



# OFFICE OF THE PUBLIC TRUSTEE

ANNUAL REPORT

FOR THE FISCAL YEAR ENDING MARCH 31<sup>st</sup>, 2020



**Nova Scotia  
Public Trustee  
Office**

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*In Reply Please Quote Our File Number:*

September 23, 2025

The Honourable Becky Druhan  
Attorney General and  
Minister of Justice  
Province of Nova Scotia  
1690 Hollis Street, P.O. Box 7  
Halifax, Nova Scotia B3J 1A1

Dear Minister Druhan:

In accordance with section 47 of the *Public Trustee Act*, I submit the Annual Report of the Public Trustee of Nova Scotia for the fiscal year ending March 31, 2020.

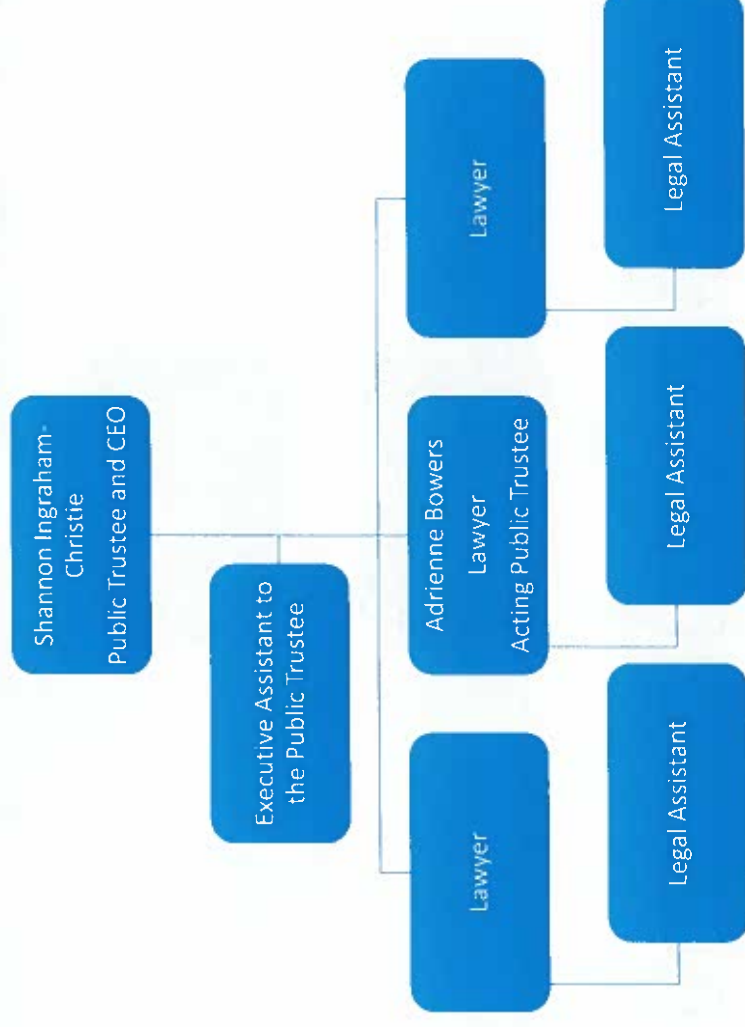
Yours very truly,

A handwritten signature in blue ink that reads "Shannon Ingraham-Christie".

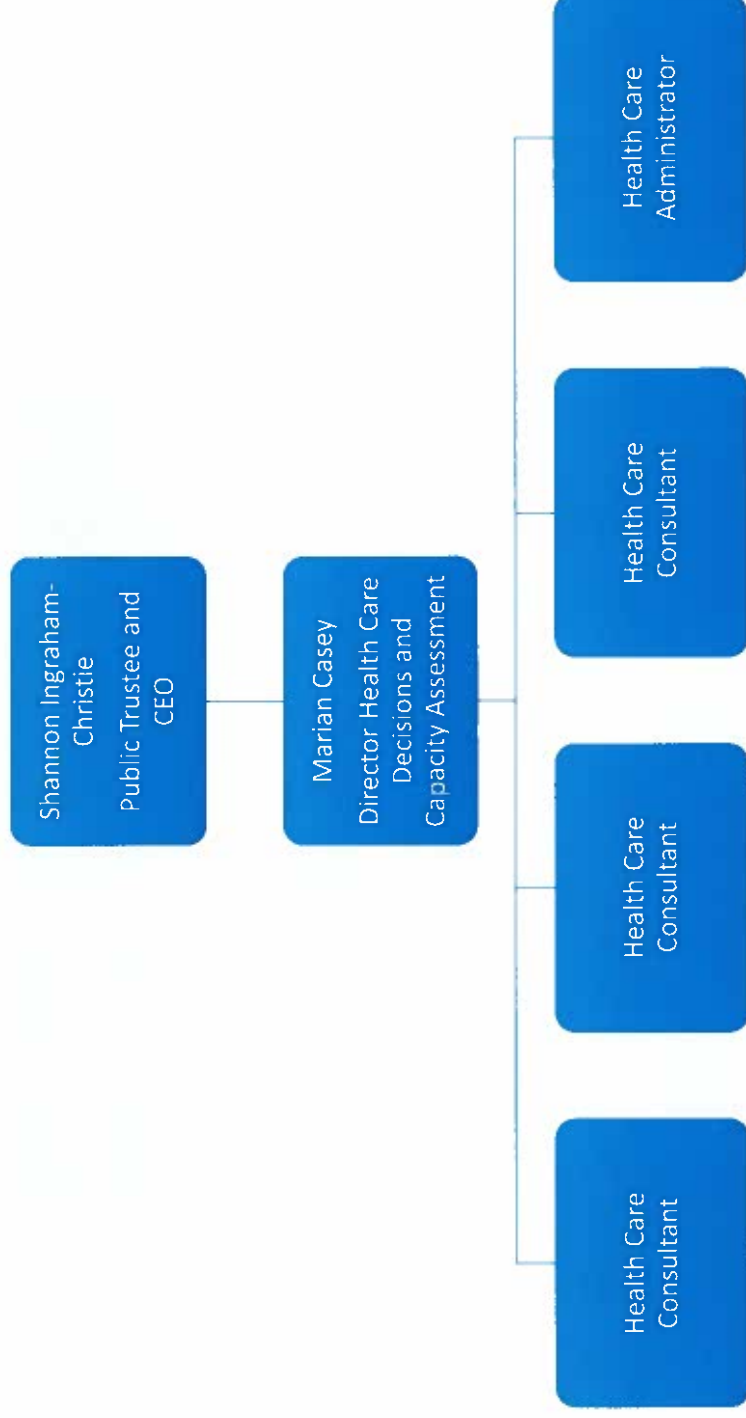
Shannon Ingraham-Christie, BBA LLB  
Public Trustee of Nova Scotia, Deputy Head

/sic  
Encl.

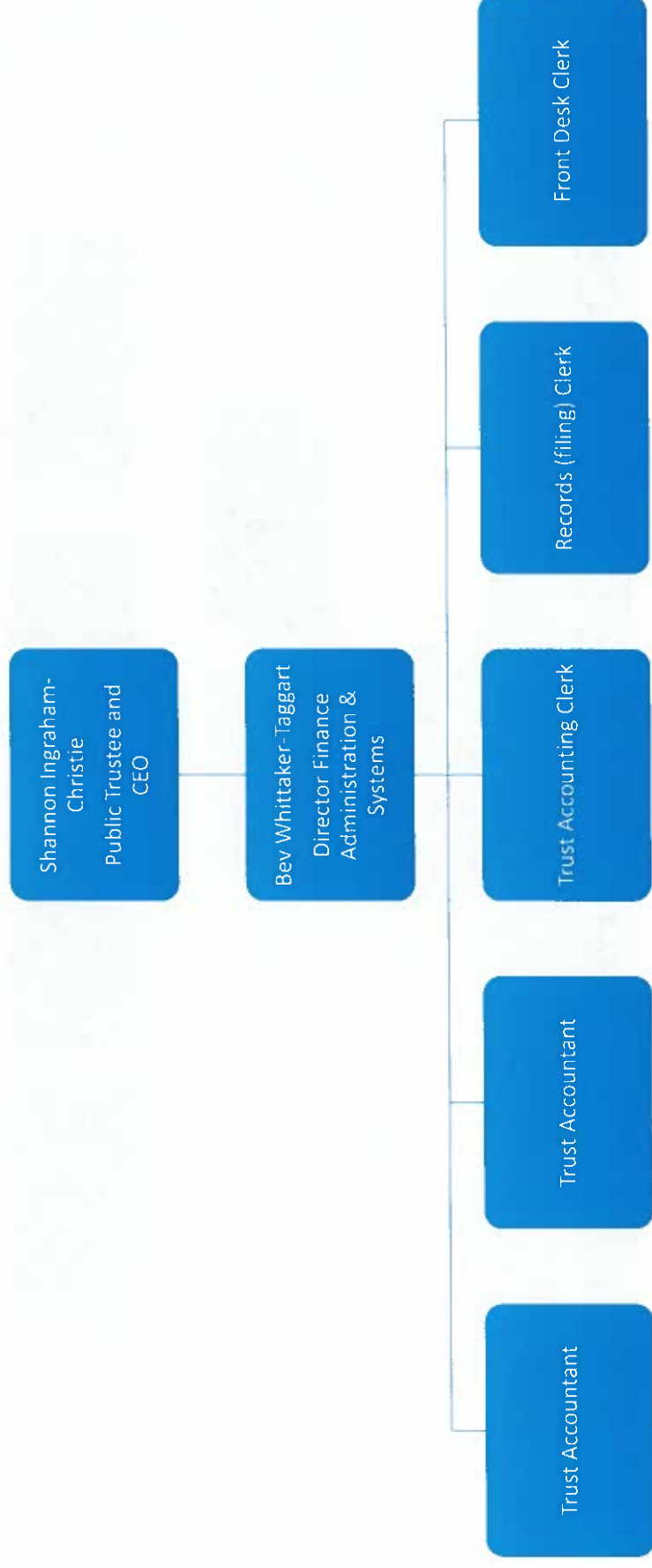
# Public Trustee Office - Legal



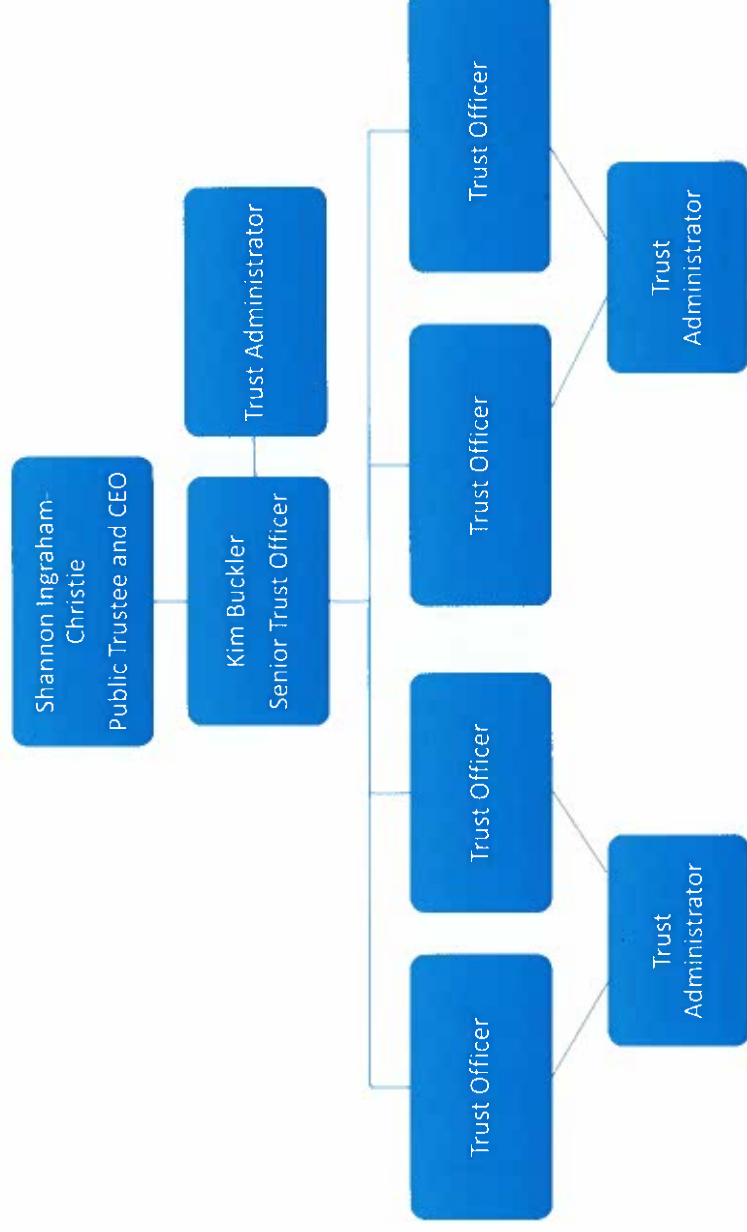
# Public Trustee Office-Health Care Division



# Public Trustee Office – Accounting and Administration



# Public Trustee Office – Trust Officers



## TABLE OF CONTENTS

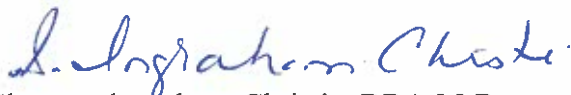
A.	MESSAGE FROM THE PUBLIC TRUSTEE	1
B.	OVERVIEW	
	Mission	2
	Organization	2
	Statistical Summary of Year	3
C.	SERVICES	
	Services for Mentally Incompetent or Physically Disabled Adults	5
	Health Care Decisions	10
	Deceased Estate Services	11
	Children's Trust Services	13
	Legal Representation Services	13
	Missing Persons Services	14
	Services pertaining to Undistributed Assets held in Trust by Third Parties	14
	Public Enquiries	15
D.	REVENUE AND COSTS OF PUBLIC TRUSTEE OFFICE	16
E.	ATTACHMENTS	
	Auditor's Report and Financial Statements	17
	Schedules	38
	Health Care Decisions Division Annual Report	46

## MESSAGE FROM THE PUBLIC TRUSTEE

The fiscal period April 1, 2019 to March 31, 2020 was another busy year for the Office of the Public Trustee. Of special note, in January 2020, we started to see and hear about the spread of a new coronavirus.

The Office of the Public Trustee was established to protect the interests of the most vulnerable people in Nova Scotia; namely minor children, incompetent adults, missing persons and deceased persons. We do this by providing professional and cost-effective guardian, trustee, custodian, estate and legal representation services in a variety of situations. Additionally, we are the substitute decision maker of last resort for incompetent individuals who need personal care or non-emergency medical care and are not able to consent to it on their own behalf. Under the new *Adult Capacity and Decision-making Act*, the Public Trustee was responsible for establishing and maintaining a capacity assessment training program, which had its inaugural two day training session in June 2019; we now manage a process for applying for capacity assessment fees to be paid for by the provincial government, including reviewing the financial situation of the applicant and making a recommendation to the Minister of Justice; establishing and maintaining a registry of all representation orders made or continued under the Act; and investigating complaints made by all interested parties under the legislation. The Public Trustee becomes involved through orders issued by a court, authority granted under various pieces of legislation and in some cases when appointed under a will, power of attorney or trust document. Generally, we become involved when it is determined there is no one else willing or able to act; often in times of crisis. The fees we collect help fund the services we provide and are lower than or consistent with what is charged by other providers of trustee, guardianship and estate services.

Public Trustee staff work with clients, their family and friends and a variety of social service, healthcare and private agencies to meet the needs of our clients. Although our staff often work under very stressful conditions, they understand the importance of the services we provide and the direct impact these services have on the well-being of the Nova Scotians we serve.



Shannon Ingraham-Christie, BBA LLB  
Public Trustee of Nova Scotia



# OVERVIEW

## 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 providing informed consents for health care, placement in continuing care homes and the provision of home care services using an approach that is client-oriented, respectful of human rights and freedoms and in the client's best interests if prior wishes, values and beliefs are not known. We maintain a registry of representation orders made or continued under the *Adult Capacity and Decision-making Act* and investigate complaints made by interested parties under this legislation.

## Organization

The Public Trustee Office is a corporation sole, created pursuant to the *Public Trustee Act*. Although our office is located at Suite 200-5670 Spring Garden Road, Halifax, Nova Scotia the Public Trustee's jurisdiction is province wide. When fully staffed, we have a total of twenty-seven employees.

The Office of the Public Trustee has perpetual succession and an official seal. It may sue and be sued in its corporate name. The person appointed to be Public Trustee has the status of a Deputy Head. They must be a lawyer with a minimum of ten years practicing experience and in good standing with the Nova Scotia Barrister's Society. For administration purposes, the Public Trustee reports to the Attorney General.

The Public Trustee may perform the duties of and be a guardian, representative, custodian of property, trustee, personal representative of deceased estates and for healthcare purposes substitute decision maker of last resort under numerous pieces of legislation, including the following:

- *Public Trustee Act*
- *Trustee Act*
- *Hospitals Act*
- *Personal Directives Act*
- *Patient's Abandoned Property Act*
- *Adult Protection Act*
- *Guardianship Act*

- *Adult Capacity and Decision-making Act*
- *Probate Act*
- *Presumption of Death Act*
- *Survival of Actions Act*
- *Involuntary Psychiatric Treatment Act and*
- *Residential Tenancies Act*

The Public Trustee has the discretion to accept or refuse to act as a guardian, representative, trustee or attorney except when it pertains to applications involving missing persons or minor children.

