

LAWS OF TRINIDAD AND TOBAGO

MENTAL HEALTH ACT

CHAPTER 28:02

Act

30 of 1975

Amended by

21 of 1979

45 of 1979

*21 of 1981

27 of 1986

21 of 1990

14 of 1999

*See Note on Amendment at page 2

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Note on Subsidiary Legislation

For subsidiary legislation made under section 64 of the Act of this Chapter, *see* LN 121/1980 which amends Order 77 of the Rules of the Supreme Court 1975 and inserts Order 77A in those Rules.

Note on Amendment

Sections 39(2) and 40(2) of this Act have been amended by Act No. 21 of 1981 (the Trustee Act 1981) but Act No. 21 of 1981 had not up to the date of the last revision of this Act been brought into operation.

Note

The original section 1(2) of this Act complied with section 5 of the former Constitution and has been omitted. *See* section 18 of the Constitution of the Republic of Trinidad and Tobago Act (Ch. 1:01).

CHAPTER 28:02

MENTAL HEALTH ACT

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CHAPTER 28:02

MENTAL HEALTH ACT

An Act to provide for the admission, care and treatment of persons who are mentally ill and for matters connected therewith and incidental thereto. 30 of 1975.

[2ND DECEMBER 1975]

Commencement.
153/1975.

***1.** This Act may be cited as the Mental Health Act.

Short title.

2. (1) In this Act—

Interpretation.
[45 of 1979
21 of 1990
14 of 1999].

“approved home” means any house in respect of which a certificate has been issued under section 28(1);

“duly authorised medical officer” means the medical officer in charge of a general hospital in which there is a psychiatric ward or any other medical officer authorised by the Minister to carry out duties such as are required to be performed by a Psychiatric Hospital Director under the authority of this Act;

“general hospital” means a place where a person suffering from any illness may be treated;

“highway” means the whole or part of any road, thoroughfare, street, trail, trace or way maintainable at public expense and dedicated to the public use whether by way of express or implied grant, or by Proclamation of the President or by a declaration made by a local authority and includes a bridge, culvert, footway, sidewalk and the adjoining reserves accessory or adjacent to a highway;

“medical practitioner” means a registered member of the Medical Board of Trinidad and Tobago;

“mental disorder” means mental illness, arrested or incomplete development of mind and “mentally disordered” shall be construed accordingly;

*See Note on page 2.

“mental health officer” means a person designated as such under section 61(1);

“mental illness” means the condition of mind of a mentally ill person;

“mentally ill” or “mentally ill person” means a person who is suffering from such a disorder of mind that he requires care, supervision, treatment and control, or any of them, for his own protection or welfare or for the protection or welfare of others;

“mentally subnormal” or “mentally subnormal person” means a person in whom there is a condition of arrested or incomplete development of mind whether such condition arises from inherent causes or is induced by disease or injury before such person attains the age of eighteen years and includes a person who requires care, supervision, treatment and control, or any of them, for his own protection or welfare or for the protection or welfare of others;

“mental subnormality” means the condition of mind of a mentally subnormal person;

“next of kin” means in the order of priority, a—

- (a) spouse;
- (b) child;
- (c) parent;
- (d) grandparent; or
- (e) brother or sister;

“patient” means a person who is suffering from or is suspected to be suffering from mental illness or who is mentally subnormal;

Ch. 15:01.

Ch. 25:04.

“police officer” has the meaning assigned to it by section 2 of the Police Service Act, or any constable within the meaning of the Municipal Corporations Act;

Ch. 29:03.

“private hospital” has the meaning assigned to it by section 2 of the Private Hospitals Act;

“psychiatric hospital” or “hospital” means any place appointed as such by Order under section 4;

“Psychiatric Hospital Director” means the medical director of a general hospital, a psychiatric hospital or any other medical practitioner designated by the Minister to be a psychiatric hospital director for the purposes of this Act;

“psychiatric ward” means that part of a general hospital appointed as such by Order under section 5;

“public place” means any place to which the public has access with or without payment.

(2) For the purposes of this Act—

(a) “spouse” includes a cohabitant as defined in the Cohabitation Relationships Act;

Ch. 45:55.

(b) “child” includes a stepchild, adopted child and in relation to the parties in a cohabitation relationship as defined by the Cohabitation Relationships Act, a child of either party or both parties.

(3) The Psychiatric Hospital Director, every duly authorised medical officer and every mental health officer shall be *ex officio* a Justice of the Peace in and for the whole of Trinidad and Tobago and shall take the oath as such Justice.

PART I

ADMISSION AND DETENTION IN PSYCHIATRIC HOSPITAL OR WARD

3. In this Part—

Definition of terms in Part I.

“application” means an application made in the form prescribed by the Regulations;

“certificate” means a certificate in the form prescribed by the Regulations;

“Order” means an Order made in the form prescribed by the Regulations.

4. The Minister may, by Order, appoint the whole or any part of any building, house, or other place, with any out-houses, yards, gardens, grounds or premises belonging thereto, to be a psychiatric hospital for the care and treatment of mentally ill persons.

Appointment of psychiatric hospitals. [45 of 1979].

Appointment of psychiatric wards. [45 of 1979].

5. The Minister may by Order, appoint any part of a general hospital to be a psychiatric ward for the care and treatment of mentally ill persons.

Persons who may be admitted and classes of admission to a psychiatric hospital.

6. Every person who is or is reasonably believed to be in need of such treatment as is provided in a psychiatric hospital may be admitted thereto—

- (a) as an urgent admission patient;
- (b) as a voluntary patient;
- (c) as a medically recommended patient;
- (d) by an order of the Court made pursuant to section 13;
- (e) by an order of the Minister of National Security made pursuant to section 14; or
- (f) on the application of a Mental Health Officer under section 15.

Admission of urgent admission patient.

7. (1) The Psychiatric Hospital Director or a duly authorised medical officer may, subject to subsection (3), admit to a hospital as an urgent admission patient any person in respect of whom an application is made.

