



National Alliance on Mental Illness

The Voice

The Newsletter of NAMI Southwestern Pennsylvania

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NAMI Southwestern PA Serves as a Lead Partner in Mental Health Advanced Directives

Stakeholders educate people about the benefits of Mental Health Advance Directives

Pennsylvania lawmakers – in an effort to further ensure that those with serious mental illness have the same basic rights as everyone else regarding informed consent for mental health treatment – passed a law that became effective Jan. 29, 2005. Act 194 permits adult Pennsylvanians who have capacity to make mental health decisions to write and sign a Mental Health Advance Directive (MHAD).

A MHAD—which can include a declaration, a mental health power of attorney or a combination of the two—is a written document that when signed, dated and witnessed by two adults becomes legally binding. The document allows a person to make choices about mental health treatment while the person has capacity in case there is a later time when the person lacks capacity and is in need of treatment. It also allows an individual to include information that, although not legally binding, may be helpful to address barriers that prevent a person from seeking treatment, such as designating someone to take care of pets, hospital preferences and whom to notify. The document does not need to be notarized.



are clearly documented for others to follow. The issue today is that too few people are utilizing this vital benefit.”

Since the law became effective nearly five years ago, many stakeholders in the behavioral health system in Allegheny County have recognized that people have not been taking advantage of the opportunity to develop and sign MHADs. NAMI Southwestern Pennsylvania, in collaboration with the Disability Rights Network of Pennsylvania, Mental Health America of Allegheny

“This document is an essential component of a wellness and recovery plan,” explains Sharon A. Miller, Director of Education and Community Relations for NAMI Southwestern Pennsylvania. “It prompts open communication among consumers, loved ones and providers about important decisions regarding mental health treatment. And, it helps to lessen fears for everyone involved when a crisis occurs because personal decisions have already been made and

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County, the Peer Support and Advocacy Network and a core group of community providers and other stakeholders, came together through the invitation of the Allegheny County Office of Behavioral Health in early 2009. The charge to this working group was to identify and overcome barriers to providing an increasing number of people with meaningful opportunities to create their personal MHAD.

“What our working group has discovered is that many people are still unaware of the opportunity to create a MHAD” Miller explains. “We also acknowledge that there is a great deal of confusion about how these documents work to protect those with mental illness during a crisis situation. This is a powerful tool that actually promotes effective treatment more efficiently, which may prompt a faster recovery.”

“There is clearly great interest in MHADs for people who become aware of what they are and the many benefits they offer,” describes Carol Horowitz, Esq., Managing Attorney for the Disability Rights Network of Pennsylvania. “The initiative in Allegheny County is working to get the word out and encourage people to take action. In addition, as people who have used their MHADs recover and then share their positive experiences with others, more consumers will gain confidence and a sense of empowerment that they can play a greater role in their recovery. People know what does and does not work for them, and they may be more willing to seek treatment if they know their decisions will be respected.”

This initiative has identified three core needs, which are currently being implemented throughout Allegheny County:

- Education for both consumers and providers on the benefits of MHADs.
- Consistent information distributed to stakeholders to let people know that MHADs exist and why they are important.
- Technical assistance provided through customized workshops and one-on-one meetings to help people complete their MHADs.

Mental Health America of Allegheny County has created a hotline for residents who have questions about how to write their own MHAD: 1-877-868-2195. NAMI Southwestern Pennsylvania continues its ongoing MHAD initiative throughout the region and can offer assistance at 1-888-264-7972.

There is also a state-wide initiative supported by the Office of Mental Health and Substance Abuse Services (OMHSAS). “One of our goals for the near future is to develop a statewide registry by which consumers can complete their MHAD and store it online where it can be easily accessed by mental health professionals during times of crisis,” Horowitz explains. “As part of this registry, we hope to include a tool that will notify people when their MHADs are about to expire so they can validate a new one before a crisis occurs.”

