

ADVANCE HEALTH CARE DIRECTIVES

For planning mental health care

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INTRODUCTION

Advance directives have been used in the field of general health care for several years. They were originally called “living wills”. They are now available to direct mental health care as well. Advance directives for mental health care are fairly new.

This manual is designed to help you:

- ◆ Learn more about an advance directive for mental health care.
- ◆ Decide whether you want one.
- ◆ Develop an advance directive for mental health care.
- ◆ Know what questions to ask if you have someone help you write one.
- ◆ Use your advance directive for mental health care.
- ◆ Know about some problems in using one.

There are two laws in Maine that cover advance directives—“The Uniform Health Care Decisions Act” and the “Medical Treatment of Psychotic Disorders Act”. This manual is designed for using the “Uniform Health Care Decisions Act.” This is a law that gives an individual more choices and has more protections.

What is an Advance Health Care Directive?

An advance health care directive is:

- ◆ an instruction you give about the health care you would like to receive or,
- ◆ a health care power of attorney where you name an individual to make health care decisions for you, or
- ◆ both

We use the term “instructions” in this manual to refer to the instructions part of an advance directive. We use “power of attorney” to refer to the power of attorney part. We use “advance directive” to refer to both.

You make an advance directive while you have capacity. The instructions or the power of attorney can be made to take effect immediately. You can also write them to take effect when and if you become incapacitated, or when any other event that you describe occurs.

How do I Give My Advance Health Care Instructions?

This manual is generally about instructions given in writing. But if you are not under guardianship, are competent and have not given written instructions, you may give instructions orally. You have to make an oral instruction directly to a health care provider or to a person who would be able under the law to make decisions for you when you aren’t able to. People who meet these requirements are:

- ◆ your spouse, unless legally separated
- ◆ an adult who shares an emotional, physical and financial relationship with you similar to that of a spouse
- ◆ an adult child
- ◆ a parent
- ◆ an adult brother or sister
- ◆ an adult grandchild
- ◆ an adult niece or nephew, related by blood or adoption
- ◆ an adult aunt or uncle, related by blood or adoption
- ◆ an adult relative, related by blood or adoption who is familiar with your personal values and is reasonably available for consultation, or, if none of these individuals is eligible to act,
- ◆ an adult who has exhibited special concern for you and who is familiar with your personal values and is reasonably available for consultation.

It is best if you put your instructions in writing. This will cut down on any misunderstanding about what you have said.

To better guarantee that your instructions aren't contested, you should have two people witness your signing the form. They should sign the form as well.

The witnesses need to be people who aren't incapacitated.

If you combine your instructions with a power of attorney, you **MUST** have the document signed by two witnesses. Neither of the witnesses may be the person you have named in your power of attorney as the person to make health care decisions for you.

What Is A Power Of Attorney?

You may choose a person to make health care decisions for you through a health care "power of attorney". The person you name is called your agent. You can give power to your agent to make decisions:

- ◆ right away,
- ◆ if and when you become incapacitated,
- ◆ when any other event that you describe occurs.

A power of attorney under the Uniform Health Care Decisions Act is a "durable" power of attorney. A durable power of attorney is one that remains or comes into effect when you are incapacitated.

Your agent will have the power to make decisions regarding your health care for you. If you have given the agent authority to make decisions right away, then the agent may act on your behalf right away. If you give the agent power to act should you become incapacitated or when some other event happens, then the agent may only make decisions when and if those things occur.

What Decisions May My Agent Make?

Your agent can make all your health care decisions for you or only decisions in the areas you name. How much power your agent has is entirely up to you. The samples at the end of this manual help show how different areas for the agent's decision making can be set.

Who May I Name As My Agent?

You may name any adult who isn't incapacitated as your agent. If you live in a nursing home, residential care facility or other assisted living facility, you may not name the owner, operator or employee of that facility unless the person is related to you by blood, marriage or adoption. The person you choose should be someone who knows you well. It should be

someone you trust.

How do I Name My Agent?

The power of attorney **MUST** be in writing. You **MUST** have the document signed by two witnesses. Neither of the witnesses may be the person you name as your agent.

There is no required form. A suggested form is attached at the end of this manual.

How Do the Instructions and Power Of Attorney Work Together?

You can have health care instructions, a power of attorney or **BOTH**.

If you have both, your agent must follow the instructions. If you don't have instructions, or, if something comes up that you didn't address in your instructions, the agent must act as follows:

- ◆ The agent must make decisions you would have made when you had capacity, so long as your agent knows what your wishes would be.
- ◆ If the agent doesn't know what those wishes might be, then the agent must act in your best interest. The agent has to consider your personal values when deciding what is in your best interest.

