



## Proposed Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Health
<b>Virginia Administrative Code (VAC) citation</b>	12 VAC 5 -66
<b>Regulation title</b>	Regulations Governing Durable Do Not Resuscitate Orders
<b>Action title</b>	Comprehensive amending and revisions addressing the issuance and honoring of Durable Do Not Resuscitate Orders
<b>Date this document prepared</b>	January 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

Since the inception of the Durable Do Not Resuscitate (DDNR) program, the use and understanding of the intent and applicability have undergone continuous and evolving interpretation. The purpose for amending and revising portions of this regulation are to highlight corrections in terminology, clarity in the honoring of the DDNR by all levels of healthcare providers and to utilize current technology to obtain and utilize the DDNR form(s).

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

§ 54.1- 2987.1 Durable Do Not Resuscitate Orders state in part, the ability for healthcare practitioners to honor the DDNR order.

§ 32.1-111.4 Regulations, Emergency Medical Services Personnel and vehicles; Response times; Enforcement provisions; Civil penalties states in part that the Board of Health has authority to promulgate regulations for EMS personnel to follow Do Not Resuscitate Orders pursuant to § 54.1.2987.1.

**Purpose**

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.*

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The current process for honoring DDNR orders is hampered by the inability of various healthcare providers to understand the process of complying with an individual patient’s end-of-life decision. By amending the process to include a less restrictive type of specialized form, improve the ability to utilize other valid written orders from the patient’s physician and the ability to utilize legible electronic copies of DDNR forms will reduce confusion and streamline the efficiency in not only recognizing, but honoring a patient’s end-of-life decisions.

**Substance**

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the “Detail of changes” section.)*

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Substantive changes include the ability for physicians or licensed healthcare facilities to obtain the Board of Health DDNR form via the internet and to allow legible electronic copies for DDNR to be recognized and exchanged between healthcare entities.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*  
1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*  
2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*  
3) *other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

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By enacting the proposed changes, there are no disadvantages to the public or the Commonwealth. Advantages include a process that increases the likelihood that healthcare providers will honor patients’ end-of-life decisions in both the out-of-hospital and in-hospital settings.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

There are no applicable federal requirements with regards to Durable Do Not Resuscitate Orders.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

These proposed regulations are applicable across the Commonwealth and as such, there are no disproportionately affected localities.

**Public participation**

*Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.*

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to Michael D. Berg, Manager, Regulation and Compliance Office of EMS, Virginia Department of Health, 109 Governor Street, UB-55, Richmond, Virginia 23219, (804) 864-7600, Toll Free (Virginia only) 800-523-6019, Facsimile (804) 864-7650 or by emailing [Michael.Berg@vdh.virginia.gov](mailto:Michael.Berg@vdh.virginia.gov). Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last date of the public comment period.

**[The following paragraph is optional:]**

A public hearing will be held and notice of the public hearing may appear on the Virginia Regulatory Town Hall website ([www.townhall.virginia.gov](http://www.townhall.virginia.gov)) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b>	No anticipated or negligible costs for implementation and enforcement.
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<b>Projected cost of the regulation on localities</b>	No projected costs for localities.
<b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b>	Acute care facilities, long term care facilities, qualified healthcare providers, home healthcare organizations, and hospice organizations.
<b>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected.</b> Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	Entities affected include more than 100 inpatient and outpatient hospitals, 265 nursing facilities, and all licensed/certified healthcare providers.
<b>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</b>	\$0.00

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

The proposed regulatory change includes input from stakeholders who utilize the DDNR process and recognize the need for improvement in the process of transferring care between facilities for those patients with a DDNR in-place. These changes would reduce the costs for unwanted lifesaving procedures (CPR, resuscitation, ICU admission, etc).

**Regulatory flexibility analysis**

*Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

The review process involved soliciting stakeholders input prior to and after development of the draft proposed regulations. This process included a review of other comparable state DDNR programs. The changes suggested are less restrictive and as such decreases the burden (financial and otherwise) on all businesses, large or small.

