

**PUBLIC TRUSTEE**

**ANNUAL REPORT**

**FOR**

**FISCAL YEAR ENDING MARCH 31, 2014**

*In Reply Please Quote Our File Number:*

September 22, 2014

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

Dear Minister Diab:

Pursuant to Section 47 of the *Public Trustee Act* I submit this Annual Report for the fiscal period ending March 31, 2014.

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

Respectfully submitted,



M. Estelle Theriault, Q.C.  
Public Trustee

MET/jm

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

### **SCOPE OF PROGRAM**

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

The Public Trustee:

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

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

### **STATUS OF PUBLIC TRUSTEE**

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

**MESSAGE FROM THE PUBLIC TRUSTEE**

I am pleased to submit the annual report of the Public Trustee of Nova Scotia for the fiscal year ending March 31, 2014.

This will be the final annual report that I will file in the House of Assembly. After twenty-two and a half years of service as Public Trustee of Nova Scotia and twelve years of prior service as a solicitor in the Office, I have decided to resign.

In preparing this current report, I reviewed my first report dated March 31, 1992, and I made the following observations:

	<u>March 31, 1992</u>	<u>March 31, 2014</u>
Client Numbers:	529	1469
Value of Assets under trustee management:	\$10,964.45	\$52,508,079.00
Staff numbers:	11.5	25
Revenue Earned:	\$290,226.00	\$1,214,553.00
Costs of Operation:	\$572,141.00	\$2,236,270.00

These numbers help me reflect how the office has grown since my appointment. I predict the cases under care and the various responsibilities will continue to grow into the future.

In my 1992 report, I advised that the "resources" at the office were stretched. The Public Trustee needed more staff to meet the ever increasing demand for its services. In this report, I repeat the same plea. The Public Trustee is serving the ever aging population of Nova Scotia. There are frequent calls to the office seeking assistance. The Public Trustee is only able to assume management of the most desperate accounts. We continue to direct files to the private sector. The Public Trustee is unable to assume a more progressive position of pro-actively becoming involved in cases which need assistance. We do this even though we realize that in most instances if the Public Trustee does not step forward to assist no one will.

As noted the Public Trustee Office has a staff of twenty-five individuals. The Office of the Public Trustee is situate in Halifax. It renders services throughout Nova Scotia. No additional staff was hired in the fiscal year under review although a review of cases under management continues to show a constant demand for the Public Trustee's services.

Luckily this is the first year in many years that we have not seen a dramatic increase in the number of estates and trust referrals. We opened three hundred and eighty-seven new files. Through the diligent efforts of all the staff we were also able to close three hundred and eighty-five files. Therefore, our file numbers have remained stable this year (See Schedules "A", "B", and "C").

We did see a large increase in the number of our enquiry files. Four hundred and forty-two files were opened in the fiscal year under review compared to three hundred and seventy enquiry files in the previous year or a sixteen percent increase. The Public Trustee has always been regarded as a public resource for information about guardianship, trust administration and deceased estates. Information requests are received from many sources; lawyers, social workers and the general public. Many individuals are referred to us by the Probate Court. 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 legal information which will help them resolve their issues. These calls do put pressure upon our limited legal resources. Access to justice is an issue throughout Canada. A large number of the enquiry calls and letters received deal with cases that potentially could become a Public Trustee file. These calls help also identify which files should be referred to the Public Trustee and which can be best managed in the private sector. This screening process helps the Public Trustee manage its resources.

We continue to see that the management of estates for incompetent adults is our largest file category. At year end we had four hundred and fifty-three cases with infant trusts being the second with one hundred and seventy-six cases. The Public Trustee forecasts that the request for financial management of estates of incompetent adults will continue to increase as the population of Nova Scotia continues to age. The Public Trustee will need additional staff and resources to meet this demand.

To better manage caseloads with the resources available the Public Trustee sought legislative amendments to its legislation which would assist us to more swiftly deal with the clients' estates but still provide safety and oversight to our financial management. I am pleased that the Legislature adopted our legislative amendments in the spring sitting of the House of Assembly.

I continue to observe that the more complex and demanding files are often referred to the Public Trustee. These files are referred to our office by the judiciary, the hospitals, social service agencies and the general public. The Public Trustee has competent and hardworking staff. They find solutions where most would find none. The Province is well served by them. It has been my honour and privilege to have worked with them. It is difficult to say good-bye to them.

Thirty-four and a half-years of the thirty-nine years I have been a lawyer have been at the Public Trustee's Office. In this capacity I have had an opportunity to contribute to law reform in this province. I was asked and served as an advisor to the Law Reform Commission studying the *Hospitals Act*, *Adult Guardianship*, *Legal Status of the Child*, the *Probate Act* and the *Enduring Power of Attorney Act* (both studies). Together with a team of experts from the Department of Health, Justice and Community Services, I participated in the development and implementation of the *Personal Directives Act*. With the proclamation of the *Personal Directives Act*, the Public Trustee became the substitute decision maker of last resort for all mentally incapable persons who have no one to provide health consents and a new Health Care Decision Unit was created in my office. I am so proud and pleased that the Public Trustee is providing protection for these vulnerable individuals.

I have had a rewarding career in the Public Trustee Office. The greatest satisfaction has come from the knowledge that we have protected the most vulnerable and we made a difference in their quality of life.

I extend my best wishes to the staff at the Public Trustee Office as they continue to work for the betterment of their clients. I also wish the very best to my successor as she or he brings the office into the future.

### **ACTIVE CASES**

Many individuals ask "What does the Public Trustee do? What is your legislated mandate?" In order to provide information the Public Trustee has created a very detailed website outlining many of our services. We have received very positive comments about this website.

I refer you now to Schedule "A", "C" and "D". These schedules note all the different categories of accounts which the Public Trustee manages and the number of files in each category that have been opened and closed in the fiscal year under review and the file numbers at year end.

We have continued to see a growth in the number of consent to treat files. Knowledge of this service has, to our great pleasure, continued to grow. The Public Trustee is the substitute decision maker of last resort of individuals who are mentally incapable to make their own decisions concerning health care and decisions to accept placement in a continuing care facility. As of March 31, 2014, the Public Trustee has three hundred and ninety-three cases compared to three hundred and fifty cases at March 31, 2013.

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

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

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

In the fiscal year 2013/14 it was forecasted that the Public Trustee would earn \$800,000.00 in legal, administrative and trustee fees. The Public Trustee exceeded this goal. The Public Trustee earned \$1,214,553.00 (excluding accruals). These fees have been transferred to the Department of Finance.

The Public Trustee also recovered from its clients' pre-tax fees such as photocopy and postage. The Public Trustee recovered \$21,819.00 in these fees.

The Public Trustee also earned revenue and income in its Special Reserve Fund in the amount of \$95,949.00. This revenue and income will be transferred to the Department of Finance.



Totalling the fees the Public Trustee earned from its trustee/guardian/administrator services (excluding accruals), its recovery fees and the income earned from its Special Reserve Fund the total income earned by the Public Trustee equalled \$1,332,321.00 (see Schedules "E" and "E1" to this report).

Public expenditures for the general operating costs of the Public Trustee program including rent are funded by allocations from one of the global appropriations voted to the Department of Justice.

Funding sought to operate the Public Trustee Office for the fiscal year ending March 31, 2014 was \$2,241,000.00. This amount was reduced by the Government in the amount of \$31,000.00 therefore the operating budget was \$2,210,000.00. Unfortunately, the Public Trustee was not able to recoup this reduction from other expenditure lines and the actual cost to operate the office was \$2,236,270.00. In other words, the Public Trustee was \$26,270.00 over budget.

I am pleased however that we earned \$414,553.00 more in revenues than projected.

Taking into account the total revenue earned from all sources by the Public Trustee the cost of running this valuable service excluding accrued fees was \$903,949.00.

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

### **HOSPITALS ACT**

Section 59 and related sections of the *Hospitals Act* proclaimed in force April 1, 1979 created a mechanism whereby the Public Trustee, being notified by a hospital to do so, may "assume management" of the estate of a patient who has no guardian and is unable to administer his own estate. Hospital officials and community care officials had been leading proponents of that mechanism. They implemented it immediately. It became and continues to be the source of many of the Public Trustee's growing caseload of adult estates living files. Of the 113 new adult estates living files opened in the fiscal year ending March 31, 2014, 55 or 49% originated from Section 59 referrals.

