

# Involuntary Psychiatric Treatment Act (IPTA)

ANNUAL REPORT 2016-2017



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Involuntary Psychiatric Treatment Act (IPTA) Annual Report 2016-2017  
Department of Health and Wellness  
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# Involuntary Psychiatric Treatment Act (IPTA)

ANNUAL REPORT 2016-2017



Review Board  
Involuntary Psychiatric Treatment Act (IPTA)  
1894 Barrington Street, 14th Floor  
Halifax, Nova Scotia B3J 2R8

March 31, 2017

Honourable Minister Randy Delorey  
Minister, Department of Health and Wellness  
Halifax, Nova Scotia

**RE: IPTA Annual Report – 2016–2017**

Dear Minister Delorey:

I am pleased to submit the Annual Report of the Review Board pursuant to the *Involuntary Psychiatric Treatment Act* for the year April 1, 2016–March 31, 2017.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Scott", followed by a long horizontal line extending to the right.

Stephen Scott, B.B.A., LL.B.

Chairman, Review Board under IPTA

C: Francine Vezina  
Charmaine McPherson  
Ruby Knowles  
Review Board Members

# 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 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 that the Review Board may be asked to perform.

**Part II** presents the statistics and trends of the Review Board's operation during the fiscal year from April 1, 2016 – March 31, 2017.

**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 Review 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 Review 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, 2016 and March 31, 2017 the Review Board processed one hundred and sixty-five (165) applications for review. This number reflects a slight increase over the number of files processed in the previous fiscal period.

There were one hundred and twenty-five (125) applications by patients being treated in a psychiatric facility. Fifty-seven (57) applications were automatic pursuant to section 37 of the Act. Sixty-eight (68) reviews were requested by a patient.

There were forty (40) applications for review of a Community Treatment Order.

Overall, the Review Board has experienced nine (9) fewer hearings [**or a fourteen (14) percent**] decline 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 five (5) hearing [**or an eight (8) percent**] increase.

## b) Outcomes of Requests

One hundred sixty (165) requests for review were made from April 1, 2016 to March 31, 2017.

Fifty-nine (59) patients had their status changed to voluntary before a hearing was held. Seven (7) patients withdrew their request and eleven (11) patients were placed on Community Treatment Orders (CTO). Eighty-eight (88) applications were heard by the Review Board.

Of the eighty-eight (88) hearings which were held, forty (40) patients had their status as involuntary patients upheld by the Review Board. One (1) hearing pertained to a challenge of a Substitute Decision Maker by a treating psychiatrist. Seven (7) patients had their status changed to voluntary.

Forty (40) of the hearings pertained to reviews of Community Treatment Orders. Thirty-six (36) patients had their CTO status upheld by the Review Board. Four (4) patients had their status changed to voluntary.

In addition, there were forty-six (46) adjournments, reflecting a fifty-nine (59) percent increase over the previous fiscal period.

## Community Treatment Orders and Leave Certificates

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

During the period April 1, 2016- March 31, 2017, sixty-one (61) CTOs were filed with the Review Board. The geographical breakdown was as follows:

Capital Health – 27  
Cape Breton – 9  
Yarmouth – 0  
Valley – 12  
Colchester – 11  
South Shore – 0  
Pictou – 0  
Antigonish-Guysborough – 2  
IWK – 0

During the period April 1, 2016- March 31, 2017, sixty-two (62) CTO Renewals were filed with the Review Board. The geographical breakdown was as follows:

Capital Health – 24  
Cape Breton – 11  
Yarmouth – 6  
Valley – 14  
Colchester – 3  
South Shore – 1  
Pictou – 2  
Antigonish-Guysborough – 1  
IWK – 0

In this same time period, forty-one (41) CTO's were revoked. The geographical breakdown was as follows:

Capital Health – 17  
Cape Breton – 6  
Yarmouth – 3  
Valley – 5  
Colchester – 6  
South Shore – 2  
Pictou – 0  
Antigonish-Guysborough – 2  
IWK – 0

It is noted that CTOs filed this year have remained consistent with the previous years [62 (previous year) vs. 61 (current year)].

CTO Renewals were not separated in last year's report, however, I am informed that there were fifty-two (52) renewals filed in 2015-2016. **The numbers reflected in the 2016-2017 report shows an increase of ten (10) CTO Renewals.**

There were forty-one revocations in 2016-2017 versus forty-eight (48) revocations in the previous fiscal year. A number of these revocations were as a result of non-adherence with the conditions of the CTO.

Twelve (12) Leave Certificates (COL) were filed with the Review Board between April 1, 2016 and March 31, 2017. The geographical breakdown was as follows:

Capital Health – 1  
Yarmouth – 1  
Valley – 9  
and IWK – 1

Of those Leave Certificates, two (2) were revoked. The geographical breakdown for this was

Capital Health – 1  
Valley – 1

## c) Legal Representation

As discussed above, one hundred sixty-five (165) requests for review were made from April 1, 2016 to March 31, 2017. Applications for legal representation were made in one hundred and twenty-eight (128) of the cases. This accounts for seventy-eight (78%) percent of the cases. **This represents a twenty-three (23) percent increase over the previous fiscal year.**

When it came the hearings, the percentage of patients with legal representation remained the same. Eighty-eight (88) hearings were held and patients were represented in sixty-eight (68) of the cases. Seventy-seven (77%) percent of patients who actually appear before the Review Board have legal representation. **This represents a ten (10) percent increase over the previous fiscal year.**

## 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 during this fiscal period.

## Part III Comments

I am pleased to report that the Board has addressed most of the issues related to it as outlined in both the *LaForest* and the *Sterling McKelvey* reports. Until the issues identified as needing legislative amendments are addressed, the Review Board has gone as far as it possibly can.

We have established two meetings per year for the Board to meet as a group. Due to shortages of psychiatrists and lawyers being appointed during the 2016-2017, the Review Board held only one annual meeting with its members. It has proven to be a useful forum for discussion of issues and concerns that members may have relating to the work we do, and the problems we face as a Board.

During the past year, the Review Board established a protocol for handling cases where the Substitute Decision Maker (SDM) is challenged by the treating physicians. This protocol results in two hearings. The first hearing is to determine capacity of the patient. The second hearing determines the capacity of the SDM in these circumstances.

Currently, the Review Board has seven (7) lawyer members (one of whom is presently on a Sick Leave), eight (8) psychiatrist members (one of whom is presently on a Sick Leave), and five (5) laypersons.

Access to decisions filed by the Review Board has been made available electronically to all of its current members. We are also in the final stages of electronic data management as it relates to the Review Board and its reporting.

This final comment was raised in last year's report. We now have approved position descriptions and a performance evaluation process in place for all Review Board members. In the past, the appointment of a Review Board member has been challenging. With the current evaluation process, it is difficult to understand why a member seeking reappointment to the Review Board has to go through the same application process as someone who is seeking an initial appointment.

# Conclusion

The Review Board has been functioning well for the past year, in both a collegial and supportive atmosphere. It has been a busy year, however, we have been able to manage the large volume of cases in a timely and efficient manner. I feel that the successful management of these files by the Review Board is due in part to our Administrative Support provided by Ms. Cherie Pottie.

I also believe that the number of cases coming before the Review Board will only continue to increase.

The Review 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 2016-2017 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	
165	68	97	88	48	40	46	40 *1 SDM Revocation	7	36	4	128/165	78%	68/88	77%

# Annex B

## IPTA 2015–2016 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	
160	63	97	82	51	31	27	40	11	30	1	104/160	65%	55/82	67%



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