**Public comment**

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
<p>Virginia Health Care Association, Beverly Soble, Vice President, Regulatory Affairs</p>	<p>The Virginia Health Care Association is grateful for the opportunity to comment on the “Regulations Governing Durable Do Not Resuscitate Orders” in response to the Notice of Intended Regulatory Action published in the <i>Virginia Register</i> on February 4, 2008. As the Association representing the majority of nursing home and assisted living providers in the Commonwealth, we recognize the importance of the Durable DNR (DDNR) program in honoring individuals’ health care preferences. For the past several years we have worked closely with the Virginia Hospital &amp; Healthcare Association (VHHA) in an effort to bring attention to the need for updating the DDNR regulations because of difficulties in the DDNR program identified by our members. Our collaboration with the VHHA has resulted in identification of specific problems with the current regulations which have been outlined in their comments to you. We ask that you give serious consideration to the comments submitted by the Virginia Hospital &amp; Healthcare Association since they mirror the issues raised by long term care providers on the current regulations. For the past year we have been in communication with staff of the Office of Emergency Medical Services seeking support for amending the current regulations because of the difficulties our providers have experienced with the Durable DNR Orders during transit between settings. We believe the VHHA comments address these issues. Thank you for considering the comments and for the opportunity to work with staff to resolve problems experienced with the regulations. Please contact me at <a href="mailto:Beverley.soble@vhca.org">Beverley.soble@vhca.org</a> or by phone at 804.212.1697 if I can respond to any questions as you move forward with development of proposed changes and the regulatory process.</p>	<p>Agreed</p>
<p>The Virginia Hospital and Healthcare Association, Susan Ward, Vice President and General Counsel</p>	<p>The Virginia Hospital &amp; Healthcare Association appreciates this opportunity to comment on the “Regulations Governing Durable Do Not Resuscitate Orders” in response to the Notice of Intended Regulatory Action issued on February 4, 2008. The Durable DNR (DDNR) program is important tool for ensuring that individuals’ health care preferences are honored within and among health care settings. Health care providers within Virginia’s hospitals and health systems play an important role in DDNR program implementation and support</p>	<p>Agreed.</p>