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

### **ADULT PROTECTION ACT**

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



in which the Public Trustee might invoke its standing (*Public Trustee Act*, S.5) to seek an *Incompetent Persons Act* guardianship order in respect to the estate of one who has been adjudged to be an adult in need of protection.

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

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

In the fiscal year ending March 31, 2013 this trend was reversed the Public Trustee received 41 referrals.

Reviewing the number of referrals from Adult Protection Services for the fiscal year ending March 31, 2014 the number of referrals has increased to 42. Therefore, they represent 37% of the new adult living estate referrals for the year under review.

### **PERSONAL DIRECTIVES ACT**

The *Personal Directives Act* was proclaimed April 1, 2010. This piece of legislation enables Nova Scotians to document their wishes concerning personal care and health care. An individual can now name who they wish to make these decisions for them if in the future the individual is mentally 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 for the mentally incapable person. The Public Trustee is named the substitute decision maker of last resort on this list.

If a delegate named in a directive or a substitute decision maker makes a decision, acting on behalf of a mentally incapable person, to accept an offer of placement in a continuing care home or regarding the provision of home care services, and it is discovered that the person is also mentally incompetent as to their finances and they have no guardian of their estate/finances or attorney acting pursuant to an enduring power of attorney the *Personal Directives Act* established a mechanism that a statutory notice may be sent to the Public Trustee. The legislation allows the Public Trustee to investigate whether the individual needs a guardian of his estate/finances. If the Public Trustee determines its services are appropriate and required the Public Trustee can become statutory guardian of the individual's estate.

This has been a source of additional requests for the Public Trustee's services as statutory financial guardian. The Public Trustee received sixteen referrals in the fiscal year under review. Fourteen referrals were received in the previous fiscal year. It is anticipated that the number of referrals under the *Personal Directives Act* will increase as the provisions become better known by nursing homes, continuing care workers, adult protection workers and social workers generally.

The Public Trustee has conducted educational sessions around the province concerning the *Personal Directives Act*.

## **POWERS OF ATTORNEY ACT**

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

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

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

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

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

The Minister of Justice asked the Law Reform Commission of Nova Scotia to study the power of attorney legislation in Nova Scotia. After extensive study, a discussion paper has now been released by the Law Reform Commission.

## **HEALTH CARE DECISIONS**

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

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

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

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

avoids or minimizes risk to the client; beneficence is demonstrated in decisions that benefit the client; and justice is demonstrated in decisions that are fair and equitable.

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

All 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 2013/14 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 fiscal year 2013/14, which are detailed in this report:

- 91 new client files were opened during the year and 52 client files were closed during the year
- 520 referrals were received in 2013/14 as compared to 522 referrals for 2012/13
- 66.9% of referrals were under PDA, 19.22% under HA, and 13.9% under IPTA, which is consistent with 2012/13
- Capital District Health Authority submitted the most referrals with 232 (44.6%) and Guysborough Antigonish District Health Authority (DHA7) submitted the least with 8 referrals (0.7%)
- A total of 1678 decisions were made in 2013/14; 1327 under PDA, 174 under HA and 177 under IPTA
- The average number of decisions per referral was 3.2 compared to 2.8 in 2012/13
- 93.4% of decisions were level-1, 5.2% of decisions were level-2 and 1.4% of decisions were level-3

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

### **REPRESENTATIVE LITIGATION**

The Public Trustee is eligible for appointment to act as guardian *ad litem* or representative in litigation of mentally incompetent adults, minors, missing persons, unascertained persons and estates of deceased persons and any other interest entitled to sue or be represented in a proceeding. When acting pursuant to an *Incompetent Persons Act* guardianship order the Public Trustee is *ipso facto*, unless the court otherwise orders, guardian *ad litem* of the incompetent. Further, to accommodate the Bar and the Court, the Public Trustee

occasionally consents to act, if appointed by the court to act, as guardian *ad litem* or representative of a person or deceased person or interest that is not otherwise on the Public Trustee's caseload (see Schedules "H" and "H1"). No resources have been allocated to the Public Trustee specifically for that function. No fees are awarded to the Public Trustee by the court if this appointment is undertaken. This type of appointment is normally a major time commitment on behalf of the Public Trustee.

During the fiscal period under review eleven (11) representative litigation files were opened compared to none the previous year.

### **RENUNCIATION**

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

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

Sixty-nine (69) renunciations were given by the Public Trustee in the fiscal year ending March 31, 2014 (see Schedule "G" to this report).

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**PROVINCE OF NOVA SCOTIA  
PUBLIC TRUSTEE TRUST FUNDS  
FINANCIAL STATEMENTS  
MARCH 31, 2014**

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PROVINCE OF NOVA SCOTIA  
PUBLIC TRUSTEE TRUST FUNDS  
FINANCIAL STATEMENTS  
MARCH 31, 2014

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# Office of the Auditor General

1888 Brunswick Street, Suite 302  
Halifax, Nova Scotia  
B3J 3J8 Canada

902-424-5907 tel  
902-424-4350 fax  
www.oag-nl.ca

## INDEPENDENT AUDITOR'S REPORT

To the Public Trustee and to the Minister of Justice:

### Report on the Financial Statements

I have audited the accompanying financial statements of the Public Trustee Trust Funds, which comprise the statement of Net Assets Held in Trust as at March 31, 2014, and the statements of Net and Comprehensive Loss, Continuity of Net Assets Held in Trust, and Cash Flows, for the year then ended, and a summary of significant accounting policies and other explanatory information.

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

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

#### *Auditor's Responsibility*

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

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

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

#### *Basis for Qualified Opinion*

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

#### *Qualified Opinion*

In my opinion, except for the possible effects of the matter described in the Basis for Qualified Opinion paragraph, the financial statements present fairly, in all material respects, the financial position of the Public Trustee Trust Funds as at March 31, 2014, and its financial performance, and its changes in net assets and its cash flows for the year then ended in accordance with International Financial Reporting Standards.

Alan Horgan, CA  
Acting Auditor General

Halifax, Nova Scotia  
June 27, 2014



Province of Nova Scotia  
Public Trustee Trust Funds  
Statement of Net Assets Held in Trust  
March 31, 2014

	2014	2013 Restated (Note 2)
<b>Assets</b>		
<b>Estates and Trusts</b>		
Cash	\$ 1,312,944	\$ 1,989,762
Securities, real estate and other assets (Note 6)	45,129,516	43,966,550
Common Fund (Note 7)	2,969,406	2,963,234
Special Reserve Fund (Notes 2 and 8)	2,885,534	2,752,034
Accounts receivable and accrued interest	<u>653,590</u>	<u>781,628</u>
	<u>52,950,990</u>	<u>52,453,208</u>
<b>Liabilities</b>		
<b>Estates and Trusts</b>		
Due to Special Reserve Fund	135,237	137,924
Accounts payable	<u>307,674</u>	<u>402,316</u>
	<u>442,911</u>	<u>540,240</u>
<b>Net Assets Held in Trust (Note 2)</b>	<u>\$ 52,508,079</u>	<u>\$ 51,912,968</u>

Approved:

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Public Trustee  
M. Estelle Theriault, Q.C.

(See accompanying notes to the financial statements.)

