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The
What-if?
Workbook



*How to Make Decisions
About Your Mental Health
Treatment*

Ahead of Time

WITH
ADVANCE
DIRECTIVES 



The

What-If?

Workbook

How to Make Decisions About
Your Mental Health Treatment
Ahead of Time

with Advance Directives

This publication was produced by the
Ohio Legal Rights Service
through a contract with
Ohio Advocates for Mental Health.

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The purpose of this workbook is to give you information about Advance Directives - specifically about the “Declaration for Mental Health Treatment” - and to guide you through the process of deciding if you want one or need one.



The information in this publication is not a substitute for legal advice. If you think you need legal advice, you should consult a lawyer.


My Name _____

***Who Gave Me
This Workbook*** _____

***Their Contact
Information*** _____

***When & Where
I Got It*** _____

THIS
WORKBOOK
IS YOURS TO
KEEP. USE IT
AND SHARE
IT.



In “advance” means ahead of time
and “directives” are what you
tell others to do.

“Advance Directives” ... are what you

tell others to do
ahead of time.

Introduction

What would happen if you could not speak for yourself?

If you needed treatment, would you want other people to make decisions about what treatment you got? Or would you want to make your own decisions?

Do you have an idea of what kind of treatment you would want? Do you know what treatment you would say no to?

Do you want to be the person who decides?

Think Ahead

You Can Decide For Yourself with an “Advance Directive”

You can decide for yourself. The law in Ohio says that you have the legal right to decide for yourself. You can decide today what treatment you get tomorrow or next month or next year, by writing something called an “Advance Directive.” Your “Advance Directives” speak for you when you can’t speak for yourself.

An “Advance Directive” lets you make decisions ahead of time, to tell your family, friends and treatment professionals what you want them to do for your mental health treatment, when you can’t tell them yourself.

If you write your “Advance Directives” by following special rules in Ohio’s law, treatment professionals in Ohio must follow what your “Advance Directives” say. An “Advance Directive” can give you more control over your treatment.

With an “Advance Directive,” you will make the decisions about your treatment, not other people. *It is your decisions that count.*

Your Decisions Count

Two Kinds of Advance Directives

There are 2 kinds of Advance Directives that people use to tell others ahead of time what mental health treatment they want, when they can't speak for themselves. These are: (1) the ***“Durable Power of Attorney for Health Care,”*** and (2) the ***“Declaration for Mental Health Treatment.”***

1. “Durable Power of Attorney for Health Care”

- ↳ Lets you tell others what you want:
 - *for your medical treatment, or*
 - *for your mental health treatment, or*
 - *for both your medical treatment and mental health treatment.*

2. “Declaration for Mental Health Treatment”

- ↳ Lets you tell others what you want:
 - *for your mental health treatment only.*

Durable
Power of
Attorney for
Health Care



Declaration
for Mental
Health
Treatment

If you want to read the Ohio law for Declaration for Mental Health Treatment, it is in the Ohio Revised Code Chapter 2135. The law about Durable Power of Attorney for Health Care is in the Ohio Revised Code Chapter 1337.

You Choose

You can choose to make either one of these Advance Directives, or to make both of them, or to not make any at all. But you should know this **VERY IMPORTANT DIFFERENCE** between these two kinds of Advance Directives:

- ▶ You can always change or cancel the “***Durable Power of Attorney for Health Care.***”
- ▶ You **CAN NOT** make a new “***Declaration for Mental Health Treatment,***” change the one you have, or cancel it, if a doctor and one other mental health professional say you are not able to make decisions. If a doctor and one other mental health professional say this, your declaration will stay good and people should do what it says, even if you don’t want them to.

A Very Important Difference

You can always change or cancel the “Durable Power of Attorney for Health Care.”

You CAN NOT make a new “Declaration for Mental Health Treatment,” change the one you have, or cancel it, if a doctor and one other mental health professional say you are not able to make decisions.

If you make both of these Advance Directives, the “***Declaration for Mental Health Treatment***” becomes the most important and is what others must follow about your mental health treatment.

Why Is Having an Advance Directive Important?

Having an Advance Directive like a *“Declaration for Mental Health Treatment”* is important because it gives you more control over your mental health treatment if you can’t tell others what you want.

Use this workbook to think about your own Advance Directives. Thinking about the questions in the workbook, and writing down some of your own answers, can help you get ready to write your own Advance Directives.

Why It’s Important

Having an Advance Directive like a “Declaration for Mental Health Treatment” is important because it gives you more control over your mental health treatment if you can’t tell others what you want.

Making a Declaration for Mental Health Treatment

This workbook tells you about the *“Declaration for Mental Health Treatment”* - about what it is and what you must do to make one.

