

FIRST REGULAR SESSION

HOUSE BILL NO. 401

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BRUNS.

Read 1st time January 31, 2005 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

1334L.011

AN ACT

To amend chapter 190, RSMo, by adding thereto one new section relating to emergency services.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 190, RSMo, is amended by adding thereto one new section, to be known as section 190.230, to read as follows:

190.230. 1. If an adult patient's physician issues an out-of-hospital do-not-attempt-to-resuscitate order under this section, the physician shall use the form prescribed under subsection 2 of this section, include a copy of the order on or in the patient's medical record, and provide a copy to the patient or an individual authorized to act on the patient's behalf. As used in this section, the acronym "OHDNARO" means an out-of-hospital do-not-attempt-to-resuscitate order.

2. The department, in collaboration with interested parties, shall develop and approve uniform OHDNARO forms and OHDNARO uniform personal identifiers to be used statewide, and shall promulgate rules to require their use as necessary to implement this section. The OHDNARO forms and uniform personal identifiers shall alert any emergency medical technician, emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, first responder, or other health care provider of the existence of an OHDNARO for a patient.

3. The OHDNARO form shall include all of the following:

- (1) The patient's name;**
- (2) The patient's date of birth;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (3) The name of the individual authorized to act on the patient's behalf, such as a
18 guardian or agent under a durable power of attorney for health care, if applicable;

19 (4) The patient's signature or the signature of the individual authorized to act on
20 the patient's behalf, or a written certification by the patient's physician that the treatment
21 options were discussed with and consented to by the patient or individual authorized to act
22 on the patient's behalf;

23 (5) A brief statement describing the patient's condition, including diagnosis and
24 prognosis;

25 (6) The signature of the patient's physician;

26 (7) The date the form is signed;

27 (8) A concise statement of the nature and scope of the order;

28 (9) Any other information necessary to provide instructions to an emergency
29 medical technician, emergency medical technician-basic, emergency medical technician-
30 intermediate, emergency medical technician-paramedic, first responder, or other health
31 care provider.

32 4. An emergency medical technician, emergency medical technician-basic,
33 emergency medical technician-intermediate, emergency medical technician-paramedic,
34 first responder, or other health care provider shall withhold or withdraw any attempt to
35 resuscitate a patient outside a hospital, including but not limited to the patient's residence,
36 a family member's residence, or a facility licensed under chapter 198, RSMo, or chapter
37 630, RSMo, or operated by a governmental unit, when notified of an OHDNARO issued
38 for such patient under this section and the rules promulgated by the department. Nothing
39 in this section shall be construed as requiring an emergency medical technician, emergency
40 medical technician-basic, emergency medical technician-intermediate, emergency medical
41 technician-paramedic, first responder, or other health care provider to affirmatively
42 inquire as to the existence of such an order.

43 5. In fulfilling the instructions of an OHDNARO under this section, an emergency
44 medical technician, emergency medical technician-basic, emergency medical technician-
45 intermediate, emergency medical technician-paramedic, first responder, or other health
46 care provider shall provide appropriate palliative care and pain relief to the patient.

47 6. An OHDNARO is deemed revoked when a patient or an individual authorized
48 to act on the patient's behalf as designated on the OHDNARO is able to communicate in
49 a manner such that an emergency medical technician, emergency medical technician-basic,
50 emergency medical technician-intermediate, emergency medical technician-paramedic,
51 first responder, or other health care provider would have reasonable cause to believe that
52 the patient or individual intends to revoke such order. A revocation shall only be effective

53 as to the emergency medical technician, emergency medical technician-basic, emergency
54 medical technician-intermediate, emergency medical technician-paramedic, first
55 responder, or other health care provider upon receipt of communication from the patient,
56 an individual authorized to act on the patient's behalf as designated in the order, or by
57 another person with apparent authority to issue the revocation, such as the patient's
58 physician.

59 7. The personal wishes of family members or other individuals who are not
60 authorized in the order to act on the patient's behalf shall not supersede a valid
61 OHDNARO.

62 8. If uncertainty regarding the validity or applicability of an OHDNARO exists, an
63 emergency medical technician, emergency medical technician-basic, emergency medical
64 technician-intermediate, emergency medical technician-paramedic, first responder, or
65 other health care provider shall attempt necessary and appropriate resuscitation.

66 9. An emergency medical technician, emergency medical technician-basic,
67 emergency medical technician-intermediate, emergency medical technician-paramedic,
68 first responder, or other health care provider shall document compliance or noncompliance
69 with an OHDNARO and, if applicable, the reasons for not complying with the order,
70 including evidence that the order was revoked or uncertainty regarding the validity or
71 applicability of the order.

72 10. Nothing in this section shall preclude any hospital or facility operated by a
73 governmental unit or licensed under chapter 197, 198, or 630, RSMo, from honoring an
74 OHDNARO entered in accordance with this section and in compliance with established
75 hospital or facility policies and protocols.

76 11. None of the following individuals or entities shall be civilly or criminally liable
77 for withholding or withdrawing resuscitation outside a hospital with an OHDNARO issued
78 under this section, so long as such actions were performed in good faith and without gross
79 negligence:

80 (1) An emergency medical technician, emergency medical technician-basic,
81 emergency medical technician-intermediate, emergency medical technician-paramedic,
82 first responder, emergency medical dispatcher, law enforcement officer, firefighter,
83 physician licensed under chapter 334, RSMo, registered professional nurse, licensed
84 practical nurse, certified nurse assistant, or other employees of entities listed in subdivision
85 (2) of this subsection;

86 (2) A hospital licensed or operated by the state, skilled nursing facility licensed or
87 operated by the state, intermediate care facility including an intermediate care facility for
88 the mentally retarded licensed or operated by the state, residential care facility I or II

89 licensed or operated by the state, ambulance service, emergency medical services system,
90 emergency medical services system-children, emergency medical response agency, fire
91 department, police department, public safety department, sheriff's office, or licensed
92 providers of home health, hospice, in-home services, or adult day care services.

93 **12. An OHDNARO that purports to have been made under provisions of a**
94 **substantially similar law of another state shall be governed by the law of the designated**
95 **state and, if valid where executed, is valid in this state and may be carried out and enforced**
96 **in this state. Nothing in this section shall be construed as requiring an emergency medical**
97 **technician, emergency medical technician-basic, emergency medical technician-**
98 **intermediate, emergency medical technician-paramedic, first responder, or other health**
99 **care provider to determine the actual validity of an order or creating liability based on a**
100 **subsequent determination that such order was not valid, unless there was reasonable cause**
101 **to believe that such order was invalid.**

102 **13. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,**
103 **that is created under the authority delegated in this section shall become effective only if**
104 **it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if**
105 **applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable**
106 **and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,**
107 **to review, to delay the effective date, or to disapprove and annul a rule are subsequently**
108 **held unconstitutional, then the grant of rulemaking authority and any rule proposed or**
109 **adopted after August 28, 2005, shall be invalid and void.**