**Province of Nova Scotia  
Public Trustee Trust Funds  
Statement of Net and Comprehensive Loss  
For the Year Ended March 31, 2014**

	2014	2013
<b>Revenues</b>		
Pension	\$ 7,199,624	\$ 6,770,346
Annuities	669,402	590,165
Other	1,024,302	843,441
Investment income	<u>672,789</u>	<u>747,902</u>
	9,566,117	8,951,854
Common Fund investment income (Note 7)	<u>135,617</u>	<u>140,931</u>
	<u>9,701,734</u>	<u>9,092,785</u>
<b>Expenses</b>		
Accommodation	6,620,776	6,576,195
Allowances	331,434	291,217
Medical	430,568	423,772
Utilities	147,638	165,631
Taxes	586,639	703,955
Funeral	549,185	511,134
Real estate	198,620	178,658
Insurance	104,535	80,595
Legal costs	217,747	230,753
Property care	187,849	204,785
Miscellaneous	117,941	37,586
Fees charged by the Public Trustee (Note 10)	1,420,032	1,042,724
Common Fund interest income to be transferred to the Special Reserve Fund	<u>135,237</u>	<u>137,924</u>
	<u>11,048,201</u>	<u>10,584,929</u>
<b>Loss from operations</b>	(1,346,467)	(1,492,144)
Realized gain on sale of assets held in trust	49,889	72,317
Unrealized gains on assets held in trust at year end	<u>992,927</u>	<u>359,471</u>
<b>Net and comprehensive loss</b>	<u>\$ (303,651)</u>	<u>\$ (1,060,356)</u>

(See accompanying notes to financial statements.)

**Province of Nova Scotia  
Public Trustee Trust Funds  
Statement of Continuity of Net Assets Held in Trust  
For the Year Ended March 31, 2014**

	2014	2013 Restated (Note 2)
<b>Balance, beginning of year, as previously stated</b>	\$ 51,912,968	\$ 44,659,805
Special Reserve Fund (Note 2)	<u>-</u>	<u>2,613,506</u>
<b>Balance, beginning of year, as restated</b>	<u>51,912,968</u>	<u>47,273,311</u>
<b>Add:</b> Estates and trusts of new clients and additional assets of existing clients	11,821,323	16,817,250
Net and comprehensive loss	(303,651)	(1,060,356)
Special Reserve Fund Income (Notes 2 and 8)	<u>229,449</u>	<u>233,312</u>
	<u>11,747,121</u>	<u>15,990,206</u>
<b>Less:</b> Distribution of estates and trusts	10,878,309	10,928,289
Undistributable estates and trusts (per Section 28)	177,752	327,476
Special Reserve Fund Distribution (Notes 2 and 8)	<u>95,949</u>	<u>94,784</u>
	<u>11,152,010</u>	<u>11,350,549</u>
<b>Balance, end of year</b>	<u>\$ 52,508,079</u>	<u>\$ 51,912,968</u>

(See accompanying notes to the financial statements.)

Province of Nova Scotia  
Public Trustee Trust Funds  
Statement of Cash Flows  
For the Year Ended March 31, 2014

	2014	2013
<b>Operating Activities</b>		
Net and comprehensive loss from operations	\$ (303,651)	\$ (1,060,356)
Deduct non-cash transactions:		
Unrealized gains	<u>(992,927)</u>	<u>(359,471)</u>
Net and comprehensive loss from operations - cash basis	<u>( 1,296,578)</u>	<u>(1,419,827)</u>
<b>Increase in Estates and Trusts</b>		
Sale of securities	8,888,580	9,123,705
Sale of real estate and other assets	1,537,286	3,348,381
Cash holdings of estates and trusts	<u>7,082,686</u>	<u>7,164,842</u>
	<u>17,508,552</u>	<u>19,636,928</u>
<b>Decrease in Estates and Trusts</b>		
Purchase of securities	(9,976,050)	(11,457,740)
Distribution of cash holdings in estates and trusts	(6,697,747)	(6,678,546)
Change in Common Fund cash position	2,687	8,808
Transfer to Province – Section 28	<u>(217,682)</u>	<u>(287,546)</u>
	<u>(16,888,792)</u>	<u>(18,415,024)</u>
<b>Decrease in cash</b>	(676,818)	(197,923)
<b>Cash, beginning of year</b>	<u>1,989,762</u>	<u>2,187,685</u>
<b>Cash, end of year</b>	<u>\$ 1,312,944</u>	<u>\$ 1,989,762</u>

(See accompanying notes to the financial statements.)

## 1. Reporting Entity

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

This set of financial statements reflects the net assets held in trust and the activity for the estates and trusts administered by the Public Trustee. Separate operating costs for the Public Trustee are presented in Note 10.

## 2. Restatement of Net Assets

During the audit it was determined that the Special Reserve Fund should be included in these financial statements as it is a trust fund administered and controlled by the Public Trustee and therefore is similar to all other trust funds. Accordingly, the Special Reserve Fund assets have been included in the Statement of Net Assets Held in Trust as at March 31, 2013, and the Statement of Continuity of Net Assets Held in Trust for the year ended March 31, 2013 has been adjusted for income and distributions of the Special Reserve Fund.

## 3. Basis of Preparation

### (a) Statement of Compliance

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

### (b) Basis of Measurement

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

### (c) Functional and Presentational Currency

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

### (d) Use of Estimates and Judgments

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

#### 4. Summary of Significant Accounting Policies

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

##### (a) Initial Recognition and Valuation of Assets and Liabilities

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

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

##### (b) Subsequent Valuation

###### *Real Property*

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

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

###### *Investments*

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

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

i) Guaranteed Investment Certificates	75%
ii) Equity Securities	11%
iii) Bonds	4%
iv) Other (RRSPs, RRIFs, Mutual Funds)	10%

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

##### ***Other Assets***

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

##### **(c) Revenue Recognition**

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

Gains and losses on assets represent the appreciation or depreciation in the value of assets administered by the Office of the Public Trustee from the value assigned on the date of the commencement of administration of assets by the Public Trustee, the date of purchase, or the 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.

##### **(d) Cash and Cash Equivalents**

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

#### 5. Financial Risk Management

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

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



## 5. Financial Risk Management (continued)

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

### Liquidity risk

Liquidity risk is the risk that a client account is unable to meet its financial obligations as they come due. The Public Trustee minimizes this risk by ensuring that client accounts hold sufficient cash funds to meet current liabilities and expenses and considers liquidity risk at March 31, 2014 to be insignificant.

### Credit risk

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

### Interest rate risk

Interest rate risk is the risk that the fair value or cash flows of interest bearing investments will fluctuate due to changes in market interest rates. Investments in guaranteed investment certificates and other term deposits with a maturity greater than one year are subject to interest rate risk. The effect on net income of a 1% change in interest rates on term deposits with a maturity of greater than one year would be estimated at \$106,598 (2013 - \$91,188). Because most term deposits held by the Public Trustee have a term to maturity of one year or less, interest rate risk is not considered significant. The Public Trustee mitigates this risk by investing excess client funds in a diversified portfolio, including investing in fixed rate securities.

## 6. Securities, Real Estate, and Other Assets

Securities, real estate, and other assets are comprised of the following balances:

	2014	2013
Securities	\$ 36,645,092	\$ 36,227,730
Real Estate	8,182,902	7,394,847
Other Assets	<u>301,522</u>	<u>343,973</u>
	<u>\$ 45,129,516</u>	<u>\$ 43,966,550</u>

Province of Nova Scotia  
Public Trustee Trust Funds  
Notes to the Financial Statements  
March 31, 2014

**7. 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, 2014. The Common Fund serves as a general bank account for its clients and allows the Public Trustee to pool small value client accounts in order to provide more substantial balances used to purchase income-generating investments.

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

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

A continuity of the Common Fund is as follows:

	2014	2013
<b>Balance, beginning of year</b>	\$ 2,963,234	\$ 2,966,083
Add: Purchase of securities	9,161	685
Interest and investment income	<u>135,617</u>	<u>140,931</u>
	3,108,012	3,107,699
Less: Disbursements	(3,369)	(6,541)
Amount to be transferred to the Special Reserve Fund	<u>(135,237)</u>	<u>(137,924)</u>
<b>Balance, end of year</b>	<u>\$ 2,969,406</u>	<u>\$ 2,963,234</u>

The balance of the Common Fund consists of:

Investments	\$ 2,972,395	\$ 2,967,127
Cash	135,237	137,924
Payables (including \$135,237 to the Special Reserve Fund (2013 - \$137,924))	<u>(138,226)</u>	<u>(141,817)</u>
	<u>\$ 2,969,406</u>	<u>\$ 2,963,234</u>

## 8. 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 transferred to the Special Reserve Fund annually as required by the Public Trustee Act.

