

BILL

No. 6 of 2006-07

An Act to amend *The Youth Drug Detoxification and Stabilization Act*

(Assented to)

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

Short title

1 This Act may be cited as *The Youth Drug Detoxification and Stabilization Amendment Act, 2006*.

S.S. 2005, c.Y-1.1 amended

2 *The Youth Drug Detoxification and Stabilization Act* is amended in the manner set forth in this Act.

Section 2 amended

3 **The following clause is added after clause 2(1)(j):**

“(j.1) ‘**person in charge of a detoxification facility**’ means a person designated pursuant to clause 3(b) as being in charge of the detoxification facility”.

Section 7 amended

4 **The following subsection is added after subsection 7(3):**

“(3.1) For the purposes of having an examination of a youth named in a warrant conducted by a second physician pursuant to section 11 or 12, a police officer is deemed to have the authority to detain and transport that youth to another physician or to a detoxification facility where the youth may be examined by the second physician”.

Section 8 amended

5 **The following subsection is added after subsection 8(2):**

“(2.1) For the purposes of having an examination of a youth named in a warrant conducted by a second physician pursuant to section 11 or 12, a police officer is deemed to have the authority to detain and transport that youth to another physician or to a detoxification facility where the youth may be examined by the second physician”.

Section 12 amended

6 **Subsection 12(8) is repealed and the following substituted:**

“(8) The person in charge of the detoxification facility where the assessed youth is detained pursuant to a detoxification order and the assessed youth’s physician may provide the assessed youth with any assessments and detoxification and stabilization services that they consider appropriate or necessary for the purposes of this Act”.

New section 12.1

7 The following section is added after section 12:

“Care for detained youth

12.1 While an assessed youth is detained in a detoxification facility in accordance with this Act, the person in charge of the detoxification facility must do all of the following:

- (a) continuously assess the assessed youth;
- (b) develop, in collaboration with the youth if possible, a treatment plan that the assessed youth may agree to follow after the termination of the detoxification order”.

Section 15 amended

8(1) The following subsection is added after subsection 15(1):

“(1.1) A review panel shall provide the appellant with access to all information and documents respecting the assessed youth that are provided to the review panel or that the review panel obtains for the purpose of conducting an appeal pursuant to subsection (2)”.

(2) Clause 15(2)(c) is repealed and the following substituted:

“(c) on an appeal, the appellant has the right:

- (i) to have full and timely access to any information and documents that the review panel is provided with or obtains for the purpose of conducting an appeal;
- (ii) to be personally present when any oral evidence is presented to the review panel;
- (iii) to an opportunity at a hearing to adduce evidence and provide information about the case, both personally and through other people;
- (iv) to cross-examine witnesses; and
- (v) to be represented by counsel”.

New section 18.1

9 The following section is added after section 18:

“Right to access court documents

18.1 Where an information is laid before a judge of the Provincial Court of Saskatchewan pursuant to section 7 with respect to a youth, the youth, an official representative on behalf of the youth and a parent of the youth are entitled, on request, to have access to:

- (a) the information; and
- (b) any other documents filed with the judge for the purposes of obtaining a warrant pursuant to that section”.

New Part VI.1

10 The following Part is added after section 20:

“PART VI.1

Personal Health Information

“Interpretation of this Part

20.1(1) In this Part and in section 21:

- (a) **‘applicant’** means an assessed youth who makes a written request for access to personal health information about himself or herself that is in the custody or control of a trustee;
- (b) **‘assessed youth’** includes a former assessed youth;
- (c) **‘commissioner’** means the commissioner as defined in *The Health Information Protection Act*;
- (d) **‘personal health information’** means personal health information as defined in *The Health Information Protection Act*;
- (e) **‘trustee’** means a trustee as defined in *The Health Information Protection Act* who has custody or control of personal health information obtained for the purposes of this Act;
- (f) **‘written request for access’** means a request made pursuant to section 20.3.

(2) The definitions in *The Health Information Protection Act* apply, with any necessary modification, to this Part.

