

Act No. 155
Public Acts of 2013
Approved by the Governor
November 5, 2013
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STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2013

Introduced by Rep. Cotter

ENROLLED HOUSE BILL No. 4382

AN ACT to amend 1996 PA 193, entitled “An act to provide for the execution of a do-not-resuscitate order for a patient in a setting outside of a hospital, a nursing home, or a mental health facility owned or operated by the department of community health; to provide that certain actions be taken and certain actions not be taken with respect to such an order; to provide for the revocation of a do-not-resuscitate order; to prohibit certain persons and organizations from requiring the execution of such an order as a condition of receiving coverage, benefits, or services; to prohibit certain actions by certain insurers; to exempt certain persons from penalties and liabilities; and to prescribe liabilities,” by amending the title and sections 2, 3, 4, 5, 6, 8, 9, 10, 11, and 14 (MCL 333.1052, 333.1053, 333.1054, 333.1055, 333.1056, 333.1058, 333.1059, 333.1060, 333.1061, and 333.1064), section 2 as amended by 2004 PA 552, and by adding section 3a.

The People of the State of Michigan enact:

TITLE

An act to provide for the execution of a do-not-resuscitate order for an individual in a setting outside of a hospital; to provide that certain actions be taken and certain actions not be taken with respect to a do-not-resuscitate order; to provide for the revocation of a do-not-resuscitate order; to prohibit certain persons and organizations from requiring the execution of a do-not-resuscitate order as a condition of receiving coverage, benefits, or services; to prohibit certain actions by certain insurers; to provide immunity from liability for certain persons; and to prescribe penalties and provide remedies.

Sec. 2. As used in this act:

(a) “Actual notice” includes the physical presentation of an order, a revocation of an order, or other written document authorized under this act from or on behalf of a declarant.

(b) “Attending physician” means the physician who has primary responsibility for the treatment and care of a declarant.

(c) “Declarant” means an individual who has executed a do-not-resuscitate order on his or her own behalf or on whose behalf a do-not-resuscitate order has been executed as provided in this act.

(d) “Delegatee” means an individual to whom a physician has delegated the authority to perform 1 or more selected acts, tasks, or functions under section 16215 of the public health code, MCL 333.16215.

(e) “Do-not-resuscitate identification bracelet” or “identification bracelet” means a wrist bracelet that meets the requirements of section 7 and that is worn by a declarant while a do-not-resuscitate order is in effect.

(f) “Do-not-resuscitate order” or “order” means a document executed under this act directing that, if an individual suffers cessation of both spontaneous respiration and circulation in a setting outside of a hospital, resuscitation will not be initiated.

(g) “Emergency medical technician” means that term as defined in section 20904 of the public health code, MCL 333.20904.

(h) “Emergency medical technician specialist” means that term as defined in section 20904 of the public health code, MCL 333.20904.

(i) “Guardian” means that term as defined in section 1104 of the estates and protected individuals code, 1998 PA 386, MCL 700.1104.

(j) “Hospital” means that term as defined in section 20106 of the public health code, MCL 333.20106.

(k) “Medical first responder” means that term as defined in section 20906 of the public health code, MCL 333.20906.

(l) “Nurse” means an individual licensed or otherwise authorized to engage in the practice of nursing or practice of nursing as a licensed practical nurse under part 172 of the public health code, MCL 333.17201 to 333.17242.

(m) “Organization” means a company, corporation, firm, partnership, association, trust, or other business entity or a governmental agency.

(n) “Paramedic” means that term as defined in section 20908 of the public health code, MCL 333.20908.

(o) “Patient advocate” means an individual designated to make medical treatment decisions for a patient under sections 5506 to 5515 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506 to 700.5515.

(p) “Physician” means an individual licensed or otherwise authorized to engage in the practice of medicine or the practice of osteopathic medicine and surgery under article 15 of the public health code, MCL 333.16101 to 333.18838.

(q) “Public health code” means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(r) “Vital sign” means a pulse or evidence of respiration.

(s) “Ward” means that term as defined in section 1108 of the estates and protected individuals code, 1998 PA 386, MCL 700.1108.

Sec. 3. (1) Subject to section 5, an individual who is 18 years of age or older and of sound mind may execute a do-not-resuscitate order on his or her own behalf. A patient advocate of an individual who is 18 years of age or older may execute a do-not-resuscitate order on behalf of that individual.

(2) An order executed under this section shall be on a form described in section 4. The order shall be dated and executed voluntarily and signed by each of the following persons:

(a) The declarant, the declarant’s patient advocate, or another person who, at the time of the signing, is in the presence of the declarant and acting pursuant to the directions of the declarant.

(b) The declarant’s attending physician.

(c) Two witnesses 18 years of age or older, at least 1 of whom is not the declarant’s spouse, parent, child, grandchild, sibling, or presumptive heir.

(3) The names of all signatories shall be printed or typed below the corresponding signatures. A witness shall not sign an order unless the declarant or the declarant’s patient advocate appears to the witness to be of sound mind and under no duress, fraud, or undue influence.