The Public Trustee's services can be broken down as follows:

- Services for Mentally Incompetent or Physically Disabled Adults
- Health Care Decisions
- Deceased Estate Services
- Children's Trust Services
- Legal Representation Services
- Missing Persons Services
- Services pertaining to Undistributed Assets Held in Trust by Third Parties
- Public Enquiries

## **Statistical Summary of Year**

During this fiscal year, we opened 534 new files and we closed 692 files leaving us with a total of 1830 active, open files and 669 enquiry files. I refer you to Schedules "A", "B", "C", "D", and "F" attached hereto. These schedules set out the 17 different categories of files that the Public Trustee manages, the number of files in each category that were opened and closed during the fiscal year and the number of active files at year end.

Since March 31, 2013, our total file numbers have increased by approximately 25%. Our enquiry files have increased by approximately 181%. The net value of assets we hold in trust has increased by approximately 28%. With our aging population, these numbers are expected to

continue to rise.

	March 31, 2014	March 31, 2015	March 31, 2016	March 31, 2017	March 31, 2018	March 31, 2019	March 31, 2020
No. of client files	1469	1605	1720	1788	1904	1988	1830
No. of enquiry files (opened)	442	456	484	468	563	647	669
Net value of assets held in trust	\$52,508,079	\$55,525,891	\$56,830,441	\$59,306,839	\$59,364,325	\$62,728,318	\$54,450,241

Not factoring in Enquiry files, our largest category of files are Adult Living Estate files at 540. Our second largest category of files are Health Care files at 462. Our third largest category of files are Deceased Estate files at 245.

We continue to observe that the more complex and demanding files are being referred to the Public Trustee. These files are referred to our office by the judiciary, hospital staff, social service agencies, financial institutions and the general public.

# SERVICES

## Services for Mentally Incompetent or Physically Disabled Adults

The Public Trustee of Nova Scotia provides representation and trustee services for adults who are deemed to lack capacity and do not live independently in the community, under the following pieces of legislation:

- *Hospitals Act*
- *Adult Protection Act*
- *Public Trustee Act*
- *Personal Directives Act*
- *Powers of Attorney Act*
- *Adult Capacity and Decision-making Act*

Of these, we receive the most referrals pursuant to the *Hospitals Act*, the *Adult Protection Act* and sections 4 and 8A of the *Public Trustee Act*, in conjunction with section 14 of the *Personal Directives Act*.

### Hospitals Act Referrals

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 been found to lack capacity and has no one to administer his or her property and finances. It is not necessary for the Public Trustee to make an application to the court to obtain a representation order. The authority is granted pursuant to the legislation.

Hospital and community care staff are the leading proponents of this mechanism. It is the source of many of the Public Trustee's growing caseload of adult living estate files.

Many of these referrals are sent to the Public Trustee when the patient is ready for discharge and a long-term care facility bed has been found. Increasingly, long-term care facilities are refusing to accept people unless there is a representative available to manage their estate, pay the long-term care facility bills, deal with their taxes, secure their pension(s) and work out their daily accommodation rates with the Eligibility Review Unit of the Department of Health and Wellness. By referring the client to the Public Trustee, the placement in the long-term care facility can be achieved, and very often achieved much more quickly, which benefits the patient and helps the hospital free up acute care and emergency room beds. This provides a valuable benefit to the province's health care budget.

Unfortunately, we are not able to accept all the section 59 *Hospitals Act* referrals received due to our limited resources. Each of our 5 Trust Officers carry a case load of approximately 95-120 cases. In our experience, the cases are becoming more complex, often involving individuals who have property located in more than one province and/or country and with complex family dynamics. We must be cautious in accepting files as it is very important that we have the resources necessary to thoroughly investigate, locate, take control of and protect the assets of our incompetent clients in a timely fashion. If we are not able to do this, assets may be missed, stolen, misappropriated or damaged while technically under our care, thereby exposing our office to a high level of liability.

#### Adult Protection Act Referrals

The *Adult Protection Act* came into force in 1985. The purpose of this legislation, as set out in section 2 of the Act, is to provide a means whereby adults who lack the ability to care and fend adequately for themselves can be protected from abuse and neglect.

Section 13(1) of the Act is entitled, "Role of the Public Trustee on removal of adult". It states that where an adult is "removed" from the premises where he resides to another place pursuant to this Act and it appears to the Minister that there is an immediate danger of loss of, or damage to, any property of his by reason of his temporary or permanent inability to deal with the property and that no other suitable arrangements have been made or are being made for the purpose, the Minister shall inform the Public Trustee.

Section 13(2) of the Act allows the Public Trustee, if she feels it is appropriate after receiving notice pursuant to section 13(1) of the Act, to assume immediate management of the estate of the adult in need of protection and safely keep, preserve and protect it until the happening of a future event. It is not necessary for the Public Trustee to make an application to the court to obtain a representation order pursuant to this section. It should be noted that the Public Trustee lacks the statutory authority to assume immediate management of the property and finances of individuals who have been determined by the courts to be an "adult in need of protection" but were not "removed" from their homes pursuant to section 10 of the Act.

#### Personal Directives Act Referrals

The *Personal Directives Act* was proclaimed on April 1, 2010. This legislation enables Nova Scotians to document their wishes concerning their personal care and health care. An individual can name who they wish to make personal care and health care decisions for them in a Personal Directive document if, in the future, they are found to be incapable of doing so. If an individual does not prepare a Personal Directive the legislation provides a hierarchal list of

statutory decision makers to make decisions regarding health care, placement in a continuing care home and home care services for individuals deemed incapable of making these decisions for themselves. The Public Trustee is named the substitute decision maker of last resort on this list.

If a Delegate named in a Personal Directive or a Substitute Decision Maker makes a decision on behalf of a person who lacks capacity to make healthcare decisions, accept an offer of placement in a continuing care home or regarding the provision of home care services and it is discovered that the individual also lacks the capacity to manage their property and finances and they have no financial representative or Attorney acting pursuant to an Enduring Power of Attorney document, the *Personal Directives Act* in conjunction with section 8A of the *Public Trustee Act* establishes a mechanism whereby a statutory notice may be sent to the Public Trustee. The legislation allows the Public Trustee to then investigate whether the individual needs a guardian for their property and finances. If the Public Trustee determines its services are required, the Public Trustee can immediately become statutory guardian of the individual's property and finances. It is not necessary to make a court application to assume the authority as the authority is given under the legislation.

This has been a source of additional requests for the Public Trustee's services as statutory guardian of property and finances. It is anticipated that the number of files opened pursuant to the *Personal Directives Act* will continue to increase as the legislation becomes better understood by long-term care facility staff, continuing care workers, adult protection workers and social workers generally. Staff in our Health Care Decisions Division have been actively conducting educational sessions concerning the *Personal Directives Act*.

#### Powers of Attorney Act Referrals

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 named in the document 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 (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.

The Public Trustee received many calls from the public during the fiscal year seeking general information about Enduring Powers of Attorney and reporting suspicious or fraudulent conduct on behalf of attorneys. Callers reporting suspicious or fraudulent conduct on the part of attorney are referred to the police for investigation. Many of these calls also dealt with questions of accountability and the concerns individuals have on the way the attorney is managing the trust

funds.

We continue to see that the management of living estates for incompetent adults is a large file category at 540 open and active files. As the average age of the population of Nova Scotia continues to increase, the Public Trustee forecasts that the request for financial management of the estates of incompetent adults will continue to increase. The Public Trustee will need additional staff and resources to meet this demand.

### Adult Capacity and Decision-making Act Referrals

Proclaimed on December 27, 2017, this legislation replaces the *Incompetent Persons Act*. The purpose of the new law is to:

- Recognize that adults may not be able to make some decisions because of a learning disability, mental health problems, brain injury, or for other reasons
- Provide a fair and respectful way to protect the safety of those adults
- Promote the dignity, autonomy, independence, social inclusion, and freedom of decision-making of adults
- Make sure that the least restrictive and least intrusive supports and interventions are considered before seeking a court order under this new law to help an adult

Under this new legislation, all people are entitled to have their dignity and autonomy respected. Every adult is presumed to be able to make a decision until it is established that they cannot. When an adult is unable to make a decision for themselves, the least restrictive and least intrusive type of decision-making must be provided to protect their well-being and financial interests.

If an individual is making an application to the court to obtain a representation order, the adult's ability to make decisions must be assessed by a medical doctor, a registered psychologist or a allied health professional (nurse, social worker or occupational therapist) who is qualified to perform assessments of capacity. The Public Trustee was tasked with developing the capacity assessment training program and continuing competence training for the allied health professionals. The legislation also provides that the Public Trustee will develop and maintain a roll of representative orders, which we did in 2018, oversee a new complaints procedure and a process for applying for capacity assessment fees to be paid for by the provincial government.

The inaugural *Adult Capacity and Decision-making Act* capacity assessment training program for allied health professionals was developed in 2018/2019 with the assistance of Clinical Neuropsychologist, Dr. Arlin Pachet. Nine successful applicants were chosen to participate in the inaugural training; 6 Social Workers; 2 Occupational Therapists; and 1 Registered Nurse. Training was successfully delivered on June 20 & 21<sup>st</sup>, 2019 at the Office of the Public Trustee and is more fully explained in the Health Care Decisions Division Annual Report attached hereto.

For the fiscal period April 1, 2019 to March 31, 2020, 40 orders were added to the *Adult*

*Capacity and Decision-making Act* registry of orders. We received and investigated 2 complaints and received 6 applications for funding assistance for the capacity assessment.



## Health Care Decisions

The Public Trustee acts as the substitute decision maker of last resort for individuals who have been assessed and determined to lack capacity to make their own decisions concerning health care, home care services and placement in continuing care facilities, under the following pieces of legislation:

- *Personal Directives Act*
- *Hospitals Act*
- *Involuntary Psychiatric Treatment Act*

The Public Trustee's Health Care Decisions Division reviews all requests for consent. The Division has a Coordinator, 3 Health Care Consultants and 1 Administrative Assistant. The Coordinator and Health Care Consultants can provide consent to Level-1 and Level-2 health care decisions and the Public Trustee provides consent for Level-3 health care decisions, such as consent for amputation.

Detailed policy and procedures were developed to guide the Health Care Consultants in their deliberations. Underpinning the Health Care Decisions Division policies are the *best interest principles* and the *principle of informed consent*.

Health Care Decision 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 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 2019/20 fiscal year. Monitoring of the Health Care Decisions program was conducted and reported to the Public Trustee on a quarterly basis. The following is a summary of annual statistics for the Health Care Decisions Division for the fiscal year ending March 31, 2020:

- There were 462 active client files at March 31, 2020
- 125 new client files were opened and 284 client files were closed during the year
- 950 referrals were received in 2019/20 as compared to 865 referrals in 2018/19
- Approximately 74% of referrals were received under the *Personal Directives Act*, 16% under the *Hospitals Act* and 10% under the *Involuntary Psychiatric Treatment Act*
- The largest number of referrals (458 or 48%) were received from agencies in the Central Region (Zone 4) of the Nova Scotia Health Authority and the least number of referrals (117 or 12%) came from agencies in the Northern Region (Zone 2)
- A total of 3900 decisions were made in 2019/20 up 12% from 3491 in 2018/19 (3510 under the *Personal Directives Act*, 265 under the *Hospitals Act*, and 125 under the *Involuntary Psychiatric Treatment Act*)
- 96% of decisions were Level-1, 3.3% of decisions were Level-2 and 0.7% of decisions were Level-3
- Seven (7) external education sessions were provided to external stakeholders including long-term care staff, hospital staff, continuing care and adult protection workers. Two sessions were joint with a representative from Trust Services who provided an overview on the financial referral process to the Office of the Public Trustee. Educational sessions were put on hold in Q3 and Q4 due to a term leave by a Health Care Consultant and unavailability of external stakeholders.

We continue to see a growth in the number of referrals in our office as knowledge of the services provided by our Health Care Consultants has continued to grow. As of March 31, 2020, consent to health care treatment was our largest category of referrals totaling 624 or 66% of our annual total of 950.

### **Deceased Estate Services**

The Public Trustee has the right to apply to administer the estate of a deceased person when they die intestate (without a will), pursuant to section 32(1) of the *Probate Act*, which reads as follows:

#### **Entitlement to administration**

**32(1)** Subject to sections 15, 23 and 24 of the *Public Trustee Act*, administration of the estate of an intestate or of an estate partly or wholly unadministered owing to the death or removal of a personal representative shall be granted to one of more of the following persons, if they are competent and suitable for the discharge of the trust and willing to undertake the administration of the estate unless the court thinks it proper to appoint some other person according to the following priorities:

- (a) first - the spouse of the intestate if the spouse resides in the Province and those

children of the intestate who reside in the Province;

- (b) second - those persons who reside in the Province and who are entitled to share in the distribution of the estate by reason of the *Intestate Succession Act* or by reason of being adult residuary beneficiaries;
- (c) third — the Public Trustee;
- (d) fourth - those persons who do not reside in the Province and who are entitled to share in the distribution of the estate by reason of the *Intestate Succession Act* or by reason of being adult residuary beneficiaries;
- (e) fifth — a creditor or a person having a cause of action against the estate.

A common-law spouse is not recognized as a legal “spouse” under the *Probate Act* or the *Intestate Succession Act* unless the couple signed a “domestic partnership agreement” and registered it with the Office of Vital Statistics of Nova Scotia.

The Public Trustee is listed as the third person in line to administer the estate of an intestate individual. If someone listed after the Public Trustee wants to administer the estate, they must ask the Public Trustee to sign an official Renunciation document before they can apply.

Before the Public Trustee will renounce its right to administer an estate, time is spent reviewing the information provided to ensure the beneficiaries and creditors would be properly protected and served if someone other than the Public Trustee is appointed to administer the estate. The Public Trustee also considers the assets of the estate; whether the estate has enough personal and/or real property that can be sold to cover the debts and costs of administering the estate; whether the Public Trustee has the expertise and staff to administer the estate properly; and whether any of the heirs are minors, vulnerable adults or missing persons, among other things.

The Public Trustee renounced its right to administer 109 new deceased estates during the fiscal year under review (see Schedule "G" attached hereto).

Pursuant to sections 15, 23 and 24 of the *Public Trustee Act*, the Public Trustee also has priority to administer a deceased estate in the following situations:

- the Public Trustee acted as trustee, guardian, or custodian of a person's estate while they were alive and that person dies without a will
- the Public Trustee acted as trustee, guardian, or custodian of a person's estate while they were alive and that person dies with a will and the executor of the will is dead or renounces their right to probate the will
- a person dies with a will and the person who is named as executor of the will is dead or renounces their right to probate the will and the people named as the residuary beneficiaries live outside of Nova Scotia

- the Public Trustee is already administering the estate of a person who is alive or is administering the estate of a person who had died, and one of the following occurs:
  - the person is named as a beneficiary in the will of someone else who dies and there is no one who is willing or able to act as the executor of that will
  - the person is entitled to inherit from the estate of a person who has died without a will
  - the person is named as the executor of a will, or as the personal representative of the estate of someone who has died

Pursuant to section 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" to 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 or 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 act pursuant to section 36 of the *Public Trustee Act* and prefers to leave this determination to the Court of Probate.

As of March 31, 2020, Deceased Estate Files were our third largest category of files totaling 245.

### **Children's Trust Services**

In Nova Scotia, the age of majority is 19. Legally, an individual under the age of 19 is deemed an infant or a minor. Where no person has been appointed to be guardian of the property of an infant or minor and they are entitled to receive money as a beneficiary under a life insurance policy, as a death benefit, as a beneficiary on an intestacy or under a will and the executor or administrator is not empowered to act as trustee of the child's share, or under a settlement or a trust, and no trustee is appointed by the will, or other instrument, the Public Trustee is automatically the legal guardian of their money and property under the following pieces of legislation:

- Section 14 of the *Guardianship Act*
- Sections 4(2), 4(3)(d) and 4(5) of the *Public Trustee Act*

The Public Trustee does not have to file a bond with the court to act as trustee or guardian or the estate of an infant or minor under these pieces of legislation. Nor does the Public Trustee have the discretion to refuse to act in this capacity.

The Public Trustee is also regularly appointed as trustee of the finances of an infant or minor by the Court in matters involving infant settlements in personal injury matters.

As of March 31, 2020, Infant Living Estate Files was our fourth largest category of files totaling 152.

### **Legal Representation Services**

The *Public Trustee Act* gives the Public Trustee the authority to act as a litigation guardian or

guardian *ad litem* for a child or an adult who has been deemed to lack capacity to manage their affairs in a legal proceeding before the court. The Public Trustee has the discretion to act or refuse to act in this capacity.

The Public Trustee also has the authority to represent a deceased person (where an estate has not been opened in Probate Court) in a legal proceeding before the court under the *Survival of Actions Act*. As the deceased's public liability insurer or the Facility Association may be relied upon to defend any automobile accident claims, the Public Trustee will generally always consent to be appointed to represent the estate of a deceased tortfeasor for the purposes of an intended action that arises out of a motor vehicle accident.

During the fiscal period under review, we acted as guardian *ad litem* for 4 adults and 5 minor children and we represented the estates of 32 deceased persons under the *Survival of Actions Act*.

### **Missing Persons Services**

Section 2(e) of the *Public Trustee Act* defines “missing person” as follows:

“Missing person” means a person who cannot be found after all reasonable efforts have been made to locate him and includes a person who dies intestate or intestate as to some part of his estate without leaving any known heir-at-law living in the Province or any heir-at-law who can be readily communicated with living elsewhere or where the only heir-at-law is an infant or where Her Majesty in right of the Province has an interest in the estate or proceeds thereof

Section 11 of the *Public Trustee Act* states that the Public Trustee shall be served with notice of each application made to the court in respect of the property or estate of a missing person. When the Public Trustee is served with notice of the application, they automatically become guardian of the estate or the property of the missing person.

The Public Trustee may safely keep, preserve and protect the property and effects of the missing person pending an order of a Judge of the Supreme Court. If the court approves, the Public Trustee may mortgage, lease, sell or otherwise dispose of any of the property of the missing person, pay sums of money that the missing person might otherwise have been ordered to pay and make such payments as are necessary for the maintenance or education of a spouse or child of the missing person.

