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**LEGAL  
SUPPORT**

A GUIDE FOR CARE PARTNERS OF  
PEOPLE LIVING WITH SCHIZOPHRENIA



# REAL SUPPORT IS HERE FOR YOU

When it comes to legal tasks, it may sometimes feel overwhelming. But did you know that you have tools and services at your disposal to make things easier? We've gathered some resources you may find helpful. Those shared here offer guidance, advice, and options that you may not have considered.

**Not sure where to begin?** Look for low- or no-cost help to explain your choices and set up the level of support you need now—to help your loved one later.

## QUICK TIP

Legal matters can be complicated. That's why it's important to have access to helpful resources to help you understand different situations and what your legal options are. Be sure to look into the resources provided. They can help make a difference.

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# RESOURCES

This guide is designed to help you feel more informed and supported. It brings trustworthy resources about challenging tasks together in one place. This way, you can quickly find what you need to take care of important financial and legal matters for your loved one.

**PAGE** **Caregiver Toolkit**

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Navigating healthcare laws can be intimidating and emotional. There's help available for some health and legal issues. With this valuable guide, you'll learn what to do and where to go.

**PAGE** **HIPAA Helps Caregiving Connections**

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Your loved one's entire health care team takes their responsibilities very seriously. HIPAA helps mental health professionals prevent harm. Learn how they share important information to help keep your loved one safe.

**PAGE** **When Can I Obtain Treatment Information  
About My Loved One?**

**9**

Figuring out where to get the best treatment for your loved one may seem overwhelming at times. This concise guide may be a big help.

**PAGE** **A Practical Guide to Psychiatric Advance Directives**

**10**

What you need to know about an important legal document that tells your loved one's providers what to do for treatment in a crisis—explained in easy-to-understand terms, with clarity and guidance.

**LOOKING FOR EVEN MORE?**

Visit [HomeGroundSCZ.com](http://HomeGroundSCZ.com)  
to find a variety of helpful tools.

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# TOGETHER IN COMMUNITY

**This resource guide was developed by Teva Pharmaceuticals as part of our commitment to supporting the hardworking community that is dedicated to caring for people living with schizophrenia.**

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[sczaction.org](http://sczaction.org)



[samhsa.gov](http://samhsa.gov)



U.S. Department of  
Health and Human  
Services

[hhs.gov](http://hhs.gov)



Schizophrenia<sup>®</sup>  
& Psychosis  
Action Alliance

# Caregiver Toolkit

# Navigating Healthcare Laws: Important Options

## HIPAA Waiver of Authorization

A HIPAA Waiver of Authorization is a legal document that allows a person's health information to be used or disclosed to a third party. The waiver is part of a series of patient-privacy measures included in the Health Insurance Portability and Accountability Act (HIPAA) of 1996. (Learn more about HIPAA here: <https://www.investopedia.com/terms/h/hipaa.asp>)

Patient information covered under HIPAA – called “protected health information” – is information that can be linked to a specific person and is held by a health insurer, healthcare provider or healthcare clearinghouse. It's important to have your loved one sign a HIPAA waiver when they are as healthy as possible. During periods of crisis, your loved one may refuse to allow sharing of information with you or other family members – especially if they are being cared for involuntarily. A HIPAA waiver will allow you access to their health information even in these instances."

If you don't have a signed waiver at the time of a crisis, HIPAA does allow you to communicate helpful information to doctors and other clinicians about your loved one's symptoms and recent events.

## Advance Medical Directive

An Advance Medical Directive is a legal document that provides medical direction for someone who may be unable to make medical decisions for themselves. It can cover anything from who can ride in an ambulance to what medicines a doctor can prescribe.

To complete an advance directive, download a form through your state's Health and Human Services department when your loved one is as healthy as possible. Keep it with your other important documents and provide a copy to your loved one's healthcare provider(s) to be included in their medical record.

## Guardianship

A legal guardian is someone appointed by a court to make decisions about personal and property interests of another person who is deemed incompetent to make these decisions on their own. For example, a guardian can be given the authority to make decisions about another person's medical care.

