



## **SAMPLE INPATIENT DNAR POLICY**

(A sample policy to comply with SB 11's basic requirements follows. If a facility has a policy or policies regarding an unwillingness or inability to comply with a request for, or consent to, a DNAR Order, such as an internal policy to suspend DNAR orders during surgery, a clear and precise statement must be included in this policy.)

*(Name of Facility)*

### **POLICY ON INPATIENT DO-NOT-ATTEMPT-RESUSCITATION ORDERS**

#### **Statement of Policy:**

It is the policy of *(Name of Facility)* (the "Facility") to comply with Texas laws and regulations regarding inpatient do-not-attempt-resuscitation orders issued after April 1, 2018. It is also the policy of this Facility to comply with laws and regulations regarding informed consent and the patient's right to accept or refuse medical treatment. Because of these requirements, and to honor the wishes of the patient, or patient's legal representative, regarding medical treatment and the provision, withdrawal or withholding of cardiopulmonary resuscitation, it is the policy of *(Name of Facility)* to provide information to all inpatients, on admission, of: (1) their right to accept or refuse medical treatment; (2) their right to make directives regarding treatment; and (3) the written policies of the facility respecting the implementation of such rights.

It is the policy of *(Name of Facility)* to document, in each inpatient's medical record or electronic medical record, whether or not the patient has executed an advance directive, medical power of attorney, or issued directions regarding the attempt of cardiopulmonary resuscitation after cessation of circulatory or respiratory functions (also known as a do not attempt resuscitation order ("DNAR")), regardless of whether those directions were issued orally or in writing.

It is the policy of *(Name of Facility)* to carry out inpatient DNAR orders in an inpatient setting. In accordance with applicable law and regulation, inpatient DNAR orders do not apply in outpatient settings, which includes the emergency department and hospice care. *(Name of Facility)* has a separate policy addressing the use of out-of-hospital DNR orders, which the Facility can provide upon request.

It is the policy of *(Name of Facility)* to make reasonable efforts to comply with non-written directives issued by a patient or their legal representative, in accordance with applicable laws, regulations and Facility policy.

It is the policy of *(Name of Facility)* to require witnesses for all oral directives regarding a DNAR order, in compliance with applicable laws, regulations and Facility policies.

It is the policy of *(Name of Facility)* to require an attending physician to issue or revoke a DNAR order; an attending physician is defined in regulations as "a physician selected by or assigned to a patient who has primary responsibility for a patient's treatment and care." An attending physician does not include a resident, fellow, physician



assistant, nurse practitioner or any other individual to whom a physician could delegate their duties herein.

It is the policy of *(Name of Facility)* to allow a patient, or legal representative, to revoke consent for a DNAR order, in accordance with applicable laws and regulations, subject to an attending physician's reasonable attempts to effect any revocation.

It is the policy of *(Name of Facility)* to treat all patients equally in the provision of care, regardless of whether the patient has executed an advance directive or medical power of attorney, or issued directions regarding a DNAR order.

It is the policy of *(Name of Facility)* to allow an inpatient's legal representative to consent, or revoke consent, to medical care and treatment for an adult inpatient regarding DNAR orders, in accordance with applicable laws and regulations.

It is the policy of *(Name of Facility)* to provide educational opportunities to its staff and the community on DNAR orders.

It is the policy of *(Name of Facility)* to provide appropriate notice and education to an inpatient, or their known legal guardian, agent under a medical power of attorney, qualified relatives, or other individuals, as permitted or required by law or regulation, and when applicable, of the issuance of, revocation of consent for, or treatment decisions related to, DNAR orders. As necessary, *(Name of Facility)* will provide information regarding the benefits and burdens of cardiopulmonary resuscitation.

It is the policy of *(Name of Facility)*, with regards for decision-making on behalf of minor, to include parent(s), managing conservator(s), court-appointed guardian(s), or any other persons(s) – as legally appropriate – under the definition of "Legal Guardian." However, this Facility will only recognize the legally appropriate Legal Guardian, in the event of conflicting claims.

