

COMPANY NAME

Category: Rights, Responsibilities and Ethics Number: 3.007.2
Subject: Declaration for Mental Health Treatment
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Purpose: The purpose of this policy is to ensure the proper documentation and following of a Declaration for Mental Health Treatment.

Policy: The Agency will follow and provide health care in accordance with all valid and legal Declarations for Mental Health Treatment executed by a patient of the Agency, and shall also follow all legal and valid revocations of such Declarations.

The Agency staff will document the existence of any Declarations for Mental Health Treatment in the medical records of each patient, and shall inform each patient of the Agency, prior to or at the time of admission to the Agency of the rights of a patient regarding the execution of a Declaration for Mental Health Treatment. The Agency staff will attempt to obtain a copy of any and all Declarations for Mental Health Treatment, and all written revocations.

The Agency and its staff will not discriminate in any manner against any patient of the Agency based upon the execution or non-execution of a Declaration for Mental Health Treatment, specifically including but not limited to, charging a different rate, discharging, refusing to admit, or conditioning the provision of care upon the basis of whether or not the patient has, is, or will execute or revoke a Declaration for Mental Health Treatment.

The Agency staff shall not administer psychoactive medications to a patient or provide any psychoactive treatments. The Agency shall not administer any form of electroconvulsive or convulsive treatments to a patient.

Procedure:

1. At the time of admission or prior to admission, the patient shall be informed of the patient's rights regarding Advance Directives, specifically including a Declaration for Mental Health Treatment. This notice shall be given in writing and orally to the patient in accordance with the policy regarding Advance Directives.
2. The Agency staff shall attempt to obtain a copy of any Declarations for Mental Health Treatment and any revocations for each patient, and shall document such attempts were made in the patient's medical records.
3. If a patient has or does execute a Declaration for Mental Health Treatment, the Agency staff shall note that fact in the patient's medical records, specifically

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including the date of the execution of the Declaration for Mental Health Treatment. The Agency's Director of Nurses shall be notified of the execution or revocation of each patient's Declaration for Mental Health Treatment, and the Director of Nurses shall then notify that patient's physician of the execution or revocation of a patient's Declaration for Mental Health Treatment.

4. The Agency staff shall make inquiries of the patient, the patient's family, the patient's neighbors, if any, and of the courts to determine if a guardianship exists for the patient. If a guardianship does exist, the Agency shall take steps to obtain a copy of the court's file, specifically noting the date of the appointment of the guardian. If the guardian was appointed before the execution of a Declaration for Mental Health Treatment, the Agency shall note this in the patient's medical records.
5. The Agency staff shall follow a patient's Declaration for Mental Health Treatment to the fullest extent possible unless one of the following circumstances apply, but the patient shall not be administered any form of electroconvulsive or convulsive treatment or any psychotropic medications
 - (a) more than three (3) calendar years has elapsed since it was executed, and no Declaration for Mental Health Treatment was executed at a later date so long as the patient is not incapacitated, so that if the patient is incapacitated, the Declaration remains in effect until the patient is no longer incapacitated as that term is defined in applicable Texas law;
 - (b) the patient revokes the Declaration for Mental Health Treatment by:
 1. at a time when the patient is competent, the patient notifies a licensed or certified health care provider that the patient revokes the Declaration for Mental Health Treatment;
 2. the patient engages in any act demonstrating a specific intent to revoke the Declaration for Mental Health Treatment; or,
 3. the patient executes a later Declaration for Mental Health Treatment, or

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(c) in the case of an emergency as defined as a situation in which treatment is immediately necessary to prevent:

1. probable imminent death or serious bodily injury to the patient because the patient either overtly or continually is threatening or attempting to commit suicide or serious bodily injury to the patient, or
 2. probable imminent death or serious bodily injury to the patient because the patient is behaving in a manner that indicates that the patient is unable to satisfy the patient's needs for nourishment, essential medical care, or self-protection, or
 3. imminent physical or emotional harm to another because of threats, attempts, or other acts of the patient.
6. The Agency shall ensure that the patient's physician is notified immediately of any change in the patient's Declaration for Mental Health Treatment status or if any event described in paragraph number five (5) *supra* occurs.
7. If any member of the Agency staff has any doubt concerning how to provide mental health care, the Administrator shall be consulted at once. If any member of the Agency staff thinks that he/she can not provide care in accordance with the terms of a patient's valid Declaration for Mental Health Treatment, then the staff member shall immediately notify the staff member's supervisor. The Agency will only withdraw from providing care in accordance with the terms of a patient's valid Declaration for Mental Health Treatment if the patient or the patient's guardian is notified immediately of that decision and the notification of the patient or the patient's guardian is noted in the patient's medical record.
8. The Agency staff shall not administer psychoactive medications to a patient or provide any psychoactive treatments.

Attachments Follow:

Declaration for Mental Health Treatment