MHLET: experience knowledge change

MENTAL HEALTH LIVED EXPERIENCE TASMANIA

ADVANCE CARE DIRECTIVES IN MENTAL HEALTHCARE IN TASMANIA:

A Discussion

Advance Care Directives in Mental Healthcare in Tasmania: A Discussion

A note on the terminology:

This paper uses the term *Advance Care Directives* which may otherwise be known by the terms such as *Psychiatric Advance Directives*, *Advance Choice Directives*, or any other commonly used terms that similarly describe statements of a consumer's anticipatory treatment preferences.

Consumer: a term describing an individual who utilises a service or support in a healthcare setting, and one to whom the Advance Care Directive in question pertains.

Disability: in context, a mental or cognitive condition that impairs, interferes with, or limits a person's ability to engage in typical daily activities and interactions.

Introduction

Advance Care Directives (ACDs) describe a consumer's preference of the clinical interventions and/or treatments they would like to receive if they no longer had capacity to voice their preferences during their care. To date, ACD's have pertained solely to physical healthcare, however there is a growing voice to have ACD's introduced into mental healthcare sector as well. This paper aims to discuss the evidence that supports the introduction of ACDs in mental healthcare, but also acknowledge the complexity surrounding such implementation. Further, this paper wishes to emphasise Mental Health lived Experience Tasmania's (MHLET's) stance in principle, which is to promote ongoing discourse of consumers, clinicians, and policy and lawmakers to make ACDs in mental healthcare a reality.

Background

It was only in recent years, November 2022, that Tasmania saw the introduction of ACDs into the healthcare system. Regulated by the Guardianship and Administration Act (1995), ACD's gave consumers the means to decide on their healthcare treatment plans in advance, for such a time where they may no longer have the ability to do so (Tasmanian Civil and Administrative Tribunal [TASCAT] 2022). To be valid, an ACD must be created at a time when a consumer has decision-making capacity, and who comprehends the implications of their decision and provides explicit instructions regarding their future care preferences.

ACDs have commonly been referred to as "living wills" (Department of Justice 2024), primarily since they were introduced to palliative and physical healthcare only, with no inclusion of mental healthcare. The Australian Commission on Safety and Quality in Healthcare recognises the importance of advanced care planning in the instance of an episode of acute deterioration in mental state occurring as per their

National Safety and Quality Health Standards (NSQHS [2024]), however there is still nothing in place specifically for mental healthcare. There is now a growing voice from Tasmanian consumers with a lived experience of mental ill health and/or mental healthcare, that call for ACDs to be utilised in the mental health sector.

Rights and the social model of health

At its core, ACD's provide the individual the ability to decide on their own healthcare which, as Weller (2010) suggests, it is crucial to be mindful of the human rights principles raised by the call for ACDs in mental healthcare. This is reflected in the United Nations' Convention on the Rights of Persons with Disabilities (CRPD) (2006) in which is embedded an obligation by the state to uphold individual autonomy and decision-making regarding any treatment, intervention, or care. Specifically, article 3(a) emphasises the importance of respecting inherent dignity, individual autonomy (including the freedom to make personal choices), and independence. Article 9 highlights the role of accessibility in psychosocial disability care, and responsibility of the state to address barriers that hinder individuals from participating in their own care and exercising their treatment rights, to which could be extended the right to utilise ACDs in their care.

The biomedical model's emphasis on illness theory, whereby individual impairments such as mental health could be medically treated, has led to practices like substitute decision-making; clinicians or designated individuals make decision on behalf of people who are deemed to be mentally "incapacitated" (Mohammed et al. 2021). The transition to social model considers disability as a component of an individual's interaction with their environments, in which "impairment" stems from an environment that fails to accommodate diverse experiences, rendering 'disability' as the result of discriminatory systems and norms that deny equal rights and participation (ibid.). ACDs may be crucial for overriding such systems and norms, allowing individuals to express not only their treatment preferences in advance, but also to safeguard their rights in relation to determining who and under what circumstances decision makers are called upon.

