COMMUNITY-BASED
RIGHTS ADVICE SERVICES

ANNUAL REPORT
2002

Psychiatric Patient Advocate Office

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

March 10, 2003

The Hon. Tony Clement
Minister of Health and Long-Term Care
10th Floor Hepburn Block
80 Grosvenor Street
Toronto, ON M7A 2C4

Dear Mr. Clement:

I am pleased to submit to you the Psychiatric Patient Advocate Office's Annual Report for 2002 for the Community-based Rights Advice Services Program established under the amendments to the Mental Health Act in December 2000.

Under the amendments to the Act, the mandate of the PPAO was expanded to provide rights advice to patients in Schedule 1 Facilities (other than current and former provincial psychiatric hospitals) where designated, to provide rights advice to persons in the community who are considered for Community Treatment Orders (CTO) and their substitute decision-makers, if any, and to train individuals for rights adviser designation under the Act.

The PPAO launched the new rights advice program on June 18, 2001. I am pleased to report that at end of December 31, 2002, 42 out of 59 (72%) Schedule 1 Facilities (other than the four current and six divested PPHs where the PPAO is the Rights Adviser) have opted to participate in the program. In 2002, the PPAO responded to 8,085 requests for rights advice across the province. This includes 306 rights advice requests related to CTOs. The enclosed Report provides greater detail about our expanded program and related activities.

Sincerely,

Vahe Kehyayan
Director

cc. Philip Hassen, Deputy Minister
Mary Kardos Burton, Assistant Deputy Minister
Hugh MacLeod, Assistant Deputy Minister
Gail Ure, Executive Director

55 St. Clair Avenue West
Box 28, Suite 802
Toronto, ON M4V 2Y7

Telephone: (416) 327-7000
Toll Free: 1-800-578-2343
Fax: (416) 327-7008

E-mail: ppao@moh.gov.on.ca
Website: www.ppao.gov.on.ca

PREFACE

The introduction of the Psychiatric Patient Advocate Office (PPAO) as a provincial program was announced in the legislature in May 1982 to provide advocacy services to patients in provincial psychiatric hospitals (PPH) and to provide advice to the ministry on mental health matters related to patients' rights and entitlements. The program has been operational since May 1983. A Memorandum of Understanding, which is signed between the Minister and the PPAO Director, confirms and details the PPAO's arm's length relationship with the ministry and government and its ability to speak freely in carrying out its advocacy mandate. The Director is accountable to the Executive Director, Health Care Programs Division, on administrative and operational matters and to the Deputy Minister and the Minister of Health and Long-Term Care on policy matters.

Vision:

The vision of the PPAO is that patients in current and divested provincial psychiatric hospitals are treated with dignity and respect, that their legislated rights and entitlements are upheld at all times, and that they are actively involved in decisions affecting their life, care and treatment.

Rights Advice:

Rights advice is a process by which patients in psychiatric facilities and persons in the community who are being considered for Community Treatment Orders (CTO) are informed of their rights when their legal status has changed. In the case of CTOs, if the person is found by the physician to be incapable to consent to a proposed community treatment plan, the person's substitute decision maker (SDM)[1] also receives rights advice. Rights advice is an important component in the system of checks and balances established under the Mental Health Act and its regulations for the protection of the rights of the individual. Prior to the amendments to the Act, effective December 1, 2000, rights advice was provided only to in-patients of psychiatric facilities. The amendments extended the provision of rights advice into the community for persons who are not in-patients of psychiatric facilities and who are being considered for a CTO and for their SDM.

Rights advice is mandatory in nine situations, which are set out under the Act and its Regulations. These are:

- a physician's decision to change the patient's status to involuntary;
- a physician's decision to continue the patient's involuntary status;

[1] In this Report, rights advice to a substitute decision-maker (SDM) arising from a CTO implies that the person has been found incapable to consent to a proposed community treatment plan (CTP) and the person's SDM is consenting to the CTP and will sign the CTO. The person and the SDM both receive rights advice.

- a physician's decision that the patient is incapable to manage his/her property;
- 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 physician's decision that the patient is incompetent to examine his or her clinical record;
- a physician's decision that the patient is incompetent to consent to disclosure of his or her clinical record;
- when a twelve to fifteen year old is admitted to a psychiatric facility as an informal patient;
- 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) have consulted with a Rights Adviser and have been advised of their legal rights.

In all rights advice situations, except CTO, the Mental Health Act (the "Act") requires that the Rights Adviser must "meet with" the patient. This means that the Rights Adviser must have a face-to-face meeting with the patient. In the case of CTOs, however, the Regulations under the Act do not require the Rights Adviser to "meet with" the patient but to "provide" rights advice to the person (individual being considered for a CTO) and the SDM. This distinction allows flexibility in CTO situations where it is difficult to provide rights advice face to face; for example, the person or SDM may not be able to attend a face-to-face meeting because of their location. In such cases, rights advice may be provided by telephone, tele-video or other method.

During rights advice, the Rights Adviser explains to the person and SDM the significance of the decision made by the physician, the options available if the person disagrees with the physician's decision. The Rights Adviser provides information in a neutral and non-judgmental manner. The Rights Adviser may not influence the client or substitute his/her decision for that of the client. The Rights Adviser may only act upon an instruction from the client. Upon the person's request, the Rights Adviser assists him/her to apply to the Consent and Capacity Board for a review of the physician's decision, retain a lawyer and apply for Legal Aid. Rights advice on a CTO includes informing the client and the SDM of their right to retain and instruct legal counsel. At the conclusion of the rights advice visit, the Rights Adviser completes a Form 50, "Confirmation of Rights Advice", and gives it to the staff of the facility or the physician.

The Regulation to the Act provides that if a Rights Adviser believes it is in the best interest of the person who is being considered for a Community Treatment Order to receive rights advice from another Rights Adviser, the first Rights

Adviser must ensure that a second Rights Adviser provides the required rights advice.

Rights Adviser:

Section 1 (1) of the Mental Health Act defines Rights Advisers 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.

The Regulations to the Act establish the qualifications necessary to be a Rights Adviser. The Rights Adviser must:

- be knowledgeable about the rights to apply to the Consent and Capacity Board (the Board)
- be knowledgeable about the workings of the Board, how to contact the Board and how to make applications to the Board
- be knowledgeable about how to obtain legal services
- have the necessary communication skills
- have successfully completed a training course for Rights Advisers approved by the Minister of Health and Long-Term Care -- the PPAO's Rights Adviser training course.

According to the Act, the Rights Adviser fulfills his/her obligation if the explanation is made to the best of his/her ability and in a manner that addresses the person's special needs, even if the person does not understand the explanation. The goal is to provide rights advice in a manner that maximizes the person's ability to understand the information. One such example is language. The Rights Adviser has the discretion to use an interpreter when providing rights advice to a person.

Appendix "A" describes the duties and responsibilities of the PPAO's Community-based Rights Advisers and **Appendix "B"** describes the Standards of Conduct that they have to follow.

