

AN ACT
D.C. ACT 13-486

*Codification
District of
Columbia
Code
2001 Supp.*

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
NOVEMBER 29, 2000

To authorize and establish procedures for do-not-resuscitate orders in the District of Columbia.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Emergency Medical Services Non-Resuscitation Procedures Act of 2000".

Sec. 2. Definitions.

For the purposes of this act, the term:

- (1) "Advanced airway management" means direct ventilation of the lungs through an endotracheal tube by mouth or stoma.
- (2) "Advanced life support" means advanced airway management, including endotracheal intubation; defibrillation; administration of cardiac resuscitation medications; and medical procedures related to the specific medical procedures set forth in this paragraph as determined by the person's attending physician or as set forth in medical protocols.
- (3) "Artificial ventilation" means forcing oxygen in the lungs when a person has stopped breathing or has inadequate breathing.
- (4) "Attending physician" means a physician who has primary responsibility for the medical care of a person who executes a comfort care order in accordance with this act.
- (5) "Authorized decision-maker" means a person authorized to make a health care decision on behalf of another person in accordance with sections 21-2205 and 21-2210 of the District of Columbia Code.
- (6) "Cardiac arrest" means the cessation of a functional heartbeat and pulse.
- (7) "Cardiopulmonary resuscitation" means cardiac compression or artificial ventilation.
- (8) "Comfort care order" or "Order" means a document, on a form approved by the Mayor and executed in accordance with the provisions of this act, which authorizes emergency medical services personnel to withhold cardiopulmonary resuscitation from a person if the person experiences cardiac or respiratory arrest as the result of a specified medical or

terminal condition and to administer comfort care in accordance with section 9.

(9) "District" means the District of Columbia.

(10) "Emergency medical services" or "EMS" means medical services provided in response to a person's need for immediate medical care, which are intended to prevent loss of life, the aggravation of a physiological illness or injury, or the aggravation of a psychological illness, including any services recognized in the District as first response, basic life support, advanced life support, specialized life support, patient transportation, medical control, or rescue.

(11) "Emergency medical services agency" or "EMS agency" means any person, firm, corporation, or organization authorized by District law to provide emergency medical care or medical transport to a person who is ill, injured, or incapacitated by disease or a medical condition.

(12) "Emergency medical services personnel" or "EMS personnel" means a physician who is licensed to practice medicine in the District, a registered nurse who is licensed to practice professional nursing in the District, or an emergency medical technician/basic ("EMT/B"), emergency medical technician/paramedic ("EMT/P"), or emergency medical technician/intermediate paramedic ("EMT/IP") who is certified to provide emergency medical services in the District.

(13) "Minor" means a person who is less than 18 years of age.

(14) "Patient" means a person who has executed a comfort care order in accordance with this act.

(15) "Respiratory arrest" means the cessation of functional breathing.

(16) "Resuscitate" means the administration of cardiopulmonary resuscitation or advanced life support, as appropriate.

(17) "Surrogate" means the natural parent, adoptive parent, or legal guardian of a minor who executes a comfort care order on behalf of the minor.

(18) "Terminal condition" means an incurable medical condition caused by an injury, illness, or disease, which, regardless of the application of life-sustaining procedures, would, within reasonable medical judgement, produce death, and where the application of life-sustaining procedures serve only to postpone the moment of death of the person who has the incurable medical condition.

Sec. 3. Execution and issuance of comfort care order.

(a) The following persons may execute a comfort care order to communicate the decision that the person who is the subject of the order shall not be resuscitated if the person experiences cardiac arrest or respiratory arrest as a result of a specified medical or terminal condition:

(1) Any competent person, who is 18 years of age or older, on behalf of the competent person;

(2) An authorized decision-maker on behalf of an incapacitated person; or

(3) A surrogate on behalf of a minor.

(b) A comfort care order may be issued only by the attending physician of a person who is the subject of the Order. The attending physician shall explain to the person who does not wish to be resuscitated and the person's authorized decision-maker or surrogate, as appropriate, the effect of the Order and the alternatives, including medical treatment and the issuance of another form of advanced directive. If the person, after reviewing the alternatives, wishes to execute an Order, the attending physician shall:

(1) Issue the Order and a comfort care bracelet or necklace;

(2) Place the bracelet or necklace on the person;

(3) Explain to the person, authorized decision-maker, or surrogate how the Order may be revoked; and

(4) Submit a copy of the comfort care order to the Mayor.

