



INFOGUIDE

December 2007

AMICUS CURIAE COUNSEL AT COURT OF APPEAL HEARINGS FROM THE ONTARIO REVIEW BOARD

DISCLAIMER: The following InfoGuide is intended for use as general information and is prepared for purposes of convenience only. It is not to be relied upon as legal advice or legal authority. If you have inquiries as to legal proceedings, or if you would like more detailed information regarding legislation, you should consult a lawyer.

What is amicus curiae?

- *Amicus curiae* (“*amicus*”) is a Latin phrase which means “friend of the court.”
- *Amicus* is a lawyer who is appointed by the court to assist both the unrepresented person and the court by clarifying information and/or raising new legal issues.

What is the amicus program for ORB appeals at the Court of Appeal?

- In 2001, the Court of Appeal developed an *amicus* program for persons who were appealing decisions from the Ontario Review Board (ORB) and who were not represented by counsel. In developing this program, the Court received input from the Mental Health Legal Committee, the Criminal Lawyers’ Association and the Ministry of the Attorney General.

Am I allowed to have my own lawyer for my ORB appeal?

- Yes, you may retain a lawyer of your choice. *Amicus* is only appointed if you do not have a lawyer. Speak with your Patient Advocate for more information on how to get a lawyer and apply for legal aid.

How does amicus help me?

- *Amicus* can help you by presenting arguments or advising the court of relevant legal principles that may strengthen your case.

- *Amicus* may also help you by providing you with information about the court process.
- *Amicus* does not represent you at the Court of Appeal or take instructions from you for legal representation.

When does the court appoint amicus?

- Once the Court of Appeal receives your notice of appeal saying that you are challenging the decision of the ORB, the court will determine if you have counsel for the appeal. If you do not have a lawyer, and even if you want to represent yourself, *amicus* will be appointed.
- If you are a patient at one of psychiatric facilities where the PPAO provides service, the court will advise the PPAO that you have filed an appeal. The Patient Advocate will talk to you to confirm whether or not you intend to have a lawyer for the appeal.
- If you wish to be represented by a lawyer, but you do not already have one, the Patient Advocate can assist you to obtain a lawyer and apply for legal aid.
- If you do not want a lawyer, the Patient Advocate will inform the court.
- Once the court learns that you do not want legal representation, it will issue an order appointing *amicus*.
- The court will notify you by letter that *amicus* has been appointed, along with the name, phone number and address of *amicus*.

Who are the amicus lawyers and who pays their fees?

- *Amicus* lawyers are qualified and experienced lawyers who deal extensively with mental health law. They are recommended to the Court of Appeal by both the Mental Health Legal Committee and the Criminal Lawyers' Association.
- The Ministry of the Attorney General pays the fees of *amicus*.

Can I speak to amicus before my hearing?

- Yes. The name and contact information for *amicus* will be provided to you in advance of the hearing date. If you do not call *amicus*, he or she will usually call you before the hearing date to ask you for details about your appeal and to answer any of your questions.

Will I be able to speak to the court if amicus was appointed?

- Yes. The court assigns time limits for the parties to make oral arguments at the hearing. Generally, both you and *amicus* will have a total of 30 minutes to speak.

Can I refuse the assistance of amicus?

- You cannot fire *amicus* as he or she is not your lawyer.
- You can choose not to be involved with *amicus* or agree with his or her legal arguments, but he or she is required to attend your hearing and assist the court.

Questions?

- Basic information about the appeals process can be given to you by calling the Court of Appeal at 416.327.5020.
- If you have questions, contact your local Patient Advocate or call the central office of the Psychiatric Patient Advocate Office at 1-800-578-2343.