

Involuntary Psychiatric Treatment Act (IPTA)

ANNUAL REPORT 2018-2019



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Involuntary Psychiatric Treatment Act (IPTA) Annual Report 2018–2019
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Review Board
Involuntary Psychiatric Treatment Act (IPTA)
1894 Barrington Street, 5th Floor
Halifax, Nova Scotia B3J 2R8

March 31, 2019

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

RE: IPTA Annual Report 2018–2019

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, 2018 – March 31, 2019.

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 for 2018–2019

- C: Natalie Cochrane, Senior Strategist, Mental Health and Addictions
 Health Promotion, System Strategy and Performance, DHW
- Francine Vezina, Project Executive, Mental Health and Addictions
 Health Promotion, System Strategy and Performance, DHW
- Kim Barro, Executive Director, Mental Health and Addictions
 Health Promotion, System Strategy and Performance, DHW
- Ruby Knowles, Senior Executive Director, System Strategy and Performance, DHW
- 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 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 Review 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 Review Board's operation during the fiscal year from April 1, 2018 – March 31, 2019.

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

Part I Types of Review

The Review Board is a legislated body 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 ensure the rights of the patient by reviewing their status once they are 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, 2018 and March 31, 2019, the Review Board processed two hundred and six (206) applications for review. This number reflects an increase of twenty-eight (28) files [or a fifteen point seven (15.7) per cent increase] over the number of files processed in the previous fiscal period.

Of the two hundred and six (206) applications to the Review Board for hearing, one hundred and seventeen (117) applications were automatic reviews pursuant to section 37 of the Act while eighty-nine (89) reviews were applied for by a patient.

Of the two hundred and six (206) applications, there were fifty-five (55) applications for the review of a Community Treatment Order.

The Review Board held one hundred and two (102) hearings during 2018/2019. The number of hearings held for the review of a patient's status has increased by fourteen (14) over the previous year [or a fifteen point nine (15.9) percent increase].

b) Outcomes of Requests

As stated, two hundred and six (206) requests for review were made from April 1, 2018 to March 31, 2019.

Forty-two (42) patients had their status changed to voluntary before a hearing was held. Of this forty-two (42) requests, two (2) patients withdrew their request and three (3) patients were placed on Community Treatment Orders (CTO). One hundred and two (102) applications were heard by the Review Board.

Of the one hundred (102) hearings which were held, eighty (80) patients had their status as involuntary patients upheld by the Review Board. Twenty-two (22) patients had their status changed to voluntary. It should be noted that of the twenty-two (22) hearings, seven (7) of the files were dismissed as the Review Board lost jurisdiction.

Forty-nine (49) of the 102 hearings involved involuntary patients (who had inpatient status). Thirty-seven (37) of these patients had their involuntary status upheld by the Review Board. Twelve (12) patients had their status changed to voluntary.

Fifty-three (53) of the 102 hearings pertained to reviews of Community Treatment Orders (CTOs). Forty-three (43) of these patients had their CTO status upheld by the Review Board. Ten (10) patients had their status changed to voluntary. The number of hearings relating to CTOs has increased by three (3) hearings [or a six (6) per cent increase] over the previous year.

In addition, there were forty-three (43) adjournments, reflecting a ten (10) percent increase over the previous fiscal period.

Community Treatment Orders and Leave Certificates

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

During the period April 1, 2018- March 31, 2019, eighty-seven (87) CTOs were filed with the Review Board. The geographical breakdown was as follows: Zone 1 Western – twenty-four (24); Zone 2 Eastern – six (6); Zone 3 Northern – eleven (11); and Zone 4 Central – forty-six (46).

During the period April 1, 2018- March 31, 2019, twenty-eight (28) CTO Renewals were filed with the Review Board. The geographical breakdown was as follows: Zone 1 Western – fourteen (14); Zone 2 Eastern – zero (0); Zone 3 Northern – four (4); and Zone 4 Central – ten (10).

In this same time period, fifty-four (54) CTO's were revoked. The geographical breakdown was as follows: Zone 1 Western – eleven (11); Zone 2 Eastern – five (5); Zone 3 Northern – eight (8); and Zone 4 Central – thirty (30).

The CTOs filed this year reflect an increase as compared to the previous year [87 (current year) vs. 75 (previous year)].

The number of CTO Renewals did not change as compared to the previous year [28 (current year) vs. 27 (previous year)].

CTO Revocations reflect a decrease as compared to the previous year [54 (current year) vs. 66 (previous year)].

Twenty-six (26) Leave Certificates (COL) were filed with the Review Board between April 1, 2018 and March 31, 2019. The geographical breakdown was as follows: Zone 1 Western – fourteen (14); Zone 2 Eastern – zero (0); Zone 3 Northern – five (5); and Zone 4 Central – seven (7).

c) Legal Representation

As discussed above, two hundred and six (206) requests for review were made from April 1, 2018 to March 31, 2019. Applications for legal representation were made in one hundred and sixty-five (165) of the cases. This accounts for eighty (80%) percent of the cases.

When it came to the hearings, the percentage of patients with legal representation was somewhat lower than the previous year. One hundred and two (102) hearings were held and patients were represented in sixty-three (63) of the cases. Sixty-two (62%) percent of patients who actually appear before the Review Board had 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 point two six (19.26) days. This reflected a slight improvement over the previous year [19.26 (current year) vs. 19.5 (previous year)]. 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 *Stewart McKelvey* reports. As chairman of the Review Board, I continue to work with staff of the Department of Health and Wellness to identify provisions which require legislative amendments.

We have established two meetings per year for the Review Board to meet as a group. The general meetings have 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.

Currently, the Review Board has six (6) lawyer members, five (5) psychiatrist members, and seven (7) laypersons.

Access to decisions filed by a Review Board Panel are made available electronically to Panel members. We are also in the process of reviewing electronic data management as it relates to the Review Board and its reporting. This will be an ongoing project for 2019–20.

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 members has been challenging.

This issue continues to be a challenge for the Review Board. The Executive Council's office is not able to bridge re-appointments to the Review Board in a timely fashion. This inability resulted in the loss of five (5) of our most experienced Review Board members in the past number of months. At the time of writing this report, none of these members have returned to the Review Board. This void in Review Board membership places stress on the new resources which may not have the necessary experience in dealing with the issues that are presented to a Review Board Panel.

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 Cox and an extended team at the Department of Health and Wellness.

Last year, I highlighted that “I believed that the number of cases coming before the Review Board will only continue to increase”. This prediction has occurred. I think it is important for the Minister to be aware of this trend.

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 2018–2019 Statistical Overview

Requests			Hearings				Hearing Outcome/Status				Legal Representation			
Total	Requested	Automatic	Held	Involuntary Inpatient	CTO Review	Adjourned	Patient Involuntary Status Upheld	Patient Status changed to Voluntary	CTO Upheld	CTO Revoked	At Request Stage		At Hearing Stage	
206	89	117	102	49	53	43	37	12	43	10	165/206	80%	63/102	62%

Annex B

IPTA 2017–2018 Statistical Overview

Requests			Hearings				Hearing Outcome/Status				Legal Representation			
Total	Requested	Automatic	Held	Involuntary Inpatient	CTO Review	Adjourned	Patient Involuntary Status Upheld	Patient Status changed to Voluntary	CTO Upheld	CTO Revoked	At Request Stage		At Hearing Stage	
178	76	102	88	38	50	39	28	10	46	4	129/178	72%	69/88	78%



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