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**DIVISION OF MENTAL HEALTH SERVICES
ADMINISTRATIVE BULLETIN TRANSMITTAL MEMORANDUM**

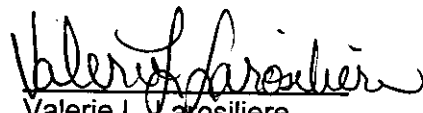
DATE ISSUED: November 17, 2010 EFFECTIVE DATE November 17, 2010

SUBJECT: Administrative Bulletin 3:37
 Advance Directives for Mental Health Care

Attached is the Administrative Bulletin addressing the Division's policy regarding Advance Directives for Mental Health Care. This policy reflects existing statutory law and Division regulations for Advance Directives, including assessing the validity of an advance directive, invocation of an advance directive, state psychiatric hospital reporting requirements, and accessing the Division Directory of Advance Directives.

This Administrative Bulletin contains several useful tools for use by Division and hospital staff. Notably, two tools, the Mental Health Advance Directive Periodic Assessment and Implementation form and HR Mental Health Advance Directives Training Report, are designed to assist the state hospitals in collecting data on advance directives as required by statute and regulation. In addition, the Directory Release of Information and Proof of Verification form will assist Centralized Admissions in documenting authorized access to the Division's Directory.

Please be advised that trainings for Centralized Admissions and appropriate hospital staff will be scheduled by the Division in order to instruct staff on the overall contents of and responsibilities outlined in the Administrative Bulletin. However, in the interim, please review, take action if necessary, and distribute to staff as appropriate, to ensure that each recipient of this bulletin is familiar with the content and all affected staff adhere to it.


Valerie L. Larosiliere
Acting Assistant Commissioner

**DIVISION OF MENTAL HEALTH SERVICES
ADMINISTRATIVE BULLETIN 3:37**

EFFECTIVE DATE: 11/17/10

SUBJECT: ADVANCE DIRECTIVES FOR MENTAL HEALTH CARE

I. PURPOSE

To promote empowerment of patients and permit them to realize the right to make voluntary, informed choices about their treatment for mental illness and related medical conditions through the use of Advance Directives for Mental Health Care. Patients will be offered the opportunity to create an advance directive when they reach an appropriate clinical stage to do so, and such directives will be implemented in accordance with the law. To ensure staff are familiar with the significance of Advance Directives and provide guidelines to staff in the implementation of an Advance Directive. To accomplish compliance, all staff will be trained in relevant procedures contained in this Bulletin, and will have a forum to consult with colleagues about the standards to which they must adhere.

II. SCOPE

This Bulletin shall apply to all state psychiatric hospitals operated by the Division of Mental Health Services ("DMHS") and the DMHS Centralized Admissions Unit.

III. AUTHORITY

P.L. 2005, c. 233 (N.J.S.A. 26:2H-102 et seq.), N.J.A.C. 10:32-1.1 et seq.

IV. DEFINITIONS

"Advance Directive for Mental Health Care" or "Advance Directive" means a writing executed in accordance with the requirements set out in the New Jersey Advance Directives for Mental Health Care Act (the "Act"), N.J.S.A. 26:2H-102 et seq.

"Centralized Admissions" refers to the general admissions intake unit for the state psychiatric hospital system, except for the Ann Klein Forensic Center. Referrals for admissions to a state non-forensic psychiatric hospital are processed and reviewed by this unit in order to facilitate the admission of consumers who are appropriate for treatment in a state hospital setting. In addition, the Centralized Admissions Unit has access to the DMHS Directory of Advance Directives and can provide information twenty-four hours a day, seven days a week.

"Decision-making capacity" means a patient's ability to understand and appreciate the nature and consequences of mental health care decisions, including the benefits and risks of each, and alternatives to any proposed mental health care, and to reach an informed decision. A patient's decision-making capacity is evaluated relative to the demands of a particular mental health care decision.

"Declarant" means a competent adult who executes an advance directive for mental health care.

"Determination of decision-making capacity" shall be based upon, but not be limited to, an evaluation of the patient's ability to understand and appreciate the nature and consequences of a particular mental health care decision, including the benefits and risks of, and alternatives to, the proposed mental health care, and to reach an informed decision.

A determination that a patient lacks decision-making capacity shall be solely for the purpose of implementing an advance directive for mental health care, and shall not be construed as a determination of a patient's incapacity or incompetence for any other purpose.

"DMHS Directory of Advance Directives" or **"Directory"** means the depository for advance directives established by the DMHS pursuant to section 17 of P.L. 2005, c. 233 (N.J.S.A. 30:4-177.59).

