

§ 90-21.17. Portable do not resuscitate order and Medical Order for Scope of Treatment.

(a) It is the intent of this section to recognize a patient's desire and right to withhold cardiopulmonary resuscitation and other life-prolonging measures to avoid loss of dignity and unnecessary pain and suffering through the use of a portable do not resuscitate ("DNR") order or a Medical Order for Scope of Treatment (MOST).

This section establishes an optional and nonexclusive procedure by which a patient or the patient's representative may exercise this right.

(b) A physician may issue a portable DNR order or MOST for a patient:

- (1) With the consent of the patient;
- (2) If the patient is a minor, with the consent of the patient's parent or guardian;
or
- (3) If the patient is not a minor but is incapable of making an informed decision regarding consent for the order, with the consent of the patient's representative.

The physician shall document the basis for the DNR order or MOST in the patient's medical record. When the order is a MOST, the patient or the patient's representative must sign the form, provided, however, that if it is not practicable for the patient's representative to sign the original MOST form, the patient's representative shall sign a copy of the completed form and return it to the health care professional completing the form. The copy of the form with the signature of the patient's representative, whether in paper or electronic form, shall be placed in the patient's medical record. When the signature of the patient's representative is on a separate copy of the MOST form, the original MOST form must indicate in the appropriate signature field that the signature is "on file".

(c) The Department of Health and Human Services shall develop a portable DNR order form and a MOST form. The official DNR form shall include fields for the name of the patient; the name, address, and telephone number of the physician; the signature of the physician; and other relevant information. At a minimum, the official MOST form shall include fields for: the name of the patient; an advisory that a patient is not required to have a MOST; the name, telephone number, and signature of the physician, physician assistant, or nurse practitioner authorizing the order; the name and contact information of the health care professional who prepared the form with the patient or the patient's representative; information on who agreed (i.e., the patient or the patient's representative) to the options selected on the MOST form; a range of options for cardiopulmonary resuscitation, medical interventions, antibiotics, medically administered fluids and nutrition; patient or patient representative's name, contact information, and signature; effective date of the form and review dates; a prominent advisory that directions in a MOST form may suspend, while those MOST directions are in effect, any conflicting directions in a patient's previously executed declaration of an advance directive for a natural death ("living will"), health care power of attorney, or other legally authorized instrument; and an advisory that the MOST may be revoked by the patient or the patient's representative. The official MOST form shall also include the following statement written in boldface type directly above the signature line: "You are not required to sign this form to receive treatment." The form may be approved by reference to a standard form that meets the requirements of this subsection. For purposes of this section, the "patient's representative" means an individual from the list of persons authorized to consent to the withholding of life-prolonging measures pursuant to G.S. 90-322.

(d) No physician, emergency medical professional, hospice provider, or other health care provider shall be subject to criminal prosecution, civil liability, or disciplinary action by any professional licensing or certification agency for withholding cardiopulmonary resuscitation or other life-prolonging measures from a patient in good faith reliance on an

original DNR order or MOST form adopted pursuant to subsection (c) of this section, provided that (i) there are no reasonable grounds for doubting the validity of the order or the identity of the patient, and (ii) the provider does not have actual knowledge of the revocation of the portable DNR order or MOST. No physician, emergency medical professional, hospice provider, or other health care provider shall be subject to criminal prosecution, civil liability, or disciplinary action by any professional licensing or certification agency for failure to follow a DNR order or MOST form adopted pursuant to subsection (c) of this section if the provider had no actual knowledge of the existence of the DNR order or MOST.

(e) A health care facility may develop policies and procedures that authorize the facility's provider to accept a portable DNR order or MOST as if it were an order of the medical staff of that facility. This section does not prohibit a physician in a health care facility from issuing a written order, other than a portable DNR order or MOST not to resuscitate a patient in the event of cardiac or respiratory arrest, or to use, withhold, or withdraw additional medical interventions as provided in the MOST, in accordance with acceptable medical practice and the facility's policies.

(f) Nothing in this section shall affect the validity of portable DNR order or MOST forms in existence prior to the effective date of this section. (2001-445, s. 1; 2007-502, s. 14.)