

**Subpart B. MATTERS ANCILIARY TO EMERGENCY MEDICAL SERVICES SYSTEMS**

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**CHAPTER 1051. OUT-OF-HOSPITAL DO-NOT-RECUSCITATE ORDERS**

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**Authority**

The provisions of this Chapter 1051 issued under the Do-Not-Resuscitate Act, 20 Pa.C.S. Chapter 54, unless otherwise noted.

**Source**

The provisions of this Chapter 1051 were adopted February 6, 2004, effective February 7, 2004, replacing interim regulations which were adopted December 13, 2002, effective March 1, 2003, 32 Pa.B. 6117, unless otherwise noted.

**Cross References**

This chapter cited in 28 Pa. Code § 1027.3 (relating to licensure and general operating standards).

**GENERAL PROVISIONS****§ 1051.1. Purpose.**

This chapter provides standards for the issuance and revocation of out-of-hospital DNR orders and compliance with those orders. An additional purpose of this chapter is to address how health care providers are to deal with orders or directions to not provide life-sustaining treatment, CPR, nutrition or hydration to a pregnant woman.

**Source**

The provisions of this § 1051.1 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial page (294014).

**§ 1051.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Advance directive*—A directive for health care in a declaration issued under 20 Pa.C.S. Chapter 54 (relating to the Advance Directive for Health Care Act).

*Attending physician*—A physician who has primary responsibility for the medical care and treatment of a patient. A patient may have more than one attending physician.

*CPR—Cardiopulmonary resuscitation*—Cardiac compression, invasive airway techniques, artificial ventilation, defibrillation and other related procedures used to resuscitate a patient or to prolong the life of a patient.

*DNR*—Do not resuscitate.

*Declarant*—As defined in 20 Pa.C.S. § 5403 (relating to definitions).

*Declaration*—As defined in 20 Pa.C.S. § 5403.

*Department*—The Department of Health of the Commonwealth.

*EMS personnel—Emergency medical services personnel*—Prehospital personnel and individuals given good Samaritan civil immunity protection when using an automated external defibrillator under 42 Pa.C.S. § 8331.2 (relating to good Samaritan civil immunity for use of automated external defibrillators).

*EMS provider—Emergency medical services provider*—EMS personnel, a medical command physician and, as defined in § 1001.2 (relating to definitions), an advance life support service medical director, medical command facility medical director, medical command facility, ambulance service and quick response service.

*Health care provider*—A person who is licensed, certified or otherwise authorized to administer health care in the ordinary course of a business or practice of a profession. The term includes EMS providers.

*Invasive airway technique*—Any advanced airway technique, including endotracheal intubation.

*Life-sustaining treatment*—

(i) A medical procedure or intervention that, when administered to a patient, will serve only to prolong the process of dying or to maintain the patient in a state of permanent unconsciousness.

(ii) The term includes nutrition and hydration administered by gastric tube or intravenously or any other artificial or invasive means if the order of the patient so specifically provides.

*Medical command physician*—A physician who is approved by a regional emergency medical services council to provide medical command.

*Out-of-hospital DNR bracelet*—A bracelet which signifies that an out-of-hospital DNR order has been issued.

*Out-of-hospital DNR necklace*—A necklace which signifies that an out-of-hospital DNR order has been issued.

*Out-of-hospital DNR order*—A written order, the form for which is supplied by the Department or its designee under this chapter, that is issued by an attending physician and directs EMS providers to withhold CPR from the patient in the event of cardiac or respiratory arrest.

*Out-of-hospital DNR patient*—A patient for whom an attending physician has issued an out-of-hospital DNR order.

*Patient*—One of the following:

(i) An individual who is in a terminal condition.

(ii) A declarant whose declaration has become operative under 20 Pa.C.S. § 5405(2) (relating to when declaration becomes operative) and which provides that CPR may not be provided in the event of the declarant's cardiac or respiratory arrest if the declarant becomes permanently unconscious, or designates a surrogate to make that decision under those circumstances.

*Permanently unconscious*—

(i) A medical condition that has been diagnosed in accordance with currently accepted medical standards and with reasonable medical certainty as total and irreversible loss of consciousness and capacity for interaction with the environment.

(ii) The term includes, without limitation, a persistent vegetative state or irreversible coma.

*Person*—An individual, corporation, partnership, association or Federal, State or local government or governmental agency.