During the fiscal year under review, we represented the interests of 12 missing persons.

### **Services pertaining to Undistributed Assets Held in Trust by Third Parties**

Pursuant to section 28 of the *Public Trustee Act*, an executor or administrator or a trustee acting pursuant to a the provisions of a will or other trust agreement may at any time and shall, after the expiration of five years, apply for an order in Nova Scotia Supreme Court, authorizing the

transfer of the assets to the Public Trustee, when the heir-at-law or beneficiary cannot be located or identified or the object of the trust cannot be carried out, or, if for any other reason it is not possible to distribute the assets of the estate or trust. The Public Trustee must then convert any assets into cash and immediately pay the undistributed assets to the Minister of Finance as per the court order.

For the fiscal year under review, the Public Trustee Office processed undistributed assets totally \$147,108.00 and forwarded them to the Minister of Finance (significantly lower than the \$442,841.00 forwarded in the previous fiscal year). These numbers are not included in our active case files for the year, and the Public Trustee does not receive any fees for acting in this capacity.

### **Public Enquiries**

The Public Trustee has always been regarded as a public resource for information about guardianship, representation, trust administration, the administration of deceased estates, legal representation services and the law pertaining to healthcare decisions for adults who lack capacity and the elderly. Information requests are received from many sources including lawyers, medical professionals, social workers, law enforcement officers and the general public. Many individuals are referred to us by staff at the Probate Courts.

We strive to provide accurate general information about the issues raised. Due to the high cost of retaining legal services, many individuals are trying to find free legal information that will help them understand and resolve the problems they face. Access to justice is currently an issue throughout Canada. These enquiries put pressure upon our already limited legal resources. However, many of the enquiry calls and letters we receive pertain to cases that could potentially become Public Trustee files. These calls help identify the matters that should be further investigated by the Public Trustee and the matters that can be managed in the private sector. The number of enquiry calls we are receiving is increasing from year to year.

We opened 647 enquiry files during this fiscal period, which is a 3% increase over the last fiscal year. It should also be noted that the volume of materials and number of calls received on each individual enquiry file is also increasing.

## REVENUE AND COSTS OF PUBLIC TRUSTEE OFFICE

Pursuant to the *Public Trustee Act* and the regulations thereto, the Public Trustee is entitled to charge for its legal, trustee, guardianship and representation services. 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 on enquiry files, for acting as substitute decision maker of last resort and providing consents for medical treatment, for processing assets received pertaining to undistributed assets pursuant to section 28 of the *Public Trustee Act* or for providing legal representation services.

On an annual basis, the government forecasts what income the Public Trustee may earn for its services. This income is very important as it off-sets the cost of running the office.

During the fiscal year ending March 31, 2020, it was forecasted that the Public Trustee would earn \$900,000.00 in legal, administrative and trustee fees. The Public Trustee exceeded this goal, earning \$1,250,677 (excluding accruals) during the fiscal year. These fees were transferred to the Department of Finance.

The Public Trustee recovered \$22,144 from its clients for disbursements including photocopy and postage fees incurred in carrying out our duties and responsibilities to our clients during the fiscal year.

The Public Trustee also earned income in its Special Reserve Fund in the amount of \$94,194.

If we total the legal, administrative and trustee fees earned by the Public Trustee (excluding accruals), its recovery fees from disbursements and the income earned from its Special Reserve Fund, the total revenue earned by the Office of the Public Trustee totaled \$1,367,015 during the fiscal period (see Schedules "E" and "E1" attached hereto).

Public expenditures for the general operating costs of the Public Trustee program, including rent, are funded by the Department of Justice. Funding to operate the office for the period ending March 31, 2020 was \$2,644,094.

Considering the total cost to operate the office and the revenue earned from all sources by the Office of the Public Trustee, the actual cost of providing these valuable services (excluding accrued fees) was \$1,277,079.

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# Public Trustee Trust Funds

Financial Statements

For the Year Ended March 31, 2020



## **Table of contents**

	<b>Page</b>
Management's responsibility for the financial statements	1
Independent auditor's report	2-3
Statement of net assets held in trust	4
Statement of loss and comprehensive loss	5
Statement of changes in net assets held in trust	6
Statement of cash flows	7
Notes to the financial statements	8-19

## Management's responsibility for the financial statements

These financial statements have been prepared by management in accordance with International Financial Reporting Standards (IFRS) and the integrity and objectivity of these statements are management's responsibility. Management is also responsible for all the notes to the financial statements, and for ensuring that this information is consistent, where appropriate, with the information contained in the financial statements.

Management is responsible for implementing and maintaining a system of internal controls to provide reasonable assurance that reliable financial information is produced.

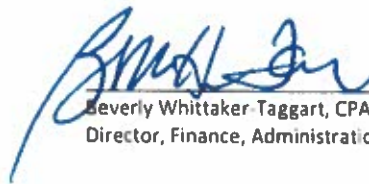
The Public Trustee is responsible for ensuring that management fulfils its responsibilities for financial reporting and internal control. The Public Trustee performs monthly reviews of financial information and a yearly review of the final audited financial statements.

The external auditor, Grant Thornton LLP, conducts an independent examination, in accordance with Canadian auditing standards, to express their opinion on the financial statements. The external auditors have full and free access to financial management of the Public Trustee Trust Funds and met when required.

On behalf of the Entity



Shannon Ingraham  
Public Trustee



Beverly Whittaker-Taggart, CPA  
Director, Finance, Administration & Systems

## Independent auditor's report

Grant Thornton LLP  
Nova Centre, North Tower  
Suite 1000, 1675 Grafton Street  
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To the Public Trustee of Nova Scotia

### Qualified Opinion

We have audited the financial statements of the Public Trustee Trust Funds (the "Entity"), which comprise the statement of net assets held in trust as at March 31, 2020, and the statement of loss and comprehensive loss, statement of changes in net assets held in trust, and statement of cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

In our opinion, except for the effects of the matter described in the *Basis for Qualified Opinion* section of our report, the accompanying financial statements present fairly, in all material respects, the financial position of the Public Trustee Trust Funds as at March 31, 2020, and the results of its financial performance and its cash flow for the year then ended in accordance with International Financial Reporting Standards (IFRSs).

### Basis for Qualified Opinion

As discussed in Note 2 to the financial statements, neither a fair value model nor a cost model has been consistently established for real estate assets held on behalf of clients. This constitutes a departure from IFRS. As a result of a cost-benefit decision by management with respect to their clients and to taxpayers, appraisals have not been performed to establish fair value at March 31, 2020 or March 31, 2019. Similarly, initial and subsequent measurement based on cost has not been established given the age of certain properties, the nature in which the Entity assumes ownership of the real estate, and the lack of historical information to establish an accurate measurement basis. The impact of this departure on the financial statements has not been determined. Since the opening and ending real estate balance affects the determination of the results of operations and cash flows, we were not able to determine whether any adjustments might be necessary to real estate, expenses, cash flows and net assets for the years ended March 31, 2020 and March 31, 2019. Our audit opinion on the financial statements for the year ended March 31, 2019 was modified because of the effects of this departure from IFRS and the possible effects of this limitation in scope.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of our report. We are independent of the Entity in accordance with the ethical requirements that are relevant to our audit of the financial statements in Canada, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our qualified opinion.

### Responsibilities of Management and Those Charged with Governance for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with International Financial Reporting Standards (IFRSs), 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.

In preparing the financial statements, management is responsible for assessing the Entity's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless management either intends to liquidate the Entity or to cease operations, or has no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Entity's financial reporting process.

### **Auditor's Responsibilities for the Audit of the Financial Statements**

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Canadian generally accepted auditing standards, we exercise professional judgment and maintain professional skepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit 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.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Entity's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Entity to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

*Grant Thornton LLP*

Chartered Professional Accountants

Halifax, Canada  
September 29, 2020

Public Trustee Trust Funds  
Statement of net assets held in trust  
March 31, 2020

	2020	2019
<b>Assets</b>		
Cash and cash equivalents	\$ 5,740,073	\$ 8,505,767
Accounts receivable	1,056,500	464,563
Investments (note 4)	41,297,517	46,501,502
Real estate	7,029,679	7,330,210
Other assets	<u>364,442</u>	<u>432,625</u>
	<u>55,488,211</u>	<u>63,234,667</u>
<b>Liabilities</b>		
Accounts payable	<u>1,037,970</u>	<u>506,349</u>
<b>Net assets held in trust</b>	<u>\$ 54,450,241</u>	<u>\$ 62,728,318</u>

Approved on behalf of the Public Trustee Trust Funds for the Province of Nova Scotia

  
Shannon Ingraham-Christie

See accompanying notes to the financial statements

**Public Trustee Trust Funds**  
**Statement of loss and comprehensive loss**  
**For the Year Ended March 31, 2020**

	<b>2020</b>	<b>2019</b>
<b>Revenues</b>		
Pension	\$ 9,993,831	\$ 9,182,127
Other income	1,112,748	1,186,726
Investment income	1,102,954	1,106,707
Annuities	<u>843,798</u>	<u>633,793</u>
	<u>13,053,331</u>	<u>12,109,353</u>
<b>Expenses</b>		
Accommodation	8,805,257	8,350,370
Fees and recoveries paid to the Province (Note 7)	1,474,466	1,475,172
Taxes	1,285,421	594,865
Funeral	766,247	587,204
Medical	509,129	418,900
Allowances	444,601	430,006
Property care	177,867	171,005
Legal costs	177,040	295,997
Utilities	150,890	159,821
Real estate	143,021	75,992
Miscellaneous	131,797	81,410
Insurance	<u>118,050</u>	<u>107,226</u>
	<u>14,183,786</u>	<u>12,747,968</u>
Loss from operations before loss on investments	(1,130,455)	(638,615)
Loss on sale of investments	(394,793)	(369,992)
Unrealized loss on investments at fair value through profit and loss	<u>(947,149)</u>	<u>(44,498)</u>
<b>Net loss and comprehensive loss</b>	<u>\$ (2,472,397)</u>	<u>\$ (1,053,555)</u>

See accompanying notes to the financial statements

**Public Trustee Trust Funds**  
**Statement of changes in net assets held in trust**  
**For the Year Ended March 31, 2020**

	<b>2020</b>	<b>2019</b>
<b>Balance, beginning of year</b>	\$ 62,728,318	\$ 59,364,325
<b>Net loss and comprehensive loss</b>	(2,472,397)	(1,053,555)
<b>Other changes to net assets:</b>		
Contributions of estates and trusts of new clients and additional contributions of estates and trusts	10,272,736	16,100,158
Distributions of estates and trusts	(15,837,114)	(11,145,336)
Undistributable trusts assets transferred to Province (note 8)	(147,108)	(442,841)
Special Reserve Fund distribution to Province (note 7)	<u>(94,194)</u>	<u>(94,433)</u>
<b>Balance, end of year</b>	<u>\$ 54,450,241</u>	<u>\$ 62,728,318</u>

See accompanying notes to the financial statements

Public Trustee Trust Funds  
Statement of cash flows  
For the Year Ended March 31, 2020

	2020	2019
<b>Operating Activities</b>		
Net comprehensive loss	\$ (2,472,397)	\$ (1,053,555)
Adjustments for:		
Realized loss	394,793	369,992
Unrealized loss	<u>947,149</u>	<u>44,948</u>
	(1,130,455)	(638,615)
Changes in working capital, net	<u>(60,316)</u>	<u>(137,707)</u>
<b>Net cash from operating activities</b>	<u>(1,190,771)</u>	<u>(776,322)</u>
<b>Investing activities</b>		
Proceeds from sale of investments, net	1,578,480	1,194,958
Proceeds from sale of real estate and other assets, net	3,126,953	2,231,426
Advances to Province	(94,194)	(185,055)
Undistributable assets transferred to Province	<u>(147,108)</u>	<u>(442,841)</u>
<b>Net cash from investing activities</b>	<u>4,464,131</u>	<u>2,798,488</u>
<b>Financing activities</b>		
Contributions of estates and trusts, net	<u>(6,039,054)</u>	<u>(674,215)</u>
<b>Net cash from financing activities</b>	<u>(6,039,054)</u>	<u>(674,215)</u>
<b>Increase in cash and cash equivalents</b>	(2,765,694)	1,347,951
<b>Cash, beginning of year</b>	<u>8,505,767</u>	<u>7,157,816</u>
<b>Cash, end of year</b>	<u>\$ 5,740,073</u>	<u>\$ 8,505,767</u>

See accompanying notes to the financial statements



**Public Trustee Trust Funds**  
**Notes to the Financial Statements**  
**For the Year Ended March 31, 2020**

**1. Reporting entity**

The Public Trustee (the "Entity") is a corporation sole of the Province of Nova Scotia created pursuant to the Public Trustee Act. It is independent of government but shares a budget with the Department of Justice ("DOJ") which the DOJ controls. The Entity 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, representative, custodian, trustee, executor or administrator of an estate. All investments by the Entity are to be made in accordance with the Trustee Act and Public Trustee Act. The address of the Entity's registered office is 5670 Spring Garden Rd, Halifax, Nova Scotia.

The Entity is exempt from income tax under section 149 of the *Income Tax Act*.

This set of financial statements reflects the net assets held in trust and the activity for the estates and trusts administered by the Entity. Separate operating costs for the Entity are presented in Note 7.

**2. Basis of preparation**

**(a) Statement of compliance**

These financial statements have been prepared in accordance with the principles of International Financial Reporting Standards ("IFRS") as issued by the International Accounting Standards Board ("IASB") with the exception of measurement for real estate, which is not in accordance with IAS 40 (see note 3(e)). They have been prepared under the assumption that the Entity operates on a going concern basis.

These financial statements have been authorized for issue by the Public Trustee on September 29, 2020.

**(b) Basis of measurement**

The financial statements have been prepared on an accrual basis under the historical cost basis except for certain financial instruments which are presented at fair value through profit and loss and certain real estate assets which are measured as described in note 3(b) and 3(e).

**(c) Currency**

The financial statements are presented in Canadian dollars, which is the functional currency for the Entity.

Transactions in foreign currencies are translated into Canadian dollars using exchange rates prevailing at the dates of the transactions. Monetary assets and liabilities denominated in foreign currencies are converted into Canadian dollars at the exchange rate at the reporting period end date.

**(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. Management uses valuation techniques to determine the fair value of financial instruments (where active market quotes are not available) and non-financial assets. This involves developing estimates and assumptions consistent with how market participants would price the instrument. Management bases its assumptions on observable data as far as possible but this is not always available. In that case, management uses the best information available. Actual results could differ from management's best estimates as additional information becomes available in the future and will be recognized in the period in which the estimates are revised. Significant judgments include those related to the valuation of investments as described in notes 3(b), 3(c), 3(d) and 4.

**Public Trustee Trust Funds**  
**Notes to the Financial Statements**  
**For the Year Ended March 31, 2020**

**3. Summary of significant accounting policies**

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

**(a) Cash and cash equivalents**

Cash and cash equivalents are comprised of cash on hand and balances held with banks.

**(b) Financial instruments**

*Recognition and derecognition*

Financial instruments are classified as either amortized cost, or fair value through profit and loss. Financial assets and liabilities are initially recognized at fair value on the effective date the Entity commences administration of the financial asset or financial liability.

Financial assets are derecognised when the contractual rights to the cash flows from the financial asset expire, or when the financial asset and substantially all the risks and rewards are transferred. A financial liability is derecognised when it is extinguished, discharged, cancelled or expires.

The applicable financial instruments for the Entity are classified and measured as follows:

- Cash and cash equivalents – amortized cost;
- Accounts receivable – amortized cost;
- Accounts payable – amortized cost;
- Investments (excluding bonds) – fair value through profit and loss; and
- Investments (bonds) – amortized cost.

The carrying values of cash and cash equivalents, accounts receivable, and accounts payable approximate their fair values due to the short-term maturity.

*Classification and initial measurement of financial assets*

Financial assets, other than those designated and effective as hedging instruments, are classified into the following categories:

- amortized cost;
- fair value through profit or loss (FVTPL); and
- fair value through other comprehensive income (FVOCI).

In the periods presented the Entity does not have any financial assets categorized as FVOCI.

The classification is determined by both:

- the Entity's business model for managing the financial asset; and
- the contractual cash flow characteristics of the financial asset.

**Public Trustee Trust Funds  
Notes to the Financial Statements  
For the Year Ended March 31, 2020**

**3. Summary of significant accounting policies (continued)**

**(b) Financial instruments (continued)**

*Subsequent measurement of financial assets*

*Financial assets at amortized cost*

Financial assets are measured at amortized cost if the assets meet the following conditions (and are not designated as FVTPL):

- they are held within a business model whose objective is to hold the financial assets and collect its contractual cash flows; and
- the contractual terms of the financial assets give rise to cash flows that are solely payments of principal and interest on the principal amount outstanding.

After initial recognition, the financial assets are measured at amortized cost using the effective interest method. Discounting is omitted where the effect of discounting is immaterial. The Entity's cash and cash equivalents, and accounts receivable fall into this category of financial instruments as well as listed bonds.

*Financial assets at fair value through profit or loss (FVTPL)*

Financial assets that are held within a different business model other than 'hold to collect' or 'hold to collect and sell' are categorized at fair value through profit and loss. Further, irrespective of business model financial assets whose contractual cash flows are not solely payments of principal and interest are accounted for at FVTPL. All derivative financial instruments fall into this category. Their fair values are determined in line with the requirements of IFRS 9, which does not allow for measurement at cost. Assets in this category are measured at fair value with gains or losses recognized in profit or loss. The fair values of financial assets in this category are determined by reference to active market transactions or using a valuation technique where no active market exists.

*Impairment of financial assets*

IFRS 9's impairment requirements use more forward-looking information to recognize expected credit losses (ECL).