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

On an annual basis the Public Trustee consults with the Deputy Minister of Finance and Treasury Board, and the decision has been to transfer the Special Reserve Fund interest to the Minister of Finance for the purposes prescribed in legislation. Interest received during the year to be transferred to the Province totalled \$95,093 (2013 - \$95,949).

The continuity of the Special Reserve Fund is as follows:

	2014	2013
Balance, beginning of year	\$ 2,752,034	\$ 2,613,506
Add: Interest income	94,212	95,388
Net amount to be transferred from the Common Fund	<u>135,237</u>	<u>137,924</u>
	2,981,483	2,846,818
Less: Amount transferred to the Province of Nova Scotia	<u>(95,949)</u>	<u>(94,784)</u>
Balance, end of year	<u>\$ 2,885,534</u>	<u>\$ 2,752,034</u>

The balance of the Special Reserve Fund consists of:

Investments	\$ 2,600,343	\$ 2,462,474
Receivables	182,338	185,905
Cash	<u>102,853</u>	<u>103,655</u>
	<u>\$ 2,885,534</u>	<u>\$ 2,752,034</u>

## 9. Fair Values

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

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

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

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

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

As at March 31, 2014, client investments and Common Fund investments were valued using Level 2 inputs. During the year ended March 31, 2014, there was no transfer between Level 2 and the other levels in the fair value hierarchy.

## 10. Operating Costs

Operating costs of the Office of the Public Trustee are absorbed by the Nova Scotia Department of Justice and are not reflected in the Statement of Net and Comprehensive Loss. These costs are offset by fees charged for administering estates, recoveries of client expenses paid by the Public Trustee, and transfers of investment income from the Special Reserve Fund. Included in fees charged by the Public Trustee is HST totalling \$183,031 (2013 - \$133,108), which the Public Trustee collects on behalf of the Province. These amounts are not included as part of fees used to offset operating costs.

**10. Operating Costs (continued)**

	2014	2013
Department of Justice		
Salaries and benefits	\$ 1,949,491	\$ 1,921,600
Other operating costs	130,614	146,854
Rent	<u>156,165</u>	<u>133,952</u>
	<u>2,236,270</u>	<u>2,202,406</u>
Less transfers to the Province		
Fees (i)	1,214,553	885,764
Recoveries (i)	21,819	23,852
Special Reserve Fund Income	<u>95,949</u>	<u>94,784</u>
	<u>1,332,321</u>	<u>1,004,400</u>
Net cost to the Province	<u>\$ 903,949</u>	<u>\$ 1,198,006</u>

- (i) Fees and recoveries totaling \$1,236,372 (2013 - \$909,616) represent cash payments to the Province. They are net of HST of \$183,031 (2013 - \$133,108) and net accrued fees of \$629 (2013 - \$0). The total gross amount of these fees and recoveries is \$1,420,032 (2013 - \$1,042,724) and is disclosed on the Statement of Net and Comprehensive Loss.

PUBLIC TRUSTEE STATISTICS

SCHEDULE "A"

CASES ACTIVE AS OF MARCH 31, 2014

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 Renunciation Trust	TOTAL
144	453	176	7	3	4	28	1034

REPRESENTATIVE LITIGATION

Presumption of Death Act	Missing/ Unascertained Person	Survival of Actions Act	Guardian ad litem of Incompetent Adult	Guardian ad litem of Infant
11	9	16	3	3

CONSENT TO TREATMENT

GRAND TOTAL: 1469

REQUESTS, COMPLAINTS, INQUIRIES, LITIGATION, REFERRALS

Individual General Inquiries April 1, 2013 - March 31, 2014 TOTAL: 442

PUBLIC TRUSTEE STATISTICS

SCHEDULE "B"

VOLUME AND PROGRESS OF CASELOAD

<u>FISCAL YEAR</u>	<u>VOLUME AT START</u>	<u>NEW CASES ADDED</u>	<u>CASES CLOSED</u>	<u>VOLUME AT YEAR END</u>
April 1/13 – March 31/14	1467	387	385	1469
April 1/12 - March 31/13	1321	414	268	1467
April 1/11 - March 31/12	1189	428	296	1321
April 1/10 - March 31/11	1101	383	295	1189
April 1/09 - March 31/10	1050	284	233	1101



PUBLIC TRUSTEE STATISTICSSCHEDULE "C"BREAKDOWN OF CASES CLOSED

FISCAL YEAR ENDING	ESTATE OF DECEASED	ADULT'S ESTATE (LIVING)	INFANTS ESTATE (LIVING)	UNDISTRIBUTABLE ESTATE OR TRUST	MISSING PERSON'S ESTATE	PATIENTS' ABANDONED PROPERTY ACT	SPECIFIC TRUST	CONSENT TO TREATMENT	RENUNCIATION	TOTAL
March 31/14	70	101	34	5	2	Nil	1	52	118	383
March 31/13	88	92	35	3	1	Nil	6	41	Nil	266
March 31/12	66	91	31	6	Nil	1	Nil	39	62	296
March 31/11	60	92	43	5	Nil	1	4	15	55	275
March 31/10	42	67	22	4	Nil	1	2	3	89	230

PUBLIC TRUSTEE STATISTICSSCHEDULE "D"BREAKDOWN OF NEW CASES ADDED

FISCAL YEAR ENDING	ESTATE OF DECEASED	ADULTS ESTATE (LIVING)	INFANT'S ESTATE (LIVING)	UNDISTRIBUTABLE ESTATE OR TRUST	MISSING PERSON'S ESTATE	PATIENTS' ABANDONED PROPERTY ACT	SPECIFIC TRUST	CONSENT TO TREATMENT	RENUNCIATION	TOTAL
March 31/14	59	113	32	4	1	1	6	91	69	376
March 31/13	73	145	24	5	Nil	1	5	95	65	413
March 31/12	58	109	23	3	1	1	3	163	61	422
March 31/11	63	121	15	4	1	1	2	96	74	377
March 31/10	59	103	37	4	Nil	1	5	12	56	277

PUBLIC TRUSTEE STATISTICS

SCHEDULE "E"

FUNDS TRANSFERRED TO DEPARTMENT OF FINANCE

YEAR ENDING	PUBLIC TRUSTEE FEES	EXPENSE RECOVERIES	SPECIAL RESERVE FUND INVESTMENT INCOME	SECTION 28
	Revenue *1	Revenue *2	Revenue	Trust Funds *3
March 31, 2014	\$1,214,553.00	\$21,819.00	\$95,949.00	\$217,682.00
March 31, 2013	\$881,970.00	\$23,852.00	\$94,784.00	\$287,546.00
March 31, 2012	\$1,159,693.00	\$23,883.00	\$94,121.00	\$124,758.00
March 31, 2011	\$861,842.00		\$155,649.00	\$90,208.00
March 31, 2010	\$824,226.00		\$107,571.00	\$158,152.00
March 31, 2009	\$652,900.00		\$81,393.00	\$52,863.00

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

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

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

**PUBLIC TRUSTEE STATISTICS**

**SCHEDULE "E1"**

<b>YEAR ENDING</b>	<b>COMMON FUND INVESTMENT INCOME TRANSFERRED TO SPECIAL RESERVE FUND</b>	<b>SPECIAL RESERVE FUND ACCUMULATED NON-TRANSFERABLE EQUITY</b>
March 31, 2014	\$135,237.00	\$2,790,439.00
March 31, 2013	\$137,924.00	\$2,656,084.00
March 31, 2012	\$146,732.00	\$2,518,722.00
March 31, 2011	\$150,231.00	\$2,370,705.00
March 31, 2010	\$128,072.00	\$2,218,101.00
March 31, 2009	\$126,607.00	\$2,090,009.00

**PUBLIC TRUSTEE STATISTICS****SCHEDULE "F"****HEALTH CARE DECISIONS**

<b>Client Files</b>	<b>2012-13</b>	<b>2013-14</b>
Active Files at April 1st	296	351
New Client Files Opened	95	91
Deactivated Files Reopened	0	3
Client Files Closed	(41)	(52)
Active Files at March 31st	350	393

**REFERRALS RECEIVED 2012-13**

<b>Legislation</b>	<b>2012-13</b>	<b>2013-14</b>
Hospitals Act	113	100
Involuntary Psychiatric Treatment Act	56	72
Personal Directives Act	353	338