*Physician*—An individual who has a currently registered license to practice medicine or osteopathic medicine in this Commonwealth.

*Prehospital personnel*—The term includes any of the following prehospital practitioners:

- (i) Ambulance attendants.
- (ii) First responders.
- (iii) Emergency medical technicians (EMTs).
- (iv) EMT-paramedics.
- (v) Prehospital registered nurses.
- (vi) Health professional physicians.

*Surrogate*—An individual who has, or individuals who collectively have, legal authority to request an out-of-hospital DNR order for another individual or to revoke that order.

*Terminal condition*—An incurable and irreversible medical condition in an advanced state caused by injury, disease or physical illness which will, in the opinion of the attending physician, to a reasonable degree of medical certainty, result in death regardless of the continued application of life-sustaining treatment.

#### Source

The provisions of this § 1051.2 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial pages (294014) to (294016).

### § 1051.3. Applicability.

(a) This chapter applies to the following:

- (1) Health care providers.
- (2) Attending physicians.
- (3) Patients.
- (4) Surrogates.

(b) This chapter neither compels nor prohibits health care provider compliance with an out-of-hospital DNR order in a hospital, except that in a hospital an EMS provider shall comply with an out-of-hospital DNR order in the course of providing care to or transportation of an out-of-hospital DNR patient on behalf of an ambulance service.

(c) This chapter does not regulate the issuance of or compliance with a DNR order issued in a hospital to be followed in that hospital.

(d) This chapter permits EMS providers to comply with out-of-hospital DNR orders in all settings other than a hospital, except as set forth in subsection (b), including personal care facilities and all other health care facilities.

**Source**

The provisions of this § 1051.3 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial page (294016).

**PATIENT AND SURROGATE RIGHTS AND RESPONSIBILITIES**

**§ 1051.11. Patient qualifications to request and revoke out-of-hospital DNR order.**

(a) *Patient requesting an out-of-hospital DNR order.* A patient may request and receive an out-of-hospital DNR order from the patient's attending physician if the patient has a terminal condition and the patient is at least 18 years of age, has graduated from high school, has married or is emancipated.

(b) *Patient revoking an out-of-hospital DNR order.* An out-of-hospital DNR patient, regardless of age or physical or mental condition, may revoke an out-of-hospital DNR order issued for the out-of-hospital DNR patient whether the order was issued pursuant to the request of the patient or the patient's surrogate.

**Source**

The provisions of this § 1051.11 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at (294017).

**Cross References**

This section cited in 28 Pa. Code § 1051.22 (relating to issuance of out-of-hospital DNR order); 28 Pa. Code § 1051.23 (relating to disclosure to patient requesting out-of-hospital DNR order); and 28 Pa. Code § 1051.26 (relating to physician refusal to issue an out-of-hospital DNR order).

**§ 1051.12. Surrogate's authority to request and revoke out-of-hospital DNR order.**

(a) *Surrogate requesting an out-of-hospital DNR order.* The surrogate of a patient may request and receive from the patient's attending physician an out-of-hospital DNR order for the patient, regardless of the patient's age or other physical or mental condition.

(b) *Surrogate revoking an out-of-hospital DNR order.* A patient's surrogate may revoke an out-of-hospital DNR order for the patient if the out-of-hospital DNR order was issued at the request of a surrogate.

**Source**

The provisions of this § 1051.12 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at (294017).

**§ 1051.13. Duties when person loses authority to function as a surrogate.**

(a) *No authority to revoke out-of-hospital DNR order.* A person who acted as a patient's surrogate when requesting an out-of-hospital DNR order for the patient may not revoke the out-of-hospital DNR order if the person loses the legal authority to serve as the patient's surrogate.

(b) *Duty when person loses surrogate status.* If capable of doing so, a person who loses the authority to act as a patient's surrogate after the person obtained an out-of-hospital DNR order for the patient shall apprise a replacement surrogate, if any, of the patient's out-of-hospital DNR items and of other pertinent information relating to those items. The former surrogate shall also provide to the replacement surrogate or to the patient if the patient is no longer represented by a surrogate, the name of the physician who issued the out-of-hospital DNR order and any information the person has to help the patient or new surrogate locate the physician. The former surrogate, if capable of doing so, shall also make a reasonable effort to apprise the physician who issued the out-of-hospital DNR order of the change in that person's status, as well as the name of the person, if any, who replaced that person as the patient's surrogate and any information the former surrogate has to help the physician locate the patient and the patient's current surrogate.

