

TITLE: INPATIENT DO-NOT-RESUSCITATE ORDERS

PURPOSE: To outline the requirements regarding Inpatient Do-Not-Resuscitate Orders.

POLICY STATEMENT:

Physicians may not place an Inpatient Do-Not-Resuscitate (DNR) Order on any Harris Health hospitalized patient without meeting the requirements set forth in this policy.

POLICY ELABORATIONS:

I. DEFINITIONS:

A. **ADVANCE DIRECTIVE:** An appropriately witnessed document or statement that expresses a patient's wishes with regard to care when he or she is no longer able to communicate with care providers. The Texas Advance Directives Act recognizes the following three distinct types of Advance Directives:

1. **DIRECTIVE TO PHYSICIANS (DIRECTIVE):** An instruction to administer, withhold, or withdraw life sustaining treatment in the event of a terminal or irreversible condition.
2. **MEDICAL POWER OF ATTORNEY:** A document that designates an adult as an agent to make health care decisions for a patient in the event the patient is physically or mentally unable to communicate. In general, subject to limitations contained in the document and the statute, the agent is authorized to make any health care decision on the patient's behalf that the patient could have made, if competent. An agent under a Medical Power of Attorney may not consent to:
 - a. Voluntary inpatient mental health services;
 - b. Convulsive treatment;
 - c. Psychosurgery;
 - d. Abortion; or
 - e. Neglect of the patient through omission of care primarily intended to provide for the comfort of the patient.
3. **OUT-OF-HOSPITAL DO NOT RESUSCITATE (OUT-OF-HOSPITAL DNR):** A document in the form specified by the State, prepared, and

signed by the attending physician of a patient that documents the instructions of the patient or the patient's legally authorized representative and directs health care professionals acting in an out-of-hospital setting not to initiate or continue the following life sustaining treatment:

- a. Cardiopulmonary resuscitation;
 - b. Advanced airway management;
 - c. Artificial ventilation;
 - d. Defibrillation;
 - e. Transcutaneous cardiac pacing; and
 - f. Other life sustaining treatment specified by the State.
- B. **ADULT:** A person eighteen (18) years of age or older or a person under eighteen (18) years of age who has had the disabilities of minority removed.
- C. **AGENT:** An adult to whom authority to make health care decisions has been delegated under a Medical Power of Attorney.
- D. **ATTENDING PHYSICIAN:** A physician holding a faculty appointment at the University of Texas Health Science Center at Houston, and/or Baylor College of Medicine and approved by the credentialing mechanisms of Harris Health. Medical school faculty appointment is not required for physicians employed by Harris Health or Contract Providers. Please see Harris Health's Medical Staff Bylaws for the definition of "Contract Providers."
- E. **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.
- F. **HEALTH CARE PROFESSIONAL:** Means a physician, physician assistant, nurse, and emergency medical personnel and, unless the context require otherwise, includes hospital emergency personnel.¹
- G. **INCAPACITATED OR INCOMPETENT:** Lacking the ability, based on reasonable medical judgment, to understand and appreciate the nature and consequences of

¹ §166.081

a treatment decision, including the significant benefits and harms of and reasonable alternatives to a proposed treatment decision.

- H. **INPATIENT DO NOT RESUSCITATE ORDER (INPATIENT DNR ORDER):** An order instructing a Health Care Professional not to attempt cardiopulmonary resuscitation on a patient whose circulatory or respiratory functions cease and who has been hospitalized (i.e. admitted to Harris Health as an inpatient or for observation status) in a Harris Health facility.
- I. **IRREVERSIBLE CONDITION:** A condition, injury, or illness that:
1. May be treated but is never cured or eliminated;
 2. Leaves a person unable to care for or make decisions for his or her own self; and
 3. Without life sustaining treatment provided in accordance with the prevailing standard of medical care, is fatal.
- J. **LEGALLY AUTHORIZED REPRESENTATIVE (LAR):** A person authorized by law to act on behalf of a patient with regard to a matter described in this policy, and who may include a parent, guardian, or managing conservator of a minor patient; guardian of the person of an adult patient; or a person with activated power of attorney for health care decisions.
- K. **LIFE SUSTAINING TREATMENT:** Treatment that, based on reasonable medical judgment, sustains the life of a patient and without which the patient will die. The term includes both life sustaining medications and artificial life support such as mechanical breathing machines, kidney dialysis treatment, and artificially administered nutrition and hydration. The term does not include the administration of pain management medication or the performance of a medical procedure considered necessary to provide comfort care or any other medical care provided to alleviate a patient's pain.
- L. **QUALIFIED PATIENT:** A patient with a terminal or Irreversible condition that has been diagnosed and certified in writing by the Attending Physician.

