Outside the Hospital Do-Not-Resuscitate Order

This Act defines an Outside the Hospital Do-Not-Resuscitate Order and requires a copy of such an order be included as the first page of a patient's medical record. A patient or patient's representative and the patient's attending physician may execute an Outside the Hospital Do-Not-Resuscitate Order. The state department of health and senior services must develop and approve uniform forms and personal identifiers. The identifiers must alert any emergency medical technician, paramedic, first responder, or other health care provider of the existence of the order for the patient.

The bill specifies that the Outside the Hospital Do-Not-Resuscitate Order will only be effective when the patient has not been admitted to or is not being treated within a hospital. These orders and protocols will not authorize the withholding or withdrawal of other medical interventions such as intravenous fluids, oxygen, or therapies other than cardiopulmonary resuscitation. An Outside the Hospital Do-Not-Resuscitate Order will not be in effect when a patient is pregnant or when believing in good faith that a patient is pregnant.

Emergency medical technicians, paramedics, first responders, and other health care providers are required to comply with an Outside the Hospital Do-Not-Resuscitate Order or identifier unless the patient or patient's representative expresses to the personnel in any manner, before or after the onset of a cardiac or respiratory arrest, the desire to be resuscitated. A physician or a health care facility other than a hospital that is unwilling or unable to comply with this order must take all reasonable steps to transfer the patient to another physician or facility where the order will be followed. The bill specifies the people and entities that are exempt from civil or criminal liability for withholding or withdrawing resuscitation pursuant to an order or identifier if the actions were performed in good faith and without gross negligence.

Anyone who knowingly conceals, cancels, defaces, or obliterates an order or identifier without the individual's consent or knowingly falsifies or forges a revocation will be guilty of a class A misdemeanor. Anyone who knowingly executes, falsifies, or forges an order without the individual's consent or knowingly conceals or withholds the knowledge of a revocation of an order will be guilty of a class D felony.

Submitted as:
Missouri
House Bill No. 182 (Truly Agreed and Finally Passed version)
Status: Enacted into law in 2007.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title*.] This Act shall be cited as the "The Outside the Hospital Do-Not-
2 Resuscitate Act."
3
4 Section 2. [*Definition*s.] As used in this Act:
5 (1) "Attending physician" means:
6 (a) a physician licensed under [insert citation], selected by or assigned to a patient
7 who has primary responsibility for treatment and care of the patient; or

(b) if more than one physician shares responsibility for the treatment and care of a patient, one such physician who has been designated the attending physician, by the patient, or the patient's representative, shall serve as the attending physician;

(2) "Cardiopulmonary resuscitation" or "CPR" means emergency medical treatment administered to a patient in the event of the patient's cardiac or respiratory arrest, and shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, defibrillation, administration of cardiac resuscitation medications, and related procedures;

(3) "Department" means the [department of health and senior services];

(4) "Emergency medical services personnel" means an aid or volunteer firefighters, law enforcement officers, first responders, emergency medical technicians, or other emergency service personnel acting within the ordinary course and scope of their professions, but excluding physicians;

(5) "Health care facility" means any institution, building, or agency or portion thereof, private or public, excluding federal facilities and hospitals, whether organized for profit or not, used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to people. Health care facility includes but is not limited to ambulatory surgical facilities, health maintenance organizations, home health agencies, hospices, infirmaries, renal dialysis centers, long-term care facilities licensed under [insert citation], medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, and residential treatment facilities;

(6) "Hospital" means a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not less than twenty-four consecutive hours in any week of three or more nonrelated people suffering from illness, disease, injury, deformity, or other abnormal physical conditions; or a place devoted primarily to provide for not less than twenty-four consecutive hours in any week medical or nursing care for three or more nonrelated people. Hospital does not include any long-term care facility licensed under [insert citation];

(7) "Outside the Hospital Do-Not-Resuscitate Identification" or "Outside the Hospital DNR Identification," means a standardized identification card, bracelet, or necklace of a single color, form, and design as described by rule of the [department] that signifies that the patient's attending physician has issued an Outside the Hospital Do-Not-Resuscitate Order for the patient and has documented the grounds for the order in the patient's medical file;

(8) "Outside the Hospital Do-Not-Resuscitate Order" or "Outside the Hospital DNR Order," means a written physician's order signed by the patient and the attending physician, or the patient's representative and the attending physician, in a form promulgated by rule of the [department] which authorizes emergency medical services personnel to withhold or withdraw cardiopulmonary resuscitation from the patient in the event of cardiac or respiratory arrest;

(9) "Outside the Hospital Do-Not-Resuscitate Protocol" or "Outside the Hospital DNR Protocol," means a standardized method or procedure promulgated by rule of the [department] for the withholding or withdrawal of cardiopulmonary resuscitation by emergency medical services personnel from a patient in the event of cardiac or respiratory arrest;

(10) "Patient," means a person [eighteen] years of age or older who is not incapacitated, as defined in [insert citation], and who is otherwise competent to give informed consent to an Outside the Hospital Do-Not-Resuscitate Order at the time such order is issued, and who, with his or her attending physician, has executed an Outside the Hospital Do-Not-Resuscitate Order as defined in this Act. A person who has a patient's representative shall also be a patient for the purposes of this Act if the person or the person's patient's representative has executed an Outside the Hospital Do-Not-Resuscitate Order under this Act;

(11) "Patient's representative" means:

(a) an attorney in fact designated in a Durable Power of Attorney for Health Care for a patient determined to be incapacitated under [insert citation]; or

(b) a guardian or limited guardian appointed under [insert citation] to have responsibility for an incapacitated patient.

