

REGULATIONS GOVERNING DURABLE DO NOT RESUSCITATE ORDERS

Chapter 66

REGULATIONS GOVERNING DURABLE DO NOT RESUSCITATE ORDERS

Part I

Definitions

**12VAC5-66-10. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Agent" means an adult appointed by the declarant under an advance directive, executed or made in accordance with the provisions of § 54.1-2983 of the Code of Virginia to make health care decisions for him.

"Alternate Durable DNR" means a Durable DNR bracelet or necklace issued by a vendor approved by the Virginia Office of Emergency Medical Services.

"Board" means the State Board of Health.

"Cardiac arrest" means the cessation of a functional heartbeat.

"Commissioner" means the State Health Commissioner.

"Durable Do Not Resuscitate Order Form" or "Durable DNR Order Form" means a written physician's order issued pursuant to § 54.1-2987.1 of the Code of Virginia in a ~~form~~ form(s) authorized by the ~~board~~ Board to withhold cardiopulmonary resuscitation from an individual in the event of cardiac or respiratory arrest. For purposes of this chapter, cardiopulmonary resuscitation shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, and defibrillation, administration of cardiac resuscitative medications, and related procedures. As the terms "advance directive" and "Durable Do Not Resuscitate Order" are used in

## REGULATIONS GOVERNING DURABLE DO NOT RESUSCITATE ORDERS

this article, a Durable Do Not Resuscitate Order Form or other Do Not Resuscitate Orders ~~is not and~~ shall not be construed as an advance directive. When used in these regulations, the term "Durable DNR Order Form" shall include any authorized ~~alternate form of identification~~ Alternate Durable DNR Jewelry issued in conjunction with an original Durable DNR Order ~~form~~ Form.

"Emergency Medical Services" or "EMS" means the services rendered by an agency licensed by the Virginia Office of Emergency Medical Services, an equivalent agency licensed by another state or a similar agency of the federal government when operating within this Commonwealth.

"Emergency medical services agency" or "EMS agency" means any ~~person~~ agency, licensed to engage in the business, service, or regular activity, whether or not for profit, of transporting and/or rendering immediate medical care to such persons who are sick, injured, wounded or otherwise incapacitated or helpless.

"Incapable of making an informed decision" means the inability of an adult patient, because of mental illness, mental retardation, or any other mental or physical disorder that precludes communication or impairs judgment and that has been diagnosed and certified in writing by his physician with whom he has a bona fide physician/patient relationship and a second physician or licensed clinical psychologist after personal examination of such patient, to make an informed decision about providing, withholding or withdrawing a specific medical treatment or course of treatment because he is unable to understand the nature, extent or probable consequences of the proposed medical decision, or to make a rational evaluation of the risks and benefits of alternatives to that decision. For purposes of this article, persons who are deaf, dysphasic or have other communication disorders, who are otherwise mentally competent and able to communicate by means other than speech, shall not be considered incapable of making an informed decision.

"Office of EMS" or "OEMS" means the Virginia Office of Emergency Medical Services. The Virginia Office of Emergency Medical Services is a state office located within the Virginia Department of Health (VDH).

## REGULATIONS GOVERNING DURABLE DO NOT RESUSCITATE ORDERS

"Other Do Not Resuscitate Orders" or "Other Do Not Resuscitate Orders" means a written physician's order on a form other than the authorized state standardized Durable DNR Form. Other Do Not Resuscitate Orders must contain all the information required in subdivision 1 of 12VAC5-66-40 to be subject to these regulations.

"Person authorized to consent on the patient's behalf" means any person authorized by law to consent on behalf of the patient incapable of making an informed decision or, in the case of a minor child, the parent or parents having custody of the child or the child's legal guardian or as otherwise provided by law.

"Physician" means a person licensed to practice medicine in the Commonwealth of Virginia or in the jurisdiction where the treatment is to be rendered or withheld.

"Qualified emergency medical services personnel" means personnel certified to practice as defined by § 32.1-111.1 of the Code of Virginia when acting within the scope of their certification.

