FRASER HEALTH LONG TERM CARE ROUNDS

OCTOBER 2024

UPDATES ON THE MENTAL HEALTH ACT (MHA)

Farhan Haque MRCPsych(UK) FRCPC

Physician Lead, Geriatric Psychiatry, LTC & AL

Clinical Instructor in Psychiatry

October 16, 2024

This presentation is broadcasted from the unceded traditional territories of the coast salish peoples, including the katzie, kwantlen and semiahmoo first nations.

LAND ACKNOWLEDGEMENT

CONFLICT OF INTEREST

- I have spoken at pharmaceutical companies sponsored dinners
- Remuneration for this activity is from the conference organizer only

DISCLOSURE OF FINANCIAL SUPPORT

- This program has no financial or in-kind support

LEARNING OBJECTIVES

- Brief overview of the Mental Health Act (MHA)
- Learn about MHA updates relevant to family physicians
- Adult Guardianship Act (AGA) – when do you consider using AGA and not MHA?

TOPICS

- BC MHA overview
- MHA updates
- Adul Guardianship Act and MHA

CASE # 1

- 62-yr old male with a history of schizophrenia with resistive persecutory delusions and intermittent auditory hallucinations
- On multiple psychotropics
- Attended community MHSU until he was admitted to LTC due to functional decline
- Symptoms continue to be problematic with verbal outbursts, talking to self and wanting to go out and you have been adjusting his meds
- On duty nurse contacts you as he became physically aggressive towards the staff and one male resident believing he was sent by the devil to kill him.

CASE # 2

- 78-yr old female with a history of vascular MNCD and comorbid major depression with psychosis requiring hospitalization and ECT
- Interventions – has been on an antidepressant and a low dose antipsychotic
- Previously attended community MHSU
- Staging – progressive decline with increased care giver needs
- Staff concerned as poorly eating, lost weight, refusing care, not sleeping and disengaged with participating in activities

BC MENTAL HEALTH ACT (MHA)

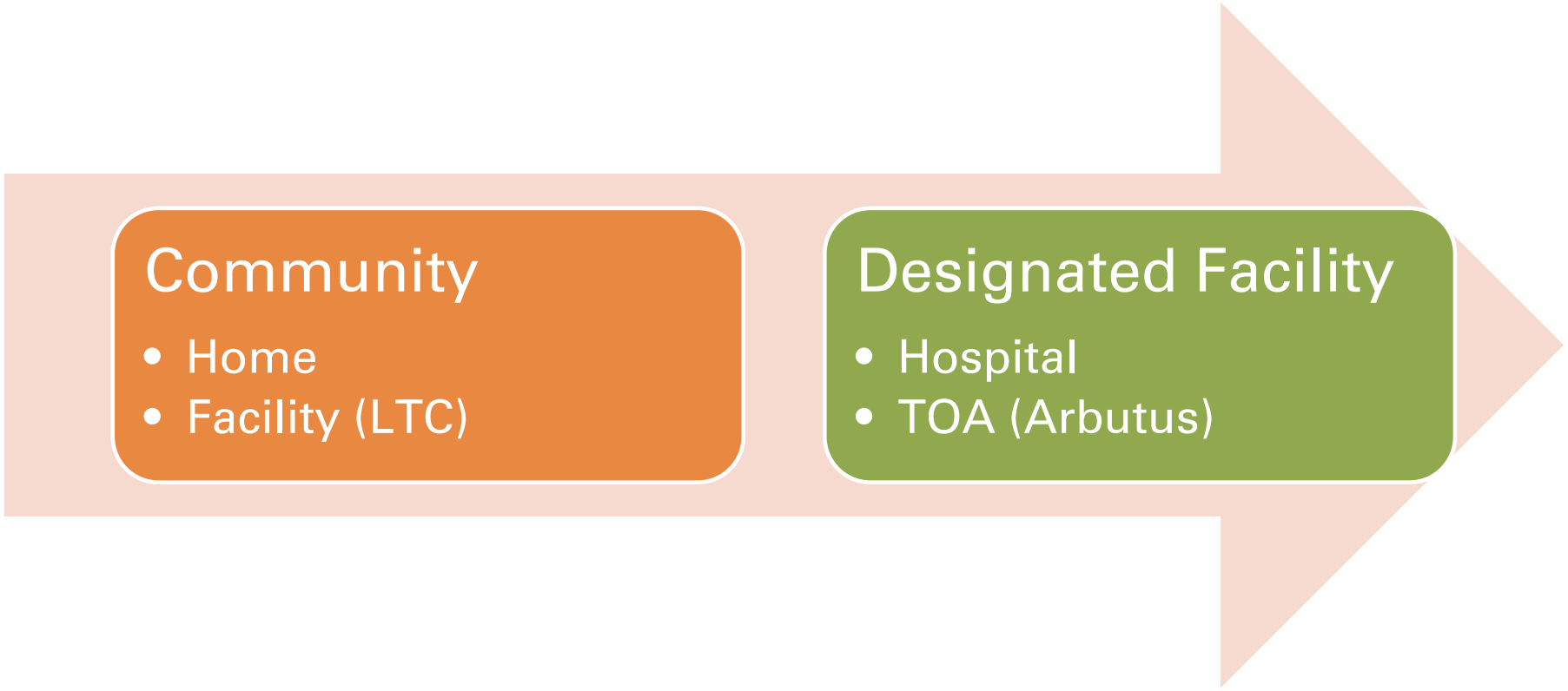
BC MENTAL HEALTH ACT (MHA)