Are There Advantages to Having Both A Power Of Attorney and Health Care Instructions?

You don't need to have both a power of attorney with an agent and the instructions. The advantages to having both are:

- ◆ The agent has the right to talk to your health care providers. A conversation can be a lot more helpful to a health care provider in understanding what you want than just words on paper. It can cut down the risk of a health care provider misunderstanding your instructions.
- ◆ Issues may come up that you didn't give instructions for. It isn't easy to think of everything that may happen to you when writing your instructions. On issues or questions that come up that you didn't give instructions for, the agent can make decisions on the basis of knowing what your wishes might have been and what your overall values are.

When Do I Have Capacity To Write My Instructions and Power

Of Attorney?

Capacity is the ability to:

- ◆ have a basic understanding of the condition you are diagnosed with,
- ◆ understand significant benefits, risks and alternatives to the proposed health care,
- ◆ understand the consequences of not receiving that care,
- ◆ make and communicate a health care decision, and
- ◆ understand the consequences of naming someone else to make health care decisions for you.

Do I Need To Include Proof of My Capacity with the Document?

Unless you are already under guardianship or under an administrative order regarding incapacity, you will be presumed to have capacity.

Whether or not you actually had capacity when you wrote the advance directive can be contested later. To help avoid someone's contesting your capacity, you might want to attach a statement about your capacity to your advance directive. This statement could be a letter from your psychiatrist or psychologist, written around the same time that you wrote your instructions or power of attorney.

The statement is not required.

Because the letter is not required, there isn't a set form. The psychiatrist or psychologist could simply state that he or she:

- ◆ knows you,
- ◆ believes you have capacity,
- ◆ believes you understand the condition you are diagnosed with,
- ◆ believes you understand significant benefits, risks and alternatives to the various treatment options for your condition,
- ◆ believes you understand the consequences of not accepting recommended treatment, and
- ◆ believes you can make and communicate a health care decision.

There is a form in the back of this handbook that you can give to your psychiatrist or psychologist to complete.

When Would My Advance Directive Take Effect?

How to make your advance directive take effect right away. You can say in your power of attorney that you want it to take effect right away. If you do it this way and you want it

to remain in effect even if you should become incapacitated, you have to:

- ◆ say in the document that you want it to remain in effect should you become incapacitated,
- ◆ call it a “durable health care power of attorney” if you are including a power of attorney, or
- ◆ say the advance directive was drafted under the authority of the Uniform Health Care Decisions Act.

The forms in the back of this manual are all of the kind that take effect later. If you want one that will take effect immediately, you need to amend the form.

How to make your advance directive take effect later. If you write your advance directive to take effect at a later date, you will be speaking for yourself and making your own decisions up until that time. If you choose to have the advance directive take effect later you have to:

- ◆ state when you want it to be effective, such as, upon being determined to be incapacitated, or, while admitted to certain types of treatment, such as psychiatric hospitalization.

What happens if you say nothing about when it becomes effective. If you say nothing, your advance directive becomes effective when you are determined to be incapacitated and stops being effective when you get capacity back.

If I Choose to Have My Advance Directive Become Effective at Some Time other than When I am Determined Incapacitated, will that Affect How My Instructions are Carried Out?

You may choose to have your advance directive become effective with some event other than a determination of incapacity. There can be problems, however, in getting your advance directive carried out if this is the *only* option you choose for when your advance directive becomes effective.

As long as you have capacity, you may revoke your advance directive. So, if you want your advance directive to come into effect with an event other than incapacity, but object to receiving treatment at that time, you won't receive the treatment. This is so because you have capacity to refuse the treatment and to revoke your advance directive.

To protect against this problem, some people choose to include more than one alternative as to when their advance directive will become effective. In the form in the back of this book, there are several options included for when an advance directive may become effective. Some individuals select more than one option. For example, it could become effective when you have been determined to lack capacity OR when a qualified professional determines that you meet standards for an involuntary admission to a psychiatric hospital.

How Will I Be Determined Incapacitated?

Unless you state otherwise, your primary physician will determine whether or not you have capacity. If your primary physician is unavailable, it would be the physician actually giving you care at the time. You can name your primary physician in your document.

Even though you can name a general physician, you should name a doctor who both knows you and who is likely to have some contact with you when you are unable to make mental health care decisions. For most people, this would be a psychiatrist.

