

<b>Community Mental Health Partnership of Southeast Michigan/PIHP</b>	<b><i>Policy Advance Directives &amp; Do Not Resuscitate Orders</i></b>
<b>Committee/Department: Clinical Performance Team</b>	<b>Local Policy Number (if used)</b>
<b>Implementation Date 12/06/2024</b>	<b>Regional Approval Date 10/31/2024</b>

<b>Reviewed by:</b>	<b>Recommendation Date:</b>
ROC	08/05/2024
<b>CMH Board:</b>	<b>Approval Date:</b>
Lenawee	10/31/2024
Livingston	10/29/2024
Monroe	10/23/2024
Washtenaw	10/24/2024

### I. PURPOSE

This policy establishes standards by which the Community Mental Health Partnership of Southeast Michigan (CMHPSM) responds to consumer/individuals' rights and choices with advance directives and end of life care. This policy establishes procedures for notifying consumers/individuals served of relevant state laws and agency policies to assist them with their decision making in these areas; and establishes procedures in which the CMHPSM addresses the special needs of consumers/individuals served and their families during end-of-life care. This policy also states the CMHPSM position on hospice/end of life care and identifies the requirements for responding to requests by consumers/individuals served or their legal representatives to honor Do-Not-Resuscitate Orders.

### II. REVISION HISTORY

<b>DATE</b>	<b>MODIFICATION</b>
01/06/2006	
05/23/2013	Revised to reflect the new regional entity effective January 1, 2014.
09/14/2016	Due for review.
03/13/2020	Cyclical review and revisions based on HSAG EQR review
10/31/2024	3-year review

### III. APPLICATION

This policy applies to:

<input checked="" type="checkbox"/> CMHPSM PIHP Staff, Board Members, Interns & Volunteers
<input checked="" type="checkbox"/> Regional Partner CMHSP Staff, Board Members, Interns & Volunteers
Service Providers of the CMHPSM and/or Regional CMHSP Partners:

<input checked="" type="checkbox"/> Mental Health / Intellectual or Developmental Disability Service Providers
<input checked="" type="checkbox"/> SUD Treatment Providers <input type="checkbox"/> SUD Prevention Providers
<input type="checkbox"/> Other as listed:

**IV. POLICY**

The CMHPSM supports consumers'/individuals' rights to develop advance directives as tools by which consumers/individuals served can exercise self-determination where possible and enhance communication between consumers/individuals served, their families/friends, and healthcare professionals. The CMHSPM supports consumers'/individuals' rights to make decisions regarding their end-of-life care where possible and in accordance with applicable laws. CMHPSM staff shall inform consumers/individuals served of their right to develop advance directives, including assisting consumers/individuals served with information or resources in understanding the implementation of and revocability with advance directives.

**V. DEFINITIONS**

Advance Directive: A legally-binding, notarized document signed by a legally competent adult giving directions to healthcare providers about consumers'/individuals' treatment choices in specific circumstances including but not limited to medical or psychiatric situations.

Crisis: An emergent situation that is likely to cause reduced levels of functioning in primary aspects of the consumers'/individual's life if not addressed as soon as possible.

Community Mental Health Partnership of Southeastern Michigan (CMHPSM): This is the regional entity of the four CMHSPs that provide services to consumers/individuals served either directly or through contract agencies.

Community Mental Health Services Program (CMHSP): This is the agency where services are provided to consumers/individuals served either directly or through contract agencies.

Devisee: A person who is devised to receive the gift of real property (usually real estate) from a person's last will and testament after the testator's death.

Do-Not-Resuscitate (DNR) Order: A document executed pursuant to Section 3 of the Michigan Do Not Resuscitate Procedure which states that in the event a patient suffers cessation of both spontaneous respiration and circulation, no resuscitation will be initiated.

Durable Power of Attorney (DPOA) - Health Care: A legal advance directive that names a person (Patient Advocate) to act on the signer's behalf in enacting decisions about the signer's medical care if the signer becomes unable to make medical decisions for him or herself.

Individual Crisis Plan: A consumer/individual served-driven document in which the consumer/individual served decides what issues to address in a crisis, which people will

be enlisted for support during the crisis, and who will get a copy of the plan. This document is not legally binding.

Licensed Hospice Program: A health care program that provides coordinated services for an individual diagnosed with a disease/condition with a terminal prognosis. These services are rendered at home or in an outpatient or institutional setting that is licensed under article 17 of the Public Health Code. (PA 368 of 1978).

Patient Advocate: An individual designated to exercise powers concerning another individual's care and medical or mental health treatment or authorized to make an anatomical gift on behalf of another individual, or both. This person is identified in an advance directive/durable power of attorney as the individual with the ability to act on behalf of the signer in enacting decisions about the signer's medical or psychiatric care if the signer becomes unable to make medical or psychiatric care decisions for themselves.

Sound Mind: Having an understanding of one's actions and reasonable knowledge of one's family, possessions and surroundings.