"Qualified health care facility" means a facility, program or organization operated or licensed by the State Board of Health or by the Department of Behavioral Health and Developmental Services; or operated, licensed or owned by another state agency.

"Qualified health care personnel" means any qualified emergency medical services personnel and any licensed healthcare provider or practitioner functioning in any facility, program or organization operated or licensed by the State Board of Health, or by the Department of Mental Health, Mental Retardation and Substance Abuse Services or operated, licensed or owned by another state agency.

"Respiratory arrest" means cessation of breathing.

## REGULATIONS GOVERNING DURABLE DO NOT RESUSCITATE ORDERS

## Part II

## Purpose and Applicability

**12VAC5-66-20. Authority for regulation.**

Section 54.1-2987.1 of the Code of Virginia vests authority for the regulation of Durable DNR Orders in the State Board of Health and directs the ~~board~~ Board to prescribe by regulation the procedures, including the requirements for forms to authorize qualified health care personnel to follow Durable DNR Orders. All EMS DNR Orders and all Durable Do Not Resuscitate Orders issued or in effect between July 1, 1999, and March 27, 2002, are to be considered valid Durable DNR Orders and shall remain valid until revoked.

**12VAC5-66-30. Purpose of regulations.**

The ~~board~~ Board has promulgated these regulations in order to carry out the intent of Virginia law that a person shall have the opportunity to execute a Durable DNR Order that comports with his wishes.

## Part III

## Requirements and Provisions

**12VAC5-66-40. The Durable Do Not Resuscitate Order Form.**

The Durable DNR Order Form shall be a ~~unique~~ standardized document ~~printed on distinctive paper,~~ as approved by the ~~board~~ Board and consistent with these regulations. The following requirements and provisions shall apply to the approved Durable DNR Order Form.

A. Content of the Form - A Durable DNR Order Form shall contain, from a physician with whom the patient has a bona fide physician/patient relationship, a do not resuscitate determination,

## REGULATIONS GOVERNING DURABLE DO NOT RESUSCITATE ORDERS

signature and the date of issue, the signature of the patient or, if applicable, the person authorized to consent on the patient's behalf;

B. Effective Period for a Signed Durable DNR Order Form - A signed Durable DNR Order shall remain valid until revoked;

C. ~~Original Durable DNR Order Form - An original~~ A Durable DNR Order or an Alternate Durable DNR Jewelry form that complies with 12VAC5-66-50 shall be valid for the purposes of withholding or withdrawing cardiopulmonary resuscitation by qualified health care personnel in the event of cardiac or respiratory arrest;

D. Availability Displaying of the Durable DNR Order Form - ~~The original Durable DNR Order Form that complies with 12VAC5-66-50 or an Alternate Durable DNR form that complies with 12 VAC 5-66-60 shall be maintained and displayed~~ readily available at the patient's current location or residence. Within any facility, program or organization operated or licensed by the Board, or by the Department of Mental Health, Mental retardation and Substance Abuse Services or operated, licensed or owned by another state agency the Durable DNR Order Form, Alternate Durable DNR, or an Other Durable DNR Order should be readily available to the patient; in one of the places designated on the form, or should accompany the patient, if traveling. Photocopies of the Durable DNR Order may be given to other providers or persons for information, with the express consent of the patient or the patient's designated agent or the person authorized to consent on the patient's behalf. However, such photocopies of the Durable DNR Order are not valid for withholding cardiopulmonary resuscitation.

E. Qualified health care personnel may honor a legible photocopy of a Durable DNR Form or Other Durable DNR Order;

F. A patient that is traveling outside their home or between health care facilities should have an original or photocopied Durable DNR Order Form or Other Durable DNR Order accompany them;

## REGULATIONS GOVERNING DURABLE DO NOT RESUSCITATE ORDERS

G. Revocation of a Durable DNR Order Form - A Durable DNR Order Form may be revoked at any time by the patient (i) by ~~physical~~ physically destroying the Durable DNR Order Form ~~cancellation or destruction by the patient or~~ having another person in his/her presence and at his direction destroy of the Durable DNR Order Form and/or any alternate form of identification; or (ii) by oral expression of intent to revoke. The Durable DNR Order may also be revoked by the patient's designated agent or the person authorized to consent on the patient's behalf unless that person knows the patient would object to such revocation. If an Other Durable DNR Order exists and a patient or their authorized agent revokes the Durable DNR, health care personnel should assure the revocation is honored by updating or destroying the Other Durable DNR Order;

