



Twenty-Sixth Legislature
Third Session

Standing Committee on Community Services

NOVEMBER 2007

Report on Bill 31: *Mental Health Amendment Act, 2007*



Standing Committee on Community Services

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November, 2007

To the Honourable Ken Kowalski
Speaker of the Legislative Assembly of Alberta

The Standing Committee on Community Services has the honour to submit its Report containing recommendations on Bill 31, *Mental Health Amendment Act*, 2007 for consideration by the Legislative Assembly of Alberta.

Richard Marz, MLA
Olds-Didsbury-Three Hills
Acting Chair*
Standing Committee on Community Services

Weslyn Mather, MLA
Edmonton-Mill Woods
Deputy Chair
Standing Committee on Community Services

*Substitution pursuant to Temporary Standing Order 56(2.1-2.3)

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**MEMBERS OF THE
STANDING COMMITTEE ON COMMUNITY SERVICES**

26th Legislature, Third Session

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Calgary-Hays (PC)

*Substitution pursuant to Temporary Standing Order 56(2.1-2.3).

1.0 Introduction

Bill 31: *Mental Health Amendment Act, 2007* was introduced by Reverend Tony Abbott and received First Reading on April 17, 2007. The Bill passed Second Reading on May 10. On May 31, it was referred to the Standing Committee on Community Services.

2.0 Order of Reference

Excerpt from the *Votes and Proceedings of the Legislative Assembly of Alberta*, Thursday, May 31, 2007:

Government Motions

24. Moved by Hon. Mr. Hancock: Be it resolved that the Legislative Assembly refer Bill 31, *Mental Health Amendment Act, 2007*, to the Standing Committee on Community Services for the committee's consideration, review, and comment, and request the committee to report to the Assembly on or before the first week of the Fall 2007 sitting.

A debate followed.

The question being put, the motion was agreed to.

3.0 Recommendations

3.1 Proposed Amendments to Bill 31:

The Standing Committee on Community Services recommends that Bill 31, *Mental Health Amendment Act, 2007*, proceed with the following amendments:

MENTAL HEALTH AMENDMENT ACT, 2007

A Section 2 is amended by adding the following after clause (a):

(a.1) by adding the following after clause (f):

- (f.1) “health professional” means a health professional or a member of a class of health professionals as set out in the regulations or designated by a board or a regional health authority under section 9.7(1) or by the Minister under section 49(2);

B Section 4 is struck out and the following is substituted:

4 Section 5 is amended by adding the following after subsection (3):

- (4) Notwithstanding subsections (1) and (2), if a person who is subject to a community treatment order is conveyed to a facility under section 10 or 12, the person shall be dealt with in accordance with section 9.6(3).

C Section 8 is amended

(a) by striking out the proposed section 9.1(1) and substituting the following:

Community treatment order

9.1(1) Two health professionals may, in accordance with the regulations, issue a community treatment order with respect to a person if

- (a) in the opinion of the 2 health professionals, the person is suffering from a mental disorder,
- (b) one or more of the following apply:
 - (i) within the immediately preceding 3-year period the person has on 2 or more occasions, or for a total of at least 30 days,
 - (A) been a formal patient in a facility,

- (B) been in an approved hospital or been lawfully detained in a custodial institution where there is evidence satisfactory to the 2 health professionals that, while there, the person would have met the criteria set out in section 2(a) and (b) at that time or those times, or
 - (C) both been a formal patient in a facility and been in an approved hospital or lawfully detained in a custodial institution in the circumstances described in paragraph (B);
- (ii) the person has within the immediately preceding 3-year period been subject to a community treatment order;
 - (iii) in the opinion of the 2 health professionals, the person has, while living in the community, exhibited a pattern of recurrent or repetitive behaviour that indicates that the person is likely to cause harm to the person or others or to suffer substantial mental or physical deterioration or serious physical impairment if the person does not receive continuing treatment or care while living in the community,
- (c) the 2 health professionals, after separate examinations of the person by each of them within the immediately preceding 72 hours, are both of the opinion that the person is likely to cause harm to the person or others or to suffer substantial mental or physical deterioration or serious physical impairment if the person does not receive continuing treatment or care while living in the community,
 - (d) the treatment or care the person requires exists in the community, is available to the person and will be provided to the person,
 - (e) in each health professional's opinion, the person is able to comply with the treatment or care requirements set out in the community treatment order, and
 - (f) either
 - (i) consent to the issuing of the community treatment order has been obtained,
 - (A) if the person is competent, from the person, or
 - (B) if the person is not competent, in accordance with section 28(1),
- or
- (ii) consent to the issuing of the community treatment order has not been obtained but in the opinion of the issuing health professionals
 - (A) the person is not competent,

- (B) the person has, while living in the community, exhibited a history of not obtaining or continuing with treatment or care that is necessary to prevent the likelihood of harm to others, and
- (C) a community treatment order is reasonable in the circumstances and would be less restrictive than retaining the person as a formal patient.

