Mental Health Act: Mental Health Warrant (Form 8)

Under the *Alberta Mental Health Act*, anyone may seek a Form 8 Mental Health Warrant by presenting information, under oath, in front of a presiding Judge in the Alberta Court of Justice. The person bringing information forward must have reasonable and probable grounds to believe that a person:

1) is suffering from a mental disorder, **and**
2) within a reasonable time, likely to cause harm to others or to suffer negative effects, including substantial mental or physical deterioration or serious physical impairment, as result of or related to the mental disorder
   OR
3) is subject to a Community Treatment Order and is not complying with the order

A mental disorder is defined under Alberta's Mental Health act as a substantial disorder of thought, mood, perception, orientation or memory that grossly impairs judgement, behaviour, capacity to recognize reality or ability to meet the ordinary demands of life.

In Lethbridge, a Mental Health Warrant can be issued during regular docket court. This is located on the **2nd floor of the Lethbridge Court House at 320 4 Street South.** Court runs Monday to Friday (not including statutory holidays), from 08:15 to 16:30. There are a number of factors that determine how long someone may have to wait to have their application heard by the court.

If a judge is satisfied that the above noted grounds are met, they can issue a warrant, which authorizes a Peace Officer to apprehend the individual within seven days from date of the warrant and convey them to the closest designated facility. It is important to understand that a Mental Health Warrant, if issued, only guarantees a Peace Officer will take the individual to a designated facility for an evaluation. It is then up to the assessment team (the examining Physician does not need to be a Psychiatrist) at the designated facility to determine if the individual qualifies for admission. Sometimes, the individual is taken to a designated facility, assessed and released several hours later.

Before Attending Court

It is important to understand that the court views a Mental Health Warrant as a strategy of last resort. Before attending court to apply for a Mental Health Warrant, attempts should have been made to get the individual to go for treatment voluntarily. You can document a list of any missed medical appointments, or conversations you or others have had attempting to get the individual to seek assessment or treatment. The court will likely ask about these unsuccessful attempts to ensure that an assessment cannot be arranged in another, less intrusive way.

The judge is looking for a risk of harm to meet criteria. Any behaviours the individual has taken that show attempt to harm self or others should be noted in the "Mental Health Act – Summary". If there are no noted behaviours, verbal threats of harm to self or threats of harm to others may also be considered by the court. The individual may also be involved in risky behavior, for example, dangerous driving, non-compliance with medication, or other behaviours that are **not usual for the individual**. While this behavior may not be intended to harm the individual or others, it could result in harm if continued.

Compiling this information before attending court is helpful to reduce the person attending court's stress and show the judge that you have come prepared.

While you may bring friends or family for support, **the judge will generally only hear testimony from one individual.**

Arrival at the Lethbridge Court House

Go to the Court Clerks desk and notify the clerk that you are there to seek a Mental Health Warrant. You will need to complete a document called the Mental Health Act – Summary. You will then be directed by the clerk to a specific court room to appear before a Judge to bring "information under oath". (Form 7)

Court Proceedings

While you are not on trial during the court proceedings, you will be directed to swear in or affirm before you give testimony on the stand. You will need to provide evidence to satisfy to the judge on the need for the warrant. Any evidence that clearly indicates a risk of harm to self or others should be stressed. While the *Mental Health Act* states that significant deterioration is grounds for a warrant, the judge still looks for risk that some form of harm may occur without having the individual assessed.

Describe for the court the **behaviours that you have witnessed recently**. Be specific. Refer the judge to any written correspondence you may have brought along to support your observations. Although an understanding of historical information is important, focus on recent details, as the court wants to know an urgency as to "why now" you are seeking a warrant.

As noted previously, the court will also likely ask what attempts have been made to get the individual to submit to voluntary assessment or treatment.

If the Warrant is issued

You will receive two envelopes, both are sealed and you are to take them to the police service of Jurisdiction. If that jurisdiction is Lethbridge, both envelopes are given to the Lethbridge Police. One envelope is for the hospital and the other is for the police service with either copies or originals of the information you provided and the warrant itself.

As noted previously, a Mental Health Warrant is valid seven days from the date it is issued. It can be renewed on application of a Peace Officer and the extension possibly granted by Judge for an additional seven days if completed prior to the original warrant expiry.

Execution of the Warrant

The *Mental Health Act* does not allow the Alberta Court of Justice Judge to authorize entry into a residence to apprehend the individual. Therefore, a Police Officer cannot enter a home uninvited for the execution of a Mental Health Warrant.

The warrant instructs a Peace Officer to take an individual to a designated facility or designated secure location for evaluation. **It is up to the assessment team at the designated facility or secure location, not the court, to determine if the individual will be admitted**.

The *Canadian Charter of Rights and Freedoms* applies to all individuals detained under the *Mental Health Act*. The individual shall be informed that they are being detained and why, and that they have the right to speak to legal counsel. The Lethbridge Police Service reads a "Mental Health Caution" to the person being apprehended and provides them with information about calling a lawyer or a mental health patient advocate.

Assessment at a Secure Location/ Designated Facility

You may wish to attend the designated facility to provide information. The assessment team **may** agree to speak with you and will be given a copy of the Mental Health Summary and Warrant. The individual may present cooperatively, behave appropriately, and answer questions coherently during the assessment. If this is the case, it will be more difficult for the assessment team to believe that there are grounds for the individual to be required to stay longer than the time it takes to complete the assessment, if not voluntarily seeking treatment. Therefore, collateral evidence from you or others **may** help

If the assessment team decides that the individual needs to be held for treatment or to keep them in a safe environment, a Qualified Health Professional, defined as a Physician or Nurse Practitioner, can issue further certification under the *Mental Health Act*. A Form 1, issued by a Qualified Health Professional, holds the individual at the designated facility for up to twenty-four hours, giving additional time to complete a second assessment. A second Qualified Health Professional issuing an additional Form 1, within the twenty-four-hour time period, will make this individual a "formal patient" under the *Mental Health Act*, which allows for an involuntarily admission to a designated facility for up to thirty days.

Criteria for certification under the *Mental Health Act* (known as a Form 1), a Qualified Health Professional must be under the opinion that an individual:

(a) is suffering from mental disorder,
(b) has the potential to benefit from treatment for the mental disorder,
(c) is within a reasonable time, likely to cause harm to others or to suffer negative effects, including substantial mental or physical deterioration or serious physical impairment as a result of or related to the mental disorder, and
(d) is unsuitable for admission to a facility other than as a formal patient

A mental disorder, for the purpose of the *Mental Health Act* is defined as a substantial disorder of thought, mood, perception, orientation or memory that grossly impairs judgement, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life. This definition, however, does not include a disorder in which the resulting impairment is persistent and is caused solely by an acquired or congenital irreversible brain injury.

Summary – Process to Obtain a Form 8 Mental Health Warrant

1. Attend the Lethbridge Court House at 320 4 Street South, go to the Court Clerks Desk.
2. Complete the Mental Health Act – Summary Person in Need of Examination.
3. You will be directed to a court room to swear or affirm your information (legally called a Form 7). Focus on the behaviours of the person you want taken to hospital. (The amount of time you have to wait is determined by how busy the court is).
4. If the Form 8 is granted, you will be given two envelopes. Take them to the Lethbridge Police Station.
5. The Lethbridge Police have seven days from the date of issue to apprehend and convey the person named in the warrant to Chinook Regional Hospital.
6. Once the person is at the hospital, the Form 8 ensures the person is assessed by an ER Doctor. The ER Doctor determines next steps.