

## NORTHCARE NETWORK

<b>POLICY TITLE:</b> Advance Directives Policy	<b>CATEGORY:</b> Customer Services/Recipient Rights	
<b>EFFECTIVE DATE:</b> 2/11/26	<b>BOARD APPROVAL DATE:</b> 2/11/26	
<b>REVIEW DATE:</b> N/A New Policy	<b>REVISION(S) TO POLICY STATEMENT:</b> <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>OTHER REVISION(S):</b> <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>RESPONSIBLE PARTY:</b> Customer Service Specialist	<b>CEO APPROVAL DATE:</b> 2/3/26 Megan Rooney, CEO	

### **APPLIES TO**

NorthCare Network Personnel  
Network Providers

### **POLICY**

NorthCare Network must provide adult beneficiaries with written information on advance directives policies and a description of applicable State law and their rights under applicable laws.

### **PURPOSE**

To provide guidelines to ensure adult beneficiaries of NorthCare Network receive information on advance directives in accordance with 42 CFR 422.128 and 42 CFR 438.3 (j).

### **DEFINITIONS**

1. ***Advance Directive:*** A written instruction such as living will or durable power of attorney for healthcare, recognized under State law (whether statutory or as recognized by the courts), relating to the provision of health care when the individual is incapacitated.
2. ***Do Not Resuscitate (DNR) Order:*** A document directing that in the event that the individual's heart and breathing should stop, no person shall attempt to resuscitate the individual. (Act 193 of 1996, MCL 330.1051 et seq.)
3. ***Durable Power of Attorney for Healthcare:*** A written designation of a patient advocate as established in 1998 PA 386, Part 5, MCL 700.5506 et seq., as amended. It allows an individual 18 years of age or older of sound mind to designate in writing a Patient Advocate who is able to make decisions concerning the care, custody, and medical or mental health treatment decisions for that individual.
4. ***Patient Advocate:*** An individual 18 years of age or older who is of sound mind at the time a patient advocate designation is made may designate in writing another individual who is 18 years of age or older to exercise powers concerning care, custody, and medical or mental health treatment decisions for the individual making the patient advocate designation. An individual making a patient advocate designation under this subsection may include in the patient advocate designation the authority for the designated individual to make an anatomical gift of all or part of the individual's body in accordance with 1998 PA386, and part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123. The authority regarding an anatomical gift under this subsection may include the authority to resolve a conflict between the terms of the advance health care directive and the administration of means necessary to ensure the medical suitability of the anatomical gift.

## **REFERENCES**

- Code of Federal Regulations, 42 CFR Parts 438,3 (j), 438.10(g)(2)(xii); Part 422.128; 42 CFR 489, Subpart I.
- Michigan Advance Directive for Mental Health Care  
<https://www.michigan.gov/mdhhs/keep-mi-healthy/mentalhealth/mentalhealth/psychadvdir>
- Michigan Dignified Death Act, 1978 PA 368, MCL 333.5651, et seq, as amended
- Michigan Do-Not Resuscitate Procedure Act (MDNRPA), 1996PA 193, MCL 333.1051 et seq; MSA 14.15(1051) et seq as amended
- Patient Advocate Act, 1998 PA 386, Part 5 of the Estates and Protected Individuals Code (EPIC) MCL 700.5506 et seq, as amended
- Revised Uniform Anatomical Gift Law 1978 PA 368, MCL 333.10101 to 333.10123.
- MDHHS/PIHP Contract
- Michigan Mental Health Code 330.1468 (5)

## **HISTORY**

*Previously part of Advance Directive-Durable Power of Attorney-Plan for Difficult Times Policy*

NEW POLICY: 2/11/26

REVIEW DATE: N/A

REVISION DATE: N/A

CEO APPROVAL DATE: 2/3/26

BOARD APPROVAL DATE: 2/11/26

## **PROCEDURES**

### **A. NorthCare Network Responsibilities:**

1. In accordance with 42 CFR 422.128 and 42 CFR 438.3 (j), NorthCare Network must maintain written policies and procedures for advance directives.
2. NorthCare Network will ensure Network Providers are in compliance with applicable state laws regarding advance directives.
3. The NorthCare Network Customer Service Handbook includes information on advance directives and is provided to beneficiaries at intake, upon request, and annually thereafter by Network Providers.
4. The information must reflect changes in State law as soon as possible, but no later than 90 days after the effective date of the State law.
5. NorthCare Network must inform individuals that grievances concerning noncompliance with the advance directive requirements may be filed with Customer Service.
6. Northcare Network will not condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive.
7. NorthCare Network will provide technical assistance with the training and implementation of this policy as requested by Network Providers or as deemed necessary to create regional consistency.

