Mental Health Advance Directive Factsheet

A mental health advance directive (MHAD), also known as a psychiatric advance directive, is a legal tool that allows persons with mental illness to state their preferences for treatment in advance of a crisis. MHAD provides a way to protect a person’s autonomy and ability to self-direct care for treatment of mental health disorders similar to medical powers of attorneys, living wills and other medical advance care planning documents used to direct care for medical disorders in palliative care and end-of-life care.

Benefits of a MHAD

- Persons with mental health disorders who have lost decision-making capacity can receive preferred treatment even though they do not meet involuntary commitment criteria.
- Persons in the middle of an acute mental illness episode who have lost decision-making capacity and have a Ulysses agreement in their MHAD can receive treatment even if they are conscious, unruly, and refusing treatment.
- MHADs can guide treatment for patients whose acute episodes of mental illness otherwise might land them in an emergency department or in jail.
- MHADs can improve patient-provider communication and create cost savings by...  
  - Decreasing emergency transports
  - Decreasing need for police involvement
  - Reducing number of mental health hygiene hearings
  - Reducing number of emergency department visits
  - Reducing number of long stays in emergency departments which tie up emergency department resources

Legal Status of MHAD

- MHADs are legal in West Virginia because they fall within the “substantially in compliance” provision of the West Virginia Health Care Decisions Act, §16-30-1 et seq: “An expressed directive contained in a living will or medical power of attorney or by any other means the health care provider determines to be reliable shall be followed.”
- MHADs are also to be followed according to the West Virginia Code of State Regulations 64CSR74 which states in ‘64-74-5.5 “An advance psychiatric directive shall be honored…”
- MHADs can be submitted to the West Virginia e-Directive Registry as well as given to treating health care providers and the patient’s mental health care representative.