



Province of Alberta

MENTAL HEALTH ACT

MENTAL HEALTH PATIENT ADVOCATE REGULATION

Alberta Regulation 148/2004

With amendments up to and including Alberta Regulation 17/2018

Office Consolidation

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(Consolidated up to 17/2018)

ALBERTA REGULATION 148/2004

Mental Health Act

MENTAL HEALTH PATIENT ADVOCATE REGULATION

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Definitions

1 In this Regulation,

- (a) “Act” means the *Mental Health Act*;
- (b) “issuing psychiatrist” means the psychiatrist, or the physician designated in accordance with section 9.7 of the Act, who last issued, renewed or amended a community treatment order or issued an apprehension order;
- (b.1) “patient” includes a person who
 - (i) is or has been a formal patient,
 - (ii) is or has been subject to one admission certificate or one renewal certificate, and
 - (iii) is or has been subject to a community treatment order;
- (c) “Patient Advocate” means the Mental Health Patient Advocate appointed under the Act.

Delegation

2 The Patient Advocate may in writing delegate to any person holding any office under the Patient Advocate any power or duty conferred or imposed on the Patient Advocate under the Act or the regulation under the Act, except the power of delegation in this section and the power or duty to make any report under the Act or regulations.

Power to act on a complaint

3(1) On receipt of a complaint from or relating to a patient, the Patient Advocate

- (a) if the person is or was a patient in a facility, shall notify the board of the facility in which the patient is or was detained of the nature of the complaint,
- (b) shall notify the patient, in writing, that a complaint has been received, of the nature of the complaint and of any investigation arising from the complaint,
- (c) if a person other than a patient is named in the complaint, shall notify that person of any investigation arising from the complaint, and
- (d) shall make any contact with the patient and conduct any investigation of the complaint that the Patient Advocate considers necessary.

(2) If a complaint relates to a patient who has been transferred from one facility to another, the notice under subsection (1)(a) must be provided to the boards of both facilities.

(3) A patient and a person who has received notice of an investigation under subsection (1)(c) have the right to make representations to the Patient Advocate relating to the complaint.

(4) The Patient Advocate may investigate a complaint as it relates to the period during which the person who is the subject of the complaint was a patient or, with respect to a person who is or was subject to a community treatment order, the period during which the person has been or was subject to the community treatment order.

(5) On receipt of a complaint, the Patient Advocate shall provide to the patient and to the complainant, as far as is reasonable, information respecting the following:

- (a) the rights of the patient under the Act;
- (b) how the patient may obtain legal counsel;

- (c) how to make an application to the review panel;
- (d) how to commence an appeal to the Court of Queen's Bench.

AR 148/2004 s3;246/2009;336/2009

Power to initiate an investigation without a complaint

4 The Patient Advocate may, without receiving a complaint, initiate and conduct an investigation into

- (a) any procedure of a facility relating to the admission of a person detained in the facility pursuant to the Act,
- (b) any procedure of a facility
 - (i) for informing a patient of the patient's rights, or
 - (ii) for providing information as required by the Act to a patient and to guardians, nearest relatives or designates of a facility patient,

and

- (c) any procedure of a regional health authority or an issuing psychiatrist relating to the issuance, amendment or renewal of a community treatment order.

AR 148/2004 s4;246/2009;336/2009

Procedures

5(1) The Patient Advocate

- (a) shall maintain a record relating to every complaint and every investigation under this Regulation,
- (b) may make any inquiries the Patient Advocate considers necessary to conduct an investigation,
- (c) if the person is a patient in a facility, shall notify the board of the facility of the Patient Advocate's intention to contact the patient, and
- (d) shall notify a regional health authority or an issuing psychiatrist of the Patient Advocate's intention to carry out an investigation that relates to the regional health authority or the issuing psychiatrist, as the case may be, whether the investigation arises pursuant to section 3 or 4.

(2) When the board is notified of the Patient Advocate's intention to contact a patient in accordance with subsection 5(1)(c), the board shall grant the Patient Advocate access at all reasonable times.

- (3) The Patient Advocate is not required to hold a hearing.
- (4) If the Patient Advocate requests in writing
- (a) from a facility, board or regional health authority any policy or directive of the facility, board or regional health authority or any other document relating to an investigation under section 3 or 4, or
 - (b) from a facility, board, regional health authority or issuing psychiatrist any medical or other record or any information, file or other document relating to a patient who is the subject of an investigation under section 3 or 4,

the facility, board, regional health authority or issuing psychiatrist shall, within a reasonable time after receipt of the request, provide copies of the materials requested to the Patient Advocate.

- (5) If the Patient Advocate so requests, the board shall provide a copy of any materials requested under subsection (4).

AR 148/2004 s5;246/2009;336/2009

Disclosure

6 The Patient Advocate shall not disclose information obtained in the course of an investigation except as required by law or in the performance of the Patient Advocate's duties under the Act or this Regulation.

Report

7(1) On completion of an investigation, the Patient Advocate shall prepare and send to the board, the regional health authority or the issuing psychiatrist a copy of the report of the investigation.

(2) A report that contains recommendations must state the reasons for the recommendations.

(3) If a report is sent to a board, regional health authority or issuing psychiatrist under subsection (1) and within a reasonable time after the report is sent to the board, regional health authority or issuing psychiatrist the Patient Advocate is of the opinion that the board, regional health authority or issuing psychiatrist has not taken appropriate action on any recommendation, the Patient Advocate shall send a copy of the report and the board's, regional health authority's or issuing psychiatrist's response, if any, to the Minister.

AR 148/2004 s7;336/2009

Frivolous complaint

8 The Patient Advocate may refuse to investigate or cease to investigate a complaint if in the Patient Advocate's opinion

- (a) the subject-matter of the complaint is trivial,
- (b) the complaint is frivolous or vexatious, or
- (c) having regard to all of the circumstances, no investigation is necessary.

Notice to complainant

9 The Patient Advocate

- (a) shall inform a patient of the disposition of any complaint that relates to the patient, and
- (b) may inform a complainant of the disposition of any complaint initiated by the complainant.

AR 148/2004 s9;246/2009;336/2009

Repeal

10 The *Patient Advocate Regulation* (AR 310/89) is repealed.

Expiry

11 For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on March 31, 2021.

AR 148/2004 s11;50/2014;17/2018



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