

State of Wyoming



Department of Health PSYCHIATRIC ADVANCE DIRECTIVE (PAD) HANDBOOK

Garry L. McKee, Ph.D., M.P.H., Director
April 3, 2002

State of Wyoming
Department of Health
Psychiatric Advance Directive (PAD)
Handbook
Wyoming's Handbook is published
by the Mental Health Division
Pablo Hernandez, M.D., Administrator

PSYCHIATRIC ADVANCE DIRECTIVES

CLIENT INFORMATION and Frequently Asked Questions

A. Planning Ahead

While you are well and able to make decisions is a good time to plan for any potential future treatment needs. One of the realities of major mental illness is that many people go through periods of time when symptoms are better and times when symptoms are worse. What this means is that, as a person with chronic illness, you may have periods when you are able to make decisions regarding your mental health treatments. During periods of remission your ability to make treatment decisions and function in the community can be at a high level. During periods of relapse your ability to make treatment decisions and function in the community may be limited due to the symptoms of an illness. Through the development of ***A Psychiatric Advance Directive*** you can now create a document which allows you to say in writing what treatment decisions you believe would be in your best interest during those times when your illness is in relapse and your ability to make decisions is compromised by the symptoms of your illness.

B. What is a Psychiatric Advance Directive (PAD)?

In 1999 the Wyoming State Legislature passed House Bill No. HB0026 which was a Bill for An Act relating to *Psychiatric Advance Directives*. The bill allows people to make advance treatment decisions while they are stable and able to make treatment decisions which will guide their treatment should they become unstable. The focus of the law is on stabilization of the person and restoration to competence.

Two Ways to have a Psychiatric Advance Directive

1. A Psychiatric Advance Directive is a legal document, which has two possible ways of making an advance directive. (First, as an Instructional document, you can describe in written form your desires for treatment(s) should you lose decisional ability.) In this portion of the document you may make specific treatment decisions regarding medications and/or treatments you would or would not want. You know which treatments or interventions have been the most helpful in restoring your best functioning and which interventions you have experienced as less helpful or possibly harmful. It is important that you make these decisions while you are competent and have decisional ability. Examples of treatment choices and interventions which might be addressed are: medications to restore stabilization and capacity, preferences for safety measures, eg. specific friends or family to be with you or use of seclusion or restraints and emergency interventions such as rapid tranquilization, self isolation and monitoring or unique arrangements that have worked for you in the past,

preferences for physicians, hospitals, or community programs which may help you shorten or avoid inpatient psychiatric hospitalization.

2. (The second way to have a psychiatric advance directive is to create an Agent Driven document.) You may appoint an agent to act on your behalf should you lose decisional ability. An agent will be accordance with your values and desires, during only those periods in which you lack the ability to make decisions due to the symptoms of your illness.

C. Is an agent different from a guardian?

Yes, an agent is different from a guardian. A guardian is appointed by a judge when it is believed you will not be able to make treatment decisions for a long period of time. A guardian's authority extends to all your medical and psychiatric care. An agent can act only when two physicians determine you currently lack the ability to make treatment decisions. And as soon as you regain the ability to make treatment decisions the authority of the agent ends. Also, the authority of the agent is only for decisions regarding treatments which may re-stabilize your psychiatric condition and restore your ability to make decisions on your own behalf.

D. What are the advantages of having a Psychiatric Advance Directive?

It is a way of informing your physician and/or psychiatrist or other who know you such as family members, significant others, close friend who you trust and psychiatrist and others about your treatment choices. You are encouraged to work with your psychiatrist and/or other mental health professionals in developing your *Psychiatric Advance Directive*. This way it can be as specific as possible about what treatment (s) you would or would not choose, and gives you the ability to name which treatment(s) will be effective in restoring you to good mental health so you can act in your own behalf. When your choices are clearly stated it reduces the chances for conflict between you and your treating team and helps prevent forced treatment (s).

