



## Standard Operating Procedure

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Category: Clinical

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Title: Advance Directives

Original Date of Issue: 06/17/2003

Keyword Search:

Date Approved: 2/16/2024

*Carelon Behavioral Health Policies and Procedures cover the operations of all entities within the Carelon Behavioral Health Holdings, LLC corporate structure, including but not limited to Carelon Behavioral Health Strategies LLC and Carelon Behavioral Health, Inc.*

Reviewed <input checked="" type="checkbox"/>	Revised <input type="checkbox"/>	New <input type="checkbox"/>	Approval Signatures:
<small>To select double click box, select Checked, then OK</small>			
Functional Area(s) Involved in Review: Medical, Member Services			
Service Center/Engagement Center: Colorado Springs			
Previous Approval Date: 3/16; 3/17; 12/18; 6/21; 1/23, 2/24			<b>Brian Hill, MD, FAAFPVP</b> Medical Director, Chief Clinical Officer
			Next Annual Review Due: 2/16/2025

### I. Purpose

To define the RAE's role in assisting members with their right to make medical decisions regarding the Patient Self-Determination Act of 1989.

### II. Policy

- It is the policy of Carelon to inform members of their right to make medical decisions regarding healthcare in compliance with the Patient Self-Determination Act (1989 Federal Law), the Colorado Medical Treatment Decision Act (CRS 15.18.103), and to assist them in using this right. The Member Handbook that is published by Health Care, Policy, and Financing (HCPF) highlights information regarding Advance Directives for members. Detailed information is posted on the RAE websites, including references to the Colorado Medical Treatment Decision Act (CRS 15.18.103).
- If changes in the Colorado Medical Treatment Decision Act (CRS 15.18.103) are made by the legislature, the RAE will inform adult members no later than 90 days following the change through website postings.
- Any competent adult may execute a declaration directing that life-sustaining procedures be withheld or withdrawn if, at some future time, he/she is in a terminal condition and either unconscious or otherwise incompetent to decide whether any medical procedure or intervention should be accepted or rejected.



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D. A member's care and treatment is not conditioned on whether or not they have an advance directive.

### III. Stakeholders

Clinical Operations

Clinical Care Managers

All Providers

Member Services Engagement Team

Care Coordinators

### IV. Definitions

**Advance Directive:** A written statement made by the member, while they are competent, indicating treatment wishes to accept or refuse medical/ surgical treatment in the event the member becomes incapacitated. This statement may include a Living Will, Medical Durable Power of Attorney for health care decision, CPR Directive or similar documents.

**Behavioral Health Order Form:** A document that outlines an adult's (18 year or older) instructions concerning behavioral health treatment, medication, and alternative treatment decisions, preferences, and history in the event that the individual lacks decisional capacity to provide consent to, withdrawn from, or refused treatment or medication. This behavioral health order form is part of Colorado House Bill 19-1044.

**Decision Making Capacity:** A person has the functional ability to make decisions regarding their health care when s/he:

1. comprehends information relevant to the particular decision to be made;
2. is able to deliberate regarding the available choices, considering his/her own values and goals; and
3. Can communicate, verbally or non-verbally, his/her decisions.



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**Declarant:** means a mentally competent adult who executes a declaration.

**Medical Durable Power of Attorney:** Written authorization designating another person to make healthcare decisions on behalf of the member, if the member becomes incapable of making his/her own decisions.

**Living Will:** A signed, dated and witnessed declaration written by the member, which may request that under certain circumstances life sustaining procedures/treatments may be withheld or withdrawn and that he/she be allowed to die. The Colorado “Living Will” statute applies only when a person is terminally ill and either unconscious or otherwise incompetent to make medical decisions.

**Medical Proxy/Surrogate Decision Maker:** A substitute decision-maker for a member who does not have an advance directive or a guardian, if a physician or judge determines that the member cannot make medical decisions. The member’s spouse, parent, adult child, grandchild, brother/sister or any close friend may be chosen as the medical proxy by mutual agreement. A member must be 18 years of age or legally emancipated to complete his/her own Advance Directives.

