The Mental Health Services Act

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Chapter M-13.1* of the *Statutes of Saskatchewan, 1984-85-86* (effective April 1, 1986) as amended by the *Statutes of Saskatchewan*, 1989-90, c.54; 1992, c.A-24.1; 1993, c.59; 1996, c.9 and 17; 1997, c.12; 2002, c.R-8.2; 2004, c.L-16.1; 2013, c.27; and 2014, c.16.

***NOTE:** Pursuant to subsection 33(1) of *The Interpretation Act, 1995*, the Consequential Amendment sections, schedules and/or tables within this Act have been removed. Upon coming into force, the consequential amendments contained in those sections became part of the enactment(s) that they amend, and have thereby been incorporated into the corresponding Acts. Please refer to the Separate Chapter to obtain consequential amendment details and specifics.

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER M-13.1

An Act respecting Mental Health Services

PART I
Short Title and Interpretation

Short title

1 This Act may be cited as *The Mental Health Services Act*.

Interpretation

2 In this Act:

(a) **"attending physician"** means the physician who has the principal responsibility for the health care needs of a person admitted to a mental health centre;

(b) **"business day"** means a day other than a Saturday, Sunday or holiday;

(c) **"capacity"** means capacity as defined in *The Health Care Directives and Substitute Health Care Decision Makers Act*;

(d) **"chief psychiatrist"** means a psychiatrist designated pursuant to section 9;

(e) **"community treatment order"** means a community treatment order issued pursuant to section 24.3;

(f) **"director"** means the person appointed pursuant to section 6;

(g) **"experimental treatment"** means any treatment that poses a significant risk of harm to the patient, other than one that is:

(i) commonly accepted for treatment of the mental disorder involved or supported by widely accepted scientific studies; and

(ii) provided by a qualified health professional;

(h) **"involuntary patient"** means a patient who is admitted to and detained in a mental health centre pursuant to section 23, 24 or 24.1;

(i) **"judge"** means a judge of the Court of Queen's Bench;

(j) **"mental disorder"** means a disorder of thought, perception, feelings or behaviour that seriously impairs a person's judgment, ability to recognize reality, ability to associate with others or ability to meet the ordinary demands of life, with respect to which treatment is advisable;

(k) **"mental health approved home"** means any building, premises or place with respect to which:

(i) there is a valid certificate issued pursuant to this Act or pursuant to *The Mental Health Act*; or

(ii) a licence is issued pursuant to section 37.2;

(l) **"mental health centre"** means a facility designated as a mental health centre pursuant to *The Facility Designation Regulations*;

(m) **"mental health services"** means the provision of care to an individual for the purposes of promoting, preserving and restoring the mental health of the individual to an optimal level, and may include assessment, treatment, health education and consultation;

(n) **minister"** means the member of the Executive Council to whom for the time being the administration of this Act is assigned;

(o) **"ministry"** means the ministry over which the minister presides;

(p) **"nearest relative"** means nearest relative as described in section 25.1;

(q) **"nurse"** means a registered nurse as defined in *The Registered Nurses Act, 1988* or a registered psychiatric nurse as defined in *The Registered Psychiatric Nurses Act*;

(r) **"officer in charge"** means:

(i) in relation to a mental health centre, the person designated pursuant to section 8; or

(ii) if no person is designated pursuant to section 8, the regional director for the region in which the mental health centre is located;

(s) **"official representative"** means an official representative appointed pursuant to section 10;

(t) **"patient"** means a person receiving, pursuant to this Act:

(i) diagnostic services for the purpose of determining the existence or nature of a mental disorder; or

(ii) care or treatment for a mental disorder;

(u) **"peace officer"** includes:

(i) a member of the Royal Canadian Mounted Police;

(ii) a person appointed pursuant to *The Police Act, 1990* as a special constable or peace officer;

(v) **"personal guardian"** means a personal guardian as defined in *The Health Care Directives and Substitute Health Care Decision Makers Act*;

(w) **"physician"** means a duly qualified medical practitioner within the meaning of *The Medical Profession Act, 1981*;

(x) **"prescribed"** means prescribed in the regulations;

(y) **"proxy"** means a proxy as defined in *The Health Care Directives and Substitute Health Care Decision Makers Act*;

(z) **"psychiatrist"** means a physician:

(i) who holds a specialist's certificate in psychiatry issued by the Royal College of Physicians and Surgeons of Canada; or

(ii) whose combination of training and experience in psychiatry is satisfactory to the minister and who has been approved by the minister as a psychiatrist for the purposes of this Act;

(aa) **"psychosurgery"** means any procedure that by direct access to the brain removes, destroys or interrupts the normal connections of the brain for the primary purpose of treating a mental disorder or involves the implantation of electrodes, but does not include neurosurgical procedures designed to treat reliably diagnosed organic brain conditions or epilepsy;

(bb) **"region"** means a mental health region established pursuant to section 5;

(cc) **"regional director"** means a regional director designated pursuant to section 7;

(dd) **"review panel"** means a review panel appointed pursuant to section 32.

2014, c.16, s.3.

PART II
Administration

Responsibilities of the minister

3(1) The minister is responsible for the strategic direction of the system of mental health services in Saskatchewan and may do any things that the minister considers advisable to meet that responsibility.

(2) Without limiting the generality of subsection (1), the minister may:

(a) establish goals and objectives for the provision of mental health services in Saskatchewan generally or in areas within Saskatchewan;

(b) establish performance measures and targets to promote the effective and efficient utilization of mental health services;

(c) develop, implement and evaluate provincial policies with respect to mental health services;

(d) conduct financial, human resources and information technology planning for the system of mental health services in Saskatchewan;

(e) do any thing pursuant to this or any other Act that the minister considers appropriate for preventing circumstances that lead to mental disorder and distress and for promoting and restoring the mental health and well-being of the people of Saskatchewan.

2014, c.16, s.4.

4 Repealed. 2014, c.16, s.5.

Regions

5 The minister may establish mental health regions.

2014, c.16, s.6.

Director of mental health services

6(1) The minister shall appoint an employee of the ministry as director of mental health services and prescribe his or her duties and responsibilities.

(2) The minister may authorize the director to delegate to other officers of the ministry any power given to the director by this Act and the regulations.

1993, c.59, s.5; 2014, c.16, s.7.

Regional directors

7(1) Each regional health authority shall designate a regional director for that region.

(2) The regional director is responsible for the provision of mental health services within the region.

(3) The regional director may delegate to any person any power given to the regional director by this Act and the regulations.

2014, c.16, s.8.

Officer in charge

8(1) The regional director may designate a person for each mental health centre that is located in the region to be the person responsible for the administration of this Act in the mental health centre.

(2) Where the regional director does not designate a person pursuant to subsection (1), the regional director is responsible for the administration of this Act in the region.

1993, c.59, s.7; 2014, c.16, s.9.

Chief psychiatrist

9 Each regional health authority shall designate a chief psychiatrist for that region.

2014, c.16, s.10.

Official representatives

10(1) In this section, **"person"** includes a partnership.

(2) The minister shall appoint one or more persons to be official representatives for each region to assist patients in understanding their rights and obligations pursuant to this Act.

(3) The director may, if he or she considers it necessary or advisable for the purposes of this Act, assign an official representative to assist patients in a region that is in addition to the region for which the official representative was appointed.

(4) The minister shall provide to official representatives appointed pursuant to subsection (2) remuneration and reimbursement for expenses on any terms and conditions that the minister considers appropriate.

2014, c.16, s.11.

PART III
Eligibility for Services

Eligibility

11(1) Subject to section 13, any person who is a beneficiary pursuant to *The Saskatchewan Medical Care Insurance Act* is eligible to receive services provided by the minister pursuant to this Act at the expense of the Government of Saskatchewan.

(2) If a regional health authority or a health care organization, within the meaning of *The Regional Health Services Act*, provides mental health services to beneficiaries, it shall provide those services to each beneficiary on the same terms and conditions.

