Mental Health Act FAQ

Correctional Health Services

The following resource offers answers to frequently asked questions related to patients in corrections subject to Form 1 Admission Certificates and/or Community Treatment Orders.

Contents

1. What is the Mental Health Act (MHA) of Alberta? 2
2. Who can issue a Form 1 Admission Certificate in Correctional Health Services? 2
3. A QHP issued a Form 1 Admission Certificate on a patient in a correctional facility. What are the required next steps? 2
4. Are all hospitals Designated Facilities? 2
5. What is a Community Treatment Order (CTO)? 3
6. Should a patient's CTO be automatically cancelled when they are admitted to a correctional facility? 3
7. Are CTOs voluntary? 3
8. What should Correctional Health Services do if they suspect or are informed a patient is subject to a CTO? 3
9. Are Correctional Health Services responsible for ensuring the patient follows all parts of the CTO? 3
10. Can a QHP within Correctional Health Services make changes to a CTO? 4
11. Who can cancel a CTO? 4
12. What if a CTO expires, or is about to expire while a patient is in a correctional facility? ... 4
13. What if a patient refuses to accept their CTO treatment (e.g., depot injection)? 5
14. Where can I find more help regarding the MHA? 6

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Alberta Health Services

1. What is the Mental Health Act (MHA) of Alberta?

It is the law that provides the authority, criteria, procedures and timelines for the apprehension, detention, admission, and treatment of an individual with a serious mental disorder as a **Formal Patient**. In addition, the MHA identifies separate criteria and conditions for supportive treatment, called **Community Treatment Orders (CTOs)**, for persons living in the community – including some who are former **Formal Patients**. Any person, including minors, may be admitted as **Formal Patients** or subject to a **CTO** if they meet the criteria outlined in the MHA.

2. Who can issue a Form 1 Admission Certificate in Correctional Health Services?

Only a **Qualified Health Professional (QHP)** can issue a **Form 1 Admission Certificate** after examining a patient and determining all admission criteria are met. The **QHP** may form their opinion based on their own observations and information provided by others.

3. A QHP issued a Form 1 Admission Certificate on a patient in a correctional facility. What are the required next steps?

When a **Form 1 Admission Certificate** is issued - the patient MUST be brought to the **Designated Facility (DF)** listed on the **Form 1 Admission Certificate** within 72 hours, otherwise the authority to care for, observe, examine, assess, treat, detain, and control and convey the patient under the MHA expires. Transferring the patient to the **DF** as soon as possible is in the best interest of the patient and transferring within 24 hours is preferable. See Form 1 Admission Certificate – Correctional Health Services

A separate exam and second **Form 1 Admission Certificate** must be issued by a **QHP** on staff at a **DF** within 24 hours of the patient's arrival at the **DF** to detain the patient under MHA authorities. For more on the process of becoming a **Formal Patient**: Formal Patient Flowchart

4. Are all hospitals Designated Facilities?

No, not all hospitals in Alberta are **DFs.** Not even all hospitals with an emergency department are DFs. See MHA of Alberta Designated Facilities Map for a current list of **DFs**.

Definitions

Designated Facility (DF): place (or part of a place) appointed in the MHA Forms and Designated Regulation. A DF is the ONLY place that can admit a **Formal Patient** under the MHA.

Formal Patient: a person becomes a **Formal Patient** when admitted involuntarily and detained in a **DF** by the issuance of two admission or renewal certificates.

Community Treatment Order (CTO): a tool intended to assist patients in maintaining compliance with their mental health treatment.

Qualified Health Professional (QHP): a physician, psychiatrist, or nurse practitioner.

Form 1 Admission Certificate: A form completed by a **QHP** that provides the authority to involuntarily convey a person who meets the MHA admission criteria, to a **Designated Facility**.

Review Panel: a panel that is established to consider applications from **Formal Patients** in designated facilities, from individuals subject to a Community Treatment Order (**CTO**) and from the board and/or attending authorized prescriber of the **Formal Patient**.

Substitute Decision Maker (SDM): someone who has the legal authority to make mental health treatment decisions for a **Formal Patient** or a person subject to a **CTO**.

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5. What is a Community Treatment Order (CTO)?