(3) The rights provided by this Part to access personal health information are in addition to, and not in derogation of, the rights of an assessed youth to access information and documents provided by the other Parts of this Act.

(4) This Part applies only to personal health information in the custody or control of a trustee that is collected for the purposes of this Act.

“Right to access

20.11 In accordance with this Part, an assessed youth has the right to request access to personal health information about himself or herself that is contained in a record in the custody or control of a trustee.

“Oral request for access

20.2 Nothing in this Act precludes:

- (a) an assessed youth from making an oral request for access to personal health information about himself or herself that is contained in a record in the custody or control of a trustee; or
- (b) a trustee from responding to an oral request.

“Right to review or appeal

20.21(1) An assessed youth has the right:

- (a) to apply to the commissioner to request a review of an action taken or a decision made by a trustee with respect to the assessed youth’s personal health information; and
- (b) to appeal to the Court of Queen’s Bench a decision made by a trustee with respect to the trustee’s compliance or non-compliance with a recommendation by the commissioner.

(2) Part VI of *The Health Information Protection Act* applies, with any necessary modification, to an application or appeal made pursuant to this section.

“Written request for access

20.3(1) An assessed youth may, in accordance with the regulations, make a written request for access to personal health information about himself or herself that is contained in a record in the custody or control of a trustee.

(2) A written request for access must:

- (a) be made to the trustee that the applicant believes has custody or control of the record containing the personal health information; and
- (b) contain sufficient detail to enable the trustee to identify the personal health information requested.

(3) An applicant must prove his or her identity to the satisfaction of the trustee.

(4) The right to make an application for review pursuant to section 20.21 applies only to written requests for access.

“Duty to assist

20.4(1) Subject to sections 20.5 to 20.7, a trustee shall respond to a written request for access openly, accurately and completely.

(2) On the request of an applicant, a trustee shall:

- (a) provide an explanation of any term, code or abbreviation used in the personal health information; or
- (b) if the trustee is unable to provide an explanation in accordance with clause (a), refer the applicant to a trustee that is able to provide an explanation.

“Response to written request

20.5(1) Within 30 days after receiving a written request for access, a trustee must respond to the request in one of the following ways:

- (a) by making the personal health information available for examination and providing a copy, if requested, to the applicant;
- (b) by informing the applicant that the information does not exist or cannot be found;

(c) by refusing the written request for access, in whole or in part, and informing the applicant:

- (i) of the refusal and the reasons for the refusal; and
- (ii) of the applicant's right to request a review of the refusal pursuant to section 20.21;

(d) by transferring the written request for access to another trustee if the personal health information is in the custody or control of the other trustee.

(2) A trustee that transfers a written request for access pursuant to clause (1)(d) must notify the applicant of the transfer as soon as is reasonably possible, and the trustee to whom the written request for access is transferred must respond to it within 30 days after the date of transfer.

(3) The failure of a trustee to respond to a written request for access within the period mentioned in subsection (1) or (2) is deemed to be a decision to refuse to provide access to the personal health information, unless the written request for access is transferred to another trustee pursuant to clause (1)(d).

“Extension of time

20.6(1) A trustee may extend the period set out in subsection 20.5(1) for a reasonable period not exceeding 30 days if:

- (a) the request is for access to a large number of records or necessitates a search through a large number of records or there is a large number of requests, and completing the work within the original period would unreasonably interfere with the operations of the trustee; or
- (b) consultations that are necessary to comply with the request cannot reasonably be completed within the original period.

(2) A trustee that extends a period pursuant to subsection (1) shall give notice of the extension to the applicant within 30 days after the request is made.