(3) A regional health authority or a health care organization, within the meaning of *The Regional Health Services Act*, shall not include as a term or condition of providing mental health services any requirement with respect to the place of residency of the beneficiary.

2014, c.16, s.12.

Services to persons who are not beneficiaries

12 The minister may provide services to persons who are not beneficiaries pursuant to section 11, and may enter into any agreements that the minister considers appropriate with any person with respect to providing services pursuant to this Act to persons who are not beneficiaries.

2014, c.16, s.12.

Regulations about eligibility

13 The Lieutenant Governor in Council may make regulations:

(a) classifying services that are provided to beneficiaries and other persons by the minister pursuant to this Act;

(b) classifying beneficiaries and other persons according to the services that they receive from the minister pursuant to this Act;

(c) fixing the amounts that the minister may charge a beneficiary or other person or class of beneficiaries or other persons for each service or class of service provided by him pursuant to this Act.

1984-85-86, c.M-13.1, s.13.

PART IV
General Rights and Obligations

Preservation of rights

14 Except as provided in this Act, no person is to be deprived of any right or privilege enjoyed by other persons solely because he or she:

(a) is receiving or has received mental health services; or

(b) is or has been named in a certificate, warrant or order issued pursuant to section 18, 19, 21, 22, 23, 24, 24.1 or 24.3 of this Act or in any similar certificate, warrant or order issued pursuant to *The Mental Health Act* or any former Act respecting mental health.

2014, c.16, s.13.

Restrictions as to persons giving certificates

15 Except as permitted by the regulations or by the minister, no certificate or form required by this Act or the regulations with respect to any person shall be made, issued, given, completed or signed by a physician who is by blood or marriage closely related to or connected with:

(a) that person; or

(b) any physician who makes, issues, gives, completes or signs a certificate or form with respect to that person.

1984-85-86, c.M-13.1, s.15.

Right to be informed

16(1) Every person who is apprehended or detained pursuant to section 18, 19, 20, 21, 22, 23, 24, 24.1 or 24.3:

(a) must be informed promptly of the reasons for his or her apprehension or detention, as the case may be; and

(b) is entitled on his or her own request to receive a copy of the certificate, warrant or order pursuant to which he or she has been apprehended or is detained, as the case may be, as soon as is reasonably practicable.

(2) Where a person is apprehended or detained pursuant to section 18, 19, 21, 22, 23, 24, 24.1 or 24.3 or is transferred pursuant to section 28, an official representative for the region shall be provided with a copy of the certificate, warrant or order pursuant to which the person is or was apprehended, detained or transferred, as the case may be, as soon as is reasonably practicable.

1984-85-86, c.M-13.1, s.16; 1993, c.59, s.9; 2014, c.16, s.14.

PART V
Assessment, Treatment, Admission and Discharge

Voluntary request for services

17 Subject to the regulations and to the availability of services, a person may, on his or her own request:

(a) receive assessment and treatment services;

(b) with the advice and on the arrangements of a physician with admitting privileges to a mental health centre, be admitted to a mental health centre; or

(c) receive other services available pursuant to this Act.

2014, c.16, s.15.

Involuntary examination

18(1) Subject to subsection (2) and the regulations, any person may be conveyed to a place where he or she may be examined by a physician who has admitting privileges to a mental health centre if that person:

(a) in the opinion of an examining physician or a prescribed health professional, is suffering from a mental disorder and requires a psychiatric examination to ascertain whether he or she should be admitted to a mental health centre pursuant to section 24; and

(b) refuses to submit to the examination mentioned in clause (a).

(2) A person may be conveyed to a place for the purpose of the psychiatric examination mentioned in clause (1)(a) only if:

(a) arrangements have been made with a physician who has admitting privileges to a mental health centre; and

(b) the certificate of the examining physician or the prescribed health professional is issued in accordance with this section.

(3) The certificate of a physician or a prescribed health professional in the prescribed form is sufficient authority to any person to apprehend the person who is the subject of the certificate and convey him or her immediately to the place where the examination is to be conducted by the physician who has admitting privileges to a mental health centre mentioned in subsection (1).

(4) Every certificate issued pursuant to subsection (2) is required to:

(a) state that the examining physician or the prescribed health professional has personally examined the person who is the subject of the certificate and, after due inquiry into the necessary facts relating to the case of the person, has formed the opinion that the person is suffering from a mental disorder and requires a psychiatric examination to ascertain whether he or she should be admitted to a mental health centre pursuant to section 24;

(b) state the facts on which the examining physician or the prescribed health professional has formed his or her opinion of the mental disorder;

(c) show the date on which the examination was made; and

(d) be signed in the presence of one subscribing witness.

(5) No person shall be conveyed for a psychiatric examination more than seven days after the date on which the examination for the purposes of subsection (1) was made.

(6) A psychiatric examination pursuant to this section must be conducted as soon as is reasonably practicable, and in all cases within 24 hours, after the person arrives at the place where he or she is to be examined.

2014, c.16, s.15.

Involuntary patients

18.1 Unless otherwise directed by the director, the assessment, treatment and care of an involuntary patient is to be provided at a mental health centre.

2014, c.16, s.15.

Judge's warrant

19(1) A person may lay an information before a judge of the Provincial Court of Saskatchewan in the prescribed form and manner if that person believes on reasonable grounds that another person who refuses to submit to a medical examination:

(a) is suffering from a mental disorder; and

(b) is in need of examination to determine whether he or she should be admitted to a mental health centre pursuant to section 24.

(2) If on inquiry the judge of the Provincial Court of Saskatchewan is satisfied that the person named in the information is in need of examination to determine whether he or she should be admitted to a mental health centre pursuant to section 24, that judge may, after making arrangements with a physician who has admitting privileges to a mental health centre, issue a warrant in the prescribed form and manner to apprehend the person named in the warrant and cause him or her to be taken to a place where he or she may be examined by that physician.

(3) No person shall falsely swear or affirm an information pursuant to subsection (1).

(4) A warrant issued pursuant to subsection (2) is to be accompanied by written reasons for its issuance.

(5) A copy of a warrant issued pursuant to subsection (2) and the written reasons are to be provided to the person who is apprehended pursuant to the warrant and to the physician who examines that person.

(6) If a relative or friend of a person who is to be apprehended pursuant to this section so requests, the warrant may be directed to and executed by that relative or friend and, otherwise, it may be directed to and executed by a peace officer.

(7) The person who is apprehended pursuant to this section must be examined by a physician as soon as is reasonably practicable and in all cases within 24 hours after that person's apprehension.

(8) No person shall be apprehended pursuant to a warrant issued pursuant to subsection (2) more than seven days after the date on which the warrant was issued.

1984-85-86, c.M-13.1, s.19; 2014, c.16, s.16.

Powers of peace officers in certain cases

20(1) A peace officer may apprehend a person without a warrant and convey that person as soon as is reasonably practicable to a place where he or she may be examined by a physician if the peace officer has reasonable grounds to believe that the person is:

(a) suffering from a mental disorder; and

(b) likely to cause harm to himself or herself or to others or to suffer substantial mental or physical deterioration if he or she is not detained in a mental health centre.

(2) A person apprehended pursuant to subsection (1) must be examined by a physician as soon as is reasonably practicable and in all cases within 24 hours after his or her apprehension.

2014, c.16, s.19.

Patients brought into Saskatchewan

21(1) Subject to the regulations, if the director has reason to believe that a person who is being detained in a hospital outside Saskatchewan by reason of having a mental disorder should be brought into Saskatchewan, the director may, by order in the prescribed form, authorize that the person be taken into custody, conveyed to a mental health centre and examined by a physician who has admitting privileges to the mental health centre.

(2) No person shall be conveyed to a mental health centre pursuant to subsection (1) more than seven days after the date that the order mentioned in subsection (1) was made.

