

What are the most important points to remember about a Mental Health Advance Directive?

- Anyone who is over 18 years for age or an emancipated minor can complete a Mental Health Advance Directive, unless he/she is currently under an involuntary mental health commitment, or if he/she is determined to be incompetent by the court.
- A person does not have to 'prove' they have capacity.
- A Directive has to be signed, witnessed and dated to be valid.
- A Directive is good for 2 years but is not automatically continued after the 2 years.
- There are 3 different ways a Mental Health Advance Directive can be completed: Declaration; Mental Health Power of Attorney; and Combined Form.

Multiple copies of the Advanced Directive should be made and given to health care providers and others who could give it to those who need to have it.

Where can a person get the forms they need for an Advance Directive?

An Advance Directive can be written in any format you wish, but to make the process easier and more complete, it is suggested that you use the format Pennsylvania has suggested. Your health care facility should provide you with a form. You can also download a copy from The Advocacy Alliance website, www.theadvocacyalliance.org.

Where can a person get more information or help to fill out the Advanced Directive?

For more information, or assistance in filling out an Advance Directive, contact:

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Pennsylvania's Mental Health Advance Directives



Act 194, Mental Health Declarations and Powers of Attorney was signed into Pennsylvania law in 2004. Pennsylvania's Advanced Directive is intended to help individuals who have a mental illness plan the services and supports they would want to have should they become unable because of their mental illness, to make those choices known. This brochure will help to explain what Advance Directives are, as well as what individuals and families need to consider should they choose to make a Mental Health Advance Directive.



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Pennsylvania Law on Mental Health Advance Directives allows a person to control their mental health care 3 ways:

Directly By writing instructions in advance. This is called a Declaration.

Indirectly By appointing a Power of Attorney, called the agent, to make those decisions on his/her behalf.

Combination Utilizing both a Declaration and Power of Attorney.

What is a Declaration?

A declaration is a written form that gives health care providers detailed instructions on what a person would want to happen if he/she becomes too ill to make decisions, give informed consent, or communicate his/her wishes.

What is a Mental Health Power of Attorney?

When someone appoints a power of attorney in their Advance Directives, it names someone, referred to as an agent, to make treatment decisions on his/her behalf in the event he/she becomes too ill to make decisions, give informed consent, or communicate his/her wishes. A mental health service provider cannot be an agent unless they are a blood relative.

What is a Combined Mental Health Declaration and Power of Attorney?

A combination of a Declaration and Power of Attorney allows a person to make detailed instructions about some things, but also allows his/her agent the ability to make some decisions. The person making the Advanced Directive writes out what decisions the agent is allowed to make, and

gives the agent as much control over decisions as the person writing the Directive wants to give. This kind of Advance Directive can allow for the agent to make decisions regarding any new treatment options that may not have been available when the Advance Directive was originally made.



Question Guide

What is an Advance Directive?

An Advance Directive is any document where you make choices for your future, should you become unable to make those decisions on your own. A Mental Health Advance Directive is a document that allows you to make your choices known regarding your mental health treatment in the event that your mental illness makes you unable to make decisions.

Hospitals and Medical Facilities are required to:

- Inquire at admission if patients have existing advance directives
- Provide an advance directive for an individual to complete, if he/she wishes;
- Upon learning that a person has an advance directive, place a copy in the person's mental health care record;
- Provide educational materials about advance directives as part of discharge planning; and
- Make every reasonable effort to transfer the person to another facility if the provider cannot comply with the directions on the advance directive.

What is Informed Consent and Capacity?

Informed consent is the ability to fully understand the benefits, risks, and alternatives to a treatment proposed by a physician and provide consent to the proposed treatment. Capacity is the ability to understand a diagnosis and to understand the benefits and risks of mental health care. It also is the ability to understand the consequences of not receiving treatment. Capacity does not have to be proven to make an Advance Directive. It is 'assumed' someone has capacity, unless the person is presently under an involuntary commitment or a court has deemed him/her incapacitated.

Why should a person have a Mental Health Advance Directive?

If a person becomes incapacitated, he/she will be unable to give informed consent and will be unable to make decisions regarding his/her treatment. If he/she lacks the capacity to make treatment decisions and has prepared a Mental Health Advance Directive, the advance directive would then be activated and stand as either consent or refusal to the proposed treatment. A mental health advance directive gives a person the ability to make decisions about things such as who should be notified if a hospitalization occurs, which hospital a person wants to go to, which medications have not been successful in the past, and a person's wishes about electroconvulsive therapy. With a Mental Health Advance Directive your family, friends, and doctor will understand a person's wishes.

Is everyone required to have a Mental Health Advance Directive?

No. It is voluntary and is not required.

Can anyone have a Mental Health Advance Directive?

Yes, if the following criteria are met. In order to complete a Mental Health Advance Directive a person has to be at least 18 years of age, or be an emancipated minor. A person cannot complete a Mental Health Advance Directive while currently under an involuntary mental health commitment or if determined to be incapable by the court.

After a Mental Health Advance Directive is written, does it automatically become legal and valid?

No. It has to be signed, witnessed by two people (who are at least 18 years of age), and dated. The witnesses cannot be health care service providers, unless related by blood.

Once an Advance Directive is written, can a person change it?

Yes. An Advance Directive is good for 2 years from the date it is signed and witnessed. At any time a person can make changes, unless they are under an involuntary commitment or deemed incapacitated by a psychiatrist and another treatment physician or treatment professional, or by the court. A person can also cancel the Directive at any time.

Does a health care facility have to comply with a person's advance directive?

No. If consent for a particular treatment or medication is given in advance, it still is up to the treating doctor to decide the standard of medical care. A facility has to make every reasonable effort to transfer the person to another facility if the provider cannot comply with the directions on the advance directive, or the health care provider can petition the court seeking a determination that following the Advanced Directive would be detrimental.