**TOTAL DECISIONS****YEAR ENDING****NUMBER OF DECISIONS**

March 31, 2014

1678

March 31, 2013

1465

March 31, 2012

1261

**SCHEDULE "G"**  
**RENUNCIATIONS**

<b><u>YEAR ENDING</u></b>	<b><u>NUMBER OF RENUNCIATIONS</u></b>
March 31, 2014	69
March 31, 2013	65
March 31, 2012	61
March 31, 2011	74
March 31, 2010	56

PUBLIC TRUSTEE STATISTICS

SCHEDULE "H"

REPRESENTATIVE LITIGATION CASES OPENED

FISCAL YEAR ENDING:	PRESUMPTION OF DEATH ACT	MISSING/ UNASCERTAINED PERSON	SURVIVAL OF ACTIONS ACT	GUARDIAN ad /item OF INCOMPETENT ADULT	GUARDIAN ad /item OF INFANT	TOTAL
March 31, 2014	6	2	1	2	Nil	11
March 31, 2013	Nil	1	Nil	Nil	Nil	1
March 31, 2012	2	1	3	Nil	Nil	6
March 31, 2011	1	Nil	3	1	1	6
March 31, 2010	Nil	1	3	1	2	7



PUBLIC TRUSTEE STATISTICS

SCHEDULE "H1"

REPRESENTATIVE LITIGATION CASES CLOSED

FISCAL YEAR ENDING:	PRESUMPTION OF DEATH ACT	MISSING/ UNASCERTAINED PERSON	SURVIVAL OF ACTIONS ACT	GUARDIAN <i>ad litem</i> OF INCOMPETENT ADULT	GUARDIAN <i>ad litem</i> OF INFANT	TOTAL
March 31, 2014	Nil	1	Nil	1	Nil	2
March 31, 2013	Nil	Nil	Nil	1	1	2
March 31, 2012	Nil	Nil	Nil	Nil	Nil	Nil
March 31, 2011	10	Nil	8	1	1	20
March 31, 2010	Nil	Nil	Nil	2	1	3



**Health Care Decisions**

***Annual Statistical Report***

***2013-14***

## SUMMARY

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

All three performance indicators of the Health Care Decisions (HCD) division (i.e. complaints, response times and attendance at client conferences) were within established targets for 2013-14 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 fiscal year 2013-14, which are detailed in this report:

- 91 new clients files were opened during the year and 52 client files were closed during the year
- 520 referrals were received in 2013-14 as compared to 522 referrals for 2012-13
- 66.9% of referrals were under PDA, 19.2% under HA, and 13.9% under IPTA, which is consistent with 2012-13.
- Capital District Health Authority (DHA9) submitted the most referrals with 232 (44.6%) and Guysborough Antigonish District Health Authority (DHA7) submitted the least with 8 referrals (0.7%).
- A total of 1678 decisions were made in 2013-14, 1327 under PDA, 174 under HA, and 177 under IPTA
- The average number of decisions per referral was 3.2, compared to 2.8 in 2012-13.
- 93.4% of decisions were level-1, 5.2% of decisions were level-2, and 1.4% of decisions were level-3

## Recommendations

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

## HEALTH CARE DECISIONS DIVISION

### *Public Trustee Mission*

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

### *Principles and Standards*

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

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

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

### *Structure*

Health Care Decisions Division



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

## PROGRAM

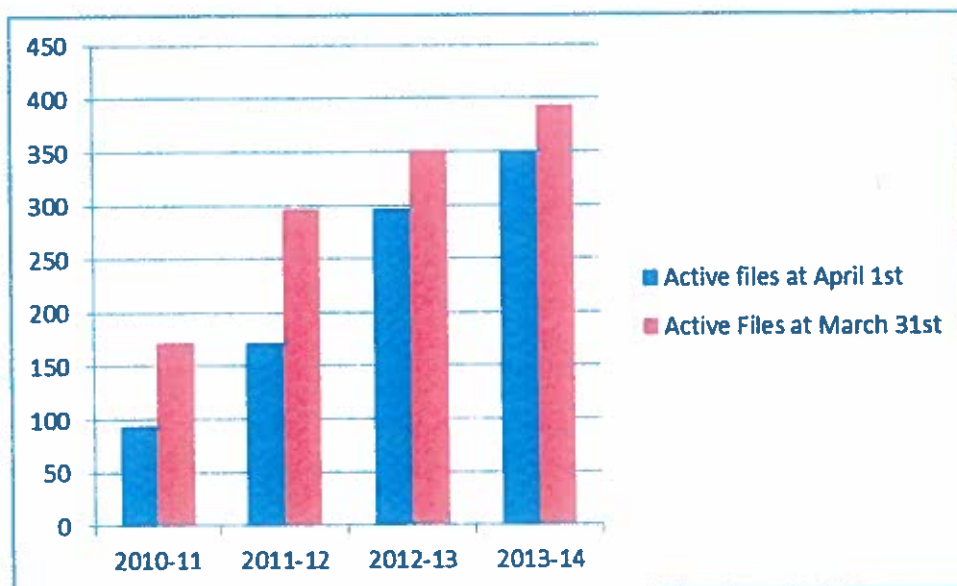
### *2013-2014 Statistical Overview*

91 new client files were opened in 2013-14. With the closure of 52 files, the year-end balance of 393 active files represents a 12% increase in the total number of active files over the last fiscal year.

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

Client Files	2010-11	2011-12	2012-13	2013-14
Active files at April 1 <sup>st</sup>	93	172	296	351
New Client Files opened	93	133	95	91
Deactivated Files reopened	1	30	0	3
Client Files closed	(15)	(39)	(41)	(52)
Active Files at March 31 <sup>st</sup>	172	296	351	393

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



**Table 2 – Closed Files**

Reason for Closing	2010-11	2011-12	2012-13	2013-14
Client death	11	27	30	38
Higher-ranked statutory decision maker	4	11	9	11
Delegate or proxy identified	0	1	0	1
Capacity regained	0	0	2	2
<b>Total</b>	<b>15</b>	<b>39</b>	<b>41</b>	<b>52</b>

## Referrals

### Total Referrals by legislation

In the fiscal year 2013-14, a total of 520 referrals were received: 100 (19.2%) referrals under *Hospitals Act*; 72 (13.9%) referrals under *Involuntary Psychiatric Treatment Act*; and 348 (66.9%) referrals under *Personal Directives Act*.

