



Psychiatric Patient Advocate Office

*Submission to the Standing Senate Committee
on Social Affairs, Science and Technology*

*Independent Advocacy and Rights Advice:
Supporting Recovery, Empowerment and
Individual Rights*

August 2005

Psychiatric Patient Advocate Office
55 St. Clair Avenue West
Suite 802, Box 28
Toronto, ON, M4V 2Y7
Telephone: (416) 327-7000
Toll Free: 1-800-578-2343
www.ppao.gov.on.ca

PROMOTING PATIENTS' RIGHTS



Psychiatric Patient Advocate Office

Bureau de l'intervention en faveur des patients des établissements psychiatriques

August 30, 2005

The Hon. Michael J. L. Kirby
Chair
The Standing Senate Committee on Social Affairs, Science and Technology
The Senate of Canada
Ottawa, Ontario, K1A 0A4

Dear Senator Kirby:

The Psychiatric Patient Advocate Office (PPAO) was established in 1983 to protect the legal and civil rights of inpatients in the ten current and divested Ontario provincial psychiatric hospitals by providing both independent advocacy and rights advice services. Since 2001 we have also been providing rights advice in Schedule 1 facilities under the *Mental Health Act* (general hospitals with mental health units) and to clients living in the community who are being considered for placement on a Community Treatment Order and their Substitute Decision-Maker, if any. We now provide more than 20,000 first rights advice visits with patients, address more than 3,500 individual advocacy issues and more than 75 systemic advocacy initiatives annually. Our website receives in excess of 500,000 visits per year.

Please find attached our submission and recommendations, which focuses on four key issues that we hope the Committee will include in its final report. The key issues include: 1) access to independent advocacy services for all individuals with a mental illness, 2) inclusion of formal rights advice in the delivery of mental health care, 3) greater involvement by consumer-survivors in a recovery oriented mental health and addictions system and 4) public education as a way to combat the stigma and discrimination associated with mental illness and addiction.

The PPAO would like to commend both you and the Committee for the dedication, commitment and thoughtfulness shown in addressing the many facets of mental health, mental illness and addiction in Canada. Your work will undoubtedly lead to improved quality of care and life for all individuals with a mental illness in Canada while also supporting communities to become more inclusive and accepting. We believe that any discussion of system improvement must include a discussion of independent advocacy and rights advice.

Should you have any questions or require additional information please contact me at (416) 327-7004.

Sincerely,

David Simpson
Director (A)

c.c. George Zegarac
Assistant Deputy Minister
Ministry of Health and Long-Term Care

Table of Contents

Summary of Recommendations	3
Introduction	7
History of Psychiatric Patient Advocate Office	7
Advocacy: An Essential and Integral Component of Mental Health	10
Rights Advice: Protecting the Rights of Vulnerable People	14
National Advocacy and Rights Advice Standards	17
Consumer-Survivor Involvement in a Recovery Oriented System	18
Adopting a Recovery Orientation	20
Public Education: Combating Discrimination and Stigma	21
Prime Minister's Commission on Mental Health, Mental Illness And Addiction	23
Federal Government Commitment to Mental Health	24
Strengthening Accountability Mechanisms	25
Conclusion	26
Appendices	
Appendix 1 - Vision, Mission and Mandate	29
Appendix 2 - PPAO Logo	30
Appendix 3 - Glossary of Advocacy Terms	31
Appendix 4 - Guiding Principles of Advocacy	33
Appendix 5 - Role of Rights Adviser & Process of Rights Advice	34

Summary of Recommendations Psychiatric Patient Advocate Office

Independent Advocacy

- The PPAO recommends that independent advocacy services be available to all individuals with a mental illness, regardless of where or from whom they receive their care and treatment.
- The PPAO recommends the development of a national advocacy program with corresponding legislative authority, standards of practice and conduct, training and certification of advocates and charged with the responsibility of disseminating best practices across the country.
- The PPAO recommends that the definition and provision of community-based mental health services include independent advocacy services for all individuals with a mental illness.
- The PPAO recommends that independent advocacy services be seen as a specialized and distinct position within the mental health delivery system.
- The PPAO recommends that annual reports regarding the provision of independent advocacy be sent to the Federal Government and the Prime Minister's Commission on Mental Health, Mental Illness and Addiction.

Rights Advice

- The PPAO recommends that the federal government, in partnership with the provinces and territories, create a system for the delivery of formal and independent rights advice to protect the rights of individuals with a mental illness whose rights are abrogated by the authority of the state.
- The PPAO recommends that the federal government establish national standards for the provision of formal rights advice and require that each province and territory comply with these standards.
- The PPAO recommends that the role and function of the Rights Adviser, including the right to establish standards of practice and conduct, the right to specify the qualifications, training and of a Rights Adviser, be enshrined in legislation, with corresponding authority.
- The PPAO recommends that the Federal government establish a national database to gather information on the provision of rights advice including tracking trends and issues and confirming the delivery of rights advice to those individuals specified in legislation.

- The PPAO recommends that the role of Rights Adviser be seen as a unique and discrete position within the mental health delivery system and that the role be independent from the service provider.
- The PPAO recommends that annual reports regarding the provision of rights advice be sent to the Federal Government and the Prime Minister's Commission on Mental Health, Mental Illness and Addiction.

National Advocacy and Rights Advice Standards

- The PPAO recommends that the Federal Government establish national advocacy and rights advice standards that address training and certification, continuing education and systemic advocacy training and support.
- The PPAO recommends that the positions of Advocate and Rights Adviser be viewed as professions and establish accountability mechanisms to ensure quality service delivery to clients.

Consumer-Survivor Involvement in a Recovery Oriented System

- The PPAO recommends that the mental health and addiction sector adopt a recovery orientation where the client is viewed as the "expert", where they can retain responsibility for their own wellness and recovery and are involved in all decisions that affect their care, life and treatment.
- The PPAO recommends that there be a federal dialogue with consumer-survivors and the service sector of the concept of recovery and how to support individuals in their quest towards recovery.
- The PPAO recommends that consumer-survivors be involved at all levels of decision making and in the design, delivery and evaluation of mental health and addiction services.
- The PPAO recommends that peer support workers and peer support specialists be involved at all levels of the service delivery system and that their role be recognized as part of the provision of a full range of mental health and addiction services and supports.
- The PPAO recommends that a recovery oriented mental health and addiction system define "treatment" as more than just medication and that individuals have access to a range of "treatments" and therapies that would support their recovery from a holistic and individualized approach.

Adopting A Recovery Orientation

- The PPAO recommends that federal, provincial and territorial governments make significant financial and human resource investments in supporting the mental health and addiction sectors in adopting and implementing a recovery orientation.
- The PPAO recommends that individuals with mental illness and addictions have access to recovery oriented programs and services in a timely manner, in their own community and to suit their individual needs.
- The PPAO recommends that a recovery focus also include such things as: a "rights" orientation, an environment of dignity and respect, strategies for empowering clients, ability to access services in your first language, having options and choices and having decisions respected by care providers, and having treatment defined as more than just medication.
- The PPAO recommends that governments invest in education and training for health practitioners that incorporates the principles of recovery, empowerment and advocacy.
- The PPAO recommends that governments invest in recovery oriented research that is conducted by consumer-survivors, from a recovery and client first perspective.

