

Mental Health Review Board Practice Direction 2004/1

Report on Involuntary Status for the Mental Health Review Board

Version 2.0, December 2004

In accordance with the provisions of clause 4(1)(b) of Schedule 2 of the *Mental Health Act 1986* (the Act), the President makes the following Practice Direction to specify the minimum requirements for the preparation and use of a newly issued medical report for all Board hearings, and to inform authorised psychiatrists, staff at mental health services, patients appearing before the Board, their representatives, and Board members about its preparation and use. **This Practice Direction replaces Practice Direction 2003/1 and, subject to the transitional provisions in s149 of the Amending Act, applies to all Board hearings conducted on and from 6 December 2004.**

1. Report on Involuntary Status for the Mental Health Review Board (Version 2.0, December 2004)

The President has approved the wording and format of a new version of a medical report titled "Report on Involuntary Status for the Mental Health Review Board". This new report format follows the commencement of amendments to the Act which operate from 6 December 2004 that, among other things, require authorised psychiatrists of mental health services to prepare, review and revise a treatment plan for each involuntary patient. In relation to continuing involuntary patients, the transitional provisions allow treating team members to prepare a treatment plan for each patient within six months of the commencement date.

The new report replaces the previous version titled "Report on Involuntary Status for the Mental Health Review Board" Version 1.0, March 2003. The Board will provide to all mental health services in electronic form (via e-mail) two templates, one in Microsoft Word format (for typewritten reports) and one in PDF format (for handwritten reports). These may then be downloaded to the computer system used by staff at each service. Both templates will also be available on the Board's website. These electronic versions have been designed in template form to ensure that the document is easy for treating team staff at mental health services to complete, and easy for patients, legal representatives and Board members to read and understand.

The Board will issue the new Report templates on 19 November 2004. After 6 December 2004, the Board will not accept the use of any previous report formats at hearings. They should be deleted immediately from the computer system of the service.

2. Requirement to Use the Newly Issued Version of the Report

To eliminate confusion previously associated with the use by staff at mental health services of different report formats, **the Board directs that** all staff at mental health services appearing before the Board as a representative of the Authorised Psychiatrist **prepare a written report using this newly issued version.**

In the event that other report formats are used, it will be a matter for the chairperson of the division of the Board conducting the hearing to determine how to proceed. The chairperson will provide the President with a report as a matter of course on each occasion that a non-current report format is used, and the President will consider how to deal with the matter in consultation with the Authorised Psychiatrist of the relevant mental health service and the Chief Psychiatrist.

3. Time for Preparation of the Report

Under section 26(7) of the Act, **all documents** to be presented to the Board must be made available to all relevant parties **at least 24 hours prior to the hearing. The Board directs that** staff preparing the Report **provide it for patients to read, and make it available for perusal** by legal or other authorised representatives (if any), Board members and any other relevant persons at the latest **by the close of the business day two days before the hearing date.** For example, if the hearing date is a Wednesday, the report must be made available by the close of business on the preceding Monday. If the hearing date is Monday, the report must be available by the close of business on the preceding Thursday. Public holidays are not counted. This accords with the principles of procedural fairness and complies with the Board's obligation to observe the rules of natural justice.

If treating team members have any doubts about the capacity of the patient to understand the contents of the Report, arrangements should be made for a staff member to read it to them and provide an appropriate explanation in language that the patient can understand.

4. Preparation of the Report

An information sheet has been prepared and accompanies the new version of the Report to provide guidance for treating team staff required to prepare the Report. The Authorised Psychiatrist must ensure that this information sheet is provided to all new staff dealing with involuntary patients.

Subject to the guidance of the consultant psychiatrist, **the Board directs that** the member of staff preparing the Report **collaborate with other members of the treating team** to ensure that all relevant information is included in the Report. Details should be **written in plain English, avoiding jargon and acronyms, and explaining medical terminology using descriptive language**, to enable patients to understand the contents and Board members to be in a position to discharge their statutory obligation to make their decision as to whether the patient continues to meet the legal requirements for involuntary status (even without an oral presentation of the case for the mental health service). For this reason, details of the current situation, and an accurate summary of the relevant history, of the patient are essential. The new format and structure of the report reflects the relative importance of the patient's current situation and history.

The preparation of the Report may involve more than one person reviewing the patient's clinical file and providing a current perspective. This is especially so when a key treating team member, such as a case manager, will be unable to attend or give oral evidence at the hearing. In that case, it is essential to provide their written comments on the report, particularly where they relate to issues likely to be in dispute between the parties at the hearing.

In the event that a treating team member is uncertain about any aspect of the completion of the Report, they should discuss it with the consultant psychiatrist. On request, the staff of the Board will also provide assistance to staff on the preparation of the Report.

5. Use of the Report at Hearings

The Report provides the basic medical evidence relied upon by the treating mental health service at the hearing of the Mental Health Review Board. At the hearing, **the Board directs that** staff attending should be clinically acquainted with the patient to such an extent that they can discuss and elaborate on the information provided in the Report, and can respond to questions asked by the Board or the patient about the Report. The Report also provides for the patient, and their representative, the details of the case that they must consider (and, if desired, seek to challenge) at the hearing. For this reason, its importance to the hearing and decision making processes cannot be understated.

Where a medical practitioner has limited personal knowledge of a patient, the patient's case manager and/or consultant psychiatrist should attend the hearing to provide comprehensive information about the patient's case to the Board.

6. Board's Powers

The Board may **adjourn a hearing and/or require the attendance of the patient's consultant psychiatrist** if the mental health service fails to provide the Report to the patient and/or representative in accordance with the requirements of s26(7) of the Act, or an appropriately knowledgeable representative of the Authorised Psychiatrist is not available at a hearing. The Board will consider how to proceed in circumstances where this occurs in a situation that may disadvantage or disadvantages an appellant inpatient.

7. Review and Updating of Report

The Board will review the format, contents and use of the new version of the Report from time to time. Any changes to the Report format and contents will be notified to stakeholders and made available on the Board's website at www.mhrb.vic.gov.au.

John Lesser

President

19 November 2004