

Notice of Proposed Rule

DEPARTMENT OF HEALTH

Division of Emergency Preparedness and Community Support

RULE NO.: RULE TITLE:

64J-2.018 Do Not Resuscitate Order (DNRO) Form and Patient Identification Device

PURPOSE AND EFFECT: To add autonomous advanced practice registered nurses and physician assistants as health care providers that are authorized to sign DH Form 1896, as permitted by Chapters 2020-9 and 2021-204, Laws of Florida, to define terms, and to clarify that the term “copy” includes an electronic medical record.

SUMMARY: The rule provides that an emergency medical technician (EMT) or paramedic will withhold or withdraw cardiopulmonary resuscitation (CPR) from a patient if the EMT or paramedic is presented with or observes on the patient’s person a completed DH Form 1896, titled “Do Not Resuscitate Order,” that is signed by the patient’s physician. The proposed changes add autonomous advanced practice registered nurses and physician assistants as health care providers that are authorized to sign DH Form 1896, as permitted by Chapters 2020-9 and 2021-204, Laws of Florida; define the terms used in the rule, and clarify that the term “copy” includes a reproduction of the original that accurately reproduces the completed DH Form 1896, including handwriting, signatures, and the yellow background required on the original.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Through its analysis of regulatory costs required as a part of the SERC analysis, the Agency has determined this rule will not require legislative ratification pursuant to Section 120.541(3), F.S.

Any person who wishes to provide information regarding a statement of estimated regulatory costs or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 381.0011, 401.45(5), FS.

LAW IMPLEMENTED: 401.45(3), FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FLORIDA ADMINISTRATIVE REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kate Kocovar, (850) 245-4054, Kate.Kocovar@FLHealth.gov.

Substantial rewording of Rule 64J-2.018, F.A.C., follows. See Florida Administrative Code for present text.

64J-2.018 Do Not Resuscitate Order (DNRO) Form and Patient Identification Device.

(1) As used in Chapters 64J-1 and 64J-2, F.A.C.:

(a) “Do Not Resuscitate Order” and “DNRO” mean DH Form 1896, Do Not Resuscitate Order, 05/2022, which is incorporated by reference and available from the Department at <http://www.floridahealth.gov/about/patient-rights-and-safety/do-not-resuscitate/documents/dnro-updated-form-bw.pdf> and at <http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXX>.

(b) “Do Not Resuscitate Order Device” and “DNRO Device” mean that portion of DH Form 1896, Do Not Resuscitate Order, 05/2022, consisting of a reduced-size reproduction of the DNRO below the line indicated by “Cut Along Line for Wallet Card.”

(2) “Original” means the completed Do Not Resuscitate Order or Do Not Resuscitate Device on yellow paper that bears the manual signatures of the patient or patient’s representative and the patient’s health care provider.

(3) “Copy” means a counterpart produced from the original, by means of photography, including enlargements and miniatures; by mechanical or electronic rerecording; by chemical reproduction; or by other equivalent technique that accurately reproduces the completed original, including any manual handwriting, signatures, and the yellow background of the original. Any shade of yellow is acceptable.

(4) “Do Not Resuscitate Order” and “DNRO” do not mean, and a DNRO is not a substitute for, any other oral or written order of a health care provider authorized by law to direct that cardiopulmonary resuscitation or any life-prolonging procedure be withheld or withdrawn.

(5) “Do Not Resuscitate Order” and “DNRO” do not mean, and a DNRO is not a substitute for, an advance

directive, living will, or declaration, as those terms are defined by section 765.101, F.S..

(6) An emergency medical technician (EMT) or paramedic shall withhold or withdraw cardiopulmonary resuscitation from a patient:

(a) Upon the presentation of an original, or a copy of a completed DNRO, a completed DNRO Device, or any full size, reduced size, or previous version thereof; or

(b) Upon the EMT's or paramedic's observation of such original or copy, or of an original or copy that is worn or carried on the patient's person so as to be readily apparent to emergency medical services providers.

(7) An EMT or paramedic is not required to withhold cardiopulmonary resuscitation if:

(a) The original or copy of the DNRO is not on yellow paper (of any shade); or

(b) The content is altered from the original; or

(c) All printed wording on the DNRO is not legible.

(8) The DNRO must be signed by the patient's physician, osteopathic physician, autonomous advanced practice registered nurse, or physician assistant and by:

(a) The patient, the patient's principal, surrogate, proxy, or minor's principal, as those terms are defined in section 765.101, F.S.; or

(b) A guardian as defined by section 744.102, F.S., or an attorney in fact as defined by section 709.08, F.S., who is expressly authorized to make health care decisions for the patient.

(9) An EMT or paramedic shall verify the identity of the patient by reviewing the patient's driver license or other photo identification.

(10) During each transport, the EMT or paramedic shall:

(a) Ensure that the DNRO or DNRO Device accompanies the patient to the receiving facility or agency; and

(b) Provide to the patient comforting, pain-relieving and any other medically indicated care other than respiratory or cardiac resuscitation.

(11) The patient may revoke the DNRO at any time by orally expressing a contrary intent, by expressing a contrary intent in writing, by failing to present the DNRO to the EMT or paramedic, by physically destroying the DNRO, or by a writing signed in the same manner as the DNRO.

Rulemaking Authority 381.0011, ~~401.45(5)~~ ~~401.45(3)~~ FS. Law Implemented 381.0205, ~~401.45(3)~~ ~~401.45~~, ~~765.401~~ FS. History—New 11-30-93, Amended 3-19-95, 1-26-97, Formerly 10D-66.325, Amended 2-20-00, 11-3-02, 6-9-05, Formerly 64E-2.031, Amended _____.