(2) An application under subsection (1)—

- (a) may be made by any person who alleges that the person in respect of whom the application is made is mentally ill and, in the interest of his health and for the safety and protection of others, or either of them, ought to be detained in a hospital; and
- (b) shall be accompanied by a certificate of a medical practitioner other than the duly authorised medical officer responsible for the admission of the person.

(3) A person shall not be admitted to a hospital as an urgent admission patient if more than three days have elapsed since the date of issue of the medical certificate referred to in subsection (2)(b).

8. (1) The Psychiatric Hospital Director or a duly authorised medical officer shall, within forty-eight hours of admitting to a hospital an urgent admission patient, make or cause to be made on the patient such examination as he may consider necessary for determining whether or not the patient is mentally ill and in need of care and treatment in a hospital.

Urgent admission patient to be examined by Psychiatric Hospital Director.

(2) If on examination the Psychiatric Hospital Director or the duly authorised medical officer is satisfied that the patient is in need of care and treatment in a hospital, he shall keep the patient in the hospital until he is satisfied that—

- (a) it is in the interest of the patient to discharge him; and
- (b) the patient is not in need of any further care and treatment in a hospital.

9. (1) The Psychiatric Hospital Director or a duly authorised medical officer may, subject to subsection (2), admit to a hospital as a voluntary patient, any person who voluntarily makes a written application if on examination, the Psychiatric Hospital Director or the duly authorised medical officer is satisfied that—

Admission of voluntary patients.

- (a) the mental condition of the person is such that he is competent to make the application; and
- (b) the person should be admitted for care and treatment.

(2) Where the person to be admitted is under the age of eighteen years, the application shall be made on his behalf by a parent, guardian or any other person *in loco parentis*.

(3) The Psychiatric Hospital Director or a duly authorised medical officer may at any time discharge a voluntary patient if he is satisfied that—

- (a) it is in the interest of the patient to discharge him; and
- (b) the patient is not in need of any further care and treatment in a hospital.

(4) A voluntary patient may, on giving notice in writing to the Psychiatric Hospital Director or the duly authorised medical officer, request his discharge; in the case of a patient who is under the age of eighteen years, such notice shall be given by a parent, guardian or other person *in loco parentis*.

(5) A voluntary patient who has given notice as required by subsection (4) shall not be kept in a hospital for more than seven days from the date of the notice.

(6) Notwithstanding subsection (5), the Psychiatric Hospital Director or the duly authorised medical officer may keep in a hospital as a medically recommended patient, a voluntary patient who has given the required notice under subsection (4), if the Psychiatric Hospital Director or the duly authorised medical officer is satisfied that the patient—

- (a) is mentally ill; and
- (b) is in need of further care and treatment in a hospital.

Admission of medically recommended patients.

10. (1) Subject to this section, the Psychiatric Hospital Director or the duly authorised medical officer may, on an application made by a relative or friend and accompanied by two certificates of two medical practitioners, one of whom shall be a Government Medical Officer, admit to a hospital or a psychiatric ward as a medically recommended patient, any person named in the certificates, if he is of the opinion that the person named therein is unable or unwilling to express himself as being in need of care and treatment.

(2) A medical certificate issued under subsection (1) shall not be valid if—

- (a) more than seven days have elapsed since the date of the last examination referred to therein;
- (b) it is not completed within twelve hours following such last examination;
- (c) both certificates are not completed within seven days of each other; or

- (d) it is made, issued, given, completed or signed by a medical practitioner who is—
- (i) by blood or marriage related to the patient named therein; or
 - (ii) by blood or marriage closely related to or connected with the other medical practitioner who made, issued, gave, completed or signed the certificate relating to the same patient.

(3) Where a person to whom subsection (1) applies, fails or refuses to be admitted to a hospital or a psychiatric ward, the Psychiatric Hospital Director or the duly authorised medical officer may by Order direct that such person be apprehended at any time and in any place by a police officer or any person designated in writing for that purpose by the Psychiatric Hospital Director or the duly authorised medical officer and be brought to a hospital or a psychiatric ward.

11. (1) The Psychiatric Hospital Director or a duly authorised medical officer, may on the receipt of a written undertaking in the prescribed form by one or more of the relatives or friends of a medically recommended patient, authorise the conditional discharge of such a patient if he considers it conducive to the recovery of the patient that he should be under the care and in the custody of such relative or friend.

Conditional discharge of medically recommended patient.

(2) If within twelve months of the date of the conditional discharge the Psychiatric Hospital Director or the duly authorised medical officer of the hospital or the psychiatric ward from which the patient was discharged is satisfied that he has become so mentally ill that his return to hospital is considered necessary, he may by Order direct that the patient be apprehended and brought back to the hospital or the psychiatric ward, as the case may be.

(3) An Order issued under subsection (2) is authority for anyone to whom it is addressed, whether specifically or in general terms, to comply with the directions therein contained.

(4) A patient who is conditionally discharged shall, for a period of twelve months from the date of his discharge, be deemed to continue to be a patient of the hospital or psychiatric ward from which he was discharged in the same manner and to the same extent and shall be subject to the same authority and control as if he were not conditionally discharged.

(5) On the expiration of twelve months from the date of the conditional discharge, the patient shall, unless an Order has been made under subsection (2), be deemed to have been absolutely discharged.

Discharge of medically recommended patient.

12. A medically recommended patient may be discharged at any time if the Psychiatric Hospital Director or the duly authorised medical officer is satisfied that—

- (a) it is in the interest of the patient to discharge him; and
- (b) the patient is not in need of any further care and treatment in a hospital or psychiatric ward.

Admission by order of Court.

13. (1) The Psychiatric Hospital Director may, by order of a Judge or Magistrate, admit to a hospital any person named in the order.

(2) Subject to subsection (4)(b) a person who has been admitted under subsection (1) shall not be kept in a hospital for more than fourteen days.

