

**VAN BUREN COMMUNITY MENTAL HEALTH AUTHORITY
POLICIES & PROCEDURES**

Title: Advance Directives
Originated: 2/1/06
Revised: 7/15/19 7/29/20, 2/14/22

Number: II.05
Approved By: CEO



DIRECTIVE:

This procedure shall serve as a guide to assure compliance with Board policy regarding Customer Rights, Michigan law, and Medicaid Managed Care Regulations (42CFR422.128 & 42 CFR 438.6).

VBCMh and Contract Providers shall honor valid Durable Powers of Attorney as presented for medical and psychiatric care. VBCMh shall honor decisions made by identified Patient Advocates unless unable or otherwise not required by law. VBCMh shall honor decisions regarding the terminal care of a patient, made by a legally designated patient surrogate, if a person is terminally ill, including requests for hospice care. VBCMh shall honor valid Do-Not-Resuscitate Orders when required to do so by Michigan law.

To provide guidelines regarding application of Michigan Law for VBCMh service recipients to make decisions concerning their medical care – including the right to accept or refuse medical treatment and to formulate “Advance Directives.”

DEFINITIONS:

Advance Directive: Written instruction, by an adult 18 or older that does not have a plenary guardian, and meet all of the criteria of being able to make an informed consent at the time of completion, such as a living will or durable power of attorney for health care, recognized under State law (whether by statute or by the courts of the state) and relating to the provision of health care when the individual is incapacitated.

Medical Advance Directive: Written instructions regarding physical/medical health care. Examples of decisions made include hospital care, medication regimes, Do Not Resuscitate Orders, or organ/tissue donation.

Psychiatric Advance Directive: Written instructions regarding care for psychiatric/mental health care decisions. Examples may include psychiatric hospitalization, MH treatment participation, medication regimes, or any specific psychiatric treatments such as ECT.

Do Not Resuscitate Order: In the State of Michigan, established through MCLA 333.1051 et seq, individuals are able to execute a document directing that in the event that the individual's heart and breathing should stop, no person shall attempt to resuscitate the individual.

Durable Power of Attorney: In regards to Healthcare Decisions, (DPOA) In the State of Michigan, established through MCLA 700.5506 et seq. the state of Michigan allows an adult 18 years of age or older of sound mind to designate a Patient Advocate who is able to make

decisions concerning the care, custody and medical treatment if that individual is unable to participate in his/her medical and/or mental health treatment decisions.

Plan for Difficult Times (Crisis Planning): A plan established by a customer of Specialty Mental Health Services within the context of their Person-Centered Plans (PCP). Education about this option is required by the Michigan Department of Health and Human Services (MDHHS). The plan is intended to direct care when a customer begins to experience increased difficulty in managing his/her life or becomes genuinely incapacitated and an appointed agent acts on his/her behalf.

PROCEDURE:

- 1.0 Upon application for services and/or hospitalization, each customer over the age of eighteen (18), not having a plenary guardian shall be provided information regarding applicable state law and their rights under the law regarding medical power of attorney for health care and advance directives. The booklet Planning For Your Peace Of Mind will be made readily available for this purpose, Other formats may be used providing it meets all of the necessary statutory requirements.
- 2.0 In the event the individual has completed a medical power of attorney for health care, a signed copy will be placed in the customer file. The information will be updated as a regular part of the person centered planning process.
- 3.0 Any customer having a medical power of attorney for health care in the record shall have that information relayed to residential providers and hospitals at the time of placement or admission.
- 4.0 Any individual over the age of 18 years, without a current plenary guardian, may complete a medical power of attorney for health care. The individual shall meet all of the criteria of being able to make an informed consent at the time of completion.
- 5.0 In the event the individual has not completed a medical power of attorney for health care:
 - 5.1 The process will be explained to them in a manner that is understandable.
 - 5.2 The customer will be informed they may change their mind as to the information or individual named in their health care.
 - 5.3 If the customer is not able to make an informed consent due to the current illness, the information shall be documented to the record and completed during the person centered planning process at a later date.
 - 5.4 A brochure on Advance directives and/or the Planning for Peace of Mind booklet will be offered to the customer with documentation to the file that at this time there is no power of attorney for health care.
 - 5.5 Referrals to sources able to assist in completion of medical power of attorney for health care will be made available to the customer. Staff may assist in the process of filling out the documents but under no circumstances should staff be the named personal representative. Staff providing direct service to the individual shall not serve as a witness to the advance directive document.

- 6.0 No customer of services will be discriminated against or denied services due to having or not having a medical power of attorney.
- 7.0 Staff of VBCMHA are required to comply with customer desires as indicated in the medical power of attorney except in the following situations:
 - 7.1 in the opinion of staff compliance is not within professional standards of care;
 - 7.2 the treatment is not available;
 - 7.3 Compliance is not consistent with court ordered treatment
 - 7.4 the treatment is illegal; or
 - 7.5 a life threatening emergency situation exists.
- 8.0 VBCMHA staff and contract providers may not
 - 8.1 Provide legal or medical advice or service if a customer expresses a desire to execute an Advance directive or
 - 8.2 Discriminate or condition the provision of treatment based on whether or not the individual has executed an advance directive.
- 9.0 Any complaints, questions, or refusal to acknowledge a medical power of attorney pre-determined request shall be referred immediately to the Recipient Rights Director and/or Customer Services and documented to the record. Customers will be informed of how they can file a complaint.
- 10.0 Training in medical power of attorney shall occur on a regular basis for all VBCMHA staff and periodically for customers of services and the general public.
- 11.0 Customers will be notified of any changes in State law regarding medical power of attorney for health care and advanced directives as soon as possible, but no later than 90 days after the effective date of the change.