

The background of the cover features a light blue, semi-transparent image of a park scene. In the foreground, several people are shown in silhouette, walking across a path. A street lamp stands in the middle ground, and trees are visible in the background. The overall color palette is a soft, monochromatic blue.

The Alberta Mental Health Act

*A Guide for
Mental Health Service Users
and Caregivers*

2nd Edition



Canadian Mental
Health Association

Calgary Region

Although we have tried to ensure that the information in this booklet is accurate and current, because of the changing nature of the law and legislation we make no warranty or guarantee concerning the accuracy or reliability of the contents of this publication.

You may read or order a current copy of the *Mental Health Act* at www.qp.alberta.ca.

A copy of the Act may also be purchased through:

Queen's Printer Bookstore

Main Floor, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7

Phone: (780) 427-4952 in Edmonton
Outside of Edmonton, call toll free:
310-0000, then dial (780) 427-4952



This Guide was made possible through the assistance of Alberta Health Services and the office of the Alberta Mental Health Patient Advocate.

For more information or assistance, contact

Alberta Mental Health Patient Advocate:

Phone: (780) 422-1812 in Edmonton
Outside of Edmonton, call toll free: 310-0000 then (780) 422-1812
E-mail: info@mhpa.ab.ca
www.mhpa.ab.ca

© 2010 Canadian Mental Health Association - Calgary Region
Suite 400, 1202 Centre St. SE
Calgary, AB T2G 5A5
(403) 297-1700
www.cmha.calgary.ab.ca

TABLE OF CONTENTS

INTRODUCTION	5
What will this guide tell me?	5
PART 1: THE MENTAL HEALTH ACT	6
What is the Mental Health Act?	6
What changes were made to the Act?	6
What does the Act allow?	6
What do apprehension and detention mean?	7
What do admission and treatment mean?	7
What is a community treatment order?	7
PART 2: APPREHENSION AND DETENTION	8
How can I be apprehended and detained?	8
If someone apprehends me, can I be restrained?	9
PART 2A: WHAT ARE MY RIGHTS IF I AM APPREHENDED AND DETAINED?	10
PART 3: ADMISSION AND TREATMENT	11
Who can be admitted and treated involuntarily?	11
How long can I be kept?	11
Can I be kept longer?	12
What if I don't want to be treated?	12
What if I'm not competent and doctors want to treat me?	12
If I'm not competent, who can make treatment decisions on my behalf?	13
What is a Treatment Order?	13
When am I no longer considered to be a formal patient?	14
What happens when I am no longer a formal patient?	14
Who is informed when I am discharged?	14
PART 3A: WHAT ARE MY RIGHTS IF I AM ADMITTED AS A FORMAL PATIENT?	14
PART 4: COMMUNITY TREATMENT ORDERS	17
What is a community treatment order (CTO)?	17
Who can be issued a community treatment order?	17
What has to be in place for a CTO to be started?	18
Who can issue a CTO?	18
What is included in a CTO?	18
What kind of treatment will be ordered?	19
How long does a CTO last?	19

TABLE OF CONTENTS

Can I cancel a CTO?	19
Can a CTO be changed?.....	19
Who supervises a CTO?	19
What happens if I don't follow the terms of a CTO?.....	19
PART 4A: WHAT ARE MY RIGHTS IF I'M ISSUED A CTO?	20
PART 5: THE REVIEW PANEL	24
What is the purpose of the Review Panel?	24
What issues can I apply to the Review Panel to review?	24
How do I apply for a hearing?	24
When must the Review Panel hold a hearing?	24
Can I take part in my hearing?	25
Can a lawyer help me?.....	25
How do I know what the Panel has decided?	25
What if I disagree with a Review Panel decision?	25
PART 6: THE MENTAL HEALTH ACT AND FAMILY MEMBERS OR CAREGIVERS.....	26
Who is informed if a person is admitted to hospital as a formal patient?	26
Who is informed if a formal patient is discharged from hospital?	26
Who is informed if a person is issued a community treatment order?	26
Who is informed if a person's CTO expires or is cancelled?	26
What can I do if I think someone is in need of examination or care under the Act?..	27
Who decides what actions may be taken under the Act?	27
What if the treatment or care ordered in a CTO isn't available?.....	27
What if I'm concerned someone is not following a CTO?	27
If I'm concerned about the treatment of someone who is receiving treatment or care under the Act, what can I do?.....	28
GLOSSARY	29
MENTAL HEALTH ACT FORMS	31
HELPFUL CONTACT INFORMATION AND WEBSITES.....	32

INTRODUCTION

What will this guide tell me?

- ***The Alberta Mental Health Act: A Guide for Mental Health Service Users and Caregivers*** was written to help you understand some of the main actions permitted under the Act, how the Act might affect you, as well as your rights within the Act. It is intended to provide you with information to use in order to **advocate** for yourself or another person affected by the Act.
- This Guide gives an overview of the Act in plain language. For actual wording of the Act, you can read the *Mental Health Act* at www.qp.alberta.ca or order a copy from the Alberta Queen's Printer (see page 2 for address).
- The first time a word or term that is in the glossary occurs in a section, it is typed in **bold** print. Certain terms that have longer or more detailed definitions are included in boxes in the right-hand column on some pages as well.
- Many of the actions described in the Act are linked to specific legal forms that must be completed for the action to be legally valid. These forms are referred to in the text where appropriate and there is a list of them at the back of the Guide. You can see the forms at www.albertahealthservices.ca/1256.asp.
- Other useful information and contacts related to the Act are listed at the back of the Guide.
- Although the information in this booklet is about legal issues, it should not be seen as giving legal advice. If you are looking for specific legal advice or assistance you should always contact a lawyer. You can call Legal Aid's Alberta Law Line at 1-866-845-3425 to find out what kind of legal help is available, or visit www.legalaid.ab.ca.
- This guide does not include information specific to situations of involuntary detention and admission under the Criminal Code (Canada) or the Youth Criminal Justice Act. If you have questions about these situations, you should get more information from a lawyer.

Advocate: to support or defend someone's cause or position to an influential person or someone in authority.

PART 1: THE MENTAL HEALTH ACT

What is the Mental Health Act?

The *Mental Health Act* (the Act) is a provincial statute or law that applies to individuals with a **mental disorder** in some particular situations. The Act talks about how a person with a mental disorder can be apprehended, detained and/or given treatment in a hospital or in the community under specified conditions. It also explains people's rights in these circumstances.

The Act has existed since 1990, but very important changes were made that came into effect in September, 2009 and January, 2010.

What changes were made to the Act?

The basic rules and rights that apply to apprehension, detention and treatment are the same as before, but there are several key changes to the Act:

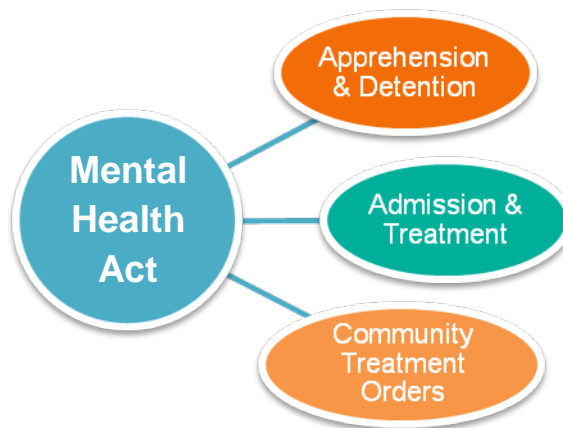
- One of the **criteria** that allow someone to be admitted to a facility **involuntarily** has been changed. The change means people with a mental disorder who doctors believe are likely to cause harm to themselves or others, to seriously **deteriorate** mentally or physically, or to become physically **impaired** without treatment may be admitted. The Act used to apply only to people who appeared to be a danger or likely to become a danger to themselves or someone else.
- When a patient is discharged (released) from a hospital, the doctor's written report on the patient's assessment, diagnosis and treatment and any treatment recommendations (suggestions) must now be sent to the person's family doctor, if known.
- A new option, called a community treatment order (CTO), has been added to the Act that allows for people to be supported and treated in the community under certain circumstances, instead of having to stay in a hospital or other **designated facility**.
- In the past, the Mental Health Patient Advocate (MHPA) could only assist individuals held under two admission or renewal certificates. Now, the MHPA can also serve people held under only one admission certificate or who have been issued a CTO.