PSYCHIATRIC PATIENT ADVOCATE OFFICE
COMMUNITY- BASED RIGHTS ADVICE SERVICES

BACKGROUND

Bill 68, which amended the Mental Health Act and the Health Care Consent Act, *1996*, was proclaimed on December 1, 2000. Please see **Appendix "C"** for an abstract of the Mental Health Act and Regulation 741 regarding rights advisers and rights advice. Under the amended Act, psychiatric facilities other than PPHs were given the option of designating the PPAO as the Rights Adviser for the purpose of carrying out the responsibilities of a Rights Adviser under the Act. As well, under the amendments, the PPAO's mandate was expanded to include:

(1) Rights Adviser Training: The Minister of Health and Long-Term Care approved the training course provided by the PPAO as the "approved training program" for Rights Advisers under the regulations. All Rights Advisers must now successfully complete the PPAO's training program to be designated as a Rights Adviser under the Act.

(2) Providing Rights Advice to Persons being Considered for Community Treatment Orders who Live in the Community and their substitute decision-maker (SDM), if any: The Minister designated the PPAO to provide rights advice to individuals who are not patients in a psychiatric facility and their SDMs, if any, who are being considered for the issuance or renewal of a Community Treatment Order (CTO).

The Ministry intends to review the PPAO's Community-based Rights Advice Services (RAS) delivery model in conjunction with the mandatory review of CTOs during year three after proclamation of the amendments to the Act.

PROFILE OF ACTIVITIES

Designation of Rights Advisers

The Minister of Health and Long-Term Care must designate a Rights Adviser for psychiatric facilities designated as institutions under the Mental Hospitals Act. The Minister must also designate a rights adviser to provide rights advice to individuals in the community who are being considered for the issuance or renewal of a community treatment order. The Minister has designated the PPAO.

A psychiatric facility that is not an institution under the Mental Hospitals Act (psychiatric facilities other than PPHs) must designate rights advisers to work in their facility. These hospitals may designate the same persons as the Minister. Since the Minister has designated the PPAO as Rights Adviser, a psychiatric facility may designate the PPAO as the Rights Adviser for their facility.

Schedule 1 of the Mental Health Act lists a total of 69 psychiatric facilities, including the four current and six divested PPHs. Table 1 below shows the "rights adviser" designation status of these 69 facilities. In this Report, the term "PPH" is used to refer to current and divested provincial psychiatric facilities; the term "non-PPH psychiatric facilities" or "non-PPH facilities" is used to refer to psychiatric facilities other than PPHs.

TABLE 1: RIGHTS ADVISER DESIGNATION

Type of Facility	**Designated by**	**Designated Rights Adviser**	**Number of Psychiatric Facilities**	**Number of Sites**
Current PPHs	Minister of Health	PPAO	4	4
Divested PPHs	Facility	PPAO	6	6
Non-PPH Facilities	Facility	PPAO	42[2]	50
	Facility	Facility's rights adviser(s)	19	22
TOTAL			69	82

In the four remaining PPHs, the Minister of Health has designated the PPAO as the Rights Adviser. In the six divested PPHs, the facility has designated the PPAO as the Rights Adviser. Of the 59 non-PPH facilities, 42 (72%) have opted to designate the PPAO as their Rights Adviser. **Appendix "D"** provides a list of these psychiatric facilities. The remaining 17 non-PPH facilities have designated their own Rights Advisers[3].

The designation of the PPAO as the Rights Adviser by the non-PPH facilities did not occur at once but was staggered throughout 2001 and 2002.

Benefits of Designating the PPAO as Rights Adviser

Designating facilities receive several benefits from designating the PPAO as Rights Adviser, including:

- Facilities do not have to be concerned about ongoing designation of rights advisers arising from staff turnover;
- Conflict of interest concerns are addressed as PPAO's Community-based Rights Advisers are independent of the facility;
- Rights advice meets a consistent standard, regardless of location;
- Rights advice services are provided at no cost to the facility;

[2] While there are 69 facilities are listed under the Mental Health Act, two facilities (Centre for Addiction and Mental Health and St. Joseph's Health Care in Hamilton) each have two sites: a divested PPH site where the PPAO has historically provided rights advice is the designated Rights Adviser and a second non-PPH site, which designates the PPAO as the Rights Adviser via the community-based program. For the sake of simplicity, the Table lists the two former PPH sites of these two facilities in the "Divested PPHs" category.

[3] Of these 19 facilities, six designated the PPAO in January – February of 2003.

- PPAO takes responsibility for all administration, scheduling of Rights Advisers, supervision, and documentation involved in the provision of rights advice;
- Rights Advisers are part of a broader network and receive ongoing support from the PPAO.

Profile of PPAO's Community-based Rights Advisers

To provide rights advice services in the facilities designating the PPAO and in the community to persons who are subject to CTOs and their substitute decision-makers (SDM), the PPAO recruited and trained about fifty fee-for-service Rights Advisers (private contractors). These individuals attend PPAO's two-day Rights Adviser training program and a one-day administrative session for documentation and for completing a mandatory knowledge evaluation. The individual must successfully complete the knowledge-evaluation, which consists of a written and an oral component. Each Community-based Rights Adviser is provided with a photo-ID card, a dedicated pager, a binder complete with all necessary forms and resources (e.g., copy of Act; list of Legal Aid offices and legal counsel; important phone numbers; etc.). As well, each Community-based Rights Adviser has signed a "Rights Advice Service Agreement" with the PPAO and an "Oath of Office and Secrecy".

Rights Advice Services

The rights advice activity profile described in this Report refers to rights advice in the non-PPHs that have designated the PPAO as the Rights Adviser. Table 3 (page 4) provides a summary of rights advice services in 2002 by type of form under the Mental Health Act that triggered the rights advice.

A total of 8,085 requests for rights advice were received, involving 8,774 MHA forms. A client may be seen on more than one form at the time of the rights advice visit. Of the total number of forms, 306 (3.5%) are Form 49s (Notice of Intention to Issue or Renew a Community Treatment Order).[4] Of these, 147 requests included rights advice to a SDM where the patient was deemed incapable to consent to a proposed community treatment plan.

As shown in Table 3 (on the following page), there were a total of 8,774 forms that triggered rights advice. Of these, the most frequent was Form 3 (Involuntary status) 59.2% followed by Form 4 (Involuntary status renewal) at 13.9 % and Form 33t (incapacity to consent to treatment) at 13.4%.

[4] The PPAO is unable to track how many of the notices of intended issuance or renewal of CTOs resulted in a CTO actually being issued as facilities are not required to report this information to the PPAO.

TABLE 3: RIGHTS ADVICE ACTIVITY BY FORM UNDER THE MENTAL HEALTH ACT[5]

FORMS	DESCRIPTION	NUMBER	%
Form 3	Involuntary status	5196	59.2
Form 4	Involuntary status renewal	1222	13.9
Form 21	Incapacity to manage property	405	4.6
Form 24	Continuation of Form 21	188	2.1
Form 27	Notice to child 12-15 informal status	236	2.7
Form 33e	Incompetence to examine record	15	0.2
Form 33d	Incompetence to disclose record	32	0.4
Form 33t	Incapacity to consent to treatment	1174	13.4
Form 49i	Intent to issue CTO	222	2.5
Form 49r	Intent to renew CTO	84	1.0
TOTAL		**8774**	**100.0**

As shown in Table 4 (on the following page), there were a total of 306 cases of rights advice related to CTOs. These consisted of 222 cases (72.5%) of intention to issue a CTO and 84 cases (27.5%) of intention to renew a CTO. In the case of issuances, 169 (76.1%) involved in-patients and 53 (23.9%) involved persons who were not in-patients. In the case of renewals, 10 (11.9%) involved in-patients and 74 (88.1%) involved persons who were not in-patients. Table 4 also shows the distribution of CTO rights advice across the Ministry's seven regions. As shown, 151 (49.3%) of the CTO cases are in Metro Toronto. The next highest rate of 41 cases (13.4%) is in Central East followed by 31 (10.1%) in each of East and South West regions.

