



INFOGUIDE

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APPEALING AN ONTARIO REVIEW BOARD DECISION

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APPEALS CAN BE VERY COMPLEX – LEGAL COUNSEL IS RECOMMENDED

THE PPAO DOES NOT PROVIDE LEGAL ADVICE OR REPRESENTATION

Why would I appeal a decision of the Ontario Review Board?

- You may appeal a decision by the Ontario Review Board (ORB) to the Court of Appeal if you believe the ORB has made a mistake in fact or in law.
- As these are complex issues, it is suggested that you consult with a lawyer regarding your concerns.

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 local Patient Advocate. The basic outline of the Form E (and the Rules governing such appeals) can also be found online at: <http://laws.justice.gc.ca/en/ShowFullDoc/cr/SI-93-169//en>.

When can I file an appeal?

- The Form E must be served upon the person in charge of the hospital no later than 15 days after you receive a copy of the reasons for decision from the ORB.
- While you are supposed to wait to receive the reasons for decision before filing the Form E, this can sometimes take several months. You may wish to try filing the Form E within 15 days of receiving the disposition but there is no guarantee that the Court will accept it.
- If you serve your Form E after that time, you may only be allowed to proceed if the Court gives you an extension of time.

How do I complete the Form E?

- Answer the questions in the Form as completely as possible.
- If you are serving the Form E more than 15 days after you received the reasons for decision from the ORB, you must explain why you are serving it late in the portion of the Form referring to an application for an extension of time.
- Explain why you disagree with the ORB's decision. You should explain not only that the decision is incorrect but also why it is incorrect.
- If you intend to represent yourself at the appeal, you should advise the Court of this fact in a covering letter to your appeal.
- The Court has developed an *amicus curiae* (a Latin phrase that means 'friend of the court') program where a lawyer assists the Court by providing information about the appeal if you are not represented by counsel. For more information, see our InfoGuide entitled "Amicus Curiae Counsel at Court of Appeal Hearings from the Ontario Review Board", online: <http://www.ppao.gov.on.ca/inf-ami.html>.

How do I serve and file the Form E?

- Once the Form E is completed, and where you are in custody and unrepresented by a lawyer, you must serve the Form E upon the person in charge of the hospital no later than 15 days from the day you received the reasons for decision from the ORB.
- If you were unable to serve the Form E within the required time, you may still serve the person in charge of the hospital at a later date, providing you complete the portion of the Form referring to an application for an extension of time.
- The person in charge of the hospital will send the Form E to the Court of Appeal.
- Be sure to keep a copy of the Form E for your own records.

What happens after I file the Form E?

- The ORB is responsible for sending the original documents and exhibits to the Court of Appeal. The Ministry of the Attorney General will then prepare the appeal book. A copy will be sent to you, as well as the Court and the person in charge of the hospital.
- If you are not represented by counsel, you are not required to file any other documents.
- You will be notified in writing of the hearing date. Transportation arrangements will be made so you can argue your case at the Court of Appeal. Transportation arrangements should be made well in advance of the hearing date to ensure that you are not delayed.

What if I decide not to continue the appeal?

- If you wish to discontinue or abandon your appeal, a Notice of Abandonment must be filed with the Court of Appeal. You must sign the Notice of Abandonment and have your signature witnessed by a commissioner for taking affidavits (i.e., a person who can swear affidavits) or a lawyer.

Further Information?

- For more information, you may contact a court clerk at:
Court of Appeal
Osgoode Hall
130 Queen Street West,
Toronto, Ontario M5H 2N5
(416) 327-5020
- If you have questions, you may contact your local Patient Advocate or call the Psychiatric Patient Advocate Office at 416-327-7000 (Toronto), or toll-free at 1-800-578-2343.