Involuntary Psychiatric Treatment Act (IPTA)

ANNUAL REPORT 2014–2015

NOVA SCOTIA

Involuntary Psychiatric Treatment Act (IPTA)

Annual Report

2014-2015

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Review Board
Involuntary Psychiatric Treatment Act (IPTA)
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March 31, 2015

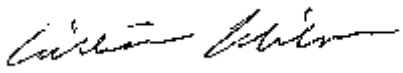
Honourable Minister Glavine
Minister, Department of Health and Wellness
Halifax, Nova Scotia

RE: IPTA Annual Report – 2014-2015

Dear Minister Glavine:

I am pleased to submit the Annual Report of the Review Board pursuant to the *Involuntary Psychiatric Treatment Act* for the year April 1, 2014- March 31, 2015.

Sincerely,



William Wilson
Chair, Review Board under IPTA

C: Ken Scott
Lynn Cheek
Review Board Members

Annual Report

Review Board under the *Involuntary Psychiatric Treatment Act*

April 1, 2014 – March 31, 2015

Introduction

This report is filed pursuant to the requirements of the Involuntary Psychiatric Treatment Act, (S.N.S. 2005, c. 42). Section 80 requires that the Review Board report to the Minister its activities during the preceding fiscal year. Section 7 of the regulations passed under the authority of the Act requires that the Board's report contain statistics of the Review Board's activities and recommendations to the Minister. What follows is the Review Board's Annual Report.

This Annual Report is presented in three parts:

Part I provides an overview of the Board's function and a look at the types of reviews which the Review Board may be asked to perform.

Part II presents the statistics and trends of the Board's operation during the fiscal year from April 1, 2014 – March 31, 2015.

Part III outlines issues of concern and recommendations to the Minister.

Part I Types of Review

The Review Board is made up of lawyers, psychiatrists, and members of the public who have an interest in mental health issues (laypersons). The main purpose of the Review Board is to review the status of patients admitted as involuntary patients into a psychiatric facility and of patients living in the community on a community treatment order. The Review Board has no authority with respect to voluntary patients. The status of an involuntary patient is reviewed:

When a patient is admitted as an involuntary patient or the patient's involuntary admission is extended and an application is made to review the involuntary admission or its renewal;

60 days after the date the patient is involuntarily admitted;

Every six months after the date the patient is admitted during the first two years of an involuntary admission;

Every year after the date that the patient has been involuntarily admitted for a period of more than two years;

When a community treatment order is made or renewed and an application is made to review the community treatment order;

On every second renewal of a community treatment order;

When an application is made to review a certificate of leave or its cancellation;

When an application is made to review a declaration of competency for involuntary patients who have been found incompetent to manage their own estate under the Hospitals Act (R.S., c. 208).

In addition to the review powers regarding involuntary patients the Review Board may review the decisions of a substitute decision maker if asked by a psychiatrist or a patient to do so.

When the Board is requested to review the status of a patient, it holds a hearing within 21 days after an application is received. The patient, the substitute decision maker, and the patient's psychiatrist are all entitled to participate in the hearing. Other people may be allowed to participate as the Board deems appropriate. The hearing is a full oral hearing. The Review Board sits as a three member panel consisting of a lawyer member as chair, a psychiatrist member, and a layperson member. All parties are entitled to representation by legal counsel or an agent. The onus of proof regarding the status of a patient is borne by the psychiatric facility. Following the hearing, the Review Board has ten days to make its written decision.

Part II Statistics and Trends

This part will involve a discussion of statistics kept by the Review Board regarding the volume, nature, and result of hearings held during the past 12 months. A comparison of past years will be referred to and any trends noted.

Statistics of note will include:

The total number of files for review, broken down by category;

The number of hearings held and the outcomes

The extent of legal representation;

The length of time for matters to be scheduled.

a) Introduction

Between April 1, 2014 and March 31, 2015 the Review Board processed one hundred and sixty-eight (168) applications for review. This is a twenty-three (23) percent increase over the number of files processed in the previous fiscal period.

There were one hundred and sixteen (116) applications by patients being treated in a psychiatric facility. Fifty-four (54) applications were automatic pursuant to section 37 of the Act. Sixty- two (62) reviews were applied for by a patient.

There were fifty-two (52) applications for review of a Community Treatment Order.

There was one application to review the status of a Substitute Decision Maker submitted by a treating psychiatrist.

Overall, the Review Board has experienced a forty-four (44) percent increase in the number of total automatic reviews over the previous fiscal year, whereas the number of applications for review by a patient has only increased by ten (10) percent.

b) Outcomes of Requests

One hundred sixty-eight (168) requests for review were made from April 1, 2014 to March 31, 2015.