The Entity makes use of a simplified approach in accounting for accounts receivable recording the loss allowance as lifetime expected credit losses. These are the expected shortfalls in contractual cash flows, considering the potential for default at any point during the life of the financial instrument. In estimating the ECL, the Entity uses its historical experience, external indicators and forward-looking information to calculate the expected credit losses. The Entity assesses impairment of trade receivables on a collective basis as they possess shared credit risk characteristics. The Entity's accounts receivable are not subject to significant credit risk as the amounts are owed largely by the federal government in the form of tax return refunds and pension annuities. An estimate of expected lifetime credit losses was determined to not be required as the Entity has not experienced bad debts on their receivables in their history of operations.

*Classification and measurement of financial liabilities*

Financial liabilities are initially measured at fair value, and, where applicable, adjusted for transaction costs unless the Entity designated a financial liability at fair value through profit or loss.

- Subsequently, financial liabilities are measured at amortized cost using the effective interest method. All interest-related charges and, if applicable, changes in an instrument's fair value that are reported in profit or loss are included within finance costs or finance income.

**Public Trustee Trust Funds**  
**Notes to the Financial Statements**  
**For the Year Ended March 31, 2020**

**3. Summary of significant accounting policies (continued)**

**(c) Fair value measurement**

All investments, with the exception of bonds which are designated at amortized cost, are designated as fair value through profit and loss. Realized gains and losses on the sale of investments and unrealized gains and losses arising from the change in fair value of investments are recorded through profit and loss in the period in which they arise. All purchases and sales of investments are recognized on the date the trades are executed. Income from interest and dividends are recognized as investment income in the period incurred.

Fair value is best evidenced by quoted market prices in an active market. Where quoted market prices are not available, the quoted prices of similar financial instruments are used to estimate fair value. Minimal management judgement is required for fair values calculated using quoted market prices. The calculation of estimated fair value is based on market conditions at a specific point in time and may not be reflective of future fair values.

**(d) Investments**

The Entity employs a fair value hierarchy to categorize the inputs it uses in valuation techniques to measure the fair value. The extent of use of (Level 1) quoted prices in active markets for identical assets or liabilities, (Level 2) inputs other than quoted prices included in Level 1 that are observable for the asset or liability either directly or indirectly, and (Level 3) inputs for the asset or liability that are not based on observable market data in the valuation of securities as at the statement of net assets held in trust date is disclosed in Note 6.

**(e) Real estate**

Real estate assets are properties held in trust for clients. IAS 40, Investment Property, requires application of either the cost method or a fair value model as the measurement basis. The Entity has applied a separate policy for measuring the value of real estate assets as it is impractical to use fair value or cost measurement. Formal valuations or appraisals are not always performed given the disproportion between the cost to the Entity's clients and the benefit received. Relevant and reliable cost value is not available to establish cost as the basis of measure given the age of the properties and the nature of how the Entity comes in possession of real estate which involves receiving real estate assets held in trust for the Entity's clients rather than through purchases of real estate. Real estate included within the statement of net assets held in trust is measured either by the most recent property assessment or most recent professional appraisal, when available. The Entity does not record a provision for depreciation; however, changes in real estate property assessment values are recorded through profit and loss as investment income. The financial impact on the financial statements of this departure if the Entity were to comply with the standard is indeterminable given an unreasonable amount of financial resources would need to be spent to determine cost or fair value of real estate assets.

**Public Trustee Trust Funds**  
**Notes to the Financial Statements**  
**For the Year Ended March 31, 2020**

**3. Summary of significant accounting policies (continued)**

**(f) Other assets**

Other assets, including personal effects such as mobile homes, vehicles and jewelry, are recognized when the Entity commences administration of the assets. Other assets 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 until such time that more reliable valuation information is available.

**(g) Investment income**

Income from pensions, as well as investment income are recognized as earned on an accrual basis. Interest income is accrued using the effective interest method.

Other income is mostly composed of Canada Revenue Agency refunds and credits and is recognized as earned on an accrual basis.

Gains and losses on assets represent the appreciation or depreciation in the value of marketable securities, real estate and other assets administered by the Entity from the value assigned on the date of the commencement of administration of assets by the Entity, the date of purchase, or the value at the prior year end. 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 loss.

**4. Investments**

	<b>2020 Market Value</b>	<b>2019 Market Value</b>
Guaranteed Investment Certificates (note 4(a))	\$ 31,449,477	\$ 34,566,691
Bonds		
Corporate	467,065	462,239
Provincial	1,374,458	1,519,691
Total bonds (note 4(b))	1,841,523	1,981,930
Quoted investments		
Canadian equity	4,906,027	6,332,938
Canadian preferred	-	11,588
US equity	9,725	258,441
Mutual Funds	1,132,634	1,578,305
Total quoted investments	6,048,386	8,181,272
Investment cash	1,958,131	1,771,609
Total	\$ 41,297,517	\$ 46,501,502

Public Trustee Trust Funds  
Notes to the Financial Statements  
For the Year Ended March 31, 2020

4. Investments (continued)

	2020 Market Value	2019 Market Value
<b>(a) Guaranteed Investment Certificates – maturity profile</b>		
Maturing within one year	\$ 18,444,981	\$ 23,582,362
Maturing between one and five years	<u>13,004,496</u>	<u>10,984,329</u>
	<u>\$ 31,449,477</u>	<u>\$ 34,566,691</u>
<b>(b) Bonds – maturity profile</b>		
Maturing within one year	\$ 406,184	\$ 161,487
Maturing between one and five years	773,313	1,149,374
Maturing in greater than five years	<u>662,026</u>	<u>671,069</u>
	<u>\$ 1,841,523</u>	<u>\$ 1,981,930</u>

5. Financial risk management

Section 3A(1) of the *Public Trustee Act* allows the Public Trustee to delegate authority to employees to invest in most forms of financial securities, 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 Entity utilizes a conservative investment management strategy. 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 Entity's long-term objectives as a prudent investor are threefold:

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

The majority of the accounts held by the Entity 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 Entity 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, specifically accounts payable, as they come due. The Entity 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, 2020 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. This risk specifically relates to accounts receivable, bonds and other investments.

The credit risk related to accounts receivable is assessed to be low due as the counterparties are primarily the federal government.

**Public Trustee Trust Funds**  
**Notes to the Financial Statements**  
**For the Year Ended March 31, 2020**

**5. Financial risk management (continued)**

***Credit risk (continued)***

The investment policy established by the Entity 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. The bond portfolio remains high quality with 92% of the bonds rated A or better. 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.

	2020	2019
<b>Credit rating – Bonds</b>		
	\$ 26,990	\$ 26,990
AAA	1,202,047	1,170,701
AA	464,818	636,571
A	147,668	147,668
BBB	<u>\$ 1,841,523</u>	<u>\$ 1,981,930</u>

***Market risk***

Market risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices. Market risk comprises three types of risk: currency risk, interest rate risk and other price risk. The Entity is subject to interest rate risk, currency risk, and other price risk.

A 1% movement in the stock markets with all other variables held constant would have an estimated effect on the fair values of the Entity's Canadian common equity of \$49,060 (2019 - \$63,329).

A 1% movement in the stock markets with all other variables held constant would have an estimated effect on the fair values of the Entity's US common equity of \$97 (2019 - \$2,584).

A 1% movement in the stock markets with all other variables held constant would have an estimated effect on the fair values of the Entity's mutual funds of \$11,326 (2019 - \$15,783).

A 1% movement in the stock markets with all other variables held constant would have an estimated effect on the fair values of the Entity's Canadian preferred equities of \$0 (2019 - \$116).

***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 bonds with a maturity are subject to interest rate risk. The Entity mitigates this risk by investing excess client funds in a diversified portfolio, including investing in fixed rate securities.

At March 31, 2020 a 1% movement in interest rates, with all other variables held constant, could impact the market value of bonds by \$18,415 (2019 - \$19,819).

At March 31, 2020 a 1% movement in interest rates, with all other variables held constant, could impact the market value of GICs by \$311,119 (2019 - \$345,667).

**Public Trustee Trust Funds**  
**Notes to the Financial Statements**  
**For the Year Ended March 31, 2020**

**5. Financial risk management (continued)**

***Currency risk***

Foreign currency risk is the risk that the fair value or cash flows of a financial instrument will fluctuate because of changes in exchange rates and produce an adverse impact on net income when measured in the Entity's functional currency.

Net exposure to United States dollar denominated amounts (in United States Dollars), related to the investment portfolio, included in the balance sheet as at March 31, 2020 is \$6,912 (2019 - \$193,528).

***Other price risk***

Other price risk is the risk that the fair value or future cash flows of a financial instrument will fluctuate because of changes in market prices (other than those arising from interest rate risk), whether those changes are caused by factors specific to the individual financial instrument or its issuer or by factors affecting all similar financial instruments traded in the market. The Entity is subject to this risk with its equity securities composed mostly of stocks. It mitigates this risk by investing only in very low risk stocks.

**6. Fair values**

Client investments and certain other assets as well as other financial assets are reflected in the statement of net assets held in trust at fair value. The fair value of cash, accrued interest and accounts receivable approximates their carrying value due to the short term to maturity. In regards to bonds, their fair value is approximated by their carrying value. Real estate assets are excluded from the fair value hierarchy, due to the measurement basis as disclosed in note 3(e).

*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 – Level 2 inputs are inputs other than quoted prices included within Level 1 that are observable for the asset or the liability, either directly or indirectly. Level 2 inputs include:

- (i) Quoted prices for similar assets or liabilities in active markets.
- (ii) Quoted prices for identical or similar assets or liabilities in markets that are not active.
- (iii) Inputs other than quoted prices that are observable for the asset or liability.
- (iv) Market-corroborated inputs.

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

The following table shows the fair value of financial assets and financial liabilities as at March 31, 2020 classified within the fair value hierarchy:

	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total Fair Value</u>
GICs	\$ 31,449,477	\$ -	\$ -	\$ 31,449,477
Quoted investments	6,048,386	-	-	6,048,386
Bonds	-	1,841,523	-	1,841,523
	<u>\$ 37,497,863</u>	<u>\$ 1,841,523</u>	<u>\$ -</u>	<u>\$ 39,339,386</u>



**Public Trustee Trust Funds**  
**Notes to the Financial Statements**  
**For the Year Ended March 31, 2020**

**6. Fair values (continued)**

The following table shows the fair value of financial assets and financial liabilities as at March 31, 2019 classified within the fair value hierarchy:

	<u>Level 1</u>	<u>Level 2</u>	<u>Level 3</u>	<u>Total Fair Value</u>
GICs	\$ 34,566,691	\$ -	\$ -	\$ 34,566,691
Quoted investments	8,181,272	-	-	8,181,272
Bonds	-	<u>1,981,930</u>	-	<u>1,981,930</u>
	<u>\$ 42,747,963</u>	<u>\$ 1,981,930</u>	<u>\$ -</u>	<u>\$ 44,729,893</u>

**7. Related party disclosures**

The Province of Nova Scotia, its Agencies and its Crown Corporations are related parties to the Entity. Under IAS 24 Related Party Disclosures, a reporting entity is exempt from the disclosure requirements of paragraph 18 in relation to related party transactions and outstanding balances, including commitments, with:

- a) a government that has control or joint control of, or significant influence over, the reporting entity; and
- b) another entity that is a related party because the same government has control or joint control of, or significant influence over, both the reporting entity and the other entity.

As a result, the Entity has applied this exemption to these financial statements. In applying this exemption, the Entity must disclose the nature and amount of each individually significant transaction and for other transactions that are collectively, but not individually, significant, a qualitative or quantitative indication of their extent.

Operating costs of the Entity are absorbed by the Nova Scotia Department of Justice and are not reflected in the Statement of loss and comprehensive loss. These costs are offset by fees charged for administering estates, recoveries of client expenses paid by the Entity and transfers of investment income from the Special Reserve Fund.

	<b>2020</b>	<b>2019</b>
Operating expenses paid by the Province of Nova Scotia		
Salaries and benefits	\$ 2,194,380	\$ 2,088,221
Other operating costs	275,162	198,270
Rent	<u>174,552</u>	<u>178,772</u>
	<u>2,644,094</u>	<u>2,465,263</u>
Fees and recoveries paid to the Province of Nova Scotia		
Fees	1,250,677	1,236,877
Recoveries	22,144	17,921
Special Reserve Fund income transferred	<u>94,194</u>	<u>90,433</u>
	<u>1,367,015</u>	<u>1,345,231</u>
Expenses paid by the Province of Nova Scotia, net	<u>\$ 1,277,079</u>	<u>\$ 1,120,032</u>

**Public Trustee Trust Funds**  
**Notes to the Financial Statements**  
**For the Year Ended March 31, 2020**

**7. Related party disclosures (continued)**

The above fees and recoveries totaling \$1,272,821 (2019 - \$1,254,798) represent cash payments to the Province. They are net of HST of \$188,280 (2019 - \$186,208) and net accrued fees of \$13,365 (2019 - \$34,166). The total amount of these Fees, Recoveries, HST, and net accrued fees is \$1,474,466 (2019 - \$1,475,172) and is disclosed on the statement of loss and comprehensive loss. The remaining \$94,194 (2019 - 90,433) above represents investment income earned in the Special Reserve Fund and remitted to the Province of Nova Scotia.

In addition to the above, the Entity transfers undistributable assets to the Province of Nova Scotia as disclosed in note 8.

**Key management personnel**

All key management personnel and other staff are employees of the Province of Nova Scotia, as the Entity obtains key management services from the Province of Nova Scotia employees. The salaries and benefits for these employees is included in salaries and benefits above.

**8. Undistributable estates and trusts**

Undistributable assets are transferred to the Minister of Finance when they are deemed undistributable under Section 28 of the Public Trustee Act. The proceeds are paid immediately to the Minister of Finance as a distribution through net assets.

**9. 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, 2020. 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.

Public Trustee Trust Funds  
Notes to the Financial Statements  
For the Year Ended March 31, 2020

9. Common fund securities (continued)

A continuity of the Common Fund is as follows:

	2020	2019
Balance, beginning of year	\$ 2,989,949	\$ 2,988,153
Add: Purchase of securities	698	2,391
Interest and investment income	<u>261,365</u>	<u>253,924</u>
	3,252,012	3,244,468
Less: Disbursements	(4,038)	(3,395)
Amount to be transferred to the Special Reserve Fund	<u>(257,082)</u>	<u>(251,124)</u>
Balance, end of year	<u>\$ 2,990,892</u>	<u>\$ 2,989,949</u>

The balance of the Common Fund consists of the following amounts which are included with their respective Statement of Net Assets line:

	2020	2019
Cash	\$ 257,082	\$ 251,124
Investments	2,990,543	2,990,543
Payables	<u>(256,733)</u>	<u>(251,718)</u>
	<u>\$ 2,990,892</u>	<u>\$ 2,989,949</u>

Public Trustee Trust Funds  
Notes to the Financial Statements  
For the Year Ended March 31, 2020

**10. 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 and Treasury Board.

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 normally 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 determined by the Public Trustee and the Deputy Minister of Finance and Treasury Board. During the year, \$94,194 of Special Reserve Fund interest has been transferred (2019 – 185,055 which was comprised of two years being transferred).

In the current year an additional \$100,171 has been received in interest payments. The Entity and the Deputy Minister of Finance and Treasury Board will determine whether any transfer will be made during the next fiscal year.

The continuity of the Special Reserve Fund is as follows:

	2020	2019
<b>Balance, beginning of year</b>	\$ 3,655,778	\$ 3,401,678
<b>Add:</b> Interest income and gains (losses)	98,118	97,409
Net amount to be transferred from the Common Fund	<u>257,082</u>	<u>251,124</u>
	4,010,978	3,750,211
<b>Less:</b> Amount transferred to the Province of Nova Scotia	(94,194)	(94,433)
<b>Balance, end of year</b>	<u>\$ 3,916,784</u>	<u>\$ 3,655,778</u>

The balance of the Special Reserve Fund consists of the following amounts which are included with their respective statement of net assets line:

	2020	2019
Cash	\$ 108,890	\$ 102,913
Receivables	303,135	298,041
Investments	<u>3,504,759</u>	<u>3,254,824</u>
	<u>\$ 3,916,784</u>	<u>\$ 3,655,778</u>

**SCHEDULE "A"**

## ESTATES AND TRUSTS

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	Renunciation	TOTAL
245	540	152	11	8	12	66	216	1250

Presumption of Death Act	Missing/ Unascertained Person	Survival of Actions Act	Guardian <i>ad litem</i> - Incompetent Adult	Guardian <i>ad litem</i> - Infant
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17	12	32	4	5	70
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Complaints  
under ACDMA

2	40	6	48
CONSENT TO TREATMENT			
			462

**GRAND TOTAL** 1830

Individual General Inquiries April 1, 2019 - March 31, 2020  
Individual ACDMA Inquiries April 1, 2019 - March 31, 2020

624	45	<u>669</u>
<b>GRAND TOTAL</b>		

**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 1/19 - March 31/20	1988	534	692	1830
April 1/18 - March 31/19	1904	504	420	1988
April 1/17 - March 31/18	1788	427	311	1904
April 1/16 - March 31/17	1720	362	294	1788
April 1/15 - March 31/16	1605	381	266	1720
April 1/14 - March 31/15	1470	372	237	1605

**PUBLIC TRUSTEE STATISTICS**

**SCHEDULE "C"**

**BREAKDOWN OF CASES CLOSED**

<b><u>FISCAL YEAR ENDING</u></b>	<b><u>Estate of Deceased</u></b>	<b><u>Adult's Estate (Living)</u></b>	<b><u>Infant's Estate (Living)</u></b>	<b><u>Undistributable Estate or Trust</u></b>	<b><u>Missing Person's Estate</u></b>	<b><u>Patients' Abandoned Property Act</u></b>	<b><u>Specific Trust</u></b>	<b><u>Consent to Treat</u></b>	<b><u>Renunciation</u></b>	<b><u>Representative Litigation</u></b>	<b><u>ACDMA</u></b>	<b><u>TOTAL <sup>(1)</sup></u></b>
April 1/19 - March 31/20	89	132	30	1	2	6	1	284	145	1	1	692
April 1/18 - March 31/19	44	106	30	2	0	0	1	49	183	4	1	420
April 1/17 - March 31/18	50	96	24	1	1	0	1	44	93	1	0	311
April 1/16 - March 31/17	65	86	21	0	1	0	1	60	60	0	0	294
April 1/15 - March 31/16	49	89	22	5	0	0	1	68	32	0	0	266
April 1/14 - March 31/15	61	94	28	2	0	0	4	47	0	1	0	237

