

CHAPTER 24

Heroin Treatment Act

[Assented to June 29, 1978.]

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Interpretation

1. In this Act

- "area co-ordinating centre"
means a place established under section 2 as an area co-ordinating centre;
- "board"
means the Board of Review appointed under section 6;
- "commission"
means the Alcohol and Drug Commission established under the Alcohol and Drug Commission Act;
- "court"
means the Supreme Court;
- "dependency"
means, in relation to a narcotic, a state of psychological or physical dependence, or both, on a narcotic following its use on a periodic or continuous basis;
- "director"
means a person appointed under the Public Service Act as a director for the purposes of this Act;
- "judge"
means a judge of the Provincial Court.
- "minister"
means that member of the Executive Council charged by order of the Lieutenant-Governor in Council with the administration of this Act;
- "narcotic"
means heroin (diacetyl morphine) and other derivatives of opium, opium, methadone (6-dimethylamino-4, 4-diphenyl-3 heptanone), any substance with morphine-like properties that is prescribed by regulation and anything that contains any of these substances;
- "patient"
means a person who is required or voluntarily agrees to undergo treatment under this Act;
- "treatment"
means one, more, or all of direction, supervision, or treatment of a person for the purpose of terminating or diminishing his use of or dependency on a narcotic;
- "treatment centre"
means a place established under section 2 for the treatment of patients in detention;

"treatment clinic"

means a place established under section 2 as a clinic for the treatment of patients not in detention.

Powers of commission

2. The commission shall administer this Act, and may for that purpose
- (a) establish and operate offices, area co-ordinating centres, treatment centres, hospitals, treatment clinics, laboratories and other facilities, and
 - (b) contract and make arrangements with other persons.

Evaluation panels

3. (1) The Lieutenant-Governor in Council shall compile for each area co-ordinating centre a list of persons consisting of medical practitioners, psychologists registered under the Psychologists Act and other persons who shall be eligible to sit on an evaluation panel, and the Lieutenant-Governor in Council shall designate one person on the list to act as chairman and one as vice-chairman of the evaluation panel.

(2) An evaluation panel shall be formed at the call of the chairman or vice-chairman from the list referred to in subsection (1) and shall have a membership of at least 2 medical practitioners and one other member, and may, but need not, include the chairman or vice-chairman designated under subsection (1).

(3) Where the chairman or vice-chairman is not present at a meeting of an evaluation panel, the members present shall elect an acting chairman from among themselves.

(4) A member shall be reimbursed for reasonable travelling and out-of-pocket expenses necessarily incurred by him in discharging his duties and may be paid such remuneration for his services as the Lieutenant-Governor in Council may determine.

Examination

4. (1) Where a person attends at an area co-ordinating centre for examination, an evaluation panel for the area co-ordinating centre shall forthwith conduct a medical and psychological examination of him and may detain him for a period of 72 hours, or such lesser time as the director in charge of the area co-ordinating centre orders.

(2) Within 60 hours after a person is admitted to an area co-ordinating centre for examination, the evaluation panel shall report in writing to the director in charge of the area co-ordinating centre as to whether the person is or is not in need of treatment for narcotic dependency and where, in its opinion, treatment is needed, make recommendations to the director respecting the treatment.

(3) In an examination of a person under this section it is not necessary for all the members of the evaluation panel to personally examine him, nor is it necessary for those members who examine him to be all present at the same time, and in forming their opinion and making their

report and recommendations under this section they may rely on analyses and tests carried out at the direction of a member of the evaluation panel by an employee of the commission or another person.

(4) The director in charge of an area co-ordinating centre shall forthwith on its receipt give a person examined a copy of the report and of any recommendations made by the evaluation panel.

(5) Where a person examined consents in writing to treatment, the director in charge of an area co-ordinating centre may commit him to treatment forthwith without an application to the court.

(6) Where the members sitting as the evaluation panel have unanimously reported that a person examined is in need of treatment and the person is not committed under subsection (5), the director in charge of the area co-ordinating centre shall apply to the court for an order declaring that the person is in need of treatment for narcotic dependency.

(7) Notice stating the time and place of the application shall be served personally on the person who is the subject of the application.

