

202A.422 Advance directive for mental health treatment -- Scope -- Witnesses, notaries, and persons authorized to administer oaths -- Effect -- Notification to health care provider and health care facility -- Exemptions from criminal prosecution and civil liability.

- (1) An adult may execute an advance directive for mental health treatment that includes one (1) or more of the following:
 - (a) Refusal of specific psychotropic medications, but not an entire class of psychotropic medications. This refusal may be due to factors that include but are not limited to their lack of efficacy, known drug sensitivity, or previous experience of adverse reactions;
 - (b) Refusal of electric shock therapy (ECT);
 - (c) Stated preferences for psychotropic medications;
 - (d) Stated preferences for procedures for emergency interventions; and
 - (e) Provision of information in any area specified by the grantor.
- (2) The execution of an advance directive shall be complete when signed by the grantor and:
 - (a) Signed by two (2) adult witnesses who attest that the grantor:
 1. Is known to them;
 2. Signed the advance directive in their presence; and
 3. Did not appear to be under duress, fraud, or undue influence; or
 - (b) Acknowledged before a notary public or other person authorized to administer oaths.
- (3) The following persons shall not serve as a witness, a notary public, or other person authorized to administer oaths to the signing of an advance directive:
 - (a) The grantor's current health care provider or a relative of the current health care provider; and
 - (b) An owner, operator, employee, or relative of an owner or operator of a health facility in which the grantor is a client or resident, unless the owner, operator, employee, or relative serves as a notary public.
- (4) An advance directive shall not override the grantor's right under federal and state law to refuse treatment.
- (5) The grantor or the surrogate of the grantor shall be responsible for providing a copy of the advance directive to the grantor's health care provider and health care facility where the grantor is a patient.
- (6) An advance directive for mental health treatment shall be honored in any setting, except a hospital emergency room or a hospital emergency department, that is required to honor advance directives under Title XVIII or Title XIX of the Federal Social Security Act.
- (7) A health care provider, health care facility, surrogate, or other responsible party shall not be subject to criminal prosecution or civil liability if acting in agreement with an advance directive for mental health treatment executed in accordance with

KRS 202A.420 to 202A.432 or if acting in good faith without knowledge of the existence or revocation of an advance directive.

Effective: July 15, 2020

History: Amended 2020 Ky. Acts ch. 36, sec. 12, effective July 15, 2020. -- Created 2003 Ky. Acts ch. 190, sec. 2, effective June 24, 2003.