

MENTAL HEALTH ACT

CHAPTER 256

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PART 1

Interpretation

1. In this Act

“approved home” means a home selected and approved under the regulations made under this Act;

“court” means the Supreme Court;

“director” means a person who is appointed in charge of a Provincial mental health facility and includes a person authorized by a director to exercise a power or carry out a duty conferred or imposed on the director under this Act;

“father” includes the husband of the mother of a mentally disordered person born in wedlock;

“mentally disordered person” means a mentally retarded or mentally ill person;

“mentally ill person” means a person who is suffering from a disorder of the mind

(a) that seriously impairs his ability to react appropriately to his environment or to associate with others; and

(b) that requires medical treatment or makes care, supervision and control of the person necessary for his protection or welfare or for the protection of others;

“mentally retarded person” means a person

(a) in whom there is a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, that is of a nature or degree that requires or is susceptible to medical treatment or other special care or training; and

(b) who requires care, supervision and control for his own protection or welfare or for the protection of others;

“mother” includes the wife of the father of a mentally disordered person born in wedlock;

“near relative” means a grandfather, grandmother, father, mother, son, daughter, husband, wife, brother, sister, half brother or half sister and includes the legal guardian of a minor and a committee having custody of the person of a patient under the *Patients Property Act*;

“observation unit” means a public hospital or a part of it designated by the minister as an observation unit;

“patient” means a person who, under this Act,

(a) is receiving psychiatric care and treatment; or

(b) is received, detained or taken charge of as a mentally disordered person or as an allegedly mentally disordered person;

- “physician” means a medical practitioner;
“private mental hospital” means an establishment licensed under section 5;
“Provincial mental health facility” means a Provincial mental health facility designated under this Act;
“psychiatric unit” means a public hospital or a part of it designated by the minister as a psychiatric unit;
“public hospital” means an institution designated as a hospital under section 1 or 25 of the *Hospital Act*;
“resident of the Province” means a person who has resided in the Province for a period determined by the Lieutenant Governor in Council;
“society” means a society incorporated or registered under the *Society Act* to establish or operate facilities or services designed for the mental welfare of residents of the Province.

1964-29-2, 1968-27-2, 1969-17-1, 1973-127-3, 1974-106-Sch, 1976-33-96, 1979-22-22

PART 2

Establishment of facilities and services

2. The Lieutenant Governor in Council may establish and maintain facilities and services for the examination, diagnosis and treatment of mentally disordered persons and the rehabilitation of patients and for that purpose may, by order, authorize the minister, for and on behalf of Her Majesty the Queen in right of the Province, to acquire, manage and operate property.

1964-29-3

Designation of mental health facilities

3. (1) The minister may designate a building or premises as a Provincial mental health facility.

(2) The minister may designate a public hospital or a part of it, not being a Provincial mental health facility, as an observation unit or a psychiatric unit.

1973-127-4

Transfer of facilities

4. The Lieutenant Governor in Council may by order transfer a Provincial mental health facility or service or a part of it to a society and shall in the order designate

- (a) the conditions of the transfer of the property that constitutes the Provincial mental health facility or service or part of it;
- (b) the number of persons who are to be appointed to the board of management of that society by the Lieutenant Governor in Council; and
- (c) the requirements of inspection;

and he shall, in the order, give any necessary direction for the transfer of officers and employees who are public servants under the *Public Service Act* from the Provincial mental health facility to a society; but he may direct that, notwithstanding the transfer, the officers and employees shall continue in the public service of the Province.

1964-29-5, 1969-17-2, 1973-127-5

Licensing of private mental health facilities

5. (1) The Lieutenant Governor in Council may, on application, license as a private mental health facility

- (a) any private hospital licensed under the *Hospital Act*; and
- (b) any community care facility licensed under the *Community Care Facility Act*.

(2) No person shall receive into or cause or permit to remain in a private house for gain or payment, a mentally disordered person unless the house is licensed under subsection (1).

1973-127-6

Persons entitled to service

6. Subject to sections 12 and 18, every resident of the Province is entitled to receive service and accommodation in the facilities provided under this Act in accordance with this Act and its regulations.

