



**Government of the Northwest Territories Response to Committee Report 16-20(1):
Report on the Statutory Review of the *Mental Health Act***

The Standing Committee on Social Development (SCOSD) is mandated by the *Mental Health Act* (MHA) to review the MHA and its implementation every five years. The SCOSD completed their review and provided their report titled, "Report on the Statutory Review of the Mental Health Act" (Report) on October 29, 2024, at which time the Report was considered and adopted by the Legislative Assembly. The Report includes 40 recommendations. The following is the Government of the Northwest Territories' (GNWT) formal response to the Report and the recommendations.

The GNWT thanks SCOSD for its research, engagement, and recommendations, which will be of use in ongoing work to reform the NWT's mental health system.

Recommendation 1: *The Standing Committee on Social Development recommends the Government of the Northwest Territories conduct a comparative analysis of the Northwest Territories' Mental Health Act against other jurisdictions' mental health care legislation, to significantly reduce and mitigate the administrative burdens and procedural complexities of the Mental Health Act (including Forms under the Mental Health Act) and present constructive amendments to the Mental Health Act for consideration.*

GNWT Response:

Amendments to the MHA are part of the work needed to continue to make improvements to the mental health system in the Northwest Territories (NWT). The Department of Health and Social Services (Department) supports reducing and mitigating the administrative burdens and procedural complexities of the MHA. The Department will conduct a jurisdictional scan to compare the NWT MHA against other jurisdictions' mental health legislation and will propose constructive amendments to the NWT MHA for public and stakeholder feedback in the 21st Legislative Assembly. It is likely that the results from this scan will inform the outcomes of the Department's work towards advancing other recommendations in SCOSD's report.

Recommendation 2: *The Standing Committee on Social Development recommends the Government of the Northwest Territories allow flexibility to the Mental Health Act Review Board to hold hearings outside of the current notice requirement of seven days with the consent of all parties by reviewing Section 70(1) of the Mental Health Act to remove the seven-day notice requirement and defer the*

minimum notice requirement to the Mental Health Act Review Board Regulations.

GNWT Response:

The Department will propose amendments to the MHA in the 21st Legislative Assembly, including to s.70(1)(b) to remove the seven-day notice requirement from the MHA and to defer the minimum notice requirement for a review panel hearing to the *Mental Health Act Review Board Regulations* and to allow a shorter time-period to be set with the consent of all parties, ensuring that there are no unnecessary delays in the hearing process. The Department will engage with the Mental Health Act Review Board (MHARB) to inform the proposed amendment.

Recommendation 3: *The Standing Committee on Social Development recommends the Government of the Northwest Territories review Section 10(2) of the Mental Health Act to determine a more realistic timeline to issue a Certificate of Involuntary Assessment, in consultation with the Royal Canadian Mounted Police and physicians including psychiatric professionals.*

GNWT Response:

The Department will conduct a review of Section 10(2) and other relevant sections (e.g., 12(3)) of the MHA to determine the most appropriate length of time to issue a Certificate of Involuntary Assessment. The review will be a joint effort between the Department, the Health and Social Services Authorities, and the RCMP to assess the capacity of the health centres across the NWT to determine how much time it typically takes for a Form 2 and other relevant forms to be issued, what is reasonable in terms of patient's rights, and what timelines other jurisdictions have in their legislation. Should it be determined that amendments are required, they will be proposed in the 21st Legislative Assembly.

Recommendation 4: *The Standing Committee on Social Development recommends the Government of the Northwest Territories review Section 17 of the Mental Health Act and compare to similar provisions in other jurisdictions to determine the appropriate length of time before a certificate expires in order to issue a renewal certificate.*

GNWT Response:

The Department will conduct a review of similar provisions in the other jurisdictions in Canada to determine the appropriate length of time before a certificate expires in order to issue a renewal certificate. This review will include an operational lens and will require data respecting the length of admissions to inform the appropriate timelines for renewing

involuntary admissions. Should it be determined that amendments are required, they will be proposed in the 21st Legislative Assembly.