<sup>(1)</sup> Informational: Litigation and ACDMA data have been added effective 2018/2019

**PUBLIC TRUSTEE STATISTICS**

**SCHEDULE "D"**

**BREAKDOWN OF CASES ADDED**

<b><u>FISCAL YEAR ENDING</u></b>	<b><u>Estate of Deceased</u></b>	<b><u>Adult's Estate (Living)</u></b>	<b><u>Infant's Estate (Living)</u></b>	<b><u>Undistributable Estate or Trust</u></b>	<b><u>Missing Person's Estate</u></b>	<b><u>Patients' Abandoned Property Act</u></b>	<b><u>Specific Trust</u></b>	<b><u>Consent to Treat</u></b>	<b><u>Renunciation</u></b>	<b><u>Representative Litigation</u></b>	<b><u>ACDMA</u></b>	<b><u>TOTAL <sup>(2)</sup></u></b>
April 1/19 - March 31/20	81	129	22	2	2	8	23	125	109	7	26	534
April 1/18 - March 31/19	101	121	29	2	3	1	10	108	87	9	24	495
April 1/17 - March 31/18	76	118	19	4	1	0	6	122	76	5	0	427
April 1/16 - March 31/17	79	95	23	0	1	1	3	85	68	7	0	362
April 1/15 - March 31/16	53	115	18	5	2	1	3	92	87	5	0	381
April 1/14 - March 31/15	69	113	20	2	0	3	1	78	83	3	0	372

<sup>(2)</sup> Representative Litigation and ACDMA data have been added effective 2014/2015



# 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 Trust Funds *3
	Revenue *1	Revenue *2	Revenue					
March 31, 2020	\$ 1,250,677.00	\$ 22,144.00	\$ 94,194.00				\$ 147,108.00	
March 31, 2019	\$ 1,236,877.00	\$ 17,921.00	\$ 94,433.00				\$ 442,841.00	
March 31, 2018	\$ 1,182,758.00	\$ 20,150.00	\$ 90,622.00				\$ 124,906.00	
March 31, 2017	\$ 1,026,881.00	\$ 16,581.00	\$ 95,018.00				\$ 67,283.00	
March 31, 2016	\$ 971,672.00	\$ 17,276.00	\$ 100,893.00				\$ 69,641.00	
March 31, 2015	\$ 896,678.00	\$ 17,646.00	\$ 95,093.00				\$ 136,654.00	

\*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 e.g. postage, photocopy.

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

# PUBLIC TRUSTEE STATISTICS

## SCHEDULE "E1"

YEAR ENDING	COMMON FUND INVESTMENT INCOME TRANSFERRED TO SPECIAL RESERVE FUND	SPECIAL RESERVE FUND ACCUMULATED NON-TRANSFERABLE EQUITY
March 31, 2020	\$ 257,082.00 \$	3,513,429.33
March 31, 2019	\$ 251,124.00 \$	3,262,304.86
March 31, 2018	\$ 160,752.00 \$	3,307,425.00
March 31, 2017	\$ 117,742.00 \$	3,148,497.00
March 31, 2016	\$ 124,514.00 \$	3,025,428.00
March 31, 2015	\$ 115,957.00 \$	2,901,045.00

# PUBLIC TRUSTEE STATISTICS

## SCHEDULE "F"

### HEALTH CARE DECISIONS

Client Files	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Active Files at April 1st	394	425	449	475	553	621
New Client Files Opened	78	92	85	122	117	125
Deactivated Files Reopened	0	0	0	0	0	0
Client Files Closed	(47)	(68)	(59)	(44)	(49)	(284)
Active Files at March 31st	425	449	475	553	621	462

### REFERRALS RECEIVED

Client Files	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20
Hospitals Act	97	91	122	135	125	150
Involuntary Psychiatric Treatment Act	77	86	97	82	112	100
Personal Directives Act	338	441	374	483	628	700

### TOTAL DECISIONS

#### YEAR ENDING                      NUMBER OF DECISIONS

March 31, 2020	3900
March 31, 2019	3491
March 31, 2018	2582
March 31, 2017	2398
March 31, 2016	2383
March 31, 2015	1631

**PUBLIC TRUSTEE STATISTICS**

**SCHEDULE "G"**

**RENUNCIATIONS ADDED**

<b><u>YEAR ENDING</u></b>	<b><u>NUMBER OF RENUNCIATIONS</u></b>
March 31, 2020	109
March 31, 2019	87
March 31, 2018	76
March 31, 2017	68
March 31, 2016	87
March 31, 2015	83



Office of the Public Trustee

## **Health Care Decisions Division**

### **Annual Report**

**April 1st, 2019 to March 31<sup>st</sup>, 2020**

## TABLE OF CONTENTS - Health Care Decisions Division

<b>Mission</b>	
<b>Principles and Standards</b>	
<b>Health Care Decisions Division Structure</b>	<b>Page 3</b>
<b>Summary</b>	<b>Page 4</b>
<b>2019-2020 Statistical Summary</b>	
<b>Client Files</b>	
Table 1- Active Files yearly comparison	Page 4
Chart 1- Active Files yearly comparison	Page 5
Table 2- Open/Closed Files	
<b>Referrals</b>	<b>Page 5</b>
Table 3- Referrals Received yearly overview	Page 6
Chart 2- Referrals received yearly overview	
Table 4- Quarterly overview by legislation	
Chart 3- Quarterly overview by legislation	Page 7
<b>Referrals under PDA</b>	<b>Page 7</b>
Table 5- PDA quarterly overview	
Chart 4- PDA quarterly overview	
<b>Referrals under HA and IPTA</b>	<b>Page 8</b>
Table 6- HA and IPTA yearly overview	
Chart 5- HA and IPTA yearly overview	
<b>Yearly Referrals</b>	<b>Page 9</b>
Table 7- Yearly referrals by type	
Chart 6- Yearly referrals by type	
<b>Referrals by Month</b>	
Chart 7- Referrals by Month and Legislation	Page 10
Chart 8- Referrals by quarter	
Chart 9- Yearly comparison of referrals	Page 11
<b>Referrals by Source</b>	
Table 8- Referrals by source	
Chart 10- Referrals by source	Page 12
<b>Referrals by Geographic Area (NSHA Zones)</b>	<b>Page 12</b>
Table 9- Yearly referrals by zone	Page 13
Chart 11- Yearly referrals by zone	
<b>Withdrawn/Invalid</b>	
Table 10- Referrals marked invalid/withdrawn	
<b>Decisions</b>	<b>Page 14</b>
Table 11- Total Decisions yearly comparison	
Table 12- Decisions by level quarterly overview	
Chart 12- Decisions by legislation	
<b>Decision Levels</b>	<b>Page 15</b>
Table 13- Decisions by level quarterly overview	
Chart 13- Total Decision by level	
<b>Level 3 Decisions</b>	
Table 14- Level 3 Decisions	Page 16
<b>Statistical Summary Table</b>	
Table 15- 2019-2020 Yearly Overview	
<b>Quality Indicators</b>	<b>Page 16</b>
Complaints	
Response times	
Table 16 - Response time overview	Page 17
<b>Education</b>	
Training	Page 18
Post training support Plan	Page 20
Complaints	
<b>2020-2021 Annual Work Plan</b>	<b>Page 20</b>
<b>Appendix</b>	
<b>ACDMA</b>	

## Public Trustee Mission

The Public Trustee is committed to providing informed consent for health care decisions, home care services, placements, medical, surgical, and psychiatric treatments for clients using an approach that is client-centered, 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 foundational documents supporting the Health Care Decisions Division are the Canadian Charter of Rights & Freedoms and the *Nova Scotia Human Rights Act*.

**Best interest and informed consent principles** are the foundation of decision-making within the Health Care Decisions Division. Divisional 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, on behalf of the Public Trustee, 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 they had capacity. Decisions are made using the **Best Interests and Reasonable Person Standards**; after carefully considering all available relevant information, the Health Care Decisions Division makes a 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.

## Health Care Decisions Division Structure



The Organizational structure of the Health Care Decision Division changed in the 2019-2020 fiscal year as a result of the additional responsibilities related to the *Adult Capacity and Decision-making Act* capacity assessment training and assessor support.

The Health Care Decisions Division serves all of Nova Scotia and now consists of five full-time employees, the Director and three (3) Health Care Consultants as of July 2019. An Administrative Assistant was added to the HCD team in October 2019, which allows us to meet the interests of our clients and requests by service providers in a timely manner.

## Summary

This 2019-2020 Annual Fiscal report provides a summary of data and analysis for the Health Care Decisions Division of the Office of the Public Trustee.

The Public Trustee, through the Health Care Decisions Division acts as the statutory decision-maker of last resort for individuals who lack capacity to make decisions concerning health care, home care services, and placement to a continuing care home; as well as decisions related to medical, surgical, and psychiatric treatment; when there is no higher-ranked substitute with capacity who is willing and able to act on their behalf.

Authority to act is granted under the *Personal Directives Act* (PDA), *Hospitals Act* (HA) and *Involuntary Psychiatric Treatment Act* (IPTA).

## Client Files

In 2019-2020 fiscal year, 125 new client files were opened, and 284 client files were closed. At year end, March 31, 2020, the HCD had 462 open client files, this reflects a decrease of 26% when compared to year end 2018-2019 with 621 active files. This is attributed to a comprehensive review of all existing files conducted this fiscal year

**Table 1**

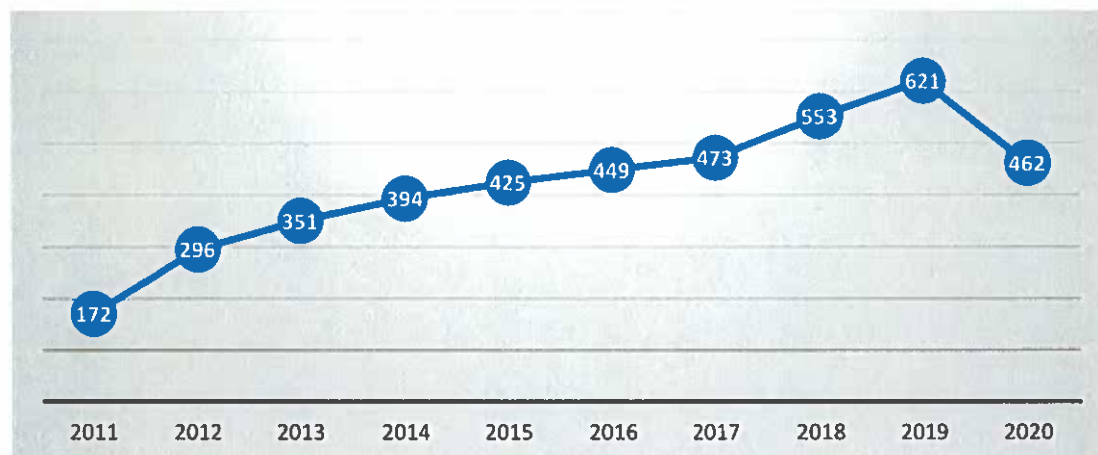
Active Files – Yearly Comparison

Client Files	2017-2018	2018-2019	2019-2020
Active Files at April 1st	475	553	621
New Client Files Opened	122	117	125
Client Files Closed	-44	-49	-284
<b>Active Files end of March 31, 2020</b>	<b>553</b>	<b>621</b>	<b>462</b>



**Chart 1**

Active Files – Yearly Comparison



Moving forward, the HCD team defines an “Active Client” as a client file that the HCD Team is actively involved in and whom we are making decisions on their behalf within a designated timeframe. A new inactive timeframe guideline has been developed and will be used to close files after a period of inactivity or no response from service provider.

The HCD will audit each client file yearly to ensure accuracy in “Active Client” files.

**Table 2**

Open/Closed – Quarterly Overview

Client Files	Q1	Q2	Q3	Q4	Year Total
Opened in Quarter	27	24	40	34	125
Closed in Quarter	*187	44	18	33	284
Quarter End Balance	461	441	463	462	462

As noted in previous Quarterly Reports, the HCD team began complete reviews of all Client Files in 2019-2020.

This review began in Quarter 1, which accounts for the increased number of closed files (\*187) in this quarter.

Files were closed due to client death, inactivity, client regained capacity, client left the province or SDM coming forward.

### Referrals

In 2019-2020 A total of 950 referrals were received

- 700 referrals under PDA (74%)
- 150 referrals under HA (16%)
- 100 referrals under IPTA (10%)

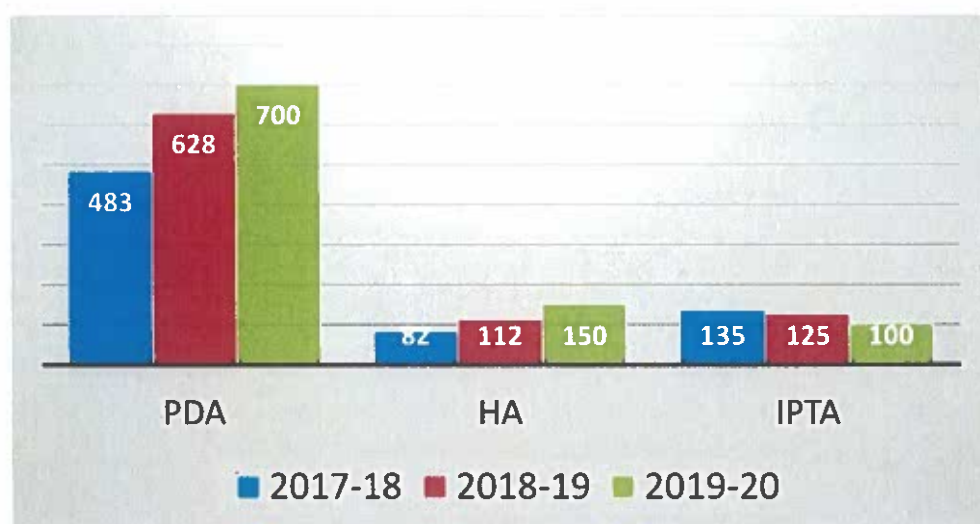
**Table 3**

Referrals Received – Yearly Comparison

Legislation	2017-2018	2018-2019	2019-2020
<i>Personal Directives Act</i>	482	628	700
<i>Hospitals Act</i>	135	125	150
<i>Involuntary Psychiatric Treatment Act</i>	82	112	100
<b>Total</b>	<b>700</b>	<b>865</b>	<b>950</b>

**Chart 2**

Referrals Received – Yearly Comparison



**Table 4**

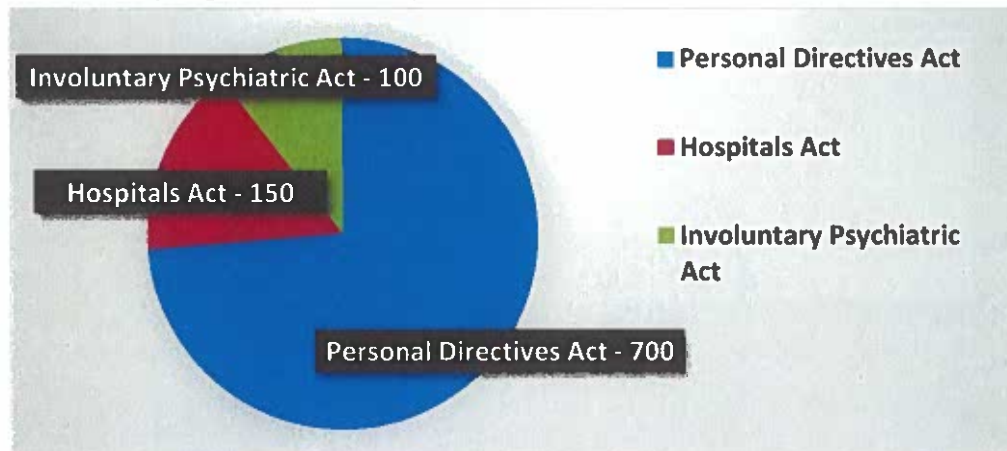
Referrals by Legislation – Quarterly Overview

Quarter	Q1	Q2	Q3	Q4	Total	%
PDA	201	139	174	186	700	74%
HA	35	26	48	41	150	16%
IPTA	27	14	34	25	100	10%
<b>Total</b>	<b>263</b>	<b>179</b>	<b>256</b>	<b>252</b>	<b>950</b>	<b>100%</b>

The majority of referrals (74%) were under the *Personal Directives Act*, consistent with previous years.

**Chart 3**

Referrals By Legislation – Yearly Overview



**Referrals under *Personal Directives Act***

Referrals under the *Personal Directives Act* include health care, home care and placement to a continuing care home. In 2019-20, a total of 700 referrals were received under PDA.