H. Distribution of Durable DNR Order Forms – ~~Authorized~~ The authorized Virginia Durable DNR Order Forms, with instructions, shall be a standardized form available only to physicians. for download via the internet from the Office of Emergency Medical Services Website. The downloadable form will contain directions for completing the form and three identical Durable DNR Order Forms; one form to be kept by the patient, the second to be placed in the patients permanent medical record and the third to be used for requesting an Alternate Durable DNR i.e. DNR necklace or bracelet;

**12VAC5-66-50. Authorized alternate forms of Durable DNR Order identification jewelry.**

The Board authorizes the ~~issuance~~ use of ~~alternate forms of~~ Alternate Durable DNR Order ~~identification~~ Jewelry in conjunction with the issuance of Durable DNR ~~Orders~~ Order Forms. These ~~alternate forms~~ Alternate Durable DNR Jewelry items shall be uniquely-designed and uniquely-identifiable bracelets and necklaces that are available only from a vendor approved by the Virginia Department of Health, Office of EMS. ~~These alternate forms of identification~~ The Alternate Durable DNR Jewelry must be purchased from the approved vendor by the person to whom a Durable DNR Order Form applies, or ~~that~~ the person authorized to consent on the patient's behalf, ~~and in conjunction with a.~~ An original Durable DNR Order Form must be obtained from a physician and provided to the vendor in order to receive Alternate Durable DNR Jewelry. Such a necklace or

## REGULATIONS GOVERNING DURABLE DO NOT RESUSCITATE ORDERS

bracelet may be utilized either to validate the Durable DNR Order Form or in place of an original Durable DNR Order Form in the event that the original order is not readily available at the site where the person to whom the order applies is found. In order to be honored by qualified health care personnel in place of the original standard Durable DNR Order Form, ~~this alternate form of identification~~ the Alternate Durable DNR Jewelry must contain the minimum information approved by the State Board of Health in [12VAC5-66-60](#).

**12VAC5-66-60. Other DNR Orders.**

~~A. Nothing in these regulations shall be construed to preclude licensed health care practitioners from following any other written orders of a physician not to resuscitate a patient in the event of cardiac or respiratory arrest.~~

~~B. Additionally, nothing in these regulations or in the definition of Durable DNR Orders provided in § [54.1-2982](#) of the Code of Virginia shall be construed to limit the authorization of qualified health care personnel to follow Do Not Resuscitate Orders other than Durable DNR Orders that are written by a physician. Such other DNR Orders issued in this manner, to be honored by EMS personnel, shall~~

A. Qualified health care personnel can honor do not resuscitate (DNR) orders by a physician that are written in a format other than using the standardized Durable DNR Order Form to not resuscitate a patient in the event of a cardiac or respiratory arrest when the patient is currently admitted to a hospital or other qualified health care facility. If an Other Durable DNR Order is used, it must contain the same information as listed in subdivision 1 of [12VAC5-66-40](#) and the time of issuance by the physician in accordance with accepted medical practice, for patients who are currently admitted to a hospital or other health care facility.

## REGULATIONS GOVERNING DURABLE DO NOT RESUSCITATE ORDERS

~~C. B.~~ Nothing in these regulations shall prohibit qualified health care personnel from following any direct verbal order issued by a licensed physician not to resuscitate a patient in cardiac or respiratory arrest when such physician is physically present ~~in attendance of such patient.~~

## Part IV

## Implementation Procedures

**12VAC5-66-70. Issuance of a Durable DNR Order Form or Other DNR Order.**

A. A Durable DNR Order Form or Other DNR Order may be issued to a patient by a physician, with whom the patient has established a bona fide physician/patient relationship, as defined by the Board of Medicine in their current guidelines, only with the consent of the patient or, if the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon the request of and with the consent of the person authorized to consent on the patient's behalf.

