

Chapter 297 | Senate Bill 154 (2023)

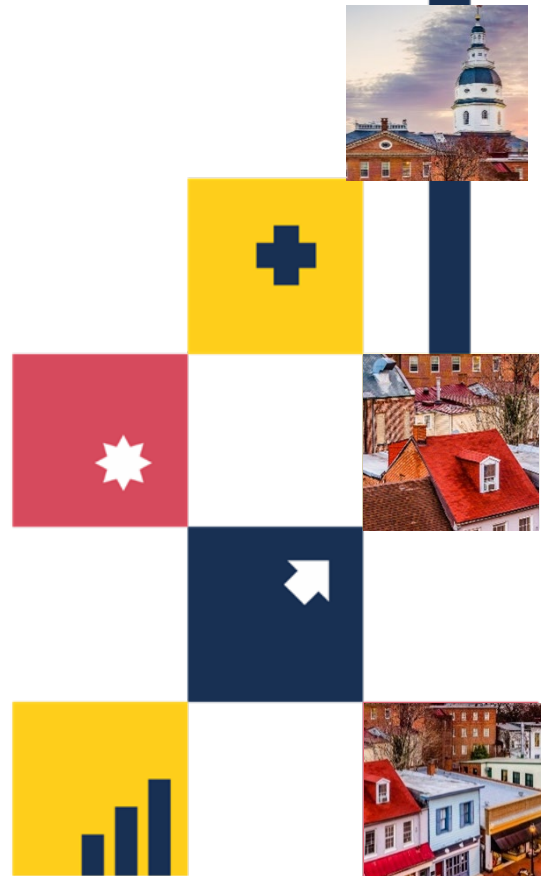
Public Health – Mental Health Advance Directives – Awareness and Statewide Database

An Update of Activities

Working Draft – November 2023

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Overview

Senate Bill 154, Public Health – Mental Health Advance Directives – Awareness and Statewide Database, was enacted under Article – Health – General, Section 5–615.2 (“law”) during the 2023 legislative session (see Appendix A). The law requires the Maryland Department of Health (“MDH”) to develop and implement a public awareness campaign (“campaign”) to encourage the use of mental health advance directives in the State.¹ The law also tasks the Maryland Health Care Commission (“MHCC”) and the Behavioral Health Administration (“BHA”) to study how first responders and behavioral health crisis providers can access advance directives using CRISP, the State-Designated Health Information Exchange (“HIE”).

Meetings between MHCC and BHA occurred between June and October 2023. Discussions centered on ways to build awareness of mental health advance directives among health care consumers and providers, and opportunities for CRISP to expand access to advance directives information for first responders and behavioral health crisis providers. The update of activities included herein conforms with the December 1, 2023 reporting requirement in law to the Senate Finance Committee and House Health and Government Operations Committee.

Landscape

Expanding awareness about the importance of advance directives has been a focus among states since the 1970s. Advance directives are a record of advance care planning, a process that consists of understanding options for care, defining preferences under different circumstances, and designating a health care agent to make decisions on one’s behalf if they are incapacitated.² Unlike medical advance directives for end-of-life care, mental health advance directives embody a recovery-oriented philosophy. Instructions in a mental health advance directive tend to be clearer and more specific since they are often based on lived experience from being hospitalized and medicated for a serious mental illness.³ While broad support for advance care planning exists, less than one-third of the U.S. population has created a medical advance directive for end-of-life care.⁴ In general, mental health advance directives have been slower to gain popularity despite their utility to enhance the lives of individuals living with mental illness.⁵ Underuse stems from systemic, logistical, and cultural barriers that impede implementation, such as awareness and education, legal ambiguity, professional standards and guidelines, and financing of initiatives to promote and incentivize advance care planning.^{6, 7}

Concerns about a large majority of populations without an advance directive has led most states, including Maryland, to adopt legislation that aims to address barriers to completion. On the whole, advance directives policy has evolved from a legal transactional approach (i.e., steps to create and implement tools to direct or delegate health care decisions, including required legal formalities such as forms) to a communications-oriented method that focuses more broadly on patient-centered care.^{8, 9} The COVID-19 public health emergency highlighted a critical need to digitize advance care planning documents.¹⁰ Over the last decade, digital storage of advance



directives has gained momentum with widespread use of electronic health record (“EHR”) systems and online advance care planning repositories (“registries”).¹¹ Registries enable access to electronic advance directives securely,¹² and some are available to consumers for free or a one-time cost. EHR systems enable access to advance directives in the provider’s workflow (e.g., tabs on the main page of a medical record).¹³

A Closer Look at Maryland

The MHCC advances health information technology (“health IT”) statewide to ensure that providers have the right information at the right time and place of care to improve treatment, prevent errors, and reduce health care costs. The MHCC uses health IT to collect information to improve disease surveillance, increase health care knowledge, and inform best practice guidelines. Since 2011, MHCC has helped foster diffusion of electronic advance directives through sound policy and awareness building. Funding provided through a federal grant¹⁴ and MDH¹⁵ supported planning and implementation of a demonstration that piloted the electronic exchange of advance directives using CRISP.¹⁶ ADVault, Inc. (dba MyDirectives)¹⁷ was competitively selected in 2013 to implement a statewide electronic advance directives system that providers could access through CRISP. An interface between CRISP and the MyDirectives repository was launched in 2014.