	<p>the need for regulations that facilitate the effective use of DDNR orders. To assist you in this current review, we offer the following comments on the current regulations for your consideration as you prepare proposed regulations. We believe that by addressing these issue we will ensure clarity and consistency with the statute to strengthen the DDNR program. These issues have been identified by VHHA members based on our experience with the current regulations since 2002.</p> <p><b>12 VAC 5-66-40. The Durable Do Not Resuscitate Form</b></p> <p><b>Paragraph 1</b> is confusing as to who is responsible to do what. We suggest clarification with the following revision:</p> <p style="padding-left: 40px;"><i>A valid Durable DNR Order Form shall contain a do-not-resuscitate directive from a physician with whom the patient has a bona fide physician/patient relationship and shall be signed and dated by such physician. The order also must be signed by the patient who is the subject of the order or, if applicable, the person authorized to consent on the patient's behalf.</i></p> <p><b>Paragraph 3</b> requires production of an original or alternate form of Durable DNR order for withholding CPR. We suggest that the regulations include authority to recognize a <u>clear copy</u> of a Durable DNR Order. This is very important given the purpose of DDNR orders as an instrument to clarify patient treatment wishes in multiple settings and in transit between settings. It also facilitates use of these orders in hospitals and nursing facilities, where practitioners must look to the patient’s chart for these and other orders. Honoring only <u>original</u> forms presents a logistical challenge when a patient is moving between health care settings. For example, a nursing home will send the original DDNR order with its resident who is taken to the hospital, where it is inserted in the patient chart to ensure that it is followed, but this raises a logistical challenge for the hospital in getting the form back with the resident to the nursing home after treatment. If this isn’t accomplished, the form must be executed again at the nursing home. In 2002 VDH suggested addressing this problem with the execution of multiple originals. However, this is awkward, particularly if the forms are to be numbered as is required by current regulations (<i>see discussion below of Section 80 F4</i>). We suggest instead inclusion of language in these regulations similar to that contained in §54.1-2983 allowing physicians to place an original or a copy of an advance directive in the patient’s chart and follow such order.</p> <p><b>Paragraph 5</b> establishes that DDNR forms “shall be <u>available</u> only to physicians.” We suggest that because, particularly in hospitals and nursing facilities, other staff will assist in explaining these orders to patients, this provision should be deleted or rewritten to state that only physicians shall <u>issue</u> DDNR Orders.</p> <p><b>12 VAC 5-66-60. Other DNR Orders.</b></p> <p><b>Paragraph B</b> – We suggest reexamination of the requirement that “other DNR Orders ... contain information listed in subdivision 1</p>	
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	<p>of 12 VAC 5-66-40” in order to be honored by EMS personnel. This requirement should be reconciled more closely with institutional practices in order to give effect to these orders. For example, this provision technically requires a patient signature on the order. While patient consent is required for issuing such DNR orders in hospitals or nursing homes, their policies do not generally involve documenting this consent with the patient’s signature on the order itself. Addressing this issue may resolve some of the recently reported confusion among some EMS providers as to their authority to follow “other DNR orders.”</p> <p><b>12 VAC 5-66-80. Durable DNR Order implementation procedures</b></p> <p><b>Paragraph B3</b> – In a hospital or nursing home setting, identification will be verified through the patient’s chart, wristband and other hospital identification. It is unnecessary and impractical to require production of a driver’s license or other identification with a photo and signature. This requirement is more appropriate for EMS providers and should be qualified accordingly.</p> <p><b>Paragraph C</b> – The statute does not authorize the physician to revoke a Durable DNR Order, but the words “unless otherwise directed by a physician physically present at the patient location” in the second sentence of this paragraph seem to confer such authority on the physician. These words are inconsistent with the statute and should be deleted.</p> <p><b>Paragraph F4</b> – The current regulations issued in 2002 eliminated the external numbering system formerly used for EMS DNR Orders, which were uniquely numbered when printed. However, the current regulations in Paragraph F4 continue to refer to a DDNR Order Number in its requirement that health care personnel record the Durable DNR number when the order is followed. Also, vendors must record an order number when issuing alternative forms of identification (<b>12 VAC 5-66-70 C2</b>). These are references to the inclusion on the DDNR form in 2002 of a space to insert a <u>provider-generated</u> number on the form; however the current sample form on the VDH website no longer includes a space for a provider to insert an order number. We suggest that this requirement for numbering the forms be eliminated from the regulations wherever it appears. If such numbers are no longer required, these regulatory provisions are obsolete. If such a requirement still is enforced, we believe that it does not serve any purpose and should be eliminated. Physicians in many hospitals could all issue Durable DNR Orders numbered “100.” In addition, orders may be issued in several places in one hospital, creating confusion about how the numbers should be assigned and their significance. When the orders are then followed in another setting, the number is meaningless.</p> <p><b>Revocation of DDNR Orders (12 VAC 5-66-40 paragraph 4 and 80 E)</b></p> <p>These two provisions address revocation of a DDNR order as stated in statute in §32.1-2987.1 subsections B and D. We understand that in some cases the statute has been interpreted, we believe</p>	
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	<p>erroneously, to allow revocation by an authorized decision-maker without regard to the limits on that authority in Subsection D. In Section 40 there seems to be an effort to clarify that an authorized decision-maker cannot revoke the DDNR order if he knows that patient would object to the revocation. However, in Section 80 E of the regulations, there is the same potential for confusion as in the statute, posing a risk of revoking a DDNR order against a patient’s wishes. We do not have specific suggestions for clarification at this time, but we want to highlight the issue for discussion as the proposed regulations are developed.</p> <p>Again, we thank you for your consideration of these comments and your work with us on our concerns over the past year. We would be happy to talk with you to further explain them or answer any questions you have. Please contact me at <a href="mailto:sward@vhha.com">sward@vhha.com</a> or 804-965-1249 if I may be of assistance as your review of these regulations progresses.</p>	
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**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

There are no changes projected.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10		"Durable Do Not	"Alternate Durable DNR" means a

