



**DIVISION OF PUBLIC AND BEHAVIORAL HEALTH  
CLINICAL SERVICES**

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<b>Control #</b>	<b>Rev.</b>	<b>Title:</b>	<b>Effective Date: 03/16/2018</b>
<b>CRR 1.4</b>	<b>New</b>	<b>Health Care and Psychiatric Advance Directives</b>	<b>Next Review Date: 03/01/2020</b>

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**1.0 POLICY:**

It is the policy of the Division of Public and Behavioral Health (DPBH) Clinical Services Branch to preserve client autonomy and dignity by maintaining the client’s legal and ethical rights to make decisions regarding treatment as defined by the Patient Self Determination Act of 1990.

**2.0 PURPOSE:**

This process establishes guidelines for clinical Services Branch facilities to use in establishing protocols for informing and assisting clients who wish to make Advance Health Care or Psychiatric Health Care Directives consistent with [NRS 449A.600 – 449A.645](#).

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**3.0 SCOPE:** DPBH Clinical Services Branch

**4.0 DEFINITIONS:**

- 4.1 Advance Directive is a written executed document that expresses a client’s wishes in advance about what types of healthcare treatments, services or other assistance they might want in a health care crisis.
- 4.2 Psychiatric Advance Directive (PAD) for mental health care means a written executed document in which a competent client makes a declaration of instructions, information and preferences regarding acceptance or refusal of types of mental health treatment and intervention during a future mental health crisis and or to appoint a proxy decision maker to carry out their wishes when they are determined to be no longer able to make or communicate decisions regarding the provision of psychiatric care.
- 4.3 The Patient Self Determination Act (PSDA) is a federal law that ensures a client’s right to self-determination in healthcare decisions is both



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communicated and protected. PSDA applies equally to psychiatric and general health care facilities.

- 4.4 Durable Power of Attorney for Health Care: a document delegating authority to an agent to make health care decisions in case the individual delegating that authority subsequently becomes incapacitated.
- 4.5 Living Will: —a document allowing a person to state in advance his/her wishes regarding life sustaining treatment if they have a terminal condition and are unable to make decisions at that time.
- 4.6 Attending physician has the meaning ascribed to it in NRS 449.550.

- 4.7 Principal means the person who has executed an advance directive for psychiatric care.
  - 4.7.1 A person of sound mind and 18 or more years of age and all persons who have been declared emancipated pursuant to NRS 129.080 to 129.140 may execute at any time an advance directive for health care and psychiatric care.

- ~~4.7.2 The principal may designate another natural person of sound mind and 18 or more years of age to make decisions governing the provision of health care and psychiatric care.~~
- ~~4.7.3 The advance directive must be signed by the principal, or another at the principal's direction and attested by two witnesses.~~

- 4.8 Provider of health care has the meaning ascribed to it in NRS 449.581.
- 4.9 Psychiatric care means the provision of psychiatric services and psychiatric treatment and the administration of psychotropic medication.
- 4.10 A person of sound mind who is 18 or more years of age or who has been Declared emancipated pursuant to NRS 129.080 to 129.140, inclusive, may execute at any time an advance directive for general health care and psychiatric care.

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- 4.11 The principal may designate another natural person of sound mind and 18 or more years of age to make decisions governing the provision of psychiatric care.
- 4.12 The advance directive must be signed by the principal, or another at the principal's direction, ~~and~~ attested by two witnesses and notarized.
  - 4.12.1 Neither of the witnesses may be:
    - 4.12.1.1 The attending physician or provider of health care;
    - 4.12.1.2 An employee of the attending physician or provider of health care;
    - 4.12.1.3 An owner or operator of a medical facility in which the principal is a patient or resident or an employer of such an owner or operator; or
    - 4.12.1.4 A person appointed as an attorney-in-fact by the advance directive

**5.0 PROCEDURE:**

- 5.1 On admission to any DPBH facility clients will be asked if they have Advance Health Care or Psychiatric Advance Directives.
  - 5.1.1 Clients will be informed that under state law they have the right to make decisions concerning their own health care and psychiatric health care, including the right to accept or refuse treatment and the right to formulate advance directives;
  - 5.1.2 Psychiatric Advance health Care Directives become effective on execution and expire two years from that date.
- 5.2 Staff must document in the patient's current medical record whether the patient has an Advance Health care or Psychiatric Health Care directive; if the client states that they do have Health Care or Psychiatric Health Care Directives but do not have a copy, notify the Social Work Department.
  - 5.2.1 The Social Work Department will work to secure a copy of the Advance Directive for Health Care and /or Psychiatric care within three (3) working days.



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- 5.3 Clients must be informed of their rights in writing, including the right to prepare advance health care and psychiatric health care directives.
- 5.4 Provide education for staff on issues concerning advance health care and psychiatric health care directives (United States Code, 2000).
- 5.5 Advance Directives do not relieve healthcare providers and facilities of their responsibility to treat patients according to the appropriate standard of care.
- 5.6 Healthcare providers and facilities cannot use their obligation to treat patients appropriately as an excuse to override advance directives.
- 5.7 Psychiatric advance directives do not become operative until
  - 5.7.1 They are communicated to a physician or any other provider of healthcare;  
and
  - 5.7.2 The principle is determined to be no longer able to make or communicate decisions regarding the provision of psychiatric care.
- 5.8 When acting under the authority of an advance directive for psychiatric care, an attending physician or other provider of health care shall comply with the advance directive unless:
  - 5.8.1 The principal is admitted to a mental health facility or hospital pursuant to NRS 433A.145 to 433A.330, inclusive, and a course of treatment is required pursuant to those provisions; or
  - 5.8.2 Compliance, in the opinion of the attending physician or other provider, is not consistent with appropriate psychiatric care in case of an emergency endangering the life or health of the principal or another person.
- 5.9 In the event that one part of the advance directive is unable to be followed, all other parts of the advance directive must be followed.
- ~~5.6~~

**6.0 REFERENCES:**

- 6.1 Patient Self Determination Act (PSDA)
- 6.2 National Resource Center on Psychiatric Advance Directives
- ~~6.26.3~~ NRS 449A.600 – 449A.645

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**7.0 ATTACHMENTS:**

**8.0 IMPLEMENTATION OF POLICY:**

Each Division agency shall implement this policy and may develop specific written protocols and procedures as necessary to do so effectively.

EFFECTIVE DATE: 03/16/2018

DATE APPROVED BY DPBH ADMINISTRATOR: 03/16/2018

DATE APPROVED BY THE COMMISSION ON BEHAVIORAL HEALTH: 03/16/2018