

INFORMATION GUIDE

Deemed Hearing under the Mental Health Act

What is a deemed hearing?

A deemed hearing under the *Mental Health Act* (MHA) is an automatic or mandatory hearing before the Consent and Capacity Board (CCB) to review your patient status or community treatment order in certain circumstances.

You do not need to make an application for a deemed hearing as the law requires such a hearing to be held.

Under what circumstances is a deemed hearing held?

Under the MHA, a deemed hearing must be held in the following three circumstances:

1. If you are an involuntary patient, when you are placed on your first Form 4A (Certificate of Continuation) and every fourth Form 4A thereafter. This will occur once a year.
2. If your community treatment order (CTO) is renewed for the second time and every second renewal thereafter. This will occur once a year.
3. If you are an informal patient between 12 and 15 years of age, and six months have passed since:
 - o your admission to the hospital as an informal patient; OR
 - o your last application to the CCB that inquired into whether you need care, observation, or treatment in the hospital.

What if I do not want a deemed hearing?

A deemed hearing is required by law, and you cannot cancel it. It will be held whether or not you want the hearing.

You can choose to go to the hearing, but you are not required to do so.

Who notifies the CCB of the need for a deemed hearing?

Your physician or the officer-in-charge of the hospital has an obligation, under the MHA to notify the CCB of the need for a deemed hearing.

If your physician or the officer-in-charge fails to notify the CCB, you should speak with a rights adviser and/or a lawyer.

Do I have the right to ask the CCB for any orders?

If you are on a Form 4A (Certificate of Continuation), you may apply to the CCB for specific orders such as:

- a. different privileges
- b. security level
- c. leave of absence
- d. transfer to another hospital.

You may apply for these orders once every 12 months, but you may be able to apply more often if there has been a material change in your circumstances. The rights adviser can assist you to make this application.

Do I receive rights advice about a deemed hearing?

When the doctor or the officer-in-charge signs the applicable renewal form, they must promptly notify the Rights Adviser that the form was completed. The rights adviser must then promptly meet with you. The rights adviser can help you find a lawyer for the hearing if you wish to participate.

Will I receive a notice of the outcome of the deemed hearing?

You will be notified of the decision of the CCB. The decision may be faxed to your unit in the hospital or sent to you by mail. If you have a lawyer, they may inform you of the decision.

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 Info 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.