		<p>Resuscitate Order " or "Durable DNR Order " means a written physician's order issued pursuant to §54.1-2987.1of the Code of Virginia in a form authorized by the board to withhold cardiopulmonary resuscitation from an individual in the event of cardiac or respiratory arrest. For purposes of this chapter, cardiopulmonary resuscitation shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, and defibrillation and related procedures. As the terms "advance directive" and "Durable Do Not Resuscitate Order" are used in this article, a Durable Do Not Resuscitate Order is not and shall not be construed as an advance directive. When used in these regulations, the term "Durable DNR Order" shall include any authorized alternate form of identification issued in conjunction with an original Durable DNR Order.</p> <p>"Emergency medical services agency" or "EMS agency" means any person, licensed to engage in the business, service, or regular activity, whether or not for profit, of transporting and/or rendering immediate medical care to such persons who are sick, injured, wounded or otherwise incapacitated or helpless.</p> <p>"Person authorized to consent on the patient's behalf" means any person authorized by law to consent on behalf of the</p>	<p><u>Durable DNR bracelet or necklace issued by a vendor approved by the Virginia Office of Emergency Medical Services. A Durable DNR Order Form must be obtained by the patient, from a physician, to obtain Durable DNR Jewelry.</u></p> <p>"Durable Do Not Resuscitate Order Form" or "Durable DNR Order Form" means a written physician's order issued pursuant to §54.1-2987.1of the Code of Virginia in a form(s) authorized by the board to withhold cardiopulmonary resuscitation from an individual in the event of cardiac or respiratory arrest. For purposes of this chapter, cardiopulmonary resuscitation shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, <del>and</del> <u>defibrillation, administration of cardiac resuscitative medications, and related procedures.</u> As the terms "advance directive" and "Durable Do Not Resuscitate Order" are used in this article, a Durable Do Not Resuscitate Order Form or other DNR Order is not and shall not be construed as an advance directive. When used in these regulations, the term "Durable DNR Order Form" shall include any authorized <u>Alternate Durable DNR Jewelry form of identification</u> issued in conjunction with an original Durable DNR Order Form</p> <p>"Emergency medical services agency" or "EMS agency" means any <u>agency person</u>, licensed to engage in the business, service, or regular activity, whether or not for profit, of transporting and/or rendering immediate medical care to such persons who are sick, injured, wounded or otherwise incapacitated or helpless.</p> <p><u>"Office of EMS or OEMS" means the Virginia Office of Emergency Medical Services. The Virginia Office of Emergency Medical Services is a state office located within the Virginia Department of Health (VDH).</u></p> <p><u>"Other Do Not Resuscitate Orders or Other DNR Orders" means a written physicians order on a form other than the authorized State standardized Durable DNR Form. An Other DNR form must contain all the information required in subdivision 1 of</u></p>
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		<p>patient incapable of making an informed decision or, in the case of a minor child, the parent or parents having custody of the child or the child's legal guardian or as otherwise provided by law.</p> <p>"Qualified emergency medical services personnel" means personnel as defined by §32.1-111.1 of the Code of Virginia when acting within the scope of their certification.</p>	<p><u>12 VAC 5-66-40 to be covered by these regulations.</u></p> <p>"Qualified emergency medical services personnel" means personnel <u>certified to practice</u> as defined by §32.1-111.1 of the Code of Virginia when acting within the scope of their certification.</p> <p>"Qualified health care facility" means a <u>facility, program or organization operated or licensed by the State Board of Health, or by the Department of Mental Health, Mental Retardation and Substance Abuse Services or operated, licensed or owned by another state agency.</u></p>
<p>40</p>		<p>The Durable DNR Order Form shall be a unique document printed on distinctive paper, as approved by the board and consistent with these regulations. The following requirements and provisions shall apply to the approved Durable DNR Order Form.</p> <p>1. Content of the Form - A Durable DNR Order Form shall contain, from a physician with whom the patient has a bona fide physician/patient relationship, a do not resuscitate determination, signature and the date of issue, the signature of the patient or, if applicable, the person authorized to consent on the patient's behalf.</p> <p>2. Effective Period for a Signed Durable DNR Order Form - A signed Durable DNR Order shall remain valid until revoked.</p> <p>3. Original Durable DNR Order Form - An original Durable DNR Order or an alternate form that complies with <a href="#">12VAC5-66-50</a> shall be</p>	<p>The Durable DNR Order Form shall be a <del>unique</del> <u>standardized</u> document <del>printed on distinctive paper,</del> as approved by the board and consistent with these regulations. The following requirements and provisions shall apply to the approved Durable DNR Order Form.</p> <p>A. Content of the Form - A Durable DNR Order Form shall contain, from a physician with whom the patient has a bona fide physician/patient relationship, a do not resuscitate determination, signature and the date of issue, the signature of the patient or, if applicable, the person authorized to consent on the patient's behalf;</p> <p>C. <del>Original</del> Durable DNR Order Form - An <del>original</del> Durable DNR Order or an <u>Alternate Durable DNR Jewelry form</u> that complies with <a href="#">12VAC5-66-50</a> shall be valid for the purposes of withholding or withdrawing cardiopulmonary resuscitation by qualified health care personnel in the event of cardiac or respiratory arrest;</p> <p>D. Availability <del>Displaying</del> of the Durable DNR Order Form - The <del>original</del> Durable DNR Order Form that complies with <a href="#">12VAC5-66-50</a> or an <u>Alternate Durable DNR form</u> that <u>complies with 12 VAC 5-66-60</u> shall be maintained and <del>displayed</del> <u>readily available</u> at the patient's current location or residence. <u>Within any facility, program or organization operated or licensed by the State Board of Health, or by the Department of Mental</u></p>