(3) An examination mentioned in subsection (1) is to be conducted as soon as is reasonably practicable and in all cases within 24 hours of the person's being brought into Saskatchewan.

1984-85-86, c.M-13.1, s.21; 2014, c.16, s.18.

Treatment of person charged with an offence

22(1) In this section, **"judge"** includes a judge of the Provincial Court of Saskatchewan.

(2) If a person who has been charged with an offence and who is in custody requests an examination in order to determine whether he or she should be treated for a mental disorder, the judge may, after making the necessary arrangements with a psychiatrist or any other qualified health professional designated by the regional director, order that the person be conveyed to a place where he or she may be examined by that psychiatrist or other professional.

(3) If a judge considers that a person who has been charged with an offence is suffering from a mental disorder and is in need of an examination to determine whether he or she should be admitted to a mental health centre pursuant to section 24, the judge may, after making arrangements with a physician who has admitting privileges to a mental health centre, order that the person be conveyed to a place where he or she may be examined as an out-patient by that physician.

(4) If an order is made pursuant to subsection (2) or (3), the judge may order that the person to be examined is to be accompanied by a peace officer who shall be responsible for the custody of the person until the examination has been completed.

(5) The results of an examination ordered pursuant to subsection (2) or (3) are to be communicated in writing to the judge.

(6) A person mentioned in subsection (2) or (3) may receive treatment with the approval of the court if the judge, on the basis of the results of the examination conducted pursuant to this section, is satisfied that:

(a) the person examined requires treatment for a mental disorder;

(b) a psychiatrist or other qualified health professional designated by the regional director is prepared to provide treatment to the person; and

(c) the person consents to receiving treatment.

2014, c.16, s.19.

Admission on order or warrant

23 Subject to the regulations, a person who is suffering from a mental disorder may be admitted to a mental health centre and detained there:

(a) under an order pursuant to Part XX.1 of the *Criminal Code* (Canada);

(b) on an order of the Commissioner of the Correctional Service of Canada in the case of transfer of the person from a penitentiary.

(c) **Repealed.** 1993, c.59, s.10.

1984-85-86, c.M-13.1, s.23; 1993, c.59, s.10; 2014, c.16, s.20.

Psychiatric review

23.1(1) Where a person has been detained under the provisions of the *Criminal Code* (Canada) as unfit to stand trial, not criminally responsible by reason of mental disorder or acquitted on account of insanity and the person's detention is about to expire, the director may order that the person submit to an examination by a physician with admitting privileges to a mental health centre to ascertain whether that person should be detained in a mental health centre pursuant to section 24.

(2) A person to whom an order is directed pursuant to subsection (1) shall allow himself or herself to be examined in accordance with the order.

1993, c.59, s.11; 2014, c.16, s.21.

Admission on medical certificates

24(1) In this section, **"physician"** means:

(a) a physician who has admitting privileges to a mental health centre; or

(b) a resident in psychiatry under the supervision of a psychiatrist who has admitting privileges to a mental health centre.

(2) Every certificate issued for the purposes of this section is to be in the prescribed form and is to:

(a) state that the physician has examined the person named in the certificate within the preceding 72 hours and that, on the basis of the examination and any other pertinent facts regarding the person or the person's condition that have been communicated to the physician, he or she has reasonable grounds to believe that:

(i) the person is suffering from a mental disorder as a result of which he or she is in need of treatment or care and supervision that can be provided only in a mental health centre;

(ii) as a result of the mental disorder the person is unable to fully understand and to make an informed decision regarding his or her need for treatment or care and supervision; and

(iii) as a result of the mental disorder, the person is likely to cause harm to himself or herself or to others or to suffer substantial mental or physical deterioration if he or she is not detained in a mental health centre;

(b) state the facts on which the physician has formed his or her opinion that the person meets the criteria set out in clause (a);

(c) show the date on which the examination was made; and

(d) be signed in the presence of one subscribing witness.

(3) On the issuance of the certificates of two physicians at least one of whom is a psychiatrist:

(a) a person who is not an in-patient in a mental health centre may be apprehended, conveyed and admitted to a mental health centre and detained there until the end of the 21st day following the day that he or she is admitted;

(b) a person who is an in-patient in a mental health centre may be detained there until the end of the 21st day following the date of issuance of the first of the certificates.

(4) If one of the certificates mentioned in subsection (3) is issued by a resident in psychiatry under the supervision of a psychiatrist, the other certificate must not be issued by:

(a) the psychiatrist who is supervising that resident; or

(b) another resident in psychiatry.

(5) Notwithstanding subsection (3), if it is not reasonably practicable to obtain the certificates of two physicians at least one of whom is a psychiatrist, on the issuance of the certificate of one physician:

(a) a person may be apprehended, conveyed and admitted to a mental health centre and detained there until the end of the third day following the day on which he or she is admitted;

(b) a person who is an in-patient in a mental health centre may be detained there until the end of the third day following the date of the issuance of the certificate.

(6) If a person is detained in a mental health centre pursuant to subsection (5), a second opinion about his or her condition is to be obtained as soon as is practicable, if the physician who signed the certificate on the basis of which the person is detained in the mental health centre is:

(a) a psychiatrist, from another physician; or

(b) not a psychiatrist, from a psychiatrist.

(7) A person detained pursuant to subsection (5) may be further detained until the end of the 21st day following the date of the issuance of the certificate mentioned in that subsection if a certificate is issued by the physician who examined the patient pursuant to subsection (6).

(8) A person detained in a mental health centre pursuant to this section may be detained for successive periods of 21 days on the certificates, signed before the end of each 21-day period, of two physicians at least one of whom is a psychiatrist.

(9) No person shall be admitted to a mental health centre:

(a) pursuant to clause (3)(a) more than seven days after the date of the first of the two examinations on which the certificates are based;

(b) pursuant to clause (5)(a) more than seven days after the date of the examination on which the certificate is based.

(10) If a person who has been detained pursuant to this section indicates a desire to remain in a mental health centre pursuant to section 17, the attending physician may issue an order in the prescribed form revoking any certificate then in effect, and in that event the person may remain in the mental health centre pursuant to that section.

2014, c.16, s.22.

Long term detention order

24.1(1) The officer in charge of a mental health centre in which a person is being detained pursuant to section 23, 24 or this section may apply to Her Majesty's Court of Queen's Bench for Saskatchewan for an order for detention of that person for a period not to exceed one year where:

(a) the person is suffering from a mental disorder as a result of which he or she is in need of treatment or care and supervision which can be provided only in a mental health centre;

(b) as a result of the mental disorder the person is unable to fully understand and to make an informed decision regarding his or her need for treatment or care and supervision;

(c) as a result of the person's mental disorder, he or she is likely to cause bodily harm to himself or herself, or to others;

(d) the person has been detained pursuant to section 23, 24 or this section for a total of 60 days or longer immediately prior to the date of the application; and

(e) the person is suffering from a severely disabling continuing mental disorder that is likely to persist for a period of longer than 21 days, notwithstanding that treatment is being provided.

(2) Copies of an application pursuant to subsection (1) are to be served on:

(a) the person who is the subject of the application;

(b) the person's nearest relative;

(c) the person's proxy, if any;

(d) the person's personal guardian, if any; and

(e) an official representative for the region.

(3) Where a judge of the court finds, following a hearing, that the person meets all of the criteria listed in subsection (1), the judge may make an order for the detention of the person for a period of up to one year for the purposes of treatment or care and supervision.

(4) Detention orders made pursuant to subsection (3) are subject to review by the court.

(5) An application for a review of a detention order may be made by:

(a) the person who is the subject of the application;

(b) the person's nearest relative;

(c) the person's proxy, if any;

(d) the person's personal guardian, if any;

(e) the officer in charge of the mental health centre in which the person is detained;

(f) an official representative for the region;

(g) any other person with a sufficient interest.

(6) An application for a review of an order issued pursuant to subsection (3) is to be served on the persons who were parties to the application for the detention order.

