# The Mental Health Care and Treatment Review Board

# ANNUAL ACTIVITY REPORT 2010-2011

# *Chairperson's Message*

I am pleased to provide the 2010-2011 Annual Report for the Mental Health Care and Treatment Review Board in accordance with the requirements of the *Transparency and Accountability Act* for a Category 3 Government Entity. In the development of this report careful consideration was given to the strategic directions of government, as communicated by the Minister responsible for this entity.

This Annual Report provides an overview of the activities of the Mental Health Care and Treatment Review Board. The statistics related to the three years covered by the Review Board's 2008-2011 *Activity Plan* are found in the Goal section of this report and the annual objective for 2010-2011 focuses on more recent activity.

As Chairperson (Acting) of the Mental Health Care and Treatment Review Board, my signature is indicative of the entire Review Board's accountability for the preparation of this report, any variances, and for the achievement of the specific objectives contained therein.

Sandra M. Burke, Q.C.
Chairperson (Acting)

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# *Tables and Figures*

# *1.0. Overview*

# *Mandate*

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

The key function of the Review Board is outlined in Section 56. (1) of the *Mental Health Care and Treatment Act* and the purpose of the Review Board is to hear and decide applications under the *Mental Health Care and Treatment 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.*

# *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 A.

# *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. The following is an overview of locations in which the panels heard applications and business was conducted in 2010-2011.

**Table 1: Overview of the Locations of Meetings (2010-2011)**

| LOCATION | IN PERSON | VIDEOCONFERENCE |
|---|---|---|
| Waterford Hospital, St. John's | 25 | |
| Health Sciences Center, St. John's | 1 | |
| Western Memorial Hospital, Corner Brook | | 2 |
| Central Newfoundland Regional Health Centre, Grand Falls-Windsor | | 1 |
| Sir Thomas Roddick Hospital, Stephenville | | 2 |
| Sub-total | 26 | 5 |
| **Total Number** | **31** | |

While panel members are located across the Province, most patients are located in St. John's and Review Board members make themselves available as necessary. In 2010-2011, the Review Board started to hold reviews using the Professional Development & Conferencing Services of Memorial University. This increased capacity by connecting with any of the above as a third site and increased efficiency with respect to cancellations and/ or changes in hearings dates or times.

# *Financial*

The Review Board is not required to have an audited statement. In the 2010-2011 fiscal year, total expenses were approximately $44,038.00 broken down as follows:

| | |
|---|---|
| Board Members: | $36,790.00 |
| Psychiatrists | $ 6,800.00 |
| Videoconferences | |
| Courier expenses | $ 448.00 |
| **Total** | **$44,038.00** |

Administrative support and expenses are provided by the Department of Health and Community Services.

# *Values*

The Review Board adopted the following 2008-2011 values of the Department of Health and Community Services and incorporated them into Review Board activities and decision making**.**

***Collaboration***

Each person engages actively with partners.

***Fairness***

Each person uses a balance of evidence for equity in decision making.

***Privacy***

Each person manages and protects information related to persons/ families/organizations/communities and the department appropriately.

***Respect***

Each person provides opportunities for others to express their opinions in an open and safe environment.

***Transparency in decision making***

Each person is forthcoming with all information related to decision making except where prohibited by legislation.

***Excellence***

Each person performs to the best of their ability, and within available resources.

# *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 second renewals for involuntary patients in section 33 and issuing or renewing community treatment orders in subsection 53(3) of the *Mental Health Care and Treatment Act.*

# *2.0. Shared Commitments*

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**

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/ patient 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.

# *3.0. Accomplishments and Highlights*

The proclamation of the new *Mental Health Care and Treatment Act*, which replaced legislation over 30 years old, continues to be a significant development in improving access to a priority health service across the Province.

In the 2008-2009 fiscal years, the Review Board heard the first application to review a Community Treatment Order. To date, there are presently very few applications based on allegations of denial of rights.

