Advance Directive for Mental Health Care:  
Planning for Mental Health Care in the Event of Loss of Decision-Making Ability

It is the policy of MCCMH to encourage consumers to develop their own advance crisis plans as part of the Person-Centered Planning Process and to provide adult consumers with written information on advanced directives for mental health care, in accordance with existing state and federal laws.

The following are some Frequently Asked Questions concerning Advance Directives for Mental Health Care. Portions have been adapted from a pamphlet published by the Michigan Department of Community Health and the federal Mental Health and Substance Abuse Administration. In partnership with the department’s Recovery Council, it was written by Mr. Bradley Geller, a lawyer.

**What is an advanced directive for mental health care?**

An advanced directive for mental health care, also know as a durable power of attorney for mental heath care, is a document in which individuals appoint someone else to make mental health decisions for them in the future should they lose the ability to make decisions for themselves.

Although the term “patient” is used throughout the document, it can be applicable to treatment in the hospital or in the community.

**Are there different types of durable powers of attorney?**

Yes. In addition to the durable power of attorney for mental health care, there is also a durable power of attorney for healthcare. There is also one covering money and finances.

**How is a durable power of attorney for health care different from an advance directive for mental health care?**

In a durable power of attorney for healthcare, an individual can choose someone to make a broad range of medical decisions if an accident or sickness leaves them unable to make decisions. They can also specify what type of care should be provided in the event of terminal illness.

An advanced directive for mental health care can cover general powers, such as agreeing to or refusing mental health treatment and having access to records, and specific powers, such as inpatient hopsitalization and receiving psychotropi
Can a durable power of attorney for health care include wishes concerning mental health treatment?

Yes.

Can an individual have both a durable power of attorney for health care and an advance directive for mental health care?

A person can have one, both, or no durable power of attorney.

Why would a person want to have both?

A person might want to have one individual make health care decisions, and another make mental health care decisions.

Also, if a person uses a generic, 'fill-in-the-blank' forms, an advance directive for mental health care will likely have more space to clearly write out specific wishes about mental health care.

Where can a person get more information about durable power of attorney for health care?

One source is [www.michbar.org/elderlaw](http://www.michbar.org/elderlaw) This is the State Bar of Michigan website.

Another source is your doctor or therapist.

Must an individual have an advanced directive for mental health care?

No. The decision to have any type of advance directive is completely voluntary. No hospital or insurance company can force a person to have one or dictate what the document should say if they decide to write one.

No hospital, insurance company, or mental health agency can deny service to any person because there is no advance directive.
What are the advantages of having an advanced directive for mental health care?

If a person has had experience with the mental health system, they may have preferences concerning hospitals, doctors and/or medications. There may have been bad experiences that the person does not wish to repeat.

In an advance directive, a person can express their specific wishes, thereby increasing the chances those wishes will be honored.

Who is eligible to have an advance directive for mental health care?

Anyone who is at least 18 years old. A person should understand that they are giving another individual the power to make certain decisions for them if they are unable to give informed consent for themselves.

If a person has had a guardian appointed under the Estates and Protected Individuals Code, they cannot sign an advance directive.

Who determines if a person cannot give informed consent?

After examining a person, a physician and a mental health professional (physician, psychologist, RN, or Masters level social worker) must each make the determination with respect to mental health treatment.

An advance directive may contain the names of the physician and mental health professional whom an individual wishes to make this determination.

What is the person called who is given decision-making power by an advance directive for mental health care?

This person is known as a patient advocate. It is the duty of this person to take reasonable steps to follow the person’s desires and instructions, oral and written, that were previously decided upon by both.

What powers concerning mental health treatment can be given to a patient advocate?

Generally, the patient advocate can be given the power to make those mental health decisions that a person would normally make for themselves. For example, a patient
advocate can be given permission to arrange outpatient therapy, to agree to or refuse medicine, and to sign someone in for inpatient hospitalization treatment.

**Can a patient advocate be given the power to voluntarily admit a person to a hospital?**

Yes.

**Does having an advance directive override a commitment order?**

If the patient advocate has the power for inpatient treatment, there may be no need for an application or petition to the probate court and a commitment hearing in the future.

However, if there is a petition and a court order, the patient advocate must honor the provisions of that order.

**What powers can be given to a patient advocate concerning medication?**

A patient advocate can be given the power to refuse medication, to see that a person receive the medication that they have asked for, to choose among recommended medication, and to force a person to take medication if they object at the time.

**Will the wishes outlined in an advance directive always be followed?**

No. A mental health professional can refuse to honor your wishes if there is a psychiatric emergency endangering the life of the individual or the life of another person, or the treatment that is specified in the advance directive is unavailable, or there is a conflict with court-ordered treatment.

**What if it is decided not to have an advance directive?**

That option can be chosen by an individual. Decisions would still have to be made for a person should they be unable to make them. It is possible that a petition for involuntary commitment be brought into probate court.

For additional information on advance directives for mental health care, please see
www.michigan.gov:
Click on Mental Health & Substance Abuse,
Click on Mental Illness & Developmental Disability,
Click on Psychiatric Advance Directive,
Click on Advance Directive Questions & Answers Pamphlet
    Or, Advance Directive Form,
    Or, Advance Directive Declaration