


CHAPTER Service Delivery	CHAPTER 02	SECTION 002	SUBJECT 05
SECTION Records		DESCRIPTION Advanced Directives: Medical and Psychiatric	
WRITTEN BY Lisa K. Jolly, B.S. Recipient Rights Officer	REVISED BY Lisa K. Jolly, B.S. Recipient Rights Officer		AUTHORIZED BY  Lauren Emmons, ACSW, CEO

APPLICATION:

<input checked="" type="checkbox"/> CMH Staff	<input type="checkbox"/> Board Members	<input checked="" type="checkbox"/> Provider Network	<input checked="" type="checkbox"/> Employment Services Providers
<input type="checkbox"/> Employment Services Provider Agencies	<input checked="" type="checkbox"/> Independent Contractors	<input type="checkbox"/> Students	<input checked="" type="checkbox"/> Interns
<input type="checkbox"/> Volunteers	<input checked="" type="checkbox"/> Persons Served		

POLICY:

Lapeer County Community Mental Health (LCCMH) will ascertain if a person served has executed either a medical or psychiatric advance directive, inquire regarding the desire of the person served to obtain information on advance directives, and provide all persons served with information on CMH's policies on advance directives.

STANDARDS:

- A. LCCMH will offer all adult persons served with written information on advance directive policies, including a description of applicable state laws. This information will include:
 1. The right to make decisions concerning his or her medical care.
 2. The right to accept or refuse treatment.
 3. The right to formulate advance directives, including the right to select a patient advocate to act on their behalf when deemed incompetent to make decision for themselves.

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- B. Any information provided to persons served on advance directives will reflect changes in state law as soon as possible, but not later than 90 days after the effective date of change.
- C. All persons served will be provided with a blank medical advanced directive form upon intake and at annual review if they indicate a desire to complete one during their advanced directive education.
- D. All staff will be trained on policies and procedures regarding medical and psychiatric advance directives.
- E. Staff members will not assist with the completion of a medical advanced directive nor witness the signature of a person served executing a medical advanced directive.
- F. A staff person cannot be identified as the patient advocate.
- G. The person served / family / legal representative will be notified the person served has the right to revoke their advance directive as outlined in the advance directive.
- H. Mental health professionals are NOT bound to follow an expressed desire if any of the following apply:
 - 1. In the opinion of the mental health professional, compliance is not consistent with applicable standards of care or applicable laws.
 - 2. The treatment requested is not reasonably available.
 - 3. Compliance is not consistent with court ordered treatment.
 - 4. In the mental health professional's opinion, there is a psychiatric emergency endangering the life of the person served and compliance is not appropriate under the circumstances.
- I. Do-Not-Resuscitate (DNR) Orders:
 - 1. An individual who is 18 years of age or older, and of sound mind, may execute a DNR order on his or her behalf. A Patient Advocate of an individual who is 18 years of age or older may execute a DNR order on behalf of that individual.

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2. In situations where a person served has properly executed a DNR order AND the person served is enrolled in a licensed hospice program, the Adult Foster Care Facility can contact the hospice program, and honor the DNR.
 3. If the person served has a guardian and the guardianship does not cover DNR, a patient advocate is needed for a DNR order.
 4. The execution of a DNR order and / or Patient Advocate can be challenged in the courts if an interested party believes the person served is not competent and of sound mind or did not voluntarily execute the order.
- J. If a person served already has a guardian, the person served does not have the capacity to execute a DNR order because they cannot appoint a Patient Advocate. A court may consider giving a guardian consumer advocate powers, but only when the person served has been adjudicated as legally incapacitated. (If the guardianship was appointed based upon a developmental disability the court cannot bestow consumer advocate powers.)
- K. If a person served names someone specifically to serve as their patient advocate their role does not go into effect until the person served is deemed not competent by a doctor or mental health professional. The Patient Advocate would not have any of the rights outlined in the Advance Directive until that time this includes but is not limited to the medical record of the person served.

PROCEDURES:

- A. During the intake process, the intake worker will ask the person served if they have a medical and/or psychiatric advance directive and document the response in the electronic health record.
- B. If the person served does have an advance directive, a copy will be requested and added to the electronic health record.
- C. If the person served does not have an advance directive and is interested in one, they will be offered a form to complete and it will be documented in the electronic health record.

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- D. An advance psychiatric or medical directive will be made part of the permanent record and will be reviewed on an annual basis during the person-centered planning process.
- E. Intake workers must notify persons served that grievances concerning non-compliance with advanced directive requirements may be filed with Customer Services.
- F. Advance Directives in an Adult Foster Care Facility:
 1. If a person served has an advance medical or psychiatric directive the adult foster care facility will receive a written copy of the directive.
 2. Providers will ensure all staff are informed of and act in accordance with, the right to participate by the person served in his / her own advance directives. This includes informing the CMH treatment team if the guardian or person served institutes an advance directive.
 3. Providers will inform persons served, families, guardians and patient advocates if their policy is never to withhold or withdraw resuscitation or other life sustaining treatments.

DEFINITIONS:

Adult Foster Care Facility includes licensed facilities and foster family homes for adults, who are aged, emotionally disturbed, developmentally disabled or physically handicapped who require supervision on an ongoing basis but do not require continuous nursing care.

Advance Directive means a written document recognized under state law (whether statutory or as recognized by the courts) in which a competent individual gives instruction about their health care that will be implemented at some future time in the event that the individual is unable to make his or her own health care decisions.

Do-Not-Resuscitate Order (DNR) means that a legally executed document directing that, in the event an individual suffers cessation of both spontaneous respiration and circulation, resuscitation will not be initiated.

Durable Power of Attorney for Health Care is the written designation of a patient advocate as established in 1998 Act 386, Part 5 MCL 700.5506 through 700.5520, as

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amended. It is the means by which a competent individual (person 18 years of age or older and of sound mind) can, in advance, designate how that person wants health care decisions made when they are unable to participate in medical or mental health treatment decisions.

Guardian is a person appointed by a probate court and given power and responsibility to make certain decisions about the care of another individual.

- Partial Guardian is a guardian who has only those powers set forth in the order of appointment and the letters of guardianship.
- Plenary Guardianship is a guardianship in which the court gives the guardian the power to exercise all legal rights and duties on behalf of a ward, after the court makes a finding of incapacity.

Patient Advocate is a person who is named in a designation to exercise power concerning care, custody, and medical treatment decisions when the person served is unable to participate in medical treatment decisions.

REFERENCES:

The Michigan Do-Not-Resuscitate Procedure Act (MDNRPA) 1996

Michigan Dignified Death Act, 1978 PA 368, MCL 333.1051 *et seq*, as amended

Durable Power of Attorney and Designation of Patient Advocate Act, Part 5 of the Estates and Protected Individuals Code (EPIC), 1998 PA 386, MCL 700.5501 *et seq*, as amended

Michigan Mental Health Code

Code of Federal Regulations, 438.6, 422.128, and 422 (a) (2) (H)

LKJ:mgr

This Policy supersedes
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