What does the Act allow?

The *Mental Health Act* describes actions the health system and/or legal system can take in certain serious or critical situations to protect and/or treat individuals with a mental disorder. In some situations, actions taken under the Act may also help protect the health and safety of other people in the community. The Act also describes the rights individuals have to apply for a review, appeal their detention and state their case (with or without legal representation) if they are unhappy with what is happening to them under the Act.

There are three main actions that can be enforced or taken in certain situations:

- Apprehension and detention
- Admission and treatment
- Community treatment orders



What do apprehension and detention mean?

Apprehension: In certain situations a doctor, judge or police officer may order a person with a mental disorder to be picked up by the police and taken to a hospital (designated facility) to be examined. Being transported to the hospital is called **conveyance**.

Detention: This is when a person is kept at the hospital against his or her will.

See Part 2 for more information.

What do admission and treatment mean?

Admission: If two doctors separately examine someone and both decide it is very important for him or her to stay in hospital to get help, they can admit the person to hospital involuntarily as a **formal patient**. To be admitted, the person must meet the three criteria (see next page) for issuing two **admission certificates**.

If the person doesn't meet all three criteria, the doctors may ask him or her to stay in hospital voluntarily. If the person agrees to stay, he or she can then be admitted as a voluntary patient. If the person doesn't agree to stay and doesn't meet the admission certificate criteria, then he or she must be released.

Treatment: Once a person is admitted, doctors will recommend care and treatment to help his or her recovery. The patient or a **substitute decision-maker** should discuss treatment options with the doctor. See Part 3 for more information.

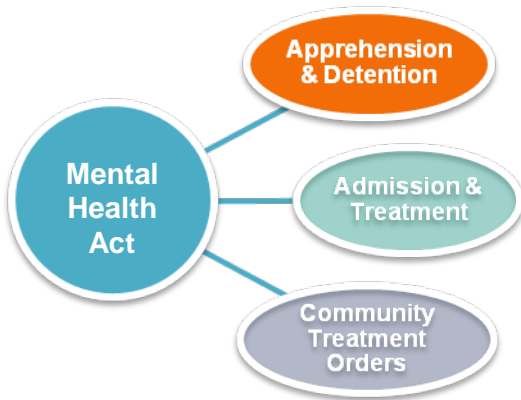
What is a community treatment order?

A community treatment order (CTO) is a doctor's order to follow a supervised mental health treatment and care plan for a certain period of time while staying in the community rather than being admitted to a hospital or other facility.

CTOs are meant to prevent the cycle of being admitted to hospital as a formal patient for treatment, being released, getting ill while in the community, and then having to go back to the hospital. If a person can follow a treatment and care plan in the community, he or she may be able to stay out of hospital. See Part 4 for more information.

PART 2: APPREHENSION AND DETENTION

How can I be apprehended and detained?



In certain situations, a doctor, judge, or the police may have a person picked up by the police and taken to a hospital (**designated facility**) for help. This is called being **apprehended** and **conveyed** by the police.

If you are apprehended, once you arrive at the hospital, you may be detained (kept there involuntarily) for up to 24 hours to be examined. During this time you can be cared for, controlled and

examined (these terms are discussed in the next section) with or without **consent**. You may be treated only if you give consent.

Only certain hospitals called **mental health facilities** or **designated facilities** can be used for these examinations and treatments.

Here are the conditions where a medical doctor, judge, or police officer is allowed to order your apprehension:

Doctor (physician)

If a doctor examines you and finds you meet *all three* of the following conditions, he or she can fill out an **admission certificate** (Form 1):

1. You have a **mental disorder**
2. You are likely to cause harm to yourself or others or suffer significant mental or physical **deterioration** or serious physical **impairment**
3. There is no other way to arrange for a hospital admission (usually this means you do not agree to be admitted as a voluntary patient)

The admission certificate is a legal document and allows for your apprehension, conveyance and detention. The certificate ends if you have not been taken to a hospital within 72 hours of the certificate being made. If the certificate ends, you can't be picked up unless another certificate is made out.

Provincial Judge

A provincial judge can also order that you be taken to a hospital for examination. Anyone who believes you

- are suffering from a mental disorder;
- are likely to harm yourself or others;
- may suffer serious mental or physical deterioration or impairment; or
- are not complying with (following) a community treatment order

can tell this information under oath to a judge of the Provincial Court.

Admission certificate (Form 1) - A form filled out by a doctor that gives authority for a person to be apprehended and taken to a facility and detained for a specific length of time.

Mental disorder - A mental disorder is defined in the Act as "a substantial disorder of thought, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognize reality, or ability to meet the ordinary demands of life."

Perception is your awareness of the world through your senses, like seeing or hearing.

Orientation, as used here, means your awareness of who you are, where you are and what time you are living in. It does not mean sexual or religious orientation.

Notice that the disorder must be "substantial" and the impairment must be "gross." Both of these mean "large". A small change in thought, mood, or behaviour is not enough to allow you to be detained against your will.

This definition of mental disorder means that you cannot be apprehended or detained involuntarily simply for holding political or religious beliefs that are uncommon.

If the judge believes the information the person presents is true and there is no other way to arrange an examination (by your going voluntarily to a doctor or hospital, for example), the judge can issue a warrant (Form 8). If you are named in a warrant, it allows a peace officer/police officer to take you to a facility for examination. A judge's warrant lasts for seven days, and can be renewed (Form 9) by the judge for a second seven-day period as long as the judge renews it before the first seven-day period runs out.

Police Officer

If you are named in a doctor's admission certificate or a judge's warrant, a police officer can apprehend you and take you to a designated facility.

Also, if you aren't willing to go voluntarily, any police officer may take you to a hospital for examination *without* a warrant if he or she has reasonable grounds to believe

- you have a mental disorder; *and*
- you are likely to cause harm to yourself or others or suffer serious mental or physical deterioration or physical impairment, or you are not obeying a CTO; *and*
- you need to be examined for your own safety or that of others; *and*
- it would be dangerous to you or others to wait for a judge to issue a warrant under the Act.

The officer must complete a written statement describing why your apprehension is necessary (Form 10).

If someone apprehends me, can I be restrained?

Under the Act, you may be controlled to prevent serious injury to yourself or others. Control can be through the minimal use of force, **mechanical** means or medication. Control must be as minimal as is **reasonable**, and must have regard for your physical and mental condition.

Note: *Control* is different from *treatment*. You can be controlled without your consent, but not treated without your consent. For example, you could be given an injection against your will for control purposes. Treatment can only be given in certain circumstances (*see Part 3*).

Mechanical means physical restraints, which could range from handcuffs during transportation to cloth bindings in bed.

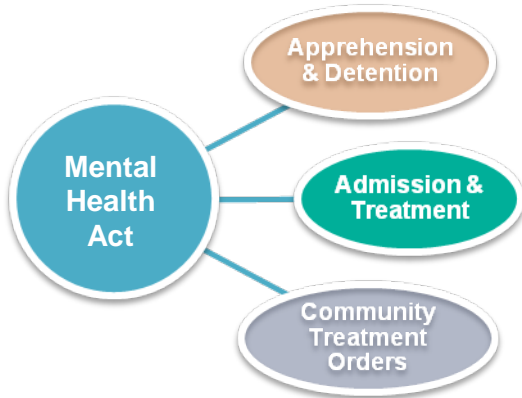
Reasonable means that, for example, the amount of force used against a frail elderly woman should be much less than that needed to control a strong, young man.