(3) The Psychiatric Hospital Director shall, as soon as practicable after admitting a person under subsection (1), make or cause to be made such examination as he considers necessary for determining whether or not the person is mentally ill and in need of care and treatment, and within fourteen days of the date of admission submit a report in writing to the Court relative to the mental condition of the person.

- (4) On receipt of the report, the Court shall forthwith—
 - (a) rescind the order made under subsection (1), if the Psychiatric Hospital Director is satisfied that the person named in the Order is not in need of care and treatment; or

(b) make another order authorising the Psychiatric Hospital Director to admit the person named therein to a hospital for such further care and treatment as the Psychiatric Hospital Director may consider necessary.

(5) Where an order is made under subsection (4)(b), the Psychiatric Hospital Director shall, when he is satisfied that the patient is no longer in need of care and treatment report this fact to the Court which shall forthwith rescind the order.

(6) The Court shall, where it rescinds an order under subsection (4)(a) or makes an order under subsection (5), deal with the person in such manner as it deems necessary.

14. (1) The Minister of National Security, on receipt of the medical certificates of two medical practitioners, one of whom shall be a psychiatrist, to the effect that the prisoner, named in the certificate is suffering from mental illness, may by Order direct that the prisoner be transferred to a hospital and that he be kept therein until the Psychiatric Hospital Director is satisfied that he is no longer in need of care and treatment in a hospital.

Admission by
Order of the
Minister of
National
Security.

(2) An order made under subsection (1) is sufficient authority for the person to whom it is addressed to carry out the directions contained therein.

(3) The Minister of National Security may, by Order, authorise the transfer of a prisoner from a hospital to any other hospital or general hospital, if on the advice of the Psychiatric Hospital Director he is satisfied that the prisoner is in need of treatment other than that provided by the hospital in which he is a patient.

(4) The Minister may delegate his power under subsection (3) either generally or in relation to specific cases to the Psychiatric Hospital Director or any duly authorised medical officer. Any delegation under that subsection shall—

(a) be subject to any general or specific directions of the Minister;

(b) be revocable at will; and

(c) shall not preclude the Minister from exercising the power.

(5) A person who is discharged from a hospital or general hospital before the expiration of the time during which he was in lawful custody, shall on discharge be sent back to the place from which he was originally transferred.

(6) A person to whom subsections (1) and (3) apply, shall be deemed to be a medically recommended patient, if on the expiration of the time during which he was in lawful custody, he is still a patient at a hospital or general hospital, and all the provisions of this Act relating to a medically recommended patient shall apply to such a person.

(7) For the purposes of this section “prisoner” means a person who is detained in lawful custody in pursuance of any sentence or order passed or made by a Court.

Admission on application of Mental Health Officer.

15. (1) A person found wandering at large on a highway or in any public place and who by reason of his appearance, conduct or conversation, a mental health officer has reason to believe is mentally ill and in need of care and treatment in a psychiatric hospital or ward may be taken into custody and conveyed to such hospital or ward for admission for observation in accordance with this section.

(2) The Psychiatric Hospital Director or a duly authorised medical officer may, on the application of a mental health officer, admit to a psychiatric hospital or ward a person conveyed thereto pursuant to subsection (1).

(3) The Psychiatric Hospital Director or a duly authorised medical officer, shall as soon as practicable after the patient has been admitted, make or cause to be made on the patient such examination as he may consider necessary for determining whether or not the person is in need of care and treatment.

(4) A person who has been admitted to a psychiatric hospital or ward under subsection (2) shall not be kept therein for

more than seventy-two hours unless on examination the Psychiatric Hospital Director or the duly authorised medical officer is satisfied that the person is in need of further care and treatment.

(5) Where the Psychiatric Hospital Director is satisfied that a person to whom subsection (4) applies is in need of further care and treatment in a psychiatric hospital or ward, the person shall be deemed to be a medically recommended patient and all the provisions of this Act relating to a medically recommended patient shall apply to such a person.

(6) A police officer shall, if required by a mental health officer, render such assistance as may be necessary for the apprehension and safe conveyance to a psychiatric hospital or ward of a person referred to in subsection (1).

(7) A person shall not be liable to any suit or action in respect of any act done pursuant to the provisions of this section, if he acted in good faith and on reasonable grounds. Indemnity.

PART II

PSYCHIATRIC HOSPITAL TRIBUNAL

16. (1) A Psychiatric Hospital Tribunal (hereinafter referred to as “the Tribunal”) is hereby established for the purposes of this Act. Establishment, composition and function of psychiatric hospital tribunal.

(2) The Tribunal shall consist of the Chief Medical Officer, the Chief Magistrate and three medical practitioners who shall be appointed by the Minister from among persons recommended by the Medical Board.

(3) The Chief Medical Officer and the Chief Magistrate shall each have two alternates who shall be appointed by the Minister on the recommendation of the Chief Medical Officer and the Chief Magistrate respectively and either of whom may act in the stead of the person whose alternate he is at any meeting of the Tribunal.

(4) A person who has been appointed by the Minister —
 (a) shall, subject to paragraphs (b) and (c) hold office for a term of three years but is eligible for reappointment;

- (b) may at any time be removed from office by the Minister; or
- (c) may at any time resign his office by instrument in writing addressed to the Chairman of the Tribunal who shall cause it to be transmitted to the Minister; resignation shall take effect from the date on which the Minister receives the instrument;
- (d) may be paid such remuneration and allowances as the President may from time to time determine.

(5) Paragraph (d) shall not apply to any member of the Tribunal who is a public officer.

Chairman and quorum.

17. (1) The Chief Medical Officer or either of his alternates shall be the Chairman of the Tribunal and shall preside over all meetings of the Tribunal.

(2) The Tribunal shall meet at least once a month and at such other times as may be necessary or expedient for the transaction of its business; meetings shall be held at such place and time and on such days as the Tribunal may determine.

