

MANUAL OF OPERATING GUIDELINES
PROVINCIAL PSYCHIATRIC HOSPITALS

No

Date 10a-35-
16 June '95

WORDING OF CUSTODIAL DISPOSITION ORDERS
(CRIMINAL CODE REVIEW BOARD)

1.0 PURPOSE:

The purpose of this document is to outline the limits of the authority that may be delegated to administrators under Criminal Code Review Board Disposition Orders, and to guide the decisions of administrators in interpreting conditions that may be contained in such orders.

The following principles have been applied in defining the terms and interpreting conditions contained in disposition orders:

1. Conditions contained in Review Board disposition orders should be interpreted and applied by all administrators in a consistent and fair manner.
2. Conditions contained in disposition orders must be strictly adhered to by hospital administrators. Under no circumstances may an administrator permit a patient a degree of liberty in excess of that authorized under the disposition order. The wording and construction of conditions must be strictly construed.
3. The wording of a disposition order must clearly articulate the parameters of the patient's liberties. Any doubt or ambiguity should be clarified through the Criminal Code Review Board. Guidelines to interpretation should only be used as a general aid in drafting recommendations to the Criminal Code Review Board and in reviewing whether the patient's current order contains ambiguous wording.

2.0 SCOPE AND APPLICATION:

Definitions and guidelines for interpretation apply to all administrators or chief executive officers of psychiatric hospitals that have been delegated by the Minister of Health by regulations made pursuant to the Criminal Code of Canada.

The term patient in this document refers to accused persons in respect of whom a verdict of not criminally responsible on account of mental disorder or not fit to stand trial has been rendered and who have been placed in the custody of a psychiatric hospital pursuant to a disposition order under the Criminal Code of Canada.

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3.0 DEFINITIONS

3.1 Restrictions on Liberty

1. Residence

Description: This section defines the level of security and the location in which a patient may be permitted to reside. Accommodation may be provided within a psychiatric hospital or in the community as specified by the Review Board. Designated maximum, medium and locked forensic wards are listed in the appendix.

Defined Terms:

- A. within medium or maximum
secure forensic unit - A patient is directed to reside within the specified secure unit. His or her movement is generally restricted to the physical boundaries of the designated secure unit, including the outdoor, fenced airing court, if available. An administrator may allow the patient to have staff escorted access for treatment related purposes within other areas of the hospital.
- B. within locked ward - A patient is directed to reside within the specified locked unit. His or her movement is generally restricted to the physical boundaries of the designated unit. An administrator may allow the patient to have escorted access for treatment related purposes within other areas of the hospital.

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- C. within (specified) hospital
- Where a psychiatric hospital is named, but not a designated unit, a patient may reside in any hospital ward, as decided by the administrator. A patient residing within the hospital may be permitted by the administrator to have supervised or indirectly supervised access to all areas of the hospital and grounds without this being additionally stated in the disposition order.
- D. within the community
- A patient is permitted to reside outside of the hospital grounds within a specific type of accommodation and/or a specific community. It includes permission for the patient to engage in employment, recreation, socialization and educational activities, without this being additionally stated in the disposition order.

Type Accommodation may include:

- A. supervised home
- A supervised residence with staff employed for this purpose that provides a level of supervision deemed suitable by the administrator. Supervision at a minimum must comprise daily supervision (at least 1 person employed be the residence in contact with the patient for some part of each day).

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B. approved home - This is a residence under the Mental Hospitals Act, section 1 (a) and Regulation 611, section 10.

C. accommodation approved by the administrator - The administrator may approve any accommodation which in his or her opinion will provide a suitable environment for the patient, having regard to the level of supervision and follow-up required by the patient. This does not necessarily require formal supervision by staff employed for this purpose.

ii. Periodic Access

Description: Where a patient resides within a psychiatric hospital but is permitted access outside of a secure perimeter, this section defines the permissible boundaries of a patient's movement, either within less secure parts of the hospital, or the community.

Defined Terms:

A. within the hospital - A patient may be permitted to access any part of the hospital and the hospital grounds.

B. enter the community - A patient's movement may extend beyond the hospital grounds. The disposition order will identify the boundaries of the community intended by the Board (indicated in kilometres from a specified point, or with the name of specific cities, counties or municipalities).

C. community pass - A patient is permitted to enter a specified community for a limited period of time in order to participate in an approved activity.

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3.2 Level of Control

Description: This section defines the level of control, the degree of supervision; and the person assigned responsibility for the control of the patient. The level of control and supervision must take into account the assessment of the patient's dangerousness and likely risk of violence.

Defined Terms:

- i. Accompaniment
(to an activity)
 - A. Escorted - Patient is exclusively accompanied to that he or she is at all times in close proximity to and within the sight of at least one designated person.
 - B. Accompanied - One or more patients are accompanied so that each patient is usually within the sight of at least one designated person.
- ii. Supervision
(during an activity)
 - A. Supervised - Patient is usually within the sight of a designated person during the course of a particular activity. The designated person is in a position to oversee the patient's activities. The patient's whereabouts are known by the designated person at all times.

