

## Must All Patients Be Asked about Mental Health Advance Directives?

The Ethics Center has received inquiries about how to comply with JCAHO standards on behavioral/mental health advance directives. Specifically, some facilities have asked whether VA must query every patient being admitted whether he or she has or wants to complete a mental health advance directive. This is not the case.

### What Does JCAHO Require?

JCAHO standard PC 12.40 is designed to ensure that facilities address the needs of patients deemed to be at risk for behavioral problems that could result in harm to themselves or others.<sup>1</sup> This includes identifying and utilizing methods that would help the patient control his or her behavior, with the goal of avoiding or minimizing the use of restraint or seclusion. To that end, facilities should determine whether such a patient has a mental health advance directive and should communicate this information to staff directly involved in providing care. However, JCAHO has confirmed that PC 12.40 *does not require* that each patient be asked about mental health advance directives on admission.

### What Is a Mental Health Advance Directive?

Like other advance directives, mental health directives are legal instruments a competent adult can use to guide future treatment decisions should he or she become incapacitated. They provide a way for an individual to indicate his or her preferences with respect to future psychiatric care and/or to designate someone to make mental health treatment decisions on his or her behalf. Current VA policy on advance health care planning does not specifically address this type of form.<sup>2</sup> However, policy does provide general guidance on how to respond when a patient has a mental health advance directive or wants to complete one.

### Complying with JCAHO Standards & VHA Policy

Patients who wish to specify their preferences with respect to future mental health care may use the current VA advance directive form to designate a health care agent and/or indicate in the "Treatment Preferences" section specifics regarding their future mental health treatment. Consistent with VA policy and JCAHO standards, VA must respect patient wishes concerning future health care when these instructions are clear and are not contrary to federal law or VA policy. Practitioners should be aware that patients may present with this type of advance directive and that it should be appropriately considered and documented in the health record.

Further guidance about mental health advance directives will appear in a future revision of VHA Handbook 1004.2.

### Notes

1. JCAHO [Standard PC 12.40](#) (2005).
2. See VHA Handbook 1004.2, [Advance Health Care Planning \(Advance Directives\)](#).

If you have questions or comments, please contact the Ethics Center at [vhaethics@va.gov](mailto:vhaethics@va.gov)