(c) The Mayor shall keep confidential any records containing patient social security numbers.

Sec. 4. Form of comfort care order.

(a) The comfort care order shall:

(1) Be a distinctive form approved by the Mayor, sequentially numbered, and printed on security paper;

(2) Include a statement describing the specific medical or terminal condition of the patient and the circumstances under which the patient shall not be resuscitated;

(3) Include the name of the patient and an identification number;

(4) Include the signature of the patient, if the patient is not an incapacitated person;

(5) Be signed and dated by the attending physician of the patient;

(6) Include the attending physician's license number and telephone number; and

(7) If the patient has an authorized decision-maker or surrogate, include the name, signature and social security number of the authorized decision-maker or surrogate.

(b) The Mayor shall provide comfort care order forms and instructions to physicians and hospitals through the Department of Health and at distribution points that the Mayor determines to be necessary to implement this act.

Sec. 5. Comfort care bracelet or necklace.

(a) EMS personnel shall recognize only a comfort care bracelet or necklace for purposes of withholding cardiopulmonary resuscitation or advanced life support.

(b) The Mayor shall approve the design for a comfort care bracelet and necklace. The bracelet and necklace shall be easily identifiable and designed so that the following information is visible:

(1) The patient's name and an identification number;

- (2) The name and telephone number of the patient's attending physician;
- (3) The comfort care order number; and
- (4) Any other information that the Mayor determines, by rule, to be necessary to

implement this act.

(c) The comfort care bracelet and necklace shall be metal, except that the Mayor may issue a plastic temporary bracelet and necklace for use by a patient until the metal bracelet or necklace is received.

Sec. 6. Revocation of a comfort care order.

A patient, or the patient's authorized decision-maker or surrogate, may revoke a comfort care order at any time by:

- (1) Removing, cutting, destroying, defacing, or discarding the comfort care bracelet;
- (2) Directing another person to remove, cut, destroy, deface, or discard the bracelet in the presence of the patient, authorized decision-maker, or surrogate; or
- (3) Communicating directly to EMS personnel the patient's, authorized decision-maker's, or surrogate's intent to revoke the comfort care order.

Sec. 7. Decision to withhold resuscitation.

(a) If EMS personnel encounter a person who is in cardiac or respiratory arrest and the person is wearing a comfort care bracelet or necklace, EMS personnel shall determine whether the comfort care bracelet or necklace is intact or has been defaced. If the comfort care bracelet or necklace is intact and has not been defaced, EMS personnel shall not resuscitate.

(b) If EMS personnel encounter a person who is wearing an intact comfort care bracelet or necklace that has not been defaced and who is experiencing significant respiratory distress, which would require artificial ventilation to forestall a cardiac or respiratory arrest, EMS personnel shall withhold artificial ventilation, including advanced airway management.

(c) If resuscitation has been initiated, resuscitation shall be withdrawn if EMS personnel determine that the criteria in section 7(a) is satisfied.

(d) If EMS personnel do not resuscitate on the basis of an intact comfort care bracelet or necklace that has not been defaced, EMS personnel shall record the do-not-resuscitate response in the run report and report the do-not-resuscitate response to the Mayor within 5 business days of the incident.

Sec. 8. Decision to resuscitate.

(a) If EMS personnel encounter a patient who is in cardiac or respiratory arrest and the patient is wearing a comfort care bracelet or necklace that is intact or has not been defaced, but the patient, or the patient's authorized decision-maker or surrogate, orally requests that EMS personnel resuscitate the patient, EMS personnel shall resuscitate and the patient, or the patient's

authorized decision-maker or surrogate, shall remove the comfort care bracelet or necklace from the patient to ensure that the revocation of the comfort care order is honored at the hospital.

(b) If EMS personnel encounter a patient who is in cardiac or respiratory arrest and the patient is wearing a comfort care bracelet or necklace that is not intact or has been defaced, EMS personnel shall resuscitate. If there is a reason to question whether the comfort care bracelet or necklace is intact or has been defaced, EMS personnel shall resuscitate.

Sec. 9. Comfort care; alleviation of pain.

EMS personnel may provide the following interventions to a patient who is wearing an intact comfort care bracelet or necklace that has not been defaced to comfort the patient or alleviate pain:

- (1) Clear the airway, excluding artificial ventilation, esophageal obturator airway, or advanced airway management;
- (2) Administer suction;
- (3) Provide oxygen, excluding artificial ventilation, esophageal obturator airway, or advanced airway management;
- (4) Provide pain medication;
- (5) Control bleeding; or
- (6) Make comfort adjustments.

