

*What Patients Should Know About*

*Mental Health  
Advance Directives*



Washington  
State  
Hospital  
Association

## What Patients Should Know About Mental Health Advance Directives

### What is a mental health advance directive?

A Mental Health Advance Directive (MHAD) is a legal form that allows you to plan your mental health care treatment for the future. A MHAD is helpful if you need care but cannot make decisions due to mental illness. 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 he or she is unable to make sound choices about his or her 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”. Your doctor must know about changes to your MHAD or the changes will not be valid.

### 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.

### Where should I keep my mental health advance directive?

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:  
<http://www1.dshs.wa.gov/mentalhealth/advdirectives.shtml>.



- Contact your health care provider and/or attorney before making a directive.
- Contact one of the agencies listed below. They can help you find a lawyer who will help you write a directive (in some cases for little or no fee).

#### Disability Rights Washington

(206) 324-1521 or (800) 562-2702

#### Northwest Justice Project

Low-income non-King County clients  
(888) 201-1014

#### King County Bar Association

Attorneys for low-income clients

(206) 267-8989

Lawyer referral for all other clients

(206) 267-7010



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