	<p>valid for purposes of withholding or withdrawing cardiopulmonary resuscitation by qualified health care personnel in the event of cardiac or respiratory arrest. The original Durable DNR Order or an alternate form that complies with <a href="#">12VAC5-66-50</a> shall be maintained and displayed at the patient's current location or residence in one of the places designated on the form, or should accompany the patient, if traveling. Photocopies of the Durable DNR Order may be given to other providers or persons for information, with the express consent of the patient or the patient's designated agent or the person authorized to consent on the patient's behalf. However, such photocopies of the Durable DNR Order are not valid for withholding cardiopulmonary resuscitation.</p> <p>4. Revocation of a Durable DNR Order - A Durable DNR Order may be revoked at any time by the patient (i) by physical cancellation or destruction by the patient or another in his presence and at his direction of the Durable DNR Order Form and/or any alternate form of identification; or (ii) by oral expression of intent to revoke. The Durable DNR Order may also be revoked by the patient's designated agent or the person authorized to consent on the patient's behalf unless that person knows the patient would object to such revocation.</p> <p>5. Distribution of Durable</p>	<p><u>Health, Mental retardation and Substance Abuse Services or operated, licensed or owned by another state agency the Durable DNR Order Form, Alternate Durable DNR, or an Other Durable DNR Order should be readily available to the patient; in one of the places designated on the form, or should accompany the patient, if traveling. Photocopies of the Durable DNR Order may be given to other providers or persons for information, with the express consent of the patient or the patient's designated agent or the person authorized to consent on the patient's behalf. However, such photocopies of the Durable DNR Order are not valid for withholding cardiopulmonary resuscitation.</u></p> <p><u>E. Qualified health care personnel may honor a legible photocopy of a Durable DNR Form or Other Durable DNR Order;</u></p> <p><u>F. A patient that is traveling outside their home or between health care facilities should have an original or photocopied Durable DNR Order Form or Other Durable DNR Order accompany them;</u></p> <p><u>G. Revocation of a Durable DNR Order Form - A Durable DNR Order Form may be revoked at any time by the patient (i) by <del>physical</del> physically destroying the Durable DNR Order Form <del>cancellation or destruction by the patient or</del> having another person in his/her presence and at his direction <del>destroy</del> of the Durable DNR Order Form and/or any alternate form of identification; or (ii) by oral expression of intent to revoke. The Durable DNR Order may also be revoked by the patient's designated agent or the person authorized to consent on the patient's behalf unless that person knows the patient would object to such revocation. <u>If an Other Durable DNR Order exists and a patient or their authorized agent revokes the Durable DNR, health care personnel should assure the revocation is honored by updating or destroying the Other Durable DNR Order;</u></u></p> <p><u>H. Distribution of Durable DNR Order Forms – <del>Authorized</del> <u>The authorized Virginia Durable DNR Order Forms, with instructions,</u> shall be <u>a standardized form</u> available <del>only to physicians. for download via the internet from the Office of Emergency Medical Services Website. The downloadable form will contain</del></u></p>
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		<p>DNR Order Forms— Authorized Durable DNR Forms, with instructions, shall be available only to physicians.</p>	<p><u>directions for completing the form and three identical Durable DNR Order Forms; one form to be kept by the patient, the second to be placed in the patients permanent medical record and the third to be used for requesting an Alternate Durable DNR i.e. DNR necklace or bracelet;</u></p> <p>I. <u>Hard copies of the Durable DNR Order Form shall also be made available to physicians or licensed health care facilities by the Office of EMS. The Office of EMS may utilize a vendor to print and distribute the Durable DNR Order Form and a nominal fee can be charged to cover printing and shipping fees.</u></p>
<p>50</p>		<p>The board authorizes the issuance of alternate forms of Durable DNR Order identification in conjunction with the issuance of Durable DNR Orders. These alternate forms shall be uniquely-designed and uniquely-identifiable bracelets and necklaces that are available from a vendor approved by the Virginia Department of Health. These alternate forms of identification must be purchased from the approved vendor by the person to whom a Durable DNR Order applies, or that person authorized to consent on the patient's behalf, and in conjunction with a Durable DNR Order. Such a necklace or bracelet may be utilized either to validate the Durable DNR Order or in place of an original Durable DNR Order in the event that the original order is not readily available at the site where the person to whom the order applies is found. In order to be honored by qualified health care personnel in place of the original Durable DNR</p>	<p>The board authorizes the <u>issuance use of Alternate forms of Durable DNR Jewelry Order identification</u> in conjunction with the issuance of Durable DNR Orders <u>Forms</u>. These <u>Alternate Durable DNR Jewelry items forms</u> shall be uniquely-designed and uniquely-identifiable bracelets and necklaces that are available <u>only</u> from a vendor approved by the Virginia Department of Health, <u>Office of EMS</u>. <u>These The Alternate Durable DNR Jewelry forms of identification</u> must be purchased from the approved vendor by the person to whom a Durable DNR Order <u>Form</u> applies, or <u>the at</u> person authorized to consent on the patient's behalf. <u>An original and in conjunction with a Durable DNR Order Form must be obtained from a physician and provided to the vendor in order to receive Alternate Durable DNR Jewelry.</u> Such a necklace or bracelet may be utilized either to validate the Durable DNR Order <u>Form</u> or in place of an original Durable DNR Order <u>Form</u> in the event that the original order is not readily available at the site where the person to whom the order applies is found. In order to be honored by qualified health care personnel in place of the <u>standard original Durable DNR Order Form, the this Alternate Durable DNR Jewelry form of identification</u> must contain the minimum information approved by the State Board of Health <u>in 12 VAC 5-66-60.</u></p>

