the Minister,
- (b) a health care report, in the form and containing the content established by the Minister, if the applicant is a person referred to in subsection (1)(b),
- (c) a detailed report, in the form and containing the content established by the Minister, if the applicant is a police officer or peace officer, and

(d) confirmation that the applicant has completed the pre-application information session established by the Minister under subsection (7), which must be in the form and contain the content required by the regulations, if any.

(5) An applicant must not

- (a) intentionally provide false information in an application, or
- (b) submit an application
 - (i) for a frivolous, vexatious or malicious purpose, or
 - (ii) for a purpose or in a manner that is otherwise an abuse of process.

(6) As soon as practicable after submitting an application, an applicant must make reasonable efforts to notify any guardian of the individual who is the subject of the application that the applicant has submitted an application under this Act.

(7) The Minister must, in accordance with the regulations, if any, establish a pre-application information session to assist applicants with understanding the application and decision-making process, an applicant's responsibilities and the rights of other parties.

Application to be designated as family member

18(1) An adult not listed in section 1(t)(i) may apply to the Commission, in the form established by the Minister, to be designated as a family member for the purposes of this Act.

(2) A member of the Commission, who must be a lawyer member selected in accordance with the regulations, must, as soon as practicable,

- (a) consider the application to be designated as a family member,
- (b) make a decision,
- (c) prepare written reasons for the decision, and
- (d) provide the written reasons for the decision to the statutory director.

(3) The statutory director must, as soon as practicable, provide the Commission's decision and the written reasons for the Commission's decision to the person who applied to be designated as a family member and to the medical director.

(4) A person must apply to be designated as a family member under this section at the same time the person submits an application under section 17, but

- (a) the application under this section must be considered and determined first, and
- (b) the application under section 17 may only be considered if the person is designated as a family member under this section.

Review of application by statutory director

19(1) Subject to sections 18(4), 20 and 21, the statutory director must review an application for an assessment order as soon as practicable after receiving it to determine whether

- (a) the applicant is eligible to apply for an assessment order,
- (b) the applicant has complied with section 17(3), and
- (c) the application complies with section 17(4).

(2) The Minister may make regulations establishing procedures respecting the review of applications for an assessment order by the statutory director, including respecting the collection and use of records or information as part of the review process.

Deferral of review due to lack of bed availability

20 The statutory director must defer the statutory director's review of an application for an assessment order in accordance with the regulations based on bed availability at compassionate intervention facilities and bed-based community-based service provider facilities.

Deferral of review in special circumstances

21(1) The statutory director must defer the statutory director's review of an application for an assessment order in the circumstances identified in the regulations.

(2) The Minister may make regulations respecting the deferral of an application under this section.

Decision and notification of results of review

22(1) Following the statutory director's review of an application for an assessment order and any records or information collected by the statutory director in accordance with the regulations referred to in section 19, the statutory director must determine whether

- (a) the applicant is eligible to apply for an assessment order,
- (b) the applicant has complied with section 17(3), and
- (c) the application complies with section 17(4).

(2) If the statutory director determines that the applicant is eligible to apply and has complied with section 17(3) and that the application complies with section 17(4), the statutory director must

- (a) forward the application to the Commission, and
- (b) notify the applicant and any guardian of the individual who is the subject of the application that the application has been forwarded to the Commission.

(3) If the statutory director determines that the applicant is ineligible to apply or has not complied with section 17(3) or that the application does not comply with section 17(4), the statutory director must reject the application and provide the applicant with written notice that identifies

- (a) why the applicant is ineligible to apply for an assessment order,
- (b) the need to comply with section 17(3), or
- (c) why the application did not comply with section 17(4).

Records

23 On forwarding an application for an assessment order to the Commission, the statutory director must provide the Commission with copies of all records and information the applicant provided.

Review of Assessment Order Applications by the Commission

Review of application by lawyer member

24(1) Subject to section 26, a member of the Commission, who must be a lawyer member selected in accordance with the regulations, must review an application for an assessment order that the statutory director has forwarded to the Commission.

(2) The regulations may prescribe Commission members who are ineligible to review an assessment order application.

Decision by the Commission

25(1) A lawyer member reviewing an application for an assessment order must determine, based on a review of the application, any information or answers provided by a person under section 8(3) and any records or information collected under the regulations referred to in section 19, whether the individual who is the subject of an application is likely to cause harm as defined in section 2 without intervention.

(2) If the lawyer member who reviewed the application for an assessment order is satisfied, on a balance of probabilities, that the individual who is the subject of the application is likely to cause harm without intervention, the Commission must issue an apprehension order and an assessment order.

(3) If the lawyer member who reviewed the application for an assessment order is not satisfied, on a balance of probabilities, that the individual who is the subject of the application is likely to cause harm without intervention, the Commission must dismiss the application.

(4) The Commission must prepare written reasons for the Commission's decision under subsection (2) or (3).

(5) The Commission must, as soon as practicable,

- (a)** provide written notice of the Commission's decision to the applicant, any guardian of the individual who is the subject of the application and the statutory director, and
- (b)** provide written reasons for the Commission's decision to any guardian of the individual who is the subject of the application, the statutory director and the medical director.

(6) If the Commission issues an apprehension order, the Commission must, as soon as practicable, provide a copy of the apprehension order to the statutory director, and the statutory director must, as soon as practicable, provide a copy to police officers and peace officers the Commission considers appropriate.

(7) If the Commission issues an assessment order, the Commission must, as soon as practicable, provide a copy of the assessment order to any guardian of the individual who is the subject of the assessment order, the statutory director and the medical director.

(8) After a decision is made under this section, the Commission must retain the record of proceedings in accordance with the regulations.

Deferral of review in special circumstances

26(1) The Commission must defer the Commission's review of an application for an assessment order in the circumstances identified in the regulations.

(2) The Minister may make regulations respecting the deferral of an application under this section.

Right to reapply

27 An applicant whose application for an assessment order has been rejected under section 22(3) or dismissed under section 25(3) may reapply for an assessment order

- (a) if new evidence emerges that the individual who is the subject of the application is likely to cause harm as defined in section 2 without intervention, or
- (b) in other circumstances prescribed by the regulations.

Content of apprehension orders

28 An apprehension order must be in the form established by the Minister and contain the content prescribed by the regulations.

Content of assessment orders

29 An assessment order must be in the form established by the Minister and contain the content prescribed by the regulations.

Authority provided by apprehension order

30(1) An apprehension order is sufficient authority

- (a) for a police officer to
 - (i) apprehend the individual who is the subject of the order, including re-apprehending an individual
 - (A) previously apprehended but not conveyed to a compassionate intervention facility,
 - (B) previously apprehended and conveyed to but not yet admitted to a compassionate intervention facility, or
 - (C) who has absconded from a compassionate intervention facility,
 - (ii) take reasonable measures to apprehend or re-apprehend the individual, including using reasonable force, and
 - (iii) observe, control and take care of the apprehended individual,

and

- (b) for a police officer or peace officer to
 - (i) detain and convey the apprehended individual to a compassionate intervention facility,
 - (ii) use reasonable force to detain and convey the individual, and
 - (iii) observe, control and take care of the individual being detained and conveyed.

(2) Additional authorities provided by an apprehension order may be established in the regulations.

(3) A police officer who has apprehended an individual may transfer the individual to another police officer or a peace officer who may detain and convey the individual to a compassionate intervention facility or transfer the apprehended individual to another police officer or peace officer who may do the same.

Authority provided by assessment order

31(1) An assessment order is sufficient authority

- (a) for a compassionate intervention facility service provider to admit the client who is the subject of the order into the compassionate intervention facility,
- (b) for the medical director to detain the client who is the subject of the order at a compassionate intervention facility for up to 72 hours after the time of apprehension or admission to the facility, whichever occurs first, or for a further period as may be required for a decision to be issued under section 45 following an adjournment under section 44 or a deferral under section 46,
- (c) subject to the client's right to refuse treatment under section 80, for a treatment team to
 - (i) stabilize the client to the extent possible,
 - (ii) perform a basic medical assessment to determine the client's immediate health needs,
 - (iii) provide medical services to address the client's immediate health needs and substance use, addiction and mental health concerns,
 - (iv) conduct a substance use and addiction assessment of the client,
 - (v) prepare an assessment report,
 - (vi) observe, control and take care of the client, and
 - (vii) subject to the regulations, provide treatment to the client the Commission has authorized to be provided to a client who is the subject of an assessment order, including treatment referred to in section 80(2),
- (d) for a police officer or peace officer to
 - (i) observe, control and take care of the client,
 - (ii) detain the client and convey the client to and from other locations in accordance with a leave of absence from a compassionate intervention facility granted under section 79, and

(iii) use reasonable force to detain and convey the client,

and

(e) for the statutory director to collect records produced to the statutory director under section 32(2).

(2) Additional authorities provided by an assessment order may be established in the regulations.

(3) A police officer or peace officer who is conveying a client to another location in accordance with a leave of absence may transfer the client to another police officer or peace officer who may convey the client to the other location or may transfer the client to another police officer or peace officer who may do the same.

(4) A client must comply with the terms of an assessment order and must remain in the compassionate intervention facility to which the client was admitted unless the client has been granted a leave of absence.

Collection of records

32(1) If an assessment order has been granted, the Commission may order any person, organization as defined in the *Personal Information Protection Act*, public body as defined in the *Freedom of Information and Protection of Privacy Act* or custodian as defined in the *Health Information Act* to produce any records to the Commission prescribed by the regulations if, based on an application for an assessment order and the materials before the Commission, the Commission has reasonable grounds to believe that the records would disclose information necessary for the Commission to determine whether a care plan order should be issued.

(2) The Commission may order any person, organization as defined in the *Personal Information Protection Act*, public body as defined in the *Freedom of Information and Protection of Privacy Act* or custodian as defined in the *Health Information Act* to produce to the statutory director any record that the Commission may order to be produced to the Commission under subsection (1) for the purposes of the statutory director's powers, duties and functions under this Act.

Expiry of apprehension order and assessment order

33(1) An apprehension order expires 50 days from the date on which the order was issued.