- M. **SURROGATE DECISION-MAKER:** An individual with decision-making capacity who is identified as the person who has authority to consent to medical treatment on behalf of an Incapacitated patient in need of medical treatment. (Surrogate Decision-Makers do not have authority to consent to or withhold life-sustaining treatment.).

II. REQUIREMENTS FOR INPATIENT DNR ORDERS:

- A. Inpatient DNR Orders Issued or Executed by or at the Direction of the Patient or the Patient's LAR:

An Inpatient DNR Order issued or executed by or at the direction of the patient or the patient's LAR is valid only if the following requirements are met:²

1. The Inpatient DNR Order is issued by the patient's Attending Physician;
2. The Inpatient DNR Order is dated; **and**
3. The Inpatient DNR Order is made in compliance with and pursuant to:³
 - a. A Competent patient's, or patient's LAR's, written and dated directions. Patients must complete Harris Health's System Form Patient Consent for Inpatient Do-Not-Resuscitate ("DNR") Order (See Attachment A), to express his or her directions regarding resuscitation.⁴
 - b. A Competent patient's, or patient's LAR's, oral directions regarding resuscitation that is documented in the patient's electronic medical record by the Attending Physician and that is witnessed by two (2) Competent Adult Witnesses.⁵
 - i. Witness Requirements:⁶
 - 1) Each witness must be an Adult and be Competent;
 - 2) Only one (1) witness may be:
 - a) An employee of the Attending Physician;

² §166.203(a)

³ §166.203(a)(1)

⁴ §166.203(a)(1)(A)

⁵ §166.203(a)(1)(B)

⁶ §166.203(a)(1)(B) & §166.003(2)(E) & (F)

- b) An employee of Harris Health if the employee is providing direct patient care to the patient; or
- c) An administrator, officer, manager, or business office employee of Harris Health.

Note: For purposes of this section only, a witness may include:

- i) A person designated by the patient to make a health care or treatment decision for the patient;
 - ii) A person related to the patient by blood or marriage;
 - iii) A person entitled to any part of the patient's estate after the patient's death under a will or codicil executed by the patient or by operation of law; or
 - iv) A person who, at the time the patient issues the oral directions regarding resuscitation, has a claim against any part of the patient's estate after the patient's death.
- c. A written Directive directing a Competent Adult patient's Attending Physician to administer, withhold, or withdraw Life Sustaining Treatment in accordance with the requirements for a written Directive to Physicians as set forth in Harris Health policy and procedure 4128, Advance Directives.⁷
- d. A non-written Directive directing a Competent Adult Qualified Patient's Attending Physician to administer, withhold, or withdraw Life Sustaining Treatment in accordance with the requirements for a non-written Directive to Physicians as set forth in Harris Health policy and procedure 4128, Advance Directives.⁸

⁷ §166.203(a)(1)(C) & §166.032

⁸ §166.203(a)(1)(C) & §166.034

- e. A written or non-written Directive that is made on behalf of a Qualified Patient who is younger than eighteen (18) years of age and who has a terminal or Irreversible Condition directing the patient's Attending Physician to administer, withhold, or withdraw Life Sustaining Treatment in accordance with the requirements set forth in Harris Health policy and procedure 4128, Advance Directives.⁹
- f. An instrument that is validly executed in another state or jurisdiction that:¹⁰
 - i. Directs a patient's Attending Physician to not attempt cardiopulmonary resuscitation when a patient's circulatory or respiratory function has ceased when the patient is hospitalized in a Harris Health facility; and
 - ii. Does not violate the laws of Texas with regards to the administration, withholding, or withdrawing of Life Sustaining Treatment.

Note: Life Sustaining Treatment and cardiopulmonary resuscitation may not be withheld or withdrawn from a pregnant patient even if a pregnant patient provides for Life Sustaining Treatment to be withheld or withdrawn in an instrument that is validly executed in another state or jurisdiction.
- g. The directions given by a patient's legal guardian or Agent under a Medical Power of Attorney that is executed in accordance with the requirements set forth in Harris Health policy and procedure 4128, Advance Directives.¹¹
- h. A treatment decision made by an Attending Physician and the legal guardian or Agent under a Medical Power of Attorney of an Adult Qualified Patient when the Adult Qualified Patient has not executed or issued a Directive to administer, withhold, or withdraw Life Sustaining Treatment and is Incompetent or otherwise mentally or physically incapable of communication.¹²

⁹ §166.203(a)(1)(C) & §166.035

¹⁰ §166.203(a)(1)(C) & §166.005

¹¹ §166.203(a)(1)(D)

