

HOUSE BILL NO. 5417

January 28, 2020, Introduced by Reps. Warren, Rendon, Lasinski, LaGrand, Kennedy, Brenda Carter, Kuppa, Koleszar, Miller, Howell, LaFave and Berman and referred to the Committee on Judiciary.

A bill to amend 1996 PA 193, entitled "Michigan do-not-resuscitate procedure act," by amending sections 2, 3a, 4, 8, 9, 10, and 11 (MCL 333.1052, 333.1053a, 333.1054, 333.1058, 333.1059, 333.1060, and 333.1061), sections 2 and 11 as amended by 2017 PA 157 and section 3a as added and sections 4, 8, 9, and 10 as amended by 2013 PA 155, and by adding section 3b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (a) "Actual notice" includes the physical presentation of an
3 order, a revocation of an order, or another written document
4 authorized under this act from or on behalf of a declarant.

5 **(b) "Advanced illness" means a medical or surgical condition**
6 **with significant functional impairment that is not reversible by**
7 **curative therapies and that is anticipated to progress toward death**
8 **despite attempts at curative therapies or modulation.**

9 (c) ~~(b)~~—"Attending physician" means the physician who has
10 primary responsibility for the treatment and care of a declarant.

11 (d) ~~(e)~~—"Declarant" means an individual who has executed a do-
12 not-resuscitate order on his or her own behalf or on whose behalf a
13 do-not-resuscitate order has been executed as provided in this act.

14 (e) ~~(d)~~—"Delegatee" means an individual to whom a physician
15 has delegated the authority to perform 1 or more selected acts,
16 tasks, or functions under section 16215 of the public health code,
17 MCL 333.16215.

18 (f) ~~(e)~~—"Do-not-resuscitate identification bracelet" or
19 "identification bracelet" means a wrist bracelet that meets the
20 requirements of section 7 and that is worn by a declarant while a
21 do-not-resuscitate order is in effect.

22 (g) ~~(f)~~—"Do-not-resuscitate order" or "order" means a document
23 executed under this act directing that, if an individual suffers
24 cessation of both spontaneous respiration and circulation in a
25 setting outside of a hospital, resuscitation will not be initiated.

26 (h) ~~(g)~~—"Emergency medical technician" means that term as
27 defined in section 20904 of the public health code, MCL 333.20904.

28 (i) ~~(h)~~—"Emergency medical technician specialist" means that
29 term as defined in section 20904 of the public health code, MCL

1 333.20904.

2 (j) ~~(i)~~—"Guardian" means that term as defined in section 1104
3 of the estates and protected individuals code, 1998 PA 386, MCL
4 700.1104.

5 (k) ~~(j)~~—"Hospital" means that term as defined in section 20106
6 of the public health code, MCL 333.20106.

7 (l) ~~(k)~~—"Medical first responder" means that term as defined in
8 section 20906 of the public health code, MCL 333.20906.

9 (m) **"Minor child" means an individual who is less than 18**
10 **years of age, has been diagnosed by an attending physician as**
11 **having an advanced illness, and is not emancipated by operation of**
12 **law as provided in section 4 of 1968 PA 293, MCL 722.4.**

13 (n) ~~(l)~~—"Nurse" means an individual **who is** licensed or
14 otherwise authorized to engage in the practice of nursing or
15 practice of nursing as a licensed practical nurse under part 172 of
16 the public health code, MCL 333.17201 to 333.17242.

17 (o) ~~(m)~~—"Organization" means a company, corporation, firm,
18 partnership, association, trust, or other business entity or a
19 governmental agency.

20 (p) ~~(n)~~—"Paramedic" means that term as defined in section
21 20908 of the public health code, MCL 333.20908.

22 (q) **"Parent" means the natural or adoptive parent of a minor**
23 **child who possesses legal decision-making authority as to the**
24 **important decisions affecting the welfare of the minor child.**

25 (r) ~~(o)~~—"Patient advocate" means an individual **who is**
26 designated to make medical treatment decisions for a patient under
27 sections 5506 to 5515 of the estates and protected individuals
28 code, 1998 PA 386, MCL 700.5506 to 700.5515.

29 (s) ~~(p)~~—"Physician" means an individual **who is** licensed or

1 otherwise authorized to engage in the practice of medicine or the
 2 practice of osteopathic medicine and surgery under article 15 of
 3 the public health code, MCL 333.16101 to 333.18838.

4 (t) ~~(q)~~—"Physician's assistant" means an individual who is
 5 licensed as a physician's assistant under part 170 or part 175 of
 6 the public health code, MCL 333.17001 to ~~333.17084~~ **333.17097** and
 7 333.17501 to 333.17556.