Rights Advice Case Examples

The majority of rights advice situations are relatively straight-forward. However, some situations can be complicated and time-consuming. The following examples demonstrate the latter situation.

Community Treatment Order

Client, who was incapable of consenting to a community treatment plan, was seen by a Rights Adviser on a Notice of Intention to Issue or Renew a Community Treatment Order (Form 49). The substitute decision-maker (SDM) required an interpreter. The Rights Adviser arranged to meet the SDM, with an interpreter, on several occasions. The SDM did not attend the first appointment or contact the Rights Adviser to cancel the appointment. The

[5] These rights advice figures reflect only 1st visits to the person. In many situations, Rights Advisers arrange for second and even third visits to ensure that the person is in an optimum condition to understand the rights advice.

TABLE 4: DISTRIBUTION OF CTO RIGHTS ADVICE ACROSS THE MINISTRY'S SEVEN REGIONS[6]

Region	Location	CTO Form 49 Notice		CTO Total	SDM Involved
		To Issue	To Renew		
Central East	CTO in Community	5	10	15	3
	CTO in Facility	24	2	26	3
	Sub-total	29	12	41	6
Central South	CTO in Community	3	6	9	7
	CTO in Facility	3	0	3	0
	Sub-total	6	6	12	7
Central West	CTO in Community	7	5	12	1
	CTO in Facility	11	0	11	4
	Sub-total	18	5	23	5
East	CTO in Community	6	5	11	6
	CTO in Facility	18	2	20	12
	Sub-total	24	7	31	18
North	CTO in Community	5	7	12	6
	CTO in Facility	5	0	5	0
	Sub-total	10	7	17	6
South West	CTO in Community	6	11	17	10
	CTO in Facility	14	0	14	5
	Sub-total	20	11	31	15
Toronto	CTO in Community	21	30	51	30
	CTO in Facility	94	6	100	54
	Sub-total	115	36	151	84
TOTAL	CTO in Community	53 **(23.9%)**	74 **(88.1%)**	127 **(41.5%)**	63
	CTO in Facility	169 **(76.1%)**	10 **(11.9%)**	179 **(58.5%)**	78
GRAND TOTAL		222	84	306	141
%		72.5	27.5	100.0	46.1

[6] The CTO related rights advice numbers in this Table reflect only rights advice provided by the PPAO's Community-based Rights Advisers in psychiatric facilities that designated the PPAO as the Rights Adviser.

Rights Adviser attempted to arrange another appointment and was informed that the SDM was out of the country for five weeks. Upon the SDM's return, rights advice was provided and a Community Treatment Order was issued. The client contacted us and a Rights Adviser assisted the client to apply to the Consent and Capacity Board, to apply for Legal Aid, and to obtain a lawyer.

Treatment Incapacity

Client was seen by a Rights Adviser regarding a physician's finding of incapacity to consent to treatment of a mental disorder. The Rights Adviser assisted the client to apply to the Consent and Capacity Board for a hearing. The client later contacted our office for assistance to withdraw the application. A Rights Adviser attended and assisted the client with the withdrawal. Over the next several days, the client contacted the PPAO office on numerous occasions seeking assistance but was unable to give a clear and consistent instruction to a Rights Adviser. The client was provided with an application and an explanation of how to send the application to the Board. The PPAO instructed the client that if he/she decided to send the application, the client could contact the PPAO office for assistance to apply for Legal Aid and to obtain a lawyer.

Multiple Forms

Client was seen by a Rights Adviser regarding involuntary status (Form 3) and a finding of incapacity to consent to treatment of a mental disorder. The Rights Adviser assisted the client to apply to the Consent and Capacity Board. The client wished to represent him/herself at the hearing and a Rights Adviser discussed the hearing process with the client. Prior to the hearing, the client was found to be incompetent to review his/her clinical record. The client spoke to a Rights Adviser about his/her options. The client successfully represented him/herself at the hearing.

Response Time for Non-CTO Rights Advice

"Response time", as used in this Report, is the length of time from the receipt of the request by PPAO Intake to the completion of the initial rights advice visit. The PPAO strives as a best practice to provide rights advice within 24 hours of receiving a request for rights advice. Some facilities submit their rights advice requests by phone but most submit their requests by completing the PPAO's "Rights Advice Request Form" (Appendix "E"). The PPAO gives priority to rights advice related to "incapacity to consent to treatment of a mental disorder". PPAO Intake is open Monday to Friday from 8:30 to 5:00 pm (except statutory holidays). A rights advice request that arrives after end of day (by fax or phone) is processed by PPAO Intake on the next business day. Rights advice requests received at end of day on Fridays are processed on Mondays.

Table 5 (on the following page) shows the response time for non-CTO related rights advice requests. In 96.1 % of cases, rights advice was provided either same-day or the next-day. The response time may be longer than same-day or next-day service for a number of reasons. These may include arranging for interpreters; the Rights Advice Request Form does not specify that the patient has special needs (e.g., needs an interpreter); or Rights Adviser has not

received prior notice that the patient has been relocated since the rights advice request was made. In these cases (3.9%), the rights advice is provided on the second day or after receiving the rights advice request.

TABLE 5: NON - CTO RELATED RIGHTS ADVICE RESPONSE TIME[7]

Response Time in Days	No. of Cases	Percent Cases
Same day	5659	72.8
Next day	1811	23.3
Second day or after	309	3.9
TOTAL	7779	100.0

Response Time for CTO Rights Advice

When a "Request for Rights Advice" is sent for a Form 49 (Notice of Intention to Issue or Renew a Community Treatment Order), it includes the Form 49 and the community treatment plan (CTP). The purpose for including the CTP is to enable the Rights Adviser to discuss the CTP with the person or SDM and to explain his or her obligations. Under the Mental Health Act, a CTP must include: a plan of treatment; any conditions relating to the treatment or care and supervision of the person; the obligations of the person, the obligations of the SDM, if any; the name of a delegate physician, if any; the names of all persons or organizations who have agreed to provide treatment or care and supervision under the plan.

In the case of CTO related rights advice, response time is longer than non-CTO situations because of a number of circumstances. Several issues come up regularly related to the content of a Community Treatment Plan (CTP) that may require the PPAO supervisor or Rights Adviser to contact the issuing physician or the CTO Co-ordinator for either clarification or additional information. Attempts by the Rights Adviser to connect with them may add to the response time. At times, a CTP is not specific enough for the Rights Adviser to be able to explain to the person or his/her SDM their obligations under the CTO and the consequences of non-compliance. Other times, the CTP does not clearly identify all the parties to the plan. Other examples of issues are included in the Questions and Answers in **Appendix "F"**.

Table 6 (on the following page) shows that rights advice was provided to persons on the intention to issue CTOs within 3 days in 73.3% of cases, within 4 to 7 days in 16.3% of cases, and over 7 days in 10.4% of cases. Accordingly, in 89.6% of all cases, the rights advice was provided within 7 days.