Chart 2 – Referrals by legislation

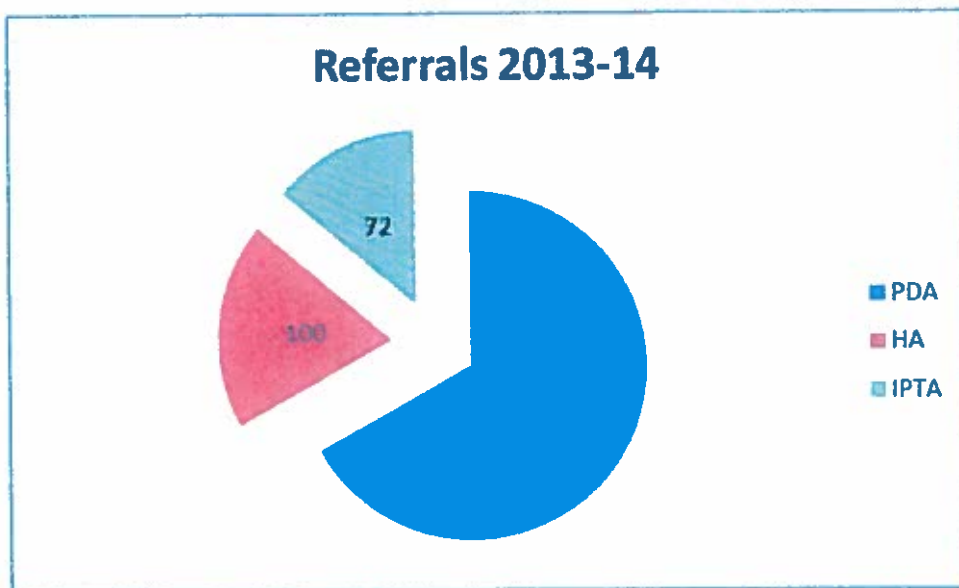
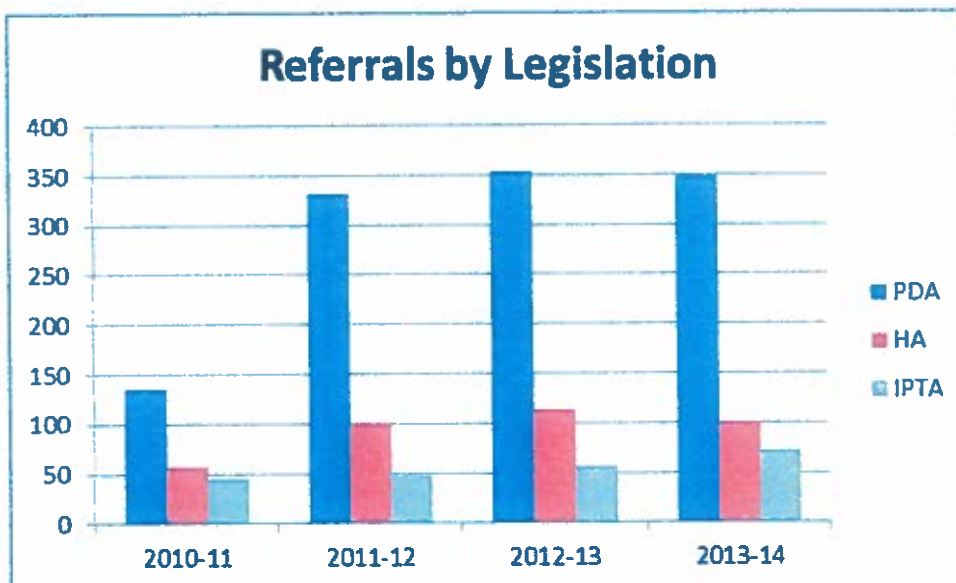
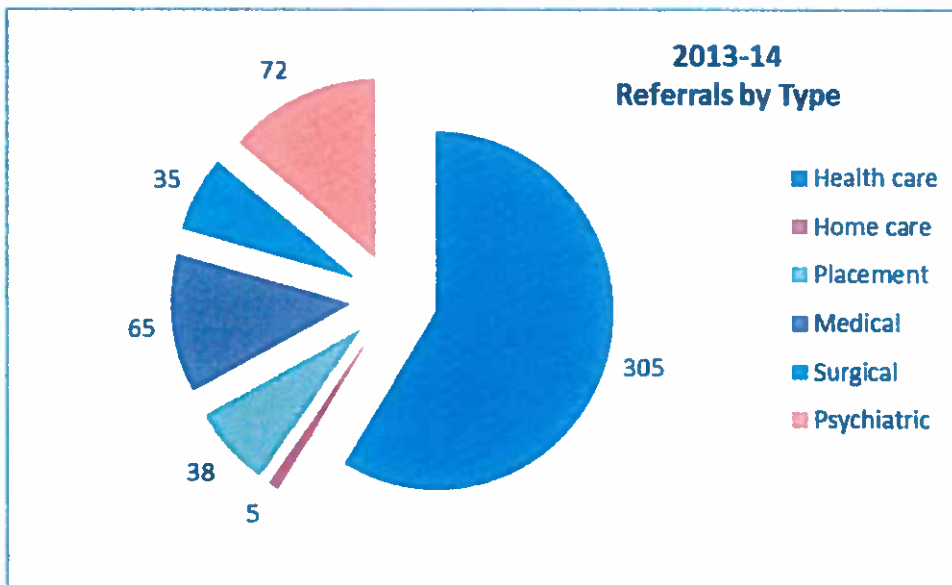


Chart 3 – Referrals - Year over year by Legislation



## Referrals by Type

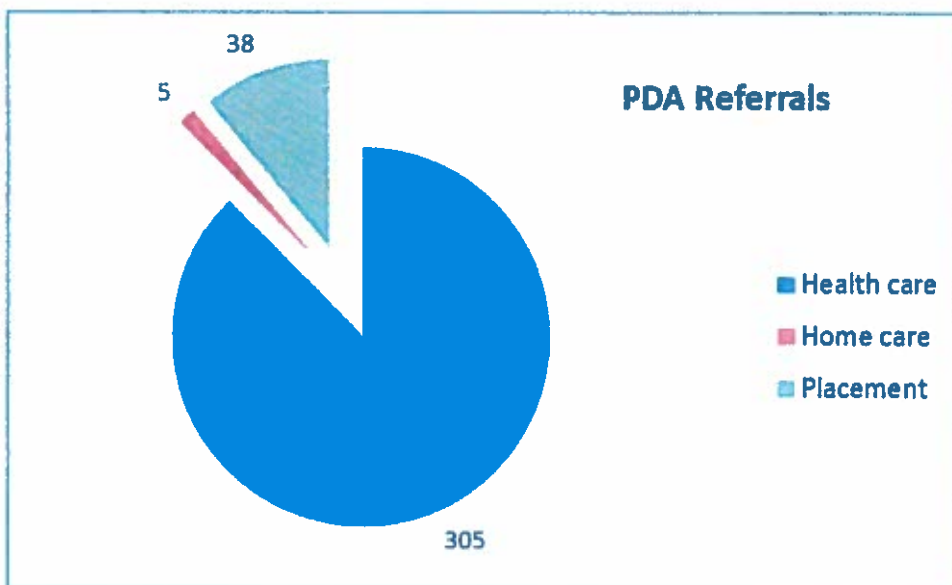
Chart 4 – Referrals by type



## Referrals under Personal Directives Act

*Personal Directives Act* includes referrals for health care, home care, and placement to a continuing care home. In 2013-14 a total of 348 referrals were received under PDA.

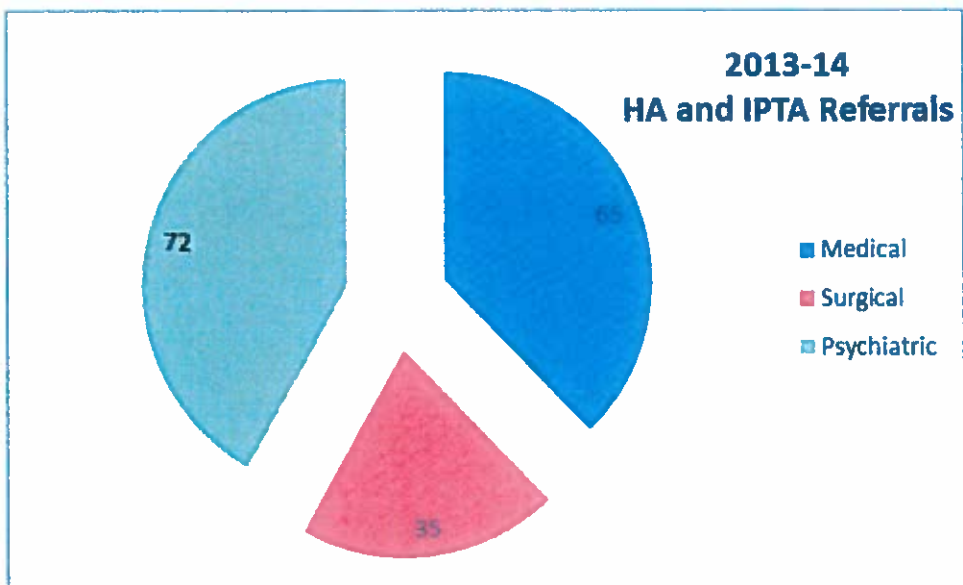
Chart 5 – 2013-14 Health Care, Home Care , and Placement Referrals



## Referrals under Hospitals Act and Involuntary Psychiatric Treatment Act

*Hospitals Act* includes referrals for medical treatment and surgical treatment. *Involuntary Psychiatric Treatment Act* includes referrals for psychiatric treatment in hospital and community treatment orders. In the fiscal year ending March 31, 2014, the Public Trustee provided 100 consents under the *Hospitals Act* and 72 under the *Involuntary Psychiatric Treatment Act*.