(7) On an application to review a detention order issued pursuant to subsection (3), the court may:

(a) affirm, vary or rescind the detention order;

(b) make any order as to costs.

(8) Where an order issued pursuant to subsection (3) expires or is rescinded, the attending physician shall, in writing and in the prescribed form, notify the patient, the patient's nearest relative, any proxy, any personal guardian and an official representative for the region that the order is no longer in force.

(9) The practice and procedure of Her Majesty's Court of Queen's Bench for Saskatchewan on an application in chambers apply to applications pursuant to this section, with any necessary modification.

1993, c.59, s.13; 2014, c.16, s.23.

Treatment in community

24.2(1) For the purposes of sections 24.3 and 24.7 **"in the community"** means outside of a mental health centre.

(2) A psychiatrist may issue a community treatment order respecting a person where the criteria in clause 24.3(1)(a) are present.

1993, c.59, s.13; 2014, c.16, s.24.

Community treatment order

24.3(1) A community treatment order must:

(a) state that the psychiatrist has examined the person named in the community treatment order within the immediately preceding 72 hours and that, on the basis of the examination and any other pertinent facts regarding the person or the person's condition that have been communicated to the psychiatrist, the psychiatrist has probable cause to believe that:

(i) the person is suffering from a mental disorder for which he or she is in need of treatment or care and supervision in the community and that the treatment and care can be provided in the community;

(ii) during the preceding two-year period, the person:

(A) has been admitted to a mental health centre, voluntarily or involuntarily, on at least one occasion; or

(B) has previously been the subject of a community treatment order;

(iii) if the person does not receive treatment or care and supervision while residing in the community, the person is likely to cause harm to himself or herself or to others, or to suffer substantial mental or physical deterioration, as a result of the mental disorder;

(iv) the services that the person requires in order to reside in the community so that the person will not be likely to cause harm to himself or herself or to others, or to suffer substantial mental or physical deterioration:

(A) exist in the community;

(B) are available to the person; and

(C) will be provided to the person;

(v) as a result of the mental disorder, the person is unable to fully understand and to make an informed decision regarding his or her need for treatment or care and supervision; and

(vi) the person is capable of complying with the requirements for treatment or care and supervision contained in the treatment order;

(b) state the facts on which the psychiatrist has formed his or her opinion that the person meets the criteria set out in clause (a);

(c) describe the services that will be provided to the person and the treatment that is recommended for the person;

(d) state that the person is to submit to the medical treatment that is prescribed by the attending physician and is to attend appointments with the attending physician or with the responsible individuals identified pursuant to clause (e) in the places as scheduled, from time to time, consistent with good medical practice;

(d.1) if considered necessary, state that the person is required to stay at a residence specified by the psychiatrist;

(e) identify the names of the persons authorized by the regional director who will ensure that the person who is the subject of the community treatment order will receive the services that he or she requires in order to be able to reside in the community;

(f) show the date on which the examination was made;

(g) be signed by the examining psychiatrist in the presence of one subscribing witness; and

(h) be in the prescribed form.

(2) Subsections 25(2) to (5) apply, with any necessary modification, to the medical treatment that a person is required to submit to pursuant to a community treatment order.

(3) Where a community treatment order has been validated, the attending physician shall provide a copy of it to:

(a) the patient;

(b) the patient's nearest relative;

(b.1) the patient's proxy, if any;

(b.2) the patient's personal guardian, if any; and

(c) an official representative for the region.

(4) Where a community treatment order has been issued by a psychiatrist and the person named in that order refuses to submit to further examination, the psychiatrist who issued the order may order the person to submit to:

(a) an examination by a second psychiatrist; or

(b) an examination by a physician who has been designated pursuant to section 24.31 and a further examination by a second psychiatrist.

(5) Where a person mentioned in subsection (4) refuses to be examined pursuant to either clause (4)(a) or (4)(b), that person may be apprehended and conveyed to a place where the examination is to occur and be examined for the purposes of validating or extending a community treatment order.

1993, c.59, s.13; 1996, c.17, s.4; 2014, c.16, s.25.

Second physician – designation

24.31 Where no psychiatrist is available in the region to issue a certificate pursuant to section 24.4, a regional director serving the region may designate a physician to conduct an examination for the purposes of section 24.4.

1996, c.17, s.5; 2002, c.R-8.2, s.85.

Certificate in support of a community treatment order

24.4(1) A certificate in support of a community treatment order is to be in the prescribed form and is to state that a physician who is authorized in accordance with subsection (2):

(a) has examined the person who is the subject of the order within the preceding 72 hours;

(b) has probable cause to believe that the criteria in clause 24.3(1)(a) are met;

(c) has probable cause to believe that the requirements of clauses 24.3(1)(b), (f) and (g) have been satisfied; and

(d) concurs with the treatment that the person is to follow and the services that will be provided to the person as set out in the community treatment order.

(2) A certificate in support of a community treatment order that is issued pursuant to subsection (1) is to be written by:

(a) a psychiatrist other than the psychiatrist who issued the community treatment order; or

(b) where no psychiatrist other than the psychiatrist who issued the community treatment order is available in a region, a physician who has been designated pursuant to section 24.31.

(3) A certificate issued pursuant to subsection (1) validates the community treatment order that it supports.

(4) If there is no lapse in a valid community treatment order, a certificate in support of a community treatment order is not required for any subsequent renewal of the order.

1996, c.17, s.6; 2002, c.R-8.2, s.85; 2014, c.16, s.26.

Validation, expiration and revocation

24.5(1) Every community treatment order and any renewal of it that has been issued pursuant to section 24.4 by a psychiatrist is valid for the period specified in the community treatment order, to a maximum of six months from the date of the community treatment order.

(1.1) Subject to subsections (1.2) and (1.3), a community treatment order that has been validated by a certificate in support of the community treatment order issued pursuant to section 24.4 by a physician designated pursuant to section 24.31 is valid for the period specified in the community treatment order, to a maximum of 72 hours from the date of the community treatment order.

(1.2) During the period of validity of a community treatment order supported by a physician designated pursuant to section 24.31, that order may be renewed if a further certificate in support of the community treatment order is issued by a psychiatrist.

(1.3) A community treatment order that is renewed pursuant to subsection (1.2) is valid for the period specified in the community treatment order to a maximum of six months from the date of the renewal.

(2) Where a community treatment order that has been issued pursuant to section 24.3 has expired and has not been renewed, the attending physician shall, in writing, and in the prescribed form, inform the patient, his or her nearest relative, any proxy, any personal guardian and the official representative for the region that the community treatment order is no longer in effect.

(3) Where the attending physician is of the opinion that a person who has been the subject of a community treatment order validated pursuant to section 24.4 no longer meets the criteria prescribed in clause 24.3(1)(a), the attending physician shall:

(a) issue an order in the prescribed form revoking any community treatment order then in effect;

(b) advise the person that he or she is no longer subject to the conditions of any community treatment order validated pursuant to section 24.4; and

(c) provide a copy of the order issued pursuant to clause (a) to:

(i) the patient;

(ii) the patient's nearest relative;

(ii.1) the patient's proxy, if any;

(ii.2) the patient's personal guardian, if any; and

(iii) an official representative for the region.

1993, c.59, s.13; 1996, c.17, s.7; 2014, c.16, s.27.

Compliance

24.6(1) If a person who is the subject of a community treatment order fails to comply with the community treatment order and refuses to submit to a psychiatric examination to ascertain whether or not he or she should be admitted to a mental health centre pursuant to section 24, the attending physician or prescribed health professional may order that the person be apprehended and immediately conveyed to a place where the attending physician may examine the person.

(2) An order issued pursuant to subsection (1):

(a) is to be in the prescribed form; and

(b) is sufficient authority for any peace officer or other person named or described in the order to apprehend the person who is the subject of the order and immediately convey that person to a place where the psychiatrist may examine the person.

