

*NOTE: In ALL capacity determinations one mental health professional or health care provider must personally examine the patient. An initial capacity determination must be made within 48 hours of the request. Treatment cannot be provided prior to capacity determination unless authorized by the patient, their mental health advanced directive or under state/federal law.

___ ___ 2) Does the patient have capacity? If yes, admit if:

___ ___ A) The patient consents, or

___ ___ B) The patient is detained under state involuntary treatment provisions.

___ ___ 3) Was patient determined incompetent for purposes of giving informed consent for health care using the process under 1)C)ii? If yes, document the rationale behind the decision.

NOTE: An incompetent person is any person who is incompetent by reason of—mental illness, developmental disability, senility, habitual drunkenness, excessive use of drugs or other mental incapacity of either managing his or her property or caring for himself or herself or both.

___ ___ 4) Is the patient incapacitated (but not refusing treatment) and does the mental health advance directive indicate consent for admission for inpatient care? If yes, admit.

___ ___ 5) Is the patient incapacitated and:

A) did the patient choose not to be able to revoke the directive during a period of incapacity; and

B) does the mental health advance directive indicate consent to inpatient admission, and

C) now the patient is refusing admission?

If yes, admit only if the physician:

___ ___ i) Evaluates the patient's mental condition⁴ (psychiatric & psychological history) and determines in conjunction with another healthcare provider the patient is incapacitated,

___ ___ ii) Obtains informed consent of the agent—if any, and

___ ___ iii) Documents the rationale and the need for inpatient treatment that cannot be achieved in a less restrictive environment.

⁴ If the physician is not a psychiatrist, the patient must receive a complete psychological assessment by a mental health professional within 24 hours.

Findings and recommendations:

___ ___ 6) Is the patient incapacitated and:

A) chose to be able to revoke the directive during a period of incapacity; and

B) has a mental health advance directive that indicates consent to inpatient admission; and,

C) now is refusing admission?

If yes, then document the refusal of admission and ask the patient if he or she wishes to make a written statement revoking the directive. If such a statement is provided, include the statement in the medical record.

7) If a patient is admitted to inpatient treatment, capacity will need to be re-evaluated:

A) Within 72 hours of admission or if there is a change in the patient's mental health capacity whichever comes first,

OR

B) After 72 hours, whenever a change in condition indicates that he/she may have regained capacity or when the patient or agent⁵ requests an evaluation (predetermination must occur within 72 hour timeframe).

8) Review the directive and incorporate preferences into treatment plan as needed.

___ ___ 9) During treatment, evaluate whether there are any parts of the directive that cannot be incorporated into the treatment plan. If yes, document the rationale and advise the patient and/or agent. Acceptable reasons under the law include (Check all that apply):

___ ___ A) Directive provisions violate acceptable care standards

___ ___ B) Requested treatment is not available

___ ___ C) Compliance would violate law

___ ___ D) Situation constitutes emergency and may endanger a person's life or health.

Clinician questions on mental health advance directives? Contact: _____.

⁵ See footnote 1.