



## Involuntary Psychiatric Treatment Act - Fact Sheet for Law Enforcement

| Background  | Why did we need new legislation?   |
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| <p>In October 2005, the Nova Scotia House of Assembly passed the Involuntary Psychiatric Treatment Act. The Act is about making sure that those who are unable to make treatment decisions, due to their severe mental illness, receive the appropriate treatment.</p> <p>Regulations have been developed and the Act will become law on July 3, 2007. This new legislation is the result of discussions with many mental health consumers, families, advocates and care providers.</p> | <p>The existing legislation dealing with involuntary psychiatric treatment was almost 30 years old. It was embedded in the Hospitals Act, and it pre-dated Canada's Charter of Rights and Freedoms, so it didn't always serve people with serious mental illness as well as it could have.</p> |

### The Involuntary Psychiatric Treatment Act takes effect on July 3, 2007.

#### The new Involuntary Psychiatric Treatment Act:

- uses guiding principles
- amends the involuntary psychiatric admission criteria
- reduces the time period for extensions of involuntary admissions
- reduces the time allowed for Review Board hearings to take place
- enhances provisions regarding determinants of a patient's capacity to make decisions including consent to treatment
- introduces independent rights advisors
- introduces Community Treatment Orders and Leave Certificates
- ensures due process in accordance with the Charter of Rights

#### When does the Involuntary Psychiatric Treatment Act apply?

The *Involuntary Psychiatric Treatment Act* is appropriate when someone with a mental disorder:

- is a danger to him/herself or others, or is likely to deteriorate to the point that they are a danger, and
- needs inpatient care, and
- lacks capacity to make decisions about their care.

**It is not for people who voluntarily admit themselves for treatment, or for people who are capable of making decisions about their treatment.**

#### How do I find out more about the Act?

The complete **Involuntary Psychiatric Treatment Act**, regulations and other information can be found on-line at <http://www.gov.ns.ca/mhs>

**The Involuntary Psychiatric Treatment Act is about making sure that those who are unable to make treatment decisions, due to their severe mental illness, receive the appropriate treatment.**

## Involuntary Psychiatric Treatment Act - Information for Law Enforcement

### As a peace officer, what are my responsibilities under the Involuntary Psychiatric Treatment Act?

A peace officer can take a person into custody for the purpose of a medical examination if they meet specific criteria.

A peace officer may take a person into custody and take the person forthwith to a place for a medical examination by a physician if the peace officer has reasonable and probable grounds to believe that

- (a) the person apparently has a mental disorder;
- (b) the person will not consent to undergo medical examination;
- (c) it is not feasible in the circumstances to make application to a judge for an order for a medical examination pursuant to Section 13; and
- (d) the person,
  - (i) as a result of the mental disorder, is threatening or attempting to cause serious harm to himself or herself or has recently done so, has recently caused serious harm to himself or herself, is seriously harming or is threatening serious harm towards another person or has recently done so,
  - (ii) as a result of the mental disorder, is likely to suffer serious physical impairment or serious mental deterioration, or both, or
  - (iii) is committing or about to commit a criminal offence. **S14**

Note: It is anticipated that section d(ii) above will be used only in instances where the officer has considerable past experience with the person in addressing mental health issues (usually where a similar pattern of behavior due to mental illness has been observed over time with interventions required) and/or the officer has direction from a mental health professional familiar with the person's mental health history.

### The person taken into custody can be detained for up to twenty-four (24) hours in an appropriate place in order for a medical examination to take place.

- If a person is taken into custody based on the criteria above (in **S14**), the person may be detained for up to twenty-four (24) hours in an appropriate place in order for a medical examination to take place. An appropriate place may include a hospital, a physician's office or another suitable place for a medical examination. It does not include a jail or lock-up unless no other suitable space is available. **S15**
- A peace officer or other authorized person who takes a person into custody for a medical examination must transfer the person by the least intrusive means possible without compromising the safety of the person. **S16(1)**
- The peace officer or other authorized person must remain at the place of the medical examination and must retain custody of the person until the medical examination is completed. **S16(2)**
- If a person is taken for a medical examination and it is decided not to recommend involuntary psychiatric assessment of the person, the peace officer or other authorized person must arrange and pay for the return of the person to the place where the person was taken into custody or, at the person's request, to some other appropriate place. **S16(3)**
- If two physicians have completed a medical examination and two certificates for involuntary psychiatric assessment (or in compelling circumstances one medical certificate signed by a physician **S10(2)**) then a peace officer may take a person into custody and take them to a suitable place for an involuntary psychiatric assessment. **S10**

## Involuntary Psychiatric Treatment Act - Information for Law Enforcement

As a peace officer, what are my responsibilities under the Involuntary Psychiatric Treatment Act? (continued)

### Certificate Of Leave

A certificate of cancellation of leave authorizes a peace officer to take the patient into custody.

- The psychiatrist, by a certificate of cancellation of leave, may, without notice, cancel the certificate of leave for breach of a condition or if the psychiatrist is of the opinion that the patient's condition may present a danger to the patient or others or the patient has failed to report as required by the certificate of leave *S44(1)*.
- A certificate of cancellation of leave is sufficient authority for one month after it is signed for a peace officer to take the patient named in it into custody and to a psychiatric facility for an involuntary psychiatric assessment. *S44(2)*

### Absence Without Leave

- If an involuntary patient leaves a psychiatric facility when a certificate of leave has not been granted, a peace officer, or other person appointed by the chief executive officer, may apprehend without warrant, the person named in the order and return that person to the facility. *46(1)*
- An involuntary patient who has not been returned within one month after the patient's absence has become known shall, unless subject to detention otherwise than under this Act, be deemed to have been discharged from the facility. *S46(2)*

### Community Treatment Orders

A psychiatrist can authorize a peace officer to take a patient into custody and transport them to the psychiatrist for a medical examination/involuntary psychiatric assessment if the patient is not complying with a community treatment order and the situation meets the criteria below.

- If a psychiatrist who issued or renewed a community treatment order has reasonable cause to believe that the person subject to the order has failed in a substantial or harmful manner to comply with their obligations under the community treatment order, the psychiatrist will request a peace officer to take the person into custody and promptly transport the person to the psychiatrist for a medical examination/ Involuntary Psychiatric Assessment. *S56(1)*
- A request issued by a psychiatrist under *S56(1)* is sufficient authority for thirty (30) days after it is issued for a peace officer to take the person named in it into custody and take the person to a psychiatrist. *S56(3)*

## Involuntary Psychiatric Treatment Act - Information for Law Enforcement

As a peace officer, what are my responsibilities under the Involuntary Psychiatric Treatment Act? (continued)

A psychiatrist can authorize a peace officer to take a patient into custody if the required services under a Community Treatment Order become unavailable when the situation meets the criteria below.

- Where the services for a Community Treatment Order become unavailable the psychiatrist must notify the person subject to the Community Treatment Order of the requirement for the psychiatrist to review the person's condition. *S57(1)*
- Where the person who is subject to the Community Treatment Order fails to permit the psychiatrist to review their condition within seventy-two (72) hours then the psychiatrist may request a peace officer to take the person into custody and convey them to a psychiatric facility for an involuntary psychiatric assessment. *S57(3)*
- A request of the psychiatrist during the seventy-two (72) hour period is sufficient authority for thirty (30) days after it is issued for a peace officer to take the person named into custody and convey the person to a psychiatric facility for an involuntary psychiatric assessment. *S57(4)*

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