(4) At any time after an order is signed and witnessed, the declarant, the declarant’s patient advocate, or an individual designated by the declarant may apply an identification bracelet to the declarant’s wrist.

(5) A declarant or patient advocate who executes an order under this section shall maintain possession of the order and shall have the order accessible within the declarant’s place of residence or other setting outside of a hospital.

Sec. 3a. (1) A guardian with the power to execute a do-not-resuscitate order under section 5314 of the estates and protected individuals code, 1998 PA 386, MCL 700.5314, may execute a do-not-resuscitate order on behalf of a ward after complying with section 5314 of the estates and protected individuals code, 1998 PA 386, MCL 700.5314.

(2) An order executed under this section shall be on a form described in section 4. The order shall be dated and executed voluntarily and signed by each of the following individuals:

(a) The guardian.

(b) The ward’s attending physician.

(c) Two witnesses 18 years of age or older, at least 1 of whom is not the ward’s spouse, parent, child, grandchild, sibling, or presumptive heir.

(3) The names of all signatories shall be printed or typed below the corresponding signatures. A witness shall not sign an order unless the guardian appears to the witness to be of sound mind and under no duress, fraud, or undue influence.

(4) At any time after an order is signed and witnessed, the guardian, the attending physician or his or her delegatee, or an individual designated by the guardian may apply an identification bracelet to the ward’s wrist.

(5) A guardian who executes an order under this section shall maintain possession of the order and shall have the order accessible within the ward's place of residence or other setting outside of a hospital or, if applicable, provide a copy of the order to the administrator of a facility in which the ward is a patient or resident or to the administrator's designee.

Sec. 4. A do-not-resuscitate order executed under section 3 or 3a shall include, but is not limited to, the following language, and shall be in substantially the following form:

“DO-NOT-RESUSCITATE ORDER

This do-not-resuscitate order is issued by _____, attending physician for

(Type or print declarant's or ward's name)

Use the appropriate consent section below:

A. DECLARANT CONSENT

I have discussed my health status with my physician named above. I request that in the event my heart and breathing should stop, no person shall attempt to resuscitate me.

This order will remain in effect until it is revoked as provided by law.

Being of sound mind, I voluntarily execute this order, and I understand its full import.

_____	_____
(Declarant's signature)	(Date)
_____	_____
(Signature of person who signed for declarant, if applicable)	(Date)

(Type or print full name)	

B. PATIENT ADVOCATE CONSENT

I authorize that in the event the declarant's heart and breathing should stop, no person shall attempt to resuscitate the declarant. I understand the full import of this order and assume responsibility for its execution. This order will remain in effect until it is revoked as provided by law.

_____	_____
(Patient advocate's signature)	(Date)

(Type or print patient advocate's name)	

C. GUARDIAN CONSENT

I authorize that in the event the ward's heart and breathing should stop, no person shall attempt to resuscitate the ward. I understand the full import of this order and assume responsibility for its execution. This order will remain in effect until it is revoked as provided by law.

_____	_____
(Guardian's signature)	(Date)

(Type or print guardian's name)	
_____	_____
(Physician's signature)	(Date)

(Type or print physician's full name)	

ATTESTATION OF WITNESSES

The individual who has executed this order appears to be of sound mind, and under no duress, fraud, or undue influence. Upon executing this order, the declarant has (has not) received an identification bracelet.

_____	_____
(Witness signature) (Date)	(Witness signature) (Date)
_____	_____
(Type or print witness's name)	(Type or print witness's name)

THIS FORM WAS PREPARED PURSUANT TO, AND IS IN COMPLIANCE WITH,
THE MICHIGAN DO-NOT-RESUSCITATE PROCEDURE ACT.”.

Sec. 5. (1) An individual who is 18 years of age or older, of sound mind, and an adherent of a church or religious denomination whose members depend upon spiritual means through prayer alone for healing may execute a do-not-resuscitate order on his or her own behalf. A patient advocate of an individual who is 18 years of age or older and an adherent of a church or religious denomination whose members depend upon spiritual means through prayer alone for healing may execute a do-not-resuscitate order on behalf of that individual.

(2) An order executed under this section shall be on a form described in section 6. The order shall be dated and executed voluntarily and signed by each of the following persons:

(a) The declarant, the declarant's patient advocate, or another person who, at the time of the signing, is in the presence of the declarant and acting pursuant to the directions of the declarant.

(b) Two witnesses 18 years of age or older, at least 1 of whom is not the declarant's spouse, parent, child, grandchild, sibling, or presumptive heir.

(3) The names of all signatories shall be printed or typed below the corresponding signatures. A witness shall not sign an order unless the declarant or the declarant's patient advocate appears to the witness to be of sound mind and under no duress, fraud, or undue influence.

(4) At any time after an order is signed and witnessed, the declarant, the declarant's patient advocate, or an individual designated by the declarant may apply an identification bracelet to the declarant's wrist.

(5) A declarant or patient advocate who executes an order under this section shall maintain possession of the order and shall have the order accessible within the declarant's place of residence or other setting outside of a hospital.