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B. Indirectly Supervised - Patient agrees to abide by the reporting and supervisory conditions established by the administrator. This may require periodic reporting to the administrator or delegate as outlined in an approved itinerary; or periodic direct observation by a designated person (but does not necessarily require both). The approximate whereabouts of the patient is known by a designated person at all times.

iii. Designated Person

A. Staff - person hired by or under contract to the Ministry of Health or employed by a psychiatric facility funded by the Ministry. May also include staff performing duties outside of their regular working hours.

B. Approved Person - person who has been approved by the administrator based on the clinical team's recommendations as being suitable to provide the required accompaniment or supervision for the purposes of a particular activity.

3.3 Purpose of Access/Approved Activities

Description: Where a patient resides within a psychiatric hospital and is permitted some degree of community access, this section details the purpose for which an administrator may authorize community access. Approved activities mean any activities occurring outside of the hospital that have been recommended by the Review Board and specifically identified in the patient's disposition order. The purpose of the activity is generally patient rehabilitation.

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Defined Terms:

- A. necessary medical, dental or compassionate purposes
 - A patient may be transferred to another health facility to obtain medical or dental treatment that can't be provided within the hospital. In addition, a patient may be permitted for compassionate reasons to attend a funeral or pay respect to a seriously ill or injured member of the patient's immediate family. Medical purposes refers to a health related procedure that has been ordered by a physician. Compassionate purposes refers to serious family emergencies.

- B. Education
 - This term includes any activity serving to enhance or promote a patient's education that has been specifically approved by the administrator.

- C. Employment
 - This includes any activities forming part of an employer/employee relationship in which a patient may be engaged. It includes time spent searching for a job; meetings and activities that are associated with employment but are not paid time; and job assessment or training activities. It also includes self-employment activities.

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- D. Recreation or Socialization - The patient is involved in activities approved by the administrator, such as sports, games, movies, shopping, hobbies, entertainment, or meetings with friends or family or as part of an organized group. Activities may or may not involved other participants.
- E. Travel or Vacation - The patient is permitted to journey to a specified destination or within a specified area for the purpose of visiting identified individuals or vacationing. Restrictions as to traveling companions or boundaries of travel must be specifically stated. Unless a period of time is specified, travel does not normally permit overnight visits.

4.0 GUIDELINES TO INTERPRETATION

General Rules of Construction:

1. Each administrator must abide by the mandatory requirements contained in disposition order. In particular, each administrator must:
 - create a program for the safe custody and rehabilitation of the accused;
 - exercise his or her discretion subject to the need to protect the public from dangerous persons, the mental condition of the accused, the reintegration of the accused into society and the other needs of the accused;

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- notify the local police at such times as the accused is permitted access to the community and advise the local police of the terms and conditions under which the accused is permitted to do so;
 - permit the accused to attend within or outside of the hospital for necessary medical/dental or compassionate purposes.
2. Disposition orders may additionally contain conditions directed to the accused. Where such conditions are contained in a disposition order, the administrator may take whatever steps are appropriate to ensure that the conditions are monitored and are complied with:
- restrictions as to consuming alcohol and/or drugs;
 - restrictions as to using or possessing firearms;
 - restrictions as to associating with particular persons;
 - specifications as to reporting or returning to the hospital.
3. Each disposition order must specify residence, conditions of periodic access and level of control. The disposition order may contain any other terms or conditions that are appropriate in the circumstances.
4. Any term that is defined in this document in the alternative (e.g. recreation or supervision) may be used in the disposition order separately or in combination and the same definition will apply.

Administrator's Discretion:

5. The administrator or person in charge of a hospital has the authority delegated to him or her by the Review Board to direct that restrictions on the liberty of a patient be increased or decreased within any limits and subject to any conditions set out in the disposition order.

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6. The actual exercise by a patient of the conditions in his or her disposition order is subject to the administrator's prior authorization. The patient's present clinical condition at the time the condition is to be exercised must be such that it would be reasonable for the administrator to infer the patient is able to fulfill the requirements of the disposition order in a manner that is compatible with the public safety or the safety of others within the institution. The administrator shall seek the advice of the clinical team in this regard.
7. The administrator has absolute discretion to impose any additional restrictions on the patient's movement within the limits of the disposition order as seem reasonable and necessary before authorizing a patient to exercise a condition contained in this disposition order.
8. At no time may the administrator authorize a patient's movement to exceed that which is specified in the conditions of his or her disposition order.

Periodic Access:

9. Court appearances or attendance at any other legal proceeding require a specific court order. For patients with current disposition orders containing the legal exemption, the term legal refers to a matter which is being heard before a court of competent jurisdiction. Attendance at provincial statutory tribunal hearings, parliamentary committees, or meetings to discuss legal issues will not be permitted under the general discretionary clause.
10. Where a patient resides within medium security, the patient's attendance at Psychiatric Review Board or Criminal Code Review Board hearings held in less secure parts of the hospital is permitted under the definition of "within medium security" (i.e. treatment related purposes). Unless the patient is permitted under his or her disposition order to access other areas of the hospital, the patient must be staff escorted. Every attempt must be made to hold any requested hearings within the secure unit.