Recommendation 5: *The Standing Committee on Social Development recommends the Government of the Northwest Territories assess the addition of a provision added to the Mental Health Act for the Mental Health Act Review Board to review a certificate after a cancelled hearing based on best practices and national standards.*

GNWT Response:

The Department will review the Review Board provisions in other jurisdictions' mental health legislation to determine if amendments should be pursued to the overall MHARB framework. The ability for the MHARB to review a certificate after a cancelled hearing will be included as a part of this scan. Should it be determined that amendments are required, they will be proposed in the 21st Legislative Assembly.

In the interim, the Department will work to substantiate data regarding applications to the MHARB with information regarding number of admissions. This recommendation will be further addressed by:

- Establishing processes to share admission statistics with the MHARB to inform their annual reports to the Minister.
- Reviewing the need to promote additional awareness amongst staff who are responsible for providing patients with information about their rights under the MHA to ensure all persons being held under the MHA are being appropriately informed of their right to apply to the MHARB.
- Review and consider updating Form 5 and Form 19 to include a section for patient consent to share cancellation information with the MHARB.

Recommendation 6: *The Standing Committee on Social Development recommends the Government of the Northwest Territories review Sections 66(1)(a) and Section 74(1)(a) and (b) of the Mental Health Act to remove the ability to apply to the Mental Health Act Review Board to cancel Form 2 – Certificate of Involuntary Assessment.*

GNWT Response:

The Department will propose amendments to remove the ability to apply to the MHARB to cancel Form 2 – Certificate of Involuntary Assessment as part of the amendments proposed to the MHA in the 21st Legislative Assembly.

In the interim, health professionals have been asked to ensure they are clearly communicating to individuals subject to a Certificate of Involuntary Assessment that, if they apply to the MHARB for a review of their Certificate of Involuntary Assessment, they would

need to submit an additional application if they would like a review to cancel their Certificate of Involuntary Admission if they are ultimately involuntarily admitted.

Recommendation 7: *The Standing Committee on Social Development recommends the Government of the Northwest Territories review the Mental Health Act and its regulations (e.g. Section 16(1) of the Mental Health Act Review Board Regulations) to reflect timelines in days or business days, rather than hours, where appropriate.*

GNWT Response:

The Department will review the MHA and its regulations to determine where amendments should be proposed to reflect timelines in days or business days, rather than hours. Proposed amendments will be put forward in the 21st Legislative Assembly.

Recommendation 8: *The Standing Committee on Social Development recommends the Government of the Northwest Territories work with the Mental Health Act Review Board to clarify where and how the Interpretation Act applies to the Mental Health Act and determine if the current two-day timeline in Section 67(2) remains a challenge despite the flexibility afforded by the Interpretation Act.*

GNWT Response:

The Department will engage with the MHARB to clarify that the *Interpretation Act* applies and to determine if the two-day timeline remains a challenge. Should challenges remain, amendments will be considered for inclusion with the proposed amendments put forward to the MHA in the 21st Legislative Assembly.

Recommendation 9: *The Standing Committee on Social Development recommends the Government of the Northwest Territories work with the Mental Health Act Review Board to find ways to streamline the hearing process and evaluate the time it takes to conduct a hearing and reasons why the hearing process may be deemed too long.*

GNWT Response:

The Department will work with the MHARB and the Health and Social Services Authorities to streamline the hearing process and evaluate the time it takes to conduct a hearing.

The Department will also conduct a jurisdictional scan to compare the NWT MHA against other jurisdictions' mental health legislation and Review Board frameworks to determine

if amendments may be required and should be proposed in the 21st Legislative Assembly.

Recommendation 10: *The Standing Committee on Social Development recommends the Government of the Northwest Territories review and expand the role of the cultural advisor under Section 71(5) and Section 68.1 of the Mental Health Act including adjusting the wording “to a review panel” in the Mental Health Act to “a time deemed appropriate for patient needs”.*

GNWT Response:

The Department will engage with the MHARB to review Elder/cultural advisor provisions to determine amendments that should be proposed to further clarify that the Elder/cultural advisor is to be engaged to the extent and for any purpose(s) requested by the patient. The Elder/cultural advisor is intended to support the patient under the MHA and the Department is committed to ensuring this provision is patient centered and works as it was intended to. Amendments will be proposed in the 21st Legislative Assembly.

