



Psychiatric Advance Directives

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Presenter:

*Lori Hack, JD, CPSWS
Compliance Officer*

Magellan Behavioral Health of Nebraska, Inc.



Why Psychiatric Advance Directives



An advance plan can help treatment staff, family and friends quickly implement effective care, and minimize inappropriate, coerced or involuntary treatment that can delay recovery for a person in crisis.

Why Psychiatric Advance Directives

“This time, with a PAD, I did not receive any treatments that I did not want. They were very respectful. I really felt like the hospital took better care of me because I had my PAD. In fact, I think it's the best care that I've ever received.”

*From: National Resource Center on Psychiatric Advance Directives, 2011,
<http://www.nrc-pad.org>*



What are Psychiatric Advance Directives?

- Psychiatric advance directives (PADs) are legal instruments that may be used to document a competent person's specific instructions or preferences regarding future mental health treatment
- Made in preparation for the possibility that the person may lose capacity to give or withhold informed consent to treatment during acute episodes of psychiatric illness.



Legal Overview

Almost all states permit some form of legal advance directive (AD) for healthcare, which can be used to direct at least some forms of psychiatric treatment.

In the past decade, *twenty-five states have adopted specific PAD statutes.*

Some states do not have stand-alone “PAD” statutes.

(Recommendations of UVA Task Force on Empowerment and Self-Determination, Commission on Mental Health Law Reform encouraged integrating advance planning for mental health crises into laws on other health care decisions.)

Nebraska Law

Nebraska Revised Statute 30-3401 et seq. govern power of attorney for health care:

“It is the intent of the Legislature to establish a decision making process which allows a competent adult to designate another person to make health care and medical treatment decisions if the adult becomes incapable of making such decisions.”

“Health care shall mean any treatment, procedure, or intervention to diagnose, cure, care for, or treat the effects of disease, injury, and degenerative conditions”

“Health care decisions shall include consent, refusal of consent, or withdrawal of consent to health care.”

Health Care Power of Attorney in Nebraska

Execution

- Must be in writing
- Identify the principal, attorney-in-fact, and successor (if any)
- Specifically authorize health care decisions
- Include date of execution
- Signed by two witnesses OR a notary public

How it Becomes Operative

Incapacity : The inability to understand and appreciate the nature and consequences of health care decisions or the inability to communicate in any manner an informed health care decision.

The attending physician and any consulting physician make the determination of incapacity in writing.

The document remains in effect until the principal dies, until revoked, or until the attorney-in-fact withdraws. A decision made by the attorney-in-fact may be revoked at any time by a principal who is competent and in any manner by which the principal is able to communicate intent to revoke.

Limitations

The Nebraska statute does not allow you to write advance instructions for your psychiatric care in a freestanding document. However, within a power of attorney document, you may specify how you would like your Attorney in fact to make decisions for you.

You should discuss your preferences with him/her and document them.





Barriers to decision-making in Acute Psychiatric Illness

- Traditional practices (medical decision-making and family consent without guardianship) lack strong legal foundation and raise ethical challenges
- Guardianship is costly and cumbersome
- Most people don't have PADs

Why Psychiatric Advance Directives?

1

Increasing empowerment and self-determination can promote engagement and trust, reduce crises and, even in crisis, reduce the need for coercion.

2

Advance directives provide a legal foundation for empowerment based on the recovery model of mental health services.

Psychiatric Advance Directives & Wellness Planning

- Even though PADs are designed to direct treatment during incapacitating crises, they can have an indirect benefit of improving engagement in outpatient treatment process.
- Good companion to wellness planning tools such as WRAP
- PADs can help prevent crises and reduce use of coercion when crises occur.

Bottom line:

Good legal and clinical foundation BUT rarely being used

Why are PADs Rarely Used?

1

Not knowing what information to include in the plan

2

Feeling overwhelmed when faced with forms that are difficult to read and understand

3

Not comfortable thinking about a future mental health crisis

4

Apprehension about creating a legal document

Ideas to Encourage PADs

Increased education among consumers and providers, including peer providers

Incorporate PADs into other Crisis and Wellness Planning documents, such as WRAP

Ask about PADs when beginning a treatment or support relationship



Importance of Psychiatric Advance Directives

Psychiatric Advance Directives can support patients' rights to self-determination during times when they are the most vulnerable and least likely to be able to speak for themselves.

Resources on Psychiatric Advance Directives

www.MagellanofNebraska.com

<http://www.nrc-pad.org>

<http://www.nebraskaadvocacyservices.org/>

Lori Hack, Compliance Officer
Magellan Behavioral Health of Nebraska
Telephone: (402) 437-4220
Email: LAHack@MagellanHealth.com

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Thank-you