(3) At any meeting of the Tribunal the Chief Medical Officer or either of his alternates, the Chief Magistrate or either of his alternates and a medical practitioner shall constitute a quorum.

Function of Tribunal.

18. (1) The Tribunal shall—

- (a) review not less than once a year the case of each medically recommended patient who has been hospitalised for more than one year;
- (b) review every six months the case of a patient who has been hospitalised for more than six months pursuant to an order of the Court or an order of the Minister of National Security; and
- (c) inspect at least once annually each psychiatric hospital, psychiatric ward or approved home.

(2) The Tribunal may, if it considers it necessary to the efficient performance of its functions, require the attendance before it of any member of the staff of a psychiatric hospital or ward.

(3) The Tribunal shall within one month of the exercise of its functions under subsection (1) submit to the Minister any report or recommendations it may consider necessary or desirable.

19. The Tribunal shall have a Secretary and such other staff, Staff. as it may consider necessary for the proper performance of its functions. The Secretary and any other staff shall be public officers.

PART III

MENTAL HEALTH REVIEW TRIBUNAL

20. (1) A Mental Health Review Tribunal (hereinafter referred to as “the Review Tribunal”) is hereby established for the purposes of this Act. Establishment and composition of Mental Health Review Tribunal.

(2) The Review Tribunal shall consist of the following members:

- (a) a Judge of the High Court who shall be appointed by the President on the advice of the Chief Justice;
- (b) the Psychiatric Hospital Director;
- (c) a suitably qualified person, other than an employee of the Ministry of Health or the Ministry of National Security, who shall be appointed by the President on the advice of the Trinidad and Tobago Association for Mental Health.

(3) In respect of each member of the Review Tribunal the President shall appoint an alternate member, in the case of—

- (a) the Judge—his alternate shall be another Judge of the High Court;
- (b) the Psychiatric Hospital Director—his alternate shall be a psychiatrist.

(4) The alternate may act in the stead of the respective member at any meeting of the Review Tribunal; the alternate to the Psychiatric Hospital Director, however, must act whenever the latter is clinically involved in the case under review.

(5) Section 16(4) applies to a member of the Review Tribunal who has been appointed by the President.

(6) The Judge or his alternate shall be the Chairman of the Review Tribunal.

(7) The Review Tribunal shall have a Secretary who shall be a public officer.

Remuneration.

21. (1) The President may declare what remuneration and allowances, if any, should be paid to members of the Review Tribunal.

(2) Subsection (1) does not apply to the Judge or his alternate or to any public officer.

Patient may apply to Review Tribunal for discharge.

22. (1) Subject to subsection (2) a person who is a patient at a hospital, a psychiatric ward, an approved home or a private hospital or a relative or friend of such person, may make an application in the prescribed form to the Review Tribunal requesting his discharge.

(2) Subsection (1) does not apply to a person who was admitted to a hospital pursuant to an order of the Court or an order of the Minister of National Security made under sections 13 and 14 respectively, unless, in the case of a person who was admitted pursuant to an order made under section 14, he is deemed to be a medically recommended patient in accordance with subsection (5) thereof.

Duty of Secretary.

23. (1) On receipt of an application made pursuant to section 20(1), the Secretary shall forthwith transmit the application, or a copy thereof, to the Chairman of the Review Tribunal who shall cause a meeting of the Review Tribunal to be summoned.

(2) All information relating to the admission and hospitalisation of the patient as well as the reason for which his discharge is requested shall be made available to the Review Tribunal; the patient, or his relative or friend where the application is made on his behalf, may be allowed to attend any meeting of the Review Tribunal at which the patient's application is under review.

(3) The Review Tribunal may cause to be made any examination it considers necessary for the purpose of determining whether or not the patient is mentally ill, in need of further care and treatment or is dangerous to himself or others.

- (4) The Review Tribunal, if it is satisfied that a patient—
- (a) is not mentally ill; or
 - (b) though suffering from a mental disorder is not in need of further care and treatment in a hospital, psychiatric ward or an approved home and is not dangerous to himself or others,

may by order in the prescribed form, direct that the person named in the order be discharged.

(5) A patient in respect of whom an order is made under subsection (4) shall not be kept in a hospital, psychiatric ward or an approved home for more than two days after the date on which the order was made.

(6) Where the requirements of subsection (4) are not satisfied, the Review Tribunal shall dismiss the application.

(7) Any costs payable as a result of the making of an application under section 22(1) shall be in the discretion of the Review Tribunal.

(8) The decision of the Review Tribunal with respect to an application or matters arising therefrom or incidental thereto shall be final.

PART IV

POWERS AND DUTIES OF PSYCHIATRIC HOSPITAL DIRECTOR

24. (1) The Psychiatric Hospital Director shall ensure that all correspondence addressed to the Secretary of the Review Tribunal, which comes to his notice, shall be delivered to the Secretary, unopened and unimpeded.

Duty and power
of Psychiatric
Hospital
Director.

(2) Every patient is subject to the authority and control of the Psychiatric Hospital Director and any medical

practitioner attached to the hospital or psychiatric ward to which he was admitted.

(3) The Psychiatric Hospital Director or any medical practitioner attached to the hospital or psychiatric ward may prescribe for and administer to the patient under his care, any treatment that he considers necessary for the patient.

Leave of absence.

25. (1) The Psychiatric Hospital Director or a duly authorised medical officer, may, if he considers it conducive to the best interests of the patient permit a patient to be away from a hospital or a psychiatric ward for such period and on such terms and conditions as he considers necessary.

(2) Subsection (1) does not apply to a person who was admitted to a hospital pursuant to an order of the Court or an order of the Minister of National Security made under sections 13 and 14 respectively, unless, in the case of a person who was admitted pursuant to an order made under section 14, he is deemed to be a medically recommended patient in accordance with subsection (6) thereof.

Transfer of patient.

