



Right to Apply When Certificate of Involuntary Status or Renewal is Renewed Before the Board Renders a Decision

1. Purpose

1.1 This Policy Guideline addresses the right of patients to apply to the Board for a hearing when their Certificate of Renewal (Form 4) comes into force prior to the Board's decision confirming or rescinding their involuntary status.

1.2 The Board publishes this Policy Guideline to inform all interested persons of the Board's legal obligations regarding scheduling and the process to be followed by the Board.

2. Legislation

2.1 Section 39(1) of the *Mental Health Act, 2000 (MHA)* allows an involuntary patient, or any person on his or her behalf, to apply to the Board to inquire into whether or not the prerequisites set out in this Act for admission or continuation as an involuntary patient are met.

2.2. Section 39(2) of the *MHA* provides that applications to the Board may be made:

- (a) when a certificate of involuntary admission respecting the patient comes into force; or
- (b) when any certificate of renewal respecting the patient comes into force.

2.3 Section 41(1) of the *MHA* requires that the Board review the patient's status to determine whether or not the prerequisites set out in the *MHA* for admission as an involuntary patient continue to be met at the time of the hearing of the application.

2.4 Section 41(2) of the *MHA* provides that the Board, by order, may confirm the patient's status as an involuntary patient if the Board determines that the prerequisites set out in the *MHA* for admission as an involuntary patient were met at the time of the hearing of the application.

2.5 Section 41 (3) of the *MHA* states that the Board by order shall rescind the certificate if the Board determines that the prerequisites set out in the *MHA* for admission as an

involuntary patient were not met at the time of the hearing of the application.

2.6 Section 41(4) of the *MHA* sets out that a decision of the Board confirming or rescinding a certificate applies to the certificate of involuntary admission or the certificate of renewal in force immediately before the making of the decision.

3. General Principles

3.1 A Certificate of Renewal (Form 4) puts an end to the Certificate of Involuntary Admission (Form 3) or a previous Certificate of Renewal (Form 4).

3.2 This principle applies even if the Certificate of Renewal is issued after the hearing ended on the Certificate of Involuntary Admission or previous Certificate of Renewal and before the Board issues its Decision (Note: in accordance with the *MHA*, the Board has one day after the hearing is completed to render its decision).

4. Process

4.1 If the Board receives an application after the completion in the circumstances described above, the Board will use the following procedures in scheduling hearings:

4.1.1 Upon receipt of an Application to Review a Patient's Involuntary Status (Form 16), the Board will issue a Notice of Intention to Dismiss Without a Hearing under Rule 9 of the Board's *Rules of Practice*.

4.1.2 Rule 9 establishes the procedures to be followed by the parties and the Board when a Notice of Intention to Dismiss is issued.

5. Effective Date

5. 1 This Policy Guideline is effective September 1, 2007.