

WASATCH BEHAVIORAL HEALTH  
SPECIAL SERVICE DISTRICT

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## ADVANCE HEALTH CARE DIRECTIVES – C – 5.06

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### **Purpose:**

The purpose of this policy is to ensure that Wasatch Behavioral Health Special Service District (WBH) complies with Utah State Law to provide information and procedures to inform adult clients of their right to develop Advance Health Care Directives (Advance Directive) for medical and mental health treatment. (Utah State Code 75-2a-117).

### **Definitions:**

Advance Health Care Directive: also know as an “Advance Directive” is a written document initiated by an adult client explaining, in advance of an illness or injury, his/her treatment preferences in the event he/she should become incapable of making those decisions for him/her self.

Client’s Health Care Agent or Health Care Power of Attorney: A capable adult empowered by the client to make mental health treatment decisions for the client when he/she is incapable.

Client Incapability: "Incapable" means that, (1) In the opinion of the court in a guardianship proceeding under Title 75, Chapter 02a Utah Code, or (2) in the opinion of two physicians, a person's ability to receive and evaluate information effectively or communicate decisions is impaired to such an extent that the person currently lacks the capacity to treatment decisions.

Client Best Interest Standard: What a reasonable person would choose in deciding what is best for the client under the current circumstances.

### **Policy:**

- A. Wasatch Behavioral Health (WBH) shall provide its adult clients with written information and education about Advance Directives. WBH shall inform clients that the decision to complete an Advance Directive is voluntary and is not a condition of care.
- B. WBH shall honor a client's Advance Directive as long as the client’s health care agent interprets the client’s wishes as consistent with acceptable medical practice. If it is unclear in the Advance Directive what the incapacitated client would want, WBH expects that the client’s health care agent will follow the commonly used “best interest” standard.
- C. WBH shall provide training and consultation on Advance Directives for consumer advocates when requested.

- D. WBH shall provide staff training and education concerning Advance Directives policies and procedures at least annually and following any substantive changes in State law.
- E. No WBH staff member shall direct the development of an Advance Directive, nor serve as any client's health care agent.

**Procedure:**

- 1. At intake, clients shall be given a copy of the Medicaid Member Handbook that provides information pertaining to Advance Health Care Directive (Advance Directive).
- 2. When a client requests to complete an Advance Directive, WBH shall provide the client with information, approved by the Utah Commission on Aging, for developing an Advance Directive (**Use Form C-5.06a located in the WBH Forms Library. You can also download an Advance Directive Form at <https://ucoa.utah.edu/directives/>**
- 3. Any staff member may accept a client's Advance Directive. The staff member accepting the Advance Directive shall:
  - 1. Provide a copy of the Advance Directive to the client.
  - 2. Inform the client that they must provide a copy of their Advance Directive to their physical health care provider.
  - 3. Forward the client's Advance Directive to the Clinical Records Department for inclusion in the client's clinical record.

The Clinical Records Department shall:

- 1. Document the date and time received on the Advance Directive.
- 2. File the Advance Directive in the client's clinical record.
- 3. Document that the client has an Advance Directive the client's electronic clinical record.
- 4. In the event a client becomes incapable, due to their mental illness, the client's primary service coordinator will verify the existence of a current Advance Directive and immediately notify the client's health care agent.
- 5. The health care agent will make the determination of when the terms of the Advance Directive should be implemented. The defined psychiatric and environmental interventions specified in the Advance Directive will be incorporated into the WBH recovery plan in accordance with this policy.
- 6. The treatment preferences of a capable client supersede any previously expressed preferences contained in the Advance Directive.

If reasonable doubt exists regarding the status of an adult claiming the right to act as a surrogate health care agent, the health care provider may:

  - (a) require the person to provide a sworn statement giving facts and circumstances reasonably sufficient to establish the claimed authority; or
  - (b) seek a ruling from the court under Section 75-2a-120. A health care provider may seek a ruling from a court pursuant to Section 75-2a-120 if the health care provider has evidence that an agent is making decisions that are inconsistent with an adult client's wishes or preferences.

7. A client may revoke their Advance Directive at any time he or she is capable to do so.
8. A client may revoke their Advance Directive even if a health care provider has found that they lack health care decision-making capacity.
9. A client may revoke all or part of their Advance Directive by doing any of the following:
  1. Writing “void” across the Advance Directive form, or burning, tearing, or otherwise destroying the document, or the client may direct another person to do destroy the document.
  2. Signing a written revocation (or cancellation) of the Advance Directive, or the client may direct another person to sign a revocation.
  3. Revoke their Advance Directive in the presence of a witness. The witness
    - must be 18 years or older .
    - must not be the appointed health care agent in a substitute directive.
    - must not become a default surrogate if the directive is revoked.
    - must sign and date a written document confirming the client’s statement.Upon receiving revocation of the client’s Advance Directive, the Clinical Records Department shall remove the Advance Directive from the client’s clinical record. The progress note in the client’s clinical record will document the revocation.
10. A client may complete a new Advance Directive at any time.
11. WBH shall provide clients or client advocates with information and/or training on Advance Directives as requested.
12. WBH shall ensure the written information included in the Medicaid Member Handbook reflects changes in State Law regarding Advance Directives no later than 90 days after the effective date of the change.

### **Right to Change and/or Terminate Policy:**

Reasonable efforts will be made to keep employees informed of any changes in the policy; however, WBH reserves the right, in its sole discretion, to amend, replace, and/or terminate this policy at any time.

**Use Form C-5.06a located in the WBH Forms Library. You can also download an Advance Directive Form at <https://ucoa.utah.edu/directives/>**