

**PUBLIC TRUSTEE**

**ANNUAL REPORT**

**FOR**

**FISCAL YEAR ENDING MARCH 31, 2013**

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*In Reply Please Quote Our File Number:*

December 9, 2013

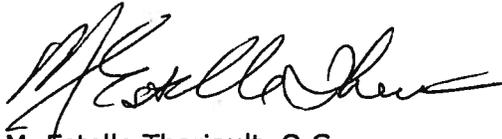
The Honourable Lena Metlege Diab  
Attorney General and Minister of Justice  
Province of Nova Scotia  
5151 Terminal Road, 4th Floor  
Halifax, NS B3J 1A1

Dear Minister Diab:

Pursuant to Section 47 of the *Public Trustee Act* I submit this Annual Report for the fiscal period ending March 31, 2013.

The Financial Statements and Auditor's Report for this fiscal period have been incorporated into and form part of the report.

Respectfully submitted,



M. Estelle Theriault, Q.C.  
Public Trustee

MET/dw

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## **PUBLIC TRUSTEE PROGRAM OF NOVA SCOTIA**

### **SCOPE OF PROGRAM**

The Office of Public Trustee is established under the *Public Trustee Act* and functions in reference to that Act and other Statutes wherein specific roles are prescribed for the Public Trustee, e.g. *Hospitals Act, Personal Directives Act, Patient's Abandoned Property Act, Adult Protection Act, Guardianship Act, Probate Act, Presumption of Death Act, Survival of Actions Act, Involuntary Psychiatric Treatment Act, etc.*

The Public Trustee:

- (1) manages estates of living persons who need services of a trustee, guardian, attorney or other fiduciary not readily available in the private sector to such living persons;
- (2) administers estates of deceased persons and has standing to apply for grant of administration or administration with will annexed in any case where no grant of probate or administration has been issued;
- (3) may consent to health care decisions and nursing home placement decisions for incapable persons when consent cannot be obtained from the person, a named health care decision maker, a court appointed guardian of the person or a statutory decision maker;
- (4) may act as guardian *ad litem* or representative in litigation for minor, incompetent, deceased, missing or unascertained litigants in respect to whom a court makes representation orders.

The Public Trustee is committed to the proper administration of estates of deceased persons, incompetent persons, children and missing persons. It is also committed to provide informed consents for health care, placement to a continuing care home or home care services using an approach that is client-centred, respectful of human rights and freedoms and in the client's best interests if prior wishes, values and beliefs are not known.

### **STATUS OF PUBLIC TRUSTEE**

- (1) The Public Trustee is a corporation sole under that name with perpetual succession and an official seal and, as such, the Public Trustee may sue and be sued in that name.
- (2) The Public Trustee has the powers and duties given to or imposed upon it by statute and such further powers and duties as the Governor in Council may prescribe.
- (3) The person appointed to be Public Trustee has the status of a Deputy Head.
- (4) Where the Governor in Council, a Minister of the Government or a Court is empowered to appoint a guardian, custodian, trustee, executor or administrator, the Public Trustee, if it consents to act, may be so appointed.
- (5) For administration purposes, the Public Trustee reports to the Minister of Justice.

## **MESSAGE FROM THE PUBLIC TRUSTEE**

I am pleased to submit the annual report of the Public Trustee of Nova Scotia for the fiscal year ending March 31, 2013.

The Office of the Public Trustee is situated in Halifax. It renders services throughout Nova Scotia with a staff of twenty-five employees. No additional staff was hired in the fiscal year under review although a review of cases under management continue to show an increased demand for the Public Trustee's services.

In the past two years, the files under the Public Trustee's management increased 10% per year. In the past five years the case numbers have increased 28.5%. Four hundred and fourteen new cases were opened last year which is the second highest number the Public Trustee has ever experienced with last year's four hundred and twenty-eight cases being the highest number of new files opened. A review of Schedules "B" and "D" attached show this upward pressure.

Nova Scotia has one of the adultest populations in Canada. As a result the Public Trustee is receiving ever greater number of file referrals to manage the financial estates of incompetent seniors. One hundred and forty-five new files were opened in the fiscal year under review compared to one hundred and nine in the previous year which is a 24.9% increase in one year. The Public Trustee predicts that the demand for the Public Trustee's services will continue to increase in the future. More resources will be required to meet this demand.

The Auditor General conducted a performance review of the Public Trustee's office. The report was released in June, 2012. The report contained sixteen recommendations how the Public Trustee could better serve its clients. I am extremely pleased to report that the Public Trustee has implemented thirteen of the recommendations or 81.3%. Work has been done on the remaining three recommendations with our goal to address all sixteen recommendations. Working to find solutions to all these recommendations has drawn upon all the staff's ability and resources. I am extremely proud of all their efforts. Our goal is to provide the best services possible to our clients.

In addition to the sixteen recommendations made by the Auditor General, I am proud of his comment that the Public Trustee's investment management was "administered using a prudent investor approach in accordance with policy".

The Public Trustee does charge fees for its services as trustee, as personal representative of a deceased estate or when it acts as a solicitor. I am pleased that, once again, the Public Trustee exceeded its revenue target. These fees contribute to the cost of running the Public Trustee Office and its valuable services to the people of Nova Scotia.

The Province of Nova Scotia is fortunate to have the dedicated staff of the Public Trustee Office. The staff is faced with an annual ever increasing case load and complex and emotional family situations without the prospect of obtaining additional resources to help them. Still they persevere. I am proud to say I work with them. Nova Scotia should be proud of them as well. Over the thirty-three years I have worked in the Public Trustee Office (twenty-one years as Public Trustee) I have obtained my job satisfaction from the work we have achieved for our many clients.

## **CASE LOADS**

A review of the case loads is important to illustrate the Public Trustee's activities and efforts. A study of the numbers further demonstrates the call for the Public Trustee's services.

### **Inquiry files:**

The Public Trustee has a category of files which is called "Inquiries".

The Public Trustee is recognized as an expert in estate and trust cases. We are often contacted by lawyers, social workers, health care workers and by the general public seeking general information in this area. Many times the general public are told by their lawyers or other government departments to contact us for information and direction. Many people tell us they cannot afford a lawyer and they are trying to gain information so they can resolve their issues. Great care has to be taken by the Public Trustee to provide general information only. But still the information given helps them. Through some of these calls a decision may be made that it is an appropriate file for the Public Trustee to assume.

The number of these inquiry files increases yearly. Many of these files may entail numerous telephone calls of great length and various letters written and received.

### **Inquiry File Numbers:**

2013 - 370

2012 - 352

2011 - 330

## **ACTIVE CASES**

The Public Trustee had 1,467 active files as of March 31, 2013 compared to 1,321 the previous year or a 10% increase in one year (see Schedule "A" to this report).

The two categories of accounts which have experienced the greatest growth are the estates of incompetent adults and the consent to treat files for mentally incapable persons.

Of the 413 new files opened in the fiscal year under review 145 were adult estates living (see Schedule "D" to this report). This is the largest number of adult estate living accounts ever opened in a year. The Public Trustee anticipates that this category of account will increase in the future. The Province of Nova Scotia has the greatest percentage of seniors in Canada. The Public Trustee will need more resources if it hopes to fulfil its mandate of acting as trustee of the estates of these incompetent persons.

The adult estates living are largely referred to the Public Trustee utilizing one of three pieces of legislation. These acts are the *Hospitals Act*, the *Adult Protection Act* and the *Personal Directives Act*. The *Hospitals Act* and the *Adult Protection Act* are acts administered by the Department of Health. The *Personal Directives Act* is administered by the Department of Justice. Largely the cases referred to the Public Trustee under the above noted acts are situations that the senior is being placed in a home for special care. Nursing homes are not

prepared to accept incompetent clients unless they have an attorney acting under an enduring power of attorney, a court appointed guardian of their estate or the Public Trustee.

The referral of these incompetent clients to the Public Trustee utilizing the statutory notices contained in the three acts saves the client's assets, it frees court time and expenses and when the incompetent adult has been occupying an acute care bed in a hospital it saves the health care budget. In other words, the Public Trustee is a key link in helping the justice and health systems. More importantly the Public Trustee also protects the financial estates of its clients.

We have also seen the continued growth in the number of consent to treat cases. Ninety-five new cases were referred to the Public Trustee. We now have 350 open files compared to 296 in the previous fiscal year or a 15.5% increase in a year (see Schedule "A" to this report). It is anticipated that this category of cases will continue to increase.

In reading this report one can quickly see the increased work pressures on the Public Trustee's resources. Great efforts are made to work efficiently. Usually when the Public Trustee assumes the role as statutory trustee of an incompetent person or the role as substitute health care decision maker of last resort for a mentally incapable person the Public Trustee retains the role until the person dies. Please review Schedule "C" to see the number of files closed in all categories in the year 2012/13.

The Public Trustee also administers estates of deceased persons. Seventy-three new deceased files were opened in the year under review which is the largest number opened in the past five years. So, work pressures are evident in many file categories (see Schedule "D" to this report).

The file numbers do not tell the entire story. The Public Trustee files are often more complex and often filled with difficult family circumstances. In many files the client does not have sufficient financial resources to address their financial obligations and debts. Innovative solutions must be found.

In addition, with modern communication, the Public Trustee's staff has found that the public has become accustomed to instant information and communication. Few realize the very high demand and case load each staff member carries. The case load for each case manager is increasing yearly. This is a challenge for the staff. The work environment can be stressful and we try to work efficiently utilizing our limited resources.

### **REVENUE AND COSTS OF PROGRAM**

Pursuant to the *Public Trustee Act* and the regulations thereto, the Public Trustee is entitled to charge for its services as trustee and as solicitor. The Public Trustee is also entitled to receive administration fees when it acts as personal representative of a deceased estate. The Public Trustee does not earn any revenue for providing general advice in inquiry files nor does it earn any fees for providing health care consents.

On an annual basis, the government forecasts what income the Public Trustee may earn for its services. This income is very important and contributes to the cost of running this program. As Public Trustee I strive to earn this revenue.

In the fiscal year 2012/13 it was forecasted that the Public Trustee would earn \$800,000.00 in legal, administrative and trustee fees. The Public Trustee exceeded this goal. The Public Trustee earned \$881,970.00 (excluding accruals). These fees have been transferred to the Department of Finance.

The Public Trustee also recovered from its clients' pre-tax fees such as photocopy and postage. The Public Trustee recovered \$23,852.00 in these fees.

The Public Trustee also earned revenue and income in its Special Reserve Fund in the amount of \$94,784.00. This revenue and income will be transferred to the Department of Finance.

