

The Mental Health
Care and Treatment
Review Board

ACTIVITY PLAN
April 1, 2014 - March 31, 2017

Chairperson's Message

As Chairperson of the Mental Health Care and Treatment Review Board, I present the Board's 2014-2017 Activity Plan in accordance with the *Transparency and Accountability Act* for a Category 3 Government Entity.

The Review Board is an independent, quasi-judicial administrative tribunal to conduct review panel hearings under the *Mental Health Care and Treatment Act*. The Review Board was established in 2007 and its mandate is based on involuntary psychiatric patients' periodic rights to fair and timely review of that loss of liberty.

The Review Board established its 2014-2017 Activity Plan in consultation with its stakeholders and based on its legislative mandate and in consideration of the Provincial Government's strategic directions. As Chairperson, my signature is indicative of the entire Review Board's accountability for preparation of this plan and for the achievement of the objective contained herein.

The Review Board looks forward to reporting to you annually on its activities.

A handwritten signature in black ink that reads "Sandra M. Burke". The signature is written in a cursive style with a large, stylized 'S' and 'B'.

Sandra M. Burke, Q.C.
Chairperson

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Mandate

The Mental Health Care and Treatment Review Board, hereafter referred to as the Review Board, was established in 2007 pursuant to Section 56 of the *Mental Health Care and Treatment Act*.

The Review Board operates as an independent, quasi-judicial administrative tribunal to conduct review panel hearings under the *Mental Health Care and Treatment Act* as set out in section 56(1) of the *Act*. The Review Board's mandate is based on involuntary psychiatric patients' periodic rights to fair and timely review of their involuntary status under the *Act*.

The primary role of the Review Board is to review applications made by patients seeking a review of the issue of certification of involuntary admission under Section 64(1) (a) of the *Mental Health Care and Treatment Act*, to review applications made by patients seeking a review of the issuance of a Community Treatment Order under Section 64(1)(b) of the *Act*, and to review applications made by a patient alleging the denial of a right under Section 64(1)(c) of the *Act*.

The further duties and responsibilities of the Review Board include reporting annually to the Minister on its operations and on other matters as required by the Minister and performing the other functions that may be prescribed by the regulations.

Membership

The Review Board is appointed pursuant to Section 57(1) of the *Mental Health Care and Treatment Act*. The terms of appointment are stated at Sections 58(1) and (2) of the *Mental Health Care and Treatment Act*. Current Review Board members and their terms are referenced in Appendix B.

Meetings

The Review Board is available to meet as required and has met in St. John's and by video conference with members across the Province.

Financial

The Review Board is not required to have an audited statement. In the 2013-2014 year, total expenses were approximately \$50,000. Administrative support and expenses are provided by the Department of Health and Community Services.

Primary Clients

The primary clients of the Review Board are those who make applications to the Review Board pursuant to Section 64 of the *Mental Health Care and Treatment Act* and the following applications may be made:

64. (1) ...
- (a) an application by an involuntary patient to review the issuance of certificates of involuntary admission or a certificate of renewal;
 - (b) an application by a person who is the subject of a community treatment order to review its issuance or renewal; and
 - (c) an application by a person detained in a facility alleging a denial of a right set out in section 11 or 12.

These applications are in addition to the automatic reviews of renewals of certificates of involuntary admissions in section 33 and issuing or renewing community treatment orders in subsections 53(1) and 53(3) of the *Mental Health Care and Treatment Act*.

While the Review Board operates as an entity independent of the Department of Health and Community Services and the Regional Health Authorities, the Board has a shared commitment with these organizations in an effort to provide the most effective care to those with mental health issues.

The Review Board does require interaction at the point of application with senior administrators of Regional Health Authorities and the acute psychiatric care teams in order to fulfill its mandate. Other entities/persons with which the Review Board has a shared commitment include:

Patient Representatives

The patient representative role is defined by the *Act* as a " person, other than a rights advisor, who has reached the age of 19 years and who is mentally competent and available who has been designated by, and who has agreed to act on behalf of, a person with a mental disorder and, where no person has been designated, the representative shall be considered to be the next of kin, unless the person with the mental disorder objects." Non-government organizations, such as the Canadian Mental Health Association or the consumer group, Consumers Health Awareness Network Newfoundland and Labrador (CHANNAL), have supportive, less formal roles.

Rights Advisors

Rights Advisors are persons appointed by the Minister pursuant to Section 13 of the *Act* to give advice and assistance to persons subjected to certificates of involuntary admission and community treatment orders. Rights Advisors also explain the certification process, assist with applications to the Review Board, and accompany the person/ client to the hearing.

Newfoundland and Labrador Legal Aid Commission (NLLAC)

Persons who are subject to certificates of involuntary treatment or community treatment orders are able to access legal advice and assistance from the NLLAC. The role of counsel is integral to the hearing in assisting the Panels with clear and relevant evidence from the Applicant and effectively cross examining the Health Authority.

