House Bill 607
By: Representatives Gardner of the 57th, Oliver of the 82nd, Willard of the 51st, Dreyer of the 59th, and Welch of the 110th

A BILL TO BE ENTITLED
AN ACT

To amend Title 37 of the Official Code of Georgia Annotated, relating to mental health, so as to provide for a psychiatric advance directive; to provide for a competent adult to express his or her mental health care treatment preferences and desires directly through instructions written in advance and indirectly through appointing an agent to make mental health care decisions on behalf of that person; to provide a short title; to provide for a purpose statement; to provide for definitions; to provide for the scope, use, and authority of a psychiatric advance directive; to provide for the appointment, powers, duties, and access to information of a mental health agent; to provide for limitations on serving as a mental health agent and an agent's ability to withdraw as agent; to provide for revocation of a psychiatric advance directive; to provide for the use and effectiveness of a psychiatric advance directive; to provide for the responsibilities and duties of physicians and other providers using a psychiatric advance directive; to provide for civil and criminal immunity under certain circumstances; to provide a statutory psychiatric advance directive form; to provide for construction of such form; to amend Code Section 16-5-5 and Title 31 of the Official Code of Georgia Annotated, relating to assisted suicide and notification of licensing board regarding violation and health, respectively, so as to include cross-references to the psychiatric advance directive and provide for consistent terminology; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

PART I

PSYCHIATRIC ADVANCE DIRECTIVE

SECTION 1-1.

This Act shall be known and may be cited as the "Psychiatric Advance Directive Act."

H. B. 607
SECTION 1-2.

Title 37 of the Official Code of Georgia Annotated, relating to mental health, is amended by adding a new chapter to read as follows:

"CHAPTER 11

37-11-1.

This chapter is enacted in recognition of the fundamental right of an individual to have power over decisions relating to his or her mental health care as a matter of public policy.

37-11-2.

As used in this chapter, the term:

(1) 'Capable' means a declarant is not incapable of making mental health care decisions.
(2) 'Competent adult' means a person of sound mind who is 18 years of age or older or is an emancipated minor.
(3) 'Declarant' means the person who has executed a psychiatric advance directive authorized by this chapter.
(4) 'Facility' means a hospital, skilled nursing facility, hospice, institution, home, residential or nursing facility, treatment facility, and any other facility or service which has a valid permit or provisional permit issued under Chapter 7 of this title or which is licensed, accredited, or approved under the laws of any state, and includes hospitals operated by the United States government or by any state or subdivision thereof.
(5) 'Incapable of making mental health care decisions' means that, in the opinion of a physician or licensed psychologist who has personally examined a declarant, or in the opinion of a court, a declarant lacks the capacity to understand the risks and benefits of, and the alternatives to, a mental health care decision under consideration and is unable to give or communicate rational reasons for mental health care decisions because of impaired thinking, impaired ability to receive and evaluate information, or other cognitive disability.
(6) 'Mental health agent' or 'agent' means a person appointed by a declarant to act for and on behalf of such declarant to make decisions related to mental health care when such declarant is incapable of making mental health care decisions. Such term shall include any alternate mental health agent appointed by a declarant.
(7) 'Mental health care' means any care, treatment, service, or procedure to maintain, diagnose, treat, or provide for a declarant's mental health.
(8) 'Physician' means a person licensed to practice medicine under Article 2 of Chapter 34 of Title 43 and, if the declarant is receiving mental health care in another state, a person lawfully licensed in such state.
(9) 'Provider' means any person administering mental health care who is licensed, certified, or otherwise authorized or permitted by law to administer mental health care in the ordinary course of business or the practice of a profession, including, but not limited to, professional counselors, psychologists, clinical social workers, and clinical nurse specialists in psychiatric and mental health; a physician; or any person acting for any such authorized person.

(10) 'Psychiatric advance directive' or 'directive' means a written document voluntarily executed by a person in accordance with the requirements of Code Section 37-11-8.

37-11-3.

(a) A competent adult may execute a psychiatric advance directive containing mental health care preferences, information, or instructions regarding his or her mental health care that authorizes and consents to a provider or facility acting in accordance with such directive. A directive may include consent to or refusal of specified mental health care.

(b) A psychiatric advance directive may include, but shall not be limited to:

(1) The names and telephone numbers of individuals to contact in the event a declarant has a mental health crisis;

(2) Situations that have been known to cause a declarant to experience a mental health crisis;

(3) Responses that have been known to de-escalate a declarant's mental health crisis;

(4) Responses that may assist a declarant to remain in such declarant's home during a mental health crisis;

(5) The types of assistance that may help stabilize a declarant if it becomes necessary to enter a facility; and

(6) Medications a declarant is taking or has taken in the past and the effects of such medications.

(c) A psychiatric advance directive may include a mental health agent.

(d) If a declarant chooses not to appoint an agent, the instructions and desires of a declarant as set forth in the directive shall be followed to the fullest extent possible by every provider or facility to whom the directive is communicated, subject to the right of the provider or facility to refuse to comply with the directive as set forth in Code Section 37-11-11.