PART 2A: WHAT ARE MY RIGHTS IF I AM APPREHENDED AND DETAINED?

- Before a doctor, judge, or police officer decides you can be picked up and taken to a hospital, you must meet the conditions or **criteria**.
- Whether you're **apprehended** through a doctor's **admission certificate** (Form 1) or a **judge's warrant** (Form 8), these papers must tell you the reason for your apprehension, who is issuing it, and when.
- If a judge's warrant has been issued, you must be taken to a hospital within seven days. After seven days the warrant expires and you can't be apprehended unless a new warrant is issued or the first one is extended.
- If you're apprehended under a peace/police officer's power (Form 10), the officer must take you to a facility for examination right away.
- If you're apprehended and **detained** at a facility, you must be examined by a medical doctor within 24 hours. If you are not seen by a doctor within 24 hours, you must be discharged (released).
- Unless two admission certificates are issued by the end of 24 hours, you will be free to leave the hospital. A doctor may ask you to remain at the hospital as a voluntary patient if he or she thinks staying would help you.
- If a doctor examines you and issues one admission certificate, you have the right to contact the Mental Health Patient Advocate for support and information. Visit the Mental Health Patient Advocate's website at www.mhpa.ab.ca for more information.

PART 3: ADMISSION AND TREATMENT

If you have been **apprehended** and **detained** at a hospital, the only person who can decide to admit you for more examination and treatment is a medical doctor. Your family cannot admit you.



If you have been brought to the hospital under a doctor's **admission certificate** (Form 1), in order to be admitted, a second doctor on staff (not the one who filled out the first admission certificate) must examine you and agree that you meet all three admission certificate criteria.

If you were brought to the hospital under a judge's warrant or under a police officer's power, two doctors must

separately examine you and agree that you meet all three criteria and need to be admitted. At least one of the doctors must be a staff member at the hospital. In all cases, two admission certificates are required for you to be held longer than 24 hours.

If two admission certificates are issued, you must be told the reason why and be told that you have the right to apply to the Review Panel (see Part 5) for cancellation of the certificates. You also have the right to call the Mental Health Patient Advocate for information and support. See Part 3A for more information about your rights.

Who can be admitted and treated involuntarily?

Having a **mental disorder** alone is not enough for involuntary admission. It is important to stress that if doctors have assessed you and decide you need to be admitted to hospital, you must meet *all three* of the following conditions (criteria) to be admitted without your **consent**:

1. *Mental disorder* - you must have a mental disorder or appear to be suffering from a mental disorder.
2. *Likely to cause harm to yourself or others, or to suffer serious mental or physical deterioration or serious physical impairment* - once the doctor examines you, he or she comes to the opinion if you're not admitted, you're likely to become seriously more mentally or physically ill or to hurt yourself or someone else in some way.
3. *Unsuitable for admission to a facility other than as a formal patient* - this is generally understood to mean that you refuse to be admitted voluntarily.

How long can I be kept?

The first admission certificate (Form 1) expires within 24 hours from the time you get to the hospital unless another doctor sees you and completes a second admission certificate within that time. Two admission certificates allow the hospital to keep you as a formal patient for up to one month from the date of the second certificate.

Examine - This means being checked or assessed by the doctor. The term "examined" does not necessarily mean a physical examination. It may just involve talking to you and asking certain questions that help the doctor assess your mental condition.

Formal patient - A formal patient is someone who has been admitted to a hospital under two admission certificates (Form 1) or two renewal certificates (Form 2).

Can I be kept longer?

While you're in the hospital, you must be assessed regularly to see if you still meet the conditions of the admission certificates. *At any point when you no longer meet all three of the criteria, the certificates are cancelled.*

If at the end of one month the doctor feels you should stay in hospital, you may be kept longer under two **renewal certificates** (Form 2). To qualify for renewal certificates, two doctors must separately examine you again and decide if you still meet all the criteria. At least one of the doctors must be a staff member of the hospital, and at least one must be a psychiatrist. If you still meet all three criteria, the doctors each fill out a renewal certificate to extend your stay.

The first two times you are issued two renewal certificates, your stay is extended for up to one month. The third time and any time after that, each set of renewal certificates allows you to be kept for up to six months.

What if I don't want to be treated?

If you are in the hospital because of admission or renewal certificates, you can be treated only if you consent or your **substitute decision-maker** has given consent. The Act allows for your doctor to decide whether or not you are **competent** to make decisions about your own treatment.

If you are considered competent and you accept treatment, you will be treated. If you refuse treatment,

- the health care team may try to work with you to make a treatment plan you are willing to try;
- your doctor may decide to respect your decision and not order treatment. He or she will decide if the certificates should be cancelled and if you should be discharged from hospital;
- or your doctor may request a **Treatment Order** (Form 15) from the **Review Panel** that allows for you to be treated against your will.

If you are considered incompetent (not able to make treatment decisions), a **substitute decision-maker** such as your **agent** (if you have chosen one), your **guardian** (if you have one), your **nearest relative**, or the **Public Guardian** will be asked to consent to treatment on your behalf.

What if I'm not competent and doctors want to treat me?

If it is determined you are not competent, you can't legally consent to treatment. The doctor must complete a Form 11 certificate *even if you have a legal guardian who can provide consent for treatment*. The Form 11 certificate will state reasons why you are considered (deemed) to be not competent. A copy of the Form 11 certificate must be given to you. It must also be given to either your guardian or agent (if there is one) and, unless you object, your nearest relative. The guardian, agent or relative will be asked to make treatment decisions for you.

If you have been deemed incompetent by one doctor and refuse treatment, a second physician must also examine you (this step is not needed if you already have a legal

Competence in this case means being able to understand the information relating to treatment decisions and able to appreciate the consequences of making these decisions. Only a basic level of understanding is expected.

Competence is difficult to assess. You may be competent to make some decisions but not others. Competence is not now-and-forever: you may be competent sometimes but not others.

It is important to note that you need to be able to appreciate the consequences of your decisions. It is not enough just to know what the consequences are: you must also be able to understand how your decision (to be treated or not treated, for example) may affect you.

guardian). If the second doctor also finds you to be not competent, you may apply to the **Review Panel** to review the Form 11 certificate. If you apply for a review, your doctor can't treat you until the Review Panel considers your application, even if your substitute decision-maker has given consent.

If the Review Panel agrees you are incompetent, your agent, guardian or nearest relative will make treatment decisions for you and then you can be treated against your will.

If I'm not competent, who can make treatment decisions on my behalf?

Someone who makes decisions for you must have had contact with you in the past 12 months, must be willing to take on the responsibility of making treatment decisions for you and must make a written statement stating their relationship to you. Doctors will ask either a guardian, an agent, or your nearest relative who meets these requirements.

Before agreeing to a treatment, this person must also consider whether your mental condition will likely get worse without treatment, is likely to improve with treatment, whether the treatment benefits outweigh the possible risks and whether the treatment is the least intrusive option that will make a positive difference in your life.

What is a Treatment Order?

If you are competent to make decisions about your treatment but refuse to be treated, or, if you are not competent and your substitute decision-maker refuses to consent, the doctor may fill out a Form 12 to request that the Review Panel order treatment for you. Until the doctor gets a **Treatment Order** (Form 15), he or she may not go ahead with treatment. Once a Treatment Order is issued, you may be treated against your will.

The Review Panel will only order treatment if it is satisfied that the doctor has examined you, and that treatment is in your best interest based on the following four conditions:

1. You are likely to improve with treatment.
2. You are likely to get worse without treatment.
3. The benefit of treatment outweighs the risks of the treatment.
4. The treatment is the least limiting and invading of all possible treatments that meet the first three conditions.

The Review Panel may also ask for an outside opinion from a psychiatrist who is not on staff at the hospital to see if the proposed treatment is in your best interests. If the Review Panel decides that the doctor's treatment plans are in your best interest, the Panel will issue a Treatment Order, which allows you to be treated without your consent.