In 2010-2011, the Review Board met on five occasions to discuss implementation issues, the annual report and to make recommendations to improve procedural matters, which are referred to in this report.

# *4.0. Report on Performance*[1]

# *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 providing clients of mental health services with a review of their certificate of involuntary admission or community treatment order and assessment of 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 Services mission for 2008-2011 has been adopted.

***By March 31, 2011 the Department of Health and Community Services will have guided the implementation of provincial policies and strategies that are developed to ensure equitable and quality services in population health, enhanced public health capacity, and accessibility to priority services and improved accountability and stability in the health and community services system.***

The Review Board contributed to the Departmental mission by ensuring appropriate/ improved accessibility to priority services, which are inclusive of mental health services, and by improving accountability to clients of mental health services.

[1] An updated and complete version of the Department of Health and Community Services' and the Mental Health Care and Treatment Review Board's 2008-2011 and 2011-2014 Plans, which contain the vision and mission, is available by contacting the Department of Health and Community Services Tel: 709-729-4984 or email: healthinfo@gov.nl.ca or visit http://www.health.gov.nl.ca/health/

# *Goal Progress 2008-2011*

Over the course of the 2008-2011 fiscal years, the Review Board met as needed. This meant that panels of three members, including a lawyer, who is Chairperson, a physician and a lay person, reviewed applications on behalf of involuntary patients who were admitted or required renewal certificates, or persons who were the subject of community treatment orders, or who alleged denial of rights resulting from involuntary psychiatric assessment. Decisions of the Review Board were communicated directly to Applicants and/or their representatives and to the admitting psychiatric facility.

The Review Board provided an involuntary patient with a mechanism to access a review of the issuance of a certificate of involuntary admission. It also provided a means by which a person who is subject to a community treatment order can review the issuance or renewal of such an order.

The Review Board acted as a check and balance within the mental health system, spanned the continuum of care from community / primary care to facility based / tertiary/ emergency care, and contributed to more informed citizens and a more accountable mental health system. The Review Board supported the strategic direction of "Improved Accountability and Stability of Services " (See Appendix B) by monitoring decisions made within the mental health system and encouraging more appropriate use of available resources, as is evident in the goal statement:

**Goa**l: By March 31, 2011, the Mental Health Care and Treatment Review Board will have contributed to more appropriate access to mental health services and accountability by reviewing applications on behalf of persons in the above circumstances.

**Measure**: Contributed to more appropriate access and accountability in mental health services

This Annual Report is the third report since the 2008-2011 Activity Plan was developed to include Review Board statistics, which inform goal and annual objective reporting.

**TABLE 2: MENTAL HEALTH CARE AND TREATMENT REVIEW BOARD ACTIVITY BY FISCAL YEAR 2008 to 2011**

| Review Board Activity | Total 2008-2009 | Total 2009-2010 | Total 2010-2011 | Grand Total |
|---|---|---|---|---|
| **Status of Applications** | **Number of Applications** | | | |
| **Received** | 101 | 107 | 102 | 310 |
| **Summarily dismissed by Chair** | 2 | 6 | 8 | 16 |
| **Cancelled** [1] | 39 | 43 | 42 | 124 |
| **No hearing set** [2] | 12 | 10 | 17 | 39 |
| **Rescheduled** [3] | 5 | 9 | 4 | 18 |
| **Postponed** [4] | 1 | 0 | 0 | 1 |
| **Hearings convened** [5] | 42 | 39 | 31 | 112 |
| **Result of Hearings by Review Board Panels** | | | | |
| **Certificates upheld/ confirmed** | 35 | 28 | 27 | 90 |
| **Certificates not upheld / not confirmed** | 5 | 10 | 4 | 19 |
| **Community Treatment Orders upheld /confirmed**[6] | 1 | 1 | 0 | 2 |
| **Panel lacking jurisdiction** | 1 | 0 | 0 | 1 |
| **Decision communicated** | 42 | 39 | 31 | 112 |

