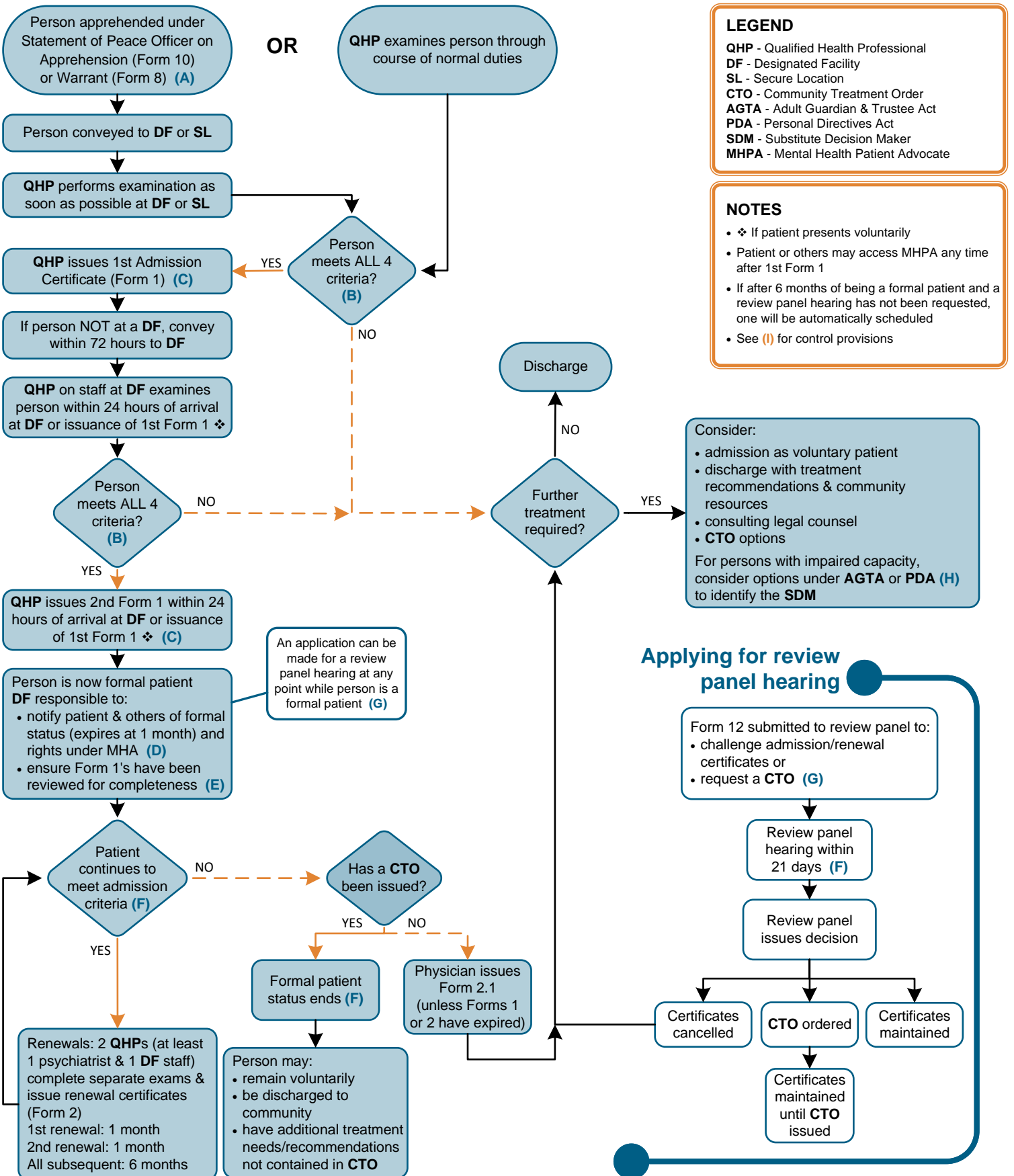


See Key Points for Reference Details A-I (over)