Despite the fact that the Panel can order treatment, the Act states that **psychosurgery** *cannot* be performed without both your consent and a Review Panel order.

Guardian - a guardian is a person who has legally been given authority to make decisions on your behalf through either the Child, Youth and Family Enhancement Act (if you're under 18), or the Adult Guardianship and Trusteeship Act.

Agent - an agent is someone you trust to make important decisions for you when you are not able to make decisions for yourself. Legally, the agent is named in a Personal Directive. The person may or may not be a family member.

Nearest Relative - under the Act, your nearest relative is an adult who is a spouse or common law partner, a son or daughter, a parent, a brother or sister, a grandparent, a grandchild, aunt or uncle, or nephew or niece.

Public Guardian - if there is no agent, nearest relative or guardian under the Adult Guardianship and Trusteeship Act, the Office of the Public Guardian makes decisions as the decision-maker of last resort for someone who is deemed incompetent.

Psychosurgery - is surgery done on the brain to change behaviour or treat mental disorders.

Note: Electro-Convulsive Therapy (ECT) is not considered psychosurgery and **may** be given without a Treatment Order. ECT is not usually considered as a first or usual treatment. It is most often an alternative of last resort.

When am I no longer considered to be a formal patient?

You are no longer a formal patient when

- you no longer meet any of the criteria for the two admission or renewal certificates and your doctor cancels the certificates; or
- the Review Panel reviews your case and cancels the admission or renewal certificates; or
- your admission or renewal certificates expire. This means they are not renewed in the time allowed under law and are no longer valid.

What happens when I am no longer a formal patient?

When your admission or renewal certificates are no longer valid, you can't be kept as a formal patient and must be told you are a voluntary patient. This means that you are free to leave if you want to and the hospital may discharge (release) you. However, if your doctor feels more treatment will still help your recovery, he or she may

- ask you to stay in hospital as a voluntary patient; or
- transfer you to a different facility for treatment as a voluntary patient; or
- if you meet the criteria, issue you a community treatment order for treatment and care in the community (see Part 4).

If the doctor feels that staying in the hospital as a voluntary patient would be in your best interest, but you decide to leave anyway, the hospital may ask you to sign a form saying you are leaving against medical advice.

Who is informed when I am discharged?

When you are discharged, the hospital will notify your guardian (if you have one), your nearest relative (unless you object), and your family doctor (if known). Your family doctor will also receive information about your stay in hospital and recommendations for treatment and care.

PART 3A: WHAT ARE MY RIGHTS IF I AM ADMITTED AS A FORMAL PATIENT?

- You can't be admitted unless two doctors examine you and issue two **admission certificates** stating you meet all three **criteria** for admission as a **formal patient**.
- If your admission certificates are cancelled or expire, you are no longer a formal patient. You must be told you are now a voluntary patient and are free to leave if you want.

The Act directly states many other rights. You have the right to

- [information](#)
- [legal representation](#)
- [confidentiality](#)
- [refuse treatment](#) (in most cases)

- [communications](#)
- [apply to a Review Panel for cancellation](#)
- [receive visitors](#)
- [contact the Mental Health Patient Advocate](#)

Your Right to Information

If two admission or renewal certificates are issued, you must be told the reasons the certificates were written (i.e. why you are being detained). Also, you must be told about your right to apply to the **Review Panel** for cancellation of the certificates (Form 12). The hospital must try to give this information to your nearest relative (unless you object) and to your guardian (if you have one).

You, any one person you choose, your nearest relative (unless you object) and your guardian (if you have one) must also be given the following:

- a written statement of the reasons for the certification and how long it will last;
- copies of the certificates;
- a written description of the function of the Review Panel, along with the name and address of the chairperson of the Panel;
- written information about your right to apply to the Panel for cancellation of the certificates;
- information about your other rights.

If there is a language barrier, the hospital must provide an interpreter to give you this information in your own language or your guardian's language.

Your Right to Confidentiality

Information in your hospital record is private and is protected by the *Health Information Act* (HIA). Section 35 of the HIA describes specific situations where your records may be shared without your consent, such as allowing information to be shared with Review Panels and/or someone who is providing you continuing treatment and care. To learn about other reasons your health information might be shared, you can read the HIA by typing Health Information Act in the Search box at www.qp.alberta.ca. The Mental Health Patient Advocate or a lawyer may also assist you in understanding when your health information might be shared.

Your Right to Communications

You have the right to have your written communication, such as personal mail, to remain private. Hospital staff cannot open, examine or hold back your mail.

Your Right to Visitors

You may have visitors during set visiting hours. The only limit is if your physician feels that a specific visitor is harmful to you. This usually only happens if that visitor is someone who has been abusing you mentally or physically. It could happen if a certain visitor would set back your recovery (healing).

Your Right to a Lawyer

If you are admitted as a formal patient, you have the right to contact a lawyer and receive visits from a lawyer at any time. You can also ask a lawyer to represent you at Review Panel hearings. Contact Legal Aid Alberta (www.legalaid.ab.ca) for information about legal representation. If you choose to appeal a Review Panel decision, this

appeal is heard at the Court of Queen's Bench. You do not need to be represented by a lawyer to go to Queen's Bench, but it is encouraged.

Your Right to Refuse Treatment

If you are competent, you have the right to refuse treatment. If you're deemed incompetent, you may object to treatment by applying to the Review Panel to review the doctor's opinion about your competence (Form 11). No treatment will be given while you are waiting for a Review Panel decision; however, the Review Panel may agree that treatment is necessary and refuse to cancel the Form 11 despite your objections.

Psychosurgery can *never* be performed without your consent.

Your Right to Apply to a Review Panel

You have the right to request that the Review Panel cancel your admission or renewal certificates or the Form 11 Certificate of Incompetence to Make Treatment Decisions.

If you're not satisfied with the results of the Review Panel hearing, you have the right to appeal the Panel's decision to the Court of Queen's Bench. (There are legal fees and a waiting period to do this.) You must file notice to begin this appeal within 14 days of the Review Panel's decision.

The appeal to the Court of Queen's Bench is not part of the Review Panel process, so all information must be presented again to the judge. The decision of this Court cannot be appealed.

Your Right to Advocacy

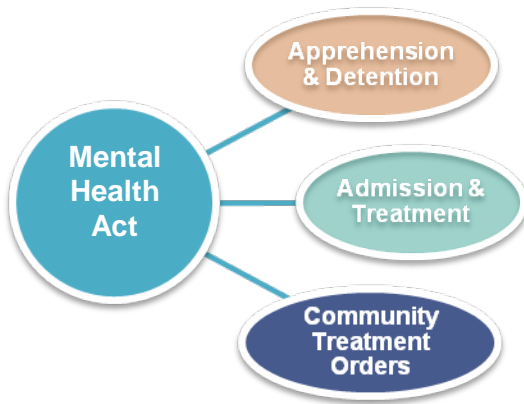
The Mental Health Patient Advocate (www.mhpa.ab.ca) can give you information about your rights and look into questions or complaints about your rights, detention, treatment, care, or any other issues regarding being an involuntary patient under one or two admission or renewal certificates. The Advocate will provide you with information, help you advocate for yourself, or may investigate your complaint.

The Advocate's information could include how to get a lawyer, how to apply to a Review Panel or the Court of Queen's Bench, or how to deal with care-related concerns. Investigations into your complaints could include reviewing your records and asking questions of you, your doctor and the hospital staff or care providers.

These investigations may result in the Mental Health Patient Advocate making recommendations to the hospital, the psychiatrist who issued your certificates, or other officials.

Informal advocates are not mentioned in the Act, but you are allowed to give information about yourself to any person you choose. Although non-appointed advocates such as a family member or friend could help you by getting information for you or by representing your interests, they will not have the same authority as the Mental Health Patient Advocate who has certain powers under the Act to access information and records or to interview management, doctors and staff and make recommendations.