1964-29-7

Staff

7. For each Provincial mental health facility, a director, medical officers and other staff required may be appointed pursuant to the *Public Service Act*.

1964-29-10, 1973-127-22

Powers and duties of directors

8. (1) A director shall ensure that

- (a) each patient in a Provincial mental health facility is provided with professional service, care and treatment appropriate to his condition and appropriate to the function of the Provincial mental health facility and, for those purposes, may sign consent to treatment forms for a person admitted under section 20;
 - (b) standards appropriate to the function of the Provincial mental health facility are established and maintained; and
 - (c) the orders and directives of the minister are observed and performed.
- (2) Subsection (1) (a) and (b) applies, with the necessary changes,
- (a) to a person appointed under the regulations as an officer in charge of a psychiatric unit; and
 - (b) to a psychiatric unit.

1973-127-8, 1974-87-28, 1974-106-Sch

Charges

9. The Lieutenant Governor in Council may fix daily charges for care, treatment and maintenance provided in a Provincial mental health facility.

1964-29-12

Assessment committee

10. (1) The Lieutenant Governor in Council may appoint an assessment committee, consisting of 3 members, who shall hold office during pleasure and without remuneration.

(2) On the recommendation of the assessment committee, the charges levied for the care, treatment and maintenance of a patient may be modified or fully remitted for whatever period of time is designated in the recommendation.

1964-29-13

Guardians and committees

11. (1) A guardian, committee or other person liable for payment for a patient's care, treatment or maintenance shall, on demand from the director of a Provincial mental health facility in which the patient is or has been receiving care, treatment or maintenance, make payments to the director in accordance with the rates fixed under this Act.

(2) The director may demand from a guardian, committee or other person liable to pay for a patient's care, treatment or maintenance any sum due at any time and may in default of payment sue on behalf of Her Majesty the Queen in right of the Province for the recovery of the sum in a court of competent jurisdiction.

(3) An action under this section shall be taken in the name of the director.

1964-29-14, 1973-127-22

Admissions from penitentiaries

12. The director of every Provincial mental health facility shall ensure that no mentally disordered person is admitted into any Provincial mental health facility from a penitentiary, prison, jail, reformatory or institution under the jurisdiction and administration of Canada unless Her Majesty the Queen in right of Canada, by or through an officer having authority to act on her behalf, undertakes to pay all charges for care, treatment and maintenance of that person.

1964-29-15, 1973-127-22

Expenses of conveyance

13. (1) When a patient is unable to meet the expenses of his examination, the procedures for his admission to a Provincial mental health facility or his conveyance to a Provincial mental health facility, the expenses are a charge on the local area in which he has residence.

(2) When a local authority for a local area in which a patient does not reside has advanced money to meet the expenses of the examination, the procedures for his admission to a Provincial mental health facility or the conveyance of the patient to a Provincial mental health facility, the local authority may recover the money as a debt from the local area in which the patient resided immediately before his admission.

(3) When any dispute arises as to the liability of a local area under this section, the board of arbitration appointed under the *Residence and Responsibility Act* shall hear the dispute and make a final decision on it.

(4) When a municipality incurs expenses for the examination, procedures for admission or conveyance of a patient to a Provincial mental health facility, the municipality may recover its expenses as a debt due from the patient.

(5) When a director incurs expenses for the examination, procedures for admission or conveyance of a patient to a Provincial mental health facility, that amount shall be converted to and may be recovered as a charge in an equal amount for care and treatment in the Provincial mental health facility.

(6) Section 1 of the *Residence and Responsibility Act* applies for the interpretation of this section.

1964-29-16, 1973-127-22

Reciprocal arrangements

14. (1) The minister, with the approval of the Lieutenant Governor in Council may, on behalf of Her Majesty the Queen in right of the Province, enter into or cancel a reciprocal arrangement with the government of any other province of Canada for the assumption of all or part of the charges incurred by a resident of one province hospitalized in a public mental hospital or provincial mental health facility in another.

(2) The Lieutenant Governor in Council may, on behalf of Her Majesty the Queen in right of the Province, enter into or cancel an agreement with Canada for the sharing of costs of care and treatment of mentally disordered persons.