## **VI. STANDARDS**

### **A. General Standards**

1. The Person-Centered Planning process is the mechanism with which the CMHPSM shall use to facilitate communication around the differences between a crisis plan, a health care advance directive, and a psychiatric advance directive, including how consumers/individuals served may access additional materials and supports to enact one. For those consumers/individuals served who have identified that they have a crisis plan, health care advance directive, or a psychiatric advance directive, the Person-Centered Planning process will also be an opportunity for consumers/individuals served to update or review their plan if they desire.
2. In accordance with the Medicaid Managed Care Rules, the CMHSP shall provide all adult consumers/individuals served with written information at least annually on advance directives policy and applicable state laws, and their rights under those laws.
3. In the event of changes in Michigan law regarding advance directives, the CMHPSM will reflect those changes in written policy and in information provided to consumers/individuals served. Changes will be made within 90 days after the law becomes effective.
4. All adult consumers/individuals served will be informed that complaints concerning noncompliance with advance directive policy may be filed through the grievance process of the local CMHSP. This may be done through the Member Services department, the Office of Consumer Rights, or by contacting any staff member within a CMHSP.
5. The Person-Centered Planning process is used to facilitate the discussion around the policy statements regarding the use of a crisis plan, advance

directive, or a durable power of attorney. A consumer/individual served may request a referral for assistance in establishing a crisis plan or a durable power of attorney.

6. All providers in the CMHPSM system of care are prohibited from conditioning the provision of care based on whether or not the individual has executed an advance directive.

## **B. Advance Directives - Psychiatric and Medical/Durable Power of Attorney-Health Care**

1. An adult consumer/individual served who is of sound mind has the right to enact a Durable Power of Attorney-Health Care, in accordance with the Michigan Patient Self Determination Act.
2. An adult consumer/individual served who is of sound mind has the right to enact a psychiatric advance directive, in accordance with the Michigan Estates and Protected Individuals Code (Public Act 386 of 1998) and the Michigan Mental Health Code.
3. The CMHPSM, in accordance with Michigan law, does not allow the following people/titles to enact advance directives on behalf of their ward:
  - Guardians
  - Spouses
  - Parents
  - Children
  - Grandchildren
  - Siblings
  - Presumptive heirs
  - Known devisees at the time of the witnessing
  - Physicians
  - Patient advocates
  - Employees of a life or health insurance provider for the patient
  - Employees of a health facility that is treating the patient
  - Employees of a home for the aged where the patient resides as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.
4. The CMHSP will ensure that the consumer's/individual's paper and electronic record accurately and clearly reflect the most current Durable Power of Attorney and/or medical or psychiatric advance directive. It is the consumers'/individual's responsibility to provide CMHSPM staff with any revisions, revocations (where allowed by law), or updates to their advance directive(s).

## **C. End-of-Life Care including Do-Not-Resuscitate Orders**

1. An adult consumer/individual served who is of sound mind has the right to enact a Do-Not-Resuscitate (DNR) order as allowed by the Michigan Do-Not-Resuscitate Procedure Act. A DNR for a consumer/individual served may be enacted in a setting outside of a hospital, a nursing home, or a mental health

facility owned or operated by the Department of Health and Human Services. By Michigan law a DNR may be enacted to:

- provide that certain actions be taken and certain actions not be taken with respect to such an order;
  - provide for the revocation of a Do-Not-Resuscitate order;
  - prohibit certain persons and organizations from requiring the execution of such an order as a condition of receiving coverage, benefits, or services
  - prohibit certain actions by certain insurers;
  - exempt certain persons from penalties and liabilities; and
  - prescribe liabilities.
2. CMHPSM employees, contractual staff, and volunteers can only honor the DNR order if the consumer/individual served is enrolled in a licensed hospice setting.
  3. CMHPSM and its staff, along with contractual agencies, in accordance with Michigan Law, is not subject to civil or criminal liability for either of the following:
    - a. Attempting to resuscitate an individual who has executed a Do-Not-Resuscitate order or on whose behalf an order has been executed if the person or organization has no actual notice of the order.
    - b. Failing to resuscitate an individual who has revoked a Do-Not-Resuscitate order or on whose behalf a Do-Not-Resuscitate order has been revoked, if the person or organization does not receive actual notice of the revocation.
    - c. A person or organization is not subject to civil or criminal liability for withholding resuscitative procedures from a declarant in accordance with this act.
  4. All CMHPSM employees, contract staff and volunteers are to be aware of special issues related to end-of-life planning for consumers/individuals served, their families and support networks. These may include, but are not limited to, the following:
    - a. Advocating appropriate medical attention, including palliative care, through making referrals to the consumer's/individual's Primary Care Physician. This may include asking the consumer/individual served and/or guardian to consider talking with their physician about Hospice Care.
    - b. Discussing with the consumer/individual served and/or guardian, and family when applicable, whether supportive counseling about end-of-life issues might be helpful.
    - c. Discussing with the consumer/individual served and/or guardian and family when applicable, whether staff can help facilitate contact with a local religious community of the consumer's/individual's choice to receive treatment by spiritual means.
    - d. While respecting the wishes of the consumer/individual and/or guardian and within the limits of the laws requiring confidentiality of consumer/individual served information, providing information and referral to family and friends of the consumer/individual served which will help them cope with the consumer's/individual's situation.
    - e. Providing information about more tangible affairs such as making out a living will and/or the appointment of a patient advocate to make decisions as the end nears, organ donation, collecting/donating property, funeral