If you want the determination of your incapacity to be made by some way other than simply by your primary physician, you need to state how you want it to happen. Some alternatives might be:

- ◆ when your named primary physician or psychiatrist has found you incapacitated and he has obtained another doctor's opinion that you are incapacitated,
- ◆ when a probate court finds you incapacitated,
- ◆ when an administrative hearing officer finds you incapacitated in a forced medication hearing held in a psychiatric hospital. (Before you choose this option, make sure that the hospital you are likely to be admitted to uses this process. Some do not.)

Up until your instructions and power of attorney take effect, you make decisions on your own.

Some people write advance directives in order to get treatment and hopefully avoid a guardianship proceeding, an administrative hearing, or having to go to the hospital. These individuals should consider having the incapacity determination happen sooner than later. Leaving it to the primary physician or psychiatrist might be a good choice for these individuals.

Other people are afraid that they may want to change their minds about their instructions. They don't want to be cut off too soon from changing their instructions. These individuals may want to state that their instructions don't take effect until they have had a more formal incapacity determination, such as after a second physician's opinion.

If a Guardian is Appointed for me after I write an Advance Directive, Does the Guardian Have To Follow My Instructions?

Under the "Uniform Health Care Decisions Act", guardians have to follow Advance Directives unless the probate court specifically decides that they don't have to. Your agent continues to have the right to make decisions for you unless the court orders that the guardian's decisions need to be followed instead.

This is one of the areas where the "Uniform Health Care Decisions Act" is more protective than the other law on advance directives. Under the "Medical Treatment of Psychotic

Disorders Act”, a guardian isn’t required to follow your instructions.

If you want your instructions to be considered under the law that requires a guardian to honor your wishes unless the court orders otherwise, have your instructions and power of attorney refer to the “Uniform Health Care Decisions Act.”

Can I Change or Revoke My Instructions or Power Of Attorney?

Your instructions or power of attorney may be revoked or rewritten at any time while you have capacity.

You don’t need to revoke your instructions in writing. You can do it in any way that makes it clear that you mean to revoke them. If you don’t want confusion, you should revoke the instructions in writing, and give a copy of the revocation to everyone you gave the instructions to.

A power of attorney may be revoked only in writing, with your signature, or by personally telling the supervising health care provider that you have revoked the power of attorney.

There is some confusion in Maine about whether you can continue to revoke your instructions and power of attorney even after you are incapacitated. The law itself reads that you need to have capacity to revoke them. The form that is included in the law says you can revoke them at any time. It is safest to assume that the statement in the law is the correct one, and that you can only revoke your instructions or power of attorney while you have capacity. This is what courts in other states that have similar laws have decided.

If you are a person who wants to be able to revoke your instructions right up to the latest possible time, we suggest you protect yourself by limiting how the instructions take effect. See the section “How Will I Be Determined Incapacitated?” (p. 6) for information on how to do this.

If your instructions are being carried out and you have changed your mind about them after being determined incapacitated by your doctor, you or your agent can still file a request with the probate court asking that the instructions not be honored.

What Types of Instructions Might I Include In the Directive?

The instructions you give are up to you. You may want to consider including:

- ◆ the kind of treatment you want to receive,
- ◆ where you want to receive treatment,

- ◆ who you want to receive treatment from,
- ◆ instructions on the kinds of actions that will make you more at ease,
- ◆ who you want notified regarding your treatment and condition.

Remember that these areas are only suggestions. You can leave some of these out, or add others.

When you are considering the treatment you want to receive, think about what treatments have been effective in the past and what hasn't been effective. Your instructions can state both what you want and what you don't want to receive for treatment.

Although you don't have to, you should include statements explaining why you want or don't want particular treatments. This way your instructions will reflect your choices and your reasons for making those choices. Well-reasoned choices will have a better chance of being honored, should the instructions be challenged. (See the section on how advance directives may be challenged at p. *II*.)

If you only include the treatment that you don't want and don't say what you do want, you may be increasing the risk that your instructions will be challenged or that you will end up receiving involuntary treatment. For this reason, it is best to include both.

Types of treatment to consider are –

I. Medications

Identifying the medication

If you are going to give instructions about medications, be careful how you identify them. Medications come in both brand names and generic names, and most can be described as belonging to a broad category or to a narrow class of medications. So just be sure you use the words you truly mean.

Why is it important?

