

The Mental Health Act

being

Chapter M-13 of *The Revised Statutes of Saskatchewan, 1978*
(effective February 26, 1979).

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.

Table of Contents

	SHORT TITLE		INVESTIGATION OF COMPLAINTS AGAINST CERTIFICATES
1	Short title		
	INTERPRETATION		
2	Interpretation		29 Review panels,—appointment, duties, etc.
	PART I		30 Notice to patients respecting review panel
	Administration		31 Complaint and investigation thereof by review panel
3	Designation of facilities		32 Regulations respecting complaints and investigations
4	Administration by department		33 Application to Court of Queen's Bench
5	Programs of department		DISCHARGE OF PATIENTS
6	Director of Psychiatric Services Branch		34 Discharge from in-patient facility
7	Powers of deputy minister		35 Discharge where patient not dangerous except where proposed residence unsuitable
8	Appointment of physician and officers		36 Leave of absence
	PART II		37 Release on trial leave
	Mentally Disordered Persons		38 Medical and hospital care for persons on trial leave
	CARE AND MAINTENANCE		REMOVAL TO ANOTHER INSTITUTION
9	Persons entitled to care and maintenance		39 Procedure
10	Expenses of care and maintenance in an institution payable out of the estate of the deceased		40 Senile cases
11	Non-application of section 10 to certain portions of estates		41 Removal for medical, surgical or hospital treatment
12	Cost of care and maintenance may be waived by the minister		ESCAPE AND APPREHENSION
13	Extension of application of sections 9 and 12		42 Powers of medical officer in charge
14	Medical expenses of certain persons		APPROVED HOMES
	AUTHORITY FOR ADMISSION OF MENTALLY DISORDERED PERSONS		43 Approval by director
15	Informal admission		44 Placing of patients in approved homes
16	Admission on certification by two physicians		PART III
17	Admission for purpose of examination		General
18	Admission where proceedings instituted but not yet completed		45 No admission to in-patient facility unless accommodation available
19	Restrictions as to persons giving certificates		46 Authority to return foreign patients
20	Admission on warrant of Lieutenant Governor in Council, etc.		47 Post-mortem examination
21	Continued detention on renewal certificates and restriction on issue thereof		48 Validity of warrant or order notwithstanding irregularities
22	Removal from prison, etc., to institution on order of Lieutenant Governor in Council		49 Regulations
23	Admission for observation		50 Application of sections 51 to 55
24	Admission for observation of person who refuses to be examined		51 Liability for expenses of committal, care and maintenance
25	Authority respecting diagnostic and treatment services		52 Payment of expenses by department and right to recover the same
26	Admission for further treatment		53 Method of recovery
	APPREHENSION		54 Lien for expenses on registration of statement
27	Powers of constables in certain cases		55 Effect of registration
	CERTIFICATE OF INCOMPETENCE OR COMPETENCE		56 Agreements with Government of Canada
28	Issue of certificate upon examination of mentally disordered person		57 Non-liability to civil action
			58 Stay of vexatious proceedings
			59 Limitation of actions
			60 Torts of patient
			61 Communication with patients in in-patient facilities
			62 Assisting escape of patient prohibited
			63 General penalty
			64 Consultants and committees
			65 Transitional provisions
			66 Certain facilities deemed to have been designated

CHAPTER M-13

An Act respecting Mentally Disordered Persons

SHORT TITLE

Short title

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

R.S.S. 1978, c.M-13, s.1.

INTERPRETATION

Interpretation

2 In this Act:

“Administrator of Estates”

(a) “**Administrator of Estates**” means the Administrator of Estates appointed under *The Administration of Estates of Mentally Disordered Persons Act*;

“approved home”

(b) “**approved home**” means any building, premises or place in respect of which there is a subsisting certificate issued under section 43;

“branch”

(c) “**branch**” means the Psychiatric Services Branch of the department;

“day-patient”

(d) “**day-patient**” means a patient in an in-patient facility who is given sustenance and other services provided to in-patients except that he does not occupy a bed in the facility overnight;

“department”

(e) “**department**” means the Department of Health;

“designated”

(f) “**designated**” means designated by the Lieutenant Governor in Council under this Act;

“director”

(g) “**director**” means the Director of the Psychiatric Services Branch of the department;

“facility”

(h) “**facility**” means an institution, psychiatric centre, psychiatric ward, mental health clinic or any other building or portion thereof set aside for the care, treatment or training of mentally disordered persons;

“halfway house”

(i) “**halfway house**” means a dwelling, furnished, staffed and equipped for the purpose of providing accommodation to patients and where more care and supervision would be given to the patients being accommodated therein than if they had been placed in an approved home;

“in-patient”

(j) “**in-patient**” means a patient who is receiving continuous psychiatric care, treatment or training in an institution, a psychiatric ward or psychiatric centre throughout the day and night;

“in-patient facility”

(k) **“in-patient facility”** means a facility with provision for continuous care of patients;

“institution”

(l) **“institution”** means a mental hospital or a school for mentally retarded persons;

“judge”

(m) **“judge”** means a judge of the Court of Queen’s Bench for Saskatchewan or of the District Court;

“magistrate”

(n) **“magistrate”** means a justice of the peace or a provincial magistrate;

“medical officer in charge”

(o) **“medical officer in charge”** means the physician appointed to be in charge of the care and treatment being provided to the patients of an institution, psychiatric centre, psychiatric ward, mental health clinic or other facility;

“mental disorder”, etc.

(p) **“mental disorder”** means mental illness, mental retardation, psychopathic disorder, or any other disorder or disability of mind; and **“mentally disordered”** and **“mentally disordered person”** have a corresponding meaning;

“mental health clinic”

(q) **“mental health clinic”** means a place where psychiatric diagnostic services and psychiatric treatment are provided to persons who are not in-patients;

“mental hospital”

(r) **“mental hospital”** means the provincial hospital at North Battleford;

“mental illness” and “mentally ill person”

(s) **“mental illness”** means a disorder of mind other than psychopathic disorder or mental retardation, that results in a disturbance in a person’s behaviour or feelings or thought and conversation and that results in mental distress or impaired ability to associate with others or results in a person’s inability to react appropriately or efficiently to his environment and in respect of which medical treatment is advisable; and **“mentally ill person”** has a corresponding meaning;

“mental retardation”

(t) **“mental retardation”** means a condition of arrested or incomplete development of mind whether arising from inherent causes or induced by disease or injury;

“mentally retarded person” and “mentally retarded”

(u) **“mentally retarded person”** means a person who is suffering from mental retardation to such a degree that he requires care, supervision and control, or training, for his own protection or welfare or for the protection of others; and **“mentally retarded”** has a corresponding meaning;

“minister”

(v) **“minister”** means the Minister of Health;

“nearest relative”

(w) **“nearest relative”** means the person first described in this clause who is for the time being surviving and residing in the province, relatives of the whole blood being preferred to relatives of the same description of the half-blood and the elder or eldest of two or more relatives described in any subclause being preferred to the other or others of those relatives regardless of sex:

- (i) husband or wife;
- (ii) son or daughter;
- (iii) father;
- (iv) mother;
- (v) brother or sister;
- (vi) grandparent;
- (vii) grandchild;
- (viii) uncle or aunt;
- (ix) nephew or niece;

except that where the patient is a ward of the Minister of Social Services within the meaning of *The Family Services Act*, **“nearest relative”** means that minister;

“out-patient”

(x) **“out-patient”** means a patient receiving treatment from a facility who is not given sustenance and who does not occupy a bed in the facility overnight;

“patient”

(y) **“patient”** means a person receiving psychiatric care or treatment, or diagnostic services for the purpose of determining the existence of a mental disorder;

“physician” or “practitioner”

(z) **“physician” or “practitioner”** means a duly qualified medical practitioner on the register of the College of Physicians and Surgeons of Saskatchewan;

“prescribed”

(aa) **“prescribed”** means prescribed by the Lieutenant Governor in Council under this Act;

“psychiatric centre”

(bb) **“psychiatric centre”** means the land and the building or buildings situated thereon, other than an institution, set aside for the purpose of providing psychiatric care and treatment to mentally disordered persons and classified by the regulations as a psychiatric centre;

“psychiatric ward”

(cc) **“psychiatric ward”** means a ward in a hospital approved under *The Hospital Standards Act* or any former *Hospital Standards Act* and declared by the Lieutenant Governor in Council to be a psychiatric ward;

“psychopathic disorder”

(dd) **“psychopathic disorder”** means a persistent disorder or disability of mind other than mental illness that results in abnormally aggressive or serious socially disruptive conduct on the part of a person;

“renewal certificate”

(ee) **“renewal certificate”** means a medical certificate recommending detention of an in-patient in a facility for a further period;

“responsible medical officer”

(ff) **“responsible medical officer”** means the physician to whom responsibility for the care and treatment of an individual patient has been assigned;

“review panel”

(gg) **“review panel”** means a review panel appointed under section 29;

“school for mentally retarded persons”

(hh) **“school for mentally retarded persons”** means an institution heretofore or hereafter established for the reception, care and training of mentally retarded persons, or a part of an institution set aside for that purpose.

