



<b>Health Care Agency Mental Health and Recovery Services Policies and Procedures</b>	Section Name:	Client's Rights
	Sub Section:	Informing Materials
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	SIGNATURE	DATE APPROVED
Director of Operations Mental Health and Recovery Services	<u>Signature on File</u>	<u>2/14/2023</u>

**SUBJECT:** Advance Directives

**PURPOSE:**

The purpose of this policy and procedure is to be consistent with the requirements of Title 42, Code of Federal Regulations, Section 422.128 to ensure adult Medi-Cal beneficiaries served by Orange County Mental Health and Recovery Services (MHRS) are provided with information concerning their rights under California state law regarding Advance Directives (AD) and to ensure the information is current when there are changes in state law.

**POLICY:**

It is the policy of Orange County MHRS County operated and County Contracted providers to provide all adult beneficiaries with information concerning their rights under California state law regarding Advance Directives, at the time of initial enrollment, when the beneficiary turns 18 and thereafter upon request.

In the event a beneficiary presents a specific completed, appropriately witnessed and signed Advance Directive, the document shall be placed in the beneficiary's behavioral health medical/clinical record.

**SCOPE:**

All County of Orange MHRS County and County Contracted staff will provide the Advance Health Care Directives Information Sheet to the MHRS adult beneficiary.

**REFERENCES:**

- California Probate Code Section 4600 et seq.
- California Probate Code Sections 4677 and 4678
- California Probate Code Sections 4686 and 4689
- California Probate Code Section 4695
- California Probate Code Sections 4730, 4731, and 4732

California Probate Code Sections 4740 and 4742

[Advance Health Care Directives: Information Sheet](#) F346-705 (06/16) DTP316

**DEFINITION:**

Advance Directive - A written instruction, such as a living will or durable power of attorney for health care, recognized under State law (whether statutory or as recognized by the courts of the State), relating to the provision of health care when the individual is incapacitated. 42 C.F.R. § 489.100

**PROCEDURES:**

- I. MHRs County staff and/or County Contracted providers shall provide written information regarding Advance Directives to adult beneficiary when they have their first face-to-face service contact with the beneficiary, when the beneficiary turns 18 and thereafter upon request from a beneficiary. Material provided shall be the Advance Health Care Directives Information Sheet and provision of this material shall be documented in the chart.
- II. In the event that the beneficiary is incapacitated and is unable to receive information (due to the incapacitating condition or a mental disorder) or articulate whether or not he or she has executed an Advance Directive, the information shall be given to the beneficiary when he or she is able to receive such information.
- III. Informing material regarding Advance Directives shall be maintained in compliance with existing California state law and will be updated to reflect changes in state law within 90 days of the implementation of a change.
- IV. On the front of the chart, a red label will be placed and the MHRs Staff and/or County Contracted provider will indicate "Yes" or "No" if the beneficiary provided an Advance Directive. In the MHRs Electronic Health Record (EHR), the MHRs Staff will indicate if the beneficiary has an Advance Directive on file with HCA MHRs. This information will appear on the beneficiary Banner Bar in MHRs EHR. In the event an adult beneficiary presents a completed, appropriately witnessed and signed executed Advance Directive to MHRs staff and/or county contracted providers, the Advance Directive will be filed in the paper chart or scanned into the appropriate sub-folder titled, "Legal – Advance Directive", of the beneficiary's chart within the EHR.
- V. Provision of care shall not be conditioned on whether or not beneficiary have executed an Advance Directive.
- VI. Beneficiaries shall not be discriminated against based on whether or not they have executed an Advance Directive.
- VII. Information to beneficiaries shall include their right to file complaints concerning non-compliance with Advance Directive requirements with the California Department of Health Services Licensing and Certification.

- A. The beneficiary may file a complaint by calling: 1-800-236-9747 or by mailing the complaint to P.O. Box 997413, Sacramento, CA 95899-1413.
- VIII. MHRS County Staff and County Contracted providers shall be given information regarding this Policy and Procedure for Advance Directives and will be trained through the Annual Provider Training and through the Coding Manual and Clinician Handbook with Documentation Guidelines.
- IX. Community education efforts regarding Advance Directives shall be conducted and documented.
- X. Revocation of Advance Directives:
- A. A beneficiary having capacity may revoke all or part of an Advance Health Care Directive, other than the designation of an agent, at any time and in any manner that communicates intent to revoke.
    - 1. To Complete a Revocation:
      - a) Write a Note to Chart in the progress notes on how and when the intent to revoke was expressed.
      - b) Draw a single, diagonal line across all pages of the Advance Directive.
      - c) Write on the form that it was revoked with date, staff signature and reference the progress note.
        - 1) For clinics using the EHR in which the Advance Directive is already scanned, the scanned copy must be printed out and revised as indicated in steps A1b and A1c.
      - d) Keep the Advance Directive form in the clinical record/chart.
        - 1) For clinics using the EHR, the revised Advance Directive must be re-scanned into the record.
      - e) If revocation was in writing, the written communication is filed in the chart with the form or scanned into the beneficiary's chart within the EHR.
      - f) Indicate "No" on the red label indicating "Advance Directive" on the front of the of the beneficiary's medical/clinical record/chart. For clinics using the EHR, the Banner Bar indicator must be changed to "No" Advance Directive.
    - 2. Partial Revocation:

- a) Write a Note to Chart in a progress notes on how and when the intent to revoke was expressed.
  - b) Draw a single, diagonal line through the paragraph that was revoked.
    - 1) For clinics using the EHR in which the Advance Directive is already scanned, the scanned copy must be printed out and revised as indicated in steps A2b through A2d.
  - c) If less than a paragraph was revoked, line through the part that was revoked.
  - d) Write on the form, next to the part that was revoked the date, staff signature and reference the progress note indicating the revocation.
  - e) Keep the Advance Directive form in the beneficiary's medical/clinical record/chart.
    - 1) For clinics using the EHR, the revised Advance Directive must be re-scanned into the record.
  - f) If revocation was in writing, the written communication is filed in the chart or scanned into the EHR with the Advanced Directive form.
- B. A beneficiary having capacity may revoke the designation of an agent only by a signed statement or by personally informing the supervising health care provider (e.g., the MD).
- 1. Write a Note to Chart in the progress note indicating that the designation was revoked verbally or in writing.
  - 2. Line through the designation on the form.
    - a) For clinics using the EHR in which the Advance Directive is already scanned, the scanned copy must be printed out and revised as indicated in steps B2 through B3.
  - 3. Next to the line through put the date, staff signature, and reference the progress note.
  - 4. Written revocation must be filed in the chart with the form.
    - a) For clinics using the EHR, the revised Advance Directive must be re-scanned into the record.
  - 5. Verbal revocation may only be accepted by the supervising health care provider (e.g., MD).