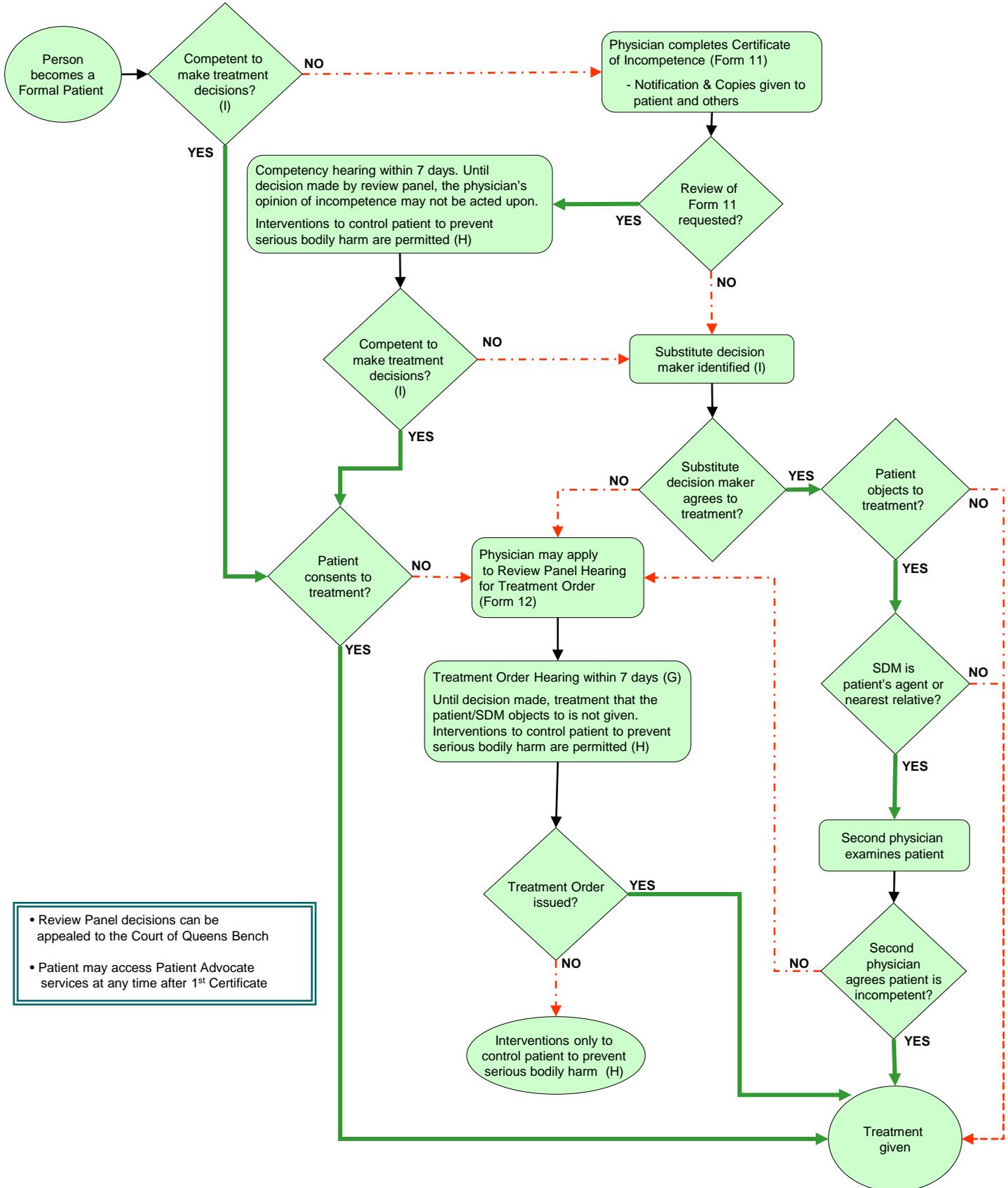


**Formal Patient
Competency & Consent for Treatment Decisions**

See Key Points for reference details A-N (over). This Chart is one of three, only explanations specific to this chart are included.



- Review Panel decisions can be appealed to the Court of Queens Bench
- Patient may access Patient Advocate services at any time after 1st Certificate

Formal Patient Competency and Consent - Key Points

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| <p>A. Definition of Mental Disorder (see MHA 1(g))</p> <p>A substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs: judgment, behavior, capacity to recognize reality or ability to meet the ordinary demands of life.</p> |
| <p>B. Apprehension by Warrant or Peace Officers Statement (see MHA 10 and 12)</p> <p>To apprehend a person to conduct an examination, the Judge and/or the Peace Officer must have reasonable and probable grounds to believe that the person is in a condition likely to cause harm to the person or others or to suffer substantial mental or physical deterioration or serious physical impairment and:</p> <p>Judges Warrant: (section 10, Form 8)</p> <ul style="list-style-type: none"> There is no other way to arrange for an examination. Application supported by sworn information that the person is suffering from mental disorder <p>Peace Officer: (section 12, Form 10)</p> <ul style="list-style-type: none"> The person is suffering from a mental disorder The person should be examined for their own safety or the safety of others. Circumstances are such that proceeding under section 10 would be dangerous |
| <p>C. Three Criteria for Formal Patient Certification (see MHA 2(a-c))</p> <ul style="list-style-type: none"> Suffering from a mental disorder In a condition likely to cause harm to the person or others or to suffer substantial mental or physical deterioration or serious physical impairment Unsuitable for admission to a facility other than as a formal patient |
| <p>D. Admission Certificates</p> <p>Effect of One Admission Certificate (see MHA 4(1))</p> <p>Gives sufficient authority to:</p> <ul style="list-style-type: none"> Care for, observe, assess, detain and control, apprehend and convey to a facility within 72 hours of issue Care for, observe, assess, detain and control the person during apprehension and conveyance Care for, observe, examine, assess, treat, detain and control the person for up to a maximum of 24 hours after arrival at facility unless a 2nd certificate is written <p>Effect of Two Admission Certificates (see MHA 7(1,2))</p> <ul style="list-style-type: none"> Gives sufficient authority to <ul style="list-style-type: none"> Care for, observe, examine, assess, treat, detain and control the person named on the certificate for up to one month after issuing of the certificates One certificate must be signed by a physician on staff at the facility If needed, <u>Renewal Certificates</u> must be completed prior to expiry of existing certificates |
| <p>E. Informing Patient and Others (see MHA 14)</p> <p>Who*</p> <ul style="list-style-type: none"> Patient Patient's agent, substitute decision maker (SDM) Patient's nearest relative (unless patient objects) Patient may designate one person s. 14 (1) & (4) <p>What</p> <ul style="list-style-type: none"> The reason for issuance of the certificates The authority for detention and the period of it Function of the review panel Notice of the right to apply for a review panel hearing to appeal treatment orders, certificates or finding of incompetence |