Legislation passed by the General Assembly since 2015 aims to support diffusion of electronic advance directives statewide (see Table 1). In 2016, MHCC was tasked with developing a State Recognition Program for electronic advance directives services (or “vendors”). State Recognition is a prerequisite to connect to CRISP and requires vendors to demonstrate they meet criteria and standards for privacy and security, among other things.¹⁸ MyDirectives has been the only vendor to apply for and be granted State Recognition by MHCC. MyDirectives operates in all states and offers a free service that allows consumers to create, upload, share, and update their advance directive. The legislation also supports awareness and education with requirements to implement initiatives that aim to improve understanding and use of medical and mental health advance directives.

Documenting advance directives information in EHRs has become more prevalent with consumers’ use of web-based patient portals (about 57 percent nationwide as of 2022).¹⁹ Patient portals enable consumers to access their health records to view test results and clinical notes and add/view advance care planning information, among other things. EHRs are the primary source for storing advance directives; only a small portion are stored in MyDirectives (as of 2023: EHRs 377,644 | MyDirectives 6,691).²⁰ Increasing diffusion is needed to realize the promise of advance directives to preserve and respect consumers’ autonomy and enhance their relationship and communication with treating providers.²¹



Table 1: Summary of Maryland Legislation, 2015-2023

2015 – House Bill 1106, Public Health - Electronic Advance Directives – Witness Requirements

Establishes that an electronic advance directive created in compliance with MDH electronic witness protocols can be recognized as valid

2016 – House Bill 1385, Public Health – Advance Directives - Procedures, Information Sheet, and Use of Electronic Advance Directives

Alters witness requirements for an electronic advance directive; expands the scope of education and outreach efforts undertaken by MDH, including required content for an Advance Directives Information Sheet developed in collaboration with the Office of the Attorney General (“OAG”) and the distribution process; requires MHCC to develop criteria for recognizing electronic advance directives services; authorizes MDH to contract with an electronic advance directives service

2017 – House Bill 188, Public Health – Advance Directives – Witness Requirements, Advance Directives Services, and Fund

Clarifies the definition of an advance directive and electronic witness requirements; clarifies that MDH may contract with one or more electronic advance directives services; requires MHCC to approve an electronic advance directives service; establishes a non-lapsing Advance Directives Program Fund

2022 – House Bill 1073, Health – Accessibility of Electronic Advance Care Planning Documents

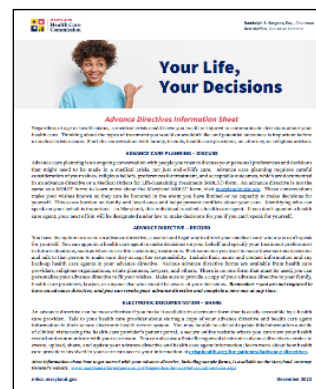
Requires certain health care facilities, managed care organizations, and payers to take certain actions relating to advance care planning; alters required content on the Advance Directives Information Sheet; requires the Motor Vehicle Administration to report on the implementation of an advance directive notification on driver’s licenses and identification cards; requires development and implementation of quality measures; ensures equal access to advance care planning for individuals with disabilities

2023 – Senate Bill 154, Public Health – Mental Health Advance Directives – Awareness and Statewide Database

Requires MDH to develop and implement a public awareness campaign to encourage use of mental health advance directives; tasks MHCC in collaboration with the BHA to study how first responders and behavioral health crisis providers can access mental health advance directives through CRISP



In 2022, MHCC collaborated with MDH and OAG to develop the Advance Directives Information Sheet (“Information Sheet”). The Information Sheet includes required content in law and is featured in a Communications Toolkit²² for use by stakeholders in building consumer awareness of advance care planning and pathways for consumers to create, share, and update their advance directive. The toolkit includes sample website language, social media posts, and images to aid in promoting advance directives and was made available to State agencies, payers, health professional associations, consumer organizations, the State Advisory Council on Quality of Care at End of Life, and the Maryland Emergency Preparedness Network. The Information Sheet was updated in October 2023 to be inclusive of advance directives for both medical and mental health purposes. It is available in two versions that include the same content, but slightly different formatting (see Appendix B).

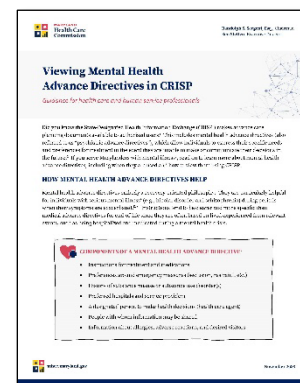


Accessing Mental Health Advance Directives via CRISP

An HIE allow health care professionals to appropriately access and securely share electronic health information.²³ CRISP is one of sixteen HIEs (includes EHR vendors that exchange health information²⁴) operating in the State (see Appendix C).²⁵ CRISP participating organizations²⁶ create and share data via CRISP that is accessible through EHR workflows or an Internet browser via the CRISP Portal. This puts clinical information in the hands of authorized users for treatment and care coordination purposes and makes available medical and mental health advance directives and/or health care agent name and contact information added by consumers that use MyDirectives.

Behavioral Health Crisis Providers

The MHCC collaborated with CRISP, providers, and professional health associations to develop a flyer overviewing steps required to become a CRISP participant (see Appendix D). The flyer will be used to build awareness about mental health advance directives, including how to view them using CRISP. Behavioral health crisis providers are crucial to promoting advance care planning and play a key role in helping consumers understand why they might benefit from completing a mental health advance directive.²⁷ The flyer was shared with more than 40 provider groups and professional associations (see Appendix E) encouraging them to share the flyer when promoting mental health advance directives (social media, newsletters, conferences, etc.). The flyer will also be added to a web page developed by BHA with resources on mental health advance directives.