Public Education: Combating Discrimination and Stigma

- The PPAO recommends that the Federal government, in partnership with stakeholders, design and deliver an anti-stigma and discrimination program that is continuous and has a comprehensive multi-level approach.
- The PPAO recommends that consumer-survivors be involved in the design, delivery and evaluation of the anti-stigma and discrimination campaign.
- The PPAO recommends that consumer-survivors be involved in training health practitioners and others about the devastating impact of discrimination on individuals with mental illness and addiction.

Prime Minister's Commission on Mental Health, Mental Illness and Addiction

- The PPAO recommends the establishment of a Prime Minister's Commission on Mental Health, Mental Illness and Addiction, with significant and broad representation from the consumer-survivor community and reflecting the diversity of Canada.

- The PPAO recommends that the Commission, in consultation with all levels of government and stakeholders, be charged with the responsibility of developing a national action plan for mental health, mental illness and addiction.
- The PPAO recommends that the Commission report annually on the state of mental health and addictions in Canada, the status of the national action plan and be responsible for playing a co-ordinating role in addressing gaps in service and inequities.

Government Commitment to Mental Health

- The PPAO recommends that the federal government, working collaboratively with the provinces and territories, illustrate its commitment to mental health and addictions by implementing the recommendations in this paper and those proposed by the Senate Standing Committee.
- The PPAO recommends that all levels of government review legislation, policies and procedures and programs to ensure that all barriers to entitlements or eligibility criteria for people with mental illness and addiction be removed.
- The PPAO recommends that the federal government devote additional policy resources to Health Canada so that issues related to mental health and addictions can become a priority and be addressed in the most effective way possible.

Strengthening Accountability Mechanisms

- The PPAO recommends that accountability mechanisms be strengthened including: the creation of a Federal Ombudsman, a Mental Health and Addictions Bill of Rights, a federal Mental Health Act, a federal department devoted to mental health and addictions, enhance Legal Aid funding so clients could pursue their rights and inclusion of a national advocacy and rights advice program.

Introduction

The Psychiatric Patient Advocate Office (PPAO) has been providing independent advocacy and rights advice services to inpatients in the ten current and divested provincial psychiatric hospitals in Ontario for 21 years. The PPAO has been operating as an arms length program of the Ministry of Health and Long-Term Care. During this time we have worked to protect and promote patients' rights in Ontario to address both individual and systemic issues. This has had a positive impact on the delivery of mental health care and an improved quality of care and life for our clients. We have zealously protected the legal and civil rights of our clients and, as a result, our mental health system is stronger. We want to share this knowledge, expertise and experience with the Committee in hopes that our recommendations will be adopted in the final report of the Committee.

The PPAO would like to address four key issues in this submission: 1) access to independent advocacy services for all individuals with a mental illness, 2) inclusion of formal rights advice in the delivery of mental health care, 3) greater involvement by consumer-survivors in a recovery oriented mental health and addiction system and 4) public education as a means to combat the stigma and discrimination associated with mental illness and addiction.

History of the Psychiatric Patient Advocate Office

The introduction of the Psychiatric Patient Advocate Office (PPAO) as a provincial program was announced in the legislature in May 1982 by Larry Grossman, former Minister of Health. The program became operational in November 1982 with the appointment of the first provincial coordinator (now called "director") for the program and the appointment of 11 advocates in May 1983.

The mandate of the program (Appendix 1) was to advance the legal and civil rights of psychiatric patients in the province's psychiatric hospitals, and to empower patients to make informed decisions about their lives, care and treatment. The intention of all political parties at the time was that the Office would have an arms' length relationship with the Ontario Government in exercising its mandate with an administrative accountability to the Ministry of Health. The "arms' length" arrangement was made to deflect any attention from the conflict of interest inherent in an internal advocacy model.

The PPAO was introduced as an advocacy program in Ontario in response to a number of events that took place in the 1970s and 1980s, including:

- the formation of a series of patients' rights and consumer groups lobbying for improvements in the care and treatment of patients in provincial

- psychiatric hospitals and the advancement of patients' rights;
- the passage of the Canadian Charter of Rights and Freedoms;
 - a series of patient deaths that occurred in 1980/81 at the Queen Street Mental Health Centre that were the subject of coroner's inquests. In each case, the coroner was critical of hospital policy;
 - media attention to the coroner's inquest, poor housing of former psychiatric patients and lack of community services;
 - newspaper articles concerning mental health law that argued patients were being denied due process of law and were being subjected to autocratic and arbitrary decision-making by psychiatrists and bureaucrats;
 - a clear trend in the direction of restricting psychiatric authority and extending patients' rights; and
 - the need to proclaim dormant sections of the *Mental Health Act* to bring the Act into compliance with the Canadian Charter of Rights and Freedoms. The PPAO was asked by the Minister of Health to assist in this process.

Initially the program was introduced on a project basis. In 1986 an evaluation committee was appointed by the Minister of Health to evaluate the PPAO. Members of the committee were nominated by groups involved with advocacy and delivery of mental health services in Ontario. External consultants were hired to conduct an external review of the program and the committee's report to the Minister confirmed the PPAO's valuable contributions and also discussed its limitations. The report made thirty-nine recommendations ranging from personnel issues to reporting structure. The evaluation committee viewed the implementation of these recommendations as the means whereby the PPAO would develop from "an experimental program into...an entrenched advocacy agency".

In 1987, Father Sean O'Sullivan's committee completed its review of advocacy for vulnerable adults and delivered its report "You've Got a Friend", a framework for delivering advocacy services in institutions and the community. Also in 1987, the Advisory Committee on Substitute Decision-Making reported on its review of the law related to substitute decision-making and guardianship. Four linked pieces of legislation (*Mental Health Act, Substitute Decisions Act, Consent to Treatment Act, and Advocacy Act*) were introduced to the legislature in 1991 and proclaimed as law on April 3, 1995. As a result of proclamation, the Ontario Advocacy Commission was established and charged with a broad mandate to promote respect for vulnerable persons and their rights. The PPAO was scheduled to be transferred to the Commission. However, with the election of a new government in 1995, and a differing view of how the process of protecting the interests of

vulnerable people should proceed, the Commission was abolished and the plans for transferring the PPAO to the Commission were halted. The PPAO continues to function in its advocacy and rights protection role.