Recommendation 11: *The Standing Committee on Social Development recommends the Government of the Northwest Territories include a specific provision in the Mental Health Act that outlines that the Mental Health Act Review Board panel may disclose information to the cultural advisor to the extent the panel deems necessary or wording that outlines how and when the cultural advisor will receive information.*

GNWT Response:

The disclosure of personal health information is governed by the NWT *Health Information Act*. The Department will engage with the MHARB to determine amendments that should be proposed to s.68.1 to further clarify that the Elder/cultural advisor is to be engaged to the extent and for any purpose(s) requested by the patient. This will include consideration of amendments respecting what may be disclosed to the Elder/cultural advisor in accordance with the *Health Information Act*. Again, the Elder/Cultural Advisor is intended to be a support for the patient under the MHA, and the Department is committed to ensuring this provision is patient centered and working as it was intended to. Should it be determined that amendments are required, they will be proposed in the 21st Legislative Assembly.

Recommendation 12: *The Standing Committee on Social Development recommends the Government of the Northwest Territories provide training to staff and Mental Health Act Review Board panel members on the disclosure of information provisions held within the Mental Health Act, and the processes that follow them.*

GNWT Response:

The Department is reviewing MHA forms to ensure necessary changes are made to include clear patient instructions and selection options for disclosure, where applicable (i.e. consent to share information to an Elder/cultural advisor). This will include engaging with the MHARB, Health and Social Services Authorities, and Chief Health Privacy Officer to determine the changes required, ensure operational processes align with the MHA and *Health Information Act* requirements, and to provide necessary training.

Recommendation 13: *The Standing Committee on Social Development recommends the Government of the Northwest Territories review, compare and adjust definitions and terminology in the Mental Health Act against healthcare operations and language to promote appropriate and streamlined operationalization of the Mental Health Act*

GNWT Response:

The Department will work with the Health and Social Services Authorities to review terminology and amendments that may be required to better align the terms used in the MHA with operationalization of the MHA by health and social services professionals. This will include a jurisdictional review of terms to ensure they also reflect changing and emerging trends across Canada. Should it be determined that amendments are required, they will be proposed in the 21st Legislative Assembly.

Recommendation 14: *The Standing Committee on Social Development recommends the Government of the Northwest Territories review the suitability of the Inuvik Regional Hospital and the Hay River Health Centre as designated facilities (including an analysis of environmental and staffing capacity) under the Mental Health Act and review the ability to add different classes of designated facilities within the Mental Health Act and its regulations, using other jurisdictional models as an example.*

GNWT Response:

The Department will complete a jurisdictional scan to determine if different classes of facility designations can be considered for inclusion in the NWT MHA. The Department and the Health and Social Services Authorities will subsequently work with relevant partners to review potential options against operational capacity of NWT health facilities to inform proposed amendments to put forward in the 21st Legislative Assembly.

Recommendation 15: *The Standing Committee on Social Development recommends the Government of the Northwest Territories review and expand the definition of “mental disorder” in the Mental Health Act by conducting a jurisdictional review of definitions.*

GNWT Response:

Terminology in the mental health space is constantly changing and language in the MHA may be out of date. The Department will pay attention to the definitions in other jurisdictions’ mental health legislation when conducting its jurisdictional scans to inform proposed amendments to the NWT MHA to put forward the 21st Legislative Assembly.

Recommendation 16: *The Standing Committee on Social Development recommends the Government of the Northwest Territories establish an ongoing territorial working group with involvement from the Royal Canadian Mounted Police and health staff/professionals to ensure legislation, mandates and processes align in administering the Mental Health Act and providing services for mental health crisis emergency response in communities.*

GNWT Response:

The Health and Social Services system is committed to enhancing collaboration and partnerships to implement the MHA with a trauma informed, recovery oriented, and person-centric approach. The Department and Northwest Territories Health and Social Services Authority (NTHSSA) will work together to establish an advisory committee with partners, including the RCMP and health and social services professionals, to inform proposed amendments to the MHA. This will include developing a plan for an ongoing territorial working group, leveraging existing groups to the extent possible, that can ensure legislation, mandates, and processes align in administering the MHA and providing emergency mental health services in communities going forward.

