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<b>LOCAL HEALTH PLAN</b> UnitedHealthcare Community Plan	<b>LINES OF BUSINESS:</b> Hawaii Medicaid
<b>TITLE:</b> Advance Directives	<b>Number:</b> HC-1011
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**I. SCOPE:**

This document outlines the Advance Directives rights of all UnitedHealthcare Community Plan (UHCCP) adult members aged eighteen (18) and over as well as emancipated minors.

**II. PURPOSE:**

This policy describes the process for educating UHCCP members about Advance Directives. The intent of this policy is to ensure members are informed of their rights under federal and state law, including the rights to:

- Make health care decisions regarding the right to accept or refuse medical or surgical treatment.
- Pursue a Durable Power of Attorney for Health Care or Health Care Proxy in order to appoint an agent to make medical decisions on the member's behalf in accordance with relevant state regulations.

**III. DEFINITIONS:**


**Advance Directive:** A written instruction, such as a living will or durable power of attorney for healthcare, recognized under state law relating to provision of healthcare when the individual is incapacitated.

**Health Coordination** – The process which assesses, plans, implements, coordinates, monitors and evaluates the options and services required to meet a member's healthcare needs using communication and all available resources to promote quality outcomes. Effective health coordination occurs across a continuum of care, addressing the ongoing individual needs of a member rather than being restricted to a single practice setting.

**Health Coordinator (HC)** – An individual who coordinates, monitors and ensures that appropriate and timely care is provided to the member. A Health Coordinator may be a specific person selected by the member or assigned by the health plan.


**IV. POLICY:**

It is the policy of UHCCP to inform each member of his or her right to establish Advance Directives and to maintain written policies and procedures that address Advance Directives.

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UHCCP advises members of:

1. Their rights under the law of the State of Hawaii, including the right to accept or refuse medical, behavioral health or surgical treatment and the right to formulate Advance Directives.
    - a. UHCCP's written policies respecting the implementation of those rights, including a statement of any limitation regarding the implementation of Advance Directives as a matter of conscience.
    - b. Although UnitedHealthcare Community Plan does not have institution-wide conscientious objections or limitations; UnitedHealthcare Community Plan respects that contracted providers/practitioners may have individual limitations or conscientious objections to implementing Advance Directives.
    - c. A provider unable to honor a member's Advance Directive based on conscience must offer a statement in writing. The provider's statement of limitation must include:
      - Clarification of any differences between institution-wide conscience objections and those raised by individual physicians.
      - Identification of the State legal authority permitting such objections.
      - Description of the range of medical conditions or procedures affected by the conscience objection.
  - b. Members desiring to change providers on the basis of a conscientious objection will be assisted by UHCCP in selecting a new provider.
2. UHCCP shall inform the Members that complaints concerning non-compliance with the advance directive requirements may be filed with the State survey and certification agency found in the Office of Health Care Assurance in the Department of Health.
3. When individuals are incapacitated and unable to receive information due to a mental disorder or an incapacitating condition, or if they are unable to articulate whether or not they have an Advance Directive, the member's provider may give the information to the family or member's Health Care Agent, however the information must be given to the member directly once he/she is no longer incapacitated.
  - a. The information provided by UHCCP to its members shall include a description of current state law and shall reflect changes in state laws as soon as possible, but no later than ninety (90) days after the effective date of the change as described in HRS §327E-3 and §327E-4.

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## V. PROCEDURE:

### A. General Considerations

1. This procedure is followed when UHCCP or its providers educate members about their Advance Directive rights and responsibilities. It is designed to comply with DHS, state, and federal guidelines and laws regarding Advance Directive rights and responsibilities.
  - a. UHCCP does not require Advance Directives as a condition for receiving care.
  - b. UHCCP does not discriminate based on whether a member has an Advance Directive.
  - c. UHCCP requires compliance with state and federal law on Advance Directives.
  - d. UHCCP educates employees, members, and the community on Advance Directives.
  - e. UHCCP shall provide this policy on their website and through paper and/or electronic Member communications to all Members eighteen (18) years of age or older.
  - f. UHCCP partners with Kokua Mau for staff training and education on Advance Directives and Advance Care Planning. Staff training occurs at minimum annually and when needs are identified such as following an update to the Hawaii Provider Orders for Life Saving Treatment (POLST) form. Members and providers are also referred to Kokua Mau for questions on Advance Care Planning and for Advance Care Planning resources such as Advance Directive or POLST forms.

