

**State of Board of Health
Agenda
July 16, 2010 – 9:00 a.m.
Perimeter Center
9960 Mayland Drive
Richmond, Virginia 23233**

Welcome and Introductions	Dr. Craig Reed, Chairman
Review of Agenda	Joseph Hilbert, Director of Governmental and Regulatory Affairs
Approval of April 2010 Minutes	Dr. Reed
Commissioner's Report	Karen Remley, MD, MBA, FAAP State Health Commissioner
Safe Routes to School Program	Heidi Hertz, MS, RD Obesity Prevention Coordinator
Lyme Disease in Virginia	Keri Hall, MD, Director Office of Epidemiology
Break	
Beach Monitoring Program	Keri Hall, MD
Shellfish Sanitation Program	Robert Hicks, Director Office of Environmental Health Services
Lunch	
Luncheon Speaker –Dianne L. Reynolds-Cane, M.D., Director Virginia Department of Health Professions	
Public Comment	
<u>Board Regulatory Action Items</u>	
Waterworks Regulations 12VAC5-590 (Final Amendments – Chronically Non-Compliant Waterworks)	Wes Kleene, PhD, PE, Director Office of Drinking Water
Regulations Governing Durable Do Not Resuscitate Orders 12VAC5-66 (Final Amendments)	Gary Brown, Director Office of Emergency Medical Services
Member Reports	
Other Business	
Adjourn	



COMMONWEALTH of VIRGINIA

DEPARTMENT OF HEALTH
OFFICE OF DRINKING WATER

Karen Remley, MD, MBA, FAAP
State Health Commissioner


J. Wesley Kleene, PhD, P.E.
Director, Office of Drinking Water

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MEMORANDUM

TO: Virginia State Board of Health

THROUGH: Karen Remley, MD, MBA, FAAP
State Health Commissioner

FROM: J. Wesley Kleene, PhD, PE 
Director, Office of Drinking Water

DATE: June 23, 2010

RE: Final Amendments to *Waterworks Regulations*: 12VAC5-590-10 and -125
Chronically Noncompliant Waterworks

Chapters 648 and 774 of the 2007 General Assembly require the Virginia Department of Health to adopt regulations to identify chronically noncompliant waterworks and create mechanisms or enforcement options for eliminating them. (See *Va. Code* §§ 32.1-167 and 32.1-174.4.)

These final amendments to the *Waterworks Regulations* provide a regulatory definition of a Chronically Noncompliant waterworks and establish an enforcement procedure that allows the State Health Commissioner to take action against recalcitrant waterworks owners to compel compliance and protect the public health and welfare. The entities to be regulated potentially include a very limited number of waterworks owners who chronically fail to comply with the *Waterworks Regulations*, thereby subjecting their consumers to unwarranted health risks.

The comment periods for the proposed amendments and the Notice of Intended Regulatory Action closed without public comments. The Office of the Attorney General and the former Deputy Commissioner for Public Health, James E. Burns, MD, MBA, have reviewed and approved these final amendments for adoption.

Upon approval by the Board, the final amendments will be submitted for executive branch review.

Should you have any questions regarding the proposed regulations, please contact J. Wesley Kleene, PhD, PE, Director of the Virginia Department of Health, Office of Drinking Water, at (804) 864-7513.



Final Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation	12VAC5-590
Regulation title	Waterworks Regulations
Action title	Chronically Noncompliant Waterworks
Date this document prepared	

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

This final regulation provides a regulatory definition of a Chronically Noncompliant waterworks, and establishes an enforcement procedure that allows the Commissioner to take action against recalcitrant waterworks owners to compel compliance and protect the public health and welfare.

No public comments were received during the public comment period; therefore, no changes were made to the regulation as proposed.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

Enter statement here

Legal basis

§ 32.1-12 of the Code of Virginia provides that the State Board of Health ~~may~~... promulgate ... such regulations ... as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by it, the Commissioner or the Department.

§ 32.1-167 (et seq.) empowers the State Board of Health to adopt and promulgate regulations governing waterworks, water supplies and pure water to protect the public health and promote the public welfare.

§ 32.1-167 defines a chronically noncompliant waterworks.