Chart 6 – 2013-14 Total medical, surgical, and psychiatric treatment referrals



## Referrals by month

The average number of referrals received each month in 2013-14 was 43.3, which is consistent with 2012-13 i.e. 44 referrals received. November had the most referrals received in a month at 56; January and March had the fewest at 34 and 33 referrals, respectively.

Chart 7 – 2012-13 Referrals per month by legislation

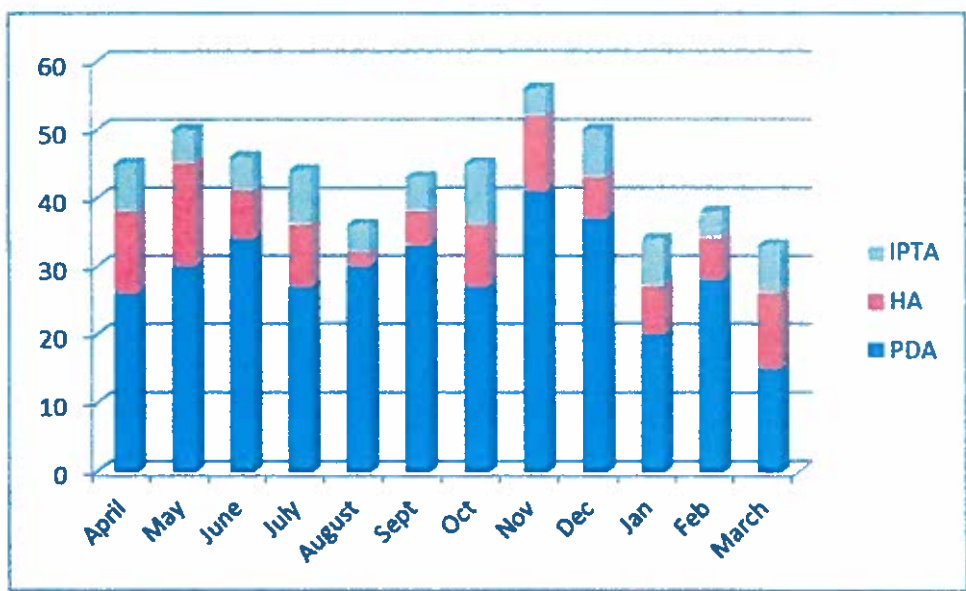
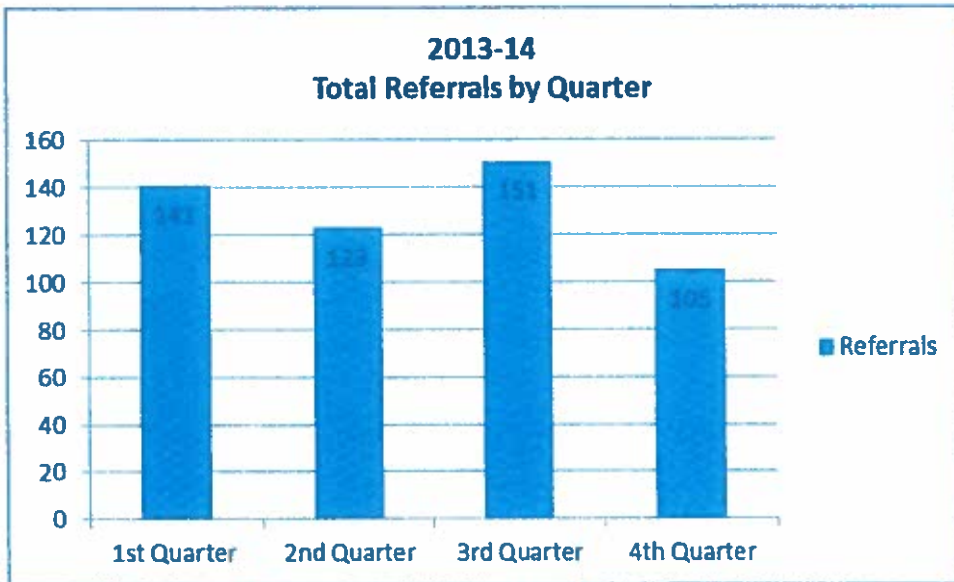




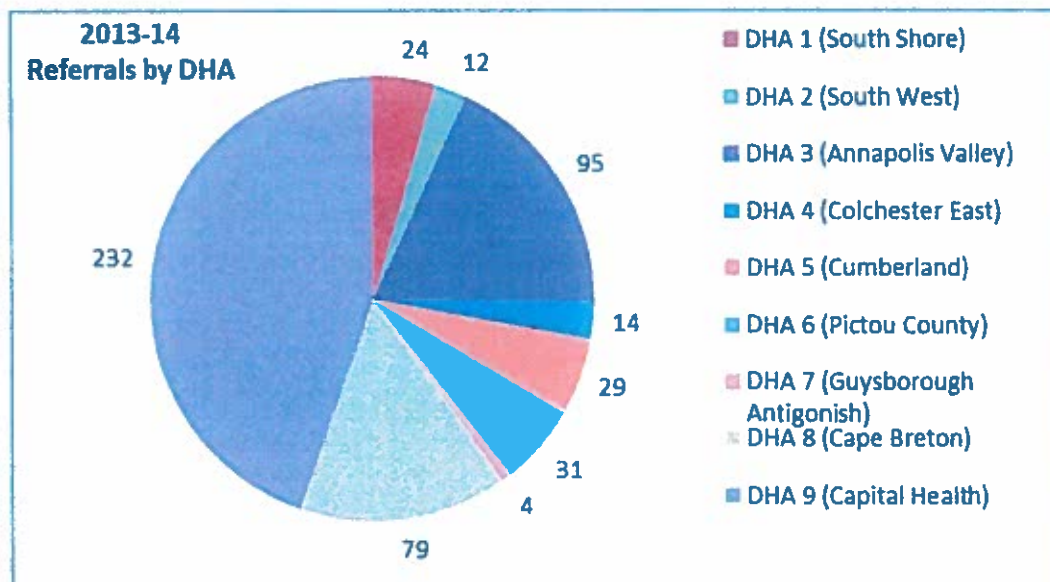
Chart 8 – Total Referrals by quarter



### Referrals by Geographic Area

Geographic areas are defined by the District Health Authority (DHA) boundaries. All referrals have been sorted by DHA. 232 referrals (44.6%) of all referrals received in 2013-14 came from DHA 9 (Capital Health); this compares to 245 (47%) for 2012-13. The least - 4 referrals (0.8%) - were received from DHA 7 (Guysborough Antigonish District Health Authority).

Chart 9 – 2013-14 Total Referrals by DHA

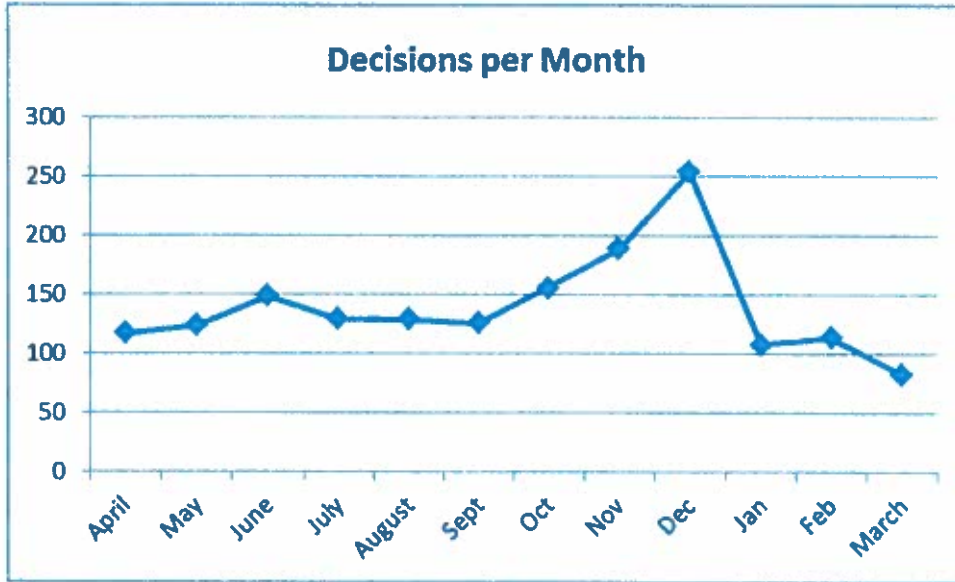


## Decisions

### Total Decisions

In the fiscal year 2013-14, a total of 1678 decisions were made compared to 1465 decisions made in 2012-13.