Declaration for Mental Health Treatment

Lets You Make Treatment Decisions

- ▶ The “**Declaration for Mental Health Treatment**” lets you decide, ahead of time, about your mental health treatment. It lets you make decisions about:
 - *medications;*
 - *electroconvulsive therapy (ECT or “shock treatment”);*
 - *where you get treatment;*
 - *what kind of treatment you want, and who you want to treat you (for example, if you have a Wellness Recovery Action Plan [WRAP], or a crisis plan).*

- ▶ Your treatment preferences will be honored unless:
 - *The treatment preference conflicts with reasonable medical practices;*
 - *The treatment preference conflicts with available resources;*
 - *An emergency situation endangers the life or health of you or another person; or*
 - *The treatment preference conflicts with a court order.*

Declaration for Mental Health Treatment

Lets you decide, ahead of time, about your mental health treatment.

It is a Legal Document

▶ The ***“Declaration for Mental Health Treatment”*** is a legal document that will only start to work if 2 things happen:

1. *First, you must tell your doctor that you have one, and what it says. It is a good idea to give your doctor a copy of your **“Declaration for Mental Health Treatment.”***
2. *Second, a doctor and one other mental health professional have to agree that you are not able to make your own decisions. Your treating doctor can be one of these two people, but the other person can not be someone who is treating you.*

Declaration for Mental Health Treatment

*Is a legal document that
will only start to work if
two things happen....*



You Must Follow Special Rules When You Write It

▶ The “**Declaration for Mental Health Treatment**” will only work if you follow special rules when you write it. You have to follow the rules or else the declaration is no good. The rules are in a law, and they say:

- *You must sign the declaration in front of 2 special witnesses (called “qualified witnesses”) OR, in front of a notary public.*
- *The special or “qualified,” witnesses **can’t be** any of these people:*
 - x the person who gives you treatment, or that person’s employee or relative;
 - x the person who owns or runs the health care facility where you live, or where you are a patient, or that person’s relative;
 - x your family member (by blood, marriage or adoption);
 - x the person who you pick to make your decisions for you (this person is called your “proxy.”)

There Are Rules For Making a Declaration

You must sign the Declaration in front of special witnesses or a notary public

Let's You Pick a "Proxy" to Make Decisions for You

- ▶ The ***"Declaration for Mental Health Treatment"*** lets you pick an adult person to make decisions for you, if you want that. This person is your "proxy."
- ▶ ***You should keep in mind that you do not have to have a "proxy" if you don't want one.***
- ▶ If you pick a "proxy," it should be someone you know and trust. There are some restrictions on who you can pick as your proxy. You cannot pick any of the following people, unless he or she is related to you by blood, marriage or adoption:
 - *Mental health treatment providers or an employee of the treatment provider.*
 - *The owner, operator, or employee of a health care facility where you are a resident or a patient receiving services.*
- ▶ Your proxy makes decisions by following what you write in the ***"Declaration for Mental Health Treatment,"*** or by following what you have asked the proxy to do. You should know that, because your "proxy" will make your decisions, your "proxy" will be able to look at your health care records and information.
- ▶ A person can only be your "proxy" if they agree to being the "proxy" and then sign your declaration, in front of two witnesses or a notary public, saying that they agree. And, the person can decide to stop being your "proxy" at any time - it is up to them.

You Can Pick
A Person
to Make
Decisions
For You -
If You Want

To change what your Declaration says, you have to make a new one. But, if your current Declaration is Already Being Used, You Can Only Make a New One If a Doctor and One Other Mental Health Professional Say That You Are Now Able to Make Decisions

Also, You Can Cancel It, But Not If a Doctor and One Other Mental Health Professional Say That You Are Unable to Make Decisions

▶ You can make a new *“Declaration for Mental Health Treatment”* if you decide that you want it to say something else. Also, you can cancel it (which stops it) if you don’t want to have it anymore.

▶ **BUT:** If a doctor and one other mental health professional have already said that you are unable to make your own decisions, ***YOU CAN’T MAKE A NEW ONE*** and ***YOU CAN’T CANCEL*** your declaration, even if you want to. *The law says that the declaration is good and people should to do what it says, until a doctor and another mental health professional say you are once again able to make your own decisions.*

▶ You can cancel your *“Declaration for Mental Health Treatment”* if you are able to make decisions. Cancelling the declaration means that no one will have to do what it says. (Cancelling is also called “revocation.”) To cancel it, you have to do both of these things:

1. You must sign your name and write the date in a special part in the “Declaration for Mental Health Treatment” called the “Revocation” section, and
2. You must tell your mental health treatment provider that you cancelled your declaration.