(e) A person shall not be required to execute or refrain from executing a directive as a criterion for insurance, as a condition for receiving mental health care or physical health care services, or as a condition of discharge from a facility.

(f) Unless a declarant indicates otherwise, a psychiatric advance directive shall take precedence over any advance directive for health care pursuant to Chapter 32 of Title 31.
durable power of attorney for health care creating a health care agency under the former
Chapter 36 of Title 31, as such chapter existed on and before June 30, 2007, health care proxy, or living will that a declarant executed prior to executing a psychiatric advance directive to the extent that such other documents relate to mental health care and are inconsistent with the psychiatric advance directive.

(g) No provision of this chapter shall be construed to bar use by a declarant of an advance directive for health care under Chapter 32 of Title 31.

37-11-4.

(a) A declarant may designate a competent adult to act as his or her agent to make decisions about his or her mental health care. An alternative agent may also be designated.

(b) An agent shall have no authority to make mental health care decisions when a declarant is capable.

(c) The authority of an agent shall continue in effect so long as the directive appointing such agent is in effect or until such agent has withdrawn.

(d) An agent appointed by a declarant:

(1) Shall be authorized to make any and all mental health care decisions on behalf of such declarant which such declarant could make if such declarant were capable;

(2) Shall exercise granted powers in a manner consistent with the intent and desires of such declarant. If such declarant's intentions and desires are not expressed or are unclear, the agent shall act in such declarant's best interests, considering the benefits, burdens, and risks of such declarant's circumstances and mental health care options;

(3) Shall not be under any duty to exercise granted powers or to assume control of or responsibility for such declarant's mental health care; but, when granted powers are exercised, the agent shall be required to use due care to act for the benefit of such declarant in accordance with the terms of the psychiatric advance directive;

(4) Shall not make a mental health care decision different from or contrary to such declarant's instruction if such declarant is capable at the time of the request for consent or refusal of mental health care;

(5)(A) May make a mental health care decision different from or contrary to such declarant's instruction in such declarant's psychiatric advance directive if:

(i) Such declarant's provider or facility determines in good faith at the time of consent or refusal of mental health care that the mental health care requested or refused in the directive's instructions is:

(I) Unavailable;

(II) Medically contraindicated in a manner that would result in substantial harm to such declarant if administered; or
(III) In the opinion of the provider or facility, inconsistent with reasonable medical standards to benefit such declarant or has proven ineffective in treating such declarant's mental health condition; and

(ii) The mental health care requested or refused in the directive's instructions is unlikely to be delivered by another provider or facility in the community under the circumstances.

(B) In the event the agent exercises authority under one of the circumstances set forth in subparagraph (A) of this paragraph, the agent shall exercise the authority in a manner consistent with the intent and desires of such declarant. If such declarant's intentions and desires are not expressed or are unclear, the agent shall act in such declarant's best interests, considering the benefits, burdens, and risks of such declarant's circumstances and mental health care options;

(6) Shall not delegate authority to make mental health care decisions; and

(7) Has the following general powers, unless expressly limited in the psychiatric advance directive:

(A) To sign and deliver all instruments, negotiate and enter into all agreements, and do all other acts reasonably necessary to exercise the powers granted to the agent;

(B) To consent to, authorize, refuse, or withdraw consent to any providers and any type of mental health care of such declarant, including any medication program;

(C) To request and consent to admission or discharge from any facility; and

(D) To contract for mental health care and facilities in the name of and on behalf of such declarant, and the agent shall not be personally financially liable for any services or mental health care contracted for on behalf of such declarant.

(e) A court may remove a mental health agent if it finds that an agent is not acting in accordance with the declarant's treatment instructions as expressed in his or her directive.

37-11-5.

(a) Except to the extent that a right is limited by a directive or by any state or federal law or regulation, an agent shall have the same right as a declarant to receive information regarding the proposed mental health care and to receive, review, and consent to disclosure of medical records, including records relating to the treatment of a substance use disorder, relating to that mental health care. All of a declarant's mental health information and medical records shall remain otherwise protected under state and federal privilege, and this right of access shall not waive any evidentiary privilege.

(b) At the declarant's expense and subject to reasonable rules of a provider or facility to prevent disruption of the declarant's mental health care, an agent shall have the same right the declarant has to examine, copy, and consent to disclosure of all the declarant's medical
records that the agent deems relevant to the exercise of the agent's powers, whether the
records relate to mental health or any other medical condition and whether they are in the
possession of or maintained by any physician, psychiatrist, psychologist, therapist, facility,
or other health care provider, despite contrary provisions of any other statute or rule of law.
(c) The authority given an agent by this Code section shall include all rights that a
declarant has under the federal Health Insurance Portability and Accountability Act of
1996, P.L. 104-191, and its implementing regulations regarding the use and disclosure of
individually identifiable health information and other medical records.

37-11-6.
The following persons shall not serve as a declarant's agent:
(1) Such declarant's provider or an employee of that provider unless such employee is
a family member, friend, or associate of such declarant and is not directly involved in
such declarant's mental health care; or
(2) An employee of the Department of Behavioral Health and Developmental Disabilities
or of a local public mental health agency or of any organization that contracts with a local
public mental health authority unless such employee is a family member, friend, or
associate of such declarant and is not directly involved in such declarant's mental health
care.