“Refusing access

20.7(1) Subject to subsection (2), a trustee may refuse to grant an applicant access to his or her personal health information if:

- (a) in the opinion of the trustee, knowledge of the information could reasonably be expected to endanger the mental or physical health or the safety of the applicant or another person;
- (b) disclosure of the information would reveal personal health information about another person who has not expressly consented to the disclosure;
- (c) disclosure of the information could reasonably be expected to identify a third party, other than another trustee, who supplied the information in confidence under circumstances in which confidentiality was reasonably expected;

(d) subject to subsection (3), the information was collected and is used solely:

(i) for the purpose of peer review by health professionals, including joint professional review committees within the meaning of *The Saskatchewan Medical Care Insurance Act*;

(ii) for the purpose of review by a standards or quality of care committee established to study or evaluate practices in a trustee; or

(iii) for the purposes of a body with statutory responsibility for the discipline of health professionals or for the quality or standards of professional services provided by health professionals;

(e) the information was collected principally in anticipation of, or for use in, a civil, criminal or quasi-judicial proceeding; or

(f) disclosure of the information could interfere with a lawful investigation or be injurious to the enforcement of an Act or regulation.

(2) If a record contains information to which an applicant is refused access, the trustee shall grant access to as much of the record as can reasonably be severed without disclosing the information to which the applicant is refused access.

(3) If access to personal health information is refused pursuant to clause (1)(d), a trustee must refer the applicant to the trustees from which the personal health information was collected.

“Right to request amendment

20.8(1) An assessed youth who is given access to a record that contains personal health information with respect to himself or herself is entitled:

(a) to request amendment of the personal health information contained in the record if the person believes that there is an error or omission in it; or

(b) if an amendment is requested but not made, to require that a notation to that effect be made in the record.

(2) A request for amendment must be in writing.

(3) Within 30 days after a request for amendment is received, the trustee shall advise the individual in writing that:

(a) the amendment has been made; or

(b) a notation pursuant to clause (1)(b) has been made.

(4) Subject to subsection (6), if a trustee makes an amendment or adds a notation pursuant to clause (1)(b), the trustee must, if practicable, give notice of the amendment or notation to any other trustee or person to whom the personal health information has been disclosed by the trustee within the period of one year immediately before the amendment was requested.

(5) A trustee that receives a notice pursuant to subsection (4) must make the amendment or add the notation to any record in the custody or control of the trustee that contains personal health information respecting the assessed youth who requested the amendment.

(6) A trustee is not required to notify other trustees if an amendment or a notation cannot reasonably be expected to have an impact on the ongoing provision of services to the assessed youth pursuant to this Act.

(7) An amendment required to be made pursuant to this section must not destroy or obliterate existing information in the record being amended, other than registration information.

“Exercise of rights by other persons

20.9 Any right or power conferred on an applicant by this Part may be exercised:

- (a) by an applicant who is less than 18 years of age in situations where, in the opinion of the trustee, the applicant understands the nature of the right or power and the consequences of exercising the right or power;
- (b) if the applicant is less than 18 years of age, by the applicant’s parent in situations where, in the opinion of the trustee, the exercise of the right or power would not constitute an unreasonable invasion of the privacy of the applicant;
- (c) by any person, including an official representative, designated in writing by the applicant for the purpose of exercising the rights and powers pursuant to this Part; or
- (d) by any prescribed person”.

Section 21 amended

11 The following clauses are added after clause 21(1):

“(1.1) prescribing and governing administrative, technical and physical safeguards for the protection of information and documents collected for the purposes of this Act;

“(1.2) prescribing and governing standards for the retention and destruction of information and documents collected for the purposes of this Act and governing retention and destruction policies;

“(1.3) respecting any matters or things required for the purposes of Part VI.1 including:

- (i) for the purposes of section 20.3, governing the making of written requests for access;
- (ii) governing the making of requests for amendments to personal health information and the amending of personal health information by trustees;
- (iii) for the purposes of section 20.9, prescribing persons or classes of persons who may exercise rights or powers conferred on an applicant by Part VI.1”.

Coming into force

12 This Act comes into force on assent.

THIRD SESSION
Twenty-fifth Legislature
SASKATCHEWAN

B I L L

No. 6 of 2006-07

*An Act to amend *The Youth Drug Detoxification
and Stabilization Act**

Received and read the

First time

Second time

Third time

And passed

Honourable Graham Addley
