

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 182

94TH GENERAL ASSEMBLY

Reported from the Committee on Health Care Policy February 28, 2007 with recommendation that House Committee Substitute for House Bill No. 182 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

Reported from the Committee on Rules March 6, 2007 with recommendation that House Committee Substitute for House Bill No. 182 Do Pass.

Taken up for Perfection April 2, 2007. House Committee Substitute for House Bill No. 182 ordered Perfected and printed.

D. ADAM CRUMBLISS, Chief Clerk

0578L.02P

AN ACT

To amend chapter 190, RSMo, by adding thereto eight new sections relating to outside the hospital do-not-resuscitate orders, with penalty provisions.

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

Section A. Chapter 190, RSMo, is amended by adding thereto eight new sections, to be
2 known as sections 190.600, 190.603, 190.606, 190.609, 190.612, 190.615, 190.618, and 190.621,
3 to read as follows:

190.600. 1. Sections 190.600 to 190.621 shall be known and may be cited as the
2 **"Outside the Hospital Do-Not-Resuscitate Act".**

3 **2. As used in sections 190.600 to 190.621, unless the context clearly requires**
4 **otherwise, the following terms shall mean:**

5 **(1) "Attending physician":**

6 **(a) A physician licensed under chapter 334, RSMo, selected by or assigned to a**
7 **patient who has primary responsibility for treatment and care of the patient; or**

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.

8 (b) If more than one physician shares responsibility for the treatment and care of
9 a patient, one such physician who has been designated the attending physician by the
10 patient or the patient's representative shall serve as the attending physician;

11 (2) "Cardiopulmonary resuscitation" or "CPR", emergency medical treatment
12 administered to a patient in the event of the patient's cardiac or respiratory arrest, and
13 shall include cardiac compression, endotracheal intubation and other advanced airway
14 management, artificial ventilation, defibrillation, administration of cardiac resuscitation
15 medications, and related procedures;

16 (3) "Department", the department of health and senior services;

17 (4) "Emergency medical services personnel", paid or volunteer firefighters, law
18 enforcement officers, first responders, emergency medical technicians, or other emergency
19 service personnel acting within the ordinary course and scope of their professions, but
20 excluding physicians;

21 (5) "Health care facility", any institution, building, or agency or portion thereof,
22 private or public, excluding federal facilities and hospitals, whether organized for profit
23 or not, used, operated, or designed to provide health services, medical treatment, or
24 nursing, rehabilitative, or preventive care to any person or persons. Health care facility
25 includes but is not limited to ambulatory surgical facilities, health maintenance
26 organizations, home health agencies, hospices, infirmaries, renal dialysis centers, long-term
27 care facilities licensed under sections 198.003 to 198.186, RSMo, medical assistance
28 facilities, mental health centers, outpatient facilities, public health centers, rehabilitation
29 facilities, and residential treatment facilities;

30 (6) "Hospital", a place devoted primarily to the maintenance and operation of
31 facilities for the diagnosis, treatment, or care for not less than twenty-four consecutive
32 hours in any week of three or more nonrelated individuals suffering from illness, disease,
33 injury, deformity, or other abnormal physical conditions; or a place devoted primarily to
34 provide for not less than twenty-four consecutive hours in any week medical or nursing
35 care for three or more nonrelated individuals. Hospital does not include any long-term
36 care facility licensed under sections 198.003 to 198.186, RSMo;

37 (7) "Outside the hospital do-not-resuscitate identification" or "outside the hospital
38 DNR identification", a standardized identification card, bracelet, or necklace of a single
39 color, form, and design as described by rule of the department that signifies that the
40 patient's attending physician has issued an outside the hospital do-not-resuscitate order for
41 the patient and has documented the grounds for the order in the patient's medical file;

42 (8) "Outside the hospital do-not-resuscitate order" or "outside the hospital DNR
43 order", a written physician's order signed by the patient and the attending physician, or

44 the patient's representative and the attending physician, in a form promulgated by rule of
45 the department which authorizes emergency medical services personnel to withhold or
46 withdraw cardiopulmonary resuscitation from the patient in the event of cardiac or
47 respiratory arrest;

48 (9) "Outside the hospital do-not-resuscitate protocol" or "outside the hospital DNR
49 protocol", a standardized method or procedure promulgated by rule of the department for
50 the withholding or withdrawal of cardiopulmonary resuscitation by emergency medical
51 services personnel from a patient in the event of cardiac or respiratory arrest;