First Responders

The Maryland Institute for Emergency Medical Services System (“MIEMSS”) oversees and coordinates all components of the statewide emergency medical services (“EMS”) system, which includes the Electronic Maryland EMS Data System (“eMEDS”). MIEMSS currently sends prehospital emergency care information to CRISP. Planning is underway for a future integration phase that would allow eMEDS to receive select patient health data (e.g., history and medications) and make the information available to first responders at the patient’s side. A pilot is planned for 2024.²⁸ MIEMSS Quality Assurance Officers and Medical Directors of EMS Operational Programs currently use CRISP for purposes of improving the delivery of emergency medical care.

Over the next year, efforts to further expand CRISP services available to MIEMSS are being considered as part of a longer term HIE integration strategy. Increasing access to data available through CRISP supports the vital role of first responders in triaging patients and providing emergency treatment and transport. This includes information on advance directives, which is currently not available in the first responder workflow. The MHCC in collaboration with MIEMSS and CRISP are exploring a use case to enable dispatchers to view medical and mental health advance directives and medication history data. Planning will commence in Q1 2024 for a use case that enables first responders to access CRISP within their workflow.

Public Awareness – Improving Dissemination

Increasing diffusion of mental health advance directives provides opportunity for people living with mental illness to continue participating in their care during periods when their illness may impact their capacity to make health care decisions. This is particularly true for about 5.5 percent of U.S. adults living with a serious mental illness.²⁹ Despite the benefit of mental health advance directives, many individuals are unaware of their availability and find the process to complete one difficult to navigate.³⁰ Low utilization³¹ is not due to a lack of interest; studies have found that nearly three quarters of individuals receiving mental health services have an interest in mental health advance directives, particularly if support to complete one is available.³² However, operational barriers in provider settings impede dissemination due to insufficient training, lack of communication between staff, and difficulties accessing mental health advance directives when needed.³³

Increasing uptake depends on interventions that improve awareness of how to use mental health advance directives. Efforts should be targeted to persons with lived experience of mental illness, families, caregivers, first responders, medical professionals, emergency room staff, psychiatrists, mental health clinicians, and peer support specialists.³⁴ In general large health systems have developed strategies to promote medical advance directives and processes to store/flag them in the EHR. Mental health advance directives should be documented alongside



medical advance directives with increased focus on integrated care that coordinates both medical and behavioral health care.³⁵

Activities Underway – Maryland

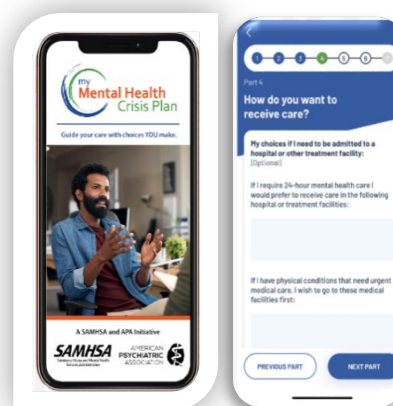
The BHA and MHCC collaborated with health professional associations and OAG to develop a consumer informational flyer (see Appendix F) overviewing the value and goals of mental health advance directives. The flyer is formatted in a letter size template (8.5 x 11) as well as a 5 x 7 card and large poster. Dissemination will begin in January 2024 and target stakeholders, such as State and local government agencies, behavioral health providers, academic institutions, religious organizations, and others that support individuals living with mental illness (see Appendix E).



A BHA dedicated web page will feature additional resources, including downloadable and printable outreach materials. The information will help consumers and clinicians become more familiar with mental health advance directives. The web page is expected to go-live in Q1 2024 and will support social media campaigns and other communications that reinforce the value of mental health advance directives. The information will supplement MDH resources like the 988 Toolkit, a public messaging framework for stakeholders, including State agencies, crisis centers, and foundations, who provide support for mental health or substance use and individuals having thoughts of suicide or are worried about someone who may need crisis support.³⁶

A Federal Initiative

Outreach materials on BHA’s dedicated web page will include links to available resources, such as the Substance Abuse and Mental Health Services Administration (“SAMHSA”) and the My Mental Health Crisis Plan mobile application. SAMHSA promotes mental health advance directives as a tool to advance self-directed care in psychiatric treatment, achieve progress toward mental health parity, and support crisis planning and the rights of patients living with mental illness.³⁷ In October 2020, SAMHSA released a mobile application (“My Mental Health Crisis Plan”),³⁸ which provides a step-by-step process for individuals with serious mental illness to create and share a plan to guide their treatment during a mental health crisis. The mobile application is free to consumers and includes state-specific requirements (e.g., signatures, witnesses, notary public) and allows mental health advance directives to be shared via PDF or QR code with whomever an individual chooses.³⁹



On the Horizon

Over the next year, BHA and MHCC will collaborate on developing additional content to support consumer and provider awareness of mental health advance directives. This includes wallet cards with information on mental health advance directives and where to learn more; BHA will make wallet cards available to providers to share with client/patients. For individuals who already have a mental health advance directive, wallet cards will be designed to serve as a notice to providers and first responders about the existence of one. Other informational materials will include a listing of frequently asked questions about mental health advance directives, pathways to create an electronic mental health advance directive, and provider training videos consisting of short clips on the advantages of mental health advance directives and examples for how to engage clients/patients on the topic and facilitate completion. The MHCC will continue working with CRISP and MIEMSS to expand first responder access to mental health advance directives.

Acknowledgements

The MHCC appreciates BHA's contribution in developing this report and stakeholders for their feedback on proposed content for mental health advance directives educational materials.