You Can
Make a New
Declaration or
Cancel It

But Not If a
Doctor and
One Other
Mental Health
Professional
Say That You
Are Unable
to Make Your
Own Decisions

Your Declaration Is In Effect (Stays Good) for 3 Years

- ▶ Your ***“Declaration for Mental Health Treatment”*** stays good for 3 years unless you cancel it by signing and writing the date in the “Revocation” section of the declaration, and telling your mental health treatment provider. After 3 years, your declaration will end (“expire”).
- ▶ As long as you don’t make any changes to your declaration, you can start it up again (“renew” it) for another 3 years by signing the “Renewal” section of the ***“Declaration for Mental Health Treatment.”*** You can only renew the declaration one time. After you renew it once, it will expire after the 3 years are up, and you will have to make a new one. If you want to change anything, you have to make a new one.
- ▶ If people are already doing what your ***“Declaration for Mental Health Treatment”*** says, they must keep doing those things until doctors say you are once again able to make your own decisions, ***even if your 3 years have finished.***

Good for
3 Years

You Should Tell These People About Your Declaration

- ▶ You should tell your doctor and mental health provider about your ***“Declaration for Mental Health Treatment.”*** You should give them a copy of it.
- ▶ You should tell someone you know and trust (like a friend or family member) about your ***“Declaration for Mental Health Treatment.”*** You should give them a copy of it.
- ▶ If you have a PROXY, you should make sure that person has a copy of your ***“Declaration for Mental Health Treatment,”*** and talk to the person about what it says.

Tell Others
About It

Questions You May Want to Ask Yourself

If I can't tell others what I want . . .

1 - What kinds of mental health treatment would I **WANT**?

If I can't tell others what I want . . .

2 - What kinds of mental health treatment would I **NOT WANT**?

If I can't tell others what I want . . .

3 - What hospitals would I **GO TO** for treatment?

If I can't tell others what I want . . .

4 - What hospitals would I **NOT GO TO** for treatment?

If I can't tell others what I want . . .

5 - What medications would I **AGREE TO TAKE?** And **WHY?**

If I can't tell others what I want . . .

6 - What medications would I **NOT AGREE TO TAKE?**
And **WHY?** (for example, because I have had negative
side effects or reactions)

7 - Would I want electro-convulsive treatment (ECT)?

NO - I DO NOT WANT electro-convulsive treatment. _____

YES - I DO WANT electro-convulsive treatment. _____

OTHER _____

If I can't tell others what I want . . .

8 - Which Doctors or Mental Health Providers do I **WANT** to treat me? (Name, and phone number if you have it.)

If I can't tell others what I want . . .

9 - Which Doctors or Mental Health Providers do I **NOT WANT** to treat me? (Name, and phone number if you have it.)

If I can't tell others what I want . . .

10 - I **DO NOT WANT** these people to visit me in a hospital.

If I can't tell others what I want . . .

11 - This person has my ok to look after any relative or pet that I am responsible for, or to look after my property. (Write the person's name and information, and if they agree to do this for you.) Explain if you gave them a Power of Attorney or other legal paper with your ok.

13 - Who will be my witnesses when I sign?

Witness #1's Name _____

Address _____

Telephone Number () _____

This person gives me treatment No Yes

This person is an employee or relative of a person who gives me treatment No Yes

This person owns or runs the health care facility where I live, or am a patient No Yes

This person is a relative of a person who owns or runs the health care facility
where I live, or am a patient No Yes

This person is my family member (by blood, marriage or adoption) No Yes

This person is my PROXY No Yes

**** If any of these answers is yes, this person can't be your witness. ****

Witness #2's Name _____

Address _____

Telephone Number () _____

This person gives me treatment No Yes

This person is an employee or relative of a person who gives me treatment No Yes

This person owns or runs the health care facility where I live, or am a patient No Yes

This person is a relative of a person who owns or runs the health care facility
where I live, or am a patient No Yes

This person is my family member (by blood, marriage or adoption) No Yes

This person is my PROXY No Yes

**** If any of these answers is yes, this person can't be your witness. ****

If I can't tell others what I want . . .

14 - Do I want a **PROXY**? Who do I want?

Do I want a PROXY?

NO _____

YES _____, I want this person to be my PROXY:

Name _____

Address _____


Telephone Number () _____

Is this person 18 years old or older? _____

Does this person agree to be my PROXY? _____

Does the person agree to be my PROXY, and to sign my
Declaration for Mental Health Care ? _____





To download a
“State of Ohio Declaration for Mental Health Treatment” form,
go to the Ohio Legal Rights Service website:

www.olrs.ohio.gov/other/MHDeclare.pdf

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