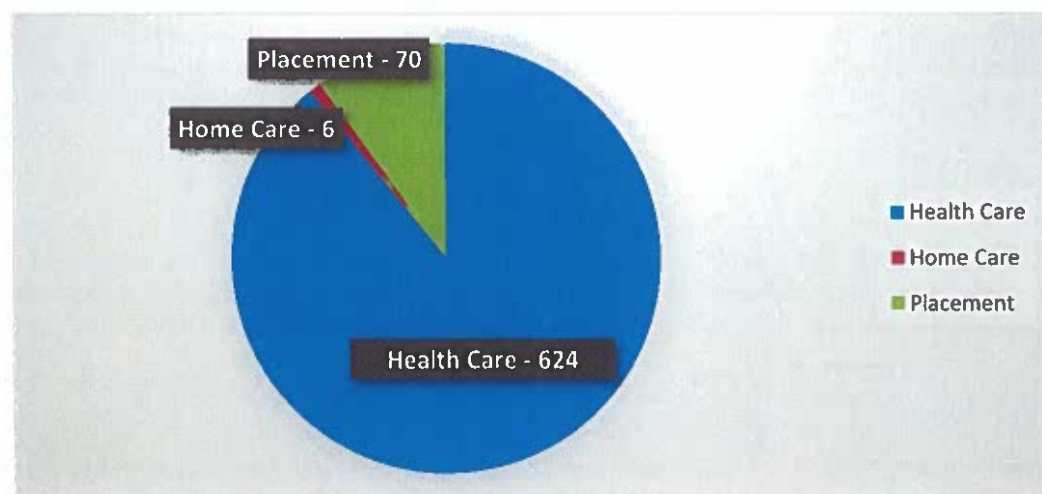
**Table 5**

PDA Referrals - Quarterly Overview

PDA	Q1	Q2	Q3	Q4	Total	%
Health Care	175	124	159	166	624	89%
Home Care	1	0	5	0	6	1%
Placement	25	15	10	20	70	10%
<b>Totals</b>	<b>201</b>	<b>139</b>	<b>174</b>	<b>186</b>	<b>700</b>	<b>100%</b>

**Chart 4**

PDA Referrals – Yearly Overview



### Referrals under *Hospitals Act* and *Involuntary Psychiatric Treatment Act*

*Hospitals Act* referrals include recommendations for medical and surgical treatments. In the fiscal year ending March 31, 2020, the Public Trustee received 150 referrals under the *Hospitals Act*.

*Involuntary Psychiatric Treatment Act* referrals include recommendations for psychiatric treatment in hospital, community treatment orders and "Other". In the fiscal year ending March 31, 2020, the Public Trustee received 100 referrals under the *Involuntary Psychiatric Treatment Act*.

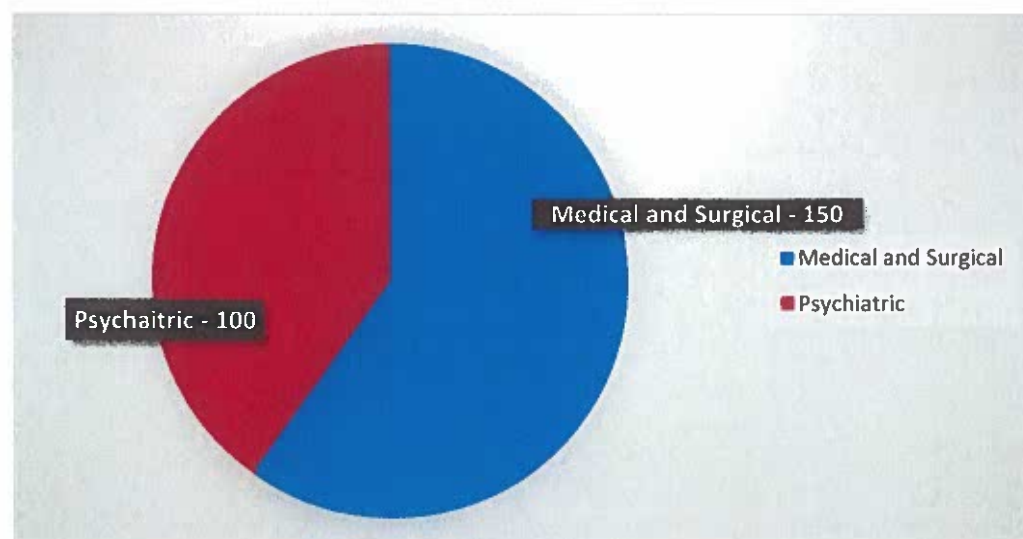
**Table 6**  
HA and IPTA Referrals – Yearly Overview

HA	Q1	Q2	Q3	Q4	Totals
Medical	28	23	37	*41	88
Surgical	7	3	11		62
<b>Totals</b>	<b>35</b>	<b>26</b>	<b>48</b>	<b>41</b>	<b>150</b>

\*Note, in Q4 Medical and Surgical referrals were merged into one category as to separate them in PAM is a manual process which did not offer additional value.

IPTA	Q1	Q2	Q3	Q4	Total
Psychiatric	27	14	34	25	100

**Chart 5**  
HA and IPTA Referrals – yearly overview



## Yearly Referrals

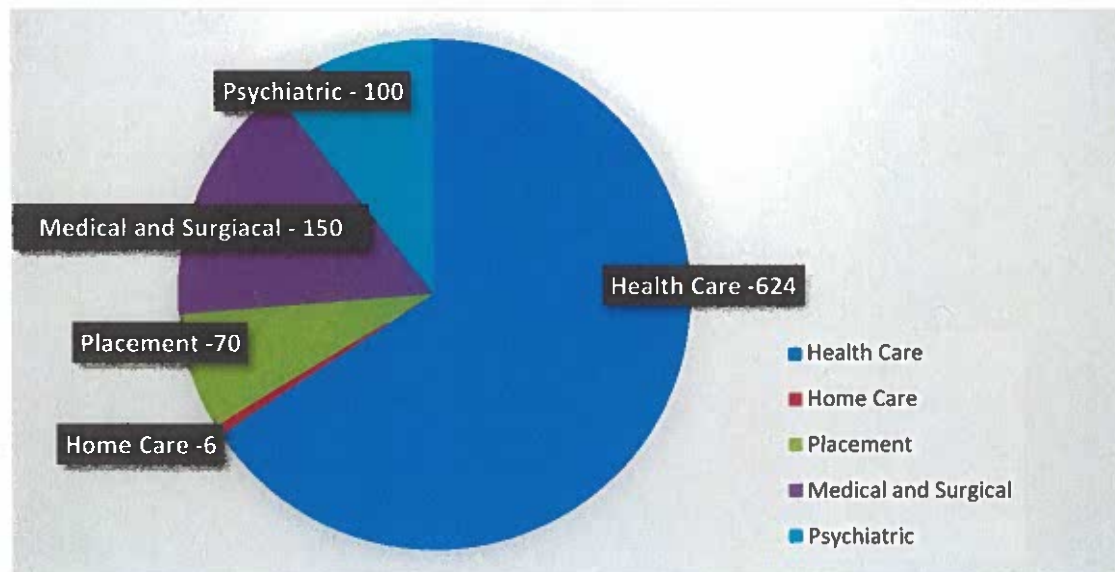
**Table 7**

Total Yearly Referrals by type

Referral Type	Q1	Q2	Q3	Q4	Total	%
Health Care	175	124	159	166	624	66%
Home Care	1	0	5	0	6	0%
Placement	25	15	10	20	70	7%
Medical and Surgical	35	26	48	41	150	16%
Psychiatric	27	14	34	25	100	11%
<b>Total Yearly Referrals</b>	<b>263</b>	<b>179</b>	<b>256</b>	<b>252</b>	<b>950</b>	<b>100%</b>

**Chart 6**

Total Yearly Referrals by type

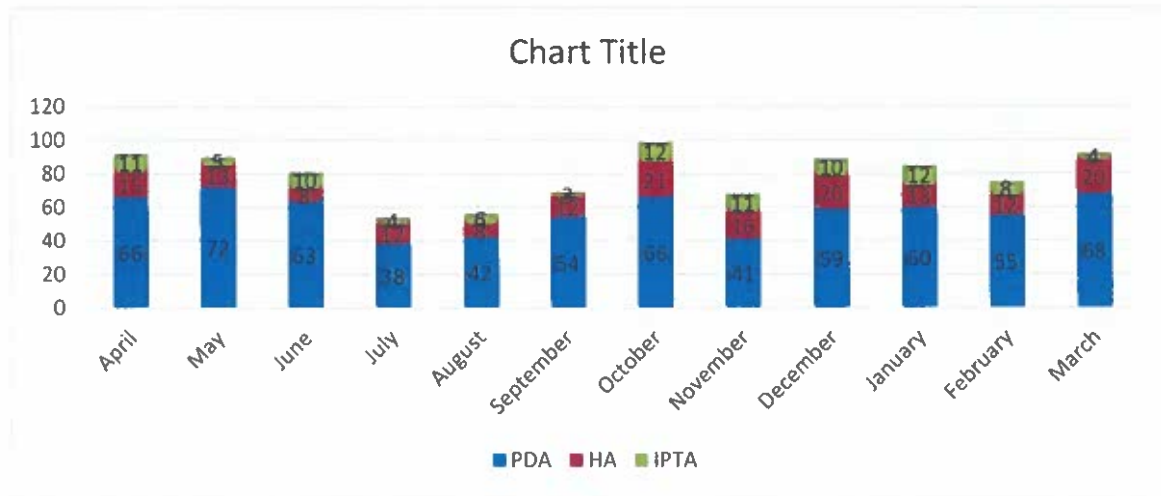


## Referrals by month

The average number of referrals received each month in 2019-20 was 79, compared to 72 in 2018-19. October had the most referrals received in a month at 99 and July had the fewest at 54.

**Chart 7**

Referrals by Month and Legislation



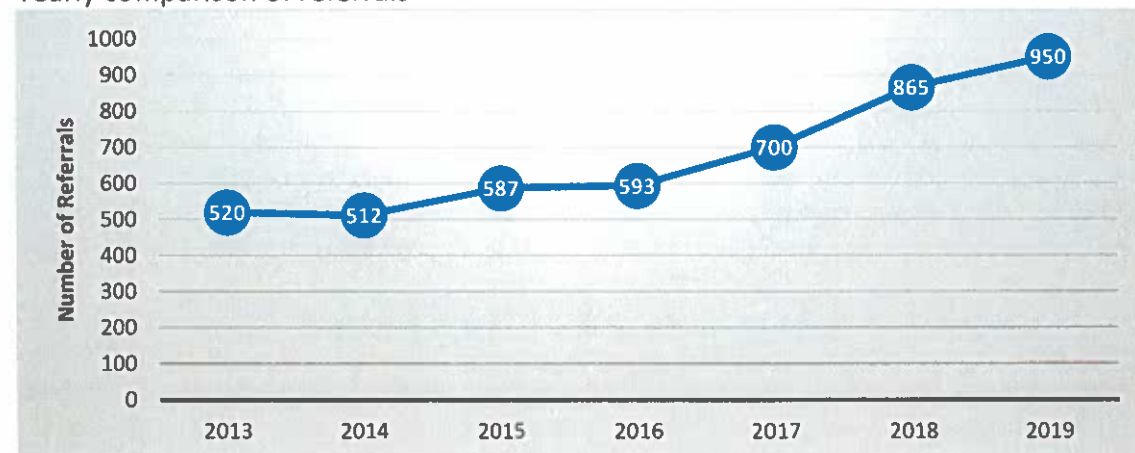
**Chart 8**

Referrals by Quarter



**Chart 9**

Yearly comparison of referrals





### Referrals by Source

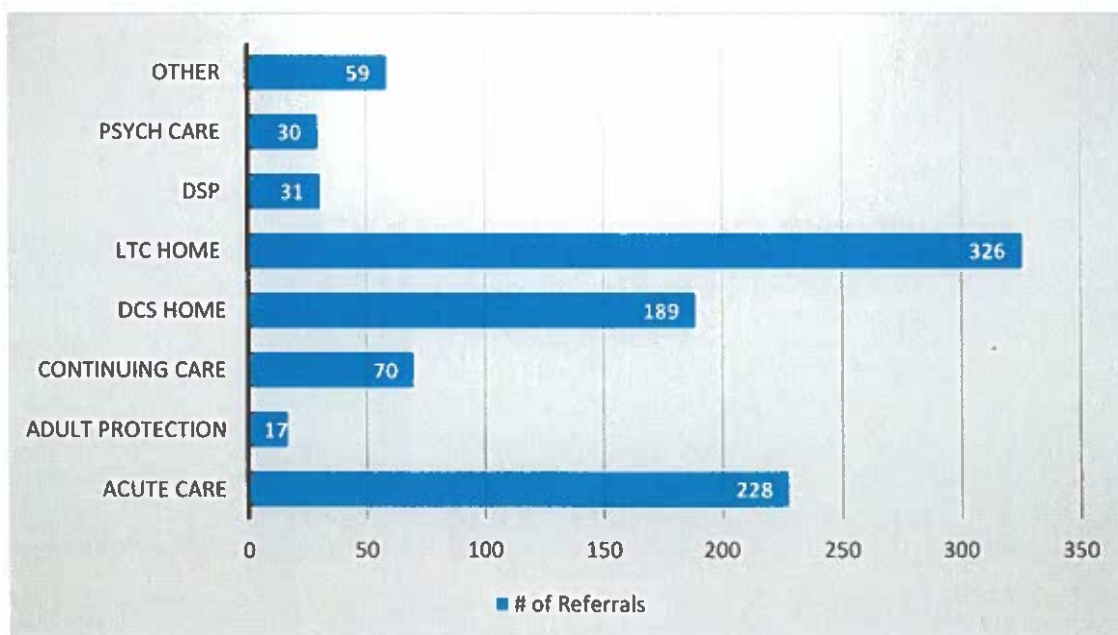
Referrals originate from several sources, including hospitals, licensed homes under Departments of Community Services (DCS) and Health and Wellness (DHW), Adult Protection Services, Care Coordination and Placement Services (NSHA) and the Disability Supports Program (DSP). 'Other' sources may include primary care health professionals in the community, e.g. dentist, general practitioners.

**Table 8**  
Referrals by Source

Referral Source	Q1	Q2	Q3	Q4	Total	%
Acute Care	69	39	65	55	228	24%
Adult Protection	6	7	2	2	17	1.7%
Cont. Care	26	11	12	21	70	7.4%
DCS Home	69	22	53	45	189	19.9%
LTC Home	77	81	73	95	326	34.3%
DSP	13	7	8	3	31	3.3%
Psych Care	* 0	* 0	* 0	30	30	3.2%
Other	3	12	43	1	59	6.2%
<b>Total</b>	<b>263</b>	<b>179</b>	<b>256</b>	<b>252</b>	<b>950</b>	<b>100%</b>

\* Note - Psych Care was included in "Other" referral sources before Q4.

**Chart 10**  
Referrals by Source



## Referrals by Geographic Area

The Nova Scotia Health Authority (NSHA) is divided into four geographic zones:

- Zone 1 (Western);
- Zone 2 (Northern);
- Zone 3 (Eastern); and
- Zone 4 (Central).



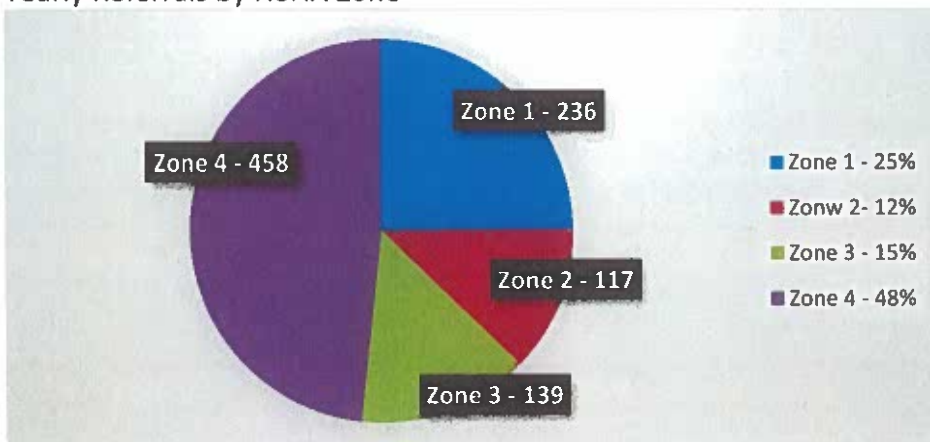
**Table 9**

Yearly Referrals by NSHA Zone

Referrals by Zones	Q1	Q2	Q3	Q4	Total	%
Zone 1	76	47	51	62	236	25%
Zone 2	32	15	38	32	117	12%
Zone 3	34	32	35	38	139	15%
Zone 4	121	85	132	120	458	48%
Total	263	179	256	252	950	100%

**Chart 11**

Yearly Referrals by NSHA Zone





### Invalid and Withdrawn Referrals

Beginning in Quarter 4, January 2020, the HCD team began formally tracking Invalid and Withdrawn Referrals.

If a referral does not fall within the decision requirements noted in policy, the referral will be marked **invalid** and the Health Care Decisions Division will inform the service provider via telephone or fax.

If a referral is received and the service provider changes their mind about the referral or finds a higher ranking SDM the referral will be marked **withdrawn**.

**Table 10**

Invalid and Withdrawn Referrals

25 referrals of the 252 received in Q4 (10%) were marked Invalid or Withdrawn.

Invalid/Withdrawn Referrals	Q1	Q2	Q3	Q4	Total
Invalid	Not Tracked			14	14
Withdrawn	Not Tracked			11	11
<b>Total Referrals for Quarter</b>	<b>Not Tracked</b>			<b>252</b>	<b>25</b>

### Decisions

In the 2019-2020 fiscal year, HCD entered 3900 decisions, an increase of 12% when compared to the previous year with 3491 decisions.

