



Behavioral Health Advance Directives in Colorado

Colorado House Bill 19-1044, effective August 2019, has created a “Behavioral Health Order Form” or behavioral health advance directive so that an adult may communicate his or her behavioral health history, decisions, and preferences in the event that he or she lacks decisional capacity to provide consent to, withdrawal from, or refusal of his or her behavioral health treatment or medication in the future.

A Behavioral Health Order Form is **NOT REQUIRED** as a condition of receiving services, treatment or medication from Mind Springs Health and West Springs Hospital.

Please inform your treatment team if you have a Behavioral Health Order Form and provide a copy for us to keep with your records.

What Makes a Behavioral Health Order Form Valid?

A Behavioral Health Order Form is valid if it (1) is executed by an individual who is 18 years old or older and (2) includes:

- The individual’s name, date of birth, gender, eye and hair color, and race or ethnic background
- Instructions concerning behavioral health treatment; medication, including primary and alternative instructions; alternative treatment; and appointing an Agent or not appointing an Agent
- Signatures/marks and the date signed/marked from the individual and two Disinterested Witnesses.
- The name, address, and telephone number of the individual’s health care provider (if applicable)
- The name of the health care facility in which the adult is enrolled (if applicable)

If the individual appoints an Agent, the Behavioral Health Order Form must include:

- The Agent’s name, address, and telephone number
- The scope of the Agent’s authority – either:
 - The Agent is limited to executing the individual’s instructions detailed on the Behavioral Health Order Form, or
 - The Agent has authority to make decisions concerning behavioral health treatment, medication, and alternative treatment on behalf of the individual.
- The Agent’s signature and the date he or she signed the form

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Does a Behavioral Health Order Form Affect an Involuntary Hold (M-1)?

Instructions in a Behavioral Health Order Form that attempt to exempt the individual from an involuntary emergency procedure or commitment authorized by law are void. Similarly, an executed Behavioral Health Order Form does not mean that the individual waived the right to an involuntary commitment hearing before a judge or jury or that the individual consented to a petition for involuntary administration of medication.

What happens if there is conflict with a Behavioral Health Order Form?

If there is a conflict between a Behavioral Health Order Form and an Advance Medical Directive, the document most recently executed controls for the behavioral health treatment, medication, or alternative treatment decision or preference at issue.

If there is a conflict between the Behavioral Health Order Form and an individual's request, The Behavioral Health Order Form controls for the behavioral health treatment, medication, or alternative treatment decision or preference at issue.

Revoking or Amending a Behavioral Health Order Form

An individual may revoke or amend their Behavioral Health Order Form by:

- Executing a new Behavioral Health Order Form, or
- Marking the existing Behavioral Health Order Form in a way that clearly communicates the intent to amend or revoke all or part of it.

In order for the amendment or revocation to be valid, it must include signatures/marks and the date the new form or the amended or revoked form was signed/marked from:

- The individual
- Two Disinterested Witnesses
- The Agent (if applicable)
(Note that the Agent's signature is NOT required for an amendment to be valid if the individual is amending the form to remove the Agent.)

A properly executed new, amended, or revoked Behavioral Health Order Form controls over a previously executed form.

Expiration

The Behavioral Health Order Form is effective for two years from the date the individual signed the form, unless the individual executes a new form or amends or revokes the Behavioral Health Order Form before the originally executed form becomes ineffective.

Who Can Sign as a Disinterested Witness?

A Disinterested Witness is someone who is NOT the individual's spouse, civil union partner, domestic partner, romantic partner, child, parent, sibling, grandchild, grandparent, health care provider, or person who has, or knows or believes that she/he has, a claim against any portion of the individual's estate when the individual dies. The Disinterested Witnesses must attest that the individual was of sound mind (able to provide informed consent or refusal of behavioral health treatment or make an informed behavioral health care benefit decision) and free of coercion when he/she signed the form.

If an Individual has a Behavioral Health Order Form a Health Care Providers Must:

- Make a good faith effort to locate and incorporate, as appropriate and desired, the behavioral health treatment, medication, and alternative decisions, preferences or history documented in a Behavioral Health Order Form.
- Comply with a properly executed Behavioral Health Order Form that (1) has been executed in Colorado or another state, (2) is apparent and immediately available, and (3) reasonably satisfies the validity requirements.

Compliance is NOT required, though, if:

- The instructions on the Behavioral Health Order Form will cause substantial harm to the individual. However, the health care provider must make a good faith effort to consult with the individual's Agent, if applicable, and offer an alternative course of treatment.
- The behavioral health treatment, medication, or alternative treatment is prohibited by state or federal law.
- Follow generally accepted ethics standards, protocols, or laws for health care providers or health care facilities, including laws concerning euthanasia or mercy killing.
- If a health care provider becomes aware of a new, amended, or revoked Behavioral Health Order Form, promptly communicate that fact to the health care provider providing care to an individual who is the subject of the Behavioral Health Orders Form.
- If the individual is being transferred, communicate the existence of a known and properly executed and signed Behavioral Health Orders Form to a receiving health care facility and ensure that the Behavioral Health Orders Form or a copy of the form accompanies the individual upon admission to or discharge from a health care facility.