Chapter 297

(Senate Bill 154)

AN ACT concerning

Public Health – Mental Health Advance Directives – Awareness and Statewide Database

FOR the purpose of requiring the Maryland Department of Health to develop and implement a public awareness campaign to encourage the use of mental health advance directives in the State; requiring the Behavioral Health Administration and the Maryland Health Care Commission jointly to study the feasibility and cost of establishing a centralized statewide database of mental health advance directives how first responders and behavioral health crisis providers can access a certain advanced directive database when responding to a behavioral health crisis; and generally relating to mental health advance directives.

BY repealing and reenacting, without amendments,
Article – Health – General
Section 5–602.1
Annotated Code of Maryland
(2019 Replacement Volume and 2022 Supplement)

BY adding to
Article – Health – General
Section 5–615.2
Annotated Code of Maryland
(2019 Replacement Volume and 2022 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Health – General

5–602.1.

(a) In this section, “mental health services” has the meaning stated in § 4–301(k)(1) of this article.

(b) An individual who is competent may make an advance directive to outline the mental health services which may be provided to the individual if the individual becomes incompetent and has a need for mental health services either during, or as a result of, the incompetency.



(c) (1) An individual making an advance directive for mental health services shall follow the procedures for making an advance directive provided under § 5–602 of this subtitle.

(2) The procedures provided under § 5–604 of this subtitle for the revocation of an advance directive shall apply to the revocation of an advance directive for mental health services.

(d) An advance directive for mental health services may include:

- (1) The designation of an agent to make mental health services decisions for the declarant;
- (2) The identification of mental health professionals, programs, and facilities that the declarant would prefer to provide mental health services;
- (3) A statement of medications preferred by the declarant for psychiatric treatment; and
- (4) Instruction regarding the notification of third parties and the release of information to third parties about mental health services provided to the declarant.

5–615.2.

(A) THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT A PUBLIC AWARENESS CAMPAIGN TO ENCOURAGE THE USE OF MENTAL HEALTH ADVANCE DIRECTIVES IN THE STATE.

(B) THE PUBLIC AWARENESS CAMPAIGN SHALL INCLUDE AWARENESS INITIATIVES TO ENCOURAGE AND SUPPORT OUTREACH EFFORTS BY THE FOLLOWING PERSONS AND GOVERNMENT AGENCIES TO INFORM PRESENT OR FUTURE RECIPIENTS OF MENTAL HEALTH SERVICES AND MEMBERS OF THEIR FAMILIES, HEALTH CARE PROVIDERS, AND OTHER BEHAVIORAL HEALTH CARE PARTNERS ABOUT MENTAL HEALTH ADVANCE DIRECTIVES:

- (1) THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES;**
- (2) THE DEPARTMENT OF STATE POLICE;**
- (3) THE DEPARTMENT OF VETERANS AFFAIRS;**
- (4) LOCAL HEALTH DEPARTMENTS;**
- (5) LOCAL BEHAVIORAL HEALTH AUTHORITIES;**
- (6) BEHAVIORAL HEALTH PROGRAMS;**



- (7) PRACTICING PSYCHIATRISTS, PSYCHOLOGISTS, PROFESSIONAL COUNSELORS AND THERAPISTS, AND SOCIAL WORKERS;
- (8) HEALTH CARE FACILITIES;
- (9) ACADEMIC INSTITUTIONS;
- (10) RELIGIOUS ORGANIZATIONS; AND
- (11) OTHER PERSONS WHO ENCOUNTER PRESENT OR FUTURE RECIPIENTS OF MENTAL HEALTH SERVICES.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) ~~(1)~~ The Behavioral Health Administration and the Maryland Health Care Commission jointly shall study the feasibility and cost of establishing a centralized statewide database of mental health advance directives that can be readily accessed to assist responses to behavioral health crises and the provision of mental health services by first responders, health care providers, crisis communication centers, crisis treatment centers, and any other partners designated by the Behavioral Health Administration.

~~(2) The study shall include an assessment of the feasibility and costs associated with:~~

- (i) ~~incorporating mental health advance directives into the State's current advance directive registry;~~
- (ii) ~~developing and maintaining an independent, centralized statewide database of mental health advance directives; and~~
- (iii) ~~incorporating mental health advance directives directly into the State-designated health information exchange~~ how first responders and behavioral health crisis providers can access the advanced directives database developed by the Maryland Health Care Commission, in collaboration with the State-designated health information exchange, in accordance with § 19-145.1 of the Health – General Article when responding to a behavioral health crisis.

(b) On or before December 1, 2023, the Behavioral Health Administration and the Maryland Health Care Commission jointly shall report to the Senate Finance Committee and the House Health and Government Operations Committee, in accordance with § 2-1257 of the State Government Article, on the findings of the study required under subsection (a) of this section.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2023.

Approved by the Governor, May 3, 2023.


Available at: mgaleg.maryland.gov/mgawebsite/Legislation/Details/SB0154



Appendix B: Information Sheet


Option 1

mhcc.maryland.gov/mhcc/pages/hit/hit_advanceddirectives/documents/AD_Flyer_1C.pdf



MARYLAND
Health Care
Commission

Randolph S. Sergent, Esq., Chairman
Ben Steffen, Executive Director



Your Life, Your Decisions

Advance Directives Information Sheet

Regardless of age or health status, a crisis could leave you too ill or injured to communicate decisions about your physical or mental health care. Planning ahead about the types of treatment you would or wouldn't like and potential outcomes is important. Start the conversation with family, friends, health care providers, an attorney, or religious advisor.