### **B. Network Provider Responsibilities:**

1. The Provider will give the NorthCare Network Customer Service Handbook to beneficiaries at intake, upon request, and annually thereafter.
2. The Provider must maintain written policies and procedures that meet the requirements for advance directives.

3. The Provider will provide adult beneficiaries with written information on advance directive policies and a description of applicable state law and their rights under applicable laws. This includes:
  - The rights under state law to make decisions concerning their medical care
  - The right to accept or refuse medical or surgical treatment
  - The right to formulate advance directives.
4. The Provider's written policies respecting the implementation of those rights, including a clear and precise statement of limitation IF the Provider cannot implement an advance directive as a matter of conscience. At a minimum, this statement must do the following:
  - Clarify any differences between institution-wide conscientious objections and those that may be raised by individual physicians.
  - Identify the state legal authority permitting such objection.
  - Describe the range of medical conditions or procedures affected by the conscience objection.
5. The information must reflect changes in State law as soon as possible, but no later than 90 days after the effective date of the State law.
6. If an individual is incapacitated at the time of initial enrollment and is unable to receive information (due to the incapacitating condition or a mental disorder) or articulate whether or not he or she has executed an advance directive, the Provider may give advance directive information to the individual's family or surrogate in the same manner that it issues other materials about policies and procedures to the family of the incapacitated individual or to a surrogate or other concerned persons in accordance with State law. The Provider are not relieved of its obligation to provide this information to the individual once he or she is no longer incapacitated or unable to receive such information. Follow-up procedures must be in place to ensure that the information is given to the individual directly at the appropriate time.
7. The Provider will not condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive.
8. Provide for education of staff concerning its policies and procedures on advance directives.
9. Provide for community education regarding advance directives that may include the written information required above either directly or in concert with other providers or entities.
  - Separate community education materials may be developed and used, at the discretion of the Provider.
  - The same written materials are not required for all settings, but the material should define what constitutes an advance directive, emphasizing that an advance directive is designed to enhance an incapacitated individual's control over medical treatment, and describe applicable State law concerning advance directives.
  - The Provider must be able to document the community education efforts.
10. The Provider must inform individuals that grievances concerning noncompliance with the advance directive requirements may be filed with Customer Service.
11. The Provider will inquire as to the existence of any established medical or psychiatric advance directive relevant to the provision of services.

12. The Provider will document in the medical record whether or not the person is interested in executing an advanced directive, and if interested, assist them as necessary.
13. The Provider will document in a prominent part of the individual's current medical record whether or not the individual has executed an advance directive. If they have, ensure staff are aware of the advance directive.

### **Advance Directive Forms:**

If an individual desires to complete an advance directive, they may use a form of their choice. Providers may direct individuals to the appropriate resources for creating an advance directive.

The CMHSPs are further responsible for assisting and referring individuals and guardians in obtaining an Advance Directive for Mental Health Care if requested. The CMHSP clinician is responsible for documenting the information provided during the person centered planning process and at any time requested.

There is no one form that is mandated by law. The two forms listed below meet all the legal requirements.

- **Michigan Advance Directive for Mental Health Care**

A form and set of questions and answers developed by Michigan Department of Health and Human Services and individual representatives of the statewide Recovery Council. The form is specifically for mental health care and a separate document would be required for medical health care needs. The documents are available at the MDHHS website <https://www.michigan.gov/mdhhs>, search advance directives.

- **Psychiatric Advance Directive**

A form and set of directions prepared by the national Bazelon Center for Mental Health Law. This form is more complex than Michigan's form but the directions provide information that may be useful to staff and individuals. It is available at the website <https://www.bazelon.org/our-work/mental-health-systems/advance-directives/>

### **Additional Resources:**

- Psychiatric Advance Directive: <https://www.bazelon.org/our-work/mental-health-systems/advance-directives/>
- National Resource Center on Psychiatric Advance Directives: <https://nrc-pad.org/>
- Power of Attorney and Advance Directive Resources: <https://www.michigan.gov/orsschools/after-retirement/power-of-attorney-and-advance-directive-resources>