37-11-7.
An agent may withdraw by giving written notice to a declarant. If such declarant is
incapable of making mental health care decisions, such agent may withdraw by giving
written notice to the provider or facility that is providing mental health care to the declarant
at the time of the agent's withdrawal. Any provider or facility that receives an agent's
withdrawal shall document the withdrawal as part of such declarant's medical record.

37-11-8.
(a) A psychiatric advance directive shall be effective only if it is signed by the declarant
and witnessed by two competent adults, but such witnesses shall not be required to be
together or present when such declarant signs the directive. The witnesses shall attest that
the declarant is known to them, appears to be of sound mind, is not under duress, fraud, or
undue influence, and signed his or her directive in the witness's presence or acknowledges
signing his or her directive. For purposes of this subsection, the term 'of sound mind'
means having a decided and rational desire to create a psychiatric advance directive.
(b) A validly executed psychiatric advance directive shall become effective upon its proper
execution and shall remain in effect until revoked by the declarant.
(c) The following persons shall not serve as witnesses to the signing of a directive:

(1) A provider who is providing mental health care to the declarant at the time such directive is being executed or an employee of such provider unless such employee is a family member, friend, or associate of such declarant and is not directly involved in the declarant's mental health care;

(2) An employee of the Department of Behavioral Health and Developmental Disabilities or of a local public mental health agency or of any organization that contracts with a local public mental health authority unless such person is a family member, friend, or associate of such declarant and is not directly involved in the declarant's mental health care; or

(3) A person selected to serve as the declarant's mental health agent.

(d) A person who witnesses a psychiatric advance directive in good faith and in accordance with this chapter shall not be civilly liable or criminally prosecuted for actions taken by an agent.

(e) A copy of a directive executed in accordance with this Code section shall be valid and have the same meaning and effect as the original document.

37-11-9.

A directive may be revoked in whole or in part by a declarant at any time so long as such declarant is capable. A provider or facility that receives a revocation shall document the revocation of a directive as part of a declarant's medical record.

37-11-10.

(a) Upon being presented with a psychiatric advance directive, a provider or facility shall make the directive a part of a declarant's medical record. Any revocation of the directive communicated to a provider or facility by a capable declarant shall also be documented in such declarant's medical record.

(b) In the absence of specific knowledge of the revocation or invalidity of a directive, a provider or facility providing mental health care to a declarant may presume that a person who executed a psychiatric advance directive in accordance with this chapter was of sound mind and acted voluntarily when executing such directive and may rely upon a psychiatric advance directive or a copy of that directive.

(c) A provider or facility shall be authorized to act in accordance with a directive when a declarant is incapable of making mental health care decisions.

(d) A provider or facility shall continue to obtain a declarant's consent to all mental health care decisions if he or she is capable of providing consent or refusal.
(a)(1) When acting under the authority of a directive, a provider or facility shall comply
with it to the fullest extent possible unless the requested mental health care is:

(A) Unavailable;

(B) Medically contraindicated in a manner that would result in substantial harm to the
declarant if administered; or

(C) In the opinion of the provider or facility, inconsistent with reasonable medical
standards to benefit the declarant or has proven ineffective in treating such declarant's
mental health condition.

(2) In the event that a part of a directive is unable to be followed due to any of the
circumstances set forth in paragraph (1) of this subsection, all other parts of such
directive shall be followed.

(b) If a provider or facility is unwilling at any time for one or more of the reasons set forth
in paragraph (1) of subsection (a) of this Code section to comply with a declarant's wishes
as set forth in the directive or with the decision of such declarant's agent, such provider or
facility shall:

(1) Document the reason for not following the directive in such declarant's medical
record; and

(2) Promptly notify such declarant and his or her agent, if one is appointed in the
directive, or otherwise such declarant's next of kin or legal guardian, of the refusal to
follow the directive or instructions of the agent and document the notification in such
declarant's medical record.

(c) In the event a provider or facility is unwilling at any time for one or more of the
reasons set forth in paragraph (1) of subsection (a) of this Code section to comply with a
declarant's wishes as set forth in the directive or with the decision of such declarant's agent,
if an agent has been appointed, the agent, and otherwise the next of kin or legal guardian
of such declarant, shall arrange for such declarant's transfer to another provider or facility
if the requested care would be delivered by that other provider or facility.

(d) A provider or facility unwilling at any time for one or more of the reasons set forth in
paragraph (1) of subsection (a) of this Code section to comply with a declarant's wishes as
set forth in the directive or with the decision of a declarant's mental health agent shall
continue to provide reasonably necessary consultation and care in connection with the
pending transfer.

(e) A psychiatric advance directive shall not limit or otherwise apply to the involuntary
examination, treatment, or hospitalization of patients under Chapter 3 of this title.
(f) Nothing in this chapter shall be construed to require a provider or facility to provide mental health care for which a declarant or a third-party payor is unable or refuses to ensure payment.

37-11-12.

(a) Each provider, facility, or any other person who acts in good faith reliance on any instructions contained in a directive or on any direction or decision by a mental health agent shall be protected and released to the same extent as though such person had interacted directly with a capable declarant.