PART 4: COMMUNITY TREATMENT ORDERS



Community treatment orders (CTOs) are another option permitted under the *Mental Health Act* to give people the treatment and support they need for recovery. Just like with **apprehension**, admission and treatment, there are rules for CTOs and rights for people who are issued a CTO.

In most situations, you must give **consent** for treatment for the CTO to be issued. If you are not **competent**, your **guardian** or **substitute decision-maker** can give consent.

What is a community treatment order (CTO)?

A CTO is a way to help people with a **mental disorder** who meet certain **criteria** get the treatment, care and supports they need for recovery while living in the community, rather than having to be admitted to hospital as a **formal patient**. It is a written order for supervised treatment that describes what kind of treatment, care or supports the person must have, who is supervising the CTO and how long the order should last.

If you are being discharged from a facility after being a formal patient or a voluntary patient, a CTO may be an option for you to continue taking treatment to stay well after you've been discharged. Or, if you and/or your caregivers are concerned you are having serious difficulty continuing with treatment in the community, it might be possible to go on a CTO to avoid your illness getting much worse and having to go to the hospital. However, *you must meet all the **criteria*** listed below to go on a CTO.

Who can be issued a community treatment order?

To determine if a CTO is the best option, two doctors, including one psychiatrist, must examine you separately within three days. In order for them to issue a CTO, they must decide if your situation *meets all the following criteria*:

1. You are suffering from a mental disorder
2. One or more of conditions a, b, or c apply:
 - a) In the past three years, you were a formal patient in a **designated facility** at least two times or for at least 30 days; and/or were in a facility, hospital, or correctional institution where you were eligible to be a formal patient;
 - b) and/or, in the past three years you have been on a CTO at least once; and/or
 - c) both doctors believe you have shown a pattern of repetitive or recurring behaviour while living in the community that shows you are likely to cause harm to yourself or others or become

Mental disorder - A mental disorder is defined in the Act as “a substantial disorder of thought, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognize reality, or ability to meet the ordinary demands of life.”

Perception is your awareness of the world through your senses, like seeing or hearing.

Orientation, as used here, means your awareness of who you are, where you are and what time you are living in. It does not mean sexual or religious orientation.

Notice that the disorder must be “substantial” and the impairment must be “gross.” Both of these mean “large”. A small change in thought, mood, or behaviour is not enough to allow you to be detained against your will.

This definition of mental disorder means that you cannot be apprehended or detained involuntarily simply for holding political or religious beliefs that are uncommon.

significantly more ill mentally or physically or become physically **impaired** if you don't get continuing treatment or care in the community.

- Both doctors believe you are likely to harm yourself or others or to become significantly more mentally or physically ill or become seriously physically impaired if you don't get continuous treatment and support in the community.
- The doctors believe you are able to follow the treatment and care plan the CTO describes.

What has to be in place for a CTO to be started?

- The treatment must be available in the community and be provided to you.
- You have consented to the CTO if you are competent, or your guardian or substitute decision-maker has consented (if you are deemed not competent); or
- If you have not consented to the CTO, but the doctors believe you have a history of not following the treatment or care that is necessary to prevent the likelihood of you harming others, they may issue a CTO without your consent. This can only happen if it is right for the particular situation and if it would be less restrictive than admitting you as a formal patient in a facility.
- You and/or your substitute decision-maker must be informed of your rights under the Act. See Part 4A for rights information.

Who can issue a CTO?

The courts cannot order a CTO. It must be issued by two physicians who have examined you separately within 72 hours of each other. One of the doctors must be a psychiatrist.

If no psychiatrist is available, Alberta Health Services can appoint another medical doctor to examine you in place of a psychiatrist; however, the designated doctor can only issue, renew, change, or cancel a CTO after consulting with a psychiatrist about your case.

What is included in a CTO?

The doctors who order the CTO must fill out and sign a form that includes their names, the dates and place(s) where you were examined, why you meet the criteria to go on a CTO, what kind of treatment or care you require and who supervise the CTO. The form is called the Issuance of Community Treatment Order (Form 19).

If you are competent and give consent, you will be asked to sign the CTO. If you are deemed not competent, your substitute decision-maker or guardian will be asked to sign the form to agree to the CTO.

***Examine** - This means being checked or assessed by the doctor. The term "examined" does not necessarily mean a physical examination. It may just involve talking to you and asking certain questions that help the doctor assess your mental condition.*

What kind of treatment will be ordered?

Before the CTO is issued, the doctors who examine you should discuss treatment and care options with you and your caregiver or substitute decision-maker (if you have one) and determine what kind of treatment is best for your situation. In order for a CTO to be issued, the required treatment must actually be available, it must be provided to you in the community and the doctors must believe that you are able to follow the treatment plan.

Examples of types of treatment could include taking medications, going to medical appointments, addiction or mental health services, taking part in skill development programs, and other activities or arrangements that help you stay well in the community. Care and treatment can be provided by different agencies, health care professionals or other individuals (including friends or family members). Up to five service providers can sign up to provide you with treatment under the CTO.

How long does a CTO last?

A CTO ends six months after the day it is issued, unless it is renewed or cancelled. Once you no longer meet the criteria or the treatment is no longer available in the community, the CTO can be cancelled by a psychiatrist or designated doctor.

A CTO can be renewed (Form 20) before it expires if you still meet the requirements in the opinion of two doctors. The first time it is renewed and every second time it is renewed after that, the Review Panel will automatically review the CTO to decide if it should be cancelled. If an application for a Review Panel hearing is made within a month before any renewal, the automatic review won't occur.

There is no limit to the number of times a CTO can be renewed.

Can I cancel a CTO?

You, your guardian or substitute decision-maker can apply to the Review Panel to cancel a CTO at any time. Based on the information they hear at the review, the Panel will make a decision about whether the CTO is appropriate and should continue, or if it should be cancelled.

Can a CTO be changed?

Yes. The treatment and care plan can be changed by a psychiatrist or designated doctor at any time based on your individual situation or changes in available treatments. The psychiatrist or designated doctor must determine whether the new treatment or care is available and will be provided and whether you have the ability to follow the changed treatment plan. You or your substitute decision-maker must give consent for changes to care and treatment plans.

Who supervises a CTO?

The CTO must be supervised by a medical doctor.

What happens if I don't follow the terms of a CTO?

If you are under a CTO and don't follow the treatment and care plan, the person(s) involved in your treatment must let you know you aren't following the plan and try to

Competence in this case means being able to understand the information relating to treatment decisions and able to appreciate the consequences of making these decisions. Only a basic level of understanding is expected.

Competence is difficult to assess. You may be competent to make some decisions but not others. Competence is not now-and-forever. Also, you may be competent sometimes but not others.

It is important to note that you need to be able to appreciate the consequences of your decisions. It is not enough just to know what the consequences are: you must also be able to understand the effect of the consequences on your situation.

provide reasonable assistance to help you **comply**. You can talk to the supervising doctor to discuss changing the plan to help you follow it better. You must be told a psychiatrist could order you to be apprehended and assessed if you aren't following the plan and that this could lead to you being admitted to hospital.

People providing your treatment or care are required to complete a Community Treatment Order Noncompliance Report (Form 27) and give it to Alberta Health Services (AHS) within 24 hours of when they are aware you are not following a CTO. AHS will then report the information to the supervising doctor. He or she can authorize a police officer to apprehend you and take you to a facility for examination by issuing a CTO Apprehension Order (Form 23). The police officer can take reasonable measures to apprehend you, such as going into your home and/or using physical restraint (see Parts 2 and 3).

Also, anyone else who has reasonable and probable grounds (evidence or observations) to believe you are not obeying a community treatment order can go to the Provincial Court and tell a judge under oath. The judge could then order you to be apprehended (if you meet the apprehension criteria) and be taken to a facility for examination (see Part 2).

A peace/police officer can also apprehend and convey you to a facility without a doctor's or judge's order (under a Form 10) if he or she has grounds to believe you are not complying with a CTO and you

- have a mental disorder;
- need to be examined for your own safety or others' safety; and
- it would be dangerous to wait to receive a judge's warrant.