R.S.S. 1965, c.345, s.2; 1967, c.60, s.2; 1968, c.50, s.2; 1970, c.43, s.2; 1972, c.76, s.2; R.S.S. 1978, c.M-13, s.2.

PART I
Administration**Designation of facilities**

3(1) This Act applies to such facilities as are designated by the Lieutenant Governor in Council.

(2) Every mental hospital shall be known as “The Saskatchewan Hospital” followed by the name of the city or town at or near which the hospital is located.

(3) Every school for mentally retarded persons shall be known as “The Saskatchewan Training School” followed by the name of the city or town at or near which the school is located.

(4) Every psychiatric centre shall be known as “The Psychiatric Centre” followed by the name of the city or town at or near which the centre is located.

(5) Every psychiatric ward shall be known as “The Psychiatric Ward” followed by the name of the hospital in which the ward is located, except that, where a name is assigned to a psychiatric ward by the Lieutenant Governor in Council, the psychiatric ward shall use that name.

(6) Every mental health clinic shall be known as “The Mental Health Clinic” followed by the name of the city, town or village at or near which the clinic is located, except the MacNeill Clinic, Saskatoon, which shall continue to be so named, and except any other mental health clinic to which a name is assigned by the Lieutenant Governor in Council.

R.S.S. 1965, c.345, s.3; 1976, c.35, s.2; R.S.S. 1978, c.M-13, s.3.

Administration by department

4(1) This Act shall be administered by the department.

(2) The department may furnish, equip, administer, manage, operate, maintain and repair every institution heretofore or hereafter established and all lands, buildings and other things now or hereafter used in connection with such institutions, either alone or in conjunction with a hospital or any association or corporation whose objectives include the preservation or restoration of health.

(3) The department may furnish, equip, administer, manage, operate, maintain and repair such psychiatric centres, mental health clinics and halfway houses as, in the opinion of the minister, should be operated by it and the minister may enter into an agreement, with any hospital or any association or corporation whose objectives include the preservation or restoration of health, respecting the furnishing, equipping, administration, management, operation and repair of a psychiatric centre, mental health clinic or halfway house.

(4) The minister may enter into an agreement with a hospital board respecting the furnishing, equipping, administration, management, maintenance, operation and repair of a psychiatric ward within the hospital.

R.S.S. 1965, c.345, s.4; 1970, c.43, s.3; 1976, c.35, s.3; R.S.S. 1978, c.M-13, s.4.

Programs of department

5(1) The department may organize and operate programs for the provision of diagnostic and treatment services to out-patients and mentally disordered persons in various communities throughout the province to the end that psychiatric services will be reasonably available to all residents of the province.

(2) In the operation of such programs the minister may provide through employed personnel, the services of psychiatrists, physicians, psychiatric nurses and psychiatric social workers and may also provide drug therapy and other services to such extent and upon such conditions as he may consider advisable.

1970, c.43, s.4; R.S.S. 1978, c.M-13, s.5.

Director of Psychiatric Services Branch

6 The Lieutenant Governor in Council may appoint a physician as Director of the Psychiatric Services Branch of the department and prescribe his duties and powers.

R.S.S. 1965, 345, s.5; R.S.S. 1978, c.M-13, s.6.

Powers of deputy minister

7 In the absence of the director the powers and duties herein conferred or imposed upon him or prescribed under section 6 may be exercised or performed by the Deputy Minister of Health.

R.S.S. 1965, c.345, s.6; R.S.S. 1978, c.M-13, s.7.

Appointment of physician and officers

8 There shall be appointed for each institution, psychiatric centre, psychiatric ward, mental health clinic and other facility a physician to be in charge of the care and treatment being provided to the patients of the institution, centre, ward, clinic or other facility and such other medical and other officers as are deemed necessary.

1967, c.60, s.3; R.S.S. 1978, c.M-13, s.8.

PART II

Mentally Disordered Persons

CARE AND MAINTENANCE

Persons entitled to care and maintenance

9(1) Subject to subsection (2) and section 10, all persons who are residents and have been residents of Saskatchewan for a period of at least twelve months immediately prior to admission to an institution as patients and who were admitted thereto after the thirty-first day of December, 1944, or are hereafter admitted thereto are entitled to care and maintenance in the institution at the expense of the province.

(2) The requirement of twelve months' residence mentioned in subsection (1) may be reduced as to any class or classes of persons by the Lieutenant Governor in Council.

(3) Subject to section 10, all persons admitted to an institution before the first day of January, 1945, who have remained therein continuously since that date and who are now in the institution shall continue, as they were from the thirty-first day of December, 1944, to be entitled to care and maintenance at the expense of the province.

(4) Subject to section 10, the department shall, in respect of a person hereafter admitted to an institution:

(a) pay for his examination by a physician who upon examination issues a certificate under section 16, 17, 18, 23 or 26 unless the physician is a full-time employee of the Government of Saskatchewan;

(b) where he was admitted to an in-patient facility pursuant to subsection (3) of section 24, pay the costs of the inquiry under subsection (1) of that section; and

(c) pay all expenses incurred in connection with his transportation to the institution that are authorized by the medical officer in charge.

1971 (2nd), c.5, s.2; R.S.S. 1978, c.M-13, s.9.

Expenses of care and maintenance in an institution payable out of the estate of the deceased

10(1) Where a person who was admitted to an institution after the thirty-first day of December, 1944, or is hereafter admitted to an institution, dies, having received care and maintenance at the expense of the province, all expenses incurred in connection with his apprehension, examination, committal, medical examination, custody, transportation, care and maintenance shall, subject to sections 11 and 12, be a charge upon and payable by the executor or administrator out of the estate of the deceased and the minister may recover sums so payable from the executor or administrator in any court of competent jurisdiction.

(2) Where a person who was admitted to an institution before the first day of January, 1945, dies having received care and maintenance at the expense of the province, subsection (1) applies with respect to expenses incurred after the thirty-first day of December, 1944, in connection with that care and maintenance.

1971 (2nd), c.5, s.2; R.S.S. 1978, c.M-13, s.10.

Non-application of section 10 to certain portions of estates

11(1) Subject to subsection (2), section 10 does not apply:

(a) with respect to any portion of the estate that passes to the father, mother, husband, wife, a child, brother or sister of the deceased, if residing in Saskatchewan; and

(b) with respect to any portion of the estate that passes to any of the persons mentioned in clause (a), wherever residing, who in the opinion of the minister are dependent on the estate for support.

(2) Clause (a) of subsection (1) does not apply to any portion of the estate that, by reason of a person other than a person mentioned in that clause and residing in Saskatchewan renouncing his claim to or assigning his interest in an estate either before or after the coming into force of this subsection, passes to one of the persons mentioned in that clause and residing in Saskatchewan.

(3) Where pursuant to subsection (1) any portion of the estate is exempt from payment of the expenses mentioned in section 10, the amount payable in respect of those expenses shall be in the same proportion to the amount otherwise payable in respect thereof under section 10 as the value of the portion of the estate not exempt from payment of expenses bears to the value of the estate that except for section 10 would pass to the beneficiaries.

1971 (2nd), c.5, s.2; R.S.S. 1978, c.M-13, s.11.

Cost of care and maintenance may be waived by the minister

12 Upon application to the minister and if the minister is satisfied that adequate reason is given, all or any portion of the cost of care and maintenance of any patient in an institution may be defrayed by the province.

1971 (2nd), c.5, s.2; R.S.S. 1978, c.M-13, s.12.

Extension of application of sections 9 and 12

13 Subsections (1), (2) and (4) of section 9 and section 12 apply, *mutatis mutandis*, with respect to all persons who are admitted as patients to such other classes of facilities as are designated by the Lieutenant Governor in Council for that purpose.

