

Police Powers Under the MHA: Application & Alternatives

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Mental Health Worker – Mobile Crisis Rapid Response
Team

St. Joseph's Healthcare Hamilton

History











Hamilton Police Service and St. Joseph's Hospital

1997: COAST (Crisis Outreach & Support Team)

2006: Crisis Intervention Team Training

2013: Mobile Crisis Rapid Response Team



St. Joseph's
Healthcare  Hamilton

COAST

Crisis Outreach & Support Team

- ▶ 24/7 Crisis Line + Mobile Response
- ▶ Police and mental health team responding to individuals of all ages who are experiencing a mental health crisis
- ▶ Goal is to keep people functioning in the community
- ▶ Referrals from anyone



CIT

Crisis Intervention Team Training

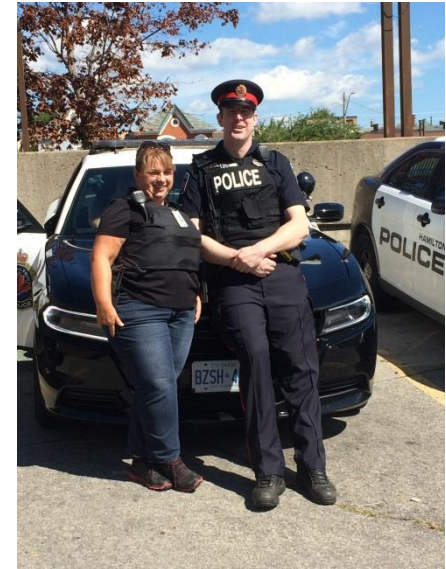
- ▶ 40 hour mental health training for frontline officers
- ▶ Focus on deescalating individuals in a mental health crisis
- ▶ Training includes connection with community agencies, family members and people with lived experience as well as scenario based training



MCCRT

Mobile Crisis Rapid Response Team

- ▶ MHW rides with a uniformed officer in a marked cruiser
- ▶ Respond to 911 mental health calls



- * Ontario Health Care Consent Act
- * Personal Health Information Protection Act

Ontario
Mental Health
Act

CCC (Forensic)

- NCR
- Unfit To Stand Trial

Mental Health Legislation

Ontario Mental Health Act

- ▶ Describes where/how people can be taken to hospital
- Includes how a person can be certified and be made to stay in hospital
- Describes steps for an individual to challenge their certification
- Includes Form 1's, Form 2's, Form 3's etc

Mental Health Legislation

Ontario Health Care Consent Act

How people consent to treatment and how a person can be deemed incapable

Substitute Decisions Act

If you are not capable of consenting for treatment then who can sign for you

Consent is not based on age, it's based on capacity:

Capacity to understand the nature of the problem

Capacity to understand the risks and benefits of treatment and of not receiving treatment

PHIPA: Personal Health Information Protection Act (2004)

Positives:

- Circle of Care concept
- Share information in emergency situations
- *Hospital has to acknowledge if person is in hospital*
- All have duty to warn!

Negatives:

- Strong reluctance by health professionals to share any information

PHIPA:

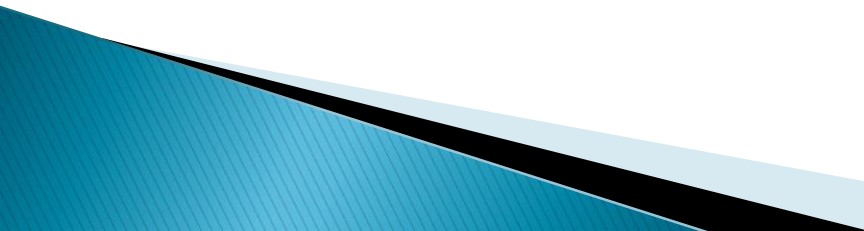
Personal Health Information Protection Act (2004)

Health Information Custodian may disclose personal health information about an individual if the custodian believes on **reasonable grounds** that **the disclosure is necessary** for the purpose of **eliminating or reducing** a **significant risk of serious bodily harm to a person or group of persons**.

PHIPA, 2004, c. 3, Schedule A, s. 40 (1).