(b) in the proposed section 9.1(2) by striking out “issuing physicians” wherever it occurs and substituting “issuing health professionals”;

(c) in the proposed section 9.4 by striking out “psychiatrist” and substituting “health professional”;

(d) in the proposed section 9.5 by striking out “psychiatrist” and substituting “health professional”;

(e) in the proposed section 9.6(1) by striking out “psychiatrist” wherever it occurs and substituting “health professional”;

(f) in the proposed section 9.6 by adding the following after subsection (1):

(1.1) An order shall not be issued under subsection (1) unless the issuing health professional is satisfied that efforts that are reasonable in the circumstances have been made to

- (a) inform the person that the person has failed to comply with the community treatment order,
- (b) inform the person of the possibility that the health professional may issue an order for apprehension and assessment of the person if the person continues to fail to comply with the community treatment order, and of the possible consequences of that assessment, and
- (c) provide reasonable assistance to the person to comply with the community treatment order.

(g) by striking out the proposed section 9.6(3) and substituting the following:

(3) If a person who is subject to a community treatment order is conveyed to a facility under the authority of an order under this section or section 10 or 12, as soon as practicable, but in any case within 72 hours after the person’s arrival at the facility, an examination of the person must be conducted by 2 health professionals to determine whether

- (a) the community treatment order should be cancelled and the person should be released without being subject to a community treatment order,

- (b) the community treatment order should be continued with any necessary amendments, or
- (c) the community treatment order should be cancelled and admission certificates issued in accordance with sections 2 and 6.

(h) by striking out the proposed section 9.7 and substituting the following:

Designated health professional

9.7(1) Notwithstanding sections 9.1, 9.3, 9.4, 9.5 and 9.6 but subject to the regulations, where no health professional is available to issue, renew, amend or cancel a community treatment order, a board or a regional health authority may designate health professionals for the purpose of issuing, renewing, amending or cancelling a community treatment order.

(2) If a board or a regional health authority designates a health professional under subsection (1), the designated health professional may issue, renew, amend or cancel a community treatment order only after consultation with another health professional in accordance with the regulations.

D The following is added after section 11:

11.1 Section 24(1)(b) is repealed and the following is substituted:

- (b) likely to cause harm to the person or others or to suffer substantial mental or physical deterioration or serious physical impairment, and

E Section 12 is amended in the proposed section 28(4)(b) by striking out “with” and substituting “without”.

F The following is added after section 14:

14.1 Section 39 is amended by renumbering it as section 39(1) and adding the following after subsection (1):

(2) When a community treatment order is renewed for the first time, and at the time of every 2nd renewal after that until the community treatment order expires or is cancelled, unless the person, the person’s agent, the person’s guardian or another person on the person’s behalf has made an application for review within the month preceding any of those renewals, the person who is subject to the community treatment order is deemed to have applied to the chair of the appropriate review panel, who shall cause the review panel to hear and consider cancellation of the community treatment order.

G Section 15(a) is amended in the proposed clause (c) by striking out “issuing psychiatrist under section 9.1(1) or the designated physician under section 9.7(1)” **and substituting** “health professionals referred to in section 9.1(1) or the designated health professionals who issued, amended or renewed the community treatment order”.

H Section 17(c) is amended in the proposed subsection (2)

(a) by striking out “the psychiatrist or the designated physician under section 9.7(1)” **and substituting** “the health professionals referred to in section 9.1(1) or the designated health professionals”;

(b) by adding “or the person supervising the community treatment order,” **after** “may be,”.

I Section 18 is amended by striking out the proposed subsection (3.1)(a) and substituting the following:

(a) the health professionals referred to in section 9.1(1) or the designated health professionals who issued, amended or renewed the community treatment order, as the case may be, and

J The following is added after section 19:

19.1 Section 49 is amended by renumbering it as section 49(1) and adding the following after subsection (1):

(2) The Minister may

(a) designate an individual as a health professional for the purposes of this Act in circumstances where no health professional is available to issue, renew, amend or cancel a community treatment order if in the opinion of the Minister the individual is competent to carry out those functions, and

(b) designate classes of health professionals for the purposes of this Act.

(3) A designation by the Minister under subsection (2)(b) expires 3 months after the date on which it is made.

K Section 20 is amended

(a) by adding the following after the proposed clause (e):

(e.1) respecting examinations for the purposes of sections 9.1 and 9.6 and the manner in which, or the means by which, they may be conducted;

(b) by adding the following after the proposed clause (f):

(f.1) respecting health professionals and classes of health professionals for the purposes of this Act, including the qualifications required of health professionals in respect of the issuing, supervision, renewal, amendment or cancellation of community treatment orders;

(c) in clause (g) by striking out “physicians” and substituting “health professionals”;

L The following is added after section 20:

20.1 The following is added after section 53:

Review by committee of Legislative Assembly

54 Within 5 years after the coming into force of section 8 of the *Mental Health Amendment Act, 2007*, a committee of the Legislative Assembly must begin a comprehensive review of the amendments made by that Act and must submit to the Assembly, within one year after beginning the review, a report that includes any amendments recommended by the committee.

20.2 The *Health Information Act* is amended in section 104(1)(h)

(a) by striking out “if the individual is a formal patient as defined in the *Mental Health Act*,”;

(b) by striking out “defined in that Act” **and substituting** “defined in the *Mental Health Act*”.