If you are apprehended and taken to a hospital for examination, you must be seen by two doctors (one a psychiatrist or designated doctor) within 72 hours of arriving at the hospital to determine if

- the CTO should be cancelled and you released; or
- the CTO should be continued with any necessary changes; or
- the CTO should be cancelled and you admitted as a formal or voluntary patient to a facility.

PART 4A: WHAT ARE MY RIGHTS IF I'M ISSUED A CTO?

Community Treatment Orders (CTOs) are permitted under the Act in order to provide support and treatment in the community for certain people who meet the CTO **criteria**. There are safeguards built in to the Act to make sure CTOs are issued only to people who can benefit from them. The Act also provides certain rights to people subject to CTOs.

It is important to know that in order for you to be issued a CTO, two doctors must examine you and find that you meet all the required criteria (see Part 4). If you don't meet these criteria, you can't be issued a CTO. If you do meet these criteria and are issued a CTO, there are rights built in to the Act that make sure you know what is

expected of you and how the CTO can be changed or cancelled. You must also be told the date when the CTO will be finished.

You have the right to

- [refuse to be issued a CTO](#)
- [information](#)
- [confidentiality](#)
- [legal representation](#)
- [apply to the Review Board for cancellation](#)
- [contact the Mental Health Patient Advocate](#)

Your Right to Refuse a CTO

If you are competent, the examining doctor must get your consent to the CTO. If doctors find you are not competent, they will ask for consent to issue the CTO from your **guardian** (if you have one), a person you have designated to make decisions on your behalf (**agent**), or your **nearest relative**, or the **Public Guardian**.

However, doctors may still issue you a CTO without consent if they find that

- while living in the community, you have shown a history of not getting or continuing with treatment necessary to prevent the likelihood of you harming others; and
- issuing you a CTO without your consent is a better solution than admitting you to a hospital as a **formal patient** against your will.

Note: Being able to consent to the CTO is different from being competent to consent to treatment. Whether the CTO is issued with your consent or without it, *you must agree to any treatment before it can be provided to you. Treatment cannot be forced on you.*

Your Right to Information

If you are issued a CTO or if your CTO has been changed or renewed, you must be told in plain language the reasons for the CTO, changes, or renewal. You must be given a copy of the community treatment order.

The CTO tells you

- who the doctors were that issued the CTO and when they examined you;
- the reasons for the CTO;
- the treatment or care required; and
- who is responsible to supervise your treatment and care in the community.

If you have a substitute decision-maker (guardian, **agent**, or nearest relative), he or she and individuals providing your treatment and care will also be given this information. You and your substitute decision-maker (if you have one) and care or treatment provider will also be given a written statement that includes

- the reason for the CTO, amendments, or renewal
- the function of the **Review Panel**, along with the name and address of the chairperson of the panel; and

Guardian - a guardian is a person who has legally been given authority to make decisions on your behalf through either the Child, Youth and Family Enhancement Act (if you're under 18), or the Adult Guardianship and Trusteeship Act.

Agent - an agent is someone you trust to make important decisions for you when you are not able to make decisions for yourself. Legally, the agent is named in a Personal Directive. The person may or may not be a family member.

Nearest Relative - under the Act, your nearest relative is an adult who is a spouse or common law partner, a son or daughter, a parent, a brother or sister, a grandparent, a grandchild, aunt or uncle, or nephew or niece.

Public Guardian - if there is no agent, nearest relative or guardian under the Adult Guardianship and Trusteeship Act, the Office of the Public Guardian makes decisions as the decision-maker of last resort for someone who is deemed incompetent.

- your right to apply to the Review Panel for cancellation of the CTO.

If your CTO expires or is cancelled, an expiry notice is given to you along with any recommendations for treatment or care. Your family doctor (if known), anyone providing treatment or care and your substitute decision-maker (if any) will also receive this notification.

If there is a language difficulty, Alberta Health Services or other designated person must provide an interpreter to give you this information in your language, or your guardian's language (if you have a guardian).

Your Right to Confidentiality

Information in your hospital record is private and is protected by the Health Information Act (HIA). Section 35 of the HIA describes specific situations where your records may be shared without your consent, such as allowing information to be shared with the Review Panel and/or someone who is providing you continuing treatment and care.

To learn about other reasons your health information might be shared, you can read the HIA by typing Health Information Act in the Search box at www.qp.alberta.ca. The Mental Health Patient Advocate or a lawyer may also assist you in understanding when your health information might be shared.

Your Right to a Lawyer

You have the right to have a lawyer represent you. If you cannot afford a lawyer, you may have access to one through Legal Aid Alberta. Your lawyer has the right to be present at any Review Panel hearing and to ask questions about the evidence presented. If you choose to appeal a Review Panel decision, this appeal is heard at the Court of Queen's Bench. You do not need a lawyer to go to Queen's Bench, but it is encouraged. Visit www.legalaid.ab.ca for more information.

Your Right to Apply for Cancellation

You have the right to apply to the Review Panel to ask them to cancel the CTO. If you are not satisfied with the outcome of your Review Panel hearing, you have the right to appeal the Panel's decision to the Court of Queen's Bench. (There are legal fees and a waiting period to do this.) You must file notice to begin this appeal within 14 days of the Review Panel's decision. The appeal to the Court of Queen's Bench is not related to the Review Panel process, so all information must be presented again to the judge. The decision of this Court cannot be appealed.

Your Right to Advocacy

The Mental Health Patient Advocate (www.mhpa.ab.ca) can give you information about your rights and look into complaints concerning your rights, treatment issues, or any other issues or questions regarding being on a CTO, being apprehended or being hospitalized because of a situation while you were on a CTO.

Alberta's Mental Health Patient Advocate is not part of the health care system and acts independently to give you information or advice and may make an investigation of your complaint. Information could include how to get a lawyer, how to apply to a Review Panel or the Court of Queen's Bench, or how to deal with care-related concerns.

Investigations could include reviewing your records and asking questions of you, your doctor or others involved in your treatment and care plan. These investigations may result in recommendations being given by the Patient Advocate to your doctor.

Informal advocates are not mentioned in the Act, but any person you choose could help you by getting information for you or by representing your interests. Informal advocates, such as family members or friends, don't have the same authority as the Mental Health Patient Advocate who has certain powers under the law to access information, subpoena records or interview staff.

PART 5: THE REVIEW PANEL

The Review Panel is a group of people who specialize in how the *Mental Health Act* works. Panel members are appointed by the Minister of Alberta Health and Wellness. This group is made up of one lawyer (who is the chairperson or the vice-chair), a medical doctor, a psychiatrist, and a member of the general public.

What is the purpose of the Review Panel?

The Panel is intended to be a way of getting certain decisions made (see below) based on a fair and objective review of your situation. The Review Panel is independent from the health care service providers if you are under a community treatment order, or from any **facility** if you are being detained. None of the people on the Panel can be directly involved in providing service to you.

What issues can I apply to the Review Panel to review?

You have the right to apply to the Review Panel to review your case and decide on these areas:

- admission or renewal certificates
- issuance of community treatment orders or renewals
- certificate of incompetence to make treatment decisions
- transfers back to a correctional facility (when a case involves the justice system)

You can apply to the Review Panel for a review as often as you wish, but the Chair of the Panel may not hear your case if he or she believes there has been no significant change or the request is **frivolous**.

How do I apply for a hearing?

To apply for a Review Panel hearing for cancellation of admission or renewal certificates or a community treatment order, you or your advocate must complete Form 12, the Application for Review Panel Hearing. This form must be mailed or faxed to the chair of the Review Panel.

When must the Review Panel hold a hearing?

- The Panel must review the admission or renewal certificates or CTO within 21 days after receiving the application (Form 12). The Review Panel chair schedules the hearing and must give you at least seven days' notice of the date, time, place and purpose of the hearing. This seven days' notice allows you time to get a lawyer to represent you. You may contact Legal Aid Alberta to help you at the panel hearing at no cost to you. If you prefer, you may hire your own lawyer, but there will be a cost to you.

