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Court of Appeal Lets *Charter* Challenge to Forced Psychiatric Treatment Laws Continue

For immediate release

Vancouver, BC

The BC Court of Appeal overturned a decision that had dismissed the Council of Canadians with Disabilities' *Charter* challenge to the laws governing forced psychiatric treatment in BC. The Court of Appeal's decision confirms the importance of grassroots organizations that stand up for the legal rights of people who face barriers accessing the justice system.

The decision under appeal found that CCD lacked standing (the legal right) to bring the case forward. CCD appealed, arguing that people with mental disabilities, particularly those detained under the *Mental Health Act*, face many challenges when trying to access the courts. Unless community groups and organizations take important issues forward, unconstitutional laws may never get reviewed. The Court of Appeal allowed the appeal and agreed that CCD's case was improperly dismissed.

"This decision is a victory for all grassroots and community organizations standing up for the legal rights of people who face barriers accessing justice" says Kevin Love, a lawyer with the Community Legal Assistance Society. "We are pleased that today's ruling will allow CCD to continue its case challenging BC's outdated and unconstitutional forced psychiatric treatment laws."

The Community Legal Assistant Society (CLAS) is representing the CCD in a *Charter* challenge to the deemed consent provisions contained in the *Mental Health Act*, the *Representation Agreement Act*, and the *Health Care (Consent) and Care Facility (Admission) Act*. People who are involuntarily detained under BC's *Mental Health Act* – or released from hospital on leave – currently have no right to give or refuse consent to any psychiatric treatment. They are legally 'deemed' to consent to all psychiatric treatment and can be forcibly administered medications and electroconvulsive therapy, even when they are mentally capable of making their own treatment decisions. The law also deprives detained individuals of the right to a substitute decision maker, like a representative or family member, to give or refuse consent on their behalf.

"BC is the only jurisdiction in Canada that still uses a 'deemed consent' model," says Melanie Benard of the CCD. "In other jurisdictions, doctors must assess a patient's capacity to consent and consult with a substitute decision-maker before imposing

treatment. BC's outdated law violates the Canadian *Charter* and the UN Convention on the Rights of Persons with Disabilities."

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About:

The Community Legal Assistance Society has been providing free legal services to marginalized British Columbians since 1971 in the areas of mental health, human rights, housing, income security, and workers' rights. We have assisted tens of thousands of British Columbians over the years through law reform, test case litigation, systemic advocacy, delivery of public legal education, summary advice, workshops and representation of clients before administrative tribunals and the courts.

The Council of Canadians with Disabilities is a national human rights organization of people with disabilities working for an inclusive and accessible Canada. Founded in 1976, the Council of Canadians with Disabilities consists of nine provincial member groups, seven national disability organizations and one affiliate member. Its mandate includes law reform, policy development, and test case litigation in support of persons with disabilities.