(2) Subject to section 44(11), an assessment order expires 50 days from the date on which the order was issued.

Apprehension, Conveyance and Assessment

Apprehension, conveyance and legal rights

34(1) A police officer who apprehends an individual must, as soon as practicable, inform the individual of

- (a) the reasons why the individual is being apprehended, including that an apprehension order has been issued under this Act, and
- (b) the individual's right to legal counsel.

(2) On request, the individual must be provided with the opportunity to communicate with legal counsel.

(3) Subject to section 78, an apprehended individual must be conveyed to a compassionate intervention facility as soon as practicable.

Notice on apprehension

35(1) A police officer or peace officer who conveys a client to a compassionate intervention facility, or to a hospital or other facility under section 78 to receive medical care the client needs before being conveyed to a compassionate intervention facility, must notify the statutory director as soon as practicable where the client was conveyed and must advise the statutory director of the date and time when the client was apprehended.

(2) A police officer or peace officer who conveys a client to a hospital or other facility under section 78 to receive medical care the client needs before being conveyed to a compassionate intervention facility must make reasonable efforts to notify any guardian of the client as soon as practicable where the client was conveyed.

Initial arrival and notice

36(1) On arrival at a compassionate intervention facility, each client will

- (a) be admitted to the compassionate intervention facility,
- (b) be stabilized to the extent possible,
- (c) undergo a basic medical assessment by the treatment team to determine the client's immediate health needs,
- (d) be provided with medical services within the compassionate intervention facility, unless the client is conveyed to a hospital or other facility to receive medical care the client needs, and
- (e) be provided by the treatment team with a copy of the assessment order relating to the client and the reasons for the order.

(2) If a minor has been admitted to a compassionate intervention facility, the treatment team must make reasonable efforts to notify any guardian of the minor that the minor has been admitted to the facility as soon as practicable after the minor has been admitted.

(3) If a minor has no known guardian, the treatment team must, as soon as practicable, notify the child and family services authority or authorities the treatment team considers appropriate and the police service or police services the treatment team considers appropriate that the minor has been admitted to the compassionate intervention facility.

(4) If an adult has been admitted to a compassionate intervention facility without being apprehended, the adult's treatment team must make reasonable efforts to notify any known guardian of the adult that the adult has been admitted to the facility as soon as practicable after the adult has been admitted or as soon as practicable after the existence of a guardian has been identified, as the case may be.

Client rights

37(1) As soon as practicable after a client has been admitted to a compassionate intervention facility, and on request thereafter, the treatment team must inform the client of

- (a) the client's right to legal counsel,
- (b) the client's right to contact the office of the Mental Health Patient Advocate,
- (c) the services the Mental Health Patient Advocate may provide the client,
- (d) the client's right to refuse treatment, subject to section 80(2),
- (e) the client's right to communicate with any person, subject to operational and safety considerations,
- (f) the client's right to engage in activities that support the client's ability to meet the client's basic needs of daily living, subject to operational and safety considerations,
- (g) the client's rights at a care plan hearing, the client's right to request a review of a care plan order and the client's rights to appeal a care plan order, and
- (h) other rights prescribed by the regulations.

(2) If the client asks to communicate with legal counsel, the treatment team must make arrangements to ensure the client can communicate with legal counsel at the earliest opportunity.

(3) If a client asks to communicate with the office of the Mental Health Patient Advocate, the treatment team must make reasonable efforts to assist the client with contacting or communicating with the Mental Health Patient Advocate at the earliest opportunity.

(4) The Minister may clarify the scope of any right referred to in this section in the regulations.

Records to be provided

38 On a client being admitted to a compassionate intervention facility, the Commission must provide the medical director with a copy of

- (a) the application that led to the assessment order relating to the client, and

- (b) any records or information collected under the regulations referred to in section 19 and any records produced under section 32.

Substance use and addiction assessment and assessment report

39(1) Within 48 hours of a client being apprehended or admitted to a compassionate intervention facility, whichever occurs first, the treatment team must

- (a) conduct a substance use and addiction assessment of the client that may include, subject to the client's right to refuse treatment, clinical interviews, laboratory tests and psychological evaluations,
- (b) prepare a written assessment report that
 - (i) sets out the findings of the treatment team following the assessment referred to in clause (a),
 - (ii) includes the treatment team's consideration of the client's likelihood to cause harm as defined in section 2 without intervention, and
 - (iii) makes treatment recommendations for the client or recommends the discharge of the client,

and

- (c) submit the assessment report to the medical director and statutory director.

(2) In conducting the substance use and addiction assessment and preparing the assessment report, the treatment team must consider the factors established in section 3 or 4, as applicable.

(3) If an assessment report recommends the discharge of a client, the treatment team must prepare a post-discharge plan under section 67, and that plan must be submitted together with the assessment report.

(4) If the medical director is of the opinion that a treatment team will be unable to conduct a substance use and addiction assessment and prepare and submit an assessment report within 48 hours after a client has been apprehended or admitted to a compassionate

intervention facility because circumstances relating to the client's medical situation have delayed the conveyance of the client to the compassionate intervention facility or the client's medical situation otherwise makes it impractical to conduct the substance use and addiction assessment and prepare and submit an assessment report within that period, the medical director must inform the statutory director, who may apply for an adjournment of a care plan hearing under section 44.

(5) If the Commission grants an application for an adjournment of a care plan hearing, the treatment team must prepare the assessment report and submit the assessment report to the medical director and statutory director within the period established by the hearing panel under section 44(6).

(6) The statutory director must, as soon as practicable after receiving an assessment report, submit the assessment report to the Commission.

Discharge application before care plan hearing

40(1) At any time after a client has been admitted to a compassionate intervention facility and before the commencement of the care plan hearing relating to the client, but as soon as practicable after the treatment team determines that it is appropriate, the treatment team may apply to the Commission for a discharge order by submitting an application in accordance with the regulations, if any, along with a discharge report prepared in accordance with the regulations to the medical director and statutory director.

(2) On receiving an application and discharge report under subsection (1), the statutory director must forward the application and discharge report to the Commission, and a member of the Commission, who must be a lawyer member selected in accordance with the regulations, must determine whether to issue a discharge order.

(3) The statutory director must provide the application and discharge report to the client, the client's legal counsel, if any, and any guardian of the client as soon as practicable and, in any case, before the consideration of the application for a discharge order.

(4) The lawyer member must review an application for a discharge order and make a decision under this section as soon as practicable

and, in any case, before the commencement of the care plan hearing relating to the client.

(5) When making a decision on whether to issue a discharge order, the lawyer member must

- (a) consider the treatment team's application and discharge report, and
- (b) consult with any guardian of the client.

(6) The lawyer member may consider any other information the lawyer member considers necessary.

(7) If the lawyer member determines, on a balance of probabilities, that the client is no longer likely to cause harm as defined in section 2 without intervention, the Commission must issue a discharge order.

(8) If the lawyer member determines, on a balance of probabilities, that the client is still likely to cause harm as defined in section 2 without intervention, the assessment order relating to the client remains in place.

(9) If a discharge order is issued,

- (a) any existing order relating to the client is terminated, and
- (b) the client must be immediately discharged from the compassionate intervention facility.

(10) The Commission must, as soon as practicable,

- (a) notify the client or former client, the client or former client's legal counsel, if any, any guardian of the client or former client, the statutory director and the treatment team of the Commission's decision,
- (b) prepare written reasons for the Commission's decision, and
- (c) provide the Commission's written decision to the client or former client, the client or former client's legal counsel, if any, any guardian of the client or former client, the statutory director and the medical director.

(11) After a decision is made under this section, the Commission must

- (a) retain the record of proceedings in accordance with the regulations, and
- (b) provide a copy of the record of proceedings to the statutory director.

Care Plan Hearings

Establishment of panel

41(1) Within 72 hours of an individual being apprehended or being admitted to a compassionate intervention facility, whichever occurs first, the Commission will convene a hearing panel of 3 members of the Commission in accordance with the regulations, if any, to consider whether a care plan order should be issued.

(2) A care plan hearing panel must include

- (a) a lawyer member, who will be the chair of the panel,
- (b) a physician member, and
- (c) a public member.

(3) The regulations may prescribe Commission members who are ineligible to serve as a member of a care plan hearing panel.

Notice of hearing and disclosure

42(1) Subject to section 46 or the adjournment of a hearing in response to an application made under section 44(1), a care plan hearing panel must commence a care plan hearing within 72 hours of an individual being apprehended or being admitted to a compassionate intervention facility, whichever occurs first.

(2) The Commission must, as soon as practicable after the Commission has received an assessment report relating to a client, serve notice of the date, time and place of the care plan hearing on

- (a) the client,
- (b) the client's legal counsel, if any,
- (c) any guardian of the client, and

(d) the statutory director.

(3) Before a care plan hearing, the statutory director must provide the records prescribed by the regulations to the client, the client's legal counsel, if any, and any guardian of the client.

(4) The Commission must notify the medical director of the date, time and place of a care plan hearing at least 24 hours before the hearing.

(5) If reasonable efforts have been made to serve or notify the persons listed in subsections (2) and (4), a hearing panel may commence a hearing despite

(a) service on a person, other than the client, not occurring in accordance with subsection (2), or

(b) notice not being provided under subsection (4).

(6) If reasonable efforts have been made to provide the client, the client's legal counsel, if any, and any guardian of the client with records under subsection (3), a hearing panel may commence a hearing despite those records not being provided.

Hearing rules

43(1) Subject to subsections (2) to (4), no person has the right to attend a care plan hearing without the consent of the hearing panel chair.

(2) Subject to subsection (6), the client may

(a) be present throughout the hearing,

(b) be represented by legal counsel,

(c) make representations to the hearing panel, including respecting the client's preferred outcome of the hearing,

(d) present evidence to the hearing panel, and

(e) cross-examine any person who makes representations or presents evidence at the hearing, other than a family member submitting a family impact statement or making representations under subsection (4).