8 (u) ~~(r)~~—"Public health code" means the public health code,
 9 1978 PA 368, MCL 333.1101 to 333.25211.

10 (v) **Except as otherwise provided in subdivision (w),**
 11 **"resuscitate" means perform cardiopulmonary resuscitation or a**
 12 **component of cardiopulmonary resuscitation, including, but not**
 13 **limited to, any of the following:**

14 (i) Cardiac compression.

15 (ii) Endotracheal intubation or other advanced airway
 16 management.

17 (iii) Artificial ventilation.

18 (iv) Defibrillation.

19 (v) The administration of a cardiac resuscitation medication.

20 (vi) Another related procedure.

21 (w) "Resuscitate" does not include the Heimlich maneuver or a
 22 similar procedure used to expel an obstruction from an individual's
 23 throat.

24 (x) "School" means a nonpublic school or a public school as
 25 those terms are defined in section 5 of the revised school code,
 26 1976 PA 451, MCL 380.5.

27 (y) ~~(s)~~—"Vital sign" means a pulse or evidence of respiration.

28 (z) ~~(t)~~—"Ward" means that term as defined in section 1108 of
 29 the estates and protected individuals code, 1998 PA 386, MCL

1 700.1108.

2 Sec. 3a. (1) A guardian with the power to execute a do-not-
3 resuscitate order under section 5314 of the estates and protected
4 individuals code, 1998 PA 386, MCL 700.5314, may execute a do-not-
5 resuscitate order on behalf of a ward **who is not a minor child**
6 after complying with section 5314 of the estates and protected
7 individuals code, 1998 PA 386, MCL 700.5314. **A guardian of a ward**
8 **who is a minor child may execute a do-not-resuscitate order on**
9 **behalf of the ward.**

10 (2) An order executed under this section ~~shall~~**must** be on a
11 form described in section 4. The order ~~shall~~**must** be dated, and
12 executed voluntarily, and signed by each of the following
13 individuals:

14 (a) The guardian.

15 (b) The ward's attending physician.

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

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

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

27 (5) A guardian who executes an order under this section shall
28 ~~maintain~~**do all of the following:**

29 (a) **Maintain** possession of the order. ~~and shall have~~

1 **(b) Have** the order accessible within the ward's place of
2 residence or other setting outside of a hospital. ~~or, if~~

3 **(c) If** applicable, provide a copy of the order to ~~the~~
4 ~~administrator of the following:~~

5 **(i) The administrator of the ward's school or to the**
6 **administrator's designee.**

7 **(ii) The administrator of** a facility in which the ward is a
8 patient or resident or to the administrator's designee.

9 **Sec. 3b. (1) A parent may execute a do-not-resuscitate order**
10 **on behalf of his or her minor child. If the parent shares with**
11 **another parent legal decision-making authority as to the important**
12 **decisions affecting the welfare of the minor child, both parents of**
13 **the minor child must execute the order.**

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

17 **(a) The parent or, if required under subsection (1), both**
18 **parents of the minor child.**

19 **(b) The minor child's attending physician.**

20 **(c) Two witnesses 18 years of age or older, each of whom is**
21 **not the minor child's parent, child, grandchild, sibling, or**
22 **presumptive heir.**

23 **(3) The names of all signatories must be printed or typed**
24 **below the corresponding signatures. A witness shall not sign an**
25 **order unless the parent appears or, if required under subsection**
26 **(1), both parents of the minor child appear, to the witness to be**
27 **of sound mind and under no duress, fraud, or undue influence.**

28 **(4) At any time after an order is signed and witnessed, the**
29 **parent, the attending physician or his or her delegatee, or an**

1 individual designated by the parent may apply an identification
2 bracelet to the minor child's wrist.

3 (5) A parent who executes an order under this section shall do
4 all of the following:

5 (a) Maintain possession of the order.

6 (b) Have the order accessible within the minor child's place
7 of residence or other setting outside of a hospital.

8 (c) If applicable, provide a copy of the order to the
9 following:

10 (i) The administrator of the minor child's school or to the
11 administrator's designee.

12 (ii) The administrator of a facility in which the minor child
13 is a patient or resident or to the administrator's designee.

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

18 **"DO-NOT-RESUSCITATE ORDER**

19 This do-not-resuscitate order is issued by

20 _____, attending physician for
21 _____.

