

**SWMBH MI Health Link Operating Policy 6.1**

<b>Subject:</b> Advance Directives		<b>Accountability:</b> Customer Services	<b>Effective Date:</b> 1/1/2014	Pages: 3
<b>REQUIRED BY:</b> BBA Section <u>42 CFR 422.128 42 CFR 438.6</u> PIHP Contract Section <u>7.10.5 Advance Directives</u> NCQA/URAC Standard _____ Other _____		Last Reviewed Date: 6/1/17	Past Reviewed Dates: 2/20/15 4/24/15	
<b>LINE OF BUSINESS:</b> <input checked="" type="checkbox"/> Specialty Waiver (B/C) <input checked="" type="checkbox"/> 1115 Waiver <input checked="" type="checkbox"/> Healthy Michigan Plan <input checked="" type="checkbox"/> SUD Medicaid <input type="checkbox"/> SUD Block Grant <input checked="" type="checkbox"/> MI Health link <input type="checkbox"/> OTHER: _____	<b>APPLICATION:</b> <input checked="" type="checkbox"/> SWMBH Staff and Ops <input checked="" type="checkbox"/> Participant CMHSPs <input checked="" type="checkbox"/> SUD Providers <input checked="" type="checkbox"/> MH providers <input checked="" type="checkbox"/> Other: <u>Adult Services</u>	Last Revised Date: 6/1/17	Past Revised Dates: 2/20/15 4/24/15	
Approved: <i>Jim Hyder</i> <i>cairn</i> 7.14.17 Date: <i>Milac. Todd</i> 7-14-2017		Required Reviewer: Director of UM & ME Chief Compliance & Privacy Officer		

**I. Purpose**

To provide guidelines regarding application of Michigan Law for Southwest Michigan Behavioral Health (SWMBH) service recipients to make decisions concerning their medical care – including the right to accept or refuse medical treatment, and to formulate “advance directives”.

**II. Policy**

- A. SWMBH/Participant Community Mental Health Service Provider’s (CMHSP) and Contract Providers shall honor:
  - 1. Valid Durable Powers of Attorney as presented for medical and psychiatric care.
  - 2. Decisions made by identified Patient Advocates – unless unable or otherwise not required by law.
  - 3. Decisions regarding terminal care of a patient, made by a legally designated patient surrogate, if a person is terminally ill, including requests for hospice care.
  - 4. A valid Do-Not-Resuscitate Order when required to do so by Michigan law.
- B. Mental Health providers contracted by SWMBH are not bound to follow expressed desires of any directive(s) if any of the following apply:
  - 1. In the mental health professional’s opinion, compliance is not consistent with generally accepted community practice standards of treatment.
  - 2. The treatment requested is not reasonably available.
  - 3. Compliance is not consistent with applicable law.
  - 4. Compliance is not consistent with court ordered treatment.
  - 5. In the mental health professional’s opinion, there is psychiatric emergency endangering life and compliance is not appropriate under the circumstances
- C. SWMBH/Participant CMHSP’s and Contract Providers will not:
  - 1. Provide legal or medical advice or service if a customer expresses a desire to execute an Advance Directive.
  - 2. Discriminate or condition the provision of treatment based on whether or not the individual has executed an Advance Directive

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### III. Standards and Guidelines

- A. SWMBH will review this policy for compliance with current state law and Michigan Department of Health and Human Services (MDHHS) Contract and Technical Requirements on regular basis. Policy and procedures will be amended as necessary to comply with changes. Customer materials related to Advance Directives will be updated and distributed within 30 days of an identified change in state law.
- B. SWMBH will perform the following for the entire network of services provided:
  - 1. Evaluation of Michigan laws to develop SWMBH policies.
  - 2. Development of educational materials to customers.
  - 3. Develop and distribute training and educational materials to staff of the network.
  - 4. Monitor CMHSPs for local implementation of procedures.
- C. Specific Procedures utilized throughout SWMBH will be developed by the CMHSP's for local implementation and will identify tasks/steps such as:
  - 1. Providing training to Network provider staff.
  - 2. Asking customers and potential customers about their Advance Directive status.
  - 3. Providing Advance Directive information and forms to complete.
  - 4. Offering assistance to complete Advance Directive documents.
  - 5. Documenting Advance Directive designations in customer record.
  - 6. Informing providers of Advance Directive designations.
  - 7. Honoring Advance Directive decisions as required.

### IV. Definitions

- A. Advance Directive: Written instruction such as a living will or health care power of attorney, recognized under State law (whether by statute or by the courts of the state) and relating to the provision of health care when the individual is incapacitated.
- B. Medical Advance Directive: Written instructions regarding physical/medical health care. Examples of decisions made include: hospital care, medication regimes, Do Not Resuscitate Orders, or organ/tissue donation.
- C. Psychiatric Advance Directive: Written instructions regarding care for psychiatric/mental health care decisions. Examples may include: psychiatric hospitalization, MH treatment participation, medication regimes, or any specific psychiatric treatments such as ECT.
- D. Do Not Resuscitate Order: Directs that in the event that a declarant's heart and breathing should stop, no person shall attempt to resuscitate the declarant.
- E. Durable Power of Attorney: In regards to Healthcare Decisions, (DPOA) In the State of Michigan, established through MCLA 700.5501 et seq. the state of Michigan allows an adult 18 years of age or older of sound mind to designate a Patient Advocate who is able to make decisions concerning the care, custody and medical treatment if that individual is unable to participate in his/her medical and/or mental health treatment decisions.
- F. Plan for Difficult Times (Crisis Planning): A plan established by a customer of Specialty Mental Health Services within the context of their Person Centered Plans (PCP). Education about this option is required by the Michigan Department of Community Mental Health (MDCH). The plan is intended to direct care when a customer begins to experience increased difficulty in managing his/her life or becomes genuinely incapacitated and an appointed agent acts on his/her behalf.

### V. References

- A. The Michigan Do-Not Resuscitate Procedure Act (MDNRPA) MCLA 333.1051 et seq.

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B. The Patient Advocate Act, Part 5 of the Estates and Protected Individuals Code (EPIC) MCLA 700.5501 et. seq.

**VI. Attachments**

None