(8) On ex parte application, the court may

(a) grant an exemption from the requirement to serve notice under subsection (7), or

(b) direct who shall be served with notice and the manner of service, including substituted service.

(9) Where on hearing an application under this section the court is satisfied that the person is in need of treatment for narcotic dependency, it shall commit him for treatment.

(10) In proceedings under this section

(a) a certificate signed by the director in charge of the area co-ordinating centre that he gave a copy of the report and any recommendations of the evaluation panel to the person examined is prima facie proof of that fact without proof of the signature or official character of the person appearing to have signed the certificate, and

(b) a copy of the report and of any recommendations of the evaluation panel, signed by a member of the panel, is evidence of the statements contained in it, without proof of the signature or the official character of the person appearing to have signed the copy.

Treatment

5. (1) A director shall develop programs for the treatment of patients, and the programs may be designed for the treatment of patients generally, or for the treatment of an individual patient.

(2) A treatment program of a patient shall last for 3 consecutive years and may, subject to subsection (3) and section 7, include some or all of the following:

(a) where a director so directs, detention in a treatment centre for a period not exceeding 6 consecutive months;

(b) attendance at a treatment clinic at such times and over such periods, not exceeding one year in total, as a director may require;

(c) supervision and direction of such kind and of such duration as a director may require.

(3) Detention under subsection (2) (a) is, subject to section 7, limit-

ed to a total of 6 months during the patient's 3 year treatment program.

(4) The director for the time being in charge of a patient's treatment program may, subject to subsection (3), change the treatment, but he shall not shorten or rescind a requirement for detention under subsection (2) (a) or change a direction of the board under section 7.

Board of Review

6. (1) The Lieutenant-Governor in Council shall appoint a Board of Review of not less than 5 members of whom at least one shall be a medical practitioner, and shall appoint one of the members as chairman.

(2) A member shall be appointed at pleasure for a term of 3 years.

(3) A member shall be reimbursed for reasonable travelling and out-of-pocket expenses necessarily incurred by him in discharging his duties and may be paid such remuneration for his services as the Lieutenant-Governor in Council may determine.

(4) A quorum of the board is one medical practitioner and 2 other members.

Powers of Board

7. (1) The board may, on the application of a director, and after hearing the director and the patient, direct that the duration of a patient's treatment under section 5 (2) (a) or (b) be extended beyond the 6 months referred to in section 5 (2) (a) or the one year referred to in section 5 (2) (b).

(2) Wherever it is required to facilitate the assessment, monitoring, or review of a patient's needs respecting treatment, the board may, on the application of a director, direct that a patient

(a) enter and be detained in a treatment centre for not more than 7 days, or

(b) enter and remain for not more than 7 days in a treatment clinic or other place operated by the commission.

Appeals

8. An appeal lies to the Court of Appeal from an order of the court under section 4.

Judicial Review

9. Nothing in this Act affects the right of a person to seek a remedy under the Judicial Review Procedure Act.

Duties of patients and persons examined

10. A person examining a person under section 4 or administering treatment to a patient may require him to provide samples of his blood and urine.

Detention of Patients

11. (1) Where this Act authorizes or requires that a patient be detained, a peace officer may, without a warrant, take him to a treatment centre for detention.

(2) A director may, in writing, consent to the absence of a detained patient from a treatment centre, where the absence is necessary for medical reasons.

(3) The director may require as a condition of his consent under subsection (2) that the patient be accompanied by an escort, and the escort shall direct and supervise the patient during the patient's absence from the treatment centre.

Treatment under law of Canada

12. Where under or pursuant to a law of Canada a person

- (a) is sentenced to be detained or is committed to custody for treatment for drug or narcotic use, dependency, or addiction, or
- (b) is deemed to be so sentenced or committed, or
- (c) is required, undertakes, or consents to undergo treatment for narcotic use, dependency, or addiction

and under or pursuant to that law the commission is authorized to exercise custody or control of, or to detain or to administer treatment to, that person, the commission may elect to deal with him in accordance with that law, and, thereupon, subject to that law the commission shall have the same powers with respect to him, and he shall be subject to this Act, as if he had been committed for treatment under section 4 (9), but he has no right of appeal under this Act.