- i. If the patient does not have a legal guardian or an Agent under a Medical Power of Attorney, then the Attending Physician and one of the following individuals from the below list and in the following order of priority may make the decision to issue the DNR Order:
 - 1) The patient's spouse;
 - 2) The patient's reasonably available Adult children;
 - 3) The patient's parents; or
 - 4) The patient's nearest living relative (e.g., sibling).
- ii. If the patient does not have a legal guardian and a person listed immediately above is not available, another physician who is not involved in the treatment of the patient and who is a representative of the Pavilion Ethics Advisory Committee in which the person is a patient must concur with the Inpatient DNR Order.
- iii. A decision to issue an Inpatient DNR Order under this section must be based on knowledge of what the patient would desire, if known.

B. Inpatient DNR Orders Issued or Executed by the Patient's Attending Physician:

An Inpatient DNR Order issued or executed by the patient's Attending Physician is valid only if the following requirements are met:

1. The Inpatient DNR Order is issued by the patient's Attending Physician;
2. The Inpatient DNR Order is dated;
3. The Inpatient DNR Order is not contrary to the directions of the patient who was competent at the time the patient conveyed the directions to his or her Attending Physician and in the reasonable medical judgment of the patient's Attending Physician: (1) the patient's death is imminent, regardless of the provisions of cardiopulmonary resuscitation; and (2) the Inpatient DNR Order is medically appropriate.¹²

- a. Notice Requirements Prior to Placing an Inpatient DNR Order in a Patient's Medical Record:¹²
 - i. Prior to an Inpatient DNR Order issued under these circumstances taking effect and being placed in a patient's medical record, the Attending Physician must:
 - 1) Inform the patient that the Inpatient DNR Order has been issued; or
 - 2) If the patient is Incompetent, make a reasonably diligent effort to contact and inform the below listed individuals of the Inpatient DNR Order:
 - a) The patient's known Agent under a Medical Power of Attorney or legal guardian; or
 - b) If the patient does not have a known Agent under a Medical Power of Attorney or legal guardian, the following individuals in the following order of priority:
 - i) The patient's spouse;
 - ii) The patient's reasonably available Adult children; or
 - iii) The patient's parents.
 - ii. The Attending Physician must contemporaneously document his or her effort to notify the above listed individuals of the Inpatient DNR Order in the patient's medical record.
- b. Notice Requirements After Placing an Inpatient DNR Order in a Patient's Medical Record:¹³
 - i. If an Inpatient DNR Order described above has been issued for a patient and if an individual arrives at a Harris Health

¹² §166.203(c)

¹³ §166.204

facility for the patient and notifies Harris Health of his or her presence, then the patient's Attending Physician must notify the individual of the patient's Inpatient DNR Order if:

- 1) The individual is the patient's Agent under a Medical Power of Attorney or is the patient's legal guardian; or
 - 2) The individual is one of the below listed persons in the below listed order of priority. However, the below listed persons must be notified of the Inpatient DNR Order only if the patient **does not have** a known Agent under a Medical Power of Attorney **or** a legal guardian:
 - a) The patient's spouse;
 - b) The patient's reasonably available Adult children; or
 - c) The patient's parents.
- ii. The Attending Physician must contemporaneously document his or her efforts to notify the above listed individuals of the Inpatient DNR Order in the patient's medical record.

- C. An above described Inpatient DNR Order is effective at the time it is issued, but the order must be placed in the patient's electronic medical record as soon as practicable.¹⁴
- D. Conflicting Advance Directives:¹⁵

To the extent an Inpatient DNR Order described in Sections II.A.3.a – h of this policy conflicts with a (1) treatment decision; (2) another validly executed and/or issued Advance Directive; or (3) another Inpatient DNR Order dated and validly executed, the treatment decision or Advanced Directive issued later in time controls.

¹⁴ §166.203(b)

¹⁵ §166.203(d)

III. REVOCATION OF INPATIENT DNR ORDER:

A. Revocation by Patient or Patient's Agent under a Medical Power of Attorney or Legal Guardian:

1. The Attending Physician of a patient for whom an Inpatient DNR Order has been executed in accordance with Section II above, will cancel the Inpatient DNR Order if: (1) the patient; or (2) if the patient is Incompetent, the patient's Agent under a Medical Power of Attorney or the patient's legal guardian revokes the Inpatient DNR Order.¹⁶

Note: A person providing direct care to the patient under the supervision of an Attending Physician shall notify the Attending Physician of the patient's request to revoke an Inpatient DNR Order.¹⁷

Note: A non-LAR Surrogate Decision-Maker for a patient is **not** authorized to revoke a patient's Inpatient's DNR Order. Only a patient's agent under a Medical Power of Attorney or a patient's legal guardian may revoke a patient's Inpatient DNR Order if the patient is Incompetent.