Appendix A: Explanatory Note Concerning “Health Professional”

Committee Recommendations

At its October 18 meeting the Committee approved recommendations that Bill 31 be amended to allow for a broader range of health professionals to be involved in the issuance, amendment, renewal and cancellation of Community Treatment Orders (CTOs). These recommendations are reflected in the proposed amendments outlined in this report.

The Committee’s recommendations are premised on the basis that only those health professionals who meet the professional requirements and standards that are to be established through regulation will be authorized to issue CTOs. The details concerning which types of health professionals would be eligible and the requisite professional standards are matters to be addressed by the Ministry in consultation with the health profession bodies.

Appendix B: List of Presenters

The Standing Committee on Community Services invited written submissions on Bill 31: *Mental Health Amendment Act, 2007* from identified stakeholders and advertised for written submissions from the public. The Committee received 49 written submissions. Sixteen witnesses made presentations at the Public Hearing, which took place in Edmonton on October 1, 2007.

Written Submissions

Name	Organization
1. Jim Adamson	Private Citizen
2. Pam Miller	Alberta College of Social Workers
3. Nathan S. Ganapathi	AIDS Foundation of Canada
4. Sharon Sutherland	Alberta Alliance on Mental Illness and Mental Health
5. Sandra H. Harrison	Alberta Mental Health Patient Advocate Office
6. David C. Burke	Alpha House Society
7. Dr. Gerry N. Kiefer	Alberta Medical Association
8. Carmela Hutchison	Alberta Network for Mental Health
9. Sabine Beaudry	Private Citizen
10. David Bekkering	Private Citizen
11. Elaine Bowman	Private Citizen
12. Jodi Cohen and Tom Shand	Canadian Mental Health Association
13. Gil Mullen	Citizens Commission on Human Rights
14. Paula Murphy	Community Treatment Order Study Group
15. Grant Dorosh	Private Citizen
16. Richard Dougherty	Citizens Commission on Human Rights
17. R. Allan Harris	Edmonton Mental Health Review Panel
18. Debra Evans	Private Citizen
19. Cindy de Bruijn	Gateway Association for Community Living
20. Elaine High	Private Citizen
21. Hilary Hurry	Citizens Commission on Human Rights
22. Franklin J. Work, QC	Information and Privacy Commissioner
23. Barb Jones	Private Citizen
24. Alene and Gordon Liske	Private Citizens
25. Dr. Austin A. Mardon	Private Citizen
26. Scott McAnsh	Private Citizen
27. Carol McDonald	Private Citizen
28. Jean McDonald	Private Citizen
29. Ella Matthews	National Ad Hoc Committee for the Protection of the Mentally Ill
30. A.A. Nanning	Private Citizen
31. Dr. Stephen Carter and Dr. Pierre Berube	Psychologists' Association of Alberta
32. Al Parent	Private Citizen
33. Giri Puligandla	Schizophrenia Society of Alberta, Edmonton & Area

	Chapter
34. Margaret Stordalsvoll	Private Citizen
35. Angie Tetreau	Private Citizen
36. Suzette Roy, et al.	Tri-Parish Peace and Social Justice Ministry
37. Joyce Trynchuk	Private Citizen
38. Katherine Wilson	Unitarian Church Social Justice Committee
39. J. Kent Sargeant	Unit 45, Rockyview General Hospital
40. Gary Walker	Private Citizen
41. Patrick J. White	Department of Psychiatry, University of Alberta
42. Janine Sakowicz	Private Citizen
43. Carol Wodak	Private Citizen
44. Ruth Maria Adria	Elder Advocates of Alberta Society
45. Odette Boily	Private Citizen
46. Ione Challborn	Canadian Mental Health Association, Edmonton Region
47. Dr. Karen Grimsrud	Acting Chief Medical Officer of Health (Alberta)
48. Greg Peterson	Canadian Mental Health Association, Lethbridge Region
49. Rick and Dawn Calvert	Private Citizens

Public Presentations

Name	Organization
1. Noa Mendelsohn Aviv	Canadian Civil Liberties Association
2. Sandra Harrison	Alberta Mental Health Patient Advocate Office
3. Dr. Patrick J. White	Department of Psychiatry, University of Alberta
4. Giri Puligandla and Anne Packer	Schizophrenia Society of Alberta
5. Sharon Sutherland	Alberta Alliance on Mental Illness and Mental Health
6. Pierre Berube and Dr. Stephen Carter	Psychologists' Association of Alberta
7. Tom Shand	Canadian Mental Health Association, Alberta Section
8. Carmela Hutchison	Alberta Network for Mental Health
9. Richard Dougherty	Private Citizen (Volunteer, Citizens Commission on Human Rights)
10. Dr. Austin Mardon	Private Citizen
11. Ione Challborn	Canadian Mental Health Association, Edmonton Region
12. Odette Boily	Private Citizen
13. Merle Schnee	Private Citizen
14. Paul Greene	Private Citizen
15. Ruth Maria Adria	Elder Advocates of Alberta Society
16. Murray Schneider	Volunteer, Citizens Commission on Human Rights