Fifty-seven (57) patients had their status changed to voluntary before a hearing was held. Thirteen (13) patients withdrew their request, six (6) patients were placed on community treatment orders, one (1) patient was placed on a certificate of leave, and two (2) patients had their community treatment orders revoked. Eighty-nine (89) applications were heard by the Review Board.

Of the eighty-nine (89) hearings which were held, seventy-two (72) patients had their status as involuntary patients upheld by the Review Board. Sixteen (16) patients had their status changed to voluntary and one (1) patient had their SDM revoked. Thirty-nine (39) of the hearings pertained to reviews of community treatment orders. In addition there were thirty-one (31) adjournments, reflecting only a two (2) percent increase over fiscal 2013-14.

Community Treatment Orders and Leave Certificates

Psychiatric facilities are required to file Community Treatment Orders (CTOs) and Leave Certificates with the Review Board.

During the period April 1, 2014- March 31, 2015, forty-one (41) CTOs were filed with the Review Board. The geographical breakdown was as follows: Capital Health – eighteen (18); Cape Breton –seven (7); Yarmouth – three (3); Valley – nine (9); Colchester – three (3); and Guysborough – one (1).

In this same time period, twenty-four (24) CTO's were revoked. The geographical breakdown was as follows: Capital Health – nine (9); Cape Breton –eight (8); Yarmouth – one (1); Valley – three (3); and Colchester – three (3).

In this same period the Review Board received fifty-two (52) requests for a review of a CTO renewal. Of the fifty-two (52) cases, two (2) were revoked prior to the hearing and there were eleven (11) adjournments. Of the thirty-nine (39) CTO hearings which were held, thirty-three (33) CTOs were upheld and six (6) were revoked, reflecting a four (4) percent increase in CTO hearings held over 2013-14.

Eight (8) Leave Certificates were filed with the Review Board between April1, 2014 and March 31, 2015. The geographical breakdown was as follows: Capital Health – three (3); Yarmouth – one (1); South Shore – (2); and Valley – two (2). Of those Leave Certificates, three (3) were cancelled. The geographical breakdown for these was as follows: Capital Health – one (1); Yarmouth – one (1); and Valley – one (1).

c) Legal Representation

As discussed above, one hundred sixty-eight (168) requests for review were made from April 1, 2014 to March 31, 2015. Applications for legal representation were made in one hundred thirty (130) of the cases. This accounts for seventy-seven (77%) percent of the cases. When it comes to the hearings, the percentage of patients with legal representation decreases. Eighty-nine (89) hearings were held and patients were represented in fifty-seven (57) of the cases. Sixty-four (64%) percent of patients who appear before the Review Board have legal representation.

d) Length of Time to Schedule a Hearing

The Review Board is required to hold a hearing within twenty-one (21) days of receiving a request pursuant to s. 68 of IPTA. For this fiscal year the average time between a request

and a hearing was nineteen (19) days. The Review Board met the time requirements in all the applications filed this fiscal period.

Part III Comments

The past year has been one for review of the practices, policies, and issues confronting the Review Board in delivering its mandate under the Act. The issues raised by the *LaForest Report* publicly released in December 2013 concerning the Review of the Act in general, including the functioning of the Review Board have been the subject of review throughout the fiscal year of 2014-15.

In addition to the *LaForest Report,* Stewart McKelvey was retained to conduct a review of the Board's governance and to provide recommendations based on the results of that review. The report with recommendations was completed in late August 2014. The main issues identified in that report fall under the headings of independence, recruitment/reappointment, orientation, scheduling, role clarification, and accountability.

The problems identified by both the LaForest and Stewart McKelvey reports regarding the functioning of the Review Board are similar, and have to some extent, been identified in past Annual Reports.

The Board continues to ensure that it remains independent. Only members assigned to hear a matter are involved in deciding it. The Board would like to see more resources allocated for consultation among its members, to ensure policy development and enhanced decision making. Steps have been taken to make all Board decisions available to Board members in electronic format. However, presently, Board members only meet as a group twice per year. The opportunity to discuss issues of common concern between the Chair and each representative group (lawyers, psychiatrists, and laypersons) on a more regular basis would assist in strengthening the Board.

Recruitment and reappointment of Board members has been a longstanding issue for the Board. Presently, as of March 31, 2015 the Board has eight lawyers, seven psychiatrists, and four laypersons. This level of membership should be sufficient for the Board to meet its mandate. When membership falls below this level, however, it takes considerable time for a new appointment or reappointment to be made. The process for both is the same. It is recommended that the process for reappointment be addressed to recognize that a member who has served on the Board has already been screened on his/her initial appointment and subject to recommendation from the Board Chair regarding performance, should be considered acceptable for reappointment without going through a full rescreening process. If this is not possible, consideration should be given to a term of appointment that is automatically extended until a new appointment is made.