(3) Subject to subsection (6), a guardian of the client may

- (a) be present throughout the hearing, and
 - (b) make representations respecting the guardian's preference for the outcome of the hearing.
- (4) Subject to subsection (6), a family member of the client may
- (a) submit a written family impact statement to the hearing panel in accordance with the regulations, and
 - (b) make representations during the care plan hearing respecting the written family impact statement.
- (5) Subject to the regulations, the hearing panel may permit others to participate in the hearing to the extent determined by the hearing panel.
- (6) A hearing panel may limit any person's presence or participation provided for under subsections (2) to (4) on a case-by-case basis in any manner the panel considers suitable, but if the panel does so, the panel must provide reasons for doing so to the person whose presence or participation is being limited.
- (7) Care plan hearings must be conducted in person unless a hearing panel determines that this is impractical, in which case the hearing panel may conduct a hearing by telephone, video conference or any other means of telecommunication.

Adjournments

- 44(1)** The statutory director may apply for an adjournment of a care plan hearing in accordance with the regulations, if any, in the circumstances described in section 39(4).
- (2) Notice of an application under subsection (1) must be provided by the Commission to the client, the client's legal counsel, if any, any guardian of the client and the medical director as soon as practicable.
- (3) The care plan hearing panel must allow the client to make submissions before deciding an application made under subsection (1).
- (4) A client may apply for the adjournment of a care plan hearing in accordance with the regulations.

(5) A hearing panel may consider and decide an application for the adjournment of a hearing made under subsection (1) or (4) based on the submissions of the person applying for the adjournment and the client if the client is not the person applying for the adjournment.

(6) If an application under subsection (1) is granted, the hearing panel must establish a period within which the assessment report must be prepared and submitted to the medical director and statutory director.

(7) A hearing panel may, on its own motion, adjourn a care plan hearing for a specified time if the hearing panel determines that the adjournment is necessary as a result of exigent circumstances that make the proper functioning of the hearing impossible or in circumstances established in the regulations.

(8) Before adjourning a care plan hearing on its own motion, a hearing panel must notify the client and the client's legal counsel, if any, that the hearing panel is considering adjourning the hearing, must inform the client and the client's legal counsel, if any, of the reason the hearing panel is considering an adjournment and must provide the client and the client's legal counsel, if any, with the right to make submissions before deciding to adjourn the hearing.

(9) A hearing panel may adjourn a hearing for a period of no more than 7 days, which may be extended for one additional period of no more than 7 days, if the hearing commences within 17 days of the client's apprehension or admission to a compassionate intervention facility, whichever occurred first.

(10) A hearing panel must

- (a) issue written reasons respecting the adjournment of a hearing,
- (b) provide the reasons to the client, the client's legal counsel, if any, any guardian of the client and the statutory director, and
- (c) notify the client, the client's legal counsel, if any, any guardian of the client, the statutory director and the medical director when the hearing will resume.

(11) If a hearing is adjourned, the adjournment automatically extends an assessment order by the length of the adjournment.

Decision making by panel

- 45(1)** A hearing panel must decide whether to issue a care plan order for a client within 72 hours of the apprehension of the client or the admission of the client to a compassionate intervention facility, whichever occurred first, unless the hearing has been adjourned under section 44 or deferred under section 46.
- (2)** The Minister may prescribe, in the regulations, what records and information a care plan hearing panel may or must consider when making a decision.
- (3)** Subject to subsection (5), a care plan hearing panel must issue a care plan order under section 48 if the hearing panel is satisfied, on a balance of probabilities, that the client is likely to cause harm as defined in section 2 without intervention.
- (4)** In issuing a care plan order, a care plan hearing panel must consider whether a secure care plan order, bed-based community-based care plan order or non-bed-based community-based care plan order would provide effective treatment to the client in the least restrictive and least intrusive manner.
- (5)** A care plan hearing panel may determine that a care plan order should not be issued if the panel identifies procedural issues with the application process or hearing process that cannot be remedied by an adjournment under section 44.
- (6)** If the hearing panel makes the determination referred to in subsection (5), the panel must terminate the apprehension order and assessment order relating to the client, and the client must be immediately discharged from the compassionate intervention facility.
- (7)** If a hearing panel is not satisfied, on a balance of probabilities, that the client is likely to cause harm as defined in section 2 without intervention, the hearing panel must terminate the apprehension order and assessment order relating to the client and the client must be immediately discharged from the compassionate intervention facility.
- (8)** As soon as practicable after making a decision, the hearing panel must provide in writing to the client, the client's legal counsel, if any, any guardian of the client, the statutory director and the medical director

- (a) reasons for the panel's decision, if a care plan order is not issued, or
- (b) a copy of the care plan order issued by the panel under section 48.

(9) After the hearing panel makes a decision, the Commission must

- (a) retain the record of proceedings and the recording of the hearing in accordance with the regulations, and
- (b) provide a copy of the record of proceedings to the statutory director.

Deferral of hearing in special circumstances

46(1) This section applies if any of the following circumstances apply to a client after an apprehension order and assessment order have been issued but before a care plan hearing has commenced:

- (a) the client has medical needs requiring medical care exceeding the care available at a compassionate intervention facility;
- (b) circumstances prescribed in the regulations.

(2) If a circumstance identified in subsection (1) applies, the Commission must defer the commencement of a care plan hearing until

- (a) the client has received the medical care the client needs, if subsection (1)(a) applies, or
- (b) circumstances prescribed in the regulations are present, if subsection (1)(b) applies.

(3) A care plan hearing may be deferred under subsection (2) for up to 50 days after the apprehension order and assessment order were issued.

(4) If an assessment order expires during the period in which a care plan hearing has been deferred under this section,

- (a) the client, any guardian of the client and the statutory director must be notified that the assessment order has expired, and

- (b) the client must be immediately discharged from the compassionate intervention facility.

Automatic termination of orders

47(1) If either of the following applies, a client's apprehension order and assessment order are terminated, and the client must be immediately discharged from a compassionate intervention facility:

- (a) a care plan hearing is not commenced within 72 hours of the client being apprehended or being admitted to a compassionate intervention facility, whichever occurs first, and the hearing has not been adjourned in response to an application under section 44(1) or deferred under section 46(2);
- (b) subject to subsection (2), a care plan hearing has not commenced within 17 days of the client's apprehension or admission to a compassionate intervention facility, whichever occurs first.

(2) A client's apprehension order and assessment order are not terminated under subsection (1)(b) if a care plan hearing is deferred under section 46(2).

Care plan order

48(1) If a care plan hearing panel determines that a care plan order should be issued, the hearing panel must issue a secure care plan order or a community-based care plan order.

(2) A secure care plan order may be effective for up to 3 months and may be renewed in accordance with section 52, 61 or 75.

(3) A community-based care plan order may be effective for up to 6 months and may be renewed in accordance with section 54, 61 or 75.

(4) A care plan order must have the content prescribed by the regulations and must be in the form established by the Minister.

(5) A care plan order must

- (a) identify the client who is the subject of the order by setting out

- (i) the client's full name, date of birth and last known address if that information is available, or
 - (ii) other information that accurately identifies the client,
- (b) specify whether the order is a secure care plan order or a community-based care plan order and, in the latter case, whether the treatment will be bed-based or non-bed-based treatment,
- (c) provide reasons for the order, including
 - (i) how the information and evidence before the hearing panel demonstrates that the client is likely to cause harm as defined in section 2 without intervention, and
 - (ii) why the selected form of treatment is considered appropriate,
- (d) identify the following rights of the client who is the subject of the order:
 - (i) the right to legal counsel;
 - (ii) the right to contact the office of the Mental Health Patient Advocate;
 - (iii) the right to refuse treatment, subject to section 80(2);
 - (iv) the right to communicate with any person, subject to operational and safety considerations;
 - (v) the right to engage in activities that support the client's ability to meet the client's basic needs of daily living, subject to operational and safety considerations;
 - (vi) the right to request the review of a care plan order;
 - (vii) the right to appeal a care plan order;
 - (viii) other rights prescribed by the regulations,and
- (e) identify the applicable authorities referred to in section 49.

(6) If the client is a minor, a secure care plan order must specify that the order must be carried out in a compassionate intervention facility designated as a facility for minors.

(7) The Minister may clarify the scope of any right referred to in this section in the regulations.

Authority provided by care plan order

49(1) A secure care plan order is sufficient authority

- (a) for the medical director to detain the client who is the subject of the care plan order at a compassionate intervention facility for the period specified in the order,
- (b) for a treatment team, subject to the client's right to refuse treatment, to
 - (i) provide treatment in accordance with the order,
 - (ii) perform the assessments the treatment team considers necessary to prepare progress reports and discharge reports, and
 - (iii) observe, control and take care of the client,
- (c) for a police officer or peace officer to
 - (i) detain the client,
 - (ii) convey the client
 - (A) to the compassionate intervention facility where the client will be held under the secure care plan order, and
 - (B) to and from other locations in accordance with an order granting the client a leave of absence from a compassionate intervention facility,
 - (iii) use reasonable force to detain and convey the client, and
 - (iv) observe, control and take care of the client being detained or conveyed,

and

- (d) for a police officer to
 - (i) re-apprehend an individual who is absent without leave from a compassionate intervention facility,
 - (ii) convey the client to the compassionate intervention facility,
 - (iii) use reasonable force to re-apprehend and convey the client, and
 - (iv) observe, control and take care of the client being re-apprehended and conveyed.

(2) A community-based care plan order is sufficient authority

- (a) for a treatment team with a community-based service provider, subject to the client's right to refuse treatment, to
 - (i) provide treatment in accordance with the order, and
 - (ii) perform the assessments the treatment team considers necessary to prepare progress reports and discharge reports,
- (b) for a police officer or peace officer to
 - (i) detain the client,
 - (ii) convey the client to a community-based service provider facility where the client will receive treatment in accordance with the order,
 - (iii) use reasonable force to detain and convey the client, and
 - (iv) observe, control and take care of the client being detained or conveyed,

and

- (c) for a police officer to
 - (i) re-apprehend a client who is absent without leave from a bed-based community-based service provider facility,

- (ii) convey the client to the community-based service provider facility,
- (iii) use reasonable force to re-apprehend and convey the client, and
- (iv) observe, control and take care of the client being re-apprehended and conveyed.

