



# British Columbia

## MENTAL HEALTH REVIEW BOARD

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**Effective Date: 2018/08/28**

**Title: Practice Direction – Guidelines for Patient Representatives**

This Practice Direction describes the administrative procedures that must be followed by patient representatives.

The purpose of these procedures is to ensure that a patient is given a procedurally fair hearing that also proceeds expeditiously.

**Summary:**

A patient may present their own case or have someone represent them. A patient representative is a participant at a review panel hearing. A patient representative's role is to provide advocacy by representing the interests of a patient and presenting the patient's case for discontinuing detention under the *Mental Health Act* (the "Act").

Patients are often represented by advocates from the Mental Health Law Program (MHLP); however a patient may instead hire a lawyer or ask a family member, friend, near relative or other person to represent them.

Patients may request free legal representation from the MHLP when completing the Form 7 Application for a Review Panel Hearing. A patient must select the MHLP option on the Form 7 to submit a request for representation to the MHLP. Hiring a lawyer in private practice means that the patient chooses to make their own arrangements for legal representation, including payment for a lawyer of their choosing.

**Direction:**

**Patient Representatives must notify the facility and the Board on beginning to act for a patient**

If a patient has a representative, that patient representative must notify the facility and the Board immediately on beginning to act for the patient, or at the earliest possible opportunity thereafter.

**Patient Representatives must provide an address for delivery**

If a patient is represented, the Board and the facility must communicate with the patient representative on all issues relating to the application and the hearing. A patient representative must therefore provide the Board and the facility with an address for delivery.

**Patient Representatives must make a request for disclosure from the facility**

To obtain a copy of the patient's relevant records or to review them, a patient representative must make a request for disclosure to the facility no later than three business days prior to the scheduled hearing. The request must specify whether it is for a copy of the relevant documents or an opportunity to review them. This request should be in the form of a letter to the facility. Any patient represented by the MHLP consents to the release of their health records to the MHLP if they requested representation by the MHLP on the Form 7 Application for Review Panel Hearing.

Documents obtained through the disclosure process are confidential and may not be used for any purpose other than the application process in which they were disclosed, except with the consent of the patient, or by order of the Board. More information about disclosure can be found in the Practice Direction: Guidelines for Disclosure.

**Patient Representatives must promptly disclose the patient's documents and witness information prior to the hearing**

A patient representative must provide the case presenter with a copy of any document in the patient's possession or control that the patient intends to refer to or rely on at the hearing. If a patient representative intends to call witness in support of the patient's case, the patient representative must disclose to the case presenter or facility a list of the names of the witnesses and their relationship to the patient or application prior to the commencement of the hearing.

**Patient Representatives must be prepared to proceed with the hearing at the scheduled time**

The Board will schedule a hearing in consultation with participants. However, in appropriate circumstances, including when a participant does not respond to the Board's scheduling request in a timely manner, the Board may schedule a hearing without consultation. A patient representative must be prepared to proceed with the hearing at the scheduled time and ensure that any witnesses are available to attend at that time.

During the hearing, a patient representative may introduce evidence, call witnesses, cross examine the case presenter and the case presenter's witnesses, make applications relevant to the conduct of the hearing, and make submissions in support of the case for the discontinuation of the patient's detention.

**Patient Representatives must provide notice if no longer acting for the patient**

A patient representative who ceases to represent a patient must notify the Board and the facility at the earliest possible opportunity thereafter. The notice must include confirmation that the patient representative has notified the patient that they are no longer acting for the patient in the proceeding.

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