

# Psychiatric Advance Directives: Supporting Voice and Choice in Mental Health Crisis Settings

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Webinar



**SAMHSA**  
Substance Abuse and Mental Health  
Services Administration

# Disclaimer Slide

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# Acknowledgements

*Materials in this presentation were developed as part of the Crisis Navigation project in North Carolina, a project funded by The Duke Endowment.*

*The project is a collaboration between Southern Regional Area Health Education Center, the North Carolina Evidence Based Practices Center, Duke AHEC, NAMI NC, and many community partners in Mecklenburg, Durham, Wake and Cumberland counties.*

*The work builds on the efforts of Marvin Swartz, MD and his research team at Duke University School of Medicine.*

# Today's objectives

- Define psychiatric advance directives
- Review evidence base for their use
- Describe state strategies to disseminate advance care planning, including the Crisis Navigation Project in North Carolina
- Describe resource materials available to support broader use of PADs

# Collaboration: Peer, family member, clinician



Have you been in the  
hospital or a crisis setting before?

Was your voice heard?

A Psychiatric Advance Directive (PAD) is a **legal** tool that can support your voice when you are in mental health crisis.

You create it before a crisis occurs, when you are in a good frame of mind.

# Why are psychiatric advance directives important?

- Supports a person's autonomy and empowerment in mental health treatment
- May reduce involuntary treatment
- May improve continuity of care
- Allows designated family/friends to speak directly with providers during crises
- Allows an authorized health care agent to help make decisions during crises



# Example of PAD in practice

Ms. Jones is picked up by police after she is found wandering and mute, wearing sandals and a t-shirt in cold weather.

They transport her to a crisis facility. In the crisis facility's electronic health record, there is an indication that Ms. Jones has a psychiatric advance directive. The advance instruction gives information about her history, and medication preferences.

She also has a health care power of attorney and her sister is her health care agent. The psychiatrist examines Ms. Jones, and finds that she is currently lacking capacity based on her inability to attend to his questions and her statements that do not seem to be related to reality.

The psychiatrist documents that she is currently incapacitated in her medical record. He then calls her sister, who gives him further information about what Ms. Jones would want in terms of treatment. The sister comes to the crisis facility and signs paperwork allowing Ms. Jones to be admitted voluntarily to the hospital. Ms. Jones is relieved by the presence of her sister, whom she trusts to speak for her, and calmly agrees to the hospitalization.

# History

The Patient Self Determination Act of 1990 established a law that patients be given information about their rights in medical settings, and that they be offered information on advance care planning

Advance care planning started around end of life issues, addressing the person's choices around treatment to sustain life in life-threatening situations

Similar principles apply to planning for a mental health crisis

Psychiatric advance directives developed out of a movement to give people living with mental illness more voice in mental health crisis situations

# Code of Federal Regulations

## Title 42 - Public Health

### 42 CFR Part 482

Volume: 5

Date: 2017-10-01

Original Date: 2017-10-01

Title: PART 482 - **CONDITIONS OF PARTICIPATION FOR HOSPITALS**

Context: Title 42 - Public Health. CHAPTER IV - CENTERS FOR MEDICARE & MEDICAID SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES (CONTINUED). SUBCHAPTER G – STANDARDS AND CERTIFICATION.

This rule set forth final requirements for Patients' Rights in hospitals, provides strong patient protections, provides flexibility to providers.... **These standards support and protect patients' rights in the hospital setting; specifically, the right to be free from the inappropriate use of restraint and seclusion** with requirements that protect the patient when use of either intervention is necessary.