26. (1) Subject to subsection (2), the Psychiatric Hospital Director may, at the written request of a relative or friend of a patient and if he considers it conducive to the recovery of the patient, authorise the transfer of the patient to an approved home or a private hospital.

(2) Subsection (1) does not apply to a patient who was admitted to a hospital pursuant to an order of the Court or an Order of the Minister of National Security made under sections 13 and 14 respectively, unless in the case of a person who was admitted pursuant to an order made under section 14 he is deemed to be a medically recommended patient in accordance with subsection (6) thereof.

Patients at large may be apprehended.

27. (1) A patient who has not been permitted to be absent from a hospital or a psychiatric ward under section 25(1) or who has not been conditionally discharged under section 11 (1), may

at any time within eighteen months of the date of his leaving the hospital or psychiatric ward, and in any place, on an Order made by the Psychiatric Hospital Director in the prescribed form, be apprehended by a police officer or any other person designated in writing for that purpose by the Psychiatric Hospital Director or the Chief Medical Officer and be brought back to the hospital or the psychiatric ward in which he was a patient.

(2) On the expiration of eighteen months a person to whom subsection (1) applies shall be deemed to be absolutely discharged from the hospital or psychiatric ward in which he was a patient, if within that period he was not brought back to the hospital or ward.

PART V

APPROVED HOMES

28. (1) The Minister may, subject to the provisions of this Part, issue a certificate approving the use of any house as an approved home for the reception of persons who are mentally ill and in need of care and treatment and authorising the person named in the certificate to admit such persons for the necessary care and treatment as—

Minister may issue certificate approving use of home as approved home.

- (a) an urgent admission patient;
- (b) a voluntary patient; or
- (c) a medically recommended patient.

(2) Every person who has been admitted to an approved home shall be under the care and supervision of a medical practitioner.

(3) A house shall not be used as an approved home except on the authority of a certificate issued under subsection (1).

(4) An application for a certificate shall be made in the prescribed form.

(5) A certificate shall not be issued unless the house, its location with regard to neighbouring premises and its proposed facilities and equipment are suitable for the purpose for which it

is intended and the Minister is satisfied as to the character and fitness of the applicant.

Certificate to be displayed.

29. A certificate issued under section 28(1), shall be displayed in a conspicuous part of the house in respect of which it was issued.

Offence and penalty.

30. A person who contravenes section 28(3) or section 29 or any regulations made under this Part is liable on summary conviction to a fine of four thousand dollars and to imprisonment for twelve months.

Power to make Regulations.

31. The Minister may make such Regulations as he considers necessary to give effect to this Part and in particular may make regulations—

- (a) prescribing anything that is required to be prescribed by this Part;
- (b) governing the issue, withdrawal or renewal of a certificate;
- (c) prescribing the fees payable in respect of the issue or renewal of a certificate.

PART VI

ADMISSION TO PSYCHIATRIC WARD

Admission to psychiatric ward.

32. Subject to section 34 a duly authorised medical officer may admit to a psychiatric ward—

- (a) as an urgent admission patient;
- (b) as a voluntary patient;
- (c) as a medically recommended patient;
- (d) on the application of a mental health officer,

any person who, in his opinion is in need of care and treatment in such a ward.

Patient to be examined.

33. (1) The medical practitioner in charge of the psychiatric ward to which a patient is admitted shall make or cause to be made such examination of the patient as he may consider necessary for

determining whether or not the patient is mentally ill and if so, what treatment is required.

(2) Where on examination, a patient is found to be mentally ill and in need of care and treatment he may be—

- (a) kept in a psychiatric ward if in the opinion of the medical practitioner in charge of the ward he may be effectively treated in that ward; or
- (b) transferred to a psychiatric hospital as an urgent admission patient, a voluntary patient or a medically recommended patient, as the case may be.

(3) Where, pursuant to subsection (2)(b), a person is transferred to a psychiatric hospital, the Psychiatric Hospital Director shall forthwith notify the fact of the transfer to the person by whom the application was made.

(4) A patient in a psychiatric ward shall be in the custody of, and subject to the authority and control of the Psychiatric Hospital Director or the medical practitioner in charge of the ward in the same manner and to the same extent as if he had been a patient in a psychiatric hospital.

34. A person shall not be admitted to a psychiatric ward if—

- (a) he is suffering from a communicable disease;
- (b) he is a patient in a psychiatric hospital and has been conditionally discharged or is on leave of absence therefrom pursuant to sections 11 and 24; or
- (c) he is in lawful custody.

Persons who may not be admitted to psychiatric ward.

35. The provisions of Part I relating to the admission and discharge of urgent admission patients, voluntary patients, medically recommended patients, and persons who have been admitted on the application of a mental health officer, apply to persons who have been admitted under Parts V and VI.

Provisions of Part I to apply to persons admitted under Parts V and VI.

PART VII

PROTECTION OF PROPERTY OF PATIENTS

High Court or
Judge to
exercise control
over property
of patient.
[14 of 1999].

36. (1) The High Court may, subject to this Part and subject to section 44 on application by originating summons from—

- (a) a public officer; or
- (b) a next of kin of the patient,

exercise control over the property and affairs of such patient who has been admitted to a hospital or psychiatric ward, an approved home or a private hospital.

(2) In subsection (1) “public officer” means the person appointed by the Minister for the purposes of this Part.

(3) The High Court may, subject to this Part on application by the next of kin of any patient, by originating summons exercise control over the property and affairs of such patient.

(4) An application made under subsection (1) or (3) shall be supported by an affidavit to the effect that the patient is incapable, by reason of mental disorder, of managing and administering his property and affairs.

Court may
make order
appointing
committee.
[14 of 1999].

