

# Excerpts from Mental Health Act, R.S.O. 1990, c. M.7

## Community treatment order

**33.1** (1) A physician may issue or renew a community treatment order with respect to a person for a purpose described in subsection (3) if the criteria set out in subsection (4) are met. 2000, c. 9, s. 15.

## Same

(2) The community treatment order must be in the prescribed form. 2000, c. 9, s. 15.

## Purposes

(3) The purpose of a community treatment order is to provide a person who suffers from a serious mental disorder with a comprehensive plan of community-based treatment or care and supervision that is less restrictive than being detained in a psychiatric facility. Without limiting the generality of the foregoing, a purpose is to provide such a plan for a person who, as a result of his or her serious mental disorder, experiences this pattern: The person is admitted to a psychiatric facility where his or her condition is usually stabilized; after being released from the facility, the person often stops the treatment or care and supervision; the person's condition changes and, as a result, the person must be re-admitted to a psychiatric facility. 2000, c. 9, s. 15.

## Criteria for order

(4) A physician may issue or renew a community treatment order under this section if,

- (a) during the previous three-year period, the person,
  - (i) has been a patient in a psychiatric facility on two or more separate occasions **or** for a cumulative period of 30 days or more during that three-year period, **or**
  - (ii) has been the subject of a previous community treatment order under this section;
- (b) the person or his or her substitute decision-maker, the physician who is considering issuing or renewing the community treatment order and any other health practitioner or person involved in the person's treatment or care and supervision have developed a community treatment plan for the person;
- (c) within the 72-hour period before entering into the community treatment plan, the physician has examined the person and is of the opinion, based on the examination and any other relevant facts communicated to the physician, that,

- (i) the person is suffering from mental disorder such that he or she needs continuing treatment or care and continuing supervision while living in the community,
  - (ii) the person meets the criteria for the completion of an application for psychiatric assessment under subsection 15 (1) or (1.1) where the person is not currently a patient in a psychiatric facility,
  - (iii) if the person does not receive continuing treatment or care and continuing supervision while living in the community, he or she is likely, because of mental disorder, to cause serious bodily harm to himself or herself or to another person or to suffer substantial mental or physical deterioration of the person or serious physical impairment of the person,
  - (iv) the person is able to comply with the community treatment plan contained in the community treatment order, **and**
  - (v) the treatment or care and supervision required under the terms of the community treatment order are available in the community;
- (d) the physician has consulted with the health practitioners or other persons proposed to be named in the community treatment plan;
- (e) subject to subsection (5), the physician is satisfied that the person subject to the order and his or her substitute decision-maker, if any, have consulted with a rights adviser and have been advised of their legal rights; and
- (f) the person or his or her substitute decision-maker consents to the community treatment plan in accordance with the rules for consent under the *Health Care Consent Act, 1996*. 2000, c. 9, s. 15.

### **Exception**

(5) Clause (4) (e) does not apply in any of the following circumstances:

1. If a rights adviser has made best efforts to locate the person subject to the order, the person could not be located and the rights adviser so informs the physician.
2. If the person subject to the order refuses to consult with a rights adviser and the rights adviser so informs the physician.
3. If, for the renewal of the order, the Public Guardian and Trustee is the substitute decision-maker for the person subject to the order. 2010, c. 1, Sched. 17, s. 1.

### **Content of order**

(6) A community treatment order shall indicate,

- (a) the date of the examination referred to in clause (4) (c);
- (b) the facts on which the physician formed the opinion referred to in clause (4) (c);

- (c) a description of the community treatment plan referred to in clause (4) (b); and
- (d) an undertaking by the person to comply with his or her obligations as set out in subsection (9) or an undertaking by the person's substitute decision-maker to use his or her best efforts to ensure that the person complies with those obligations. 2000, c. 9, s. 15.

### **Protection from liability, substitute decision-maker**

(7) The substitute decision-maker who, in good faith, uses his or her best efforts to ensure the person's compliance and believes, on reasonable grounds, that the person is in compliance is not liable for any default or neglect of the person in complying. 2000, c. 9, s. 15.