		<p>Order, this alternate form of identification must contain the minimum information approved by the State Board of Health.</p>	
<p>60</p>		<p>A. Nothing in these regulations shall be construed to preclude licensed health care practitioners from following any other written orders of a physician not to resuscitate a patient in the event of cardiac or respiratory arrest.</p> <p>B. Additionally, nothing in these regulations or in the definition of Durable DNR Orders provided in § <a href="#">54.1-2982</a> of the Code of Virginia shall be construed to limit the authorization of qualified health care personnel to follow Do Not Resuscitate Orders other than Durable DNR Orders that are written by a physician. Such other DNR Orders issued in this manner, to be honored by EMS personnel, shall contain the information listed in subdivision 1 of <a href="#">12VAC5-66-40</a> and the time of issuance by the physician in accordance with accepted medical practice, for patients who are currently admitted to a hospital or other health care facility.</p> <p>C. Nothing in these regulations shall prohibit qualified health care personnel from following any direct verbal order issued by a licensed physician not to resuscitate a patient in cardiac or respiratory arrest when such physician is physically present in attendance of</p>	<p>A. <u>Qualified health care personnel can honor do not resuscitate (DNR) orders by a physician that are written in a format other than using the standardized Durable DNR Order Form to not resuscitate a patient in the event of a cardiac or respiratory arrest when the patient is currently admitted to a hospital or other qualified health care facility. If an Other Durable DNR Order is used it must contain the same information as listed in subdivision 1 of 12 VAC 5-66-40; Nothing in these regulations shall be construed to preclude licensed health care practitioners from following any other written orders of a physician not to resuscitate a patient in the event of cardiac or respiratory arrest.</u></p> <p><del>B. Additionally, nothing in these regulations or in the definition of Durable DNR Orders provided in §54.1-2982of the Code of Virginia shall be construed to limit the authorization of qualified health care personnel to follow Do Not Resuscitate Orders other than Durable DNR Orders that are written by a physician. Such other DNR Orders issued in this manner, to be honored by EMS personnel, shall contain the information listed in subdivision 1 of <a href="#">12VAC5-66-40</a> and the time of issuance by the physician in accordance with accepted medical practice, for patients who are currently admitted to a hospital or other health care facility.</del></p> <p><del>C. B. Nothing in these regulations shall prohibit qualified health care personnel from following any direct verbal order issued by a licensed physician not to resuscitate a patient in cardiac or respiratory arrest when such physician is physically present Statutory Authority.</del></p>