52 (10) "Patient", a person eighteen years of age or older who is not incapacitated, as
53 defined in section 475.010, RSMo, and who is otherwise competent to give informed
54 consent to an outside the hospital do-not-resuscitate order at the time such order is issued,
55 and who, with his or her attending physician, has executed an outside the hospital do-not-
56 resuscitate order under sections 190.600 to 190.621. A person who has a patient's
57 representative shall also be a patient for the purposes of sections 190.600 to 190.621, if the
58 person or the person's patient's representative has executed an outside the hospital do-not-
59 resuscitate order under sections 190.600 to 190.621;

60 (11) "Patient's representative":

61 (a) An attorney in fact designated in a durable power of attorney for health care
62 for a patient determined to be incapacitated under sections 404.800 to 404.872, RSMo; or

63 (b) A guardian or limited guardian appointed under chapter 475, RSMo, to have
64 responsibility for an incapacitated patient.

190.603. 1. A patient or patient's representative and the patient's attending
2 physician may execute an outside the hospital do-not-resuscitate order. An outside the
3 hospital do-not-resuscitate order shall not be effective unless it is executed by the patient
4 or patient's representative and the patient's attending physician, and it is in the form
5 promulgated by rule of the department.

6 2. If an outside the hospital do-not-resuscitate order has been executed, it shall be
7 maintained as the first page of a patient's medical record in a health care facility unless
8 otherwise specified in the health care facility's policies and procedures.

9 3. An outside the hospital do-not-resuscitate order shall be transferred with the
10 patient when the patient is transferred from one health care facility to another health care
11 facility. If the patient is transferred outside of a hospital, the outside the hospital DNR
12 form shall be provided to any other facility, person, or agency responsible for the medical
13 care of the patient or to the patient or patient's representative.

190.606. The following persons and entities shall not be subject to civil, criminal,
2 or administrative liability and are not guilty of unprofessional conduct for the following

3 acts or omissions that follow discovery of an outside the hospital do-not-resuscitate
4 identification upon a patient; provided that the acts or omissions are done in good faith
5 and in accordance with the provisions of sections 190.600 to 190.621 and the provisions of
6 an outside the hospital do-not-resuscitate order executed under sections 190.600 to 190.621:

7 (1) Physicians, persons under the direction or authorization of a physician,
8 emergency medical services personnel, or health care facilities that cause or participate in
9 the withholding or withdrawal of cardiopulmonary resuscitation from such patient; and

10 (2) Physicians, persons under the direction or authorization of a physician,
11 emergency medical services personnel, or health care facilities that provide
12 cardiopulmonary resuscitation to such patient under an oral or written request
13 communicated to them by the patient or the patient's representative.

190.609. 1. An outside the hospital do-not-resuscitate order shall only be effective
2 when the patient has not been admitted to or is not being treated within a hospital.

3 2. An outside the hospital do-not-resuscitate order and the outside the hospital do-
4 not-resuscitate protocol shall not authorize the withholding or withdrawing of other
5 medical interventions, such as intravenous fluids, oxygen, or therapies other than
6 cardiopulmonary resuscitation. Outside the hospital do-not-resuscitate orders and the
7 outside the hospital do-not-resuscitate protocol shall not authorize the withholding or
8 withdrawing of therapies deemed necessary to provide comfort care or alleviate pain. Any
9 authorization for withholding or withdrawing interventions or therapies that is
10 inconsistent with sections 190.600 to 190.621 and is found or included in any outside the
11 hospital do-not-resuscitate order or in the outside the hospital do-not-resuscitate protocol
12 shall be null, void, and of no effect. Nothing in this section shall prejudice any other lawful
13 directives concerning such medical interventions and therapies.

14 3. An outside the hospital do-not-resuscitate order shall not be effective during such
15 time as the patient is pregnant; provided, however, that physicians, persons under the
16 direction or authorization of a physician, emergency medical services personnel, and health
17 care facilities shall not be subject to civil, criminal, or administrative liability and are not
18 guilty of unprofessional conduct if, while acting in accordance with the provisions of
19 sections 190.600 to 190.621 and the provisions of an outside the hospital do-not-resuscitate
20 order executed under sections 190.600 to 190.621, such persons and entities:

21 (1) Comply with an outside the hospital do-not-resuscitate order and withdraw or
22 withhold cardiopulmonary resuscitation from a pregnant patient while believing in good
23 faith that the patient is not pregnant; or

24 (2) Despite the presence of an outside the hospital do-not-resuscitate order, provide
25 cardiopulmonary resuscitation to a nonpregnant patient while believing in good faith that
26 the patient is pregnant.