Ontario Mental Health Act

6 ways a person apparently suffering from mental disorder may be taken to a mental health facility for assessment:

1. Voluntarily
 2. Form 1: Application for Psych. Assess.
 3. Form 2: Justice of the Peace Order
 4. Court Order
 5. Section 17: Police Apprehension Powers
 6. Form 47: CTO
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Ontario Mental Health Act

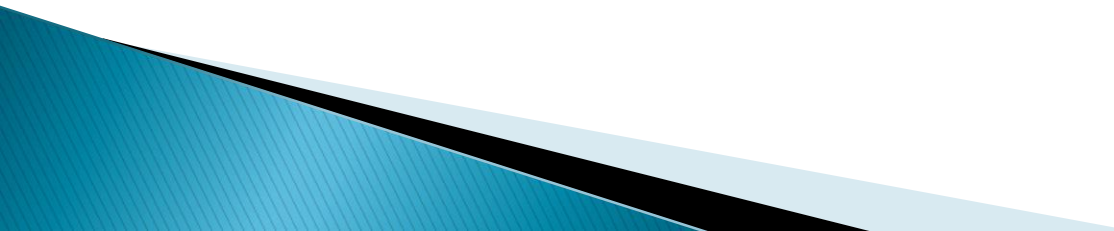
Voluntary

Under section 12 of the MHA, a person can voluntarily attend at a psychiatric facility.

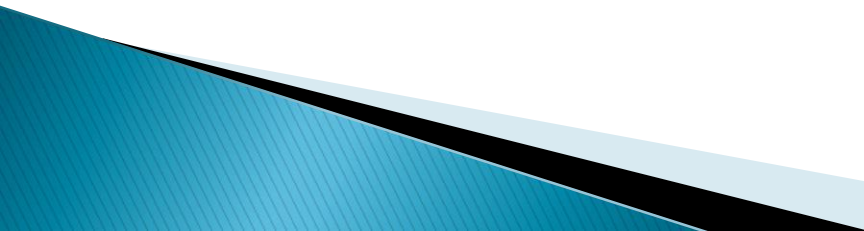
No police action is required, although police may assist in appropriate situations;

Form 1:

Application for a Psychiatric Assessment

- ▶ Physician may issue a Form 1 which authorizes **any person**, including a police officer, to apprehend a person and transport that person to a psychiatric facility.
1. ER physician uses a Form 1 to keep a person in hospital after he/she has assessed an individual in the ER who needs a psychiatric assessment
 2. Physician, typically GP, requests a psychiatric assessment for his/her patient
- 

Form 1, cont'd.

- ▶ Same criteria as Section 17 – meet past/present test and future test
 - ▶ Allows the physician to keep the person in hospital for up to 72 hour assessment
 - ▶ Form 1 is valid for 7 days from date of signing AND doctor must have seen the person within the past 7 days*
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Past/Present Test

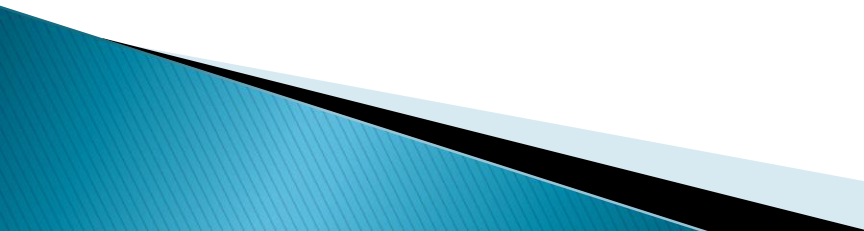
The Physician must believe the individual has:

- ▶ *Has threatened or is threatening* to cause bodily harm to self;
or
- ▶ *Has attempted or is attempting* to cause bodily harm to self;
or
- ▶ *Has behaved or is behaving* violently towards another person;
or
- ▶ *Has caused or is causing* another person to fear bodily harm from him or her; or
- ▶ *Has shown or is showing* a lack of competence to care for self

Future Test

- ▶ The Physician must also have reasonable cause to believe the person is *apparently* suffering from a **mental disorder** that will *likely* result in:
 - ▶ Serious bodily harm to self; or
 - ▶ Serious bodily harm to another person; or
 - ▶ Serious physical impairment of self.
- ▶ Third ground, “serious physical impairment of self”, is designed to deal with unintentional harm.

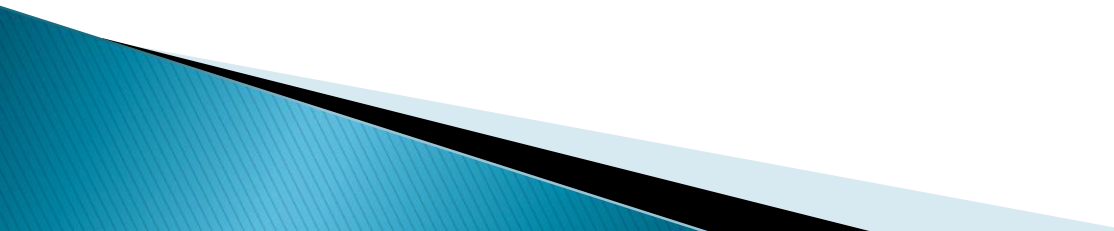
Form 2: Order of the Justice of the Peace