LEGEND

- QHP - Qualified Health Professional
- DF - Designated Facility
- SL - Secure Location
- CTO - Community Treatment Order
- AGTA - Adult Guardian & Trustee Act
- PDA - Personal Directives Act
- SDM - Substitute Decision Maker
- MHPA - Mental Health Patient Advocate

NOTES

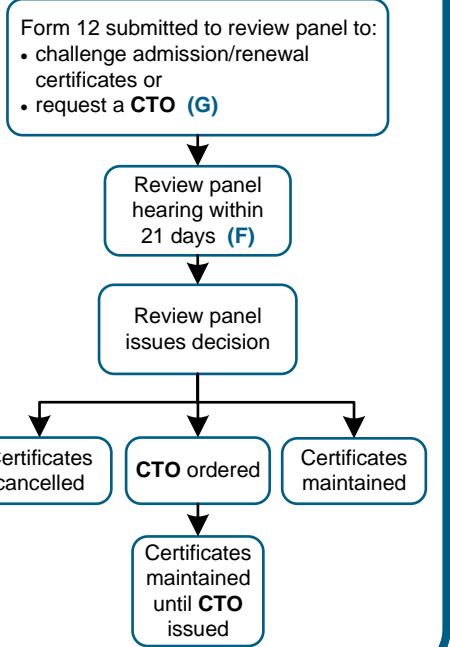
- ❖ If patient presents voluntarily
- Patient or others may access MHPA any time after 1st Form 1
- If after 6 months of being a formal patient and a review panel hearing has not been requested, one will be automatically scheduled
- See (I) for control provisions

Consider:

- admission as voluntary patient
- discharge with treatment recommendations & community resources
- consulting legal counsel
- CTO options

For persons with impaired capacity, consider options under AGTA or PDA (H) to identify the SDM

Applying for review panel hearing



Refer to the Mental Health Act and its regulations for more comprehensive information. Reliance on this document is solely at the user's risk; AHS is not responsible for errors or omissions and will not be responsible or liable for any claims arising based on the use (or misuse) of information contained herein. This material may be reproduced or copied in full for educational and program development purposes or not-for-profit or non-commercial activities without permission. © 2022 Alberta Health Services

Definition of Mental Disorder (MHA s.1(1)(g))

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, but does not include a disorder in which the resulting impairment is persistent and is caused solely by acquired or congenital irreversible brain injury.

A. Apprehension by Warrant or Peace Officers Statement (MHA s.10/12)

To apprehend a person who requires examination, **Judge or Peace Officer** have grounds to believe:

- I. A person is suffering from mental disorder **AND** within a reasonable time, likely to cause harm to others or to suffer negative effects, including substantial mental or physical deterioration or serious physical impairment, related to the mental disorder – **OR**
- II. A person is not complying with their CTO.

Judge's Warrant: (Form 8)

- Anyone can submit a Form 7 to a judge at a provincial court with sworn information (see above: A.I. or A.II.)
- Only used if examination cannot be arranged through any other means.

Peace Officer's Power: (Form 10)

- Used if proceeding under a judge's warrant would be dangerous.

B. Formal Patient Certification Criteria (MHA s.2)

- 1) Suffering from a mental disorder
- 2) Potential to benefit from treatment for the mental disorder
- 3) Within a reasonable time, likely to cause harm to others or to suffer substantial mental or physical deterioration or serious physical impairment, related to the mental disorder
- 4) Unsuited for admission to DF other than as a formal patient

C. Admission/Renewal Certificates (MHA s.4/7/8)

Gives the authority to care for, observe, examine, assess, treat, detain & control the person.

Effect of One Admission Certificate

- Apprehend (if required) & convey person to DF (if not there already) w/in 72 hours of issuance.
- Valid up to 24 hours from person's arrival at DF if conveyed under authority of MHA, or from issuance of first Form 1 if presented voluntarily.

Effect of Two Admission Certificates

- Valid up to 1 month from date of second admission certificate.

Renewal Certificates

- Must be issued within 24 hours after exam.
- Both renewal certificates must be completed prior to expiry of existing certificates.