"Licensed independent practitioner" means an individual permitted by law to provide mental health care services without direct supervision, within the scope of the individual's license to practice in the State of New Jersey pursuant to N.J.S.A. 45:1-1 et seq., and may include physicians, advanced practice nurses, licensed clinical social workers, and psychologists.

"Mental health care decision" means a decision to accept or refuse any treatment, service or procedure used to diagnose, treat or care for a patient's mental condition. Mental health care decision also means a decision to accept or refuse the services of a particular mental health care professional or psychiatric facility, including a decision to accept or to refuse a transfer of care.

"Mental health care representative" ["MHCR"] means the individual designated by a patient pursuant to the proxy directive part of an advance directive for mental health care for the purpose of making mental health care decisions on the patient's behalf, and includes an individual designated as an alternate mental health care representative who is acting as the patient's mental health care representative in accordance with the terms and order of priority stated in an advance directive for mental health care.

"Mental health screeners" means those mental health screeners certified by the DMHS pursuant to N.J.A.C. 10:31-3.3 and employed by a designated screening service.

"Patient" means an individual who is under the care of a mental health care professional.

"Responsible mental health care professional" ["RMHCP"] means a licensed independent practitioner who is selected by, or assigned to, the patient and has primary responsibility for the care and treatment of the patient. For purposes of determining whether a patient who has executed an advance directive for mental health care, has or does not have the capacity to make a particular mental health treatment decision, a physician, advanced practice nurse, or psychologist on the patient's treatment team may function as a RMHCP, but for all other purposes, each licensed member of the State hospital treatment team assigned to the patient may be considered an RMHCP.

V. RESPONSIBILITY

- A. Physicians, APN's, RN's, and any other licensed independent practitioners who are treating an inpatient consumer have the responsibility to carry out the duties of RMHCPs.
- B. The CEO shall establish a dispute resolution procedure for patients and MHCRs to use to challenge the hospital staff decisions about capacity and/or treatment.
- C. The Medical Director shall review, or delegate to licensed professionals on each team the responsibility to review, determinations of lack of capacity made by the RMHCPs.

- D. The Human Resources department shall provide information about the responsibilities of hospital staff under this Bulletin and civil and criminal penalties that can result from violation of the law at new employee orientation, training fairs, and in-service trainings. It shall provide training for staff that includes a forum for discussion and consultation regarding the requirements of the Act for staff and patients, as well as a discussion of the criminal penalties that can be assessed for noncompliance with the Act.
- E. The heads of the clinical disciplines shall provide a regular forum for professionals to discuss their responsibilities under the law.
- F. No hospital employee shall serve as a MHCR for a consumer receiving services from this hospital, unless the employee is a relative by blood or marriage of the consumer; in that case, the consumer shall not be assigned to the MHCR's treatment team. No hospital employee shall serve as a MHCR for a former patient of the state hospital system without the written approval of the CEO.
- G. The Hospital Ethics Committee shall establish procedures that provide for staff consultation with the committee if they have questions about the creation or implementation of advance directives.

VI. PROCEDURES

A. Searches for directives

1. Upon referral to the DMHS Centralized Admissions Unit, Centralized Admissions staff shall ask the screening service, referring physician, or referring facility, if the patient has an advance directive. If the patient has executed an advance directive, Centralized Admissions staff shall make every effort to obtain a copy and include a copy in the referral packet sent to hospital intake staff in the receiving state hospital. If Centralized Admissions staff are aware that a patient has executed an Advance Directive, but are unable to obtain a copy prior to the patient's admission to a state hospital, Centralized Admissions staff shall provide the necessary contact information to permit the RMHCP to follow up and procure the advance directive.
2. Upon admission to a state hospital, a licensed independent practitioner who is a member of the patient's team shall be selected as the RMHCP on the unit to which a patient is assigned. The RMHCP shall be responsible for obtaining information about a patient's advance directive. The RMHCP may obtain the assistance of other staff in locating a copy of the patient's advance directive.
 - (a) If a patient's admission packet from Centralized Admissions does not contain an advance directive, then the RMHCP shall ask the patient and family or friends, if involved, if the patient has an advance directive. If the patient has an advance directive, a copy shall be obtained from the patient or family/friends as soon as practicable.
 - (b) If a patient's admission packet from Centralized Admissions indicates the patient has an advance directive, but a copy was not received by Centralized Admissions, then the RMHCP shall follow up with and obtain a copy of

the advance directive from the contacts provided by Centralized Admissions.