1993, c.59, s.13; 2014, c.16, s.28.

Duty to provide care and treatment

24.7 Where a community treatment order has been validated pursuant to section 24.4, the attending physician shall endeavour, with all resources reasonably available in the community, to provide the person who is the subject of the order with services so that the compulsory treatment or care and supervision of the person will no longer be required.

1993, c.59, s.13.

Authority respecting diagnostic and treatment services

25(1) Except in the case of emergency, if a patient is in a mental health centre pursuant to section 17, no diagnostic or treatment services or procedures are to be carried out on the patient except with his or her consent or, if he or she does not have the capacity to consent, with the consent of his or her nearest relative, or proxy or personal guardian, if any.

(2) Subject to the regulations and to subsections (3) to (5), the attending physician may perform or prescribe any diagnostic procedures he or she considers necessary to determine the existence or nature of a mental disorder and administer or prescribe any medication or other treatment that is consistent with good medical practice and that he or she considers necessary to treat the mental disorder to a patient who is detained pursuant to section 24 or 24.1 without that patient's consent.

(3) In the course of on-going diagnosis or treatment, to the extent that it is feasible given the patient's medical condition, the attending physician shall consult with the patient, explain or cause to be explained to the patient the purpose, nature and effect of proposed diagnosis or treatment and give consideration to the views the patient expresses concerning the patient's choice of therapists, the proposed diagnosis or treatment and any alternatives and the manner in which diagnoses or treatments may be provided.

(4) No physician or other person shall administer any treatment that is designated pursuant to clause 43(g) to any involuntary patient, except in accordance with special procedures prescribed for that treatment.

(5) In no case shall a physician or any other person administer psychosurgery or experimental treatment to an involuntary patient.

1984-85-86, c.M-13.1, s.25; 1993, c.59, s.14; 2014, c.16, s.29.

Nearest relative

25.1(1) Subject to subsections (2) and (3), a nearest relative is, with respect to a person requiring a diagnosis, treatment or care in relation to a mental disorder, the person first described in the following clauses who has capacity and is available:

(a) the legally married spouse of the person or a person with whom the person cohabits and has cohabited as a spouse in a relationship of some permanence;

(b) an adult son or daughter;

(c) a parent or legal custodian;

(d) an adult brother or sister;

(e) a grandparent;

(f) an adult grandchild;

(g) an adult uncle or aunt;

(h) an adult nephew or niece.

(2) For the purposes of subsection (1):

(a) if a person requiring a diagnosis, treatment or care in relation to a mental disorder is not an adult, the decision of a legal custodian, within the meaning of *The Children's Law Act, 1997*, is preferred to the decision of a non-custodial parent;

(b) if a person requiring a diagnosis, treatment or care in relation to a mental disorder is an adult, the decision of a person, other than the member of the Executive Council to whom for the time being the administration of *The Child and Family Services Act* is assigned, who was the legal custodian of the person requiring those services immediately before that person became an adult is preferred to the decision of a parent;

(c) the decision of a relative of the whole blood is preferred to the decision of a relative of the same description of the half blood; and

(d) the decision of the elder or eldest of two or more relatives listed in each clause of subsection (1) is preferred to the decision of the other or others of those relatives.

2014, c.16, s.30.

Person other than nearest relative

26(1) If a patient mentioned in subsection 25(1) has appointed a proxy, the proxy shall act in the place of the nearest relative.

(2) If a personal guardian has been appointed with respect to a patient mentioned in subsection 25(1), the personal guardian shall act in the place of the nearest relative.

(3) If a person other than the nearest relative is authorized to act on behalf of the patient pursuant to subsection (1) or (2), the nearest relative is no longer authorized to consent on behalf of the patient.

2014, c.16, s.31.

Duty to provide care and treatment

27 Subject to section 25, if a person is detained in a mental health centre, the attending physician shall endeavour with all resources reasonably available in the mental health centre to provide the person with care and treatment with a view to the result that the detention of the person in the mental health centre will no longer be required.

2014, c.16, s.32.

Transfer to another facility

28(1) Subject to subsection (5), the regulations and to the terms of any warrant or order authorizing a patient's detention in a mental health centre pursuant to section 23, the director may, by order in the prescribed form, transfer an involuntary patient from a mental health centre to any other mental health centre.

(2) An order issued pursuant to subsection (1) is to include written reasons for the transfer.

(3) A patient who is the subject of an order issued pursuant to subsection (1) must be informed promptly of the reasons for the transfer and is entitled on his or her own request to receive a copy of the order as soon as is reasonably practicable.

(4) If a patient is transferred pursuant to subsection (1), the director's order is to be accompanied by the certificates, warrant or order authorizing the detention of the person in the mental health centre from which he or she is transferred, and the director's order and the certificates, warrant or order continue to be sufficient authority for the patient's detention.

(5) On the order of the attending physician, a patient detained in a mental health centre pursuant to section 24 may be transferred from one mental health centre to another if the two mental health centres are in the same municipality.

(6) An order pursuant to subsection (5) is to be in the prescribed form and a copy is to be given to the patient, his or her nearest relative, any proxy, any personal guardian and an official representative for the region.

2014, c.16, s.33.

No appeal

28.1 Notwithstanding any other provision of this Act, no review or appeal lies from a decision to transfer a patient pursuant to subsection 28(5).

1993, c.59, s.16.

Patients from outside Saskatchewan

28.2(1) The director may order the return to another jurisdiction of a person who has been detained for the purposes of psychiatric treatment in Saskatchewan if an order has been issued by a person with the lawful authority to make that order in that jurisdiction for the person to be given a compulsory psychiatric examination.

(2) The director may impose any terms and conditions on an order that the director considers necessary for the purposes of this section.

(3) Every order to return a person to another jurisdiction pursuant to this section is to be in the prescribed form.

(4) Where an order is made pursuant to subsection (1), a copy of the order is to be given to the person who is subject to the order and to an official representative for the region.

(5) The person who is subject to the order or an official representative of the region may appeal the order made pursuant to subsection (1) to Her Majesty's Court of Queen's Bench for Saskatchewan, and section 36 applies with any necessary modification.

1993, c.59, s.16.

Temporary removal and return

29(1) Subject to the regulations, the attending physician may authorize the temporary removal of an involuntary patient from a mental health centre to an appropriate place, having ascertained that the patient:

(a) requires health care or other services that cannot be provided in the mental health centre; or

(b) requires a temporary absence from the mental health centre for activities that will be of benefit to the patient.

(2) From the time of the involuntary patient's removal pursuant to subsection (1) until his or her return to the mental health centre, the patient is deemed to continue to be a patient of the mental health centre in the same manner and to the same extent and is subject to the same control as if he or she were in the mental health centre.

2014, c.16, s.34.

Departure and return, powers of attending physician

30(1) If a patient who is detained pursuant to section 24 leaves a mental health centre without having been discharged, the attending physician may, within 21 days after the patient's departure, if he or she considers it advisable to do so, order that the patient be returned to the mental health centre.

(2) If the attending physician orders that a patient be returned to a mental health centre pursuant to subsection (1), the patient may be apprehended and returned to the mental health centre, without a warrant, by:

(a) any peace officer; or

(b) any person designated by the attending physician.

(3) If a patient who is detained pursuant to section 24 leaves a mental health centre without having been discharged and remains absent from the mental health centre for a period of more than 21 days, he or she is deemed to be discharged from the mental health centre.

2014, c.16, s.35.

Temporary hold for voluntary patients

30.1(1) A nurse in a mental health centre may detain or cause to be detained and, if necessary, restrain or cause to be restrained a voluntary patient requesting to be discharged if the nurse believes on reasonable grounds that the patient:

(a) has a mental disorder;

(b) because of the mental disorder, is likely to cause serious harm to himself or herself or to another person or to suffer serious mental or physical deterioration if the patient leaves the mental health centre; and

(c) needs to be examined by a physician or a resident in psychiatry.