- Justice of the Peace may issue a Form 2 directly to a police officer to apprehend and transport that person, named in the order, to a psychiatric facility.
 - Valid for 7 days from date of signing.
 - Any person can attend before a JP to attempt to obtain this order.
 - Police officers should advise involved parties of the availability of this option and how to contact a JP, where appropriate.
- 

Example

- ▶ 84 year old woman who lives alone in a nice house
- ▶ Neighbours call because she won't answer the door. They last spoke to her in person 4 weeks ago.
- ▶ The neighbours think she has dementia but they are not sure

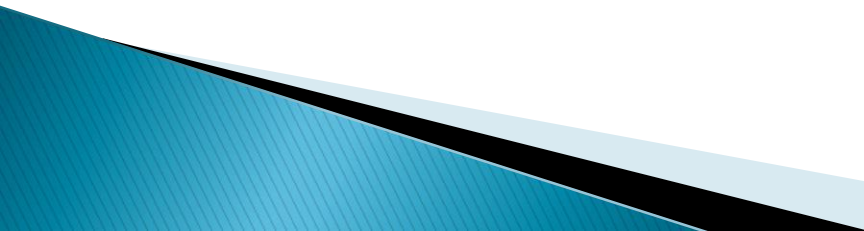


- ▶ Police attend and she won't open the door to you but you do see her inside the house. She looks thin.
 - ▶ The neighbours tell you she told them she believes the house is surrounded by people trying to kill her and she adamantly refuses to open the door
 - ▶ PGT provided key after a Form 2 obtained
- 

Section 17: By A Police Officer Acting on His or Her Own Authority Under the Mental Health Act

- ▶ *In certain circumstances* a police officer without a Form 2 may take a person in custody for an examination by a physician
- ▶ The examination will usually be done at a hospital emergency unit
- ▶ **Purpose:**
- ▶ Allows a person to be seen by a physician
- ▶ Physician can decide whether or not to sign a Form 1 which authorizes the detention and assessment of the person in hospital for up to 72 hours

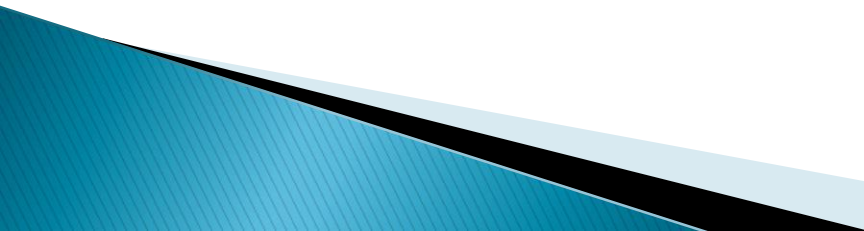
Section 17, Cont'd.

- ▶ An officer may only exercise this authority if:
 - ▶ The officer has reasonable cause to believe that it would be dangerous to wait for a JP to sign a Form 2; and
 - ▶ The officer has reasonable and probable grounds to believe that a person is acting or has acted in a disorderly manner
- 

Past/Present Test

- ▶ *The officer must believe that the individual has:*
- ▶ *Has threatened or is threatening* to cause bodily harm to self;
or
- ▶ *Has attempted or is attempting* to cause bodily harm to self;
or
- ▶ *Has behaved or is behaving* violently towards another person;
or
- ▶ *Has caused or is causing* another person to fear bodily harm from him or her; or
- ▶ *Has shown or is showing* a lack of competence to care for self

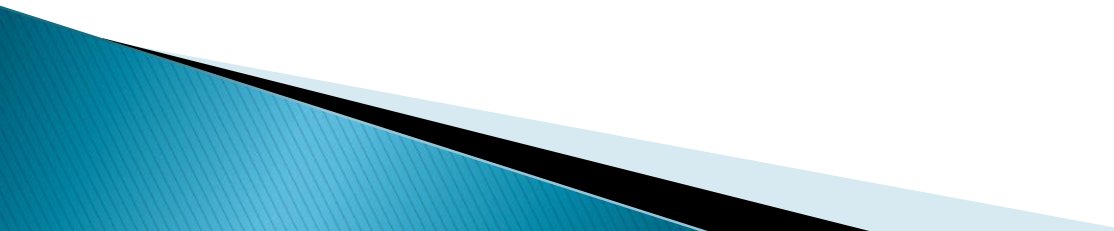
Example of Past Test

- ▶ 39 y.o. single female
 - ▶ Living in supported housing
 - ▶ 3 years ago charged – stabbed mental health worker
 - ▶ Presenting as psychotic – hears man monitoring her actions – cameras everywhere but no direct threats of harm to self or others
 - ▶ Police called by staff saying the woman was psychotic – feels she is controlled by the computer and acting in a bizarre manner
- 