A **CTO** is a tool intended to assist patients in maintaining compliance with treatment while in the community; thereby breaking the cycle of involuntary hospitalization, decompensation, and re-hospitalization. **CTO**s typically include information about the person's medication regime and required appointments.

- For more on **CTO**s: CTO Information Sheet
- For information on supervising a **CTO**: CTO Qualified Health Professional
- For the process of initiating/renewing a **CTO**: CTO Flowchart

6. Should a patient's CTO be automatically cancelled when they are admitted to a correctional facility?

No. Nothing in the MHA nor the *Corrections Act* automatically cancels or requires a **CTO** to be cancelled when a person is in a correctional facility. However, consideration should be given to the benefits and risks associated with continuing the **CTO**, and any factors (e.g., court orders) which might preclude maintaining the **CTO**. See question 11. Who can cancel a CTO?

7. Are CTOs voluntary?

It depends. While most **CTO**s are initiated by a **QHP**, individuals may also request a **CTO**. **Formal Patients** may also seek an order from a **Review Panel** for a **CTO** to be issued. Consent of the patient, or their substitute decision-maker (**SDM**) is usually required for a **CTO** to be issued, but there are exceptions where consent is not required. For details see CTO Information Sheet

8. What should Correctional Health Services do if they suspect or are informed a patient is subject to a CTO?

Currently, **CTO**s may be self-reported by the patient during their correctional health admission history. **CTO**s may also be noted on a patient's chart in Connect Care as an "FYI Flag". Consulting with the patient's most recent prescribing **QHP** or zone CTO contacts may also identify **CTO** status.

It may be the case that Correctional Health Services does not know a patient is on a **CTO** for a length of time. Anyone subject to a **CTO** has a supervising **QHP**, a coordinator, and various other care providers. This team of people continue overseeing the **CTO** while the patient is in a correctional facility.

Medications are a critical part of a **CTO**. Upon admission to Correctional Health Services, medication reconciliation is the best way to inform what medication the patient is currently taking. Typically, a **CTO** only lists general medication information (e.g., mood stabilizer).

9. Are Correctional Health Services responsible for ensuring the patient follows all parts of the CTO?

Correctional Health Services can play an important role to ensure continuity of care with a patient's **CTO**, in particular - with medication administration. Only care providers listed on the

CTO are *obligated* to engage with the **CTO** in the capacity set out by the patient's treatment plan. These **CTO** care providers have agreed to provide care as part of the **CTO**. If Correctional Health Services has not been part of the treatment plan prior to the person entering a correctional facility, they are not obligated to take on the **CTO** care plan but can provide services that support the treatment plan and the continued mental health of the patient. If Correctional Health Services are aware a patient is on a **CTO**, efforts to inform the **CTO** supervisor or a care provider listed on the **CTO** that the person is at a correctional facility is strongly recommended. Any amendments or other decisions regarding the **CTO** should be based on consultation with the **CTO** supervisor and the most responsible care provider within Correctional Health Services.

10. Can a QHP within Correctional Health Services make changes to a CTO?

Yes. A **CTO** can be amended by any **QHP**, but a clinical consult with the **CTO** supervisor and any service providers impacted by the amendment is strongly recommended. Completion of a Form 21 – Amendments to Community Treatment Order by the issuing **QHP** is required.

There may be some alterations to a patient's treatment plan which do not require an amendment. For example, a **CTO** stating, "oral and/or depot antipsychotic", would allow the **QHP** to prescribe any oral or depot anti-psychotic medication at any dose and would not require an amendment to the **CTO**. However, if the **CTO** states "Lithium 600 mg orally 2 times a day" – any deviation from that treatment plan will require an amendment, otherwise the patient may be in noncompliance with their **CTO** through no fault of their own.

11. Who can cancel a CTO?

A **CTO** can be cancelled by any psychiatrist. A patient may also apply to the mental health **Review Panel** for cancellation of the **CTO**. If the **Review Panel** does not cancel the **CTO**, then the patient may appeal the decision to the Court of King's Bench. Although a psychiatrist within Correctional Health Services can cancel a **CTO**, from a practice perspective, consultation with the patient's **CTO** supervisor is strongly advised before cancelling the **CTO**. Cancelling a **CTO** may be an effective short-term solution; however, it should be considered if this is the best option long-term. There are potential consequences if the patient leaves the correctional facility without a **CTO**, and it is a lengthy and involved process to initiate a **CTO** and to find **QHP**s to oversee **CTO**s.