### **Legal advice**

(8) The person who is being considered for a community treatment order, or who is subject to such an order, and that person's substitute decision-maker, if any, have a right to retain and instruct counsel and to be informed of that right. 2000, c. 9, s. 15.

### **Obligations of person**

(9) If a person or his or her substitute decision-maker consents to a community treatment plan under this section, the person shall,

- (a) attend appointments with the physician who issued or renewed the community treatment order, or with any other health practitioner or other person referred to in the community treatment plan, at the times and places scheduled from time to time; and
- (b) comply with the community treatment plan described in the community treatment order. 2000, c. 9, s. 15.

### **To whom copies of order and plan to be given**

(10) The physician who issues or renews a community treatment order under this section shall ensure that a copy of the order, including the community treatment plan, is given to,

- (a) the person, along with a notice that he or she has a right to a hearing before the Board under section 39.1;
- (b) the person's substitute decision-maker, where applicable;
- (c) the officer in charge, where applicable; and
- (d) any other health practitioner or other person named in the community treatment plan. 2000, c. 9, s. 15.

### **Expiry of order**

- (11) A community treatment order expires six months after the day it is made unless,
- (a) it is renewed in accordance with subsection (12); or
  - (b) it is terminated earlier in accordance with section 33.2, 33.3 or 33.4. 2000, c. 9, s. 15.

### **Renewals**

(12) A community treatment order may be renewed for a period of six months at any time before its expiry and within one month after its expiry. 2000, c. 9, s. 15.

### **Subsequent plans**

(13) Upon the expiry or termination of a community treatment order, the parties may enter into a subsequent community treatment plan if the criteria set out in subsection (4) are met. 2000, c. 9, s. 15.

### **Section Amendments with date in force (d/m/y)**

#### **Early termination of order pursuant to request**

**33.2** (1) At the request of a person who is subject to a community treatment order or of his or her substitute decision-maker, the physician who issued or renewed the order shall review the person's condition to determine if the person is able to continue to live in the community without being subject to the order. 2000, c. 9, s. 15.

#### **Same**

- (2) If the physician determines, upon reviewing the person's condition, that the circumstances described in subclauses 33.1 (4) (c) (i), (ii) and (iii) no longer exist, the physician shall,
- (a) terminate the community treatment order;
  - (b) notify the person that he or she may live in the community without being subject to the community treatment order; and
  - (c) notify the persons referred to in clauses 33.1 (10) (b), (c) and (d) that the community treatment order has been terminated. 2000, c. 9, s. 15.

### **Section Amendments with date in force (d/m/y)**

#### **Early termination of order for failure to comply**

**33.3** (1) If a physician who issued or renewed a community treatment order has reasonable cause to believe that the person subject to the order has failed to comply with his or her

obligations under subsection 33.1 (9), the physician may, subject to subsection (2), issue an order for examination of the person in the prescribed form. 2000, c. 9, s. 15.

### **Community treatment order not terminated**

(1.1) A community treatment order is not terminated by the issuance of an order for examination under this section. 2010, c. 1, Sched. 17, s. 2.

### **Conditions for issuing order for examination**

(2) The physician shall not issue an order for examination under subsection (1) unless,

(a) he or she has reasonable cause to believe that the criteria set out in subclauses 33.1 (4) (c) (i), (ii) and (iii) continue to be met; and

(b) reasonable efforts have been made to,

(i) locate the person,

(ii) inform the person of the failure to comply or, if the person is incapable within the meaning of the *Health Care Consent Act, 1996*, inform the person's substitute decision-maker of the failure,

(iii) inform the person or the substitute decision-maker of the possibility that the physician may issue an order for examination and of the possible consequences, and

(iv) provide assistance to the person to comply with the terms of the order.  
2000, c. 9, s. 15.

### **Return to physician**

(3) An order for examination issued under subsection (1) is sufficient authority, for 30 days after it is issued, for a police officer to take the person named in it into custody and then promptly to the physician who issued the order. 2000, c. 9, s. 15.