ADVANCE CARE PLANNING – DISCUSS

Advance care planning is an ongoing conversation with people you trust to discuss your personal preferences and decisions that might need to be made in any situation where you may have difficulty communicating, not just end-of-life care. Advance care planning requires careful consideration of your values, religious beliefs, preferences for treatment, and acceptable outcomes, which are documented in an advance directive or a Medical Orders for Life-Sustaining Treatment (MOLST) form. An advance directive is not the same as a MOLST form; to learn more about the Maryland MOLST form, visit marylandmolst.org. These conversations make your wishes known so they can be honored in the event you have limited or no capacity to make decisions for yourself. This eases burden on family and loved ones and helps prevent conflicts about your care. Identifying who can speak on your behalf is important – in Maryland, this individual is called a health care agent. If you don't appoint a health care agent, your next of kin will be designated under law, or a guardian will be appointed to make decisions for you if you can't speak for yourself.

ADVANCE DIRECTIVE – RECORD

You have the option to create an advance directive, a useful and legal way to direct your health care when you can't speak for yourself. You can appoint a health care agent to make decisions on your behalf and specify your treatment preferences in future situations, such as when to use life-sustaining treatments or what medications you prefer. Pick someone you trust to make these serious decisions and talk to that person to make sure they accept the responsibility. Include their name and contact information and any back-up health care agents in your advance directive. Various advance directive forms are available from health care providers, religious organizations, estate planners, lawyers, and others. There is no specific form that must be used, and you can personalize your advance directive to fit your wishes. Make sure to provide a copy of your advance directive to your family, health care providers, lawyer, or anyone else who should be aware of your decisions. **You are not required to have an advance directive. You can revoke your advance directive and complete a new one at any time.**

ELECTRONIC DOCUMENTATION – SHARE

An advance directive can be most effective if you make it available in electronic form that is easily accessible by a health care provider. Talk to your health care provider about storing a copy of your advance directive and health care agent information in their secure electronic health record system. You may be able to add and update this information outside of clinical visits using the health care provider's patient portal, a secure online website where you can view your health record and communicate with your care team. You can also use a State Recognized electronic advance directives service to create, upload, share, and update your advance directive and health care agent information; learn more about how health care providers involved in your care can access your information at crisphealth.org/for-patients/#advance-directives.

Visit the Maryland Attorney General's website for more information about advance directives and a sample form:
www.marylandattorneygeneral.gov/Pages/HealthPolicy/AdvanceDirectives.aspx

mhcc.maryland.gov October 2023



Option 2

mhcc.maryland.gov/mhcc/pages/hit/hit_advancedirectives/documents/AD_Flyer_2C.pdf



Randolph S. Sergent, Esq., Chairman
Ben Steffen, Executive Director

Your Life, Your Decisions



Discuss

Have conversations with someone you trust about what is important to you



Record

Document your preferences for health care in an advance directive



Share

Make your advance directive available in electronic form

Advance Directives Information Sheet

Regardless of age or health status, a crisis could leave you too ill or injured to communicate decisions about your physical or mental health care. Planning ahead about the types of treatment you would or wouldn't like and potential outcomes is important. Start the conversation with family, friends, health care providers, an attorney, or religious advisor.

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Visit the Maryland Attorney General's website for more information about advance directives and a sample form:
www.marylandattorneygeneral.gov/Pages/HealthPolicy/AdvanceDirectives.aspx

mhcc.maryland.gov

October 2023



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Appendix C: Registered HIEs

HIEs Registered with MHCC	
1	Altera Digital Health, Inc.
2	Athenahealth
3	Audacious Inquiry, LLC
4	Cerner Corporation
5	Chesapeake Regional Information System for Our Patients (CRISP)
6	Delaware Health Information Network
7	eClinicalworks
8	Epic
9	Greenway Health
10	Medical Information Technology, Inc. (MEDITECH)
11	NextGen Healthcare, Inc.
12	PointClickcare Technologies, Inc.
13	Quest Diagnostics Clinical Laboratories, Inc.
14	Surescripts, LLC
15	Syntellis Performance Solutions, LLC
16	Veradigm Inc.



Appendix D: Provider Flyer



Randolph S. Sergent, Esq., Chairman
Ben Steffen, Executive Director

Viewing Mental Health Advance Directives in CRISP

Guidance for health care and human service professionals



Did you know the State-Designated Health Information Exchange (CRISP¹) makes advance care planning documents available to authorized users? This includes mental health advance directives (also referred to as “psychiatric advance directives”), which allow individuals to express their specific needs and preferences for treatment in the event they are unable to make or communicate their decisions in the future.² If you serve Marylanders with mental illness³, read on to learn more about mental health advance directives, including when they are used and how to view them using CRISP.

HOW MENTAL HEALTH ADVANCE DIRECTIVES HELP

Mental health advance directives embody a recovery-oriented philosophy. They are particularly helpful for individuals with serious mental illness⁴ (e.g., bipolar disorder and schizophrenia) during periods when their symptoms are exacerbated.^{5,6} Instructions tend to be clearer and more specific than medical advance directives for end-of-life since they are often based on lived experience from relevant events, such as being hospitalized and medicated during a mental health crisis.



COMPONENTS OF A MENTAL HEALTH ADVANCE DIRECTIVE⁷

- Instructions for treatment and medications
- Preferences around emergency measures (seclusion, restraint, etc.)
- History of substance misuse or substance use disorder(s)
- Preferred hospitals and service providers
- A designated person to make health decisions (health care agent)
- People with whom information may be shared
- Information about allergies, adverse reactions, and desired visitors

VIEWING MENTAL HEALTH ADVANCE DIRECTIVES IN CRISP

Individuals can create an electronic version of their mental health advance⁸ directive by uploading a copy to MyDirectives.com,⁹ a free online service recognized by the Maryland Health Care Commission.¹⁰ Advance directives information for medical and mental health purposes can be viewed by authorized users of CRISP. An electronic health record is not required; data can be accessed through an Internet browser via the CRISP Portal.

