

Title: Appeals to the Board of Mental Health

Scope: All appeals to the Board of Mental Health shall utilize the stated policy governing the procedure for hearings before the Board.

Policy: To ensure an orderly and equitable hearing of appeals before the Board of Mental Health, it shall be the policy of the Board to establish the procedure which shall be followed.

Procedure:

I. Notice of Appeal

Notice of appeal to the Board of Mental Health shall be received within the time allowed for the type of appeal being made. Such notice shall be mailed to the Executive Director of the Department of Mental Health.

II. Documents

Documents in support of Appellants appeal shall be submitted to the Executive Director within twenty (20) days of the filing of the notice of appeal.

All documents to be submitted for consideration in support of the appeal shall be received by the Executive Director no less

than ten (10) days prior to the meeting of the Board wherein the appeal shall be considered.

Documents shall include, but not be limited to:

- (a) all documents supporting the original action which is on appeal
- (b) the record of the administrative hearing, if a record has been made
- (c) all written submissions to be considered offered subsequent to the administrative hearing, if a hearing has been held
- (d) such other materials as the Appellant believes are necessary to adequately present his/her case

### III. Executive Session

Appeals to the Board shall be heard no later than the second regular monthly meeting of the Board following the filing of the notice of appeal unless a delay has been requested by the Board or a quorum is not present to hear the appeal. If a continuance has been requested by the Board, the appeal shall be heard at a time set by the Board. If a quorum is not present, the appeal shall be heard at the next scheduled meeting.

Appeals which have not been heard in a timely manner shall be considered to have been waived, and the action being appealed shall be considered to be affirmed.

### IV. Executive Session

All appeals shall be considered to be matters properly brought before the Board in executive session as they are matters which involve possible litigation.

V. Parties

Appellants may be represented by counsel who shall speak on appellant's behalf, appellant may speak for himself/herself, or both may speak within the time restraints established by the Board.

VI. Order of Presentation

The Appellant shall offer any oral argument supporting his/her position. Twenty minutes shall be allowed for this argument.

Staff/counsel representing the Department/Facility shall be allowed twenty minutes for rebuttal argument.

The Board of Mental Health may ask questions at any time during argument. Such questions shall be counted in the total time allowed.

The Appellant shall be afforded ten minutes at the end of rebuttal for closing statements.

VII. Decision

The Board of Mental Health shall notify the Appellant of its decision within fifteen days of the meeting of the Board.

The Board shall report its decision in the minutes of the Board.

VIII. Appeal of the Board Decision

Appeals taken from the decision of the Board of Mental Health shall be in compliance with applicable state statutes.

D-0025  
06/28/97  
01/21/00  
09/27/03

