Implementing Advance Directives with Instructions for Mental Health Care

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Contributors

- This presentation is the result of collaboration between: DBHDS, VOCAL, dLCV, and UVA
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www.VirginiaAdvanceDirectives.org
Core Points for Your Agency

• Advance Directives are desired and effective recovery tools that benefit individuals and systems, too.

• Successful adoption of Advance Directives requires thoughtful cross-system implementation efforts.
  • Making advance care planning part of the culture.

• DBHDS & UVA are ready and willing collaborators.
Question: What if...

- You **needed** health care (including mental health care) and you were **not able** to make informed decisions about your care?

- **Someone** will make decisions for you when you can’t make them for yourself.

- How can **you control** who that someone will be, and what decisions they will make?

Answer: **Make an Advance Directive**
Fran’s Story

- Fran has a serious mental illness. She is actively engaged in treatment, and most of the time does well.

- When well, Fran understands her periodic crises and knows warning signs. She asks her husband to take her to the hospital when he notices these signs.

- But, when Fran is in crisis, she loses those insights and she refuses to go to the hospital.

- How can Fran get the mental health treatment she needs?
Ted’s Story

• Ted made an advance directive for health care, naming his wife as his agent.

• He had no history of mental illness, so he did not give his wife authority to make decisions about mental health care.

• Ted develops dementia and his symptoms include confusion and emotional upset that would be best treated on an inpatient psychiatric unit.

• How can Ted get the inpatient mental health treatment he needs?
Jill’s Story

- Jill is a widow who just retired, and she is re-writing her will so her adult children know her wishes
- Jill also wants to plan for her end-of-life health care
- Of her four children, two agree with what Jill wants regarding end-of-life care but two of her children do not agree
- Jill needs a way to set out her wishes so that they will be followed
Advance Directives and Advance Care Planning

- Why every adult should have an Advance Directive
An advance directive is...

- ...a legal document that lets you direct your future health care.

- It goes into effect if you become unable to make informed decisions for yourself.

- An advance directive (AD) is followed only during the time that you cannot make decisions.
Options for Setting Out Wishes

• Only appoint an agent
  -or-
  • Only give instructions
    -or-
  • Both appoint an agent and give instructions
Other Terms You Might Hear

- Related to and/or called
  - Living will
  - Psychiatric advance directive (PAD)
  - Health care power of attorney
  - Crisis plan

- Appointing an agent is same idea as giving power of attorney for health care

- BUT some important details to know about how ADs with instructions for mental health are different in Virginia
Origins of Advance Directives

- Psychiatric Advance Directives (PADs)
  - Developed in the 1990s
  - In line with recovery model
  - Capitalize on benefits of advance planning:
    - Exert more control over own mental health treatment
    - Avoid involuntary treatment
    - In line with recovery, person-centered care, and shared decision making
    - Allow for support system involvement in treatment decision making
Virginia Law

• AD for mental health care in Virginia
  • Commission on Mental Health Law Reform established in 2006

• Virginia enacted revised legislation in 2009
  • Integrated Advance Directive health care form
Evidence Base for Advance Directives

➢ But do they work?
Are We Interested in ADs in Virginia?

- Stakeholder survey in 2010
- Knowledge of and attitudes about ADs from:
  - Mental health service users,
  - Family members,
  - Administrators of hospitals,
  - CSBs, and
  - Advocates.
- YES - All respondents held favorable views of ADs with instructions for mental health care
- BUT – Varying knowledge about ADs and different perceptions of barriers

(Wilder, Swanson et al., 2012)
ADs will give people with SMI more control over their lives
ADs will lead to better understanding of treatment desires in crisis and outpatient settings
It is hard to get the needed help to complete an AD
ADs are Useful for Treatment & Well-Being

• All ADs were rated as including useful instructions
  • In agreement with clinical practice standards

• No one used an AD to reject all treatment

• When reasons for medication refusal given, doctors more likely to honor that choice

• Increased sense of control → increased sense of well-being

• Improved working alliance with providers

• Improved feeling of having treatment needs met

(Srebnik et al., 2005; Swanson et al., 2006; Wilder et al., 2007)
ADs are Useful for Treatment & Well-Being

- People with ADs were **HALF** as likely to experience coercive interventions over a 2 year period
  - Police transport, involuntary commitment, seclusion & restraints, involuntary medications

(Swanson et al., 2008)
So, Everyone Has an AD, Right?

• **Demand**
  • 66-77% of people say they would like to complete an AD with instructions for mental health care

• **Use**
  • Only 4-13% of people have completed an AD

• Virginia has committed itself to making ADs part of routine care

(Swanson et al., 2006)
Facilitated Advance Directives

- Facilitation increases completion almost 30 fold

- Facilitation improved working alliance and increased perception of having treatment needs met

- Understanding of ADs is related to increased sense of autonomy
  (Elbogen et al., 2007; Srebnik et al., 2005; Swanson et al., 2006)
Overview of Advance Directive Components

- The main parts of an AD and how it works
What Health Care Can be Covered?