If you think seeking guardianship of your loved one may be necessary, consult a disability or mental health attorney. The legal filings are different in each state. Guardianship can cost money and time, so prepare for this by gathering documentation before a crisis that supports your case for guardianship. If your loved one is able, discuss the possibility of guardianship with them and share ways this can help protect them both medically and financially.



U.S. DEPARTMENT OF  
HEALTH AND HUMAN SERVICES

**OFFICE FOR  
CIVIL RIGHTS**

## HIPAA Helps Caregiving Connections

### HIPAA helps mental health professionals to prevent harm

Psychiatrists, psychologists, psychiatric nurses, clinical social workers, mental health counselors, and other professionals who provide treatment to patients with a mental health condition may share protected health information, including mental health information, in order to treat patients and prevent them from harming themselves or others.<sup>1</sup> HIPAA helps mental health professionals by allowing them to make decisions about when to share mental health information based on their professional judgment about what is in the best interests of the patient or what is needed to prevent or lessen a risk of harm.

When patients have thoughts of harming themselves or others, or when patients exhibit behavior that demonstrates a threat of harm to health or safety, mental health professionals need to be able to use their expertise and professional judgment to identify a potential or likely risk and determine who can help lessen the potential for harm. Several approaches are available under HIPAA to address situations where contacting a patient's family, friends, or others involved in their care (including a personal representative) may be helpful in reducing the potential for harm:

- A health or mental health professional may always share mental health information with a patient's personal representative (if they have one).
- A health or mental health professional may share mental health information with family, friends, or caregivers, if the patient agrees, or does not object, and the information is relevant to the family member, friend, or caregiver's involvement with the patient's health care or the payment for such care. For example, a psychotherapist may contact a close friend of a patient in crisis (who has brought the patient to sessions in the past) and enlist the friend's assistance to take the patient to a psychiatric consult or to pick up new medication. Also, a therapist may contact a patient's mother, if the patient's mother has been involved in coordinating the patient's appointments, to ensure the patient attends. If the patient is mentally incapacitated, the psychotherapist may decide that

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<sup>1</sup> Different rules may apply if the health or mental health provider receives federal funds in connection with a substance use disorder treatment program. This fact sheet does not address such rules.