### B. Staff Education

- a.
  1. Member facing staff including Member Services Advocates and Health Coordinators receive education on Advance Directives and Advance Care Planning at a minimum annually.
  2. UHCCP partners with Kokua Mau for staff training and community education activities regarding Advance Directives. Kokua Mau provides training to UHCCP staff at least annually including training on Advance Directives, Advance Care Planning, and the Hawaii POLST form. Members may also be referred to Kokua Mau for resources on Advance Directives, Advance Care

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Planning, the Hawaii POLST form and other resources that promote member self-determination in achieving goals for care.

C. Member Education


1. Written information regarding Advance Directives is provided to members in the Advance Directives section of the Member Handbook and the Member website. The Member Handbook informs members of the ability to direct their care using Advance Directives, and information on how and where to file complaints, including complaints about noncompliance with the Advance Directive requirements.
2. Member education is reinforced in the Member newsletter or mailings to the member, including the Member Welcome Kit which is provided to new members upon enrollment.
3. Member education may also be provided via member-facing roles such as Member Services Advocates and Health Coordinators (if member is assigned to one).
4. All information provided to members is compliant with the DHS and state and federal guidelines and laws regarding Advance Directive rights and responsibilities

D. Provider Education

1. UHCCP providers will receive education on the following:
  - a. Contractual obligations to respect the rights of Plan members regarding Advance Directives.
  - b. Plan expectations and provider responsibilities when the provider has a conscientious objection or other limitation to the implementation of a member's Advance Directive including notification to the member or their surrogate and Plan of the provider's concern. UHCCP will work with the member or surrogate and the provider to arrange transfer of the member to another provider or facility.
  - c. Plan policies regarding Advance Directives and a sample Advance Directive in the Provider Administrative Guide, which is distributed to all UHCCP providers and available on its provider website.
  - d. The Provider Relations Department ensures that UHCCP member rights are reinforced to UHCCP providers through the Provider Administrative Guide, the provider bulletins, and provider/practitioner workshops.

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- e. Compliance with the Advance Directive requirements for hospitals, nursing facilities, providers of home and health care and personal care services, hospices, and HMOs specified in 42 CFR Part 489, Subpart I, and 42 CFR § 417.436(d).
  - f. Providers may contract with other entities to furnish information, but Providers are legally responsible for ensuring that the members are provided their rights under the law of the State of Hawaii, including the right to accept or refuse medical, behavioral health or surgical treatment and the right to formulate Advance Directives.
2. UHCCP will work with providers to demonstrate achievement across the following areas:
    - a. Higher rates of completion of advance directives; and
    - b. Increased likelihood that clinicians understand and comply with patient's wishes.
- E. Member Rights**
1. Competent, adult members have the right to execute a written or non-written Advance Directive, a do-not-resuscitate order, an out-of-hospital do-not-resuscitate order, and/or assign a Medical Power of Attorney at any time.
  2. Competent, adult members also have the right to complete an Advance Mental Health Care Directive that expresses their preferences and instructions about behavioral health treatment and/or designate an agent to make behavioral health care and treatment decisions on their behalf.
  3. Members have the right to receive medical care even if the member does not have an Advance Directive.
  4. Members have the right to change or cancel Advance Directives at any time.
  5. Members who are incapacitated and cannot make decisions about their medical treatment can make changes to their Advance Care Directive once their decision-making capacity is restored. Members are informed of this in the Member Handbook.
  6. Members have the right to obtain clear and concise information regarding the different types of Advance Directives available to them, and when an Advance Directive will take effect.
  7. The desire of a competent qualified member supersedes the effect of an Advance Directive.


