Psychiatric Advance Directives:

Pros, Cons, and Next Steps…

Since 1991's passage of the Federal Patient Self-Determination Act, Advance Directives (ADs) have been used as a tool to increase patient and family involvement in future health care planning. This trend spurred a similar movement in mental health care, which resulted in the creation of **Psychiatric Advance Directives** (or **PADs**). PADs are tools to enhance the mental health consumer's* "voice" in his or her treatment.

The National Resource Center on Psychiatric Advance Directives defines PADs as legal instruments that document a competent person's specific instructions or preferences regarding future mental health treatment. The intent is to facilitate timely access to care during acute psychiatric episodes when an individual loses the ability to give or withhold informed consent to treatment. A growing body of literature provides information on what PADs are, how they are used, and strategies for more effective implementation, including model laws and toolkits.

The purpose of this Fact Sheet is to offer some of the major pros and cons associated with PADs. Further, for those considering executing PADs – and for states considering PADs legislation– it offers tips, next steps and a list of tools, resources, and references to guide discussion around optimal implementation.

PROS - A Psychiatric Advance Directive has the potential to:

- Empower individual consumer's self-determination in decision-making, strengthening goals of consumer empowerment and "voice" in care;
- Increase satisfaction, motivation, and treatment adherence for better, more cost-effective outcomes;
- Enhance continuity of care, and promote early intervention and preventative care;
- Encourage treatment collaboration and communication between the consumer, family, and clinical team about treatment options, preferences, and self-care;
- Decrease reliance on coercive measures;
- Assist in crisis de-escalation; and
- Decrease hospitalization and costly court involvement.

* see Glossary

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CONS - Potential Problems Associated with Psychiatric Advance Directives

- Insufficient education of consumers about the role of PADs, how to complete them, and their limits;
- Insufficient education of clinical staff and providers about PADs;
- Insufficient attention to logistical concerns, such as:
    - How to raise awareness among clinical staff and crisis providers as to existence of PADs
    - How to access them on 24/7 basis;
- Questions around legality and liability, especially when consumers use a PAD to:
    - Refuse treatment seen as critical in crisis
    - Be hospitalized even when hospitalization is objected to during the acute crisis (e.g. "voluntary commitment contract");
- Concerns over requests for treatments not viewed as within the "standard of care*" or best practices*, or treatments that are not available in the community (or unaffordable);
- Lack of clarity around ability to carry out or revoke a PAD;
- Uncertainty over who can/should be a health care agent*, especially for individuals without available (or willing) family/friends;
- Difficulty in predicting what treatments will be available and preferred in a "future" crisis;
- Stigmatizing to single out mental health consumers for distinct PADs (with related rules), as somehow "different" from those with cognitive impairments completing general health care Advance Directives.

It is worth noting that many of the concerns raised about PADs can also be raised about Advance Directives generally, and/or are of a more procedural versus substantive nature. Instead of the outright rejection of PADs, the key to their effective implementation seems to lie in better education, communication, and technical assistance.

* see Glossary

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TIPS

- Know the status of your state's law on PADs. For information about specific states, see: *http://www.nrc-pad.org/index.php?option=com_content&task=view&id=41&Itemid=25*

For Consumers:

- If no specific statutes exist, consider consulting mental health advocates and legislators to add language to promote and facilitate use of PADs for enhanced consumer participation and crisis de-escalation.
- If you choose to use a PAD:
  - Talk with peers, family, friends, and clinicians about your preferences
  - Revisit the document regularly so it's up-to-date with evidence-based practices* and your own preferences based on experience
  - Make sure your agent (if chosen) and clinicians know how to access it

For Service Providers and Advocates:

- The implementation or revision of AD or PAD statutes can be accomplished faster and better when:
  - All stakeholders are educated about advance directives. Stakeholders include: consumers and family members, clinical staff and administrators, legal/law enforcement personnel, policymakers, and payors)
  - Consumer education is enhanced through discussion and training, the use of peer support models, and access to software tools (e.g., AD-Maker)
  - The competency and capacity of the individual using the PAD has been adequately assessed.
- If implementing/revising AD or PAD statutes, address logistical and legal issues early on through education of and discussion among all key stakeholders.
- Help educate staff, administrators, policymakers, and the public about PADs and their value in enhancing consumer voice in treatment.
- In order to ensure that the use of PADs matches their promise, support is needed for research about the best ways to implement them as well as the development of methods that better assess an individual's capacity to make decisions.