- ◆ Some people don't respond to some generic medications. These individuals should mention the experience they've had taking the generic medication and request the treatment they want by the drug's brand name. (Remember, though, that unless there is a very good reason for needing the name brand, there may be some financial penalty to not using the generic brand.)
- ◆ If you choose to have treatment within an entire class of medications, you could find yourself later medicated with a new medication that has come onto the market that falls into that class, even though you are entirely unfamiliar with it.
- ◆ If you say you don't want any medications within an entire class, a new medication could come onto the market within that class that would be just right for you, but you have

excluded it.

So be very careful about how you talk about medications. Think carefully about them beforehand. Talk to your doctor and other people you trust. And give explanations in the instructions for why you are making the choices you do.

If you are naming an agent, you may want to leave it up to the agent to approve or disapprove any medications that you haven't listed by name.

Where would you take the medication?

If you are willing to take some medications in a hospital but not in the community, or in the community but not in a hospital, you should make this clear in your instructions. Are there, for example, medications you would take while you are in a hospital, because they help you through a crisis and allow you to get home soon, but that you wouldn't want to take once you get home?

Don't forget to state what your experience has been and your reasons for choosing some medications to be administered in the hospital and others in the community.

How would you want the medication administered?

Some medications only come in pill or capsule form. Some medications can be taken by mouth or by injection. If there are reasons why you want to take medications in one form but not the other, then you should state this in your instructions.

Again, don't forget to state what your experience has been and your reasons for choosing some medications to be administered orally or others by injection. Your reasons can and should include reference to prior positive or negative experiences.

Are there specific dosages you would agree to?

Would you choose to take certain medications only in dosages up to a certain amount? Or, are there medications that you have taken in the past that weren't effective in getting you through a crisis except within a certain range of dosages. If so, you can include these preferences in your instructions.

Again, don't forget to state what your experience has been and your reasons for stating a specific or range of dosages.

When would you prefer to take the medications?

Are there certain medications that you would be willing to take, but only at nighttime, perhaps because they make you groggy? Are there other medications that you are willing to take but only early in the day, perhaps because they interfere with sleep? If so, state your preferences in your instructions.

Again, don't forget to state what your experience has been and your reasons for stating a specific or range of dosages.

II. Other Forms of Treatment

Other forms of treatment you might want to address are Electro convulsive Therapy (ECT), counseling, and family therapy.

If you have particular wishes regarding ECT and would or would not accept the treatment, you should state your wishes and the basis for your wishes, including past experience, if you've received ECT in the past. If you are willing to receive ECT treatment, do you want to limit the number of treatments? If you want to leave the decision up to your agent, do you want your agent to be allowed a certain number of days before having to make the decision to give the agent time to think things over or to consult with others? If so, you should put all this in your instructions.

If at the time that your instructions go into effect you are refusing counseling or family therapy, the therapy really can't be done without your cooperation no matter what you said in your instructions. It still might help for you to address these therapies in your instructions if you have positively responded to them in the past, so that the providers will be alerted to encourage you towards the therapy.

III. Where And From Whom You Want Treatment

You can say in your instructions where you want to receive treatment. Places you may want to include are where you want to receive the following:

- ◆ In-patient services;
- ◆ Out-patient services;
- ◆ Crisis and respite services;
- ◆ Emergency services.

Your instructions don't require the places to admit or treat you. They will apply their ordinary admissions standards. Your instructions will, however, require your agent to seek services at the places you name before looking somewhere else.

IV. How You Want To Be Dealt With In A Crisis

Some individuals include instructions on how they want to be treated in a crisis. They list the kinds of reactions they will most likely have to different kinds of things such as seclusion or restraint.

Sometimes a crisis will bring you into contact with the police. You can share your instructions with the police, but they're not required to follow them. Your instructions are only

for health care providers and your agent.

V. Who You Want To Have Notified

If you want some people to be notified of your hospitalization or of your going to an emergency room, you should list their names and phone numbers in your instructions. If you want them to receive more information and be involved in any treatment, you can say this as well.

If you have a power of attorney, you should let it be known you want your agent to be contacted. We have included wallet cards at the back of this manual for this purpose.

What Do I Need To Do To Get My Instructions Carried Out?

You should give copies of the instructions and power of attorney to these people or agencies:

- ◆ Your agent named in the power of attorney,
- ◆ Your primary physician,
- ◆ Your primary psychiatrist,
- ◆ Your community mental health providers,
- ◆ Your crisis providers,
- ◆ Hospitals where you are apt to receive in-patient or emergency care,
- ◆ A trusted relative or friend,
- ◆ Any other person or agency named in the instructions.

