

INFORMATION GUIDE

Rights Advice under the *Mental Health Act* (MHA)

What is Rights Advice?

Under the Mental Health Act (MHA), Rights Advice is a process that involves a Rights Adviser providing information to patients about their rights. It is required in certain circumstances under the MHA, including when a doctor changes a patient's legal status, including when they are detained or found incapable.

Rights advice is information, it is **NOT** legal advice.

If a doctor changes your legal status, your rights will also change.

Rights Advice is provided if you are:

- an **involuntary patient** for two weeks or more (involuntary patients cannot leave the hospital without the doctor's permission)
- **incapable of consenting to treatment** (a substitute decision-maker, usually a close relative, makes treatment decisions for you)
- **incapable of managing your property** (someone else handles your finances while you're in hospital or after you are discharged)
- incapable of consenting to the use, collection, or disclosure of your **personal health information**
- placed on a **community treatment order** from the doctor, including orders to take medication or attend appointments while you're not in hospital.

If you're a patient and a doctor changed your legal status, under the MHA, a doctor must contact a Rights Adviser to meet with you.

What is a Rights Adviser?

A Rights Adviser is a person designated by the Minister of Health who helps individuals understand and exercise their rights.

Rights Advisers do not work for the hospital, and the service they provide is free and confidential. Rights advice is a safeguard for patients' rights in hospitals and it is important for the patients to meet with a Rights Adviser alone without any outside pressure or distractions.

The Rights Adviser will:

- explain how the change affects your rights
- discuss the doctor's decision with you to see if you agree with the decision
- help you apply to the [Consent and Capacity Board](#) for a hearing if you don't agree with the doctor's decision
- help you find a lawyer
- help you apply for legal aid if you need it.

Rights Advisers are impartial and neutral and do NOT tell patients what to do. Any decisions made are made by the patient only. **Only the patient can refuse rights advice.**

Is Rights Advice required even if a person may not understand the information?

Rights Advisers are required to meet with patients regardless of their age or ability to understand.

Rights Advisers provide information in the simplest terms possible and are required to explain things to the best of their ability in a manner that addresses the needs of the patient receiving the explanation, whether the patient understands it or not.

It is possible that a patient may not understand much, if any, of the information provided. However, a Rights Adviser is still **required** to meet with them under the MHA.

Questions?

For questions and information about the Consent and Capacity Board hearings, visit their [website](#).

If you have a question about your specific legal situation, contact a lawyer.

For questions about this Information guide, visit [Ontario.ca/PPAO](https://ontario.ca/PPAO) or contact Psychiatric Patient Advocate Office at 1-800-578-2343.

This information guide provides information only and does not contain legal advice. If at any time requirements in legislation conflict with information in this sheet, the legislative requirements prevail.