(2) A patient who is detained pursuant to subsection (1) must be examined by a physician or a resident in psychiatry within three hours after the detention commenced.

2014, c.16, s.35.

Discharge from mental health centre

31(1) If the attending physician is of the opinion that a person detained pursuant to section 24 no longer meets the criteria for a certificate set forth in clause 24(2)(a), the attending physician shall:

(a) issue an order in the prescribed form revoking any certificate then in effect;

(b) advise the patient that an order has been issued pursuant to clause (a) and that the patient is no longer subject to detention pursuant to section 24;

(c) provide an official representative for the region with a copy of the order issued pursuant to clause (a); and

(d) if the patient requests a copy of the order issued pursuant to clause (a), provide him or her with a copy.

(2) If an order is issued pursuant to clause (1)(a) and the person remains in the mental health centre on his or her own request, section 17 applies, with any necessary modification.

(3) If there is no lawful authority for detaining a person in a mental health centre, the person must be discharged:

(a) on his or her own request; or

(b) if his or her attending physician considers it advisable that he or she be discharged, on the direction of the attending physician.

2014, c.16, s.36.

Notice to patient

31.1 Where a certificate or certificates issued pursuant to section 24 with respect to a patient expire and have not been replaced by a set of new certificates issued pursuant to section 24, the attending physician shall immediately cause the patient to be informed in writing that:

(a) the certificate or certificates have expired; and

(b) he or she is no longer subject to detention or treatment pursuant to section 24.

1993, c.59, s.17.

PART VI
Appeal and Review Procedures

Review panels, appointment, duties, etc.

32(1) The minister shall appoint a review panel for each region.

(2) Each review panel shall consist of three persons, one of whom is to be a physician and another a solicitor.

(3) Each member of a review panel holds office for a term of not more than three years and until the member is reappointed or a successor is appointed.

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

(5) Subject to subsection (2), the minister may appoint an alternate member for each member of a review panel, and an alternate member has all the powers of a member when he is acting as a member.

(6) No employee of the Government of Saskatchewan or of any agency of the government or of a facility, no person actively serving as a member of the medical staff of a facility and no person who by blood or marriage is closely related to or connected with a member of that medical staff shall be a member or alternate member of a review panel.

(7) The minister shall provide any secretarial or other assistance to each review panel that he considers necessary.

(8) The function of a review panel is the investigation of appeals submitted pursuant to this Act or the regulations and for the purpose of any such investigation the members of the review panel have all the powers conferred on a commission by sections 11, 15 and 25 of *The Public Inquiries Act, 2013*.

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

(10) The members of each review panel and the alternate members are to receive any remuneration and reimbursement for expenses that may be determined by the minister.

1984-85-86, c.M-13.1, s.32; 1993, c.59, s.18; 2013, c.27, s.23; 2014, c.16, s.37.

Notice to patients respecting review panel

33(1) Subject to subsections (3) to (5), the attending physician shall immediately cause written notice to be given to the patient, his or her nearest relative, any proxy, any personal guardian and an official representative for the region in which the mental health centre is located if that patient:

(a) is subject to detention in a mental health centre pursuant to section 24;

(b) is the subject of a community treatment order pursuant to section 24.3; or

(c) is the subject of an order for a transfer pursuant to subsection 28(1).

(1.1) Notice pursuant to subsection (1) must include the following information:

(a) the existence and function of the review panel appointed for the region where the facility is located;

(b) the name and address of the chairperson of the review panel; and

(c) the right of appeal to the review panel, pursuant to section 34.

(2) On receipt of a notice pursuant to subsection (1), the official representative shall:

(a) visit the patient;

(b) as soon as is reasonably practicable, advise the patient about his or her right of appeal; and

(c) provide any assistance that the official representative considers necessary to enable the patient, or a nearest relative, proxy or personal guardian on the patient's behalf, to initiate an appeal.

(3) Subject to the regulations, if a patient is of the opinion that disclosure of the following information to the patient's nearest relative would result in the patient's health or safety being endangered or would be an unreasonable invasion of the patient's privacy, the patient may request the attending physician to withhold from the patient's nearest relative information concerning the patient's:

(a) detention in a mental health centre pursuant to section 24;

(b) being the subject of a community treatment order pursuant to section 24.3; or

(c) being the subject of an order for transfer pursuant to subsection 28(1).

(4) The attending physician shall consult with an official representative concerning the withholding of information mentioned in subsection (3), if the attending physician:

(a) receives a written request pursuant to subsection (3); or

(b) is of the opinion that disclosure of the information to the patient's nearest relative would result in the patient's health or safety being endangered.

(5) If the attending physician is satisfied, after consulting with the official representative as required by subsection (4), that there are reasonable grounds to believe that disclosure of the information mentioned in subsection (3) to the patient's nearest relative would result in the patient's health or safety being endangered or, in the case of a request made by a patient, would be an unreasonable invasion of the patient's privacy, the attending physician shall:

(a) withhold the information from the nearest relative; and

(b) make a written record of the withholding and the reasons for it.

1993, c.59, s.19; 1996, c.17, s.8; 2014, c.16, s.38.

Appeals and investigation by review panel

34(1) In this section **"appellant"** means a person described in clause 33(1)(a), (b) or (c) who submits an appeal or on whose behalf an appeal is submitted.

(2) Subject to subsection (4) or (4.1), a person described in clause 33(1)(a), (b) or (c) may submit an appeal in writing to the chairperson of the review panel.

(3) The nearest relative, proxy or personal guardian of a person described in clause 33(1)(a) or (b), an official representative or any other person who has a sufficient interest may submit an appeal pursuant to subsection (2).

(4) A person described in clause 33(1)(a) has no right of appeal pursuant to this section unless at least two new certificates have been issued pursuant to section 24 with respect to that person since he or she last exercised his or her right of appeal pursuant to this section.

(4.1) A person described in clause 33(1)(b) has no right of appeal pursuant to this section unless:

(a) a new community treatment order is written with respect to the person; or

(b) more than 21 days have elapsed since a decision was made by the review panel concerning a community treatment order that is still in effect.

(5) Where certificates are issued pursuant to section 24 which would authorize the detention of a person in a mental health centre after the expiration of:

(a) 21 days;

(b) six months; or

(c) any multiple of six months;

following the date of his admission, the attending physician shall so notify the chairperson of the review panel for the region in which the mental health centre is located, and for the purposes of this section that notice is deemed to be an appeal by the person being detained.

(5.1) There is no right of appeal pursuant to subsection (5) or (5.2) where an appeal of the decision at issue has been considered by the review panel in the preceding 21 days.

(5.2) If a community treatment order is issued pursuant to section 24.3 that would extend the period of the community treatment order beyond six months or any subsequent six-month period following the date on which the person first became the subject of a community treatment order, the attending physician shall notify the chairperson of the review panel for the region of the extension, and, for the purposes of section 34, that notice is deemed to be an appeal by the person who is subject to the community treatment order.

(6) On receipt by the chairperson of a review panel of an appeal pursuant to subsection (2), (3) or (5), the review panel shall:

(a) immediately carry out any investigation that it considers necessary to speedily determine the validity of the appeal; and

(b) invite the appellant and other persons considered by the review panel to be affected by the appeal to testify or produce evidence relating to the appeal.

(7) The appellant has the right on an appeal:

(a) to see any written evidence placed before the review panel;

(b) to be personally present when any oral evidence is presented to the review panel;

(c) to adduce evidence;

(d) to cross examine; and

(e) to be represented by counsel.

(8) The review panel shall decide whether the appellant shall be detained or transferred, as the case may be.

(9) The chairperson of the review panel shall make a written report of the decision of the review panel and shall, before the end of the third business day following the day that the appeal was received, transmit the report to:

(a) the appellant;

(b) the nearest relative, if he or she submitted the appeal;

(c) the proxy, if any;

(d) the personal guardian, if any;

(e) an official representative for the region, if he or she submitted the appeal; and

(f) the officer in charge of the mental health centre in which the appellant is a patient.