(b) Without limiting the generality of the provisions of subsection (a) of this Code section, the following specific provisions shall also govern, protect, and validate the acts of a mental health agent and each such provider, facility, and any other person acting in good faith reliance on such instruction, direction, or decision:

1. No provider, facility, or person shall be subject to civil liability, criminal prosecution, or discipline for unprofessional conduct solely for complying with any instructions contained in a directive or with any direction or decision by a mental health agent, even if death or injury to the declarant ensues;

2. No provider, facility, or person shall be subject to civil liability, criminal prosecution, or discipline for unprofessional conduct solely for failure to comply with any instructions contained in a directive or with any direction or decision by a mental health agent, so long as such provider, facility, or person informs such agent of its refusal or failure to comply with the directive and continues to provide reasonably necessary consultation and care in connection with a pending transfer;

3. If the actions of a provider, facility, or person who fails to comply with any instruction contained in a directive or with any direction or decision by a mental health agent are substantially in accord with reasonable medical standards at the time of consent or refusal of mental health care and such provider, facility, or person cooperates in the transfer of the declarant pursuant to subsection (d) of Code Section 37-11-11, such provider, facility, or person shall not be subject to civil liability, criminal prosecution, or discipline for unprofessional conduct for failure to comply with the psychiatric advance directive;

4. No mental health agent who, in good faith, acts with due care for the benefit of the declarant and in accordance with the terms of a directive, or who fails to act, shall be subject to civil liability or criminal prosecution for such action or inaction;

5. If the authority granted by a psychiatric advance directive is revoked under Code Section 37-11-9, a provider, facility, or agent shall not be subject to criminal prosecution or civil liability for acting in good faith reliance upon such psychiatric directive:
advance directive unless such provider, facility, or agent had actual knowledge of the
revocation; and

(6) In the event a declarant has appointed a health care agent in accordance with Chapter
32 of Title 31, no provider, facility, or person who relies in good faith on the direction of
such health care agent shall be subject to civil liability, criminal prosecution, or discipline
for unprofessional conduct for complying with any direction or decision of such health
care agent in the event the declarant's condition is subsequently determined to be a mental
health care condition.

A law enforcement officer who uses a declarant's valid psychiatric advance directive and
acts in good faith reliance on the instructions contained in such directive shall not be
subject to criminal prosecution or civil liability for any harm to such declarant that results
from a good faith effort to follow such directive's instructions.

37-11-14.
(a) The provisions of this chapter shall not apply to or invalidate a valid psychiatric
advance directive executed prior to July 1, 2017.
(b) The use of the form set forth in Code Section 37-11-15 or a similar form after July 1,
2017, in the creation of a psychiatric advance directive shall be deemed lawful and, when
such form is used and it meets the requirements of this chapter, it shall be construed in
accordance with the provisions of this chapter.
(c) Any person may use another form for a psychiatric advance directive so long as the
form is substantially similar to, otherwise complies with the provisions of this chapter, and
provides notice to a declarant substantially similar to that contained in the form set forth
in Code Section 37-11-15. As used in this subsection, the term 'substantially similar' may
include forms from other states.

37-11-15.

*GEORGIA PSYCHIATRIC ADVANCE DIRECTIVE*

By: _____________________________ Date of Birth: _____________________________

(Print Name) (Month/Day/Year)

As used in this psychiatric advance directive, the term:

(1) "Facility" means a hospital, skilled nursing facility, hospice, institution, home,
residential or nursing facility, treatment facility, and any other facility or service which

H. B. 607
- 10 -
has a valid permit or provisional permit issued under Chapter 7 of Title 37 of the Official Code of Georgia Annotated or which is licensed, accredited, or approved under the laws of any state, and includes hospitals operated by the United States government or by any state or subdivision thereof.

(2) "Provider" means any person administering mental health care who is licensed, certified, or otherwise authorized or permitted by law to administer mental health care in the ordinary course of business or the practice of a profession, including, but not limited to, professional counselors, psychologists, clinical social workers, and clinical nurse specialists in psychiatric and mental health; a physician; or any person acting for any such authorized person.

This psychiatric advance directive has four parts:

PART ONE

STATEMENT OF INTENT AND TREATMENT PREFERENCES.

This part allows you to state your intention for this document and state your treatment preferences and consent if you have been determined to be incapable of making informed decisions about your mental health care. PART ONE will become effective only if you have been determined in the opinion of a physician or licensed psychologist who has personally examined you, or in the opinion of a court, to lack the capacity to understand the risks and benefits of, and the alternatives to, a mental health care decision under consideration and you are unable to give or communicate rational reasons for mental health care decisions because of impaired thinking, impaired ability to receive and evaluate information, or other cognitive disability. Reasonable and appropriate efforts will be made to communicate with you about your treatment preferences before PART ONE becomes effective. You should talk to your family and others close to you about your intentions and treatment preferences.

