



KNOW YOUR RIGHTS TO ADVOCATE FOR YOURSELF



A POWERFUL TOOL TO SUPPORT YOUR OVERALL WELLNESS

Learn ways you can advocate for yourself and
prepare for the best of care in your community.

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School of Law
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PSYCHIATRIC ADVANCE DIRECTIVES

FREQUENTLY ASKED
QUESTIONS

1. WHAT IS A PSYCHIATRIC ADVANCE DIRECTIVE?

A psychiatric advance directive (PAD) is a legal, rights document enabling people to plan for, prevent, and/or reduce the severity of potential future mental health crises by:

- Stating preferences regarding mental health treatment inside a psychiatric hospital.
- Providing de-escalation tools to reduce emergency interventions.
- Providing de-escalation tools for law enforcement and crisis personnel.
- Providing information about physical medical conditions and needs.
- Identifying medical and mental health agents and supporters.
- Planning in advance to address practical matters.

Further, a psychiatric advance directive may also enable people to identify the supports and services they need to meaningfully integrate in the community by addressing the following issues:

- Housing
- Employment
- Education
- Finances
- Terms of jail diversion, probation, and parole.
- Information on trauma triggers and responses.

2. HOW DO I MAKE A PAD?

Prior to the PAD project implementation, you may download the Disability Rights California PAD template, so it is fillable here -<https://bit.ly/3gnRDf3>.

You can fill in the template. But we recommend working with someone you trust to:

1. Discuss the different PAD sections.
2. Choose the sections you would like to complete.
3. Gather the information you will need for your chosen PAD sections.
4. Problem solve for the issues your chosen sections address.
5. Take notes during your PAD section discussion and problem solving.
6. Working from the notes taken during your discussion and problem solving, work together to complete the PAD.

During the PAD project, stakeholders will work together to create a state-wide PAD template. The project will develop best practices for PAD creation, including establishing standardized state-wide training for PAD facilitators. Upon project implementation, people will be able to meet with a trained facilitator, discuss the issues they want to be included in their PAD, problem solve and complete the document together.

3. DO I NEED A LAWYER TO CREATE A PAD?

A lawyer can help you to create a PAD, but you do not need a lawyer to create a PAD. The PAD project will engage and train lawyers to help people create PADs. Also, the PAD creation process will likely identify issues and problems where a lawyer may be helpful. The PAD may become a foundation for additional legal advocacy.

4. I AM A TRANS PERSON. CAN I PUT HORMONE REPLACEMENT THERAPY (HRT) INTO MY PAD?

Absolutely. This critical information can be provided in both the physical medical conditions and psychoactive medication sections. The following language may be helpful (adjust according to your preferences and needs):

It is critical that I continue to have uninterrupted access to hormone replacement therapy or other gender affirming medical care. A disruption to my hormone replacement therapy or other gender affirming medical care will cause me to have (insert medical side effect) and will be very detrimental to my mental health.

The PAD is also an opportunity to inform the system of your chosen name if it differs from your legal name and to address gendered facilities. The following language may be helpful (adjust according to your preferences and needs):

Housing or detaining me in gendered facilities of the gender with which I do not identify is detrimental to my mental health. Whenever possible I would like to be housed with my identified gender or kept in isolation.

5. IF I NOTARIZE MY WRAP WILL IT BECOME A PAD?

No. A WRAP is not a legal document. Notarizing a WRAP will not make it a legal document. However, much of the information from your WRAP can go in your PAD. WRAPs and PADs complement each other.

6. WILL PEOPLE BE REQUIRED TO FOLLOW MY PAD?

Currently, California only has a medical advance directive statute. It does not have a psychiatric advance directive statute. The PAD project will include advocacy for a California PAD statute. The contents of the PAD statute will determine the extent to which the PAD must be followed. Peer advocacy will be critical in developing and passing the strongest PAD statute possible.

7. CAN I WRITE MY PAD IN A LANGUAGE OTHER THAN ENGLISH?

It may be helpful to draft the PAD in your preferred language and then have it translated into English. In this way you can problem solve and draft in your preferred language so the PAD most clearly expresses your wishes. Then, the PAD can be translated into English. The English language version will need to be provided to anyone within the system, but you may wish to provide the English as well as the non-English versions to your supporters.

8. CAN I CHANGE MY PAD AFTER IT IS WRITTEN?

Yes, but the updated PAD must be notarized or signed in front of witnesses. In other words, after changing your PAD you will need to sign it again.

9. ONCE I MAKE MY PAD DOES IT EXPIRE?

As California does not currently have a PAD statute, the PAD will not expire. This issue will need to be addressed in a California PAD statute.

10. CAN PADS BE USED INSTEAD OF ASSISTED OUTPATIENT TREATMENT (AOT)?

PADs are a self-determination based legal, rights document, which places the person in control of the treatments and services they receive. By providing the system with the information it needs to improve individualized treatments and services, PADs may demonstrate that maximizing choice and empowerment lead to an increase in meaningful community integration and a reduction in the cycle of criminal justice, hospitalization, and homelessness recidivism.

Self-determination based PADs may demonstrate improved outcomes, therefore reducing the use of forced-treatment based AOT.