

Frequently Asked Questions for DNR

What is Out-of-Hospital Do-Not-Resuscitate Order?

The Out-of-Hospital Do-Not-Resuscitate Order allows patients to direct health care professionals in the out-of-hospital setting to withhold or withdraw specific life-sustaining treatments in the event of respiratory or cardiac arrest.

What is an out-of-hospital setting?

The law defines out-of-hospital as a “location in which health care professionals are called for assistance, including long-term care facilities, in-patient hospice facilities, private homes, hospital outpatient or emergency departments, physician’s offices and vehicles during transport.”

Who is a health care professional?

The law defines healthcare professionals as physicians, physician assistants, nurses, emergency medical services personnel and, unless the context requires otherwise, includes hospital emergency personnel.

What life-sustaining treatments are prohibited?

Cardiopulmonary resuscitation (CPR) – Pushing down on the middle of the chest when a heart has stopped beating to help beat the heart, and breathing into the lungs through the mouth to fill the lungs with air for a person that has stopped breathing and whose heart has stopped beating.

Transcutaneous Cardiac Pacing – Pads put on the outside of the chest so an electrical impulse can be sent to the heart to try to regulate certain irregular beats that could be dangerous to a person’s life.

Defibrillation – An electric shock put through the chest to try to start their heart beating again when it has stopped.

Advanced Airway Management – When trained people put what looks like a clear tube into a person’s mouth, when that person has stopped breathing or is not able to breathe well on their own, to breathe for them.

Artificial Ventilation – When trained people use a football-sized bag and a mask that fits over a person’s mouth and nose to push air into the lungs when the patient can’t breathe on their own or have stopped breathing.

Does this mean that there are no comfort (palliative) measures offered?

No. Comfort measures are specifically allowed.

Is the form available in Spanish or other languages?

No, but the instructions for the form are available in Spanish. Since we don’t require health professionals to speak or read Spanish, we cannot require them to accept a form that is in Spanish. For instructions in Spanish go to <http://www.dshs.state.tx.us/emstraumasystems/dnr.shtm>.

How does a competent person who cannot sign his or her name fill out a DNR form under Section A?

In the opinion of DSHS attorneys, have the person make some form or mark in Section A for signature. It does not have to be a person’s legible name. The physicians and witnesses should be present at time of signing. On a separate sheet of paper, write that the signature in Section A is the person’s signature and that they were competent upon signing the Patient Statement section of the form. Have the witnesses sign and date this and attach it to the DNR form.

Does the form have to be notarized?

A notary public can witness the signature of the person filling out the form in lieu of two witnesses. If two witnesses are present, the form does not need to be notarized.

Note: In Section D of the OOH-DNR form a notary cannot witness a competent person making an OOH-DNR order in a non-written manner to a physician. This can only be acknowledged by two witnesses.

It says that witness one cannot provide direct patient care. Does that mean that social workers can't sign as witness one?

According to DADS, social workers, chaplains and people who provide nutrition services DO NOT provide direct patient care and therefore can sign as Witness One.

Can a physician's assistant or nurse practitioner sign the physician's statement?

No. Only the attending physician can sign in this section.

Why does everyone have to sign twice?

All persons who have signed the DNR form must sign at the bottom of the page to acknowledge that the document has been properly completed.

Can a DNR be revoked?

DNR can be revoked at any time by the patient or the person who acted on behalf of the agent. Revocation can be in the form of communication to responding health care professionals, destruction of the form, or removal of devices.

Is a copy of the form acceptable?

You can make copies of the form before it's filled out and after it's filled out. Copies should be accepted like the originals.

Does an image or photo on a cell phone of an entire OOH-DNR Order constitute a "copy"?

No. Chapter 166 of the Texas Health and Safety Code does not specifically allow for a cell phone image/photo to be an acceptable substitute for a paper copy.

What happens if the patient is transported by EMS?

A copy of the form or the device must accompany the patient.

What if EMS begins treatment and is then presented with the form?

