



**HEALTH CARE SERVICES
DIRECTIVE
Manual of Policies and Procedures**

Title

ADVANCE DIRECTIVES

Legal References

IC 11-8-2-5 IC 34-4-12.6

Related Policies/Procedures

(includes but is not limited to)
01-02-101

Other References

(includes but is not limited to)
National Correctional Healthcare Standards

I. PURPOSE:

This Health Care Services Directive (HCSD) provides a process for patients to utilize advance directives to determine in advance of need which health care interventions they would prefer to receive or to decline.

II. DEFINITIONS:

- A. **ADVANCE DIRECTIVE:** A document or verbal statement in which an individual either states choices for medical treatment or designates who shall make treatment choices if the individual should lose decision-making capacity. The advanced directive shall be documented on State Form 55317, "Indiana Physician Orders for Scope of Treatment (POST)."
- B. **CAPACITY EVALUATION:** The assessment of one's ability to utilize information about an illness and proposed treatment options to make a choice that is congruent with one's own values and preferences.
- C. **LIVING WILL DECLARATION:** A written and signed declaration instructing the individual's health care providers to withhold or withdraw certain death-delaying procedures when the individual is in a terminal condition and unable to communicate his or her wishes.
- D. **LIFE PROLONGING PROCEDURES DECLARATION:** A written and signed declaration which instructs the individual's health care providers to use life-prolonging procedures when the individual has an incurable injury, disease, or illness determined to be a terminal condition.
- E. **HEALTH CARE REPRESENTATIVE:** A person appointed under the Health Care Consent statute in Indiana to make health care decisions when an individual is unable to communicate decisions about health care.

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- F. **TERMINAL CONDITION:** An incurable and irreversible condition in which death will occur within a short time.
- G. **DEATH DELAYING PROCEDURE:** Any medical procedure or intervention which, in the judgment of the attending physician, would serve only to postpone the moment of death.
- H. **COMPETENT ADULT PATIENT:** Any adult of sound mind who is capable of making informed health care decisions and for whom a court has not appointed a guardian or conservator.
- I. **ATTENDING PHYSICIAN:** The physician selected by, or assigned to, the patient and who has primary responsibility for the treatment or care of the patient.

III. PROCEDURES:

An advance directive consists of written direction from a patient directing Health Services staff either to provide or withhold certain treatment. Each time that a patient is identified as having a terminal disease or is admitted to an infirmary, consideration shall be given to establishing or updating an advance directive. Additionally, Intake and annual health screens are an opportune time to update advance directives.

The advance directive must be specific and clear and must be signed by the patient and witnessed by at least one other person. If implemented during incarceration, at least one of the witnesses must be a member of the health care delivery team who is not the attending physician.

In addition to directions regarding health care services that the patient does not wish to be provided, the advance directive must contain a statement indicating clearly that the directive is provided voluntarily, and Health Services staff have answered all questions that the patient had regarding the advance directive.

The advance directive, documented on State Form 55317, must be signed by both the patient and the physician, dated, and scanned into the electronic medical record with the original filed in the paper health record. A copy shall be provided to the patient.

When decision-making ability regarding health care decisions is questionable, a capacity evaluation shall be completed by a psychiatrist within twenty-four (24) hours of (before or after) the advance directive; otherwise, the advance directive shall be considered invalid. If it is determined that the patient lacks informed decision-making capacity regarding health care decisions, the proper court shall be requested to make a determination on this question.

Emergency medical care is often provided in the absence of a health record by staff not familiar with the patient. The advance directive must contain a statement indicating that the patient understands that possibility. If an advanced directive is violated by Health Services staff acting in

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good faith in this manner, neither the health care staff member, nor the Department, shall be held liable.

Any patient that holds capacity for decision making may initiate an advance directive. No employee shall draft an advance directive for a patient, but the attached form may be provided to any patient, all questions shall be answered, and reasonable assistance shall be given.

Advanced directives may be revoked at any time by the patient, in any of the following ways:

- A. A signed and dated written statement revoking the advance directive;
- B. Physical cancellation or destruction of the declaration by the patient or another person in the individual's presence and at the individual's direction; or,
- C. An oral expression of intent to revoke.

IV. ADDITIONAL CONSIDERATIONS:

- A. It is useful to approach the advance directive process early in the disease process when patients can still think clearly and act on their own accord.
- B. An advance directive established for use in an off-site facility is not applicable within the Department, unless the original is provided to the Department and the patient affirms in writing their wish to have it used. It is usually simpler to establish a new advance directive for local use.
- C. Medical futility refers to any treatment that is considered unlikely to produce any significant benefit to a patient with no reasonable hope for a cure. Medical futility shall only be considered with direct consultation of the Health Care Vendor's Regional Medical Director and the Chief Medical Officer. This is a situation that should only be used for extreme cases when there is no advanced directive on file. Health Services staff shall seek legal advice and work to seek guardianship. When a hospital recommends actions to the facility Warden, the Warden shall consult with the CMO, and will agree to the recommendations unless there is a reasonable justification against agreement.

V. APPLICABILITY:

This Health Care Services Directive is applicable to all facilities housing incarcerated adults and their staff.

signature on file

Kristen Dauss, MD
Chief Medical Officer

Date