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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Revised by OEC June 2010
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?

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**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.*
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”

Let’s 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”

Let’s you tell others what you want:
- for your mental health treatment only.

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.
Declaración para el tratamiento de salud mental

Permite tomar decisiones sobre el tratamiento mental

La “Declaración para el tratamiento de salud mental” permite decidir, de antemano, sobre su tratamiento mental. Permite tomar decisiones sobre:

• medicamentos;
• terapia de choque electroconvulsivo (ECT o “tratamiento de choque”);
• dónde se recibirá el tratamiento;
• qué tipo de tratamiento desea y quién desea tratarlo (por ejemplo, si tiene un Plan de Acción de Recuperación de Salud [WRAP], o un plan de crisis).

Sus preferencias de tratamiento serán honradas a menos que:

• la preferencia de tratamiento conflictue con prácticas médicas razonables;
• la preferencia de tratamiento conflictue con los recursos disponibles;
• una situación de emergencia ponga en peligro la vida o la salud de usted o de otra persona; o
• la preferencia de tratamiento conflictue con un orden judicial.

Declaración para el tratamiento mental

Permite decidir, de antemano, sobre su tratamiento mental.
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:
  - the person who gives you treatment, or that person’s employee or relative;
  - the person who owns or runs the health care facility where you live, or where you are a patient, or that person’s relative;
  - your family member (by blood, marriage or adoption);
  - the person who you pick to make your decisions for you (this person is called your “proxy.”)
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.
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.

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.
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?

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_____________________________________________________________________

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

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

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

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

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

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

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<td># 5 - What medications would I <strong>AGREE TO TAKE</strong>? And <strong>WHY</strong>?</td>
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<th>If I can’t tell others what I want . . .</th>
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<td># 6 - What medications would I <strong>NOT AGREE TO TAKE</strong>? And <strong>WHY</strong>? (for example, because I have had negative side effects or reactions ....)</td>
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If I can’t tell others what I want . . .

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

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

_________________________________________________________________

_________________________________________________________________

YES - I DO WANT electro-convulsive treatment. ______________

_________________________________________________________________

_________________________________________________________________

OTHER ______________

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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.)

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

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<td><strong># 10 - I <strong>DO NOT WANT</strong> these people to visit me in a hospital.</strong></td>
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<th>If I can’t tell others what I want . . .</th>
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<td><strong># 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.</strong></td>
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# 12 - What other things should people know about me, and about what I want? (For example, you may want them to know the answers to these questions:)

- What makes me have a mental health crisis?
- What can I do, and what can others do, to help keep me out of the hospital?
- How do I react when I get medications, or if I am put in the hospital?
- How can mental health treatment staff help me?
- What other important things do I want people to know about me?
# 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. **
# 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:

For more information, contact:

**Ohio Legal Rights Service**

50 West Broad Street, Suite 1400
Columbus, Ohio 43215

Web: [http://olrs.ohio.gov](http://olrs.ohio.gov)
Tel: 614-466-7264 local
     800-282-9181 in Ohio
TDD: 614-728-2553
     800-858-3542 in Ohio
Fax: 614-644-1888

**The Bazelon Center for Mental Health Law**

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Washington, DC 20005

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Tel: 202-467-5730
TDD: 202-467-4232
Fax: 202-223-0409
Email: info@bazelon.org

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     1-877-643-6701 In Ohio
Fax: 614-310-8966
Email: oec@themainplace.org
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