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TOOLS

The Advocacy Center for Persons with Disabilities (PAD Toolkit): *http://www.advocacycenter.org/AdvanceDirectives/advancedirectives.htm*

Bazelon Center for Mental Health Law (Template/Forms for completion, FAQs): *http://www.bazelon.org/issues/advancedirectives/index.htm*

Mental Health America (*formerly* National Mental Health Association) Psychiatric Advance Directive Toolkit: *http://www1.nmha.org/position/advancedirectives/index.cfm*

Software: AD-Maker (designed to facilitate PAD execution through written information, voice-over prompts): See Sherman P: Computer-assisted creation of psychiatric advance directives. Community Mental Health Journal 34:351-362, 1998.

RESOURCES

Information

National Resource Center on Psychiatric Advance Directives: *http://www.nrc-pad.org/index.php*

National Disabilities Rights Network: *http://www.napas.org/issues/advdir/default.htm*

GLOSSARY (Terms used in this document)

Mental Health Consumers (**Consumers**) – people who have been diagnosed with a mental illness and who use mental health services. Consumers are also sometimes referred to as individuals with psychiatric disabilities, persons in recovery, and clients.

Mental Health Care Agent – a competent adult who is 18 years or older who you designate to make treatment decisions on your behalf in the event that you are unable to make competent decisions during a mental health crisis. Agents are also referred to as mental health power-of-attorney, attorney-in-fact, surrogate, or proxy decision-maker.

Evidence-Based Practices – specific clinical interventions or services for which there is consistent, scientific evidence showing that they produce benefits to consumers and their quality of life. Research in the field of mental health has shown that there is consistent scientific evidence that some specific practices work well in improving outcomes in the lives of individuals diagnosed with a severe mental illness.

Best Practices – strategies, interventions, or approaches that appear promising and are viewed as beneficial by policy makers, providers, and consumers.

Standard of Care - medical or psychological treatment guidelines that can be general or specific. They specify appropriate treatment protocols based on scientific evidence and collaboration between medical and/or psychological professionals involved in the treatment of an individual.

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REFERENCES

Appelbaum PS: Psychiatric advance directives and the treatment of committed patients. Psychiatric Services 55(7):751-752, 2004.

Elbogen EB, Swartz MS, Van Dorn R, et al.: Clinical decision making and views about psychiatric advance directives. Psychiatric Services 57(3):350-355, 2006.

O'Connell MA, Stein CH: Psychiatric advance directives: perspectives of community stakeholders. Administration and Policy in Mental Health 32(3):241-265, 2005.

Swanson J, Swartz M, Ferron J, et al.: Psychiatric advance directives among public mental health consumers in five U.S. cities: prevalence, demand, and correlates. Journal of the American Academy of Psychiatry and the Law 34(1):43-57, 2006.

Srebnik DS, Rutherford LT, Peto T, et al.: The content and clinical utility of psychiatric advance directives. Psychiatric Services 56:592-598, 2005.

Srebnik DS, Appelbaum PS, Russo R: Assessing competence to complete psychiatric advance directives with the Competence Assessment Tool for Psychiatric Advance Directives. Comprehensive Psychiatry 45(4):239-245, 2004.

Srebnik DS, Russo J, Sage J, et al.: Interest in psychiatric advance directives among high users of crisis services and hospitalization. Psychiatric Services 54(7):981-986, 2003.

Srebnik D, Brodoff L: Implementing psychiatric advance directives: service provider issues and answers. Journal of Behavioral Health Services & Research 30(3):253-268, 2003.

Case Law

Hargrave v. Vermont, 340 F.3d 27 (2nd Cir. 2003) (enjoining enforcement of Vermont statute that allowed hospital to override mental health instructions in durable power of attorney after 45 days if no "significant clinical improvement" as discriminatory in violation of ADA)