- (c) If the inquiry to the patient and others does not produce an advance directive, then the RMHCP shall consult the DMHS Directory.
 - (d) If there is none, the RMHCP shall document the search, including contacts made, and lack of advance directive in a progress note.
3. A copy of a patient's advance directive shall be filed in the legal section of the patient's chart. If a patient has an Advance Directive, this data must be entered into the Oracle database.

B. Establishing the validity of the directive

- 1. The RMHCP shall assess the validity of the advance directive.
 - (a) The advance directive shall be presumed valid if signed, witnessed, and dated, and if it has an expiration date, if it has not yet expired at the time of admission.
 - (b) The following individuals cannot act as a witness to the execution of an advance directive: MHCR or a RMHCP responsible for or directly involved with patient's care at the time of execution of the advance directive. In addition, the following individuals cannot act as sole witness to the execution of an advance directive: a relative by blood, marriage, adoption; a domestic partner; an individual that shares a home with the Declarant; an individual entitled to part of the Declarant's estate by will or operation of law at the time of execution; or an operator, administrator or employee of a rooming or boarding house or a residential health care facility in which the Declarant resides.
 - (c) The presumption of validity can be rebutted by an order of guardianship that predates the advance directive's execution, or by the production and documentation of evidence that the Declarant was not competent or was under duress.
 - (d) If the RMHCP has questions about the validity of an advance directive, the RMHCP shall consult with the Medical Director. Any invalidation of an advance directive shall be approved by the Medical Director after consultation with the Office of Legal and Regulatory Affairs.
- 2. A person who has given a durable power of attorney to another person may still have executed an advance directive while competent, and that advance directive will be effective along with the durable power of attorney. If the MHCR is not the person with the power of attorney, the RMHCP shall consult with the Office of Legal and Regulatory Liaison as soon as possible.
- 3. If a patient has named a spouse as a MHCR and is separated or divorced from that MHCR, or if a patient has named a domestic partner as a

MHCR and the partnership is terminated, an alternate MHCR identified in the advance directive shall be consulted, unless the advance directive directs that the spouse or domestic partner can act as an MHCR even if the marriage or partnership is dissolved.

4. If the advance directive is not valid, or is found to be invalid in part, the RMHCP shall so note in the chart and the patient shall be offered the opportunity to correct the directive when capable of executing a directive.

C. Invoking an advance directive

1. A person who is involuntarily committed is presumed competent. An advance directive must be followed at any time during the hospitalization when informed consent should be obtained and the person lacks capacity to give consent, and even when consent is not needed (i.e., in an emergency, or if a guardian is later appointed) the advance directive must be considered.
2. When a RMHCP determines that a patient lacks the capacity to make a particular mental health care decision, the determination as to decision-making capacity shall
 - a. be stated in writing
 - b. include the RMHCP's opinion concerning the nature, cause, extent and probable duration of the patients' incapacity
 - c. be made a part of the patient's medical record.
 - d. be confirmed by the Medical Director or his or her designee (any licensed professional employed by the hospital) in writing and entered into the medical record of the patient.
3. The RMHCP shall inform the MHCR, if any, and the patient, if the patient has any ability to comprehend that s/he has been determined to lack decision-making capacity, that:
 - a. the patient has been determined to lack decision-making capacity to make a particular mental health care decision;
 - b. s/he has the right to contest the determination through the hospital's dispute resolution procedure; and
 - c. explain the dispute resolution procedure to the patient.
4. The treatment chosen in an advance directive instruction or the MHCR's treatment decision shall be implemented unless the RMHCP makes the determination that treatment would:
 - a. Violate an accepted standard of mental health care or treatment under the circumstances of the patient's mental health condition, including past responses to requested or proposed treatments;
 - b. Require the use of a form of care or treatment that is not available to the mental health care professional responsible for the provision of mental health services to the patient;

- c. Violate a court order or provision of statutory law; or
- d. Endanger the life or health of the patient or another person.

The team shall review any decision by the RMHCP to countermand an instruction in a directive or a decision made by a MHCR. The team shall communicate the decision of the RMHCP to the patient and any MHCR and shall advise them that they can submit the decision to the hospital's dispute resolution procedure. The RMHCP shall document the decision and the basis for the decision in a progress note.

