



Ontario Shores
Centre for Mental Health Sciences

**The
Ontario Review Board
(ORB)**

**An Information Handbook
for
Patients and Families**

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1. Forensics

“Forensics” in mental health is a term commonly used to describe a situation where the legal and mental health systems interact. This occurs when an individual who has a serious mental illness comes in contact with the law as a result of a crime committed as defined under the *Criminal Code of Canada*. The courts make a determination as to whether the individual is legally responsible and accountable for the crime committed.

What is NCR?

Not Criminally Responsible (NCR) is a court verdict that the accused committed the act or omission but was at the time suffering from a mental disorder that rendered the person incapable of appreciating the nature and quality of the act or omission or of knowing that it was wrong. The Court’s verdict indicates that “the accused committed the act but is not criminally responsible on account of mental disorder”. A psychiatrist recommends this finding to the court, but it is the judge who makes the final determination.

Once you have been found NCR by the court, you may be ordered to reside in a forensic unit in a mental health facility. Forensic units are divided into three levels of security: Secure-Maximum, Secure Forensic Service and General Forensic Service. There is only one Secure – Maximum facility in the Province of Ontario which is located at the Penetanguishene Mental Health Centre, Oak Ridge Division. Ontario Shores Centre for Mental Health Sciences (Ontario Shores) has both General (FPRU/FTU/FCRU) and Secure Forensic Services (FAU/FARU/FRU).

When you have received an NCR verdict, you will be referred to the Ontario Review Board (ORB) which has jurisdiction over all forensic patients in the province. The ORB will schedule an initial hearing within 45 days if the court did not make a Disposition or within 90 days if the court made a Disposition.

What is Unfit?

If you do not have an understanding of the nature or consequences of the court proceedings, are not able to instruct a lawyer before or during the court proceedings, and are suffering from a mental disorder, the court may give a verdict of “**Unfit to Stand Trial**”. You will be ordered to a mental health facility and will have an initial hearing within 45 days.

2. The Ontario Review Board (ORB)

The ORB will review your circumstances at least once a year. This Board reviews and determines Dispositions for individuals found Not Criminally Responsible by reason of mental disorder (NCR) or Unfit to Stand Trial. The Board members are appointed by the Ontario Lieutenant Governor in Council.

Composition of the Review Board

The members are judges, lawyers, psychiatrists, psychologists and representatives from the public. There is one Chair for the Ontario Review Board. All ORB hearings consist of a Panel. Each Panel has an Alternate Chair (usually a judge or a legal person qualified for federal appointment as a judge), a psychiatrist and a legal person who is a member of the Bar of the Province of Ontario. There are usually 5 members on the Board. The minimum number of members required is 3. The Alternate Chair can summon witnesses and require them to give evidence under oath and to produce documents. The Alternate Chair also reviews the evidence and produces the Disposition and Reasons for Disposition.



3. The Ontario Review Board Process

When Board members review your circumstances, they hold what is called a hearing. The hearing is often much more informal and less adversarial than a court hearing. At the hearing, in addition to the ORB members, there is:

- A crown attorney from the local Attorney General's Office;
- You and your lawyer who represents your interests;
- Your psychiatrist;
- Legal Counsel for the hospital; and
- A court reporter.

The official "parties" to the hearing are you and your lawyer, the Crown Attorney and the hospital representative.

Prior to a hearing, the Board will receive a document called the **Hospital Report to the Ontario Review Board**. This report is prepared by the inter-professional treatment team on your Patient Care Unit. The report includes information on the index offence, any previous charges, hospitalizations, your current treatment plan, your response to the plan, such as your behaviour in the community or the hospital. The treatment team will make a Disposition recommendation with conditions to the Board for the upcoming year.

In making its recommendation to the Board, the treatment team considers: (1) the safety of the public; (2) your mental condition; (3) your reintegration into the community; (4) other needs you may have; and (5) what Disposition is necessary and appropriate.