(10) Where the review panel does not find in favour of the appellant, the chairperson of the review panel shall include in the written report transmitted to the appellant pursuant to clause (9)(a) notice of the right of appeal to Her Majesty's Court of Queen's Bench for Saskatchewan, as provided in section 36.

(11) The officer in charge of a mental health centre where an appellant is detained shall take any action that may be required to give effect to the decision of the review panel.

(12) *The Arbitration Act, 1992* does not apply to an investigation pursuant to this section.

1984-85-86, c.M-13.1, s.34; 1992, c.A-24.1, s.61; 1993, c.59, s.20; 1996, c.17, s.9; 2014, c.16, s.39.

Regulations respecting appeals and investigations

35 The Lieutenant Governor in Council may make regulations:

(a) creating rights of appeal to a review panel in addition to those specified in section 34, and defining the powers of review panels with respect to appeals pursuant to the regulations;

(b) conferring on review panels any ancillary powers that are considered advisable for carrying out their functions pursuant to this Act and the regulations; and

(c) regulating practice and procedure before review panels.

1984-85-86, c.M-13.1, s.35.

Appeal to Court of Queen's Bench

36(1) A patient, or a person described in subsection 34(3) on the patient's behalf, may appeal the decision of a review panel respecting an appeal pursuant to section 34 to the Court of Queen's Bench within 30 days after the date of service of the decision.

(1.1) Notwithstanding the provisions of any other Act or the Queen's Bench Rules, once an appeal of a section 24 certificate or a section 24.3 community treatment order is registered with the Court of Queen's Bench for Saskatchewan the appeal shall continue on any new and subsisting certificate or community treatment order notwithstanding that the original certificate or community treatment order that is the basis of the appeal is no longer in effect.

(2) An appeal pursuant to this section is to be served on:

(a) the director;

(b) the officer in charge of the mental health centre in which the appellant is a patient; and

(c) any other persons that the court may direct.

(3) The practice and procedure of the Court of Queen's Bench on an application in chambers apply to any application pursuant to this section, with any necessary modification.

(4) An appeal pursuant to this section is to be supported by an affidavit of the appellant setting forth fully the facts in support of the appeal.

(5) In addition to the evidence adduced by the appellant, the court may direct any further evidence to be given that it considers necessary.

(6) The court may confirm or reverse the decision of the review panel and may make any order that it considers necessary to give effect to its decision.

(7) The decision of the court pursuant to this section is not subject to appeal.

(8) The court may make any order as to the costs of an appeal pursuant to this section that it considers appropriate.

1984-85-86, c.M-13.1, s.36; 1993, c.59, s.21; 2014, c.16, s.40.

PART VII
General

Licence required

37(1) No person shall operate a mental health approved home unless that person holds a licence authorizing him or her to do so.

(2) A licence respecting a building or premises that will be operated as a mental health approved home must not be issued unless the regional director is satisfied that:

(a) the building or premises:

(i) is the principal residence of the operator;

(ii) meets the fire, health and safety standards established by applicable Acts and regulations and municipal bylaws;

(iii) has been inspected by a fire inspector within the meaning of *The Fire Prevention Act, 1992* in the year in which the application for a licence is made or in the preceding year and will be inspected after that time in accordance with *The Fire Prevention Act, 1992*;

(iv) has been inspected by the regional director in the year in which an application is made and annually while the licence is valid;

(v) provides sleeping accommodation with a reasonable amount of space and privacy for each resident;

(vi) provides a reasonable amount of recreational space for residents;

(vii) provides adequate furnishings and accessories for each resident;

(viii) has a lockable storage cabinet in which medications may be stored;

(b) the operator is a suitable, reliable and responsible person who is able to provide supervised accommodation for persons who require such accommodation because of a mental disorder; and

(c) in the operation of the mental health approved home, the operator will:

(i) operate in a manner that does not contravene any Act or regulation or municipal bylaw;

(ii) admit persons to it only after the regional director has:

(A) determined that the operator is capable of providing the necessary supervised accommodation; and

(B) given his or her approval with respect to each person for whom accommodation is sought;

(iii) provide supervised accommodation in the home for not more than five residents at any one time;

(iv) provide for the individual needs of each resident, including needs for food, supervised accommodation, safety, social relationship and privacy;

(v) keep the home open at all reasonable times to visitation and inspection by a fire inspector within the meaning of *The Fire Prevention Act, 1992*, the public health inspector and the regional director; and

(vi) inform the regional director of any circumstances that may cause the operator to be unable to provide adequately for the supervised accommodation of residents.

2014, c.16, s.41.

Applications

37.1 An applicant for a licence shall:

(a) apply to the regional health authority in a form approved by the regional health authority; and

(b) include in the application any relevant information and material that the regional health authority may request.

2014, c.16, s.41.

Issuance of licence

37.2(1) If an application is received by the regional health authority, the regional health authority may:

(a) if satisfied that the applicant has complied with this Act and the regulations, issue the licence; or

(b) refuse to issue the licence.

(2) The minister may make payments in support of accommodation and supervision provided to residents by operators of mental health approved homes.

(3) The regional health authority may include as a provision of the licence any term or condition that the regional health authority considers appropriate.

2014, c.16, s.41.

Compliance with licence required

37.3 No person to whom a licence is issued shall fail to comply with any term or condition contained in the licence.

2014, c.16, s.41.

Duration of licence

37.4 A licence is valid for the period set out in the licence or, if no period is set out in the licence, for one year from the date on which it is issued, unless the licence is suspended or cancelled.

2014, c.16, s.41.

Licence not transferable

37.5 A licence is not transferable.

2014, c.16, s.41.

Licence to be displayed

37.6 Every licensee shall cause the licence to be displayed in a prominent place in the mental health approved home for which it is issued.

2014, c.16, s.41.

Amendment, suspension, cancellation of licences

37.7(1) If the regional health authority considers it to be in the public interest, it may renew, amend, suspend or cancel a licence.

(2) For the purposes of section 37, a licence that is suspended pursuant to this section is, for the period of the suspension, deemed not to have been issued.

2014, c.16, s.41.

Title reserved

37.8 No person who operates any facility shall hold the facility out as being a mental health approved home unless that person holds a licence for the facility.

2014, c.16, s.41.

Inspection

37.9(1) The regional director may enter any premises or vehicle associated with a mental health approved home and conduct an inspection for the purposes of:

(a) ensuring the well-being of residents of the mental health approved home; or

(b) determining whether there is compliance with this Act or the regulations.

(2) An inspection may be conducted:

(a) at any reasonable time; or

(b) at any other time if the regional director has reasonable grounds to believe that an unsafe situation exists.

(3) When conducting an inspection in accordance with subsection (1), the regional director may do all or any of the following:

(a) make any inquiry the regional director considers appropriate;

(b) require the use of any machinery, equipment, appliance or thing located at the premises to be demonstrated;

(c) conduct any tests, take any samples and make any examinations that the regional director considers necessary or advisable;

(d) take one or more persons to any place to assist the regional director and make arrangements with the licensee for those persons to re-enter the place to perform specified duties;

(e) require the production of, inspect and make copies of any books, records, papers or documents or of any entry in those books, records, papers or documents required to be kept by this Act or the regulations;

(f) subject to subsection (4), remove any books, records, papers or documents examined pursuant to this section for the purpose of making copies if a copy is not readily available, if a receipt is given;

(g) require the licensee to provide the regional director with all reasonable assistance, including using any computer hardware or software or any other data storage, processing or retrieval device or system to produce information;

(h) in order to produce information and records mentioned in this subsection, use any computer hardware or software or any other data storage, processing or retrieval device or system that is used by the licensee required to deliver the information and records.