22 (Type or print declarant's, ~~or~~ ward's, **or minor child's** name)

23 Use the appropriate consent section below:

24 A. DECLARANT CONSENT

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

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

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

3 _____
4 (Declarant's signature) (Date)

5 _____
6 (Signature of person who signed for (Date)
7 declarant, if applicable)

8 _____
9 (Type or print full name)

10 B. PATIENT ADVOCATE CONSENT

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

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

18 _____
19 (Type or print patient advocate's name)

20 C. PARENT CONSENT

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

26 _____
27 (Parent's signature) (Date)

28 _____
29 (Type or print parent's name)

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(Parent's signature) (Date)

(Type or print parent's name)

D. ~~e.~~ 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)

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

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

7 Sec. 9. If a person interested in the welfare of the declarant
8 has reason to believe that an order has been executed contrary to
9 the wishes of the declarant or, if the declarant is a ward
10 **including a ward who is a minor child**, contrary to the wishes or
11 best interests of the ward, the person may petition the probate
12 court to have the order and the conditions of its execution
13 reviewed. If the probate court finds that an order has been
14 executed contrary to the wishes of the declarant or, if the
15 declarant is a ward **including a ward who is a minor child**, contrary
16 to the wishes or best interests of the ward, the probate court
17 shall issue an injunction voiding the effectiveness of the order
18 and prohibiting compliance with the order.

19 Sec. 10. (1) A declarant may revoke an order executed by
20 himself or herself or executed on his or her behalf at any time and
21 in any manner by which he or she is able to communicate his or her
22 intent to revoke the order. If the declarant's revocation is not in
23 writing, an individual who observes the declarant's revocation of
24 the order shall describe the circumstances of the revocation in
25 writing, sign the writing, and deliver the writing to the
26 declarant's attending physician or his or her delegatee and, if the
27 declarant is a patient or resident of a facility **or a pupil of a**
28 **school**, to the administrator of the facility **or school** or the
29 administrator's designee. A patient advocate, **parent**, or guardian

1 may revoke an order on behalf of a declarant at any time by issuing
2 the revocation in writing and provide actual notice of the
3 revocation by delivering the written revocation to the declarant's
4 attending physician or his or her delegatee and, if the declarant
5 is a patient or resident of a facility **or a pupil of a school**, to
6 the administrator of the facility **or school** or the administrator's
7 designee. Upon revocation, the declarant, patient advocate, **parent**,
8 guardian, or attending physician or his or her delegatee who has
9 actual notice of a revocation of an order under this section shall
10 do all of the following:

11 (a) Write "void" on all pages of the order.

12 (b) If applicable, remove the declarant's do-not-resuscitate
13 identification bracelet.

14 (2) A physician or his or her delegatee who receives actual
15 notice of a revocation of an order shall immediately make the
16 revocation, including, if available, the written description of the
17 circumstances of the revocation required by subsection (1), part of
18 the declarant's permanent medical record. The administrator of a
19 facility or his or her designee who receives actual notice of a
20 revocation of an order of a declarant who is a patient or resident
21 of the facility shall immediately make the revocation part of the
22 patient's or resident's permanent medical record. **The administrator**
23 **of a school or his or her designee who receives actual notice of a**
24 **revocation of an order of a declarant who is a pupil of the school**
25 **shall immediately place the revocation in the file created under**
26 **section 1180(1)(a) of the revised school code, 1976 PA 451, MCL**
27 **380.1180.**

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

1 notice of the revocation.

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

8 (a) A paramedic.

9 (b) An emergency medical technician.

10 (c) An emergency medical technician specialist.

11 (d) A physician.

12 (e) A nurse.

13 (f) A medical first responder.

14 (g) A respiratory therapist.

15 (h) A physician's assistant.

16 (2) If the health professional determines under subsection (1)
17 that the declarant has no vital signs, and if the health
18 professional determines that the declarant is wearing a do-not-
19 resuscitate identification bracelet or has actual notice of a do-
20 not-resuscitate order for the declarant, subject to section 11a,
21 the health professional shall not attempt to resuscitate the
22 declarant.

23 **(3) If the declarant is a minor child who is enrolled and**
24 **located at a school, an individual who determines that the**
25 **declarant is wearing a do-not-resuscitate identification bracelet**
26 **or has actual notice of a do-not-resuscitate order for the**
27 **declarant shall not attempt to resuscitate the declarant before a**
28 **health professional described in subsection (1) arrives at the**
29 **declarant's location.**

1 Enacting section 1. This amendatory act takes effect 90 days
2 after the date it is enacted into law.

3 Enacting section 2. This amendatory act does not take effect
4 unless Senate Bill No.____ or House Bill No. 5418 (request no.
5 01184'19) of the 100th Legislature is enacted into law.