[7] This is based on rights advice cases (persons) rather than Forms (or certificates) under the MHA.

TABLE 6: CTO RELATED RIGHTS ADVICE RESPONSE TIME[8]

Rights Advice Contact	Time Frame (including weekends)			Total
	Within 3 days	4 – 7 days	More than 7 days	
Person for CTO Issuance	162 (73.3%)	36 (16.3%)	23 (10.4%)	221
Person for CTO Renewal	32 (38.6%)	29 (34.9%)	22 (26.5%)	83
SDM	52 (35.6%)	54 (37.0%)	40 (27.4%)	146
TOTAL	**246**	**119**	**85**	**450**

Rights advice related to CTO *renewals* takes longer than seven days because of the difficulties contacting the person in the community. As shown in Table 6, in 73.5% of all cases the CTO renewal related rights advice was provided within 7 days in contrast to 89.6% of CTO issuance cases. This difference is substantially more when comparing rights advice response time within 3 days (38.6% vs 73.3%) for CTO issuances. A primary reason for this difference is the location of the person. In the case of CTO issuances, the person is usually an in-patient (76.1% of cases) and he/she is readily accessible resulting in a shorter response time. As was shown in Table 4, in case of renewals, the person is not an in-patient in 88.1% of the cases.

It is more difficult to reach persons who are not in-patients as they are less accessible to the Rights Advisers than in-patients.

The figures also show that to provide rights advice to SDMs takes the longest. Rights advice to SDMs is provided within 7 days in 72.6% of cases. The primary reasons for the longer response time for rights advice are difficulty contacting SDMs and their lack of availability.

Some factors affecting the length of CTO related response times, include:

- Person and/or SDM do not have the paperwork;
- Contact information is missing (i.e., phone #s, etc.);
- Special communication needs of persons are not noted on documentation;
- It takes several phone calls to connect with CTO Co-ordinators, persons or SDMs;
- Arranging for interpreters;
- The response times include weekends, when applicable;
- Form 49 has errors, which are time-consuming to address (e.g., wrong SDM is named);

[8] This is based on rights advice cases (persons) rather than Forms (or certificates).

- Community Treatment Plan is not specific enough to explain to person or SDM their obligations.

Consent and Capacity Board Applications

The PPAO tracks the number and types of applications to the Consent and Capacity Board with which the Community-based Rights Advisers assist clients. The purpose of these applications (Forms) is for the Board to review a physician's decision regarding the legal status of the client. Table 7 shows the types and frequencies of the applications made.

TABLE 7: APPLICATIONS TO CONSENT & CAPACITY BOARD (CCB)

FORMS	APPLICATION PURPOSE	No.	%
Form 16	To review finding of involuntary status	710	55.0
Form 16r	To review renewal of involuntary status	241	18.7
Form 18	To review finding of incapacity to manage property	52	4.0
Form 25	To review informal patient status	5	0.4
Form 31	To review finding of incompetence to examine or disclose record	2	0.2
Form 48	To review intent to issue CTO	8	0.6
Form 48r	To review intent to renew CTO	1	0.1
Form A	To review finding of incapacity to consent to treatment	272	21.0
TOTAL APPLICATIONS MADE TO CCB		**1291**	**100.0**

There were a total of 1,291 applications made, with the highest percentage (73.7%) being Form 16, which is for a review of involuntary status (Form 3 and 4). The next highest at 21.0% was Form A, which is for a review of a physician's finding of incapacity to consent to treatment of a mental disorder.

Use of Interpreters

According to the Mental Health Act, a Rights Adviser fulfills his/her obligation if the explanation to the person is made to the best of his/her ability and in a manner that addresses the person's special needs, even if the person does not understand the explanation. The goal is to provide rights advice in a manner that maximizes the person's ability to understand the information.

One special communication need is language and often the Rights Adviser must work with an interpreter so that the information is given to the client in a language, which allows the client the greatest possibility of understanding the information. During the past year, interpreters were used for many languages including, German, Cantonese, Italian, Greek, Mandarin, Polish, Spanish,

Serbian and Vietnamese. A Rights Adviser must be sensitive to the cultural diversity of our clients when providing rights advice. Interpreters are retained by the PPAO privately and are independent of the facility. Interpreters are required to sign PPAO's "Interpreter's Agreement to Maintain Confidentiality" prior to meeting with the patient or SDM.

Two hundred and twenty eight (228) persons out of 8,085 (not including SDMs) or 2.7% of those who received rights advice required interpretation services.

Issues with Rights Advice Delivery

As Community Treatment Orders were newly introduced in Ontario's mental health system in December 2000, there is an overall need for continued education of all parties involved in their issuance, renewal or coordination. There is no requirement under the Act to monitor the content of Community Treatment Plans. As a result, there is no consistency in their content across facilities, physicians or treatment teams developing them. By default, the PPAO has taken upon itself to review CTPs and give feedback to physicians and CTO Coordinators. CTO Coordinators in the Toronto Region have developed a template for CTP development. In other regions, individual CTO Coordinators have developed their own checklists. The mandated review under the Mental Health Act of Community Treatment Orders, must address these issues.

With respect to rights advice related to all situations that trigger rights advice, there are common issues in the delivery of rights advice. These include:

- The person is out on pass from the facility;
- The person is not on unit but elsewhere in the facility for tests, ground privileges, etc.;
- The person is heavily medicated just before the Rights Adviser's arrival;
- The person needs an interpreter but the facility had not indicated such a need on the Rights Advice Request Form; this would necessitate a second visit with an interpreter;
- The person has not received the required "Notice to Patient" at the time of the Rights Adviser's visit, and so a second visit would have to be arranged.

In these situations and others not listed above, the Rights Adviser arranges for a second and sometimes a third visit to ensure that the person has the optimum chance of understanding the rights advice provided.

QUALITY SERVICE IMPROVEMENT

The PPAO strives for the delivery of quality rights advice services to patients in the Schedule 1 Facilities, persons in the community, and SDMs. To this end, the PPAO:

- Trains Rights Advisers and requires that they complete a written and oral knowledge evaluation;
- Requires Rights Advisers to follow a Standard of Conduct developed by the PPAO;
- Identifies rights advice practice issues and provides guidelines and directives to the Rights Advisers;
- Uses telecommunication technology to notify Rights Advisers and to keep track of the status of Rights Advice Requests;
- Has discussions with CTO Coordinators and participate on various CTO Committees;
- Develops Rights Guides and InfoGuides for patient use;
- Conducts presentations or education related to rights advice;
- Provides supervision and consultation to the Rights Advisers; and
- Consults legal counsel regarding rights advice matters.

To address the longer response times associated with CTO rights advice, the PPAO prepared "Questions and Answers related to Community Treatment Orders" (shown in Appendix "F") and a checklist for completion of the Form 49, "Form 49 and Related Information Required for Effective and Prompt Rights Advice Delivery" (shown in Appendix "G"), and distributed these to CTO Coordinators and the Ministry's Mental Health Leads and Consultants.

LOOKING FORWARD TO 2003

In 2003, the PPAO proposes to carry out several initiatives to improve its Community-based Rights Advice Services. These initiatives include:

- Conduct surveys to evaluate various aspects of its rights advice services;
- Conduct formal education of stakeholders;
- Conduct Rights Adviser training;
- Remind non-designating psychiatric facilities of their option to designate the PPAO;
- Continue to work with stakeholders to improve PPAO's rights advice delivery;
- Continue to work to improve rights advice response times; and
- Continue to meet service delivery challenges and develop best practices.