1964-29-17, 1974-87-28

Conveyance of patients

15. (1) The person who applies for the admission of a female person to a Provincial mental health facility shall arrange for a near relative or a female person to accompany the patient between the time of the application and her admission to a Provincial mental health facility.

(2) A person who is being conveyed to a Provincial mental health facility for admission and who is not detained or being conveyed under the *Criminal Code* (Canada) or under section 25 shall be kept separate from any person who is detained or being conveyed under the *Criminal Code* (Canada) or under section 25.

1964-29-18

Saving

16. No person is liable in damages as the result of

- (a) signing an application or laying an information;
- (b) signing a medical certificate or making a report if he is a physician;
- (c) signing an order if he is a judge;
- (d) issuing a warrant if he is a justice; or
- (e) transporting or taking charge of a person on the authority of applications and medical certificates which on their face are lawfully completed

in good faith and with reasonable care.

1964-29-19, 1968-27-6, 1974-87-28, 1975-37-16

Offence

17. (1) A person commits an offence punishable under the *Offence Act* who

- (a) assists a patient to leave or to attempt to leave a Provincial mental health facility without proper authority;
- (b) does or omits to do an act to assist a patient in leaving or attempting to leave a Provincial mental health facility without proper authority; or
- (c) incites or counsels a patient to leave a Provincial mental health facility without proper authority.

(2) A person employed in a Provincial mental health facility or a private mental hospital or any other person having charge of a patient who ill treats, assaults or wilfully neglects a patient commits an offence punishable under the *Offence Act*.

1964-29-20, 1973-127-9

PART 3**Accommodation**

18. Notwithstanding anything in this Act, a director or person having authority to admit persons to a Provincial mental health facility shall not admit a person to a Provincial mental health facility if

- (a) suitable accommodation is not available within the Provincial mental health facility for the care, treatment and maintenance of the patient; or
- (b) in his opinion, the person is not a mentally disordered person or is a person who, because of the nature of his mental disorder, could not be cared for or treated appropriately in the facility.

1964-29-21; 1973-127-22.

Informal admissions

19. (1) The director of a Provincial mental health facility may admit any person to and detain him in the Provincial mental health facility where

- (a) the person requests admission, if he has attained the age of 16 years; or
- (b) on the request of a parent or guardian or, if a parent or appointed guardian is not available, of his nearest relative, if he is under the age of 16 years,

and the director is satisfied that the person has been examined by a physician who is of the opinion that the person is a mentally disordered person.

(2) A nurse in charge of a ward in a Provincial mental health facility shall

- (a) ensure that each patient in the ward who was admitted under this section is enabled to communicate without delay to the director of the facility any desire that he may form to leave the facility; and,
- (b) on learning that a patient in the ward who was admitted under this section desires to leave the facility, promptly notify the director of the facility of that desire.

(3) Within 72 hours of the receipt of notification, in any way,

- (a) of the desire to leave the facility of a patient over the age of 16 years who was admitted under subsection (1); or
- (b) of a request for the discharge from the facility of a patient under the age of 16 years who was admitted under subsection (1), made by any person entitled to apply for the patient's admission,

the director shall discharge the patient from the facility.

(4) Subsections (2) and (3) do not apply if the requirements for detention of the patient under section 20 have been fulfilled.

(5) A person who has attained the age of 16 years and who has been admitted to a Provincial mental health facility on his own application under subsection (1) (a) is, notwithstanding any rule of law relating to minors, deemed to have the capacity to make the application and an agreement for payment for maintenance and treatment in the facility and to authorize his treatment in the facility.

1964-29-22; 1968-27-7; 1973-127-10,11,12,22.

Involuntary admissions

20. (1) The director of a Provincial mental health facility may admit a person to and detain him in the Provincial mental health facility where he receives a written application that is accompanied by 2 medical certificates completed by 2 physicians in accordance with subsection (3) and is made

- (a) by a near relative of the person;
- (b) if there is no near relative of the person capable of acting and willing to act, anyone who has knowledge of the circumstances and the antecedents of the person or who has charge of the person at the time;
- (c) a peace officer; or
- (d) anyone who has reason to believe that the person is mentally disordered, and signed not more than 14 days prior to the date of admission.