Your instructions might need to be carried out in an emergency, so it helps if they are easy to read and not overly wordy. You want the providers to follow the instructions. Asking them to read the document beforehand and to discuss with you any concerns they have might be helpful. They may have concerns about things you haven't thought about. They may also have concerns about some of the choices you have made. After talking to them you may want to make changes in your advance directive or they may simply have a better understanding of the choices you have made. A health care provider who understands your choices will be better able to respect those choices.

Do Health Care Providers Have to Follow My Instructions?

Advance directives for psychiatric care under the Uniform Health Care Decisions Act haven't been tested in court in Maine. The written law allows health care providers to refuse to carry out your instructions, without first getting a court order, under the following circumstances:

- ◆ It appears that your instructions don't meet the requirements of the law.

- ◆ The treatment you request is contrary to a policy of the hospital that was communicated to you or to your agent on a timely basis. The policy has to be one that is based on a matter of conscience. For example, churches run some hospitals. You cannot expect these hospitals to provide treatment that is inconsistent with its church’s religious beliefs.
- ◆ The treatment requested is medically ineffective or contrary to accepted standards of care.

If a health care provider refused to carry out your instructions for any of the reasons above, they must:

- ◆ inform you and your agent,
- ◆ provide continuing care until they can transfer you to another health care provider that is willing to comply with your instruction or until a court order can be obtained, and
- ◆ assist in the transfer.

If you meet criteria for involuntary hospitalization, the transfer could be by involuntary measures.

How Might My Instructions Otherwise Be Challenged?

You, your agent, your guardian (if you have one), a health care provider involved with your care, an adult friend or relative, or the Department of Human Services’ Bureau of Elder and Adult Services can ask a probate court to order that your instructions or a decision of your agent not be honored.

Some arguments that could be raised might include:

- ◆ You were incapacitated when you wrote the instructions.
- ◆ When you wrote the instructions you lacked information – maybe about a new service that you couldn’t have known about—so that your instructions can’t be considered informed as to the services.
- ◆ To carry out your instructions would endanger your life.
- ◆ To carry out your instructions might harm other individuals.

How do my Instructions Affect Involuntary Treatment?

Sometimes mental health treatment is given involuntarily. This happens for two reasons:

- ◆ for the best interests of someone who is unable to make decisions, or
- ◆ in an emergency.

If you don’t say what kinds of treatment you want in these circumstances then involuntary

treatment will occur in the ways allowed by law.

If you have listed what treatment you want in an emergency, or when you are unable to make decisions, an advance directive is very helpful.

I. Involuntary Treatment Given When You Can't Make Decisions

Involuntary treatment can be given when you can't make a decision on your own. This happens after you have been found to lack capacity. If you don't have an advance directive, this determination that you lack capacity occurs either in a guardianship proceeding or in an administrative hearing while you are an involuntary patient in a psychiatric hospital.

Your advance directive can affect this kind of treatment in several ways.

- ◆ You can state that you want a determination of incapacity to happen sooner (like in an emergency room by an examining doctor). In this way, you allow yourself to get treatment sooner, and can possibly avoid the involuntary hospitalization or the guardianship proceeding.
- ◆ If a guardianship proceeding occurs, you can name who you would like to have appointed as your guardian.
- ◆ If a guardian is appointed, and you have an advance directive, your advance directive is still in effect unless the court rules that it doesn't apply.
- ◆ If you are an involuntary patient in a psychiatric hospital and they hold an administrative hearing to determine whether treatment may be given involuntarily, your advance directive must be considered as evidence of what you wanted when you had capacity. A hearing officer cannot authorize treatment without your informed consent if you can show that you would have refused the proposed treatment when you had capacity because of your personal convictions or beliefs. You can use your instructions as evidence of your previously expressed convictions or beliefs. If your advance directive is found to be valid, its terms must be applied.

II. Involuntary Treatment Given in an Emergency

The two most common forms of mental health treatment given in an emergency are commitment to a hospital, and emergency treatment once you are in a hospital – such as medication, seclusion or restraint.

Involuntary Commitment

Even though you have an advance directive, you may still be involuntarily hospitalized if you meet the criteria for involuntary hospitalization. Your advance directive doesn't change the

laws on involuntary hospitalization.

Still, your instructions can be very helpful.

- ◆ You can write your instructions so that you will be able to get treatment before involuntary hospitalization would be considered.
- ◆ You can say in your instructions under what conditions you want to be admitted to a hospital as a voluntary patient.
- ◆ You can say in your instructions when it is you want to be admitted to a hospital as a voluntary patient **EVEN THOUGH YOU MAY BE OBJECTING** at the time.