(4) If the regional director removes any books, records, papers or documents pursuant to this section for the purpose of making copies, the regional director shall:

(a) make those copies as soon as is reasonably possible; and

(b) promptly return the books, records, papers or documents from which the copies were made to:

(i) the place from which they were removed; or

(ii) any other place that may be agreed to by the regional director and the person who produced them.

2014, c.16, s.41.

Information requested by regional director

37.91(1) The regional director may:

(a) request from a licensee any information or material that the regional director may require for the purposes of this Act and the regulations; and

(b) set out the manner in which and time within which that information must be provided.

(2) On receipt of a request of the regional director pursuant to subsection (1), a licensee must provide the regional director with the requested information or material respecting the licensee or mental health approved home:

(a) in the manner specified by the regional director; and

(b) within the time limits specified by the regional director.

2014, c.16, s.41.

Request for review

37.92(1) A person who is the subject of a decision or action made with respect to the issuing, refusal to issue, renewal, amendment, suspension or cancellation of a licence for a mental health approved home by a regional health authority may request a review of the decision or action.

(2) A request for review is to be submitted in writing to the director within 30 days after the date on which the decision or action in relation to which the review is requested was made or taken.

(3) A request for review to the director does not stay the effect of the decision or action in relation to which the review is requested.

(4) On receiving a request for review, the director shall:

(a) investigate the particulars of the decision or action in relation to which the review is requested; and

(b) allow the person requesting the review an opportunity to make representations in a form and manner determined by the director.

(5) On completing the review, the director shall:

(a) confirm, reverse or vary the decision or action in relation to which the review was requested; and

(b) provide written reasons for the decision to the person who requested the review.

2014, c.16, s.41.

Minister may waive or exempt

37.93 If the minister considers it appropriate to do so, he or she may:

(a) waive the requirements of section 37; or

(b) exempt any mental health approved home or any person from any requirement contained in the regulations.

2014, c.16, s.41.

Annual inspection of facilities

37.94 The regional director shall cause each mental health approved home to be inspected annually and provide any directions to the licensee of that facility to make or cause to be made the maintenance, repairs or alterations that the regional director considers necessary within the time that the regional director may specify.

2014, c.16, s.41.

38 Repealed. 2014, c.16, s.42.

Immunity

39 No action lies or shall be instituted against any person who performs a duty, exercises a power or carries out a responsibility pursuant to this Act or the regulations for any loss or damage suffered by any person by reason of anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done, by that person, in the performance or supposed performance of that duty, the exercise or supposed exercise of that power or the carrying out or supposed carrying out of that responsibility.

1993, c.59, s.23.

Limitation

40 No prosecution for an alleged contravention of this Act shall be commenced more than two years after the date of commission of the alleged contravention.

2004, c.L-16.1, s.58; 2014, c.16, s.43.

Assisting unauthorized departure

41 No person shall aid, abet, counsel or wrongfully allow an involuntary patient to depart from a mental health centre except if the patient has been authorized to depart from the mental health centre pursuant to this Act.

1984-85-86, c.M-13.1, s.41; 2014, c.16, s.44.

Offence and penalty

42 Every person who violates any provision of this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than $5,000, and to a further fine of not more than $500 for each day or part of a day during which the offence continues.

1984-85-86, c.M-13.1, s.42; 2014, c.16, s.45.

Regulations

43 For the purpose of carrying out the provisions of this Act according to their intent, the Lieutenant Governor in Council may make regulations:

(a) **Repealed**. 2014, c.16, s.46.

(b) **Repealed**. 2014, c.16, s.46.

(c) **Repealed**. 2014, c.16, s.46.

(d) governing the operation and inspection of mental health centres;

(e) governing the apprehension, admission, detention, care, maintenance, treatment, transfer and discharge of patients;

(e.1) for the purposes of section 18, prescribing health professionals who may provide an opinion and a certificate with respect to whether a person is suffering from a mental disorder and requires a psychiatric examination;

(f) governing the removal of involuntary patients from mental health centres pursuant to section 29;

(g) designating special treatments which are not to be administered to involuntary patients except in accordance with certain procedures, and prescribing those procedures;

(h) **Repealed**. 2014, c.16, s.46.

(i) **Repealed**. 2014, c.16, s.46.

(j) prescribing the forms required for carrying out the provisions of this Act and the regulations;

(k) governing the granting of licences with respect to mental health approved homes and the renewal, amendment, suspension and cancellation of those licences;

(l) establishing standards for the construction, operation and maintenance of mental health approved homes;

(l.1) respecting the eligibility of, and criteria to be met by, applicants for licences for mental health approved homes;

(l.2) respecting the terms and conditions to be contained in licences for mental health approved homes;

(l.3) respecting eligibility for residence in mental health approved homes;

(l.4) respecting the accommodation, services and programs to be made available to residents of mental health approved homes;

(l.5) respecting the personnel requirements for mental health approved homes and the qualifications of persons who operate or provide services in mental health approved homes;

(l.6) establishing and protecting the rights and privileges of persons who reside in mental health approved homes;

(l.7) respecting the records to be kept by persons who operate mental health approved homes;

(l.8) respecting the confidentiality of information concerning mental health approved homes and operators of mental health approved homes;

(l.9) respecting agreements between persons who operate mental health approved homes and regional health authorities;

(m) governing payment by the ministry for the accommodation and supervision of persons receiving services provided pursuant to this Act in mental health approved home;

(n) prescribing the fees payable by the ministry to persons acting pursuant to this Act;

(o) governing the amount of moneys belonging to patients mental health centres that may be held in trust by those mental health centres and governing the disposition of interest earned on those moneys;

(p) governing the receiving and holding in trust by a mental health centre of moneys realized from donations or bequests or moneys otherwise connected with the operation of the mental health centre, and governing the disposition of such moneys;

(q) **Repealed**. 2014, c.16, s.46.

(r) prescribing the duties and responsibilities of the director, regional directors, officers in charge, chief psychiatrists and official representatives appointed or designated pursuant to this Act and the manner in which they are to perform their duties and responsibilities;

(s) establishing standards governing the provision of mental health services;

(s.1) with respect to any matter governed by this Act:

(i) adopting, as amended from time to time or otherwise, all or any part of any code, standard or guideline;

(ii) amending for the purposes of this Act or the regulations any code, standard or guideline adopted pursuant to subclause (i);

(iii) requiring compliance with a code, standard or guideline adopted pursuant to subclause (i);

(s.2) respecting the monitoring and enforcement of standards and other requirements established pursuant to this Act or the regulations;

(s.3) respecting the appointment of persons, including persons who are not employees of the ministry, to monitor and enforce standards and other requirements established pursuant to this Act or the regulations;

(s.4) defining, enlarging or restricting the meaning of any word or expression used in this Act but not defined in this Act;

(t) generally for carrying out the provisions of this Act.

1984-85-86, c.M-13.1, s.43; 2014, c.16, s.46.

Crown bound

44 This Act binds the Crown.

1984-85-86, c.M-13.1, s.44.

PART VIII
Repeal, Transitional and Coming into Force

45 **Dispensed.** This section makes consequential amendments to another Act. The amendments have been incorporated into the corresponding Act.

Transitional provisions

46(1) Subject to subsection (2), every person who, on the day before the day on which this Act comes into force, is detained in an in-patient facility pursuant to *The Mental Health Act* and is not discharged is deemed, on the coming into force of this Act, to be detained pursuant to this Act and the provisions of this Act apply to him.

(2) Every person who, on the day before the day on which this Act comes into force, is detained in an in-patient facility pursuant to section 15 of *The Mental Health Act* and is not discharged is deemed, on the coming into force of this Act, to have made a voluntary request for services pursuant to section 17 and the provisions of this Act apply to him.

(3) Every member of a review panel appointed pursuant to *The Mental Health Act* is deemed to have been appointed pursuant to this Act and:

(a) continues to be a member of that review panel for a period of three years or until his appointment is terminated; and

(b) is eligible for re-appointment.

1984-85-86, c.M-13.1, s.46.

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