

## BHS Policies and Procedures



City and County of San Francisco  
Department of Public Health  
San Francisco Health Network  
BEHAVIORAL HEALTH SERVICES

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### POLICY/PROCEDURE REGARDING: **Advance Medical Directives**

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Director of Behavioral Health Services

Manual Number: 3.13-01  
References:

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**Technical Revision. Replaces Policy 3.13-01 of June 14, 2010.**

#### **Purpose:**

The purpose of this policy and procedure is to be consistent with the requirements of Title 42, Code of Federal regulations, Section 422.128, to ensure adult Medi-Cal beneficiaries, 18 years old and above, and emancipated minors, served by San Francisco Behavioral Health Services (BHS) are provided with information concerning their rights under California state law regarding Advance Medical Directives, and to ensure the information is current when there are changes in State law.

California law defines an advance directive as either an oral or written individual health care instruction or a power of attorney. The federal regulations, however, only require that policies, procedures and information for beneficiaries address *written* advance directive, consistent with Title 42, CFR, Section 422.128, which define an advance directive as a written instruction such as a living will or durable power of attorney for health care recognized under State law.

The information on advance directive must describe the beneficiaries' rights under California law governing advance directive, which is found in the Probate Code, Sections 4600-4678; 4695-4698; and 4735-4736. These rights include the right to make decision concerning treatment, including the right to accept or refuse treatment, and the right to formulate, at the beneficiary's option, an advance directive.

#### **Policy:**

It is the policy of BHS that all BHS providers inform adult, and emancipated minor clients of their rights to have their Advance Medical Directives placed in their medical record.

#### **Procedure:**

1. BHS staff and/or contracted providers shall provide written information regarding Advance Medical Directives at the first face-to-face service contact with the beneficiary upon assessing that the client meets medical necessity criteria to become a client within the Systems-of-Care, and thereafter, upon a request from a beneficiary.
2. Informing material regarding Advance Medical Directives shall be maintained in compliance with existing California State law and will be updated to reflect changes in State law within 90 days of the implementation of a change.

3. In the event a Medi-Cal beneficiary presents a completed, appropriately witnessed and signed executed Advance Medical Directive to staff members of civil service BHS programs and/or contracted providers of the BHS, the Advance Medical Directive shall be placed in the beneficiary's mental health medical record, and the presence of the Advance Medical Directive shall be noted prominently in the chart by a notation or a stamp, indicating "Advance Directives," on the chart cover.
4. Providers will not discriminate against clients based on whether or not they execute an advance directive.

**LEGAL REFERENCE:**

1. California Probate Code Section 4600 et seq
2. California Probate Code Section 4677
3. California Probate Code Section 4678
4. California Probate Code Section 4686
5. California Probate Code Section 4689
6. California Probate Code Section 4695
7. California Probate Code Section 4730
8. California Probate Code Section 4731
9. California Probate Code Section 4732
10. California Probate Code Section 4740
11. California Probate Code Section 4742

**Contact Person:**

Director, Adult & Older-Adult Systems-of-Care

**Distribution**

BHS Policies and Procedures are distributed by the Behavioral Health Services Compliance Office.

Administrative Manual Holders

BHS Programs

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## **Your Right to Have an Advance Healthcare Directive**

You have the right to have an advance directive. An advance directive is a written instruction, such as a living will or durable power of attorney for health care, recognized under California law. It usually states how you would like health care provided, or says what decisions you would like to be made, if or when you are unable to speak for yourself.

California law defines an advance directive as either an oral or written individual health care instruction, or a power of attorney (a written document giving someone permission to make decisions for you). All Behavioral Health Plans are required to have an advance directive policy in place. This means your county is required to provide you, or any adult beneficiaries, with written information on their advance directive policies and a description of applicable State law, should you request it. If you would like to request it, you should call BHS Consumer Relations at (415) 255-3442 for more information.

An advance directive is designed to allow a person to have control over one's own treatment, especially when one is unable to provide instructions about one's own care. It is a legal document that allows a person to say, in advance, what one's wishes would be, should one become unable to make health care decisions. This may include such things as the right to accept or refuse medical treatment, surgery, or make other health care choices. In California, an advance directive consists of two parts:

1. Appointment of an agent (a person) for health care; and
2. The individual health care instructions

If you have a complaint about advance directive requirements, you may contact the California Department of Health Care Services, Licensing and Certification Division, 1 (800) 236-9747.