How It Works



GETTING STARTED WITH CRISP

CRISP allows health care professionals to appropriately access and securely share clinical information electronically as permitted by law.¹¹ If you are interested in accessing mental health advance directives and other available information through CRISP, you must confirm your organization has signed a [CRISP Participation Agreement](#). This is the uniform data sharing agreement signed by every participating organization with single or multiple sites. If a Participation Agreement has already been signed, you can skip this step during the onboarding process; if you are unsure, contact the CRISP Customer Care team by phone 1-877-952-7477 or email support@crisphealth.org.

CRISP requires participating organizations to update their Notice of Privacy Practices (NPP) to ensure health care consumers in Maryland understand how CRISP is being used to deliver and coordinate care and their right to opt out from having their information exchanged by CRISP.¹² Participating organizations attest to having updated their NPP by signing [this form](#). For more information, visit crisphealth.org/applications/clinical-data/#faqs.

ADDITIONAL RESOURCES

Maryland Department of Health

Information on mental health advance directives for providers and consumers
health.maryland.gov/bha/Pages/Mental-Health-Advance-Directives.aspx

Maryland Mental Health Advance Directive Form

An optional form for Marylanders
health.maryland.gov/bha/Pages/newforms.aspx

National Resource Center on Psychiatric Advance Directives

State-by-state information and links to research on mental health advance directives
nrc-pad.org/

¹ As the State-Designated Health Information Exchange, CRISP is responsible for building and maintaining technical infrastructure that can support the secure statewide exchange of electronic health information; CRISP offers a variety of tools and services to meet the needs of health care facilities, providers, consumers, and State agencies.

² Khazaal Y, Manghi R, Delahaye M, Machado A, Penzenstadler L, Molodynski A. Psychiatric advance directives, a possible way to overcome coercion and promote empowerment. *Front Public Health*. 2014 Apr 29;2:37. doi: [10.3389/fpubh.2014.00037](https://doi.org/10.3389/fpubh.2014.00037). PMID: 24809041; PMCID: PMC4010761.

³ This information may be relevant to a range of professionals that provide services to people with mental illness, including psychiatrists and other physicians, physician assistants, counselors, nurses, nurse practitioners, psychologists, social workers, peer specialists, emergency responders, addiction specialists, homeless outreach and engagement specialists, and case managers.

⁴ The Substance Abuse and Mental Health Services Administration defines serious mental illness as someone over eighteen having (within the past year) a diagnosable mental, behavior, or emotional disorder that causes serious functional impairment that substantially interferes with or limits one or more major life activities. More information available at: www.samhsa.gov/find-help/disorders#:~:text=Serious%20mental%20illness%20is%20defined,or%20more%20major%20life%20activities.

⁵ Marvin S. Swartz et al., "Implementing Psychiatric Advance Directives: The Transmitter and Receiver Problem and the Neglected Right to Be Deemed Incapable," *Psychiatric Services* 72, no. 2 (2021): 219-221, doi.org/10.1176/appi.ps.202000659.

⁶ While a mental health advance directive is intended for persons with mental health disorders or illnesses, any adult who has the ability to make decisions for themselves can complete a mental health advance directive form, including individuals with substance use disorder; however, advance directives specific to substance use disorders may be challenging to implement because competence is more fluid for people with addictions. More information is available at: www.myflfamilies.com/sites/default/files/2022-12/S16-008008.Advance%20Directive%20Workgroup%20Report%20with%20attachments.pdf

⁷ Substance Abuse and Mental Health Services Administration (SAMHSA), *A Practical Guide to Psychiatric Advance Directives*. Available at: www.samhsa.gov/sites/default/files/a_practical_guide_to_psychiatric_advance_directives.pdf.

⁸ An optional form is available from the Maryland Department of Health, Behavioral Health Administration at: health.maryland.gov/bha/Documents/Advance%20Directive%20for%20Mental%20Health%20Treatment%20-%20%20June%2029%2c%202017.doc.

⁹ A medical advance directive can also be created or uploaded using MyDirectives.

¹⁰ More information on MHCC State Recognition is available at: mhcc.maryland.gov/mhcc/pages/hit/hit_advancedirectives/hit_advancedirectives.aspx.

¹¹ CRISP is a 501(c)(3) independent non-stock Maryland membership corporation. More information is available at: www.crisphealth.org/.

¹² A consumer request to opt-out can be completed by calling 1-877-952-7477 or submitting an Opt-Out Form to CRISP by mail, fax, or online.

Appendix E: Stakeholder Outreach

Organization	Type
Maryland Association of Behavioral Health Authorities	Provider Association
Maryland Community Health System	Provider Association
Maryland Psychiatric Society	Provider Association
Maryland Psychological Association	Provider Association
Maryland Managed Care Organization Association	Provider Association
Mid-Atlantic Association of Community Health Centers	Provider Association
National Association of Social Workers	Provider Association
Advocates for Homeless Families, Inc.	Provider
Catholic Charities	Provider
Healthcare for the Homeless	Provider
Manna House	Provider
Maryland Center for Veterans Education and Training	Provider
Mosaic Community Services	Provider
People Encouraging People	Provider
Sheppard Pratt	Provider
Alleghany LBHA	Local Behavioral Health Authority
Anne Arundel County LBHA	Local Behavioral Health Authority
Baltimore City LBHA	Local Behavioral Health Authority
Baltimore County LBHA	Local Behavioral Health Authority
Calvert County LBHA	Local Behavioral Health Authority
Carroll County LBHA	Local Behavioral Health Authority
Frederick County LBHA	Local Behavioral Health Authority
Harford County CSA/LBHA	Local Behavioral Health Authority
Howard County LBHA	Local Behavioral Health Authority
Kent/Caroline/Talbot/Queen Anne's LBHA	Local Behavioral Health Authority
Montgomery County LBHA	Local Behavioral Health Authority
Prince George's County LBHA	Local Behavioral Health Authority
St. Mary's County LBHA	Local Behavioral Health Authority