Barriers to ACDs in mental healthcare

There has been a global push toward the reduction and prevention of involuntary treatment in mental healthcare. Critics of reducing involuntary treatment argue it necessary to protect individuals and others from harm and mitigate the potential 'impact of severe mental distress on wellbeing' (Mohammed et al. 2021). However, with current legislation, an ACD could be overridden by a health professional as per the Mental Health Act 2013 (Tasmanian Government 2024). Treatment orders can mandate interventions that explicitly go against the preferred treatment stated by a consumer, which can precipitate further negative experiences for the individual and future barriers in accessing timely, and effective care. Further, clinicians working within high-pace or high-risk areas within healthcare reportedly have a reduced or total lack of acceptance or inclusion of ACDs (Maylea et al. 2018)

Srebnik & Russo (2007) argue that that although ACDs may be clinically useful and feasible in general, instructions given may not always adequately address clinical needs during specific emergency or crisis

events. Laws and supporting frameworks regarding ACDs would need to anticipate the requirement to be overridden for involuntary and emergency treatment, to align with best practices.

With ACDs only recently introduced, existing healthcare processes lack an efficient means for providers to verify the existence of an ACD. Confirmation often relies on individuals with trustees or guardians, and even if an ACD is identified, advocacy is still relied upon heavily (Edan et al. 2024). This inefficiency can result in delays in accessing and honouring patient's directives, further exacerbating the challenges in accessing preferred care, early in the treatment journey. As Carter et al. (2015) note, uniform state or federal laws would assist with awareness and understanding of, and compliance with, ACDs in healthcare.

The implementation of ACDs or any form of anticipatory planning in mental healthcare will require massive service-level changes to promote consumer and clinician acceptance and to embed systemic and service practices which facilitate these tools as part of routine care (Wauchope et al. 2011). The barriers that currently exist regarding best practices and legislation leave much room for discussion as to how ACDs can be created and applied successfully, but as Morrisey (2010) notes, while such issues exist, these problems do not justify the exclusion of ACDs.

Where to from here?

While barriers to successful implementation of ACDs in the mental healthcare sector exist, there is evidence of hope; trials of ACDs in other countries have recorded improvements to consumer experience and health outcomes (Easter et al. 2019). In one such trial conducted by Wilder et al. (2010) in which ACDs were utilised in the mental health space, noted that that consumer adherence to treatment regimens were significantly improved. Further studies by Elbogen et al. (2006) noted that clinicians endorsed ACDs and were even more likely to do so when they understood all applicable state laws.

Further research has strongly endorsed the introduction of ACDs, especially from a collaborative perspective where involvement by mental health professionals appears to be crucial (Braun et al. 2022). Research conducted by Tinland et al. (2022) noted that clinician involvement in the creation of ACDs with consumers are highly effective in decreasing hospital admissions and increasing mental health outcomes. Collaborative creation of ACDs ultimately promotes the shifts of mental health law towards a stronger recognition of consumer autonomy, whilst creating a safe space for clinicians and patients to engage (Ouliaris & Kealy-Bateman 2017).

Conclusion

The Lived Experience voice that carries so much weight in the development of new, and overhaul of existing, services in Tasmania strongly request for the negotiation and implementation of ACDs in the mental health sector. At such an opportune time where mental health services are undergoing such significant reform in Tasmania, the call has only intensified.

MHLET stands with consumers with lived experience and supports the growing call of the introduction of ACDs in mental healthcare. However, MHLET also acknowledges the complexity that comes with the introduction of such vast systemic change, and promotes the continued discourse through consultation with consumers, healthcare workers, and relevant stakeholders to make this a reality.

References

Australian Commission on Safety and Quality in Health Care 2024, *The NSQHS Standards*, Australian Commission on Safety and Quality in Health Care, viewed 10 December 2024, <https://www.safetyandquality.gov.au/standards/nsqhs-standards>.