- BC MHA became a law in 1964 with many updates since then
- Most people are admitted voluntarily but people with serious mental health illness who refuse may suffer and involuntary admissions under MHA prevents suffering and allow recovery
- To treat and protect the individual rights of people with severe mental disorders.
- To provide authority, criteria, and procedures for involuntary and voluntary admissions and treatment.
- The MHA forms provide the legal authority for an involuntary admission and detention, and, when properly completed, provide evidence that facilities are safeguarding patients' constitutional rights in the admissions process.

KEY TERMS

- **Designated Facility:** A person can only be admitted as an involuntary patient under the MHA to facilities designated by the Minister of Health such as “Provincial mental health facilities”, “psychiatric units” and “observation units”.
- **Director/delegate:** The person responsible for the operation of a designated facility is referred to in the MHA as the “director” ensuring each patient is provided with professional service, care and treatment appropriate to the patient’s condition.
- **Voluntary admission:** An adult may voluntarily seek admission to a designated facility for treatment of a mental disorder under either the Hospital Act or the Mental Health Act. A voluntary patient may discharge themselves.
- **Involuntary admission:** Arranged through a physician’s Medical Certificate, through police intervention (If a person will not go to a hospital or a physician’s office, or if a physician cannot visit the person, the police may be able to help) or through an order by a judge (If the police cannot help, a judge may be able to assist).

THE PROCESS


Community
• Home
• Facility (LTC)
Designated Facility
• Hospital
• TOA (Arbutus)

VOLUNTARY TO INVOLUNTARY

- A person admitted voluntarily may require an admission under MHA if too unwell or deemed incapable to consent to treatment or risk to self and others
  - Section 28 – Call Police if a person is likely to harm self or others
  - Initiate admission after completing a medical certificate

3 WAYS OF INVOLUNTARY ADMISSION

- Through a physician's Medical Certificate (section 22) – preferred method
- Through police intervention(section 28.1) – If a person will not go to a hospital or a physician's office, or if a physician cannot visit the person, the police may be able to help
- Through an order by a judge (section 28.2) – If the police cannot help, a judge may be able to assist

