

# 1996

## CHAPTER 17

### An Act to amend *The Mental Health Services Act*

(Assented to April 30, 1996)

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

#### **Short title**

**1** This Act may be cited as *The Mental Health Services Amendment Act, 1996*.

#### **S.S. 1984-85-86, c.M-13.1 amended**

**2** *The Mental Health Services Act* is amended in the manner set forth in this Act.

#### **Section 2 amended**

**3** Subclause 2(b)(ii) is repealed and the following substituted:

“(ii) in relation to a person who is the subject of a community treatment order, the psychiatrist who issued the community treatment order or another psychiatrist who is responsible for the care and treatment of the person”.

#### **Section 24.3 amended**

**4** The following subsection is added after subsection 24.3(3):

“(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”.

**New section 24.31**

**5 The following section is added after section 24.3:**

**“Second physician - designation**

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

**New section 24.4**

**6 Section 24.4 is repealed and the following substituted:**

**“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 health district, 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”.

**Section 24.5 amended**

**7 Subsection 24.5(1) is repealed and the following substituted:**

“(1) Every 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 psychiatrist is valid for three months from the date of the community treatment order or for the period specified in the community treatment order, whichever is the lesser.

“(1.1) Subject to subsection (1.2), every 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 21 days from the date of the community treatment order or for the period specified in the community treatment order, whichever is the lesser.

“(1.2) If, during the period of validity of a community treatment order supported by a physician designated pursuant to section 24.31, a further certificate in support of the community treatment order is issued by a second psychiatrist, the community treatment order is valid for three months from the date of the community treatment order or for the period specified in the community treatment order, whichever is the lesser”.

**Section 33 amended**

**8 Section 33 is amended:**

**(a) in subsection (1) by striking out “The attending physician” and substituting “Subject to subsections (3) to (5), the attending physician”; and**

**(b) by adding the following subsections after subsection (2):**

“(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 an in-patient facility 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".

**Section 34 amended**

**9 Section 34 is amended:**

**(a) in subsection (2) by striking out "Subject to subsection (4)" and substituting "Subject to subsection (4) or (4.1)";**

**(b) by adding the following subsection after subsection (4):**

"(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"; **and**

**(c) in subsection (5.1) by striking out "subsection (5)" and substituting "subsection (5) or (5.2)".**

**Coming into force**

**10** This Act comes into force on proclamation.