- If you have been in hospital for six months **involuntarily** under a third or subsequent set of renewal certificates and your case has not yet been reviewed, it must automatically be reviewed by the Review Panel.
- If you are under a CTO, the first time it is renewed and every second time it is renewed after that, the Review Panel will automatically review the CTO to consider if it should be cancelled (unless an application for a Review Panel hearing has already been made within a month before any renewal).

Can I take part in my hearing?

You have all the rights of a party (participant) to a hearing. You have the right to be present through the entire hearing and you can examine and cross-examine any witnesses. You have a right to examine information the Review Panel is given unless the Review Panel believes revealing particular information may seriously endanger the safety of another person.

Can a lawyer help me?

You have the right to have a lawyer present at a Review Panel hearing. If you don't already have a lawyer or would like more information about how a lawyer can help, contact Legal Aid Alberta at 1-866-845-3425 or 780-644-4971 or visit www.legalaid.ab.ca.

How do I know what the Panel has decided?

Once the Panel has made a decision, a copy of the order or decision must be given to you. The information includes the reasons for the Review Panel's decision.

What if I disagree with a Review Panel decision?

You can appeal any Review Panel decision to the Court of Queen's Bench. However, there is a strict deadline and you must start the appeal within 14 days after you get the Panel's decision. You must pay a fee for the appeal and there is usually a waiting period before your appeal will be heard.

You should speak to a lawyer immediately after the Panel's decision if you want to appeal. You are not automatically entitled to a lawyer from Legal Aid for the appeal, but if you wish to seek help from Legal Aid, you can contact them at 1-866-845-3425 or 780-644-4971 or visit www.legalaid.ab.ca.

PART 6: THE MENTAL HEALTH ACT AND FAMILY MEMBERS OR CAREGIVERS

Who is informed if a person is admitted to hospital as a formal patient?

If a person is issued two **admission** or **renewal certificates**, the person, the person's **guardian** (if any) and the person's **nearest relative** are told the reason for the certificates and about his or her right to apply to the **Review Panel** for cancellation of the certificates. However, if the person objects to information being given to his or her nearest relative, the nearest relative will not be told.

As well, the above individuals and one individual chosen by the person (if any) are given a written statement telling the reason for the certificates, copies of the certificates, the period the certificates are in effect, information about the function of the Review Panel, as well as the name, address and chair of the Review Panel and the right to apply for cancellation of the certificates.

If there is a language barrier, an interpreter will be provided to give the information and written statement in the person's language or of his or her guardian.

Who is informed if a formal patient is discharged from hospital?

If a **formal patient's** admission or renewal certificates expire or are cancelled and he or she is discharged from hospital, the patient's guardian (if any) and his or her nearest relative are notified. If the patient objects, the nearest relative will not be notified. The patient's family doctor (if known) must also be notified and be provided with a discharge summary and any recommendations for treatment.

Who is informed if a person is issued a community treatment order?

If a person is issued a CTO or the CTO is renewed or changed, a copy of the order will be given to the person subject to the CTO, anyone who is making treatment decisions on behalf of the person (guardian, agent, or nearest family member), and anyone who is providing treatment or care to the person.

If a family member is not either legally making treatment decisions on behalf of the person, or designated under the CTO to receive notices, or considered as someone who is providing treatment or care to the person under the CTO, there is no obligation under the Act to inform the family member.

Who is informed if a person's CTO expires or is cancelled?

When a CTO expires or is cancelled, a notice of the expiry or cancellation as well as recommendations for treatment are given to the person subject to the CTO, anyone who is making treatment decisions on behalf of the person (guardian, agent, or nearest relative) and anyone who is providing treatment or care to the person. The person's family doctor (if known) will also be notified.

What can I do if I think someone is in need of examination or care under the Act?

- You can encourage and/or accompany the person to see a doctor at a hospital emergency ward, a clinic, or doctor's office. If the person is in crisis and the doctor decides admission to hospital is appropriate, he or she can recommend a voluntary admission to hospital; or, if the person meets the criteria, the doctor may issue a single admission certificate to have the person apprehended and conveyed to hospital for examination by a second physician.
- If you believe a person has a **mental disorder** and is likely to cause harm to him or herself or someone else or to suffer serious mental or physical **deterioration** or **physical impairment**, you can present information to a judge of the Provincial Court. If the judge decides your information is valid and the person meets the necessary **criteria**, he or she can issue a warrant for the person's **apprehension** and **conveyance** so the person can be examined by a medical doctor at a designated facility.
- If you believe the person is imminently likely to cause harm to him or herself or to someone else, you can call the police to apprehend and convey the person to a hospital.
- If you are concerned about someone who is not in crisis, but is having difficulty with complying with a treatment plan in the community and is frequently readmitted to hospital, you and the person may wish to discuss the possibility of a community treatment order with the person's medical doctor or psychiatrist. *A CTO is only issued when all the specified criteria are met (see Part 4).* In most cases, the person's consent is necessary to issue a CTO and treatment can't be forced in the community, so discussion about CTOs should include the person it would affect.

Who decides what actions may be taken under the Act?

It is the responsibility of the examining physicians to determine if a person meets the criteria needed to be assessed and treated under the Act, be admitted to a hospital as a voluntary or involuntary patient, be issued a community treatment order, or be released into the community.

What if the treatment or care ordered in a CTO isn't available?

A doctor can only issue a CTO or CTO renewal if the recommended treatment and/or care are available in the community, will be provided to the person it is issued to, and the person is able to follow the treatment and care plan. If these conditions can't be met, a CTO can't be issued.

What if I'm concerned someone is not following a CTO?

If a person is not **complying** with a CTO, you may give information under oath to the judge at a Provincial Court support this claim. If the judge believes the information

presented and the person in question meets the criteria, the judge may issue a warrant for apprehension and conveyance to hospital for assessment.

If I'm concerned about the treatment of someone who is receiving treatment or care under the Act, what can I do?

Family members and caregivers may act as informal advocates on behalf of the person they are concerned about. They can present their concerns to treatment and care providers. They may also engage the Mental Health Patient Advocate on the patient's behalf. Anyone who wishes to be present at a Review Panel hearing may also do so with the permission of the Chair of the Panel.

GLOSSARY

Admission certificate - Form 1. A form filled out by a medical doctor that gives the authority for a person to be apprehended and taken to a facility and detained. If two admission certificates are issued, the person is admitted to a facility as a formal patient.

Advocate - to support or defend someone's cause or position to an influential person or someone in authority.

Agent - someone you trust to make important decisions for you when you are not able to make decisions for yourself. Legally, the agent is named in a [Personal Directive](#). The person may or may not be a family member.

Apprehension and conveyance - under the Act, this means to be picked up by police and taken to a facility. A medical doctor, judge or police officer may order a person with a mental disorder to be apprehended and conveyed.

Competent - under the Act, this means being able to understand the information relating to treatment decisions and able to appreciate the consequences and effects of making these decisions. Only a basic level of understanding is expected. Competence can change from time to time and you may be competent to make decisions about some things, but not others.

Comply - to cooperate or obey.

Consent - to willingly give your permission once you have correct information about something you are asked to do or agree to and know and understand the consequences of agreeing to it or not agreeing to it.

Conveyance - to be taken (conveyed) to a facility.

Criteria - specific conditions that must exist and/or behaviours that must be observed (seen) in a person in order for him or her to be subject to actions described in the Act.

Detention - being held in a facility against your will.

Deteriorate/deterioration - for symptoms of illness to get worse, or to go from being healthy to being ill.

Facility or designated facility - hospitals named in the [Mental Health Act, Mental Health Regulation](#) that provide care and treatment to people with mental disorders. A list of designated facilities can be found at www.mhpa.ab.ca in the Resources section.

