



NEWS RELEASE

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For Immediate Release

Hospitals failing to follow legal safeguards for mentally ill patients involuntarily detained, B.C. Ombudsperson investigation finds

Victoria – The legal rights of mentally ill patients involuntarily admitted to psychiatric facilities across the province are being denied according to an investigative report issued by the BC Ombudsperson today.

Ombudsperson Jay Chalke released Special Report No. 42, *Committed to Change: Protecting the Rights of Involuntary Patients under the Mental Health Act*. The report makes 20 findings highlighting the lack of compliance with the legal documentation required on involuntary admission to designated psychiatric facilities in the province. The report finds legally required admission documents were missing, late or improperly completed including forms outlining reasons for detention, consent and description of treatment, notification of a patient's rights and notification to relatives. In some cases facilities used standard rubber stamps to generally authorize treatment for individual patients instead of describing the specific treatment proposed for that patient. In other cases, physicians failed to explain why a person met the criteria for involuntary admission yet the patient was nonetheless admitted. Some forms lacked the necessary signatures or dates.

"Involuntary detention and treatment is the most intrusive form of mental health care available," said Chalke. "This is a failure to comply with the *Mental Health Act*, the law that allows people who are gravely ill - our friends, daughters, sons, parents and grandparents – to receive timely treatment while protecting their legal rights," he said adding involuntary admissions are often a necessary last resort for mentally ill people who are at risk of harming themselves or others. "The state, when it uses such an extraordinary power, has a critically important duty to follow the law. This includes properly completing documentation of what is happening to an individual and why. To not do so is not only unacceptable, it is contrary to law." said Chalke.

The report's findings were based on an investigation that reviewed admission records of every involuntary admission in the province that took place in June 2017. A detailed analysis of mandatory admission forms found that across the province, all of the required forms were completed in only 28% of involuntary patient admissions. Vancouver Coastal Health, Northern Health and the Provincial Health Services Authority had the lowest overall compliance rates. Additional findings include:

- A number of directors of designated facilities admitted and detained people involuntarily without adequate information and reasons to demonstrate how the patient met the criteria for admission
- There was no consent for treatment form in 24% of patient admissions across all health authorities. There was a wide variation among hospitals in the issuance of the consent to treatment form with a low of 9% compliance at the University Hospital of Northern British Columbia

- A number of directors of facilities acted contrary to section 8 of the *Mental Health Act* in permitting the psychiatric treatment of involuntarily detained patients in circumstances where the patient objected to treatment and no Consent for Treatment form was completed
- There was no rights advice form for more than half of the involuntary patients. This form advises the patient of their legal rights including how to get legal advice and challenge their detention
- The Ministry of Health and the health authorities acted unreasonably in failing to adequately monitor, audit and address designated facilities' compliance with the involuntary admission procedures under the *Mental Health Act*

The report highlights several personal cases including a story of a woman who was held in a seclusion room without hospital staff telling her she had been involuntarily admitted. She was not told the reason for her involuntary detention nor was she notified of her rights during her detention. When she requested a copy of her file after she was discharged, she found no form notifying her of her legal rights. "Going through experiences like this is stressful enough," said Chalke. "This lack of compliance with legal requirements naturally raises many questions for patients and their families. Without documentary evidence, reasons for detention and treatment as well as awareness of how to question decisions can be extremely unclear. Public confidence in the system at large is also put into doubt."

The report makes 24 recommendations, all of which have been accepted in principle by government and health authorities and focus on three key areas:

- Increasing oversight and accountability by conducting regular compliance audits, setting 100 percent compliance targets and increasing public reporting about involuntary admissions
- Training staff and physicians regarding the necessity of form completion and the codification of standards for compliance with the *Mental Health Act*
- Third and most importantly, the Ministry of Attorney General has committed in principle to develop an independent rights advisor service that would work in designated facilities in the province and provide advice to patients about the circumstances of their detention and their options if they disagree with the detention or a related decision.

"Implementing these recommendations will make a significant impact by ensuring that someone who is involuntarily detained receives the best mental health treatment in a manner that is respectful of their human rights," said Chalke. "While the findings in this report are troubling, the commitment by government and the health authorities to the recommendations made is cause for optimism. These changes will help ensure those who are involuntarily detained in B.C. are afforded the same rights that all Canadians expect."

The Ombudsperson will monitor implementation by the provincial government and the health authorities of the recommendations in this report and will report publicly on progress.

To view the full report visit www.bcombudsperson.ca

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