

## MAXABILITIES OF YORK COUNTY

**POLICY TITLE:** Advance Directives/ Health Care Consents

**EFFECTIVE DATE:** October 28, 2010

**POLICY REVISION:** March 26, 2026  
October 28, 2010 (new policy)

**REFERENCE:** OIDD Department Directive (DD) 535-07  
Patient Self Determination Act (PSDA)  
Adult Health Care Consent Act (AHCCA)

**RELATED PROCEDURAL DOCUMENTS:** MaxAbilities Procedure: Advance Directive

**PURPOSE:** MaxAbilities of York County (MaxAbilities) asserts that individuals being served under our contract with the BHDD/OIDD (Behavioral Health Developmental Disabilities/ Office of Intellectual & Developmental Disabilities (OIDD) system are entitled to all human and legal rights available to other citizens. The presence of a disability is not, in and of itself, a reason to assume the supported person is unable to consent. This policy sets forth considerations for assisting supported individuals/families in making consent determinations.

**GENERAL INFORMATION:** Many consumers served by MaxAbilities in residential settings are currently competent and capable of making health care decisions for themselves. They may, however, experience incapacity at some point in their lives which would have an adverse impact on their ability to make appropriate health care decisions. An Advance Directive gives guidelines about how health care is to be provided if or when a person is physically or mentally unable to make decisions. An Advance Director can be a Living Will, Health Care Power of Attorney or other clear writing of an individual's wishes (*Attachment A*). The presence of an Advance Directive stating their desires regarding the provision or withholding of medical care in anticipation of such as event is recommended. In the event an individual served in a MaxAbilities residential program determines the need for an Advance Directive, MaxAbilities staff shall not serve as a witness to the individual's signature. Further, MaxAbilities staff shall not accept appointment as an agent in a Living Will or Health Care Power of Attorney. The provision of care provided by MaxAbilities will not be influenced by either the presence or absence of an Advance Directive.

**CONSENT:** Individuals with intellectual disabilities, autism, traumatic brain or spinal cord injuries, or other related disabilities are fully entitled to all the rights available to other citizens. Because the supported individual's disability may adversely impact his/her decision-making process, close review must be given when consent from a person with a disability is required for a proposed procedure.

The completion of an Advance Directive by a supported individual requires they be able to give informed consent. In the absence of an Advance Directive, MaxAbilities will utilize the SC Adult Health Care Consent Act ( *“Non Emergency or Emergency Health Care For Adult Individuals Unable To Consent -S.C. Code Ann. § 44-66-10*). This Act provides a process for making health care decisions for an individual who is unable to consent for their health care independently (*Attachments B-D*).

**DEFINITIONS:** State statute requires that any form of Advance Directive substantially correspond to the types listed in this section.

**Living Will:** The Death with Dignity Act authorizes competent adults to express their wishes regarding the use or withholding of life sustaining procedures, including artificial nutrition and hydration, in the event they are diagnosed with a terminal condition or are in a state of permanent unconsciousness and in the further event they are incapacitated or otherwise unable to express their desires. The statute creates a form for this purpose entitled “Declaration for a Natural Death”. This document and those similar in purpose are commonly referred to as a “Living Will.

**Health Care Power of Attorney:** The South Carolina Probate Code authorizes competent adults to designate another person to make decisions on their behalf about their medical care in the event they become incapacitated. The statutory form created for this purpose is entitled “Health Care Power of Attorney”.

**INFORMATION DISTRIBUTION:** Advance Directives will be discussed during each residential admission with the supported individual and their family/representatives. Any existing Advance Directives will have copies requested for inclusion in the supported individual’s record. All residential individuals supported by MaxAbilities who are able to give consent will have information regarding Advance Directives provided to them. This information will include a written explanation of the SC law concerning Advance Directives. A copy of this policy will also be reviewed with them. Documentation of this information distribution will be maintained in the individual’s file. If residential individuals choose to initiate an Advance Directive, their interdisciplinary team will assist them in seeking external assistance in this process.

**PROCEDURE:** All related procedural documents are to be developed and maintained by the MaxAbilities CEO/designee in keeping with the dictates of the most current version of OIDD DD 535-07.