(2) An application under subsection (1) is not valid unless the applicant is 19 years of age or more and there is set forth in it

- (a) the full name and address of the applicant;
 - (b) the relationship of the applicant, if any, to the person whose admission is applied for;
 - (c) the full name and address of the person whose admission is applied for; and
 - (d) the signature of the applicant and the date of the signature,
- together with whatever other information may be required by the text of the form of application, which shall be prescribed and may be altered by the Lieutenant Governor in Council.

(3) Each medical certificate shall be completed and signed by a physician who is not disqualified under subsection (4) and who has examined the person whose admission is applied for not more than 14 days prior to the date of admission and shall set forth

- (a) a statement by the physician that he has examined the person whose admission is applied for on the date or dates set forth and is of the opinion that the person is a mentally disordered person;
- (b) in summary form the reasons on which his opinion is founded; and
- (c) in addition to the statement required under paragraph (a), a separate statement by the physician that he is of the opinion that the person whose admission is applied for
 - (i) requires medical treatment in a Provincial mental health facility; and
 - (ii) requires care, supervision and control in a Provincial mental health facility for his own protection or welfare or for the protection of others.

(4) A physician is disqualified from giving a valid medical certificate under this section if he is

- (a) the person whose admission is applied for;
- (b) the applicant;
- (c) a partner of the applicant;
- (d) engaged in the practice of medicine in partnership or associated with the physician who completes the other certificate;
- (e) a person employed as an assistant by the applicant or the physician who completes the other certificate; or
- (f) except as provided in subsection (5), a person who receives or who has an interest in the receipt of payments made on account of the maintenance of the person whose admission is applied for.

(5) A physician on the staff of the Provincial mental health facility to which a person is to be admitted or a consultant or other physician employed there is not

disqualified from giving a valid medical certificate by reason only of subsection (4) (f) unless the other certificate is given by such a physician or consultant.

(6) A medical certificate given under this section becomes invalid on the 15th clear day after the date on which the physician examined the person who is the subject of the certificate.

(7) The 2 certificates completed as required under this section are sufficient authority for a person to apprehend and convey the person named in the statement made under subsection (3) (a) to a Provincial mental health facility.

1964-29-23; 1968-27-8; 1973-127-13,22.

Duration of detention

21. (1) A patient admitted under section 20 may be detained in a Provincial mental health facility until the anniversary of the date of his admission and he shall be discharged on that day unless the authority for his detention is renewed in accordance with this section

(2) Authority for the detention of a patient may, unless the patient has previously been discharged, be renewed under this section

(a) from the expiration of the period referred to in subsection (1) of this section for a further period of one year; and

(b) from the expiration of any period of renewal under paragraph (a) for a further period of 2 years;

and so on for periods of 2 years at a time.

(3) Within a period of 2 months ending on the day on which a patient who has been detained in a Provincial mental health facility would cease under this section to be liable to detention in default of renewal under subsection (2), the director of the Provincial mental health facility or a physician authorized by him shall examine the patient and either discharge the patient or record a written report of the examination and include in it his reasons for concluding that the detention of the patient should be renewed and the report is a renewal of the authority for the detention of the patient.

(4) A person admitted to a Provincial mental health facility under section 20 shall, at any time after the expiration of 30 days from the date that he was admitted, on his request or on the request of a person on his behalf, be entitled to receive a hearing, of which he shall have at least 2 days' written notice, to determine whether or not he should be detained.

(5) For the purposes of a hearing under subsection (4),

(a) the patient shall not be discharged until the results of the hearing are made known to him and then only if the results of the hearing indicate that he should be discharged; and

(b) the hearing shall be heard by

(i) a chairman who shall be appointed by the minister;

(ii) a physician who is appointed by and is on the medical staff of the Provincial mental health facility to which the patient is admitted; and

(iii) a person, other than the patient or a member of his family, who is appointed by the patient. Where the patient does not appoint a person, the director of the Provincial mental health facility to which the patient is admitted may appoint a person who, in his opinion, has knowledge of the circumstances of the patient.

