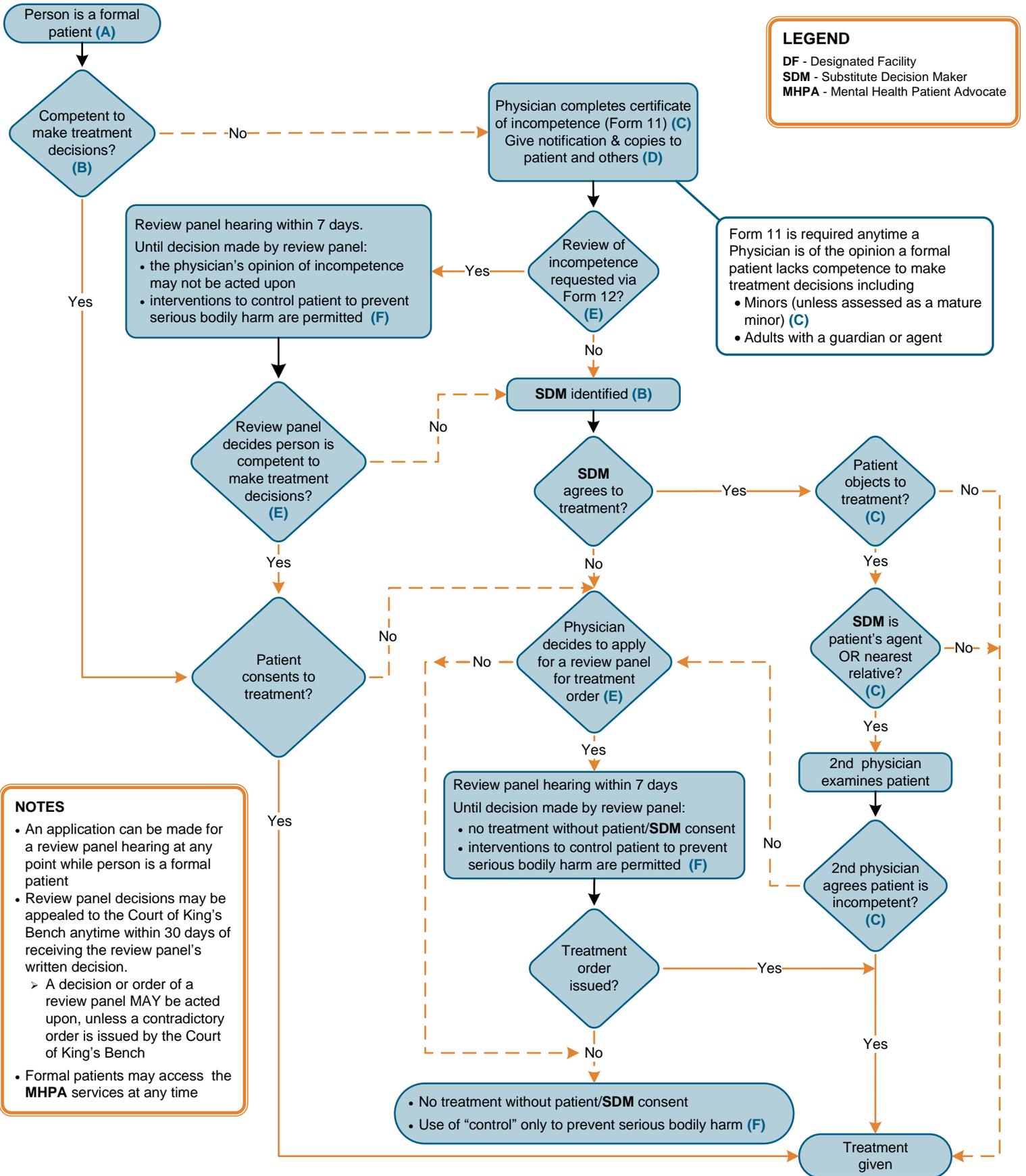


See Key Points for Reference Details A-F (over)



LEGEND
 DF - Designated Facility
 SDM - Substitute Decision Maker
 MHPA - Mental Health Patient Advocate

Form 11 is required anytime a Physician is of the opinion a formal patient lacks competence to make treatment decisions including

- Minors (unless assessed as a mature minor) (C)
- Adults with a guardian or agent

NOTES

- An application can be made for a review panel hearing at any point while person is a formal patient
- Review panel decisions may be appealed to the Court of King's Bench anytime within 30 days of receiving the review panel's written decision.
 - A decision or order of a review panel MAY be acted upon, unless a contradictory order is issued by the Court of King's Bench
- Formal patients may access the MHPA services at any time