Totalling the fees the Public Trustee earned from its trustee/guardian/administrator services (excluding accruals), its recovery fees and the income earned from its Special Reserve Fund the total income earned by the Public Trustee equalled \$1,000,606.00 (see Schedules "E" and "E1" to this report).

Public expenditures for the general operating costs of the Public Trustee program including rent are funded by allocations from one of the global appropriations voted to the Department of Justice. Funding projected and actually allocated to the Public Trustee program for the fiscal period ended March 31, 2013 was as follows:

<b><u>FISCAL PERIOD</u></b>	<b><u>AUTHORITY</u></b>	<b><u>ACTUAL</u></b>
ended March 31, 2013	\$2,241,000.00	\$2,202,406.00

This is a budget saving of \$38,594.00.

Taking into account the total revenue earned from all sources by the Public Trustee the cost of running this valuable service excluding accrued fees was \$1,201,800.00.

## **LAWS AND AMENDMENTS SIGNIFICANT TO THE PUBLIC TRUSTEE PROGRAM**

### **HOSPITALS ACT**

Section 59 and related sections of the *Hospitals Act* proclaimed in force April 1, 1979 created a mechanism whereby the Public Trustee, being notified by a hospital to do so, may "assume management" of the estate of a patient who has no guardian and is unable to administer his own estate. Hospital officials and community care officials had been leading proponents of that mechanism. They implemented it immediately. It became and continues to be the source of many of the Public Trustee's growing caseload of adult estates living files. Of the 145 new adult estates living files opened in the fiscal year ending March 31, 2013, 83 or 57% originated from Section 59 referrals.

Many of these referrals are sent to the Public Trustee when the patient is ready for discharge and a nursing care bed has been found. The nursing home will not accept the patient unless there is a financial trustee available to manage the person's estate and to pay the nursing care bill. By referring the client to the Public Trustee, the placement in the nursing home can be achieved which benefits the patient and helps the hospital free up an acute care bed. This provides a great benefit to the province's health budget.

## **ADULT PROTECTION ACT**

Enacted and in force in 1985 this statute contains special references to the Public Trustee being notified by the Minister of Community Services, or designate, S.13, or by the Family Court S.9(4), to intervene in the estate of one who is thought to be (or adjudged by the Court to be) "an adult in need of protection". The effect of S.13 is similar to the effect of S.59 of the *Hospitals Act* in that it authorizes and empowers the Public Trustee to assume immediate management of the estate of a living adult. Section 9(4) merely identifies a case in which the Public Trustee might invoke its standing (*Public Trustee Act*, S.5) to seek an *Incompetent Persons Act* guardianship order in respect to the estate of one who has been adjudged to be an adult in need of protection.

The Public Trustee had seen a decline in referrals from the Adult Protection Services over the five previous years:

March 31, 2008 - 66  
March 31, 2009 - 79  
March 31, 2010 - 59  
March 31, 2011 - 32  
March 31, 2012 - 22

In the fiscal year under review the Public Trustee had 41 referrals from Adult Protection for a 46% increase. I submit that this increase is further evidence of the aging population in Nova Scotia.

Adult Protection Services are also utilizing the new *Personal Directives Act* to provide services to individuals who are in need of protection. If after an investigation by the Adult Protection Service it is determined that the person is physically and mentally incapable of providing for their physical needs and they require the services and protection of a nursing home environment, the substitute decision maker for the mentally incapable person can make the decision to accept an offer of placement for the mentally incapable person. After the placement decision has been made by a substitute decision maker, a referral for financial management may be made to the Public Trustee utilizing Section 8A of the *Public Trustee Act*. Fourteen referrals were received by the Public Trustee in this fiscal year.

By utilizing these provisions, Adult Protection Services does not have to go to court to obtain an order thus again saving the court's resources and the time of the Adult Protection staff. It is submitted that the Public Trustee will see an increase in financial referrals utilizing the provisions of the *Personal Directives Act*.

## **POWERS OF ATTORNEY ACT**

Enacted in 1988 to validate "Enduring Powers of Attorney" the *Powers of Attorney Act*, c.352, R.S.N.S. 1989 contains references to the Public Trustee. Section 4 provides that the attorney and not the Public Trustee shall administer a patient's estate pursuant to S.59 of the *Hospitals Act* if the instrument of enduring power of attorney "includes a provision expressly excluding the operation of subsection (2) of Section 59 and the attorney wishes to act".

Subsection (2) of s. 5 provides that an attorney shall, when the court so orders, submit his accounts to the Public Trustee for approval.

Subsection (3) of s. 5 provides that an attorney may apply to the court for an order substituting another person as attorney upon giving notice of the application to the Public Trustee.

Subsection (4) of s. 5 provides that if an attorney voluntarily submits his accounts to the Public Trustee the Public Trustee "shall consider the accounts when submitted".

The Public Trustee also received many calls from the public seeking general information about enduring powers of attorney. Many of these calls deal with the questions of accountability and the concerns individuals have on the manner the attorney is managing the trust funds. The Public Trustee does not oversee or investigate private power of attorney relationships. The Public Trustee is not legislated to fill this juncture nor are we provided with budget resources to undertake this task. This, I believe, would be a large undertaking if the Public Trustee ever undertook this responsibility.

The Minister of Justice asked the Law Reform Commission of Nova Scotia to study the power of attorney legislation in Nova Scotia.

I was a member of the Special Advisory Group which studied the *Powers of Attorney Act*. It is expected that the Law Reform Commission will issue a draft discussion paper on the subject in the near future.

### **HEALTH CARE DECISIONS**

The Public Trustee acts as the substitute decision maker of last resort for health care decisions for mentally incapacitated persons. The authority to do so is found in the *Hospitals Act*, the *Involuntary Psychiatric Treatment Act* and the *Personal Directives Act*.

The *Personal Directives Act* also empowers the Public Trustee to serve as substitute decision maker of last resort to make decisions concerning the provision of home care services, placement to a continuing care home and health care.

The Public Trustee has a Health Care Decisions Division to review all requests for consent. The Division has a Coordinator and two Health Care Consultants.

Detailed policy and procedures were developed to guide the consultants in their deliberations. Underpinning Health Care Decision program policy are **best interest principles** and the **principle of informed consent**. Division policies also employ the four commonly held **principles of health care ethics**, namely: respect for autonomy; non-injury; beneficence; and justice. Respect for autonomy is demonstrated by respecting the client's prior capable wishes, values and beliefs if known and consideration of the client's rights to independence and freedom; non-injury is demonstrated in decision-making that avoids or minimizes risk to the client; beneficence is demonstrated in decisions that benefit the client; and justice is demonstrated in decisions that are fair and equitable.

The Health Care Decisions Division stands in the place of the client and is entitled to the same information and freedom of choice as the client would have received if he or she had capacity. Decisions are made using the **reasonable person standard**; after carefully

considering the available relevant information, the Health Care Decisions Division makes a reasonably well-informed decision to consent, to not consent, or to withdraw consent as a reasonably prudent and careful lay person would do in similar circumstances and not as a health care professional.

All performance indicators for 2012/13 were within established targets.

The Office of the Auditor General (OAG) conducted a performance audit of the Office of the Public Trustee, which included the Health Care Decisions (HCD) Division. There were three recommendations for HCD. All three recommendations have now been implemented.

Monitoring of the Health Care Decisions program was conducted and reported to the Public Trustee on a monthly basis. The following is a summary of annual statistics for the fiscal year 2012/13 and are detailed in this report:

- 95 new client files were opened during the year
- 41 client files were closed during the year
- 522 referrals were received in 2012/13 as compared to the projection of 479 referrals last year
- 67% of referrals were under PDA, 22% under HA, and 11% under IPTA
- Capital District Health Authority submitted the most referrals with 245 (47%) and the District of Cumberland and Guysborough-Antigonish Health Authority submitted the least with 15 referrals
- A total of 1465 decisions were made in 2012/13; 1199 under PDA, 159 under HA and 107 under IPTA
- The average number of decisions per referral was 2.8
- 92.6% of decisions were level-1, 6% of decisions were level-2 and 1.4% of decisions were level-3

I am extremely pleased that the Public Trustee Office has been empowered to be the substitute decision maker of last resort for those who are mentally incapable of making their own decisions. This process helps protect these individuals. The Annual Statistical Report for the Health Care Decisions Division is attached to this report.

### **REPRESENTATIVE LITIGATION**

The Public Trustee is eligible for appointment to act as guardian *ad litem* or representative in litigation of mentally incompetent adults, minors, missing persons, unascertained persons and estates of deceased persons and any other interest entitled to sue or be represented in a proceeding. When acting pursuant to an *Incompetent Persons Act* guardianship order the Public Trustee is *ipso facto*, unless the court otherwise orders, guardian *ad litem* of the incompetent. Further, to accommodate the Bar and the Court, the Public Trustee occasionally consents to act, if appointed by the court to act, as guardian *ad litem* or representative of a person or deceased person or interest that is not otherwise on the Public

Trustee's caseload (see Schedules "H" and "H1"). No resources have been allocated to the Public Trustee specifically for that function. No fees are awarded to the Public Trustee by the court if this appointment is undertaken. This type of appointment is normally a major time commitment on behalf of the Public Trustee.

During the fiscal period under review no new representative litigation files were opened.

### **RENUNCIATION**

In certain fact situations, more particularly defined in Sections 15, 23 and 24 of the *Public Trustee Act* and in Section 32 of the *Probate Act*, the Public Trustee "is entitled to apply for and to receive a grant of letters of administration or administration with will annexed of the estate" of a deceased person. Before the Public Trustee does renounce its right to administer an estate considerable time is spent reviewing the facts of each estate to ensure the beneficiaries, heirs and creditors would be properly protected and served if someone other than the Public Trustee is appointed to administer the estate "in priority to all other persons". The Public Trustee also considers the assets which are contained in the estate. Are there funds in the estate which will allow the Public Trustee to properly administer the estate and also will the administration of the estate generate revenue for the Public Trustee Office which then assists the Public Trustee to provide services to the many cases which provide little or no revenue to the Public Trustee? All factors are considered when the Public Trustee decides whether it will administer a deceased estate or whether it will renounce.

By virtue of s. 36 of the *Public Trustee Act* the Public Trustee is empowered in a case where "the Public Trustee is entitled to take out letters of administration under this Act, he may authorize and appoint by writing under his hand some other person to take out such letters of administration" and "the Court of Probate shall, upon the application of a person so authorized and appointed by the Public Trustee as aforesaid, grant to such applicant letters of administration". Customarily the Public Trustee declines to function pursuant to s. 36 of the *Public Trustee Act* and prefers to leave the determination to the Court of Probate.