Having a *Psychiatric Advance Directive* may also help shorten your hospital stay. When the treating team already knows your choices regarding treatment (s) they can follow your directives without delay. One of the best advantages of a *Psychiatric Advance Directive* is that it puts you in the position to make treatment decisions while you are well, rather than when you are in a relapse. A *Psychiatric Advance Directive* may also reduce the need for formal court adjudications regarding treatment. When a person loses the ability to make decisions, a treating facility may be forced to seek a guardianship or court order in order to provide you the treatment interventions which could restore your capacity. With a *Psychiatric Advance Directive* your wishes are already stated in a legal document which allows you basic control of your treatment with decisions you made when you were well.

Choosing an agent (the person who would make treatment decisions for you) will give your plan flexibility to address changes in your psychiatric health. Picking an agent who you know and trust to make your decisions, will give you an advocate for your choices regarding treatment decisions. An agent also can make changes for situations where specific interventions have not been helpful and further decisions need to be made in order to manage your relapse.

E. What are the disadvantages of a Psychiatric Advance Directive?

A poorly written *Psychiatric Advance Directive* may leave you open to treatment(s) which you would not choose. It could also limit treatment options which may be helpful if the specified treatment options are not effective. You are encouraged to discuss with your psychiatrist and/or mental health professionals as well as your agent the impact of your choices, if you become ill. The goal is psychiatric restabilization and finding what treatment(s) will aid that restabilization.

An agent who does not know you or the nature of your illness may not know how to make good decisions on your behalf. It will be important to pick an agent (person who makes decisions for you when you are not able) who you trust to follow your values and beliefs regarding treatment(s). This person should be someone who will advocate for your desires regarding treatment(s).

An agent may be difficult for some people to find. A major mental illness sometimes has devastating effects upon family life making family members unacceptable agents. Sometimes family members may live in other states making communicating with them difficult. It is unwise to choose any of your treatment providers as an agent as this creates a conflict of interest for them and you. If you do not have somebody who you trust with your treatment decisions you may choose not to have an agent. To do this you simply mark “no agent” on the appropriate portion of the *Psychiatric Advance Directive* form.

Once a *Psychiatric Advance Directive* is created and signed, it may be difficult to change or cancel, so you should think very carefully about creating a *Psychiatric Advance Directive* and specifically what treatment(s) you choose or refuse. If you lose the ability to make decisions due to the symptoms of your illness, your *Psychiatric Advance Directive* will be followed. While you have the ability to make decision, you can change or revoke your *Psychiatric Advance Directive* at any time.

Should your behaviors present a danger to you or others in an emergency situation your *Psychiatric Advance Directive* may be over-ridden by a mental health professional. All mental health professionals have an ethical obligation to protect you and others in situations where somebody could be injured. A *Psychiatric Advance Directive* may help reduce or eliminate such episodes as you can decide now what you believe would be helpful in your psychiatric restabilization.

F. Overcoming barriers to creating a Psychiatric Advance Directive

The process of creating a *Psychiatric Advance Directive* can appear difficult and formal. As a treatment and legal document it can be a lengthy and at times confusing process. Using a worksheet and getting help from your primary mental health professional and others can help you clarify and work through the process to create a document which states what you want and which will be effective in stating your treatment directives.

G. How will my ability to make decisions be assessed?

Your decisional capacity is based upon your ability to understand information well enough to know what your decisions about your mental health treatment means. This is defined as your ability to audibly or otherwise receive your medical information, your ability to understand the nature of your illness or symptoms, the benefits or risks of proposed treatment(s), and your ability to communicate your treatment choices. You are assumed to have this ability unless two physicians, one of whom is your attending physician and/or psychiatrist, based upon their clinical judgment, declare that you are unable to make informed choices and decisions. Upon the recommendation of a mental health professional, a judge may also declare you incompetent to make decisions on your own behalf.

Revocation

In order to revoke or make null and void, your *Psychiatric Advanced Directive* you can write “**revoked**” clearly across the front and date that revocation. Or you can verbally, or in writing, inform your psychiatrist, physician, or mental health professionals who will then assist you in revoking your *Psychiatric Advanced Directive*. It would be important to let everyone who has a copy of your *Psychiatric Advanced Directive* know that you have changed or revoked the document. It is advisable to have your physician and/or psychiatrist also sign your document as revoked so that there is evidence that you had the ability and capacity to revoke the document.