(6) The minister may reimburse a person appointed under subsection (5) for reasonable travelling or out of pocket expenses necessarily incurred by him in discharging his duties under this section, and, in addition, may pay him the remuneration for his services the minister may prescribe.

1964-29-24, 1973-127-14,22

Temporary admissions to psychiatric unit

22. (1) The provisions of section 20 apply, with the necessary changes and so far as they are applicable, to the admission of a person to and his detention in a psychiatric unit.

(2) Section 20 (7) applies, with the necessary variations, to the apprehension and conveyance of a person to a psychiatric unit.

(3) Sections 19, 21, 26, 27, 28, 29, 30 and, so long as he may be detained therein, section 35 apply, with the necessary variations, to a patient in a psychiatric unit.

1968-27-9, 1973-127-15, 1974-87-28

Emergency admissions with one medical certificate

23. Where

- (a) the form of application referred to in section 20 has been completed in accordance with that section for a person; and
- (b) a medical certificate has been completed by a physician; but
- (c) there is no other physician qualified to give a second medical certificate by whom the person can be examined practising in the vicinity or within a reasonable distance of the place where the person resides,

the completed certificate, endorsed by the physician who gave it with a statement in the terms of paragraph (c), is sufficient authority for a person to apprehend and convey the person to a Provincial mental health facility or a psychiatric unit, for the admittance of the person in the facility or unit and for his detention there for examination for a period which shall not, unless the detention becomes otherwise authorized, exceed 72 hours.

1968-27-9

Emergency procedures

24. (1) Where a police officer or constable is satisfied from his own observations or from information received by him that a person

- (a) is acting in a manner likely to endanger his own safety or that of others; and

- (b) is apparently suffering from mental disorder,

he may take the person into custody and take him immediately to a physician; and if the physician is satisfied that that person is a mentally disordered person and in need of care, supervision or control for his own protection or welfare or for the protection of others, he may be taken, on the certificate of the physician, to a Provincial mental health facility, a psychiatric unit or an observation unit; otherwise he shall be released.

(2) Where an application is made to him by anyone who appears to have good reason to believe that a person is a mentally disordered person and dangerous to be at large, a Provincial Court judge or, if there is no judge then available, a justice may, if he is satisfied that the procedures for the admission of the person to a Provincial mental health facility or psychiatric unit or for conveying him there for examination, cannot be

utilized without dangerous delay, issue a warrant in the form A in the schedule and that warrant shall be authority for the apprehension of the person concerned and for his conveyance and admission to a Provincial mental health facility, a psychiatric unit or an observation unit.

(3) The director of a Provincial mental health facility or the officer in charge of a psychiatric unit or an observation unit may admit a person in respect of whom he is satisfied a certificate has been issued under subsection (1) or a warrant has been issued under subsection (2) and may detain him in the facility or unit for a period which shall not, unless the detention becomes otherwise authorized, exceed 72 hours.

1964-29-27, 1968-27-10, 1970-24-1, 1973-84-12, 1973-127-22

Prisoners and child care resource inmates

25. The Lieutenant Governor in Council, on receiving 2 medical certificates completed in accordance with section 20 concerning the mental condition of a person imprisoned or detained in any jail or lock up in the Province established under any Act, or in any child care resource as defined in the *Family and Child Service Act*, may order the removal of the person to a Provincial mental health facility, on which

- (a) the warden or other person in charge of the jail, lockup or child care resource shall, in accordance with the order, cause the person to be conveyed to the Provincial mental health facility named in the order and send to the director of the Provincial mental health facility an application for admission in the form prescribed by the Lieutenant Governor in Council by regulation, together with copies of the medical certificates; and
- (b) the person shall be detained in that or any other Provincial mental health facility the Lieutenant Governor in Council may order until his complete or partial recovery or until other circumstances justifying his discharge from the Provincial mental health facility are certified to the satisfaction of the Lieutenant Governor in Council, who may then order him back to imprisonment or detention if then liable thereto or otherwise to be discharged.