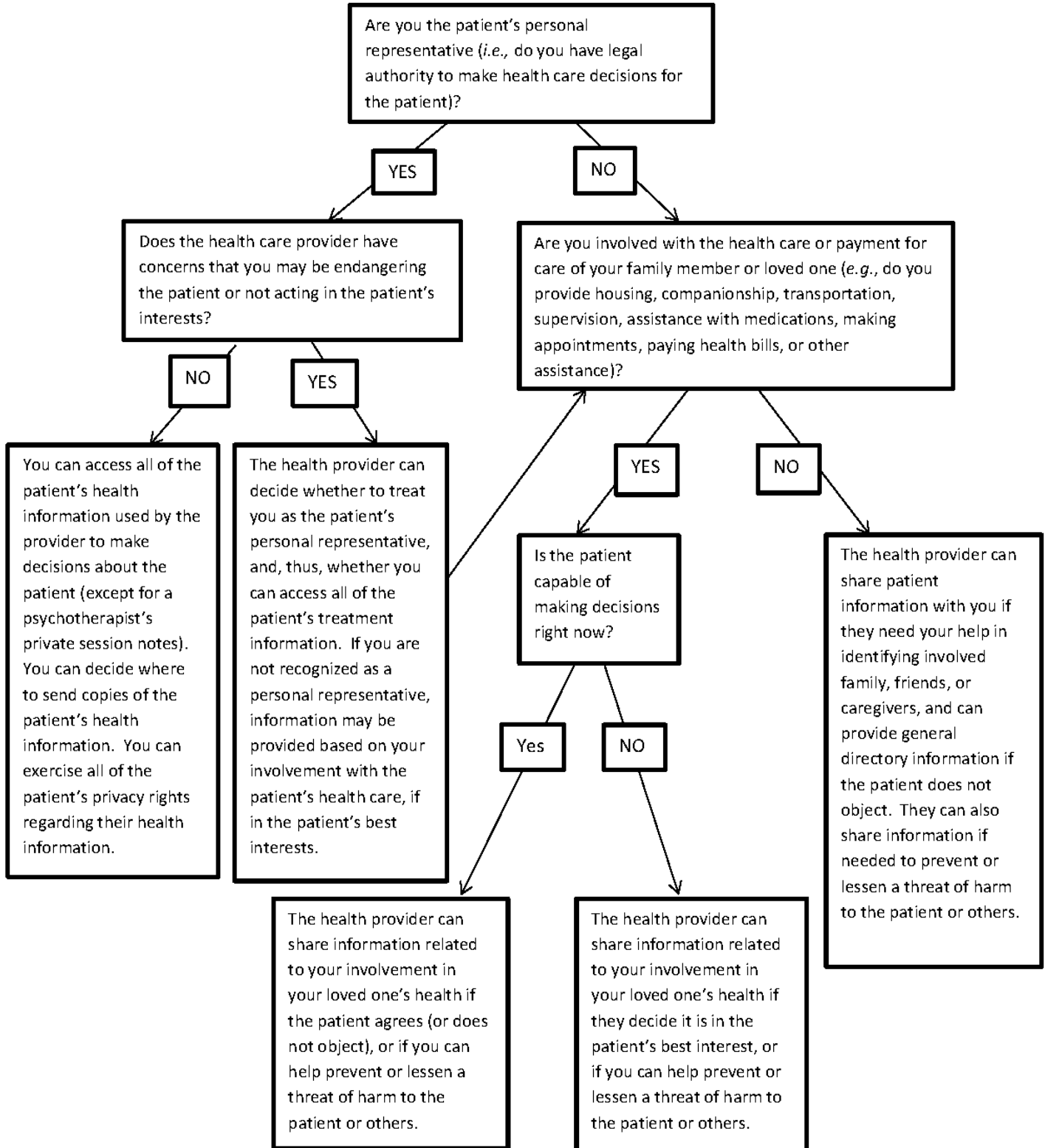
disclosing relevant mental health information to involved family, friends or caregivers is in the patients' best interests, even if the patient is unable to agree or object.

- A health or mental health professional may contact anyone who is reasonably able to lessen the risk of harm when they believe that a patient presents a serious and imminent threat to the health or safety of a person (including the patient) or the public. HIPAA helps professionals by ensuring that mental health information can be shared to prevent harm when the provider believes that it is necessary and the information is shared with someone who can help lessen the potential harm. For example, if a patient tells their psychotherapist that they have persistent images of harming their spouse, the psychotherapist may:
  - notify the spouse;
  - call the patient's psychiatrist or primary care doctor to review medications and develop a plan for voluntary or involuntary hospitalization or other treatment;
  - call 911, if emergency intervention is required; and /or
  - notify law enforcement, if needed.

OCR would not second guess a health professional's judgment about when a patient seriously and imminently threatens their own, or others, health or safety. For more information, see OCR's Guidance on Sharing Mental Health Information: <https://www.hhs.gov/hipaa/for-professionals/special-topics/mental-health/index.html>.

## When can I obtain treatment information about my loved one?

This decision tree addresses health information about adult patients under HIPAA.





# A PRACTICAL GUIDE TO PSYCHIATRIC ADVANCE DIRECTIVES

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

# Brief Guide to Psychiatric Advance Directives

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## Do you want more say in your mental health treatment?

If you are someone who is in psychiatric treatment, you might be interested in finding out how to have more say in your treatment, especially when you are in crisis. This guide will help you understand how a psychiatric advance directive (PAD) might be useful to you.

It's always a good idea to start with your psychiatrist or other mental health treatment provider if you are interested in creating your own PAD. Ask if they know about PADs, and if they can help you create one. If they don't know about them, you can share this brochure with them so they can learn more, too. There are also volunteers in your community who will help you create a PAD.

## What is a psychiatric advance directive?

A psychiatric advance directive is a legal document that tells treatment providers your preferences for treatment in a crisis. It goes into effect if you are incapacitated – that means if you are in a state of mind where you cannot speak for yourself. An example of being incapacitated would be if you were unconscious, or couldn't speak, or were experiencing significant confusion, psychosis or mania.