A patient can request to have their **CTO** cancelled by submitting a Form 12 to the Mental Health Review Panel. Additionally, automatic, or deemed, **Review Panel** hearings are scheduled every 12-months, beginning at the second renewal, and **CTO**s may be cancelled in those hearings as well.

12. What if a CTO expires, or is about to expire while a patient is in a correctional facility?

A **CTO** is in effect for up to six months after it is issued and will automatically expire unless it is renewed by two **QHP**'s, one of which must be a psychiatrist. If the **CTO** supervisor wishes to renew a patient's **CTO** while the patient is in a correctional facility, Correctional Health Services may be asked to help facilitate the **CTO** renewal. For example, Correctional Health

Services may be asked to coordinate a virtual examination with the patient, or to arrange for a Correctional Health Services **QHP** to perform one of the two required exams.

If a **CTO** expires while the patient is in a correctional facility, all aspects of the **CTO** cease to have effect until such time as a new **CTO** may be issued where appropriate. The MHA contains notification requirements for instances when **CTO**s expire or are cancelled. See Key Point G on Community Treatment Order Flowchart for notification details.

13. What if a patient refuses to accept their CTO treatment (e.g., depot injection)?

It depends on the specifics of the treatment and care plan within the **CTO**. Before providing a specific treatment, the most responsible health practitioner shall obtain informed consent from the patient or, for patients who lack capacity (i.e., who are mentally incompetent), by the patient's **SDM** (agent, guardian, or nearest relative). Consent to a **CTO** is distinct from informed consent to a specific treatment. In other words, informed consent to treatment for a patient on a **CTO** is required in addition to consent to the **CTO**.

There are **no mechanisms** in the MHA that would result in a decision to administer treatment to a patient subject to a **CTO without informed consent**.

It is important that the patient or their **SDM** understands the consequences of withdrawing/refusing consent for treatment. See section 5.2 of AHS Consent to Mental Health Act Treatment/Procedure(s): Formal Patients and Persons Subject to Community Treatment Orders Under the Mental Health Act Policy.

If a competent patient refuses treatment, and Correctional Health Services **is NOT** a treatment provider signed onto the patient's **CTO**, then Correctional Health Services should report the refusal to the **CTO** supervisor. Once notified of the non-compliance, the **CTO** supervisor will decide how to proceed, as it relates to the **CTO**.

If a competent patient, or the **SDM** of an incompetent patient refuses treatment, and Correctional Health Services **IS** a treatment provider signed onto the **CTO**, then a report of non-compliance (Form 25) must be completed and submitted within 24 hours of the treatment provider becoming aware of the patient's failure to comply with the terms of the **CTO**, or **SDM's** refusal to provide consent to the treatment. The report is submitted to the **CTO** supervisor listed on the **CTO**. Once notified of the non-compliance, the **CTO** supervisor can decide how to proceed, as it relates to the **CTO**.

If a patient subject to a **CTO** has a **SDM** who refuses treatment or withdraws consent on the patient's behalf, the subsequent non-compliance should be reported to the **CTO** supervisor. Consideration should be given to whether the **SDM** is acting in the best interest of the patient.

For actions that may be taken where decisions are not considered to be in the best interest of the patient, see section 3.5 of AHS Consent to Mental Health Act Treatment/Procedure(s): Formal Patients and Persons Subject to Community Treatment Orders Under the Mental Health Act Policy.

14. Where can I find more help regarding the MHA?

- For general information, see Guide to Alberta's Mental Health Act
  Mental Health Act – Information for Health Professionals
- For non-urgent, general MHA questions, contact MHAandCTO.Enquries@ahs.ca
- For legal advice,
  - AHS employees can contact the Health Law Team at Legal.Clinical@ahs.ca; and
  - physicians can contact the Canadian Medical Protective Association (CMPA) at 1-800-267-6522.
- For patient advocacy question or concerns, anyone, including patients under MHA authorities, are encouraged to contact the Alberta Mental Health Patient Advocate at info@albertahealthadvocates.ca
- For **CTO** Coordinator zone contact information: The Mental Health Act / Community Treatment Orders Resources for Information