CONTACT INFORMATION ABOUT PPAO's COMMUNITY-BASED RIGHTS ADVICE SERVICES

Psychiatric Patient Advocate Office
55 St. Clair Avenue West, 8th Floor
Box #28, Suite #802
Toronto, ON M4V 2Y7

Telephone Number:	(416) 327-7000
Toll Free Telephone Number:	1 (800) 578-2343
Fax:	(416) 327-7008
E-mail:	ppao@moh.gov.on.ca
Website:	www.ppao.gov.on.ca

APPENDICES

APPENDIX "A"

COMMUNITY-BASED RIGHTS ADVISER
DUTIES AND RESPONSIBILITIES

Definition of Rights Adviser

Section 1(1) of the *Mental Health Act*, as amended by Bill 68, 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."

Role of Rights Adviser:

The role of the Rights Adviser is established under the *Mental Health Act* and its regulations. A Rights Adviser explains to persons whose legal status has changed (in one or more of the nine mandatory rights advice situations) their rights and assists them to exercise those rights in accordance with relevant legislation. The nine mandatory rights advice situations are:

- patient is made an involuntary patient (Form 3)
- patient's involuntary status is continued (Form 4)
- patient is found incapable to manage his/her property(Form 21)
- patient's incapacity to manage his/her property is continued (Form 24)
- patient is found incapable to consent to treatment for a mental disorder (Form 33) as specified in the regulations
- patient is found incompetent to examine his/her clinical record (Form 33)
- patient is found incompetent to consent to disclosure of his/her clinical record to a third party (Form 33)
- patient is a twelve to fifteen year old informal patient (Form 27)
- before the issuance or renewal of a community treatment order (CTO), rights advice is provided to the person and the person's substitute decision-maker (SDM), if any (Form 49)

All situations, except the community treatment order, require the Rights Adviser to "meet with" in-patients of psychiatric facilities to provide rights advice. Rights advice on a CTO does not require a face-to-face meeting with the person and the SDM, if any. A phone call may satisfy the requirement of the law. CTO rights advice may be provided in the facility or in the community.

Statement of Major Responsibilities:

- The Rights Adviser will respond to a notification of a rights advice situation within 24 hours of the notification. The Rights Adviser is required to respond to situations involving treatment incapacity on the same day, if possible. Rights Advisers treat CTOs as priority situations. The Rights Adviser:
  - Explains to the patient/SDM the significance of the rights advice situation (i.e., change in legal status); considers the level of understanding of patient/SDM and special communication needs;

- Discusses the options available to the patient, including his/her right to have the situation (legal status change) reviewed by the Consent and Capacity Board, if he/she disagrees with the physician's decision;
- Provides information in a neutral, non-judgmental manner; the Rights Adviser does not make decisions for patients but assists them in carrying out their instructions.
- Completes the "Confirmation of Rights Advice" form (Form 50) and leaves the original with staff of the psychiatric facility or forwards it to the physician issuing or renewing a CTO.
- On the patient's instruction, assists the patient to apply to the Consent and Capacity Board for a hearing, by assisting with the completion of the appropriate application and forwarding same to the Board;
- Arranges for an interpreter where warranted and orients unfamiliar interpreters with the special needs of patients and the constraints that apply in communicating rights advice; ensures interpreter signs approved confidentiality form;
- Where necessary, assists patients to get a lawyer to represent them by contacting lawyer(s) of the patient's choice; explains to the lawyer the patient's situation and arranges with them to represent the patient;
- Helps patients apply for Legal Aid by completing the required application, and forwarding it to Legal Aid; assists the patient with Legal Aid processes;
- Attends Board hearings at the request of the Board;
- Describes and clarifies the role and responsibilities of the Rights Adviser to psychiatric facility staff or physicians/treatment teams;
- Completes rights advice statistics as required by PPAO policy and procedures;
- Complies with PPAO's policies and procedures, including its Standards of Conduct for Community-based Rights Advisers, and client confidentiality;
- Maintains current and up-to-date records on rights advice provided to patients and the outcome achieved (e.g., nature of patient's instruction);

- The Rights Adviser maintains strict client confidentiality.

Rights Adviser Qualifications:

- A Rights Adviser has the ability:
  - to successfully complete PPAO's Rights Adviser training program, including the qualifying knowledge evaluation;
  - to work with and explain complex legislation to a variety of individuals with diverse educational and cultural backgrounds;
  - to communicate effectively and with empathy with clients (patients/SDM/persons subject to CTOs) and to evaluate their degree of understanding;
  - to follow clients' instructions in an impartial manner.

- Thorough knowledge of:
  - Mental Health Act
  - Health Care Consent Act
  - Consent and Capacity Board, its operation, and various forms which are required for completion
  - Legal Aid Ontario and the process of applying for and retaining lawyers.

- Peripheral knowledge of:
  - Office of the Public Guardian and Trustee
  - Substitute Decisions Act

- Skills:
  - has tact, diplomacy, and good judgement;
  - has good organization and interpersonal skills;
  - ability to deal with a variety of tasks/enquiries simultaneously;
  - ability to establish good rapport with clients, facility staff and others;
  - ability to learn and apply various legislation and the workings of the Board, the PGT and Legal Aid Ontario;
  - ability to work independently with little or no supervision;
  - ability to maintain strict confidentiality.
  - ability to complete a variety of forms and statistical and other reports.
  - ability to deliver timely, efficient and quality service

Work Conditions:

- A Rights Adviser:
  - is available to work flexible hours, including some evenings and possibly some weekends
  - may be required to have access to a vehicle and/or is able to use public transportation to visit patients and SDMs in facilities or in the community; must have the ability to travel freely throughout his/her assigned catchment area
  - will be required to carry a pager and be available and accessible

APPENDIX "B"

STANDARDS OF CONDUCT
FOR COMMUNITY-BASED RIGHTS ADVISERS

For the purposes of these Standards of Conduct for Community-based Rights Advisers:

- *A client is a person to whom the Rights Adviser provides service in pursuance of the functions of a Rights Adviser, and includes a patient in or recently discharged from a psychiatric facility, and/or a person who is the subject of an intended Community Treatment Order and his or her Substitute Decisio- Maker, if any.*