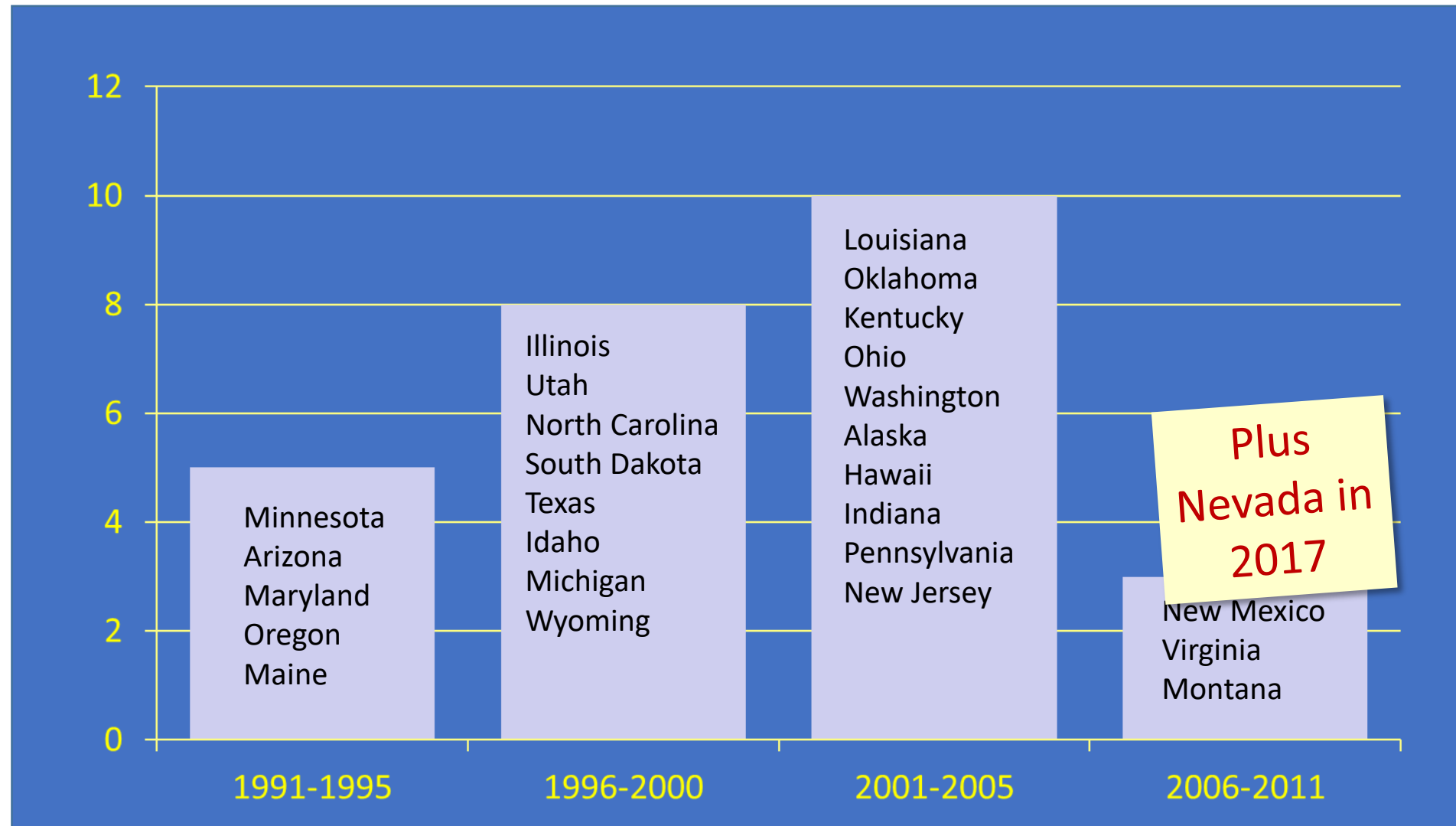
This standard supports the patient's **right to make decisions regarding his or her care and to formulate advance directives** and have hospital staff and practitioners who provide care in the hospital comply with these directives, in accordance with § 489.102 (Requirements for providers). This standard also supports the **patient's right to have a family member or representative of his or her choice and his or her physician notified promptly** of the patient's admission to the hospital.

Federal Register / Vol. 71, No. 236 / Friday, December 8, 2006 / Rules and Regulations