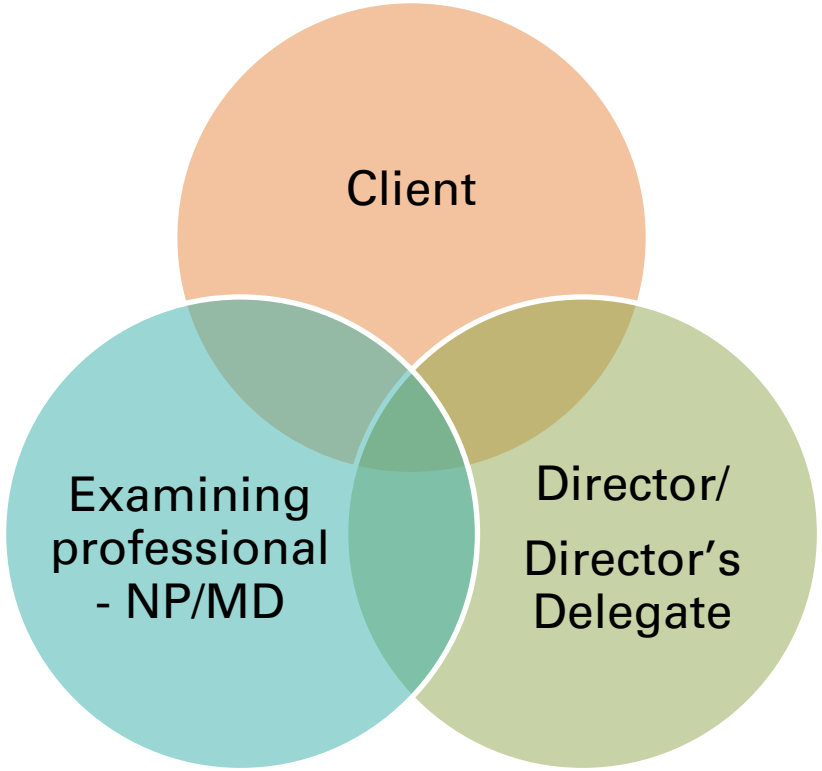
FORMS

- Form 1: voluntary patient
- Form 2: consent for treatment
- Form 3: medical report for child under 16
- Form 4: first medical certificate
- Form 5: consent for treatment
- Form 6: renewal certificate
- Form 7: application for a review panel
- Form 8: review panel determination
- Form 9: application for warrant to apprehend a person
- Form 10: warrant to apprehend a person
- Form 11: request for a second medical opinion
- Form 12: second medical opinion report
- Form 13: notification of rights under MHA
- Form 14: notification to rights to child under 16
- Form 15: nomination of a near relative
- Form 16: notification of admission to near relative
- Form 17: notification of discharge to near relative
- Form 18: notification to near relative of review panel hearing
- Form 19: certificate of discharge
- Form 20: leave authorization
- Form 21: director's warrant

WHAT HAS CHANGED?

- Form 4 replaced with two forms
  - Form 4.1
  - Form 4.2
- Nurse Practitioners (NP) can do Form 4.1
- MHA delegate or director authorizes involuntary admission

KEY ELEMENTS



INVOLUNTARY ADMISSION

- **Form 4.1** The First Mental Health Act (MHA) form to complete for an involuntary admission is the Medical Certificate Form 4.1 NEW
  - It is used to admit a person to a designated facility for **up to 48 hours** for further examination and treatment.
- **Form 5** Consent for treatment NOT NEW
- **Form 4.2** Within 48 hours of completing a Form 4.1: If the patient still meets criteria under MHA Section 22(3) for involuntary admission, the Form 4.2 Second Medical Certificate is completed. NEW
  - It is valid for a month less a day from the time of admission to the designated facility.
  - 48-hour window starts when the Director or Director's Delegate signs Section 2 of the Form 4.1 or Form 4.2 respectively.

WHAT HAS NOT CHANGED – NO CHANGE

- MHA involuntary admission criteria
- Certification cycle
- Audit and reporting
- Other forms such as Form 13 Notifications of rights, Form 15 Nomination near relative or Form 16 Notification near relative
- Form 6 Re-examine patient at 1 month, 1 month, 3 months and 6 months

BRITISH COLUMBIA | Ministry of Health

Patient label area (optional)

FORM 4.1
FIRST MEDICAL CERTIFICATE (INVOLUNTARY ADMISSION)
[**Mental Health Act** sections 22, 28, 29 and 42, R.S.B.C. 1996, c. 288]

HLTH 3504.1 2022/12/06

SECTION 1 - All fields required to be completed.