§ 32.1-174.4 requires the State Board of Health to promulgate regulations that create mechanisms or enforcement options for eliminating chronically noncompliant waterworks.

Chapters 648 and 774 of the 2007 General Assembly require the Department to implement a program to identify chronically noncompliant waterworks and create mechanisms or enforcement options for eliminating chronically noncompliant waterworks. (Note: An ancillary part of the General Assembly action was the amendment of Title 15.2-2146, Powers of localities to acquire certain waterworks system. This is not part of this regulatory proposal.)

Purpose

A limited number of waterworks owners chronically fail to comply with the Waterworks Regulations and thereby subject their consumers to unwarranted health risks. This new regulation will provide additional enforcement tools to compel these recalcitrant owners to bring their waterworks into compliance and protect public health.

This action is the result of a JLARC study and subsequent General Assembly action.

Substance

~~Section~~ 12VAC5-590-10 includes the Code of Virginia definition of a chronically noncompliant waterworks into the body of the Waterworks Regulations.

~~Section~~ 12VAC5-590-125 allows the State Health Commissioner to issue an order to the owner of a chronically noncompliant waterworks requiring the waterworks owner to submit: (1) a schedule for returning the waterworks to compliance and (2) a comprehensive business plan (§ 32.1-172 B of the Code of Virginia).

If the waterworks owner is financially incapable of performing any necessary capital improvements, the waterworks owner is required to make good faith applications to appropriate financial institutions for funding to complete the improvements. The waterworks owner is also required to notify each consumer of the Commissioner's order, including providing a copy of the compliance schedule.

Additionally, the Commissioner is required to send a copy of the order to the chief administrative officer of the locality in which the waterworks is located.

The waterworks owner is subject to the civil fines provided in § 32.1-167 to § 32.1-176 of the Code of Virginia.

Issues

The primary issue addressed by this proposed regulation is to attempt to protect the health of consumers served by a waterworks in Virginia that has been determined to be chronically noncompliant. The proposed regulation will require recalcitrant waterworks owners to bring the chronically noncompliant waterworks into compliance with the Waterworks Regulations.

The State Health Commissioner will inform the local government in which the chronically noncompliant waterworks is located, that it may initiate action, if desired by the locality, to secure ownership of the waterworks and assume operation in compliance with the Waterworks Regulations.

This proposed regulation poses no disadvantages to the public or the Commonwealth.

Changes made since the proposed stage

~~Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.~~

Section number	Requirement at proposed stage	What has changed	Rationale for change
		NO CHANGES WERE MADE	

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
	NO COMMENTS WERE RECEIVED	

Enter any other statement here

All changes made in this regulatory action

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

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
			NO CHANGES WERE MADE.

NO CHANGES WERE MADE.

Regulatory flexibility analysis

This regulation is required by an act of the General Assembly.

Family impact

By eliminating chronically noncompliant waterworks, the public can be assured of safe drinking water that will improve economic self-sufficiency and will decrease the number of illnesses that lead to lost productivity and diminished personal income.

DEPARTMENT OF HEALTH

Chronically Noncompliant Waterworks

Part I

General Framework for Waterworks Regulations

Article 1

Definitions

12VAC5-590-10. Definitions.

As used in this chapter, the following words and terms shall have meanings respectively set forth unless the context clearly requires a different meaning:

"Action level" means the concentration of lead or copper in water specified in 12VAC5-590-410 E, which determines, in some cases, the treatment requirements contained in 12VAC5-590-420 C, D, E and F that an owner is required to complete.

"Air gap separation" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying pure water to a tank, plumbing fixture, or other device and the rim of the receptacle.

"Annual daily water demand" means the average rate of daily water usage over at least the most recent three-year period.

"Applied water" means water that is ready for filtration.

"Approved" means material, equipment, workmanship, process or method that has been accepted by the commissioner as suitable for the proposed use.

"Auxiliary water system" means any water system on or available to the premises other than the waterworks. These auxiliary waters may include water from a source such as wells, lakes, or streams; or process fluids; or used water. They may be polluted or contaminated or objectionable, or constitute an unapproved water source or system over which the water purveyor does not have control.

