

The Manitoba Mental Health Act

If you need specific information regarding
the Manitoba Mental Health Act
and your rights call:

CANADIAN MENTAL HEALTH ASSOCIATION

Manitoba and Winnipeg
930 Portage Avenue · 982-6100
winnipeg.cmha.ca

MENTAL HEALTH REVIEW BOARD

102-500 Portage Avenue · 945-6050

LEGAL AID

287 Broadway · 985-8500

OMBUDSMAN

750 - 500 Portage Avenue · 982-9130

COPIES OF THE MENTAL HEALTH ACT CAN BE OBTAINED FROM STATUTORY PUBLICATIONS

945-3101

www.gov.mb.ca/health/mh/act.html



Canadian Mental
Health Association
Manitoba and Winnipeg
Mental health for all

Helping people with mental illness
live fulfilling lives in the community

winnipeg.cmha.ca

The **Mental Health Act** is a provincial law that provides the legal framework by which individuals may be assessed and treated in a general hospital psychiatric unit, a psychiatric hospital or a mental health clinic. The intent of the Act is to balance an individual's need and right to treatment, the individual's civil rights not to be arbitrarily detained, and the need of society to prevent people from harming themselves or others when they are mentally ill.

Here are the key points to know:

1. How are people admitted to a psychiatric facility?

VOLUNTARY PATIENT

A person may request admission as a voluntary patient, in which case, a doctor must agree that admission is indicated. The vast majority of patients who are admitted to a psychiatric unit in a hospital are admitted voluntarily.

INVOLUNTARY PATIENT

Any doctor can make application for a psychiatric assessment based on his or her personal assessment that the individual is suffering from a mental disorder that likely will result in serious harm to themselves or another person, or will seriously deteriorate if not kept in a psychiatric facility.

- A police officer may be requested through a warrant or their emergency powers to bring a person to a psychiatric facility for assessment.
- A magistrate can issue a warrant to have a person taken to a psychiatric facility for assessment after receiving signed evidence from a citizen that this person may be a danger to themselves or others. (Court of Queen's Bench, Law Courts Building, 408 York Avenue, Winnipeg, Manitoba R3C 0P9, Phone: (204) 945-0344)
- However, a person can only be admitted to a psychiatric facility as an involuntary patient if a psychiatrist believes that:
 - . the person may suffer from a mental disorder
 - . because of the mental disorder there is a likelihood that;
 - the person may cause serious harm to him/herself or others

OR

- . the person's condition may deteriorate mentally or physically

AND

- . the person needs treatment that can reasonably be provided only in a psychiatric facility
- . the person refuses or lacks the capacity to agree to a voluntary admission.

A police officer who takes a person into custody for an involuntary medical examination must inform the person in writing:

- . where the person is being taken
- . the reason why they are being taken for an involuntary medical examination
- . that they have a right to call a lawyer.

DISCHARGE

A person can be kept involuntarily in a psychiatric facility for up to 21 days. If not ready for discharge, the certificate can be renewed for up to 3 months. However, the psychiatrist can also change the person's status from involuntary to voluntary at any time if they no longer meet the conditions to be an involuntary patient. The patient must be informed of any change in status.

2. Can a person be forced to accept medication against their will?

If a person is considered to be mentally competent to decide on psychiatric treatment, they have the right to refuse or accept medication or treatment. An individual is considered competent to decide on psychiatric treatment if he or she has the ability to understand the nature of the illness for which treatment is proposed, the treatment recommended, and is able to appreciate the consequences of giving or withholding consent. If a person is not mentally competent, the psychiatrist must get consent from a family member, committee, proxy or the public trustee before giving medication.

3. How can a person appeal decisions about their involuntary status or treatment in a psychiatric facility?

Review Board applications are available at the nursing station in each psychiatric facility. A review board is an independent committee of 3 people who:

- May review involuntary status, mental competency, failure to comply with a health directive, competency to manage property, extension or cancellation of a leave certificate.

- May authorize treatment for a patient who is not mentally competent.
- May authorize the withholding of access of a patient to his or her clinical file.

A Review Board hearing must be conducted within 21 days of the application date. A person is entitled to be represented at the hearing by a lawyer, advocate or person of their choice. A decision will be made within 2 - 3 days following the hearing.

4. Can an involuntary patient be discharged from a psychiatric facility?

A Certificate of Leave is a written agreement between a patient and a doctor that may be issued for a period of six months allowing an involuntary patient (who meets certain criteria) to live outside the psychiatric facility.

The certificate contains conditions specifying that the patient must report at specific times and places for treatment. Once the certificate is issued, that patient becomes voluntary. If the patient does not report for treatment as agreed, the doctor can request the police to return the patient to the psychiatric facility.

5. Does a person have a right to see their hospital file?

YES. A person can apply in writing to the medical officer in charge of the psychiatric facility to see and/or copy the clinical record. The person needs to give their name, address, date of birth and date(s) of hospitalization. The hospital can charge a fee for administration and copying. It is important to inform Medical Records if a person cannot afford the fee. Most facilities will adjust or waive the fee.

Within 7 days of receiving a written request, the medical officer may either grant the request to see the file (which is usual), or may apply to the Review Board for permission to withhold all or part of the clinical file. If there is incorrect information in the file, a correction can be requested, or a statement of disagreement can be added to the record.

The Review Board can order the medical officer to give access to the clinical file unless the board believes that this would likely cause:

- a) serious harm to a person's treatment or recovery

OR

- b) serious physical or emotional harm to someone else.