(c) *Duty when contacted by physician.* If a patient's former surrogate did not attempt to contact the patient's attending physician as required by subsection (b), or made the attempt but was unsuccessful, and is contacted by the patient's attending physician for the purpose of communicating information regarding the patient, the patient's former surrogate shall apprise the physician that the person is no longer the patient's surrogate and provide the physician any information the former surrogate has to help the physician locate the patient or the patient's current surrogate.

(d) *Duty of replacement surrogate.* A person who replaces another person as the patient's surrogate after an out-of-hospital DNR order has been issued for the patient, and who is made aware of the order and given information regarding the attending physician who issued the order, shall make a reasonable effort to contact the physician to apprise the physician of the change in surrogates unless the new surrogate is able to confirm that the former surrogate has already made the disclosure.

**Source**

The provisions of this § 1051.13 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial pages (294017) to (294018).

**ATTENDING PHYSICIAN RESPONSIBILITIES****§ 1051.21. Securing out-of-hospital DNR orders, bracelets and necklaces.**

(a) *Securing order forms.* A physician or the physician's agent may secure out-of-hospital DNR order forms from the Department unless the Department has contracted with a vendor to provide the order forms, in which case the physician shall secure the order forms by purchasing them from the contracted vendor.

(b) *Securing bracelets and necklaces.* A physician may secure out-of-hospital DNR bracelets and necklaces by purchasing them from the vendor with which the Department has contracted to produce the bracelets and necklaces.

(c) *Vendors.* The Department will publish in a *Pennsylvania Bulletin* notice the name and address of the vendors with which it has contracted under this section and publish superseding *Pennsylvania Bulletin* notices when there are vendor changes.

**Source**

The provisions of this § 1051.21 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial page (294018).

**§ 1051.22. Issuance of out-of-hospital DNR order.**

(a) *Authority to issue.* A patient's attending physician shall issue an out-of-hospital DNR order for the patient if the patient who is qualified to request the order under § 1051.11(a) (relating to patient qualifications to request and revoke out-of-hospital DNR order) or the patient's surrogate requests the attending physician to issue an out-of-hospital DNR order for the patient and the attending physician determines that the patient has a terminal condition or is permanently unconscious.

(b) *Review of order before signing.* Before completing, signing and dating an out-of-hospital DNR order, a patient's attending physician shall ensure that the patient is identified in the order, that all other provisions of the order have been completed, and that the patient or the patient's surrogate, as applicable, has signed the order.

(c) *Order form.* A patient's attending physician shall issue an out-of-hospital DNR order for the patient only on a form provided by the Department or its designee.

**Source**

The provisions of this § 1051.22 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial page (294018).

**§ 1051.23. Disclosures to patient requesting out-of-hospital DNR order.**

When a patient qualified under § 1051.11(a) (relating to patient qualifications to request and revoke out-of-hospital DNR order) requests an out-of-hospital

DNR order, the attending physician shall disclose the following information to the patient before issuing an out-of-hospital DNR order for the patient:

- (1) The diagnosed condition is a terminal condition.
- (2) An out-of-hospital DNR order directs an EMS provider to withhold providing CPR to the patient in the event of the patient's cardiac or respiratory arrest.
- (3) The attending physician may also issue an out-of-hospital DNR bracelet or necklace for the patient, and that the necklace and bracelet also direct an EMS provider to withhold providing CPR in the event of the patient's cardiac or respiratory arrest.
- (4) An out-of-hospital DNR order, bracelet or necklace requested by a patient is effective only when the patient possesses and displays the order, bracelet or necklace.
- (5) An out-of-hospital DNR order is not effective when the patient is in a hospital, unless an EMS provider has been dispatched to provide EMS to the patient in the hospital, but it may be possible for a DNR order to be issued for the patient in a hospital in accordance with other procedures.
- (6) The patient may revoke the out-of-hospital DNR order; the patient may do so without the physician's approval or knowledge; revocation may be accomplished by destroying or not displaying the order, bracelet or necklace, or by conveying the decision to revoke the out-of-hospital DNR order verbally or otherwise at the time the patient experiences respiratory or cardiac arrest; and neither the patient's physical nor mental condition will be considered to void the patient's decision to revoke the out-of-hospital DNR order if that decision is clearly communicated in some manner.
- (7) The possibility exists that the EMS provider may administer CPR in the event of the patient's cardiac or respiratory arrest if an EMS provider is uncertain regarding the validity or applicability of the out-of-hospital DNR order, bracelet or necklace.
- (8) An EMS provider who complies with the patient's out-of-hospital DNR order may provide other medical interventions to the patient to provide comfort or alleviate pain.
- (9) The physician will make every reasonable effort to contact the patient to ask the patient to return the out-of-hospital DNR order, bracelet and necklace to the physician, for destruction by the physician, if the physician discovers that the diagnosis of the terminal condition was in error.
- (10) If the patient is female, there are additional procedures that an EMS provider will need to follow to implement an out-of-hospital DNR order if the patient is pregnant at the time of cardiac or respiratory arrest. If the patient is pregnant or requests information regarding the additional procedures, the physician shall explain the requirements of § 1051.61 (relating to pregnant patients).