[1] Applications cancelled include those that had been scheduled and did not proceed because the applicant or his/ her representative chose not to proceed (i.e. withdrew) or the applicant was decertified and no longer required a hearing.
[2] No hearings were set means that the applicant was decertified and/or discharged prior to the scheduling of the hearing
[3] Hearings were rescheduled due to factors such as non-availability of psychiatrist, adverse weather conditions
[4] Hearing was postponed to obtain further evidence, but not rescheduled to another date
[5] Hearings convened means that review board members met in person or used communications technology to hear and decide upon an application.
[6] The first application for review of a Community Treatment Order was heard in 2008-2009.

**Table 3 Goal Indicators 2008-2011** (based on Table 2, Page 13)

| Planned Activity | Actual Activity |
|---|---|
| Number of applications received from mental health services | The total number of applications received during 2008-2011 was 310. A total of 102 applications were received in 2010-2011, which were 5 less than in 2009-2010 period, and only one more received than in 2008-2011. |
| Number of panels convened / Number of hearings held | Thirty one (31) review panels were convened and subsequently 31 hearings were held, representing 30% of the 102 applications received in 2010-2011. This is approximately the same number of applications as received in 2008-2009. There were 42 hearings cancelled and this is consistent with other years covered by this plan. |
| Number of certificates confirmed / cancelled<br><br>Note: The term "cancelled" is not appropriate in this context. Certificates are either "confirmed (upheld)" or "not confirmed (terminated)" | There were 27 of 102 applications or 26% certificates confirmed or upheld for 2010-2011 representing 30% of the total (90) certificates upheld since 2008-2011. This is generally consistent with the number and per centage of applications for two of the three years covered by this report.<br><br>There were no community treatment orders reviewed in 2010 -2011 and only 2 since the legislation was introduced in 2008.<br><br>There were 42 certificates cancelled, 17 with no hearing set due to decertification and/or discharge and 4 of 102 certificates not upheld/confirmed representing 62% of the total applications received this year. While the number of certificates not upheld peaked at 10 in 2009-2010, the number for this year is consistent with other years. |
| Yearly reports provided | The Review Board has provided 3 Annual Activity Reports on the 2008-*2011 Activity Plan.* |

## *Discussion of Results*

These statistics represent a consistent trend in Review Board activity over the course of the 2008-2011 Activity Plan, including activity related to the proclamation of community treatment order section of the *Mental Health Care and Treatment Act*. Since 2008-2009 there has been an average of 103 applications per year, representing a fairly consistent workload for the Review Board. The fifty nine (59) hearings cancelled due to decertification or discharge prior to the hearing, in combination with the four (4) certificates not upheld, and may be indicative of an area that requires further consideration.

The remainder of this report focuses on progress in achieving the 2010-2011 annual objective.

## *ANNUAL OBJECTIVE 2010-2011*

The Review Board developed the following annual objective to accomplish the 2008-2011 goal over three fiscal years. At this time, the defined mandate of this Review Board results in the annual objective remaining the same for each year of this Plan.

The information supporting these indicators is provided in Table 1, page 6 and Table 2, page 13 and in additional Tables and Figures for 2010-2011 in the remaining section of this report. The following reports on progress in achieving the annual objective for 2010-2011.

**By March 31, 2011** the Mental Health Care and Treatment Review Board will have reviewed applications under the *Mental Health Care and Treatment Act* to ensure the conditions for issuing or renewing certificates are appropriate and communicate the decision directly to clients or their representative.[2]

