

Mental Health Advance Directives

Participation ♦ Planning ♦ Peace of Mind

Service Coordinator New Hire Training



Keystone
Pennsylvania

Agenda

- Introduction
- Definition
- Benefits
- Providing Assistance
- Provider's Responsibility
- Resources

The Right to Choose

- Individuals have the RIGHT to...
 - Receive Treatment
 - Consent to Treatment
 - Refuse Treatment
 - Except in an emergency

Have Your Clients Ever...

- Been forced to take medication they didn't want?
- Not been prescribed the medication they feel works best?
- Worried about who would care for their children, pets, or home if they were in the hospital?
- Had a support person they wanted to be involved in their care who was not permitted to be?

What is a MHAD?

- Mental Health Advance Directive (MHAD)
 - A written document of an individual's preferred mental health treatment
 - Used when the individual lacks the capacity to make his/her own mental health treatment decisions
 - Natural part of the wellness plan

Types of MHAD

- Declaration Form
 - More defined, less flexible
- Power of Attorney (POA) Form
 - More flexible, requires an agent
- Combination
 - Declaration and POA Form
 - Allowed in Pennsylvania

Types of MHAD

1. Do you want to make all of your own mental health treatment decisions without having anyone else involved?	Yes No	If You Answer Yes to Question 1, Use A Declaration Form
2. Do you want someone else to make some mental health treatment decisions for you? This person will be called an "agent."	Yes No	If You Answer Yes To Questions 2, 3, and 4, Use A Power Of Attorney Form
3. Do you have someone you trust to make the same mental health treatment decisions for you that you would make for yourself?	Yes No	
4. Is that person willing to be your agent?	Yes No	
5. Do you want to prevent your agent from making certain decisions about your mental health treatment?	Yes No	If You Answer Yes To Questions 2, 3, 4, and 5, Use A Combined Declaration and Power of Attorney Form

Who Can Make a MHAD?

- To make a MHAD your client...
 - Must be at least 18 years old or an emancipated minor
 - Currently needs to have capacity
 - Cannot have a legal guardian

What is Capacity for a MHAD?

- Capacity for a MHAD is only related to mental health treatment
- Capacity is the basic ability to understand...
 - Your diagnosis
 - The risks and benefits of treatment
 - The risks and benefits of alternative treatments
 - The consequences of not having any treatment

How is Capacity Determined?

- It is assumed that a person has capacity
- There must be two evaluations to determine a person does not have capacity
 - One by a psychiatrist and another by a mental health professional
 - Whenever possible, one of the evaluators will be the client's treating professional

What is an Agent?

- MHAD Agent
 - The person the client has chosen in a MHAD to make his/her mental health decisions when he/she doesn't have capacity
 - The client decides which powers the agent has

What is an Agent?

An agent is someone who...

- The client trusts to make the same decisions he/she would
- Can make decisions based on discussions with the client and the MHAD
- Is available to make treatment decisions

An agent is NOT someone who...

- Is the client's provider or an employee of his/her provider
- Is an owner, operator, or employee of a residential facility the client resides (unless related)
- Witnessed the MHAD or signed the MHAD for the client

Types of MHAD Choices

Treatment

- Consent or refusal for mental health treatment
- A provider must comply if they can

Preferences

- Includes choice of hospital, childcare, pet care, ect.
- A provider is not legally bound to comply, but should respect them



Types of MHAD Choices

Treatment

- Medications
- Electroconvulsive Therapy (ECT)
- Drug Trials
- Research Studies
- Treatment History
- Crisis Management
- Dietary Needs (medically needed)

Preferences

- Who should be called
- Who will care for children or pets
- Dietary Choices
- Religious Choices
- Preferred Hospital

Written Consent

- A person must specifically write his/her consent to...
 - Electroconvulsive Therapy (ECT)
 - Experimental Studies
 - Drug Trials
- It is considered a refusal of treatment if there is no written consent

Benefits

- Having a MHAD gives your client...
 - More control over his/her treatment plan
 - Peace of mind that his/her preferences are known
 - Comfort in seeking treatment
 - Better treatment, faster
 - The ability to communicate his or her treatment preferences

Benefits

- When you assist your client in completing a MHAD it:
 - Improves the working alliance between your client and the providers
 - Creates a greater client satisfaction with mental health services

* MHAD is a billable service

Client-Identified Barriers

- Only **4% to 13%** of outpatient clients have a completed MHAD
 - Studies suggest that **50% to 60%** of clients with severe mental illness would complete an MHAD *given the choice and necessary assistance*
- Client-Identified Barriers
 - Difficulty understanding a MHAD
 - Skepticism about the benefits of a MHAD
 - Lack of a trusted individual to serve as an agent
 - Complexity of filling out forms, obtaining witnesses, and making copies

(Swanson et al., 2006a as cited in Swanson et al., 2006b, p. 1944)

Providing Assistance

- A recent study showed that **61% of study participants** (vs. 3% in control groups) completed an MHAD when provided with assistance that included:
 - An orientation to MHAD concepts
 - Review of past treatment experiences
 - Documentation of future treatment preferences with guided discussion of choices involved in planning for mental health care while incapacitated
 - Assistance with completion of forms, obtaining witnesses, and filing forms in the medical record

(Swanson et al., 2006b)

Providing Assistance

- Inform clients that they have a right to make treatment choices
- Help clients determine which form meets their needs
- Support client decision-making by asking questions and providing information
- Encourage clients to include what treatments do work for them as well as treatments that have not worked
- Make certain that the MHAD is valid: **SIGNED** and **DATED** in front of two witnesses who also signed the MHAD
- Assist clients with making copies for providers, trusted family and friends
- Assist clients to make a wallet card stating there is a MHAD and who to contact to get a copy

Provider's Responsibilities

- Ask the client if he/she has a MHAD
- Inform clients being discharged of a MHAD
- Place copy of the MHAD in the mental health record for at least two years
- Make any revocation or amendment of the MHAD part of the mental health record
- Document any determination of capacity to make mental health care decisions
- Comply with the MHAD (cannot violate clinical practice or medical standards)

Provider's Responsibilities

- Inform clients and legal representative if the provider cannot comply with something in the MHAD (must document reasons)
- Make reasonable efforts to transfer care if the provider cannot comply with the MHAD
- Receive consent before providing treatment, unless there is an emergency
- Cannot accept or refuse to accept an individual as a patient solely on the basis of having or not having a MHAD

Conflict of Interest

- Providers may find it difficult to support clients who make choices that differ from what the provider feels is best
 - A MHAD must reflect the client's choices and preferences and never the provider's

Client Confidentiality

- A copy of the MHAD should be provided to relevant treatment professionals in the event of a crisis
 - Presumably, your client wants the people treating him/her to have access to the MHAD

MHAD Resources

- NAMI: 412-366-3788
- jvaporetti@namikeystonepa.org

- Disability Rights PA
 - 1-800-692-7443

Thank You

This presentation was originally developed by Disability Rights Pittsburgh (DRNPA) and later adapted by NAMI Keystone Pennsylvania.

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References

Swanson, J. W., Swartz, M.S., Ferron, J., Elbogen, E.B., & Van Dorn, R. (2006). Psychiatric advance directives among public mental health consumers in five U.S. cities: Prevalence, demand, and correlates. *Journal of the American Academy of Psychiatry & Law*, 34 43-57.

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Thank You!

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