PART TWO

MENTAL HEALTH AGENT. This part allows you to choose someone to make mental health care decisions for you when you cannot make mental health care decisions for yourself. The person you choose is called a mental health agent. You should talk to your mental health agent about this important role.
PART THREE  OTHER RELATED ISSUES. *This part allows you to give important information to people who may be involved with you during a mental health care crisis.*

PART FOUR  EFFECTIVENESS AND SIGNATURES. *This part requires your signature and the signatures of two witnesses. You must complete PART FOUR if you have filled out any other part of this form.*

You may fill out any or all of the first three parts listed above. You must fill out PART FOUR of this form in order for this form to be effective.

You should give a copy of this completed form to people who might need it, such as your mental health agent, your family, and your physician. Keep a copy of this completed form at home in a place where it can easily be found if it is needed. Review this completed form periodically to make sure it still reflects your preferences. If your preferences change, complete a new psychiatric advance directive.

Using this form of psychiatric advance directive is completely optional. Other forms of psychiatric advance directives may be used in Georgia.

You may revoke this completed form at any time that you are capable of making informed decisions about your mental health care. If you choose to revoke this form, you should communicate your revocation to your providers, your agents, and any other person to whom you have given a copy of this form. This completed form will replace any advance directive for health care, durable power of attorney for health care, health care proxy, or living will that you have completed before completing this form to the extent that such other documents relate to mental health care and are inconsistent with the information contained in this form.

PART ONE: STATEMENT OF INTENT AND TREATMENT PREFERENCES

*PART ONE will become effective only if you have been determined in the opinion of a physician or licensed psychologist who has personally examined you, or in the opinion of a court, to lack the capacity to understand the risks and benefits of, and the alternatives to, a mental health care decision under consideration and you are unable to give or communicate rational reasons for mental health care decisions because of impaired*
thinking, impaired ability to receive and evaluate information, or other cognitive disability.

Reasonable and appropriate efforts will be made to communicate with you about your
treatment preferences before PART ONE becomes effective. PART ONE will be effective
even if PARTS TWO or THREE are not completed. If you have not selected a mental
health agent in PART TWO, or if your mental health agent is not available, then PART
ONE will communicate your treatment preferences to your providers or a facility providing
care to you. If you have selected a mental health agent in PART TWO, then your mental
health agent will have the authority to make health care decisions for you regarding
matters guided by your treatment preferences and other factors described in this PART.

(1) STATEMENT OF INTENT

I, (your name) ___________________________, being of sound mind, willfully and
voluntarily make this psychiatric advance directive as a means of expressing in advance
my informed choices and consent regarding my mental health care in the event I become
incapable of making informed decisions on my own behalf. I understand this document
becomes effective if it is determined by a physician or licensed psychologist who has
personally examined me, or in the opinion of a court, that I lack the capacity to
understand the risks, benefits, and alternatives to a mental health care treatment decision
under consideration and I am unable to give or communicate rational reasons for my
mental health care treatment decisions because of impaired thinking, impaired ability to
receive and evaluate information, or other cognitive disability.

If I am deemed incapable of making mental health care decisions, I intend for this
document to constitute my advance authorization and consent, based on my past
experiences with my illness and knowledge gained from those experiences, for treatment
that is medically indicated and consistent with the preferences I have expressed in this
document.

I understand this document continues in operation only during my incapacity to make
mental health care decisions. I understand I may revoke this document only during
periods when I am mentally capable.

I intend for this psychiatric advance directive to take precedence over any advance
directive for health care pursuant to Chapter 32 of Title 31 of the Official Code of
Georgia Annotated, durable power of attorney for health care creating a health care
agency under the former Chapter 36 of Title 31 of the Official Code of Georgia
Annotated, as such chapter existed on and before June 30, 2007, health care proxy, or
living will that I have executed prior to executing this form to the extent that such other
documents relate to mental health care and are inconsistent with this executed document.

In the event that a decision maker is appointed by a court to make mental health care
decisions for me, I intend this document to take precedence over all other means of
determining my intent while I was competent.

It is my intent that a person or facility involved in my care shall not be civilly liable or
criminally prosecuted for honoring my wishes as expressed in this document or for
following the directions of my agent.

(2) INFORMATION REGARDING MY SYMPTOMS

The following are symptoms or behaviors I typically exhibit when escalating toward a
mental health crisis. If I exhibit any of these symptoms or behaviors, an evaluation is
needed regarding whether or not I am incapable of making mental health care decisions:

____________________________________________________________________

The following may cause me to experience a mental health crisis or to make my
symptoms worse:

________________________________________________

The following techniques may be helpful in de-escalating my crisis:

____________________________________________________________________

When I exhibit the following behaviors, I would like to be evaluated to determine
whether or not I have regained the capacity to make my mental health care decisions:

____________________________________________________________________

(3) PREFERRED CLINICIANS

The names of my doctors, therapists, pharmacists, and other mental health professionals
and their telephone numbers are:
Name and telephone numbers:

_________________________________________________________________

_________________________________________________________________

_________________________________________________________________

_________________________________________________________________

I prefer and consent to treatment from the following clinicians:

Names:

_________________________________________________________________

_________________________________________________________________

_________________________________________________________________

I refuse to be treated by the following clinicians:

Names:

_________________________________________________________________

_________________________________________________________________

_________________________________________________________________

(4) TREATMENT INSTRUCTIONS

Medications

I am currently using and consent to continue to use the following medications (include all medications, whether for mental health care treatment or general health care treatment):

_________________________________________________________________

_________________________________________________________________

If additional medications become necessary, I prefer and consent to take the following medications:

_________________________________________________________________

_________________________________________________________________

I cannot tolerate the following medications because:

_________________________________________________________________

_________________________________________________________________

_________________________________________________________________

I am allergic to the following medications:

_________________________________________________________________

_________________________________________________________________

_________________________________________________________________
If my preferred medications cannot be given and I have not appointed an agent in PART TWO to make an alternative decision for me, I want my treating physician to choose an alternative medication that would best meet my mental health needs, subject to any limitations I have expressed in my treating instructions above. (Check "yes" if you agree with this statement and "no" if you disagree with this statement.) Yes _____  No _____

In the event I need to have medication administered, I would prefer and consent to the following methods (Check "yes" or "no" and list a reason for your request if you have one):

- Medication in pill form:  Yes __________ No ___________
  Reason: _______________________________________________________________

- Liquid medication:  Yes __________ No ___________
  Reason: _______________________________________________________________

- Medication by injection:  Yes __________ No ___________
  Reason: _______________________________________________________________

- Covert medication (without my knowledge in drink or food):  Yes __________ No ___________
  Reason: _______________________________________________________________

**Hospitalization is Not My First Choice**

It is my intention, if possible, to stay at home or in the community with the following supports:

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

If I need outpatient therapy, I prefer and consent to it being provided by:

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

**Additional instructions that may help me avoid a hospitalization:**

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

**Treatment Facilities**

If it becomes necessary for me to be hospitalized, I would prefer and consent to being treated at the following facilities:
I refuse to be treated at the following facilities:

Reason(s) for wishing to avoid the above facilities:

I generally react to being hospitalized as follows:

Staff at a facility can help me by doing the following:

I give permission for the following people to visit me:

Additional Interventions (Please place your initials in the blanks)

I prefer the following interventions as indicated by my initials and consent to any intervention where I have initialed next to "yes."

<table>
<thead>
<tr>
<th>Intervention</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>Seclusion</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Physical restraints</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Experimental treatment</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Electroconvulsive therapy (ECT)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Reason:
Any limitations on consent to the administration of electroconvulsive therapy:

______________________________________________________________________

______________________________________________________________________

______________________________________________________________________

Other instructions as to my preferred interventions:

______________________________________________________________________

______________________________________________________________________

______________________________________________________________________

(5) ADDITIONAL STATEMENTS

[This section is optional. This PART will be effective even if this section is left blank. This section allows you to state additional treatment preferences, to provide additional guidance to your mental health agent (if you have selected a mental health agent in PART TWO), or to provide information about your personal and religious values about your medical treatment. Understanding that you cannot foresee everything that could happen to you, you may want to provide guidance to your mental health agent (if you have selected a mental health agent in PART TWO) about following your treatment preferences.]

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

PART TWO: MENTAL HEALTH AGENT

[PART ONE will be effective even if PART TWO is not completed. If you do not wish to appoint an agent, do not complete PART TWO. A provider who is directly involved in your health care or any employee of that provider may not serve as your mental health agent unless such employee is your family member, friend, or associate and is not directly involved in your health care. An employee of the Department of Behavioral Health and Developmental Disabilities or of a local public mental health agency or of any organization that contracts with a local public mental health authority may not serve as your mental health agent unless such person is your family member, friend, or associate and is not directly involved in your health care. If you are married, a future divorce or annulment of your marriage will revoke the selection of your current spouse as your mental health agent unless you indicate otherwise in Section (10) of this PART. If you are not married, a future marriage will revoke the selection of your mental health agent unless the person you selected as your mental health agent is your new spouse.]
(6) MENTAL HEALTH AGENT

I select the following person as my mental health agent to make mental health care decisions for me:

Name: ________________________________________________________________
Address: ______________________________________________________________
Telephone Numbers: _____________________________________________________
(Home, Work, and Mobile)

Agent's Acceptance: I have read this form, and I certify that I do not, have not, and will not provide mental health care and treatment for: (your name) ____________________________________________
I accept the designation as agent for: (your name) _______________________________
(Agent's signature and date) ________________________________________________

(7) BACK-UP MENTAL HEALTH AGENT

[This section is optional. PART TWO will be effective even if this section is left blank.]