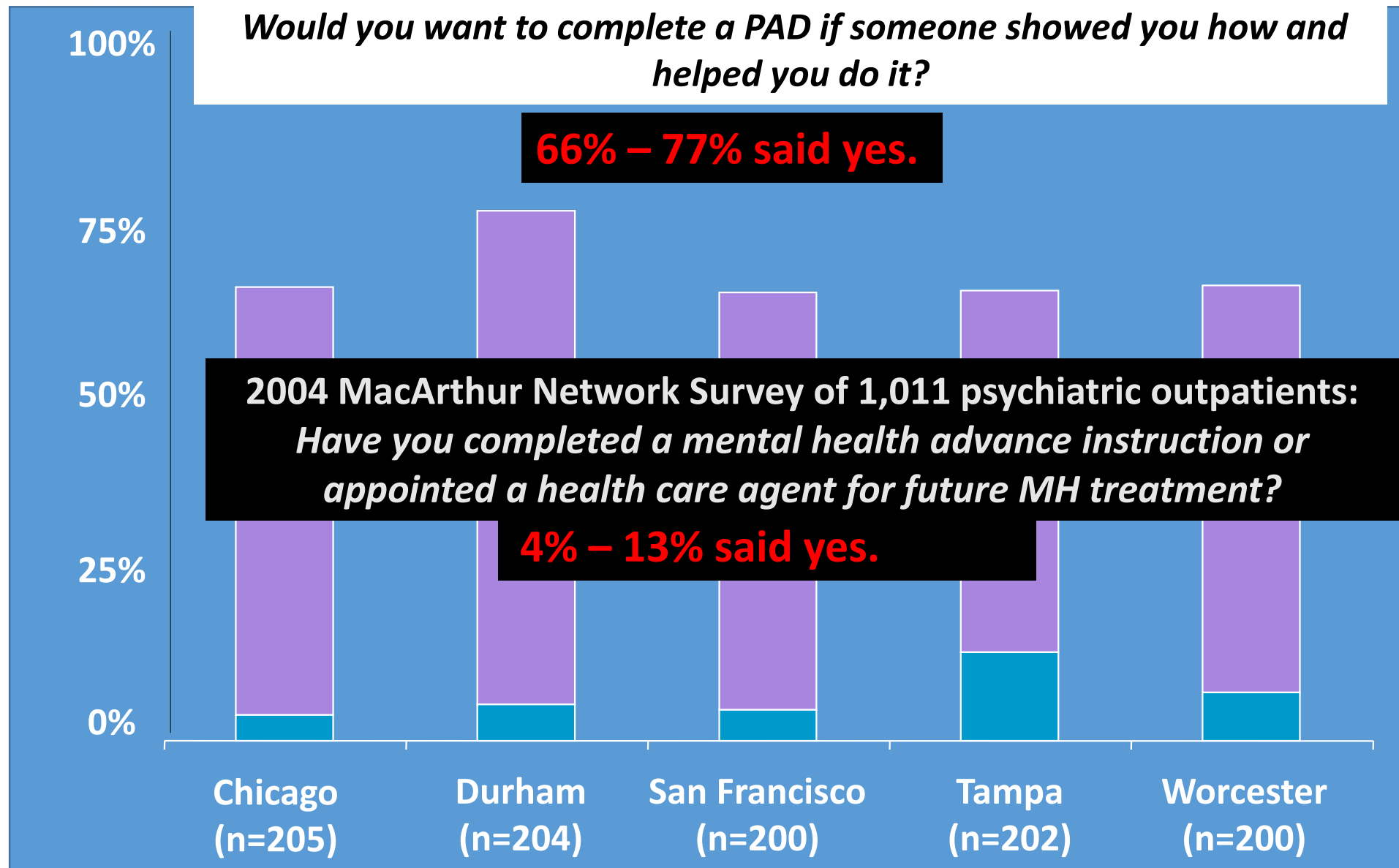
Bottom line: DHHS Centers for Medicare & Medicaid Services 42 CFR Part 482

Final rule: **REQUIRES HOSPITALS—INCLUDING PSYCHIATRIC FACILITIES—TO IMPLEMENT AND COMPLY WITH ADVANCE DIRECTIVES.**

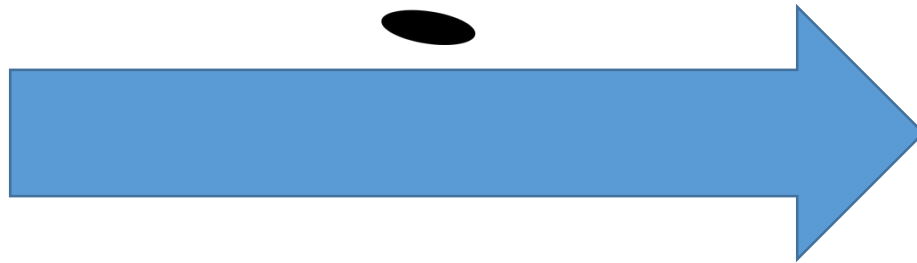
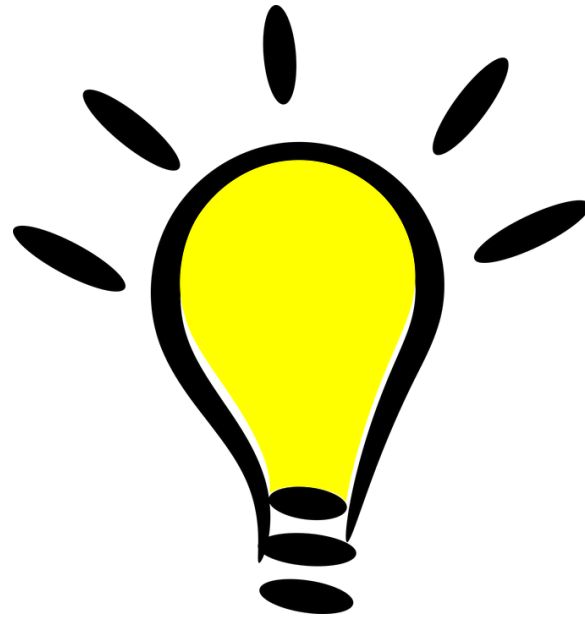
# Increasing interest in PADs in the US: laws in 27 states



