

# What patients should know about Mental Health Advance Directives

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## *What is a mental health advance directive?*

A Mental Health Advance Directive (MHAD) is a legal form that allows you to plan your behavioral health care treatment for the future. Behavioral health care includes care for both mental health and substance use disorder conditions. Any person, 13 years of age and above, can choose to complete a MHAD. A MHAD is helpful if you need care but cannot make decisions due to a behavioral health condition. A MHAD is a written statement that:

- Says the type of treatment you do or do not want;
- Allows you to choose a person called an agent to make vital health care decisions for you.

## *Who can I appoint as my agent?*

Your agent cannot be your doctor or anyone who works for the facility where you get care (unless that person is your spouse, adult child, or sibling).

Your agent should be:

- Someone you trust;
- Someone who knows your treatment choices; and
- Someone at least 18 years of age.



## *When does a mental health advance directive apply?*

Under Washington State law, a MHAD goes into effect

only if a person becomes “incapacitated”. “Incapacitated” is a legal term that means that a person cannot make sound decisions. Before a person can be declared “incapacitated”, health care staff or a court must decide that they are unable to make sound choices about their health care.

## *Can I change my mental health advance directive?*

Yes. The best way to change your MHAD is to cancel or revoke it. To cancel or revoke your MHAD you must:

- Put in writing that you want to cancel or revoke the directive;
- Sign it; and
- Give copies to your family, doctor, lawyer, and agent.

You may cancel or revoke your directive only when you are mentally fit, unless you chose in the directive to be able to do so when you are “incapacitated”. You must provide an updated copy of your revoked MHAD to your providers for the change to be honored.



### ***Do hospitals require that I have a mental health advance directive?***

No. A MHAD is not required. But hospital staff must ask if you have one and note this in your medical chart. It is important to consider where your MHAD is stored. You and your family should agree on a place to keep your original MHAD. If you go to the hospital, take a copy with you. Copies should also be given to your:

- Family
- Doctor
- Lawyer
- Agent

### ***Will hospitals and my doctor follow my mental health advance directive?***

Hospitals support patients' rights to make choices about their health care. Your MHAD will NOT be followed if it:

- Breaks state law;
- Breaks medical and ethical standards; or
- Breaks hospital policies

Hospitals and doctors must inform you of their policies on directives. If there is a conflict, you or your agent will have to decide whether to continue treatment. If for some reason a part of your MHAD cannot be followed, the rest of the directive is still valid.



### ***What if I have a living will or durable power of attorney for health care?***

The living will and durable power of attorney for medical decisions will be in effect except where they conflict with your mental health advance directive. You may also ask your lawyer to make sure the documents do not conflict. To avoid confusion, you may want to have one agent for both mental health and medical decisions.

### ***How do I prepare a mental health advance directive?***

- You can find a standard state form at: [www.washingtonlawhelp.org/resource/mental-health-advance-directives](http://www.washingtonlawhelp.org/resource/mental-health-advance-directives)
- Contact your health care provider and/or attorney before making a directive.
- Use one of the resources listed below to learn more, or seek support in completing a directive.

#### **Disability Rights Washington**

(206) 324-1521 or (800) 562-2702  
[www.disabilityrightswa.org](http://www.disabilityrightswa.org)

#### **Northwest Justice Project**

(206) 464-1519 or (888) 201-1012  
[www.nwjustice.org](http://www.nwjustice.org)

#### **King County Bar Association**

(206) 267-7100  
[www.kcba.org](http://www.kcba.org)

#### **Washington State Health Care Authority**

[www.hca.wa.gov/health-care-services-supports/behavioral-health-recovery/mental-health-advance-directives](http://www.hca.wa.gov/health-care-services-supports/behavioral-health-recovery/mental-health-advance-directives)