Sixty-five (65) renunciations were given by the Public Trustee in the fiscal year ending March 31, 2013 (see Schedule "G" to this report).

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**PROVINCE OF NOVA SCOTIA  
PUBLIC TRUSTEE TRUST FUNDS  
FINANCIAL STATEMENTS  
MARCH 31, 2013**



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# Office of the Auditor General

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## INDEPENDENT AUDITOR'S REPORT

To the Public Trustee and to the Minister of Justice:

### Report on the Financial Statements

I have audited the accompanying financial statements of the Public Trustee Trust Funds, which comprise the statement of Net Assets Held in Trust as at March 31, 2013, and the statements of Net and Comprehensive Loss, Continuity of Net Assets Held in Trust, and Cash Flows, for the year then ended, and a summary of significant accounting policies and other explanatory information.

#### ***Management's Responsibilities for the Financial Statements***

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

#### ***Auditor's Responsibility***

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified audit opinion.

#### ***Basis for Qualified Opinion***

It is not possible to verify by audit procedure that all client assets, or the income related to these assets, came under the administration of, or were recorded by, the Public Trustee. Accordingly, my verification of trust assets and related income was limited to those recorded in the accounts.



Nova Scotia

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## ***Qualified Opinion***

In my opinion, except for the possible effects of the matter described in the Basis for Qualified Opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the Public Trustee Trust Funds as at March 31, 2013, and its financial performance, and its changes in net assets and its cash flows for the year then ended in accordance with International Financial Reporting Standards.

## ***Other Matters***

The Public Trustee of Nova Scotia does not have an accounting system. In the absence of an accounting system, there is an unnecessarily high risk of errors in the financial statements.

Jacques Lapointe, CA  
Auditor General

Halifax, Nova Scotia  
November 18, 2013

Province of Nova Scotia  
Public Trustee Trust Funds  
Statement of Net Assets Held in Trust  
For the Year Ended March 31, 2013

	2013	2012 Restated (Note 2)
<b>Assets</b>		
<b>Estates and Trusts</b>		
Cash	\$ 1,989,762	\$ 2,187,685
Securities, real estate and other assets (Note 4)	43,966,550	39,154,236
Common Fund (Note 6)	2,963,234	2,966,083
Accounts receivable and accrued interest	<u>781,628</u>	<u>746,432</u>
	<u>49,701,174</u>	<u>45,054,436</u>
<b>Liabilities</b>		
<b>Estates and Trusts</b>		
Due to Special Reserve Fund (Note 2)	137,924	146,732
Accounts payable	<u>402,316</u>	<u>247,899</u>
	<u>540,240</u>	<u>394,631</u>
<b>Net Assets Held in Trust</b>	<u>\$ 49,160,934</u>	<u>\$ 44,659,805</u>

Approved:



Public Trustee  
M. Estelle Theriault, Q.C.

(See accompanying notes to the financial statements.)

Province of Nova Scotia  
Public Trustee Trust Funds  
Statement of Net and Comprehensive Loss  
For the Year Ended March 31, 2013

	2013	2012 Restated (Note 2)
<b>Revenues</b>		
Pension	\$ 6,770,346	\$ 5,692,545
Annuities	590,165	492,825
Other	843,441	1,015,880
Investment income	<u>747,902</u>	<u>705,799</u>
	<u>8,951,854</u>	<u>7,907,049</u>
Common Fund investment income	<u>140,931</u>	<u>150,954</u>
	<u>9,092,785</u>	<u>8,058,003</u>
<b>Expenses</b>		
Accommodation	6,576,195	5,728,087
Allowances	291,217	256,990
Medical	423,772	406,287
Utilities	165,631	126,913
Taxes	703,955	529,424
Funeral	511,134	408,118
Real estate	178,658	135,311
Insurance	80,595	91,082
Legal costs	230,753	250,879
Property care	204,785	431,001
Miscellaneous (Note 10)	37,586	67,937
Fees charged by the Public Trustee (Note 10)	1,042,724	1,332,879
Common Fund interest income to be transferred to the Special Reserve Fund (Note 2)	<u>137,924</u>	<u>146,732</u>
	<u>10,584,929</u>	<u>9,911,640</u>
<b>Loss from operations</b>	(1,492,144)	(1,853,637)
Realized gain (loss)	72,317	(591,642)
Unrealized gains	<u>359,471</u>	<u>62,779</u>
<b>Net and comprehensive loss</b>	<u>\$ (1,060,356)</u>	<u>\$ (2,382,500)</u>

(See accompanying notes to financial statements.)

Province of Nova Scotia  
Public Trustee Trust Funds  
Statement of Continuity of Net Assets Held in Trust  
For the Year Ended March 31, 2013



	<b>2013 Total</b>	<b>2012 Restated (Note 2)</b>
<b>Balance, beginning of year</b>	\$ 44,659,805	\$ 50,432,189
<b>Less: Writedown of other assets (Note 2)</b>	<u>                  -</u>	<u>          (99,920)</u>
<b>Balance, as restated</b>	<u>44,659,805</u>	<u>50,332,269</u>
<b>Add: Estates and trusts of new clients and additional assets of existing clients</b>	16,817,250	7,036,844
Net and comprehensive loss	<u>(1,060,356)</u>	<u>(2,382,500)</u>
	<u>15,756,894</u>	<u>4,654,344</u>
<b>Less: Distribution of estates and trusts</b>	10,928,289	10,202,051
Undistributable estates and trusts (per Section 28)	<u>327,476</u>	<u>124,757</u>
	<u>11,255,765</u>	<u>10,326,808</u>
<b>Balance, end of year</b>	<u>\$ 49,160,934</u>	<u>\$ 44,659,805</u>

(See accompanying notes to the financial statements.)

**Province of Nova Scotia**  
**Public Trustee Trust Funds**  
**Statement of Cash Flows**  
**For the Year Ended March 31, 2013**

	<b>2013</b>	<b>2012</b> Restated (Note 2)
<b>Operating Activities</b>		
Net and comprehensive loss from operations	\$ (1,060,356)	\$ (2,382,500)
Deduct non-cash transactions:		
Unrealized gains	<u>(359,471)</u>	<u>(62,779)</u>
Net and comprehensive loss from operations - cash basis	<u>( 1,419,827)</u>	<u>(2,445,279)</u>
<b>Increase in Estates and Trusts</b>		
Sale of securities	9,123,705	9,890,611
Sale of real estate and other assets	3,348,381	3,900,873
Cash holdings of new estates and trusts	<u>7,164,842</u>	<u>4,199,904</u>
	<u>19,636,928</u>	<u>17,991,388</u>
<b>Decrease in Estates and Trusts</b>		
Purchase of securities	(11,457,740)	(9,110,688)
Distribution of cash holdings in estates and trusts	(6,678,546)	(6,508,238)
Change in Common Fund cash position	8,808	3,500
Transfer to Province – Section 28	<u>(287,546)</u>	<u>(124,757)</u>
	<u>(18,415,024)</u>	<u>(15,740,183)</u>
 (Decrease) increase in cash	 <u>\$ (197,923)</u>	 <u>\$ (194,074)</u>
 Cash, beginning of year	 <u>2,187,685</u>	 <u>2,381,759</u>
Cash, end of year	<u>\$ 1,989,762</u>	<u>\$ 2,187,685</u>

(See accompanying notes to the financial statements.)

**1. Reporting Entity**

The Office of the Public Trustee was established pursuant to the Public Trustee Act and is independent of government. It is set up as a corporation to protect the financial and personal well-being of clients. The Public Trustee is empowered to perform the duties of a guardian, custodian, trustee, and executor or administrator of an estate. All investments by the Public Trustee are to be made in accordance with the Trustee Act.

This set of financial statements reflects the net assets held in trust and the activity for the estates and trusts administered by the Public Trustee. Separate operating costs for the Public Trustee have been prepared in Note 9.

**2. Restatement of Prior Year**

During the year, the Public Trustee determined that certain assets included in "other assets" were not valued at a nominal amount (\$1) in accordance with the stated accounting policy, and that prior year's Estimates and Trusts balances were overstated. Accordingly, the opening balance of Net Assets Held in Trust as at March 31, 2011 was restated by \$99,920, and the balance of Estates and Trusts was adjusted for the same amount.

In addition, it was determined that the amount payable to the Special Reserve Fund from the Common Fund was not properly recognized in the financial statements. Accordingly, an adjustment was made to increase expenses and accounts payable by \$146,732 for the year ended March 31, 2012. The amount was transferred to the Special Reserve Fund during the current year.

**3. Basis of Preparation**

**a) Statement of Compliance**

These financial statements have been prepared in accordance with the principles of International Financial Reporting Standards (IFRS).

**b) Basis of Measurement**

The financial statements have been prepared on the historical cost basis except for securities, real estate, other assets, and amounts receivable and payable which are presented at fair value.

**c) Functional and Presentational Currency**

The financial statements are presented in Canadian dollars, which is the functional currency for the Office of the Public Trustee.

**d) Use of Estimates and Judgments**

The preparation of these financial statements in conformity with IFRS requires management to make judgments, estimates and assumptions that affect the application of accounting policies and the reporting amounts of assets, liabilities, income and expenses. Actual results could differ from management's best estimates as additional information becomes available in the future.

#### 4. Summary of Significant Accounting Policies

The accounting policies set out below have been applied consistently to all periods presented in the financial statements.

##### (a) Initial Recognition and Valuation of assets and liabilities

The Public Trustee administers client investments, real property, and other assets (eg. vehicles, jewelry, etc.). On initial recognition, these assets and liabilities are recorded at fair value on the effective date the Public Trustee commences administration of the asset or liability.

Other assets including personal effects are carried at fair value. Fair value is determined through appraisal where deemed appropriate. For some other assets where no observable market exists these assets remain valued at a nominal amount (\$1) until such time that more reliable valuation information is available.

##### (b) Subsequent Valuation

###### ***Real Property***

IFRS requires that, in the absence of an IFRS that can be specifically applied to a situation, management should use judgment in developing and applying an accounting policy to provide relevant, reliable and prudent information. In these instances, it is suggested that IFRS requirements in dealing with similar issues are applied, as well as measurement concepts included within the IFRS framework.

Real property included within the statement of net assets primarily represents the value of residential properties currently occupied by the clients administered by the Office, or forming part of their estates. Real property is carried at fair value in the statement of net assets as determined by professional appraisals or, where an appraisal is not available or is not current, as determined from the most recent property assessment or other relevant valuation data.

###### ***Investments***

Client securities are carried at fair value in the statement of net assets as determined by external third party information.