**Source**

The provisions of this § 1051.23 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial pages (294018) to (294020).

**Cross References**

This section cited in 28 Pa. Code § 1051.24 (relating to disclosures to surrogate requesting out-of-hospital DNR order); and 28 Pa. Code § 1051.25 (relating to disclosures to patient when surrogate requests out-of-hospital DNR order).

**§ 1051.24. Disclosures to surrogate requesting out-of-hospital DNR order.**

Before issuing an out-of-hospital DNR order for a patient that is requested by the patient's surrogate, the attending physician shall disclose the following information to the surrogate:

- (1) The diagnosed condition is a terminal condition or that the physician has diagnosed the patient to be permanently unconscious.
- (2) The disclosures required by § 1051.23(2), (3), (5), (7) and (8) (relating to disclosures to patient requesting out-of-hospital DNR order).
- (3) An out-of-hospital DNR order, bracelet or necklace requested by the surrogate is effective only when the order, bracelet or necklace is displayed with the patient or the surrogate presents the order to the EMS provider at the time the patient experiences cardiac or respiratory arrest.
- (4) The patient or surrogate may revoke the out-of-hospital DNR order; the patient or surrogate may do so without the physician's approval or knowledge; revocation may be accomplished by destroying or not displaying the order, bracelet or necklace, or by conveying the decision to revoke the out-of-hospital DNR order verbally or otherwise at the time the patient experiences cardiac or respiratory arrest; and neither the physical nor mental condition of the patient will be considered to void the decision of the patient or surrogate to revoke the out-of-hospital DNR order if that decision is clearly communicated in some manner. The physician shall also apprise the surrogate, if it seems appropriate under the circumstances, that the power of the surrogate to revoke the out-of-hospital DNR order for the patient will terminate if the surrogate loses the legal authority to make that decision.
- (5) The physician will make every reasonable effort to contact the surrogate to ask the surrogate to return the out-of-hospital DNR order, bracelet and necklace to the physician, for destruction by the physician, if the physician discovers that the diagnosis of the terminal condition or that the patient is permanently unconscious was in error.
- (6) If the patient is female, there are additional procedures that an EMS provider will need to follow to implement an out-of-hospital DNR order if the patient is pregnant at the time of cardiac or respiratory arrest. If the patient is pregnant or the patient's surrogate requests information regarding the additional procedures, the physician shall explain the requirements of § 1051.61 (relating to pregnant patients).

**Source**

The provisions of this § 1051.24 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at (294020).

**§ 1051.25. Disclosures to patient when surrogate requests out-of-hospital DNR order.**

Before issuing an out-of-hospital DNR order for a patient that is requested by the patient's surrogate, the attending physician shall disclose to the patient the information in § 1051.23 (relating to disclosures to patient requesting out-of-hospital DNR order) that the physician in good faith believes the patient needs to have to make a future decision to revoke or not revoke the order. In making this assessment, the physician shall consult with the patient's surrogate and consider factors such as the reason the patient is not able to request an out-of-hospital DNR order, the patient's ability to comprehend and retain the information, and the patient's age and maturity. The attending physician shall refuse to issue the order if the physician and surrogate cannot agree to the information that is to be disclosed to the patient by the physician.

**Source**

The provisions of this § 1051.25 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial page (294021).

**Cross References**

This section cited in 28 Pa. Code § 1051.26 (relating to physician refusal to issue an out-of-hospital DNR order).