Sec. 10. Reciprocity.

EMS personnel shall recognize a comfort care bracelet, necklace, or similar identifier issued by Maryland and Virginia as if issued in accordance with this act and shall act on the identifier in accordance with this act.

Sec. 11. Training and education.

The Mayor shall provide training for EMS personnel on the implementation of this act and initiate and participate in programs designed to educate the public with respect to this act.

Sec. 12. Liability.

(a) No licensed health care professional, EMS personnel, health care facility, government entity, or government employee shall be subject to criminal or civil liability, or be found to have committed an unprofessional act because the person, in good faith, resuscitates, withholds or withdraws resuscitation, or participates in resuscitating or withholding or withdrawing resuscitation in accordance with this act. This subsection shall be liberally construed to protect a person who implements this act in good faith from liability.

(b)(1) Any physician or nurse who is licensed in the District and who, for religious or moral reasons, is unwilling or unable to comply with a comfort care order for a patient under the physician's or nurse's care shall immediately notify their employer, in writing, of their

unwillingness or inability to comply with the Order and shall transfer a patient under the care of the physician or nurse to a qualified physician or nurse who is willing or able to honor the comfort care order. A transfer pursuant to this section shall not constitute abandonment of the patient or unprofessional conduct.

(2) If, because of emergency medical circumstances, a physician or nurse who is unwilling or unable to comply with a comfort care order for a patient under the physician's or nurse's care has insufficient time to effectuate a transfer in accordance with this subsection, the physician or nurse shall not be found to have committed an unprofessional act or to have violated any provision of this act because the physician or nurse resuscitates the patient.

(c)(1) Any EMT/B, EMT/P, or EMT/IP who is certified to provide emergency medical services in the District and who, for religious or moral reasons, is unwilling or unable to comply with a comfort care order shall immediately notify the EMS agency that employs the EMT/B, EMT/P, or EMT/IP, in writing, of their unwillingness or inability to comply with the Order.

(2) An EMT/B, EMT/P, or EMT/IP who is unwilling or unable to comply with a comfort care order shall not be found to have committed an unprofessional act or to have violated any provision of this act because the EMT/B, EMT/P, or EMT/IP resuscitates a patient.

Sec. 13. Prohibitions and Penalties.

Any person who falsifies or forges a comfort care order, willfully conceals or withholds personal knowledge of the revocation of a comfort care order contrary to the wishes of a person who has executed a comfort care order, or places a comfort care bracelet on a person for whom a comfort care order has not been executed in accordance with section 3(a) and (b), and who, because of the forgery, concealment, withholding, or placement, directly causes resuscitation to be withheld or withdrawn from a person and the death of the person to be hastened shall be subject to prosecution for unlawful homicide pursuant to section 798 of An Act To establish a code of law for the District of Columbia.

Sec. 14. Exclusion of suicide; insurance.

(a) Withholding or withdrawing resuscitation from a patient in accordance with this act shall not constitute a suicide or a crime of assisting suicide.

(b) The execution or issuance of a comfort care order pursuant to this act shall not affect the sale, procurement, or issuance of any life insurance policy, nor be deemed to modify the terms of an existing life insurance policy. No life insurance policy shall be legally impaired or invalidated because resuscitation is withheld from a patient in accordance with this act, notwithstanding terms of a life insurance policy to the contrary.

(c) No physician, EMS personnel, health care provider, health facility, health service plan, health maintenance organization, insurer that issues disability insurance, self-insured employee, welfare benefit plan, nonprofit medical insurance corporation, or mutual nonprofit hospital service corporation shall require any person to execute a comfort care order as a

condition of being insured for, or receiving, health care services.

Sec. 15. Fee.

The Mayor may charge a reasonable fee for a comfort care order, comfort care bracelet or necklace, and for processing a comfort care order. The fee shall be established by rule.

Sec. 16. Rules.

The Mayor, pursuant to title 1 of the District of Columbia Administrative Procedure Act shall issue rules to implement the provisions of this act.

Sec. 17. Applicability.

This act shall apply 90 days after its effective date.

Sec. 18. Appropriations.

This act is subject to the availability of appropriations.

Sec. 19. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

Sec. 20. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in

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section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(1)), and publication in the District of Columbia Register.

Linda A. Cropp

Chairman
Council of the District of Columbia

Anthony A. Williams

Mayor
District of Columbia

APPROVED: November 29, 2000