**Table 11**

Total Decisions - Yearly Comparison

Yearly Decisions	2018-2019	2019-2020
# of Decisions	3491	3900
% Increase	35% increase	12% increase

**Table 12**

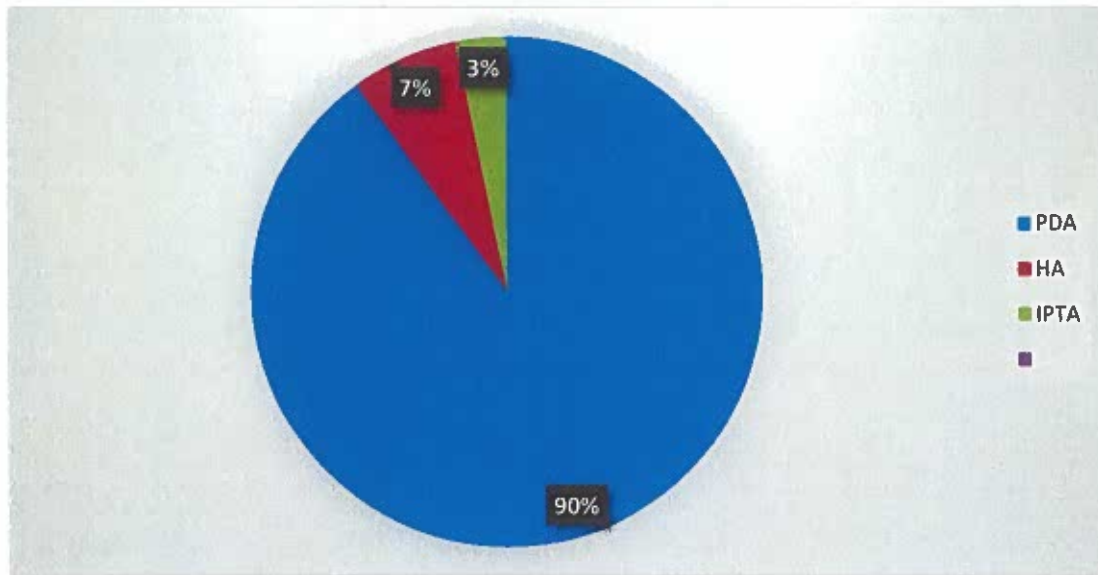
Decisions by Legislation - Quarterly Overview

Legislation	Q1	Q2	Q3	Q4	Total	%
PDA	1220	649	802	839	3510	90%
HA	47	45	96	77	265	7%
IPTA	36	12	46	31	125	3%
<b>Total</b>	<b>1303</b>	<b>706</b>	<b>944</b>	<b>947</b>	<b>3900</b>	<b>100%</b>

Of the 3900 decisions made, 7% of decisions were made under the *Hospitals Act*, 3% were made under *Involuntary Psychiatric Treatment Act*, and 90% were made under *Personal Directives Act*.

**Chart 12**

Decisions by Legislation



### 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 decisions having the most risk/restriction.

In 2019-2020 the HCD entered 3900 decisions, 96% under were Level 1, 3.3% were Level 2 and the remaining 0.7% were Level 3 decisions.

- 3741 decisions were Level 1 (96%)
- 134 decisions were Level 2 (3.3%)
- 25 decisions were Level 3 (0.7%)

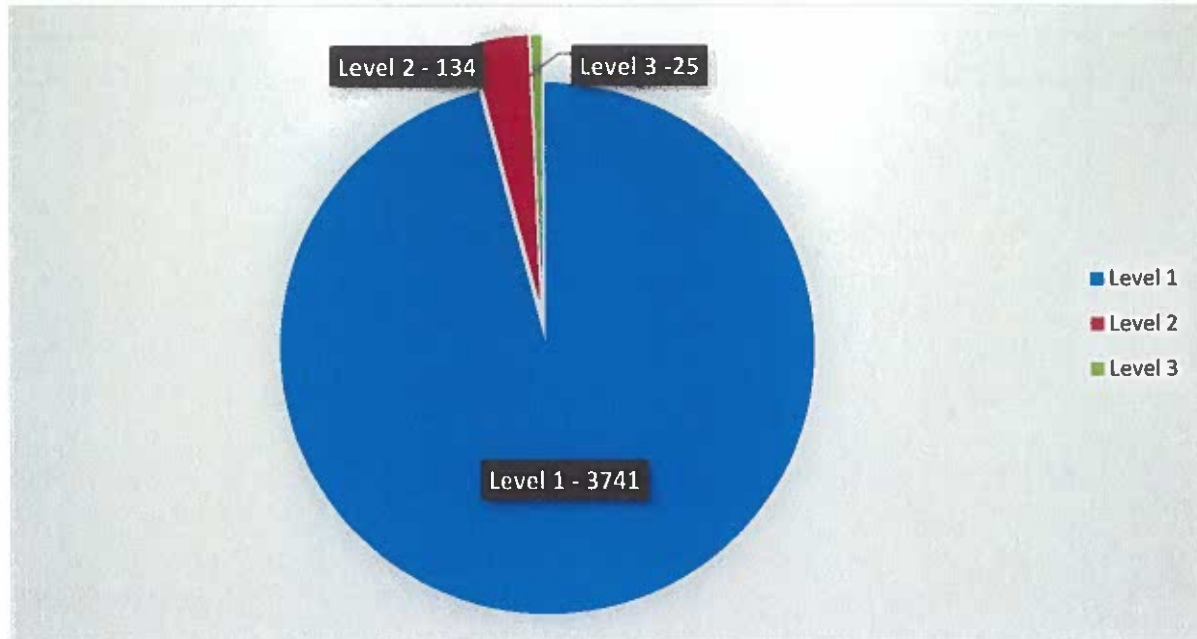
**Table 13**

Decisions by Level – Quarterly Overview

Decision Level	Q1	Q2	Q3	Q4	Total	%
Level 1	1263	673	902	903	3741	96%
Level 2	32	29	35	38	134	3.3%
Level 3	8	4	7	6	25	0.7%
Total	1303	706	944	947	3900	100%

**Chart 13**

Total Decisions by level



### Level 3 Decisions

There were 25 Level 3 decisions made in 2019-20, a decrease of 10% when compared to 28 Level 3 decisions in 2018-19.

- 14 Community Treatment Orders/Renewals
- 10 Electroconvulsive Treatment/Maintenance
- 1 Enteral Feeding tube.

**Table 14**

Level 3 Decisions 2019-2020

Level 3 Decision	Q1	Q2	Q3	Q4	Total
Community Treatment Orders and Renewals	5	3	3	3	14
Electroconvulsive therapy/Maintenance	3	1	4	2	10
Enteral Feeding Tube	0	0	0	1	1
<b>Total</b>	<b>8</b>	<b>4</b>	<b>7</b>	<b>6</b>	<b>25</b>

### Statistical Summary Table

Below is a complete overview of Files Opened, Closed, Active, Referrals and Decisions, presented in table format.

**Table 15**

2019-2020 Yearly Overview

Activity	Q1	Q2	Q3	Q4	Totals
Files Opened	27	24	40	34	125
Files Closed	187	44	18	33	284
Active Files at Quarter End	461	441	463	462	1827
# of Referrals	263	179	256	186	884
# of Decisions	1303	706	944	947	3900

### Quality Indicators

#### Complaints

The 2019-20 target was to have zero formal complaints during the fiscal year.

The HCD received no formal complaints during this fiscal year.

#### Response Times

100% of decision letters were issued within the established response time of 1 business day for referrals marked "Urgent" and standard 3 business days of receipt of all relevant and required referral information.

The HCD team implemented an improved process for accurately tracking response times in January 2020. Prior to then it was done informally. The HCD Team added response times on the referral tracking sheet, to ensure we are meeting our established response times as detailed on our updated Policy Manual.

**Table 16**

Response Times Overview

Response Times	Q1	Q2	Q3	Q4	Totals
Total Referrals	Not consistently tracked			252	252
# that met response times				252	252

### Education

The HCD Provincial Education Outreach plan continued to be implemented in 2019-20. HCD offered education sessions for Service Providers in a variety of communities.

Seven (7) formal external education sessions were provided to stakeholders during this fiscal year. HCD presented to Northwood Long Term Care staff, Cumberland Regional Hospital staff, NSHA including Continuing Care and Placement, Department of Health and Wellness, Adult Protection and two sessions were conducted with Parkstone Enhanced Care. Two of the

sessions were joint with Kim Buckler who provided an overview of the financial referral process. One was in person and the second was via Skype meeting which went well and

Participants reported that the information was helpful to their roles in their evaluation feedback.

Educational sessions for the Health Care Division have been on hold since Q3, due to unavailability of service providers and a term leave by a consultant in late February 2020.

The HCD team focused on orientating a term consultant who joined our team on March 11<sup>th</sup> 2020.

Director, Marian Casey, continued to accommodate requests for educational sessions.

HCD aims to resume Consultant led educational sessions for service providers in the Fall of 2020.

In March 2020, the HCD team had the opportunity to welcome staff from the Medical Examiner's Office and Protection for Persons in Care for presentations on their respective roles.

### **Adult Capacity and Decision-Making Act Capacity Assessment Training Overview**

The Adult Capacity and Decision-making Act (ACDMA) came into effect on December 28th, 2017. Various accountabilities were assigned to the Public Trustee. Oversight of capacity assessment training and support for allied health professionals was delegated to the Director, Health Care Decisions and Capacity Assessment. Goal is to have an accurate roster of competent allied health professionals who were available to perform ACDMA capacity assessments throughout Nova Scotia. Responsibilities include advertising, screening, selection, coordination and facilitating standardized training. As well as providing ongoing assessor support and guidance and collaborating with the Capacity Assessment Consultant Psychologist as necessary. Screening and assessment worksheets and Special Population Guidelines have been drafted and are being trialed.

The inaugural two days of ACDMA capacity assessment training was hosted on June 20th and 21st 2019 in Halifax. Training was provided by Dr Arlin Pachet and nine NS health care professionals were selected to participate in the training and received their designation for a two year time period (July 1<sup>st</sup>, 2019 to June 30th, 2021). The roster was shared widely with the legal community and posted on the Public Trustee's website.

Assessors must complete two assessments, which are reviewed by the Director and consultant for consistent and constructive feedback, plus attend an annual refresher within that time frame to maintain their designation. The annual refresher workshop is booked for June 5<sup>th</sup> 2020. Quarterly check in calls are hosted with the group and lessons learned shared. The assessors received enquiries from a variety of sources within the fiscal year, to date one assessor has completed two ACDMA Capacity assessments. One assessor moved out of Province in January 2020 leaving a total of eight available assessors.

## COVID-19 Pandemic

On March 11, 2020 the World Health Organization (WHO) announced a worldwide pandemic related to the coronavirus. The Chief Medical Officer of Health, in collaboration with the Premier issued a variety of directives under the *Health Protection Act* aimed at reducing the risk of exposure for vulnerable individuals to the virus. Being a new virus with many unknowns, it was assessed to be highly contagious spreading easily between people who are within about 6 feet of each other, and through droplets produced when an infected person coughs or sneezes. It can also be spread by people who are asymptomatic and from contact with infected surfaces by touching a surface or object with the virus and then touching your face. The CDC believes COVID-19 spreads “easily and sustainably in the community”. People were directed to physically distance themselves from each other and ‘Stay Home’ if possible. This directive was enacted in the office and effective March 16<sup>th</sup> modified work strategies were implemented as a result of the COVID-19 Pandemic. Limiting the number of people in the office at any one time while maintaining core operations was in effect.

The virus affects frail and health compromised people more aggressively and they are less likely to be able to fight the disease. Restrictions were put into place for LTC facilities with visiting restrictions, staggering meals times and hosting smaller recreational programs. The Provincial directive to “Treat People in Place” has been communicated with us by various sites. We have reviewed their clients and goals of care and discussed the risks of the disease and if there would be any benefit to hospital admission to ICU, intubation and ventilation. We have received ongoing communication from many homes about the measures they have put in place to limit the spread of the virus. Dr. Strang, Chief Medical Officer of Health has issued guidelines for LTC to follow as well as the circumstances to swab for COVID. Therefore, we are not consenting to swabs as a directive is in place.

<https://novascotia.ca/coronavirus/health-protection-act-order-by-the-medical-officer-of-health.pdf>

We anticipate increased communication from facilities as they seek to keep all SMD informed and up to date due to visiting restrictions.

**2020-2021 HCDD Annual Work Plan**

- Provide excellent customer service and timely responses to complete referrals.
- Seek creative learning methods for external stakeholder education such as workshops, regarding the role of the Health Care Decisions division and associated processes.
- Target implementation date of April 2020 for the new HCD policy manual.
- HCD team will implement an auditing process starting in April 2020, to ensure legislated forms are valid and to review client file activity and ensure compliance with revised policies and in-house documentation standards.
- Care Conferences participation will be prioritized for participation by phone.
- HCD Consultants will continue to attend IPTA Review Board Hearings in person/confidential phone line to support the Best Interests of our Clients
- "Unusual Events" will be tracked and reported quarterly.
- "Invalid and Withdrawn" referrals will be tracked and reported quarterly.
- HCD will now send the PDA Service Provider Expectation document (Appendix C) which provides an overview of our role as SDM with all Post Placement letters and to any other service provider who may benefit from the information. This overview aims to support service providers in the referral process, when/what to refer, when/what to communicate to HCD and other important information.
- Two education sessions are booked for ACDMA information sessions (IWK on May 21 and June 18<sup>th</sup> for Valley) for parents of children with disabilities who will be turning 19 years old.
- Planning and preparing for the one-day refresher ACDMA workshop booked for June 5<sup>th</sup>.
- HCD webpage is under review with a goal to make it more user friendly.
- A brochure outlining the process of what legislation is triggered for different issues/setting is being explored.
- Operations will continue to be adjusted to comply with the current pandemic situation such as posting information and education sessions.
- Q1-Q2 will focus on rebuilding operations and relationships post COVID.

## **Appendix A: Adult Capacity and Decision-Making Act (ACDMA)**

The *Adult Capacity and Decision-making Act* (ACDMA) came into effect on December 28th, 2017 replacing the *Incompetent Persons Act*, which was Nova Scotia's adult guardianship law.

All adults have the right to make their own decisions unless it can be shown that they cannot. This new law is for adults who cannot make all decisions for themselves. They may not be able to make some decisions because of a learning disability, mental health problems, brain injury, or for other reasons. The law allows another person to make some important decisions for them if the person has been deemed to lack capacity to make some decisions, another person can apply to court to represent them and make those decisions.

The purpose of the new law is to:

- Provide a fair and respectful way to protect the safety of those adults who are shown to be unable to make some decisions for themselves.
- Promote the dignity, autonomy, independence, social inclusion, and freedom of decision-making of adults
- Make sure that the least restrictive and least intrusive supports and interventions are considered before this new law is used to help an adult.

Representatives must:

- only make decisions for the adult that the adult cannot make for themselves
- think about adult's prior instructions, wishes, values and beliefs
- make sure the adult understands the decisions and is aware of decisions being made as much as possible
- encourage and facilitate adult's participation in decision-making
- make the least restrictive and least intrusive decisions possible
- keep a record of the decisions they make
- keep the adult's personal information safe
- provide reports if required by the court
- return for a review of the order if required by the court
- seek a reassessment of the adult's capacity if they believe it has changed or if the adult requests it

The assessor prepares a capacity assessment report, which includes the capacity assessor's determination whether the adult is unable to make decisions in one or more areas.

Capacity assessments can be carried out by:

1. Medical Doctors
2. Psychologists
3. Occupational Therapists certified to carry out capacity assessments (with training)
4. Registered Nurses certified to carry out capacity assessments (with training)
5. Social Workers certified to carry out capacity assessments (with training)



Various responsibilities were assigned to the Public Trustee such as ensuring that allied health professionals received standardized training and support and there was a roster of individuals who were available to perform these assessments throughout Nova Scotia. Training for OTs, RNs and SWs was coordinated by the Director, Health Care Decisions & Capacity Assessment within the Public Trustee's Office. Medical doctors and psychologists can perform capacity assessments without any additional training.

#### **ACDMA Capacity Assessment Training:**

Capacity Assessment is a formal process where designated healthcare professionals follow a standard process and reporting format to work together with clients, families and other health professionals to ensure an accurate and comprehensive capacity assessment is completed. The Capacity Assessment clearly outline the areas of capacity and the areas in which the least restrictive and least intrusive supports are required to support the individual.

In order to successfully build a sustainable Capacity Assessment Program for Nova Scotia, access to Subject Matter Experts (SME) is crucial to the credibility and effectiveness of the program. Following numerous conversations, there was no one in NS willing to teach others how to complete ACDMA capacity assessments. One of the key features of this type of training is interactive case studies, this was limited due to the newness of the Act and limited opportunity to effectively practice with the new assessment in NS.

Alberta and Ontario have well established Capacity Assessment Competency programs in place. Based on the limited opportunity for NS professionals to practice the assessment, a request to contract with Dr Arlin Pachet, who has developed and delivered the Alberta Capacity Assessment training program numerous times was made and approved as Alberta legislation is more closely aligned with NS. An interested NS Psychologist also attended the 2 days of training on June 20 and 21st in a "train the trainer" model so that they had the opportunity to learn and be involved in formal training and can assist with future training and mentorship in NS.

A call for applications for ACDMA Capacity Assessment Training was made through the five-professional colleges by the Office of the Public Trustee with an April 5th, 2019 deadline. Numerous emails and calls were taken. 24 formal applications were received and screened. Following the deadline, applications underwent a screening process by which the most suitable applications were selected for a further telephone interview by the Director. It involved further inquiry into the applicant's interest in the program, their experience with capacity assessments, and their knowledge of the ACDMA. Successful applicants were selected based on their initial application questionnaire responses in combination with the subsequent telephone interview. Nine successful applicants were chosen to participate in the inaugural training, 6 Social Workers, 2 Occupational Therapists and 1 Registered Nurse.

Training was delivered on June 20 and 21st 2019 at the Office of the Public Trustee in Halifax with an out of Province trainer, Dr Pachet. He provided the necessary training to teach the selected trainees how to assess an individual's ability to "understand and appreciate" the decision-making process. This interactive workshop focused on case studies which provided contextual learnings participants with the knowledge and skills necessary to accurately and successfully conduct capacity assessments. An exam was administered to the trainees on the last day of the training to evaluate their understanding of and ability to apply the information presented to them. Trainees who successfully passed the exam were certified as assessors

under the ACDMA. The Office added their names to the provincial Roster of assessors as per the regulations, which was posted on the Office of the Public Trustee website and shared widely throughout the legal and health networks. They are permitted to operate a private practice conducting ACDMA capacity assessments across the Province, in accordance with their professional standards and license.

