

Mental Health Advanced Directives

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In this age of preplanning for just about every aspect of our life, it should not be a surprise that a Mental Health Advance Directive exists to help individuals plan mental health treatment. What may be a surprise is the fact that Psychiatric Advance Directives have been around since the 1980's. The state of Pennsylvania has been slow in accepting the idea that a person should be able to develop an advance directive for his/her mental health treatment. Act 194, Mental Health Declarations and Powers of Attorney, was signed into law by Governor Edward Rendell in November 2004 and went into effect January 2005.

Act 194 is intended to help individuals who have a mental illness plan services and supports they would want to have should they become unable because of their mental illness, to make those choices known (The Advocacy Alliance). The purpose of the law is to allow adults to consent to, or refuse, various treatments for mental health care in advance of their need for that treatment, in case their mental illness makes them incapable of making mental health decision at a later date. They also may appoint another person to make treatment decisions for them (The Hospital & Healthsystem Association of Pennsylvania and the Pennsylvania Psychiatric Society).

The majority of Pennsylvanians are familiar with living wills, the physical health version of an advance directive. Living wills provide us with an opportunity to make choices about our future physical health treatment and we are usually asked about them at admission to a hospital. In simple terms a Mental Health Advance Directive allows an individual to make choices

known regarding mental health treatment in the event that her/his illness makes her/him unable to make decisions.

Act 194 provides a person with three ways to make these choices known: 1) a Declaration, 2) a Mental Health Power of Attorney, or 3) a Combined Mental Health Declaration and Power of Attorney. Below is a brief description of each these ways.

A Declaration is a written form that gives health care providers detailed instructions on what a person would want to happen if he/she becomes too ill to make decisions, give informed consent, or communicate his/her wishes. A Mental Health Power of Attorney names someone, referred to as an agent, to make treatment decisions on the individual's behalf in the event he/she becomes too ill to make decisions, give informed consent, or communicate his/her wishes.

A Combination of a Declaration and Power of Attorney allows a person to make detailed instructions about some things, but also allows her/his agent the ability to make some decisions. The person making the Advanced Directive writes out what decisions the agent is allowed to make, and gives the agents as much control over decisions as the person writing the directive wants to give. This kind of Advance Directive can allow for the agent to make decisions regarding any new treatment options that may not have been available when the Advance Directive was originally made.

The law, Act 194, requires Hospitals and Medical Facilities to:

- Inquire at admission if patients have existing advance directives;
- Provide an advance directive for an individual to complete, if he/she wishes;

- Upon learning that a person has an advance directive, place a copy in the person's mental health care record;
- Provide educational materials about advance directives as part of discharge planning; and
- Make every reasonable effort to transfer the person to another facility if the provider cannot comply with the directions on the advance directive.

In order to complete a mental health advance directive an individual has to be at least 18 years of age or be an emancipated minor and cannot be currently under an involuntary commitment or determined to be incapable by the court. A mental health advance directive should be completed by any person who lives with a mental health disorder and wishes to maintain control over decisions about his/her mental health treatment. The mental health advance directive gives the person the ability to make decisions about things such as who should be notified if a hospitalization occurs, which hospital a person wants to go to, which medications have not been successful in the past, and a person's wishes about electroconvulsive therapy (ECT). This type of directive provides the person's family, friends, and doctor with the person's wishes regarding mental health treatment.

According to the parameters of Act 194 the mental health advance directive becomes legal and valid when it is signed by the individual, witnessed by two people (must be at least 18 years of age) and dated. The witnesses cannot be health care service providers unless they are related by blood. The advance directive is good for 2 years from the date it is signed and witnessed. An individual may change the advance directive at any time unless the person is under an involuntary commitment or deemed incapacitated by a psychiatrist and another treatment physician or treatment professional. The advance

directive may be cancelled at any time by the person.

A health care facility does not have to comply with an advance directive, remember this is a document written to inform providers in advance what the individual's choices or wishes are regarding mental health treatment. The advance directive does not relieve the treating doctor of his/her responsibility for determining the appropriate standard of care. It is a tool for the doctor to use in making her/his decision about the standard of care. The health care provider may also petition the court for a determination that the advance directive would be detrimental to the individual's health and well-being.

This writer recommends that all individuals with mental health disorders complete an advance directive as part of her/his mental health recovery. More information about advance directives can be obtained through the Mental Health Association of Lebanon County and should be available through your mental health services provider; also see

www.theadvocacyalliance.org/Programs;www.mhapa.org/downloads/Adv_1_Directives_6.pdf;

or

www.haponline.org/downloads/Dfy_MH_AD_brochure.pdf

The next mental health column will begin a series on mental health stigma.

Don't miss out on your chance to win \$500 or \$100 per month for a year. Tickets are still available at the Mental Health Association's Office. Ticket sales will end on Tuesday, June 29, 2010 and the PA Lottery's Midday and Evening Daily Numbers on June 30th will be used to determine the winners.

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