After verifying the validity and correctness of the form, EMS should cease using CPR, transcutaneous cardiac pacing, defibrillation, advanced airway management and artificial ventilation on the patient.

What happens if the form is not filled out correctly or EMS has doubts about any of the information?

Health professionals can refuse to honor a DNR if they think:

- The patient is pregnant
- There are unnatural or suspicious circumstances surrounding the death.
- The form is not signed twice by all who need to sign it or is filled out incorrectly.

Does a person who wears a bracelet or necklace (called a device in the rules) have to also carry the form with them?

The rule states that a DNR device shall be honored in lieu of a DNR form.

What is an outpatient healthcare facility's responsibility specifically in regards to addressing whether or not a person has a DNR?

Health care professionals must honor a valid DNR. There is nothing in the law about a facility having to inform patients about DNR. However, the Texas Department of Aging and Disability Services (DADS), who regulates nursing homes, does have a policy (not a rule or law) about nursing homes providing info about DNR. You might contact them at (512) 438-3161 for more information.

Is there a website that explains all this information?

The Texas Department of State Health Services Office of EMS and Trauma Systems Coordination has lots of information about DNR, with links to the rules and statutes. For general information about DNR, a copy of the form, or names of companies that supply the device, go to <http://www.dshs.state.tx.us/emstraumasystems/dnr.shtm>. For a copy of the statute or the rules, go to <http://www.dshs.state.tx.us/emstraumasystems/ruladopt.shtm> and scroll down to Rule 157.25. There you will find a link to the statute in the Health and Safety Code, and to DSHS's rules.

What if I have more questions?

Call us at (512) 834-6700 or email us at the links on our website.

Filling out the Out-of-Hospital Do-Not-Resuscitate Form

Name

Fill out patient's full legal name, date of birth and circle male/female.

Declaration

- A. This box is for patients who are competent. The patient should sign his/her name, date the document, and prints or types his/her name.
- B. This box is used when the order is being completed by a legal guardian, the person with medical power of attorney for the patient or a proxy in a directive to physician for a person who is incompetent or otherwise mentally or physically incapable of communication. The person acting on behalf of the patient must check the appropriate box in this section, sign and date the form and then print or type his/her name.
- C. This box is used when a qualified relative is acting on behalf of an adult person who is incompetent or incapable of communication. A qualified relative can be: (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. The relative acting on behalf of the patient must check the appropriate box in this section, sign and date the form and then print or type his/her name.
- D. This box is used when a physician has evidenced that a patient has issued a previous directive to physician or observes a person issuing an OOH-DNR by non-written communication. The physician must check the appropriate box in this section, sign and date the form, print or type his/her name and provide his/her license number.

E. This box is used when the order is being completed on behalf of a minor. This person can be the minor's parent, legal guardian or managing conservator. A physician must have diagnosed the minor as suffering from a terminal or irreversible condition. The person acting on behalf of the minor must check the appropriate box in this section, sign and date the form and then print or type his/her name.

F. This box is used when the order is being completed by two physicians on behalf of an adult patient who is incompetent or unable to communicate **and** without a guardian, proxy or relative. The physicians must sign and date the form, print or type their names and provide their license numbers. The second physician must not be involved in the treatment of the patient or be a representative of the ethics or medical committee of the health care facility in which the person is a patient. **Witness or notary signatures are not required when two physicians execute the OOH-DNR Order in this section.**

Witnesses

Two witnesses **or** a notary public must sign that they have witnessed the patient's signature or the signature of a person(s) acting on the patient's behalf in sections A-E.

A notary public can witness the signature of the person filling out the form in lieu of two witnesses.

Witness One (the "qualified" witness) may not be:

- person designated to make a treatment decision for the patient;
- related to the patient by blood or marriage;
- entitled to any part of the estate;
- be a person who has a claim against the estate of the patient;
- the attending physician or an employee of the attending physician;
- an employee of a health care facility in which the patient is being cared for, **if** he or she is involved in providing direct patient care to the patient (social workers, chaplains and people who provide nutrition services are not considered to provide direct patient care); or
- an officer, director, partner, or business office employee of a health care facility in which the patient is being cared for or any parent organization of the health care facility.