Recommendation 17: *The Standing Committee on Social Development recommends the Government of the Northwest Territories evaluate whether the definition of the acceptance of a patient after conveyance can be moved to the Mental Health Act’s regulations.*

GNWT Response:

The MHA and regulations clearly require that persons being conveyed under the Act be “supervised” by a peace officer at all times until the facility or another authorized person (peace officer or medevac) has accepted custody of the person. A peace officer is defined in section 1(1) of the MHA as “a member of the RCMP or a prescribed person or class of persons.” This allows another person or class of persons to be prescribed in the regulations to be able to perform the duties and exercise the powers of a peace officer under the MHA. Currently, only medevac personnel have been designated, as per s.2(1) of

the *Apprehension, Conveyance and Transfer Regulations*. If it is identified that another group of people could be added to this definition, it can be prescribed in the regulations.

While the duty of care is on the health professional once the person has been conveyed to the health or designated facility, because individuals who are brought to a health facility under the MHA are often at significant risk of harming themselves or others, it is not uncommon for smaller health facilities with limited staff to be unable to detain and control the person in order to complete the necessary examination.

The Department will work with the Health and Social Services Authorities and the RCMP to review the MHA and the use of the term “accept” to determine whether amendments are required to MHA and/or regulations to clarify when a peace officer or other authorized person’s duties respecting conveyance, apprehension, and control cease following arrival at the health or designated facility. This will also include consideration of other persons that could be prescribed as an “other authorized person” to reduce the burden on RCMP and risk to health professionals. Should it be determined that amendments are required, they will be proposed in the 21st Legislative Assembly.

Recommendation 18: *The Standing Committee on Social Development recommends the Government of the Northwest Territories review the definition of “health professional” within the Mental Health Act to determine if the list can be further expanded where appropriate.*

GNWT Response:

The definition for “health professional” in the MHA allows for the definition to be expanded by prescribing a certain group of people in the regulations without a need to amend the MHA. Currently, there is nobody that is prescribed as a health professional in the regulations; however, registered nurses (RN) and registered psychiatric nurses (RPN) were recently added to the definition within the MHA when the new *Nursing Profession Act* came into force in November 2023. RNs had previously been prescribed in the regulations.

All nurses are required by the *Nursing Profession Act* to practice within their own competencies, skills, and knowledge, so if they do not feel as though they have the required level of professional competency to safely carry out a procedure, they would not be able to do so.

It is recognized that the Health and Social Services system has not been operating to the full scope of the current definition, with RNs in the system not always aware of what they are or are not permitted to do under the MHA. Therefore, NTHSSA, in collaboration with the College and Association of Nurses of the Northwest Territories and Nunavut, is in the process of establishing internal communications to outline the skills required to complete examinations and issue forms under the MHA and who is permitted to perform these functions within the system (e.g., Community Health Nurses and Community Mental

Health Nurses).

As part of its review of its review of the MHA and mental health legislation across Canada to inform proposed amendments to put forward in the 21st Legislative Assembly, the Department will also review the definition of “health professional” to determine if it should be expanded. Before additional professions could be proposed for inclusion, such as social workers, fulsome engagement with the profession being considered would be required, including their professional association (if applicable) and regulatory bodies across Canada, and amendments to their regulatory framework(s) may also be needed.

Recommendation 19: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories review provisions related to the apprehension, conveyance, and transfer of patients under the Mental Health Act, including consulting with Royal Canadian Mounted Police and medical staff to have agreement on proper protocols and the development of a flow diagram for the transport of patients under the Mental Health Act in and out of territory.*

GNWT Response:

The Department will work with the Health and Social Services Authorities and RCMP to confirm the roles and responsibilities of peace officers and health professionals in the apprehension, conveyance, and transfer of patients and will develop a diagram for the transport of patients under the MHA. This work will also be used to inform amendments that may be proposed to the MHA in the 21st Legislative Assembly.

