

Frequently Asked Questions and Answers:

The New Portable Physician's DNAR Order and Rule

1. Can a facility modify the form in any way?

Answer: **YES** – Facilities may modify the background of the form and add in handwritten information on the form. First and foremost, the TIME of authentication of the DNAR order should be hand-written in after the date of the physician's signature, especially in the hospital setting where this is a CMS requirement. In addition, many have commented that the physician's license number (or other identifier) should be added under the physician's name to better distinguish the person signing the form from others with the same or similar name. Nevertheless, a signed and dated form, even without the time of signature, can be accepted as a valid DNAR form by a receiving hospital.

The form may be individualized with a facility or corporate logo; a bar code or other patient identifier may be added. The form is valid if printed on one page front and back or on two separate pages; is valid if electronically reproduced or if copied on colored paper. It is not necessary that the ADPH seal as a watermark show in the background for the form to be valid.

However, **the exact wording of the form itself may not be changed at all unless it gets formal approval by the Committee of Public Health.**

The Alabama State Advisory Council on Palliative Care and Quality of Life recommends that every institution and agency adopt the color PINK for this portable DNAR form.

2. Why was this necessary?

- Answer: The Natural Death Act, *Ala. Code 22-8A-1 et seq.*, contains provisions that affirm the right of competent adult persons to control the decisions relating to the rendering of their own medical care. Such decisions include, without limitation, the decision to have medical procedures, life-sustaining treatment, and artificially provided nutrition and hydration provided, withheld, or withdrawn in instances of terminal conditions and permanent unconsciousness. However, until recently, there has been no law or guidance for "Do Not Resuscitate" ("DNR") or "Do Not Attempt Resuscitation" ("DNAR") orders even though they are routinely used in health care settings throughout the state.

3. Why is this order called a Physician's "Portable" DNAR Order?

- Answer: Before this change, when a **Do Not (Attempt) Resuscitation (NO CODE, DNR)** order was entered at one health care facility, it was enterprise/corporate specific. The order was no longer received as a valid order to be accepted and implemented by other providers after the discharge/transfer of a patient to another facility; for example,

from a hospital in north Alabama to a nursing home in central Alabama. In the 2016 session, the Alabama Legislature passed Act #2016-96 amending Alabama's Natural Death Act to create a valid DNAR order that does transfer with a patient/resident, and to endorse the immediate acceptance and implementation of a valid DNAR order in separate and diverse health care settings.

4. How can an order written by a physician from a different region or outside facility be accepted and followed for a patient/resident admitted to my facility?
 - Answer: One suggestion is that every health care facility amend hospital bylaws and/or the facility's policy and procedure statement to reflect acceptance of a DNAR order from any physician when a "valid", complete official order form is received – based on the provisions of the statute and rule which applies to all facilities in the state.
5. What constitutes a "Valid" Portable Physician DNAR Order?
 - Answer: The amendments provides that the State Board of Health may adopt rules to implement this act as amended. In July 2016, the Alabama Department of Public Health developed a proposed rule and form for portable DNAR Orders. The rule allows a physician to enter a Portable Do Not Attempt Resuscitate order that transfers from one facility to the next facility if issued using a properly completed and executed form found in Appendix II of the rule. This passed the usual process of adoption by the Committee of Public Health and became final on October 3, 2016.
6. Where can I find the Rule and the Form for a Physician's Portable DNAR Order?
 - Answer: Both are easily found on the web site of the Alabama Department of Public Health (adph.org) by entering "DNR" or "DNAR" in the search box at the top left side of the home page. In addition the rule and form are available by clicking on the heading of: Laws/Regulations found in the green banner at the top of the HOME page. The very first entry is the rule and form for the surrogate decision maker and the rule and form for Portable Physician DNAR Order. The rule and form can be found on the Palliative Care page of the ADPH web site as well.
7. Can an Alabama facility accept a complete, valid Alabama Portable Physician's DNAR form when signed by a physician licensed in another state?
 - Answer: **YES**. But it the responsibility of the accepting facility to verify the physician's licensure status and that all of the required information is completed and correct.
8. Who is authorized to be the one to sign section II of the DNAR form?
 - Answer: This section is to some extent complex and has two subdivisions. The signature which follows this section must be placed by someone who is authorized to attest:

First, that the: “**..patient/resident is not competent or is no longer able to understand, appreciate, and direct his/her medical treatment and has no hope of regaining that ability.**”

Secondly: “**A duly executed Advance Directive for Health Care with instructions that no life sustaining treatment be provided was previously authorized by the patient/resident and is part of his/her medical record.**”

It is not necessary that this section is signed by a physician. A person such as a licensed administrator, a social worker, PA or CRNP, a nurse or other facility representative who is authorized to review the medical record and attest to the documentation in the medical record could sign that these statements are true and correct.