"Backflow" means the flow of water or other liquids, mixtures, or substances into the distribution piping of a waterworks from any source or sources other than its intended source.

"Backflow prevention device" means any approved device, method, or type of construction intended to prevent backflow into a waterworks.

"Bag filters" means pressure-driven separation devices that remove particulate matter larger than one micrometer using an engineered porous filtration media. They are typically constructed of a nonrigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to outside.

"Bank filtration" means a water treatment process that uses a well to recover surface water that has naturally infiltrated into groundwater through a river bed or bank(s). Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply or other well(s).

"Best available technology (BAT)" means the best technology, treatment techniques, or other means ~~which~~ that the commissioner finds, after examination for efficacy under field conditions and not solely under laboratory conditions and in conformance with applicable EPA regulations, are available (taking cost into consideration).

"Board" means the State Board of Health.

"Breakpoint chlorination" means the addition of chlorine to water until the chlorine demand has been satisfied and further additions result in a residual that is directly proportional to the amount added.

"Cartridge filters" means pressure-driven separation devices that remove particulate matter larger than one micrometer using an engineered porous filtration media. They are typically constructed as rigid or semi-rigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside.

"Chlorine" means dry chlorine.

"Chlorine gas" means dry chlorine in the gaseous state.

"Chlorine solution (chlorine water)" means a solution of chlorine in water.

"Chronically noncompliant waterworks" or "CNC" means a waterworks that is unable to provide pure water for any of the following reasons: (i) the waterworks' record of performance demonstrates that it can no longer be depended upon to furnish pure water to the persons served; (ii) the owner has inadequate technical, financial, or managerial capacity to furnish pure water to the people served; (iii) the owner has failed to comply with an order issued by the board or the commissioner; (iv) the owner has abandoned the waterworks and has discontinued supplying pure water to the persons served; or (v) the owner is subject to a forfeiture order pursuant to § 32.1-174.1 of the Code of Virginia.

"Coagulation" means a process using coagulant chemicals and mixing by which colloidal and suspended materials are destabilized and agglomerated into floc.

"Coliform bacteria group" means a group of bacteria predominantly inhabiting the intestines of man or animal but also occasionally found elsewhere. It includes all aerobic and facultative anaerobic, gram-negative, non-sporeforming bacilli that ferment lactose with production of gas.

Also included are all bacteria that produce a dark, purplish-green colony with metallic sheen by the membrane filter technique used for coliform identification.

"Combined distribution system" means the interconnected distribution system consisting of the distribution systems of wholesale waterworks and of the consecutive waterworks that receive finished water.

"Commissioner" means the State Health Commissioner.

"Community waterworks" means a waterworks ~~which~~ that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

"Compliance cycle" means the nine-year calendar year cycle during which a waterworks shall monitor. Each compliance cycle consists of three three-year compliance periods. The first calendar year cycle begins January 1, 1993, and ends December 31, 2001; the second begins January 1, 2002, and ends December 31, 2010; the third begins January 1, 2011, and ends December 31, 2019.

"Compliance period" means a three-year calendar year period within a compliance cycle. Each compliance cycle has three three-year compliance periods. Within the first compliance cycle, the first compliance period runs from January 1, 1993, to December 31, 1995; the second from January 1, 1996, to December 31, 1998; the third from January 1, 1999, to December 31, 2001.

"Comprehensive performance evaluation" or "(CPE)" means a thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operational and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and emphasizes approaches that can be implemented without significant capital improvements. For purposes of compliance with 12VAC5-590-530 C 1 b (2), the comprehensive performance evaluation shall consist of at least the following

components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report.

"Confluent growth" means a continuous bacterial growth covering the entire filtration area of a membrane filter, or a portion thereof, in which bacterial colonies are not discrete.

"Consecutive waterworks" means a waterworks ~~which~~ that has no water production or source facility of its own and ~~which~~ that obtains all of its water from another permitted waterworks or receives some or all of its finished water from one or more wholesale waterworks. Delivery may be through a direct connection or through the distribution system of one or more consecutive waterworks.

"Consumer" means any person who drinks water from a waterworks.

"Consumer's water system" means any water system located on the consumer's premises, supplied by or in any manner connected to a waterworks.