If you include this last instruction in your advance directive, you may be admitted to a hospital as a voluntary patient for up to 5 workdays even though you were objecting at the time.

Involuntary treatment in a hospital

If you are in a hospital and an emergency arises and you pose a risk of imminent bodily injury to yourself or others, the hospital can take emergency measures to make you and others safe without having to consider your advance directive.

Your instructions can be helpful and cut down on the risk of your being treated involuntarily in an emergency:

- ◆ You can set out the kind of treatment you would agree to receiving in order to avoid an emergency.
- ◆ You can set out the kind of treatment you would agree to receiving voluntarily in the event of an emergency.

What Can I Do If My Health Care Instructions Aren't Being Followed?

If your advance directive isn't being followed, the probate court can be asked to order that it be followed.

The following people can ask the Probate Court for help:

- ◆ You,
- ◆ Your agent,
- ◆ Your guardian, (if you have one),
- ◆ A health-care or social services provider or institution involved with your care,
- ◆ The Bureau of Elder and Adult Services of the Department of Human Services or

- ◆ An adult relative or adult friend.

Any one of these people can ask the court to do what is needed to get your advance directive followed. That might mean they are asking the court to stop a health care decision from going into effect, to require it to go into effect, or to make any other appropriate order regarding your health care.

Conclusion

We know that this manual may not answer all the questions you have on advance directives for mental health care. Staff of Disability Rights Center is therefore available to provide additional training for groups. Feel free to contact us if you would like to arrange for this training.

APPENDIX

About the Forms

The sample forms that follow were developed by Disability Rights Center for people who want to develop an advance directive for mental health care. They are based on the Uniform Health Care Decisions Act. These forms don't include language regarding general health care decisions.

If you are going to use these forms, it may be better if you do not use \surd or X marks to select your choices, but write your initials instead.

Form 1: Advance Directive, includes options for both Power of Attorney and Instructions

Form 2: Doctor Certificate of Capacity

Form 3: Wallet Cards

**FORM 1: Advance Directive, includes options for both
Power of Attorney and Instructions**

ADVANCE HEALTH CARE DIRECTIVE
For Mental Health Care

Under the Uniform Health Care Decisions Act
18-A M.R.S.A. § 5-801 et seq.

I, _____ currently of _____, _____,
name street address city

Maine, whose birth date is _____, execute this Advance Health Care Directive
Attorney so that I might obtain mental health care and treatment.

PART I. POWER OF ATTORNEY FOR HEALTH CARE *(Complete this part only if you are appointing an agent to make decisions for you.)*

(1) DESIGNATION OF AGENT: I, designate the following individual as my agent to make mental health-care decisions for me:

(name of individual) (home phone) (work phone)

(address)

(city) (state) (zip code)

(2) DESIGNATION OF ALTERNATIVE AGENT: *(OPTIONAL)* If I revoke this agent's authority or if my agent is not willing, able or reasonably available to make mental health care decisions for me, I designate as my first alternate agent:

(name of individual) (home phone) (work phone)

(address)

(city) (state) (zip code)

(3) AGENT AND ALTERNATIVE AGENT UNAVAILABLE: If I revoke the authority of my agent and first alternate agent, if I have named one, or if neither my agent or alternate, if I have named one, is willing, able or reasonably available to make health-care decisions for me, the instructions in this health care directive are nevertheless to be followed without need for the express authorization of an agent. YES____ NO_____

(4) AGENT'S AUTHORITY: My agent is authorized to make all health-care decisions, consistent with the instructions and limitations as set out in this document, that in my agent's judgment relate to psychiatric, psychological and emotional care and treatment, including the right to consent, withhold consent or withdraw consent to any test, procedure, program of medications or any form of mental health care and treatment and to select or discharge any mental health care providers or institutions.

(5) AGENT'S OBLIGATION: My agent shall make health-care decisions for me in accordance with this power of attorney for health care, any instructions I give in Part 2 of this form and my other wishes to the extent known to my agent. To the extent my wishes are unknown, my agent shall make health-care decisions for me in accordance with what the agent determines to be in my best interest. In determining my best interest, my agent shall consider my personal values to the extent known to my agent.