• Any or all of these types of health care:
  • Medical health care
    • E.g., medications, surgery, admission/discharge to hospital
  • Mental health care
    • E.g., psychiatric medications, psychiatric hospitalization
  • End-of-life care
    • E.g., respirator, feeding tube, medication to relieve pain
Required Elements to be Valid in Virginia

• For an AD to be legally valid in Virginia, it needs:
  • To be signed by the person making it
  • To be signed by two adults who witness the person’s signature

• In Virginia, an AD does NOT need:
  • To be on a particular form
  • To be notarized
  • To be written by an attorney

• Photocopies of the original are valid for use by health care providers
Capacity to Make an Advance Directive

- For the Advance Directive to be valid, the person making the AD must have capacity
  - That is, she must be capable of making decisions for herself at the time she makes the AD

- Under Virginia law, every adult is presumed to have capacity
  - Unless there is a current legal or clinical finding of incapacity to make informed decisions about care
Appointing a Health Care Agent

• An agent is a person you trust who will advocate on your behalf and carry out your wishes
  • Primary and successor (or “back-up”) agent

• Any competent adult can be an agent

• The agent has the duty to follow your instructions and preferences
The Power to Authorize Treatment Over Your Objection ("Ulysses Clause")

• There may be times that a person objects to treatment that he would want if he was not in crisis (recall “Fran”)
  • E.g., Head injury, medical condition, or side-effect

• Physician or licensed clinical psychologist signature
Giving Instructions

• You can give instructions about the health care you agree to and the health care you refuse

• Your doctor must follow your instructions
  • UNLESS she finds it illegal, unethical, medically inappropriate
  • BUT she cannot treat you in a manner that goes against your instructions without separate legal authority
    • Emergencies to prevent harm; court-ordered treatment
Giving Information and Preferences

- **Information**: Important background information to know, like allergies or devices

- **Preferences**: Important details about what the person prefers and values – to provide guidance to agent/doctors

- **Instructions**: Specific directions that the agent and doctors must honor in most cases, including refusals
How is an AD Activated?

• A finding of incapacity by an attending physician
  • In-person examination

• **PLUS** a finding of incapacity by a second physician or psychologist
  • The doctor must tell you of his/her finding and put his/her finding in writing in your record
  • Note: Psychiatric commitment does not automatically result in a finding of incapacity
How is an AD De-activated?

• As soon as any doctor examines you and finds you are able to make informed decisions again
  • This finding must be put in writing by the doctor

• Your AD is “de-activated” and is no longer used to make decisions about your health care
Implementation of Advance Directives in Virginia

- What we have learned so far
UVA Study of ADs in Virginia

- 5 “vanguard” sites
  - CSBs adopting advance directives as part of routine care
  - Interview consumers who have completed ADs
  - Examine de-identified ADs
  - Determine the best methods for implementing ADs
    - Facilitation
    - Culture
    - Cross-system collaboration
Implementation Planning

- Within an agency
  - How will you provide facilitation?
    - Peers
    - WRAP
    - Referrals
    - Unauthorized practice of law
  - Top-down **AND** bottom-up support
    - Agency policy
    - Individual(s) who will spearhead the day-to-day activities
  - Agency-wide, tailored training

- Within the larger health care system
  - System-wide education
  - Targeted inter-agency collaborations
Partnering with Our Team

• Implementation Resources
  • Technical assistance
    • Trainings
  • Implementation Manual
  • Support and network
  • Model integrated form
  • Crisis card
VIRGINIA ADVANCE HEALTH CARE DIRECTIVE

I, _______________________, appoint ________________________(ph.: ____________) as my agent, and ________________________(ph.: ____________) as my successor agent, with authority to make decisions about my health care, including general, end-of-life, and mental health care and hospitalization, if I become incapable of making informed decisions about such care, and to remain my agent even if I object after I have become so incapacitated.

I grant my agent all powers set out in the VA Health Care Decisions Act except the following: ____________

Signed: ______________________ Date: ____________

Witness: ______________________ Date: ____________

Witness: ______________________ Date: ____________

□ If checked, I also have an Advance Directive form, which can be found at the location on panel 2.

□ My valid short AD is inside this card.
Partnering with Our Team

• Implementation Resources
  • Technical assistance
    • Trainings
  • Implementation Manual
  • Support and network
  • Model integrated form
  • Crisis card
  • Facilitator Certification Training
Contact Information

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References


References