Central Registry

Wyoming has created a central registry for *Psychiatric Advanced Directive*'s in the Mental Health Division. You may choose to use this registry as a way of filing your *Psychiatric Advanced Directive*. This allows hospitals and treatment providers to gain access to your *Psychiatric Advanced Directive* should you need their services while lacking the ability to make treatment decisions. Check with your treatment providers about how to place your *Psychiatric Advanced Directive* in this registry.

H. Whom can I talk to about making a Psychiatric Advance Directive?

Since a *Psychiatric Advanced Directive* is a legal binding document, we suggest you talk about creating your *Psychiatric Advanced Directive* with people you trust completely to help you make good treatment decisions. If you decide to create a *Psychiatric Advance Directive*, you may want to talk about these decisions with a doctor and a lawyer, to assist you in creating a document which will express your choices or will name an agent to make decisions on your behalf. A doctor who knows you, your illness, and the treatment(s) which have worked for you can help you write instructions about your choices regarding treatment(s). A lawyer can help make sure your *Psychiatric Advance Directives* reflects your choices. You may also want to talk with your family, significant others, or your Clergy.

If you have designated someone as your agent, it is important that you and your agent clearly discuss what your choices would be should you lose capacity. Your agent should be someone who you trust, who knows you and what decisions to make on your behalf. An informed agent can then follow your wishes regarding treatment(s) you would choose, without having to guess regarding what treatment(s) they believe would be in your best interest. The more your agent knows about your preferences and thoughts the better he/she can be at making decisions based upon those beliefs and values.

I. What are possible treatment choices I can Address in my Psychiatric Advanced Directive?

The treatment(s) addressed in your *Psychiatric Advanced Directive* may include but is not limited to the following items:

1. Your agreement to, or refusal of, specific psychotropic medications(s);
2. Your directions regarding intervention(s) of restraint or seclusion should your behavior be threatening to yourself or others; and under what circumstances might detention, restraints, or seclusion might be initiated.
3. Regarding crisis psychiatric counseling, for example who would be involved and where.
4. Where in patient treatment would take place if necessary.

One page in the handbook lists possible instructions you may wish to include in your *Psychiatric Advance Directives*. You may choose to include any or all of these in the *Psychiatric Advanced Directive* form or the **PSYCHIATRIC ADVANCE DIRECTIVE INSTRUCTIONS** form which can accompany your *Psychiatric Advanced Directive*. Please remember the goal of the *Psychiatric Advanced Directive* is to aid psychiatric restabilization so you can regain the ability to fully participate in your treatment decisions.

Emergency Measures

You may use the **conditions and limitations** section of the form to state under what conditions such emergency measures may be utilized and what specific types of seclusion or restraint or other measures you would find helpful or acceptable. Clearly state what your preferences are and what you have found helpful during crisis situations which may be helpful in the future. The preferences you state will help your mental health professionals in reducing or eliminating seclusion or restraint episodes. Please remember that at that time staff are required to provide safety for you and for others.

In an emergency, a court may order psychotropic medications under certain circumstances even if you have not given permission to use medications. Therefore, it may be wise to provide information about medication preferences, if they must be used for safety or other reasons.

Later sections of this manual will help you develop your directives in these areas. The *Psychiatric Advance Directives* is your document to direct your care should you lose the ability to make decisions.

J. Do I have to make a Psychiatric Advance Directive?

You can not be forced to make a *Psychiatric Advance Directive*. This document is to be created and signed voluntarily. The laws state that nobody can force you to create or sign a *Psychiatric Advance Directive* nor can it be used to coerce you in any way. It exists solely for you to state choices about mental health treatment(s) while you are well, and to be followed during those times when you are not well.

K. Is a Psychiatric Advance Directive limited to what it can do?

Even if your *Psychiatric Advance Directive* states that you do not choose medication(s) or that you do not choose to be admitted to a mental health facility, a court may order that you be given medication(s) or be admitted to a mental health facility. If this happens, the court's orders will be followed first, before the instructions in your *Psychiatric Advance Directive*. If you are found to be dangerous to yourself or others, the situation may be deemed an "emergency" and you may be given medication(s), or placed in seclusion and/or restraint to provide safety for you and/or others.