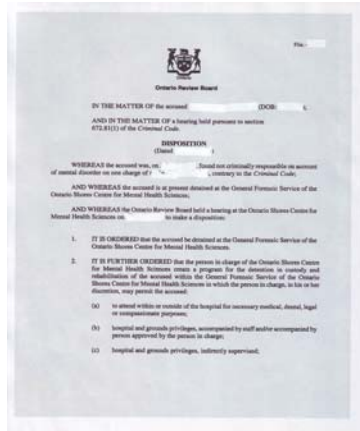
Hospital Report to the Ontario Review Board

You will be approached by the team and asked what you are requesting from the Board. You are free to request any specific conditions such as: being out of hospital **directly supervised** (with a staff or Approved Person) or **indirectly supervised** (out on your own with an approved itinerary); the distance you want to be able to travel from the hospital (for example, to visit relatives in a certain city); the length of time you want to be able to be away from hospital on a community pass (for example, for up to one week); and whether you want to be able to live in the community some time in the next year. You can also request a Conditional or Absolute Discharge from the Board. Your requests are usually discussed with your lawyer. Your requests will be noted in the Hospital Report to the Ontario Review Board. You and your lawyer will receive a copy of this report in advance of the hearing.

All ORB hearings are open to the public, so your family may attend the hearing as well, but no one is allowed to speak unless they are called as a witness by the hospital, the Crown or by your lawyer. You will not be able to speak directly to the Board and respond to any questions unless you are called as a witness by your lawyer. Please be aware that your criminal history may be discussed at this hearing.

If English is not your first language and you need an interpreter, the Board shall arrange this service for you upon request.

Following the hearing, the ORB Panel shall make a **Disposition** . The Disposition will dictate the limits of your freedom until your next annual hearing or unless an earlier hearing is scheduled. The ORB will distribute a written copy within a few weeks of the hearing.



It is important to be aware that you usually have only one hearing a year. The Disposition issued by the Board at each hearing describes the privileges you will have until your next hearing. You will continue to have ORB hearings at least once a year until you receive an Absolute Discharge.

Under special circumstances, you may have an early hearing. These are requested, for example, when you have taken full advantage of the terms of your Disposition and additional conditions would benefit your rehabilitation and community reintegration. The usual procedure is to talk to your clinical team about your request. The other case for an early hearing is if you have not complied with the terms of your Disposition. The team may review this to see if some conditions should be amended.

On behalf of the treatment team, your psychiatrist will make a recommendation to the Person in Charge (or delegate) at the hospital for an early hearing. If the Person in Charge (or delegate) approves the treatment team's recommendation, a request for an early hearing will be submitted to the ORB. You, your family, or lawyer, can also apply to the ORB for an early hearing on your behalf. The ORB will set a date for an early hearing if they agree with the request.

Appeals:

You may appeal against a Disposition made by the Review Board within a limited period of time after receiving the Disposition and Reasons for Disposition.

What do I need to file an appeal?

The disposition order (decision) of the ORB and the reasons for decision. These are two separate documents that you will receive from the ORB. The disposition is usually issued two days to two weeks after the hearing and it is the order of the ORB to grant you a detention order, absolute discharge or conditional discharge. The reasons for decision provide an explanation for the ORB's decision and it can sometimes take a few months to receive the reasons.

The Form E, "Notice of Appeal" can be requested from the ORB, the Court of Appeal, the person in charge of the hospital or the Patient Advocate. If you have questions, you may contact your local Patient Advocate or your legal counsel

What is a restriction of liberties hearing?

A restriction of liberties hearing, also known as a "special" hearing, is held when the ORB receives notice from the hospital that your liberties have been significantly restricted. The hospital must notify the ORB any time your liberties are significantly restricted for more than 7 days.

There is no uniform standard for what constitutes a significant restriction of liberties. Hospitals may have different views of the specific situations that require them to notify the ORB that a significant restriction of your liberties has occurred.