Section 3. [*Executing an Outside the Hospital Do-Not-Resuscitate Order*.]

(A) A patient or patient's representative and the patient's attending physician may execute an Outside the Hospital Do-Not-Resuscitate Order. An Outside the Hospital Do-Not-Resuscitate Order shall not be effective unless it is executed by the patient or patient's representative and the patient's attending physician, and it is in the form promulgated by rule of the [department].

(B) If an Outside the Hospital Do-Not-Resuscitate Order has been executed, it shall be maintained as the first page of a patient's medical record in a health care facility unless otherwise specified in the health care facility's policies and procedures.

(C) An Outside the Hospital Do-Not-Resuscitate Order shall be transferred with the patient when the patient is transferred from one health care facility to another health care facility. If the patient is transferred outside of a hospital, the Outside the Hospital DNR form shall be provided to any other facility, person, or agency responsible for the medical care of the patient or to the patient or patient's representative.

Section 4. [*Liability for Acts or Omissions Related to Outside the Hospital Do-Not-Resuscitate Identification*.] The following people and entities shall not be subject to civil, criminal, or administrative liability and are not guilty of unprofessional conduct for the following acts or omissions that follow discovery of an Outside the Hospital Do-Not-Resuscitate Identification upon a patient; provided that the acts or omissions are done in good faith and in accordance with the provisions of this Act and the provisions of an Outside the Hospital Do-Not-Resuscitate Order executed under this Act:

(1) physicians, people under the direction or authorization of a physician, emergency medical services personnel, or health care facilities that cause or participate in the withholding or withdrawal of cardiopulmonary resuscitation from such patient; and

(2) physicians, people under the direction or authorization of a physician, emergency medical services personnel, or health care facilities that provide cardiopulmonary resuscitation to such patient under an oral or written request communicated to them by the patient or the patient's representative.

Section 5. [*Conditions for Operability*.]

(A) An Outside the Hospital Do-Not-Resuscitate Order shall only be effective when the patient has not been admitted to or is not being treated within a hospital. An Outside the Hospital Do-Not-Resuscitate Order and The Outside the Hospital Do-Not-Resuscitate Protocol shall not authorize the withholding or withdrawing of other medical interventions, such as intravenous fluids, oxygen, or therapies other than cardiopulmonary resuscitation.

(B) Outside the Hospital Do-Not-Resuscitate Orders and the Outside the Hospital Do-Not-Resuscitate Protocol shall not authorize the withholding or withdrawing of therapies deemed necessary to provide comfort care or alleviate pain. Any authorization for withholding or withdrawing interventions or therapies that is inconsistent with this Act and is found or included in any Outside the Hospital Do-Not-Resuscitate Order or in the Outside the Hospital Do-Not-Resuscitate Protocol shall be null, void, and of no effect. Nothing in this section shall prejudice any other lawful directives concerning such medical interventions and therapies.