**§ 1051.26. Physician refusal to issue an out-of-hospital DNR order.**

An attending physician who is not willing to issue an out-of-hospital DNR order for a reason other than described in § 1051.25 (relating to disclosures to patient when surrogate requests out-of-hospital DNR order) shall explain the reason to the patient or the patient's surrogate, as appropriate. If the request is made by a patient's surrogate, or by a patient who qualifies to make the request under § 1051.11 (relating to patient qualifications to request and revoke out-of-hospital DNR order), and the physician determines that the patient is qualified to receive an out-of-hospital DNR order, the physician shall also do the following:

- (1) Explain to the patient or surrogate that an out-of-hospital DNR order may be issued only by a physician who has primary responsibility for the treatment and care of a patient.
- (2) Make every reasonable effort to assist the patient or surrogate to secure the services of another physician who is willing to issue an out-of-hospital DNR order for the patient and who will undertake primary responsibility for the treatment and care of the patient in addition to or instead of the attending physician, as the patient or surrogate chooses.

**Source**

The provisions of this § 1051.26 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial page (294021).

**§ 1051.27. Providing out-of-hospital DNR bracelet or necklace.**

(a) *Bracelet and necklace.* A patient's attending physician may provide to the patient, or to the patient's surrogate for the patient, an out-of-hospital DNR bracelet or necklace, or both, if the physician has issued or is issuing an out-of-hospital DNR order for the patient and the patient or the surrogate requests the item.

(b) *Order also required.* A patient's attending physician may not provide an out-of-hospital DNR bracelet or necklace for the patient without also issuing, or having issued, an out-of-hospital DNR order for the patient.

(c) *Department vendor.* A patient's attending physician may provide to or for the patient only an out-of-hospital DNR bracelet or necklace produced by a vendor with which the Department has contracted to produce the bracelet or necklace.

**Source**

The provisions of this § 1051.27 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial pages (294021) to (294022).

**§ 1051.28. Documentation.**

An attending physician who issues an out-of-hospital DNR order for a patient shall maintain a copy of that order in the patient's medical record and shall document in that order whether the physician also provided an out-of-hospital DNR bracelet or necklace, or both. If the attending physician provides an out-of-hospital DNR bracelet or necklace after issuing the out-of-hospital DNR order, the physician shall document the patient's medical record to reflect that the bracelet or necklace was also provided for the patient.

**Source**

The provisions of this § 1051.28 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial page (294022).

**§ 1051.29. Duty to contact patient or surrogate.**

If a physician who issued an out-of-hospital DNR order for the patient subsequently determines that the diagnosis that the patient is in a terminal condition or is permanently unconscious was in error, the physician shall make every reasonable effort to promptly contact the patient or the patient's surrogate to disclose the error. The physician shall also request the return of the order, and the bracelet and necklace if the physician provided those items.

**Source**

The provisions of this § 1051.29 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial page (294022).

**Cross References**

This section cited in 28 Pa. Code § 1051.30 (relating to physician destruction of out-of-hospital DNR order, bracelet or necklace).

**§ 1051.30. Physician destruction of out-of-hospital DNR order, bracelet or necklace.**

(a) *Destruction of order, bracelet and necklace.* A physician shall destroy an out-of-hospital DNR order, bracelet or necklace returned to the physician under § 1051.29 (relating to duty to contact patient or surrogate), as follows:

(1) The physician shall shred or otherwise destroy beyond identification the original order and mark all copies of the order in the physician's possession as having been revoked.

(2) The physician shall cut the bracelet or necklace pendant in half or take other action that renders the bracelet or necklace incapable of being used again as an out-of-hospital DNR bracelet or necklace.

(b) *Documentation of order when items not destroyed.* A physician who requests the return of an out-of-hospital DNR order, bracelet or necklace under § 1051.29 may not mark copies of the order in the physician's possession as having been revoked without having destroyed, or confirmed from a reliable person the destruction of the original out-of-hospital DNR order and any out-of-hospital DNR bracelet or necklace the physician provided for the patient.

**Source**

The provisions of this § 1051.30 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial pages (294022) to (294023).

**Cross References**

This section cited in 28 Pa. Code § 1051.13 (relating to duties when person loses authority to function as a surrogate).

