



## Advance Directives for Mental Health Treatment

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### What is an advance directive for mental health treatment?

An advance directive for mental health treatment is a legal document in which your wishes about your psychiatric treatment are expressed. It is written before (in advance) you receive services at a healthcare facility.

### What may be covered in my advance directive?

According to KRS 202A.422, an advance directive may include:



- Specific psychotropic medications you don't want to be given (this may include those that you had bad reactions to previously, etc.)
- Specific psychotropic medications you prefer to be given
- Whether or not you want electroconvulsive (electric shock) therapy (ECT)
- Preference about the use of physical or chemical restraint or seclusion when there is a crisis situation
- Information about anything you think is important regarding your care
- Designation of someone you know and trust to be your mental health surrogate

### What is a mental health surrogate?

A mental health surrogate is a person that helps uphold your wishes outlined in the advance directive document. If the mental health provider wants to do a certain type of mental health treatment for you that isn't covered in your document, the surrogate may "in good faith" make a decision about this treatment on your behalf.

The mental health surrogate **only** makes decisions about mental health treatment.

## **Am I required to have a mental health surrogate?**

No, you are not required to designate a mental health surrogate in order to have an advance directive.

## **How long is the mental health surrogate good for?**

The mental health surrogate designation is good for as long as you have your advance directive. You can change this person at any time and the surrogate can also decide to no longer hold this role. Both of these would need to be in writing.

## **How do I write an advance directive?**

While it is not necessary that you use on particular form, the advance directive must have the specific language found at: <http://www.lrc.ky.gov/KRS/202A00/430.PDF> . Protection and Advocacy has created a form that may also be used.

It is important to remember that two (2) adult witnesses must sign the form or it must be notarized. Neither the witnesses nor the notary public can be your current health care provider or a relative of the health care provider.

## **How will people know that I have an advance directive?**

Providers will not know that you have an advance directive unless you or your mental health surrogate tells them. It would be a good idea for both you and your surrogate to have a copy. You may also want to give copies to your current health care providers.

## **Can a hospital or provider refuse to follow my advance directive?**

Generally speaking, an advance directive has to be followed. However, KRS 202A.426 (2) outlines two reasons for overriding the document:

1. A court order contradicts the advance directive or
2. There is an emergency endangering a person's life or posing a serious risk to physical health.

**Call Kentucky Protection and Advocacy office at 1-800-372-2988 or visit [www.kypa.net](http://www.kypa.net) for further information and assistance.**



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Paid for by funds from the Department of Health and Human Services, Substance Abuse and Mental Health Services Administration.