All certified capacity assessors who successfully completed the capacity assessment course received a certificate acknowledging them as Capacity Assessors under ACDMA with an effective and expiry date. In order to maintain this designation, each assessor must conduct a minimum of two ACDMA capacity assessments within two years. They must also participate in a one-day refresher course before the two-year expiry of their certification. The refresher course will also be coordinated and facilitated under the direction of the Office of the Public Trustee. A random vetted capacity assessment will be requested from each assessor during the two-year period to ensure compliance with expected report writing.

### **Post-Training Support Plan**

The capacity assessment coordinator is available to provide post-training support to the capacity assessors and to problem-solve in accordance with the legislated requirements for capacity assessments. Issues and concerns will be escalated as necessary and appropriate.

### **Complaints**

Under the ACDMA, the Public Trustee is the body that all “interested parties” can file a complaint with under the legislation. If they file a complaint that has to do with the assessor, we will investigate and if the assessor is found to be operating outside of the parameters set by the ACDMA and/or regulations, we will notify the Minister and make a recommendation. Also, if we discover that the assessor has been convicted of a criminal offense (generally via media) we will investigate and again make the recommendation we feel is appropriate to the Minister.

- Adult Capacity and Decision-Making Act (ACDMA))
- The Adult Capacity and Decision-making Act (ACDMA) came into effect on December 28th, 2017 replacing the Incompetent Persons Act, which was Nova Scotia’s adult guardianship law.
- Oversight was assigned to the Public Trustee in terms of ensuring allied health. All adults have the right to make their own decisions unless it can be shown that they cannot. This new law is for adults who cannot make all decisions for themselves. They may not be able to make some decisions because of a learning disability, mental health problems, brain injury, or for other reasons. The law allows another person to make some important decisions for them if the person has been deemed to lack capacity to make some decisions, another person can apply to court to represent them and make those decisions.
- The purpose of the new law is to:
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- The assessor prepares a capacity assessment report, which includes the capacity assessor's determination whether the adult is unable to make decisions in one or more areas.
- Capacity assessments can be carried out by:
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  - 2. Psychologists
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  -
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- 
- ACDMA Capacity Assessment Training:
  - Capacity Assessment is a formal process where designated healthcare professionals follow a standard process and reporting format to work together with clients, families and other health professionals to ensure an accurate and comprehensive capacity assessment is completed. The Capacity Assessment will clearly outline the areas of capacity and the areas in which the least restrictive and least intrusive supports are required to support the individual.
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  - Alberta and Ontario have well established Capacity Assessment Competency programs in place. Alberta legislation is more closely aligned with NS. Based on the limited opportunity for NS professionals to practice the assessment, a request to contract with Dr Arlin Pachet, who has developed and delivered the Alberta Capacity Assessment training program numerous times was made and approved. An interested NS Psychologist attended the 2 days of training on June 20 and 21st in a "train the trainer" model so that they had the opportunity to learn and be involved in formal training and can assist with future training and mentorship in NS.
  - A call for applications for ACDMA Capacity Assessment Training was made through the five-professional college to the Office of the Public Trustee with an April 5th, 2019 deadline.

Numerous email and call enquiries were received. 24 formal applications were received and screened. Following the deadline, the applications underwent a screening process by which the most suitable applications were selected for a further telephone interview. The telephone interview was conducted personally by the capacity assessment coordinator. It involved further inquiry into the applicant's interest in the program, their experience with capacity assessments, and their knowledge of the ACDMA. The successful applicants were selected on the basis of their initial application questionnaire responses in combination with the subsequent telephone interview. Nine successful applicants were chosen to participate in the inaugural training, 6 Social Workers, 2 Occupational Therapists and 1 Registered Nurse.

- The training was delivered on June 20 and 21st 2019 at the Office of the Public Trustee in Halifax with an out of Province trainer with Dr Pachet. He provided the necessary training to teach the selected trainees how to assess an individual's ability to "understand and appreciate" their decision-making process. This interactive workshop focused on case studies which provided contextual learnings participants with the knowledge and skills necessary to accurately and successfully conduct capacity assessments. An exam will be administered to the trainees on the last day of the training to evaluate their understanding of and ability to apply the information presented to them. The trainees who successfully pass the exam will be certified as assessors under the ACDMA. The Office will add their names to the provincial Roster of assessors as per the regulations, which will also be posted on the Office of the Public Trustee website. They will be permitted to operate a private practice conducting ACDMA capacity assessments across the Province, in accordance with their professional standards and license.
- All certified capacity assessors who successfully completed the capacity assessment course received a certificate acknowledging them as Capacity Assessors under ACDMA with an effective and expiry date. In order to maintain this designation, each assessor must conduct a minimum of two ACDMA capacity assessments within two years. They must also participate in a one-day refresher course before the two-year expiry of their certification. The refresher course will also be coordinated and facilitated under the direction of the Office of the Public Trustee. A random vetted capacity assessment will be requested from each assessor during the two-year period to ensure compliance with expected report writing.
- Post-Training Support Plan
- The capacity assessment coordinator is available to provide post-training support to the capacity assessors and to problem-solve in accordance with the legislated requirements for capacity assessments. Issues and concerns will be escalated as necessary and appropriate.
- Complaints
- Under the ACDMA, the Public Trustee is the body that all "interested parties" can file a complaint with under the legislation. If they file a complaint that has to do with the assessor, we will investigate and if the assessor is found to be operating outside of the parameters set by the ACDMA and/or regulations, we will notify the Minister and make a recommendation. Also, if we discover that the assessor has been convicted of a criminal offense (generally via media) we will investigate and again make the recommendation we feel is appropriate to the Minister.

## Appendix B: Health Care Decisions Division 2019 File Review Report

### Overview

In May 2019, the Health Care Decisions Division (HCD) underwent a complete file review. The goal of the review was to examine every 09 file on the stacks to determine if they were active or inactive. There was a desire to more accurately reflect the number of files where we were active Substitute Decision Makers. This project was to accurately report the number of active files and archive any inactive files. An inactive file can take time away from the HCD consultants by requiring a review of the file when completing other reporting measures like Health Care Clients in Care reminders. Inactive files also take up space in the 09 section of the stacks. The current HCD policy does not reflect a standardized closing process for files other than deceased clients.

### History

As demonstrated in *Table 1: HCD History of File Closing Reasons*, A review of the HCD Annual Reports from 2010 until present day shows that from 2010 -11 fiscal year to the 2016 -17 fiscal year, files were kept active in the stacks. Files were closed if we were notified that a client passed away, a higher ranked Statutory Decision Maker (SDM) came forward, if a Delegate or proxy was identified, if the client regained capacity or if they left the jurisdiction of the province.

From 2017-18 fiscal year, the same statistics were recorded but no files were closed unless the client was deceased.

In 2018-2019 fiscal year, any closed files were attributed to client death, therefore not added to the table.

**Table 1: HCD History of File Closing Reasons**

Reason for Closing	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Client death	11	27	30	38	40	49	57	44
Higher-ranked statutory decision maker	4	11	9	11	6	12	2	0
Delegate or proxy	0	1	0	1	0	1	0	0
Capacity regained	0	0	2	2	1	1	0	0
Left Jurisdiction	0	0	0	0	0	6	1	0
<b>Total</b>	<b>15</b>	<b>39</b>	<b>41</b>	<b>52</b>	<b>47</b>	<b>69</b>	<b>60</b>	<b>44</b>

Furthermore, as shown in *Table 1a: HCD History of Opened, Closed and Recalled Files*, the review of the HCD Annual reports from 2010 until present also show that statistics were tracked for Active Files, New Client Files (Opened), Deactivated Files reopened, Client Files Closed and Total Active Files were tracked from 2010-Mach 31, 2017. From this date on, the deactivated files were no longer tracked as there were none reopened.

Table 1a: HCD History of Opened, Closed and Recalled Files

Client Files	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17
Active files at April 1 <sup>st</sup>	93	172	296	352	394	425	449
New Client Files opened	93	133	95	91	78	92	85
Deactivated Files reopened	1	30	0	3	0	0	0
Client Files closed	(15)	(39)	(41)	(52)	(47)	(68)	(60)
Active Files at March 31 <sup>st</sup>	172	296	350	394	425	449	474

From the information above, we can see that from 2010 -11 fiscal year to 2016 -17 fiscal year, HCD closed 58 files due to a higher ranked SDM coming forward or a delegate or proxy being located, 6 files were closed when the client regained capacity and 7 were closed when the client left the jurisdiction of the Province of Nova Scotia. These are all factors that remove the HCD legislated authority to be the client's SDM.

34 files were recalled in the same 7-year span. 30 of these recalls being in the second year of the HCD. There are no reasons given in the Annual report for 2011-12 regarding the high level of deactivated files reopened (one could speculate that it was the evolution of the new legislation and Health Care Team).

After 2011-12 fiscal year, 95% of files closed due to a higher ranked SDM coming forward or the client regaining capacity have remained closed.

#### Direction

Based on the information provided in the annual reports from 2010 -11 fiscal year to 2018 -19 fiscal year and a review of the current policy, it was determined that the 09 files should be reviewed to determine what client files were active versus inactive. Criteria needed to be developed for this process with a focus on standards of practice and Public Trustees (PT) legislative authority. A new HCD policy and practice will be developed based on this review. File recalls will be monitored to evaluate the impact and effectiveness of this practice.

These new changes to closing inactive active files is to provide the most accurate statistics in the annual report, as well as provide better statistics with regards to areas of the legislation that require more education to the greater public and service providers. Our goal is to promote a high level of standardized practice within the HCD, as well as give HCD Consultants the parameters required to make consistent decisions surrounding what 09 files meet criteria for closing in the future.

#### Action

The new policy was drafted by HCD and awaiting approved by the Public Trustee.

#### Definitions

**Deceased** – HCD is informed that the client passed away. Authority ends immediately. File is closed upon notification (as indicated by Table 2).

**Inactive** - The client's 09 file did not have a consent provided for the length of time indicated by Table 2.

**Regained Capacity** – HCD has inquired and been informed that the client has been providing consent for all items involved with their care; or a physician has determined that the client has regained capacity through an assessment. In both definitions, the 09 file is held in the 2<sup>nd</sup> floor stacks for the length of time as indicated by Table 2.

**SDM Came Forward** – HCD have been informed that a higher ranked SDM, POA or Delegate has stepped forward to support the client. The 09 file is held in the 2<sup>nd</sup> floor stacks for one year prior to being closed (As indicated by Table 2).

**Table 2: File Close Timeframes**

Event	Legislation	Time Frame
Deceased	PDA/HA/IPTA	When notified
Inactive	PDA	N/A
	HA	1-2 years
	IPTA	3-5 years
Regained Capacity	PDA/HA	1 year
	IPTA	3-5 years
SDM Came Forward	PDA/HA/IPTA	1 year

This new practice and the recall of closed files will be reviewed annually for the next 4 years to determine the effectiveness of this new approach to ensure that all HCD client files are “active”.

As well, an IT ticket for PAM2 was submitted to address the options available to have a reason for closing files within the PAM2 recorded information, and ways to have PAM2 alert HCD Consultants as to when to check files based on the criteria found in Table 2.

## Results

Results from the 2019, initial file review are as recorded in *Table 3: Apr-Jul 2019 Closed Files*.

**Table 3: Apr-Jul 2019 Closed Files**

Reason for Closing	April 1 – July 24, 2019
Total Active 09 Files April 1, 2019	621
Client Death	13
Higher-ranked Statutory Decision Maker	48
Capacity Regained	39
Inactive	116
Left Province	1
<b>Total Closed</b>	<b>218</b>

## Summary

- From 2010 until 2017, HCD files were closed if we were notified that a client passed away, a higher ranked Statutory Decision Maker (SDM) came forward, if a Delegate was identified, if the client regained capacity or if they left the province.
- From 2017-18 fiscal year, the practice was changed to close files only when a client was deceased, thus prompting this review of all files.
- From 2010-2016 deactivated files that were reopened were tracked. This trend shows, that except for the 2<sup>nd</sup> full year of the HCD, there were only 4 files recalled after being closed.
- A new policy is required within HCD to address the issue of active versus inactive files and associated guidelines.
- There is information to be learned from tracking and trending closed files, and where education is required.
- The new policy directions are incorporated into the policy refresh.
- PAM2 IT tickets have been submitted to explore options to track closures for statistical purposes.
- There were 218, HCD files closed based on the new direction. This was 35% of the 09 Files in the 2<sup>nd</sup> floor stacks at the time.
- Of 218 files closed, 53% of the files were inactive, 18% the client had regained capacity, 22% has a higher ranked SDM step forward, and 6% were deceased clients that were not reported to HCD.
- At the end of the file review, 403 files remained active in the 2<sup>nd</sup> floor stacks.



## **Appendix C: Communication to Service Providers Under PDA**

Under the Personal Directives Act (PDA), when an individual is assessed and determined to lack the capacity to make their own health care, home care, or placement to a continuing care home decisions, the Public Trustee (Health Care Decisions Division) can act as the decision maker of last resort for individuals who;

- Do not have a delegate named in a personal directive and
- Do not have a nearest relative willing and able to make decisions for them.

This document outlines the Public Trustee's expectations in its unique role as statutory decision maker of last resort.

### **Information**

As the statutory decision maker for an individual, the Public Trustee has the authority to access that individual's health data and records, including information and records that are subject to privilege.

### **Ongoing Communication**

The Health Care Decisions Division expects to be notified about any incidents, changes to the client's health status or modifications to the care/service plan, as soon as reasonably possible.

### **Care Conferences**

Please notify the Health Care Decisions Division of the date and time of the post-admission and annual care conferences in advance. Participating either in person or via teleconference is a priority for the division.

### **Client Transfers**

Please consult with the Health Care Decisions Division for any internal or external client transfers. Provide as much information on the referral form as possible including the client's preference, if possible.

### **Consent**

We are unable to provide verbal consent or sign any external consent or advance directive forms.

All referrals must be submitted in writing on the designated form with as much supporting information as possible including the recommendation of the client's care team.

A new referral is required for changes to the plan of care, new medications or treatments.

The Health Care Decisions Division may consent to an individualized care/service plan for up to 12 months on receipt of all relevant information which may include:

- monitoring of health status (e.g. routine blood work, urinalysis, vitals)
- regular assessments by the interdisciplinary team
- routine health appointments or assessments, e.g. dental, vision
- medications
- goals of care

### **Emergency /After Hours Care**

The legislation allows emergency/urgent health care to be provided without consent if:

- the client is unable to consent, and the substitute decision maker is not available;
- there is an immediate threat to the life or health of the client; and treatment cannot be delayed

### **Financial Referrals**

It is important to note the Health Care Decisions Division and Trust Management services of the Public Trustee are separate. If a health care decision requires funds, the service provide must secure funds from an authorised person.

### **Contact Options**

Office hours are 8:30am – 4:30pm, Monday to Friday. You can leave a detailed message on the confidential voicemail at 902-424-4454 anytime. Additional information is available at <https://novascotia.ca/just/pto/forms.asp>

Sincerely,

Health Care Decisions Division

Acting under the authority of the Public Trustee pursuant to the Public Trustee Act

## Appendix D: Sample COVID-19 Communication from Nursing Home

Dear Residents and Families,

In an effort to provide you with the most up-to-date information regarding the current COVID-19 situation and how we are managing during this time, we will be providing you with regular update.

### What's New Today?

1. What is happening in our community today?

- **NO** COVID-19 or influenza cases at our community
- Recreation team is exploring the use of Skype to schedule video calls with your loved ones

2. Pandemic Preparedness Update

- To protect residents and team members, we are not accepting admissions at this time other than for emergency placement and directed by government or pre-confirmed admissions where safety is at risk if we were not to admit. Any admissions to our community will undergo a quarantine for 14 days. *This is subject to change as the current situation continues to evolve.*
- All laundry is being done at Maplestone
- Residents are not allowed to leave our building, except for medical emergency reasons
- Dining rooms setting is being modified to promote social distancing

3. Operations update

- No visitors until further notice (only exception is for residents on palliative care)
- Professional services like Care at Home, Nightingale, etc. are allowed into the building, IF they only provide services at Maplestone, AND pass our screening survey. They are required to spend time at the resident's room and avoid common areas as much as possible.
- Contractors are allowed on a case by case basis, and only if absolutely necessary. They are screened, and are always required to wear a face mask

4. Questions and Answers

How to drop something off to a loved one

Call reception (902-443-1971) to inform them when you are coming. Reception will receive the items between 8:30am – 12pm, and 1pm – 8pm.

Items that can be wiped down, are being cleaned by our reception staff before handing to the resident or recreation team. Items that cannot be wiped (cloth, food) is being stored for 24hrs, as we have been instructed that the virus does not live on a surface after that period of time, and then handed to the resident.

To facilitate the process, please bring the items/letters in a sealable bag or container that can be wiped down and stored (if needed) for 24hrs. General information

Feel free to email our recreation team ([mecrec@shannex.com](mailto:mecrec@shannex.com)) if you would like them to deliver a message/video/photos to your loved one

Our nursing staff is trying to regularly update family members

If you have any specific questions about your loved one, feel free to call the reception or nursing station

**Have a question we haven't answered? Please contact us!**

## Health Care Decisions Annual Report April 1st, 2019 - March 31st, 2020

If you're feeling nervous about COVID-19, you're not alone. Being concerned about this outbreak is normal. In order to feel better, stick to the facts from official sources such as the [Public Health Agency of Canada](#) and [World Health Organization](#).

If you have questions about your loved one or our pandemic preparedness, please contact: Alejandro Ocampo (902-444-8150)

For organizational updates:

Email: [jpac@shannex.com](mailto:jpac@shannex.com)

Website: [Shannex.com](http://Shannex.com)

Toll free information line: 1-877-541-0835.

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