The composition of securities administered by the Public Trustee is as follows:

i) Guaranteed Investment Certificates	74%
ii) Equity Securities	9%
iii) Bonds	3%
iv) Other (RRSPs, RRIFs, Mutual Funds)	14%

**4. Summary of Significant Accounting Policies (continued)**

***Other Assets***

Other client assets are carried at fair value in the statement of net assets as determined by appraisal where deemed appropriate, or, where no active market exists, are held at a nominal value (\$1).

**c) Revenue Recognition**

Income from pensions, benefits and settlements, as well as interest and other investment income is recognized as earned on an accrual basis.

Gains and losses on assets represent the appreciation or depreciation in the value of assets administered by the Office of the Public Trustee from the value assigned on the date of the commencement of administration of assets by the Public Trustee, 'the date of purchase', or the last balance sheet date. Such gains and losses become realized on the date the assets are sold or released to clients, beneficiaries or heirs. Both realized gains and losses and changes in unrealized gains and losses are reported in the statement of net and comprehensive income and loss.

**(d) Cash and Cash Equivalents**

Investments held by the Office of the Public Trustee are highly liquid and may be easily drawn upon by the Public Trustee in administering the estates and trusts.

**5. Financial Risk Management**

Section 3(1) of the *Public Trustee Act* grants all trustees the authority to invest in any form of property or security, including a security issued by a mutual fund. The standard of care, skill, diligence and judgment imposed by the section is that of a prudent investor. The Public Trustee utilizes a conservative investment management orientation. All trust property must be invested in a manner that reflects the standard and high duty of care required to fulfill the responsibilities of the Public Trustee. The Public Trustee's long-term objectives as a prudent investor are threefold:

- i) to minimize any loss of capital;
- ii) where possible, to provide income sufficient to meet the individual client's or trust's ongoing income needs; and
- iii) for clients or trusts with higher risk tolerances or longer term investment horizons, the potential for capital appreciation

**5. Financial Risk Management (continued)**

The majority of the accounts held by the Public Trustee are administered on behalf of clients and are not held in a pooled fund. Clients with five years or less projected investment horizon with the Public Trustee may have their excess funds invested in a combination of cashable guaranteed investment certificates (GICs), treasury bills, fixed term GICs and bonds with a maximum investment period of five years.

**Liquidity risk**

Liquidity risk is the risk that a client account is unable to meet its financial obligations as they come due. The Public Trustee minimizes this risk by ensuring that client accounts hold sufficient cash funds to meet current liabilities and expenses and considers liquidity risk at March 31, 2013 to be insignificant.

**Credit risk**

Credit risk is the risk that a counterparty to a financial instrument will fail to discharge an obligation or commitment it has entered into, resulting in a financial loss. The investment policy established by the Public Trustee limits credit risk in the following manner: client excess funds invested in GICs are not to exceed \$95,000 from a national bank or trust company or \$235,000 from a credit union. This ensures that if a financial institution defaulted the client would receive from the insurance plan the client's principal plus any accrued interest. Bonds purchased with client excess funds must have a minimum rating of BBB by the Dominion Bond Rating Service or an equivalent rating by another recognized rating agency.

**Interest rate risk**

Interest rate risk is the risk that the fair value or cash flows of interest bearing investments will fluctuate due to changes in market interest rates. Investments in guaranteed investment certificates and other term deposits with a maturity greater than one year are subject to interest rate risk. The effect on net income of a 1% change in interest rates on term deposits with a maturity of greater than one year would be estimated at \$91,188 (2012 - \$79,503). Because most term deposits held by the Public Trustee have a term to maturity of one year or less, interest rate risk is not considered significant. The Public Trustee mitigates this risk by investing excess client funds in a diversified portfolio, including investing in fixed rate securities.

**6. Common Fund Securities**

Section 30 of the Public Trustee Act permits the Public Trustee to invest monies, not subject to any express trust or direction for investment thereof, into a Common Fund. Investments of the Common Fund are valued at market value as of March 31, 2013. The Common Fund serves as a general bank account for its clients and allows the Public Trustee to pool small value client accounts in order to provide more substantial balances used to purchase income-generating investments.

The interest to be paid to clients with funds in the Common Fund is determined by a regulation which is as follows: the prescribed rate of interest is a floating rate ascertained by the Public Trustee half yearly, and is one percent less than the rate arrived at by averaging the lowest rate offered during the period on savings – non-chequing accounts by the Canadian Imperial Bank of Commerce and the Royal Bank of Canada at their respective Halifax branches. In addition, the regulation provides that, in order to earn interest, the client's account must have had a minimum quarterly balance of \$1,000 or more and must have been held in trust by the Public Trustee for more than three months.

Due to the fact that the current interest rate is below the prescribed rate, all interest received in the Common Fund during the year will be transferred to the Special Reserve Fund after providing for bank fees and other charges in the Common Fund, in accordance with the Public Trustee Act.

A continuity of the Common Fund is as follows:

	<b>March 31, 2013</b>	<b>March 31, 2012</b>
<b>Balance</b> , beginning of year	\$ 2,966,083	\$ 2,966,442
Add: Purchase of securities	685	-
Interest and investment income	<u>140,931</u>	<u>150,954</u>
	3,107,699	3,117,396
Less: Disbursements	(6,541)	(4,581)
Amount to be transferred to the Special Reserve Fund	<u>(137,924)</u>	<u>(146,732)</u>
<b>Balance</b> , end of year	<u>\$ 2,963,234</u>	<u>\$ 2,966,083</u>

The balance of the Common Fund consists of:

Investments	\$ 2,967,127	\$ 2,966,442
Cash	137,924	146,732
Payables	<u>(141,817)</u>	<u>(147,091)</u>
	<u>\$ 2,963,234</u>	<u>\$ 2,966,083</u>

**7. Special Reserve Fund**

Section 32 of the Public Trustee Act provides for the establishment of a Special Reserve Fund. The Fund is administered by the Public Trustee and held in joint trust with the Deputy Minister of Finance.

The stated purpose of the Fund is to provide for any future deficiency in the Common Fund. Investment income earned in the Common Fund in excess of the prescribed interest paid to clients' accounts is transferred to the Special Reserve Fund annually as required by the Public Trustee Act.

Income received on investments in the Special Reserve Fund may be transferred to the Province's general revenues in such amounts as may be determined by the Public Trustee and the Deputy Minister of Finance. Such transfers are applied to the cost of administration of the Common Fund, the Special Reserve Fund, and the Public Trustee Office.

On an annual basis the Public Trustee consults with the Deputy Minister of Finance and the decision has been to transfer the Special Reserve Fund interest to the Minister of Finance for the purposes prescribed in legislation. Interest received during the year to be transferred to the Province totalled \$95,949 (2012 - \$94,784).

The continuity of the Special Reserve Fund is as follows:

	<b>March 31, 2013</b>	<b>March 31, 2012</b>
<b>Balance</b> , beginning of year	\$ 2,613,506	\$ 2,464,827
Add: Interest income	95,388	96,068
Amount to be transferred from the Common Fund	<u>137,924</u>	<u>146,732</u>
	2,846,818	2,707,627
Less: Amount transferred to the Province of Nova Scotia	<u>(94,784)</u>	<u>(94,121)</u>
<b>Balance</b> , end of year	<u>\$ 2,752,034</u>	<u>\$ 2,613,506</u>

The balance of the Special Reserve Fund consists of:

Investments	\$ 2,462,474	\$ 2,316,234
Receivables	185,905	195,274
Cash	<u>103,655</u>	<u>101,998</u>
	<u>\$ 2,752,034</u>	<u>\$ 2,613,506</u>

**8. Fair Values**

Client investments and Common Fund assets as well as other financial assets are reflected in the statement of net assets at fair value. In management's opinion, the fair value of cash and accrued interest approximates their carrying value due to the short term to maturity.

*Fair Value Hierarchy* - The three levels of the fair value hierarchy are as follows:

Level 1 – Unadjusted prices in active markets for identical assets or liabilities.

Level 2 – Observable inputs other than Level 1 prices, such as quoted prices for similar assets or liabilities, quoted prices in markets with insufficient volume or infrequent transactions (less active market).

Level 3 – Inputs that are unobservable; there is little, if any, market data. Fair value determination would generally require significant management judgment or estimation.

As at March 31, 2013, client investments and common fund investments were valued using Level 2 inputs. During the year ended March 31, 2013, there was no transfer between Level 2 and the other levels in the fair value hierarchy.

**9. Operating Costs**

Operating costs of the Office of the Public Trustee are absorbed by the Nova Scotia Department of Justice and are not reflected in the Statement of Net and Comprehensive Income. These costs are offset by fees charged for administering estates, recoveries of client expenses paid by the Public Trustee, and transfers of investment income from the Special Reserve Fund. Included in fees charged by the Public Trustee is HST totalling \$133,108 (2012 - \$149,303), which the Public Trustee collects on behalf of the Province. These amounts are not included as part of fees used to offset operating costs.

**9. Operating Costs (continued)**

	2013	2012
Department of Justice		
Salaries and benefits	\$ 1,921,600	\$ 1,906,626
Other operating costs	146,854	117,695
Rent	<u>133,952</u>	<u>126,548</u>
	<u>2,202,406</u>	<u>2,150,869</u>
Less transfers to the Province		
Fees	885,764	1,159,693
Recoveries	23,852	23,883
Special Reserve Fund Income	<u>94,784</u>	<u>94,121</u>
	<u>1,004,400</u>	<u>1,277,697</u>
Net cost to the Province	<u>\$ 1,198,006</u>	<u>\$ 873,172</u>

**10. Comparative Figures**

During the year, the Public Trustee determined that certain expenses included in the March 31, 2012, Statement of Net and Comprehensive Loss, were allocated incorrectly. Consequently, these balances have been adjusted to reflect the correct allocation. These adjustments have no effect on March 31, 2012 Net and Comprehensive Loss.