- 5. The MHCR and RMHCP will promote the patient's capacity for effective participation in the patient's treatment. The RMHCP will discuss with the patient, as appropriate, the patient's mental health condition and treatment and encourage discussion between the RMHCP, MHCR, patient and the patient's treatment team.
- 6. After an advance directive has been invoked and decision-making authority conferred upon the MHCR, if a patient subsequently regains decision-making capacity with respect to particular mental health decisions, then the patient shall have the legal authority to make that decision. The MHCR may continue to participate in an advisory capacity in the decision-making process, unless the patient objects. The RMHCP shall document the determination that a patient has regained capacity, either in whole or as to a specific decision, in a progress note.

D. Revocation, suspension, or modification of an advance directive

If a patient requests to revoke, suspend, or modify his or her advance directive, the team shall document the communication in the patient's record and shall review the advance directive.

- 1. If the directive states that the patient intends not to be able to revoke, suspend or modify the advance directive under circumstances that currently exist, the patient and MHCR, if any, shall be advised that the advance directive shall be effective, and shall document that notice in the patient's record.
- 2. If the directive does not bar revocation, suspension, or modification under the circumstances, the RMHCP shall assess whether the patient has the current capacity to revoke, suspend, or modify the advance directive.
 - a. If the patient has the capacity to revoke, suspend, or modify the advance directive, the team shall give the patient the opportunity to take the requested action. Any such action must be done by the patient either orally or in writing. The RMHCP shall note the new provisions or the absence of an advance directive in the patient's record, shall contact the DMHS registry to inform it of the action, and the patient shall be given an opportunity to register a new advance directive, if any, with the DMHS.
 - b. Any patient who has modified, suspended or revoked his/her advance directive may reinstate that advance directive by

notifying his/her MHCR or RMHCP, either orally or in writing, of his/her intent to reinstate the advance directive.

- c. If the patient does not have the capacity to revoke, suspend, or modify the advance directive, the advance directive shall continue to be followed as applicable.

E. Administration of psychotropic medication

1. If a patient has capacity to consent to medication but is refusing, the staff shall follow AB 5:04 and administer psychotropic medications after following the steps to override a refusal. If a patient does not have the capacity to consent and is refusing and does not have an advance directive, the patient shall be medicated only after AB 5:04 refusal procedures have been followed.
2. If a patient does not have the capacity to consent to medication, and has an advance directive that permits an MHCR to make the decision about medications, the MHCR shall be given information sufficient to give informed consent. The MHCR must adhere to any instruction in the advance directive.
 - a. If the MHCR consents, that consent shall substitute for that of the patient.
 - b. If the MHCR refuses the medication based on a specific instruction to refuse that medication, and if that instruction also includes an alternative medication, the alternative shall be administered unless it is unavailable or if to do so would violate the standard of care, violate a court order or law, or harm the patient. The medical director shall review any decision not to give the chosen medication, and if the medical director disagrees, shall order the medication.
 - c. If the MHCR refuses the medication where there is not a specific instruction to refuse that medication, the team shall provide the MHCR with a copy of AB 5:04 and may initiate the procedures under AB 5:04, involving the MHCR in all discussions about the medication.
3. If a patient does not have the capacity to consent to medication, and has an advance directive that does not name an MHCR, or the MHCR is not available, but the advance directive permits the prescribed medication, the medication may be administered pursuant to the consent in the directive. If the instruction directive does not authorize the medication and the patient is not refusing, the patient should be medicated in compliance with AB 5:04 as a functionally incompetent patient.

F. Executing advance directives

1. The team will regularly assess the patient for capacity to and interest in creating or modifying an advance directive. All patients who have the current capacity to make treatment decisions, regardless of legal status (committed, Krol, IST, CEPP, voluntary, consensual) have the legal ability to execute an advance directive.

- a. If the patient is capable of creating an advance directive or modifying an existing advance directive, the RMHCP must offer to that patient the opportunity to execute the appropriate documents and if the patient is interested, shall assist the patient in doing so.
 - b. If the patient lacks capacity to execute a directive or is not interested in doing so, the team shall discuss future treatment with the patient when clinically appropriate and document any provisions the patient may want to consider when s/he has the capacity and will to execute a directive.
2. When the team or the patient initiates a discussion of advance directives, the team will provide materials about advance directives to the patient and any relatives or friends involved in the patient's treatment. They shall offer the patient and family the opportunity to consult with advocacy organizations (Disability Rights NJ, Community Health Law Project, Public Defender) about the advance directive.
 3. As part of a wellness and recovery plan, the patient shall be offered the opportunity to memorialize any decisions about future health planning in the form of a new advance directive or a modification of an existing advance directive.
 4. A patient who has executed an advance directive shall be given the opportunity and appropriate assistance to register the advance directive with the DMHS registry.
 5. The team shall document discussions about advance directives with the patient and involved family or friends in a progress note.