1971 (2nd), c.5, s.2; R.S.S. 1978, c.M-13, s.13.

Medical expenses of certain persons

14(1) Notwithstanding sections 9, 10, 11, 12 and 13, a resident of Saskatchewan who has resided therein for the preceding three months and who, on or after the first day of July, 1968, was or is a patient within an institution or within a facility designated under section 13 is, during his stay as a patient in the institution or facility, entitled to medical services at the expense of the province, and section 10 does not apply with respect to expenditures incurred in providing those services.

(2) Where, on or after the first day of July, 1968, medical services were or are received in a mental hospital or hospital for mentally retarded persons in a participating province within the meaning of the *Medical Care Act* (Canada) by a person having a mental disorder who:

(a) is a resident of the kind mentioned in subsection (1) but was temporarily outside Saskatchewan; or

(b) having been a resident of the kind mentioned in subsection (1) has established residence in the participating province but has resided therein for less than three months;

the minister may make payment for those medical services.

(3) In this section “medical services” means:

(a) all services that are medically required and are rendered by a duly qualified medical practitioner or by any other person who is lawfully entitled to practise medicine in the place in which such practice is carried on by him; and

(b) any other services that are or become insured services within the meaning of the *Medical Care Act* (Canada) and for which payment may be made pursuant to this or any other Act;

except any services that a person is eligible for and entitled to under any other Act of Canada or under any law of the province relating to workmen’s compensation.

1971 (2nd), c.5, s.2; R.S.S. 1978, c.M-13, s.14.

AUTHORITY FOR ADMISSION OF MENTALLY DISORDERED PERSONS

Informal admission

15(1) Subject to regulations made under clause (b) of subsection (2) of section 49, a mentally disordered person may, subsequently to his examination by a physician and to completion of arrangements by the physician and the medical officer in charge of an in-patient facility for his admission thereto, be admitted to the facility as an in-patient and detained therein:

(a) on his own request, if he is at least eighteen years of age;

(b) on his request and that of his nearest relative, if he is at least sixteen but under eighteen years of age; or

(c) on the request of only his nearest relative, if he is under sixteen years of age or is otherwise not competent to make such request.

(2) Subject to subsection (3), a mentally disordered person admitted to and detained in a facility under subsection (1) shall not be detained therein for more than twenty-four hours after he or his nearest relative has given notice in writing to the medical officer in charge that he desires to be discharged therefrom.

(3) Where a mentally disordered person detained in a facility under subsection (1), or his nearest relative, has given notice to the medical officer in charge that he desires to be discharged from the facility, he may notwithstanding subsection (2), upon his having been personally examined by the responsible medical officer and upon the issue by that officer of a renewal certificate and with the approval of the medical officer in charge, be detained in the facility for a period of fourteen days from the date of receipt of the notice by the medical officer in charge. The responsible medical officer shall conduct such examination separately from any other physician.

R.S.S. 1965, c.345, s.10; 1970, c.43, s.6; 1972, c.1, s.45; R.S.S. 1978, c.M-13, s.15.

Admission on certification by two physicians

16(1) Subject to regulations made under clause (b) of subsection (2) of section 49, a mentally disordered person who in the opinion of two examining physicians requires care, supervision and control for his own protection or welfare or for the protection of others, may be admitted to a facility as an in-patient and detained therein on the certificates of such physicians.

(2) The certificates of two physicians upon the prescribed forms, accompanied by the prescribed history record, shall be sufficient authority to any person to apprehend and convey the patient to an in-patient facility. Upon the admission of the patient, the medical officer in charge shall forthwith transmit to the director copies of the above mentioned documents.

(3) Every medical certificate shall state that the physician has personally examined the patient separately from any other physician and, after due inquiry into all the necessary facts relating to the case of the patient, found him to be suffering from a mental disorder and to require care, supervision and control for his own protection or welfare or for the protection of others.

(4) Every medical certificate shall state, also, the facts upon which the physician has formed his opinion of the mental disorder and shall show the date upon which the examination was made and shall be signed in the presence of one subscribing witness. No physician who issues a certificate shall be a witness to the signature of the other physician who is issuing a certificate.

(5) No mentally disordered person shall be admitted to a facility as an in-patient after the expiry of fourteen days from the date on which the examinations are made or, if the examinations are not made on the same date, from the date of the later examination.

(6) A mentally disordered person admitted to and detained in a facility under subsection (1) shall not be detained therein for more than fourteen days on the authority of the certificates on which he was admitted.

R.S.S. 1965, c.345, s.11; R.S.S. 1978, c.M-13, s.16.

Admission for purpose of examination

17(1) Subject to regulations made under clause (b) of subsection (2) of section 49, a mentally disordered person who in the opinion of an examining physician requires a psychiatric examination for his own protection or welfare or for the protection of others but who refuses to submit to such an examination may, after arrangements have been made with the medical officer in charge of a facility, be conveyed to a facility and examined therein by a physician.

(2) The certificate of a physician upon the prescribed form accompanied by the prescribed history record shall be sufficient authority to any person to apprehend and convey the patient to a facility.

(3) Every medical certificate issued for the purposes of subsection (1) shall state that the physician has personally examined the patient separately from any other physician and after due inquiry into the necessary facts relating to the case of the patient, found him to be suffering from a mental disorder and to require a psychiatric examination for his own protection or welfare or for the protection of others.

(4) Every medical certificate shall state, also, the facts upon which the physician has formed his opinion of the mental disorder and shall show the date upon which the examination was made and shall be signed in the presence of one subscribing witness.

(5) No mentally disordered person shall be conveyed to a facility after the expiry of fourteen days from the date on which the examination was made.

(6) Where, upon the examination of a mentally disordered person by a physician in a facility, it is found that the person is suffering from such a degree of mental disorder that he requires inpatient treatment for his own protection or welfare or for the protection of others, he shall upon the authority of the certificate of the examining physician be taken and admitted to the nearest inpatient facility, otherwise, he shall be released.

(7) A mentally disordered person admitted to an in-patient facility under subsection (6) shall not be detained therein upon the authority of the certificate of the examining physician for more than fourteen days.

1970, c.43, s.7; 1976, c.35, s.4; R.S.S. 1978,
c.M-13, s.17.

Admission where proceedings instituted but not yet completed

18(1) Where proceedings have been instituted under subsection (1) of section 16 but not completed and a physician who has examined the mentally disordered person is of opinion that he requires care, supervision and control for his own protection or welfare or for the protection of others and so advises the medical officer in charge of an in-patient facility, the certificate of the physician upon the prescribed form accompanied by the prescribed history record, is sufficient authority to anyone to apprehend the person so examined and convey him to the in-patient facility and for that person to be admitted and detained therein.

(2) A patient admitted to a facility under subsection (1) shall not be detained therein for more than seventy-two hours unless within such time the patient gives notice in writing to the medical officer in charge that he desires to remain in the facility as a patient or a renewal certificate is issued by the responsible medical officer after a personal examination of the patient by him. Where a certificate is issued under this subsection the patient may, with the approval of the medical officer in charge, be detained for a period of fourteen days from the date of issue of the certificate.

R.S.S. 1965, c.345, s.12; 1967, c.60, s.5;
R.S.S. 1978, c.M-13, s.18.

Restrictions as to persons giving certificates

19(1) 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 any other physician who makes, issues, gives, completes or signs a certificate or form with respect to the same person.

(2) Except as permitted by the regulations or by the minister, no certificate or form required by this Act or the regulations to be made, issued, given, completed or signed by a physician respecting 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 that person.

R.S.S. 1965, c.345, s.13; R.S.S. 1978, c.M-13,
s.19.

Admission on warrant of Lieutenant Governor in Council, etc.

20 Subject to regulations made under clause (b) of subsection (2) of section 49, a mentally disordered person may be admitted to a facility as an in-patient and detained therein:

- (a) on the warrant of the Lieutenant Governor in Council;
- (b) on the warrant of the Chairman of the Penitentiary Commission in the case of transfer of the mentally disordered person from a penitentiary;
- (c) on an order under the *Criminal Code* remanding the mentally disordered person in custody for observation.

R.S.S. 1965, c.345, s.14; R.S.S. 1978, c.M-13, s.20.