Organization	Type
Somerset County	Local Behavioral Health Authority
Washington County LBHA	Local Behavioral Health Authority
Wicomico County LBHA	Local Behavioral Health Authority
Worcester County LBHA	Local Behavioral Health Authority
Disability Rights Maryland	Consumer Advocacy
Health Care for All	Consumer Advocacy
On Our Own of Maryland	Consumer Advocacy
Mental Health Association of Maryland	Consumer Advocacy
NAMI Maryland	Consumer Advocacy
Maryland Association of County Health Officers	Government
Maryland Department of Veteran's Affairs	Provider/Government
Maryland Office of Problem-Solving Courts	Government
MIEMSS	Government
Legal Action Center	Consumer Advocacy
Black Mental Health Alliance for Education	Consumer Advocacy
Community Behavioral Health Association of Maryland	Consumer Advocacy
Mental Health Association of Maryland	Consumer Advocacy

Note, the law requires select stakeholders to assist with promoting mental health advance directives.





Mental Health Advance Directives

An Important Tool for Empowerment and Communication

What does a mental health advance directive mean for you?

A mental health advance directive is a legal document you can complete to express your needs and preferences for mental health treatment in case you are unable to make or communicate your decisions in the future. If you are living with a serious mental illness (bipolar disorder, schizophrenia, etc.), consider completing a mental health advance directive during a period of wellness or recovery. You can communicate what types of treatment you do or do not want and appoint an individual (health care agent) to assist with your health care decisions.

Benefits of having a mental health advance directive

-  Provides clear instructions about medication and treatment to guide decision making
-  Improves communication between your medical, support, and treatment networks
-  May help you avoid unwanted treatment or admission to a hospital
-  Enhances your recovery





Your mental health advance directive can include the following:

- ✓ Preferred hospital(s) and service provider(s)
- ✓ Person(s) you have authorized to make health decisions and with whom information may be shared or not shared
- ✓ Any allergies, adverse reactions, and other health issues
- ✓ Specific treatment preferences
- ✓ Desired visitors

How to get started

Talk to your care team (psychiatrists, therapists, case workers, etc.) – they can help you complete a mental health advance directive. **You and two witnesses will need to sign the document, which is valid until you make changes or revoke it.** An optional form is available at: [\[add link when available\]](#).



For more information visit: health.maryland.gov/bha/Pages/Mental-Health-Advance-Directives.aspx



Endnotes

- ¹ The campaign must include awareness initiatives to encourage and support outreach efforts by select State agencies and other stakeholders to inform present and future recipients of mental health services and members of their family, health care providers, and other behavioral health partners about mental health advance directives.
- ² Morhaim DK and KM Pollack. End-of-life Care Issues: A Personal, Economic, Public Policy and Public Health Crisis. *Am J Public Health* 2103 103(6):e8-e10. Available at: www.ncbi.nlm.nih.gov/pmc/articles/PMC3698717/.
- ³ Serious mental illness is defined by the National Institute of Mental Health as a mental, behavioral, or emotional disorder resulting in serious functional impairment, which substantially interferes with or limits one or more major life activities. The burden of mental illnesses is particularly concentrated among those who experience disability due to serious mental illness.
- ⁴ JAMA Network, Completion of Advance Directives and Documented Care Preferences During the Coronavirus Disease 2019 (COVID-19) Pandemic, July 2020. Available at: www.jamanetwork.com/journals/jamanetworkopen/fullarticle/2768372.
- ⁵ Avila, A., & Leeper, E. (2022). Assessment of barriers to effective use of psychiatric advance directives: Providers' knowledge and attitudes. *American Psychological Association*, 19(2), 271–282. doi.org/10.1037/ser0000525.
- ⁶ Sofer, Dalia. Psychiatric Advance Directives. *AJN, American Journal of Nursing* 119(5):p 16-17, May 2019. | [DOI: 10.1097/01.NAJ.0000557905.82033.d4](https://doi.org/10.1097/01.NAJ.0000557905.82033.d4).
- ⁷ APSE Office of the Assistant Secretary for Planning and Evaluation, Advance Directives and Advance Care Planning: Legal and Policy Issues, September 2007. Available at: aspe.hhs.gov/reports/advance-directives-advance-care-planning-legal-policy-issues-0.
- ⁸ Sabatino CP. The evolution of health care advance planning law and policy. *The Milbank Quarterly*. 2010 Jun;88(2):211-39. [doi: 10.1111/j.1468-0009.2010.00596.x](https://doi.org/10.1111/j.1468-0009.2010.00596.x). PMID: 20579283; PMCID: PMC2980344.
- ⁹ A patient-centered approach to advance care planning is an iterative process over time to discuss individual priorities, values, and goals of care with a preferred health care agent, family, caregivers, and provider.
- ¹⁰ American Bar Association, It's Time for Legal Planning to Catch Up in a Digital World, March 2020. Available at: www.americanbar.org/groups/law_aging/resources/coronavirus-update-and-the-elder-law-community/it-s-time-for-legal-planning-to-catch-up-in-a-digital-world/.
- ¹¹ *Ibid.*
- ¹² The extent to which registries have achieved their intended purpose is unclear as studies of population penetration and efficacy of registries are non-existent. More information is available at: www.americanbar.org/groups/law_aging/publications/bifocal/vol_37/issue_6_august2016/tour-of-state-advance-directive-registries/.
- ¹³ Documentation of advance directives and code status in the EHR remains disparate within and across EHR systems. More information is available at: pubmed.ncbi.nlm.nih.gov/31280659/.
- ¹⁴ The Office of the National Coordinator for Health Information Technology awarded MHCC \$1.6 million to explore options for facilitating the availability of electronic advance directives, among other things.
- ¹⁵ The Secretary of Health at the time provided MHCC with additional startup funding to pilot the exchange of electronic advance directives through the State-Designated HIE.
- ¹⁶ The MHCC convened a focus group in the beginning of 2012 consisting of various stakeholders who deliberated on technical and policy matters related to electronic advance directives and Medical Orders for Life Sustaining Treatment. The focus group concluded that an HIE was a viable means to securely communicate advance directives information.
- ¹⁷ USA-based ADVault, Inc. is the creator of MyDirectives and MyDirectives MOBILE and one of several private companies. Some states contract with a private registry. More information is available at: www.americanbar.org/groups/law_aging/publications/bifocal/vol_37/issue_6_august2016/tour-of-state-advance-directive-registries/.
- ¹⁸ More information on MHCC State Recognition is available at: mhcc.maryland.gov/mhcc/pages/hit/hit_advancedirectives/hit_advancedirectives.aspx.
- ¹⁹ The Office of the National Coordinator for Health Information Technology (ONC), Data Brief No. 69: Individuals' Access and Use of Patient Portals and Smartphone Health Apps, 2022, October 2023. Available at: <https://www.healthit.gov/data/data-briefs/individuals-access-and-use-patient-portals-and-smartphone-health-apps-2022>.
- ²⁰ Data represents about 67 percent of health systems with a collective 32 acute care hospital locations in Maryland; information was self-reported and not audited for accuracy.
- ²¹ See n. 19, *Supra*
- ²² Available at: mhcc.maryland.gov/mhcc/Pages/hit/hit_advancedirectives/hit_advancedirectives_communications_toolkit.aspx.
- ²³ State law (Health General §4-302.2, 2011) requires MHCC to adopt regulations for the privacy and security of protected health information exchanged through an HIE. COMAR 10.25.18, Health Information Exchanges: Privacy and Security of Protected Health Information, provides the regulatory framework for ensuring privacy and security of information obtained or released through an HIE. A total of 16 HIE entities operating in Maryland have registered with MHCC. More information is available at: dsd.maryland.gov/regulations/Pages/10.25.18.09.aspx.
- ²⁴ EHRs support functions to push and pull data within applications used by providers and consumers.
- ²⁵ HIEs are required to register with MHCC annually. More information is available at: mhcc.maryland.gov/mhcc/Pages/hit/hit_hie/hit_hie_registration.aspx.
- ²⁶ A list of CRISP participating organizations is available at: www.crisphealth.org/about-crisp/connected-providers/.