Sec. 6. A do-not-resuscitate order executed for an adherent of a church or religious denomination under section 5 shall include, but is not limited to, the following language, and shall be in substantially the following form:

“DO-NOT-RESUSCITATE ORDER

Use the appropriate consent section below:

A. DECLARANT CONSENT

I request that in the event my heart and breathing should stop, no person shall attempt to resuscitate me.

This order will remain in effect until it is revoked as provided by law.

Being of sound mind, I voluntarily execute this order, and I understand its full import.

_____	_____
(Declarant's signature)	(Date)

(Type or print declarant's full name)	

(Signature of person who signed for declarant, if applicable)	(Date)

(Type or print full name)	

B. PATIENT ADVOCATE CONSENT

I authorize that in the event the declarant's heart and breathing should stop, no person shall attempt to resuscitate the declarant. I understand the full import of this order and assume responsibility for its execution. This order will remain in effect until it is revoked as provided by law.

_____	_____
(Patient advocate's signature)	(Date)

(Type or print patient advocate's name)	

ATTESTATION OF WITNESSES

The individual who has executed this order appears to be of sound mind, and under no duress, fraud, or undue influence. Upon executing this order, the declarant has (has not) received an identification bracelet.

_____	_____
(Witness signature) (Date)	(Witness signature) (Date)

(Type or print witness's name)	(Type or print witness's name)

THIS FORM WAS PREPARED PURSUANT TO, AND IS IN COMPLIANCE WITH,
THE MICHIGAN DO-NOT-RESUSCITATE PROCEDURE ACT.”.

Sec. 8. An attending physician who signs a declarant's do-not-resuscitate order under section 3 or 3a shall immediately obtain a copy or a duplicate of the executed order and make that copy or duplicate part of the declarant's permanent medical record.

Sec. 9. If a person interested in the welfare of the declarant has reason to believe that an order has been executed contrary to the wishes of the declarant or, if the declarant is a ward, contrary to the wishes or best interests of the ward, the person may petition the probate court to have the order and the conditions of its execution reviewed. If the probate court finds that an order has been executed contrary to the wishes of the declarant or, if the declarant is a ward, contrary to the wishes or best interests of the ward, the probate court shall issue an injunction voiding the effectiveness of the order and prohibiting compliance with the order.

Sec. 10. (1) A declarant may revoke an order executed by himself or herself or executed on his or her behalf at any time and in any manner by which he or she is able to communicate his or her intent to revoke the order. If the declarant's revocation is not in writing, an individual who observes the declarant's revocation of the order shall describe the circumstances of the revocation in writing, sign the writing, and deliver the writing to the declarant's attending physician or his or her delegatee and, if the declarant is a patient or resident of a facility, to the administrator of the facility or the administrator's designee. A patient advocate or guardian may revoke an order on behalf of a declarant at any time by issuing the revocation in writing and provide actual notice of the revocation by delivering the written revocation to the declarant's attending physician or his or her delegatee and, if the declarant is a patient or resident of a facility, to the administrator of the facility or the administrator's designee. Upon revocation, the declarant, patient advocate, guardian, or attending physician or his or her delegatee who has actual notice of a revocation of an order under this section shall do all of the following:

- (a) Write "void" on all pages of the order.
- (b) If applicable, remove the declarant's do-not-resuscitate identification bracelet.

(2) A physician or his or her delegatee who receives actual notice of a revocation of an order shall immediately make the revocation, including, if available, the written description of the circumstances of the revocation required by subsection (1), part of the declarant's permanent medical record. The administrator of a facility or his or her designee who receives actual notice of a revocation of an order of a declarant who is a patient or resident of the facility shall immediately make the revocation part of the patient's or resident's permanent medical record.

(3) A revocation of an order under this section is binding upon another person at the time that other person receives actual notice of the revocation.

Sec. 11. (1) One or more of the following health professionals who arrive at a declarant's location outside of a hospital shall determine if the declarant has 1 or more vital signs, whether or not the health professional views or has actual notice of an order that is alleged to have been executed by the declarant or other person authorized to execute an order on the declarant's behalf:

- (a) A paramedic.
- (b) An emergency medical technician.
- (c) An emergency medical technician specialist.
- (d) A physician.
- (e) A nurse.
- (f) A medical first responder.
- (g) A respiratory therapist.

(2) If the health professional determines under subsection (1) that the declarant has no vital signs, and if the health professional determines that the declarant is wearing a do-not-resuscitate identification bracelet or has actual notice of a do-not-resuscitate order for the declarant, he or she shall not attempt to resuscitate the declarant.

Sec. 14. A person or organization shall not require the execution of an order as a condition for insurance coverage, admittance to a health care facility, receiving health care benefits or services, or any other reason.

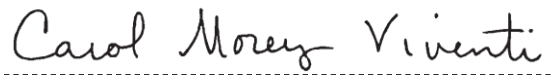
Enacting section 1. This amendatory act does not take effect unless House Bill No. 4384 of the 97th Legislature is enacted into law.

Enacting section 2. This amendatory act takes effect upon the expiration of 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor

Compiler's note: House Bill No. 4384, referred to in enacting section 1, was filed with the Secretary of State November 5, 2013, and became 2013 PA 157, Eff. Feb. 4, 2014.