**EMS PROVIDER RESPONSIBILITIES****§ 1051.51. Implementation of out-of-hospital DNR order.**

(a) *Display of order, bracelet or necklace.* An EMS provider may not provide CPR to a patient who is experiencing cardiac or respiratory arrest if an out-of-hospital DNR order, bracelet or necklace is displayed with the patient or the patient's surrogate presents the EMS provider with an out-of-hospital DNR order for the patient, and neither the patient nor the patient's surrogate acts to revoke the order at that time. When an EMS provider observes an out-of-hospital DNR

order without also observing an out-of-hospital DNR bracelet or necklace, the EMS provider shall implement the out-of-hospital DNR order only if it contains original signatures.

(b) *Discovery after CPR initiated.* If after initiating CPR an EMS provider becomes aware of an out-of-hospital DNR order that is effective under subsection (a), the EMS provider shall discontinue CPR.

(c) *Prehospital practitioner uncertainty.* If a prehospital practitioner is uncertain as to whether an out-of-hospital DNR order has been revoked for a patient who is experiencing cardiac or respiratory arrest, the prehospital practitioner shall provide CPR to the patient subject to the following:

(1) If the prehospital practitioner is in contact with a medical command physician prior to initiating CPR, the prehospital practitioner shall initiate or not initiate CPR as directed by the medical command physician.

(2) If the prehospital practitioner is in contact with a medical command physician after initiating CPR, the prehospital practitioner shall continue or not continue CPR as directed by the medical command physician.

(d) *Discontinuation of CPR not initiated by prehospital practitioner.* If CPR had been initiated for the patient before a prehospital practitioner arrived at the scene, and the prehospital practitioner determines that an out-of-hospital DNR order is effective under subsection (a), the prehospital practitioner may not discontinue the CPR without being directed to do so by a medical command physician.

(e) *AED good Samaritan.* If an individual who is given good Samaritan civil immunity protection when using an automated external defibrillator (AED) under 42 Pa.C.S. § 8331.2 (relating to good Samaritan civil immunity for use of automated external defibrillators) is uncertain as to whether an out-of-hospital DNR order has been revoked for a patient who is experiencing cardiac arrest, the individual may provide CPR to the patient as permitted by 42 Pa.C.S. § 8331.2, but shall discontinue CPR if directed by a medical command physician directly or as relayed by a prehospital practitioner.

(f) *Providing comfort and alleviating pain.* When a prehospital practitioner complies with an out-of-hospital DNR order, the prehospital practitioner, within the practitioner's scope of practice, shall provide other medical interventions necessary and appropriate to provide comfort to the patient and alleviate the patient's pain, unless otherwise directed by the patient or the prehospital practitioner's medical command physician.

#### Source

The provisions of this § 1051.51 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial pages (294023) to (294024).

**Cross References**

This section cited in 28 Pa. Code § 1051.52 (relating to procedure when both advance directive and out-of-hospital DNR order are present); and 28 Pa. Code § 1051.101 (relating to recognition of other states' out-of-hospital DNR orders).

**§ 1051.52. Procedure when both advance directive and out-of-hospital DNR order are present.**

If a patient with cardiac or respiratory arrest has both an advance directive directing that no CPR be provided and an out-of-hospital DNR order, an EMS provider shall comply with the out-of-hospital DNR order as set forth in § 1051.51 (relating to implementation of an out-of-hospital DNR order).

**Source**

The provisions of this § 1051.52 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial page (294024).

**Cross References**

This section cited in 28 Pa. Code § 1051.101 (relating to recognition of other states' out-of-hospital DNR orders).

**PREGNANT PATIENTS****§ 1051.61. Pregnant patients.**

Notwithstanding the existence of an order or direction to the contrary, life-sustaining treatment, CPR, nutrition and hydration shall be provided to a pregnant patient by a health care provider unless, to a reasonable degree of medical certainty as certified on the patient's medical record by the patient's attending physician and a second physician who is an obstetrician who has examined the patient, life-sustaining treatment, nutrition and hydration will have one of the following consequences:

- (1) They will not maintain the pregnant patient in such a way as to permit the continuing development and live birth of the unborn child.
- (2) They will be physically harmful to the pregnant patient.
- (3) They will cause pain to the pregnant patient which cannot be alleviated by medication.

**Source**

The provisions of this § 1051.61 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial page (294024).