Continued detention on renewal certificates and restriction on issue thereof

21(1) A mentally disordered person detained in a facility under section 15, 16, 17, 18, 24 or 26 may be detained for a period of three months after the expiration of the detention period of fourteen days mentioned in subsection (3) of section 15, subsection (6) of section 16, subsection (7) of section 17, subsection (2) of section 18, subsection (4) of section 24 or subsection (6) of section 26, as the case may be, if the responsible medical officer personally examines him during the said detention period of fourteen days and issues a renewal certificate, and the medical officer in charge approves of the detention; and the mentally disordered person may be detained for one further period of three months and thereafter for one further period of six months and thereafter for successive periods of twelve months each, if the responsible medical officer, upon personally examining the mentally disordered person in advance of each period, issues a renewal certificate and the medical officer in charge approves of the detention.

(2) The responsible medical officer shall not issue a renewal certificate under subsection (3) of section 15, subsection (2) of section 18, subsection (1) of this section or subsection (4) of section 24 in respect of a mentally disordered person unless he is of opinion that the person is so mentally disordered that he requires care, supervision and control for his own protection or welfare or for the protection of others.

R.S.S. 1965, c.345, s.15; 1970, c.43, s.8; R.S.S. 1978, c.M-13, s.21.

Removal from prison, etc., to institution on order of Lieutenant Governor in Council

22(1) The Lieutenant Governor in Council, upon evidence satisfactory to him that a person imprisoned in any prison, reformatory, training school or other correctional institution for an offence, under the authority of any Act of Saskatchewan, or imprisoned for safe custody charged with an offence, or imprisoned for not finding bail for good behaviour or to keep the peace, is mentally ill or mentally retarded, may order his removal to an institution for safe custody and treatment; and that person shall remain there, or in such other institution as the Lieutenant Governor in Council may designate, until his complete or partial recovery. The Lieutenant Governor in Council may then order the person back to imprisonment if then liable thereto, or, if otherwise, that he be discharged. Where the person is confined in an institution he shall, when not liable to imprisonment, be subject to the direction of the medical officer in charge in the same manner and to the same degree as if he had been admitted under section 16.

(2) Where the Lieutenant Governor in Council has ordered the removal of a person under subsection (1), a record of the dispositions respecting him shall be sent by the Attorney General to the director.

R.S.S. 1965, c.345, s.16; 1967, c. 60, s.6; R.S.S. 1978, c.M-13, s.22.

Admission for observation

23(1) Where a judge or magistrate considers that a person apprehended and charged with an offence should be examined in a facility, he may order that that person be taken to a facility for examination as an out-patient after the medical officer in charge of the facility has been notified of the need of the examination.

(2) Where an order has been made under subsection (1) the person to be examined shall be accompanied to the facility by a police officer who shall be responsible for his custody until the examination has been completed, and the results of the examination shall be communicated in writing to the judge or magistrate.

(3) Where the judge or magistrate is satisfied that the results of the examination indicate that the person is mentally ill or mentally retarded or that further observation is necessary in order to so determine, he may order that the person be taken to an institution or, by arrangement with the medical officer in charge, to any other in-patient facility and detained therein for a period not exceeding thirty days.

(4) Where in the opinion of the medical officer in charge the person is mentally ill or mentally retarded and should be detained in an in-patient facility for a period longer than thirty days, he shall direct the examination of the person by two physicians, and if they certify the person to be mentally ill or mentally retarded he shall be detained as a patient and shall be subject to all the provisions of this Act respecting patients admitted under the authority of section 16, except that if a review panel is of opinion that the issue of the physicians' certificates or a renewal certificate was unwarranted, he shall not be discharged without the approval of the court.

(5) Where the medical officer in charge is, at any time during the period mentioned in subsection (3), of opinion that the person is neither mentally ill nor mentally retarded or where the medical officer in charge has within the said period failed to obtain the medical certificates, he shall forthwith discharge the person to the custody of the court by which he was ordered to the in-patient facility.

(6) Where the person is detained under subsection (4) or discharged under subsection (5), the responsible medical officer shall forthwith report in writing the mental condition of the person to the judge or magistrate.

R.S.S. 1965, c.345, s.17; R.S.S. 1978, c.M-13, s.23.

Admission for observation of person who refuses to be examined

24(1) A person who suspects or believes that another person, who refuses to submit to a medical examination, is mentally disordered and in need of care, supervision and control for his own protection or welfare or for the protection of others, may lay an information on oath before a magistrate, in the prescribed form, and if upon inquiry the magistrate is satisfied as to the responsibility and integrity of the informant, he may thereupon issue his warrant in the prescribed form to apprehend the person named therein and cause him to be taken to the nearest facility for examination as an out-patient.

(2) If a relative or friend of the alleged mentally disordered person so requests, the warrant may be directed to and executed by that relative or friend; otherwise it may be directed to and executed by a constable or peace officer.

(3) The alleged mentally disordered person shall be examined by a physician forthwith upon being taken to the facility and if on such examination it is found that he is mentally disordered and requires care, supervision and control for his own protection or welfare or for the protection of others, he shall, upon the authority of the certificate of the examining physician, be taken and admitted to the appropriate in-patient facility; otherwise he shall be released.

(4) A patient admitted to an in-patient facility under subsection (3) shall not be detained therein for more than seventy-two hours unless within that time the patient gives notice in writing to the medical officer in charge that he desires to remain in the facility as a patient or a renewal certificate is issued by the responsible medical officer after a personal examination of the patient by him. Where a certificate is issued under this subsection the patient may, with the approval of the medical officer in charge, be detained for a period of fourteen days from the date of issue of the certificate.

R.S.S. 1965, c.345, s.18; 1970, c.43, s.9; R.S.S. 1978, c.M-13, s.24.

Authority respecting diagnostic and treatment services

25(1) Except in case of emergency or where an examination is authorized under section 28, where a patient is detained in an inpatient facility under the authority of subsection (1) of section 15, no diagnostic or treatment services or procedures shall be carried out upon the patient except with his consent or that of his nearest relative.

(2) Where a patient is detained in an in-patient facility under the authority of subsection (3) of section 15, section 16, 17, 18, 20, 21, 22, 23, 24 or 26, the medical officer in charge shall have full authority to determine the care and treatment to be provided to the patient and to direct the giving of that care and treatment.

R.S.S. 1965, c.345, s.19; 1968, c.50, s.4; 1970, c.43, s.10; R.S.S. 1978, c.M-13, s.25.

Admission for further treatment

26(1) Where two physicians, one of whom shall be a responsible medical officer of a facility, are of the opinion that:

- (a) a person suffers from a mental illness and may be subject to a relapse if he does not continue with appropriate treatment; and
- (b) in the event of a relapse, the person is usually found to be in need of treatment and possible admission to a facility for his own protection or welfare or for the protection of others;

each physician may issue a certificate to that effect.

(2) The certificates of the two physicians upon the prescribed forms accompanied by the prescribed history record shall, when authorized by the medical officer in charge of the facility, be sufficient authority:

- (a) for a responsible medical officer of a facility to examine the person and administer such treatment as may be considered necessary; and

(b) where the person is not in a facility, for the person to be apprehended and conveyed to a facility for the administration of such treatment or for his admission to an in-patient facility.

(3) Every medical certificate issued under this section shall state that the physician has personally examined the person separately from any other physician and after due inquiry into the necessary facts relating to the case of the person, found him to be subject to recurring episodes of mental illness for which he requires treatment or admission to a facility for his own protection or welfare or for the protection of others.

(4) Every medical certificate shall state, also, the facts upon which the physician has formed his opinion of the mental illness together with his reasons for issuing the certificate and shall show the date upon which the examination was made and shall be signed in the presence of one subscribing witness; but no physician who issues a certificate shall be a witness to the signature of the other physician who is issuing a certificate.

(5) The authority for the treatment and admission of a mentally ill person under this section shall expire at the end of six months from the date upon which the examinations by the two physicians are made or if the examinations are not made on the same date, from the date of the last examination; and the last examination shall not be made later than fourteen days after the first examination.

(6) A person admitted to an in-patient facility pursuant to this section shall not be detained therein under the authority of the medical certificates for more than fourteen days.

1970, c.43. s.11; R.S.S. 1978, c.M-13, s.26.

APPREHENSION

Powers of constables in certain cases

27 A person apparently mentally ill or mentally retarded and conducting himself, in a public place, in a manner that in a normal person would be disorderly may be apprehended without warrant by a constable or peace officer and detained for a period not exceeding forty-eight hours during which the question of his mental condition shall be determined by medical examination.