# PAD prevalence... and latent demand



**Research**



**Practice**

*How do we scale and sustain evidence based practices?*

# North Carolina law

An Advance Instruction (NC GS §122C-77) allows you to consent to treatment in advance, and to state your preferences for treatment, including medications, and the facility you prefer if you need to be hospitalized.

A Health Care Power of Attorney (NC GS §32A-25) allows you to select a person you trust to represent you if you cannot speak for yourself. This person is called the health care agent, and should represent your preferences and serve as your advocate.

You can have one or both of these legal tools.

Laws vary by state.

# Making an advance instruction

Any adult “of sound mind” can make

Signed in presence of two witnesses:

- Not a relative
- Not person’s doctor, mental health provider or other staff
- Not staff of a health care facility in which the client is a patient

Must be notarized

Present to doctor and other mental health treatment providers



# What is “capacity”?

A legal term for a person’s ability to make rational decisions based upon relevant facts and considerations

Usually time-limited

How capacity is determined:

“...in the opinion of a physician or eligible psychologist the person currently lacks sufficient understanding or capacity to make and communicate mental health treatment decisions.”

Treatment providers are required to follow a person's PAD, with these exceptions:

If you ask for something that is not “standard care”

If what you ask for is not available or not feasible

If it is an emergency

If there are safety issues present, and you are under involuntary commitment (but even if you are under a commitment order, your PAD can include helpful information for the people treating you)

# Health Care Power of Attorney (HCPA)

- Allows you to appoint someone to make treatment decisions when you are “incapable” or “incompetent”
- Person designated is called the Health Care Agent (can be more than one person)
- Can be combined with instructional directive,
  - but may be two different forms.

# Activation

The PAD goes into effect if a physician or psychologist finds that you lack decision-making capacity, based on their examination of you – that is usually a temporary state.

The physician or psychologist must document that you lack capacity in your medical record, and also must document it when you regain capacity.

# Policy and Practice



## National:

SAMHSA focus on PADs

[https://www.samhsa.gov/sites/default/files/a\\_practical\\_guide\\_to\\_psychiatric\\_advance\\_directives.pdf](https://www.samhsa.gov/sites/default/files/a_practical_guide_to_psychiatric_advance_directives.pdf)

## State:

NCGA Legislation on IVC's passed with a heavy focus on PADs

<https://www.ncha.org/2018/06/nc-general-assembly-passes-major-update-to-mental-health-law/>

## Local:

Countywide mental health action plan– Mecklenburg

*“Increase the number of behavioral health settings with active PAD facilitators from 3 to 12 by 2021”*

# Mecklenburg County: PAD Implementation Efforts

- ✓ IVC Committees/Subcommittees
- ✓ PAD Steering Committee
  - Developing community wide strategic plan
- ✓ PAD Facilitators Meeting
  - Learning collaborative for trained PAD facilitators
- ✓ MH Task Force
  - Establishing countywide MH Action Plan
- ✓ PAD Events
  - Every 6 weeks, open access, includes overview, individual PAD, notary, facilitators.... Everything needed to understand, develop and register a PAD



CRISIS  
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Supporting Personal Choice  
During a Mental Health Crisis.

