

## 1.7 Admissions Not Requiring Judicial Review

Individuals also may be admitted to a 24-hour facility through an advance instruction or a health care power of attorney. Each of these methods was created by legislation as a means to allow inpatient admission without the need for judicial process.

### A. Advance Instruction

An advance instruction allows a person “of sound mind” to execute a document consenting to or refusing mental health treatment in advance of the need. The document becomes effective only if the person becomes incapable of making these decisions at a later date and is revocable as long as the person is not incapable. There is a limit of ten days of inpatient treatment pursuant to an advance instruction. For a further discussion of advance instructions, see *infra* § 11.3.

### B. Health Care Power of Attorney

A health care power of attorney allows a competent individual to execute a document designating a “legally responsible person” to make decisions relating to mental health treatment in the event of incapacity. As with an advance instruction, the document is revocable as long as the person is competent, and it is effective only upon the incapacity of the individual. For a further discussion of health care powers of attorney, see *infra* § 11.4.

Although there is no judicial review, and thus no attorney representation, counsel may occasionally receive telephone calls from patients or staff with questions regarding these admissions. It is important to know that these alternative procedures exist and to be able to determine if a particular admission is in compliance with statutory requirements. However, a respondent’s appointed counsel should not provide legal opinions to hospital personnel and instead should refer hospital personnel to the hospital’s own attorney.