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| <ul style="list-style-type: none"> Name and address of review panel chair Notice of discharge from facility or expiry / cancellation of certificates <p>How</p> <ul style="list-style-type: none"> Provide copies of certificates Use verbal and written explanations Use simple language An interpreter must be provided if necessary to facilitate understanding Provide pamphlets about rights and copies of all documents to patient / SDM's <p>* Additional notice to <u>Family Doctor</u> - upon discharge, along with discharge summary including recommendations for treatment</p> |
| <p>F. Documentation</p> <ul style="list-style-type: none"> Patient's and Others' receipt of: <ul style="list-style-type: none"> Certificates Verbal and written information about formal status: reasons, duration and legal rights, date completed Patient's awareness and apparent understanding of formal status and legal rights Response to information, behavior & mental status If an appeal is being made Patient's consent or refusal of treatment <p>Not documented = Not done</p> |
| <p>G. Review Panel (see MHA 34-43)</p> <ul style="list-style-type: none"> Composed of a chair or vice-chair (must be a lawyer), a psychiatrist, a physician, a member of the general public (see MHA 34-36). Review panel members may not be on staff at the facility and must not be treating or have treated the patient. The applicant and the applicant's representative have a right to be present during presentation of evidence Use Form 12 to apply for review panel hearing A board (usually delegated to a physician) may apply on behalf of a formal patient (MHA 38(2)) A board or attending physician may apply to review panel for treatment order (MHA 29 (2)) Any decision or order of the review panel may be appealed to the Court of Queen's Bench |
| <p>H. Control (see MHA 30)</p> <p>Control is the minimal use of reasonable force, by mechanical means or medication - without patient's consent - as necessary to prevent serious bodily harm to the person or another person.</p> <p>If interventions / medications, are used to control the behavior, not to treat patient, staff must document behavior requiring control and measures used.</p> |
| <p>I. Mental Competency (see MHA 28)</p> <p>Competency means that the person is able to understand the subject-matter relating to, and the consequences of, making treatment decisions or giving consent & the consequences of not doing so.</p> <p>Treatment decisions may be made on behalf of a formal patient when the patient is a minor or is not mentally competent by (in the following priority order):</p> <ol style="list-style-type: none"> agent of the patient (under personal directive) guardian of the patient nearest relative as defined in section 1(i)(i), or the Public Guardian (last resort) <p>The authorized person shall make the treatment decisions in accordance with what they believe to be the best interests of the patient.</p> |

| Additional Information | | |
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| | <ul style="list-style-type: none"> Formal Patient Certificates (admission / renewal) are cancelled on the issuance of a Community Treatment Order. (MHA 9.1(3)) On admission as a formal patient, the Community Treatment Order should be cancelled (MHA 9.6(4c)) Mental Health Patient Advocate services available at any time "Facility" means a place or part of a place designated in the <i>Mental Health Regulation</i> as a facility, otherwise known as <u>designated facility</u> | |
| # | Form Name | Completed by |
| 1 | Admission Certificate | 2 Physicians |
| 2 | Renewal Certificate | 1 Physician 1 Psychiatrist |
| 3 | Order to Return a Formal Patient to a Facility | Board's Delegate e.g. Physician |
| 4 | Certificate of Transfer into Alberta | Minister of Health and Wellness or designate |
| 5 | Transfer of Formal Patient to a Facility Outside Alberta | Minister of Health and Wellness or designate |
| 6 | Memorandum of Transfer to Another Facility | Board's Delegate e.g. Physician, at sending facility |
| 7 | Information | Informant |
| 8 | Warrant | Judge |
| 9 | Extension of Warrant | Judge |
| 10 | Statement of Peace Officer on Apprehension | Peace Officer |
| 11 | Certificate of Incompetence to Make Treatment Decisions | A) Physician & B) Rep of Facility Board, usually a Physician |
| 12 | Application for Review Panel Hearing | Patient / SDM / Board / Anyone |
| 13 | Notice of Hearing Before Review Panel | Review Panel Chair |
| 14 | Decision of Review Panel Regarding Mental Incompetence to Make Treatment Decisions | Review Panel Chair |
| 15 | Decision of Review Panel regarding Treatment | Review Panel Chair |
| 16 | Decision of Review Panel regarding Transfer back to a Correctional Facility | Review Panel Chair |
| 17 | Decision of Review Panel Regarding Admission Certificates, Renewal Certificates or CTO | Review Panel Chair |
| 18 | Decision of Review Panel Regarding Renewal Certificates & CTO's (Deemed Application) | Review Panel Chair |