First and Last Name of Person Examined (please print)		Personal Health Number (if available)
Name and Address of Examination Site	◯ Designated Facility ◯ Other Site	Examination Date (DD/MM/YYYY)

I have examined the person named above on the date noted above. I have determined that the person meets the requirements for involuntary admission under the Mental Health Act of British Columbia and I have set out the reasons for my determination below.

1. I have formed the opinion that the person **has a disorder of the mind that requires treatment and seriously impairs the person's ability to react appropriately to their environment or associate with others.** The reasons for my opinion are as follows:

2. I have formed the opinion that the person **requires treatment in or through a designated facility.** The reasons that I have formed this opinion are as follows:

3. I have formed the opinion that the person **requires care, supervision and control in or through a designated facility to prevent their substantial mental or physical deterioration or for the protection of the person or for the protection of others.** The reasons that I have formed this opinion are as follows:

4. I have formed the opinion that the **person cannot suitably be admitted as a voluntary patient.** The reasons that I have formed this opinion are as follows:

Signed below by: ☐ Check if summary continued on back of this page ☐ Patient was given a copy of this form

Examining Professional ◯ Physician ◯ Nurse Practitioner	Name of Examining Physician or Nurse Practitioner (please print)	**Signature** of Physician or Nurse Practitioner	Date Signed (DD/MM/YYYY)
	Phone Number / College ID Number		Time Signed 24HR HH:MM

◯ Yes ◯ No **This person was brought to me by a police officer or constable under section 28 of the Act.**

SECTION 2 - To be completed in a designated facility by someone other than the examining professional who completed Section 1

Note: In the case of a certificate relating to a person detained in a correctional centre or youth custody centre, Section 2 does not require completion.

I, the Mental Health Act Director or delegate, confirm that I have reviewed Section 1 of this form, and that it sets out the information required by section 22(3) of the Mental Health Act to involuntarily admit the person who was examined to the designated facility named below. **Involuntary Admission Date** (Date & Time Signed)

Name of MHA Director of Designated Facility or Delegate (please print)	**Signature** of Mental Health Act Director or Delegate of Designated Facility	Date Signed (DD/MM/YYYY)
Name of Designated Facility		Time Signed 24HR HH:MM

Note: When a Form 4.1 (First Medical Certificate) is completed outside of a designated facility, it is valid for up to 14 days from the date of medical assessment and authorizes apprehension, detainment and transportation to a designated facility. Involuntary admission begins when the Mental Health Act (MHA) Director or delegate of a designated facility completes Section 2 of Form 4.1 and lasts up to 48 hours. A Form 4.2 must be completed during this time to extend involuntary admission for up to one month. If a Form 4.2 is not completed within that time, a new Form 4.1 is required to restart involuntary admission. Form 5 must be completed to initiate involuntary treatment. Immediately upon involuntary admission, attempts must be made to help the person understand their rights under the MHA by completing Form 13.

FORM 4.1 FIRST MEDICAL CERTIFICATE (INVOLUNTARY ADMISSION) BACK

THIS SECTION TO BE COMPLETED ONLY IF SUMMARY IS CONTINUED ON THIS SIDE OF THE FORM

First and Last Name of Person Examined (please print)		Personal Health Number (if available)
Name of Examination Site	Examination Date (DD/MM/YYYY)	Examination Time 24HR HH:MM

Summary continued

Save Print Clear Form

FORM 4.1 – 1 (TWO SECTIONS)

- Section 1: Contains the patient identifying information, evidence of how the patient meets MHA involuntary admission criteria, and the information and signature of the examining professional.
- Section 2: Contains the information of the Director or Director's Delegate that reviews the Form 4.1.

