

Understanding How Mental Health Laws Are Affecting You: Getting Interpreter Services

This fact sheet is meant to assist you if you use or have used mental health services and supports, and you do not speak English or French. It is also useful if:

- You need rights advice because, for example, you have been told that you can't leave the hospital or that you have to take medication or other treatment;
- You are at the Consent and Capacity Board; or
- You have been found unfit or not criminally responsible for a crime due to a mental disorder and you are at the Ontario Review Board.

If French or English is not your first language, you might need a language interpreter for help understanding how mental health laws affect you. This fact sheet is about your rights to language interpretation services.

Some of this information will only be useful to people living in Toronto.

MENTAL HEALTH SUPPORTS AND SERVICES

To get help with your mental health, you might want to find a service that speaks your language and understands your culture. Some organizations offer services in different languages. To find out more about getting services in your language, you can call 211 Toronto, by dialling 211 on your home phone or 416-397-4636 from a payphone. You can also go to www.211toronto.ca. The 211 operators speak many languages such as English, French, Spanish, Cantonese, Punjabi etc. You can also make a request to have an operator who speaks your language.

Another option is going to groups run by people who have personal experience with mental health services, called **'Peer Support Programs'**. They might be able to help you understand your situation. To find out more about peer support programs, call 211 Toronto.

GETTING INTERPRETER SERVICES

If you are worried about understanding your rights, you should ask for an interpreter. Even if you speak or write a little bit of English or French, it is better to ask for an interpreter so you are fully aware of what is happening to you.

Although family members or friends are often responsible for helping us make many important decisions, you might not want to speak with a family member or a friend about your mental health issues because of:

1. the confidential nature of mental health issues.
2. family members or friends often do not have the training to be interpreters for legal actions.
3. family members or friends may have interests that are different from your personal interests.

If you would rather keep your information private, you can work directly with an interpreter. You should not agree to use an interpreter who is not trained and certified. It would be best if the interpreter has mental health experience, and can understand and translate legal terms.

If you are unsure if everything is being translated, ask the interpreter to translate everything that is being said.

It is your right to refuse medical treatment, but only if you are able to give “informed consent”. Informed consent means that you have received information that enables you to understand what your doctor says to you about treatment. It is really important that you understand everything that your doctor says to you about medication and their side-effects. If you do not understand the language that your doctor is using, you should ask for an interpreter to be arranged.

RIGHTS ADVICE

Rights advisors are required by law to give rights advice in hospitals in Ontario that treat people with mental health issues if:

- You have been told that you cannot leave the hospital (involuntary patient).
- You have been told that you are unable to make decisions about your treatment, finances or your personal health information.
- You are an informal patient between the ages of twelve and fifteen (involuntary patient).
- Your doctor is thinking about putting you on a “community treatment order” (CTO).

If you need an interpreter, make sure that you ask the rights advisor for an interpreter of a language that you speak. The rights adviser should arrange for the services of a professional interpreter who is trained and certified. You will not have to pay for the interpreter. The rights advisor can get interpreters in 46 languages.

The interpreter should sign a confidentiality agreement. That means that they are not allowed to give any of your information, including your mental health information to anyone else. Interpreters should not talk to your friends or family members about your situation.

HEARINGS BEFORE THE CONSENT AND CAPACITY BOARD

The Consent and Capacity Board (CCB) holds hearings and makes decisions under the mental health laws of Ontario, like the *Mental Health Act*, the *Substitute Decisions Act* and the *Health Care and Consent Act*.

You have the right to contest some of the decisions made by your doctor at the CCB. For example, you can challenge decisions that you are:

- Unable to make decisions about your health care treatment;
- Unable to make decisions about your finances;
- Unable to leave the hospital when you want; and
- To be put on a community treatment order.

You have the right to have a hearing within seven days of the CCB receiving your application. If the CCB hearing is held in a language that you do not understand, you can ask for an interpreter. The rights adviser will usually inform the CCB that you need an interpreter when he or she helps you make an application to the CCB. The CCB's *Rules of Practice* say that if you need an interpreter, you or your lawyer should tell the CCB as soon as possible. The CCB will arrange for and pay for the interpreter. You will not have to pay for the interpreter.

HAVE YOU BEEN CHARGED WITH A CRIME?

If you are in **criminal court** without a lawyer, you may be able to get help from **duty counsel**. Duty counsel are lawyers who assist people who do not have a lawyer with them in the courtroom. Duty counsel can give you advice about your right to plead guilty or not guilty, help you apply for bail or ask that the hearing be delayed (“adjournment”).

Duty counsel usually offer services only in French or English. However, most courthouses do have interpreters on site. If you need an interpreter, let duty counsel or a court services official know that you need help.