"Contaminant" means any objectionable or hazardous physical, chemical, biological, or radiological substance or matter in water.

"Conventional filtration treatment" means a series of processes including coagulation, flocculation, sedimentation, and filtration resulting in substantial particulate removal.

"Corrosion inhibitor" means a substance capable of reducing the corrosivity of water toward metal plumbing materials, especially lead and copper, by forming a protective film on the interior surface of those materials.

"Cross connection" means any connection or structural arrangement, direct or indirect, to the waterworks whereby backflow can occur.

"CT" or "CT_{calc}" means the product of "residual disinfectant concentration" (C) in mg/L determined before or at the first customer, and the corresponding "disinfectant contact time" (T) in minutes, i.e., "C" x "T".

"Daily fluid intake" means the daily intake of water for drinking and culinary use and is defined as two liters.

"Dechlorination" means the partial or complete reduction of residual chlorine in water by any chemical or physical process at a waterworks with a treatment facility.

"Degree of hazard" means the level of health hazard, as derived from an evaluation of the potential risk to health and the adverse effect upon the waterworks.

"Diatomaceous earth filtration" means a process resulting in substantial particulate removal in which (i) a precoat cake of diatomaceous earth filter media is deposited on a support membrane (septum), and (ii) while the water is filtered by passing through the cake on the septum, additional filter media known as body feed is continuously added to the feed water to maintain the permeability of the filter cake.

"Direct filtration" means a series of processes including coagulation and filtration but excluding sedimentation resulting in substantial particulate removal.

"Disinfectant" means any oxidant (including chlorine) that is added to water in any part of the treatment or distribution process for the purpose of killing or deactivating pathogenic organisms.

"Disinfectant contact time" ("T" in CT calculations) means the time in minutes that it takes for water to move from the point of disinfectant application to the point where residual disinfectant concentration ("C") is measured.

"Disinfection" means a process that inactivates pathogenic organisms in water by chemical oxidants or equivalent agents.

"Disinfection profile" means a summary of Giardia lamblia or virus inactivation through the treatment plant.

"Distribution main" means a water main whose primary purpose is to provide treated water to service connections.

"District Engineer" means the employee assigned by the Commonwealth of Virginia, Department of Health, Office of Drinking Water to manage its regulatory activities in a geographical area of the state consisting of a state planning district or subunit of a state planning district.

"Domestic or other nondistribution system plumbing problem" means a coliform contamination problem in a waterworks with more than one service connection that is limited to the specific service connection from which the coliform positive sample was taken.

"Domestic use or usage" means normal family or household use, including drinking, laundering, bathing, cooking, heating, cleaning and flushing toilets (see Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia).

"Double gate-double check valve assembly" means an approved assembly composed of two single independently acting check valves including tightly closing shutoff valves located at each end of the assembly and petcocks and test gauges for testing the watertightness of each check valve.

"Dual sample set" means a set of two samples collected at the same time and same location, with one sample analyzed for TTHM and the other sample analyzed for HAA5. Dual sample sets are collected for the purposes of conducting an initial distribution system evaluation (IDSE) under 12VAC5-590-370 B 3 e (2) and determining compliance with the TTHM and HAA5 MCLs under 12VAC5-590-370 B 3 e (3).

"Effective corrosion inhibitor residual," means, for the purpose of 12VAC5-590-420 C 1 only, a concentration sufficient to form a passivating film on the interior walls of a pipe.

"Enhanced coagulation" means the addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment.

"Enhanced softening" means the improved removal of disinfection byproduct precursors by precipitative softening.

"Entry point" means the place where water from the source after application of any treatment is delivered to the distribution system.

"Equivalent residential connection" means a volume of water used equal to a residential connection ~~which~~ that is 400 gallons per day unless supportive data indicates otherwise.

"Exception" means an approved deviation from a "shall" criteria contained in Part III (12VAC5-590-640 et seq.) of this chapter.

"Exemption" means a conditional waiver of a specific PMCL or treatment technique requirement ~~which~~ that is granted to a specific waterworks for a limited period of time.

"Filter profile" means a graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed.