<p>Definition of Mental Disorder (MHA s.1(1)(g))</p> <p>A substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs: judgment, behavior, capacity to recognize reality or ability to meet the ordinary demands of life, but does not include a disorder in which the resulting impairment is persistent and is caused solely by an acquired or congenital irreversible brain injury.</p> <p>A. Formal Patient (MHA s.1(e), s.2)</p> <p>A patient detained in a designated facility pursuant to 2 admission or 2 renewal certificates. In both cases the following criteria must be met in the opinion of 2 QHPs:</p> <ol style="list-style-type: none"> 1) suffering from a mental disorder 2) has the potential to benefit from treatment for the mental disorder 3) is within a reasonable time likely to cause harm to the person or others or to suffer substantial mental or physical deterioration or serious physical impairment, as a result of or related to the mental disorder 4) unsuitable for admission to a facility other than as a formal patient <p>B. Mental Competency (see MHA s.26-28)</p> <p>Competency means that the person can understand the subject matter relating to, and consequences of making treatment decisions or giving consent and the consequences of not doing so.</p> <p>When a physician determines a formal patient is incompetent to make treatment decisions, these decisions may be made by the:</p> <ol style="list-style-type: none"> a. agent of the formal patient (under an enacted personal directive) b. guardian of the formal patient c. nearest relative as defined in section 1(i), or d. Public Guardian (last resort) <p>The nearest relative option is not utilized when an agent or guardian is in place. The SDM shall make the treatment decisions in the best interest of the formal patient.</p>	<p>C. Incompetence to Make Treatment Decisions (MHA s.27, s. 28)</p> <ul style="list-style-type: none"> • When a physician is of the opinion that a formal patient is not mentally competent to make treatment decisions, the physician shall submit a Form 11. • Reasons for the opinion that the formal patient is not mentally competent must be included. • When the SDM <ul style="list-style-type: none"> ➢ is a guardian, any objection from the patient does not lead to any further requirements; treatment may proceed on the guardian's consent. ➢ is an agent or nearest relative, and the patient objects to treatment, the MHA requires a second physician examination and opinion on the patient's competence, before treatment can proceed. • When a second physician opinion is required, they would complete a separate Form 11. • A mature minor is a person < 18 years old, who has been assessed and determined as having the intelligence and maturity to appreciate the nature, risks, benefits, consequences, and alternatives of the proposed treatment/procedure(s), including the ethical, emotional, and physical aspects. <p>D. Notifying Patients & Others (MHA s.27(3))</p> <p>Who to notify:</p> <ul style="list-style-type: none"> • Formal patient • Agent (if any) • Guardian (if any) • Nearest relative (unless patient objects on reasonable grounds) <p>What to include in the notification:</p> <ul style="list-style-type: none"> • A copy of the Certificate of Incompetence to Make treatment Decisions (Form 11) • Written notice that the patient is entitled to have the physician's opinion of incompetence reviewed by a review panel • A review panel hearing can be requested by sending an Application for Review Panel Hearing (Form 12) 	<p>E. Review Panels (MHA s.34-43, s. 14(1)(b)(x))</p> <ul style="list-style-type: none"> • Composed of a chair or vice-chair (lawyers), a psychiatrist and a member of the public • The formal patient, or anyone on their behalf, may apply for a hearing via Form 12 to: <ul style="list-style-type: none"> ➢ cancel admission/renewal certificates ➢ request a CTO ➢ overturn a physician's certificate of incompetence to make treatment decisions • The formal patient has the right to legal representation at all review panel hearings. • Prior to a hearing, formal patient is entitled to free & timely access to patient records relevant to review panel. • A board or attending physician may apply to review panel for a treatment order. • If an application is made to a review panel to review a physician's opinion that a formal patient is not mentally competent to make treatment decisions, neither a physician nor the board shall act on the opinion pending the outcome of the application. • Any decision or order of the review panel may be appealed to the Court of King's Bench by the "applicant" of formal patient. • A decision or order of a review panel MAY be acted upon, unless a contradictory order is issued by the Court of King's Bench. <p>F. Control (MHA s.30)</p> <p>The MHA authorizes minimal use of reasonable force, by mechanical means or medication – without patient consent – as necessary to prevent serious bodily harm to the person or another. Means used must have regard for the physical and mental condition of the person.</p> <p>Additional Information</p> <ul style="list-style-type: none"> • MHPA services are available at any time for all formal patients.
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<p># Form Name:</p> <p>11 Certificate of Incompetence to Make Treatment Decisions 12 Application for Review Panel Hearing</p>	<p>Completed by:</p> <p>Physician Patient (for review of incompetence opinion) Physician or Board (for Treatment Order request)</p>	<p>Notes:</p> <p>Completed for minors, mature minors, and adults.</p>
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For information on the MHA, visit: ahs.ca/info/mha.aspx or for MHA Forms, visit: ahs.ca/info/Page1256.aspx
For enquiries about this resource, contact: mhaandcto.enquiries@ahs.ca