B. The use of the authorized Durable DNR Order Form is encouraged to provide uniformity throughout the health care continuum.

C. The authorized Durable DNR Order Form can be honored by qualified health care providers in any setting.

D. Patients that are not within a qualified health care facility must have an authorized Durable DNR Order Form to be honored by qualified health care providers.

E. Other DNR Orders can be honored any time when a patient is within a qualified health care facility or during transfer between qualified health care facilities when the patient remains attended by qualified health care providers.

~~B. F.~~ The physician shall explain to the patient or the person authorized to consent on the patient's behalf, the alternatives available, ~~including issuance of a Durable DNR Order.~~ If the option of a Durable DNR Order is agreed upon, the physician shall have the following responsibilities:

## REGULATIONS GOVERNING DURABLE DO NOT RESUSCITATE ORDERS

1. Explain when the Durable DNR Form is valid.
2. Explain how to and who may revoke the Durable DNR.
3. Document the patient's full legal name.
4. Document the execution date of the Durable DNR.
4. 5. Obtain the signature of the patient or the person authorized to consent on the patient's behalf on all three forms, the patients copy, medical record copy, and the copy used for obtaining DNR Jewelry.

- ~~2. Execute and date the Physician Order on the Durable DNR Order Form.~~
6. The physician name should be clearly printed and the form signed.
7. Note the contact telephone number for the issuing physician.
- ~~3. 8. Issue the original Durable DNR Order Form, patient and DNR Jewelry copies to the patient and maintain the medical record copy in the patient's medical file.~~

- ~~4. Explain how to and who may revoke the Durable DNR Order.~~

~~G. G.~~ The person to whom a Durable DNR order applies or the person authorized to consent on the patient's behalf must present the following information to the approved vendor in order to purchase and be issued an approved Alternate Durable DNR necklace or bracelet. The necklace or bracelet must contain the following information:

1. The following words: Do Not Resuscitate;
- ~~4. 2.~~ The patient's full legal name;
- ~~2. The Durable DNR number on the Virginia Durable DNR form or a number unique to the patient that is assigned by the vendor;~~
3. The physician's name and phone number; and
4. The Virginia Durable DNR issuance date.

## REGULATIONS GOVERNING DURABLE DO NOT RESUSCITATE ORDERS

**12VAC5-66-80. Durable DNR Order Form implementation procedures.**

A. Qualified health care personnel shall comply with the following general procedures and published Virginia Durable DNR Order Implementation Protocols when caring for a patient who is in cardiac or respiratory arrest and who is known or suspected to have a Durable DNR Order in effect.

B. Initial assessment and intervention. Perform routine patient assessment and resuscitation or intervention until ~~the~~ a valid Durable DNR Order Form or other Other DNR Order validity status is can be confirmed, as follows:

1. Determine the presence of a Durable DNR Order Form ~~or, an approved alternate form of~~ Alternate Durable DNR identification Jewelry, or Other DNR Order.

~~2. If the patient is within a qualified health care facility, any qualified health care personnel may honor a written physician's order that contains the items noted in 12VAC5-66-40 (a do not resuscitate determination, signature and the date of issue, the signature of the patient or, if applicable, the person authorized to consent on the patient's behalf).~~

~~2.~~ 3. Determine that the Durable DNR item is not altered.

~~3.~~ 4. Verify, through driver's license or other identification with photograph and signature or by positive identification by a family member or other person who knows the patient, that the patient in question is the one for whom the Durable DNR Order Form or other Other DNR Order was issued.

~~4. If no Durable DNR Order or approved alternate form of identification is found, ask a family member or other person to look for the original Durable DNR Order Form or other written DNR order.~~

5. If a Durable DNR Order Form or Alternate Durable DNR is not immediately available, care should be provided until a valid Durable DNR Form, Alternate Durable DNR, or Other DNR Order can be produced.

~~5.~~ 6. If the ~~Durable~~ any type of DNR Order or approved alternate form of identification is not intact or has been altered or other DNR Order is produced, the qualified health care personnel is

## REGULATIONS GOVERNING DURABLE DO NOT RESUSCITATE ORDERS

presented to qualified health care personnel, it shall consider the Durable DNR Order to be invalid considered valid.