An example of a significant restriction of liberties that may trigger a hearing is a situation where you have been living in the community and are brought back to the hospital. Another example could be if you were transferred from a minimum secure forensic unit in a hospital to a secure or maximum secure forensic unit.

You and your lawyer (if you have one), the person in charge of the facility where you are receiving your care and treatment and/or their representative, a lawyer representing the Attorney General of Ontario, and members of the ORB will attend this hearing

4. Board Dispositions

The Board has the option of one of **three types of Dispositions**:

- Detention Order;**
- Conditional Discharge; or**
- Absolute Discharge.**

In determining your Disposition, the Board takes into consideration:

- The need to protect the public;
- The mental condition of the individual;
- The reintegration of the individual into society; and
- The other needs of the individual.

The Board then makes the Disposition “that is necessary and appropriate in the circumstances”.

Detention Order

The Disposition will describe the terms that apply to you while you are either in the hospital or residing in the community. The terms may include hospital and ground privileges, community privileges and permission to reside in the community with reporting requirements when living in the community. You may also have a list of restrictions, such as no alcohol or drug use or no possession of weapons.

You may be required to submit samples of urine and/or breath for testing to ensure that you are compliant with the conditions set out in your Disposition.

You may be allowed to go into the community with an **Approved Person**. An Approved Person may be a family member or friend who has undergone a screening process and is approved by the Person in Charge (or delegate). The screening involves interviews with the treatment team, a reference check and a check with the police to ensure there are not any criminal charges against that individual. Your social worker can tell you and your Approved Person candidate more about this process.

Conditional Discharge

If you receive a Conditional Discharge, you will be allowed to reside in the community subject to certain conditions. These conditions include reporting to the Ontario Shores person in charge or designate at certain times, advising the Board of any change of address, and may include conditions such as not drinking or taking any illegal substances, not possessing a weapon, etc.

If your mental health symptoms reoccur, you may be re-admitted to the hospital as a voluntary patient or as an involuntary patient under the ***Mental Health Act***. In this case, an early ORB hearing may be held to review your circumstances.

Absolute Discharge

If you receive an Absolute Discharge, the Board may inform you and release you immediately. Before making an Absolute Discharge Disposition, the Board must be of the opinion that the individual “is not a significant threat to the safety of the public”.

High Risk Designation

In rare circumstances a NCR patient might receive a “high risk” designation from the court. While under this designation, a restrictive Detention Order Disposition must be imposed.

Do I have a criminal record?

If you have received a verdict of Not Criminally Responsible (NCR) or Unfit to Stand Trial, there is no criminal record as a result of the index offences. While you have an NCR status, the police will be informed of the charges against you as well as the conditions of your Disposition. Once you receive an Absolute Discharge, the police will be able to know about your past NCR status and will have access to the date of your Absolute Discharge.

5. Condition/Privilege Approval Process

If you received a Detention Order from the ORB, the conditions in your Disposition will describe the maximum terms you will have until your next hearing. It takes some time to get familiarized with the levels of these ORB conditions and the hospital's privilege system. The following information may help you with this process.

There are three different kinds of conditions:

- ◇ **Hospital and Grounds Privileges (also referred to as “GPs”)**
These are conditions that relate to how much access you will have within the hospital and on hospital grounds.
- ◇ **Community Privileges (also referred to as “TPs”)**
These are conditions that relate to how much access you will have in the community (that is, off hospital grounds).
- ◇ **Community Living - Detention Order**
These are conditions that permit you to live in the community

The privilege system used at Ontario Shores is ranked in levels from 00 to 008 for hospital and grounds privileges and for community privileges. The higher the level, the greater the access and responsibility.

Hospital and grounds privileges and community privileges are outlined on the next page.

Full Community Passes: You may leave the hospital for up to 12 hours, or stay in the community for weekends or longer, depending on what has been approved by the Person in Charge and the conditions set out in your Disposition.