(3) Additional authorities that are provided by a care plan order may be established in the regulations.

Transfer of Care

Transfer of care

50(1) On the issuance of a secure care plan order under section 48, the medical director will determine which compassionate intervention facility the care plan order will be carried out in.

(2) On the issuance of a community-based care plan order, the medical director will determine which community-based service provider will provide treatment to a client in accordance with the order after the medical director has

- (a) considered the assessment report relating to the client, and
- (b) consulted the client and any guardian of the client.

(3) As soon as practicable after a care plan order has been issued under section 48 or amended under sections 52(8)(b), 54(9)(b) or 75(6)(b) in a way that results in the need to transfer a client, the treatment team must coordinate any conveyance and any other transition required to transfer the client from or to a compassionate intervention facility or a community-based service provider facility, as the case may be.

(4) To facilitate the transition of the client, the medical director must provide the treatment team with a copy of the care plan order for the client.

Progress and Discharge Reports

Progress and discharge reports

51(1) The treatment team for a client must prepare and submit the following reports to the medical director and statutory director at least 72 hours before a care plan review hearing or the submission

of an application for a discharge order under section 64, as the case may be:

- (a) a progress report, in the case of a care plan review hearing;
- (b) a discharge report, in the case of an application for a discharge order.

(2) The reports referred to in subsection (1) must be prepared and submitted in accordance with the regulations.

(3) In preparing a discharge report, the treatment team must include information respecting whether the client is likely to cause harm as defined in section 2 without intervention, including information respecting the factors established in section 3 or 4, as applicable.

(4) The statutory director must provide the progress report or discharge report to the Commission, the client, the client's legal counsel, if any, and any guardian of the client as soon as practicable and, in any case, at least 48 hours before a care plan review hearing.

Non-compliance Reviews

Non-compliance with secure care plan order

52(1) If a client under a secure care plan order is absent without leave, the treatment team providing treatment to the client must submit a non-compliance report to the medical director in the form established by the Minister.

(2) The treatment team must prepare and submit a progress report, together with the non-compliance report.

(3) On receiving the reports referred to in subsection (2), the medical director must

- (a) submit the reports to the statutory director and the Commission, and
- (b) request that the Commission conduct a non-compliance review.

(4) On receiving a request for a non-compliance review, the Commission must select a member of the Commission, who must

be a lawyer member selected in accordance with the regulations, to conduct a non-compliance review.

(5) In conducting a non-compliance review, the reports referred to in subsection (2) shall be treated as an application for an assessment order under section 25(1) and (2), except that the lawyer member must assess whether the client is likely to cause harm as defined in section 2 without intervention based on a review of the reports referred to in subsection (2) and any information or answers provided by a person under section 8(3).

(6) Section 26 applies, with necessary modification, to a non-compliance review.

(7) If a new apprehension order and assessment order are issued as a result of a non-compliance review, the care plan order relating to the client is terminated.

(8) If a new apprehension order and assessment order are not issued, the lawyer member conducting the non-compliance review may

- (a) uphold the care plan order respecting the client,
- (b) amend the care plan order in any manner the member considers suitable,
- (c) renew the care plan order for up to 3 additional months, or
- (d) terminate the care plan order.

(9) In making a decision under subsection (8), the lawyer member must consider whether a secure care plan order, bed-based community-based care plan order or non-bed-based community-based care plan order would provide effective treatment to the client in the least restrictive and least intrusive manner.

(10) After a decision is made under this section, the Commission must

- (a) retain the record of proceedings in accordance with the regulations, and
- (b) provide a copy of the record of proceedings to the statutory director.

Reasons and notice of decision

53(1) The Commission must prepare written reasons for the Commission's decision under section 52 and provide those reasons to the client, the client's legal counsel, if any, any guardian of the client and the statutory director as soon as practicable.

(2) If an apprehension order and assessment order have been issued under section 52, the statutory director must, as soon as practicable, provide the client, the client's legal counsel, if any, and any guardian of the client with details on the next steps that will occur.

(3) The statutory director must notify the medical director of the outcome of the non-compliance review.

(4) If the Commission issues an apprehension order and assessment order, renews a care plan order or issues an amended care plan order, the Commission must provide a copy of the apprehension order and assessment order, the renewed care plan order or the amended care plan order to the statutory director as soon as practicable.

(5) The statutory director must, as soon as practicable, provide a copy of the assessment order or the renewed or amended care plan order to the client, the client's legal counsel, if any, any guardian of the client and the medical director.

(6) The statutory director must, as soon as practicable, provide a copy of the apprehension order to police officers and peace officers the Commission considers appropriate.

Non-compliance with community-based care plan order

54(1) A designated supervisor must report any substantial non-compliance with a community-based care plan order by a client receiving treatment from the designated supervisor's community-based service provider to the statutory director by submitting a non-compliance report in the form established by the Minister.

(2) Without limiting the generality of subsection (1), the following shall be considered substantial non-compliance that must be reported in a non-compliance report:

- (a) client behaviour that causes serious disruption or discord in a community-based service provider facility and that

leads the community-based service provider to require the client to leave the facility for the safety of others;

- (b) a lack of reasonable efforts to meaningfully participate in the services provided by the community-based service provider under the care plan order that leads to a lack of progress in achieving measurable improvements in respect of the community-based service provider's treatment program and the factors described in section 3 or 4, as the case may be;
- (c) an absence without leave from bed-based treatment.

(3) The designated supervisor must submit one of the following reports, prepared by the treatment team, together with the report of substantial non-compliance:

- (a) a progress report, if the treatment team recommends that the care plan order remain in place;
- (b) a discharge report, if the treatment team recommends the termination of the care plan order.

(4) On receiving the reports referred to in subsection (3) from a designated supervisor, the statutory director must submit the reports to the Commission and request the Commission to conduct a non-compliance review.

(5) On receiving a request for a non-compliance review, the Commission must select a member of the Commission, who must be a lawyer member selected in accordance with the regulations, to conduct a non-compliance review.

(6) In conducting a non-compliance review, the reports referred to in subsection (3) shall be treated as an application for an assessment order under section 25(1) and (2), except that the lawyer member must assess whether the client is likely to cause harm as defined in section 2 without intervention based on a review of the reports referred to in subsection (3) and any information or answers provided by a person under section 8(3).

(7) Section 26 applies, with necessary modification, to a non-compliance review.

(8) If a new apprehension order and assessment order are issued as a result of a non-compliance review, the care plan order relating to the client is terminated.

(9) If a new apprehension order and assessment order are not issued, the lawyer member conducting the non-compliance review may

- (a) uphold the care plan order respecting the client,
- (b) amend the care plan order in any manner the lawyer member considers suitable, but not in a manner that changes
 - (i) a community-based care plan order into a secure care plan order, or
 - (ii) a non-bed-based community-based care plan order into a bed-based community-based care plan order,
- (c) renew the care plan order for up to 6 additional months, or
- (d) terminate the care plan order.

(10) In making a decision under subsection (9), the lawyer member must consider whether a secure care plan order, bed-based community-based care plan order or non-bed-based community-based care plan order would provide effective treatment to the client in the least restrictive and least intrusive manner.

(11) If the lawyer member conducting the non-compliance review believes that a non-bed-based community-based care plan order should be changed to a bed-based community-based care plan order, the lawyer member must advise the Commission and the Commission shall conduct a care plan hearing in accordance with this Act.

(12) If a care plan order is terminated under subsection (9)(d), the client must be immediately discharged from the care of the community-based service provider.

(13) After a decision is made under this section, the Commission must

- (a) retain the record of proceedings in accordance with the regulations, and

- (b) provide a copy of the record of proceedings to the statutory director.

Reasons and notice of decision

55(1) The Commission must prepare written reasons for the Commission's decision under section 54 and provide those reasons to the client, the client's legal counsel, if any, any guardian of the client and the statutory director as soon as practicable.

(2) If an apprehension order and assessment order have been issued under section 54, the statutory director must, as soon as practicable, provide the client, the client's legal counsel, if any, and any guardian of the client with details on the next steps that will occur.

(3) The statutory director must notify the community-based service provider of the outcome of the non-compliance review.

(4) If the Commission issues an apprehension order and assessment order, renews a care plan order or issues an amended care plan order, the Commission must provide a copy of the apprehension order and assessment order, the renewed care plan order or the amended care plan order to the statutory director as soon as practicable.

(5) The statutory director must, as soon as practicable, provide a copy of the assessment order, the renewed care plan order or the amended care plan order to the client, the client's legal counsel, if any, any guardian of the client, the medical director and, in the case of an amended care plan order, the designated supervisor of the community-based service provider that will provide treatment to the client under the amended order.

(6) The statutory director must, as soon as practicable, provide a copy of the apprehension order to police officers and peace officers the Commission considers appropriate.

Care Plan Review Hearings

Care plan review hearing panel

56(1) The Commission must convene a care plan review hearing panel of 3 members of the Commission in accordance with the regulations, if any, to review a care plan order issued under this Act

- (a) at 6-week intervals from the date of issuance of a care plan order, or
 - (b) to consider a request for review submitted and not rejected under section 57.
- (2) A care plan review hearing panel must include
- (a) a lawyer member, who will be the chair of the panel,
 - (b) a physician member, and
 - (c) a public member.
- (3) The regulations may prescribe Commission members who are ineligible to serve as a member of a care plan review hearing panel.
- (4) A client may be represented by legal counsel in care plan review hearing proceedings.

Requests for review

- 57(1)** A client, guardian of a client or treatment team may request a review of a care plan order by submitting an application to the statutory director in the form established by the Minister if the client's circumstances have changed.
- (2) On receiving an application for a review under subsection (1), the statutory director must, as soon as practicable, submit the request to the Commission, and a member of the Commission, who must be a lawyer member selected in accordance with the regulations, must review the application.
- (3) The lawyer member reviewing the application may reject the request for a review if
- (a) the request is frivolous, vexatious or made in bad faith, or
 - (b) the client's circumstances have not changed.
- (4) Whether a client's circumstances have changed must be determined in accordance with the regulations, if any.
- (5) The lawyer member must determine whether the request for a review will be rejected within 72 hours of the Commission receiving the request for review.

