



POLICY STATEMENT 3

ADVANCE DIRECTIVES

Background

Advance care planning refers to the process of preparing for likely scenarios. It usually involves the assessment of, and dialogue about, a person's understanding of their personal medical history and condition, their values, their preferences, and personal and family resources.

An Advance Directive, sometimes called a 'living will', is a document that describes a person's future preferences for medical treatment, in anticipation of a time when they become unable to express those preferences as a result of illness or injury.

Advance Directives are most commonly used in situations towards the end of life, however, there is an increasing awareness for the applicability in the mental health area. It provides a means for consumers to express their preferences and to have greater input regarding their care on any occasion they have acute episodes and are considered unfit to make decisions on their own behalf.

Some Australian jurisdictions now have legislation which provides for Advance Directives. In those that do not, Advance Directives may still be valid under common (judge-made) law, but this is something that cannot be fully relied upon.

Currently in Australia, Mental Health Legislation can over-ride an Advance Directive, allowing treatment orders to be made that are inconsistent with a consumers prior express decisions. Although in a limited number of circumstances this may be appropriate, the general position should be that Advance Directives are respected in practice and in law.

Recommendation 18 of the Australian Government Senate Select Committee on Mental Health (2006) stated:

That the HREOC be requested to complete its important work on advance directives and protocols that would recognise the rights of consumers to, for instance, identify substitute decision makers, appropriate treatments and other financial, medical and personal decisions, particularly for the care of children.

Policy

The Network believes that Advance Directives are particularly useful in recognising the rights of consumers to identify appropriate treatments and other medical, personal and financial decisions that they wish to receive or make in a situation where they are unable to make those decisions themselves.

The Network further believes that Advance Directives assist in the identification of carers and publicly acknowledges the carer's role in future treatment and decision making.

Recommendations

- The Network recommends the development of legislation in all jurisdictions to enable legally enforceable Advance Directives by mental health consumers. Along with legislation, guidelines should be developed and promoted for the development of Advance Directives to encourage people with mental illness to consult family, carers and health providers as part of the advance directive development process.
- The Network recommends the development of Advance Directives by mental health consumers with long term illnesses, based upon a reflective discussion in a non-crisis situation, to identify options regarding treatment, medical, personal and financial decisions to be made by another on their behalf. These discussions should involve relevant health providers, to ensure that the full range of possible clinical situations and treatment options are considered and planned for.
- The Network recommends within the Advance Directives consumers identify their carers whom they wish to be engaged and involved in all decisions made about and for them. The Network also recommends that carers are fully informed beforehand about their role in any advance directives.

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