If my mental health agent cannot be contacted in a reasonable time period and cannot be located with reasonable efforts or for any reason my mental health agent is unavailable or unable or unwilling to act as my mental health agent, then I select the following, each to act successively in the order named, as my back-up mental health agent(s):

Name: ___________________________________________________________________
Address: ___________________________________________________________________
Telephone Numbers: ___________________________________________________________________
(Home, Work, and Mobile)

Back-up Agent's Acceptance: I have read this form, and I certify that I do not, have not, and will not provide mental health care and treatment for: (your name) _______________________________
(Back-up agent's signature and date) __________________________________________

Name: ___________________________________________________________________
Address: ___________________________________________________________________
Telephone Numbers: ___________________________________________________________________
(Home, Work, and Mobile)

Back-up Agent's Acceptance: I have read this form, and I certify that I do not, have not, and will not provide mental health care and treatment for: (your name) _______________________________

H. B. 607
- 19 -
I accept the designation as agent for: (your name)

(Back-up agent's signature and date)

(8) GENERAL POWERS OF MENTAL HEALTH AGENT

My mental health agent will make mental health care decisions for me when I have been determined in the opinion of a physician or licensed psychologist who has personally examined me, or in the opinion of a court, to lack the capacity to understand the risks and benefits of, and the alternatives to, a mental health care decision under consideration and I am unable to give or communicate rational reasons for my mental health care decisions because of impaired thinking, impaired ability to receive and evaluate information, or other cognitive disability.

My mental health agent will have the same authority to make any mental health care decision that I could make. My mental health agent's authority includes, for example, the power to:

• Request and consent to admission or discharge from any facility;
• Request, consent to, authorize, or withdraw consent to any type of provider or mental health care that is consistent with my instructions in PART ONE of this form and subject to the limitations set forth in Section (4) of PART ONE; and
• Contract for any health care facility or service for me, and to obligate me to pay for these services (and my mental health agent will not be financially liable for any services or care contracted for me or on my behalf).

My mental health agent will be my personal representative for all purposes of federal or state law related to privacy of medical records (including the Health Insurance Portability and Accountability Act of 1996) and will have the same access to my medical records that I have and can disclose the contents of my medical records to others for my ongoing mental health care.

My mental health agent may accompany me in an ambulance or air ambulance if in the opinion of the ambulance personnel protocol permits a passenger, and my mental health agent may visit or consult with me in person while I am in a facility if its protocol permits visitation.

My mental health agent may present a copy of this psychiatric advance directive in lieu of the original, and the copy will have the same meaning and effect as the original.
I understand that under Georgia law:

• My mental health agent may refuse to act as my mental health agent; and

• A court can take away the powers of my mental health agent if it finds that my mental health agent is not acting in accordance with my treatment instructions given in my directive.

(9) GUIDANCE FOR MENTAL HEALTH AGENT

In the event my directive is being used, my agent should first look at my instructions as expressed in PART ONE. If a situation occurs for which I have not expressed a preference, or in the event my preference is not available, my mental health agent should think about what action would be consistent with past conversations we have had, my treatment preferences as expressed in PART ONE, my religious and other beliefs and values, and how I have handled medical and other important issues in the past. If what I would decide is still unclear, then my mental health agent should make decisions for me that my mental health agent believes are in my best interests, considering the benefits, burdens, and risks of my current circumstances and treatment options.

I impose the following limitations on my agent's authority to act on my behalf:

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

(10) WHEN SPOUSE IS MENTAL HEALTH AGENT AND THERE HAS BEEN A DIVORCE OR ANNULMENT OF OUR MARRIAGE

[Initial if you agree with this statement; leave blank if you do not.]

__________ I desire the person I have named as my agent, who is now my spouse, to remain as my agent even if we become divorced or our marriage is annulled.

PART THREE: OTHER RELATED ISSUES

[PART THREE is optional. This psychiatric advance directive will be effective even if PART THREE is left blank.]
(11) GUIDANCE FOR LAW ENFORCEMENT

I typically react to law enforcement in the following ways:

____________________________________________________________________
____________________________________________________________________
____________________________________________________________________

The following person(s) may be helpful in the event of law enforcement involvement:

Name: __________________________ Telephone Number: __________________
Relationship: _________________________________

Name: __________________________ Telephone Number: __________________
Relationship: _________________________________

(12) HELP FROM OTHERS

The following people are part of my support system (child care, pet care, getting my mail, paying my bills, etc.) and should be contacted in the event of a crisis:

Name: __________________________ Telephone Number: __________________
Responsibility: _________________________________

Name: __________________________ Telephone Number: __________________
Responsibility: _________________________________

Name: __________________________ Telephone Number: __________________
Responsibility: _________________________________

This psychiatric advance directive will become effective only if I have been determined in the opinion of a physician or licensed psychologist who has personally examined me, or in the opinion of a court, to lack the capacity to understand the risks and benefits of, and the alternatives to, a mental health care decision under consideration and I am unable to give or communicate rational reasons for my mental health care decisions because of impaired thinking, impaired ability to receive and evaluate information, or other cognitive disability.

This form revokes any psychiatric advance directive, advance directive for health care, durable power of attorney for health care, health care proxy, or living will that I have completed before this date to the extent that such other documents relate to mental health care and are inconsistent with this document.
Unless I have initialed below and have provided alternative future dates or events, this psychiatric advance directive will become effective at the time I sign it and will remain effective until my death.

__________  (Initials)  This psychiatric advance directive will become effective on or upon (date) ________________ and will terminate on or upon (date) ________________.

[You must sign and date or acknowledge signing and dating this form in the presence of two witnesses.  Both witnesses must be of sound mind and must be at least 18 years of age, but the witnesses do not have to be together or present with you when you sign this form.]