**Measure:** Reviews completed

**Table 4: 2010-2011 Indicators**

| Planned Activity | Actual Activity |
|---|---|
| Number of review panels/hearings convened /held | The Review Board convened thirty one (31) review panels in 2010-2011and held 31 hearings. This is 8 fewer panels than held in 2009-2010 and represents 30% of the total number of applications received this year and 28% of the panels convened (112) since 2008-2009. |
| Number of applications received and reviewed (i.e. hearings held) | In 2010-2011, one hundred and two (102) applications were received and 31 review hearings were held. Four (4) reviews were rescheduled. In the first two years covered in this report, one Community Treatment Order per year was reviewed, however, there was no Community Treatment Order reviewed in 2010-2011. |
| Number of decisions communicated | Thirty one (31) decisions were communicated; 27 or 87% of the certificates were upheld and 4 or 13% were not upheld or confirmed. |

**DISCUSSION OF RESULTS 2008-2011**

The number of applications received for each of the past 3 years is similar and shows a consistent trend with the passing of the legislation. The number of hearings and decisions rendered ranged from 42 to 31 with an average of 37 per year. The number of certificates not upheld was reduced from 10 in 2009-2010 to 4 in 2010-2011.

[2] This includes reviews of Community Treatment Orders and communication of decisions to the Health Authority and other parties to the hearings as required by the *Act*.

Data collection is ongoing and further information and analysis is needed over a longer time period to confirm these trends. The following statistical and qualitative information gives added insight into the nature and volume of work by the Review Board, which represents one component of a range of mental health services.

**Cancellations of Hearings:**

Table 5 reveals the length of notice provided by Applicant/Health Authority out of 42 cancelled applications in 2010-2011. Cancellations of hearings were the result of decertification prior to the hearing dates and/or withdrawal of application(s) by the patient. The timeliness of notification of cancellation was identified as an issue in 2008-2009 and continued in 2010-2011. The totals in most of these years has been consistently higher than in 2008-2009, with the exception of applicants with less than 1 day notice, and this could continue to be problematic for panel members.

**Table 5: Length Of Notice Provided For Cancelled Applications By Applicant/ Regional Health Authority 2008-2009 to 2010-2011**

| | **Number of Applications Cancelled** | **Less Than 24 Hours Notice** | **1 Day Notice** | **2 or More Days Notice** |
|---|---|---|---|---|
| 2008-2009 | 38[3] | 9 | 7 | 22 |
| 2009-2010 | 43 | 18 | 4 | 21 |
| 2010-2011 | 42 | 12 | 5 | 25 |

In 2010-2011, there were 5 hearings rescheduled/ postponed; however, there is no legislative or regulatory requirement or indication within which the rescheduled/ postponed hearings must be heard. There is potential to address this through guidance, legislative amendment and/or regulatory requirement as to the nature of postponements/ rescheduling of applications, such that achieving the Board's mandate and mission is ensured.

[3] Table 2, page 11 indicated 39 cancellations for 2008-2009, however, the required data for Table 5 was not available for one applicant so the data is based on 38 for that year and in the above table.

**Table 6 a Timeliness of the Appointment of Panels and Hearing Dates 2010-2011**

The *Act* provides specific timelines to guide the review process and this has provided parameters for the information collected. (See Appendix C). Specifically, Panels must be appointed within 2 clear days of the receipt by the Board Chair of the Application, and the hearing dates must set within 2 clear days of referral of the Application to the Panel Chair.

To effectively meet the time requirements of the *Act*, it is usual that panels are struck, hearing dates set and notices sent out to participants from a common administrative centre.

| **Table 6a:Timeliness in Appointing Panels and Setting Hearing Dates Per Sections 66(2) and 67(2) of the Act By Number** | |
|---|---|
| Same Day as Application Received | 13 |
| Next Day after Application Received | 24 |
| 1 Clear Day after Application Received | 9 |
| 2 Clear Days after Application Received | 7 |
| 3 Clear Days after Application Received | 9 |
| 4 Clear Days after Application Received | 10 |
| 5 Clear Days after Application Received | 0 |
| More than 5 Clear Days after Application Received | 5 |
| Total | 76 |

In 2010-2011, most appointments of panels and hearing dates set (71 of 76 or 96%) were set within the legislative requirements; all hearings (100%) were held within the legislative requirements. The delays in setting panels and hearing dates in 5 cases were largely the result of the unavailability of panel members.

