

Yamhill Community Care POLICY AND PROCEDURE



POLICY NUMBER: ENR-004	TITLE: Advance Directive
DEPARTMENT: Quality	APPROVED BY: Chief Medical Officer & President/CEO
EFFECTIVE DATE: 1/31/2017	REVISION DATE: 12/05/2022
REVIEW DATES: 08/01/2020	
APPLIES TO: Yamhill Community Care, Providers, and Subcontractors	

DEFINITIONS:

<u>Advance Directive</u>	Written instructions, such as a living will or Durable Power of Attorney for health care, recognized under Oregon law (whether statutory or as recognized by the courts of the State), relating to the provision of health care when the individual is incapacitated. A Durable Power of Attorney can be combined with a living will into a single document that describes one's treatment preferences in various situations and names a proxy.
<u>Adult</u>	An individual who is 18 years of age or older, who has been adjudicated, or emancipated minor, or who is married
<u>Healthcare Representative (proxy)</u>	The individual designated to make healthcare decisions on the declarant's behalf in accordance with the terms and order of priority stated in a living will and/or with the member's previously expressed wishes.
<u>Healthcare</u>	Diagnosis, treatment or care of disease, injury and congenital or degenerative conditions, including the use, maintenance, withdrawal or withholding of life-sustaining procedures and the use, maintenance, withdrawal or withholding or artificially administered nutrition and hydration
<u>Incapacitated</u>	A person temporarily or permanently impaired by mental and /or physical deficiency, disability, illness, or by the use of drugs to the extent they lack sufficient understanding to make rational decisions or engage in responsible actions
<u>Living Will</u>	A document specifying a member's preferences regarding medical decisions to withhold or withdraw life-

	sustaining treatment if the member is seriously ill and unable to communicate their decisions.
<u>Durable Power of Attorney or Proxy Directive</u>	A witnessed legal document in which a member names another person to make medical decisions if the member becomes unable to make them. Instructions about treatment preferred or to be provided, such as surgery or artificial nutrition and hydration, can also be included.
<u>Subcontractor</u>	An individual or entity that has a contract with an MCE that relates directly or indirectly to the performance of the MCE's obligations under its contract with the State. A Participating Provider is not a Subcontractor solely by virtue of having entered into a Participating Provider agreement with an MCE.

POLICY:

Yamhill Community Care (YCCO) and subcontractors comply with all applicable federal, state, contractual rules and regulations.

YCCO shall notify enrollees and established members about their right to be involved in decisions regarding their care including documentation of advance directives and allowance of the member's representative to facilitate care or make treatment decisions when the member is unable to do so.

YCCO ensures that physical health, oral health, and behavioral/ chemical health providers are providing written information to all adult members receiving care with respect to their rights under Oregon law (whether statutory or recognized by the courts of the State) to make decisions concerning their care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives and information regarding the implementation by:

- Honoring a member's advance directive as long as it does not violate State and Federal laws. The existence or lack of an advance directive does not determine an individual's access to care, treatment, and services.
- Following a member's advance directive regardless of the member's race, religion, national origin, sex, sexual preferences, handicap, diagnosis, ability to pay and source of payment. No member will be discriminated against with regard to the provision of care or based on whether the member has executed an advance directive
- Ensuring that if a member is incapacitated at the time of initial enrollment or at the time that medical care is initiated and is unable to receive information (due to the incapacitating condition or a mental disorder) or articulate whether or not they have executed an advance directive, YCCO may give advance directive information to the member's family or surrogate in accordance with Oregon law. If the member's incapacitating condition is temporary in nature, YCCO shall ensure communication of this information directly to the member once they are no longer incapacitated.
- In Network providers will comply with all state and federal laws and regulations by maintaining written notices and procedures respecting advance directives.

YCCO will provide adult members with written information on advance directive policies including rights and limitations.

Rights:

1. A member's right to make decisions concerning their medical care;
2. The right to accept or refuse medical or surgical treatment;
3. The right to formulate advance directives; and
4. Provided direct link to advance directive form and informs the member where to call to obtain a hard copy version of the form.

Limitations:

Should YCCO decide to limit the implementation of an advance directive as a matter of conscience it will update the YCCO website and handbook with a precise statement of limitation. Currently YCCO has no limitation.