### **Assessment on return**

(4) The physician shall promptly examine the person to determine whether,

(a) the physician should make an application for a psychiatric assessment of the person under section 15;

(b) the physician should issue another community treatment order where the person, or his or her substitute decision-maker, consents to the community treatment plan; or

(c) the person should be released without being subject to a community treatment order.  
2000, c. 9, s. 15.

## **Section Amendments with date in force (d/m/y)**

### **Early termination of order on withdrawal of consent**

**33.4** (1) A person who is subject to a community treatment order, or his or her substitute decision-maker, may withdraw his or her consent to the community treatment plan by giving the physician who issued or renewed the order a notice of intention to withdraw consent. 2000, c. 9, s. 15.

### **Duty of physician**

(2) Within 72 hours after receipt of the notice, the physician shall review the person's condition to determine if the person is able to continue to live in the community without being subject to the order. 2000, c. 9, s. 15.

### **Order for examination**

(3) If the person subject to the community treatment order fails to permit the physician to review his or her condition, the physician may, within the 72-hour period, issue in the prescribed form an order for examination of the person if he or she has reasonable cause to believe that the criteria set out in subclauses 33.1 (4) (c) (i), (ii) and (iii) continue to be met. 2000, c. 9, s. 15.

### **Return to physician**

(4) An order for examination issued under subsection (3) is sufficient authority, for 30 days after it is issued, for a police officer to take the person named in it into custody and then promptly to the physician who issued the order. 2000, c. 9, s. 15.

### **Assessment on return**

(5) The physician shall promptly examine the person to determine whether,

- (a) the physician should make an application for a psychiatric assessment of the person under section 15;
- (b) the physician should issue another community treatment order where the person, or his or her substitute decision-maker, consents to the community treatment plan; or
- (c) the person should be released without being subject to a community treatment order. 2000, c. 9, s. 15.

## **Section Amendments with date in force (d/m/y)**

### **Accountability**

**33.5** (1) A physician who issues or renews a community treatment order, or a physician who is appointed under subsection (2), is responsible for the general supervision and management of the order. 2000, c. 9, s. 15.

#### **Appointment of other physician**

(2) If the physician who issues or renews a community treatment order is absent or, for any other reason, is unable to carry out his or her responsibilities under subsection (1) or under section 33.2, 33.3 or 33.4, the physician may appoint another physician to act in his or her place, with the consent of that physician. 2000, c. 9, s. 15.

#### **Responsibility, named providers**

(3) A person who agrees to provide treatment or care and supervision under a community treatment plan shall indicate his or her agreement in the plan and is responsible for providing the treatment or care and supervision in accordance with the plan. 2000, c. 9, s. 15.

#### **Responsibility of other persons**

(4) All persons named in a community treatment plan, including the person subject to the plan and the person's substitute decision-maker, if any, are responsible for implementing the plan to the extent indicated in it. 2000, c. 9, s. 15.

#### **Section Amendments with date in force (d/m/y)**

#### **Protection from liability, issuing physician**

**33.6** (1) If the physician who issues or renews a community treatment order or a physician appointed under subsection 33.5 (2) believes, on reasonable grounds and in good faith, that the persons who are responsible for providing treatment or care and supervision under a community treatment plan are doing so in accordance with the plan, the physician is not liable for any default or neglect by those persons in providing the treatment or care and supervision. 2000, c. 9, s. 15.

#### **Same, other persons involved in treatment**

(2) If a person who is responsible for providing an aspect of treatment or care and supervision under a community treatment plan believes, on reasonable grounds and in good faith, that a person who is responsible for providing another aspect of treatment or care and supervision under the plan is doing so in accordance with the plan, the person is not liable for any default or neglect by that person in providing that aspect of treatment or care and supervision. 2000, c. 9, s. 15.

#### **Same, physician**

(3) If a person who is responsible for providing an aspect of treatment or care and supervision under a community treatment plan believes, on reasonable grounds and in good faith, that the physician who issued or renewed the community treatment order or a physician appointed under subsection 33.5 (2) is providing treatment or care and supervision in accordance with the plan, the person is not liable for any default or neglect by the physician in providing the treatment or care and supervision. 2000, c. 9, s. 15.

