

**Consent and Capacity Board Hearings** - This board [usually] consists of 3-member panels and holds hearings in various psychoprison across Ontario. Each panel consists of a lawyer-chair, a psychiatrist not involved in your treatment or hospital, and a lay person. After the Board receives your Form 16 application, it notifies you of the date and time of your hearing which must be held within 7 days. For more info, contact your advocate or lawyer. Your appeals must be addressed to the Consent and Capacity Board or the Ontario Superior Court (see sections below).

**Power of Attorney** - A Power of Attorney (POA) for Personal Care and Property is a legal-government document, it's also called a "living will." In the Personal Care section, the main purpose is to make sure your treatment wishes are protected and carried out if you are ever judged "incapable" to make treatment decisions. Fill out the Personal Care section while capable as soon as possible. Be sure to write down the name of your substitute decision-maker or person you want to make all treatment decisions for you. Also write down the medical-psychiatric procedures you want AND don't want. If your POA is challenged in court, a judge generally respects it but may not. **(See this site: [www.icomm.ca/psaao/poac.html](http://www.icomm.ca/psaao/poac.html)).**

Further information on Brian's Law or other provincial legislation can be obtained from a provincial government bookstore, your local legal clinic or from the Ontario Legislature's website at [www.ontla.on.ca](http://www.ontla.on.ca).

**Remember - you have the right to be treated with dignity and respect at all times, and the right not to be abused, harmed or tortured. The challenge is to exercise these rights.**

#### **Recommended Lawyers and Advocates**

**Anita Szigeti ph: 416-504-6544**

Email: [lawyers@hslaw.ca](mailto:lawyers@hslaw.ca)

**Sue Fraser ph: 416-703-9555**

Email: [fraser@fraseradvocacy.com](mailto:fraser@fraseradvocacy.com)

**Lora Patton ph: 416-736-5029 x33999**

Email: [lpattton@osgoode.yorku.ca](mailto:lpattton@osgoode.yorku.ca)

**Parkdale Community Legal Services**

ph: 416-531-2411

**Legal Aid Office Toronto: 416-598-0200**

375 University Ave. M-F, 8:30am-3:30pm

**Ontario Coalition Against Poverty (OCAP)**

ph: 416-925-6939 <http://www.ocap.ca>



*Produced by OCAP's Accessibility Committee*

#### **A Short Survivor Guide - Your Rights in Ontario's Psychiatric System**

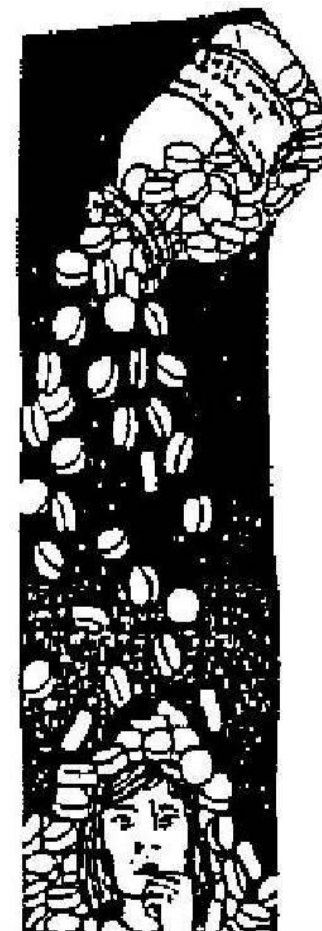
**General Comments** - Many psychiatric prisoners (involuntary psychiatric patients) and survivors in the community are not aware they have a few rights in the Ontario psychiatric system. While locked up in a psychoprison (any psychiatric facility), you have very few rights (most are conditional or restricted) such as the right to wear your own clothes - Right to refuse psychiatric treatment like "medication" and electroshock ("ECT") (You can be forcibly treated if judged "incapable") - Right to appeal involuntary committal - Right to appeal doctor's judgment of "incapacity" - Right to make phone calls, receive mail and have visitors - Right to a copy of your psychiatric record or medical chart (it can be challenged) - Right to contact an advocate or lawyer.

***There are a number of ways you can be locked up in an Ontario psychoprison:***

**Apprehension by Police** - Any police officer can take you in for assessment if they observe you behaving in a manner that in a normal person would be considered disorderly.\*

***\*Brian's Law*** (passed by the government of Ontario in 2000) removed the requirement that the cops actually observe your disorderly behavior for themselves, leaving open the possibility of you being locked up based solely [on the word or opinion] of a third party.

**Form 1** - Psychiatric Assessment Under Ontario's Mental Health Act. Form 1 (a legal document) gives any doctor the authority to lock you up for 3 days or 72 hours in any psychiatric facility including a ward or unit in a general hospital - without a hearing or trial. The alleged reason is to see if you need psychiatric treatment or hospitalization for your alleged "mental illness". This "period of observation and assessment" is actually the first phase of involuntary committal. Before signing a Form 1, the doctor must examine you, it's called "mental status examination" and generally lasts 20-30 minutes. While locked up, your psychiatrist can restrain you but not treat you - a useless distinction. At this time, you can call or see a lawyer, but can not appeal or start legal action.