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11. It is expected that compassionate leave will be granted only in cases of a serious family emergency or other extraordinary circumstances. For example, a patient may be permitted to attend the funeral of a close family relative (i.e. spouse, father, mother, father- or mother-in-law, child, sibling, son- or daughter-in-law, brother- or sister-in-law, grandparent, grandchild, ward or guardian). The patient may also be permitted to visit critically ill close family relatives. Ordinary family activities and social outings, religious events or ceremonies, public policy hearings and reviews etc. are not covered by this clause and should only be allowed where the patient is authorized this degree of liberty under the specific terms of his or her Order.
12. It is expected that patients will be permitted access outside of the hospital under medical or dental leave only where arrangements cannot reasonably be made to have the necessary procedure completed within the secure unit or another part of the hospital.
13. A patient whose access is restricted within the hospital or grounds cannot participate in hospital-approved or other activities outside of the hospital grounds unless such a clause is specifically included in his or her disposition order.
14. Where the community is not defined in kilometres or by city or county names, or the definition is patently vague such that it cannot be readily located on a map, the community shall be considered the city limits of the municipality in which the designated hospital is located, until written clarification from the Review Board can be obtained.
15. Access outside of the hospital should be authorized by the administrator only for the purposes of approved activities. Where an approved activity is not specified, access may be for any activity deemed suitable by the administrator.

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Duration:

16. Duration of time may be expressed in any term clearly indicating a defined length of time, for example, hours, days, weeks.
17. Where the disposition order is silent as to the length of time the patient may be permitted access into the community, the period of time shall be within the administrator's discretion, but in no event should the patient be permitted overnight access without the express authorization of the Board.
18. Where the duration of access is not specific, but access is for a regularly scheduled approved activity (for example, education or employment), the administrator may permit access for the duration of the activity, plus traveling time to and from the activity, but no longer.

Frequency:

19. Frequency of access may be expressed in terms of a specific number of occasions within a stated period of time. A year means the 12 month period after the patient's disposition order is issued. For example, a disposition order stating "access may be permitted 12 times within a year" means any 12 occasions prior to a new disposition order being issued and no more. At the administrator's discretion, access may occur once a month over the course of the year, or 12 times within one single month.
20. Where the disposition order is silent as to the frequency of access but specifies a period of time, the administrator shall assume that access may only be granted once within that period.
21. Where the disposition order is silent as to the period of time, the administrator shall assume that access is to be granted on an annual basis (i.e. the 12 months period after the issuance of the patient's disposition order).

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22. Where the frequency of access is not specifically stated but a qualifying phrase is used such as "periodic"; "conditionally"; "from time to time"; or "reasonable" is used, the administrator may permit access at his or her discretion.
23. Where a term such as daily, weekly or monthly is used, the administrator may permit access as frequently as this unit of time reoccurs annually.

Passes:
24. Passes are granted to meet specific needs. If an event is occurring on a regular (i.e. daily or weekly) basis, this should be covered by the general term "enter the community for (approved activity)" rather than utilizing the pass system.
25. Passes cannot be accumulated and used consecutively. The maximum duration of the pass is the maximum length of time that a patient may be permitted to be in the community on any one occasion.
26. The duration of the pass also includes traveling time to and from the destination.
27. Where the patient's destination to which a pass may be granted is not specified, or the defined community is patently vague such that it cannot be readily located on a map, the location shall be considered as within the city limits of the municipality in which the designated hospital is located, until written clarification from the Review Board can be obtained.

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Level of Control:

28. Supervision for the purposes of an approved activity does not necessarily imply accompaniment to and from the activity (e.g. supervised employment by an approved person). Where an escort or accompaniment is required for the purposes of traveling to the activity, this must be specifically stated (otherwise the assumption generally shall be unescorted/unaccompanied - see Guideline 29 below).
29. Generally, an activity which does not specify escorted or accompanied may be interpreted to mean unescorted/unaccompanied. However, the following exceptions apply:
- where a disposition order allows periodic access and specifies supervision by a designated person but does not specify an approved activity (e.g. staff supervised community access), the administrator shall assume that the patient must be accompanied at all times.
 - where a disposition order does not specify "escorted" or "accompanied", but indicates that the patient must travel with a designated person, the administrator shall assume that this means accompanied.

Note that Guideline 7 will apply and that from time to time, the administrator may require a higher level of supervision or accompaniment.

30. Where there is no term indicating supervision, the administrator shall assume that access is to be indirectly supervised. However, the following exceptions may apply:
- A patient who is escorted or accompanied throughout the specified time period may be considered supervised during the course of the activity without this being specifically stated.

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31. Unsupervised is a term that is not relevant in the context of a disposition order. Where a disposition order purports to grant an unsupervised privilege, this shall be interpreted to mean indirectly supervised. All patients are considered at a minimum to be indirectly supervised by hospital staff at all times without this being stated in the disposition order.
32. All disposition orders containing the words "escorted", "accompanied" or "supervised" should also specify a designated person. Where a disposition order does not specify a designated person, the administration may assume the appropriate person is an approved person. Note that Guideline 7 will apply and that from time to time, the administrator may still require the designated person to be staff of the facility.