R.S.S. 1965, c.345, s.20; R.S.S. 1978, c.M-13, s.27.

CERTIFICATE OF INCOMPETENCE OR COMPETENCE

Issue of certificate upon examination of mentally disordered person

28(1) Where a person is admitted to an in-patient facility as an in-patient, the medical officer in charge may cause him to be examined by a physician to determine whether he is or is not competent to manage his estate.

(2) If it is found that he is not competent to manage his estate, the medical officer in charge shall issue a certificate of incompetence in respect of that person and shall forward the certificate to the Administrator of Estates and notify the patient and his nearest relative of the issue of the certificate.

- (3) If at any time it is found upon examination by a physician that an in-patient in an in-patient facility, in respect of whom a certificate of incompetence has not been issued pursuant to subsection (2), is not competent to manage his estate, the medical officer in charge shall issue a certificate of incompetence in respect of that person and shall forward the certificate to the Administrator of Estates and notify the patient and his nearest relative of the issue of the certificate.
- (4) Where it is found upon examination that an in-patient in an in-patient facility is not competent to manage his estate and the medical officer in charge is about to issue a certificate of incompetence and forward it to the Administrator of Estates and the medical officer in charge is of opinion that it is imperative that the patient's estate be brought immediately under the control of the Administrator of Estates, he shall forthwith communicate that opinion to the Administrator of Estates and inform him that a certificate of incompetence is about to be issued and forwarded to him.
- (5) When an in-patient in an in-patient facility in respect of whom a certificate of incompetence has been issued is being released from the facility and it is not required that he return thereto within a specified period, the medical officer in charge shall cause him to be examined to determine whether he is then competent to manage his estate.
- (6) If, upon an examination pursuant to subsection (5), it is found that the patient is not competent to manage his estate the medical officer in charge shall notify the patient, his nearest relative and the Administrator of Estates of the result of the examination.
- (7) If, upon an examination pursuant to subsection (5), it is found that the patient is competent to manage his estate the medical officer in charge shall issue a certificate of competence in respect of the patient and shall forward the certificate to the Administrator of Estates and notify the patient and his nearest relative of the issue of the certificate.
- (8) Where the medical officer in charge of a facility deems it to be advisable, he may make arrangements for a person who is not then an in-patient of the facility to be examined by a physician designated by the medical officer in charge to determine whether the person is competent to manage his estate.
- (9) Where the physician who examined a person under subsection (8) finds that the person is not competent to manage his estate, the medical officer in charge shall issue a certificate of incompetence in respect of that person and shall forward the certificate to the Administrator of Estates and notify the person and his nearest relative of the issue of the certificate.
- (10) Where a person in respect of whom a certificate of incompetence has been issued under this section or his nearest relative so requests or where the medical officer in charge of a facility considers it to be advisable, the person shall be examined by a physician designated by the medical officer in charge to determine whether he is then competent to manage his estate, and where the person resides outside the province he may be examined in the province or state in which he resides and the physician examining the person need not be registered with The College of Physicians and Surgeons of the Province of Saskatchewan provided that he is a registered physician and in good standing in the province or state in which he makes the examination.

- (11) If, upon an examination pursuant to subsection (10), it is found then the person examined is not competent to manage his estate the physician who performed the examination shall notify the medical officer mentioned in subsection (10) of the result of the examination and that officer shall notify the person examined, his nearest relative and the Administrator of Estates of the result of the examination.
- (12) If, upon an examination pursuant to subsection (10), it is found that the person examined is competent to manage his estate the physician who performed the examination shall notify the medical officer mentioned in subsection (10) of the result of the examination and that officer shall issue a certificate of competence in respect of the person examined and shall forward the certificate to the Administrator of Estates and notify the person examined and his nearest relative of the issue of the certificate.
- (13) A medical officer in charge may restrict the number of examinations of any one person pursuant to subsection (10) to one during any period of twelve months.
- (14) Where prior to the day on which this subsection comes into force a certificate of incompetence had been issued because it had been found that a patient was not competent to manage his own affairs, it shall be deemed for the purpose of this section that the certificate of incompetence had been issued because it was found that the patient was not competent to manage his estate.

R.S.S. 1965, c.345, s.21; 1970, c.43, s.12; 1972, c.76, s.3; 1976, c.35, s.5; R.S.S. 1978, c.M-13, s.28.

INVESTIGATION OF COMPLAINTS AGAINST CERTIFICATES

Review panels, — appointment, duties, etc.

- 29(1)** The minister shall appoint a review panel for each in-patient facility.
- (2) Each review panel shall consist of three persons, one of whom shall be a physician and another shall be a solicitor.
- (3) The minister shall designate one of the members of each review panel to be chairman of the review panel and another to be vice-chairman.
- (4) The minister may appoint three alternate members for each review panel and subsection (2) shall apply. Where for any reason a member of a review panel cannot act as a member he shall be replaced by the appropriate alternate member who shall act as a member until the investigation being conducted is completed, and when so acting an alternate member shall have all the powers of a member.
- (5) The minister may annually review the appointment of members and alternate members and make such changes as he deems advisable.
- (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 such secretarial and other assistance to each review panel as may be required.

(8) The function of a review panel shall be the investigation of complaints submitted under section 31, and for the purpose of any such investigation the members of the review panel shall have all the powers conferred upon commissioners by *The Public Inquiries Act*.

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

(10) The members of each review panel and the alternate members shall receive such remuneration as may be determined by the Lieutenant Governor in Council.

R.S.S. 1965, c.345, s.22; R.S.S. 1978, c.M-13, s.29.

Notice to patients respecting review panel

30(1) Forthwith upon:

- (a) a person being admitted to an in-patient facility under section 16, 17, 18, 24 or 26
- (b) the authority under which a person is detained in an in-patient facility being replaced by another authority for his detention;
- (c) a renewal certificate or a certificate of incompetence being issued in respect of a person who is an in-patient in a facility; or
- (d) an examination by a medical officer of a facility being made of a person in respect of whom a certificate of incompetence has been issued;

the medical officer in charge of the facility shall notify that person and his nearest relative:

- (e) of the existence and function of the review panel appointed for the facility;
- (f) of the name and address of the chairman of the review panel; and
- (g) of the right of appeal to the review panel, as provided in section 31.

(2) In addition to giving notice pursuant to subsection (1), the medical officer in charge shall, having regard to the circumstances in each case in which the person desires to exercise his right of appeal, do such other things as the medical officer in charge deems expedient to facilitate the submission of a complaint under section 31.

R.S.S. 1965, c.345, s. 23; 1970, c.43, s.13; R.S.S. 1978, c.M-13, s.30.

Complaint and investigation thereof by review panel

31(1) A person in respect of whom:

- (a) a certificate has been issued under section 16, 17, 23, 24 or 26;
- (b) a renewal certificate has been issued under section 15, 18, 21 or 24; or
- (c) a certificate of incompetence has been issued under section 28;

may submit a complaint in writing to the chairman of the review panel alleging that the certificate ought not to have been issued or that it should be revoked.

- (2) The nearest relative of a person who is or has been a patient in an in-patient facility may submit a complaint on behalf of that person under subsection (1) but where a complaint is so made the expression “complainant” wherever it occurs in this section and sections 32 and 33 shall be deemed to mean that person and not his nearest relative.
- (3) Only one complaint may be made to a review panel with respect to a certificate or, where a certificate of incompetence has been issued, with respect to the opinion of a physician who has examined the complainant pursuant to subsection (5) or (8) of section 28.
- (4) Upon receipt by the chairman of a review panel of a complaint in writing, the review panel shall forthwith carry out such investigation as it considers necessary to speedily determine the validity of the complaint and may invite the complainant and other persons considered by the review panel to be affected by the complaint to testify or produce evidence relating thereto. The complainant shall have the right to be personally present when any oral evidence is presented to the review panel, unless the review panel is of opinion that this would be detrimental to his health, in which case he shall have the right to be represented. The complainant or his representative shall have the right of cross-examination.
- (5) The chairman of the review panel shall make a written report of the decision of the review panel and shall, within fourteen days after the receipt by him of the complaint or within such further period as may be fixed by the minister, transmit the report to the complainant, or to the nearest relative where the nearest relative submitted the complaint, and a copy thereof to the medical officer in charge of the facility in which the complainant is or has been a patient.
- (6) The medical officer in charge shall take such action as may be required to give effect to the decision of the review panel.
- (7) *The Arbitration Act* does not apply to an investigation under this section.