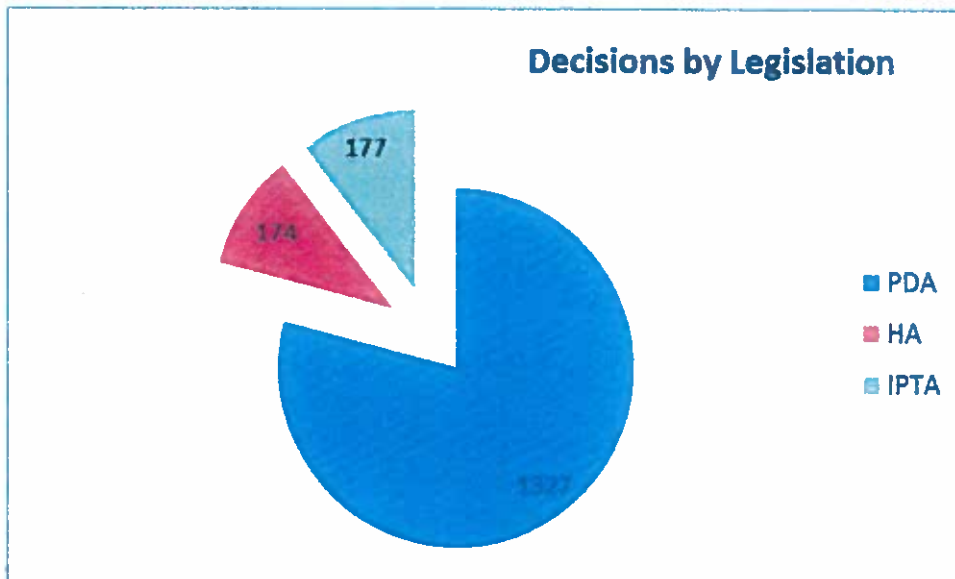
Chart 10 – Total Decisions 2013-14



### Total Decisions by Legislation

In the fiscal year 2013-14, of the 1678 decisions made: 174 (10.4%) were made under *Hospitals Act*; 177 (10.5%) were made under *Involuntary Psychiatric Treatment Act*; and 1327 (79.1%) were made under *Personal Directives Act*.

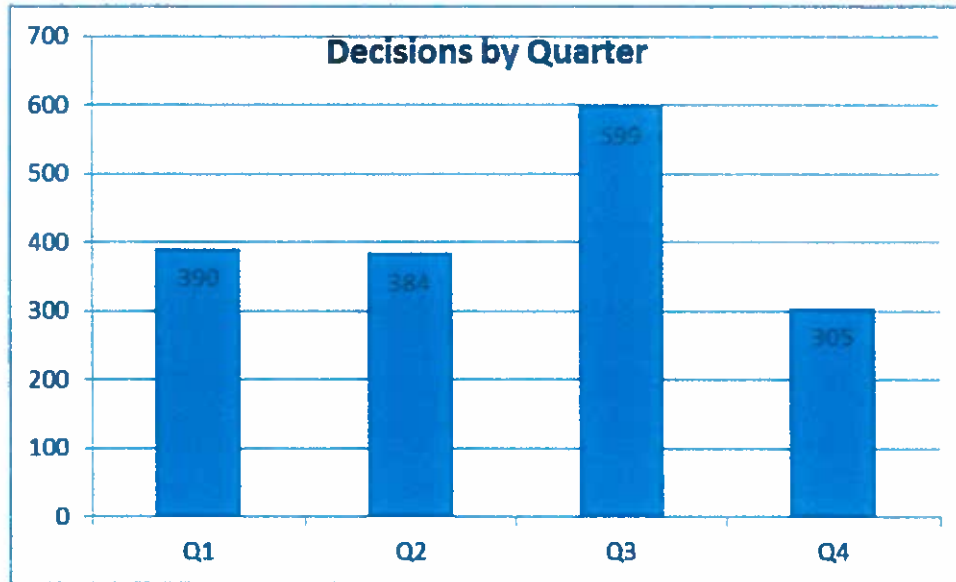
Chart 11 – Decisions by legislation



## Total Decisions by Year Quarter

There was an average of 3.2 decisions made per referral compared with 2.8 per referral in 2012-13.

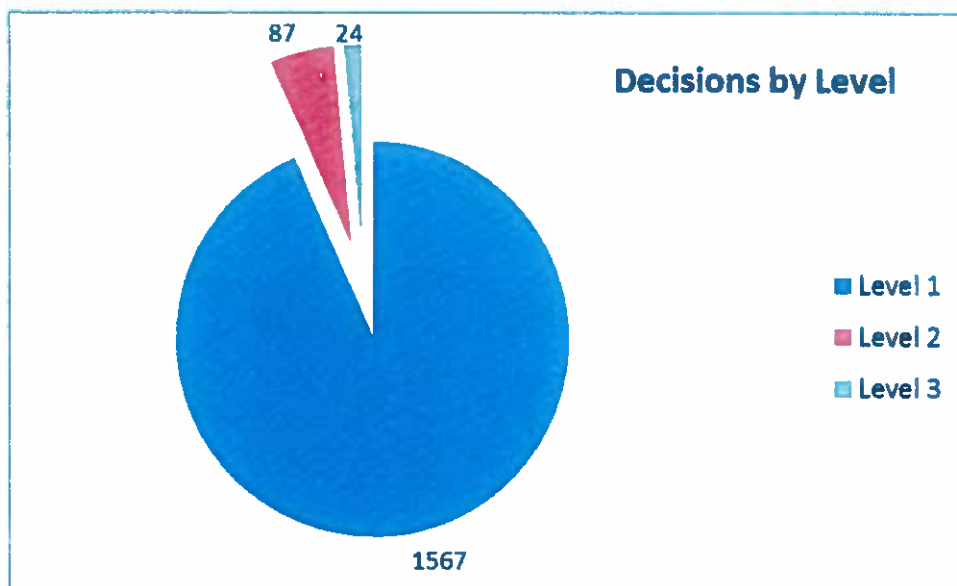
Chart 12 – Total Decisions by quarter



## Decision Levels

Each decision is categorized as level 1, level 2, or level 3 in accordance with the degree of risk to the client, with level 3 having the most risk. In 2013-14, there were 1567 (93.4%) level-1 decisions made, 87 (5.2%), level-2 decisions made, and 24 level-3 decisions made. Level 3 decisions represent 1.4% of all decisions made and are shown in Table 3. This breakdown is consistent with 2012-13 numbers.

Chart 13 – Total Decisions by level



**Table 3 – Level 3 Decisions 2013-14**

<b>Level 3 Decision</b>	<b>Number</b>
Electroconvulsive therapy (includes maintenance treatment schedules)	14
Community treatment orders (CTO) and CTO renewals	7
Amputation (finger)	1
Certificate of leave (IPTA)	1
Neurosurgery	1
<b>Total</b>	<b>24</b>

## **QUALITY**

### ***Quality Indicators***

#### **Complaints**

*2013-14 target was fewer than 5 complaints received during the year*

No complaints were received during the 2013-14 fiscal year.

#### **Response times**

*2013-14 target was 95% of decisions letters sent within response time standard*

520 of 520 (100%) of decision letters were issued within the established response time standard of within 3 business days of receipt of all relevant and required referral information.

#### **Client Conferences**

*2012-13 target was 95% attendance*

HCD staff were notified and invited to attend 29 client case conferences in 2013-14. 29 (100%) were attended; 7 were attended in person and 22 by teleconference.

#### ***External Education***

Seven external education sessions about the role of the Public Trustee as substitute decision maker and the processes of the HCD Division were held to in 2013-14.

### **Recommendations**

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