## **Reports**

(4) The physician who issues or renews a community treatment order or a physician appointed under subsection 33.5 (2) may require reports on the condition of the person subject to the order from the persons who are responsible for providing treatment or care and supervision under the community treatment plan. 2000, c. 9, s. 15.

## **Section Amendments with date in force (d/m/y)**

### **Community treatment plans**

**33.7** A community treatment plan shall contain at least the following:

1. A plan of treatment for the person subject to the community treatment order.
2. Any conditions relating to the treatment or care and supervision of the person.
3. The obligations of the person subject to the community treatment order.
4. The obligations of the substitute decision-maker, if any.
5. The name of the physician, if any, who has agreed to accept responsibility for the general supervision and management of the community treatment order under subsection 33.5 (2).
6. The names of all persons or organizations who have agreed to provide treatment or care and supervision under the community treatment plan and their obligations under the plan. 2000, c. 9, s. 15.

## **Section Amendments with date in force (d/m/y)**

### **No limitation**

**33.8** Nothing in sections 33.1 to 33.7 prevents a physician, a justice of the peace or a police officer from taking any of the actions that they may take under section 15, 16, 17 or 20. 2000, c. 9, s. 15.

## **Section Amendments with date in force (d/m/y)**

### **Review**



**33.9** (1) The Minister shall establish a process to review the following matters:

1. The reasons that community treatment orders were or were not used during the review period.
2. The effectiveness of community treatment orders during the review period.
3. Methods used to evaluate the outcome of any treatment used under community treatment orders. 2000, c. 9, s. 15.

#### **First review**

(2) The first review must be undertaken during the third year after the date on which subsection 33.1 (1) comes into force. 2000, c. 9, s. 15.

#### **Subsequent reviews**

(3) A review must be completed every five years after the first review is completed. 2000, c. 9, s. 15.

#### **Report**

(4) The Minister shall make available to the public for inspection the written report of the person conducting each review. 2000, c. 9, s. 15.

#### **Application for review by person subject to community treatment order**

**39.1** (1) A person who is subject to a community treatment order, or any person on his or her behalf, may apply to the Board in the approved form to inquire into whether or not the criteria for issuing or renewing a community treatment order set out in subsection 33.1 (4) are met. 2000, c. 9, s. 22.

#### **When application may be made**

(2) An application under subsection (1) may be made each time a community treatment order is issued or renewed under section 33.1. 2000, c. 9, s. 22.

#### **Deemed application**

(3) When a community treatment order is renewed for the second time and on the occasion of every second renewal thereafter, the person shall be deemed to have applied to the Board in the approved form under subsection (1) unless an application has already been made under that subsection. 2000, c. 9, s. 22.

**Notice to Board**

(4) When a physician renews a community treatment order for the second time and on the occasion of every second renewal thereafter, he or she shall give notice of the renewal to the Board in the approved form. 2000, c. 9, s. 22.

**Waiver**

(5) A waiver by the person who is subject to the community treatment order of an application or of the right to an application mentioned in subsection (3) is a nullity. 2000, c. 9, s. 22.

**Review of community treatment order**

(6) On the hearing of an application, the Board shall promptly review whether or not the criteria for issuing or renewing the community treatment order set out in subsection 33.1 (4) are met at the time of the hearing of the application. 2000, c. 9, s. 22.

**Confirm or revoke order**

(7) The Board may, by order, confirm the issuance or renewal of the community treatment order if it determines that the criteria mentioned in subsection (6) are met at the time of the hearing, but, if the Board determines that those criteria are not met, it shall revoke the community treatment order. 2000, c. 9, s. 22.

**Application of order**

(8) An order of the Board under subsection (7) applies to the community treatment order in force immediately before the making of the Board's order. 2000, c. 9, s. 22.

**Parties**

(9) The physician who issues or renews the community treatment order, the person subject to it or any other person who has required the hearing and such other persons as the Board may specify are parties to the hearing before the Board. 2000, c. 9, s. 22.

**Procedure**

(10) Subsections 39 (13), (14) and (15) apply to an application under this section with necessary modifications. 2000, c. 9, s. 22; 2015, c. 36, s. 7.