VII. INTERFERENCE WITH RIGHTS TO CREATE OR INVOKE AN ADVANCE DIRECTIVE

- A. Any report to staff made by a patient or another employee of interference with the right of a patient to create, modify, revoke, or invoke an advance directive shall be noted in the patient's chart and risk management shall be notified.
- B. Any substantiated report of interference shall be reported to the Assistant Director for State Hospital Management in the DMHS within 5 days of the substantiation.
- C. Pending investigation, the RMHCP shall document in the chart his or her efforts to offer the affected patient an opportunity to revoke, create, or modify an advance directive, or shall document the reason an offer of such opportunity would be inappropriate.
- D. Any suspected interference shall be reported by hospital or DMHS staff as potential abuse to PSCU.
- E. A MHCP who intentionally fails to act in accordance with the requirements of the Act is subject to discipline for professional misconduct pursuant to section 8 of P.L. 1978, c. 73 (N.J.S.A. 45:1-21); therefore, if an internal investigation results in a finding that the professional has interfered with a patient's rights under this policy, in addition to any discipline imposed under AO 4:08, the professional shall be reported to the appropriate board by the discipline head.

VIII. DISPUTE RESOLUTION

The CEO of each state hospital shall designate a person or persons to resolve disputes that arise between a patient and staff, a MHCR and staff, or between RMHCP's. The CEO shall refer to the Office of Legal and Regulatory Liaison any dispute among the patient, MHCR, and RMHCP concerning the patient's decision-making capacity or the appropriate interpretation and application of the provisions of an advance directive for mental health care to the patient's course of treatment. The liaison shall refer such cases, as appropriate, to the Attorney General in order to seek resolution by a court of competent jurisdiction.

IX. DATA AND REPORTING

Each state hospital shall aggregate the data in the AD1 and AD2 forms submitted from July 1 until June 30 of each fiscal year, by July 30 of each year. The CEO of each hospital shall submit a report to the DMHS on or before August 15 of each year containing this aggregate data and a narrative that describes any systemic problems encountered during the year in the implementation of the act, problems in accessing the directory, complaints from patients or families, or other issues. The report shall not identify individual patients. The DMHS shall submit an annual report describing the collected data and describing implementation of the Act to the Commissioner of the Department of Human Services on or before September 1 each year.

X. DIRECTORY FORMATION AND MAINTENANCE

- A. The DMHS shall be responsible for collecting, recording and maintaining advance directives submitted by Declarants for inclusion in the DMHS Directory.
- B. Submitted advance directives will be converted into "read only" documents in a computer file accessible to Centralized Admissions and designated DMHS staff. This computer file will operate as the DMHS Directory.
- C. Designated DMHS staff will collect and maintain original copies of advance directives in paper files in the DMHS Central Office.

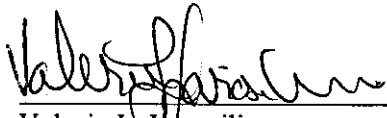
XII. ACCESS AND DISCLOSURE OF DIRECTORY INFORMATION

- A. Advance directives shall be treated as confidential protected health information.
- B. Centralized Admissions shall be responsible for providing information contained in the Directory to authorized individuals. To obtain information in the Directory, state psychiatric hospital staff, Declarants, licensed independent practitioners, mental health screeners, or others, should contact Centralized Admissions at 609-633-1873.
- C. Centralized Admissions shall disclose Directory information to DMHS and state psychiatric hospital staff upon request.
- D. Centralized Admissions shall disclose Directory information to the following individuals only upon receipt of a password or identification number:
 1. Declarants;
 2. licensed independent practitioners; and
 3. mental health screeners.

- E. A Declarant must submit a password on the DMHS "registration" form sent along with his/her advance directive. This form will be stored within the Directory with the Declarant's advance directive and in the DMHS Central Office paper file.
- F. A licensed independent practitioner or mental health screener must submit a copy of their license and/or certification to the DMHS. The submitted license and/or certification will be maintained in a "read only" computer file accessible to Centralized Admissions and designated DMHS staff. The submitted paper copy will be maintained in files in the DMHS central office. The license number or certification number, as applicable, will be used as an identification number to verify authorized access to the DMHS Directory.
- G. Proof of verification of a password or identification number shall be recorded and filed with the original copy of a Declarant's advance directive. See AD 3.