If you have a wellness plan or crisis plan, there are some similarities with a PAD. A PAD is different because it is a legal document. To make it official, it must be signed in front of a notary public and two witnesses.

Treatment providers are required to follow your wishes stated in the PAD, unless those wishes include something they cannot do (like send you to a hospital in another state, or to a hospital that has no beds available), or it's an emergency and they need to preserve your safety or the safety of others.

## Where did the idea for PADs come from?

Medical advance directives have been used in medical settings for years for people who wanted more control over their medical care at times when they had a serious medical illness and knew they would not be able to express their wishes on their own – like if someone was at the end of life, or had a very serious illness or injury. They were created as the result of the Patient Self-

Determination Act of 1990, a federal law designed to give all patients more say in healthcare decisions.

### Are PADs always respected?

We hear from some people that their PAD was not followed when they wanted it to be followed. They are not used often, and medical providers are just starting to learn more about them. By getting more PADs out there, we hope to strengthen the voice of people who live with mental health conditions and to encourage more shared decision making with their treatment providers.

### Do you have a trusted family member or friend who can help you in a crisis?

A psychiatric advance directive can include a health care power of attorney (HCPA). The HCPA is a legal document that lets you put someone in charge of communicating your wishes to medical providers if you are not able to. The person appointed by the HCPA is called your health care agent. That person can speak for you in a crisis. It's your choice to have a health care agent or not. Sometimes family members are in this role, and sometimes friends or another person you trust and who can help you in a crisis. You can work with your agent to understand what you would want, and they can have your written advance instructions to guide them in speaking for you.

### Are there other benefits to having a PAD?

The process of creating a PAD helps you think through what you can do to prevent a crisis, what to do during a crisis, and how best to recover from a crisis. The conversations with your treatment providers, your family and friends, can help you take control of your mental health and improve communication between all the people who support you.

### What do I need to think about before I create a PAD?

What kind of treatment is helpful to you? What medications work for you? What medications don't work for you? Is there a hospital that you prefer? Who should be contacted if you are in a mental health crisis?

### Where can I get more information about PADs?

**National Resource Center on Psychiatric Advance Directives:** <http://www.nrc-pad.org/> For information about PADs nationwide.

## How to be an Effective Health Care Agent

**For family members and friends who are willing to serve in the role of a health care agent for a person with mental illness, here are some things to consider:**

- ⇒ Are you able to represent the wishes and best interests of the person?
- ⇒ Do you know the person, and do they trust you?
- ⇒ Do you know how to navigate in crisis situations?
- ⇒ Are you able to communicate assertively?
- ⇒ Are you accessible and willing to help?
- ⇒ Are you good at thinking ahead and problem solving?
- ⇒ Do you know who to contact and where to go to access help in a crisis?
- ⇒ Do you have PAD documents accessible, and in a shareable form (the notebook or the file)?

### **Crisis Intervention knowledge and skills**

- ⇒ Safety first
- ⇒ Remain calm
- ⇒ Communicate clearly
- ⇒ Be accessible

### **Who to call/where to go**

- ⇒ Psychiatrist, therapist and other service providers
- ⇒ Managed care organization
- ⇒ Crisis facility
- ⇒ Mobile crisis
- ⇒ ED: may be best choice if medical issues involved
- ⇒ 911 – immediate danger, other routes not working
  - ask for a police officer who has gone through Crisis Intervention Training

### **Essential knowledge and skills for the advocate in crisis settings**

- ⇒ Know the person you are advocating for
  - History of illness, prior treatment
  - Preferences
- ⇒ Know patient rights and responsibilities
- ⇒ Know how the system works
- ⇒ Follow up if things don't go well
  - Patient advocates in the hospital/contacting executives/state agencies
- ⇒ Know when to take care of yourself



**How to help me in a crisis:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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: \_\_\_\_\_

**ALERT 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:**

\_\_\_\_\_  
\_\_\_\_\_

**Treatment Preferences:**

\_\_\_\_\_  
\_\_\_\_\_

Sample wallet card – printed double-sided, folded in thirds to fit in a wallet.