It is important to keep in mind that it is your right to obtain an interpreter. Section 14 of the *Charter of Rights and Freedoms* guarantees that all parties or witnesses who do not speak the language of which the proceedings are conducted or who are deaf persons involved in legal proceedings, have the constitutional right to obtain the assistance of an interpreter. You can ask a family member or friend to help you ask for interpreter services. Interpretation services are provided free of charge if you are in criminal court.

ONTARIO REVIEW BOARD

The **Ontario Review Board** (ORB) holds hearings and makes decisions about people with mental health issues who have been accused of a crime. You might go to the ORB if you have been found by a court to be either unable to go to trial (“unfit”) or “not criminally responsible” because of your mental health issues.

There are no official rules about interpreter services at the Ontario Review Board. If anyone involved in your case recommends an interpreter, the ORB will arrange for interpreter services free of charge. You or your lawyer should ask for an interpreter if you need one.

MENTAL HEALTH COURT AND DIVERSION

If you have been arrested in Toronto and you have a mental health issue, there are services that are supposed to help you. If you appear in Court, ask your lawyer or duty counsel about services available to people with mental health issues.

In Toronto, **Mental Health Court** is a court that is supposed to help you if you have been charged with a crime and also have a mental health issue. The court, located at the Old City Hall, deals with bail, guilty pleas and deciding whether you are “not criminally responsible” for the crime that you have been charged with. **These are very important decisions, and it is very important that you understand what is being said.** Make sure that your lawyer, if you have one, arranges for an interpreter. If you do not have a lawyer, there are duty counsel who are always at the courtroom. You can ask them to arrange for an interpreter.

Mental Health Diversion is a program that is supposed to help people who have been charged with a minor crime and who also have mental health issues. Instead of going to the regular criminal court, you would be referred to mental health services. In diversion, the charges are withdrawn or stayed and you will not be convicted. Your lawyer can ask if you can get diversion, although the provincial Crown Attorney must agree. If you can get diversion, the diversion worker will arrange to meet with you to look at your needs. The diversion worker will come up with a “diversion plan”, and make suggestions about what services and supports you need such as psychiatric treatment or community mental health supports. Diversion workers will arrange for interpreters if you, your family, your friend or your lawyer requests it. Interpreter services should be set up before you meet with the diversion worker. Interpretation will be provided free of charge to you.

Make sure that mental health court or mental health diversion is the best option for you. Talk to your lawyer, if you have one, about the pros and cons.

GETTING LEGAL HELP

You can get advice from a **community legal clinic**. Community legal clinics offer services to people with low incomes. Call 416-979-1446 to find the community legal clinic that is closest to you. Also, the **Community Legal Aid Services Program (CLASP)** at York University offers services to people with mental health issues. You can contact them at 416-736-5029

Legal Aid is available to people who have low incomes for many kinds of legal problems, including the Consent and Capacity Board (CCB) and the Ontario Review Board (ORB) hearings. You can apply for a **legal aid certificate** to get a lawyer to represent you before the ORB or the CCB. Every Ontario person who needs legal assistance can apply. Whether or not you get a legal aid certificate is based on your financial circumstances and the type of case. You need to go to a Legal Aid Office to apply. Or, if you are seen by a rights adviser, he or she will help you complete an application. When you go to the legal aid office, you should take as much information with you as possible, such as papers about your case, proof of your current income and some form of identification. You can call Legal Aid Ontario's office in Toronto at 1-800- 668-8258.

You might prefer to speak with a lawyer who speaks your language. You can ask for a lawyer that speaks a language of your choice, but you might not get one. You may also ask for a lawyer who has a lot of experience before the ORB and CCB. Legal Aid is supposed to pay your lawyer to arrange for interpretation services, but it can be difficult for your lawyer to arrange for interpreters.

It is a good idea to make sure that you speak to your lawyer before you go to the CCB or ORB. It is important that your lawyer understands your case from your point of view. If you don't speak the same language, you should ask your lawyer to arrange for an interpreter.

Lawyers have to keep everything that you tell them **confidential**. Your lawyer can not discuss your case without your permission.

GETTING MORE HELP

For more information about rights advice and mental health issues, you can contact the **Psychiatric Patient Advocate Office (PPAO)**. Their phone number is (416) 327-7000 or 1-800-578-2343. The PPAO also has guides about many topics related to mental health on its website at www.ppao.gov.on.ca. In particular, the fact sheet, "**Your Rights as a Psychiatric Patient**," may be useful.

The **Mental Health Services Information Ontario** gives free information about mental health services and supports 24 hours a day, 7 days a week. This information is available in over 140 languages. You can call the Mental Health Services Information Ontario at 1-866-531-2600.

ABOUT ARCH

This fact sheet has been prepared by ARCH Disability Law Centre, a specialty legal aid clinic dedicated to defending and advancing the equality rights of persons with disabilities including people with mental health issues.

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