R.S.S. 1965, c.345, s.24; 1970, c.43, s.14; R.S.S. 1978, c.M-13, s.32.

Regulations respecting complaints and investigations

32 The Lieutenant Governor in Council may make regulations with respect to the submission of complaints to review panels, and investigations by review panels and matters incidental thereto and consequential thereon, and, without limiting the generality of the foregoing, may make regulations:

- (a) governing the methods by which information relevant to a complaint may be obtained by or furnished to a review panel and for authorizing the members of a review panel or any one or more of them to visit and interview in private any patient by or in respect of whom a complaint has been submitted;
- (b) governing the circumstances in which, and the persons by whom, complainants may, if not desiring to conduct their own case, be represented;
- (c) for enabling a review panel to exclude members of the public, or any specified class of members of the public, from the presentation of testimony to the review panel, or to prohibit the publication of reports of any investigation or the names of any persons concerned in the investigation;

- (d) for making available to any complainant copies of any documents obtained by or furnished to the review panel in connection with the complaint, and a statement of the substance of any oral information so obtained or furnished except where the review panel considers it undesirable in the interests of the complainant or for other special reasons that this be done;
- (e) for requiring a review panel, upon request, to furnish to the complainant and any other person considered by the review panel to be affected by the complaint a statement of the reasons for any decision given by it, subject to the right of the review panel to withhold such information from the complainant or any other person where it considers that the furnishing of the information would be detrimental to the health of the complainant or that it should be withheld for any other special reason;
- (f) conferring on review panels such other ancillary powers as are considered advisable in carrying out their functions under this Act.

R.S.S. 1965, c.345, s.25; R.S.S. 1978, c.M-13, s.32.

Application to Court of Queen's Bench

33(1) The complainant or his nearest relative on his behalf, as the case may be, if dissatisfied with the decision of the review panel under section 31, may apply to the Court of Queen's Bench for an order revoking a certificate, renewal certificate or certificate of incompetence and, where applicable, that the complainant be discharged from the facility.

- (2) The application may be made by notice of motion.
- (3) The notice of motion shall be served upon:
 - (a) the minister;
 - (b) the medical officer in charge of the facility in which the complainant is or has been a patient;
 - (c) the Administrator of Estates, if the application is in respect of a certificate of incompetence; and
 - (d) such other persons as the court may direct;

not less than fifteen days before the motion is returnable and the practice and procedure of the Court of Queen's Bench upon an application in chambers shall, so far as the same are found to be applicable, apply to an application under this section, save as herein otherwise provided.

- (4) The application shall be supported by an affidavit of the applicant setting forth fully the facts in support of the application.
- (5) In addition to the evidence adduced by the applicant, the court may direct such further evidence to be given as it deems necessary.
- (6) The order of the court under this section shall not be subject to appeal.
- (7) The court may make such order as to the costs of the application as it deems fit.
- (8) Where the court orders that the complainant be discharged from the facility, the medical officer in charge of the facility shall comply with the order upon being served with a true copy thereof.

R.S.S. 1965, c.345, s.26; R.S.S. 1978, c.M-13, s.33.

DISCHARGE OF PATIENTS

Discharge from in-patient facility

34(1) A patient detained in an in-patient facility pursuant to this Act shall be discharged from the facility when, in the opinion of the medical officer in charge, he is sufficiently recovered or it is in the interest of the patient that he be discharged.

(2) Where the patient is liable to imprisonment or charged with an offence the medical officer in charge shall discharge him to the custody of the proper authority.

R.S.S. 1965, c.345, s.27; R.S.S. 1978, c.M-13, s.34.

Discharge where patient not dangerous except where proposed residence unsuitable

35(1) Except where subsection (2) applies, no person shall be detained as an in-patient under section 21 against his wishes and those of his nearest relative if the nearest relative undertakes to keep him under supervision in accordance with section 37 and the medical officer in charge is of opinion that he will not be dangerous to himself or others. The request for discharge shall be made in writing to the medical officer in charge who shall reach a decision with respect thereto within forty-eight hours after he receives the request.

(2) Subject to any decision made by a review panel under section 31 or an order of the Court of Queen's Bench under section 33, no patient shall be discharged from an in-patient facility if upon investigation the medical officer in charge is satisfied that the conditions in, or the environment of, the proposed residence of such person are unsuitable for his return thereto.

R.S.S. 1965, c.345, s.28; R.S.S. 1978, c.M-13, s.35.

Leave of absence

36(1) The medical officer in charge of a facility may upon the recommendation of the responsible medical officer place a patient on leave of absence from the facility for such period not exceeding thirty days as may be designated by the medical officer in charge.

(2) Leave of absence may be permitted upon such terms and conditions as the medical officer in charge may prescribe.

(3) This section does not apply to a patient who is liable to imprisonment or charged with an offence.

1972, c.76, s.4; R.S.S. 1978, c.M-13, s.36.

Release on trial leave

37(1) If the medical officer in charge of an in-patient facility considers it conducive to the recovery of or otherwise in the interest of a patient detained therein that he should be allowed to return for a time to his family or friends, the medical officer in charge may allow him to do so upon receiving a written undertaking by one or more of his family or friends that he or they will keep the patient under supervision. The medical officer in charge may furnish the patient, if he is in indigent circumstances, with transportation to his home, or sufficient money to pay for such transportation, and with such sum of money for sustenance and other necessary expenses during the journey as may be approved by the director.

(2) If the patient was detained under the authority of section 21, then at any time before the expiry of the period of detention so authorized the medical officer in charge of the facility in which the patient was detained may appoint a physician to examine the patient, and that physician may, if upon examining the patient he is of opinion that the patient is so mentally disordered that he requires care, supervision and control for his own protection or welfare or for the protection of others, issue a renewal certificate in respect of that person, and thereupon section 21 shall apply as if the renewal certificate had been issued under that section.

(3) If before the expiry of the period of detention authorized under section 21 the patient again becomes in need of in-patient care, the medical officer in charge of the facility in which he was detained or the director may by warrant in the prescribed form, directed to any constable or peace officer or other person, direct that the patient be apprehended and brought back to the facility, and the warrant shall be authority to anyone acting under it to apprehend the person named therein and return him to the facility named therein.

(4) This section does not apply to a patient who is liable to imprisonment or charged with an offence.

R.S.S. 1965, c.345, s.29; R.S.S. 1978, c.M-13, s.37.

Medical and hospital care for persons on trial leave

38 If during the period mentioned in subsection (3) of section 37, the patient requires medical or hospital care he shall, for that purpose only, be deemed to continue as a patient of the in-patient facility from which he was released.

R.S.S. 1965, c.345, s.30; R.S.S. 1978, c.M-13, s.38.

REMOVAL TO ANOTHER INSTITUTION

Procedure

39(1) Subject to regulations made under clause (b) of subsection (2) of section 49, the director may by warrant transfer a patient, other than a patient detained under subsection (1) of section 15, from any facility to any other facility.

(2) Where a patient is transferred under subsection (1), the warrant shall be accompanied by the certificates authorizing his detention in the facility from which he is transferred, and the warrant and certificates shall continue to be sufficient authority for detention.

R.S.S. 1965, c.345, s.31; R.S.S. 1978, c.M-13, s.39.

Senile cases

40 The director may direct that a patient in an in-patient facility whose mental condition is due to senility and whose conduct is recorded as quiet and harmless and who is a proper subject for care in a home for the aged, be discharged from the facility and placed in a home for the aged, and the board of management and superintendent of such home shall admit him and maintain him therein.

R.S.S. 1965, c.345, s.32; R.S.S. 1978, c.M-13, s.40.

Removal for medical, surgical or hospital treatment

41 The medical officer in charge of an in-patient facility may, having ascertained that a patient therein requires medical, surgical or hospital treatment that cannot be given in the facility, authorize the removal of the patient to an appropriate place for treatment. From the time of removal until his return to the facility within the period of detention authorized under section 21, the patient shall be deemed to continue as a patient of the facility in the same manner and to the same extent and be subject to the same control as if he were in the facility.

R.S.S. 1965, c.345, s.33; R.S.S. 1978, c.M-13, s.41.

ESCAPE AND APPREHENSION

Powers of medical officer in charge

42(1) If a patient leaves an in-patient facility without having been discharged, the medical officer in charge may within sixty days thereafter, if he considers it desirable to do so, order that the patient be returned to the facility, and where he does so the patient may be apprehended and returned to the facility, without a warrant, by any constable or peace officer, whether designated by the medical officer in charge or not, or by any other person designated by the medical officer in charge.