C. Resuscitative measures to be withheld or withdrawn. In the event of cardiac or respiratory arrest of a patient with a valid Durable DNR Order Form, Alternate Durable DNR Jewelry, or Other DNR Order under the criteria set forth ~~above~~ in subsection B of this section, the following procedures should be withheld or withdrawn by qualified health care personnel unless otherwise directed by a physician physically present at the patient location:

1. Cardiopulmonary Resuscitation (CPR);

~~2. Endotracheal Intubation or other advanced airway management;~~

~~3. 2.~~ Artificial ventilation;

~~4. 3.~~ Defibrillation; or

4. Endotracheal Intubation or other advanced airway management including supra-glottic devices such as the Laryngeal Mask Airway (LMA), or other airway devices that pass beyond the oral pharynx, such as the Combi Tube, Pharyngeal Tracheal Lumen (PTL), or other similar devices; or

5. Continuation of related procedures or cardiac resuscitation medications as prescribed by the patient's physician or medical protocols.

D. Procedures to provide comfort care or to alleviate pain. In order to provide comfort care or to alleviate pain for a patient with a valid Durable DNR Order ~~or other DNR Order~~ of any type, the following interventions may be provided, depending on the needs of the particular patient:

1. Airway management ~~(excluding intubation or advanced,~~ including placement of nasal or pharyngeal airways management;

2. Suctioning;

3. Supplemental oxygen delivery devices;

4. Pain medications or intravenous fluids;

## REGULATIONS GOVERNING DURABLE DO NOT RESUSCITATE ORDERS

5. Bleeding control;
  6. Patient positioning; or
  7. Other therapies deemed necessary to provide comfort care or to alleviate pain.
- E. Revocation.

1. These regulations shall not authorize any qualified health care personnel to follow a Durable DNR Order for any patient who is able to, and does, express to such qualified health care personnel the desire to be resuscitated in the event of cardiac or respiratory arrest.

If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall so revoke the qualified health care personnel's authority to follow a Durable DNR Order of any type.

2. The expression of such desire to be resuscitated prior to cardiac or respiratory arrest shall constitute revocation of the order; however, a new order may be issued upon consent of the patient or the person authorized to consent on the patient's behalf.

3. The provisions of this section shall not authorize any qualified emergency medical services personnel or licensed health care provider or practitioner who is attending the patient at the time of cardiac or respiratory arrest to provide, continue, withhold or withdraw treatment if such provider or practitioner knows that taking such action is protested by the patient incapable of making an informed decision. No person shall authorize providing, continuing, withholding or withdrawing treatment pursuant to this section that such person knows, or upon reasonable inquiry ought to know, is contrary to the religious beliefs or basic values of a patient incapable of making an informed decision or the wishes of such patient fairly expressed when the patient was capable of making an informed decision.

## REGULATIONS GOVERNING DURABLE DO NOT RESUSCITATE ORDERS

F. Documentation. When following a Durable DNR Order or other DNR Order for a particular patient, qualified health care personnel shall document in the patient's medical record the care rendered or withheld in the following manner:

1. Use standard patient care reporting documents (i.e. patient chart, pre-hospital patient care report).
2. Describe assessment of patient's status.
3. Document which identification (Durable DNR Order Form, Alternate Durable DNR, or ~~other~~ Other DNR Order or alternate form of identification) was used to confirm Durable DNR status and that it was intact, not altered, not canceled or not officially revoked.
4. Record the name of the patient's physician who issued the Durable DNR Order ~~Number and name of patient's physician~~ Form, or Other DNR Order.
5. If the patient is being transported, keep the Durable DNR Order, Alternate Durable DNR, or Other DNR Order with the patient.

G. General considerations. The following general principles shall apply to implementation of Durable DNR Orders.

1. If there is misunderstanding with family members or others present at the patient's location or if there are other concerns about following the Durable DNR Order or other DNR Order, contact the patient's physician or EMS medical control for guidance.
2. If there is any question about the validity of a Durable DNR Order, resuscitative measures should be administered until the validity of the Durable DNR Order is established.