L. How do I make my Psychiatric Advance Directive a legal document?

For your *Psychiatric Advance Directive* to become a legal document it must be executed. This means you and at least two other people must sign it before it becomes a legal document. These two people are called witnesses. They must watch you sign and date it, then they must sign it themselves. By signing your *Psychiatric Advance Directive*, your two witnesses are saying in a legal way that they know you or who you are, that you knew what you were doing when you signed your *Psychiatric Advance Directive*, and that no one forced you in any way to sign it. These witnesses cannot be your treatment providers or immediate family members.

When you and the two witnesses have signed the *Psychiatric Advance Directive*, it has been executed. This means it is legally possible for it to be used as your treatment instructions if you are found incapable of making those decisions for yourself by two physicians or a judge.

M. Do I have to use specific forms?

NO.

There are sample forms which provide for the necessary information and documentation. You may choose your own forms or have an attorney assist you in making forms which meet the legal requirements.

Regardless of the forms you use, there are certain requirements for what a Psychiatric Advance Directive must have to be a legal document. Wyoming law requires, at a minimum, the following information: your name, date of birth, sex, height, weight, eye and hair color, race or ethnic background, social security number; If applicable, the name of a treatment program and the sponsoring facility or institution in which you are enrolled; The name, address, and telephone number of your attending physician or psychiatric personnel; your signature or mark, or, if applicable, the signature of a person authorized by the law to execute a *Psychiatric Advance Directive*; the date on which the *Psychiatric Advance Directive* was signed; your directives concerning the administration of psychiatric restabilization measures, countersigned by your attending physician or psychiatric personnel; the name, address, and telephone number of the person you designate as your agent; and the signature of your named agent indicating acceptance of this appointment.

On the sample form, there are areas which you will need to complete in order to personalize the document to reflect the psychiatric treatment(s) which you would choose or refuse. You are encouraged to pay close attention to these areas and what you write in them so that future treatment providers are clear about your wishes regarding your treatment choices. Do not leave any blank lines. Write in “**not applicable**” or “**refuse**” for those which you do not wish to complete.

N. How Long is my Psychiatric Advance directive valid after it has been executed?

Your *Psychiatric Advance Directive* will be valid for a period of two years from the date of execution or your last dated signature. At the end of two years it may be extended by you with a new signature and date placed on the form.

O. Who keeps the original document and who needs copies?

The original document is yours, you may keep it or give to someone to hold for you. Copies would need to go to your treating facility, your personal physician, your agent, and any relevant mental health treating professional in your community. You may choose to give copies to your family or significant other(s). As mentioned earlier, Wyoming also has a central registry in which you may keep a copy of your *Psychiatric Advance Directive*.

P. Final Thoughts.

None of us know what the future holds. Though a *Psychiatric Advance Directive* goes a long way to making your wishes and decisions known, there are going to be some instances where unforeseen or unplanned things arise. Having a *Psychiatric Advance Directive* with or without an identified agent makes it easier for treatment providers to know and respect your wishes.

Included in this manual are some work forms for you to use in creating your *Psychiatric Advance Directive*. Completing them may assist you in deciding what treatment(s) you choose or refuse, your agent if any, and who will receive copies

of your *Psychiatric Advance Directive*. These worksheets are not *Psychiatric Advance Directives*. The work forms are simply to assist you in completing your *Psychiatric Advance Directive* and may be kept or destroyed by you.

PSYCHIATRIC ADVANCE DIRECTIVE WORK SHEET

MY MEDICAL HISTORY AND CHOICES

1. What are the early signs that indicate your illness may be getting worse?
2. How would a friend, family member or therapist know if your illness was getting worse?
3. What is helpful to you to get symptoms back under control?
4. What can you do to get your illness back in control?
5. What can your doctor do to help get symptoms in control?
6. What meds are most helpful when your symptoms are worse?
7. What meds are not helpful when your symptoms are worse?
8. What can your friends and/or family do to help you get your illness back in control?
9. What can your therapist do to help you get your illness back in control?
10. Has hospitalization ever been helpful to get your illness back in control?
11. If you are in crisis, how would like to have happen?
12. If you are in crisis, would you like to go to a hospital?
13. If you go to a hospital, how could family and friends support you?
14. What other options do you have besides going to the hospital that will help you get your symptoms under control?
15. Who would you like to advocate for your preferences or make the decision, if in crisis, you are unable to make your own decisions or communicate your preferences?
16. If you are in crisis and become out of control, what kind of support do you need to help you regain control?
17. If you agree to go to the hospital beforehand and say no when professionals recommend you go to the hospital, how should this be handled?