Values

The Department of Health and Community Service's values are reflected daily as employees fulfill their roles and responsibilities in serving their clients. They are key elements of the department's culture.

The Review Board adopts the values of the Department of Health and Community Services and incorporates them into Review Board activities and decision making.

| CORE VALUES 2014-17 | |
|--|---|
| Transparency and Accountability | Each person carries out their responsibilities while contributing to a culture of openness in decision making |
| Collaboration | Each person will work together in a positive manner with co-workers, partners and stakeholders, sharing knowledge and resources to identify potential solutions to priority issues |
| Innovation | Each person actively seeks new ways to develop and implement more effective and efficient programs and services in an effort to achieve better health outcomes for the people of the province |
| Privacy | Each person manages and protects information related to persons/families/organizations/communities and the department appropriately while at the same time promoting an environment of openness with each other and our partners, including the public we serve |
| Excellence | Each person demonstrates high professional standards, takes pride in performing every task with openness and integrity and willingly supports others to fulfill their roles |

Vision

The Review Board supports the vision of the Department of Health and Community Services. The Review Board supports the achievement of this vision by affording clients of mental health services the opportunity to have a certificate of involuntary admission or community treatment order reviewed, and to assess allegations of denial of rights. The Review Board thereby furthers optimal health and well being and the effective use of resources.

The vision of the Department of Health and Community Services is for individuals, families and communities to achieve optimal health and well being.

Mission

The Review Board's mandate is not broad enough to develop a separate mission; therefore, the Department of Health and Community Service's mission has been adopted.

By March 31, 2017, the Department of Health and Community Services will have provided leadership to support an enhanced health care system that effectively serves the people of the province and helps them achieve optimal health and well being.

The Review Board has considered its mandate and government's strategic directions in identifying its contribution to the mission of the Department. The Review Board is a check and balance within the mental health system that spans the continuum of care from community / primary care to facility based tertiary and emergency care. The Review Board contributes to a more informed citizenry and a more accountable mental health system. Over time, by monitoring decisions made within the mental health system and by encouraging more appropriate use of available resources, the Review Board will also contribute to the improved quality of mental health care for those requiring mental health services across the Province.

Note: For a complete version of the Department's mission statement, please contact the Department of Health and Community Services Tel: 709-729-4984 or email: healthinfo@gov.nl.ca .

Annual Objective 2014-17

Over the course of 2014-2017, the Review Board will meet as needed. This means that panels of three members, consisting of a lawyer, who is Chairperson, a physician and a lay person, will review applications on behalf of involuntary patients who are admitted or require renewal certificates, or persons who are the subject of community treatment orders, or who are alleging denial of rights resulting from involuntary psychiatric assessment. Decisions of the Review Board will be communicated directly to Applicants and/or their representatives and to the admitting psychiatric facility.

The Review Board will provide an involuntary patient with a mechanism to access a review of the issuance of a certificate of involuntary admission. It also will provide a means by which a person who is subject to a community treatment order can appeal or apply for a review of such an order. This process will support the strategic direction of “Access” by contributing to more appropriate access in mental health services.

Due to the limited mandate of the Review Board, the annual objective will remain the same for each year of this Activity Plan. At the end of each year, the indicators and progress will be reviewed to determine if the indicators will remain the same for the period covered by this activity plan.

Objective

By March 31, 2015, 2016, and 2017, the Mental Health Care and Treatment Review Board will have reviewed applications under the *Mental Health Care and Treatment Act*.

Measure: Reviewed applications under the Act

Indicators:

- Number of applications received from mental health services
- Number of panels convened
- Number of hearings held/reviews completed
- Number of certificates upheld/cancelled
- Number of decisions communicated
- Timeliness of panels convened, hearings held and decisions rendered
- Yearly reports provided

Appendix A: Strategic Directions

STRATEGIC DIRECTIONS 2014-17

Strategic directions are the articulation of desired physical, social, or economic outcomes and normally require action by or involvement of, more than one government entity. These directions are generally communicated by government through platform documents, Throne and Budget Speeches, policy documents and other communiqués. They summarize the outcomes desired for the health sector and are communicated to entities that plan and report in collaboration with the Department. The strategic direction and focus area related to the health and community services sector for the planning period 2014-17 is:

Strategic Direction

Title: Access

Outcome: Improved accessibility to programs and services meeting the current and future needs of individuals, families and communities, particularly those most vulnerable.

Making the appropriate services available at the appropriate place and time is the defining feature of accessible health and community services. Striking the right balance between fiscal abilities and planning for equitable access is the key challenge. Together with stakeholders, the Department engages in reviews and consultations to determine how and what services should be delivered to maximize access.