In the setting of use of this form by a patient at home for whom a close family member is the only person available to sign the form, the proper certification would be for that family member to sign Section 4 and have his/her signature on a signed and notarized Surrogate Decision Maker Form attached or incorporated in the medical record.

9. Can a facility still use their traditional “DNR” order form and policy?
 - Answer: **YES** – however, such DNR orders do not transfer with any patient to another care site.

10. Is a POLST form from another state (or one that is downloaded from the internet) be substituted for the Portable DNAR form in Appendix 2?
 - Answer: **NO**

11. Can this form be used for a patient who is a minor, under the age of 19 years?
 - Answer: **NO**. The amendments in 2016 did not change the fundamental elements of the Alabama Natural Death Act.

12. Can a PA or CRNP sign a Portable Physician DNAR order?
 - Answer: **NO**

12. Can this form be used for a patient/resident who wants a “Full Code”?
 - Answer: **NO** – The rule and form are specifically written to allow a “No Code”, DNR, or DNAR order to be transferred from one facility to another.

13. Is the acceptance of a valid Portable Physician’s DNAR order mandatory?
 - Answer: This act does not specifically mandate the acceptance of a valid DNAR form as an order in the facility receiving a patient/resident from another facility. The rule does

require the sending facility to transmit the DNAR form and the receiving facility incorporate the DNAR form into the medical record. The statute does require that any facility or physician who objects to accepting a patient who has chosen to be a DNAR patient assist that person and family to find an acceptable alternate care location where the patient's wishes can be followed.

- In addition, the Natural Death Act and the federal Patient Self Determination Act (PL 101-508) have established a legal basis for the right of a patient/resident to direct his/her own health care including withholding or withdrawing life sustaining treatments. Suppose a patient/resident arrives with a valid Portable Physician DNAR form and experiences cardiopulmonary cessation immediately or very soon after arrival at the new location. And further that this person is subjected to CPR before an internal assessment and completion of the paperwork for a facility-specific DNR order can be written. There could be adverse legal action against the receiving facility based on the recent passage of these amendments and the knowledge of and receipt of a valid Portable Physician DNAR Order form.
- The acceptance of a valid Portable Physician DNAR Order form is not a part of any facility rule and will not be specifically investigated during the survey process. Nevertheless, failure by staff in any federally certified health care facility to document and follow the resident's wishes with respect to CPR in the event of cardiopulmonary cessation will be investigated and enforced exactly as is currently stipulated by CMS regulations.
- The Board of Medical Examiners has exclusive authority to adopt rules relating to **physicians** in implementing the act as amended. To date, there has been no action taken in this regard by the BME.

14. Can this form be used for a patient/resident who is not currently diagnosed as "terminal" or who is not currently in a state of permanent unconsciousness?

- Answer: **YES**. The wording of the act which amended the Natural Death Act implies that the special circumstance of cardiopulmonary cessation immediately produce both a terminal state and permanent unconsciousness unless resuscitative measures are promptly instituted. And the circumstances of sudden cardiopulmonary cessation prohibit the time required to engage a second physician to verify the disposition of the patient/resident who is involved.

15. Can this form be used to document and/or authorize the withholding or withdrawing of artificially provider hydration and nutrition?

Answer: **NO**. Further end of life decisions such as artificially provided nutrition and hydration and any specific interventions mentioned in an advance directive such as dialysis must be reviewed and documented as currently described and designated in the

Natural Death Act.

16. Will there be future changes to the Physician's Portable DNAR form?

- Answer: **YES**. At the very least the word "Time" will be added to the line for the physician's signature after "Date". Changes will be brought back to the Committee of Public Health for approval once all suggestions are received and reviewed by Department staff. Any suggestions for improvement of the form should be sent to LaKesha Hopkins at: lakesha.hopkins@adph.state.al.us.