It is the policy of *(Name of Facility)* to consider a DNAR order effective, until properly revoked. An order's effectiveness shall not be altered by a patient's discharge or readmission.

It is the policy of *(Name of Facility)* to provide appropriate dispute resolution processes and opportunities, in accordance with applicable law, regulation and Facility policies.

It is the policy of *(Name of Facility)* to limit the liability of attending physicians and providers to the extent permitted by law, regulation and Facility policies regarding actions taken in relation to DNAR orders.

It is the policy of *(Name of Facility)* to require actual knowledge by an attending physician or other provider of documents, requests, consent, directives, orders, individuals, agents, guardians, qualified family members, and other information relative to a DNAR order before it may be properly considered.



## **PROCEDURES**

### **Patient Rights Advocate, Social Worker or Nurse**

1. Upon a decision to admit or admission, the designated representative presents the inpatient with information regarding DNAR orders. If the patient is incapacitated at the time, the information may be presented to the patient's legal representative, but the designated representative may inform the patient when the patient is no longer incapacitated. If the patient is a minor, the information must be presented to the patient's Legal Guardian (which includes a parent or managing conservator). The representative instructs the patient to discuss decisions regarding DNAR orders with the attending physician. The representative informs the patient that a DNAR order is effective until revoked.

### **Patient**

1. If desired by the patient, the patient consents to the issuance of a DNAR order, either in writing or orally, and in compliance with applicable law and policy. The DNAR order must be issued and dated by an attending physician, and placed in the patient's medical record as soon as practicable. If the patient previously executed a directive which contains directions regarding the attempt of cardiopulmonary resuscitation after cessation or circulatory or respiratory functions, he or she provides an executed original, so a copy may be made, or a copy with original signature(s), for filing in the patient's medical record. If there are questions regarding the validity of a directive, consent, or request, these are presented to the director of nursing.

### **Medical Records Department**

1. If the patient asserts that a directive, consent to, or request for, a DNAR order was previously provided to the facility, the medical records department retrieves the document.

### **Nursing**

1. Charge nurse or nurse providing care to the patient places a copy of the DNAR order in front of the patient's medical record, or makes the appropriate notation in the patient's electronic record, and notifies appropriate personnel of the existence of the DNAR order. The medical record is clearly marked as containing a DNAR order.
2. As appropriate, charge nurse or nurse providing care to the patient gives notice of a DNAR order to the patient, the patient's legal representative, or the patient's qualified relative. Any attempt to provide this notice must be entered into the patient's medical record.
3. Nursing must promptly inform the attending physician when a patient, or the patient's legal representative, revokes, or expresses an intent to revoke, the underlying consent to a DNAR order.



4. The director of nursing receives questions regarding validity of DNAR orders, notifies the attending physician of questions, and notifies hospital counsel to resolve questions.
5. Nursing provides assistance in educating a patient, or the patient's legal representative or qualified relatives, of the benefits and burdens of cardiopulmonary resuscitation, after a dispute regarding a DNAR order.
6. Nursing provides assistance in attempting and arranging for the patient's transfer to another physician, an alternative care setting within the facility, or another facility, following an ethics committee review or failure to comply with a request related to a DNAR order.