1964-29-28, 1973-127-17,22

Direction and discipline of patients

26. Every patient detained in the Provincial mental health facility is, during detention, subject to the direction and discipline of the director and the members of the staff of the Provincial mental health facility authorized in that behalf by the director.

1964-29-29, 1973-127-22

Application to court for discharge

27. (1) A person for whose admission to a Provincial mental health facility an application is made under section 20 or a patient or a near relative of the person or patient or anyone who believes that there is not sufficient reason for the admission or detention of the person or patient under this Act, may apply before admission of the person or after the date of admission of the patient to a Provincial mental health facility to the court for

- (a) an order prohibiting the admission of the person to a Provincial mental health facility pursuant to that application;

- (b) an order prohibiting the admission of the person to a Provincial mental health facility pursuant to that application or any other application for admission of the person to a Provincial mental health facility made prior to the date of the order; or
- (c) an order that the patient be discharged from the Provincial mental health facility.

(2) Nothing in this section affects the right of a person to apply for a writ of habeas corpus or other prerogative writ.

(3) On hearing an application under subsection (1), the court may review the evidence, including all papers relating to the admission applied for or the admission and detention of the patient and may hear further evidence it deems relevant.

(4) Where the court is satisfied that there is or was sufficient reason and authority for the admission of a person or patient to a Provincial mental health facility and for his detention in it, it shall order that the person or patient be detained in a Provincial mental health facility for care and treatment.

(5) Where the court is not satisfied that there is or was sufficient reason or authority for the admission of the person to a Provincial mental health facility or for the detention of the patient in it, it may make an order

- (a) prohibiting anyone from admitting the person to a Provincial mental health facility pursuant to the application for admission that gave rise to the application under this section;
- (b) prohibiting anyone from admitting the person to a Provincial mental health facility pursuant to an application for admission made prior to the date of the order;
- (c) that the patient be discharged from the Provincial mental health facility; or
- (d) that the director of a designated Provincial mental health facility obtain within 10 days a report from a physician who is recognized by the College of Physicians and Surgeons of British Columbia as being a specialist in psychiatry and who would not be disqualified from giving a valid medical certificate under section 20, stating whether or not in his opinion the person or patient is in fact mentally disordered and consequently requiring care and treatment in a Provincial mental health facility, and that the person, if he is not detained at the time of the making of the order in a Provincial mental health facility, attend before the physician for examination at a time and place appointed by the director.

(6) On receipt of the report made under an order under subsection (5), the court shall,

- (a) if it is satisfied that the person or patient is mentally disordered and requiring care and treatment in a Provincial mental health facility, order that the person or patient be admitted to and detained in or detained in the Provincial mental health facility; or
- (b) if it is not satisfied that the person or patient is mentally disordered and requiring care and treatment in a Provincial mental health facility, make an order under subsection (5) (a), (b) or (c).

(7) Where an order is made under this section for the discharge of a person or patient from a Provincial mental health facility, the director of the Provincial mental health facility shall immediately discharge the person or patient.

(8) In this section, “Provincial mental health facility” includes a psychiatric unit and a director of a Provincial mental health facility includes the officer in charge of a psychiatric unit. Where a person has, under section 22, been admitted to a psychiatric unit and removed to a Provincial mental health facility, an application made under this section prior to his removal shall be continued with the substitution of the appropriate parties and shall be deemed to include an application in relation to admission and detention in the Provincial mental health facility.

1964-29-30, 1968-27-11, 1973-127-22, 1974-87-28, 1976-33-96

Advice regarding reviews

28. (1) Immediately after the admission of a patient to a Provincial mental health facility under section 20, the director of the facility shall send in writing to the next of kin of the patient a notice setting forth the rights of the patient under section 27.

(2) If the director has no information with regard to the identity of the next of kin of the patient, subsection (1) is sufficiently complied with if the notice is sent to the Public Trustee.

1964-29-32, 1973-127-22

Transfers

29. (1) When a transfer to another Provincial mental health facility is considered beneficial to the welfare of a patient, the director of the facility may, by agreement with the director of the other Provincial mental health facility, authorize the transfer and cause the patient to be transferred in accordance with his direction.

