

Eligibility for mental health law services



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Civil mental health services

Eligibility for legal aid certificate services for civil mental health law matters for financially eligible individuals requires an assessment of merit, including consideration of whether a reasonable client of modest means would pursue the matter, having regard to legal fees and likely outcome. In making this determination, LAO will presume merit in relation to representation of individuals before the Consent and Capacity Board for:

- an application to challenge or review a physician's certificate of involuntary admission or a certificate of renewal in respect of the individual
- an application to challenge or review a physician's determination of an individual's mental incapacity to make treatment decisions, and/or personal decisions, and/or to decide if they are to be admitted to a long-term care facility
- an application to challenge or review a physician's determination of an individual's mental incapacity to manage property or finances
- an application by a third party to overrule an individual's previous expressed wishes/competent instructions contained in an attorney for personal care
- an application under the *Personal Healthcare Information Protection Act, 2004* (PHIPA) to: review a finding that the individual is incapable of consenting to the collection, use or disclosure of personal healthcare information; to review a substitute decision-maker's compliance with PHIPA principles; to appoint a representative to give or refuse consent on behalf of the individual; to access the health/medical record of the individual
- an application under section 41.1 of the *Mental Health Act* for special orders such as for access to the community, privileges, interpretation, vocational training or rehabilitative services, or to be held at a different level of security in the facility
- an application for provision of a blood sample by an individual under the *Mandatory Blood Testing Act, 2006*
- an application by an individual in a proceeding to appoint or to remove a substitute decision maker for the individual, in relation to a treatment decision, and/or personal assistance decision and/or admission into a long-term care facility

- an application by a prospective substitute decision maker to be appointed as a substitute decision maker for a health care decision regarding the individual
- an application by a doctor to review a substitute decision-maker's decisions regarding the individual
- an application by an individual in a guardianship proceeding, where an individual wishes to terminate a statutory guardianship for property under section 3 of the *Substitute Decisions Act*
- an application by an individual challenging the issuance or the renewal of a Community Treatment Order

Eligibility for these legal aid services is restricted to the individual.

LAO may provide summary legal advice and other forms of non-certificate assistance in relation to Consent and Capacity Board matters and other legal matters for which LAO provides legal aid services and where the individual's mental health is a relevant factor, to eligible individuals in locations including courts, hospitals, mental health centres or similar locations within the community.

Criminal mental health services

Ontario review board

Eligibility for legal aid certificate services for criminal mental health matters for financially eligible individuals requires an assessment of merit, including consideration of whether a reasonable client of modest means would pursue the matter, having regard to legal fees and likely outcome. In making this determination, LAO will presume merit in relation to representation of individuals before the Ontario Review Board for:

- an initial disposition hearing within 45 days to review a court's finding of not criminally responsible or unfitness to stand trial, and to set out the conditions and liberties of an individual under the Board's jurisdiction
- a 90-day hearing where a court has made the initial disposition hearing
- an annual review of an initial disposition hearing
- an early review hearing, where the individual requests one and the Board accedes to the request
- a restriction of liberties hearing where the hospital has increased restriction of liberty of an individual under the Board's jurisdiction for a period of more than 7 days