

## 640 - ADVANCE DIRECTIVES

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### I. PURPOSE

This Policy applies to AHCCCS providers. The purpose of the Policy is to ensure processes are in place for hospitals, Nursing Facilities (NFs), hospice providers, and providers of home health care or personal care services to comply with Federal and State laws regarding advance directives for adult members [42 USC 1396(a)(57)].

### II. DEFINITIONS

Refer to the [AHCCCS Contract and Policy Dictionary](#) for common terms found in this Policy.

For purposes of this Policy, the following terms are defined as:

<b>ADULT MEMBER</b>	Adults are members age 18 and over.
<b>ADVANCE DIRECTIVE</b>	A document by which a person makes provision for health care decisions in the event that, in the future, they become unable to make those decisions.
<b>CONSCIENTIOUS OBJECTIONS</b>	Refusal to perform a legal role or responsibility because of moral or other personal beliefs. Involves practitioners providing or not providing certain care or treatment to their patients based on reasons of morality or conscience.

### III. POLICY

The members have the right to have information provided to them about the importance of Advance Directives including their rights to establish and rescind directives at any time.

At a minimum, providers shall comply with the following [42 CFR 489.102]:

1. Maintain written policies for adult members receiving care through their organization regarding the member's ability to make decisions about medical care, including the right to accept or refuse medical care and the right to execute an Advance Directive.
2. Provide written information to adult members regarding the provider's policies concerning Advance Directives, including any conscientious objections.
3. Document in the member's medical record whether the adult member has been provided with the information, and whether an Advance Directive has been executed.

4. Prevent discrimination against a member because of his or her decision to execute or not execute an Advance Directive and not place conditions on the provision of care to the member, because of their decision to execute or not execute an Advance Directive.
5. Provide education to staff on issues concerning Advance Directives including notification to staff who provide services such as home health care and personal care services (e.g., attendant care, respite, personal care) if any Advance Directives are executed by members to whom they are assigned to provide services.
6. Ensure alternative Home and Community Based Services (HCBS) setting staff have immediate access to Advance Directive documents to provide to first responder requests.
7. Ensure compliance with requirements of State law (whether statutory or recognized by the courts of the State) regarding Advance Directives.

The adult members, including those that are incapacitated or unable to receive information, and the member's Health Care Decision Maker (HCDM) as specified in ARS 36-3231 when applicable, shall be provided written information regarding Advance Directives as specified in 42 CFR 489.102(e) concerning:

1. The member's rights regarding Advance Directives under Arizona State law and the organization's policies respecting the implementation of those rights.
2. A description of the applicable State law and information regarding the implementation of these rights. The providers shall update and disseminate amended information as soon as possible, but no later than 90 days from the effective date of the changes to State law.
3. The member's right to file complaints with the Arizona Department of Health Services (ADHS) Division of Licensing Services.
4. Written policies including a clear and precise statement of limitations if the provider cannot implement an Advance Directive as a matter of conscience. This statement, at a minimum, shall:
  - a. Clarify institution-wide conscientious objections and those of individual physicians,
  - b. Identify State legal authority permitting such objections, and
  - c. Describe the range of medical conditions or procedures affected by the conscience objection.

The provider shall not be relieved of its obligation to provide the above information to the member once he or she is no longer incapacitated or unable to receive such information. Follow-up procedures shall be in place to provide the information to the member directly at the appropriate time.

The above information shall also be provided to a member upon each admission to a hospital or NF and each time the member comes under the care of a home health agency, hospice, or personal care provider. (42 USC 1396a w2).

The providers shall provide a copy of a member's executed Advance Directive or documentation of the member's refusal, to the member's Primary Care Provider (PCP) for inclusion in the member's medical record.