37. (1) On an application made under section 36 the Court may make an order appointing the applicant or any other person the committee of a patient’s property on production of—

- (a) a certificate by the Psychiatric Hospital Director, a duly authorised medical officer or qualified psychiatrist to the effect that the patient is suffering from mental disorder as a result of which he is incapable of managing and administering his property and affairs, and stating the probable duration of the disorder;
- (b) a statement by the applicant giving a detailed description of the patient’s property and the value thereof;

- (c) a statement by the applicant stating—
- (i) the name and address of the next of kin of the patient, if any, and
 - (ii) what he proposes to do with the patient's property during the latter's illness.

(2) Where the applicant is not the next of kin referred to in section 36, prior to making an order under subsection (1) the Court shall be satisfied that service of the summons was effected on at least one of the patient's next of kin, or that the whereabouts of any of the patient's next of kin could not be ascertained.

37A. (1) Notwithstanding the certificate produced under section 37(1)(a), the High Court may require the person appointed as the committee of the patients's property to file—

Statements and Medical Certificate to be produced. [14 of 1999].

- (a) periodic statements of the status of the patient's estate; and
- (b) periodic medical certificates issued by the relevant persons referred to in section 37(1)(a), stating the mental condition of the patient and if necessary the probable duration of the disorder.

(2) The High Court shall on production of such statements and medical certificate referred to in subsection (1), decide whether to continue with or discharge the committee of the patient's property appointed under section 37.

38. (1) In addition to the powers conferred on a Judge by sections 36, 37, and 37A a Judge may, with respect to the property and affairs of a patient, do or cause to be done all or any such things which he may consider necessary or expedient—

Powers of Judge. [14 of 1999].

- (a) for the maintenance or other benefit of the patient or members of his family or both;
- (b) for making provision for other persons or purposes for whom or which the patient might be expected to provide if he were not suffering from mental disorder; or
- (c) generally for administering the patient's property and affairs.

(2) In the exercise of his powers under subsection (1), the Judge shall have regard to—

- (a) the requirements of the patient;
- (b) the interests of creditors as well as to the desirability of making provisions for obligations of the patient notwithstanding that they may not be legally enforceable.

(3) The provisions of any rules of law governing the enforcement by a creditor of rights against the property of a person who is suffering from a mental disorder shall apply to property under the control of the High Court or a Judge thereof.

Judge may make orders and give directions and authorities.

39. (1) In the exercise of his powers under section 38 the Judge may make such orders and give such directions and authorities as he thinks fit for the purpose of that section, and in particular may for those purposes make orders or give directions or authorities for—

- (a) the control (with or without the transfer or vesting of property) and management of any property of the patient;
- (b) the sale, exchange, charging or other disposition of or dealing with any property of the patient;
- (c) the acquisition of any property in the name or on behalf of the patient;
- (d) the settlement of any property of the patient or the gift of any property of the patient to any such persons or for the maintenance of members of the patient's family or for the purpose specified in section 38(1)(b);
- (e) the execution for the patient of a Will making any provisions (whether by way of disposing of property, exercising a power or otherwise) which could be made by a Will executed by the patient if he were not suffering from a mental disorder;
- (f) the carrying on by a suitable person of any profession, trade or business of the patient;

- (g) the dissolution of a partnership of which the patient is a member;
- (h) the carrying out of any contract entered into by the patient;
- (i) the conduct of legal proceedings in the name of the patient or on his behalf;
- (j) the reimbursement out of the property of the patient, with or without interest, of money applied by any person either in payment of the patient's debts (whether legally enforceable or not) or for the maintenance or other benefit of the patient or members of his family or in making provisions for other persons or purposes for whom or which he might be expected to provide if he were not suffering from a mental disorder;
- (k) the exercise of any power (including a power to consent vested in the patient, whether beneficially, or as guardian or trustee or in any other manner).

(2) Where pursuant to subsection (1) provision is made for the settlement of any property of a patient or for the exercise of a power vested in a patient to appoint trustees or retire from a trust, the Judge may also make, with respect to the property which has been settled or the trust property, such consequential vesting or other orders as the case may require including any order which could have been made in such a case under the Trustee Ordinance.

Ch. 8 No. 3.
(1950 Ed.).

- (3) The power of the Judge—
- (a) to provide for the settlement of the property of a patient shall not be exercisable at any time when the patient is an infant; and
 - (b) to make or give an order, direction or authority for the execution of a Will for a patient—
 - (i) shall not be exercisable at any time when the patient is an infant; and
 - (ii) shall not be exercised unless the Judge has reason to believe that the patient is incapable of making a valid Will for himself.

(4) Where a settlement has been made pursuant to this section and the Judge is satisfied, at any time before the death of the patient, that any material fact was not disclosed when the settlement was made, or that there has been any substantial change in the circumstances which existed when the settlement was made, he may by order vary the settlement in such manner as he thinks fit and give any consequential directions.

Supplementary provisions as to Wills.

40. (1) Where pursuant to section 39(1)(e) the Judge makes or gives an order, direction or authority requiring or authorising a person (in this section referred to as “the authorised person”) to execute a Will for a patient, a Will executed in pursuance of that order, direction or authority shall be expressed to be signed by the patient acting by the authorised person and shall be—

- (a) signed by the authorised person with the name of the patient and with his own name in the presence of two or more witnesses present at the same time; and
- (b) attested and subscribed by those witnesses in the presence of the authorised person.

Ch. 9:03.

(2) The provisions of the Wills and Probate Act (other than the provisions dealing with execution and attestation of Wills) apply to a Will executed under subsection (1) as if the Will had been signed by the patient himself.

Ch. 9:03.

(3) Subject to subsections (4) and (5), a Will executed under subsection (1) shall have the like effect for all purposes as if the patient were capable of making a valid Will and the Will had been executed by him in the manner prescribed by the Wills and Probate Act .

- (4) Subsection (3) does not apply—
 - (a) to such a Will in so far as it disposes of any immovable property situated outside Trinidad and Tobago; and
 - (b) where at the time when such a Will is executed the patient is domiciled outside Trinidad and Tobago, to a Will in so far as it relates to any other property or matter except property or matter

in respect of which, under the law of his domicile, any question of his testamentary capacity would fall to be determined in accordance with the Law of Trinidad and Tobago.