The Review Board process provides an additional layer of accountability to ensure that the rights of vulnerable individuals are being upheld and that appropriate mental health and addiction services are being provided.

| Focus Areas of the Strategic Direction 2014-2017 | Strategic Direction #2 Access is | | |
|--|----------------------------------|------------------|-----------|
| | Addressed by | | |
| | Activity Plan | Operational Plan | Work Plan |
| Mental Health and Addictions | # | | |

Appendix B: Board Members as of April, 2014

| Position | Name | Address | Term Expiry |
|--------------------------|---------------------------------|--------------------|--------------------|
| Chairperson – Lawyer | Sandra M. Burke, Q.C. | St. John's, NL | July 10, 2015 |
| Member – Lawyer | Janine Evans | St. John's, NL | May 2, 2014 |
| Member – Lawyer | Philip J. Buckingham | St. John's, NL | May 2, 2014 |
| Member – Lawyer | Geoffrey Aylward | Paradise, NL | May 2, 2014 |
| Member – Lawyer | Randolph J. Piercey, Q.C. | St. John's, NL | November 13, 2016 |
| Member – Lawyer | Jill Kathryn Brown | Corner Brook, NL | November 13, 2016 |
| Member – Lawyer | Rebecca Redmond MacLean | Gander, NL | November 13, 2016 |
| Member – Lawyer | Shawn Colbourne | Springdale, NL | November 13, 2016 |
| Physician Representative | Dr. Alec W. Brace | Bay Roberts, NL | May 2, 2014 |
| Physician Representative | Dr. Christopher Heughan | St. John's, NL | May 2, 2014 |
| Physician Representative | Dr. Peter Blackie | Gander, NL | May 2, 2014 |
| Physician Representative | Dr. Gerald Warren | Corner Brook, NL | May 2, 2014 |
| Physician Representative | Dr. Teodoro (Ted) O. Rosales | St. John's, NL | July 10, 2015 |
| Public Representative | Brenda Kelly | Bishop's Falls, NL | May 2, 2014 |
| Public Representative | Samuel M. Kean | St. John's, NL | May 2, 2014 |
| Public Representative | Moyra Buchan | St. John's, NL | July 10, 2015 |
| Public Representative | Brenda Stamp | St. John's, NL | May 2, 2014 |
| Public Representative | Frankie O'Neill | St. John's, NL | May 2, 2014 |
| Public Representative | Doreen Chaulk | Deer Lake, NL | November 13, 2016 |

Appendix C: Referenced Legislative Sections

(All references are to the *Mental Health Care and Treatment Act* unless otherwise noted)

1. Overview

Membership – Appointment of Board Members

57. (1) The board shall comprise a minimum of 13 members appointed by the Lieutenant-Governor in Council and consist of
- (a) a chairperson, who is a member in good standing of the Law Society of Newfoundland and Labrador;
 - (b) 4 persons, each of whom is a member in good standing of the Law Society of Newfoundland and Labrador and who expresses an interest in mental health issues;
 - (c) 4 persons, each of whom is a physician; and
 - (d) 4 persons, each of whom is neither a member of the Law Society of Newfoundland and Labrador nor a physician and each of whom expresses an interest in mental health issues, with preference being given to a person who is or has been a consumer of mental health services.
58. (1) A member of the board shall be appointed for a term of 3 years.
- (2) Notwithstanding subsection (1), members of the first board appointed under this Act shall be appointed to the following terms:
- (a) the chairperson and 2 persons referred to in each of paragraphs 57(1)(b), (c) and (d) shall be appointed for a term of 4 years; and
 - (b) 2 persons referred to in each of paragraphs 57(1) (b), (c) and (d) shall be appointed for a term of 3 years.

3.0 Report on Performance

Discussion of Results – Timeliness for Setting of Hearings

66. (2) within 2 clear days of receipt of an application the chairperson of the board shall appoint a panel and designate a chairperson of the panel and refer the application to the chairperson of the panel.
- 67 (1) A panel shall hear and determine an application as soon as is reasonably possible and in any event no more than 10 clear days after receipt of the referral under subsection 66(2).
(2) Within 2 clear days of receipt of the referral of the application under subsection 66(2), the chair of the panel shall give notice of the date, time, place and purpose of the hearing to the parties to the application.

Discussion of Results – Timeliness of Decisions Rendered

- 71 (2) Within 3 clear days following the conclusion of its review, the chairperson of the panel shall deliver
- (a) to each party, its decision, in writing, signed by the members of the panel, together with reasons in support of the decision, and where the decision of the panel is not unanimous, any dissenting opinion; and
 - (b) To the chairperson of the board, a copy of its decision, together with reasons, and any dissenting opinions, and a record of all evidence presented to the panel.

“Clear days” are defined at Rule 3.01 of the Rules of the Supreme Court, 1986, as amended:

- (a) Where the time limited for the doing of a thing expires or falls upon a Saturday, Sunday or holiday, the thing may be done on the day next following that is not a Saturday, Sunday or holiday.
- (b) Where there is a reference to a number of clear days or "at least" a number of days between two events, in calculating the number of days there shall be excluded the days on which the events happen.
- (h) Where any limited time less than six days from or after any day or event is appointed or allowed for doing any act or taking any proceeding, Saturdays, Sundays and holidays shall not be reckoned in the computation of the limited time.

Mental Health Care and Treatment Review Board

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