Witness Two may be any competent adult.

Physician's Statement

The patient's attending physician must sign and date the form, print or type his/her name and give his/her license number.

Signatures

The statute requires that everyone who signed the form **MUST** sign the form again in the bottom section to acknowledge that the form has been completed.

Figure: 25 TAC §157.25 (h)(2)

OUT-OF-HOSPITAL DO-NOT-RESUSCITATE (OOH-DNR) ORDER

TEXAS DEPARTMENT OF STATE HEALTH SERVICES

This document becomes effective immediately on the date of execution for health care professionals acting in out-of-hospital settings. It remains in effect until the person is pronounced dead by authorized medical or legal authority or the document is revoked. Comfort care will be given as needed.



Person's full legal name _____

Date of birth _____

Male
 Female

A. Declaration of the adult person: I am competent and at least 18 years of age. I direct that none of the following resuscitation measures be initiated or continued for me: cardiopulmonary resuscitation (CPR), transcutaneous cardiac pacing, defibrillation, advanced airway management, artificial ventilation.

Person's signature _____

Date _____

Printed name _____

B. Declaration by legal guardian, agent or proxy on behalf of the adult person who is incompetent or otherwise incapable of communication:

I am the: legal guardian; agent in a Medical Power of Attorney; OR proxy in a directive to physicians of the above-noted person who is incompetent or otherwise mentally or physically incapable of communication.

Based upon the known desires of the person, or a determination of the best interest of the person, I direct that none of the following resuscitation measures be initiated or continued for the person: cardiopulmonary resuscitation (CPR), transcutaneous cardiac pacing, defibrillation, advanced airway management, artificial ventilation.

Signature _____

Date _____

Printed name _____

C. Declaration by a qualified relative of the adult person who is incompetent or otherwise incapable of communication: I am the above-noted person's:

spouse, adult child, parent, OR nearest living relative, and I am qualified to make this treatment decision under Health and Safety Code §166.088.

To my knowledge the adult person is incompetent or otherwise mentally or physically incapable of communication and is without a legal guardian, agent or proxy. Based upon the known desires of the person or a determination of the best interests of the person, I direct that none of the following resuscitation measures be initiated or continued for the person: cardiopulmonary resuscitation (CPR), transcutaneous cardiac pacing, defibrillation, advanced airway management, artificial ventilation.

Signature _____

Date _____

Printed name _____

D. Declaration by physician based on directive to physicians by a person now incompetent or nonwritten communication to the physician by a competent person: I am the above-noted person's attending physician and have:

seen evidence of his/her previously issued directive to physicians by the adult, now incompetent; OR observed his/her issuance before two witnesses of an OOH-DNR in a nonwritten manner.

I direct that none of the following resuscitation measures be initiated or continued for the person: cardiopulmonary resuscitation (CPR), transcutaneous cardiac pacing, defibrillation, advanced airway management, artificial ventilation.

Attending physician's signature _____

Date _____

Printed name _____

Lic# _____

E. Declaration on behalf of the minor person: I am the minor's: parent; legal guardian; OR managing conservator.

A physician has diagnosed the minor as suffering from a terminal or irreversible condition. I direct that none of the following resuscitation measures be initiated or continued for the person: cardiopulmonary resuscitation (CPR), transcutaneous cardiac pacing, defibrillation, advanced airway management, artificial ventilation.

Signature _____

Date _____

Printed name _____

TWO WITNESSES: (See qualifications on backside.) We have witnessed the above-noted competent adult person or authorized declarant making his/her signature above and, if applicable, the above-noted adult person making an OOH-DNR by nonwritten communication to the attending physician.