**Table 6 b Timeliness of Hearings Scheduled to be Heard**

The legislative requirements for the timing of hearings to be held are found in Appendix C. Specifically, hearings must be held within 13 clear days of the receipt of the Application by the Board Chair.

| **Table 6b:Timeliness of Hearings Scheduled to be Heard Per Section 67(1) of the *Act* by Number and Percentage 2010-2011** | | |
|---|---|---|
| **Number of Days Within which Hearings are Scheduled to be Heard from Receipt of Application** | **Number #** | **Percentage %** |
| One to Four Clear Days | 13 | 17 |
| Five to Ten Clear Days | 52 | 68 |
| Eleven to Thirteen Clear Days | 11 | 15 |
| More than thirteen Clear Days | 0 | 0 |
| Total | 76 | 100 |

The Review Board was successful in having all hearings in 2010-2011 scheduled to be heard within the time frame of the legislative requirements.

**Table 6c: Timeliness of Decisions Rendered and Delivered**

The legislative requirements for the timing of decisions to be rendered and delivered to Applicants, Health Authorities and involved parties are found in Appendix C. Decisions must be rendered and delivered within 3 clear days from the conclusion of the hearing.

| **Table 6c: Timeliness of Decisions Rendered and Delivered Per Section 71(2) of the *Act* by Number and Percentage 2010-2011** | | |
|---|---|---|
| **Number of Days After Hearing to Rendered Decision** | **Decisions Rendered and Delivered** | |
| | **Number #** | **Percentage %** |
| Next Day | 6 | 20 |
| One Clear Day | 2 | 6 |
| Two Clear Days | 5 | 16 |
| Three Clear Days | 4 | 13 |
| More than Three Clear Days | 14 | 45 |
| Total | 31 | 100 |

| Table 6d: Delay of Decisions Rendered and Delivered Per Section 71(2) of the *Act* by Number and Percentage 2010-2011 | | |
|---|---|---|
| **Delay in rendering Decision** | **Decisions Rendered and Delivered** | |
| | **Number #** | **Percentage %** |
| Four Clear Days Delay | 2 | 14 |
| Five Clear Days Delay | 8 | 58 |
| Six Clear Days Delay | 2 | 14 |
| Twelve Clear Days Delay | 1 | 7 |
| Twenty One Clear Days | 1 | 7 |
| Total | 14 | 100% |

Of the 31 hearings in 2010- 2011, seventeen (17) or 55% of the hearing decisions were rendered and delivered to the Applicant and the Hospital Authority with no delay in accordance with legislative requirements. Fourteen (14) or 45% of the decisions were rendered and delivered after the time frame required by the legislation, the particulars of which are set out in the above Table.

# *5.0. Challenges and Opportunities*

## Community Resources

Access to community based mental health and addictions services is a focus area of the DHCS 2008-2011 strategic plan. In keeping with this, the Review Board emphasizes that for some Applicants, the lack of community resources was a deterrent to proceeding with decertification. Increasing awareness of the need for a continuum of treatment services and continuing to prevent the unnecessary detention of the Applicant, as well as ensuring the safety of the Applicant and/or the community, is an ongoing challenge for the Review Board.

## Procedural Matters

The Review Board confirmed that 102 applications were received in 2010-2011 for a total of 310 applications between 2008 -2011. During the period 2008-2011, the number of hearings per year ranged from 42 to 31 with an average of 37 per year. All applications, including those cancelled, summarily dismissed, or rescheduled, required administrative preparations for panels. Given the consistent trend in the number of applications and cancellations, the following procedural matters represented opportunities and challenges for the Review Board in 2010-2011.

