



Health Care Agency Behavioral Health Services Policies and Procedures	Section Name:	Client's Rights
	Sub Section:	Informing Materials
	Section Number:	02.06.01
	Policy Status:	<input type="checkbox"/> New <input checked="" type="checkbox"/> Revised

	SIGNATURE	DATE APPROVED
Director of Operations Behavioral Health Services	<u>Signature on File</u>	<u>8/3/16</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 Behavioral Health Services (BHS) 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 BHS County operated and County Contracted providers to provide all adult consumers with information concerning their rights under California state law regarding Advance Directives, at the first face-to-face contact for services, when the consumer turns 18 and thereafter upon request.

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

SCOPE:

All County of Orange BHS County and County Contracted staff will provide the Advance Health Care Directives Information Sheet to the Mental Health Plan (MHP) adult consumers.

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. BHS County staff and/or County Contracted providers shall provide written information regarding Advance Directives to adult consumers when they have their first face-to-face service contact with the consumer, when the consumer turns 18 and thereafter upon request from a consumer. 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 consumer 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 consumer when he or she is no longer incapacitated or unable 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 BHS Staff and/or County Contracted provider will indicate “Yes” or “No” if the consumer provided an Advance Directive. In the BHS Electronic Health Record (EHR), the BHS Staff will indicate if the consumer has an Advance Directive on file with HCA. This information will appear on the consumer Banner Bar in BHS EHR. In the event an adult consumer presents a completed, appropriately witnessed and signed executed Advance Directive to BHS staff and/or county contracted providers, the Advance Directive will be filled in the paper chart or scanned into the appropriate sub-folder titled, “Legal – Advance Directive”, of the consumer’s chart within the EHR.
- V. Provision of care shall not be conditioned on whether or not consumers have executed an Advance Directive.
- VI. Consumers shall not be discriminated against based on whether or not they have executed an Advance Directive.

- VII. Information to consumers 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 consumer 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. BHS 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 consumer 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 consumer's chart within the EHR.
 - f) Indicate "No" on the red label indicating "Advance Directive" on the front of the of the consumer'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 consumer’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 consumer 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).