"Filtration" means a process for removing particulate matter from water by passage through porous media.

"Finished water" means water that is introduced into the distribution system of a waterworks and is intended for distribution and consumption without further treatment, except as treatment

necessary to maintain water quality in the distribution system (e.g., booster disinfection, addition of corrosion control chemicals).

"First draw sample" means a one-liter sample of tap water, collected in accordance with 12VAC5-590-370 B 6 a (2), that has been standing in plumbing pipes at least six hours and is collected without flushing the tap.

"Flocculation" means a process to enhance agglomeration or collection of smaller floc particles into larger, more easily settleable particles through gentle stirring by hydraulic or mechanical means.

"Flowing stream" means a course of running water flowing in a definite channel.

"Free available chlorine" means that portion of the total residual chlorine remaining in water at the end of a specified contact period ~~which~~ that will react chemically and biologically as hypochlorous acid or hypochlorite ion.

"GAC10" means granular activated carbon filter beds with an empty-bed contact time of 10 minutes based on average daily flow and a carbon reactivation frequency of every 180 days, except that the reactivation frequency for GAC10 used as a best available technology for compliance with 12VAC5-590-410 C 2 b (1) (b) shall be 120 days.

"GAC20" means granular activated carbon filter beds with an empty-bed contact time of 20 minutes based on average daily flow and a carbon reactivation frequency of every 240 days.

"Governmental entity" means the Commonwealth, a town, city, county, service authority, sanitary district or any other governmental body established under the Code of Virginia, including departments, divisions, boards or commissions.

"Gross alpha particle activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

"Gross beta particle activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

"Groundwater" means all water obtained from sources not classified as surface water (or surface water sources).

"Groundwater under the direct influence of surface water" means any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large-diameter pathogens such as *Giardia lamblia*, or *Cryptosporidium*. It also means significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH that closely correlate to climatological or surface water conditions. The commissioner in accordance with 12VAC5-590-430 will determine direct influence of surface water.

"Haloacetic acids (five)" or "(HAA5)" means the sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid), rounded to two significant figures after addition.

"Halogen" means one of the chemical elements chlorine, bromine, fluorine, astatine or iodine.

"Health hazard" means any condition, device, or practice in a waterworks or its operation that creates, or may create, a danger to the health and well-being of the water consumer.

"Health regulations" means regulations ~~which~~ that include all primary maximum contaminant levels, treatment technique requirements, and all operational regulations, the violation of which would jeopardize the public health.

"Hypochlorite" means a solution of water and some form of chlorine, usually sodium hypochlorite.

"Initial compliance period" means for all regulated contaminants, the initial compliance period is the first full three-year compliance period beginning at least 18 months after promulgation with the exception of waterworks with 150 or more service connections for contaminants listed at Table 2.3, VOC 19-21; Table 2.3, SOC 19-33; and antimony, beryllium, cyanide (as free cyanide), nickel, and thallium ~~which~~ that shall begin January 1993.

"Interchangeable connection" means an arrangement or device that will allow alternate but not simultaneous use of two sources of water.

"Karstian geology" means an area predominantly underlain by limestone, dolomite, or gypsum and characterized by rapid underground drainage. Such areas often feature sinkholes, caverns, and sinking or disappearing creeks. In Virginia, this generally includes all that area west of the Blue Ridge and, in Southwest Virginia, east of the Cumberland Plateau.

"Lake/reservoir" means a natural or man-made basin or hollow on the Earth's surface in which water collects or is stored that may or may not have a current or single direction of flow.

"Large waterworks" means, for the purposes of 12VAC5-590-370 B 6, 12VAC5-590-420 C through F, 12VAC5-590-530 D, and 12VAC5-590-550 D only, a waterworks that serves more than 50,000 persons.

"Lead free" means the following:

1. When used with respect to solders and flux, refers to solders and flux containing not more than 0.2% lead;
2. When used with respect to pipes and pipe fittings, refers to pipes and pipe fittings containing not more than 8.0% lead;
3. When used with respect to plumbing fittings and fixtures intended by the plumbing manufacturer to dispense water for human ingestion, refers to fittings and fixtures that are in compliance with standards established in accordance with 42 USC § 300g-6(e).

