BRITISH COLUMBIA SCHIZOPHRENIA SOCIETY

Position on Charter Challenge (*Council of Canadians with Disabilities v. Attorney General Of B.C.*)[1]

Re: Treatment for Involuntary Patients under the BC Mental Health Act

The Council of Canadians with Disabilities, supported by lawyers from the Community Legal Assistance Society and the Health Justice Society, are challenging the BC Mental Health Act. They claim that the BC Mental Health Act breaches the Charter because it "deprives all involuntary patients… of the right to give, refuse or revoke consent to psychiatric treatment regardless of those patients' actual capacity to do so." They maintain that "treatment refusal" must be allowed under the Act.

Treatment Delayed is Liberty Denied

If this challenge is successful, untreated involuntary patients will not be able to recover, and will still have to be detained, thus losing their right to health, liberty, dignity and autonomy. Other proven outcomes of "treatment refusal" include: relentless suffering from untreated hallucinations, delusions and other psychotic symptoms; increased use of restraints and long periods of seclusion; poorer patient prognosis; increased assaults on nurses and fellow patients; increased ward disruptions; increased taxpayer costs for additional nursing staff to manage untreated behaviours; and longer patient stays. Long hospitalization also deprives patients of normal family life, community and social connections, employment, and other essential links to recovery.

Undue Pressure on Caring Friends and Families

The Challenger also asks that families or other caring friends become *substitute decision-makers* for involuntary patients incapable of making treatment decisions. Although the BC Schizophrenia Society acknowledges the important role families play and encourages family input into the patient's treatment plan, we support the current BC Mental Health Act where physicians make treatment recommendations and the director of the unit provides authorization. If treatment cannot begin upon admission and is delayed until the substitute decision-maker is located and agrees to treatment, patients will continue to suffer distress.[2] Unnecessary strife can also arise between family members, who often recognize that treatment is needed, and patients, who – due to the nature of their illness – may not. Substitute decision-makers who sign an advance directive of treatment refusal in order to help 'keep peace in the family' will be forced to honour that document, whether they agree with it or not.

Dire Consequences

The consequences of "treatment refusal" can be illustrated by many Ontario cases. In one example, the Court upheld Mr. Sevels' stated wish to not be treated. This resulted in Mr. Sevels being confined for more than five years. During this time, he assaulted and seriously injured a staff member and was held in seclusion for 404 continuous days. When Mr. Sevels finally received treatment, he responded well.

Importance of Correct Interpretation

The Challenger mistakenly states: "There is no statutory requirement to assess whether an Involuntary Patient is capable of giving, refusing, or revoking consent to psychiatric treatment before administering Forced Psychiatric Treatment." This is incorrect. Form 5 of the BC Mental Health Act Regulations must be completed by the treating physician or the director before treatment can begin.

The BC Schizophrenia Society believes that the BC Mental Health Act is about the care and protection of citizens who are affected by serious and debilitating brain disorders. It is about the right to be well. It is about the right to effective treatment to regain one's health and be restored to home and community in a timely manner.

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[1] Short version. See website www.bcss.org for complete document.

[2] This is the case in Saskatchewan and in Newfoundland and Labrador.