

# What You Should Know about the Declaration of Mental Health Treatment

The Ohio General Assembly passed legislation creating a Declaration of Mental Health Treatment, a document allows individuals to state their own preferences regarding mental health treatment and to appoint a person to make mental health care decisions for them when they are unable to do so themselves.

**Q.:** I already have a durable health care power of attorney. Why would I need a mental health declaration, and what is the difference between the two?

**A.:** Before the law allowing for a mental health declaration went into effect, the only document that could be used to name someone to make health decisions for another person was the durable power of attorney (DPOA). The DPOA addresses both physical and mental health issues, and still is sufficient for many Ohioans.

Unlike some other health care issues, however, mental health issues can be more complex and their specific treatments (e.g., medication therapies) generally are not addressed in a DPOA. If you have a mental illness or have been diagnosed with a mental illness in the past, and you already have a DPOA, you also may wish to have a mental health declaration to address issues that might arise and are not specifically covered by your health care DPOA. The mental health declaration lets health care professionals know your own preferences regarding mental health treatment. It also allows the person you have named in the declaration (your "proxy") to advocate for your stated choices and make other decisions in your best interest if you have not stated any preferences.

**Q.:** What, specifically, does the mental health declaration allow me to do?

**A.:** The mental health declaration:

- allows you to name an individual you know and trust to make decisions

about your mental health treatment when you are unable to make them yourself;

- specifies when and how the declaration is used;
- specifically outlines the duties and rights of the person you designated to make your mental health decisions when you cannot and protects that person from liability;
- provides that your mental health declaration designee (proxy) cannot be overridden by the designee of any other durable health care power of attorney regarding decisions about your mental health;
- specifies that, if you have lost your capacity to make informed decisions about your mental health treatment, you will not be able to revoke or cancel the mental health declaration;
- stipulates that, if you have a living will (a document that conveys your wishes about your treatment during an end of life situation when you cannot make those decisions yourself), the living will overrides the mental health declaration.

**Q.: Who should consider having a mental health declaration?**

**A.:** Those who would benefit from having such a document include people who have been diagnosed with mental illness or people who think they might need mental health treatment at some point (for example, those of advanced age or those who have a progressive illness that is likely to involve mental health issues).

**Q.: My family and I have decided I need a mental health declaration. What do I do next?**

**A.:** Before you make any decisions, you would be wise to contact your lawyer to discuss the options available. Your lawyer also can help you complete the necessary form for a mental health declaration. You should also discuss your treatment preferences with any mental health professional who may be providing services to you.

**Q.: Where do I get more information?**

**A.:** You can obtain additional information from the Ohio Advocates for Mental Health at (800) 589-2603 (in Ohio), (800) 860-0118 (nationwide), (614) 430-0AMH, or [oamh@ohioadvocates.org](mailto:oamh@ohioadvocates.org), or from the Ohio Legal Rights Service at (800) 282-9181 (toll-free in Ohio only) or (614) 466-7264.

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*Law You Can Use is a weekly consumer legal information column provided by*

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