

Recalcitrant Patients

(from *Public Health Act, Revised Statutes of Alberta 2000, Chapter P-37*)

Sections 44-52 pertaining to Isolation Orders

Isolation order

44(1) Where one physician supported by a laboratory report demonstrating evidence of an infectious agent certifies or 2 physicians certify that a person is infected with an organism that produces a disease prescribed in the regulations for the purposes of this section and that the person refuses or neglects

- (a) to submit to medical, surgical or other remedial treatment, or
- (b) to comply with any other conditions

that have been prescribed by a physician as being necessary to mitigate that disease or to limit its spread to others, the physician or physicians shall each issue an isolation order in the prescribed form.

(2) Subsection (1) applies whether or not there is a certificate in existence in respect of the person who is the subject of the isolation order or orders.

(3) A physician issuing an isolation order shall forthwith send a copy of the isolation order to the Chief Medical Officer.

1984 cP-27.1 s54;1988 c41 s16;1998 c38 s19

Authority of isolation order

45(1) An isolation order under section 44 is authority for a health practitioner to observe, examine, care for, treat, obtain biological specimens from, control and detain in a facility the person named in it with or without that person's consent until the order is cancelled under section 46.

(2) A person in respect of whom isolation is ordered under section 44 shall be re-examined by a physician at least once every 7 days to ascertain whether the person may be released under section 46.

RSA 2000 cP-37 s45;2007 c23 s4

Cancellation of isolation order

46(1) Where, after separate examinations by each of them, 2 physicians are of the opinion that

a person in respect of whom isolation has been ordered under section 44

- (a) is not infectious, or
- (b) will comply with the conditions of the person's discharge,

the 2 physicians shall issue an order in the prescribed form cancelling the isolation order.

(2) Immediately on issuing an order cancelling an isolation order, the physicians who signed the order shall send a copy of it to the Chief Medical Officer.

1984 cP-27.1 s56;1988 c41 s18;1998 c38 s19

Warrant for examination

47(1) Any person who has reasonable and probable grounds to believe that a person

- (a) is infected with a disease prescribed in the regulations for the purpose of this section, and
- (b) refuses or neglects
 - (i) to submit
 - (A) to a medical examination for the purpose of ascertaining whether the person is infected with the disease, or
 - (B) to medical, surgical or other remedial treatment that has been prescribed by a physician and that is necessary to render the person non-infectious, or
 - (ii) to comply with any other conditions that have been prescribed by a physician as being necessary to mitigate the disease or limit its spread to others,

may bring an information under oath before a judge of the Provincial Court.

(2) Where an information is brought before a judge of the Provincial Court under subsection (1) and the judge is satisfied that the person with respect to whom the information is brought should be examined in the interests of the person's own health or the health of others and that the examination cannot reasonably be arranged in any other way, the judge may issue a warrant in the prescribed form to apprehend that person for the purpose of the examination.

(3) A warrant under this section may be directed to any peace officer and shall name or otherwise describe the person with respect to whom the warrant is issued.

(4) Where a peace officer apprehends a person pursuant to a warrant under this section, the

person is deemed to be a person in respect of whom a certificate has been issued under section

RSA 2000 cP-37 s47;2008 c32 s26

Duty on issue of isolation order

48 Where a person is detained pursuant to an isolation order or orders, the medical director of the facility in which the person is detained shall forthwith

- (a) inform the person or the person's guardian, if any, of the reason for the issuance of the isolation order or orders,
- (b) advise the person or the person's guardian, if any, that the person has a right to retain and instruct counsel without delay, and
- (c) give the person or the person's guardian, if any, a copy of section 49.

Application to Court for cancellation

49(1) A person in respect of whom isolation is ordered may apply to a judge of the Court of Queen's Bench at any time for cancellation of the isolation order or orders.

(2) The application shall be served on

- (a) the physician or physicians who issued the isolation order or orders, and
- (b) the chief executive officer of the facility in which the applicant is a patient

not less than 7 days before the application is returnable.

(3) Notwithstanding subsection (2), a judge of the Court, on the ex parte application of the person referred to in subsection (1), may dispense with the service of the application under subsection (2) or authorize the giving of a shorter period of notice.

(4) Where the judge considers it appropriate to do so, the judge may order that the application under subsection (2) be heard in private.

(5) The judge may grant or refuse the order applied for and may make any other order the judge considers appropriate.

RSA 2000 cP-37 s49;2009 c53 s149

Unauthorized absence

50(1) Where a person in respect of whom isolation has been ordered leaves the facility and leave of absence has not been granted by the medical director of the facility, the medical director may issue an order in the prescribed form to a peace officer or other person ordering

the return of the person to the facility.

(2) An order issued pursuant to subsection (1) is sufficient authority for the person to whom it is directed to apprehend the person named in it and return the person to the facility.

(3) A person who is returned to a facility under this section may be detained until the conditions under section 46 have been met.

1984 cP-27.1 s60

Transfer to another facility

51(1) The medical director of the facility in which a person is detained may, for reasons of treatment or in compliance with the person's wishes, transfer the person to another facility, on completing a memorandum of transfer in the prescribed form.

(2) Where a person is transferred under subsection (1), the authority to detain, control and treat the person continues in force in the facility to which the person is transferred.

1984 cP-27.1 s61

Leave of absence

52(1) The medical director or an attending physician at a facility in which a person is detained may grant the person a leave of absence from the facility subject to any terms and conditions prescribed by the medical director or attending physician to ensure that the public health is protected.

(2) Where a person is on a leave of absence granted under this section and it appears to the medical director or the attending physician that the person is not complying with the conditions to which the leave of absence is subject, the medical director or attending physician may revoke the leave of absence and recall the person to the facility.

(3) Section 50 applies in the case of a person who has been recalled under subsection (2) and fails to return to the facility in accordance with the instructions of the medical director or attending physician.

1984 cP-27.1 s62