When first admitted to a patient care unit (PCU), every patient with an NCR status usually has two basic levels of privileges: **Level 001/002** of Hospital and Grounds privileges and **Level 004/005** of Community privileges, in keeping with the Disposition. This means that as a patient with NCR status, you can walk around the hospital grounds while accompanied by staff (or an Approved Person) and that you can go into the community accompanied by staff (or an Approved Person).

FORENSIC CONDITION LEVELS

MEDICAL/LEGAL & COMPASSIONATE

- **Level 00** – *Medical/Legal*
- **Level 000** – *Compassionate*

HOSPITAL AND GROUNDS ACCESS – Directly Supervised

- **Level 001** – *Escorted*
- **Level 002** – *Accompanied*

HOSPITAL AND GROUNDS ACCESS – Indirectly Supervised

- **Level 003** – *Hospital and Grounds Access – Indirectly supervised*

COMMUNITY ACCESS – Directly Supervised

- **Level 004** – *Community Access - Escorted*
- **Level 005** – *Community Access - Accompanied*

COMMUNITY ACCESS – Indirectly Supervised

- **Level 006** – *Community Access – Indirectly supervised Day Pass*
- **Level 007** – *Community Access – Indirectly Supervised Overnight*

APPROVED ACCOMMODATION

- **Level 008** – **Approved Accommodation**
 - *Approval for Community Residence*
 - *Approval for Change of Community Residence*
 - *Request for Leave of Absence from Community Residence*

Your goal and the goal of the treatment team is to support you in using all of the conditions of your Disposition successfully to facilitate your re-integration into the community. In order to reach this goal, you will move progressively from one level of privileges to the next. As you exercise your privileges, the treatment team plays an important role each time you leave the unit. Staff will assist you to sign in and out. Usually it is the Monitor who will sign you in and out, who you will need to contact when out, and who will keep a record of your use of privileges. Your involvement in this process is very important. There is a form, called the Patient's Condition Request Form, for you to complete when you believe that you are ready to exercise a higher level.

Patient's Condition Request Form

Ontario Shores
Centre for Mental Health Sciences

Patient's Condition Request

Name _____ Casebook no. _____ PCU _____ Date _____

Present condition level _____

Request condition level (including number of contacts required) _____

Reason for increase _____

Destination and activity (specify area within or outside of Centre grounds) _____

Specify intended frequency of Exercise of Condition (e.g. 3 times/week) _____

Method of transportation (if applicable) _____

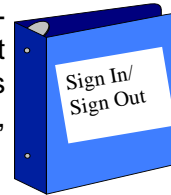
Accompanied by _____ Patient's signature _____

000-14 0000-03

Using Your Privileges

After exercising the approved condition a number of times, the treatment team assesses how successful you have been in using your current privileges. Based on the team's recommendation, your psychiatrist will apply for approval from the Person in Charge to exercise privileges at a higher level. You may not exercise your new level until approval from Person in Charge has been received.

As a general rule, the more often you use a level successfully, meaning that there were no incidents that would cause staff a concern, maintaining your contacts and return times, and filling in your itineraries properly, the better your chance of moving up to the next level.



It is important for you to be on time making your contacts. If you are late making contact, even a few minutes, you run the risk of having your privileges withheld. When your privileges are withheld, your psychiatrist as well as the treatment team will be informed. After reviewing your situation, if the treatment team decides to reinstate them, your psychiatrist must sign a form before they can be reinstated. In the event that your privileges have been withheld three times, they will be cancelled until the treatment team recommends and receives approval from the Person in Charge to reinstate any conditions previously held. It is important to keep up with the requirements of using the conditions of your **Disposition**.

On rare occasions, privileges can be denied. This happens if the treatment team has concerns about your mental status or for other health and safety reasons on the Unit.