2. Methods of Revocation:

An Inpatient DNR Order as described in Section II above may be revoked at any time without regard to the patient's mental state or Competency by the following methods:

- i. The patient or someone in the patient's presence and at the patient's direction canceling, defacing, obliterating, burning, tearing, or otherwise destroying the Inpatient DNR Order or document containing the Inpatient DNR Order (e.g., Medical Power of Attorney, Directive, etc.);¹⁸
- ii. The patient signing and dating a written revocation that expresses the patient's intent to revoke the Inpatient DNR Order or other document containing the DNR Order;¹⁹

¹⁶ §166.205(a)

¹⁷ §166.205(b)

¹⁸ §166.205(a)(1) & §166.042

- iii. The patient orally stating his or her intent to revoke the Inpatient DNR Order or other document containing the Inpatient DNR Order;¹⁹ or
- iv. The patient expresses to any person providing care to the patient a revocation of his or her consent to an Inpatient DNR Order or his or her intent to revoke an Inpatient DNR Order or other document containing an Inpatient DNR Order.²⁰

B. Revocation by the Attending Physician:

- 1. A patient's Attending Physician may revoke an Inpatient DNR Order issued pursuant to Section II(B) at any time.²¹
- 2. If an Attending Physician revokes an Inpatient DNR Order issued pursuant to Section II(B), then the Attending Physician must document his or her decision to revoke the Inpatient DNR Order in the patient's electronic medical record.

IV. COMMUNICATION RESOLUTION:

- A. If the patient's Attending Physician refuses to honor or execute an Inpatient DNR Order, the Attending Physician must inform the: (1) patient; (2) the legal guardian or qualified relatives (the patient's spouse, the patient's reasonably available Adult children, or the patient's parents) of the patient; or (3) the Agent of a patient under a Medical Power of Attorney of the benefits and burdens of cardiopulmonary resuscitation.²²
- B. If, after being informed of the benefits and burdens of cardiopulmonary resuscitation, the Attending Physician, health care facility, or hospital and the patient or another person authorized to act on behalf of the patient still remain in disagreement, the Attending Physician, health care facility, or hospital will make a reasonable effort to transfer the patient to another physician, health care facility, or hospital willing to execute an Inpatient DNR Order or comply with the terms of the patient's Inpatient DNR Order.²³

¹⁹ §166.205(a)(1) & §166.042

²⁰ §166.205(b)

²¹ §166.205(c)

²² §166.206(a)

²³ §166.206(b)

Note: Unlike the resolution of disagreements regarding a patient’s Advance Directive, the statute governing Inpatient DNR Orders **does not** provide an avenue for any Harris Health’s Ethics Advisory Committee to make a determination concerning an Inpatient DNR Order, health care, or treatment decision when a disagreement exists between the patient’s Attending Physician, health care facility, or hospital and the patient or another person authorized to act on behalf of the patient.

REFERENCES/BIBLIOGRAPHY:

TEX. HEALTH & SAFETY CODE ANN. §§166, et seq.

Harris Health System Policy and Procedures 4182 Advance Directives

Harris Health Policy and Procedures 7.07 End of Life Care Decisions

OFFICE OF PRIMARY RESPONSIBILITY:

Harris Health System Office of Corporate Compliance


REVIEW/REVISION HISTORY:

Effective Date	Version # (If Applicable)	Review/ Revision Date (Indicate Reviewed or Revised)	Approved by:
04/10/2018	1.0 Original	Approved. 04/10/2018 (Expedited Approval)	Structure and Organizational Standards Committee
		Approved. 04/10/2018 (Expedited Approval)	Interdisciplinary Clinical Committee
		Repost 7/30/2018 Attachment Updated	

ATTACHMENT A INPATIENT DO NOT RESUSCITATE ORDER

To obtain a copy of this form see the Harris Health System Document Control Center

[https://apps.hchd.local/sites/dcc/fr/Forms%20Repository/284362%20-%20Inpatient%20DNR%20Order%20Form%20\(English\).pdf#search=DNR](https://apps.hchd.local/sites/dcc/fr/Forms%20Repository/284362%20-%20Inpatient%20DNR%20Order%20Form%20(English).pdf#search=DNR)



INPATIENT DO-NOT-RESUSCITATE ORDER

INSTRUCTIONS:

This is an important legal document, known as an Inpatient Do-Not-Resuscitate Order ("Inpatient DNR Order"). It is designed to help communicate your wishes about cardiopulmonary resuscitation (CPR) in the event your circulatory or respiratory functions stop while you are an inpatient. These wishes are usually 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 Harris Health System may provide you with resources to assist you in your decision-making. Texas law also 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 other advance directive. You may want to discuss these documents with your physician, family, hospital representative, or other advisers. Brief definitions are included below to help aid your decision-making.