(6) The Commission must prepare written reasons for the Commission's decision and provide those reasons to the statutory director as soon as practicable.

(7) The statutory director must, as soon as practicable, provide the written reasons for the Commission's decision to the person who requested the review.

Notice of hearing and disclosure

58(1) Subject to an adjournment under section 60, a care plan review hearing panel must commence a care plan review hearing as soon as practicable unless an application has been rejected under section 57.

(2) The Commission must, at least 72 hours before a care plan review hearing, serve notice of the date, time and place of the hearing on

- (a) the client,
- (b) the client's legal counsel, if any,
- (c) any guardian of the client, and
- (d) the statutory director.

(3) The medical director or designated supervisor of the community-based service provider providing treatment to the client under the care plan order, as the case may be, must be notified of the date, time and place of a care plan review hearing at least 72 hours before the care plan review hearing.

(4) As soon as practicable before a care plan review hearing, the statutory director must provide the record of proceedings from the care plan hearing that led to the care plan order that is being reviewed, the recording of the care plan hearing and the reasons for the care plan order being reviewed to the client, the client's legal counsel, if any, and any guardian of the client.

(5) If reasonable efforts have been made to serve or notify the persons listed in subsections (2) and (3), a care plan review hearing panel may commence a hearing despite

- (a) service on a person not occurring in accordance with subsection (2), or

(b) notice not being provided under subsection (3).

(6) If reasonable efforts have been made to provide the client, the client's legal counsel, if any, and any guardian of the client with the record of proceedings, recording and reasons referred to in subsection (4), a care plan review hearing panel may commence a hearing despite those things not being provided.

Hearing rules

59(1) Subject to subsections (2) and (3), no person has a right to attend a care plan review hearing without the consent of the care plan review hearing panel chair.

(2) Subject to subsection (5), the client may

- (a) be present throughout the hearing,
- (b) be represented by legal counsel,
- (c) make representations to the hearing panel, including respecting the client's preferred outcome of the hearing,
- (d) present evidence at the hearing, and
- (e) cross-examine any person who presents evidence at a hearing.

(3) Subject to subsection (5), a guardian of the client may

- (a) be present throughout the hearing, and
- (b) make representations respecting the guardian's preference for the outcome of the hearing.

(4) Subject to the regulations, the hearing panel may permit others to participate in the hearing to the extent determined by the hearing panel.

(5) A care plan review hearing panel may limit any person's presence or participation provided for under subsection (2) or (3) on a case-by-case basis in any manner the panel considers suitable, but if the panel does so, the panel must provide reasons for doing so to the person whose presence or participation is being limited.

(6) Care plan review hearings must be conducted in person unless a care plan review hearing panel determines that this is impractical,

in which case the hearing panel may conduct a hearing by telephone, video conference or any other means of telecommunication.

Adjournments

60(1) A client may apply for the adjournment of a care plan review hearing in accordance with the regulations.

(2) A care plan review hearing panel may consider and decide an application for the adjournment of a hearing based on submissions by the client.

(3) A care plan review hearing panel may, on its own motion, adjourn a care plan review hearing for a specified time if the panel determines that the adjournment is necessary in accordance with the principles of procedural fairness and natural justice.

(4) A care plan review hearing panel may adjourn a hearing for a period of no more than 7 days, which may be extended for one additional period of no more than 7 days.

(5) A care plan review hearing panel must

- (a) issue written reasons respecting the adjournment of a hearing,
- (b) provide the reasons to the client, the client's legal counsel, if any, any guardian of the client and the statutory director, and
- (c) notify the client, the client's legal counsel, if any, any guardian of the client, the statutory director and the medical director or designated supervisor, as the case may be, when the hearing will resume.

Review decision by panel

61(1) A care plan review hearing panel must make a decision in accordance with this section.

(2) The hearing panel must consider

- (a) the progress report provided under section 51(4),

- (b) any representations by and evidence from the client and any guardian of the client,
- (c) any preferences of the client and any guardian of the client, and
- (d) any other representations or evidence that the panel considers relevant and material.

(3) If a care plan review hearing panel determines, on a balance of probabilities, that a client is no longer likely to cause harm as defined in section 2 without intervention, the panel must issue a discharge order and the client must be immediately discharged from the compassionate intervention facility or from the care of the community-based service provider providing treatment to the client, as the case may be.

(4) If a care plan review hearing panel determines, on a balance of probabilities, that a client is still likely to cause harm as defined in section 2 without intervention, the panel may

- (a) uphold the care plan order respecting the client,
- (b) amend the care plan order in any manner the panel considers suitable, or
- (c) renew the care plan order for up to 3 additional months in the case of a secure care plan order or up to 6 additional months in the case of a community-based care plan order.

(5) In making a decision under subsection (4), the care plan review hearing panel must consider whether a secure care plan order, bed-based community-based care plan order or non-bed-based community-based care plan order would provide effective treatment to the client in the least restrictive and least intrusive manner.

(6) After the care plan review hearing panel makes a decision, the Commission must

- (a) retain the record of proceedings and the recording of the hearing in accordance with the regulations, and
- (b) provide a copy of the record of proceedings to the statutory director.

Notice of decision and reasons

62(1) The Commission must, as soon as practicable, prepare written reasons for the Commission's decision under section 61 and provide those to the statutory director.

(2) The statutory director must, as soon as practicable,

- (a) notify the client, the client's legal counsel, if any, and any guardian of the client of the Commission's decision under section 61,
- (b) provide the Commission's written reasons to the client, the client's legal counsel, if any, and any guardian of the client, and
- (c) if the care plan order relating to the client has been amended or renewed, provide the client, the client's legal counsel, if any, any guardian of the client and the statutory director with a copy of the amended or renewed care plan order.

(3) The statutory director must, as soon as practicable, notify the medical director or the designated supervisor of a community-based service provider providing treatment to the client, as the case may be, of the Commission's decision.

Review of minor's care plan order

63 A care plan order relating to a minor who will become an adult during the period in which the order will be in effect must be reviewed in accordance with the regulations.

Discharge

Discharge applications

64(1) A treatment team for a client who is the subject of a care plan order must apply, in accordance with the regulations, for a discharge order by submitting an application to the statutory director and the medical director or the designated supervisor of the community-based service provider providing treatment to the client under the care plan order, as the case may be,

- (a) if the treatment team has reasonable grounds to believe that the client is no longer likely to cause harm as defined in section 2 without intervention, or

- (b) if
 - (i) the client has medical needs requiring medical care exceeding the care available in the compassionate intervention facility or from the community-based service provider providing treatment to the client, as the case may be,
 - (ii) the client has been conveyed to a hospital or other facility to receive the care the client needs, and
 - (iii) the treatment team does not expect the client to return from the hospital or other facility before the expiry of the client's care plan order.

(2) An application for a discharge order must contain a discharge report prepared in accordance with the regulations.

(3) On receiving an application under subsection (1), the statutory director must forward the application and the discharge report to the Commission.

(4) The statutory director must provide the application and discharge report to the client, the client's legal counsel, if any, and any guardian of the client as soon as practicable and, in any case, at least 48 hours before the consideration of an application for a discharge order.

Review of application by lawyer member

65(1) A member of the Commission, who must be a lawyer member selected in accordance with the regulations, must review an application for a discharge order and make a decision under this section within 72 hours of the application being received.

(2) When making a decision on whether to issue a discharge order, the lawyer member must

- (a) consider the treatment team's application and discharge report, and
- (b) consult with any guardian of the client, if the client is a minor.

(3) The lawyer member may consider any other information the lawyer member considers necessary.

(4) If the lawyer member determines, on a balance of probabilities, that the client is no longer likely to cause harm as defined in section 2 without intervention, the Commission must issue a discharge order.

(5) If the lawyer member determines, on a balance of probabilities, that the client is still likely to cause harm as defined in section 2 without intervention, the care plan order relating to the client remains in place.

(6) If a discharge order is issued

- (a) any existing order relating to the client is terminated, and
- (b) the client must be immediately discharged from the compassionate intervention facility or from the care of the community-based service provider providing treatment to the client, as the case may be.

(7) The Commission must, as soon as practicable,

- (a) notify the client or former client, the client or former client's legal counsel, if any, any guardian of the client or former client, the statutory director and the treatment team of the Commission's decision,
- (b) prepare written reasons for the Commission's decision, and
- (c) provide the Commission's written decision to the client or former client, the client or former client's legal counsel, if any, any guardian of the client or former client, the statutory director and the medical director or the designated supervisor of the community-based service provider providing treatment to the client, as the case may be.

(8) Subject to resource availability at the compassionate intervention facility or community-based service provider facility, as the case may be, a former client may, on discharge, choose to remain at the compassionate intervention facility or at a community-based service provider facility where the former client was receiving bed-based treatment to allow the former client to continue receiving treatment and to support transition planning.

(9) After a decision is made under this section, the Commission must

- (a) retain the record of proceedings in accordance with the regulations, and
- (b) provide a copy of the record of proceedings to the statutory director.

Discharge in other circumstances

66(1) On the expiry of a client's care plan order, the client must be immediately discharged from the compassionate intervention facility or the care of a community-based service provider, as the case may be.

(2) A client may be discharged in other circumstances in accordance with the regulations.

(3) Subject to resource availability at the compassionate intervention facility or community-based service provider facility, as the case may be, a former client may, on discharge, choose to remain at the compassionate intervention facility or at a community-based service provider facility where the former client was receiving bed-based treatment to allow the former client to continue receiving treatment and to support transition planning.

Post-discharge plan

67(1) To ensure continuity of support for a former client after discharge, before submitting an application under section 64, a treatment team must prepare a post-discharge plan that provides recommendations for ongoing treatment and care of the client after discharge.

(2) A post-discharge plan must be developed in collaboration with any guardian of the client.