Future Test

- ▶ The Officer must also have reasonable cause to believe the person is *apparently* suffering from a **mental disorder** that will *likely* result in:
 - ▶ Serious bodily harm to self; or
 - ▶ Serious bodily harm to another person; or
 - ▶ Serious physical impairment of self.
- ▶ Third ground, “serious physical impairment of self”, is designed to deal with unintentional harm.

Unintentional Harm

- ▶ Unintentional harm might include wandering in the extreme cold, or putting oneself at serious risk for harm at the hands of others, or through gross neglect.
 - ▶ A police officer is not required to make a medical diagnosis
- 

Section 17 Summary

Mental Disorder

+

Past/Present Test

+

Future Test

+

Unable to wait for Form 2

Process in Review

Person in a mental health crisis



Taken to hospital



Placed on Form 1 (up to 72 hours)



Assessed by Psychiatrist



Place person on a Form 3 – 2 weeks



Placed on a Form 4 – up to 4 weeks

Form 3: Certificate of Involuntary Admission

The patient is suffering from mental disorder of a nature or quality that likely will result in:

- ▶ Serious bodily harm to the patient
- ▶ Serious bodily harm to another person
- ▶ Serious physical impairment of the patient

Unless he or she remain in the custody of a psychiatric facility

- ▶ Lasts up to 2 weeks
- ▶ Person can challenge this certificate through a review board

Form 4: Certificate of Renewal

The patient is suffering from mental disorder of a nature or quality that likely will result in:

- ▶ Serious bodily harm to the patient
- ▶ Serious bodily harm to another person
- ▶ Serious physical impairment of the patient

Unless he or she remain in the custody of a psychiatric facility

- ▶ Lasts up to 1 month – then 2 months – then 3 months
- ▶ Person can challenge this certificate through a review board

Form 9 – Order For Return

Police can return the Person in Crisis:

Within 24 hours without an order of return

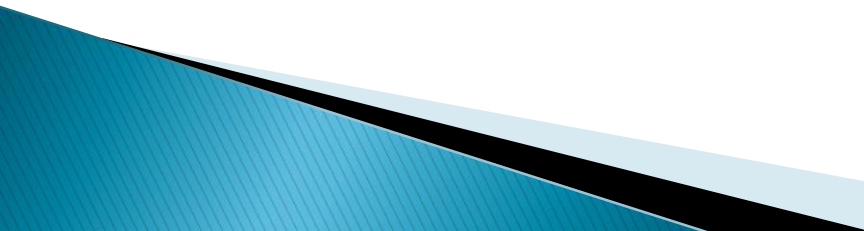
With an order (issued by a facility) good for one month from issue

Individuals on a Form 1, 3 or 4 who leave the facility unauthorized

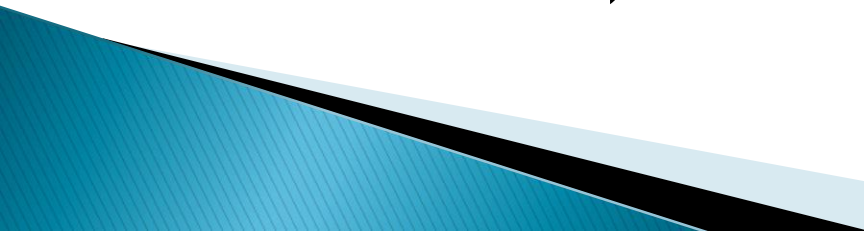
Remember PHIPA



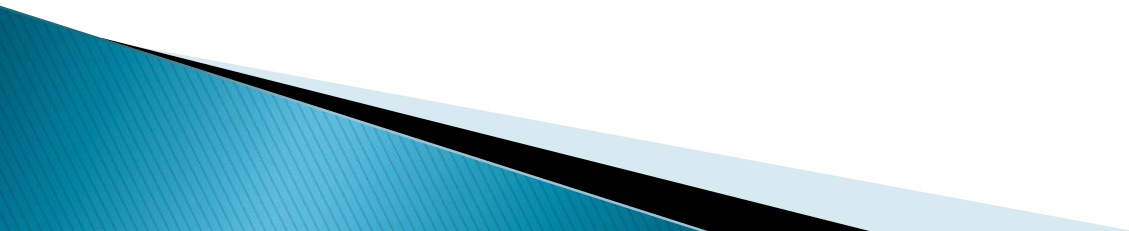
Community Treatment Plan

- ▶ Treatment plan for an individual to receive care outside of the hospital
 - ▶ Includes:
 - ▶ 1. 2. (3.)
 - ▶ If the person does not follow the treatment plan, the treating physician issues a Form 47 requiring the person to be returned to the doctor for assessment
 - ▶ Form 47 lasts up to 30 days
- 