Recommendation 20: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories review provisions of the Mental Health Act and its regulations related to the apprehension, conveyance, and transfer of patients to specify the responsibility of peace officers in these processes.*

GNWT Response:

The Department recognizes that select wording in the provisions of the MHA and its regulations related to the apprehension, conveyance, and transfer of patients and the responsibility of peace officers in these processes can cause confusion.

The Department will review the MHA and its regulations as it relates to the apprehension, conveyance, and transfer of patients and the responsibility of peace officers and health professionals in these processes to inform proposed amendments to put forward in the 21st Legislative Assembly. The review will require engaging with the RCMP and the Health and Social Services Authorities to determine the best way to set out the provisions to ensure the safety of all parties involved. Capacity issues within health centres and RCMP detachments will need to be considered when making any amendments.

Recommendation 21: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories review provisions related to Short Term Leave in the Mental Health Act, especially related to the enforcement of a lack of compliance and streamlining administration so that Short Term Leave is less burdensome on staff, and that the review of these provisions be done with the lens of reviewing similar provisions in other jurisdictions.*

GNWT Response:

The current short term leave provisions were designed to allow leave from the facility for up to 30 days, but do not account for regular shorter leaves of absence that most patients require, such daily fresh air breaks, attending appointments, and other reasons. The Department will review the current short term leave provisions and similar leave of absence provisions in other jurisdictions to inform amendments that can be considered to reduce the administrative burden involved in allowing a patient to leave the facility regularly for short periods of time.

Reviewing current processes and assessment requirements in the MHA and regulations for patients on leave will allow for better coordination of timelines and required assessments, improved enforcement of compliance by health professionals, streamlined information to reduce number of forms and duplication of administrative tasks, and simplification of language and required information. This review will include consideration of perspectives of those who have experience working with the current short-term leave framework and operational requirements and capacities of the Health and Social Services system and the RCMP.

Proposed amendments resulting from this work will be put forward in the 21st Legislative Assembly.

Recommendation 22: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories review Section 52(1.2) of the Mental Health Act, Section 7 of the Apprehension, Conveyance and Transfer Regulations, and other sections of the Mental Health Act related to the temporary detention of patients, and bring forward changes to the Mental Health Act that provide solutions to issues related to the temporary detention of patients. This review should be completed in collaboration with the Royal Canadian Mounted Police, designated facilities, and relevant staff.*

GNWT Response:

As mentioned above, the Department is aware that select wording in the provisions of the MHA and its regulations related to the apprehension, conveyance, and transfer of patients

and the responsibility of peace officers and health professionals in these processes can cause confusion.

The Department will work with the Health and Social Services Authorities and RCMP to review provisions in the MHA and its regulations related to the temporary detention of patients. Proposed amendments resulting from this work will be put forward in the 21st Legislative Assembly.

It is noted that many challenges with temporary detention under the MHA are related to human and physical resource allocation, which cannot be solved by legislative amendments.

Recommendation 23: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories create a strategy to analyze and close the gap in pediatric psychiatric care in the Northwest Territories.*

GNWT Response:

The Department recognizes the importance of pediatric psychiatric care in the NWT. Current gaps in pediatric psychiatric care will be considered as the Department reviews the MHA for proposing amendments in the 21st Legislative Assembly; however, existing gaps are unlikely to be addressed through legislative amendments. When the jurisdictional scan to compare the NWT MHA against other jurisdictions' mental health legislation is conducted, attention will be paid to pediatric psychiatric care in other jurisdictions, which will inform necessary amendments to the MHA.

In addition to this work, the Department and the Health and Social Services Authorities will leverage existing initiatives and relationships to collaborate with stakeholders (e.g., Department of Education, Culture and Employment; Mental Wellness and Addictions Recovery Advisory Group; Child and Youth Counselor Steering Committee; etc.) to identify and address current gaps for this population and identify necessary improvements and funding needs.