# Blended learning to train facilitators

Psychiatric Advance Directives

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## Psychiatric Advance Directives: How to Facilitate

Course Instructor: Bebe Smith, MSW, LCSW  
Project Coordinator, Crisis Navigation Project  
Southern Regional Area Health Education Center

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Southern Regional AHEC Area Health Education Center

PREVIOUS

- How to Navigate This Course  
Slides  
This brief instruction tells you how to move through the course.
- Introduction to the Course  
Video
- Crisis in Control  
Youtube video
- PAD Facilitation Demonstration  
Youtube video
- Wait for the video completion message!  
Lesson

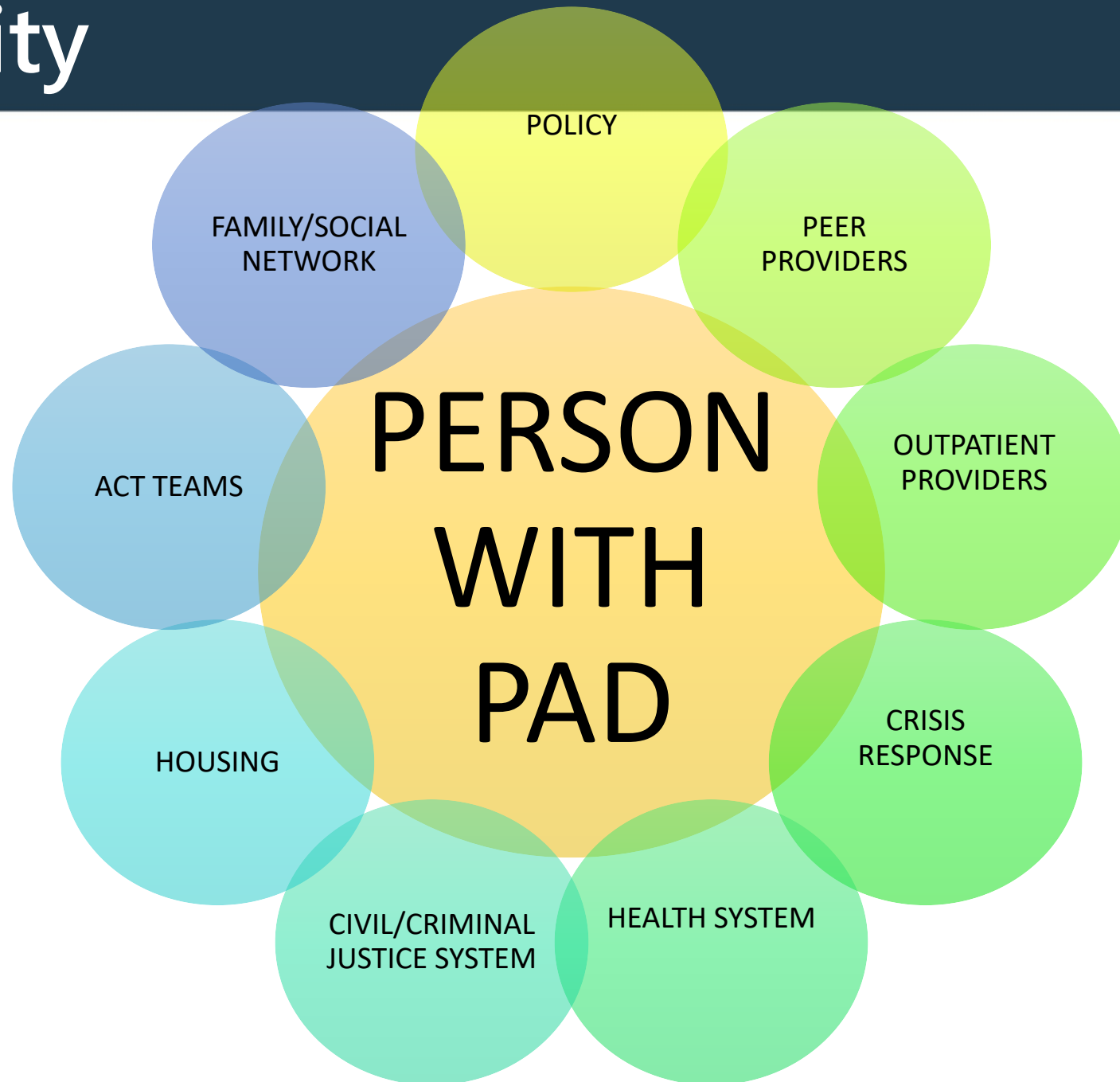
Introduction to the Course



# PAD Facilitation Skills Workshop –Charlotte 2017



# Complexity



# NAMI NC Educational Videos





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# Advance Health Care Directives

## Welcome to the North Carolina Advance Health Care Directive Registry!

The NC General Assembly authorized the North Carolina Department of the Secretary of State to establish a registry where you may file your advance health care directives. Advance health care directives are legal documents that give written instructions about your health care if, in the future, you cannot speak for yourself.