(2) Notwithstanding subsection (1), a patient detained in a Provincial mental health facility under section 25 may be transferred to another Provincial mental health facility only in accordance with an order of the Lieutenant Governor in Council made under section 25.

(3) A director of a Provincial mental health facility to whose facility a patient has been transferred under this section has authority to detain the patient and the time limited by this Act for the doing of any thing shall run as if the patient’s detention were continuous in one facility.

1964-29-33, 1968-27-13, 1973-127-19,22

Discharge

30. (1) The director of a Provincial mental health facility or the officer in charge of an observation unit may discharge a person from the facility or unit.

(2) An application or medical certificate made under this Act is not effective for use for the purposes of this Act after the discharge of the person with respect to whom the application or certificate is made.

(3) When a person is discharged from a Provincial mental health facility or observation unit other than by the operation of section 35 (3), the director of the facility or officer in charge of the observation unit shall, on receiving an application by or on behalf of the person, furnish the person with a certificate of discharge, signed by the director, in the form prescribed by the Lieutenant Governor in Council.

1964-29-34, 1973-127-22

Leave

31. Subject to section 34, the director of a Provincial mental health facility may release a patient detained in the Provincial mental health facility on leave for designated

purposes for stipulated periods of time on the conditions the director may prescribe to the care of relatives of the patient or others capable of assuming responsibility for his care.

1964-29-35; 1973-127-22.

Approved homes

32. Subject to section 34, where the director of a Provincial mental health facility considers it beneficial to a patient he may cause the patient to be transferred from the Provincial mental health facility to an approved home on conditions the director may prescribe. The Lieutenant Governor in Council may make regulations for the selection and approval of approved homes and for the payment of the cost of the maintenance of the patients in them.

1964-29-36; 1973-127-22.

Continuance of detaining authority of patients on leave, etc. and recall

33. (1) For clarity, it is declared that the release of a patient on leave or his transfer to an approved home under section 31 or 32 does not, of itself, impair the authority for his detention and that authority may be continued, according to the same procedures and to the same extent, as if the patient were detained in a Provincial mental health facility.

(2) A patient who is on leave or has been transferred to an approved home shall, until discharged, be liable to recall either to the facility from which he was released or transferred or, if the transfer is authorized by the director pursuant to section 29, to some other facility, and the director of either facility may issue a warrant in the form B in the schedule for the apprehension of the patient and his conveyance to the facility to which he is recalled, provided that where a patient escapes from the custody of a person to whose care he has been released on leave or from an approved home, section 35 (3) applies.

1968-27-15; 1973-127-22.

Exception

34. Except as provided by order of the Lieutenant Governor in Council, sections 31 and 32 do not apply to a patient

- (a) who was admitted to a Provincial mental health facility under section 25 or under the *Criminal Code* (Canada) and remains liable to imprisonment or detention in a jail, prison or training school; or
- (b) who is detained in a Provincial mental health facility by reason of the *Criminal Code* (Canada).

1964-29-37.

Escapees

35. (1) Where a patient detained in a Provincial mental health facility leaves the facility without having been discharged under any other section of this Act, the director may, within 60 days after the date on which the patient leaves the facility, issue a warrant in form B in the schedule for the apprehension of the patient and his conveyance to the Provincial mental health facility and the warrant is authority for the apprehension of the patient and his conveyance to the facility.

(2) Where a warrant is issued under subsection (1), all peace officers and other persons designated by the director shall render any assistance required in the apprehension of the patient or the conveyance of the patient to the Provincial mental health facility.

(3) Except as provided in subsection (4), after the expiration of 60 days from the date on which the patient leaves the Provincial mental health facility under the circumstances set forth in subsection (1), he shall be deemed to have been discharged from the Provincial mental health facility.

(4) Where a patient detained in a Provincial mental health facility escapes from the facility under the circumstances set forth in subsection (1) while charged with an offence or liable to imprisonment or considered by the director to be dangerous to himself or others, notwithstanding that the period of 60 days has elapsed since the date on which he left the Provincial mental health facility, the director may issue a warrant in form B in the schedule for the apprehension of the patient and his conveyance to a Provincial mental health facility and the warrant is authority for the apprehension of the patient and for his conveyance to the Provincial mental health facility.