Since 1995 the pace of mental health reform has accelerated with several key developments taking place. The Health Services Restructuring Commission released a series of reports that dealt with the provision of health care services at the local level. The recommendations would leave a profound and lasting impression on mental health service delivery in Ontario. The Commission recommended the divestment or closure of the provincial psychiatric hospitals and the repatriation of mental health services to the communities served in each catchment area. To help operationalize the Commission directives, the Mental Health Implementation Task Forces were struck to identify local needs and to assist the Ministry with planning around local needs and identifying the mental health services and supports required in each community. The Task Forces were also charged with the responsibility of consulting with their communities with an aim of making recommendations to the Ministry of Health and Long-Term Care by June 2002. Those reports were not made public by the Ministry until December 2003.

In 1997 the PPAO conducted a broad based consultation with more than 700 stakeholders to solicit their views regarding advocacy and rights advice and a future model for the delivery of such services. The consultation revealed that "independence" is the cornerstone of any successful advocacy and rights advice service and almost all stakeholders recommended that these services always be independent and separate from service provision. When the PPAO adopted its new logo (Appendix 2) it reflected the values, mission and mandate of the office, as a visual representation of our commitment to our clients.

In December 2000, Bill 68 saw the mandate of the PPAO expanded to include the option of Schedule 1 facilities under the *Mental Health Act* being able to designate the PPAO as "rights adviser" instead of the hospital providing the service themselves. Many stakeholders saw this as a positive step forward as it removes the real or perceived conflict of interest of facilities providing rights advice themselves. This legislation also recommended that the PPAO expand their mandate to provide rights advice to individuals living in the community who were being considered for placement on a Community Treatment Order (CTO) and their Substitute Decision-Maker, if any. These changes in the law have resulted in the PPAO providing the majority of formal rights advice in Ontario.

Over the past several years the PPAO has also conducted several pilot projects including the provision of independent advocacy services to clients on Assertive Community Treatment Teams (ACTT) in Eastern Ontario, at the request of those teams. The project was very successful, from both the clients' perspective and health practitioners who delivered the service. After the one-year pilot project was completed, a report was written and the service delivery concluded. The PPAO believes that the project was an excellent opportunity to pilot a community-

based advocacy program and believes that this community-based advocacy program should have continued beyond the pilot project period.

The PPAO also provides rights advice services at St. Lawrence Valley Correctional and Treatment Centre, Secure Treatment Unit and, the Regional Treatment Centre at the Kingston Penitentiary. At the request of hospital and clients and approved by the Ministry of Health and Long-Term Care, the PPAO expanded the provision of independent advocacy services to the Centre for Addiction and Mental Health at the Clarke Institute site.

In 2005 the Ministry of Health and Long-Term Care began a review of advocacy services for vulnerable populations in Ontario with the PPAO being consulted as one of many stakeholders. The results of the review have not been made public, but the PPAO is hopeful that the review will lead to a modernization of its mandate. That is, the expansion of advocacy services beyond the current and divested provincial psychiatric hospitals to the community.

The PPAO believes that all individuals with mental illness should have access to independent advocacy and rights advice services regardless of where or from whom the individual receives their care and treatment. Research has illustrated that advocacy can have a positive impact on the quality of care and life of individuals with mental illness and lead to improved outcomes. Having access to an independent advocate would assist the client in resolving their own issues, and where that wasn't possible, the advocate could give a voice to their issues. An independent Rights Adviser could assist the client in knowing and exercising their rights, should they choose to do so.

Many individuals with mental illness are vulnerable for a number of reasons including but not limited to: the illness itself, not knowing where to turn for help, past experiences with resolving conflict when a power imbalance exists or due to a cognitive impairment or developmental disability. For these reasons the PPAO believes that all individuals with mental illness should have access to independent advocacy and rights protection services.

Advocacy: An Essential and Integral Component of the Mental Health Delivery System

The Standing Senate Committee has undoubtedly heard many things about what is wrong with the mental health system in Canada and has heard many accounts of personal stories associated with either access or denial of care and treatment, and, the tragic results that some individuals and families have experienced. The PPAO believes that the Ontario experience of providing advocacy and rights protection services for the past two decades has proven to be an effective model for protecting the civil and legal rights of individuals with a mental illness. However, we also acknowledge that as care and treatment has migrated from an

institutional model to a community-based model, Ontario is lagging behind in modernizing the mandate of its provincial advocacy program. It is important to ensure that all individuals with a mental illness, regardless of where or from whom they receive their care and treatment have access to independent advocacy and rights advice.

The PPAO would encourage the Commission to consider recommending such a national model for advocacy and rights advice services, with corresponding legislative authority, as a mechanism to protect some of the most vulnerable members of our community. We acknowledge that there are many jurisdictional issues associated with such a recommendation, but believe that in the interest of all Canadians, especially vulnerable populations that these issues could be addressed and resolved by the provinces and the federal government.

The PPAO was the first province-wide advocacy program in Canada, established in 1983 to advance the legal and civil rights of patients in provincial psychiatric hospitals. Since inception, the PPAO has delivered a full range of advocacy services including: individual (instructed and non-instructed), systemic and supported individuals to self-advocate (See Appendix 3 for definitions). In the past 20 years there have been many changes and several reports issued on mental health reform and the restructuring of the service delivery system. As time progresses, more and more patients will receive their care and treatment in the community instead of in hospitals. Individuals with mental illness will continue to be vulnerable and their need for advocacy will continue to exist because at times they may need the support and assistance of an advocate in articulating and addressing their issues and concerns.

As provincial governments invest in community mental health services, it would be wise for them not to forget that advocacy and rights protection services assist vulnerable people in accessing services and supports, and, in some cases intervention keeps the individual from requiring bed-based mental health care and treatment. Not only would this be a cost savings for the government, but it would also lead to an improved quality of life for that individual by helping them to resolve issues, thus alleviating stressors and allowing them to focus on their wellness and recovery.

Independent advocates and rights advisers must be seen as a specialized service that is there primarily "for the client" as a partisan service provider who has the sole responsibility of protecting and promoting the rights of the client within the mental health service delivery system. It is a distinct role that addresses power imbalances and empowers the individual to take responsibility for their own recovery.

When Ontario envisioned and established the PPAO it attached the service to the institution and limited the mandate of the office to the provision of services to inpatients of the ten facilities. The mandate has not kept pace with mental health reform as more and more individuals receive their care and treatment in the

community, they lose access to independent advocacy services. This has created an inequitable system with unequal access to advocacy and rights protection services and support. The government needs to rectify this situation by expanding these services into the community, affording every individual with a mental illness equal access to independent advocacy and rights protection services.

If governments were committed to protecting the rights of vulnerable populations, expansion of such services is the solution as it would have an immediate impact on the mental health system. Investment in community-based mental health services must include investment in independent advocacy and rights protection services.

