

Review Panels

Under The Mental Health Act

Review Panels

The Mental Health Act (1988) requires the establishment of review panels. Each panel consists of four persons:

- a chairman or a vice-chairman (who must be a lawyer),
- one psychiatrist,
- one physician, and
- one member of the general public.

The purpose of review panels is to hold hearings and to make decisions relating to applications for:

- cancellation of admission or renewal certificates,
- review of a physician's certificate (of mental incompetence)
- orders for treatment to be administered to patients who object to treatment, and
- requests (from forensic patients) to return to a correctional facility.

Certain persons are not eligible to sit on a review panel for an application relating to a patient whose application is being reviewed.

These include a person who is:

- related by blood or marriage to the patient,
- a spouse of the patient,
- a psychiatrist or physician or other person who is treating or who has treated the patient, or
- a lawyer who is acting or who has acted on behalf of the patient.

Staff members of a facility are not permitted to sit as a member of a review panel which is considering an application relating to a patient in that facility.

What matters can a review panel consider?

The Mental Health Act sets out five sections regarding applications for hearings. The review panel will give its decision after holding a hearing.

1. Physician's Certificate (of Mental Incompetence) (Section 27)

A formal patient may request a hearing to review a physician's opinion that the formal patient is not mentally competent to make treatment decisions. Once the application has been made, neither a physician nor a board shall permit treatment decisions to be made for the patient until the review panel makes a decision that the patient is incompetent to make treatment decisions. (This may not apply to a patient with a guardian who has authority to make treatment decisions for the patient.)

A person is mentally competent to make treatment decisions if he/she is able to understand the subject matter relating to the decisions and able to appreciate the consequences of making the decisions.

2. Objection to Treatment (Section 29)

A formal patient who is mentally competent to make treatment decisions might object to treatment. In such a case, the board of a facility or a physician may ask the review panel to order the treatment. Also, if someone who has authority to make treatment decisions for a formal patient objects to treatment, the board of a facility or a physician may ask the review panel to order the treatment.

3. Review of Admission or Renewal Certificates (Section 38)

A hearing may be requested by the formal patient, the patient's guardian, someone on behalf of the patient, or by the board of a facility to have admission or renewal certificates cancelled.

4. Automatic or "Deemed Application" for Review of Admission or Renewal Certificates After 6 Months (Section 39)

Renewal certificates are automatically reviewed after six months if there has not been any hearing held regarding admission or renewal certificates on behalf of a formal patient during that time.

5. Request to Return to a Correctional Facility (Section 33)

A person who has been sent to a (mental health) facility for treatment after having been sentenced to a correctional facility may apply to the review panel for an order transferring him/her back to the correctional facility.

If the person is a formal patient, the review panel will first need to decide whether or not to cancel the admission or renewal certificates.

How soon must a hearing be held and decisions be made by the review panel?

There are two sets of timelines for hearings and decisions:

1. Applications made for Review of Physician's Certificate (Section 27) or Request for an Order Directing that Treatment may be Administered (Section 29)

A hearing must be held and a decision made and communicated to the patient and his guardian, if any, within seven days of the date the Chairman receives the application. Reasonable notice of time, date, place and purpose of the hearing must be given to persons who are notified of the hearing.

2. Applications made for Cancellation of Admission or Renewal Certificates (Section 38), or Deemed Application (Section 39), or Request for Transfer Back to a Correctional Facility (Section 33)

A hearing must be held within 21 days of when the application is received. For automatic six month reviews, a hearing must be held within 21 days of the date of the deemed application. The review panel must give seven days notice of the hearing date, time, place and purpose of the hearing. Adjournment may be permitted.

May I be present at a review panel hearing?

Yes.

Review panel hearings are conducted in private. No person has the right to be present without the prior consent of the Chairman. However, the patient and his representative do have the right to be present while any evidence is being given to the review panel. They are also able to cross-examine any person who gives evidence to the review panel.

However, if the review panel is of the opinion that disclosure of certain information to the patient might seriously endanger the safety of another person, the review panel may refuse to disclose the information to the patient.

Do I need a lawyer?

It is your right to have unrestricted access to legal counsel.

The Legal Aid Society of Alberta provides legal services under certain circumstances. A lawyer acting on your behalf can visit you at any time.

What can I do if I am not satisfied with a review panel's decision?

A decision of the review panel may be appealed to the Court of Queen's Bench.

An Appeal must be commenced within 14 days of the receipt of the order or written decision of a review panel. An appeal is a *rehearing* of the matter on its merits. An order of the Court under Section 43 is not subject to further appeal.

Where can I find more information about my rights and how to access legal services?

If you wish, the social worker or nursing staff will help you to complete an application form and will answer any questions which you may have.

The Mental Health Patient Advocate's office can also provide information relating to your rights of appeal and the securing of legal services. You may contact the Patient Advocate by telephone at **(780) 422-1812**, toll-free in the rest of Alberta at **310-000** and then dial **422-1812** or by writing to:

*The Mental Health Patient Advocate
Room 1202, Centre West Building
10035 – 108 Street
Edmonton, Alberta T5J 3E1*

Who is the Review Panel Chairman of this facility?

You may send your application to the address below:

*R. Allan Harris, Chair
Edmonton Mental Health Review Panel
Suite 1090
The Phipps-McKinnon Building
10020 - 101A Avenue
Edmonton, Alberta
T5J 3G2*

*Joan Metz, Chair
Calgary Mental Health Review Panel
323 - 11 Avenue, N.E.
Calgary, Alberta
T2E 0Z2*

*Alan Fielding, Chair
Ponoka Mental Health Review Panel
4708 - 49 Street
Camrose, Alberta
T4V 1M7*