Recommendation 24: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories review and amend the Mental Health Act to specify an authority who is responsible for oversight of the Mental Health Act, while also allowing flexibility to the Minister of Health and Social Services to designate such responsibility.*

GNWT Response:

The Department will explore options for an authority who is responsible for oversight of the MHA as it completes its jurisdictional review of mental health legislation across

Canada. This will need to include careful consideration of what resources (financial and human) may be required to support various levels of oversight. Proposed amendments will be put forward in the 21st Legislative Assembly.

Recommendation 25: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories significantly reduce the administrative burden on the Director of Designated Facilities as defined in the Mental Health Act through legislative amendments and regulatory change.*

GNWT Response:

The Department will review the duties of the Director of Designated facilities and determine where amendments can be made to the MHA to reduce the administrative burden on this role while ensuring overall responsibility for compliance can be maintained at the appropriate level. This will be informed by the Department's review of mental health legislation across Canada and accountability and oversight structures utilized in other jurisdictions. Necessary amendments will be put forward in the 21st Legislative Assembly.

Recommendation 26: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories consider amending Section 9.1 and Section 28(2) of the Mental Health Act after evaluating their capacity and operational effectiveness.*

GNWT Response:

The Department will include a review s.9.1 and s.28(2) as part of its jurisdictional review of mental health legislation and will engage with the Health and Social Services Authorities and the Canadian Psychiatric Association to ensure amendments being considered reflect best practice and patient rights, and operational capacity to the greatest extent possible. Proposed amendments will be put forward in the 21st Legislative Assembly.

Recommendation 27: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories provide additional education materials and training support to staff responsible for providing patients with information about their rights under the Mental Health Act.*

GNWT Response:

NTHSSA will increase its education efforts to ensure staff who are responsible for providing patients with information about their rights under the MHA are supported and understand their obligations under the MHA.

Recommendation 28: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories explore the possibility of an independent rights advisor or neutral party that vocalizes and reviews patient rights under the Mental Health Act with the patient, including whether this responsibility can be added to the cultural advisor role.*

GNWT Response:

The Department will work with the NTHSSA to explore options for an independent rights advisor or neutral party that can vocalize and review patient rights under the MHA with patients. This will include exploring the ability to leverage existing roles within the Health and Social Services system to provide this service.

Recommendation 29: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories review, amend and simplify Form 1 – Notification of Patient Rights and Other Information using an operational lens and a lens of persons with lived experience while also evaluating the benefits of creating a separate form specific to patient rights, as depicted in Alberta and British Columbia’s mental health care legislation.*

GNWT Response:

The Department and NTHSSA will review the current Form 1 to determine where changes may be necessary to simplify the language and layout, while also considering including information on how to access advocacy and/or legal supports. This review will include an operational lens and perspectives of persons with lived experience.

As part of its review for proposed amendments to the MHA and regulations, the Department and NTHSSA will also consider amendments required to create a separate form specific to patient rights, similar to Alberta and British Columbia. Any identified amendments will be put forward in the 21st Legislative Assembly.

Recommendation 30: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories review Section 37(6)(d) of the Mental Health Act and in particular, the use of the word “willing” within this section.*

GNWT Response:

An important aspect of assisted community treatment (ACT) is that the patient must agree to participate in developing a community treatment plan (CTP) and agree to comply with it. This allows the attending medical practitioner to be satisfied that the patient is capable

of complying with the requirements (as required by s.37(6)(c)) and that the patient will do well while residing outside of the designated facility with the necessary supports in place. The use of the word “willing” in s.37(6)(d) is used to ensure the patient agrees to being an active participant in the ACT process.

A CTP is a comprehensive plan that outlines how the patient will live and be supported while living in the community. If the patient does not agree to develop the plan and comply with it, then they are not eligible for ACT. The intent is for the patient to be involved in the development of the plan to support their success in community and future transition from involuntary admission under the MHA. This treatment option is not for everyone, and it is not the same as short term leave, which is limited to 30 days and has no comprehensive treatment plan associated with it.