<https://www.sosnc.gov/ahcdr/>

# NRC • PAD

## NATIONAL RESOURCE CENTER ON PSYCHIATRIC ADVANCE DIRECTIVES



*“This time, with a PAD, I did not receive any treatments that I did not want. They were very respectful. I really felt like the hospital took better care of me because I had my PAD. In fact, I think it’s the best care that I’ve ever received.”* [Read More PAD Stories...](#)

### About PADs

- 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 these



### State by State Information

Psychiatric advance directives are relatively new legal instruments that may be used to document a competent person’s specific instructions or preferences regarding



<http://www.nrc-pad.org/>

## Specifying Mental Health Care Before They're Too Ill to Choose

By PAM BELLUCK

CHARLOTTE, N.C. — Steve Singer, who has bipolar and borderline personality disorders, knows when he's on the verge of a mental health crisis. The female voice he hears incessantly in his head suddenly shuts up, and the hula hoop he gyrates while walking to the grocery store stops easing his anxieties.

That's when he gets to a hospital. Usually, talking briefly with a nurse or social worker calms him enough to return home. But this year a hospital placed him on a locked ward, took his phone, and had an armed guard watch him for 20 hours before a social worker spoke with him and released him.

"I get the heebie-jeebies thinking about it," said Mr. Singer, 60. "They didn't help me, they hurt me."

Deeply upset, he turned to something he'd never known existed: He completed a psychiatric advance directive, a legal document declaring what treatment he does and doesn't want. Increasingly, patients, advocates and doctors believe such directives



TRAVIS DOVE FOR THE NEW YORK TIMES

Ariel Wolf, 25, believes doctors forced treatment on her.

(called PADs) could help transform the mental health system by allowing patients to shape their care even when they lose touch with reality. Hospitals must put them in patients' medical records and doctors are expected to follow them unless they document that specific preferences aren't in the

*Continued on Page A18*

The New York Times



TIMES INSIDER

## When Investigative Reporting Means Seeking Access to a Subject's Mind

Although I'd learned about psychiatric advance directives a couple of years ago, it took months to find people willing to speak openly about their experiences.



<https://www.nytimes.com/2018/12/03/health/psychiatric-advanced-directives.html>

<https://www.nytimes.com/2018/12/13/reader-center/psychiatric-advance-directives.html>

**Have you ever been hospitalized for a mental health crisis?**

**Join us to learn about YOUR Legal Right to have a Psychiatric Advance Directive (PAD).**

Tuesday,  
September 11,  
2018  
1pm to 4pm

Tuesday,  
October 23,  
2018  
1pm to 4pm

Tuesday,  
December 4,  
2018  
1pm to 4pm



Hosted by PRN  
1041 Hawthorne Lane  
Charlotte, NC 28205  
704.390.7709

Register at

<https://psychiatricadvancedirectives.eventbrite.com>



Learn about Your **Legal Right** to have your treatment preferences shared and heard by providers and to choose who will advocate for your preferences, if you are not able to speak for yourself.

People will be available to share information, answer questions and, if you choose, develop your PAD with you.

# Wallet Card

## How to help me in a crisis:

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Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Psychiatrist: \_\_\_\_\_

Phone: \_\_\_\_\_

PCP: \_\_\_\_\_

Phone: \_\_\_\_\_

MH Provider: \_\_\_\_\_

Phone: \_\_\_\_\_

## For more information on PADs:

Crisis Navigation Project: [CrisisNavigationProject.org](http://CrisisNavigationProject.org)

National Resource Center on PADs: [NRC-PAD.org](http://NRC-PAD.org)

NC Secretary of State Advance Directive Registry:  
[SOSNC.gov/divisions/advance\\_healthcare\\_directives](http://SOSNC.gov/divisions/advance_healthcare_directives)

NAMI NC: [NamiNC.org](http://NamiNC.org)

## My emergency contacts:

I have a health care agent who can speak for me:

Yes  No

HCA Name: \_\_\_\_\_

Phone: \_\_\_\_\_

Other: \_\_\_\_\_

Phone: \_\_\_\_\_

Other: \_\_\_\_\_

Phone: \_\_\_\_\_



## I have a Psychiatric Advance Directive (PAD)

My PAD is a legal document that communicates my preferences for mental health treatment in a crisis.

This card provides summary information from my PAD.

## Hospital Preference:

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## Treatment Preferences:

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# New PAD Facilitation trainers in Charlotte



*Thanks!*

*Any questions?*

[Bebe.Smith@sr-ahec.org](mailto:Bebe.Smith@sr-ahec.org)

<http://www.crisisnavigationproject.org/>