Orientation of new members to their new role has been problematic in the past, for two reasons. Finding time available to provide the orientation and the length of term for a Board member. The orientation process includes a meeting between the Chair and the new

member. The meeting involves a discussion of the legislation, procedure, the hearing and decision making process and the member's role as part of the Review Board. New members have an opportunity to ask questions and discuss issues that may concern them. The initial meeting does not take very long to schedule. After this meeting, the new member sits in on a hearing as an observer. That hearing is chaired by the Review Board Chair. This gives the member an opportunity to see what is involved in a hearing and to ask questions about it. The next step in the orientation process has the new member sit as a member of the panel with the Review Board Chair. This allows the Review Board Chair an opportunity to assess the new member's performance and offer feedback as he/she assumes their full role on the Board. Depending on the number of hearings scheduled, the last two steps in the orientation process can take some time. The Board asked that the term of appointment be increased to three years. The last two appointments were made for three year terms and it is recommended that all future appointments be for a three year term.

Scheduling has been a reoccurring issue for the Board. Assembling a panel requires the coordination of a number of people with busy schedules. To assist all those involved in meeting the 21 day legal limit for hearings, the Board has chosen to hold hearings in HRM on Wednesdays, Thursdays, and Fridays. Hearings outside HRM can be heard on Mondays and Tuesdays, in addition to the rest of the week, where possible. After consultation with Board members, psychiatric facilities and those who normally represent patients before the Board, Wednesdays, Thursdays, and Fridays have been identified as most convenient to all. The Board is hoping to implement a new scheduling procedure to help regularize the process. Once an application is received by the Board, a date will be assigned for a hearing within the following two weeks. Those appearing on the application will have an opportunity to seek an alternate date within the 21 day time frame, otherwise a notice confirming the date will be issued by the Board. It is felt that two weeks is sufficient time to allow participants to adjust schedules. In this way, early notice will be provided and unnecessary adjournments avoided. Support for modifying this method for scheduling hearings would be helpful.

Role clarification has been identified as an issue amongst Board members and those with an interest in serving as a member. There is presently no approved position description outlining the role and responsibility of a Board member. The Board has reviewed and approved position descriptions for its Chair, lawyer, psychiatrist, and laypersons. Support for those position descriptions is requested. In addition, there appears to be a need to further educate those who appear before the Board regarding their roles and responsibilities. Resources to provide an outreach session for those appearing before the Board would be helpful.

The Board is accountable for the decisions it is called upon to make. It is independent, however, that does not negate the need for measuring its performance both internally and externally. With the adoption of position descriptions and the clarification of roles comes the need for a more formal performance review process for Board members. The Board will be adopting a formal review process which will require support. Externally, the Board will be taking steps to ensure its process is transparent and that its public reporting of

activities is made in a timely manner. To assist in that regard, support is required so that proper data is maintained and managed.

The Board, through its Chair, has been meeting with departmental officials concerning the ongoing implementation of the *LaForest Report* as it relates to the activities of the Review Board. In addition, similar meetings have occurred relating to the Stewart McKelvey Report on Governance. It is anticipated that a number of recommendations will be coming forward for consideration in the future. The Board looks forward to support for those recommendations.

Conclusion

The statistical information shows that activity before the Board has increased in every category from the previous fiscal period. There were more applications for review and more hearings held. It is also noted that patients are requesting and receiving more legal representation to assist them through the hearing process.

The Board has had a busy year and has been able to meet the challenge of handling a large volume of cases in a timely manner. Indications are that the number of cases coming before the Board will continue to grow.

The Board looks forward to providing a high quality of service to those who appear before it and continues to look for ways to improve.

Annex A
IPTA 2014-2015 Statistical Overview

Requests			Hearings				Hearing Outcome/Status				Legal Representation			
Total	Requested	Automatic	Held	Involuntary Inpatient	CTO Renewal	Adjourned	Patient Involuntary Status Upheld	Patient Status changed to Voluntary	CTO Upheld	CTO Revoked	At Request Stage		At Hearing Stage	
168	**62**	**106**	**89**	**50**	**39**	**31**	**39**	**10**	**33**	**6**	**130/168**	**77%**	**57/89**	**64%**

Annex B
IPTA 2013-2014 Statistical Overview

Requests			Hearings				Hearing Outcome/Status				Legal Representation			
Total	Requested	Automatic	Held	Involuntary Inpatient	CTO Renewal	Adjourned	Patient Involuntary Status Upheld	Patient Status changed to Voluntary	CTO Upheld	CTO Revoked	At Request Stage		At Hearing Stage	
137	**69**	**68**	**72**	**22**	**27**	**23**	**35**	**10**	**24**	**3**	**62/137**	**45%**	**42/72**	**58%**