PUBLIC TRUSTEE STATISTICS

SCHEDULE "A"

CASES ACTIVE AS OF MARCH 31, 2013

ESTATES AND TRUSTS

<u>Estate of Deceased</u>	<u>Adult's Estate (Living)</u>	<u>Infant's Estate (Living)</u>	<u>Undistributable Estate or Trust</u>	<u>Missing Person's Estate</u>	<u>Patients' Abandoned Property Act</u>	<u>Specific Trust</u>	<u>Renunciation</u>	<u>TOTAL</u>
157	440	181	8	4	3	23	268	1084

REPRESENTATIVE LITIGATION

<u>Presumption of Death Act</u>	<u>Missing/ Unascertained Person</u>	<u>Survival of Actions Act</u>	<u>Guardian ad litem of Incompetent Adult</u>	<u>Guardian ad litem of Infant</u>	
5	8	15	2	3	33
<u>CONSENT TO TREATMENT</u>					<u>GRAND TOTAL:</u>
					<u>350</u>
					<u>1467</u>

REQUESTS, COMPLAINTS, INQUIRIES, LITIGATION, REFERRALS

Individual General Inquiries April 1, 2012 - March 31, 2013      TOTAL:      370

**PUBLIC TRUSTEE STATISTICS**

**SCHEDULE "B"**

**VOLUME AND PROGRESS OF CASELOAD**

<b><u>FISCAL YEAR</u></b>	<b><u>VOLUME AT START</u></b>	<b><u>NEW CASES ADDED</u></b>	<b><u>CASES CLOSED</u></b>	<b><u>VOLUME AT YEAR END</u></b>
April 1/12 - March 31/13	1321	414	268	1467
April 1/11 - March 31/12	1189	428	296	1321
April 1/10 - March 31/11	1101	383	295	1189
April 1/09 - March 31/10	1050	284	233	1101
April 1/08 - March 31/09	1013	310	273	1050

PUBLIC TRUSTEE STATISTICS

SCHEDULE "C"

BREAKDOWN OF CASES CLOSED

FISCAL YEAR ENDING	ESTATE OF DECEASED	ADULT'S ESTATE (LIVING)	INFANT'S ESTATE (LIVING)	UNDISTRIBUTABLE ESTATE OR TRUST	MISSING PERSON'S ESTATE	PATIENTS' ABANDONED PROPERTY ACT	SPECIFIC TRUST	CONSENT TO TREATMENT	RENUNCIATION	TOTAL
March 31/13	88	92	35	3	1	Nil	6	41	Nil	266
March 31/12	66	91	31	6	Nil	1	Nil	39	62	296
March 31/11	60	92	43	5	Nil	1	4	15	55	275
March 31/10	42	67	22	4	Nil	1	2	3	89	230
March 31/09	39	83	26	Nil	1	1	2	2	99	253

PUBLIC TRUSTEE STATISTICS

SCHEDULE "D"

BREAKDOWN OF NEW CASES ADDED

FISCAL YEAR ENDING	ESTATE OF DECEASED	ADULT'S ESTATE (LIVING)	INFANT'S ESTATE (LIVING)	UNDISTRIBUTABLE ESTATE OR TRUST	MISSING PERSON'S ESTATE	PATIENTS' ABANDONED PROPERTY ACT	SPECIFIC TRUST	CONSENT TO TREATMENT	RENUNCIATION	TOTAL
March 31/13	73	145	24	5	Nil	1	5	95	65	413
March 31/12	58	109	23	3	1	1	3	163	61	422
March 31/11	63	121	15	4	1	1	2	96	74	377
March 31/10	59	103	37	4	Nil	1	5	12	56	277
March 31/09	56	112	52	3	Nil	1	4	11	63	302

PUBLIC TRUSTEE STATISTICS

SCHEDULE "E"

FUNDS TRANSFERRED TO DEPARTMENT OF FINANCE

YEAR ENDING	PUBLIC TRUSTEE FEES	EXPENSE RECOVERIES	SPECIAL RESERVE FUND INVESTMENT INCOME	SECTION 28
	Revenue *1	Revenue *2	Revenue	Trust Funds *3
March 31, 2013	\$881,970.00	\$23,852.00	\$94,784.00	\$287,546.00
March 31, 2012	\$1,159,693.00	\$23,883.00	\$94,121.00	\$124,758.00
March 31, 2011	\$861,842.00		\$155,649.00	\$90,208.00
March 31, 2010	\$824,226.00		\$107,571.00	\$158,152.00
March 31, 2009	\$652,900.00		\$81,393.00	\$52,863.00
March 31, 2008	\$665,149.00		\$78,877.00	\$406,151.00

\*1 Fees of counsel and solicitor, proctor's fees, administrator's commission collected from estates and transferred; figures do not include accruals.

\*2 Pre-tax expenses recovered from clients eg postage, photocopy. Figures first included in March 31, 2012.

\*3 May be subject of claims, *Public Trustee Act, s. 35.* ; figures do not include accruals.

**PUBLIC TRUSTEE STATISTICS**

**SCHEDULE "E1"**

<b>YEAR ENDING</b>	<b>COMMON FUND INVESTMENT INCOME TRANSFERRED TO SPECIAL RESERVE FUND</b>	<b>SPECIAL RESERVE FUND ACCUMULATED NON-TRANSFERABLE EQUITY</b>
March 31, 2013	\$137,924.00	\$2,656,084.00
March 31, 2012	\$146,732.00	\$2,518,722.00
March 31, 2011	\$150,231.00	\$2,370,705.00
March 31, 2010	\$128,072.00	\$2,218,101.00
March 31, 2009	\$126,607.00	\$2,090,009.00
March 31, 2008	\$143,287.00	\$1,962,921.00

**PUBLIC TRUSTEE STATISTICS**

**SCHEDULE "F"**

**HEALTH CARE DECISIONS**

<b>Client Files</b>	<b>2011-12</b>	<b>2012-13</b>
Active files at April 1 <sup>st</sup>	172	296
New Client Files opened	133	95
Deactivated Files reopened	30	0
Client Files closed	(39)	(41)
Active Files at March 31 <sup>st</sup>	296	350

<b>Legislation</b>	<b>2011-12</b>	<b>2012-13</b>
<i>Hospitals Act</i>	100	113
<i>Involuntary Psychiatric Treatment Act</i>	48	56
<i>Personal Directives Act</i>	331	353
<b>Total</b>	<b>479</b>	<b>522</b>

**TOTAL DECISIONS**

**YEAR ENDING**

**NUMBER OF DECISIONS**

**March 31, 2013**

**1465**

**March 31, 2012**

**1261**

**SCHEDULE "G"**

**RENUNCIATIONS**

**YEAR ENDING**

**NUMBER OF RENUNCIATIONS**

March 31, 2013

65

March 31, 2012

61

March 31, 2011

74

March 31, 2010

56

March 31, 2009

63

**PUBLIC TRUSTEE STATISTICS**

**SCHEDULE "H"**

**REPRESENTATIVE LITIGATION CASES OPENED**

<b>FISCAL YEAR ENDING:</b>	<b>PRESUMPTION OF DEATH ACT</b>	<b>MISSING/ UNASCERTAINED PERSON</b>	<b>SURVIVAL OF ACTIONS ACT</b>	<b>GUARDIAN <i>ad litem</i> OF INCOMPETENT ADULT</b>	<b>GUARDIAN <i>ad litem</i> OF INFANT</b>	<b>TOTAL</b>
March 31, 2013	Nil	1	Nil	Nil	Nil	1
March 31, 2012	2	1	3	Nil	Nil	6
March 31, 2011	1	Nil	3	1	1	6
March 31, 2010	Nil	1	3	1	2	7
March 31, 2009	4	Nil	3	1	Nil	8

PUBLIC TRUSTEE STATISTICS

SCHEDULE "H1"

REPRESENTATIVE LITIGATION CASES CLOSED

FISCAL YEAR ENDING:	PRESUMPTION OF DEATH ACT	MISSING/ UNASCERTAINED PERSON	SURVIVAL OF ACTIONS ACT	GUARDIAN <i>ad litem</i> OF INCOMPETENT ADULT	GUARDIAN <i>ad litem</i> OF INFANT	TOTAL
March 31, 2013	Nil	NIL	Nil	1	1	2
March 31, 2012	Nil	Nil	Nil	Nil	Nil	Nil
March 31, 2011	10	Nil	8	1	1	20
March 31, 2010	Nil	Nil	Nil	2	1	3
March 31, 2009	6	Nil	14	Nil	Nil	20



**Health Care Decisions**

***Annual Statistical Report***

***2012-13***

## **SUMMARY**

Pursuant to the *Hospitals Act (HA)*, *Involuntary Psychiatric Treatment Act (IPTA)*, and *Personal Directives Act (PDA)*, the Public Trustee through the Health Care Decisions division acts as decision-maker of last resort for individuals who lack the capacity to make decisions concerning medical, surgical, and psychiatric treatment, as well as health care, home care services, and placement to a continuing care home, and who have no higher-ranked substitute with capacity who is willing and able to act on their behalf.

All three performance indicators of the Health Care Decisions (HCD) division (i.e. complaints, response times and attendance at client conferences) were within established targets for 2012-13 fiscal year. 2012-13 activities included the introduction of new referral forms, stakeholder education. Monitoring of the Health Care Decisions program was conducted and reported to the Public Trustee on a monthly basis. The following is a summary of annual statistics for the fiscal year 2012-13 , which are detailed in this report:

- 95 new clients files were opened during the year and 41 client files were closed during the year
- 522 referrals were received in 2012-13 as compared to 475 referrals for 2011-12, an increase of 9%.
- 67.6% of referrals were under PDA, 21.7% under HA, and 10.7% under IPTA, which is consistent with 2011-12.
- Capital District Health Authority submitted the most referrals with 245 (46.9%) and South Shore District Health Authority submitted the least with 8 referrals (1.5%)
- A total of 1465 decisions were made in 2012-13, 1199 under PDA, 159 under HA, and 107 under IPTA
- The average number of decisions per referral was 2.8, compared to 2.6 in 2011-12.
- 92.6% of decisions were level-1, 6% of decisions were level-2, and 1.4% of decisions were level-3

## **Recommendations**

1. Continue the annual quality review and evaluation of divisional policies, procedures, and operational processes;
2. Continue to provide external stakeholder education throughout the province regarding the Health Care Decisions division's role, policies, and processes; and
3. Continue to seek feedback from external stakeholders with respect to HCD policies and processes to promote continuous quality improvement and best practice in decision making.

# HEALTH CARE DECISIONS DIVISION

## ***Public Trustee Mission***

The Public Trustee is committed to the proper administration of estates of deceased persons, incompetent persons, children, and missing persons. It is also committed to provide informed consents for health care, placement to a continuing care home or home care services using an approach that is client-centred, respectful of human rights and freedoms, and in the client's best interests if prior wishes, values, and beliefs are not known.

## ***Principles and Standards***

Together with the *Personal Directives Act*, the *Hospitals Act*, and the *Involuntary Psychiatric Treatment Act*, the foundation documents supporting the Health Care Decisions Division are the Canadian Charter of Rights & Freedoms and the *Nova Scotia Human Rights Act*.