YCCO is not required to do the following:

Provide care that conflicts with an advance directive; and

Implement an advance directive if, as a matter of conscience, YCCO cannot implement an advance directive and Oregon law allows YCCO or any health care provider to conscientiously object.

Advance Directive Form

Advance directive form provided in ORS 127.531 with all requirements set forth in the form will be used.

A. Advance Directive for Mental Health Treatment (Declaration for Mental Health Treatment)

Advanced Directives and Declarations for Mental Health Treatment may be implemented in the event that the member becomes incapacitated or is otherwise not able to exercise their right to participate in treatment planning decisions. It is the policy of YCCO that members are informed of their rights to initiate Advanced Directives and Declarations. Contracted providers will have policies and procedures relating to Advanced Directives and Declarations for members of their programs.

YCCO expects that subcontractors will:

- Make Declaration and Advanced Directive forms available to adult members upon request;
- Establish procedures for informing adult members of their rights to have a Declaration and Advanced Directive;
- Provide assistance to members in the completion of a Declaration; and
- Document in a prominent part of the clinical record whether or not the member has executed a Declaration and/or Advanced Directive.

B. It is the policy of YCCO that all subcontractors educate and document staff trainings regarding the purpose and completion of Declaration and/or Advanced Directives, member rights related to Declarations and/or Advanced Directives, and right of members to refuse treatment.

- C. It is the policy of YCCO that documentation shows in member's current physical health, mental, and dental record states an advance directive is in effect.
- D. Advance directive information must remain current and reflect changes in Oregon law as soon as possible, but no later than 90 calendar days after the effective date of change to the law.

PROCEDURE:

Upon enrollment, all new YCCO members receive a member handbook containing information regarding advance directives that includes the following information:

- The member has the right to accept or refuse treatment under Oregon Law,
- The member has the right to complete an advance directive and how to implement that right,
- Members or authorized representatives may also contact YCCO's Members Services Department or access the plan's web site to request information on Advance Directives,
- Information regarding filing complaints concerning noncompliance with advance directive requirements through the Oregon Health Authority (OHA), and
- A guide to Oregon's Declaration for Mental Health Treatment and forms online links.

COMPLIANCE & OVERSIGHT:

YCCO shall monitor subcontractors to ensure:

1. Policies and Procedures are collected and updated either biennially or when review/revision date have been documented.
2. Sample documentation or attestation for proof of routine monitoring of mental health clinical treatment records will be requested and reviewed annually from mental health subcontractor as it relates to advance directives.
3. Sample documentation annually from subcontractors for member notification.
4. Documentation of notification within Provider Manual.
5. Documentation or attestation for staff trainings.

YCCO shall ensure the following are reviewed and updated annually to reflect any changes to state and/or federal rules and regulations pertaining to advance directives:

- Member handbook,
- Advance Directive and/or Oregon's Declaration for Mental Health Treatment forms,
- Website form links,
- Website information pertaining to advance directives,
- Information on how to file a complaint if an advance directive is not followed, and
- Policy updates.

REFERENCES:

OAR 410-120-1380(1)(c)(M)(iii), 410-141-3320(w), 410-141-3585(12), 410-141-3590(2)(w)
ORS 127.531, 127.649

42 CFR 422.128, 431.107(b)(1),(2) & (4), 438.3(i)(3), 438.6(i)(1), 438.10 (g)(2)(xii),
457.950(a)(3), 489 subpart I, 489.100, 489.102,

RELATED POLICIES & DOCUMENTS:

ENR-001 Member Rights, Protections, and Responsibilities
QA-007 Subcontractor Oversight
QA-008 Audit and Monitoring

Log of Review/Revisions

Date	Review/Revision	By Whom
1/31/2017	Approved	S. McCarthy, Interim CEO
07/28/2019	Branding and formatting,	Jroe, QA Specialist
08/01/2020	Bulleting to enhance policy information clarifications.	Jroe, QA Specialist
04/09/2022	Formatting and subcontractor clarification updates only, no content change	JRoe, Benefit Administration Supervisor
12/05/2022	Updates to state and federal rules and regulations, reorganization of information with addition of pertinent updates of state and federal rules.	JRoe, Benefit Administration Supervisor