PART II: WHEN ADVANCE DIRECTIVE BECOMES EFFECTIVE (*This part needs to be completed whether you are appointing an agent, giving instructions or doing both*)

(6) WHEN ADVANCE DIRECTIVE (INCLUDING AGENT'S AUTHORITY, IF ONE APPOINTED) BECOMES EFFECTIVE: This advance directive becomes effective when: (*Indicate the applicable options*)

_____ immediately (*this option is available only if you have appointed an agent*)

_____ my primary physician, or, if I should be in an emergency room or in a treatment setting, the attending physician determines that I am unable to make my own health-care decisions.

_____ my primary physician, or, if I should be in an emergency room or in a treatment setting, the attending physician determines that I meet involuntary hospitalization standards.

_____ my primary physician, or, if I should be in an emergency room or in a treatment setting, the attending physician determines that if I do not receive psychiatric hospitalization or the treatment as set out in this instrument my condition will quickly deteriorate such that I would soon meet the standard for involuntary hospitalization.

_____ other. Describe _____

The above options require a second physician's opinion. Yes. _____ No _____

I waive the 2nd opinion requirement if another physician is not available. Yes _____ No _____
(If I require a second opinion and do not waive the requirement should no second physician be available, I understand that my advance directive may not become effective.)

(7) **NOMINATION OF GUARDIAN: (OPTIONAL)** If a guardian of my person needs to be appointed for me by a court, I nominate the following individual to be appointed as my guardian.

(name of individual) (home phone) (work phone)

(address)

(city) (state) (zip code)

PART 3: INSTRUCTIONS FOR HEALTH CARE (Optional if you have appointed an agent.) (If giving instructions, you can choose those specific areas you wish to address and can add additional areas.)

I request that I be provided the following treatment:

I. Alternatives to hospitalization

In the event my condition becomes serious enough that I am found to need 24 hour care, I prefer to avoid hospitalization as possible, and request that the following services be explored first.

_____ Crisis respite services. I prefer to receive the services at the following agencies: _____
names of agencies

_____ Crisis respite services. I prefer to receive the services at the following agencies: _____
names of agencies

if you have preferences

_____ In-home services. I prefer to receive the following services: _____
names of agencies

if you have preferences and description of services.

_____ Other services (describe) _____

My reasons for wanting these services as alternatives to hospitalization are as follows:

(optional, but recommended) _____

II. Psychiatric Hospitalization

In the event that psychiatric hospitalization is the only suitable alternative, I direct that it be sought at the following hospitals in the following order of priority:

_____ name of hospital

_____ name of hospital

_____ name of hospital

_____ name of hospital

This directive may operate as my informed consent to admission as a voluntary patient to the above listed hospitals.

This consent shall operate even if I pose any verbal objections at the time. Yes _____ No _____

If none of the above hospitals have available beds, this directive may operate as my informed consent to admission to any other hospital as follows: *(Select applicable option)*

_____ To any other hospital, provided I do not object at the time.

_____ To any other hospital, even if I am objecting at the time, *except for the following listed hospitals.*

name of hospital to which my consent is *not* given

name of hospital to which my consent is *not* given

name of hospital to which my consent is *not* given

My reasons for wanting these psychiatric hospitalization options are as follows:

(optional, but recommended) _____

If I need to be transported to a psychiatric hospital as an involuntary patient, I request that I be transported by the following means:

_____ Ambulance

_____ Sheriff or police vehicle. (I understand that by requesting this service I am waiving any claims or rights I may have under law to be transported in a medically equipped vehicle in the company of emergency medical technicians or other medically trained personnel.)

Other notes regarding transportation and my reasons for requesting transportation by this means are as follows: _____

III. Medications

I consent, and my agent if appointed is authorized to consent to the administration of medications as follows. (*select options*)

| Medication | Dosage Limits, if any | Only Orally If checked |
|------------|-----------------------|---------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

All medications as prescribed by my primary physician, except as may be limited below.

All medications as authorized by my agent, if appointed, except as may be limited below.

I do not authorize and my agent, if appointed, may not consent to the following medications.

Medications: _____

My reasons for not consenting to the above medications is as follows: (optional but recommended) _____

_____ If any action can be taken to eliminate my above stated concerns regarding the excluded medications, my agent, if appointed, is authorized to consent to their administration provided such additional action is taken to accommodate my stated concerns.

_____ Other instructions with regard to medications: _____

IV. Emergency Interventions while in a hospital

I understand that while I am in a psychiatric facility certain interventions may be authorized in an emergency should my behavior be imminently dangerous to myself or others.

I believe such an emergency can be avoided if I am treated in the following way: _____

If an emergency nevertheless arises, I prefer emergency interventions be implemented as follows: (State preferences with regard to the use of seclusion, restraint, offer of oral medications, medications by injection.)