Attachments:

- AD 1 - Mental Health Advance Directive Periodic Assessment and Implementation
- AD 2 - HR Mental Health Advance Directives Training Report
- AD 3 - Directory Release of Information and Proof of Verification
- AD 4 - Sample Advance Directive form
- AD 5 - Directory Registration form



Valerie L. Larosiliere
Acting Assistant Commissioner

11/17/10
Date

AD 1



**MENTAL HEALTH ADVANCE DIRECTIVE
PERIODIC ASSESSMENT AND IMPLEMENTATION**

(file original in chart, cross out inapplicable sections, copy to IT)

Today's date: _____

Responsible Mental Health Care Professional: _____
(print name and title)

___ check if new RMHCP since last action

I. ADMISSION NOTE

___ Patient has AD at admission

___ in possession

___ retrieved by admissions staff from directory

___ other: _____

Does the AD provide for a Mental Health Care Representative? ___ yes ___ no

___ Copy of AD attached

___ Information regarding AD entered into Oracle

___ Patient has no AD at admission

(signature)

(print name)

(print title)

II. TREATMENT NOTE—CREATION OR MODIFICATION OF AD

Patient assessed for capacity to create or modify AD and found not capable on following dates:

Patient assessed and found to have capacity to create or modify AD on _____

___ Patient given materials, declined to create or modify AD

___ Patient requests assistance from advocacy or peer organization.
Contact made with: _____

___ Patient executed or modified advance directive

Attach copy of AD

III. REVOCATION OR MODIFICATION

___ Patient cannot revoke or modify

___ AD provides no revocation or modification

___ Patient not capable of revocation

(RMHCP signature)

Reviewed by: _____

Print Name: _____

Title: _____

___ Patient revokes current AD

_____ Directory notified

_____ Documented in chart

___ Patient modifies current AD.

_____ Directory notified.

_____ Attach copy of AD

IV. ADVANCE DIRECTIVE INVOKED

Patient found to have lost capacity on _____ to make the following decision(s):

_____ consent to medication

_____ other treatment Explain: _____

(RMHCP signature)

Reviewed by Medical Director or designee: _____

Print Name: _____ Title: _____

_____ MHCR notified

_____ Patient advised of determination and dispute resolution procedure

_____ MHCR advised of dispute resolution procedure

V. TREATMENT NOTE—AD NOT FOLLOWED

AD challenged by _____

On basis that requested treatment would violate: ___ standard of care ___ law ___ court order

___ treatment is unavailable ___ providing treatment would harm patient or other person

Explain: _____

(RMHCP signature)

_____ Documented in chart

_____ Reviewed by treatment team

Agree: _____(Signatures)

_____ Patient or MHCR advised of dispute resolution process

Disagree: _____(Signatures)

_____ Treatment authorized _____(sign)

IV. DISCHARGE NOTE

_____ Consumer has advance directive for mental health care

_____ Consumer declined to execute advance directive for mental health care

_____ Consumer does not have capacity to execute advance directive for mental health care

AD 2

HR Mental Health Advance Directives Training Report (due to HR w/in 1 week of training)

Trainer: _____ Date: _____

No. of new staff trained in orientation about mental health advance directives: _____

No. of other staff trained for first time about mental health advance directives: _____

No. of staff trained in follow up training about mental health advance directives: _____

No. of participants in session held for professional staff to explain their legal obligations under the Mental Health Advance Directive Act: _____

Comments:

Resources needed:

Barriers to providing training:

Reception of training by staff:

AD 3

DMHS Directory of Advance Directives

RELEASE OF INFORMATION AND PROOF OF VERIFICATION

Name of Requestor: _____ Date of Request: _____

Is the Requestor the Declarant? _____ Yes _____ No

If Yes, did the Declarant provide his/her password? _____ Yes _____ No
Did his/her password match the password in the DMHS file? _____ Yes _____ No
Was Directory information provided to the Declarant? _____ Yes _____ No
If password did not match, but information was provided, explain:

Comments: _____

Is the Requestor a licensed independent practitioner or mental health screener? _____ Yes _____ No

If Yes, did he/she provide his/her identification number? _____ Yes _____ No
Did the identification number match information in the DMHS file? _____ Yes _____ No
Was Directory information provided? _____ Yes _____ No
If identification number did not match, but information was provided, explain:

Name of Declarant for whom information was requested: _____
Comments: _____

For all other requests, describe:

Relationship of Requestor to Declarant: _____
Name of Declarant for whom information was requested: _____
Was Directory information provided? _____ Yes _____ No
If Yes, why? _____
If No, why? _____
Comments: _____

Form completed by: _____
(Print Name and Title)

Date: _____

This form may be used as a Mental Health Care Advance Directive, as may a portion of this form or any other form, so long as the document is dated, signed, and properly witnessed.