18. In previous crises have you ever gone to the emergency room? The hospital? Been sedated with medication? What type of medications? What meds worked and what meds did not? Have you ever been restrained? Do you ever need to be restrained if you are in crisis and become out of control? Do time outs in quiet areas help?

19. I have taken the following medications in the past with the following results:

Medication #1

Name of medication:

Positive effects (How did it help?):

Side effects (What things didn't you like?):

Concerns about this medication:

Medication #2

Name of medication:

Positive effects (How did it help?):

Side effects (What things didn't you like?):

Concerns about this medication:

Medication #3

Name of medication:

Positive effects (How did it help?):

Side effects (What things didn't you like?):

Concerns about this medication:

Medication #4

Name of medication:

Positive effects (How did it help?):

Side effects (What things didn't you like?):

Concerns about this medication:

20. The medications which were the most helpful were:

21. The medications which were the least helpful were:

22. My thoughts/beliefs about medications are:

MY SUPPORT SYSTEM

1. The family member(s) who I feel closest to are:
2. Several of the people in my life who I trust are:
3. Were I to lose my ability to make decisions because of the symptoms of my illness I would want you to contact the following person(s):
4. If I become unable to make responsible decisions please do not contact the following individuals:
5. I would want the following people to be aware of my Psychiatric Advance Directive and have a copy of it:

MY THOUGHTS ABOUT OTHER TREATMENTS

There are sometimes treatment alternatives which people find helpful, like Electro-Convulsive Therapy, individual therapy, group therapy, and restrictive therapies.

1. Other treatments I have found helpful in the past are:
2. Other treatments I have not found helpful in the past are:
3. I feel safest when:
4. I do not feel safe when:
5. Things which I find help me relax or relieve stress are:
6. Were I to become dangerous to myself or others due to the symptoms of my illness I would want my doctors and or agent informed of my following wishes regarding seclusion and/or restraint:
7. Make a check mark next to any of the following items which you believe you will want addressed in a Psychiatric Advance Directive:

_____ Listing of my health care professionals such as family physician, medical specialist, psychiatrist, primary therapist or case manager.

_____ Authority granted to an agent to make decisions when I cannot.

_____ Preferences as to a court-appointed guardian, if one is necessary.

_____ My choices of preferred treatment facility(s) and preferences for alternatives to hospitalization if 24-hour care is deemed medically necessary for my safety and well being.

_____ My preferences about the physician(s) and/or psychiatrists who will treat me if I am hospitalized.

_____ My preferences regarding medications for psychiatric rehabilitation.

_____ My preferences regarding electroconvulsive therapy (ECT) or shock treatment.

_____ My preferences regarding safety measures such as seclusions and restraint.

_____ Who should be notified immediately of my admission to a psychiatric facility.

_____ Who should be prohibited from visiting me.

_____ My preferences for care and temporary custody of my children.

_____ Duration of my Psychiatric Advance Directive, if different from the two years allowed by Wyoming law.

_____ Where copies of my Psychiatric Advance Directive may be found.

Minimum Information Requirements concerning the person who is the subject of the Psychiatric Advance Directive according to State Statutes (Article 3; 25-22-303, (b) (i through x))

- The person's name, date of birth and sex;
- The person's eye and hair color;
- The person's race or ethnic background;
- The person's social security number;
- If applicable, the name of a treatment program and the sponsoring facility or institution in which the person is enrolled;
- The name, address and telephone number of the person's attending physician or psychiatric personnel;
- The person's signature or mark or, if applicable, the signature of a person authorized by this article to execute a psychiatric advance directive;
- The date on which the psychiatric advance directive was signed;
- The person's directive concerning the administration or refusal of psychiatric re-stabilization measures, countersigned by the person's attending physician or psychiatric personnel
- The name, address and telephone number of the person designated as an agent, if applicable, to consent to or refuse psychiatric re-stabilization measures for the person who has executed a psychiatric advance directive and the signature of that person, indicating acceptance of this appointment.