(5) Where a person escapes during the course of his removal or transfer to a Provincial mental health facility, both the director of the facility to which he is being removed or transferred and the director or officer in charge of the facility or unit from which he is removed or transferred have power to issue a warrant under this section.

(6) A patient detained in a Provincial mental health facility who leaves the facility, otherwise than on release on leave or transfer, without being discharged may be apprehended for the purpose of returning him to the facility, within 48 hours of his escape, notwithstanding that no warrant has been issued under this section and the person apprehended shall be conveyed in custody to the facility from which he escaped or to some other facility to which the director has authorized his transfer.

1964-29-38; 1968-27-16; 1973-127-22.

Transfer from other jurisdictions

36. On receipt of a written notification from the appropriate mental health authority of another province that a resident of the Province is in that other province and has been certified as being mentally disordered under legislation corresponding to this Act, the director of the Provincial mental health facility notified may agree that the person be returned to the Province for care and treatment and he may receive the person and detain him for 72 hours, during which time he shall either admit him to the Provincial mental health facility under this Act or release him at the end of that period.

1973-127-20.

PART 4

Regulations

37. The Lieutenant Governor in Council may make regulations including regulations

- (a) prescribing forms;
- (b) for the selection, approval and operation of approved homes;
- (c) governing the establishment, development, maintenance and management of Provincial mental health facilities for the examination, diagnosis and treatment of mentally disordered persons and the rehabilitation of patients;

- (d) governing the reports to be made in respect of, and the protection and custody of, patients detained involuntarily in psychiatric units and observation units;
- (e) governing the transfer of patients to and from reciprocating jurisdictions;
- (f) concerning the acquisition of property under this Act and its management;
- (g) for standards for buildings designated as Provincial mental health facilities and for their furnishings and equipment;
- (h) concerning the establishment and operation of a mental health clinic or service by a society, the standards of care to be observed in the clinic or in the provision of the service, their inspection and the rates or fees charged by the society;
- (i) concerning the licensing of premises as private mental hospitals, the conditions of the licence and the designation of the provisions of this Act that are applicable to private mental hospitals;
- (j) concerning follow up and after care services and rehabilitation programs for patients;
- (k) governing boarding home care services;
- (l) concerning the admission of patients to Provincial mental health facilities or a particular Provincial mental health facility, the care, treatment and maintenance of patients and the discharge of patients; and
- (m) prescribing rules respecting the conduct of hearings under section 21.

1964-29-39, 1968 27-18, 1969 17-4, 1974-87 28

SCHEDULE

FORM A

MENTAL HEALTH ACT

WARRANT FOR APPREHENSION OF A PERSON BELIEVED TO BE MENTALLY DISORDERED AND DANGEROUS TO BE AT LARGE

PROVINCE OF BRITISH COLUMBIA }
DISTRICT, COUNTY OR CITY OF

To all Peace Officers in this District, County or City of

Application has been made to me this day by a person who appears to have good reason to believe that
[*name of person*] is a mentally disordered person and dangerous to be at large

You are therefore commanded, in Her Majesty's name, forthwith to apprehend [*name of person*] and to convey that patient to a Provincial mental health facility or an observation unit for admission to it

Given under my hand and seal [month, day], 19 , at , in the district, county or city aforesaid

(Signed)

(Official qualification)

FORM B

MENTAL HEALTH ACT

WARRANT FOR APPREHENSION OF PATIENT

PROVINCE OF BRITISH COLUMBIA }
 DISTRICT, COUNTY OR CITY OF }

To all Peace Officers in this District, County or City of

[Name of person], who is a patient who is authorized to be detained and has been detained in a Provincial mental health facility, left the Provincial mental health facility without having been discharged

You are therefore commanded, in Her Majesty's name, forthwith to apprehend [name of person] and to convey the patient to the Provincial mental health facility known as [name of facility]

Given under my hand and seal [month, day], 19 , in the district, county or city aforesaid
 (Signed)
 (Official qualification)

1964 29-Sch