

APA-1
6/93

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control 420 Departments or Agency Alabama Department of Public Health

Rule Number 420-5-19 -.02

Rule Title Portable Physician's Do Not Attempt Resuscitation Orders

XXX New Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NA

Are all facts of the rulemaking process designed solely for the purpose of and so they have as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of §41-22-23, Code of Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of Certifying Officer  Date 6/13/16

FORM APA2
11/96

STATE BOARD OF HEALTH
NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Department of Public Health

RULE NUMBER AND TITLE: 420-5-19-.02, Portable Physician Do Not Attempt Resuscitation Orders

INTENDED ACTION: To produce a new rule

SUBSTANCE OF PROPOSED ACTION: This new rule and Form provide a reliable method to execute the wishes of any person with respect to cardiopulmonary resuscitation in the event of cardiopulmonary cessation. When such an order is duly completed, this order will transfer with the person and must be accepted and implemented by any receiving facility.

TIME, PLACE, AND MANNER OF PRESENTING VIEWS: A public hearing will be held on July 13, 2016, at 9:30 a.m., 201 Monroe Street, Suite 1540, Montgomery, AL 36104.

FINAL DATE FOR COMMENTS AND COMPLETION OF NOTICE: Written or oral comments will be received until the close of the record at 5:00 p.m. on August 4, 2016. All comments and requests for copies of the proposed amendments should be addressed to the contact person listed below.

CONTACT PERSON AT AGENCY: Dennis Blair, Deputy Director, Bureau of Health Provider Standards, Department of Public Health, P.O. Box 303017, Montgomery, Alabama 36130-3017, Telephone number: (334) 206-5366.



P. Brian Hale, Agency Secretary

420-5-19-.02 Portable Physician Do Not Attempt Resuscitation Orders.

(1) Definitions.

(a) **Do Not Attempt Resuscitation (DNAR) Order.** A physician's order that resuscitative measures not be provided to a person under a physician's care in the event the person is found with cardiopulmonary cessation. A DNAR order would include, without limitation, physician orders written as "do not resuscitate," "do not allow resuscitation," "do not allow resuscitative measures," "DNAR," "DNR," "allow natural death," or "AND." A DNAR order must be entered with the consent of the person, if the person is competent; or in accordance with instructions in an advance directive if the person is not competent or is no longer able to understand, appreciate, and direct his or her medical treatment and has no hope of regaining that ability; or with the consent of a health care proxy or surrogate functioning under the provisions of Title 22, Chapter 8A, Code of Alabama 1975; or instructions by an attorney in fact under a durable power of attorney that duly grants powers to the attorney in fact to make those decisions described in Section 22-8A-4(b)(1), Code of Alabama 1975.

(b) **Portable Physician DNAR Order.** A DNAR order entered into the medical record by a physician using the required form designated by this rule and substantiated by completion of all applicable sections of the form.

(2) Physicians intending to enter a portable physician DNAR order shall utilize the form attached hereto as Appendix 2 which, when properly completed and executed, shall constitute the portable physician DNAR order as authorized by Act 2016-96. An electronic version of the form with same content may be utilized.

(3) Portable physician DNAR orders issued in accordance with this rule shall remain valid and in effect until revoked pursuant to Section 22-8A-5, Code of Alabama 1975, or by other recognized means. Qualified emergency medical services personnel and licensed health care practitioners in any facility, program, or organization including those operated, licensed, or owned by

another state agency are authorized to follow portable physician DNAR orders that are available, known to them, and executed in accordance with this rule.

(4) If a person with a portable physician DNAR order is transferred from one health care facility to another health care facility, the health care facility initiating the transfer shall communicate the existence of the order to the receiving facility prior to or during the transfer. The transferring facility shall assure that a copy of the order accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the order a part of the patient's permanent medical record.

(5) This rule does not prevent, prohibit, or limit a physician from issuing a facility-specific written order, other than a portable physician DNAR order, not to resuscitate a patient in accordance with accepted medical practices in the event of cardiopulmonary cessation. A facility-specific DNAR order is not a portable physician DNAR order and does not transfer with the patient to another health care facility.

(6) DNAR orders issued before the effective date of this rule shall remain valid as a facility-specific DNAR order.

Author: Walter T. Geary Jr., M.D.

Statutory Authority: Act 2016-96

History: New Rule; filed:

**Portable Physician Do Not Attempt Resuscitation Order
No CPR/ Allow Natural Death**

Patient/Resident Full Name (PRINT)

Patient/Resident Date of Birth: _____

Instructions. This order is valid only if Section I, II, III, OR IV is completed AND a physician has completed Section V.

Section I. Patient/Resident Consent.

I, the undersigned patient/resident, direct that resuscitative measures be withheld from me in the event of cardiopulmonary cessation. I have discussed this decision with my physician, and I understand the consequences of this decision.

Signature of Patient/Resident

Date

Section II. Incompetent Patient/Resident with DNAR instructions in Advance Directive.

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. A duly executed Advance Directive for Health Care with DNAR instructions was previously authorized by the patient/resident and is part of his/her medical record.

Signature of provider or facility representative.

Print name

Date

Section III. Health Care Proxy or Attorney-in-Fact Consent.

I, the undersigned, am the health care proxy or attorney-in-fact designated by the patient/resident to make decisions regarding the providing, withholding, or withdrawal of life-sustaining treatment for the patient/resident. I hereby direct that resuscitative measures be withheld from the patient/resident in the event of cardiopulmonary cessation. A copy of the proxy or attorney-in-fact designation (e.g., living will, power of attorney, etc.) has been made part of the patient/resident's medical record.

Signature of Proxy or Attorney-in-Fact

Print name

Date

Section IV. Surrogate Consent.

I, the undersigned, am the surrogate certified to make decisions, in consultation with the attending physician, regarding the providing, withholding, or withdrawal of life-sustaining treatment for the patient/resident. After consultation with the attending physician, I hereby direct that resuscitative measures be withheld from the patient/resident in the event of cardiopulmonary cessation. I believe that this decision conforms as closely as possible to what the patient/resident would have wanted. I make this decision in good faith and without consideration of the financial benefit or burden which may accrue to me or to the health care provider as a result of this decision. A copy of the Certification of Health Care Decision Surrogate has been made part of the patient/resident's medical record.

Signature of Surrogate

Print name

Date

Section V. Physician Authorization.

Based on the information above, I hereby direct any and all medical personnel, emergency responders, and paramedical personnel to withhold resuscitative measures, i.e., cardiopulmonary resuscitation, chest compression, endotracheal intubation and other advanced airway management, artificial ventilation, cardiac resuscitative medications, and cardiac defibrillation, in the event of cardiopulmonary cessation in the patient/resident.

I further direct the implementation of all reasonable comfort care such as oxygen, suction, control of bleeding, administration of pain medication by personnel so authorized, and other therapies to provide comfort and alleviate suffering by the patient/resident; and to provide support to the patient, family members, friends, and others present.

Signature of Physician

Print name

Date