#### **Attending Physician**

1. The attending physician must issue and date a DNAR order. The DNAR order must be entered into the patient's medical record as soon as practicable.
2. As appropriate, the attending physician provides notice of a DNAR order to the patient, the patient's legal representative, or the patient's qualified relative. Any attempt to provide this notice must be entered into the patient's medical record.
3. The attending physician must make reasonable efforts to revoke a DNAR order, after the attending physician receives actual notice that the underlying consent to a DNAR order has been, or is intended to be, revoked.
4. When there is a question of competency or capacity of the patient, the attending physician is notified to resolve the question.
5. When there is a question of the imminence of a patient's death, or the appropriateness of a DNAR order, the attending physician is notified to resolve the question.
6. If an attending physician refuses to honor a request related to a DNAR order, the physician must maintain life-sustaining treatment pending the patient's transfer to another physician, an alternative care setting within the facility, or another facility, and pending the ethics committee review.
7. The physician is responsible for the informed consent of the patient regarding DNAR orders, and for abiding by the Facility's policies. In issues of informed consent and refusals of consent, the physician generally must abide by the policies and procedures of the Facility regarding care and treatment of patients.
8. When there is a question regarding the medical appropriateness or futility of cardiopulmonary resuscitation, the attending physician must use appropriate medical judgment in resolving the dispute and must do so in good faith.



9. The attending physician may not delegate any of their duties herein to any person, including a physician assistant, nurse practitioner, resident, fellow, etc. A resident or fellow cannot be an attending physician for the purposes of effecting a DNAR Order.

## **DEFINITIONS**

### **Attending Physician**

A physician selected by or assigned to a patient who has primary responsibility for a patient's treatment or care. Does not include a resident or fellow.

### **Cardiopulmonary Resuscitation**

Any medical intervention used to restore circulatory or respiratory function that has ceased.

### **Competent**

Possessing the ability, based on reasonable medical judgment, to understand and appreciate the nature and consequences of a treatment decision, including the significant benefits and harms of and reasonable alternatives to a proposed treatment decision.

### **Direct Care**

First-person administration of medical treatment to a patient.

### **DNAR Order**

An order, issued in a hospital under Texas Health & Safety Code Ch. 166, subchapter E, instructing a health care professional not to attempt cardiopulmonary resuscitation on a patient whose circulatory or respiratory function ceases. Also known as a DNAR or do-not-attempt-resuscitation order.

Does not include an out-of-hospital DNAR order.

### **Incompetent**

Lacking the ability, based on reasonable medical judgment, to understand and appreciate the nature and consequences of a treatment decision, including the significant benefits and harms of and reasonable alternatives to a proposed treatment decision.

### **Inpatient**

With regards to a DNAR Order, inpatient means an individual that has been admitted to the Facility for an intended length of stay of 24 hours or greater. Inpatient does not include



outpatient settings, such as: hospice, outpatient settings, observation or the emergency department.

**Legal Guardian**

With regards to decision-making on behalf of a minor, includes the minor's parent(s), managing conservator(s), legal guardian(s) for healthcare decision-making purposes, or court-appointed guardian, as appropriate. Only the legally proper person(s) shall be considered a Legal Guardian, in the event of conflicting claims.

**Outpatient**

An individual who presents for diagnostic or treatment services for an intended length of stay of less than 24 hours; provided, however, that an individual who requires continued observation may be considered as an outpatient for a period of time not to exceed a total of 48 hours.

**Qualified Relative(s)**

A patient's spouse, reasonably available adult children or parents.

**Reasonable Effort**

Appropriate attempts to carry out a directive, request, order, consent to, duty to notify or other requirement, considering all the circumstances at the time.

Example: a bedside nurse receives an oral revocation of consent for a DNAR Order – the patient codes within minutes of the revocation and the nurse is unable to contact the Attending physician in that time, but did attempt to do so before the code. If the nurse's attempts were appropriate given the nurse's duties and availability of the Attending physician, then the nurse made reasonable efforts with regards to the revocation.

## **PATIENT CONSENT FOR INPATIENT DO-NOT-ATTEMPT-RESUSCITATION (“DNAR”) ORDER**

It is the policy of *(Name of Facility)*, in compliance with Texas laws and regulations regarding inpatient do-not-attempt-resuscitation orders issued after April 1, 2018, to require each patient to consent to a DNAR order in writing by reviewing and completing the following:

### **INSTRUCTIONS FOR COMPLETING THIS DOCUMENT:**

This is an important legal document, known as a consent to an inpatient do-not-attempt-resuscitation (“DNAR”) order. It is designed to help communicate your wishes about CPR in the event your circulatory or respiratory functions stop. These wishes usually are based on your personal values, and you may want to consider what burdens or hardships of any treatment you are willing to accept, in exchange for any benefit obtained from that treatment.