Witness 1 signature _____

Date _____

Printed name _____

Witness 2 signature _____

Date _____

Printed name _____

Notary in the State of Texas and County of _____. The above noted person personally appeared before me and signed the above noted declaration on this date: _____

Signature & seal: _____ Notary's printed name: _____ *Notary Seal*

[Note: Notary cannot acknowledge the witnessing of the person making an OOH-DNR order in a nonwritten manner]

PHYSICIAN'S STATEMENT: I am the attending physician of the above-noted person and have noted the existence of this order in the person's medical records. I direct health care professionals acting in out-of-hospital settings, including a hospital emergency department, not to initiate or continue for the person: cardiopulmonary resuscitation (CPR), transcutaneous cardiac pacing, defibrillation, advanced airway management, artificial ventilation.

Physician's signature _____

Date _____

Printed name _____

License # _____

F. Directive by two physicians on behalf of the adult, who is incompetent or unable to communicate and without guardian, agent, proxy or relative: The person's specific wishes are unknown, but resuscitation measures are, in reasonable medical judgment, considered ineffective or are otherwise not in the best interests of the person. I direct health care professionals acting in out-of-hospital settings, including a hospital emergency department, not to initiate or continue for the person: cardiopulmonary resuscitation (CPR), transcutaneous cardiac pacing, defibrillation, advanced airway management, artificial ventilation.

Attending physician's signature _____

Date _____

Printed name _____

Lic# _____

Signature of second physician _____

Date _____

Printed name _____

Lic# _____

Physician's electronic or digital signature must meet criteria listed in Health and Safety Code §166.082(c).

All persons who have signed above must sign below, acknowledging that this document has been properly completed.

Person's signature _____

Guardian/Agent/Proxy/Relative signature _____

Attending physician's signature _____

Second physician's signature _____

Witness 1 signature _____

Witness 2 signature _____

Notary's signature _____

This document or a copy thereof must accompany the person during his/her medical transport.

INSTRUCTIONS FOR ISSUING AN OOH-DNR ORDER

PURPOSE: The Out-of-Hospital Do-Not-Resuscitate (OOH-DNR) Order on reverse side complies with Health and Safety Code (HSC), Chapter 166 for use by qualified persons or their authorized representatives to direct health care professionals to forgo resuscitation attempts and to permit the person to have a natural death with peace and dignity. This Order does NOT affect the provision of other emergency care, including comfort care.

APPLICABILITY: This OOH-DNR Order applies to health care professionals in out-of-hospital settings, including physicians' offices, hospital clinics and emergency departments.

IMPLEMENTATION: A competent adult person, at least 18 years of age, or the person's authorized representative or qualified relative may execute or issue an OOH-DNR Order. The person's attending physician will document existence of the Order in the person's permanent medical record. The OOH-DNR Order may be executed as follows:

Section A - If an adult person is competent and at least 18 years of age, he/she will sign and date the Order in Section A.

Section B - If an adult person is incompetent or otherwise mentally or physically incapable of communication and has either a legal guardian, agent in a medical power of attorney, or proxy in a directive to physicians, the guardian, agent, or proxy may execute the OOH-DNR Order by signing and dating it in Section B.

Section C - If the adult person is incompetent or otherwise mentally or physically incapable of communication and does not have a guardian, agent, or proxy, then a qualified relative may execute the OOH-DNR Order by signing and dating it in Section C.

Section D - If the person is incompetent and his/her attending physician has seen evidence of the person's previously issued proper directive to physicians or observed the person competently issue an OOH-DNR Order in a nonwritten manner, the physician may execute the Order on behalf of the person by signing and dating it in Section D.

Section E - If the person is a **minor** (less than 18 years of age), **who has been diagnosed by a physician as suffering from a terminal or irreversible condition**, then the minor's parents, legal guardian, or managing conservator may execute the OOH-DNR Order by signing and dating it in Section E.

Section F - If an adult person is incompetent or otherwise mentally or physically incapable of communication and does not have a guardian, agent, proxy, or available qualified relative to act on his/her behalf, then the attending physician may execute the OOH-DNR Order by signing and dating it in Section F with concurrence of a second physician (signing it in Section F) who is not involved in the treatment of the person or who is a representative of the ethics or medical committee of the health care facility in which the person is a patient.