 190.612. 1. Emergency medical services personnel are authorized to comply with
2 the outside the hospital do-not-resuscitate protocol when presented with an outside the
3 hospital do-not-resuscitate identification or an outside the hospital do-not-resuscitate
4 order. However, emergency medical services personnel shall not comply with an outside
5 the hospital do-not-resuscitate order or the outside the hospital do-not-resuscitate protocol
6 when the patient or patient's representative expresses to such personnel in any manner,
7 before or after the onset of a cardiac or respiratory arrest, the desire to be resuscitated.

8 2. If a physician or a health care facility other than a hospital admits or receives a
9 patient with an outside the hospital do-not-resuscitate identification or an outside the
10 hospital do-not-resuscitate order, and the patient or patient's representative has not
11 expressed or does not express to the physician or health care facility the desire to be
12 resuscitated, and the physician or health care facility is unwilling or unable to comply with
13 the outside the hospital do-not-resuscitate order, the physician or health care facility shall
14 take all reasonable steps to transfer the patient to another physician or health care facility
15 where the outside the hospital do-not-resuscitate order will be complied with.

 190.615. 1. A patient's death resulting from the withholding or withdrawal in good
2 faith of cardiopulmonary resuscitation under an outside the hospital do-not-resuscitate
3 order is not, for any purpose, a suicide or homicide.

4 2. The possession of an outside the hospital do-not-resuscitate identification or
5 execution of an outside the hospital do-not-resuscitate order does not affect in any manner
6 the sale, procurement, or issuance of any policy of life insurance, nor does it modify the
7 terms of an existing policy of life insurance. Notwithstanding any term of a policy to the
8 contrary, a policy of life insurance is not legally impaired or invalidated in any manner by
9 the withholding or withdrawal of cardiopulmonary resuscitation from an insured patient
10 possessing an outside the hospital do-not-resuscitate identification or outside the hospital
11 do-not-resuscitate order.

12 3. A physician, health care facility, or other health care provider or a health care
13 service plan, insurer issuing disability insurance, self-insured employee welfare benefit
14 plan, or nonprofit hospital plan shall not require a patient to possess an outside the
15 hospital do-not-resuscitate identification or execute an out of hospital do-not-resuscitate
16 order as a condition for being insured for or receiving health care services.

17 4. Sections 190.600 to 190.621 do not prejudice any right that a patient has to effect
18 the obtaining, withholding, or withdrawal of medical care in any lawful manner apart from

19 sections 190.600 to 190.621. In that respect, the rights of patients authorized under sections
20 190.600 to 190.621 are cumulative.

21 5. The provisions of sections 190.600 to 190.621 shall not be construed to condone,
22 authorize, or approve mercy killing or euthanasia, or to permit any affirmative or
23 deliberate act or omission to shorten or end life.

190.618. 1. By June 30, 2008, the department shall promulgate rules relating to the
2 outside the hospital do-not-resuscitate protocol, the outside the hospital do-not-resuscitate
3 identification, and the outside the hospital do-not-resuscitate forms under sections 190.600
4 to 190.621.

5 2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo,
6 that is created under the authority delegated in this section shall become effective only if
7 it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
8 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
9 and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo,
10 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
11 held unconstitutional, then the grant of rulemaking authority and any rule proposed or
12 adopted after August 28, 2007, shall be invalid and void.

190.621. 1. Any person who knowingly conceals, cancels, defaces, or obliterates the
2 outside the hospital do-not-resuscitate order or the outside the hospital do-not-resuscitate
3 identification of another person without the consent of the other person, or who knowingly
4 falsifies or forges a revocation of the outside the hospital do-not-resuscitate order or the
5 outside the hospital do-not-resuscitate identification of another person, is guilty of a class
6 A misdemeanor.

7 2. Any person who knowingly executes, falsifies, or forges an outside the hospital
8 do-not-resuscitate order or an outside the hospital do-not-resuscitate identification of
9 another person without the consent of the other person, or who knowingly conceals or
10 withholds personal knowledge of a revocation of an outside the hospital do-not-resuscitate
11 order or an outside the hospital do-not-resuscitate identification of another person, is guilty
12 of a class D felony.

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