



The University of Texas at Austin Dell Medical School

*This presentation has be revised for
posting on the NAMI-Austin website.*

Psychiatric Advance Directives: The Good, The Bad, The Possible!

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For the:

Mind Matters: Community Talks for
Healthy Minds
Sponsored by
NAMI-Austin

Ethical Considerations in Care

- To respect the individual
- To promote a good
- To not harm
- To distribute scarce resources “fairly”

Crisis in Control—a film about psychiatric advance directives



for more info: <http://www.unlistedfilm.com/story.html>

The Good

How can the use of PAD's:

Respect an individual?

Help create a good outcome?

Minimize Harm?

Other benefits?



Texas Statutes

Follow this link from the National Resource Center for Psychiatric Advance Directives (NRC-PAD) for the Texas statute for psychiatric advance directives and involuntary outpatient commitment document

<https://www.nrc-pad.org/images/stories/PDFs/texaspadstatute.pdf>

- **CIVIL PRACTICE &
REMEDIES CODE
CHAPTER 137.
DECLARATION
FOR MENTAL
HEALTH
TREATMENT**

Mental Health Treatment Preferences

PAD's allow person's to state their wishes and preferences for treatment in 3 key areas. However if you are found to be a danger to yourself or others the situation may be called an **emergency** and despite what the directive states it might not be followed as written.

1. **Electroconvulsive** or other **convulsive** treatment,
2. treatment of mental illness with **psychoactive medication** as defined by Section 574.101, Health and Safety Code,
3. **Emergency** mental health treatment

Notice to Persons re: PAD's

A PAD is an important legal document. It creates a declaration for mental health treatment. It is recommended that it be completed in partnership with your health care provider. Because it only goes into effect if a court believes you are incapacitated it is a good idea to talk with your medical team about what that might mean for you.

- The instructions that you include in this [PAD] declaration will be followed **only if a court believes** that you are incapacitated to make treatment decisions.

The Next Slide

SEC 137.011 FORM FOR DECLARATION OF MENTAL HEALTH TREATMENT

Sec 137.011 Form of Declaration for Mental Health Treatment

- **Sec.A137.011. FORM OF DECLARATION FOR MENTAL HEATH TREATMENT.** The declaration for mental health treatment must be in substantially the following form: DECLARATION FOR MENTAL HEALTH TREATMENT I, _____, being an adult of sound mind, willfully and voluntarily make this declaration for mental health treatment to be followed **if it is determined by a court that my ability to understand the nature and consequences of a proposed treatment, including the benefits, risks, and alternatives to the proposed treatment, is impaired to such an extent that I lack the capacity to make mental health treatment decisions.** ‘Mental health treatment’ means electroconvulsive or other convulsive treatment, treatment of mental illness with psychoactive medication, and preferences regarding emergency mental health treatment.

PREFERENCES FOR EMERGENCY TREATMENT

Preferences also include the ability to state a preference to have a male/female to administer restraint, seclusion, and/or medications. Also, persons can write any other preferences about the conditions or limitations for treatment in an emergency.

1. In an emergency, I prefer the following treatment **FIRST** (circle one) Restraint/Seclusion/Medication.
2. In an emergency, I prefer the following treatment **SECOND** (circle one) Restraint/Seclusion/Medication.
3. In an emergency, I prefer the following treatment **THIRD** (circle one) Restraint/Seclusion/Medication.

The Bad

What kinds of consequences of interacting with court might occur:

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A few words about Medical Power of Attorney

Texas Health and Safety Code,
§ 166.164

Medical Power of Attorney

Selecting a medical power of attorney can help in situations where your ability to talk about your wishes and preferences to the treating team is difficult or not possible. Choose a person you trust, someone who knows you well (does not have to be a family member). Choose someone you know who will make sure that your desires for care and treatment will be represented to the treating team. This person is your advocate!

Your agent's authority begins when your doctor certifies that you lack the ability (competence) to make health care decisions (**no judge required**).

Your agent may consent, refuse to consent, or withdraw consent to medical treatment (except as noted) and may make decisions about withdrawing or withholding life-sustaining treatment according to your wishes and preferences.

Pick wisely and share fully with them so they can represent you should the need arise.

A physician must comply with your agent's instructions or allow you to be transferred to another physician.

Your agent may not consent to:

1. voluntary inpatient mental health services
2. convulsive treatment,
3. psychosurgery,
4. or abortion.

What Can an Agent Consent To?

- treatment of mental illness with **psychoactive medication** as defined by Section 574.101, Health and Safety Code,
-

So what's a person to do?



HEALTH
COMMUNITY
CARE

Rethink **Everything**

EDUCATION

RESEARCH

INNOVATION

Supreme Court Misc. Docket No. 18-9025
Court of Criminal Appeals
Misc. Docket No. 18-004

ORDER ESTABLISHING JUDICIAL COMMISSION ON MENTAL HEALTH

What will Commission Do?

THE COMMISSION WILL. . .

1. develop a strategic plan for strengthening courts and the administration of justice in relation to Texas' mental health system;
2. identify and assess current and future needs for the courts to be more effective in achieving positive outcomes for Texans with mental illness;
3. promote best practices and programs that are data-driven, evidence-based, and outcome-focused;
4. improve collaboration and communication among courts and the mental health system stakeholders;
5. endeavor to increase resources and funding and maximize the effective and efficient use of available judicial system resources
6. promote appropriate judicial training regarding mental health needs, systems, and services;
7. establish a collaborative model that will continue systemic improvement within the judiciary beyond the tenure of individual Commission members;
8. oversee the administration of funds appropriated and granted to the Commission; and
9. provide progress reports to the two Courts.



MENTAL HEALTH COMMITTEE REPORT & RECOMMENDATIONS



Texas Judicial Council

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HON. NATHAN L. HECHT
Chief Justice, Supreme Court

VICE CHAIR:

HON. SHARON KELLER
Presiding Judge, Court of Criminal Appeals

EXECUTIVE DIRECTOR:



Mental Health Committee Report & Recommendations

Recommendations

- Screening protocols
- Competency Restoration
- Jail Diversion

Future Study Includes

- Establish a permanent judicial commission on mental health
- Mandate consistent data collection

see page 4-8

The Possible

Community Activism

Collaborate with NAMI

The future is up to us all.