(2) Except as provided in subsection (3), after sixty days' absence the patient shall be deemed to be discharged from the facility.

(3) If a patient to whom subsection (1) applies is charged with an offence or liable to imprisonment he may be apprehended without a warrant and returned to the facility notwithstanding that the period of sixty days mentioned in subsection (1) has expired and he shall not be deemed to be discharged after sixty days' absence.

R.S.S. 1965, c.345, s.34; 1970, c.43, s.15; R.S.S. 1978, c.M-13, s.42.

APPROVED HOMES

Approval by director

43(1) The director may issue a certificate approving of any building, premises or place as an approved home for the accommodation of patients who are discharged from an in-patient facility or who require the accommodation and supervision that may be provided therein.

(2) The department may make payment to approved homes for providing accommodation to patients.

1970, c.43, s.16; 1972, c.76, s.5; R.S.S. 1978, c.M-13, s.43.

Placing of patients in approved homes

44(1) If the medical officer in charge of a facility or a physician otherwise employed in the branch considers it conducive to the recovery of a patient, he may place the patient in an approved home, subject to the provisions of this Act.

(2) No person admitted to an institution under section 22 or 23 shall be placed in an approved home unless the director has certified to the medical officer in charge that the person is no longer liable to imprisonment.

R.S.S. 1965, c.345, s.36; 1972, c.76, s.6; R.S.S. 1978, c.M-13, s.44.

PART III

General

No admission to in-patient facility unless accommodation available

45 A person shall not be admitted to an in-patient facility under section 15, 16, 17, 18, 24 or 26, and a person shall not present himself or be sent for admission to an in-patient facility, until the director or the medical officer in charge of the facility has signified that suitable accommodation in the facility is available for him.

R.S.S. 1965, c.345, s.38; 1970, c.43, s.18; R.S.S. 1978, c.M-13, s.45.

Authority to return foreign patients

46 If it appears to the minister that a mentally disordered patient in an in-patient facility has come or been brought into Saskatchewan from elsewhere within twelve months prior to his admission to the facility, the minister may authorize the removal of that patient to the province or country from which he came or was brought.

R.S.S. 1965, c.345, s.40; R.S.S. 1978, c.M-13, s.46.

Post-mortem examination

47 If a person dies while detained in an in-patient facility, the medical officer in charge may, if he deems it advisable that a post-mortem examination should be made, appoint a pathologist or any other competent person to make such examination and certify the cause of death.

R.S.S. 1965, c.345, s.41; R.S.S. 1978, c.M-13, s.47.

Validity of warrant or order notwithstanding irregularities

48 A warrant or order issued under this Act for the removal of a mentally disordered person to an in-patient facility, or for the continued detention of such a person in an in-patient facility, shall be deemed to have been properly issued notwithstanding any irregularity or insufficiency in any warrant or order under which the person is imprisoned or confined or in any of the proceedings before a magistrate.

R.S.S. 1965, c.345, s.42; R.S.S. 1978, c.M-13, s.48.

Regulations

49(1) For the purpose of carrying out the provisions of this Act according to their intent and of supplying any deficiency therein, the Lieutenant Governor in Council may make regulations not inconsistent with the spirit of this Act which shall have the same force and effect as if enacted herein.

(2) Without limiting the generality of subsection (1), the Lieutenant Governor in Council may make regulations:

- (a) designating the facilities to which this Act shall apply;
- (b) classifying facilities, defining the district to be served by, and the classes of patients to be treated in, any facility, and specifying with respect to each class of facilities the forms of authority, as provided in sections 15, 16, 17, 18, 20, 22, 23, 24 and 26, that may be accepted by a facility in that class as authority for admission of a person to the facility;

- (c) governing the inspection, superintendence, government, management, conduct, operation, maintenance, care and use of facilities and equipment;
 - (d) governing the apprehension and admission of patients to facilities;
 - (e) governing the care, treatment, maintenance, conduct, discipline, custody, transfer, probation, release, apprehension and discharge of in-patients, out-patients and day-patients;
 - (f) prescribing the forms required for carrying out the provisions of this Act and the regulations;
 - (g) governing the granting of certificates of approval in respect of approved homes, the fees payable for certificates and the cancellation thereof;
 - (h) governing the classification, situation, construction and equipment of approved homes;
 - (i) prescribing the charges to be made for care, maintenance and other services provided under this Act to in-patients, out-patients and day-patients in any facility who are not entitled to such services at the expense of the province;
 - (j) governing payment by the department for the care and maintenance of patients in approved homes;
 - (k) prescribing the fees payable by the department to physicians or other persons acting pursuant to this Act;
 - (l) governing the amount of moneys belonging to patients in in-patient facilities that may be held in trust by those facilities and governing the disposition of interest earned on the moneys so held in trust;
 - (m) governing the receiving and holding in trust by an in-patient facility of moneys realized from donations or bequests or that are otherwise connected with the operation of the facility, and governing the disposition of moneys so held in trust.
- (3) Every regulation made under this section shall be published in *The Saskatchewan Gazette* and shall have force and effect on and after the date specified for the purpose in the regulation or in the order in council making the regulation, or, if no date is so specified, on and after the date of such publication.

R.S.S. 1965, c.43, s.19; 1970, c.43, s.19; 1972, c.76, s.7; R.S.S. 1978, c.M-13, s.49.

Application of sections 51 to 55

50 Sections 51 to 55 apply only with respect to:

- (a) expenses incurred before the first day of January, 1945, in connection with the apprehension, examination, committal, medical examination, custody, transportation, care and maintenance of a person committed to safe custody or to an institution under the *Mental Hygiene Act* in force on the said date or any former Act.

(b) expenses incurred after the thirty-first day of December, 1944, in connection with the apprehension, examination, committal, medical examination, custody, transportation, care and maintenance of a person admitted to an institution under this Act or any former *Mental Hygiene Act* or *Mental Health Act* or to any other facility under this or any former *Mental Health Act* to the extent that he was not entitled to those services and procedures or to have payment made for the cost thereof under this Act or under *The Mental Hygiene Act* or *The Mental Health Act* in force at the time the service or procedure was provided.

R.S.S. 1965, c.345, s.44; 1968, c.47, s.9; 1971 (2nd), c.5, s.3; R.S.S. 1978, c.M-13, s.50.

Liability for expenses of committal, care and maintenance

51 All expenses incurred in connection with the apprehension, examination, committal, medical examination, custody, transportation, care and maintenance of a person committed to safe custody or to an institution or a facility shall, unless otherwise provided, be borne by the person admitted if on inquiry it is found that he is possessed of means for the purpose. If he is without the necessary means of providing for his care and maintenance and another person is legally liable for and capable of so providing, that person shall be liable for the expenses to the extent to which they are not paid by the patient.

R.S.S. 1965, c.345, s.45; R.S.S. 1978, c.M-13, s.51.

Payment of expenses by department and right to recover the same

52 All expenses incurred prior to and inclusive of the removal to an institution shall be paid in the first instance by the department, but Her Majesty shall be entitled to recover those expenses together with the expense of care and maintenance, if any, from and out of the estate of the patient or from the person or persons found to be legally liable to provide for his care and maintenance.

R.S.S. 1965, c.345, s.46; R.S.S. 1978, c.M-13, s.52.

Method of recovery

53(1) The expenses shall be recoverable at the suit of the minister in any court of competent jurisdiction.

(2) The minister shall not be bound to demand or sue for the expenses if for any reason it is deemed inadvisable to do so, but he may make such other arrangement as he thinks proper for payment of the whole or a portion thereof out of the patient's estate, if any, or by the person or persons appearing to be so legally liable, or he may abandon all claim against the estate or against such persons.

R.S.S. 1965, c.345, s.47; R.S.S. 1978, c.M-13, s.53.

Lien for expenses on registration of statement

54(1) When moneys have been expended in connection with the maintenance of a mentally disordered person, a statement over the signature of the minister, certifying what moneys have been so expended, may be registered in any or all of the land titles offices, and from the time of registration the statement shall bind and form a lien and charge for the amount certified on all the lands of that person in the several land registration districts in which the statement is registered, to the same extent as if the lands were charged in writing by an owner of land under his hand and seal and after registration of the statement the minister may, if he deems it expedient to do so, proceed in court to realize upon the lien and charge thereby created.