A witness:
•Cannot be a person who was selected to be your mental health agent or back-up mental health agent in PART TWO;
•Cannot be a provider who is providing mental health care to you at the time you execute this directive or an employee of such provider unless the witness is your family member, friend, or associate and is not directly involved in your mental health care; and
•Cannot be an employee of the Department of Behavioral Health and Developmental Disabilities or of a local public mental health agency or of any organization that contracts with a local public mental health authority unless the witness is your family member, friend, or associate and is not directly involved in your mental health care.]

By signing below, I state that I am of sound mind and capable of making this psychiatric advance directive and that I understand its purpose and effect.

____________________________________  ________________________
(Signature of Declarant)  (Date)

The declarant signed this form in my presence or acknowledged signing this form to me. Based upon my personal observation, the declarant appeared to be of sound mind and mentally capable of making this psychiatric advance directive and signed this form willingly and voluntarily.

____________________________________  ________________________
(Signature of First Witness)  (Date)
PART II
CROSS-REFERENCES

SECTION 2-1.

Code Section 16-5-5 of the Official Code of Georgia Annotated, relating to assisted suicide and notification of licensing board regarding violation, is amended by revising paragraphs (3) and (4) of subsection (c) as follows:

(3) Any person prescribing, dispensing, or administering medications or medical procedures pursuant to, without limitation, a living will, a durable power of attorney for health care, an advance directive for health care, a psychiatric advance directive, a Physician Orders for Life-Sustaining Treatment form pursuant to Code Section 31-1-14, or a consent pursuant to Code Section 29-4-18 or 31-9-2 when such actions are calculated or intended to relieve or prevent a patient's pain or discomfort but are not calculated or intended to cause such patient's death, even if the medication or medical procedure may have the effect of hastening or increasing the risk of death;

(4) Any person discontinuing, withholding, or withdrawing medications, medical procedures, nourishment, or hydration pursuant to, without limitation, a living will, a durable power of attorney for health care, an advance directive for health care, a psychiatric advance directive, a Physician Orders for Life-Sustaining Treatment form pursuant to Code Section 31-1-14, a consent pursuant to Code Section 29-4-18 or 31-9-2, or a written order not to resuscitate; or

SECTION 2-2.

Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by revising paragraphs (1) and (1.1) of subsection (a) of Code Section 31-9-2, relating to persons authorized to consent to surgical or medical treatment, as follows:
“(1) Any adult, for himself or herself, whether by living will, advance directive for health care, psychiatric advance directive under Chapter 11 of Title 37, or otherwise;

(1.1) Any person authorized to give such consent for the adult under an advance directive for health care or durable power of attorney for health care under Chapter 32 of this title or psychiatric advance directive under Chapter 11 of Title 37.”

SECTION 2-3.

Said title is further amended by revising paragraph (3) of PART ONE of the form contained in Code Section 31-32-4, relating to the advance directive for health care form, as follows:

“(3) GENERAL POWERS OF HEALTH CARE AGENT

My health care agent will make health care decisions for me when I am unable to communicate my health care decisions or I choose to have my health care agent communicate my health care decisions.

My health care agent will have the same authority to make any health care decision that I could make. My health care agent's authority includes, for example, the power to:

• Request and consent to admission or discharge from any hospital, skilled nursing facility, hospice, or other health care facility or service;

• Request, consent to, withhold, or withdraw any type of health care; and

• Contract for any health care facility or service for me, and to obligate me to pay for these services (and my health care agent will not be financially liable for any services or care contracted for me or on my behalf).

My health care agent will be my personal representative for all purposes of federal or state law related to privacy of medical records (including the Health Insurance Portability and Accountability Act of 1996) and will have the same access to my medical records that I have and can disclose the contents of my medical records to others for my ongoing health care.

My health care agent may accompany me in an ambulance or air ambulance if in the opinion of the ambulance personnel protocol permits a passenger, and my health care agent may visit or consult with me in person while I am in a hospital, skilled nursing facility, hospice, or other health care facility or service if its protocol permits visitation.

My health care agent may present a copy of this advance directive for health care in lieu of the original, and the copy will have the same meaning and effect as the original.
I understand that under Georgia law:

- My health care agent may refuse to act as my health care agent;
- A court can take away the powers of my health care agent if it finds that my health care agent is not acting properly; and
- My health care agent does not have the power to make health care decisions for me regarding psychosurgery, sterilization, or involuntary treatment or involuntary hospitalization for mental or emotional illness, developmental disability, or addictive disease.

SECTION 2-4.

Said title is further amended in subsection (a) of Code Section 31-32-10, relating to immunity from liability or disability action, by deleting "and" at the end of paragraph (4), by replacing the period with "; and" at the end of paragraph (5), and by adding a new paragraph to read as follows:

"(6) In the event a declarant has appointed a mental health agent in accordance with Chapter 11 of Title 37, no health care provider, health care facility, or person who relies in good faith on the direction of such mental health agent shall be subject to civil liability, criminal prosecution, or discipline for unprofessional conduct for complying with any direction or decision of such mental health agent in the event the declarant's condition is subsequently determined to be a health care condition."

PART III

REPEALER

SECTION 3-1.

All laws and parts of laws in conflict with this Act are repealed.