In designing an advocacy model for the future, the PPAO and its stakeholders believe that advocacy services must be formally established, be independent from the service provider and provincially co-ordinated with both a local and regional presence so that the services are accessible to those who will utilize them (See Appendix 4 for Guiding Principles of Advocacy). Ideally, each province would be mandated to have such a program and national standards developed to ensure that the services provided were delivered in keeping with four guiding principles: advocacy is independent, advocacy is client-directed, advocacy is accessible and advocacy uses avenues of least contest. The provincial advocacy offices would then form a national network of patients' rights organizations and report annually to both their provincial government and the federal government on the state of mental health services within their jurisdiction.

Currently, there are formal and informal advocacy services which and there are a variety of programs and services that provide advocacy at both the local and provincial levels. However, in most cases they do not provide independent advocacy services but rather are an "add on" to the other services that are being provided. To be truly effective, advocacy services must be independent from the service provider so that there is no real or perceived conflict of interest so that clients will have confidence in the work and efforts of the advocate. Advocacy must not only be seen to be independent, it must be independent. An independent and partisan advocate could not fulfil any other role (i.e. case manager, social worker) but rather must be there for the client, to support and to assist them in achieving the desired outcome they are seeking. Case managers may advocate on behalf of their clients, but it is not independent, may be "best interest" based and not necessarily what the client is seeking. As case management is a distinct and prescribed role in the mental health system, so should be the role of independent advocacy.

It is our view that advocacy services are fragmented, that there is a lack of provincial co-ordination and integration and that there is a lack of a provincial framework with a corresponding accountability framework. This is further compounded when we look at the mental health "system" at the federal level. It is anticipated that each province would then be part of a national advocacy network

and be held to the standards set at the federal level. Advocacy services in a reformed mental health system would include such components as: training and certification of advocates, development of an umbrella organization, setting of standards of practice and conduct for advocates and co-ordination of instructed, non-instructed and systemic advocacy.

Characteristics of advocacy services in a reformed mental health system, with a recovery and empowerment focus, would include: that all advocacy be provided from the client's perspective; that services be delivered by formal and informal advocates through partnerships; and that clients be able to decide who provides them with service, and what extent that they wish. Services would also be delivered through partnerships with stakeholders, consumer-survivor organizations, families and caregivers. The benefits of such a service delivery model would allow for the pooling of talents and resources, collaboration on advocacy issues with a goal of system improvements and would complement and supplement other existing mechanisms, and not duplicate existing services. All stakeholders including clients, governments, policy makers and decision-makers in local social service agencies would derive benefit from such a system.

The PPAO envisions a national advocacy program where expertise could be shared across the country, where best practice standards could be developed and there would be a national ability to report annually on the state of mental health services in Canada. Such national co-ordination would also be an excellent resource for policy makers and governments when they were considering new legislation, health policy or the introduction of other programs and services that could potentially have an impact on individuals with mental illness. There is currently no national mental health system in Canada and it is time for political leadership at all levels to take responsibility for the provision of mental health services in an environment of inclusion, acceptance and support. If such a change were adopted it would lead to the development of a "system" that could be charged with many responsibilities including the protection and promotion of patients' rights and a national anti-stigma and discrimination program.

This bold first step would only be the beginning of Canada taking a proactive and positive step with the provinces towards providing co-ordinated and seamless service delivery system while supporting the provincial governments, local communities and individuals with mental illness in their quest for wellness and recovery. Such first steps would address the needs of individuals with mental illness and reduce their vulnerability.

Recommendations:

- The PPAO recommends that independent advocacy services be available to all individuals with a mental illness, regardless of where or from whom they receive their care and treatment.

- The PPAO recommends the development of a national advocacy program with corresponding legislative authority, standards of practice and conduct, training and certification of advocates and charged with the responsibility of disseminating best practices across the country.
- The PPAO recommends that the definition and provision of community-based mental health services include independent advocacy services for all individuals with a mental illness.
- The PPAO recommends that independent advocacy services be seen as a specialized and distinct position within the mental health delivery system.
- The PPAO recommends that annual reports regarding the provision of independent advocacy be sent to the Federal Government and the Prime Minister's Commission on Mental Health, Mental Illness and Addiction.

Rights Advice: Protecting the Rights of Vulnerable People

We acknowledge that mental health legislation in each province or territory is unique to that jurisdiction and that health care is within the jurisdiction of provincial and territorial governments. However, the federal government must provide leadership to ensure that there is a process in place to protect individuals with a mental illness whose rights are abrogated by the authority of the state. National leadership is required to resolve jurisdictional issues and to reinforce the need for rights protection mechanisms for some of the most vulnerable among us. Most Canadians believe that the Charter of Rights and Freedoms will protect them if the state intervenes in their life. It is the responsibility of the federal government to ensure that this belief is a reality for all of us, including individuals with mental illness.

There is no more significant infringement of personal rights than being involuntarily detained by the state. The Charter guarantees that the person must be advised of the reason for the detention and be informed of their legal rights. The rights advice process (See Appendix 5) in Ontario was created to address this issue and to provide individuals with a means to challenge such detention. The rights advice process provides protection to individuals from the arbitrary exercise of the authority of the state by informing them of the reasons for the detention and the options available if they disagree. In Ontario, the rights advice process includes informing the person of the significance of the decision which has been made, the options available if the person disagrees with the decision, and assistance, at the person's request, to challenge the decision, retain a lawyer and apply for legal aid.

Rights advice is mandatory in eight situations (Appendix 5) under the *Mental Health Act* and its regulations. PPAO Rights Advisers provide rights advice in all

eight situations. The PPAO has two distinct rights advice programs. The facility-based program provides rights advice to patients in the current and divested provincial psychiatric hospitals (PPHs). The community-based rights advice program provides rights advice to patients in over 50 of Ontario's non-PPH Schedule 1 facilities, which have designated the PPAO as rights adviser. The community-based program also provides rights advice to individuals, living in the community, who are being considered for the issuance or renewal of a Community Treatment Order. In total, PPAO Rights Advisers make approximately 20,000 first visits with patients annually.

The PPAO has repeatedly stated that the provision of formal rights advice should be extended to other vulnerable populations whose rights are being removed by the authority of the state. An example is a finding of incapacity to consent to treatment where a person's right to make treatment decisions is removed and another person assumes that role. In this case, health care is not being delivered in a consensual manner and formal rights advice is necessary to protect vulnerable persons. The provision of formal rights advice in this situation is particularly important for vulnerable populations such as seniors, children, individuals with acquired brain injury, individuals with developmental disabilities, inmates, and those at risk in the community.

The federal government should set a national standard for the provision of formal rights advice when individuals with a mental illness are detained by the authority of the state or when a person's legal status is changed, similar to the system developed by Ontario. There is no more significant infringement on your individual rights and freedoms than being held in a mental health facility against your will or being treated against your will.

In a fair and just society, it is anticipated that the principles of natural justice apply and that procedural safeguards are in place to protect your rights as guaranteed under the Charter. These procedural safeguards should include being advised of the reason for the detention, of the right to retain and instruct counsel; of the right to apply for a hearing before an independent body to challenge the authority of the state to change your legal status; of the right to apply for legal aid; and to have formal rights advice provided by a trained and certified rights adviser who will assist you in exercising your rights and options.