Mental Status Assessment and Condition Risk Assessment

Before you leave the unit, a nurse will assess you to determine that it is safe for you to exercise your condition. This is called a risk assessment. You must provide your nurse with an opportunity for you to be assessed prior to your leaving the unit.

Itineraries

Whenever you are planning an indirectly supervised community outing, whatever your level, you will need to fill out a form detailing your entire itinerary. Your itinerary will explain in detail where you will be going, for how long, who is accompanying you, and how you will get to and from the hospital. Addresses and phone numbers will have to be included so that staff can reach you if necessary.

Forensic Patient Community Itinerary

Name: _____ Patient's name: _____

DOB: _____ Identifying number: _____

Residing here: _____ Date returning: _____

Responsible person at home: _____

Accompanied by:

Name: _____ Relationship: _____

Address: _____ Telephone number: _____

How are you getting there? _____

How are you getting back? _____

Other information: _____

State and New South Wales Approved: _____ Member required for issues of death

Emergency approval: Yes No

Alternative contact: Yes No

Comments: _____

Approved by patient: Yes No

Staff signature: _____ Date: _____

PLEASE COMPLETE BACK OF FORM

Made in Australia

Forensic Patient Community Itinerary

Check in times

Date and time	Participants (Name or ID)	Number of persons you will visit/ have contact with	Activity	Address	Telephone number

You must hand in the itinerary two hours in advance of your departure time to your primary/assigned nurse and have it approved by her/him. The itinerary can be changed two hours prior to the out-going.

Once you have reached **Level 13**, you do not have to submit an Itinerary unless requested by the treatment team.

Log Book



When you are in the community, you will keep a **log book**. This is a small notebook which will fit in your pocket. In it, you will record the date and time you are at specific locations, a list of the people that you met with, and your activity at each location. Any receipts that you may have, for example, a movie receipt, should be attached to the log book for that date. When you return to the Patient Care Unit, a staff member will review the log book to ensure that your activities were consistent with the approved itinerary. He/she shall sign the log book and return it to you. Once you have reached **Level 13**, you do not have to keep a log book unless requested by the treatment team.

6. Role of the Treatment Team

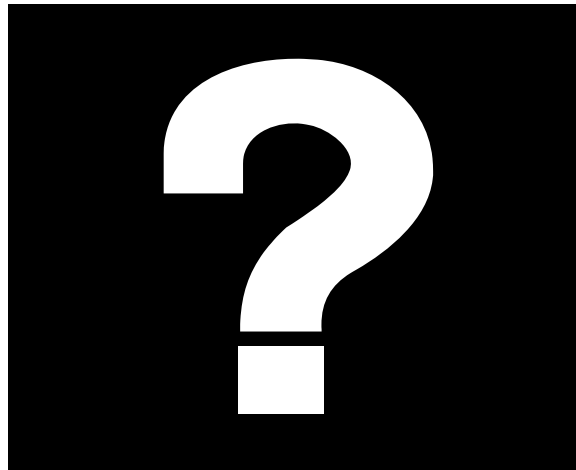
Your treatment team plays an important role in your rehabilitation and in determining your ORB conditions. The multidisciplinary treatment team includes nurses, psychiatrists, social workers, occupational therapists, therapeutic recreationists and a Clinical Manager. It may include other clinicians such as a psychologist, a pharmacist or dietitian. You will be assigned a psychiatrist, a social worker and a primary nurse. Whenever your primary nurse is not working, another nurse will be assigned to you.

Your treatment team will also be responsible for writing the Hospital Report to the ORB. This report provides information from the treatment team to the ORB to assist them in reviewing your circumstances, including how well you are doing, what challenges you may be experiencing, and your request from the ORB for the next year.

The ORB report includes recommendations from the treatment team to the Board. Therefore, it is important that you communicate with members of your team, giving them plenty of opportunities to assess you and to evaluate how you are doing. If you do not communicate with your treatment team, they will not know your thoughts and feelings and will not be as confident about how you will manage outside of the clinical unit or in the community. The focus is not whether you have difficulties but rather that you are able to acknowledge your difficulties and take steps to find solutions.

