



# Psychiatric Patient Advocate Office

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

October 19, 2007

Michael Kirby  
Chair  
Mental Health Commission of Canada  
1145 Carling Avenue, Suite 5400  
Ottawa, ON K1Z 7K4

Dear Mr. Kirby:

I would like to thank you for inviting our office to participate in the stakeholder consultation session in Toronto on October 9, 2007. We supported the creation of the Mental Health Commission of Canada and we believe it can provide leadership in the development of a national mental health and addiction strategy, in addition to raising awareness of the stigma and discrimination so often faced by individuals with a mental illness. The formation of a Knowledge Exchange Centre is an important step in sharing and developing best practices based on evidence based research.

During the stakeholder consultation, you asked participants to comment on their vision of the Commission's accomplishments over the next three years and how organizations can assist with the achievement of these objectives. The attached submission highlights some of the areas that we think would strengthen the mental health sector in Canada and lead to improved quality of care and life for all individuals with a mental illness.

We are pleased that the Commission will be seeking stakeholder input on regular intervals and we are committed to being involved in any way possible to support its work. Should you decide to focus on the provision of independent advocacy, enhanced rights protection mechanisms, the elimination of stigma and discrimination or consumer involvement, we would be pleased to lend our extensive experience and expertise in these areas.

Should you have any questions regarding our brief, please contact David Simpson, Program Manager, at (416) 327-7004. Thank you again for the opportunity to participate in the stakeholder consultations.

Sincerely,

Vahe Kehyayan  
Director

## Background and Introduction

The Psychiatric Patient Advocate Office (PPAO) - the first and largest provincial mental health advocacy program in Canada - was established in 1983 as an arm's length organization of the Ontario Ministry of Health and Long-Term Care to protect the legal and civil rights of inpatients in the provincial psychiatric hospitals. We continue to provide a full range of independent advocacy and rights advice services in those facilities. Since 2001, the PPAO has provided the majority of rights advice to patients in the general hospitals with a mental health unit, as well as to individuals living in the community who are being considered for community treatment orders.

The PPAO would like to address the following 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.

## Independent Advocacy

The PPAO believes that our method of providing independent advocacy and rights protection over the past quarter century, has proven to be an effective model for protecting the civil and legal rights of individuals with a mental illness. However, as care and treatment has migrated from an institutional model to a community-based model, it has become evident that Ontario has not adequately modernized its mandate with regards to a provincial advocacy program. It is essential 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 encourages the Commission to recommend to each province and territory that they establish a similar 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, territories and the federal government.

Independent advocates and rights advisers must be seen as partisan individuals who act on the instructions of the client with the sole responsibility of protecting and promoting the client's rights within the mental health service delivery system. The purpose of these positions is to address power imbalances and empower the individual to take responsibility for their own recovery.

To be truly effective, advocacy services must be independent from the service provider so that there is no real or perceived conflict of interest and 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 cannot fulfil any other role (i.e., case manager, social worker); instead, the advocate must be available to support and to assist clients in achieving the desired outcomes.

## Enhanced Rights Protection

We realize that mental health legislation in each province and territory is unique to the particular jurisdiction and health care is a provincial and territorial matter. However, the Commission 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.

There is no more significant infringement of personal rights than being involuntarily detained by the state. The *Charter of Rights and Freedoms* guarantees that a person must be advised of the reason for their detention and be informed of their legal rights. The rights advice process in Ontario was created to address this obligation and to provide individuals with the tools to challenge such a loss of liberty. In Ontario, rights advice includes: explaining the significance of the decision to the person who is detained; informing the person of the options available if he or she disagrees with the physician's decision; and assistance, at the person's request, to challenge the decision, retain a lawyer and apply for financial assistance from Legal Aid Ontario.

Rights advice is mandatory in eight situations under the Ontario *Mental Health Act* and its regulations. 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. For example, rights advice is not mandated for individuals outside a psychiatric facility who are found to be incapable of making their own treatment decisions. The provision of formal rights advice in this situation is particularly important for vulnerable populations such as: seniors; children and youth; individuals with acquired brain injury; individuals with developmental disabilities and inmates, including youth in custody.

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

The role and duties of the rights adviser must be enshrined in legislation and a corresponding authority granted to them to ensure that they are able to work without interference from care providers, institutions or the system itself. Rights advisers must be required to take an intensive training course, pass an oral and written examination to be certified and have the certification renewed on regular basis. This will ensure that rights advisers have the knowledge and the

ability necessary to safeguard the rights of their clients. A consistent standard and guidelines for rights advisers would 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 rights advice program in every province and territory in Canada would permit 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.

## Public Education and Anti-Discrimination Campaign

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 also significantly 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 is required is a comprehensive, co-ordinated and on-going anti-stigma and discrimination campaign. Consumer-survivors must be involved in the design and delivery of such a program.

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

1. Systemic factors (e.g., policies, legislation and funding);
2. Community factors (e.g., negative portrayal of persons with a mental illness by the media, police and the general public);
3. Health professional factors (e.g., the attitudes and responses of health professionals to persons with mental illness); and
4. Individual factors (e.g., the effects of stigma and discrimination and successful recovery and re-integration into the community).

Research has shown that short-lived education and anti-stigma campaigns are not enough. Thus, we recommend a continuous and comprehensive anti-stigma and discrimination program which educates people from an early age (e.g., the elementary school curriculum).

Provincial and territorial advocacy and rights advice programs would be an additional resource to combat stigma and discrimination, while educating the public about the legal and civil rights of individuals with a mental illness. By working in partnership with stakeholders in every community, it is possible to help Canadians to 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 of Rights and Freedoms* and to support every Canadian to participate fully in society, to the extent that they wish and are able to do so.

## Consumer-Survivor Involvement

To successfully implement a recovery-oriented vision of mental health in the mental health and addiction sector that meaningfully includes consumer-survivor participation (not mere tokenism), several changes must occur. One necessary innovation in system design is the maximization of the voices of consumer-survivors and to position consumer-survivors as 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: consumer advisory committees; client and family councils; and mechanisms to include consumers at all levels of the organization. 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 would further enhance the contribution of consumer-survivors in a recovery-focused system. Not only would peer support workers and specialists be able to assist consumers, they would also be able to help teams and agencies to move towards the provision of client-centred and client directed care. Their expertise regarding self-help and empowerment would be a valuable resource for everyone. 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 specialists would be required to ensure the successful implementation of such services.

## Conclusion

We believe that these four key issues, if adopted and implemented, would have an immediate and profound impact on the mental health and addiction sectors in Canada. If the Commission is looking for a "quick win" that will improve the quality of care and life of all Canadians with a mental illness, then it should consider, as a priority, the provision of independent advocacy and rights advice services, a public education campaign to eliminate stigma and discrimination and greater consumer-survivor participation.

As the Honourable Michael Kirby has stated, "it is in the interest of every single one of us – as citizens of a country that is committed to the fair and equal treatment of all its citizens – to help people living with mental illness to live meaningful and productive lives." We could not agree more. We want to make this vision a reality for the current and future generations.