(3) The post-discharge plan for a client must be provided to the client, any guardian of the client and the statutory director as soon as practicable after a discharge order has been issued.

Appeals

Right to appeal

68(1) A client or guardian of a client may, within 30 days of the decision or order being issued, file an appeal with the Commission of

- (a) a care plan order, or
- (b) a decision or order that
 - (i) upholds a care plan order,
 - (ii) renews a care plan order, or
 - (iii) amends a care plan order.

(2) An appeal must be filed in accordance with the regulations.

(3) The statutory director must, as soon as practicable, provide the client, the client's legal counsel, if any, and any guardian of the client with

- (a) the record of proceedings from the hearing or process that led to the decision or order being appealed,
- (b) the recording, if any, of the hearing or process that led to the decision or order being appealed, and
- (c) the reasons for the decision or order being appealed.

(4) A client may be represented by legal counsel in the appeal proceedings.

Preliminary review

69(1) A member of the Commission, who must be a lawyer member selected in accordance with the regulations, must review an appeal filed under section 68 and, within 72 hours of the appeal being filed, must determine

- (a) whether the appeal is frivolous, vexatious or made in bad faith, and
- (b) whether there is a question of fact or law that is appropriate for the Commission to determine on appeal.

(2) If the lawyer member determines that an appeal is frivolous, vexatious or made in bad faith, or that there is no question of fact or law that is appropriate for the Commission to determine on appeal, the appeal must be dismissed.

Appeal roster

70(1) The Lieutenant Governor in Council shall establish a roster of Commission members in accordance with the regulations, who may be selected as members of an appeal panel under section 71.

(2) The Minister may establish the following in the regulations:

- (a) responsibilities of appeal roster members;
- (b) rules respecting termination of members of the appeal roster and disqualification from holding office.

Appeal panels

71(1) Unless an appeal has been dismissed under section 69(2), an appeal panel of 3 members of the appeal roster must be convened in accordance with the regulations, if any, within 7 days of an appeal being filed under this Act to consider an appeal.

(2) An appeal panel must include

- (a) a lawyer member, who will be the chair of the panel,
- (b) a physician member, and
- (c) a public member.

(3) The regulations may prescribe Commission members who are ineligible to serve as a member of an appeal panel.

Notice

72(1) The Commission must, at least 48 hours before an appeal hearing, serve notice of the date, time and place of an appeal on

- (a) the client,
- (b) the client's legal counsel, if any,
- (c) any guardian of the client, and

(d) the statutory director.

(2) The medical director or designated supervisor of the community-based service provider providing treatment to the client under the care plan order, as the case may be, must be notified of the date, time and place of an appeal hearing at least 48 hours before the appeal hearing.

(3) If reasonable efforts have been made to serve or notify the persons listed in subsections (1) and (2), an appeal panel may commence an appeal hearing despite

- (a) service on a person not occurring in accordance with subsection (1), or
- (b) notice not being provided under subsection (2).

Hearing rules

73(1) Subject to subsections (2) and (3), no person has a right to attend an appeal hearing without the consent of the appeal panel chair.

(2) Subject to subsection (4), a client may

- (a) be present throughout the hearing,
- (b) be represented by legal counsel,
- (c) make oral representations to the hearing panel, including the client's preferred outcome of the hearing, and
- (d) present new evidence to the hearing panel if permitted under section 75(5).

(3) Subject to subsection (4), a guardian may,

- (a) if the guardian is the appellant,
 - (i) be present throughout the hearing, and
 - (ii) make oral representations to the hearing panel, including the guardian's preferred outcome of the hearing,

and

(b) if the guardian is not the appellant, be present throughout the hearing.

(4) An appeal panel may limit any person's presence or participation provided for under subsection (2) or (3) on a case-by-case basis in any manner the panel considers suitable, but if the panel does so, the panel must provide reasons for doing so to the person whose presence or participation is being limited.

Adjournments

74(1) An appeal panel may adjourn an appeal hearing on the application of the client.

(2) An appeal panel may consider and decide an application for the adjournment of a hearing based on submissions by the client.

(3) Subject to the regulations, an appeal panel may, on its own motion, adjourn an appeal hearing in exigent circumstances that make the proper functioning of the hearing impossible or in other circumstances established in the regulations.

(4) An appeal panel may adjourn a hearing for a period of no more than 7 days, which may be extended for one additional period of no more than 7 days.

(5) An appeal panel must

- (a) issue a written decision with reasons respecting an application for the adjournment of a hearing and provide those reasons to the client, the client's legal counsel, if any, any guardian of the client and the statutory director, and
- (b) notify the client, the client's legal counsel, if any, any guardian of the client, the statutory director and the medical director or designated supervisor of the community-based service provider providing treatment to the client under the care plan order, as the case may be, when the hearing will recommence.

Decision making by panel

75(1) An appeal panel must make a decision within 72 hours of the conclusion of an appeal hearing.

(2) The standard of review to be applied by the appeal panel when making a decision under this section is reasonableness.

(3) Subject to subsection (5), the panel may only consider the following in making a decision under this section:

- (a) the record of proceedings from the hearing or process that led to the decision or order being appealed;
- (b) the recording, if any, of the hearing or process that led to the decision or order being appealed;
- (c) the reasons for the decision or order being appealed.

(4) Subject to subsection (5), no new evidence may be submitted in an appeal hearing.

(5) On application by the client, an appeal panel may accept and consider new evidence from the client in an appeal hearing.

(6) An appeal panel may

- (a) uphold the decision or order being appealed,
- (b) amend the decision or order in any manner the appeal panel considers suitable,
- (c) renew a care plan order for up to 3 additional months in the case of a secure care plan order or up to 6 additional months in the case of a community-based care plan order, or
- (d) quash the decision or terminate the order being appealed.

(7) In making a decision under subsection (6), an appeal panel must consider whether a secure care plan order, bed-based community-based care plan order or non-bed-based community-based care plan order would provide effective treatment to the client in the least restrictive and least intrusive manner.

(8) If a care plan order is terminated by an appeal panel, the client must be immediately discharged from the compassionate intervention facility or from the care of the community-based service provider, as the case may be, that is providing treatment to the client under the care plan order.

(9) Subject to resource availability at the compassionate intervention facility or community-based service provider facility, as the case may be, a former client may, on discharge, choose to remain at the compassionate intervention facility or at a community-based service provider facility where the former client was receiving bed-based treatment to allow the former client to continue receiving treatment and to support transition planning.

(10) After the appeal panel makes a decision, the Commission must retain the record of proceedings and the recording of the hearing in accordance with the regulations.

Notice and reasons

76(1) The Commission must prepare written reasons for the Commission's decision under section 75 and must provide the Commission's decision and written reasons to the client, the client's legal counsel, if any, any guardian of the client and the statutory director as soon as practicable after the decision is made.

(2) If a decision or order is amended or renewed under section 75, the Commission must, as soon as practicable, provide a copy of the amended or renewed decision or order to the client, the client's legal counsel, if any, any guardian of the client, the statutory director and the medical director or the designated supervisor of the community-based service provider providing treatment to the client, as the case may be.

Finality of decisions

77(1) Appeal panel decisions are final, subject to judicial review.

(2) The client or a guardian of the client may commence a judicial review of an appeal panel decision in the Court of King's Bench.

(3) A decision of an appeal panel remains in effect pending the outcome of a judicial review unless stayed by the Court of King's Bench.

General

Medical care before admission

78 If a client has medical needs requiring medical care exceeding the care available in a compassionate intervention facility after a client has been apprehended but before the client has been conveyed to a compassionate intervention facility, the client must

be conveyed to a hospital or other facility to receive the medical care the client needs before being conveyed to a compassionate intervention facility.

Duty to remain and leaves of absence

79(1) A client at a compassionate intervention facility is required to remain within the compassionate intervention facility unless otherwise permitted under this Act to leave the facility.

(2) A client of a community-based service provider who is receiving bed-based treatment is required to remain at the community-based service provider facility unless otherwise permitted under this Act to leave the facility.

(3) A leave of absence may be applied for, granted, amended, revoked or extended in accordance with the regulations.

(4) A leave of absence provides the authorities established by the regulations.

(5) If a leave of absence is granted, a police officer or peace officer may convey the client to another location in accordance with the leave of absence and then back to the compassionate intervention facility.

(6) If a client fails to return to a compassionate intervention facility or a community-based service provider facility after a leave of absence has expired, this shall be treated as an absence without leave under section 52 or substantial non-compliance with a community-based care plan order under section 54, as the case may be.

Right to refuse treatment

80(1) Subject to subsection (2), a client who has capacity has the right to refuse treatment.

(2) A client does not have the right to refuse the following forms of treatment:

- (a) to be observed, monitored and assessed by a treatment team;
- (b) to be provided with clinical advice;

- (c) subject to the regulations, to be administered a Schedule 1 drug within the meaning of the *Pharmacy and Drug Act* or any other drug specified in the regulations, if
 - (i) authorized by the Commission in the client's assessment order or care plan order,
 - (ii) administered by a regulated member of a regulated profession under the *Health Professions Act* that is authorized under that Act to administer the drug, and
 - (iii) administered for the purpose of treating the client's substance use or addiction.

(3) Notwithstanding the requirements for informed consent in standards of practice of regulated professions established under section 3(1) of the *Health Professions Act*, a regulated member of a regulated profession under the *Health Professions Act* may provide treatment without consent in accordance with this section, including administering a drug as authorized by the Commission under this section.

Substitute decision makers

81(1) If a treatment team determines that an adult client lacks capacity, the following may make treatment decisions on behalf of the client, subject to section 80(2) and subsection (5):

- (a) the agent of a client as defined in the *Personal Directives Act*;
- (b) the guardian of the client;
- (c) an adult family member of the client, in a case where a client does not have an agent or guardian or the agent or guardian
 - (i) cannot be contacted despite reasonable efforts being made, or
 - (ii) is unable, unwilling or refusing to make a decision on behalf of the client;
- (d) in a case where a client does not have a person identified in clauses (a), (b) or (c), a Public Guardian under the *Adult Guardianship and Trusteeship Act*.