DEFINITIONS:

- "Adult" means a person eighteen (18) years of age or older or a person under eighteen (18) years of age who has had the disabilities of minority removed.
- "Attending Physician" means a physician selected by the patient or assigned to the patient who has primary responsibility for the patient's treatment and care.
- "Inpatient Do-Not-Resuscitate Order" means an order instructing a health care professional not to attempt cardiopulmonary resuscitation (CPR) on a patient whose circulatory or respiratory functions cease and who has been admitted as an inpatient to a hospital.
- "Legally Authorized Representative" means a person authorized by law to act on behalf of the patient with regard to a matter described below and who may include a parent, guardian, managing conservator of a minor patient, guardian of the person of an adult patient, or a person with an activated power of attorney for health care decisions.
- "Life Sustaining Treatment" means treatment that, based on reasonable medical judgment, sustains the life of the patient and without which the patient will die. The term includes both life-sustaining medications and artificial life support such as mechanical breathing machines, kidney dialysis treatment, and artificially administered nutrition and hydration. The term does not include the administration of pain management medication or the performance of a medical procedure considered necessary to provide comfort care or any other medical care provided to alleviate a patient's pain.

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ATTACHMENT A CONT' PAGE 2



INPATIENT DO-NOT-RESUSCITATE ORDER

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.

I understand that:

1. This Inpatient DNR Order applies only in an inpatient setting (after admission to a hospital), in compliance with Harris Health System policies.
2. This Inpatient DNR Order may not apply in outpatient settings and that I may execute a separate DNR Order for outpatient settings, including the emergency department of Harris Health System.
3. I may revoke this Inpatient DNR Order at any time, either in writing, orally, or by physically destroying (e.g., burning, tearing, defacing, etc.) the document.
4. I may ask my Attending Physician for additional information regarding Inpatient DNR Orders or I may ask for Harris Health System's policies regarding Inpatient DNR Orders.
5. Harris Health System may be required by law to notify certain individuals of the existence of my Inpatient DNR Order and these individuals may be able to consent to or revoke my Inpatient DNR Order under certain circumstances.
6. I have a duty to disclose the existence of any prior written or oral directive, order, document, or request regarding the administration, withholding, or withdrawing of CPR or life sustaining measures to my Attending Physician because this Inpatient DNR Order may replace that directive, order, document or request.
7. I have a duty to disclose if I have a legal guardian, agent under a Medical Power of Attorney, or other Legally Authorized Representative to my Attending Physician.
8. My Attending Physician or Harris Health System may wish to revoke or instruct regarding this Inpatient DNR Order or the provision of CPR, at which time I (or my agent under a Medical Power of Attorney, legal guardian, or my spouse, adult children, parent(s) or other qualified legally authorized representative) will be informed of this decision and provided with information regarding the benefits and burdens of CPR.
9. In the event a disagreement over this Inpatient DNR Order or my instructions regarding the provision of CPR between me (or my agent under a Medical Power of Attorney, legal guardian, or other qualified Legally Authorized Representative) and my Attending Physician or Harris Health System cannot be resolved, reasonable attempts will be taken to transfer my care to another physician or facility.
10. In order for this Inpatient DNR to take effect, my Attending Physician must have actual knowledge of all relevant documents, requests, directives, and orders regarding the administration, withholding, or withdrawing life sustaining treatment or CPR and if I have an agent under a Medical Power of Attorney, a legal guardian, or other Legally Authorized Representative.

To complete this form, place your initials next to the treatment choices set out below that best reflect your personal preferences. Provide a copy of the completed document to your physician.

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 Attending Physician or any 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 and respiratory functions that have ceased.

_____ I request that my Attending Physician or any other health care provider perform intubation but withhold chest compressions.

I understand that no party may be completely absolved of liability regarding the provision of medical treatment. However, I hereby waive any claim against my Attending Physician, my treatment team, and Harris Health System in excess of those claims available under applicable law, with the understanding that my Attending Physician, my treatment team, and Harris Health System will make reasonable, good faith efforts to comply with my directions for treatment and care.

This Inpatient DNR Order replaces any prior order regarding the administration or withholding of CPR and will remain in effect until properly revoked.

Signature of Patient/
Patient Representative: _____ Date: _____

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