### *Hearing Process*

The Review Board hearing process is continuing to develop under the *Mental Health Care and Treatment Act* (2006), which was proclaimed in October 1, 2007, and the proclamation of Part IV, Community Treatment Orders in January 1, 2008. In 2010-2011, the Review Board recognized the need to develop policy and procedure related to the hearing process. This included the manner in which hearings are conducted and rescheduled, and decisions communicated. In the next planning period (2011-2014), the timely dissemination of changes in process will improve consistency for the Applicant, the Health Authority and Panel Members.

### *Administrative Support*

Administrative support for the Review Board is provided by a position in the Mental Health and Addictions Division at the DHCS. Related administrative costs include dedicated telephone and fax lines to ensure confidentiality, computer and internet costs, and office supplies, etc. This is an effective and efficient temporary arrangement that is under review with respect to the independence of the Review Board.

### *Communication*

Presently, telephone, fax and email are used to communicate with Board members. Most, if not all, Review Board members are accessible using electronic mechanisms, such as computer with internet and email technology. Providing that the appropriate measures for security and privacy of information can be assured, there is opportunity to have more comprehensive and integrated electronic communication to support the appointment of panels, notification of hearings and filing of decisions. This could be a standard method of communication between Review Board members, and with the Regional Health Authority, Newfoundland and Labrador Legal Aid Commission (and private legal counsel) and the Department. Clients send and receive applications, notifications and decisions via transmission through their legal counsel, rights advisor or directly from the Health Authority.

In the course of implementing the hearings, as required by the *Act*, the Review Board has identified areas where further communication and collaboration among these organizations/persons could enhance the mandate, vision and mission of the Review Board, and, more importantly, directly enhance the delivery of services to those with mental health issues.

### *Amended and Standardized Forms*

Current application forms need to be updated to ensure that the panels receive appropriate information and to ensure consistency and fairness among applicants and the Health Authority. Forms are also required for postponements/rescheduling of hearings by the Board, Applicant and Health Authority, and cancellation of hearings by the Applicant and the Health Authority.

***Review Board Member Participation***

The following represents the number of hearings and decisions confirmed for Review Board members:

| **Table 7: Number Of Hearings And Decisions Confirmed For Each Review Board Member (2010-2011)** | | | |
|---|---|---|---|
| **Member Representation** | | **Appointed to Panel - but hearing cancelled or rescheduled** | **Appointed to Panel – and hearings proceeded** |
| **Legal** | A | 11 | 14 |
| | B | 22 | 9 |
| | C | 9 | 6 |
| | D | 4 | 0 |
| | E | 2 | 2 |
| **Physicians** | A | 22 | 19 |
| | B | 7 | 4 |
| | C | 18 | 8 |
| | D | 0 | 0 |
| **Public** | A | 0 | 0 |
| | B | 12 | 13 |
| | C | 30 | 17 |
| | D | 1 | 1 |

The above indicates that the work of Review Board members remained somewhat unevenly distributed as some members did not participate in any hearings while other members participated in the majority of hearings. Lack of involvement could occur if there were no applications heard in the geographic area in which the member resided. Regional consideration of the assignment of board members may allow for more even distribution of workload. The 2010-2011 Review Board membership allowed for contingencies for illness and unavailability of appointment of members for panel appointments. It is recognized that there was no carry over provision in *The Act* to allow Board Members to continue in their capacities when their term has officially ended until reappointment. In 2010-2011 Board Members continued to participate in hearings as active panel members while waiting reappointment. In future, addressing these issues will increase the Review Board's ability to achieve its objectives