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#### F. Member Responsibilities

1. Members are encouraged to discuss Advance Directives with their primary care provider or behavioral health provider, as well as those family members, friends, and other individuals who are involved in the member's health care.
  - a. A copy of the Advance Directive should be provided to the health plan from the member's authorized representative or primary care provider. The health plan will work with family members, authorized representatives, or the surrogate operating on the member's behalf to coordinate care, including determination of Advance Directives as appropriate, if the member is incapacitated at the time of enrollment.
2. Members are expected to give copies of the Advance Directives to their primary care provider or behavioral health provider, as well as those family members, friends, and other individuals who are involved in the member's health care.
  - a. In the event members need to update their Advance Directives, UHCCP will work with the member to assist the member as appropriate to provide a copy of the Advance Directive to their provider and other involved individual(s).
  - b. In the event a member changes health plans, UHCCP will provide the member or plan with a copy of their Advance Directive according to UHCCP policies and procedures regarding the release of personal health information.
3. Members must comply with state and federal laws regarding the witnessing and notarizing of Advance Directive documents.
4. Members are requested to keep Advance Directives in a safe place that is accessible to family members, members, or other responsible individuals.
5. Members are requested to inform providers if they have formulated Advance Directives.

#### G. Provider Responsibilities

1. Providers comply with all applicable state and federal laws regarding Advance Directives.
2. Providers ask and promptly document in the medical record if adult members have Advance Directives and include existing Advance Directives in the member's medical record. Existing Advance Directives are prominently displayed within the patient's medical record maintained in provider's office.

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3. Providers will properly document in the medical record and implement any changes or revocation to an Advance Directive by the member or the authorized representative or surrogate. The provider may contact UHCCP to assist the member or their surrogate in making changes to the Advance Directive form as needed.
4. Providers neither require a member to have an Advance Directive in order to receive medical care or behavioral health care, nor prevent a member from having an Advance Directive.
5. UHCCP has no institution-wide conscientious objections or limitations regarding Advance Directives, but provider should adhere to the member rights detailed in Section E of this policy.
6. If a health care provider is unable or unwilling to carry out a patient's written request, and the patient transfers care to a new health care provider, the prior health care provider shall transfer, upon request, a copy of the patient's relevant medical records to the new health care provider.
7. Providers must not execute Advance Directives until the member is no longer able to give informed consent.
8. Providers maintain written policies for their office staff regarding Advance Directives and prominently display documented Advance Directives within patient's medical record maintained in provider's office.
9. Providers ensure that members understand their rights and responsibilities regarding Advance Directives.


H. Distribution of Advance Directive Policy and Procedures to CMS

1. UHCCP will provide its Advance Directives policies and procedures to CMS upon request.

I. Updates to Policies and Procedures

1. Only authorized Plan staff may update these policies and procedures.
2. UHCCP manager responsible for oversight of all Advance Directives shall review these policies and procedures as necessary and upon request of DHS. At a minimum, the manager shall review this document annually.
3. If revisions to these policies and procedures affect the benefits, responsibilities, or processes that must be followed by members, UHCCP shall inform members of the revisions in language the member can understand.



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- a. UHCCP shall inform members through direct communication with Health Coordinators, member newsletters, targeted mailings, or other means.
  - b. The form of the communication will depend on the scope of the revisions, the timing of the revisions, and the number of members affected.
4. If revisions to these policies and procedures have no material effect on the requirements or benefits of members, there is no need to inform members of the revisions.
  5. The policies are updated to reflect changes in state laws as soon as possible, but no later than ninety (90) days after the effective date of the change.

**VI. ATTACHMENTS:**

None

**VII. RELATED POLICIES:**

HC-1020 Advance Care Planning

**VIII. REFERENCE:**

- A. QI-RFP-MQD-2021-008 Section 4.10, 8.3, 9.4
- B. 42 CFR Section 438.6(j)(1) to (4), 422.128 and subpart I of Part 489.
- C. HAR 17-1711.1-12
- D. HRS §§327E-3-5
- E. 2022NCQA Health Plan Accreditation Standards PHM 5C (6), LTSS 1E (4)

**IX. APPROVED BY:**




Health Plan Authorization

Date: \_\_\_\_\_

**X. REVIEW HISTORY**

Effective Date	Key update from Previous Version	Reason for Revision
07/01/2021	Replaces policy SC-1011 Advance Directive	HI QUEST Integration Readiness Review



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09/20/2022	<ul style="list-style-type: none"> <li>• Revised Scope definition to align Standard VII.</li> <li>• Update to Member and Staff education.</li> <li>• Added detail on conscientious objection in response to EQRO audit findings.</li> <li>• Updated NCQA Standards.</li> </ul>	Annual Review
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