1. A rights adviser shall respect the dignity, privacy and self-determination of all clients, and shall treat all those whom he or she encounters in his or her work fairly, honestly and with respect.
2. A rights adviser shall serve the client and advance the concerns of the client without regard to the individual circumstances, beliefs, or past actions of the client.
3. A rights adviser shall serve the client regardless of the political, ideological or religious beliefs of the rights adviser.
4. A rights adviser shall not knowingly make false or misleading representations, and shall honestly and accurately represent him or herself, including his or her qualifications, abilities, authority and responsibilities.
5. A rights adviser shall not engage in the practice of rights advice while the ability to do so is impaired by alcohol, drugs, or any substance.
6. A rights adviser shall not engage in sexual relations with his or her current client. The rights adviser shall not engage in sexual relations with his or her former client unless one year has passed since the client received in-patient treatment from the psychiatric facility, or one year has passed since the last rights advice contact, whichever is greater.
7. A rights adviser shall not develop social relationships with his or her clients. A rights adviser shall not develop a social relationship with his or her former client unless six months have passed since the client received in-patient treatment from the psychiatric facility, or six months have passed since the last rights advice contact, whichever is greater.
8. A rights adviser shall not verbally, emotionally, physically or sexually abuse his or her client.
9. A rights adviser shall not borrow, take advantage of economically, or misappropriate the personal property of his or her client.
10. A rights adviser shall not charge a fee to a client or accept any consideration, remuneration or compensation from a client in the performance of rights advice services for a client. An exception to this rule is permitted in the case of an unsolicited gift of a token nature, which a reasonable person would consider to be of minimal value.
11. A rights adviser shall not directly or indirectly influence his or her current or former client to change his or her will, nor accept a bequest from the estate of a current or former client.
12. A rights adviser shall identify and avoid actual and potential conflicts of interest that may compromise his or her ability to represent and safeguard the rights of clients. Where there is conflict, the rights adviser shall report to his or her immediate supervisor. Without limiting the generality of this standard, a rights adviser shall not engage in another occupation or activity inconsistent with the practice of rights advice.

APPENDIX "C"

AN ABSTRACT OF THE MENTAL HEALTH ACT & REGULATION 741 REGARDING RIGHTS ADVICE

MENTAL HEALTH ACT

Definition of Rights Adviser

Section 1 of the Mental Health Act says in part:
"Rights adviser" means a person, or 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 patient to whom the rights advice is to be given, or (b) a person providing treatment or care and supervision under a community treatment plan.

REGULATION 741

Designation of Rights Advisers

The Minister of Health and Long-Term Care must designate a rights adviser for each psychiatric facility designated as an institution under the Mental Hospitals Act (current and former provincial psychiatric hospitals). The Minister must also designate a rights adviser to provide rights advice to individuals in the community who are being considered for the issuance or renewal of a community treatment order. [Sections 14 and 14.1].

> Explanation: The Minister has designated the PPAO's director, legal counsel, systemic policy adviser, patient advocates and rights advisers to provide rights advice services in the above institutions and in the community.

A psychiatric facility that is not an institution under the Mental Hospitals Act must designate rights advisers to work in the facility. These hospitals may designate the same persons as the Minister (PPAO).

> Explanation**:** Since the Minister has designated the PPAO as rights adviser, a psychiatric facility may designate the PPAO as the rights adviser for their facility.

Qualifications of Rights Advisers

Only people who meet certain qualifications can be designated as rights advisers. Section 14.2 of the Regulations says that before a person may be designated as a rights adviser:

1. The person must be knowledgeable about the rights to apply to the Board provided under the Act and the Health Care Consent Act, *1996*;
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; and
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.

Explanation: The Minister of Health and Long-Term Care has approved the training course for rights advisers provided by the PPAO. Each person designated to perform the functions of a rights adviser under the Act must successfully complete the PPAO's training course.

Delivery of Rights Advice

A rights adviser must meet with a person "promptly" after receiving notification that the person requires rights advice. [Sections 38(3), 38(5), 38(7), 59(2); Regulation 15(2)]

Explanation: "Promptly" is not defined in either the Act or the Regulations. On occasion, a rights adviser may receive a number of notifications within a short time period that will prevent him or her from responding to any one person immediately. Consequently, rights advisers respond to certain notifications before others on a priority basis. For example, a patient who has been found treatment incapable will require rights advice more urgently than a person who has been found incapable of managing property.

A rights adviser need not "meet" with a person when giving rights advice relating to a proposed community treatment order. Rights advice relating to community treatment orders must be provided "promptly". [Section 14.3(2)]

Explanation: The Regulations recognize that when an individual resides in the community, it may be very difficult to arrange a face-to-face meeting. Additionally, the person's substitute decision-maker (if any) may live in a different area. The rights advice may be provided over the telephone, via video-link, or by other means of communication.

Explanation by Rights Advisers

A rights adviser fulfils his or her obligation to explain a matter to a person, if the rights adviser explains the matter to the best of his or her ability and in a manner that addresses the person's special needs, even if the person does not understand the explanation. (Section 16(1)).

Explanation: For example, a rights adviser should consider that the patient may require an interpreter and should arrange for one to be available.

Second Rights Adviser – Community Treatment Orders

Where a rights adviser believes that it is in the best interest of the person to receive rights advice from another rights adviser, he or she shall ensure that a second rights adviser provides such advice. [Section 14.3 (4)]

Explanation: This section refers only to rights advice for the purpose of community treatment orders. If a Rights Adviser believes it is in the best interest of the person who is being considered for a Community Treatment Order to receive rights advice from another Rights Adviser, the first Rights Adviser must ensure that a second Rights Adviser provides the required rights advice.

Confirmation of Rights Advice

Where a rights adviser is required to explain a matter to a person, he or she must provide confirmation that the explanation has been given to the attending physician or the officer in charge, as the case may be, in the approved form. [Sections 14.3(5); 16(2)]

> Explanation: Form 50 (Confirmation of Rights Advice) is an "approved" form under the Mental Health Act. Rights advisers are required to complete a Form 50 on each new rights advice situation. In cases where a second rights adviser has provided rights advice to the person or the SDM, that second rights adviser must also complete a Form 50.

Psychiatric Patient Advocate Office

Request for Rights Advice Visit

Request Date & Time: _____ _____
day/month/year *time*

Request made by: ☐ Telephone ☐ Fax

Part 1 – Hospital Contact Information

Hospital: _____

Site: _____

City/Town: _____

Contact Person: _____

Tel: _____ Pager: _____
(area code, number & extension) *(if any)*

Instructions

1. Indicate date and time of your request for a visit.
2. Identify hospital fully in Part 1.
3. Identify the person to receive rights advice in Part 2. Indicate any communication needs.
4. Identify the rights advice issues(s) in Part 3. Indicate date each Form was signed at the bottom of Part 3.
5. **After you have completed this request form:**
   fax it to the PPAO intake office at
   1-866-822-2333 or
   416-314-4484 local
   and/or call **1-866-851-1212**
   local 416-327-8240
   and leave all the information.
6. Place this *request form* in the PPAO blue binder, with a copy of each **notice to the patient** attached. Include a copy of a 'treatment plan' if *Form 49* issued.

Part 2 – Identification of person to receive rights advice

Name: _____ _____ Casebook #: _____
(first name) *(last: initial)*

Location: _____ or _____
(inpatient unit & room) *(home address, if applicable – i.e., Form 24 or Community Treatment Order)*

Communication Needs: _____
(e.g., interpreter language)

Part 3 – Rights advice required:

☐	Form 3	☐	Form 33	**examine record**
☐	Form 4	☐	Form 33	**disclose record**
☐	Form 21	☐	Form 33	**consent to treatment**
☐	Form 24	☐	Form 49	**intention** to issue or renew **CTO**
☐	Form 27			

_____ _____
Form #s *Signed (day / month / year)*

_____ _____
Form #s *Signed (day / month / year)*

For PPAO Office Use only

Intake _____
Date *Time*

R A _____
Name

Assigned _____
Date *Time*

Rights Advice Completion Confirmed:

_____
Date *Time*

APPENDIX "F"

COMMUNITY-BASED RIGHTS ADVICE SERVICES

Questions & Answers about
Rights Advice Related to Community Treatment Orders

1. What information do Rights Advisers need in a CTO rights advice request?

- Please refer to attached "checklist" form.