(2) If the mentally disordered person is a married woman, the minister may register a similar statement in which he shall give the first Christian name in full and the surname, occupation and address of the woman's husband if living, and upon registration the statement shall bind the lands of the husband in the same manner and to the same extent as it would if they were the property of his wife.

(3) If the mentally disordered person is under the age of eighteen, the minister may register a similar statement giving the first Christian name in full and the surname, occupation and address of his father, or the first Christian name in full and the surname and address of his mother if a widow, and certifying that the amount mentioned has been expended upon his apprehension, examination, committal, medical examination, custody, transportation, care and maintenance during minority, and upon registration the statement shall bind the lands of the father or of the mother, as the case may be, in the same manner and to the same extent as if they were the property of the mentally disordered person.

R.S.S. 1965, c.345, s.48; R.S.S. 1978, c.M-13, s.54.

Effect of registration

55(1) Every such statement when registered shall have the same force and effect whether the mentally disordered person is alive or dead, and whether he is confined in or has been discharged or has escaped from an institution.

(2) Every such statement shall be filed and entered by the registrar in the same manner as a writ of execution or certified copy thereof forwarded by the sheriff or other duly qualified officer.

(3) The charge created by such statement shall be subject to all equities, charges and encumbrances existing against the owner in or upon the land at the date of registration.

(4) The lien or charge created by a statement may be discharged by the registration in the same office or a discharge executed by the minister.

R.S.S. 1965, c.345, s.49; R.S.S. 1978, c.M-13, s.55.

Agreements with Government of Canada

56 The Government of Saskatchewan may enter into agreements with the Government of Canada undertaking the care and treatment in facilities of those classes of persons specified in the agreement upon terms and conditions deemed expedient.

1968, c.47, s.5; R.S.S. 1978, c.M-13, s.56.

Non-liability to civil action

57 No action lies against a person who lays an information under this Act, or who signs a certificate or does any act to cause a certificate to be signed under section 15, 16, 17, 18, 21, 23, 24, 26 or 28, or who otherwise acts under the authority of any of the said sections, or who commits a person to safe custody upon the ground that that person is mentally disordered, or who signs or carries out or does any act with a view to signing or carrying out an order purporting to be an order for the removal of a person to an in-patient facility, if he has acted in good faith and with reasonable care.

R.S.S. 1965, c.345, s.51; 1970, c.43, s.20; R.S.S. 1978, c.M-13, s.57.

Stay of vexatious proceedings

58 If an action is brought against a person for laying an information or doing such act or certifying or signing or carrying out or doing any act with a view to certifying, signing or carrying out such order or for doing anything pursuant to this Act, the action may upon *ex parte* application to a judge be stayed, upon such terms as to costs and otherwise as the judge thinks fit, if he is satisfied that there is no reasonable ground for alleging want of good faith or reasonable care.

R.S.S. 1965, c.345, s.52; R.S.S. 1978, c.M-13, s.58.

Limitation of actions

59 All actions, prosecutions and other proceedings against a person for anything done or omitted to be done in pursuance of this Act shall be commenced within six months after the act or omission complained of has been committed, and not afterwards.

R.S.S. 1965, c.345, s.53; R.S.S. 1978, c.M-13, s.59.

Torts of patient

60 No action shall lie against any facility or any officer, employee or servant thereof for the tort of a patient.

R.S.S. 1965, c.345, s.54; R.S.S. 1978, c.M-13, s.60.

Communication with patients in in-patient facilities

61(1) Except as provided in this section, no communication written by or sent to a patient in an in-patient facility shall be opened, examined or withheld, and its delivery shall not in any way be obstructed or delayed.

(2) Where the medical officer in charge of an in-patient facility or a person acting under his authority has reasonable and probable grounds to believe:

- (a) that the contents of a communication written by a patient would:
 - (i) be unreasonably offensive to the addressee; or
 - (ii) prejudice the best interest of the patient; or
- (b) that the contents of a communication sent to a patient would:
 - (i) interfere with the treatment of the patient; or

- (ii) cause the patient unnecessary distress;

the medical officer in charge or a person acting under his authority may open the communication and examine the contents thereof and, if in the opinion of the medical officer or person any condition mentioned in clause (a) or (b) exists, may withhold such communication from delivery.

(3) Subsection (2) does not apply to a communication written by a patient to, or appearing to be sent to a patient by:

- (a) a solicitor;
- (b) a member of a review panel or the visting committee; or
- (c) a member of the Legislative Assembly.

1970, c.43, s.21; R.S.S. 1978, c.M-13, s.61.

Assisting escape of patient prohibited

62(1) No person shall:

- (a) assist a patient in escaping or attempting to escape from an in-patient facility; or
- (b) do or omit an act for the purpose of aiding a patient in escaping or attempting to escape from an in-patient facility; or
- (c) abet or counsel a patient to escape; or
- (d) visit, assist, counsel or communicate with a patient after having been prohibited in writing from doing so by the director or the medical officer in charge.

(2) Every person who violates any of the provisions of subsection (1) is guilty of an offence and liable on summary conviction to a fine of not less than \$25 nor more than \$100 and in default of payment to imprisonment for not more than thirty days.

R.S.S. 1965, c.345, s.55; R.S.S. 1978, c.M-13, s.62.

General penalty

63 Every person who violates any provision of this Act or the regulations, for which violation no other penalty is imposed, is guilty of an offence and liable on summary conviction to a fine of not less than \$10 nor more than \$100 and in default of payment to imprisonment for not more than thirty days.

R.S.S. 1965, c.345, s.56; R.S.S. 1978, c.M-13, s.63.

Consultants and committees

64(1) The minister may, from time to time, appoint consultants and committees and authorize them to conduct inquiries and make recommendations to him concerning:

- (a) the provision generally of psychiatric services within the province or any matter related thereto;
- (b) the provision of psychiatric services within any facility or any class or classes of facilities or any matter related thereto;

(c) any matter relating to the administration of a facility or any class or classes of facilities;

(d) any other matter relating to the mental health of persons residing in the province or any class or classes of such persons.

(2) The minister may pay consultants and members of committees appointed under subsection (1) such *per diem* allowances, travelling expenses and other remuneration as he deems advisable, and may provide any assistance he considers necessary to the consultants and committees to assist them in carrying out their duties.

1976, c.35, s.7; R.S.S. 1978, c.M-13, s.64.

Transitional provisions

65(1) Every mentally defective person within the meaning of *The Mental Hygiene Act*, being chapter 309 of *The Revised Statutes of Saskatchewan, 1953*, who, on the first day of August, 1961, was being detained in a mental hospital or school for mental defectives under the authority of the said *Mental Hygiene Act* shall be deemed to have been admitted and to be detained under the authority of this Act as a mentally disordered person, and section 21 shall apply *mutatis mutandis* to him as if his entire period of detention in the institution had been under the authority of this Act.

(2) Every mentally ill person within the meaning of *The Mental Hygiene Act*, being chapter 309 of *The Revised Statutes of Saskatchewan, 1953*, who, on the first day of August, 1961, was being detained in a mental hospital or school for mental defectives under the authority of the said *Mental Hygiene Act* shall be deemed to have been admitted and to be detained under the authority of this Act as a mentally disordered person, and section 21 shall apply *mutatis mutandis* to him as if his entire period of detention in the institution had been under the authority of this Act.

(3) Where on the twenty-eighth day of March, 1963, a mentally disordered person was being detained in a facility with the approval of the medical officer in charge and pursuant to a renewal certificate issued by the responsible medical officer, he shall be deemed to be detained under subsection (1) of section 21, and the renewal certificate shall be deemed to have been issued under that subsection.

R.S.S. 1965, c.345, s.58; R.S.S. 1978, c.M-13, s.65.

Certain facilities deemed to have been designated

66(1) Subject to subsection (2), every mental hospital and school for mental defectives that was in operation on the thirty-first day of July, 1961, under the authority of *The Mental Hygiene Act*, being chapter 309 of *The Revised Statutes of Saskatchewan, 1953*, shall be deemed to have been designated by the Lieutenant Governor in Council under *The Mental Health Act, 1961*, on the day on which that Act came into force and under this Act on the day on which this Act came into force.

(2) The designation of The Saskatchewan Hospital Weyburn provided by subsection (1) shall be deemed to have been revoked on the first day of November, 1971.

1972, c.76, s.8; R.S.S. 1978, c.M-13, s.66.