Each province or territory, as part of their health care system and as a condition of health care funding from the federal government in a reformed system, must be compelled to have rights protection mechanisms in place, including the provision of formal rights advice (Appendix 5). This would set a national standard and safeguard the civil and legal rights of all individuals with mental illness, especially those held by the authority of the state.

The role of the rights adviser must be enshrined in legislation and a corresponding authority granted to them so ensure that they work without interference from care providers, institutions or the system itself. Rights advisers must be required

to take an intensive training course, pass a national examination be certified and have the certification renewed on an annual basis. This will ensure that rights advisers have the knowledge and the ability necessary to safeguard the rights of some of the most vulnerable individuals among us. National standards will also ensure that every rights adviser is providing a similar level of service in keeping with the standards of practice and conduct that would be articulated for trained and certified rights advisers.

A national rights advice program would allow the following: the development of national standards of practice and conduct, the development and dissemination of best practices, the protection of the rights of some of the most vulnerable members of our community, the development of a training and certification process for rights advisers and the right to equitable access to formal rights advice across Canada. Rights advice would become a profession with the highest standards set for those fulfilling the role.

Recommendations:

- The PPAO recommends that the federal government, in partnership with the provinces and territories, create a system for the delivery of formal and independent rights advice to protect the rights of individuals with a mental illness whose rights are abrogated by the authority of the state.
- The PPAO recommends that the federal government establish national standards for the provision of formal rights advice and require that each province and territory comply with these standards.
- The PPAO recommends that the role and function of the Rights Adviser, including the right to establish standards of practice and conduct, the right to specify the qualifications, training and of a Rights Adviser, be enshrined in legislation, with corresponding authority.
- The PPAO recommends that the Federal government establish a national database to gather information on the provision of rights advice including tracking trends and issues and confirming the delivery of rights advice to those individuals specified in legislation.
- The PPAO recommends that the role of Rights Adviser be seen as a unique and discrete position within the mental health delivery system and that the role be independent from the service provider.
- The PPAO recommends that annual reports regarding the provision of rights advice be sent to the Federal Government and the Prime Minister's Commission on Mental Health, Mental Illness and Addiction.

National Advocacy and Rights Advice Standards

National Standards

The PPAO believes that the inclusion of independent advocacy and rights advice services must be considered as a national standard with every province ensuring access to such services for those who have a mental illness. This would strengthen the rights enshrined in the Charter of Rights and Freedoms and ensure that those who wished to exercise their rights would have the assistance necessary to do so.

National standards must be set for the recruitment, training, certification, evaluation and reporting on advocacy and rights advice services. Environmental monitoring and scanning of issues and trends could identify gaps in services, systemic responses to issues, identify areas for research, program and policy development and further promote patients' rights. A national program would also be required to report annually on the state of progress with respect to the effective utilization of mental health resources and progress towards becoming an inclusive and accepting community where stigma and discrimination is no longer tolerated based on disability.

Training and Certification

The development of a national program could potentially lead to the development of standards for recruitment, training and certification of both advocates and rights advisers. Both would require formal training and certification and eventually both would be seen as professions within the mental health sector. National standards would ensure that every individual with a mental illness would have the same access to information, support and assistance in both knowing and exercising their rights. In a fair, equitable and just society nothing less should be expected.

Continuing Education

Advocates and rights advisers would be required to continually update their skills and knowledge through participation in training sessions, courses and workshops and re-certification should be required every few years to ensure that staff are continually up to date on patients' rights, the law and options available to those wishing to exercise their rights.

Systemic Advocacy Training and Support

Advocates and rights advisers would be trained and supported in conducting environmental scanning as a way to identify systemic issues, trends and patterns associated with protecting and promoting patients' rights. A database would track issues and trends which would enable each advocacy program to be aware of emerging issues which would inform the systemic advocacy work of the organization.

Recommendations:

- The PPAO recommends that the Federal Government establish national advocacy and rights advice standards that address training and certification, continuing education and systemic advocacy training and support.
- The PPAO recommends that the positions of Advocate and Rights Adviser be viewed as professions and establish accountability mechanisms to ensure quality service delivery to clients.

Consumer-Survivor Involvement in a Recovery Oriented Mental Health System: Beyond Tokenism

Recovery has its roots in the consumer-survivor movement and it was from this expertise that the entire recovery movement has sprung. However, there is also a move to "professionalize" recovery, to make it a "model" and to define what is meant by the term. It seems that the recovery movement has been co-opted by the professional community and consumers aren't part of the on-going discussion regarding wellness and recovery. It could happen that the medical model simply gets re-packaged and promoted with a new name, "recovery." If this happens, many consumers will become disenchanted with the mental health system and feel betrayed by the very system that is to support them in their quest towards recovery.

There must be recognition that recovery means something different to everyone. Recovery means believing that tomorrow will be better than today and that you will become more than your illness. Recovery cannot be defined for others, it is a uniquely personal journey that must be defined by the person themselves. It is about understanding who you are, where you have been, the influences on you as a person, your understanding of your own illness, becoming comfortable with who and what you are, knowing how you want to participate in your community, articulating goals, being more than your illness and being able to live beyond the illness because you have a hopeful and future orientation and believe that you can and will make a difference.

To successfully implement a recovery focus with consumer-survivor participation that extends beyond tokenism to full participation, several changes must occur within the mental health and addiction sector. One necessary innovation in system design is maximizing consumer-survivors' voice in the process and to have consumer-survivors positioned as a full and equal partners at all levels of service provision, planning, evaluation, and systemic advocacy. For example, agencies providing mental health and addiction services should be encouraged to have a consumer advisory committees, client and family councils and mechanisms to include consumers at all levels of the organization including on hiring committees, program development and evaluation committees, quality assurance and risk

management, Boards of Directors and policy and procedure committees. Real, true and fair representation by consumers would have a positive impact on the system as a whole.

The introduction of and inclusion of peer support workers and peer specialists at all levels of the system would further enhance the contribution of consumer-survivors in a recovery oriented system. Not only would peer support workers and specialists be able to support consumers, they would also be able to support teams and agencies in moving towards the provision of client-centred and client directed care from a recovery orientation. Their expertise regarding self-help, empowerment and supporting the client in their recovery process would become a valuable resource to the entire system. Sharing "like experiences" and being a "peer" are added benefits to the inclusion of this role in a reformed mental health system. However, on-going training, support and mentoring for peer support workers and specialist would be required to ensure the successful implementation of such services.

The mental health system should see its role as that of supporter, mentor, facilitator, and motivator and take its responsibility seriously to help people recovery and achieve their dreams. It cannot simply be about taking medication as the only treatment available and reducing the number of bed-based days that a client is in hospital. Our measure of success must become one that considers how the system has supported the individual in having an improved quality of life and accomplishing the things that they wanted to accomplish. To evaluate how the system supported the client in helping them to make their dreams and aspirations a reality on the way to recovery must become the new measure.