- expenses, etc.
- f. Identifying, when possible, the person legally responsible to provide consent for an autopsy upon the consumer's/individual's death and preparing to discuss the benefit of and request for an autopsy with that person. Staff shall seek any necessary technical and supportive assistance with this task, given its sensitive nature, to assure being properly prepared prior to the death of the consumer/individual served.
5. If a consumer/individual served is enrolled in a licensed hospice program, CMHPSM will ensure that all staff, students, or volunteers who regularly work with that consumer/individual served will receive appropriate in-servicing by hospice staff, or a hospice trained staff, on special needs and issues related to that consumer's/individual's care.
  6. All CMHPSM staff, students, volunteers, and contractual staff of CMHPSM and/or its providers will immediately contact the appropriate emergency response number should a consumer/individual served appear to require emergency care:
    - a. If the consumer/individual served is not enrolled in a licensed hospice program, all covered staff, students and volunteers must see that 911 is called and initiate CPR/First Aid until the emergency responders arrive to take over. If staff have reason to believe that the consumer/individual served may have filed a Do-Not-Resuscitate Order with their Primary Care Physician, they will provide the Emergency responders with the consumer's/individual's Primary Care Physician's phone number. If a consumer/individual served wears a "Do-Not-Resuscitate" identification bracelet, as provided for in the MDNRPA, the PCP's number will be on the bracelet. The Emergency responders are empowered by the MDNRPA to determine what action to take next.
    - b. If the consumer/individual served is enrolled in a licensed hospice program, the Michigan Do-Not-Resuscitate Procedure Act allows for an emergency call to be placed to an enrolled consumer's/individual's licensed hospice provider, rather than to 911, and prior to attempting CPR, if a consumer/individual served appears to suffer cessation of both spontaneous respiration and circulation. **For any other emergency (accidents, falls, illness, etc.) staff will seek emergency care as usual.**
  7. The CMHSPM will ensure that the consumer's/individual's paper and electronic record reflects the most current DNR order. It is the consumer's/individual's responsibility to provide CMHSPM staff with any revisions, revocations (where allowed by law), or updates to their DNR order.

#### **D. Crisis Planning**

1. An adult consumer/individual served of the CMHSP has the right to enact a Crisis Plan in accordance with agency procedures. This is a document that a consumer/individual served may complete that explains certain details related to a consumer's/individual's life that may be addressed should there be a crisis. A crisis may be in the form of, but not limited to, an environmental crisis, psychiatric crisis, or death of a guardian. Please refer to the Individual Crisis Planning

procedure of this policy. This document is not legally binding.

2. The consumer's/individual's paper and electronic record **must** include a copy of the current Individual Crisis Plan if the consumer/individual served has delegated any responsibilities in the plan to a CMHSP staff person. If the CMHSP has no designated responsibilities in the Individual Crisis Plan, a copy of the Individual Crisis Plan will be included in the paper and electronic record at the consumer's/individual's request. It is the consumer's/individual's responsibility to provide CMHSPM staff with any revisions, revocations, or updates to their crisis plan.

## **VII. EXHIBITS**

- A. None

## **VIII. REFERENCES**

- A. Medicaid Managed Care Rules (specifically 42CFR422.128)
- B. MCL 333.20106
- C. MCL 700.5506
- D. Michigan Estates and Protected Individuals Code, PA 386 of 1998, MCL 700.5501- 5513, 700.5515, and 700.5520
- E. Public Health Code section 20106, PA 368 of 1978, article 17
- F. Michigan Do-Not-Resuscitate Procedure Act, PA 193 of 1996, MCL 333.1051-1067
- G. PA 194 of 1996, MCL 400.703-706 and 400.726a
- H. Michigan Patient Self Determination Act, PA 312 of 1990
- I. CMHSPM Policy on Confidentiality and Access to Clinical Records
- J. CMHSPM Policy on Religious Freedom & Treatment by Spiritual Means
- K. Opinion #6986 State of MI, Office of Attorney General, re: "Application of Michigan
- L. Do-Not-Resuscitate Procedure Act to Adult Foster Care Facilities".
- M. Opinion #7009, State of MI, Office of Attorney General, re: "Application of Michigan
- N. Do-Not-Resuscitate Procedure Act to Persons Under 18 Years of Age