**Cross References**

This section cited in 28 Pa. Code § 1051.23 (relating to disclosures to patient requesting out-of-hospital DNR order); 28 Pa. Code § 1051.24 (relating to disclosures to surrogate requesting out-of-hospital DNR order); and 28 Pa. Code § 1051.101 (relating to recognition of other states' out-of-hospital DNR orders).

**§ 1051.81. Medical command physician responsibilities.**

(a) *Compliance with out-of-hospital DNR order.* If a medical command physician is in contact with a prehospital practitioner when the prehospital practitioner is attending to a patient in cardiac or respiratory arrest and the prehospital practitioner is made aware of an out-of-hospital DNR order for the patient by examining an out-of-hospital DNR order, bracelet or necklace, the medical command physician shall honor the out-of-hospital DNR order. If appropriate, the medical command physician shall direct the prehospital practitioner to provide other medical interventions within the practitioner's scope of practice to provide comfort to the patient and alleviate the patient's pain, unless the prehospital practitioner is otherwise directed by the patient.

(b) *Prehospital practitioner uncertainty.* If a medical command physician is in contact with a prehospital practitioner when the prehospital practitioner is attending to a patient in cardiac or respiratory arrest and the prehospital practitioner communicates uncertainty as to whether an out-of-hospital DNR order for the patient has been revoked, the medical command physician shall ask the prehospital practitioner to explain the reason for the uncertainty. Based upon the information provided, the medical command physician shall make a good faith assessment of whether the described circumstances constitute a revocation, and then direct the prehospital practitioner to withdraw or continue CPR based upon whether the physician determines that the out-of-hospital DNR order has been revoked or not revoked.

(c) *Pregnant patient.* If a medical command physician is in contact with a prehospital practitioner when the prehospital practitioner is attending to a pregnant patient in cardiac or respiratory arrest, and the prehospital practitioner is made aware of an out-of-hospital DNR order for the pregnant patient by examining an out-of-hospital DNR order, bracelet or necklace for the patient, and apprises the medical command physician of the out-of-hospital DNR order, the medical command physician shall direct the prehospital practitioner to ignore the out-of-hospital DNR order unless the medical command physician has knowledge that the patient's attending physician and a second physician who is an obstetrician had examined the patient, and both certified in the patient's medical record that, to a reasonable degree of medical certainty, life-sustaining treatment, nutrition, hydration and CPR will have one of the following consequences:

- (1) They will not maintain the pregnant patient in such a way as to permit the continuing development and live birth of the unborn child.
- (2) They will be physically harmful to the pregnant patient.
- (3) They will cause pain to the pregnant patient which cannot be alleviated by medication.

(d) *Inconsistencies.* Subsections (a) and (b) apply when the patient is a pregnant patient, except to the extent they are inconsistent with subsection (c).

**Source**

The provisions of this § 1051.81 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial pages (294025) to (294026).

**Cross References**

This section cited in 28 Pa. Code § 1051.101 (relating to recognition of other states' out-of-hospital DNR orders).

**ORDERS, BRACELETS AND NECKLACES FROM OTHER STATES****§ 1051.101. Recognition of other states' out-of-hospital DNR orders.**

(a) *Validity of orders, bracelets and necklaces from other states.* An out-of-hospital DNR order, bracelet or necklace valid in a state other than this Commonwealth is effective in this Commonwealth to the extent the order, bracelet or necklace is consistent with the laws of this Commonwealth.

(b) *Department acceptance.* The Department will review the applicable laws of other states, and the out-of-hospital DNR orders, bracelets and necklaces provided in other states, and list in a notice in the *Pennsylvania Bulletin* the states that provide out-of-hospital DNR orders, bracelets and necklaces that are consistent with the laws of the Commonwealth. The notice will also include, for each state listed, a description of the out-of-hospital DNR order, bracelet and necklace the state issues consistent with the laws of the Commonwealth. The Department will update the list and descriptions, as needed, in a superseding notice in the *Pennsylvania Bulletin*.

(c) *Compliance by EMS providers.* An EMS provider shall comply with §§ 1051.51, 1051.52, 1051.61 and 1051.81 when encountering a patient with an apparently valid out-of-hospital DNR order, bracelet or necklace issued by another state listed in a notice in the *Pennsylvania Bulletin* issued under subsection (b).

**Source**

The provisions of this § 1051.101 amended February 6, 2004, effective February 7, 2004, 34 Pa.B. 677. Immediately preceding text appears at serial page (294026).

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