Declaration of Mental Health Care Representative

I, _____, being a legal adult of sound mind, voluntarily make this declaration for mental health treatment. I want this declaration to be followed if I am incapable, as defined in *New Jersey Statutes 26:2H-108*. I designate _____ as my agent for all matters relating to my mental health care including, without limitation, full power to give or refuse consent to all medical care related to my mental health condition. If my agent is unable or unwilling to serve or continue to serve, I appoint _____, as my agent. If both are unable or unwilling to serve or continue to serve, I appoint _____, as my agent. I want my agent to make decisions for my mental health care treatment that are consistent with my wishes as expressed in this document or, if not specifically expressed, as are otherwise known to my agent.

If my wishes are unknown to my agent, I want my agent to make decisions regarding my mental health care that are consistent with what my agent in good faith believes to be in my best interests. My agent is also authorized to receive information regarding proposed mental health treatment and to receive, review and consent to disclosure of any medical records relating to that treatment.

I specifically authorize my representative to receive information about my treatment for HIV/AIDS if applicable and relevant. _____ (initial)

I specifically authorize my representative to receive information about alcohol and substance abuse diagnosis and treatment if applicable and relevant. _____ (initial)

This declaration allows me to state my wishes regarding mental health care treatment including medications, admission to and retention in a health care facility for mental health treatment and outpatient services.

(initial one of the following)

_____ This designation of a mental health care representative is irrevocable if I have been found under the standards in *New Jersey Statutes Annotated 26:2H-108* to lack capacity to directly consent to my care.

_____ I can revoke this designation of a mental health care representative at all times.

If you wish to complete an instruction directive, continue on page 2. Otherwise, go to the signature section on page 5.

Mental Health Instruction Directive

The following are my wishes regarding my mental health care treatment if I become incapable.

Preferences and Instructions About Physician(s) or other professionals to be Involved in My Treatment

I would like the professional(s) named below to be involved in my treatment decisions:

_____ Contact information: _____

_____ Contact information: _____

I do not wish to be treated by _____ (facility or professional)

Preferences and Instructions About Other Providers

I am receiving other treatment or care from providers who I feel have an impact on my mental health care. I would like the following treatment provider(s) to be contacted when this directive is effective:

Name _____ Contact information _____

Name _____ Contact information _____

Preferences and Instructions About Medications for Psychiatric Treatment

_____ I consent, and authorize my mental health care representative, if appointed on page 1, to consent, to the administration of the following medications:

_____ I do not consent to, and I do not authorize my mental health care representative to consent to, the administration of any of the following medications:

I am willing to take the medications excluded above if my only reason for excluding them is the side effects which include: _____ and these side effects can be eliminated by dosage adjustment or other means.

I am willing to try any other medication the hospital doctor recommends

I am willing to try any other medications my outpatient doctor recommends

I am not willing to try any other medications.

Preferences about voluntary hospitalization and alternatives:

By initialing here, I consent to giving my representative the power to admit me to an inpatient or partial psychiatric hospitalization program for up to ___ days:

____ (initial if you consent)

I would like the interventions below to be tried before voluntary hospitalization is considered:

Calling someone or having someone call me when needed. (Name: _____, telephone number: _____)

Staying overnight at a crisis respite (temporary) bed.

Having a mental health care provider come to see me.

Staying overnight with a friend: _____

Seeing a mental health care provider for assistance with medications

Other: _____

If hospitalization is required, I prefer the following hospital(s):

Preferences about emergency interventions

I would like the interventions below to be tried before use of seclusion or restraint is considered (check all that apply)

"Talk me down" one-on-one

More medication

Time out/privacy

Show of authority/force

Shift my attention to something else

Set firm limits on my behavior

Help me to discuss/vent feelings

Decrease stimulation

Other: _____

If it is determined that I am engaging in behavior that requires seclusion, physical restraint, and/or emergency use of medication, I prefer these interventions in the order I have chosen (choose "1" for first choice, "2" for second choice, and so on)

- | | |
|--|--|
| <input type="checkbox"/> Seclusion
(combined) | <input type="checkbox"/> Seclusion and physical restraint |
| <input type="checkbox"/> Medication by injection | <input type="checkbox"/> Medication in pill or liquid form |

I do not consent to any form of restraint or seclusion.