Underpinning Health Care Decision program policy are ***best interest principles*** and the ***principle of informed consent***. Division policies also employ the four commonly held ***principles of health care ethics***, namely: respect for autonomy; non-injury; beneficence; and justice. Respect for autonomy is demonstrated by respecting the client's prior capable wishes, values and beliefs if known and consideration of the client's rights to independence and freedom; non-injury is demonstrated in decision-making that avoids or minimizes risk to the client; beneficence is demonstrated in decisions that benefit the client; and justice is demonstrated in decisions that are fair and equitable.

The Health Care Decisions Division stands in the place of the client and is entitled to the same information and freedom of choice as the client would have received if he or she had capacity. Decisions are made using the ***reasonable person standard***; after carefully considering the available relevant information, the Health Care Decisions Division makes a reasonably well-informed decision to consent, to not consent, or to withdraw consent as a reasonably prudent and careful lay person would do in similar circumstances and not as a health care professional.

## ***Structure***

Health Care Decisions Division



The Health Care Decisions Division team serves all of Nova Scotia and, in addition to the Public Trustee, is made up of three full-time equivalents (FTE), namely: the Coordinator and two Consultants. The Program Assistant hours cover approximately 30 hours Monday to Friday in a combination of full and half days and are taken from already existing legal assistant FTEs within the Public Trustee Office.

# PROGRAM

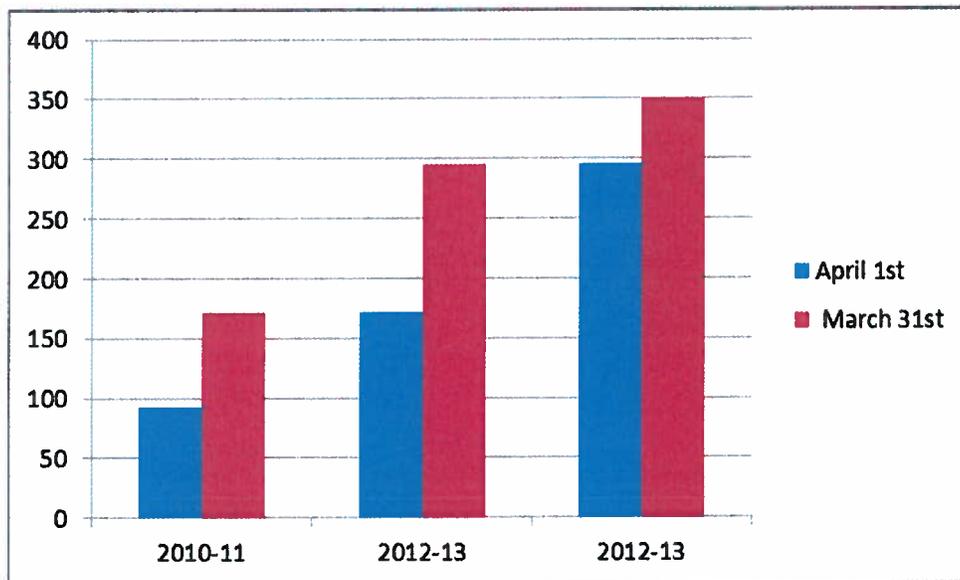
## *2012-2013 Statistical Overview*

95 new client files were opened in 2012. With the closure of 41 files, the year-end balance of 350 active files represents an 18.2% increase in the total number of active files.

**Table 1 – Year over year comparison of active and closed client files**

Client Files	2010-11	2011-12	2012-13
Active files at April 1 <sup>st</sup>	93	172	296
New Client Files opened	93	133	95
Deactivated Files reopened	1	30	0
Client Files closed	(15)	(39)	(41)
Active Files at March 31 <sup>st</sup>	172	296	350

**Chart 1 – Comparison of active files at year start and year end**



**Table 2 – Closed Files**

Reason for Closing	2010-11	2011-12	2012-13
Client death	11	27	30
Higher-ranked statutory decision maker	4	11	9
Delegate named in personal directive	0	1	0
Capacity regained	0	0	2
<b>Total</b>	<b>15</b>	<b>39</b>	<b>41</b>

## Referrals

### Total Referrals by legislation

In the fiscal year 2012-13, a total of **522** referrals were received: 113 (22%) referrals under *Hospitals Act*; 56 (11%) referrals under *Involuntary Psychiatric Treatment Act*; and 353 (67%) referrals under *Personal Directives Act*.

Chart 2 – Referrals by legislation

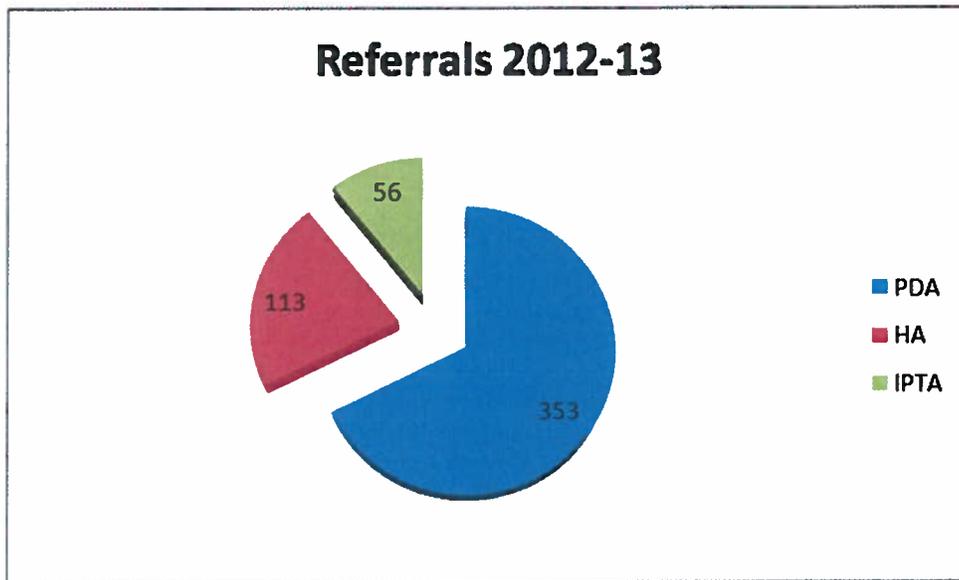
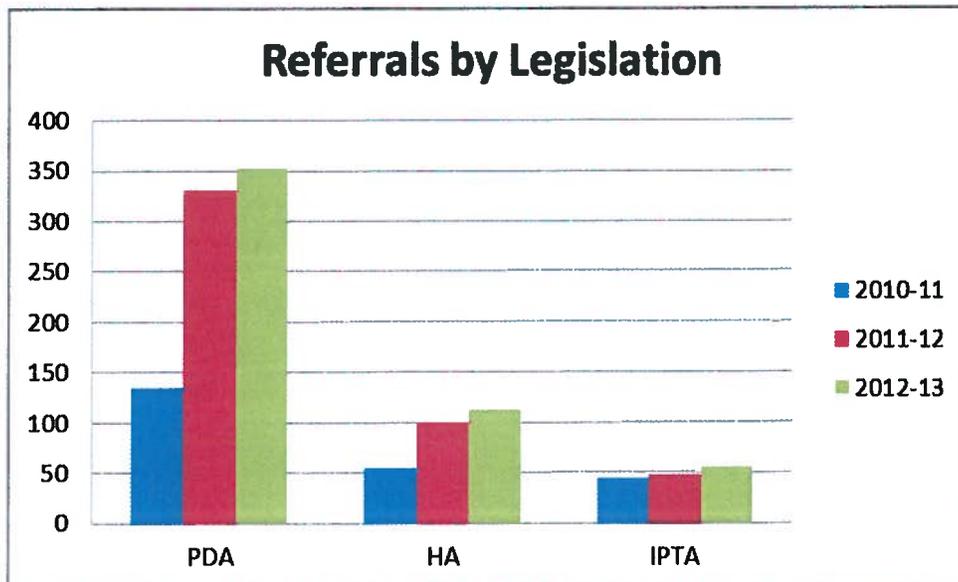
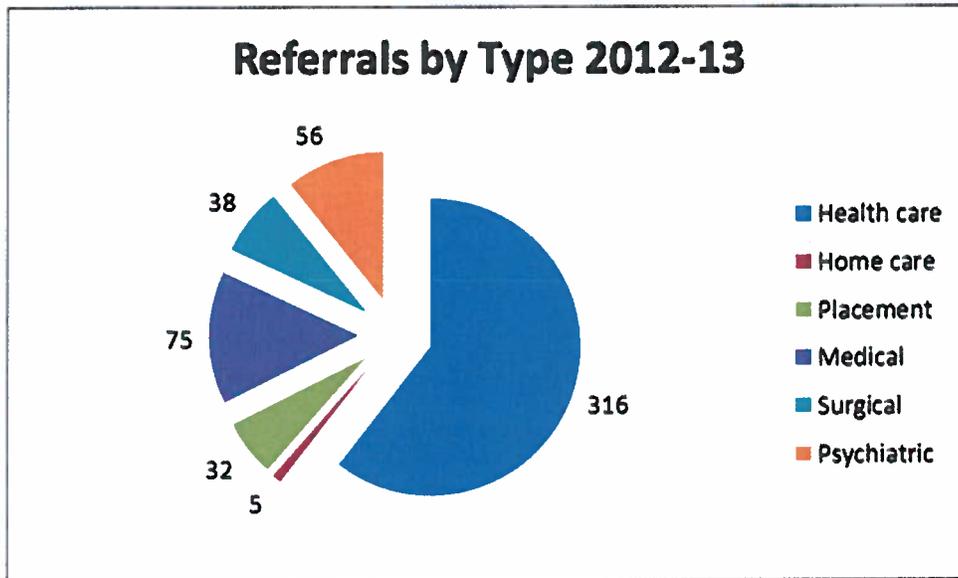


Chart 3 – Referrals - Year over year by Legislation



## Referrals by Type

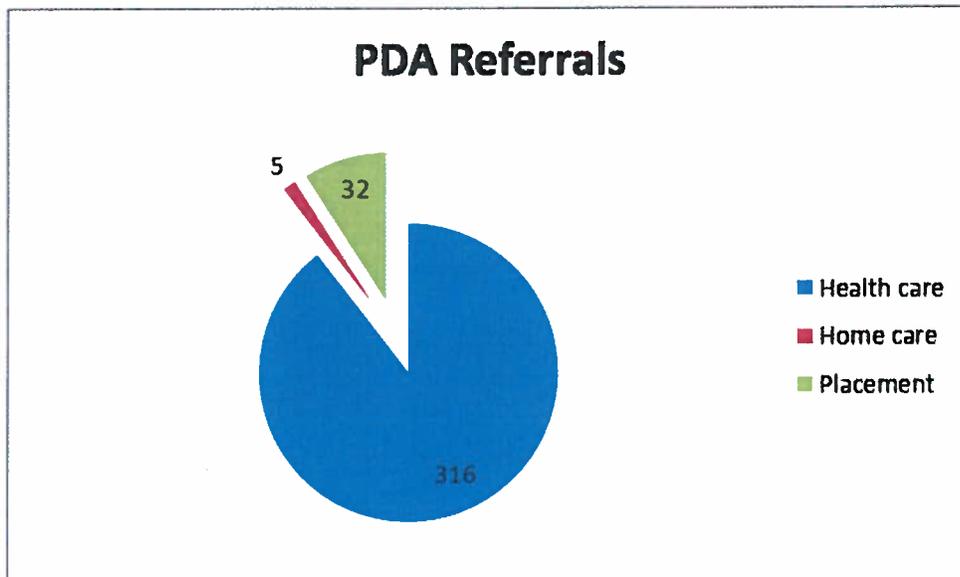
Chart 4 – Referrals by type



## Referrals under Personal Directives Act

*Personal Directives Act* includes referrals for health care, home care, and placement to a continuing care home. In 2012-13 a total of 331 referrals were received under PDA.