# *Appendix A: Board Members 2010-2011*

**MENTAL HEALTH CARE AND TREATMENT REVIEW BOARD**

| Position | Name | Term Expiry |
|---|---|---|
| Chairperson<br>Lawyer | Mr. John L. Ennis[4] | October 1, 2011 |
| Member – Lawyer | Mr. John McGrath | October 1, 2011 |
| Member – Lawyer | Ms. Sandra M. Burke[5] | October 1, 2010 |
| Member – Lawyer | Ms. Janine Evans[6] | October 1, 2010 |
| Member – Lawyer | Ms. Judy A. White | October 1, 2011 |
| Physician | Dr. Delores S. Doherty | October 1, 2011<br>(resigned May 31, 2010) |
| Physician | Dr. Alec W. Brace[7] | October 1, 2010 |
| Physician | Dr. Alan J. McComiskey | October 1, 2011 |
| Physician | Dr. Teodoro O. Rosales[8] | October 1, 2010 |
| Public<br>Representative | Ms. Brenda Kelly[9] | October 1, 2010 |
| Public<br>Representative | Mr. Samuel M. Kean[10] | October 1, 2010 |
| Public<br>Representative | Ms. Moyra Buchan | October 1, 2011 |
| Public<br>Representative | Ms. Mary Pia Benuen | October 1, 2011 |

Current as of April 30, 2011

[4] Term ended. Sandra M. Burke, Q.C. was appointed Interim Chair October 2011.
[5] Reappointed _____
[6] Reappointed _____
[7] Reappointed _____
[8] Reappointed _____
[9] Reappointed _____
[10] Reappointed _____

# *Appendix B: Strategic Directions*

*(Source 2008-2011 Activity Plan)*

**Strategic Direction: Access to priority services**

**Outcome**: Appropriate access to priority mental health services that are provided across the continuum of care in a range of settings from community / primary care to facility based/ tertiary/ emergency care.

**Clarifying Statement:** In a province with a vast geography and a declining and aging population with diverse health needs, the ability to provide accessible and appropriate health and community services is very challenging. While most programs are designed for the general population, flexibility and adaptation are needed to ensure access for vulnerable citizens and population with special needs.

| Government's Strategic Direction | Focus Areas of the Strategic Direction 2008-2011 | This Direction is/was Addressed in the: | | | |
|---|---|---|---|---|---|
| | | **plans of other entities reporting to the department** | **addressed in the entity's activity plan** | **addressed in the entity's operational plan** | **addressed in the work plan of a branch/ division of the entity** |
| Improved accessibility to priority services | Access to community-based mental health and addictions services | | X | | |
| | Access to appropriate primary health services | | X | | |
| | Home care and support services in the areas of end of life care, acute short term community mental health, case management, short term post discharge IV medications and wound management | | X | | |
| | Options to support choices of individuals in need of long term care and community supports | | X | | |

**Strategic Direction: Accountability and stability of health and community services**

**Outcome:** Clients and providers are more informed on the conditions for issuing or renewing certificates and the decisions resulting from the review of applications are communicated directly to clients or their representative.

**Clarifying Statement:** The health and community services system consumes approximately 44 percent of all government expenditures. As a result, ability to sustain the provision of quality health and community services requires appropriate use of existing resources and the monitoring of decisions made within the health system as done by the Mental Health Review Board. This Board directly communicates decisions from their review to clients and their representatives, thereby enhancing the accountability within mental health services and overall within the health system.

| Government's Strategic Direction | Focus Areas of the Strategic Direction 2008-2011 | This Direction is/was | | | |
|---|---|---|---|---|---|
| | | Addressed in the: | | | |
| | | **plans of other entities reporting to the department** | **addressed in the entities activity plan** | **addressed in the entity's operational plan** | **addressed in the work plan of a branch/ division within the entity** |
| Improved accountability and stability in the delivery of the health and community services within available resources | Identify and monitor outcomes for selected programs | | X | | |

Note: For a complete version of the Department's strategic directions, contact the Department of Health and Community Services Tel: 709-729-4984 or email: healthinfo@gov.nl.ca or visit http://www.health.gov.nl.ca/health/ .

# *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 Subparagraph 22(k) of the Interpretation Act, R.S.N.L. Chapter I-19, as amended:

where a number of days not expressed to be "clear days" is prescribed the days shall be counted exclusively of the 1st day and inclusively of the last and where the days are expressed to be "clear days" or where the term "at least" is used both the 1st day and the last shall be excluded;

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