Because of the involuntary nature of services provided under the MHA, the Department recognizes the limitations of the current ACT framework and how it may limit who has access to comprehensive treatment and supports in community under the MHA. When the jurisdictional scan to compare the NWT MHA against other jurisdictions’ mental health legislation is conducted, attention will be paid to community treatment models in other jurisdictions to inform necessary amendments to the various leave provisions in the MHA. Proposed amendments will be put forward in the 21st Legislative Assembly.

Recommendation 31: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories review and amend the requirement of assessment and appointments for patients under Assisted Community Treatment and Short-Term Leave prior to the expiry of a Certificate of Involuntary Assessment or a Renewal Certificate to ensure better coordination, streamline information, and reduce the number of forms and administrative tasks.*

GNWT Response:

The Department recognizes that the requirements for assessments and appointments for ACT and short-term leave patients are tedious and often result in more appointments than are necessary. This can be administratively burdensome for the health care team and can also impact the patient’s ability to comply with their treatment plan.

As part of its review of the various leave provisions in the MHA, the Department will also review the current processes and requirements for patients on leave to allow better coordination of timelines and required assessments, streamline information to reduce number of forms and duplication of administrative tasks, and simplify language and required information. This review will include the perspective of persons with lived experience and an operational lens. Proposed amendments will be put forward in the 21st Legislative Assembly.

Recommendation 32: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories review and amend provisions in the Mental Health Act related to Assisted Community Treatment to expand Assisted Community Treatment to align with Community Treatment Orders as seen in other jurisdictions, including:*

- *Removing the requirement that a person be an involuntary patient to qualify for Assisted Community Treatment;*
- *Ensuring that care is decentralized from an institutional setting, and;*
- *That there is a greater commitment to culturally safe and decolonized practices in health care.*

GNWT Response:

The Department recognizes that provisions in the MHA related to ACT differ from leave provisions in other jurisdictions. The purpose of ACT is to allow a patient to live in their community while receiving treatment under the MHA and the Department is committed to ensuring all patients receive treatment that is right for them and is culturally safe and decolonized.

When the jurisdictional scan to compare the NWT MHA against other jurisdictions' mental health legislation is conducted, attention will be paid to community treatment models in other jurisdictions to inform necessary amendments to the various leave provisions in the MHA. Proposed amendments will be put forward in the 21st Legislative Assembly.

Recommendation 33: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories review Section 40(1)(b) of the Mental Health Act to ensure clear information on the extent to which housing and income supports are available to patients under Assisted Community Treatment.*

GNWT Response:

The wording in s.40(1)(b) is intentionally vague to account for varying housing and income situations and what may or may not be appropriate for different patients' safety and well-being while residing in community. However, the Department understands that this creates an expectation that housing and income must be arranged for, which could limit who is eligible to receive ACT.

As part of its review of the various leave provisions in the MHA, the Department will also review the CTP requirements to ensure they reflect the needs of the NWT population and

the program and service options available in more remote communities. This review will also consider how other jurisdictions manage community treatment under their mental health legislation for those who have unstable housing and income. In addition to reviewing the legislation, consideration will be given to addressing this issue at an operational level, such as through Standard Operating Procedures and policies. Any identified amendments will be put forward in the 21st Legislative Assembly.

Recommendation 34: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories ensure external stakeholders involved in community care understand their obligations to support the operationalization of Assisted Community Treatment under the Mental Health Act, including increasing awareness of obligations to ensure efforts are made to inform patients of non-compliance and the consequences of non-compliance.*

GNWT Response:

NTHSSA is committed to enhancing partnerships and collaboration with organizations and programs to develop strategies for improved communication, flexibility in service delivery and education around goals of treatment, recovery-oriented care and legislative requirements related to ACT.

As noted in response to recommendation 30, initiation of ACT and development of a comprehensive CTP requires collaboration and consent of the individual receiving treatment. It similarly requires written agreement from all persons or bodies involved in the plan for providing supports, treatment, or monitoring compliance, including agreement respecting their responsibilities under the CTP, as per s.39(2) of the MHA.