- *Form 4.1 (and Form 4.2) are only valid when there are signatures in both Section 1 and Section 2

FORM 4.1 – 2 (SECTION 1)

- **Identifying data:** Identifying information of the person being examined (including name and PHN)
- **Site & date:** Identifying information regarding the Examination Site (community or the Designated Facility) and the Examination Date.
- **MHA criteria:** Individual sections for the four criteria of an involuntary admission under the Mental Health Act Section 22 (3).
- **Who completes:** Form 4.1 Section 1 is completed by the Examining Professional: MD or NP who is fully licensed to practice in BC. This cannot be a resident physician.
- **Validity:** The Form 4.1 is only valid:
  - If the examination happened within the previous 14 days before the date of admission. NOT NEW
  - If both Section 1 (Examining Professional) and Section 2 (Director/Director's Delegate) have been signed.

FORM 4.1 – 3 (MHA CRITERIA)

1. The person has a mental disorder that requires treatment and seriously impairs the person's ability to react appropriately to their environment or associate with others. Mental disorder causing serious impairment
2. The person requires treatment in or through a designated facility. Needs treatment in a facility
3. The person requires care, supervision, and control in or through a designated facility to prevent their substantial mental or physical deterioration or for the protection of the person or for the protection of others. To prevent harm, deterioration and protect people
4. The person cannot suitably be admitted as a voluntary patient. Voluntary admission is not possible.

FORM 4.1 – 4 (SECTION 2)

- Signed by the MHA Director or Director's Delegate
- The Director's Delegate acts on behalf of the director in admitting a person to the designated facility.
- The Director or Director's Delegate only reviews the quality of the recorded information in Section 1 and not the clinical evaluation or assessment by the examining professional.

FORM 4.1 – 5 (APPROVAL)

- The Director or Director's Delegate would return the form to the NP or MD, referencing which specific section(s) may require more information/detail.
- NP or MD would fill in more information for the respective criteria and return it to the Director/Director's Delegate to review.
- It is a collaborative process that can be repeated as needed.

- In cases where there is a difference of opinion, the *Mental Health Act Director's Delegate Escalation Algorithm* can be used.

