

Summary Sheet

Consent to Treatment/Procedure(s) Formal Patients and Persons Subject to Community Treatment Orders under the *Mental Health Act*

If a Formal Patient or person subject to a Community Treatment Order is considered Competent to provide consent to a Treatment/Procedure, the individual can consent to the Treatment/Procedure.

Who may give Consent if a Formal Patient or person subject to a Community Treatment Order is not mentally Competent?

- The Agent of that Patient
- The Guardian of that Patient
- Nearest Relative as defined in the Mental Health Act

Who is considered to be a Nearest Relative?

“Nearest Relative” means with respect to a Formal Patient or a person who is subject to a Community Treatment Order,
1) The adult person first listed below, relatives of the whole blood being preferred to relatives of the same description of the half-blood, and the elder or eldest of two or more relatives being preferred, regardless of gender:

- Spouse or adult interdependent partner
 - Son or daughter
 - Father or mother
 - Brother or sister
- Grandfather or grandmother
- Grandson or granddaughter
 - Uncle or aunt
 - Nephew or niece

OR

2) Any adult person the board designates in writing to act as the nearest relative if there is no nearest relative within description above or if, in the opinion of the board, the nearest relative determined would not act or is not acting in the best interest of the formal patient or the person who is subject to a community treatment order;

What if there is no Agent, Guardian or Nearest Relative?

Contact the Office of the Public Guardian if there is no Agent, Guardian or Nearest Relative to provide consent for a Formal Patient or person subject to a Community Treatment Order in a non-emergency.

All decisions made by the Agent, Guardian or Nearest Relative on behalf of Formal Patients or persons subject to Community Treatment Orders should be done so in that person's best interest.

Disclaimer

This summary sheet is intended to be a guide and is not to replace the content of the AHS policy Consent to Treatment/Procedures(s) and its five related procedures or legal advice. Examples herein are for illustrative purposes only; the application of the AHS policy/procedures and legislation may vary depending on circumstances unique to each situation. Readers are encouraged to view the policy/procedure documents and legislation directly and should consult Clinical Policy {Clinicalpolicy@albertahealthservices.ca} if in need of clarification.