Your treatment team is there to help you in this process. If you do not understand something, ask members of your treatment team.

JUST ASK



7. Getting Discharged from Hospital

Discharge from the hospital and reintegration into the community is your goal as well as the goal of the treatment team. However, living in the community has to be written as a condition in your Disposition before it can become a possibility. Your Disposition will also specify the conditions of your discharge (for example, where you can live, how often you will have to report back to hospital). This is intended to facilitate your successful return to community living.

Steps that can Lead to Discharge from Hospital

Discharge, or living in the community, is **Level 14**. At **Level 13**, you may leave the hospital and stay in the community for extended periods of time, depending on the conditions set out in your Disposition. For example, you might, go home on weekends and eventually stay home for full weeks at a time. If visiting home is not an option, you will use your ORB conditions to go on numerous outings into the community. Before being considered for discharge, you need to use your privilege levels on many occasions to give the treatment team the evidence that you are able and ready to reintegrate into the community environment.

Your assigned social worker will help you with your discharge planning, focusing on housing (where you will live when you will be discharged from the hospital) and what you will be doing during the day. Where needed, your social worker will help you access supportive housing. This process often takes some time. Dispositions often include a condition that you live in accommodation approved by the Person in Charge.

Before you are discharged, a meeting will be held between your inpatient treatment team and the outpatient treatment team who will provide support after your are discharged. While living in the community, you must meet with the outpatient team at least as frequently as set out in your Disposition.

Living successfully in the community means that you demonstrate you are complying with the conditions included in your ORB Disposition. Your ultimate goal is to obtain an Absolute Discharge from the ORB. Should you receive an Absolute Discharge from the ORB, you are encouraged to continue treatment voluntarily and to continue with whatever has been promoting your good mental health.



TIPS ON MAINTAINING GOOD MENTAL HEALTH

Balance your lifestyle

Eat healthy

Exercise regularly

Be hopeful

Join in activities and groups that interest you

Circle of friends

Supportive environment

Definitions

Approved Person: A person other than a staff member who has been approved by the Person in Charge based on the clinical team's recommendations as being suitable to provide the required accompaniment or supervision for the purposes of a particular activity.

Cancellation of Condition: Occurs when: 1) a condition is withheld three times, or 2) when the clinical team believes that the clinical status is such that there will not be an improvement for a significant period of time, or 3) the violation of a condition is such that it warrants immediate cancellation of the condition. If a condition is cancelled, the Person in Charge will be notified.

Clinical Staff Escort: A patient is exclusively accompanied (1:1) and is at all times in close proximity to, and within sight of, the staff. Higher staff-to-patient ratio may be exercised when indicated.

Clinical Staff Supervision/Accompaniment: One or more patients are accompanied and are within sight of at least one staff and the whereabouts of the patients are known at all times.

Clinical Staff: A paid clinical employee directly involved with patient care and/or programs. A registered staff and PCA (Patient Care Attendant) may accompany an NCR patient whose complexity of need is low, predictability of outcome is high and potential negative outcomes are low.

Condition: Terms in the Disposition that outline the conditions, restrictions and obligations to which the patient must comply.

Critical File: A section in the clinical record in which critical documents pertaining to a forensic patient are filed. These documents include: current condition approval form(s); current Disposition and Reasons for Disposition; the latest Hospital Report to the Ontario Review Board; and the incident log.

Disposition: An order made by a court or a Review Board under the *Criminal Code of Canada* which comes into force on the date specified, obligating the patient and the Person in Charge of the hospital to comply with details defining where the accused is to reside, conditions and reporting requirements, etc.