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- ²⁷ Easter, M. M., Swanson, J. W., Robertson, A. G., Moser, L. L., & Swartz, M. S. (2017). Facilitation of psychiatric advance directives by peers and clinicians on Assertive Community Treatment Teams. *Psychiatric Services*, 68(7), 717–723. doi.org/10.1176/appi.ps.201600423.
- ²⁸ MIEMSS, 2022-2023 Annual Report. Available at: www.miemss.org/home/Portals/0/Docs/AnnualReports/Annual-Report-2023.pdf.
- ²⁹ National Institute of Mental Health, Statistics. Available at: www.nimh.nih.gov/health/statistics.
- ³⁰ Substance Abuse and Mental Health Services Administration (SAMHSA), A Practical Guide to Psychiatric Advance Directives. Available at: www.samhsa.gov/sites/default/files/a_practical_guide_to_psychiatric_advance_directives.pdf.
- ³¹ A study of 1,011 psychiatric outpatients in five U.S. cities found that only 4 to 13 percent of participants had completed a mental health advance directive. More information is available at: jaapl.org/content/34/1/43.
- ³² Khazaal Y, Manghi R, Delahaye M, Machado A, Penzenstadler L, Molodynski A. Psychiatric advance directives, a possible way to overcome coercion and promote empowerment. *Front Public Health*. 2014 Apr 29;2:37. [doi: 10.3389/fpubh.2014.00037](https://doi.org/10.3389/fpubh.2014.00037). PMID: 24809041; PMCID: PMC4010761.
- ³³ The Joint Commission, Division of Healthcare Improvement, Quick Safety Issue 53: Improving Care with Psychiatric Advance Directives, February 2020. Available at: www.jointcommission.org/-/media/tjc/newsletters/quick-safety-53-pads-final2-2-5-20.pdf#:~:text=Low%20utilization%20of%20PADs%20may%20be%20attributable%20to,providers%20regarding%20a%20PAD%E2%80%99s%20existence.4%20SAMHSA%20also%20suggests.
- ³⁴ See n. 30, Supra.
- ³⁵ See n. 30, Supra.
- ³⁶ The 988 Lifeline (formerly known as the National Suicide Prevention Lifeline) is a national network of local crisis centers that provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week in the United States. More information is available at: health.maryland.gov/bha/Pages/988md.aspx.
- ³⁷ See n. 33, Supra.
- ³⁸ The mobile application was developed through SMI Adviser, a project funded by SAMHSA and administered by the American Psychiatric Association. More information available at: smiadviser.org/getmyapp.
- ³⁹ SAMHSA, New SAMHSA App Will Help People Who Have Serious Mental Illness to Develop a Crisis Plan, October 2020. Available at: www.samhsa.gov/newsroom/press-announcements/202010010505.





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