D. Notifying Patients & Others (MHA s.14(1))

Who to notify:

- Formal patient **(i) (ii)**
 - Guardian* (if any) **(i) (ii)**
 - Nearest relative* (unless patient objects on reasonable grounds) **(i) (ii)**
 - One person designated by patient (if any) **(ii)**
- * *Reasonable efforts* must be made to inform these people

What to include in the notification:

i: Using simple language, and an interpreter if required, review **reason for certificate issuance**, patient's right to apply to a **review panel** and patient right to have **legal representation**

ii: Provide:

- copies of admission/renewal certificates,
- summary of assessment of competency to make treatment decisions
- written statement with the following requirements:
 - ✓ reason for issuance, authority & duration
 - ✓ right to apply for a review panel hearing to appeal certificates, or to request a CTO be ordered
 - ✓ function & contact information of the review panels
 - ✓ patient's right to legal counsel & steps to obtain free legal services
 - ✓ function & ways to contact the MHPA
 - ✓ patient's right to free & timely access to patient records relevant to review panel or Court of King's Bench hearing

E. Completeness Review (MHA s.8.1)

Admission & renewal certificates must be reviewed to ensure all fields are completed. The process for meeting this requirement, including who is responsible, may vary by zone.

F. Additional Notification Considerations

- Notifying patient and others must be completed upon initial admission AND each subsequent renewal (see D).
- A written treatment plan is required to be provided to patient 1 month after admission as a formal patient. See section 9.01.
- Notice of discharge must be given to patient's guardian, if any, and nearest relative (unless patient objects on reasonable grounds).
- A discharge summary with treatment recommendations should be provided to the patient's regular health care providers.

G. Review Panels (MHA s.14 & 34-43)

- Composed of a chair or vice-chair (lawyers), a psychiatrist & a member of the public.
- The formal patient, or anyone on their behalf, may apply for a hearing via Form 12 to:
 - cancel admission/renewal certificates
 - request a CTO
 - overturn a physician's certificate of incompetence to make treatment decisions
- The formal patient has the right to legal representation at all review panel hearings
- Prior to a hearing, formal patient is entitled to free & timely access to patient records relevant to review panel.
- A board or attending physician may apply to review panel for a treatment order.
- Any decision or order of the review panel may be appealed to the Court of King's Bench.

H. Mental Capacity & Decision Making

All adults are presumption of competent. Admission as a formal patient does not change this presumption. If a patient is assessed to lack capacity, consider options under AGTA: <https://www.alberta.ca/adult-guardianship.aspx> If a personal directive is in place, consider enacting it through a Schedule 2 or 3 form. See <https://www.alberta.ca/personal-directive.aspx>

The MHA addresses competency rather than capacity (s.26-27). See *Competency & Consent for Formal Patient Flowchart* for additional information.

I. Control Provisions (MHA s.30)

The MHA authorizes minimal use of reasonable force, by mechanical means or medication – without patient consent – as necessary to prevent serious bodily harm to the person or another. Means used must have regard for the physical and mental condition of the person.

Additional Information

- In addition to the prescribed MHA forms referenced, all providers are expected to follow professional standards and organizational guidelines for documentation.
- Formal Patient Certificates (admission/renewal) are cancelled on the issuance of a CTO (MHA s.9.1(3)).
- For additional information on CTO's: *Community Treatment Order – Issuance or Renewal Flowchart*
- Terms used in this documents are specific to the MHA. For definitions, see MHA s.1.

#Form Name

- 1 Admission Certificate
- 2 Renewal Certificate
- 2.1 Cancellation of Admission Certificate or Renewal Certificate
- 8 Warrant
- 10 Statement of Peace Officer on Apprehension
- 12 Application for Review Panel Hearing

Completed by

- 2 QHP
- 2 QHP
- Physician
- Judge
- Peace Officer
- Formal Patient / SDM / QHP / Other

NOTES:

- 1 must be a physician and member of the staff of the facility
- 1 must be a psychiatrist

All Mental Health Act forms can be found on the website: <https://www.albertahealthservices.ca/info/Page1256.aspx>

For additional information on the Mental Health Act please visit <https://www.albertahealthservices.ca/info/mha.aspx>

For any enquiries about these materials please email: MHAandCTO.Enquiries@ahs.ca

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