104 (C) An Outside the Hospital Do-Not-Resuscitate Order shall not be effective during such
105 time as the patient is pregnant; provided, however, that physicians, people under the direction or
106 authorization of a physician, emergency medical services personnel, and health care facilities
107 shall not be subject to civil, criminal, or administrative liability and are not guilty of
108 unprofessional conduct if, while acting in accordance with the provisions of this Act and the
109 provisions of an Outside the Hospital Do-Not-Resuscitate Order executed under this Act, such
110 people and entities:
111 (1) comply with an Outside the Hospital Do-Not-Resuscitate Order and withdraw
112 or withhold cardiopulmonary resuscitation from a pregnant patient while believing in good faith
113 that the patient is not pregnant; or
114 (2) despite the presence of an Outside the Hospital Do-Not-Resuscitate Order,
115 provide cardiopulmonary resuscitation to a nonpregnant patient while believing in good faith that
116 the patient is pregnant.
117
118 Section 6. [*Compliance by Emergency Services Personnel*.]
119 (A) Emergency medical services personnel are authorized to comply with the Outside the
120 Hospital Do-Not-Resuscitate Protocol when presented with an Outside the Hospital Do-Not-
121 Resuscitate Identification or an Outside the Hospital Do-Not-Resuscitate Order. However,
122 emergency medical services personnel shall not comply with an Outside the Hospital Do-Not-
123 Resuscitate Order or the Outside the Hospital Do-Not-Resuscitate Protocol when the patient or
124 patient's representative expresses to such personnel in any manner, before or after the onset of a
125 cardiac or respiratory arrest, the desire to be resuscitated.
126 (B) If a physician or a health care facility other than a hospital admits or receives a
127 patient with an Outside the Hospital Do-Not-Resuscitate Identification or an Outside the Hospital
128 Do-Not-Resuscitate Order, and the patient or patient's representative has not expressed or does
129 not express to the physician or health care facility the desire to be resuscitated, and the physician
130 or health care facility is unwilling or unable to comply with the Outside the Hospital Do-Not-
131 Resuscitate Order, the physician or health care facility shall take all reasonable steps to transfer
132 the patient to another physician or health care facility where the Outside the Hospital Do-Not-
133 Resuscitate Order will be complied with.
134
135 Section 7. [*Suicide, Life Insurance and Health Care Services*.]
136 (A) A patient's death resulting from the withholding or withdrawal in good faith of
137 cardiopulmonary resuscitation under an Outside the Hospital Do-Not-Resuscitate Order is not,
138 for any purpose, a suicide or homicide.
139 (B) The possession of an Outside the Hospital Do-Not-Resuscitate Identification or
140 execution of an Outside the Hospital Do-Not-Resuscitate Order does not affect in any manner the
141 sale, procurement, or issuance of any policy of life insurance, nor does it modify the terms of an
142 existing policy of life insurance. Notwithstanding any term of a policy to the contrary, a policy of
143 life insurance is not legally impaired or invalidated in any manner by the withholding or
144 withdrawal of cardiopulmonary resuscitation from an insured patient possessing an Outside the
145 Hospital Do-Not-Resuscitate Identification or Outside the Hospital Do-Not-Resuscitate Order.
146 (C) A physician, health care facility, or other health care provider or a health care service
147 plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or
148 nonprofit hospital plan shall not require a patient to possess an Outside the Hospital Do-Not-
149 Resuscitate Identification or execute an Out Of Hospital Do-Not-Resuscitate Order as a
150 condition for being insured for or receiving health care services.

151 (D) This Act does not prejudice any right that a patient has to effect the obtaining,
152 withholding, or withdrawal of medical care in any lawful manner apart from the Act. In that
153 respect, the rights of patients authorized under this Act are cumulative.
154 (E) This Act shall not be construed to condone, authorize, or approve mercy killing or
155 euthanasia, or to permit any affirmative or deliberate act or omission to shorten or end life.
156
157 Section 8. [*Rules to Relating to Outside the Hospital Do-Not-Resuscitate Protocol, the*
158 *Outside the Hospital Do-Not-Resuscitate Identification, and the Outside the Hospital Do-Not-*
159 *Resuscitate Forms*.]
160 (A) By [insert date], the [department] shall promulgate rules relating to the Outside the
161 Hospital Do-Not-Resuscitate Protocol, the Outside the Hospital Do-Not-Resuscitate
162 Identification, and the Outside the Hospital Do-Not-Resuscitate Forms under this Act.
163 (B) Any rule or portion of a rule, as that term is defined in [insert citation] that is created
164 under the authority delegated in this section shall become effective only if it complies with and is
165 subject to all of the provisions of [insert citation], are nonseverable and if any of the powers
166 vested with the [General Assembly] pursuant to [insert citation], to review, to delay the effective
167 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of
168 rulemaking authority and any rule proposed or adopted after [date], shall be invalid and void.
169
170 Section 9. [*Penalties for Concealing, Destroying, Changing or Forging an Outside the*
171 *Hospital Do-Not-Resuscitate Order or Outside the Hospital Do-Not-Resuscitate Identification*.]
172 (A) Any person who knowingly conceals, cancels, defaces, or obliterates the Outside the
173 Hospital Do-Not-Resuscitate Order or the Outside the Hospital Do-Not-Resuscitate
174 Identification of another person without the consent of the other person, or who knowingly
175 falsifies or forges a revocation of the Outside the Hospital Do-Not-Resuscitate Order or the
176 Outside the Hospital Do-Not-Resuscitate Identification of another person, is guilty of a [class A
177 misdemeanor].
178 (B) Any person who knowingly executes, falsifies, or forges an Outside the Hospital Do-
179 Not-Resuscitate Order or an Outside the Hospital Do-Not-Resuscitate Identification of another
180 person without the consent of the other person, or who knowingly conceals or withholds personal
181 knowledge of a revocation of an Outside the Hospital Do-Not-Resuscitate Order or an Outside
182 the Hospital Do-Not-Resuscitate Identification of another person, is guilty of a [class D felony].
183
184 Section 10. [*Severability*.] [Insert severability clause.]
185
186 Section 11. [*Repealer.*] [Insert repealer clause.]
187
188 Section 12. [*Effective Date*.] [Insert effective date.]