

1 **CHAPTER 68 ADVANCE DIRECTIVES**

2 REVISION DATE: xx/xx/xxxx

3 REVIEW DATE: 10/18/2023

4 EFFECTIVE DATE: June 15, 2022

5 REFERENCES: 42 CFR 489.102; 42 U.S.C. § 1396(a)(57); A.R.S. § 36-3231;

6 AHCCCS Medical Policy Manual (AMPM) policy 640

7 **PURPOSE**

8 The purpose of the policy is to ensure processes are in place for hospitals,
9 nursing facilities, hospice providers, residential service providers, and
10 home health care or personal care services to comply with Federal and
11 State laws regarding Advance Directives for Adult Members. [42 U.S.C.
12 §1396(a)(57)].

13 **DEFINITIONS**

- 14 1. "Adult Member" means a ~~m~~Member aged 18 and over.
- 15 2. "Advance Directive" means a document by which an
16 individual makes provision for health care decisions in the
17 event that, in the future, the individual becomes unable to
18 make those decisions.
- 19 ~~3. "Conscientious Objections" means refusal to perform a legal~~

~~role or responsibility because of moral or other personal beliefs, including practitioners providing or not providing certain care or treatment to their patients based on reasons of morality or conscience.~~

3. "Member" means the same as "client" as defined in A.R.S. § 36-551.

4. "Provider" means an agency or individual operating under a contract or service agreement with the Department to provide services to Division Members.

POLICY

A. Providers shall ensure that Members have the right to have information provided to them about the importance of Advance Directives including their rights to establish and rescind Advance Directives at any time.

B. At a minimum, ~~p~~Providers shall comply with the following:

1. Maintain written policies for Adult Members receiving care through their organization regarding the ~~m~~Member's ability to make decisions about medical care, including the right to accept or refuse medical care and the right to execute an

- 39 Advance Directive;
- 40 2. Provide written information to Adult Members regarding the
- 41 ~~P~~Provider's policies concerning Advance Directives, including
- 42 any Conscientious Objections;
- 43 3. Document in the ~~m~~Member's medical record whether or not
- 44 the Adult Member has been provided the information, and
- 45 whether an Advance Directive has been executed;
- 46 4. Prevent discrimination against a ~~m~~Member because of the
- 47 ~~m~~Member's decision to execute or not execute an Advance
- 48 Directive, and not place conditions on the provision of care to
- 49 the ~~m~~Member, because of the ~~m~~Member's decision to execute or
- 50 not execute an Advance Directive;
- 51 5. Provide education to staff on issues concerning Advance
- 52 Directives including notification to staff who provide home
- 53 health care or personal care services such as attendant care,
- 54 respite, and nursing if any Advance Directives are executed by
- 55 ~~m~~Members to whom they are assigned to provide services; and
- 56 6. Ensure alternative Home and Community Based Services
- 57 (HCBS) setting staff have immediate access to Advance

58 Directive documents to provide to first responder requests.

59 **BC.** Providers shall provide written information regarding Advance
60 Directives to Adult Member, and when the ~~Member~~ Member is
61 incapacitated or unable to receive information, to the ~~Member's~~ Member's
62 family or surrogate as defined in A.R.S. § 36-3231, ~~shall be~~
63 ~~provided written information regarding Advance Directives~~ as
64 delineated in 42 CFR 489.102(e) concerning:

- 65 1. The ~~Member's~~ Member's rights, regarding Advance Directives under
66 Arizona state law~~;~~;
- 67 2. The organization's policies respecting the implementation of
68 those rights, including a statement of any limitation
69 regarding the implementation of Advance Directives as a
70 matter of conscience~~;~~;
- 71 3. A description of the applicable state law and
72 information regarding the implementation of these
73 rights~~;~~;
- 74 4. The ~~Member's~~ Member's right to file complaints with Arizona
75 Department of Health Services, Division of Licensing Services~~;~~'
76 and

- 77 5. Written policies including a clear and precise statement of
78 limitations if the ~~p~~P Provider cannot implement an Advance
79 Directive as a matter of conscience. This statement, at a
80 minimum, shall:
- 81 a. Clarify institution-wide ~~C~~conscientious ~~O~~objections and
82 those of individual physicians,
 - 83 b. Identify state legal authority permitting such
84 objections, and
 - 85 c. Describe the range of medical conditions or
86 procedures affected by the conscience objection.
- 87 ~~ED.~~ The ~~p~~P Provider ~~is not relieved of its obligations~~ shall continue to
88 provide the ~~above~~ information outlined in section (C) to the
89 ~~m~~M Member once the ~~m~~M Member is no longer incapacitated or
90 unable to receive such information.
- 91 E. The provider shall have follow-up procedures in place to provide
92 the information outlined in section (C) to the ~~m~~M Member directly
93 at the appropriate time.
- 94 ~~DE.~~ The Providers shall provide the information outlined in section (C)
95 ~~above information shall also be provided~~ to a ~~m~~M Member upon each

96 admission to a hospital or nursing facility and each time the
97 **m**Member comes under the care of a home health agency, hospice,
98 or personal care provider. [42 U.S.C. § 1396a(w)(2)]

99 **EG.** Providers shall provide a copy of a **m**Member’s executed Advance
100 Directive or documentation of refusal to the **m**Member’s Primary
101 Care Provider (PCP) for inclusion in the **m**Member’s medical record,
102 and provide education to staff on issues concerning Advance
103 Directives.