2. What information is required in a Community Treatment Plan (CTP)?

- Under the Mental Health Act, a CTP must include: a plan of treatment; any conditions relating to the treatment or care and supervision of the person; the obligations of the person, the obligations of the substitute decision-maker, if any; the name of a delegate physician, if any; the names of all persons or organizations who have agreed to provide treatment or care and supervision under the plan.

3. Why does a Rights Adviser need detailed information about a CTP?

- A Rights Adviser must understand the obligations outlined in the CTP sufficiently to explain them to the person who may be subject to the plan and to the substitute decision-maker (SDM), if any. In particular, a Rights Adviser must be able to explain to the patient or SDM the circumstances in which a person may be "non-compliant" with the plan and be subject to a Form 47 (Order for Examination).

4. What are some common problems with Community Treatment Plans?

There are a number of issues that come up regularly related to the content of a Community Treatment Order (CTP) that may require a Rights Adviser to contact the issuing physician or the CTO Co-ordinator for either clarification or additional information. Some of these issues may include:

- When the CTP makes reference to policies of an agency who is party to the CTP but there is no explanation of these policies, or these policies are not attached. The Rights Adviser may not be able to fully explain the obligations of the patient or SDM. It would be preferable if the CTP includes copies of all documents that are listed in the plan. For example, if a person is required to comply with a policy of a particular organization, it is important that the person is made aware of the terms of the policy.

- The CTP does not clearly identify all the parties to the plan. Inclusion of the names of the parties would imply their "consent". Examples:
  (1) the CTP does not include the names of all the individuals or agencies that are parties to the CTP.
  (2) an agency is not specifically named; for example the CTP may refer to "the ACT Team"; it is preferred if the specific ACT Team is named;
  (3) persons, who sign the CTP as parties to the plan, are not named in the CTP.

- When the CTP makes reference to a "psychiatric assessment" in case the person is non-compliant and as a result subject to Form 47. Under the MHA the term "psychiatric assessment" has a legal meaning referring to Form 1. Form 47 is for an "**Order for** (psychiatric) **Examination**".

- The CTP is marked as "DRAFT". A Rights Adviser must have the final copy of the CTP in order to give effective rights advice. Informed consent could not be given on a draft CTP. If a plan is still in the draft stages, it is premature to request a rights advice visit.

- The patient and/or SDM have not seen the CTP prior to the rights advice visit or do not understand components of it. For example, the CTP may refer to "Patient will take the psychotropic medications prescribed by the physician". During the rights advice visit either the patient or SDM may ask about these psychotropic medications. While the Rights Adviser refers them to the physician, it interferes with the rights advice process.

5. What are some of the reasons for the delay of prompt CTO rights advice?

In addition to the common problems identified in Q & A number 4:

- Incomplete Form 49:
  - ⇨ person's name incorrect
  - ⇨ name of SDM is missing
  - ⇨ date of issue is missing

- Wrong SDM is named (inconsistent with HCCA)

- Incomplete community treatment plan:
  - ⇨ not all persons who are involved in care, treatment or supervision are named in the CTP
  - ⇨ not all documents referred to in CTP are attached

- Draft CTP is sent to the Rights Adviser

- Person or SDM does not have copy of paperwork (Form 49 and CTP)

- Person or SDM are not fully informed of CTP

- Inability of Rights Adviser to locate the SDM because no or inaccurate contact information is provided

- Person or SDM is not informed that they will be contacted by Rights Adviser

- Rights Adviser is not informed that person or SDM has communication needs (e.g., needs interpreter)

6. What information would a Rights Adviser require for expeditious contact with person or SDM?

- Please see attached "checklist". In addition:

- If the person is an in-patient:
  - ⇨ When the person is being discharged
  - ⇨ Availability – passes; leave of absence; best time
  - ⇨ That patient has been informed that a Rights Adviser will be contacting

- If the person is in the community:
  - ⇨ How to contact him/her?
  - ⇨ What is the best place to meet with him/her?
  - ⇨ What is the best time to meet?
  - ⇨ NOTE: Please see above for meeting with the person in his/her own home.
  - ⇨ That patient has been informed that a Rights Adviser will be contacting
  - ⇨ Alternate phone numbers or contacts have been provided to connect with patient. As well, information is provided about whether specific messages could be left for the patient.

- For SDM:
  - ⇨ Name
  - ⇨ Complete contact information (where and when and how)
  - ⇨ Best time to contact
  - ⇨ That SDM has been informed that a Rights Adviser will be contacting
  - ⇨ Alternate phone numbers or contacts have been provided to connect with SDM. As well, information is provided about whether specific messages could be left for the SDM.

7. What would a Rights Adviser do when unable to contact SDM or person in the community?

- After three attempts to contact the SDM or person in the community, the Rights Adviser will contact the CTO Co-ordinator for assistance.

8. Is CTO rights advice provided only by Rights Adviser situated in PPAO head office?

- No. All rights advice is provided by Rights Advisers who are situated closest to the psychiatric facility. If Rights Adviser is unavailable or unable to promptly provide the requested rights advice, another Rights Adviser is assigned or PPAO's head office provides the rights advice.

9. Why is rights advice sometimes done in person and sometimes by phone?

- It is the PPAO's best practice standard to provide all rights advice in person. This applies to both the person who is being considered for the CTO and to the SDM, if there is one. In-person interviews allow the Rights Adviser to judge the person's understanding and willingness to listen to the information at that time and make appropriate adjustments to ensure the best possible communication setting (obtaining an interpreter, using more accessible language).

- There are circumstances where it is impractical or impossible to provide rights advice in person. The Regulations under the Mental Health Act do not require a face-to-face meeting for rights advice under a CTO, unlike other rights advice situations. Such situations may include rights advice to a person in a remote community or a person's unwillingness to meet in person for rights advice. In such cases, rights advice is provided by telephone.

10. Can a Rights Adviser refuse to provide rights advice?

- No. A Rights Adviser must provide rights advice promptly as required by the legislation. Rights Advisers do not have any supervisory or quality assurance authority.

- Rights Advisers do have an obligation to ensure that the information that they provide during rights advice is as clear and as complete as possible. This may, at times, require additional information from the issuing physician or CTO Co-ordinator.

11. Can a person who will be subject to a CTO or a substitute decision-maker refuse rights advice?

- Yes, they can refuse to receive rights advice.

12. What can person requesting rights advice or CTO Co-ordinator do to assist in the rights advice process?

- Please see "checklist" form. In addition:

- Ensures that:
  - ⇨ the information is complete on all forms;
  - ⇨ the CTP is complete and all documents referenced in it are attached;
  - ⇨ person or SDM is fully informed of the CTP and has copy;
  - ⇨ person or SDM has copies of all required forms;
  - ⇨ person or SDM has been informed that they will be contacted by Rights Adviser ;
  - ⇨ there is information about where Rights Adviser should fax Form 50 (fax number) and courier the original;
  - ⇨ alternate contacts and phone numbers are provided to contact patient or SDM;
  - ⇨ best times to contact and meet with patient or SDM is provided;
  - ⇨ Rights Adviser is aware that the person or SDM needs an interpreter and has other special communication needs
  - ⇨ The complete paperwork, including Form 49 and CTP and attachments, if any, are faxed to PPAO Intake
  - ⇨ copy of complete paperwork is in the PPAO's Blue Binder for in-patient client visits
  - ⇨ for person in the community or for SDM, the PPAO is advised of location of paperwork
  - ⇨ contact information for issuing physician, CTO Co-ordinator, client, SDM (if any), and persons named in the CTP is provided to PPAO
  - ⇨ for person in the community or SDM, contact information is provided to PPAO about making meeting arrangements
  - ⇨ PPAO is advised of patient's imminent discharge

13. What does Rights Adviser say to person or SDM?

- Rights Adviser relies on information in Form 49 and community treatment plan.