"Lead service line" means a service line made of lead ~~which~~ that connects the water main to the building inlet and any lead pigtail, gooseneck or other fitting that is connected to such lead line.

"Legionella" means a genus of bacteria, some species of which have caused a type of pneumonia called Legionnaires Disease.

"Liquid chlorine" means a liquefied, compressed chlorine gas as shipped in commerce.

"Locational running annual average" or "LRAA" means the average of sample analytical results for samples taken at a particular monitoring location during the previous four calendar quarters.

"Log inactivation (log removal)" means that a 99% reduction is a 2-log inactivation; a 99.9% reduction is a 3-log inactivation; a 99.99% reduction is a 4-log inactivation.

"Man-made beta particle and photon emitters" means all radionuclides emitting beta particles and/or photons listed in the most current edition of "Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure," National Bureau of Standards Handbook 69, except the daughter products of thorium-232, uranium-235 and uranium-238.

"Maximum daily water demand" means the rate of water usage during the day of maximum water use.

"Maximum contaminant level (MCL)" means the maximum permissible level of a contaminant in water ~~which~~ that is delivered to any user of a waterworks, except in the cases of turbidity and VOCs, where the maximum permissible level is measured at each entry point to the distribution system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition. MCLs are set as close to the MCLGs as feasible using the best

available treatment technology. Maximum contaminant levels may be either "primary" (PMCL), meaning based on health considerations or "secondary" (SMCL) meaning based on aesthetic considerations.

"Maximum residual disinfectant level (MRDL)" means a level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a waterworks is in compliance with the MRDL when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a waterworks is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as maximum contaminant levels. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in Table 2.12, operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused by circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections.

"Maximum residual disinfectant level goal (MRDLG)" means the maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and ~~which~~ that allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants.

"Maximum total trihalomethane potential (MTP)" means the maximum concentration of total trihalomethanes produced in a given water containing a disinfectant residual after seven days at a temperature of 25°C or above.

"Medium-size waterworks," means, for the purpose of 12VAC5-590-370 B 6, 12VAC5-590-420 C through F, 12VAC5-590-530, and 12VAC5-590-550 D only, a waterworks that serves greater than 3,300 and less than or equal to 50,000 persons.

"Membrane filtration" means a pressure or vacuum-driven separation process in which particulate matter larger than one micrometer is rejected by an engineered barrier, primarily through a size exclusion mechanism, and that has a measurable removal efficiency of a target organism that can be verified through the application of a direct integrity test. This definition includes the common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis.

"Method detection limit" means the minimum concentration of a substance that can be measured and reported with 99% confidence that the analyte concentration is greater than zero and is determined from analysis of a sample in a given matrix containing the analyte.

"Most probable number (MPN)" means that number of organisms per unit volume that, in accordance with statistical theory, would be more likely than any other number to yield the observed test result or that would yield the observed test result with the greatest frequency, expressed as density of organisms per 100 milliliters. Results are computed from the number of positive findings of coliform-group organisms resulting from multiple-portion decimal-dilution plantings.

"Noncommunity waterworks" means a waterworks that is not a community waterworks, but operates at least 60 days out of the year.

"Nonpotable water" means water not classified as pure water.

"Nontransient noncommunity waterworks (NTNC)" means a waterworks that is not a community waterworks and that regularly serves at least 25 of the same persons over six months out of the year.

"Office" means the Commonwealth of Virginia, Department of Health, Office of Drinking Water.

"One hundred year flood level" means the flood elevation ~~which~~ that will, over a long period of time, be equaled or exceeded on the average once every 100 years.

"Operator" means any individual employed or appointed by any owner, and who is designated by such owner to be the person in responsible charge, such as a supervisor, a shift operator, or a substitute in charge, and whose duties include testing or evaluation to control waterworks operations. Not included in this definition are superintendents or directors of public works, city engineers, or other municipal or industrial officials whose duties do not include the actual operation or direct supervision of waterworks.

"Optimal corrosion control treatment" means the corrosion control treatment that minimizes the lead and copper concentrations at users' taps while ensuring that the treatment does not cause the waterworks to violate any other section of this chapter.