(2) For the purposes of subsection (1), the person who may make a treatment decision on behalf of an adult client must be determined by applying the order of the persons listed in subsection (1)(a) to (d).

(3) For the purposes of subsection (1)(c), the family member that may make a treatment decision on behalf of an adult client must be determined by applying the following order:

- (a) the adult's guardian, if any;
- (b) the adult's spouse or adult interdependent partner;
- (c) a child of the adult;
- (d) a parent of the adult;
- (e) a grandparent of the adult;
- (f) a grandchild of the adult;
- (g) a person designated under section 18 as a family member of the adult.

(4) Unless a treatment team has determined that a minor has capacity, the following may make treatment decisions on behalf of a minor, subject to section 80(2) and subsection (5):

- (a) a guardian of the minor;
- (b) a person specified in the regulations.

(5) A person may not make a treatment decision on behalf of a client unless the person confirms in writing that

- (a) the person is at least 18 years of age,
- (b) the person is willing to assume the responsibility of making the treatment decision on behalf of the client, and
- (c) the person has been in contact with the client with regularity over the preceding 12-month period, except in the case of the Public Guardian.

(6) A person making a treatment decision on behalf of a client must make the decision in accordance with what the person believes to be in the best interest of the client by considering

- (a) the likelihood of the client's substance use or addiction issues improving as a result of the treatment,
- (b) the anticipated benefits and risks of the treatment, and
- (c) other treatment options.

(7) If a person making a treatment decision on behalf of the client does not consent to a treatment, the treatment must not be provided to the client unless the treatment cannot be refused under section 80(2).

Control

82 The authority to control a client under this Act is authority to control the client without the client's consent to the extent necessary to prevent serious bodily harm to the client 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 client.

Rules, standards and codes

83(1) Rules, standards and codes that apply to treatment teams, compassionate intervention facility service providers and community-based service providers may be established in the regulations.

(2) A treatment team, compassionate intervention facility service provider and community-based service provider must comply with any rules, standards or codes that apply to them.

Role of Mental Health Patient Advocate

84(1) The Mental Health Patient Advocate must assist a client and any guardian of a client who requests the Mental Health Patient Advocate's services with receiving the following information from the treatment team:

- (a) the assessment order or care plan order that applies to the client;
- (b) the reasons for an assessment order or care plan order that applies to the client;

- (c) the client's rights as referred to in sections 37 and 48(5)(d).
- (2)** The Mental Health Patient Advocate may require the treatment team to provide an assessment order or care plan order, or the reasons for an assessment order or care plan order, to the Mental Health Patient Advocate or to a client or guardian of a client.
- (3)** The Mental Health Patient Advocate may support a client or a guardian of the client under this Act by reviewing the information referred to in subsection (1) with the client or guardian and providing the client or guardian with guidance relating to that information.
- (4)** A client, guardian of a client or any other person with reasonable grounds to be concerned about the rights of a client and the care being provided to a client may submit a complaint to the Mental Health Patient Advocate.
- (5)** The Mental Health Patient Advocate may investigate a complaint or, with or without a complaint, the activities of a compassionate intervention facility service provider, community-based service provider, the medical director, a designated supervisor or a treatment team to ensure the powers, duties and functions of these persons are being carried out in accordance with this Act.
- (6)** For the purposes of an investigation,
 - (a) the Mental Health Patient Advocate may exercise powers established by the regulations, and
 - (b) any person must make any information referred to in the regulations available to the Mental Health Patient Advocate.
- (7)** On completing an investigation, the Mental Health Patient Advocate must prepare a report in accordance with the regulations and must submit that report to the persons prescribed by the regulations, in the circumstances prescribed by the regulations.
- (8)** The Minister may exercise the powers established by the regulations in response to a report prepared by the Mental Health Patient Advocate.

(9) The Mental Health Patient Advocate must submit an annual report to the Minister responsible for this Act as soon as possible after the Government of Alberta fiscal year summarizing the Mental Health Patient Advocate's activities under this Act during the prior year.

(10) The Mental Health Patient Advocate may exercise other powers and perform other duties or functions established by the regulations.

Rules of evidence

85 A hearing panel, review panel or appeal panel under this Act is not bound by the rules of evidence or any other law applicable to judicial proceedings and has the power to determine the admissibility, relevance and weight of evidence.

Recording proceedings

86 The Commission must record all care plan hearings, care plan review hearings and appeal hearings in accordance with the regulations.

Privacy, information and records

87(1) An applicant referred to in section 17(1)(b) or (c) may disclose individually identifying health information or personal information to the statutory director and the Commission without the consent of the individual the information relates to, for the purpose of submitting an application for an assessment order under this Act.

(2) The statutory director and Commission may indirectly collect individually identifying health information or personal information from a family member and an applicant referred to in section 17(1)(b) or (c) without the consent of the individual the information relates to, for the purpose of receiving and reviewing an application for an assessment order under this Act.

(3) The medical director, a treatment team and a designated supervisor may disclose individually identifying health information and personal information about a client without that client's consent to family members for the purpose of keeping family members informed of a client's medical status and status under this Act.

(4) The statutory director, the Commission, the medical director, a member of a treatment team or a designated supervisor may disclose individually identifying health information and personal information about a client without that client's consent to a police officer or peace officer for the purpose of enabling the police officer or peace officer to exercise the powers or to perform the duties or functions of a police officer or peace officer under this Act, and the police officer or peace officer may collect, use and disclose that information for those purposes.

(5) A person, an organization as defined in the *Personal Information Protection Act*, a public body as defined in the *Freedom of Information and Protection of Privacy Act* or a custodian as defined in the *Health Information Act* who is ordered by the Commission to produce records under section 32 must disclose the records to the Commission or statutory director, as specified in the order.

(6) If the Commission orders any person, organization as defined in the *Personal Information Protection Act*, public body as defined in the *Freedom of Information and Protection of Privacy Act* or custodian as defined in the *Health Information Act* to produce records to the statutory director under section 32(2), the statutory director may, for the purposes referred to in section 32(2), collect individually identifying health information and personal information respecting a client without the client's consent and disclose that information to the Commission.

(7) The statutory director, the Commission, the medical director, a treatment team, a designated supervisor, the Mental Health Patient Advocate, the Minister and the Minister's representative may indirectly or directly collect, use and disclose individually identifying health information and personal information about an individual without that individual's consent for the following purposes:

- (a) to enable each person to exercise that person's powers and perform that person's duties and functions under this Act respecting
 - (i) applications for an assessment order, apprehension orders, assessment orders, care plan hearings, care plan orders, review hearings, appeals, applications for discharge orders and discharge orders,
 - (ii) substance use and addiction assessments,

- (iii) assessment reports, progress reports, discharge reports, non-compliance reports and reports requested by the Minister,
 - (iv) information and answers provided by a person under section 8(3),
 - (v) records collected under section 32,
 - (vi) decisions of the Commission, and
 - (vii) records of proceedings;
- (b) for the purposes of oversight, compliance and monitoring under this Act;
- (c) in the case of the Mental Health Patient Advocate, to enable the Mental Health Patient Advocate to
- (i) exercise the Mental Health Patient Advocate's powers and perform the Mental Health Patient Advocate's duties and functions under section 84, and
 - (ii) provide information to the Minister in accordance with section 88(2);
- (d) for other purposes established in the regulations.

(8) The statutory director, the medical director, a designated supervisor and the Minister may disclose individually identifying health information and personal information about an individual without that individual's consent

- (a) to the Canadian Centre of Recovery Excellence established by section 2 of the *Canadian Centre of Recovery Excellence Act* for the purposes of research and evaluation by the Centre,
- (b) to a medical examiner under the *Fatality Inquiries Act* for the purposes of investigating a death under the *Fatality Inquiries Act*,
- (c) to the Court of King's Bench for the purposes of a judicial review under section 77, and

(d) for the purposes of reporting, compliance and monitoring under the *Mental Health Services Protection Act*.

(9) Information collected under the authority of this Act may only be used or disclosed as specified under or for the purposes of this Act.

(10) The provisions of this Act respecting the collection, use and disclosure of information and records are paramount to any inconsistent provisions in the *Health Information Act*.

Reporting and directions

88(1) The Commission must, in accordance with the regulations, submit a report to the Minister annually detailing the Commission's activities under this Act, including the number of applications received by the Commission, the number of orders issued and any other information required by the Minister.

(2) The Commission, a compassionate intervention facility service provider, a community-based service provider, the provincial health agency, the Mental Health Patient Advocate or any other person or entity directly or indirectly involved in the implementation of this Act must provide information to the Minister in accordance with the regulations.

Oversight and monitoring

89(1) The Minister may, in accordance with the regulations,

- (a) enter, without a warrant, any compassionate intervention facility or community-based service provider facility, or any other premises used by a compassionate intervention facility service provider or community-based service provider other than a private dwelling, for oversight, monitoring and compliance purposes, including for the purposes of conducting investigations under this Act, and
- (b) require any person to provide access to or otherwise assist the Minister with obtaining access to a premises.

(2) The Minister may exercise other oversight, monitoring and compliance powers, including investigative and enforcement powers, established by the regulations.

Protection from liability

90(1) Subject to subsection (2), the following persons are not liable for, and no action may be commenced against any of them for, anything done or not done in good faith and with reasonable care while carrying out duties or exercising powers under this enactment:

- (a) an applicant;
- (b) an employee of the Minister's department;
- (c) an employee of the provincial health agency;
- (d) a member of the Commission;
- (e) the medical director;
- (f) a member of a treatment team;
- (g) a physician providing services under this Act;
- (h) a community-based service provider or employee of a community-based service provider;
- (i) a compassionate intervention facility service provider;
- (j) the Mental Health Patient Advocate;
- (k) the Minister.

(2) Subsection (1) does not apply to an applicant who has

- (a) intentionally provided false information in an application, or
- (b) submitted an application for
 - (i) a frivolous, vexatious or malicious purpose, or
 - (ii) a purpose or in a manner that is otherwise an abuse of process.

