Name of Policy: **Psychiatric advance directives** **Policy Number**: 3364-160-SD-144 **Approving Officer**: Chief Executive Officer **Responsible Agent**: Chair, Department of Psychiatry Administrative Director **Scope**: Outpatient Clinic - Psychiatry	**Effective date:** July 2026 **Original effective date**: August 2017
Key words: psychiatry, informed consent, risk, benefit, advance directives	

	New policy proposal	X	Minor/technical revision of existing policy
	Major revision of existing policy		Reaffirmation of existing policy

(A) Policy statement

This policy is implemented in accordance with Ohio Revised Code Chapter 2135 governing Declarations for Mental Health Treatment also known as psychiatric advance directives (PAD). The University of Toledo Medical Center ("UTMC") recognizes that every competent adult has the right to determine what will be done to their person, including the right to informed consent, to accept or refuse treatment, and to execute psychiatric advance directives.

UTMC will ensure that documentation and billing associated with psychiatric advance directives are accurate, medically necessary, and compliant with all applicable federal and Ohio fraud, waste, and abuse laws. Any suspected non-compliance will be reported in accordance with UTMC compliance policies.

(B) Purpose of Policy

To establish a uniform procedure by which UTMC will inform the patient of their right to self-determination and advance directives, and to document the existence of any advance directives, and ensure care respects patient autonomy and participation consistent with Ohio Administrative Code patient rights requirements.

(C) Definitions:

A psychiatric advance directive (PAD) is a legal document that documents a person's preferences for future mental health treatment and allows appointment of a health proxy to interpret those preferences during a crisis

Psychiatric advance directives (PAD) may include a Declaration for Mental Health Treatment and/or a Durable Power of Attorney for Health Care. Where both exist, the Declaration for Mental Health Treatment controls decisions regarding mental health treatment.

(D) Procedure

(1) Adult patients with serious mental illness receiving services from the department of psychiatry outpatient clinic will be asked if they have a psychiatric advance directive (PAD); and if patient requests, will be provided information regarding their PAD rights, and resources available to assist in formulating their PAD. Any responses will be documented in the Electronic Medical Record ("EMR").

Documentation in the EMR must include:

a. whether a psychiatric advance directive (PAD) exists;
b. the location or availability of the PAD;
c. whether the patient was offered information regarding PAD rights;
d. whether assistance resources were offered or provided; and
e. the patient's response, including acceptance or refusal.

(2) Clinical staff must assess and document the patient's capacity to consent to mental health treatment decisions at each encounter when PAD applicability is relevant.

(3) In accordance with ORC §2135.02, when the patient has capacity to consent, the patient's contemporaneous informed consent shall govern all treatment decisions, even if a psychiatric advance directive exists.

(4) Staff will review any psychiatric advance directive (PAD) provided to determine whether it appears to meet Ohio legal requirements, including appropriate execution and witnessing (e.g., signed by the patient and appropriately witnessed). Any known deficiencies, limitations, or concerns regarding the validity or completeness of the PAD will be documented in the EMR.

(5) If a patient brings a copy of their PAD, a copy will be scanned into the EMR;

(6) If a patient states that they have a psychiatric advance directive (PAD) but does not provide a copy at the time of the visit, staff will:
(a) document in the EMR that the patient reports having a PAD and its known or estimated location, if available;(b) inform the patient that a copy is needed to guide care and request that the patient provide the PAD at the next visit; and
(c) continue to obtain and rely upon the patient's current informed consent for treatment decisions unless and until the PAD is received and determined to be operative in accordance with applicable law.

(7) Staff must determine and document whether a PAD is operative in accordance with ORC §§2135.03–2135.04.

(8) A PAD shall be considered operative only when:
(a) the directive has been communicated to the provider; and
(b) the patient lacks capacity to consent to mental health treatment decisions.

(9) Staff must document the clinical determination of incapacity and the date and basis on which the PAD became operative.

(10) Any revocation of a PAD, whether written or verbal, must be documented immediately in the EMR.

UTMC will honor PADs unless revoked, temporarily suspended, or overridden as permitted by applicable law. Any override or deviation must be documented in the EMR, including the legal/clinical basis, decision-maker, and duration of the exception.

(11) Clinical staff who are involved in the care, treatment, or services provided to an adult with a PAD, are aware that the PAD exists and know how to access it.

Staff are not responsible for making legal determinations regarding validity but will escalate questions or concerns to appropriate leadership and/or legal affairs as needed.

(12) Any services related to PADs that are billed must be supported by documentation that clearly reflects the specific service performed, demonstrates medical necessity, and confirms that the service is not solely administrative in nature or duplicative of other services provided. Documentation must be sufficient to support the level of service billed in accordance with applicable federal and payer requirements.

Regulatory references:

Ohio Revised Code (ORC) Chapter 2135 – Declaration for Mental Health Treatment

§2135.02 – Right to execute PAD and informed consent continues
§2135.03–2135.04 – Validity, effect, and when PAD becomes operative

§2135.06 – Execution requirements (signature, witness/notarization)

Approved by: /s/ Daniel Barbee, MBA, BSN, RN, FACHE Chief Executive Officer Date /s/ Robert Smith, MD, PhD Chair Date /s/ Stephanie Calmes, PH.D., LPCC-S, LICDC-CS Administrative Director Date *Review/Revision Completed by:* *Outpatient Behavioral Health Administration* *Office of Legal Affairs* *Compliance*	**Policies Superseded by this Policy:** • *None* Initial effective date: August 2017 Review/Revision Date: July 10, 2020 April 26, 2023 July 2026 Next review date: July 2029