		such patient.	
70		<p>A. A Durable DNR Order may be issued to a patient by a physician, with whom the patient has established a bona fide physician/patient relationship, as defined by the Board of Medicine in their current guidelines, only with the consent of the patient or, if the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon the request of and with the consent of the person authorized to consent on the patient's behalf.</p> <p>B. The physician shall explain to the patient or the person authorized to consent on the patient's behalf, the alternatives available, including issuance of a Durable DNR Order. If the option of a Durable DNR Order is agreed upon, the physician shall have the following responsibilities:</p> <ol style="list-style-type: none"> <li>1. Obtain the signature of the patient or the person authorized to consent on the patient's behalf.</li> <li>2. Execute and date the Physician Order on the Durable DNR Order Form.</li> <li>3. Issue the original Durable DNR Order Form.</li> <li>4. Explain how to and who may revoke the Durable DNR Order.</li> </ol> <p>C. The person to whom a Durable DNR order applies or the person authorized to consent on the patient's</p>	<p>A. A Durable DNR Order <u>Form or Other DNR Order</u> may be issued to a patient by a physician, with whom the patient has established a bona fide physician/patient relationship, as defined by the Board of Medicine in their current guidelines, only with the consent of the patient or, if the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon the request of and with the consent of the person authorized to consent on the patient's behalf;</p> <p><u>B. The use of the authorized Durable DNR Order Form is encouraged to provide uniformity throughout the health care continuum;</u></p> <p><u>C. The authorized Durable DNR Order Form can be honored by qualified health care providers in any setting;</u></p> <p><u>D. Patients that are not within a qualified health care facility must have an authorized Durable DNR Order Form to be honored by qualified health care providers;</u></p> <p><u>E. Other DNR Orders can be honored any time when a patient is within a qualified health care facility or during transfer between qualified health care facilities when the patient remains attended by qualified health care providers;</u></p> <p><del>B.</del> F. The physician issuing a Durable DNR Order Form or Other DNR Order shall explain to the patient or the person authorized to consent on the patient's behalf, the alternatives available, <del>including issuance of a Durable DNR Order.</del> If the option of a Durable DNR Order is agreed upon, the physician shall have the following responsibilities:</p> <ol style="list-style-type: none"> <li><u>1. Explain when the Durable DNR Form is valid;</u></li> <li><u>2. Explain how to and who may revoke the Durable DNR;</u></li> </ol>