Formal patient - someone who is admitted to a hospital under two admission certificates (Form 1) or two renewal certificates (Form 2).

Frivolous - trivial, not serious or of much worth.

Guardian - a person who has legally been given authority to make decisions on your behalf through either the [Child, Youth and Family Enhancement Act](#) (if you're under 18), or the [Adult Guardianship and Trusteeship Act](#).

Impaired or impairment - to have a limitation that negatively affects a person's ability to function. This term is not defined in the Act or Regulations.

Involuntarily - against your will, without consent or permission.

GLOSSARY

Mechanical restraint - physical restraints, which could range from handcuffs during transportation to cloth bindings in bed.

Mental disorder - defined in the Act as “a substantial disorder of thought, mood, perception, orientation or memory that grossly impairs judgment, behaviour, capacity to recognize reality, or ability to meet the ordinary demands of life.” *Perception* is awareness of the world through the senses, like seeing or hearing. *Orientation*, as used here, is awareness of who you are, where you are and what time you are living in.

Mental health facility - see Facility or designated facility, above.

Mental health warrant - an informal term used to describe the Form 8 warrant issued by a judge.

Nearest relative - under the Act, your nearest relative is an adult who is a spouse or common law partner, a son or daughter, a parent, a brother or sister, a grandparent, a grandchild, aunt or uncle, or nephew or niece.

Psychosurgery - the Act defines psychosurgery as "any procedure that, by direct or indirect access to the brain, removes, destroys or interrupts the continuity of histologically normal brain tissue, or that inserts indwelling electrodes for pulsed electric stimulation for the purpose of altering behaviour or treating psychiatric illness, but does not include neurological procedures used to diagnose or treat intractable physical pain or epilepsy where those conditions are clearly demonstrable." ECT is not considered psychosurgery under the Act.

Public Guardian - if there is no guardian, agent, or nearest relative to act as a substitute decision-maker (provide consent) under the [Adult Guardianship and Trusteeship Act](#), the Office of the Public Guardian will make decisions for someone who is deemed incompetent under the *Mental Health Act*.

Reasonable force - a level of force appropriate to an particular situation. For example, the amount of force used against a frail elderly woman should be much less than that needed to control a strong, young man.

Renewal certificate - Form 2. A certificate that gives the authority to extend a person's detention in a facility. Two renewal certificates must be issued by two different doctors to extend the person's stay.

Review Panel - a group of people appointed by the Minister of Alberta Health and Wellness. It is made up of one lawyer (who is the chairperson the vice-chair), a medical doctor, a psychiatrist, and a member of the general public. The Panel gives decisions based on independent reviews of actions taken under the Act.

Substitute decision-maker - see *Agent*, *Guardian*, and *Public Guardian*, above.

Treatment Order - (Form 15) An order issued by the Review Panel that authorizes specific physician-proposed treatment to be given to a competent formal patient (under certain criteria) without the patient's consent.

Without consent - against your will, without permission.

MENTAL HEALTH ACT FORMS

You can view the complete set of *Mental Health Act* forms at <http://www.albertahealthservices.ca/1256.asp/>.

The following forms are relevant to topics discussed in this Guide:

Form 1: Admission Certificate

- Issuance of one Form 1 gives authority for apprehension and conveyance
- Issuance of two Form 1s gives authority for admission as a formal patient

Form 2: Renewal Certificate

- Issuance of two Form 2s gives authority to extend detention in a facility as a formal patient

Form 8: Warrant

- A judge's authority to order apprehension and conveyance

Form 9: Extension of Warrant

- Extends the validity of the Form 8 warrant another 7 days

Form 10: Statement of Peace Officer on Apprehension

- Gives reasons a peace officer without a warrant has apprehended someone under the Act

Form 11: Certificate of Incompetence to Make Treatment Decisions

- Gives reasons a doctor believes the person named is not competent to make treatment decisions and notifies the person of his or her rights to apply for a review of the certificate to the Review Panel

Form 12: Application for Review Panel Hearing

- Filled by the applicant to request a Review Panel hearing

Form 15: Decision of Review Panel Regarding Treatment

- Authorizes or refuses to authorize treatment of a competent patient without patient consent (Treatment Order)

Form 19: Issuance of Community Treatment Order

- Authority for treatment and care to be provided in the community. States reasons for CTO (how the person meets the criteria), outlines the treatment and care plan, states treatment and care are available in the community, states who is supervising the CTO

Form 20: Renewal of Community Treatment Order

- Extends the period of time the CTO is in effect.

Form 22: Community Treatment Order Cancellation or Expiry

- States the CTO has been cancelled or expired and lists continued treatment recommendations, if any.

Form 23: Community Treatment Order Apprehension

- Authorizes the apprehension and conveyance of someone who is not complying with a CTO.

HELPFUL CONTACT INFORMATION AND WEBSITES

Information about the Alberta Mental Health Act:

Alberta Health Services

Community Treatment Orders Information Sheet:

<http://www.albertahealthservices.ca/files/mha-cto-infosheet.pdf>

Mental Health Act Forms:

<http://www.albertahealthservices.ca/1256.asp>

Mental Health Act Information

<http://www.albertahealthservices.ca/mha.asp>

Alberta Mental Health Patient Advocate

Phone: (780) 422-1812 in Edmonton;
outside of Edmonton, toll free at 310-0000 then (780) 412-1812

E-mail: info@mhpa.ab.ca Website: www.mhpa.ab.ca

Address:

12th Floor, Centre West Building
10035-108 Street
Edmonton, AB T5J 3E1

Alberta Queen's Printer

Phone: (780) 427-4952 in Edmonton

Outside of Edmonton, call toll free:

310-0000 and then dial (780) 427-4952

Address:

Main Floor, Park Plaza
10611 - 98 Avenue
Edmonton, AB T5K 2P7

Mental Health Act: go to www.qp.alberta.ca/Laws_Online.cfm and look up *Mental Health Act* in the alphabetical list.

How to find a lawyer or learn how a lawyer may assist you:

Legal Aid Alberta

Phone:

Alberta Law Line: 1-866-845-3425

Provincial Legal Aid Alberta Office: (780) 644-4971

Website: www.legalaid.ab.ca

Click *Contact Us* on the home page to get contact information for all regional Legal Aid Alberta regional offices.

HELPFUL CONTACT INFORMATION AND WEBSITES

Mental health information:

Alberta Health Services Mental Health and Wellness Services:

<http://www.albertahealthservices.ca/services.asp?pid=stype&type=25>

In Calgary: Access Mental Health: (403) 943-1500

Canadian Mental Health Association - Calgary Region

CMHA provides a wide variety of community-based services for individuals with a mental disorder, their families and caregivers in the Calgary area, including advocacy and family support.

Phone: (403) 297-1700

E-mail: info@cmha.calgary.ab.ca Website: www.cmha.calgary.ab.ca

Address:

Suite 400, 1202 Centre St. SE

Calgary, AB T2G 5A5

Canadian Mental Health Association - Alberta Division

Mental health advocacy and information. Link to Alberta regional CMHA offices

Phone: (780) 482-6576

Website: www.cmha.ab.ca

Address:

320 Capital Place

9707-110 Street NW

Edmonton, AB T5K 2L9

Vision

Mentally healthy people in a healthy society

Mission

A leader in reducing the impact of mental disorders and in promoting mental health and wellness through community-based services.

For more information contact:

The Canadian Mental Health Association - Calgary Region
(403) 297-1700

E-mail: info@cmha.calgary.ab.ca
www.cmha.calgary.ab.ca/

Suite 400, 1202 Centre Street SE
Calgary, Alberta T2G 5A5

Acknowledgements

CMHA - Calgary Region wishes to acknowledge and thank all those who helped develop this edition of the Guide.

Special thanks to:

- The Alberta Mental Health Patient Advocate Office
- Ruth O'Driscoll (Program Manager, Family Support & Education
CMHA - Calgary Region)
- Alberta Health Services