Attendance at area co-ordinating centres

13. (1) Where a peace officer believes on reasonable grounds that a person has a dependency on a narcotic, he may give the person a written notice specifying a date and time, not less than 24 hours or more than 48 hours from the time of the giving of the notice, at which the person is required to attend and submit to examination at the area co-ordinating centre specified in the notice.

(2) The director of the area co-ordinating centre specified in a notice under subsection (1) has an absolute discretion, at the request of a person to whom the notice was given, or on his own initiative, to give the person a written notice requiring the person to attend and submit to examination at the area co-ordinating centre at a specified later date or time.

(3) Where a person does not comply with a notice given to him under subsection (1) or (2), the commission may apply ex parte to a judge for a warrant authorizing a peace officer to take the person into custody and to take him to an area co-ordinating centre, and the judge may, if it appears to him that the notice was given to the person in accordance with subsection (1) or (2) and that the person has not complied with the notice, is-

sue the warrant.

(4) In an application under subsection (3) and in proceedings in respect of an offence under section 16

- (a) a certificate signed by the peace officer or by a director of an area co-ordinating centre that he gave the written notice to the person, is prima facie proof that he gave the written notice to the person, and
- (b) a certificate signed by the director of an area co-ordinating centre that the person named in the notice has not attended at the area co-ordinating centre is prima facie proof that the person has not complied with the notice.

(5) A certificate given under subsection (4) is evidence of the statements contained in the certificate without proof of the signature or the official character of the person appearing to have signed the certificate.

Medical use of narcotics

14. The administration of a narcotic to a person by, or under the authority of a prescription of, a medical practitioner, does not, of itself, make that person subject to this Act.

Members not personally liable

15. (1) No member or employee of the commission, and no person acting under the authority of this Act or the commission, is personally liable for a loss or damage suffered by a person by reason of anything done or omitted to be done in the exercise or purported exercise of a power given by this Act or by the regulations unless it was done or omitted in bad faith or without reasonable care.

(2) No civil proceedings shall be brought against a person in respect of an act or omission referred to in subsection (1) without leave of the Supreme Court, and leave shall not be given unless the Court is satisfied that there is substantial evidence that the person acted in bad faith or without reasonable care.

Offences

16. The following persons commit an offence:

- (a) a patient or other person who resists, evades, or escapes the detention authorized by this Act;
- (b) a person who does not comply with a requirement under section 10;
- (c) a person who, after notice given to him under section 13, does not attend at an area co-ordinating centre and submit to examination as required by the notice;
- (d) a patient or other person in detention under this Act who leaves that detention without the written consent of a director;
- (e) a person who, without the written consent of the person in charge of the treatment centre, brings into a treatment centre

for the use of any person, whether detained in the treatment centre or not, food, liquor, drugs, clothing, or any other article or substance whatsoever;

- (f) a patient who does not comply with a requirement or direction made or given by a Board of Review or by a director, or by an officer or employee of the commission respecting the patient's treatment;
- (g) a patient who in a treatment centre, treatment clinic, or other facility operated by the commission interferes improperly with the operation of the treatment centre, treatment clinic, or other facility;
- (h) a patient who contravenes a rule or regulation applicable to him as part of a program of treatment.

Regulations

17. The Lieutenant-Governor in Council may make regulations.

Report to Legislature

18. The commission shall report to the Minister and the Minister shall report to the Legislative Assembly respecting the administration of this Act as provided in section 11 of the Alcohol and Drug Commission Act and the report may form part of the report made under section 11 of that Act.

Disclosure of information

19. The commission, its members and employees, and persons engaged in the administration of this Act, may disclose information respecting a person

- (a) where the disclosure is necessary for the administration of this Act, or
- (b) where the disclosure is to a peace officer and consists of information that may assist in the identification of the person and show whether and if so for how long, he is subject to treatment or confinement under this Act.

Appropriation

20. Money required for the purposes of this Act, including money for the remuneration of persons appointed or engaged under the Alcohol and Drug Commission Act and administering this Act shall, until March 31, 1979,

- (a) in the absence of an appropriation, or
 - (b) where money appropriated is insufficient,
- be paid out of the Consolidated Revenue Fund.

Commencement

21. This Act comes into force on a day to be fixed by Proclamation.

Printed by K.M. MacDonald, Printer to the Queen's Most Excellent
Majesty in right of the Province of British Columbia.

1978