“The process by which the legislation was drafted and signed into law really brought the entire mental health community together. NAMI affiliates, advocates, consumer organizations and professional associations all became involved in the process to advocate for comprehensive legislation to protect the rights of those with serious mental illness,” Miller concludes. “Now, we are mobilized to provide expanded education, awareness and training in Allegheny and surrounding counties so that more people can take advantage of the many benefits this valuable tool has to offer.”

For more information on Mental Health Advance Directives and to download the documents, visit www.namiswa.org. See page 14 for instructions on how to create a MHAD.

Save the Date!

**NAMI Southwestern Pennsylvania's
11th Annual Education Conference**

**Friday, April 23 &
Saturday, April 24**

Pittsburgh Airport Marriott

**Our First Ever
Two-Day Education Conference**

**Visit www.namiswa.org
for upcoming details.**



Creating a Mental Health Advance Directive

A Mental Health Advance Directive (MHAD), when properly executed, is a legally binding written document that allows a person to

make choices regarding mental health treatment before that treatment is needed. It addresses both informed consent and the right to refuse treatment. It is an important component of recovery and wellness planning. A MHAD applies to mental health treatment only and should not be confused with any other legal documents.

A MHAD provides an effective way for a person to communicate a lot of information to doctors, mental health providers, support professionals and loved ones. In addition to making treatment choices such as those concerning medication, electroconvulsive therapy and research studies, a person can state whom they want to be notified in the event of hospitalization and other information regarding treatment history. The document also allows people to include preferences regarding crisis management and those unrelated to treatment, such as who should care for children or pets and dietary concerns.

Pennsylvania's law allows a person to make a MHAD that is a declaration, a power of attorney or a combination of both. A **declaration** contains instructions regarding consent and withholding of consent to treatment choices and information on preferences and treatment history. This option is more defined and less flexible. **Power of attorney** allows for the designation of a trusted, accessible friend or relative – known as an agent – to make treatment decisions for a person as they would have made them for themselves. This option is more flexible to address situations and choices that can not be accounted for in advance.

The following criteria make a directive valid in Pa.:

- Must be signed *and* dated
- Must be witnessed by two adults
- Must include treatment choices and preferences
- Individual must be at least 18 years old or an emancipated minor
- Does not need to be notarized, but the person must have capacity at the time it is written. (Pennsylvania law presumes everyone has capacity unless legally determined otherwise.)

This document becomes valid at the time it is signed and dated, but will only go into effect when a psychiatrist and another mental health treatment professional declare a person's incapacity to make mental health treatment decisions. Capacity is the basic ability to understand a diagnosis, the risks and benefits of treatment related to mental health care and the consequences of refusing treatment. It does not have an impact on the voluntary and involuntary commitment provisions of the Mental Health Procedures Act in Pennsylvania. What may be affected is the treatment a person will receive upon admission.

People need to distribute their MHAD to treating physicians, mental health providers, their agent (if one is named within the document), family members and others who play a key role in their lives to ensure they will know where to quickly find it in the event of a crisis situation. People are encouraged to carry a card in their wallet stating they have a MHAD, and who should be called if they are hospitalized.

As MHADs are legally binding, providers must carry out the treatment decisions documented unless they cannot in good conscience comply because the instructions are against accepted clinical practice or medical standards. Providers may not provide any treatment without consent unless it is an emergency response. Providers do not have to follow instructions in a MHAD when policies do not allow for compliance, such as what treatments may or may not be covered by insurance. The provider is also excused from following the instructions in a directive if the treatment documented is physically unavailable; however, all reasonable efforts must be made to transfer a person to a facility that would comply. Providers must keep a copy in a person's mental health treatment record for at least two years and update the file with any revocation or changes to the document.

A MHAD is valid for two years from the date it is signed, unless it is revoked or a new one is created. All or part of a MHAD can be changed or revoked at any time, as long as the person has capacity. It is important to create a new MHAD when it expires or after revoking the old one so that decisions will be recognized and followed in the event of a mental health crisis. Always remember to distribute the new document to everyone who received the expired version.

Pennsylvania provides many helpful resources to assist people with creating a MHAD. For more information, call 1-888-264-7972 or visit www.namiswpa.org. 

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