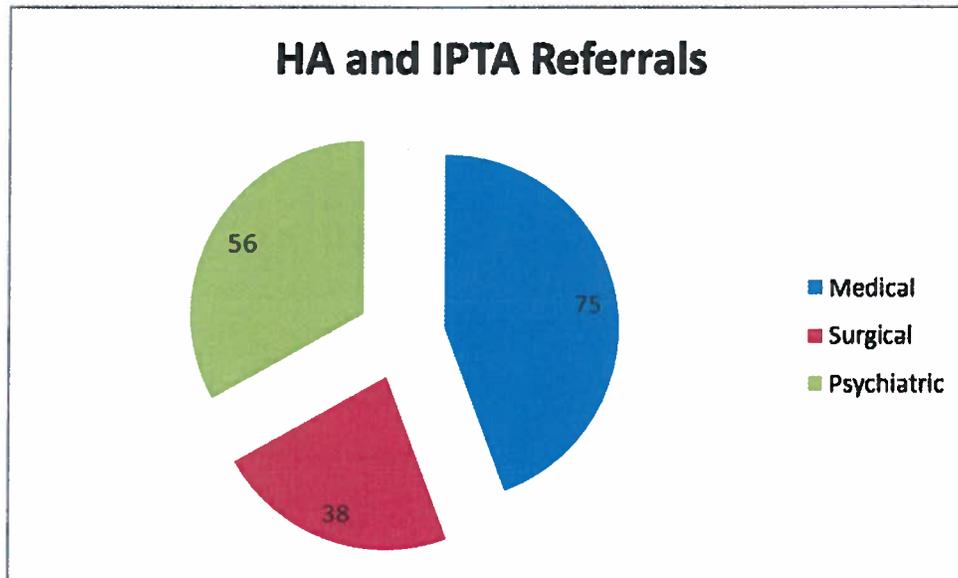
Chart 5 – 2012-13 Health Care, Home Care , and Placement Referrals



## Referrals under Hospitals Act and Involuntary Psychiatric Treatment Act

*Hospitals Act* includes referrals for medical treatment and surgical treatment. *Involuntary Psychiatric Treatment Act* includes referrals for psychiatric treatment in hospital and community treatment orders. In the fiscal year ending March 31, 2013, the Public Trustee provided 113 consents under the *Hospitals Act* and 56 under the *Involuntary Psychiatric Treatment Act*.

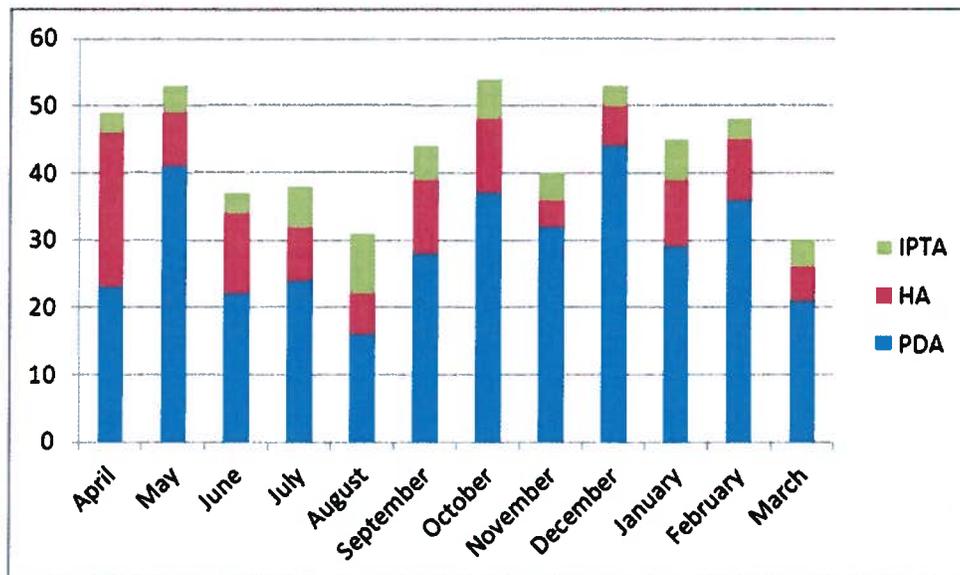
Chart 6 – 2012-13 Total medical, surgical, and psychiatric treatment referrals



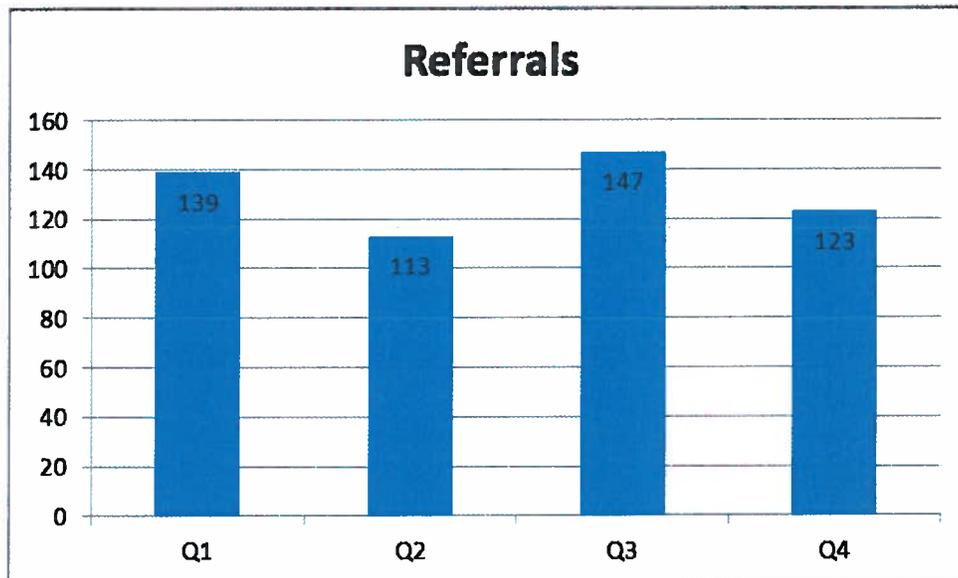
## Overview of referrals by month

The average number of referrals received each month in 2012-13 was 44. May and December had the most referrals received in a month at 53; August and March had the fewest at 31 and 30 referrals, respectively.

Chart 7 – 2012-13 Referrals per month by legislation



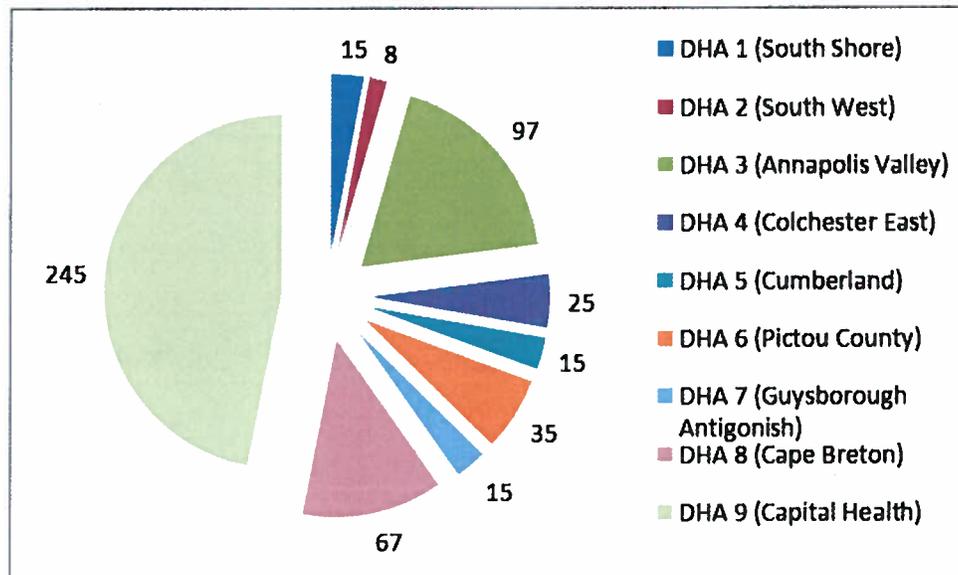
**Chart 8 – Total Referrals by quarter**



**Referrals by Geographic Area**

Geographic areas are defined by the District Health Authority (DHA) boundaries. All referrals have been sorted by DHA. 245 referrals (47%) of all referrals received in 2012-13 came from DHA 9 (Capital Health); this compares to 238 (50%) for 2011-12. Only 8 referrals (1.5%) were received from DHA 2 (South West); in 2011-12, DHAs 5 and 7 had the fewest referrals at 15 referrals each.