You are encouraged to discuss your values and wishes with your family or chosen spokesperson, as well as your physician. Your physician, other health care provider, or medical facility may provide you with resources to assist your decision-making.

Brief definitions are included below and may aid in your discussions and decision-making. Place your initials next to the treatment choices which best reflect your personal preferences. Provide a copy of the completed document to your physician, hospital, and family or spokesperson.

Texas law provides for other documents setting forth your wishes for treatment during a serious illness, including a living will, power of attorney, out-of-hospital do-not-resuscitate-order, or advance directive. You may wish to discuss these documents with your physician, family, hospital representative, or other advisers. You also may wish to complete a directive related to the donation of organs or tissue.

### **CONSENT AND ACKNOWLEDGEMENT**

1. I, \_\_\_\_\_ (insert your name), recognize that the best health care is based upon a partnership of trust and communication with my physician. My physician and I will make health care decisions together as long as I am able to make my wishes known.

If there comes a time where my circulatory or respiratory functions cease, I direct that the following treatment preferences be honored:

\_\_\_\_\_ I request that my physician or other health care provider withhold any attempt at cardiopulmonary resuscitation (“CPR”). By making this selection, I understand that CPR includes any medical intervention used to restore circulatory or respiratory function that has ceased.

\_\_\_\_\_ I request that my physician or other health care provider make all medically appropriate attempts at providing CPR.

2. I understand that:

- a. this consent to a DNAR Order only applies in an inpatient setting (after admission to the hospital), in compliance with this Facility’s policies;

- b. this consent may not apply in outpatient settings, and that I may consent to a separate DNAR Order for outpatient settings, including the emergency department of the Facility;
- c. I may make an oral consent to a DNAR Order, but may have to meet additional requirements for the oral consent to take effect;
- d. if I am executing this consent for a minor, I am subject to applicable law and this Facility's policies regarding Legal Guardians;
- e. at any time, I may revoke the consent for a DNAR Order, either in writing or orally, but certain requirements must be met before a revocation takes effect;
- f. this consent will remain effective until I properly revoke, even if I am discharged and readmitted to this Facility;
- g. any consent related to a DNAR Order must be properly documented in my medical record, which may delay the effect of my consent;
- h. I may ask my attending physician for additional information or for this Facility's policies regarding documentation related to DNAR Orders;
- i. any consent regarding a DNAR Order must meet requirements set forth in law, regulation or this Facility's policies, such as properly notifying an attending physician or meeting applicable witness requirements for written and oral consent;
- j. my attending physician may not delegate their duties to any other person, including a nurse practitioner, physician assistant or other provider;
- k. a resident or fellow is not an attending physician;
- l. my attending physician may need to make decisions regarding a DNAR Order – and that my treatment team may not be able to immediately contact the attending physician, which may cause delays in relaying necessary information or affecting decisions;
- m. this Facility may be required to notify certain individuals of the existence of a DNAR Order, as set forth in law or in this Facility's policies – and said individual(s) may have the ability to consent or revoke consent for a DNAR Order under certain circumstances;
- n. my attending physician and treatment team will make reasonable efforts to provide notice of a DNAR Order, and to affect any consent regarding a DNAR Order;
- o. the use of reasonable efforts does not guarantee that all notices will be provided or that all requests will be carried out;