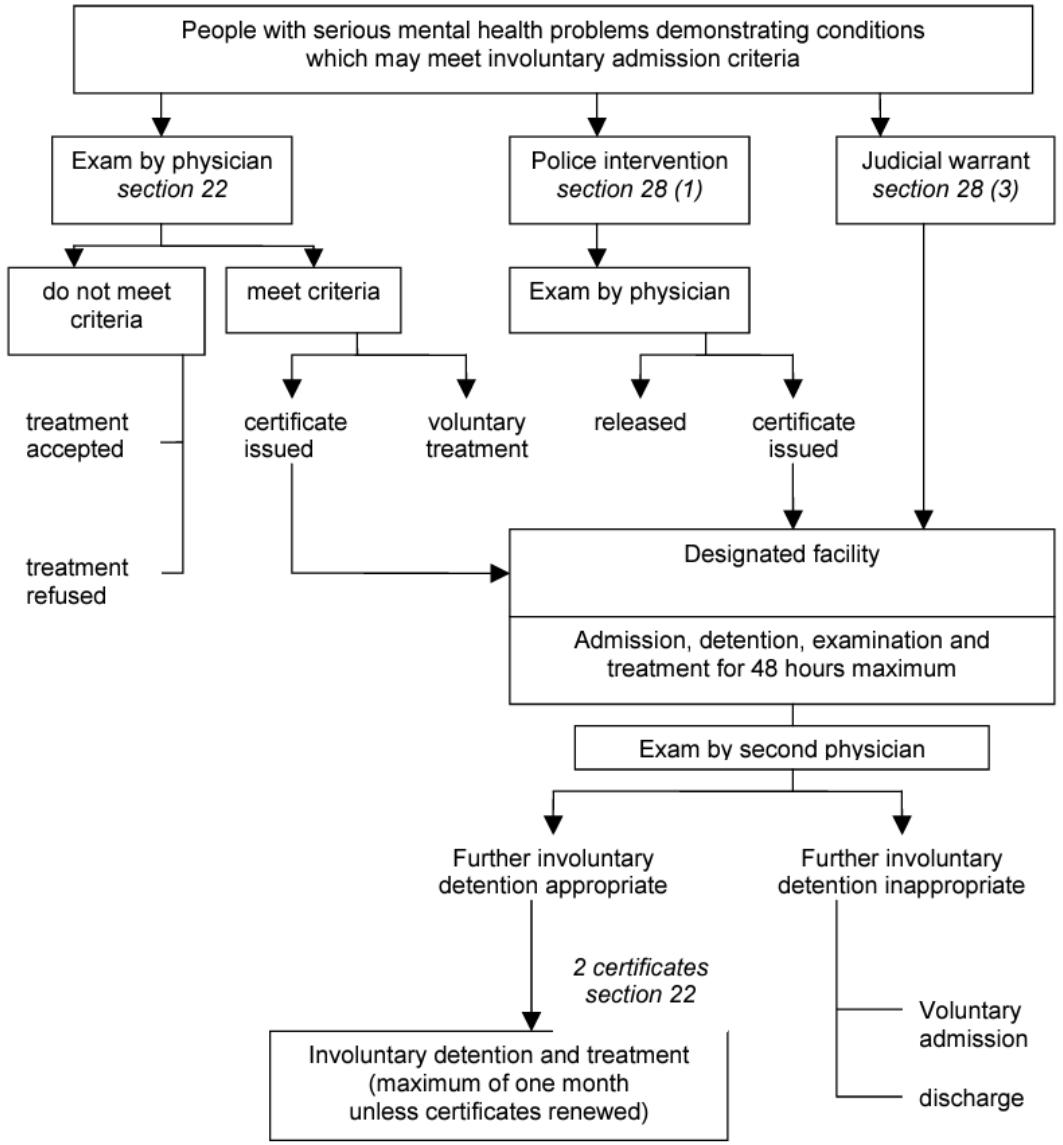
SUMMARY

- Form 4.1 is the First Medical Certificate of an involuntary admission.

  The Examination (Section 1) is valid up to 14 days before the date of admission to the designated facility.

  The Form 4.1 is fully completed when there are signatures in both Section 1 and Section 2.
- The completed Form 4.1 is valid for up to 48 hours.
- The Form 4.2 is needed to extend involuntary admission after a completed Form 4.1.

ACCESS TO INVOLUNTARY ASSESSMENT AND TREATMENT



ISSUES

BRITISH COLUMBIA | Ministry of Health

Patient label area (optional)

FORM 4.1
FIRST MEDICAL CERTIFICATE (INVOLUNTARY ADMISSION)

[**Mental Health Act** sections 22, 28, 29 and 42, R.S.B.C. 1996, c. 288]

HLTH 3504.1 2022/12/06

SECTION 1 - All fields required to be completed.

First and Last Name of Person Examined (please print)	Personal Health Number (if available)

Name and Address of Examination Site	◯ Designated Facility ◯ Other Site	Examination Date (DD/MM/YYYY)

I have examined the person named above on the date noted above. I have determined that the person meets the requirements for involuntary admission under the Mental Health Act of British Columbia and I have set out the reasons for my determination below.

1. I have formed the opinion that the person **has a disorder of the mind that requires treatment and seriously impairs the person's ability to react appropriately to their environment or associate with others.** The reasons for my opinion are as follows:

2. I have formed the opinion that the person **requires treatment in or through a designated facility.** The reasons that I have formed this opinion are as follows:

3. I have formed the opinion that the person **requires care, supervision and control in or through a designated facility to prevent their substantial mental or physical deterioration or for the protection of the person or for the protection of others.** The reasons that I have formed this opinion are as follows:

4. I have formed the opinion that the **person cannot suitably be admitted as a voluntary patient.** The reasons that I have formed this opinion are as follows:

Signed below by: ☐ Check if summary continued on back of this page ☐ Patient was given a copy of this form

Examining Professional ◯ Physician ◯ Nurse Practitioner	Name of Examining Physician or Nurse Practitioner (please print)	**Signature** of Physician or Nurse Practitioner	Date Signed (DD/MM/YYYY)
	Phone Number / College ID Number		Time Signed 24HR HH:MM