Individuals with mental illness are the same as everyone else in the community. They want to be loved, to be cared for, to have friends, to fit in, to have a decent income, to be able to contribute to their community, to have spiritual support, a job, to have opportunities and challenges, a home and support of an understanding and inclusive community that views mental illness like any other illness. The mental health system must be judged by how well it supports and assists people in achieving these things as they move towards recovery.

Consumer-survivors and the contributions they make are often undervalued by the mental health system at present and there needs to be both a repositioning and a clear commitment to recognizing and supporting these contributions.

Recommendations:

- The PPAO recommends that the mental health and addiction sector adopt a recovery orientation where the client is viewed as the "expert", where they can retain responsibility for their own wellness and recovery and are involved in all decisions that affect their care, life and treatment.

- The PPAO recommends that there be a federal dialogue with consumer-survivors and the service sector of the concept of recovery and how to support individuals in their quest towards recovery.
- The PPAO recommends that consumer-survivors be involved at all levels of decision making and in the design, delivery and evaluation of mental health and addiction services.
- The PPAO recommends that peer support workers and peer support specialists be involved at all levels of the service delivery system and that their role be recognized as part of the provision of a full range of mental health and addiction services and supports.
- The PPAO recommends that a recovery oriented mental health and addiction system define "treatment" as more than just medication and that individuals have access to a range of "treatments" and therapies that would support their recovery from a holistic and individualized approach.

Adopting A Recovery Orientation for the Mental Health System

The mental health system in Canada would be well served by adopting a recovery focus and a philosophy of inclusion that views the client as the expert who is able to retain responsibility for their own wellness and recovery. This would require that clients be involved in all decisions that affect their care, life and treatment. However, many parts of the mental health delivery system will be "uncomfortable" with such an approach, resulting in a need for education and support that challenges attitudes and the development of best practices.

A recovery focus would need to include such things as: a "rights" orientation; strategies for empowering clients; assisting clients to self-advocate; an environment of dignity and respect; clients having a greater but equal voice; development of a "client first perspective"; ability to access services in ones first language; client directed care and treatment; having options and choices and having those decisions respected by your treatment team; having treatment defined as being more than just medication; access to quality discharge planning; access to community supports and services; timely access to care and treatment; investment in education, training and research for health practitioners; the availability of bed-based mental health care and addictions treatment; independent advocates and rights advisers; inclusion of peer support workers and specialists in the mental health system; inclusion of more consumer-survivor led programs and services and a requirement that the client themselves be involved in all aspects of care and treatment, including decision making.

Significant investment by government will be required in re-shaping and re-tooling the mental health system so that it has a recovery focus, based on best practices and a client-centred approach. It will require the government to take leadership in communicating the vision, in reinforcing that consumer-survivors must be involved in the design, delivery, and evaluation of mental health programs and that anything less is unacceptable. Federal leadership can set an example and illustrate their commitment through adequately funding mental health services, examining the social determinates of health and defining outcomes for the delivery of each and every service.

Recommendations:

- The PPAO recommends that federal, provincial and territorial governments make significant financial and human resource investments in supporting the mental health and addiction sectors in adopting and implementing a recovery orientation.
- The PPAO recommends that individuals with mental illness and addictions have access to recovery oriented programs and services in a timely manner, in their own community and to suit their individual needs.
- The PPAO recommends that a recovery focus also include such things as: a "rights" orientation, an environment of dignity and respect, strategies for empowering clients, ability to access services in your first language, having options and choices and having decisions respected by care providers, and having treatment defined as more than just medication.
- The PPAO recommends that governments invest in education and training for health practitioners that incorporates the principles of recovery, empowerment and advocacy.
- The PPAO recommends that governments invest in recovery oriented research that is conducted by consumer-survivors, from a recovery and client first perspective.

Public Education: Combating Discrimination and Stigma

In Canada, mental illness affects one in five individuals at some point during their lifetime. Although mental illness takes its greatest toll on those who have a mental illness, its negative effects are substantially felt within families and throughout communities. The loss of human potential and productivity coupled with the inability to realize hopes and dreams make the challenge of mental illness and its stigma a problem of tragic proportions.

While many agencies and organizations in Canada are active in their efforts to eliminate or even reduce stigma and discrimination, what we require is a comprehensive, co-ordinated and on-going anti-stigma and discrimination program to effectively deal with this debilitating problem. Ideally, consumer-survivors would be involved in the design and delivery of the anti-stigma and discrimination campaign and work to educate health practitioners and others about the devastating impact of discrimination on individuals with mental illness.

In our view, an effective anti-stigma and discrimination program would require multi-level interventions that would address:

1. Systemic factors - policies, legislation, funding.
2. Community factors - negative responses from media, police, general public.
3. Health professional factors - their attitudes and responses to persons with mental illness.
4. Individual factors - how stigma and discrimination affects an individual's self-identity, behavior in seeking professional help, and their successful recovery and re-integration into the community.

The professional literature on this issue has concluded that education in itself and short-lived anti-stigma campaigns are not enough. What we recommend is an anti-stigma and discrimination program that is continuous and has a comprehensive, multi-level approach which educates people at an early age, perhaps even as part of the elementary school curriculum.

A national advocacy and rights advice program could be an additional resource in combating stigma and discrimination and serve to educate the public about the legal and civil rights of individuals with mental illness. Working in partnership with stakeholders in every community it would be possible to make a difference in helping Canadians develop more inclusive and accepting communities while combating the myths and stereotypes of mental illness and addictions. It is in the public's interest to eliminate stigma and discrimination, to afford everyone equal rights under the Charter and to support every Canadian to participate fully in society, to the extent that they wish and are able to do so.

Recommendations:

- The PPAO recommends that the Federal government, in partnership with stakeholders, design and deliver an anti-stigma and discrimination program that is continuous and has a comprehensive multi-level approach.
- The PPAO recommends that consumer-survivors be involved in the design, delivery and evaluation of the anti-stigma and discrimination campaign.

- The PPAO recommends that consumer-survivors be involved in training health practitioners and others about the devastating impact of discrimination on individuals with mental illness and addiction.

Prime Minister's Commission on Mental Health, Mental Illness and Addiction

The PPAO would support the establishment of a Prime Minister's Commission on Mental Health, Mental Illness and Addiction comprised of broad representation from across Canada, across sectors and include significant representation, if not a majority of the membership, from the consumer-survivor community and reflect the diversity of Canada. The Commission could be a resource to policy and decision-makers at Health Canada and other federal government departments and programs.

The Commission would be charged with the responsibility of providing advice to both the Prime Minister and the federal government on all issues related to mental health and addictions and in the development and implementation of a national action plan. The national action plan would articulate a vision and an implementation plan, but support provinces with their own initiatives. However, accountability for the success of the plan would remain the responsibility of the Commission.

