

## 21 – Advance Directives

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In accordance with the applicable state law, members have the right to make health care decisions and to execute an Advance Directive. This section is designed to provide you with information regarding Advanced Directives should you receive questions from your patients.

### What is an Advance Directive?

An Advance Directive is a formal document, written by the member in advance of an incapacitating illness or injury. As long as the member can speak for themselves, Contracting Providers will honor the member's wishes. However, there may come a time when the member will be seriously injured or become gravely ill and unable to make health care decisions for themselves. They may wish to choose in advance what kind of treatments will be administered and whether or not life support systems should be maintained or withdrawn. This directive will guide you, the health care Providers, in treating them and will save family, friends and physicians from having to guess what they would have wanted. While advances in medical technology have saved thousands of lives, sometimes the very capability of this technology to sustain life raises more questions than answers.

States generally allow a competent adult to execute a document, which allows an individual to accept or refuse treatment in the event that individual has a terminal condition and is not able to make decisions for him or herself.

For forms and additional information, please visit the state-specific site:

- **NV:** <http://dhcfp.nv.gov/Resources/PI/AdvanceDirectives/>  
<https://www.nvsos.gov/sos/online-services/nevada-lockbox/about-advance-directive-registry>
- **AZ:** <https://azsos.gov>
- **UT:** <https://ucoa.utah.edu/coreissues/directives/index.php>

### Types of Advance Directives

There may be several types of Advance Directives members can choose from depending on state law. They are referred to as:

- Durable Power of Attorney for Health Care
- Living Will
- Natural Death Act Declaration

These documents allow members to appoint someone to make a variety of health care decisions for them when they are unable to do so. State laws are very specific for properly executing this document. Members may be able to purchase this form, or they can request that a Contracting Provider or Health Plan provide them a sample form.

### How Long Is an Advance Directive Valid?

In most states, advance directives remain in effect until revoked by the member. Members may revoke their advance directive at any time and in any manner, without regard to their mental or physical condition. A revocation is effective when the attending Physician or other health care provider receives notice of the revocation from member or from a witness to the revocation.

## **Advance Directive as Part of Permanent Medical Record**

Members should provide copies of their completed directive to:

- PCP
- Agent (a person acting on your behalf)
- Family

Members are not required to complete an advance directive and cannot be denied care if they do not have an advance directive.

## **The federal Patient Self-Determination Act (PSDA)**

The PSDA gives patients the legal right to make choices about their medical care prior to a severe illness or injury through an advance directive. Under the federal act, health care providers and facilities must:

- Not discriminate against an individual based on whether the individual has executed an advance directive
- Document in a prominent part of the individual's current medical record whether the individual has executed an advance directive
- Educate its staff about its policies and procedures for advance directives
- Provide for community education regarding advance directives
- Give patients written information on state laws about advance treatment directives, patients' rights to accept or refuse treatment, and their own policies regarding advance directives

We also inform members about state laws on advance directives through our member's benefit material. We encourage these discussions with our members.

Information is also available from the Robert Wood Foundation, Five Wishes. The information there meets the legal requirements for an advance directive in certain states and may be helpful to members. Five Wishes is available on [agingwithdignity.org](http://agingwithdignity.org).

## **Network Provider Implementation**

In the event that a network provider cannot implement an advanced directive based on conscience, it is required that the network provider present a statement of any limitations to the member. Minimally, the provider's statement of limitations, if any must:

- Clarify any differences between institution wide conscience objections and those that may be raised by individual network providers
- Identify the State legal authority pursuant to NRS 449.628 permitting such objections
- Describe the range of medical conditions or procedures affected by the conscience objection