◯ Yes ◯ No **This person was brought to me by a police officer or constable under section 28 of the Act.**

COMMON ISSUES

- Label but no name NEW
- The evidence for each criteria must go to the appropriate box NEW
- Writing BPSD is not enough NOT NEW
- It was not acceptable to right the same thing in all 4 boxes as each box needs specific information related to the criteria NEW
- NP or MD are only signing section 1 NEW
- Psychiatrist is not necessary for Form 4.1 NOT NEW
- Section 2 can only be signed by the director or director's delegate at a designated facility NEW
- Form 4.1 will expire if client not brought to the designated facility within 14 days NOT NEW
- Cannot reuse the same Form 4.1 NOT NEW
- If properly completed, it reduces workload and allows smooth transition from the community

RESOURCES

- Learning Hub: course#31539
- Mental Health Act Toolkit
- Form 4.1 Quick reference
- Form 4.2 Quick reference

CASE # 1

- 84-yr old male with a history of MNCD and BPSD
- Interventions – has been on an antidepressant, a low dose antipsychotic and benzodiazepine
- Previously attended SSC for multiple medical issues and known to home health
- Staging – progressive decline with increased care giver needs
- Staff concerned as not eating properly, resistive to care with occasional aggression, falls, refuses to use walker, common law partner objects to treatment, called police, wants to take home, and accusing staff of hurting the person

CASE # 2

- 90-yr old female with a history of MNCD
- Interventions – has been on an antidepressant,
- Previously attended MHSU and known to home health
- Staging – progressive decline with increased care giver needs
- History of refusing help, fired caregivers, not taking meds, had a rich husband who died leaving multiple properties and investments, no family, a close friend was POA, fired by her and appointed an ex-caregiver as SDM/POA, concerns about ongoing delusions, wanting to go home, exit seeking, SDM not providing comfort money or meeting other needs

ADULT GUARDIANSHIP ACT (AGA)

AGA – PURPOSE

- AGA (2000) protects adults with an injury, condition or a disease which make them vulnerable to self-neglect or neglect or abuse by others
- Aim: AGA protects adults who are incapable of managing financial or personal affairs as a result of the above
- AGA states that every adult is presumed to be capable of managing his or her own affairs
- AGA states when an adult does require support, it must be provided in the least restrictive and intrusive form.

AGA – WHO RESPONDS

- A designated responder (DR) who receives, processes and coordinates the efforts related to an AGA investigation

AGA – IMMINENT RISK (SECTION 59)

- Section 59 (Emergency assistance) of the AGA allows for urgent action by a designated agency (e.g., FHA) if there is **imminent risk** AND the following **criteria** met:
  - The adult is apparently abused or neglected.
  - It is necessary, in the opinion of the person from the designated agency, to act without delay in order to:
    - Preserve the adult's life.
    - Prevent serious physical or mental harm.
    - Protect the adult's property from significant loss or damage.
  - The adult is apparently incapable of giving or refusing consent.
- It requires the **DR** to act

AGA – NONEMERGENCY (SUPPORT AND ASSISTANCE)

- Sections 47 to 51 (medical treatment) and 53 to 56 (admission)
- The designated agency (e.g., FHA) can prepare a plan and specify any services required by the adult
- These plans can be prepared using guidance by the Public Guardian and Trustee of British Columbia (PGT)
- Consenting adult: The plan requires the consent of the adult for whom it is designed
- Nonconsenting adult: If the adult is unable to consent to the plan, the agency can apply for approval through a court order for a duration lasting for 1 year (under Section 56) and can be renewed

AGA – STATUTORY PROPERTY GUARDIANSHIP (SPG)

- Aimed at managing finances
- SPG stipulates the criteria, conditions, standards, and rights notifications of an adult to be certified as **incapable of managing finances**
- PGT will take over managing the financial affairs
- Requires multidisciplinary input including Physicians completing the medical component of the SPG (Financial Capability Assessment)



ANY QUESTIONS

FARHAN.HAQUE@FRASERHEALTH.CA