41. (1) A Judge may by order appoint as receiver for a patient the person named in the order or the holder of an office so specified. Judge may appoint receiver.

(2) The receiver shall, in relation to the property and affairs of the patient, do all such things as the Judge in exercise of his powers under this Part, orders, directs or authorises him to do.

(3) A receiver may be discharged by order of the Judge at any time if the Judge considers it expedient to do so and shall be discharged—

- (a) automatically on the death of the patient;
- (b) by order of the Judge whenever the Judge is satisfied that the person is capable of managing and administering his property and affairs.

42. (1) Where the Judge is satisfied that—

- (a) under the law prevailing in a place outside Trinidad and Tobago a person has been appointed to exercise any power with respect to the property or affairs of any other person on the ground that that other person is incapable by reason of mental disorder of managing and administering his property and affairs; and Stock to be transferred to person appointed outside Trinidad and Tobago to exercise powers with respect to the property or affairs of a person suffering from mental disorder.
- (b) having regard to the nature of the appointment and to the circumstances of the case it is expedient that the Judge should exercise his powers under this section,

the Judge may direct any stock standing in the name of that other person or the right to receive the dividends thereof to be transferred into the name of the person so appointed or otherwise dealt with as requested by that person, and may give such directions as the Judge thinks fit for dealing with accrued dividends thereof.

(2) In this section “stock” includes shares, any fund, annuity or security transferable in the books kept by any body

corporate or unincorporated association or by an instrument of transfer, and “dividends” shall be construed accordingly.

Interest in
property of
patient to be
reserved.

43. (1) Where any property of a patient has been disposed of under this Part, under his Will, as a result of his dying intestate or in any other manner effective on his death, and, but for the disposal any other person would have taken an interest in the property, the person shall take the like interest, if and so far as circumstances allow in any property belonging to the estate of the deceased which represents the property disposed of; where such property is real property any property representing it shall so long as it remains part of his estate be treated as if it were real property.

(2) The Judge, in ordering, directing or authorising under this Part the disposal of property which, apart from this section, would result in the conversion of personal property into real property, may direct that the property representing the property disposed of shall, so long as it remains the property of the patient or forms part of his estate, be treated as if it were personal property.

(3) In subsections (1) and (2) a reference to the disposal of property shall be construed as a reference to the sale, exchange, charging or other dealing with (otherwise than by Will) property other than money, the removal of property from one place to another, the application of money in acquiring property or the transfer of money from one account to another, and references to property representing property disposed of shall be construed accordingly and as including the result of successive disposals.

(4) The Judge may give such directions including a direction for the carrying of money to a separate account and the transfer of property other than money, as appear to him necessary or expedient for the purpose of facilitating the operation of subsection (1).

(5) Where the Judge has ordered, directed or authorised the expenditure of money for the purpose of carrying out permanent improvements on, or otherwise for the permanent benefit of, any property of a patient, he may order that all or part of the money expended or to be expended shall be a charge on the property without interest or with interest at a specified rate.

(6) A charge under subsection (5) may be created in favour of such person as the Judge may think fit, and where the money charged is paid out of the patient's estate, a charge may be made in favour of a person as trustee for the patient.

(7) An order under subsection (5) may provide for the exclusion or restriction of the operation of subsection (1).

(8) A charge created under subsection (5) shall not confer any right of sale or foreclosure during the lifetime of the patient.

44. (1) Where the property of a patient who has been admitted to a hospital, psychiatric ward, an approved home or a private hospital does not exceed the value of ten thousand dollars the Public Trustee shall be *ex officio* his statutory committee.

Public Trustee to be *ex officio* statutory committee. [14 of 1999].

(2) The Psychiatric Hospital Director or a duly authorised medical officer, as the case may be—

- (a) may require a statement of a patient's financial status to be made by a person who alleges to have knowledge of such status; and
- (b) shall, where the value of the patient's property does not exceed the sum of ten thousand dollars, as soon as practicable after the patient has been admitted, inform the Public Trustee of the fact of his admission and furnish him with a copy of the statement referred to in paragraph (a).

45. The Public Trustee as statutory committee shall have and may exercise all the rights and powers that the patient would have had or would have been entitled to exercise in respect of his estate, if he were of full age and sound mind.

Powers of Public Trustee.

46. (1) The Public Trustee may be discharged from his responsibility as statutory committee by an order of the Court and upon such terms and conditions as the Court may consider expedient having regard to the interest of the patient as well as his estate.

Discharge of Public Trustee as statutory committee.

(2) An order shall not be made under subsection (1) unless on an application by summons.

Psychiatric Hospital Director to inform Public Trustee of patient's discharge.

47. The Psychiatric Hospital Director or a duly authorised medical officer, as the case may be, shall inform the Public Trustee or the Court, as the case may be, of the discharge of any patient over whose property the Court has power to exercise control or in respect of which the Public Trustee is *ex officio* the statutory committee.

48. *(Repealed by Act No. 14 of 1999).*

PART VIII

GENERAL PROVISIONS

Protection against civil proceedings.

49. No person is liable to any suit or action in respect of any act done under lawful direction and authority pursuant to the provisions of this Act or the Regulations unless it can be shown to the satisfaction of the Court that the person acted without good faith or reasonable care.

Court may order stay of proceedings.

50. Where proceedings are instituted against a person for any act done pursuant to the provisions of this Act or the regulations the Court may, on an application made by summons, stay the proceedings on such terms as to cost as the Court may think fit, if it is satisfied that the person acted in good faith and with reasonable care.

Offences and penalties.