Form 47 – CTO

- ▶ Completed by a doctor if a person does not follow the conditions of the CTO
 - ▶ Should be returned to the issuing doctor or the local ER
 - ▶ Doctor must have attempted to make contact with the client
 - ▶ It states the individual has met the criteria for a Form 1 (harm to self, others or unable to care for self)
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Challenges....



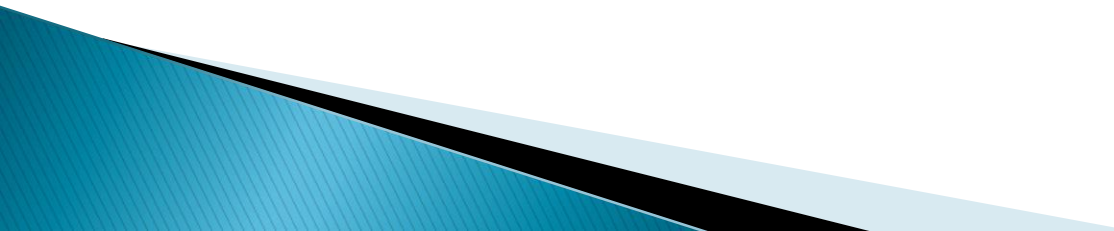
Challenges....

Utilization of collateral information

- Request quotes from referral sources

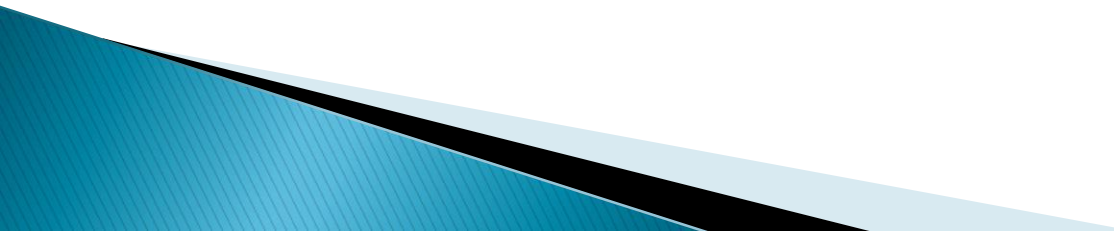
Individual presents in a different manner in the hospital from the community

- Document in writing
- Guidelines for police presenting information to hospital personnel

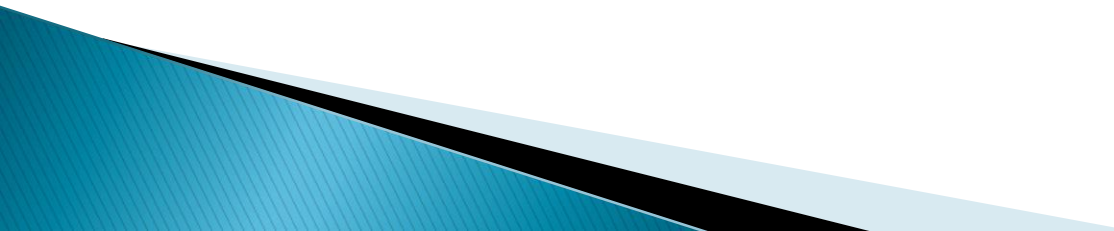
- ▶ **A = Age / Appearance / Alcohol**
 - ▶ **B = Behaviour**
 - ▶ **C = Cognition**
 - ▶ **D = Direct Risk**
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Challenges

Frustration by police with hospitals for allowing individuals to be released

- utilization of crisis services as an alternative to divert individuals from the ER
 - Discussion with hospital personnel to understand why the individual is being released (with consent)
 - Acceptance of the role of police in terms of de-escalating individuals
 - Police mental health training
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Additional Alternatives

- ▶ Implementation of police/mental health crisis teams
 - ▶ Increased police training
 - ▶ Crisis Stabilization Beds
 - ▶ Mental Health Court Support Services
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Questions

- ▶ Sburtenshaw@stjosham.on.ca

And thank you!