



British Columbia

MENTAL HEALTH REVIEW BOARD

Effective Date: 2018/08/28

Title: Practice Direction – Guidelines for Preparing a Case Note

This Practice Direction describes the administrative procedures that must be followed by a facility preparing a case note. The purpose of these procedures is to ensure that a patient is given a procedurally fair hearing that also proceeds expeditiously.

Summary:

A case note is a written summary of the evidence a facility intends to present at a review panel hearing. During a review panel hearing, the facility provides evidence to support the position that the patient continues to meet all of the criteria for involuntary detention under the *Mental Health Act* (the “Act”), and review panels make decisions based on what is presented at the hearing.

Direction:

A case note must be prepared by the treating physician for every review panel hearing

The facility must ensure that the treating physician prepares a case note in advance of every review panel hearing. This direction does not preclude additional members of a mental health team who are knowledgeable of the patient’s history and condition from providing a written summary of their evidence to supplement the physician’s case note.

A case note must address the criteria set out in sections 22(3)(a)(ii) & (c) of the Act

A case note to the review panel should provide relevant and succinct information with sufficient detail to allow the panel members to make a decision about whether the patient continues to meet all four criteria for continued detention under the *Act*.

At minimum, a case note must include the following information:

- (a) the patient’s current diagnosis;
- (b) the patient’s current treatment plan, including medications;
- (c) a history of the patient’s illness and hospitalizations;
- (d) the patient’s current level of functioning; and
- (e) any other relevant information in support of each of the four criteria for continued detention and treatment.

Acceptable forms of a case note

Where a patient has had previous review panel proceedings and case notes were prepared, it is acceptable for the treating physician to simply provide an update to those notes where there are any changes or new information. A psychiatric assessment, clinical consultation or discharge report may be submitted in place of a case note where the report addresses the four criteria and has been completed recently, or where it is provided with an accompanying case note that updates any new information since the report was completed.

Information referred to or relied on in a case note must be disclosed prior to the hearing

Facilities have a duty to disclose all relevant records in their possession and control prior to the hearing. If a case note relies on or refers to specific documents or information, the facility must ensure that it has been disclosed prior to the hearing in accordance with Rule 15. Document disclosure is an ongoing obligation and therefore case notes should not, without reasonable explanation, contain any new information that has not been previously disclosed. More information about a facility's disclosure obligations can be found in Practice Direction: Guidelines for Disclosure.

The facility must disclose only the case note to the review panel; the review panel does not require copies of any other documents.

A case note must be disclosed prior to the hearing

Facilities must disclose the case note to the panel and to the patient or patient representative. It is critical that the patient or patient representative is put into a position where they know the evidence that will be presented at the hearing and are given the opportunity to fairly challenge that evidence. Therefore, the case note ought to be disclosed to the patient or patient representative at the earliest possible opportunity, but no later than 30 minutes before the start of the hearing. The case note must be disclosed to the panel prior to the commencement of the hearing. Providing this information to the panel in advance also ensures that the panel can review and consider any issues arising from that evidence before hearing from the case presenter and patient (or patient representative).

When all or part of a hearing proceeds by electronic means, the facility must make every effort to prepare and disclose a copy of the case note to the Board and any other participant that will not be attending in person at the hearing 24 hours prior to the scheduled hearing.

Failure to comply with case note requirement

A case note is a required document under the Board's *Rules of Practice and Procedure*. A facility that has not complied with this rule must be prepared to provide a reasonable explanation for the failure to comply, and the case presenter may not introduce the document as evidence at the hearing without permission of the panel.

The review panel has the discretion to proceed with the hearing in the absence of a case note.

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