V. Other treatment while in a hospital

I have responded favorably to the following treatment in a hospital setting, and request that these treatment options be offered.

Describe treatment options (family therapy, for example) _____

VI. Electroconvulsive Therapy (ECT)

____ I do not consent and my agent is not authorized to consent to the administration of ECT.

____ I consent to the administration of ECT as prescribed by my primary physician, except as may be limited below.

____ I consent to the administration of ECT as authorized by my agent, except as may be limited below.

____ Limitations upon consent to the administration of ECT:

_____ My consent is limited to _____ number of treatments.

_____ Consent may not be sought from my agent, if one is appointed, until s/he has had _____ days to consider the risks and benefits of the treatment.

_____ My consent is otherwise limited as follows: _____

My reasons for consenting or refusing ECT as set out above, is as follows: (optional, but recommended) _____

VII. Notices

If I am admitted to a facility, I request that the following individuals be notified immediately.

(name of individual) (home phone) (work phone)

(address)

(city) (state) (zip code)

(name of individual) (home phone) (work phone)

(address)

(city) (state) (zip code)

VIII. Child Care Arrangements If I am to be admitted to residential care or to a hospital, or I am otherwise unable to care for my children, and I have not made prior child care arrangements, I authorize my agent to make those arrangements. If my agent or alternative is not available, I request that the following individual be contacted to care for my children temporarily:

(name of individual) (home phone) (work phone)

(address)

(city) (state) (zip code)

IX. Other Instructions

PART 4: PRIMARY PHYSICIAN

I designate the following as my primary physician, for the purposes of this directive:

| | | |
|---------------------|----------------|------------|
| _____ | _____ | |
| (name of physician) | (phone number) | |
| _____ | | |
| (address) | | |
| _____ | | |
| (address) | | |
| _____ | | |
| (city) | (state) | (zip code) |

A COPY OF THIS FORM HAS THE SAME EFFECT AS THE ORIGINAL.

| | | | | | |
|-------------------|-------------------|----------|-------|-------|----------|
| _____ | Dated: _____ | | | | |
| signature | | | | | |
| | | | | | |
| _____ | _____ | | | | |
| witness signature | witness signature | | | | |
| | | | | | |
| _____ | _____ | | | | |
| witness Address | witness address | | | | |
| | | | | | |
| _____ | _____ | _____ | _____ | _____ | _____ |
| city | state | zip code | city | state | zip code |
| | | | | | |
| Dated: _____ | Dated: _____ | | | | |

FORM 2: Certificate of Capacity

CERTIFICATE OF CAPACITY

I, _____, being a licensed _____
name physician or psychologist

state that I know _____, and, as of the date of this statement,

believe him/her to have capacity to execute a health care advance directive in that s/he understands the following:

his/her diagnosed condition
significant benefits, risks and alternatives to various treatment options
the consequences of not accepting recommended treatment.

I further believe that _____ can make and communicate a health care decision and understands the consequences of naming someone else to make health care decisions under a power of attorney.

Dated: _____
Name _____

FORM 3: Wallet Card

WALLET CARD

You may want to use one of the attached cards. Cut it out, fold it in half and keep it in your wallet. Use the first card if you have a power of attorney, use the second card if you only have instructions.

CARD FOR USE WITH HEALTH CARE POWER OF ATTORNEY WITH OR WITHOUT INSTRUCTIONS.

NOTICE TO MENTAL HEALTH PROVIDERS

I have an advance directive for mental health care as allowed by Maine law 18-A M.R.S.A. §5-801 et seq. A copy is located at:

Please obtain a copy of my directive and follow any instructions I have included.

I appointed _____
as my agent to make decisions for me. My agent can be reached at the following numbers.

Days _____ Eves. _____

Please contact my agent immediately if I am in need of mental health care and unable to make decisions myself.

Name: _____

Date of Birth: _____

**CARD FOR USE WITH HEALTH CARE ADVANCE DIRECTIVE *WITHOUT A*
POWER OF ATTORNEY**

**NOTICE TO MENTAL HEALTH
PROVIDERS**

I have an advance directive for mental health care as allowed by Maine law 18-A M.R.S.A. §5-801 et seq. A copy is located at:

Please obtain a copy of my directive and follow the instructions I have included for care.

I have included instructions in it for mental health care that I should receive that I have consented to receive should I be unable to make decisions for myself.

Name: _____

Date of Birth: _____