In addition, the OOH-DNR Order must be signed and dated by two competent adult witnesses, who have witnessed either the competent adult person making his/her signature in section A, or authorized declarant making his/her signature in either sections B, C, or E, and if applicable, have witnessed a competent adult person making an OOH-DNR Order by nonwritten communication to the attending physician, who must sign in Section D and also the physician's statement section. Optionally, a competent adult person or authorized declarant may sign the OOH-DNR Order in the presence of a notary public. However, a notary cannot acknowledge witnessing the issuance of an OOH-DNR in a nonwritten manner, which must be observed and only can be acknowledged by two qualified witnesses. Witness or notary signatures are not required when two physicians execute the OOH-DNR Order in section F. The original or a copy of a fully and properly completed OOH-DNR Order or the presence of an OOH-DNR device on a person is sufficient evidence of the existence of the original OOH-DNR Order and either one shall be honored by responding health care professionals.

REVOCACTION: An OOH-DNR Order may be revoked at ANY time by the person, person's authorized representative, or physician who executed the order. Revocation can be by verbal communication to responding health care professionals, destruction of the OOH-DNR Order, or removal of all OOH-DNR identification devices from the person.

AUTOMATIC REVOCACTION: An OOH-DNR Order is automatically revoked for a person known to be pregnant or in the case of unnatural or suspicious circumstances.

DEFINITIONS

Attending Physician: A physician, selected by or assigned to a person, with primary responsibility for the person's treatment and care and is licensed by the Texas Medical Board, or is properly credentialed and holds a commission in the uniformed services of the United States and is serving on active duty in this state. [HSC §166.002(12)].

Health Care Professional: Means physicians, nurses, physician assistants and emergency medical services personnel, and, unless the context requires otherwise, includes hospital emergency department personnel. [HSC §166.081(5)]

Qualified Relative: A person meeting requirements of HSC §166.088. It states that an adult relative may execute an OOH-DNR Order on behalf of an adult person who has not executed or issued an OOH-DNR Order and is incompetent or otherwise mentally or physically incapable of communication and is without a legal guardian, agent in a medical power of attorney, or proxy in a directive to physicians, and the relative is available from one of the categories in the following priority: 1) person's spouse; 2) person's reasonably available adult children; 3) the person's parents; or, 4) the person's nearest living relative. Such qualified relative may execute an OOH-DNR Order on such described person's behalf.

Qualified Witnesses: Both witnesses must be competent adults, who have witnessed the competent adult person making his/her signature in section A, or person's authorized representatives making his/her signature in either Sections B, C, or E on the OOH-DNR Order, or if applicable, have witnessed the competent adult person making an OOH-DNR by nonwritten communication to the attending physician, who signs in Section D. Optionally, a competent adult person, guardian, agent, proxy, or qualified relative may sign the OOH-DNR Order in the presence of a notary instead of two qualified witnesses. Witness or notary signatures are not required when two physicians execute the order by signing Section F. One of the witnesses must meet the qualifications in HSC §166.003(2), which requires that at least one of the witnesses not: (1) be designated by the person to make a treatment decision; (2) be related to the person by blood or marriage; (3) be entitled to any part of the person's estate after the person's death either under a will or by law; (4) have a claim at the time of the issuance of the OOH-DNR against any part of the person's estate after the person's death; or, (5) be the attending physician; (6) be an employee of the attending physician or (7) an employee of a health care facility in which the person is a patient if the employee is providing direct patient care to the patient or is an officer, director, partner, or business office employee of the health care facility or any parent organization of the health care facility.

Report problems with this form to the Texas Department of State Health Services (DSHS) or order OOH-DNR Order/forms or identification devices at (512) 834-6700.

Declarant's, Witness', Notary's, or Physician's electronic or digital signature must meet criteria outlined in HSC §166.011