		<p>behalf must present the following information to the approved vendor in order to purchase and be issued an approved Durable DNR necklace or bracelet. The necklace or bracelet must contain the following information:</p> <ol style="list-style-type: none"> <li>1. The patient's full legal name;</li> <li>2. The Durable DNR number on the Virginia Durable DNR form or a number unique to the patient that is assigned by the vendor;</li> <li>3. The physician's name and phone number; and</li> <li>4. The Virginia Durable DNR issuance date.</li> </ol>	<p><u>3. Document the patient's full legal name;</u></p> <p><u>4. Document the execution date of the Durable DNR;</u></p> <p><del>4.</del> <u>5. Obtain the signature of the patient or the person authorized to consent on the patient's behalf on all three forms, the patient's copy, medical record copy, and the copy used for obtaining DNR Jewelry;</u></p> <p><del>2.</del> <u>6. Execute and date the The Physician physician name should be clearly printed and the form signed; Order on the Durable DNR Order Form.</u></p> <p><u>7. Note the contact telephone number for the issuing physician;</u></p> <p><del>3.</del> <u>8. Issue the original Durable DNR Order Form, patient and DNR Jewelry copies to the patient and maintain the medical record copy in the patient's medical file.</u></p> <p><del>4.</del> <u>Explain how to and who may revoke the Durable DNR Order.</u></p> <p><del>C.</del> <u>G.</u> The person to whom a Durable DNR order applies or the person authorized to consent on the patient's behalf must present the following information to the approved vendor in order to purchase and be issued an approved <u>Alternate</u> Durable DNR necklace or bracelet. The necklace or bracelet must contain the following information:</p> <p><u>1. States: Do Not Resuscitate</u></p> <p><del>4.</del> <u>2. The patient's full legal name;</u></p> <p><del>2.</del> <u>The Durable DNR number on the Virginia Durable DNR form or a number unique to the patient that is assigned by the vendor;</u></p> <p><del>3.</del> <u>4. The physician's name and phone number; and</u></p> <p><del>4.</del> <u>5. The Virginia Durable DNR issuance date.</u></p>
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			<p>12VAC5-66-80. Durable DNR Order <u>Form</u> implementation procedures.</p> <p>B. Initial assessment and intervention - Perform <u>a</u> routine patient assessment and resuscitation or intervention until a <u>valid</u> <del>the</del> Durable DNR Order <u>Form</u> or <u>Other</u> DNR Order <del>validity status is</del> <u>can be</u> confirmed, as follows:</p> <p>1. Determine the presence of a Durable DNR Order <u>Form</u> or an approved <u>Alternate Durable DNR Jewelry, or Other DNR Order form of Durable DNR identification.</u></p> <p><u>2. If the patient is within a qualified health care facility, any qualified health care personnel may honor a written physicians order that contains the items noted in 12 VAC 5-66-40 (a do not resuscitate determination, signature and the date of issue, the signature of the patient or, if applicable, the person authorized to consent on the patient's behalf.)</u></p> <p><del>2.</del> <u>3.</u> Determine that the Durable DNR item is not altered.</p> <p><del>3.</del> <u>4.</u> Verify, through driver's license or other identification with photograph and signature or by positive identification by a family member or other person who knows the patient, that the patient in question is the one for whom the Durable DNR Order <u>Form</u> or <u>Other</u> DNR Order was issued.</p> <p><u>5. If a Durable DNR Order Form or Alternate Durable DNR is not immediately available, care should be provided until a valid Durable DNR Form, Alternate Durable DNR, or Other DNR Order can be produced</u></p> <p><del>4. If no Durable DNR Order or approved alternate form of identification is found, ask a family member or other person to look for the original Durable DNR Order Form or other written DNR order.</del></p> <p><del>5.</del> <u>6.</u> If any type of DNR Order being presented to qualified health care personnel <del>the Durable DNR Order or approved alternate form of identification is not intact or has been altered or other DNR Order is</del></p>
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			<p><del>produced, the qualified health care personnel it shall be considered the Durable DNR Order to be invalid.</del></p> <p>C. Resuscitative measures to be withheld or withdrawn. In the event of cardiac or respiratory arrest of a patient with a valid Durable DNR Order <u>Form, Alternate Durable DNR Jewelry, or Other DNR Order</u> under the criteria set forth above, the following procedures should be withheld or withdrawn by qualified health care personnel unless otherwise directed by a physician physically present at the patient location:</p> <p><del>2. Endotracheal intubation or other advanced airway management;</del></p> <p><del>3. 2. Artificial ventilation;</del></p> <p><del>4. 3. Defibrillation; or</del></p> <p><u>4. Endotracheal Intubation or other advanced airway management including supra-glottic devices such as the LMA, or other airway devices that pass beyond the oral pharynx, such as the Combi Tube, PTL etc.;</u></p> <p>D. Procedures to provide comfort care or to alleviate pain. In order to provide comfort care or to alleviate pain for a patient with a valid Durable DNR Order <del>or other DNR Order, of any type</del>, the following interventions may be provided, depending on the needs of the particular patient:</p> <p><del>1. Airway management; including positioning, nasal or pharyngeal airway placement; (excluding intubation or advanced airway management);</del></p> <p>F. Documentation. When following a Durable DNR Order <u>Form</u> or other DNR Order for a particular patient, qualified health care personnel shall document in the patient's medical record the care rendered or withheld in the following manner:</p> <p><del>3. Document which identification (Durable DNR Order Form, Alternate Durable DNR, or Other DNR Order or alternate form of identification) was used to confirm Durable</del></p>
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