

MICHIGAN DEPARTMENT OF CORRECTIONS POLICY DIRECTIVE	EFFECTIVE DATE 01/03/2022	NUMBER 03.04.107
	SUBJECT ADVANCE DIRECTIVES FOR HEALTH CARE	
SUPERSEDES PD 03.04.107 (08/20/1993)		AUTHORITY Estates and Protected Individuals Code, 1998 PA 386; MCL 700.5501-700.5512, MCL 700.5515, MCL 700.5520
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POLICY STATEMENT:

To provide compliance with "The Patient Self-Determination Act," and to comply with the wishes of the prisoner regarding the type of care they desire, should they become incapacitated and unable to communicate their desires.

RELATED POLICIES:

04.06.110 Deaths and Disposition of the Remains

DEFINITION:

- A. Prisoner Health Record: All information recorded in electronic form, paper form, or any other medium that pertains to a prisoner's mental and/or physical health care, history, diagnosis, prognosis, or condition that is maintained by the Michigan Department of Corrections (MDOC).
- B. Medical Provider: A qualified health professional who is a licensed physician, physician assistant, or nurse practitioner in the State of Michigan.

GENERAL INFORMATION:

- C. For the purpose of this policy, "Advance Directive" means written instructions, recognized under State law and relating to the provision of health care when the individual is incapacitated and unable to communicate, such as an Advance Directive (CHJ-233) or Patient Advocate form (CHJ-236),
- D. The original Advance Directive form shall become part of the prisoner's health record. Only MDOC Health Care Directive forms shall be accepted. Any exception shall only be authorized by the Administrator of the Office of Legal Affairs in conjunction with the Health Care Administrator.
- E. Written information shall be provided to each prisoner concerning the individual's right under State law to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment, and the right to designate a patient advocate or to formulate an Advance Directive.
- F. Health Care staff shall inquire of each prisoner at the time of initial health care contact and for existing prisoners during annual health screening whether or not they have designated a patient advocate or executed an Advance Directive and shall document each response in the prisoner's health record.
- G. A provision of care shall not be conditional based on whether or not the prisoner has executed an Advance Directive.
- H. The provisions of the document shall be incorporated into the medical treatment and decision-making process as soon as the prisoner becomes incapacitated or is incompetent and cannot make a choice or make their choice known. This provision does not apply to prisoners in the case of a life-threatening condition brought about by a suicide attempt, hunger strike, or other self-injurious behavior.
- I. The prisoner health record shall reflect the place, date, and the time the Advance Directive goes into effect.

DURABLE POWER OF ATTORNEY/ACCEPTANCE OF PATIENT ADVOCATE

- J. A durable power of attorney for health care appointed by the prisoner, is an individual(s) to make decisions concerning care and treatment on the prisoner's behalf should the prisoner become incapacitated or is

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incompetent and unable to communicate regarding medical treatment decisions. A designation shall be executed in the presence of and signed by two witnesses. The witnesses shall not be the prisoner's spouse, parent, child, grandchild, sibling, presumptive heir, physician, patient advocate, or an employee of a health facility that is treating the patient.

- K. The person given durable power of attorney is known as the patient advocate. Before acting as a patient advocate, the proposed patient advocate shall sign a Patient Advocate form (CHJ-236).
- L. A prisoner may not be a patient advocate or sign as a witness for Durable Power of Attorney, for another prisoner.

REVOCAION OF PATIENT ADVOCATE DESIGNATION

- M. In order for a patient advocate designation to be revoked, one or more of the following must apply:
 - 1. Death of the prisoner unless the patient advocate has been specifically designated to authorize an anatomical gift of all or part of the prisoner's remains in accordance with PD 04.06.110 "Deaths and Disposition of the Remains."
 - 2. Order of removal by a court;
 - 3. Resignation or death of the advocate;
 - 4. The prisoner's revocation of their advocate;
 - 5. The designation of a subsequent advocate;
 - 6. The occurrence of a provision for revocation contained within the durable power of attorney.

PRISONER ADVANCE DIRECTIVE – DO NOT RESUSCITATE ORDER

- N. Prisoners have the right to accept or refuse medical treatment. However, there may come a time when they are incapacitated, or they are incompetent, and cannot make a choice or make their choices known. They can retain that right by making their decision while able to think clearly and put their choice in writing ahead of time on a CHJ-233. A patient advocate of a prisoner may execute a CHJ-233 on behalf of the prisoner. The form shall be dated and executed voluntarily and signed by each of the following persons:
 - 1. The prisoner or the prisoner's patient advocate;
 - 2. The prisoner's attending physician;
 - 3. Two staff witnesses 18 years of age or older, who are not the prisoner's spouse, parent, child, grandchild, sibling, or presumptive heir.
- O. A prisoner who is an adherent/member of a recognized religious denomination that depends upon spiritual means through prayer alone for healing may execute a CHJ-233. A patient advocate of a prisoner may execute a CHJ-233 on behalf of the prisoner. The form shall be dated and executed voluntarily and signed by each of the following persons:
 - 1. The prisoner or prisoner's patient advocate;
 - 2. One staff witness 18 years of age or older, who is not the prisoner's spouse, parent, child, grandchild, sibling, or presumptive heir.
- P. Before a CHJ-233 is completed, the prisoner must request to meet with the facility Medical Provider who will assist with completing the form. At that time, the Medical Provider meeting with the prisoner shall ensure that they have an opportunity to ask questions pertaining to the benefits and risks of life-sustaining treatments so an informed decision can be made.

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- Q. A prisoner may revoke their Advance Directive by notifying Health Care staff in writing. Notification of the revocation shall be confirmed by Health Care staff.

OPERATING PROCEDURE

- R. If necessary, to implement the requirements set forth in this policy directive, the Health Care Administrator shall ensure operating procedures are developed or updated.

AUDIT ELEMENTS

- S. A Primary Audit Elements List has been developed and is available on the Department's Document Access System (DAS) to assist with self-audit of this policy pursuant to PD 01.05.100 "Self-Audits and Performance Audits."

APPROVED: HEW 11/16/2021