Agreements with First Nations and Metis

91 The Minister may enter into an agreement with any person, including a band within the meaning of the *Indian Act* (Canada), in

which a power, duty or function under this Act, except that of the Minister, may be exercised in accordance with the agreement.

Regulations

Deficiency regulations

92(1) The Lieutenant Governor in Council may make regulations

- (a) remedying any confusion in the application of or any difficulty or impossibility in applying any provisions of this Act;
- (b) respecting matters coming under this Act that the Lieutenant Governor in Council considers
 - (i) are not provided for or are insufficiently provided for in this Act, or
 - (ii) are necessary or advisable in connection with the implementation of this Act.

(2) A regulation made under subsection (1) is repealed 5 years after the regulation comes into force or on the date specified in the regulation, whichever is earlier.

(3) The repeal of a regulation under subsection (2) does not affect anything done, incurred or acquired under the authority of the regulation before the repeal of the regulation.

(4) A regulation made under subsection (1) that is in force on or after the repeal of this section remains in force until it is repealed in accordance with subsection (2).

(5) A regulation may not be made under subsection (1) extending the 5-year period set out in subsection (2).

(6) This section is repealed 5 years after this section comes into force, but the repeal does not affect anything done, incurred or acquired under the authority of a regulation made under subsection (1) before the repeal of this section.

Ministerial regulations

93 The Minister may make regulations

- (a) prescribing certifications and programs for the purposes of sections 1(dd) and 12(2);
- (b) respecting the involvement of a guardian for the purposes of section 6(4);
- (c) respecting the powers, duties and functions of
 - (i) the Commission,
 - (ii) the statutory director,
 - (iii) the medical director, and
 - (iv) designated supervisors;
- (d) respecting the appointment or designation of designated supervisors;
- (e) respecting oversight by a designated supervisor under section 13(1);
- (f) respecting reporting by designated supervisors;
- (g) designating or respecting the designation of
 - (i) facilities or parts of facilities as compassionate intervention facilities, and
 - (ii) service providers as compassionate intervention service providers;
- (h) designating or respecting the designation of whether a compassionate intervention facility is a facility for adults or a facility for minors;
- (i) respecting eligibility to be designated as a community-based service provider;
- (j) designating community-based service providers and whether a community-based service provider is a bed-based community-based service provider or a non-bed-based community-based service provider;
- (k) respecting the operation of community-based service providers;

- (l) respecting reporting, oversight and monitoring requirements for compassionate intervention facility service providers and community-based service providers;
- (m) establishing and respecting the powers, duties and functions of treatment teams;
- (n) respecting the pre-application information session established by the Minister under section 17(7);
- (o) respecting rules and procedures for the conduct of the Commission's business and hearings, including respecting
 - (i) the receipt and administration of applications for assessment orders, applications to be designated as a family member, requests for the review of care plan orders, applications for a discharge order and appeals,
 - (ii) the form and content of confirmation that an applicant has completed a pre-application information session,
 - (iii) the review of applications for an assessment order by the statutory director,
 - (iv) how a member of the Commission will be selected for the purposes of considering an application to be designated as a family member, reviewing an application for an assessment order, reviewing an application for a discharge order, conducting a non-compliance review, reviewing an application for the review of a care plan order or reviewing an appeal,
 - (v) how members of the Commission will be selected for the purposes of convening panels under this Act,
 - (vi) how a duty to serve or notify an individual may be completed,
 - (vii) the content and submission of family impact statements,
 - (viii) participation in a hearing under sections 43(5) and 59(4), and

- (ix) hearing procedures generally;
- (p) respecting the deferral of the review of an application for an assessment order by the statutory director under section 20, including respecting
 - (i) the information respecting bed availability the statutory director must receive before deferring an application,
 - (ii) the circumstances in which the statutory director must proceed to review an application,
 - (iii) the order in which deferred applications must be reviewed, and
 - (iv) notice requirements respecting a deferral;
- (q) respecting the deferral of the review of an application for an assessment order by the statutory director under section 21, including respecting
 - (i) the circumstances in which an application may be deferred,
 - (ii) the circumstances in which the statutory director must proceed to review an application,
 - (iii) the maximum period in which an application may be deferred before being considered, and
 - (iv) what must occur if an application is not considered before the maximum period expires;
- (r) prescribing Commission members who are ineligible to review an assessment order application and respecting the replacement of those individuals;
- (s) respecting the deferral of the review of an application for an assessment order by the Commission under section 26, including respecting
 - (i) the circumstances in which an application may be deferred,
 - (ii) the circumstances in which the Commission must proceed to review an application,

- (iii) the maximum period in which an application may be deferred before being considered, and
- (iv) what must occur if an application is not considered before the maximum period expires;
- (t) prescribing circumstances in which an applicant may reapply for an assessment order;
- (u) respecting the content of apprehension orders, assessment orders and care plan orders;
- (v) respecting the retention of records, including applications, forms, orders, recordings and records of proceedings;
- (w) respecting procedures relating to the issuance, renewal, amendment or termination of apprehension orders, assessment orders and care plan orders;
- (x) respecting the provision of treatment to a client who is the subject of an assessment order;
- (y) establishing authorities that are provided by an apprehension order, assessment order or care plan order;
- (z) respecting procedures related to the detainment, apprehension and conveyance of individuals under this Act, including respecting the process for providing notice of the rights of an individual on apprehension;
- (aa) prescribing records that the Commission may order the production of under section 32;
- (bb) clarifying the scope of a right referred to in section 37 or 48(5)(d);
- (cc) respecting applications for discharge for the purposes of section 40(1);
- (dd) prescribing and respecting records that must be produced before a care plan hearing;
- (ee) prescribing Commission members who are ineligible to serve as a member of a care plan hearing panel, care plan review hearing panel or appeal panel, and respecting the replacement of those individuals;

- (ff) respecting applications for the adjournment of a care plan hearing or care plan review hearing;
- (gg) establishing circumstances in which a care plan hearing panel or appeal panel may adjourn a care plan hearing or appeal hearing on its own motion;
- (hh) prescribing what a care plan hearing panel may or must consider when deciding whether to issue a care plan order;
- (ii) prescribing circumstances for the purposes of section 46(1)(b) and (2)(b);
- (jj) respecting rights that must be identified in a care plan order;
- (kk) respecting the preparation and submission of progress reports and discharge reports;
- (ll) respecting whether a client's circumstances have changed for the purpose of section 57;
- (mm) respecting the review of a care plan order relating to a minor who will become an adult during the period in which the order will be in effect;
- (nn) respecting applications for a discharge order;
- (oo) establishing and respecting circumstances in which a client may be discharged;
- (pp) respecting the process for filing an appeal;
- (qq) respecting the appointment, termination and disqualification of members of the appeal roster established under section 70, including but not limited to
 - (i) the process for appointing and reappointing members of the appeal roster,
 - (ii) the grounds for the termination of an appeal roster member's appointment and procedures for removal,
 - (iii) the circumstances in which a member of the appeal roster may be disqualified from holding office, and

- (iv) any other matter necessary for the administration and operation of the appeal roster;
- (rr) respecting leaves of absence including respecting applications for leave, the granting, amending, revoking and extending of a leave of absence, records relating to a leave of absence, notice relating to a leave of absence and the authorities provided by a leave of absence;
- (ss) respecting the administration of drugs for the purposes of section 80(2);
- (tt) specifying persons who may make treatment decisions on behalf of a minor;
- (uu) establishing and respecting rules, standards and codes that apply to treatment teams, compassionate intervention facility service providers and community-based service providers for the purposes of this Act;
- (vv) establishing and respecting the powers, duties and functions of the Mental Health Patient Advocate, including with respect to investigations and information that must be provided to the Mental Health Patient Advocate for the purposes of an investigation;
- (ww) respecting reports related to investigations by the Mental Health Patient Advocate, including prescribing who reports must be submitted to and in what circumstances and respecting the Minister's powers in response to a report;
- (xx) respecting the recording of care plan hearings, care plan review hearings and appeal hearings;
- (yy) establishing other purposes for which individually identifying health information and personal information may be collected, used or disclosed under section 87(7)(d);
- (zz) respecting annual reports to the Minister by the Commission;
- (aaa) respecting the provision of information to the Minister under section 88(2);

- (bbb) respecting the Minister's powers respecting oversight, monitoring and compliance, including regulations providing and respecting the power to
 - (i) access a compassionate intervention facility, facility of a compassionate intervention facility service provider or facility of a community-based service provider for oversight, monitoring and compliance purposes,
 - (ii) require the production of, to examine, to make copies of and to remove any records,
 - (iii) inspect and take samples of any material, product or thing, to perform tests and to take photographs or make recordings,
 - (iv) access electronic data processing equipment at or in respect of any premises and to direct any person to assist the inspector with the use of the equipment,
 - (v) make inquiries of any person and to demand a response from that person,
 - (vi) order a compassionate intervention facility service provider, community-based service provider or any other person to take measures as specified in an order within the period specified in the order, and
 - (vii) apply for court orders in support of the exercise of the Minister's powers;
- (ccc) respecting any transitional matters that need to be addressed to ensure the proper transition from the *Protection of Children Abusing Drugs Act* to this Act;
- (ddd) defining any term used but not defined in this Act;
- (eee) respecting any other matter that the Minister considers necessary to carry out the intent of this Act.

Transitional Provisions, Repeal and Coming into Force

Transitional

94(1) A proceeding commenced under the *Protection of Children Abusing Drugs Act* before the coming into force of this Act is not affected by the coming into force of this Act, and the proceeding shall be continued and disposed of as though this Act had not come into force.

(2) A protection order issued under the *Protection of Children Abusing Drugs Act* before the coming into force of this Act is not affected by the coming into force of this Act, and the order shall remain in effect and be disposed of as though this Act had not come into force.

Repeal

95 The *Protection of Children Abusing Drugs Act* is repealed.

Coming into force

96 This Act, except sections 1(k), (l) and (w), 7, 9 and 10, comes into force on Proclamation.

RECORD OF DEBATE

Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To
Stage	Date	Member	From	To
		Interventions	From	To