**Chart 9 – 2012-13 Total Referrals by DHA**

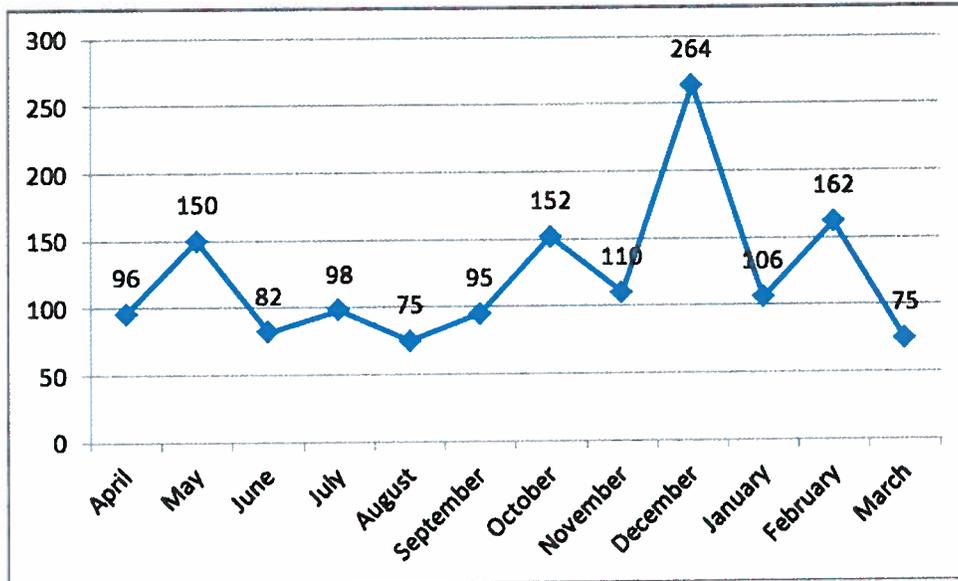


## Decisions

### Total Decisions

In the fiscal year 2012-13, a total of 1465 decisions were made compared to 1261 decisions made in 2011-12. April and March had the fewest decisions with 75 each. December had the most with 264 decisions made, which is almost identical to decisions made in December 2011-12, i.e. 263.

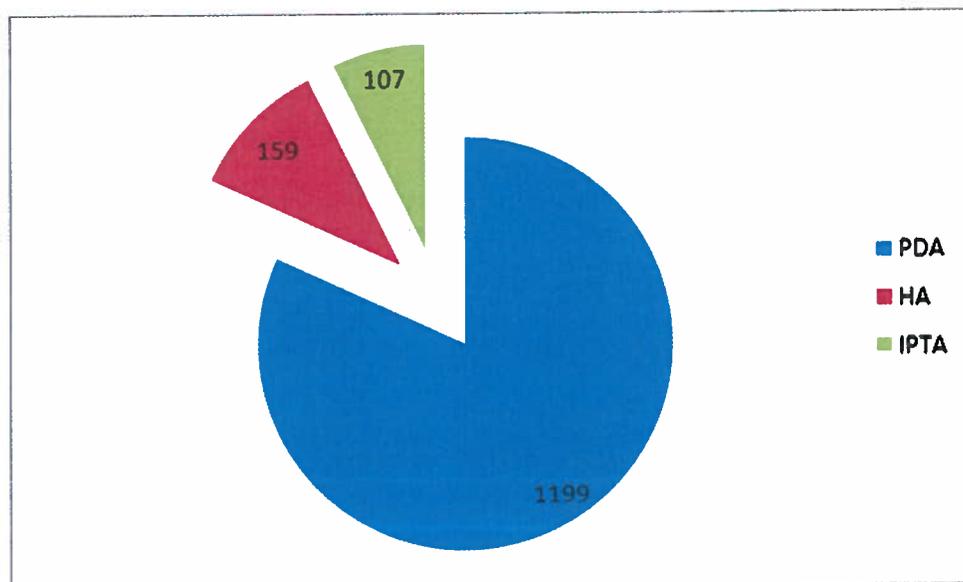
Chart 10 – Total Decisions 2012-13



### Total Decisions by Legislation

In the fiscal year 2012-13, of the 1465 decisions made: 159 (11%) were made under *Hospitals Act*; 107 (7%) were made under *Involuntary Psychiatric Treatment Act*; and 1199 (82%) were made under *Personal Directives Act*.

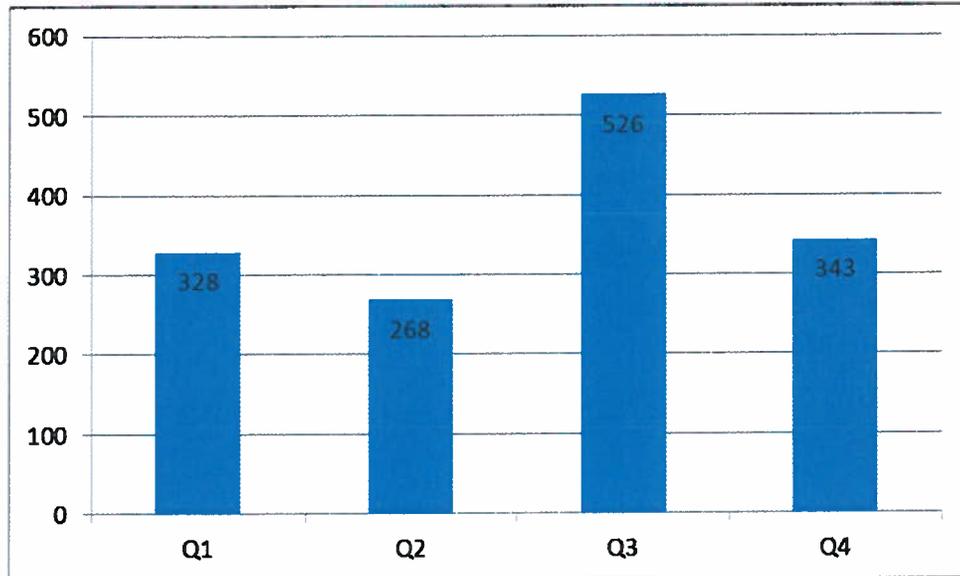
Chart 11 – Decisions by legislation



## Total Decisions by Year Quarter

There was an average of 2.8 decisions made per referral compared with 2.6 per referral in 2011-12.

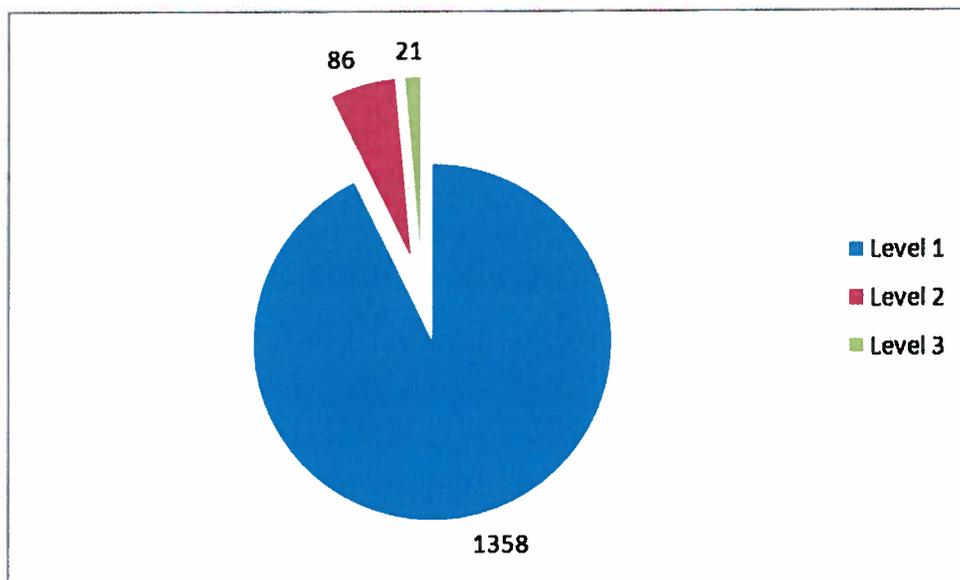
Chart 12 – Total Decisions by quarter



## Decision Levels

Each decision is categorized as level 1, level 2, or level 3 in accordance with the degree of risk to the client, with level 3 having the most risk. In 2012-13, there were 1358 (93%) level-1 decisions made, 86 (6%), level-2 decisions made, and 21 level-3 decisions made. Level 3 decisions represent 1.4% of all decisions made and are shown in Table 3.

Chart 13 – Total Decisions by level



**Table 3 – Level 3 Decisions 2012-13**

<b>Level 3 Decision</b>	<b>Number</b>
Electroconvulsive therapy (includes maintenance treatment schedules)	15
Community treatment orders (CTO) and CTO renewals	5
Amputation (above-knee)	1
<b>Total</b>	<b>21</b>

### **Top Five Decisions 2012-13**

In 2012-13, there were 70 different decision types with the top five decision types making up 52% of all types by volume compares to 55% in 2011-12.

**Table 4 - Top 5 decision-types by volume 2012-13**

<b>Decisions</b>	<b>Number</b>
Medications	194
Routine tests	151
Routine assessment by health care professional	146
Individualized care or support plan	141
Immunization / vaccination	128
<b>Total</b>	<b>760</b>

## **QUALITY**

### ***Quality Indicators***

#### **Complaints**

*2012-13 target was less than 5 complaints received during the year*

No complaints were received during the 2012-13 fiscal year. In response to the Office of the Auditor General's performance audit recommendation, the complaints policy was strengthened to include a definition of complaint and complaint tracking.

#### **Response times**

*2012-13 target was 95% of decisions letters sent within response time standard*

522 of 522 (100%) of decision letters were issued within the established response time standard of within 3 business days of receipt of all relevant and required referral information.

## **Client Conferences**

*2012-13 target was 95% attendance*

HCD staff were notified and invited to attend 31 client case conferences in 2012-13. 31 (100%) were attended; 5 were attended in person and 26 by teleconference.

## ***External Education***

Eight external education sessions about the role of the Public Trustee as substitute decision maker and the processes of the HCD Division were held to in 2012-13 for a total of 115 participants.

## ***Forms Revision***

Experience with the subsequent medical treatment referral form, which was introduced in 2011-12 was evaluated during 2012-13 with positive results both internally and from physicians in acute care. Consequently, similar forms were introduced under the *Personal Directives Act* and *Involuntary Psychiatric Treatment Act*. These forms are shortened versions of the full-length referral forms and are intended for repeated requests for decisions/consent for existing clients. These forms meet legislated requirements regarding jurisdiction in accordance with each law.

## ***Work Plan for 2013***

The Health Care Decisions team developed a work plan for the 2013 calendar year to address operational issues (e.g. website content revision, records management processes, policy development) as well as stakeholder education/outreach needs. A key activity planned for 2013 is the testing and implementation of the HCD audit policy and procedure.

## **Recommendations**

1. Continue the annual quality review and evaluation of divisional policies, procedures, and operational processes;
2. Continue to provide external stakeholder education throughout the province regarding the Health Care Decisions division's role, policies, and processes; and
3. Continue to seek feedback from external stakeholders with respect to HCD policies and processes to promote continuous quality improvement and best practice in decision making.