51. It is an offence for any person in charge of or an officer on the staff of or otherwise employed in an approved home, a hospital, a private hospital or a psychiatric ward to—

- (a) ill-treat or wilfully neglect a patient;
- (b) ill-treat or wilfully neglect on the premises of which such home, hospital or ward forms part, a person who is on the premises for the purpose of receiving care and treatment as an ex-patient.

Offence to ill-treat person suffering from a mental disorder.

52. It is an offence for any person to ill-treat or wilfully neglect a person suffering from a mental disorder who is in his custody or under his care and protection.

53. Any person who is guilty of an offence under section 51 or 52 is liable— Penalty.

- (a) on summary conviction to a fine of one thousand dollars and to imprisonment for six months;
- (b) on conviction on indictment to a fine of four thousand dollars and to imprisonment for two years.

54. (1) It is an offence for any person who is in charge of, or an officer on the staff of or otherwise employed in an approved home, hospital, private hospital or psychiatric ward to have sexual intercourse with a person who is— Offence to have sexual intercourse with patients. [21 of 1979 27 of 1986].

- (a) a patient in such approved home, hospital, private hospital or psychiatric ward; or
- (b) on the premises of such approved home, hospital, private hospital or psychiatric ward for the purposes of receiving treatment as an outpatient.

(2) A person who is found guilty of an offence under subsection (1) is liable on conviction on indictment to imprisonment for seven years.

55. (1) It is an offence for any person to have sexual intercourse with a person who is suffering from a mental disorder and who is in his custody or under his care and protection. Offence to have sexual intercourse with person who is suffering from a mental disorder.

(2) It shall be a defence for a person who is charged under subsection (1) to prove that he did not know or had no reason to believe or to suspect that the person was suffering from a mental disorder.

56. Any person found guilty of an offence under section 55 is liable on conviction on indictment to a fine of ten thousand dollars and to imprisonment for five years. Penalty. [27 of 1986].

57. Except as provided in this Act or the Regulations a person who aids, abets or assists a patient to leave a hospital, a psychiatric ward or an approved home, or who harbours, assists or comforts any patient who has left a hospital, a psychiatric ward or an Offence to assist patient to escape.

approved home, is liable on summary conviction to a fine of one thousand dollars and to imprisonment for three months.

Offence in respect of undertaking given under section 9.

58. A person is liable on summary conviction to a fine of one thousand dollars and to imprisonment for three months if, having given an undertaking under section 11(1) he—

- (a) neglects or fails to provide the patient with adequate lodging, clothing, food or medical attention, if required;
- (b) fails or refuses to allow the patient to be visited by any officer or employee attached to the hospital or ward from which the patient was conditionally discharged from a Government Medical Officer or any other duly authorised medical officer;
- (c) neglects or fails to comply with any terms or conditions subject to which the person was conditionally discharged.

Offence to obstruct persons in the execution of their duties.

59. A person who without lawful authority interferes with or obstructs any person in the execution of his duties under this Act or the Regulations is liable on summary conviction to a fine of five hundred dollars and to three months imprisonment.

Offence to make any false or misleading statement in an application.

60. A person who wilfully makes any false or misleading statement in any application required to be made under this Act, is liable on summary conviction to a fine of ten thousand dollars and to imprisonment for two years.

Mental health officers may be designated.

61. (1) The Minister may designate as mental health officers for the purpose of this Act any of the following persons:

- (a) psychiatric social workers;
- (b) registered mental nurses with at least six months supervised experience in social work;
- (c) District Health Visitors with at least six months supervised experience in social work and in psychiatric nursing; and

(d) other nurses with equivalent training and experience as District Health Visitors and with at least six months supervised experience in social work and in psychiatric nursing.

(2) A mental health officer shall exercise such functions and duties as may be prescribed.

(3) In subsection (1) “supervised experience” means experience acquired in the course of duties in a hospital, general hospital, private hospital, approved home or psychiatric ward or any other institution providing for the care and treatment of persons who are mentally ill.

(4) For the purposes of this section the expression “social work” and any grammatical variation thereof shall be taken to refer to a method of assisting persons to solve their social problems entailing a knowledge of psychology, social psychology, human growth and development, psychopathology and the laws of Trinidad and Tobago relating to mental health, social assistance and admission to certified schools.

62. The Minister may make any Regulations he considers necessary for the effective carrying out of the provisions of this Act and in particular may make Regulations—

Power to make Regulations.

- (a) prescribing anything that is required by this Act to be prescribed;
- (b) providing that any or all of the provisions of this Act shall not apply to an approved home.

63. A person who contravenes any regulation made under this Act is liable on summary conviction to a fine of two thousand dollars and to imprisonment for six months.

Offence to contravene regulations.

64. The Rules Committee established under the Supreme Court of Judicature Act, may make Rules of Court for the purpose of prescribing any matter of procedure that is necessary or expedient for the proper exercise of any of the provisions of this Act.

Rules Committee may make Rules. Ch. 4:01.

SUBSIDIARY LEGISLATION

12/1997.

**MENTAL HEALTH (APPOINTMENT OF PSYCHIATRIC
WARD) ORDER**

(made by the Minister under section 5)

WHEREAS it is provided by section 5 of the Mental Health Act that the Minister may, by Order, appoint any part of a general hospital to be a psychiatric ward for the care and treatment of mentally ill persons:

And Whereas it is necessary to appoint part of the Tobago Regional Hospital to be such a psychiatric ward:

Now, Therefore, the Minister in exercise of the power conferred on him by the Act, orders as follows:

Citation.

1. This Order may be cited as the Mental Health (Appointment of Psychiatric Ward) Order.

Appointment of
Psychiatric
Ward.

2. That part of the Tobago Regional Hospital designated in the Schedule is hereby appointed a psychiatric ward for its care and treatment of mentally ill patients.

SCHEDULE

All that area bounded on the East by Government Quarters, on the West by a public road, and the Fort, on the North by the Geriatric Unit, on the South by Fort King George, comprising of a building of five thousand two hundred square feet more or less and surrounded by a courtyard and a parking lot.