When the ACT provisions and associated forms and education materials are reviewed, attention will be paid to where improvements can be made to ensure all persons and bodies participating in a CTP are aware of their obligations under the plan and how to support the patient's compliance and success in community. Any identified amendments will be put forward in the 21st Legislative Assembly.

Recommendation 35: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories establish more supports and funding to action Assisted Community Treatment as defined in the Mental Health Act in small communities across the Northwest Territories.*

GNWT Response:

Without increasing capacity of community based mental health services in the NWT, provision of effective ACT will not be available to persons who would benefit most. While

the Department agrees that more supports and funding are required, it must follow the usual GNWT processes for securing funding to support enhanced program and service delivery under the MHA.

The Department will further engage with stakeholders and other partners to explore additional options that may already exist to better support ACT. Consideration will also be given to the supports that are required for effective implementation of the MHA and community treatment provisions as part of the proposed amendments to the MHA put forward in the 21st Legislative Assembly, at which time a formal funding submission can be put forward, as required.

Recommendation 36: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories establish the addition of a public facing navigator role for Mental Health Act processes.*

GNWT Response:

The Department will review current public facing MHA resources and ensure that materials are updated and created where needed to ensure that the public is aware of how to access MHA resources and processes in plain, accessible, person-centered language. This includes the process of applying to a Justice of the Peace and how to get help or support. The Department will also explore leveraging existing roles within the Health and Social Services system to support patients and families to navigate the MHA.

Recommendation 37: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories review the role of the psychiatrist during hearings under the Mental Health Act and provide information about their role to the Mental Health Act Review Board, psychiatrists and other staff to ensure there is a clear understanding of their role.*

GNWT Response:

The Department will review the role of the psychiatrist during hearings under the MHA and provide information about their role to the MHARB, psychiatrists and other staff to ensure clarity on their role.

Recommendation 38: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories create internal processes to mitigate concerns regarding discharging mental health patients under the Mental Health Act too early by working with physicians.*

GNWT Response:

The Department and the NTHSSA will review current processes respecting assessments and discharging patients under the MHA to identify potential areas for improvement.

Recommendation 39: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories improve on the ability to cancel certificates of involuntary assessment issued under the Mental Health Act through policies, procedures and legislative change.*

GNWT Response:

The Department recognizes that the inability to cancel a Certificate of Involuntary Assessment under the MHA is a gap and may result in individuals being unnecessarily detained. As part of its jurisdictional review, the Department will review other jurisdictions' approaches for the ability to cancel the equivalent of a Certificate of Involuntary Assessment to inform necessary amendments to the NWT MHA. Any necessary amendments that are identified will be put forward in the 21st Legislative Assembly.

Recommendation 40: *The Standing Committee on Social Development recommends that the Government of the Northwest Territories embrace technological change by implementing procedures for Forms under the Mental Health Act to be signed electronically or verbally, as well as implementing secure file transfer processes for Forms under the Mental Health Act.*

GNWT Response:

The only form that is currently required to remain with the patient is Form 10 – Summary Statement Respecting Apprehension or Conveyance. This form is required to remain with the person being apprehended or conveyed so that the peace officer responsible for apprehension or conveyance has information that may be important respecting the person they are apprehending or conveying, such as potential risks, distinguishing features, where they are expected to be located, and where they are being conveyed to. This form must then be provided to the person who accepts custody of the person at the receiving designated facility or other location, so that they may also have this information in the event that it is not readily available electronically. The MHA and regulations do not require that any other forms remain physically with the person/patient being held under the MHA.

The Department will work with the Health and Social Services Authorities to explore implementing secure file transfer processes for forms under the MHA where it is appropriate to do so.

With respect to the signing of forms, the legislation currently allows for forms issued under the MHA to be signed electronically. The Department will review the feasibility of “verbal signatures” as part of its review of the MHA and amendments put forward in the 21st Legislative Assembly. However, the ability to electronically or verbally sign a form may be limited by current electronic information systems.

Recommendation 41: *The Standing Committee on Social Development recommends the Government of the Northwest Territories provide a response to this report within 120 days.*

GNWT Response:

This document constitutes the GNWT response in accordance with the Recommendation.