**Psychiatric Advance Directive:** This phrase is synonymous with the Behavioral Health Order Form definition in II.B.

**Limitations on implementing Advance Directives as a matter of conscience:** Advance Directives apply to medical/ surgical procedures, not psychiatric conditions. As such, Carelon does not place limitations on implementing Advance Directives. Contracted Facilities, especially those who provide medical or surgical procedures, may or may not place limitations on implementing behavioral health order forms. Carelon does not make the decision about the differences between institution–wide conscientious objections or those raised by individual physicians. Carelon does not identify the state legal authority which permits conscientious objections or describe the range of medical conditions or procedures affected by conscientious objections.

## V. Procedures

- A. Primary Care Medical Providers (PCMPs) are encouraged to ask all members if they have an advance directive during a well visit and to place in a prominent position if the member has executed an advance directive in the member’s medical record. Providers are made aware of



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this through the Provider Handbook, which is an extension of their contract/agreement with Carelon.

- B. Carelon's Quality Team completes audits on medical records to ensure that providers have discussed Advance Directives with members.
- C. Carelon's Quality Team provides quarterly documentation standards training which includes information on Advance Directives.
- D. Advance Directives, as defined in the Patient Self-Determination Act, apply to medical/surgical procedures, not psychiatric conditions. If a member requests additional information on The Act from the outpatient mental health provider, advocate or/and the RAE's Customer Service Representative, the member will be referred to her/his primary care physician.
  - 1. Mental Health providers are not trained, credentialed or authorized to implement medical/surgical procedures and therefore, cannot implement or withhold Advance Directives procedures.
  - 2. If the member presents her/his advance directives to the inpatient provider, the provider will instruct her/him to keep the advance directives on her/his person.
  - 3. Advanced Directives can only be implemented when the medical/surgical provider knows them.
  - 4. If a member is incapacitated at the time of hospital admission due to an incapacitating condition or mental disorder and is unable to receive information, the member's family or surrogate can request information as per section IV.A or from hospital staff.
  - 5. If a member is no longer incapacitated, the member can request information as per section IV.A or from hospital staff.
- E. Carelon will provide education to members, care coordinators, and providers about HB 19-1044 (behavioral health orders) and what needs to be included in the behavioral health order form. Carelon states that this form is best completed with a member's behavioral health provider.
- F. The RAE will work with HCPF to improve the process for educating members on end-of-life planning and care coordination, collective directives and other related end-of-life planning documentation and hosting information for ease of access by providers and care coordinators.



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- G. Information on advance directives is included in Health First Colorado's Member Handbook which is available to Members on the Department of Health Care, Policy and Financing (HCPF) or Regional Accountable Entity's (RAE's) websites.
- H. For adult members in treatment, additional information is available through the RAE's websites and handouts. This information includes policies, statements of any limitations, and information on directing complaints concerning non-compliance with advance directive requirements to the Colorado Department of Public Health and Environment. Included in this information will be a statement that Members have the right to request and obtain Advance Directive information at least once a year.
- I. When appropriate, Carelon will provide members, staff, providers, and community education about the RAE's Advance Directives Policy. Training will include what constitutes an advance directive, how an Advance Directive is designed to enhance an incapacitated member's control over their medical treatment, and a description of state laws concern advance directives. Depending on the audience (staff, provider or community), training will be conducted through the following means:
1. As part of the staff orientation process
  2. Member Services events and Member Directed Programs
  3. Provider Forums
  4. Care Coordination meetings
  5. Postings at CMHCs and FQHCs sites
  6. Postings on RAE's web sites
  7. Provider newsletters
  8. E-mail and mail notices to providers with instructions on how to access Advanced Directive information on the web.
- J. If a member believes his/her rights under the Colorado Medical Treatment Decision Act or the Patient Self Determination Act have been violated when receiving services through the RAE or



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its providers, the member will be given information about how to file a complaint with the Colorado Department of Public Health and Environment.

- K. The RAE 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.
- L. The RAEs will make necessary changes to our Advance Directives information within ninety (90) days after the effective date of change.

**VI. Associated Policies**

None

**VII. Associated SOPs**

None

**VIII. Who monitors compliance with the policy/procedure?**

Medical Director

**IX. Who Is Responsible for Implementing the Policy?**

Medical Director

Member Services Engagement Team