The Commission, for example, could review all federal legislation to ensure that it was not creating barriers for people with mental illness and addiction. They would have the power to make recommendations and take corrective action. The Commission would set the tone and context and illustrate the commitment of the federal government to improving the quality of care and life of all individuals with mental illness and addiction while reducing the stigma and discrimination associated with it.

The Commission would report annually on the state of mental health and addictions in Canada, the status and success of the national action plan, identify trends and gaps in services and play a co-ordinating role in addressing inequities. It would speak with authority, be an expert resource and provide leadership across sectors and across Canada.

Recommendations:

- The PPAO recommends the establishment of a Prime Minister's Commission on Mental Health, Mental Illness and Addiction, with significant and broad representation from the consumer-survivor community and reflecting the diversity of Canada.

- The PPAO recommends that the Commission, in consultation with all levels of government and stakeholders, be charged with the responsibility of developing a national action plan for mental health, mental illness and addiction.
- The PPAO recommends that the Commission report annually on the state of mental health and addictions in Canada, the status of the national action plan and be responsible for playing a co-ordinating role in addressing gaps in service and inequities.

Federal Government Commitment to Mental Health Strengthening Federal -Provincial - Territorial Relationships

The federal government needs to demonstrate a strong commitment to mental health and work collaboratively with the provinces and territories to achieve many of the recommendations in this paper and those put forth by the Senate Standing Committee. The various levels of government could demonstrate this commitment through the introduction of prevention and awareness programs, a mental health bill of rights, development and implementation of a national action plan, dedication of additional policy resources at Health Canada, increased resources to prevention, education and stigma reduction programs and in providing strong leadership in de-mystifying and de-stigmatizing of mental illness.

Each region of the country must have the resources necessary to respond to local and regional priorities but must also be accountable for the delivery of the "national message" on mental health and mental illness. This will require the federal and provincial governments to work together for the accomplishment of goals set by the Prime Minister's Commission on Mental Health, Mental Illness and Addictions. Special efforts must be made to work collaboratively amongst all levels of government and with communities to ensure success with respect to implementing the various strategies and directions that will come from the Commission. Provinces must be encouraged to see this as a priority and to establish the supports required, such as provincial advisory committees to support their Minister of Health in the implementation process.

Considering the cost of missed time from work due to mental illness, the federal government must re-examine Employment Insurance and private insurance benefits to ensure that any barrier to benefits and participation in society are removed .

The federal government must also have a renewed focus on discrimination against those with a mental illness. Too often this discrimination is overt or hidden but the impact on the individual is devastating. No longer can we accept that this is "stigma" or a "misunderstanding" of mental illness - let's call it what it is - discrimination. The federal government must enact legislation that has harsher sanctions for those who discriminate against individuals with mental illness.

Recommendations:

- The PPAO recommends that the federal government, working collaboratively with the provinces and territories, illustrate its commitment to mental health and addictions by implementing the recommendations in this paper and those proposed by the Senate Standing Committee.
- The PPAO recommends that all levels of government review legislation, policies and procedures and programs to ensure that all barriers to entitlements or eligibility criteria for people with mental illness and addiction be removed.
- The PPAO recommends that the federal government devote additional policy resources to Health Canada so that issues related to mental health and addictions can become a priority and be addressed in the most effective way possible.

Strengthening Accountability Mechanisms

Accountability mechanisms must be strengthened if the mental health and addictions system is to adopt and promote a recovery focus and challenge the status quo. Perhaps the most expedient and effective ways to help re-design services would be to include: the creation of a federal Ombudsman, provide additional resources for the Canadian Human Rights Commission, enhance Legal Aid funding so clients could pursue their rights, develop a federal Mental Health and Addictions Bill of Rights, a federal Mental Health Act, create a federal department that is devoted to mental health, mental illness and addiction and include independent advocacy and right advice services. Federal health funding could also provide "protected envelopes" of funding that would require money to be spent on the delivery of specific services and programs, thus heightening accountability and supporting achievement of the national action plan.

Each of these mechanisms would in their own way bring about systemic change to the mental health and addictions sector and collectively would be an effective way to "push" to develop a client first perspective grounded in the principles of wellness and recovery.

Recommendations:

- The PPAO recommends that accountability mechanisms be strengthened including: the creation of a Federal Ombudsman, a Mental Health and Addictions Bill of Rights, a federal Mental Health Act, a federal department devoted to mental health and addictions, enhance Legal Aid funding so clients could pursue their rights and inclusion of a national advocacy and rights advice program.

Conclusion

In conclusion, the PPAO is hopeful that the Committee will consider our recommendations on these four key issues and suggest implementation of them as a way to further strengthen the mental health and addictions delivery system in Canada. We must have a system in Canada that is recovery oriented, has a client first perspective, that responds to the needs of every individual, that is inclusive of consumer-survivors, that respects their rights, choices and decisions and is available when and where people need to access services and supports. A national action plan will go along way in addressing and resolving the myriad of issues in the mental health and addictions sector.

If we are to become a caring, inclusive and accepting community then we must challenge ourselves to do better, to set higher standards for the mental health and addictions system, include consumer-survivors at all levels and accept nothing less than the best. This must be our call to action because we can and will do better.

Appendices

Appendix 1 - Vision, Mission and Mandate	29
Appendix 2 - Our Logo	30
Appendix 3 - Definitions of Advocacy	31
Appendix 4 - Guiding Principles of Advocacy	33
Appendix 5 - Role of Rights Adviser	34

Appendix 1

Vision, Mission and Mandate

Mission

The PPAO provides independent and confidential advocacy services and rights advice to consumers of and those seeking access to psychiatric services. We work to empower our clients to make informed decisions about their care, treatment, and legal rights. We use information, education, negotiation, and referral to conduct instructed, non-instructed, and systemic advocacy. We conduct public education on these issues. We promote self-advocacy and self-determination.

Vision

The vision of the Psychiatric Patient Advocate Office (PPAO) is that persons with mental illness in Ontario be treated with dignity and respect, that their legislated rights and entitlements be upheld at all times, and that they be actively involved in decisions affecting their life, care, and treatment.

Mandate

- To advance the legal and civil rights of psychiatric patients by means of both individual case work (instructed and non-instructed) and systemic advocacy (local and provincial);
- To inform the patient, family, hospital staff, and the community about patients' legal and civil rights;
- To assist, facilitate (self-advocacy), and help resolve the complaints made by psychiatric patients by providing an avenue for resolution through negotiation according to the patient's instructions;
- To investigate alleged incidents and to assess institutional and systemic responses to these instances;
- To refer patients, when necessary, to outside community advocacy resources such as community organizations, lawyers, or physicians who may offer a second opinion.