Braun, E, Gaillard, A, Vollman, J, Gather, J & Scholten 2022, 'Mental health service users' perspectives on psychiatric advance directives: a systematic review', *Psychiatric Services*, vol. 74, no. 4.

Carter, R, Detering, K, Silvester, W & Sutton, E 2015, 'Advance care planning in Australia: what does the law say?', *Australian Health Review*, vol. 40, no. 4.

Easter, M, Swanson, J, Robertson, A, Moser, L & Swartz, M 2019, 'Impact of psychiatric advance directive facilitation on mental health consumers: empowerment, treatment attitudes and the role of peer support specialists', *Journal of Mental Health*, vol. 30, no. 5.

Edan, V, Brophy, L & Hamilton, B 2024, 'To make another goal or to dream a different dream – a mixed method study of experiences of people using advance care planning in mental health', *Research Square*, DOI: 10.21203/rs.3.rs-4791443/v1.

Elbogen, E, Swartz, M, Van Dorn, R, Swanson, J, Kim, M & Scheyett, A 2006, 'Clinical decision making and views about psychiatric advance directives', *Psychiatric Services*, vol. 57, no. 3.

Maylea, C, Jorgensen, A, Matta, S, Ogilvie, K & Wallin, P 2018, 'Consumers' experience of mental health advance statements', *Laws*, vol. 7, no. 2.

Mohammed, F, Stein, A, Patel, V & Sunkel, C 2021, *A 'paradigm shift' in mental health*, Cambridge University Press.

Office of the Public Guardian Tasmania 2024, *Advanced Care Directives*, Tasmanian Government Department of Justice, viewed 8 December 2024, <https://www.publicguardian.tas.gov.au/planning-ahead/advanced-care-directives>.

Ouliaris, C & Kealy-Bateman, W 2017, 'Psychiatric advance directives in Australian mental-health legislation, *Australian Psychiatry*, vol. 25, no. 6.

Srebnik, D & Russo, J 2007, 'Consistency of psychiatric crisis care with advance directive instructions', *Psychiatric Services*, vol. 58. no. 9.

Tasmanian Civil & Administrative Tribunal 2022, *Introduction of Advance Care Directives*, Tasmanian Civil & Administrative Tribunal, viewed 12 December 2024, <http://www.tascat.tas.gov.au/news/introduction-of-advance-care-directives>.

Tasmanian Legislation 2024, *Guardianship and Administration Act (1995)*, Tasmanian Government, viewed 11 December 2024, <https://www.legislation.tas.gov.au/view/html/inforce/current/act-1995-044>.

Tasmanian Legislation 2024, *Mental Health Act 2013*, Tasmanian Government, viewed 12 December 2024, <https://www.legislation.tas.gov.au/view/html/inforce/current/act-2013-002>

Tinland, A, Loubiere, S & Mougeot, F 2022, 'Effect of psychiatric advance directives facilitated by peer workers on compulsory admission among people with mental illness: a randomized clinical trial', *JAMA Psychiatry*, vol. 79, no. 8.

United Nations 2016, *Convention on the Rights of Persons with Disabilities (CRPD)*, United Nations, viewed 9 December 2024, <https://social.desa.un.org/issues/disability/crpd/convention-on-the-rights-of-persons-with-disabilities-crpd>.

Wauchope, B, O'Kearney, R & Urbanc, A 2011, 'Advance agreements for mental health care: an examination of process and outcomes', *Australian and New Zealand Journal of Psychiatry*, vol. 45, no. 4.

Weller, P 2010, 'Psychiatric advance directives and human rights', *Psychiatry, Psychology and Law*, vol. 17, no. 2.

Wilder, C, Elbogen, E, Moser, L, Swanson, J & Swartz, M 2010, 'Medication preferences and adherence with severe mental illness and psychiatric advance directives', *Psychiatric Services*, vol. 61, no. 4.

MHLET: experience knowledge change

MENTAL HEALTH
LIVED EXPERIENCE
TASMANIA