

 <p style="text-align: center;"><b>County of Sacramento</b>  <b>Department of Health and Human Services</b>  <b>Division of Behavioral Health Services</b>  <b>Policy and Procedure</b></p>	Policy Issuer (Unit/Program)	<b>QM</b>
	Policy Number	<b>QM-03-05</b>
	Effective Date	<b>05-25-2004</b>
	Revision Date	<b>07-01-2017</b>
Title: <b>Advance Medical Directive</b>	Functional Area: <b>Beneficiary Protection</b>	
Approved By: (Signature on File) <b>Signed version available upon request</b>		
<b>Alexandra Rechs, MFT</b> Program Manager, Quality Management		

**BACKGROUND/CONTEXT:**

Sacramento County Mental Health Plan (MHP), which includes Contract Providers, is mandated to be in compliance with the requirements of Title 42, Code of Federal Regulations, Section 422.128. The regulation requires MHPs to provide Adult Medi-Cal beneficiaries with current information explaining their rights under California State Law regarding an Advance Medical Directive (AMD). Additionally, the regulation requires MHPs to provide beneficiaries with current AMD related resource information.

**DEFINITIONS:**

**Advance Medical Directive (AMD)** – The Advance Health Care Directive has replaced the Natural Death Act Declaration and the Durable Power of Attorney for Health Care, and is now the legally recognized format for a living will in California. However, all unexpired Natural Death Act Declarations and Durable Powers of Attorney remain valid. An AMD allows a beneficiary to describe his or her physical health care wishes, in the event the beneficiary becomes seriously ill and is unable to speak for him/herself. A beneficiary may appoint another person (agent) who will have legal authority to make decisions concerning the beneficiary’s medical care if the beneficiary becomes unable to make the decisions. The beneficiary may revoke or change the AMD at any time by informing his/her health care professional personally or in writing.

**Health Care Agent** – is defined as any adult relative or any person trusted by a beneficiary who is willing to communicate the beneficiary’s physical healthcare wishes if the beneficiary is unable to do so. The law prohibits a beneficiary from appointing his/her doctor, any person who works in the health facility in which he/she is being treated, or any person in the community care or residential care facility in which he/she receives care, unless that person is related by blood, marriage, or adoption, or is a co-worker. An attorney is not needed to assist a beneficiary in completing an AMD unless the beneficiary has an LPS conservator and wishes to appoint the conservator as an agent. The beneficiary must be represented by legal counsel and satisfy the requirements as described in California Probate Code Section 4659.

**PURPOSE:**

The purpose of this Sacramento County MHP policy is to provide written information to all Adult (or emancipated minor) Medi-Cal beneficiaries, at the time of initial enrollment and thereafter upon request by the beneficiary, concerning their rights under California State law to execute an Advance Medical Directive. For the purposes of this Policy and Procedure, the AMD will apply to the physical health care of a beneficiary. It is the responsibility of the MHP to determine if an AMD exists for each beneficiary and, if one exists, to request a copy and maintain it in the beneficiary’s electronic medical record. Additionally, the MHP is responsible for providing current community resources regarding execution of an AMD.

## **DETAILS:**

### **Procedure:**

1. MHP staff shall ask the client if he/she has an Advanced Medical Directive, Durable Power of Attorney for Health Care, or a Natural Death Act Declaration. Whether or not a beneficiary has executed an Advance Medical Directive must be documented on the Acknowledgment of Receipt form.
2. If the beneficiary has an existing Advance Medical Directive:
  - a. MHP staff shall request that the beneficiary provide a copy of his/her Advance Medical Directive. MHP staff shall maintain the copy in the beneficiary's electronic medical record.
  - b. MHP staff shall ensure that the existence of a beneficiary's AMD will be prominently displayed and easily accessible in the beneficiary's electronic medical record. For example, staff can use an alert sticker in the front of the chart, a specific divider in the medical record, or other method which easily identifies the location of the document in the electronic medical record.- this example applies to a hard copy chart.
3. If the beneficiary does not have an existing Advanced Medical Directive, MHP staff shall provide written information (Advance Medical Directive Brochure) at the time of the initial Intake contact and thereafter upon request by the beneficiary, which explains a beneficiary's right to execute an AMD.
  - a. In the event that the beneficiary presents for his/her initial Intake appointment in an incapacitated state and is unable to receive information or articulate whether or not he/she has executed an Advance Medical Directive, written information may be given to a family member or a caregiver.
  - b. Written information shall be given to the beneficiary once he or she is no longer incapacitated or unable to receive such information.
4. MHP staff shall document that the beneficiary received information regarding an Advance Medical Directive by indicating this on the Acknowledgment of Receipt form, which will be maintained in the beneficiary's electronic medical record.
5. MHP staff shall emphasize that the existence or absence of a beneficiary's AMD will not result in discrimination or interference with the provision of mental health care.
6. MHP staff shall furnish additional information and/or AMD forms upon request of the beneficiary.
7. MHP staff shall provide the beneficiary with AMD resources to assist them with documenting their health care decisions.
8. Informing materials regarding AMD shall be maintained in compliance with existing California State Law and shall be updated to reflect changes in state law within 90 days of the implementation of a change.
9. MHP staff shall inform beneficiaries that complaints concerning noncompliance with the Advance Medical Directive requirements may be filed with the California Department of Health Services Licensing and Certification by calling 1-800-236-9747 or by mail at P.O. Box 997413, Sacramento, California 95899-1413.

### **REFERENCE(S)/ATTACHMENTS:**

- -Title 42, Code of Federal Regulations, §422.128

- -California Probate Code, §4600-4643, §4650-4660, §4665, §4670-4678, §4680-4691, §4695-§4698, §4730-4636, §4740-4743

**RELATED POLICIES:**

- No. 03-01 Problem Resolution

**DISTRIBUTION:**

Enter X	DL Name	Enter X	DL Name
X	Mental Health Staff	X	DHHS Human Resources
	Mental Health Treatment Center		
X	Adult Contract Providers		
X	Children's Contract Providers		
X	Alcohol and Drug Services		
	Specific grant/specialty resource		

**CONTACT INFORMATION:**

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