- Rights Adviser explains:
  - ⇨ Criteria for being placed on CTO
  - ⇨ Treatment incapacity, if applicable
  - ⇨ How long is the CTO and renewal
  - ⇨ The community treatment plan
  - ⇨ His/her obligations in the CTP
  - ⇨ Right to hearing at the Consent and Capacity Board and what happens
  - ⇨ Early termination
  - ⇨ Withdrawal of consent
  - ⇨ Obligation to comply with CTO
  - ⇨ What happens if does not comply with CTO
  - ⇨ Order for Examination and the police
  - ⇨ Right to retain and instruct counsel

14. What does Rights Adviser say to SDM?

- As above for rights advice to person in Q&A number 12; and
- Role of SDM under Health Care Consent Act.

15. Can rights advice for the person occur in the person's home?

- Where possible, rights advice sessions should occur in the hospital, doctor's office or professional building in which the issuing physician works. Where this is not possible, other arrangements may be made to meet in a mutually convenient location. While a Rights Adviser may meet in the person's home, this arrangement is only exercised as a last resort but the Rights Adviser must be accompanied by a member of the treatment team (i.e., ACT Team member) or the CTO Co-ordinator or Case Manager.

16. Why do different Rights Advisers provide rights advice to the person and the SDM?

- Section 14.3(4) of the regulations under the MHA state that where a Rights Adviser feels that it would be in the best interest of the person to receive rights advice from a different Rights Adviser, he or she shall ensure that another person provides that rights advice. The PPAO follows this provision to avoid any perceived or actual conflict of interest. This also applies when there are two SDMs involved.

17. What have been some CCB findings related to Community Treatment Plans?

- SDMs need more information.
- Signing of CTP at time of Form 49 issuance signifies "entering into plan".
- 72 hours refers to time between the physician`s assessment regarding CTO criteria and the time Form 49 is issued.

18. How does PPAO process CTO rights advice requests?

- The PPAO's Rights Adviser Consultant in head office or the Rights Advice Services Manager reviews the completed "Request for Rights Advice" form and Form 49 with attached CTP. Where any of the issues described in Q & A numbers 4, 5 and 6 or others are identified, they will contact the CTO Co-ordinator or the physician to clarify or ask for further information.

APPENDIX "G"

PSYCHIATRIC PATIENT ADVOCATE OFFICE
COMMUNITY-BASED RIGHTS ADVICE SERVICES

Form 49 and Related Information Required for Effective and Prompt Rights Advice Delivery

The PPAO looks for the following information to ensure that rights advice is provided promptly and effectively. Those who develop or coordinate Community Treatment Orders may use this checklist as reference.

Item #	FORM 49	√ or NA
1	**Part 1: Notice of Intention to Issue or Renew a CTO**	
1a	Person's full name is recorded	
1b	The applicable CTO criteria is checked off:	
1c	Whether the proposed CTO is an issuance or renewal is indicated.	
1d	If the proposed CTO is a renewal, the number of renewal (1st, 2nd, 3rd etc.) is indicated. If it is a second issuance, a brief explanation is provided.	
2	**Part 2: Capacity to Consent to Treatment Proposed in a Community Treatment Plan (to be completed ONLY if the person is incapable and a substitute decision-maker is consenting to the CTO)**	
2a	Date when incapacity to make treatment decision is determined is recorded.	
2b	Full name of the substitute decision-maker is recorded.	
2c	The SDM meets provisions of section 20 of the HCCA.	
3	**Part 3: Community Treatment Plan (CTP)**	
3a	The final CTP is attached to Form 49.	
3b	The patient or SDM were fully explained the CTP to satisfy the conditions under HCCA for informed consent.	
3c	All parties named in the CTP have consented.	
3d	The patient is given a copy of Form 49 with finalized CTP attached.	

3e	The SDM is given a copy of Form 49 with finalized CTP attached.	
4	**Part 4: Rights Advice and Right to Counsel**	
4a	The patient's and SDM's (if applicable) full name is recorded. Both names are consistent with those provided in Part 2.	
5	**Date and Signature**	
5a	The date when Form 49 is issued is recorded.	
5b	The physician's business address is recorded.	
5c	The name of the psychiatric facility (if applicable) is recorded.	
5d	The name of the physician is printed.	
5e	The physician has signed Form 49.	
6	**OTHER INFORMATION REQUIRED**	
6a	*The person (patient), who is subject to the proposed CTO, has been informed that a Rights Adviser will be contacting him/her.*	
6b	If the person is not an in-patient, his/her address and telephone number is provided.	
6c	If the person is not an in-patient, the address and telephone number(s) of persons the Rights Adviser may contact for assistance in arranging a meeting with the person (e.g., nurse; case manager) is provided.	
7a	SDM's relationship to client (i.e., mother, sibling) is indicated.	
7b	SDM has been informed that rights advice is mandatory and requires a **minimum** of one-half hour of time.	
7c	SDM has been informed that a Rights Adviser will be contacting him or her.	
7d	SDM's address and telephone numbers (home and work) and the best time to contact him/her is indicated	
8a	Communication issues (i.e., need for interpreter) for the client and the Substitute Decision-Maker, if any, is indicated.	
9	**Complete paperwork for PPAO Intake and Rights Adviser:**	
9a	Form 49 with attached CTP is faxed to PPAO	
9b	Each Rights Adviser requires a copy of the complete paperwork. (Form 49 with CTP attached): (1) If client is an in-patient, copy of the paperwork is placed in PPAO blue binder;	

	(2) If client is in the community and/or SDM, place where the Rights Adviser may obtain a copy of the paperwork is indicated.	
10	**Contact Information:**	
10a	Contact information – names and telephone numbers of person to contact to arrange a meeting room if meeting client or substitute decision-maker in facility or office (i.e., CMHA) is provided.	
10b	Contact information – names and telephone numbers of person to contact with questions about the Form 49 and the CTP (e.g., CTO Coordinator; physician) is provided.	
10c	For patient and SDM: alternate contact numbers are provided with some indication of whether specific messages can be left (either with a person or on voice mail) at those numbers.s	
11	**Form 50 (Confirmation of Rights Advice): A separate Form 50 is provided for the client and each SDM, if any).**	
11a	For in-patients: • Original Form 50 is left with staff on unit	
11b	If person is not an in-patient: • To whom Form 50 is to be sent and a fax number is specified. • To whom the original Form 50 is to be sent and at what address is specified.	
11c	For each SDM: • To whom Form 50 is to be sent and fax number is specified. • To whom the original Form 50 is to be sent and at what address is specified.	