In the event that my attending physician decides to use medication in response to an emergency situation after due consideration of my preferences and instructions for emergency treatments stated above, I expect the choice of medication to reflect any preferences and instructions I have expressed in this form. The preferences and instructions I express in this section regarding medication in emergency situations do not constitute consent to use of the medication for non-emergency treatment.

**Preferences and Instructions About Electroconvulsive Therapy
(ECT or Shock Therapy)**

I wish my mental health care representative to be able to consent to electroconvulsive therapy in his or her complete discretion.

I wish my mental health care representative to be able to consent to electroconvulsive therapy if I display the following symptoms:

I do not authorize my representative to consent to electroconvulsive therapy.

(initial one of the following)

This instruction directive is irrevocable if I have been found under the standards in New Jersey Statutes Annotated 26:2H-108 to lack capacity to directly consent to my care.

I can revoke this instruction directive at all times.

Expiration

This advance directive for mental health care is made pursuant to P.L. 2005, c. 233 of the New Jersey laws and continues in effect for all who may rely on it except those to whom I have given notice of its revocation pursuant to N.J.S.A. 26:2H-106d.(1). If I do not revoke the directive, it will expire on _____, 20___. (leave blank if you do not want it to expire)

Signatures

I have voluntarily completed this advance directive for mental health care.

_____ (signature of declarant)

Address of mental health care representative: _____

Telephone number of mental health care representative

Address(es) of alternate mental health care representative(s)

Telephone number(s) of alternate mental health care representative(s)

Affirmation of first witness (required):

I affirm that the person signing this mental health care advance directive:

1. Is personally known to me.
2. Signed or acknowledged by his or her signature on this declaration in my presence.
3. Appears to be of sound mind and not under duress, fraud or undue influence.
4. Is not related to me by blood, marriage or adoption.
5. Is not a person for whom I directly provide care as a professional.
6. Has not appointed me as an agent to make medical decisions on his or her behalf.

Witnessed by:

_____, 20____
(signature and date)

Affirmation of second witness: (two witnesses are required if the first witness is related to the declarant, entitled to any part of the declarant's estate, or the operator, administrator or employee of a rooming or boarding house or a residential health care facility in which the declarant resides)

I affirm that the person signing this mental health care advance directive:

1. Is personally known to me.
2. Signed or acknowledged by his or her signature on this declaration in my presence.
3. Appears to be of sound mind and not under duress, fraud or undue influence.
4. Is not related to me by blood, marriage or adoption.
5. Is not a person for whom I directly provide care as a professional.
6. Has not appointed me as an agent to make medical decisions on his or her behalf.

Witnessed by:

_____, 20____
(signature and date)

Acceptance of appointment as agent: (optional)

I accept this appointment and agree to serve as agent to make mental health treatment decisions for the principal. I understand that I must act consistently with the wishes of the person I represent, as expressed in this mental health care power of attorney, or if not expressed, as otherwise known by me. If I do not know the principal's wishes, I have a duty to act in what I in good faith believe to be that person's best interests. I understand that this document gives me the authority to make decisions about mental health treatment only while that person has been determined to be incapable as that term is defined in *NJSA 26:2H-109*.

signature of primary mental health care representative

printed name of primary mental health care representative

signature of first alternate mental health care representative

printed name of first alternate mental health care representative

signature of second alternate mental health care representative

printed name of second alternate mental health care representative

Revocation

Complete this section if you wish to revoke this directive completely. You may also revoke or modify the directive by executing a new document. If you do so, you should tell your mental health care representative and replace the old documents in anyone's possession with your new directive. If you revoke this directive, it will no longer have any legal effect on your treatment.

_____ I revoke the mental health advance directive I executed on or about _____, 20__ in its entirety.

(signature)

(date)

APPENDIX B

Registration (optional)

I hereby submit my mental health advance directive to the Division of Mental Health Services in the New Jersey Department of Human Services to be registered. I choose the following password that will permit access for me and anyone with whom I share it.

I further understand that a licensed health care provider who is providing me with mental health care may be able to access my directive if need. No other person will be permitted to see the directive (except as required for administration of the registry) without my permission.

Signature

Print name: _____, contact information for confirmation:

Witness:

Dated: _____

Send original to: NJDMHS Registry, 50 E. State St, PO Box 727, Trenton, NJ 08625-0727 and attach a copy of your entire mental health care advance directive. You may also submit other documents to be registered that affect your legal ability to consent, such as a health care advance directive, durable power of attorney, temporary or limited guardianship orders, etc., which the registry will accept in its discretion.