



7.2.26 ADVANCE DIRECTIVES

Issue Date: 05/17/2004

Revision History: 01/05/2026, 03/23/2017

References:

1. 42 CFR Sections 422.128, 431.20, 438.3, 438.10, 489 (Subpart I), 489.100, 489.102, and 438.104
2. CA Probate Code Section 4600 et seq.
3. DMC-ODS Contract, Ex A, Att 11.
4. MHP Contract, Ex A, Att 11.

Policy Owner: Behavioral Health Division, Quality Assurance and Program Improvement (QAPI), Quality Assurance Manager

Director Signature: **Signature on File**

I. Policy Statement

The purpose of this policy is to inform adult clients of the Department of Health Services – Behavioral Health Division (DHS-BHD), who are Medi-Cal members, about their rights regarding advance health care directives. It also ensures that the information remains current with changes in state law and complies with applicable state and federal laws and regulations.

II. Scope

This policy applies to all DHS-BHD Covered Persons, including employees (full-time, part-time, extra-help), unpaid interns, paid interns, temporary agency workers, registered volunteers, and all individual providers contractually designated as Covered Persons. Covered Persons do not include Community Based Organization (CBOs) staff.

III. Definitions

- A. 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.
- B. Pronoun Usage: Throughout this policy, the singular "they/their" is used as a gender-neutral pronoun to promote clarity, readability, and inclusivity.

IV. Policy

The Sonoma County DHS-BHD and its contracted providers, will provide written information to all adult Medi-Cal members served by DHS-BHD regarding their right to advance health care (medical) directives (Advance Directives) at the first face-to-face contact for Specialty Mental Health Services (SMHS), and thereafter upon request by a Medi-Cal member.

In the event that a member presents a completed Advance Directive that has been properly witnessed and signed, the document will be placed in the member's mental health medical record.

A member's provision of care is not conditioned on whether they have executed an Advance Directive, and members are not discriminated against based on whether or not they have done so.

DHS-BHD staff are educated regularly on the policy and procedures related to Advance Directives.

V. Procedures

- A. Providing Advance Directive Information to Adult Members
 - 1. DHS-BHD staff will provide written information regarding the right to Advance Directives during the adult member's first face-to-face service contact. This information will also be provided upon a request. (See the attached brochure, *Your Right to Make Decisions About Medical and Mental Health Treatment*).
- B. In the event a member requests an Advance Directive form to fill out, the member will be given a current California Advance Health Care Directive (See Attachments).
- C. Informing materials regarding Advance Directives shall be maintained in compliance with existing California state law and will be updated to reflect any relevant state or federal changes as soon as possible, but no later than 90 days after the effective date of the change.

D. Receiving an Advance Directive

1. If a member presents a completed, appropriately witnessed, and signed Advance Directive to staff members of DHS-BHD, the Advance Directive shall be scanned into the member's medical record via the 'Legal (scanned)' folder in SmartCare, and the presence of the Advance Directive shall be noted prominently in the medical record by placing a client flag in the electronic medical record under flag type "Client has Advanced Directive".

E. Changes in Advance Directives

1. Members may revoke any part or all of an Advance Directive at any time, verbally or in writing.
2. If a member tells a staff member, either verbally or in writing, that they wish to revoke their Advance Directive or wish to change part of the Advance Directive instructions, their wishes should be documented in the member's medical record and the member should be instructed to bring in a newly executed Advance Directive when they are able.
 - a. In the case of a modification, the flag in the member's medical record in SmartCare should be updated to reflect that a modification was requested.
 - b. If there is no longer an Advance Directive in effect, the flag in the member's medical record in SmartCare should be removed.
3. If a member indicates that they have a new Advance Directive, staff will ask them to bring in a copy of the most recent version. It is the member's responsibility to inform their healthcare providers of their wishes regarding their healthcare and to provide copies of the Advance Directive to their primary care provider.

F. Individuals under Conservatorship

1. Staff may suggest that individuals under conservatorship talk to their Conservator about their wishes regarding Advance Directives. Questions about the rights of conserved individuals should be directed to the Patient Rights' Advocate at (707) 565-4978.

G. Complaints

1. For complaints about provider non-compliance with Advance Directives or disputes regarding the rights of healthcare agents, contact the Patients' Rights Advocate at (707) 565-4978, or email: sonompra@mhaac.org

VI. Forms

None

VII. Attachments

Attachment #1: Advance Directive Brochure entitled “Your Right to Make Decisions About Medical and Mental Health Treatment”, form MHS 157 (English and Spanish)

Attachment #2: Advance Health Care Directive (English and Spanish)