- p. any dispute regarding a DNAR Order or my treatment may be subject to dispute resolution processes, and I have the right to request additional information regarding this Facility's dispute resolution processes;
  - q. I have a duty to disclose any prior written or oral directives, orders, consent, documents, or requests to my attending physician, as a prior directive may supersede my later decisions;
  - r. I have a duty to disclose any legal guardian or agent under a medical power of attorney to my attending physician, as my legal guardian or agent could direct my medical care and treatment;
  - s. my attending physician or this Facility may not wish to execute or comply with my instructions regarding a DNAR Order or the provision of CPR, at which time I (or my agent, legal guardian, or qualified family member) will be informed of this and provided with information regarding the benefits and burdens of CPR;
  - t. in the event any disagreement over instructions regarding the provision of CPR cannot be resolved, reasonable attempts may be taken to transfer my care to another physician or facility; and,
  - u. my attending physician and treatment team must have *actual knowledge* of all relevant documents, requests, consent, directives, orders, individuals, agents, guardians, qualified family members, or other information relative to this DNAR Order consent before it may be properly considered and affected.
3. I understand that no party may be completely absolved of all liability regarding the provision of medical treatment. However, I hereby waive any claim against my Attending physician or treatment team in excess of those available under applicable law, with the understanding that my attending physician and treatment team will make reasonable, good faith efforts to comply with my directions for treatment and care.

This directive supersedes any prior directive related to the issuance of CPR, and will remain in effect until properly revoked.

Patient / Representative Signature: \_\_\_\_\_ Date: \_\_\_\_\_

City, County, and State: \_\_\_\_\_

Facility Name / Location: \_\_\_\_\_

Two competent adult witnesses may sign below, acknowledging the declarant's (patient's) wishes. **If the declarant expressed their wishes orally, these witness signatures are required.** One witness may not be (1) an employee of the declarant's attending physician, or (2) an employee of the Facility in which the declarant is a patient, if the employee is providing direct care to the declarant, or is an officer, director, partner, or business office employee of the Facility or of any parent organization of the Facility.

Witness 1: \_\_\_\_\_ Witness 2: \_\_\_\_\_

**DEFINITIONS:**

- **“Attending physician”** means a physician selected by or assigned to a patient who has primary responsibility for a patient’s treatment or care. Does not include any other provider, including a resident, fellow, nurse practitioner, physician assistance, etc.
- **“Competent”** means possessing the ability, based on reasonable medical judgment, to understand and appreciate the nature and consequences of a treatment decision, including the significant benefits and harms of and reasonable alternatives to a proposed treatment decision.
- **“Direct Care”** means first-person administration of medical treatment to a patient;
- **“DNAR Order”** means a do-not-attempt-resuscitation order instructing a health care professional not to attempt cardiopulmonary resuscitation on a patient whose circulatory or respiratory function ceases (also known as a DNAR or do-not-resuscitate order), and does not include an out-of-hospital DNR order;
- **“Legal Guardian”** means, with regards to decision-making on behalf of a minor, the minor’s parent(s), managing conservator(s), legal guardian(s) for healthcare decision-making purposes, or court-appointed guardian, as appropriate. Only the legally proper person(s) shall be considered a Legal Guardian, in the event of conflicting claims;
- **“Inpatient”** means, with regards to a DNAR Order, admittance to the Facility, in compliance with applicable law and Facility policies, but does not include outpatient settings such as: hospice or the emergency department;
- **“Qualified Relative(s)”** means a patient’s spouse, reasonably available adult children, or parents; and
- **“Reasonable Effort”** means appropriate attempts to carry out a directive, consent, request, order, duty to notify, or other requirement, considering all the circumstances at the time and this Facility’s policies.

I certify that the patient has made the above consent regarding the provision of CPR. I understand that I may be contacted for additional clarification.

Name of Attending physician (MD): \_\_\_\_\_

Signature: \_\_\_\_\_

*Signature stamps are not acceptable*

FOR OFFICE USE ONLY

Received on the following date: \_\_\_\_\_

Entered into the medical record on the following date: \_\_\_\_\_

**Notification:**

Party notified: \_\_\_\_\_

Date notified: \_\_\_\_\_