Appendix 2

Our Logo



Our logo, with three divisions, places the patient at the centre, with the advocate and the patient's support network on either side. In our practice of advocacy, we at the PPAO proceed from the patient's perspective, the heart of the matter. We believe that creating caring systems requires the effort of all those involved. The PPAO chose the heart symbol as our logo because it best reflected our vision, values and principles:

- that consumers be actively involved in all decisions affecting their life, care and treatment;
- that all consumers of mental health services be treated with dignity and respect;
- that the consumer directs the advocacy process, using the advocate as a resource;
- that all advocates respect each client's personal choices, providing advocacy from the client's point of view.

Appendix 3

GLOSSARY OF ADVOCACY TERMS

Advocacy

Advocacy is a process that ensures that the rights of vulnerable people are protected, that their self-defined needs are met, and that they are supported to make decisions that affect their lives. It is also a vital component of patient protection, assuring that the vulnerable person's legal and human rights are respected, and that their self-determination, independence and autonomy are maintained. The PPAO differentiates between the concepts of "protection" and "advocacy". "Protection" refers to interventions offered to people with disabilities on the assumption that they are unable to understand their options, express their views or make and take responsibility for choices about their lives, care and treatment. "Advocacy", on the other hand, emphasized a person's capacity for autonomy and ability to make such choices, particularly if offered assistance in understanding the options available, and in communicating personal preferences to others. In the case where a vulnerable person cannot instruct an advocate and is at risk of abuse or neglect, an advocate's intervention may be seen as "protection." Hence, this dimension of "protection" is included within the concept of "advocacy."

Self-Advocacy

Advocacy that is undertaken directly by the individual to achieve a specific goal. This form of advocacy may be enhanced through contact with an advocate who can provide information; resources, and an outline of options and expected outcomes of an individual's actions.

Instructed Advocacy

Advocacy that is undertaken directly by an advocate based on a client instruction. The process is guided by the principles of self-determination, client empowerment and self-advocacy. The advocate outlines options and the client determines the path to issue resolution. The advocate assumes the competency of the client to instruct unless the contrary is indicated.

Non-Instructed Advocacy

In keeping with the principles of self-determination, client empowerment and self-advocacy, non-instructed advocacy is conducted on behalf of an individual who for some reason is unable to instruct an advocate at the given time. Issues may concern the quality of life of an institutionalized person or those where a failure to take action will compromise the health, estate, personal security of dignity of the client.

Systemic Advocacy

Systemic advocacy focuses on issues that affect a broad segment of a particular population. These initiatives may, for example, comprise strategic efforts to change administrative structures and service delivery within the context of psychiatric institutions. This can include law and policy reforms that provide the basis for services provided in the mental health care system. The goal of systemic advocacy is to promote changes that support the legal rights social and therapeutic entitlements of clients; and to address power inequities inherent in institutional settings.

Appendix 4

Guiding Principles of Advocacy

Advocacy is Client Directed:

Unless the client is incapable of instructing an advocate, advocacy is client directed. That is, the actions of the advocate are guided by the instructions of the client. The advocate serves the client on a voluntary and consensual basis. The advocate does not substitute for the client's instructions his or her own personal or professional view of what course of action is in the "best interests" of the client. Central to advocacy is the determination of the client's wishes and the servicing of those wishes, unless the client's instructions are illegal or impossible to carry out.

Advocacy is Independent:

Advocacy should be, and be seen to be, independent. In order to avoid any potential or perceived problems with conflict of interest, advocates should be independent both from the psychiatric facilities where and service providers from whom their clients receive care and treatment.

Advocacy is Accessible:

For advocates to be able to assist vulnerable clients, they must be readily accessible to them. They must also be assured of the opportunity to communicate with their clients without interference from others.

Advocacy Uses Avenues of Least Contest:

Advocates seek to resolve issues at the level of least contest by beginning with the decision-maker closest to the client's problem before escalation to higher authorities. They seek all avenues to promote patients' rights and freedoms including conciliation, mediation and reasoned discussion.

Appendix 5 Role of the Rights Adviser

The role of the Rights Adviser is established under the Mental Health Act and its regulations. Section 1(1) of the Mental Health Act defines Rights Adviser as "a person, or a member of a category of persons, qualified to perform the functions of a rights adviser under this Act and designated by a psychiatric facility, the Minister or by the regulations to perform those functions, but does not include, (a) a person involved in the direct clinical care of the person to whom rights advice is to be given, or (b) a person providing treatment or care and supervision under a community treatment plan."

Rights advice is a process by which patients in psychiatric facilities are informed of their rights when a physician changes their legal status. Rights advice is mandatory in eight situations:

- a physician's decision that the patient's status must change to involuntary;
- a physician's decision that the patient's involuntary status must continue;
- a physician's decision that the patient is incapable to manage his/her property, including finances;
- a physician's decision that the patient's incapacity to manage his/her property must continue;
- a physician's decision that the patient is incapable to consent to treatment for a mental disorder in circumstances set out in the Regulations under the Act;
- a determination that the patient is incapable of consenting to the collection, use or disclosure of personal health information in the circumstances set out in the Regulations under the Act;
- when a twelve to fifteen year old is admitted to a psychiatric facility as an informal patient, and every three months thereafter;
- before issuing or renewing a CTO, a physician must be satisfied that the person who will be subject to the CTO (and his/her SDM, if any) have consulted with a Rights Adviser and have been advised of their legal rights.

CTOs are the only circumstance in which rights advice may be provided in the community.

Process of Rights Advice

When any of the above described rights advice situations occurs, the physician is required under the law to notify the rights adviser. The rights adviser is required, in turn, to promptly meet with the patient, except in the case of CTOs where the rights adviser is not required to meet but simply to 'provide' rights advice. The rights adviser must explain to the patient the significance of the situation. The rights adviser discusses the options available to the patient, including his/her right to have the situation reviewed by the Consent and Capacity Board, if he/she disagrees with the physician's decision.

If the patient wishes to have a hearing before the Consent and Capacity Board, the rights adviser assists the patient to make the application, to obtain legal counsel if so requested, and to apply for Legal Aid if so requested.

The rights adviser provides information to patients in a neutral, non-judgmental manner. The rights adviser must not make decisions for patients but assists them in carrying out their decisions.

Qualifications of a Rights Adviser (MHA Reg. 741)

Only persons who meet the following requirements may be designated to perform the functions of a rights adviser under the Act whether in a psychiatric facility or with respect to a person who is being considered for the issuance or renewal of a community treatment order:

1. The person must be knowledgeable about the rights to apply to the Board provided under the Act, the Health Care Consent Act, 1996 and the Personal Health Information Protection Act, 2004.
2. The person must be knowledgeable about the workings of the Board, how to contact the Board and how to make applications to the Board.
3. The person must be knowledgeable about how to obtain legal services.
4. The person must have the communications skills necessary to perform effectively the functions of a rights adviser under the Act.
5. The person must have successfully completed a training course for rights advisers approved by the Minister and have been certified as having completed such a course. O. Reg. 616/00, s. 11; O. Reg. 331/04, s. 5.