FARU: Forensic Assessment and Rehabilitation Unit

FAU: Forensic Assessment Unit

FCRU: Forensic Community Reintegration Unit

FOS: Forensic Outpatient Service

FPRU: Forensic Psychiatric Rehabilitation Unit

FRU: Forensic Rehabilitation Unit

FTU: Forensic Transitional Unit

Incident Log Summary: 3353-42 Form used to record both positive and negative incidents, events and interactions that would impact future planning and rehabilitation.

Index Offence: The criminal offence for which the individual was found NCR or Unfit.

Indirectly Supervised: The patient agrees to abide by the reporting and supervisory conditions established by the clinical team and approved by the Person in Charge. Periodic reporting to the Person in Charge or delegate as outlined in an approved itinerary is required; periodic direct observation by the Person in Charge or delegate may be required. The designated person on the clinical team knows the intended whereabouts of the patient at all times.

Itinerary: A written proposal submitted by the patient which outlines the locations, addresses, phone numbers and times during the exercise of a condition which shall be approved by a member of the clinical treatment team (excluding Patient Care Attendants) prior to the exercise of the condition. Clinical staff will not approve itineraries that may expose the patient to risk factors and an itinerary location that does not permit staff to conduct itinerary checks of the patient's movements.

Log Book: A record maintained by the patient during the exercise of a condition detailing the date and time at specific addresses and locations. A log is not required when accompanied by staff.

Not Criminally Responsible (NCR): A court verdict that the accused committed the act forming the basis of the offence but was at the time suffering from a mental disorder so as to be exempt from criminal responsibility by virtue of s. 16(1) of the *Criminal Code of Canada*. It is a special verdict, declaring that the individual committed the act but, because of a lack of capacity to appreciate the nature and quality of the act or know that it was wrong, the individual is exempt from criminal responsibility on account of a mental disorder.

Occurrence: Each time the patient leaves the Patient Care Unit is considered an occurrence in the exercise of the condition.

One Time Request: A condition that is requested by the clinical team to provide the patient with an opportunity to attend a specific function or event. The request must state where, when and with whom the condition will be exercised. The ORB condition request is sent to the Person in Charge two working days in advance of the specific function or event.

Ontario Review Board (ORB): Board members hold hearings once a year to determine if a patient on a Disposition is a "significant threat to the safety of the public". If yes, the ORB can issue a "Detention Order" or a "Conditional Discharge". If no, the patient must be granted an "Absolute Discharge". The ORB considers the patient's level of risk, placement (that is, which hospital) and level of security in preparing Dispositions. The Board must decide what outcome meets the needs of the individual and protects the public. There is never any legal burden on the NCR individual to show that s/he does not pose a significant threat to the safety of the public (*Winko v. BC*).

ORB Condition Request: A form developed by Ontario Shores to facilitate a graduated process for the implementation of the terms and conditions defined in a forensic patient's Disposition issued by the Ontario Review Board. Clinical teams assess the patient's progress, determine what condition/level of supervision is appropriate and forward a recommendation to the Person in Charge for approval. All forms must be signed by the attending psychiatrist before forwarding to the Person in Charge. No condition can be implemented until authorized by the Person in Charge.

Standing Order: A condition order that is requested by the team to provide the patient with ongoing approval for use of condition **Levels 1 to 13**. Standing orders have a start date but no established end date and must state where, when and with whom the condition will be exercised. The ORB condition request shall be sent to the Person in Charge two working days in advance of when it is anticipated that the condition takes effect.

Unfit to Stand Trial: The accused is found to be Unfit to Stand Trial because the individual who committed the offence is unable to instruct counsel at any stage of the proceedings before a verdict is rendered, and/or is unable to understand the nature, object or consequences of the proceedings.

Winko v. British Columbia: There is never any legal burden on the NCR individual to show that s/he does not pose a significant threat to the public.

Withholding of Conditions: The patient cannot exercise the approved condition because he or she has violated a term of the condition or their mental status indicates that the exercise of a condition is not safe either for the patient or for the community.