



British Columbia

MENTAL HEALTH REVIEW BOARD

Effective Date: 2020/01/31

Title: Practice Direction – Facilities

This Practice Direction describes the procedures that must be followed by facilities to ensure a fair and timely hearing.

Guiding Principles:

The Mental Health Review Board [Board] honours the obligations and is guided by the principles contained in the *United Nations Convention on the Rights of Persons with Disabilities* and the values contained in the *Charter of Rights and Freedoms*.

Summary:

A facility may include a hospital in which a patient is involuntarily detained under the *Mental Health Act [Act]* or a mental health centre or team if the patient is detained on leave under the *Act*. Facilities are expected to provide information to patients about their rights under the *Act*, information about their diagnosis and reason for involuntary detention, and information about how to seek review of their detention. Facilities are expected to provide patients with access to a telephone to contact lawyers and transportation to a hearing, if required.

Direction:

Facilities will provide hearing space

The facility will provide a physical space that is private, appropriate for a legal proceeding, adequate in size to accommodate at least six people, and be video conference capable. If space is not available at the facility, the facility will help the patient in attending at another location.

Facilities will facilitate the attendance of a patient

A patient must attend the hearing unless the review panel orders otherwise.

A patient may wear clothing of their choosing during a hearing. Facilities must not prevent patients from wearing clothing of their choosing at a hearing unless there is a health and safety risk or not possible in the circumstances. In response to a request, the patient's clinical team will explain the health and safety risk to participants before the hearing.

Facilities will provide a case note and case presenter

The facility must ensure that there is a case presenter and case note for every hearing. A case presenter is a representative of a facility who presents the case for continued detention. A case note is a written summary of the evidence a facility will present at a hearing. More information can be found in Practice Direction: Case Presenters and Practice Direction: Preparing a Case Note.

Facilities have a duty to disclose all relevant records before a hearing

A facility must disclose all relevant records in its possession or control as set out in the Practice Direction: Disclosure.

Facilities must promptly notify the Board when a patient with a scheduled hearing is decertified, transferred, released on leave, or absent without authorization

A facility that cancels a patient's certification under the *Act* must notify the Board immediately.

When a patient is transferred to another facility or placed on leave, the transferring facility must at the earliest opportunity:

- Notify the Board and the patient's representative of transfer
- Notify the receiving facility of the hearing
- Arrange for the participation of a case presenter at the hearing in person or by way of electronic means.

A receiving facility must notify the Board that the hearing is proceeding as scheduled, as soon as possible.

When a patient becomes absent under s. 41 of the *Act*, the facility must notify the Board and the patient's representative as soon as possible. The Board may postpone a hearing involving an absent patient when it is fair and reasonable in the circumstances.

Facilities must facilitate communication for self-represented patients

Where the facility is the address for delivery for the patient, a facility must promptly deliver all correspondence from the Board. A facility must also facilitate communications from the patient to the Board, including applications for hearing or requests to cancel hearings.

The facility must provide the patient with the Board's reasons for a decision when they are sent to the facility in a sealed envelope to be delivered to the patient.

**Diana Juricevic
Chair, Mental Health Review Board**