**Restraints** - During these first 3 days of incarceration, the psychiatrist can restrain you with powerful, mind-damaging psychiatric drugs ("medication") and/or physical restraints. Under the Mental Health Act, a doctor has the authority to forcibly subject you to 2-point, 4-point or 5-point restraints - leather straps or cuffs tightly wrapped around your arms and legs and/or waist making it hard [or impossible] to move. Or, the doctor can order you to be kept for hours or days in "[locked] seclusion", a form of solitary confinement. Every ward or unit has a "seclusion room". While restrained or in seclusion, staff will probably deny your right to visitors and access to a phone. When released from restraints or seclusion, you should immediately contact an advocate or lawyer.

**Form 2** - Like form 1, this legal document orders you to be locked up in any psychoprison. It's ordered and signed by a justice of the peace. This form is issued after another person in the community makes a complaint against you in front of a justice of the peace. If the justice decides you need psychiatric treatment, the police have the authority to take you to any nearby hospital where you're locked up for 3 days. [When you arrive at the hospital, the doctor must admit you.] Again, you have the right to contact an advocate or lawyer.

**Form 3** - This form gives the doctor authority to keep you locked up for 2 more weeks as an involuntary patient. Two doctors must sign Form 3. Within 24 hours of receiving this form, a Rights Advisor from the Psychiatric Patient Advocate Office must see you to explain involuntary committal, the reasons(s) you're locked up, and inform you of your right to appeal this committal to the Consent and Capacity Board (see "Informed Consent/Right to Refuse" section below). Keep a copy of Form 3 and give one to your advocate-lawyer.

**Form 4+** - This document extends form 3, it's called a "certificate of renewal." This certificate authorizes the psychiatrist and hospital to keep you locked up and/or treated for 1 more month or longer. Your psychiatrist must sign it and give you a copy. You can appeal the psychiatrist's decision by applying to the Consent and Capacity Board for a hearing. (see "Form 16" and "Consent and Capacity Board Hearings" sections below)

***Any licensed physician (it doesn't have to be a psychiatrist) can initiate the involuntary committal process if (in their subjective opinion) you "are suffering from a mental disorder that makes you a danger to yourself or others, or makes you incapable of caring for yourself." "Brian's Law" (passed by the government of Ontario in 2000) provided yet another opportunity for doctors to commit [and forcibly treat] you if they feel you are "likely to show deterioration in the future if not treated [and if they believe you're "incapable".]***

**Community Treatment Order (CTO)** - If you have been a voluntary or involuntary patient in any psychoprison on two occasions for 30 days or longer within the last 3 years and currently meet the criteria for involuntary admission, a doctor can issue a community treatment order (CTO) - whether you're in hospital or the community. A CTO forces you to undergo treatment (usually psychiatric drugs) in your community. The CTO "treatment plan" must be signed by you and the doctor to be valid. If you refuse to sign a CTO while in hospital, you'll probably be locked up longer. If you refuse to see a doctor or "take your meds" in the community, a nurse, social worker, psychologist or psychiatrist on an Assertive Community Treatment team (ACTT) will probably visit and pressure you to take the ordered drugs, and/or call the police to take you to hospital where you'll be locked up again. A CTO lasts 6 months, and can be renewed indefinitely. For more info, call an advocate or lawyer. (see phone numbers on the back of this pamphlet)

**Form 16** - To appeal your CTO, involuntary committal, treatment or judgment of "incapacity", you must fill out and sign a Form 16. This form is your application for a Consent & Capacity Board hearing. If the doctor labels you "incapable", your decision-maker can help you fill out this form but you can still fill it out yourself. (see "Power of Attorney" below). This form must be given to you whenever you request it. Copies are available at the nursing station on your ward or unit and from a Rights Advisor or Patient Advocate. Once you sign Form 16 and it's received by the Board, you must be given a hearing within 7 days.

**Informed Consent and Right to Refuse Treatment** - Ontario's Health Care Consent Act gives you the right (in theory) to be fully informed about any treatment a doctor or psychiatrist prescribes, and your right to refuse any treatment. If you're prescribed an antidepressant or neuroleptic ["antipsychotic"], for example, the doctor must give you this information before you consent or refuse the drug(s). Many psychiatrists violate one or more "elements" of informed consent as listed below: - nature of the treatment - its major effects (physical & psychological) - immediate side effects and risks - expected benefits of treatment - the likely consequences of no treatment - alternatives. While giving you this information, the doctor or psychiatrist can not threaten, pressure or coerce you to consent. Your consent must be completely voluntary and informed.

If you do not want "medication", for example, and have not been labeled "incapable" to make treatment decisions, you have the right to refuse the drug(s). If the psychiatrist orders you to "take your meds" or labels you "incapable" after you refuse, immediately contact your advocate or lawyer and tell them what happened.