"Owner" or "water purveyor" means an individual, group of individuals, partnership, firm, association, institution, corporation, governmental entity, or the federal government ~~which~~ that supplies or proposes to supply water to any person within this state from or by means of any waterworks (see Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia).

"Picocurie (pCi)" means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

"Plant intake" means the works or structures at the head of a conduit through which water is diverted from a source (e.g., river or lake) into the treatment plant.

"Point of disinfectant application" means the point where the disinfectant is applied and water downstream of that point is not subject to recontamination by surface water runoff.

"Point-of-entry treatment device (POE)" means a treatment device applied to the water entering a house or building for the purpose of reducing contaminants in the water distributed throughout the house or building.

"Point-of-use treatment device (POU)" means a treatment device applied to a single tap for the purpose of reducing contaminants in the water at that one tap.

"Pollution" means the presence of any foreign substance (chemical, physical, radiological, or biological) in water that tends to degrade its quality so as to constitute an unnecessary risk or impair the usefulness of the water.

"Pollution hazard" means a condition through which an aesthetically objectionable or degrading material may enter the waterworks or a consumer's water system.

"Post-chlorination" means the application of chlorine to water subsequent to treatment.

"Practical quantitation level (PQL)" means the lowest level achievable by good laboratories within specified limits during routine laboratory operating conditions.

"Prechlorination" means the application of chlorine to water prior to filtration.

"Presedimentation" means a preliminary treatment process used to remove gravel, sand and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant.

"Process fluids" means any fluid or solution ~~which~~ that may be chemically, biologically, or otherwise contaminated or polluted ~~which~~ that would constitute a health, pollutional, or system hazard if introduced into the waterworks. This includes, but is not limited to:

1. Polluted or contaminated water;
2. Process waters;

3. Used waters, originating from the waterworks ~~which~~ that may have deteriorated in sanitary quality;
4. Cooling waters;
5. Contaminated natural waters taken from wells, lakes, streams, or irrigation systems;
6. Chemicals in solution or suspension; and
7. Oils, gases, acids, alkalis, and other liquid and gaseous fluid used in industrial or other processes, or for fire fighting purposes.

"Pure water" or "potable water" means water fit for human consumption and domestic use ~~which~~ that is sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts for domestic usage in the area served and normally adequate in quantity and quality for the minimum health requirements of the persons served (see Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia).

"Raw water main" means a water main ~~which~~ that conveys untreated water from a source to a treatment facility.

"Reduced pressure principle backflow prevention device (RPZ device)" means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit shall include tightly closing shut-off valves located at each end of the device, and each device shall be fitted with properly located test cocks. These devices shall be of the approved type.

"REM" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. A "millirem" (MREM) is 1/1000 of a REM.

"Repeat compliance period" means any subsequent compliance period after the initial compliance period.

"Residual disinfectant concentration ("C" in CT Calculations)" means the concentration of disinfectant measured in mg/L in a representative sample of water.

"Responsible charge" means designation by the owner of any individual to have duty and authority to operate or modify the operation of waterworks processes.

"Sanitary facilities" means piping and fixtures, such as sinks, lavatories, showers, and toilets, supplied with potable water and drained by wastewater piping.

"Sanitary survey" means an investigation of any condition that may affect public health.

"Secondary water source" means any approved water source, other than a waterworks' primary source, connected to or available to that waterworks for emergency or other nonregular use.

"Sedimentation" means a process for removal of solids before filtration by gravity or separation.

"Service connection" means the point of delivery of water to a customer's building service line as follows:

1. If a meter is installed, the service connection is the downstream side of the meter;
2. If a meter is not installed, the service connection is the point of connection to the waterworks;
3. When the water purveyor is also the building owner, the service connection is the entry point to the building.

"Service line sample" means a one-liter sample of water, collected in accordance with 12VAC5-590-370 B 6 a (2) (c), that has been standing for at least six hours in a service line.

"Sewer" means any pipe or conduit used to convey sewage or industrial waste streams.

"Single family structure," means, for the purpose of 12VAC5-590-370 B 6 (a) only, a building constructed as a single-family residence that is currently used as either a residence or a place of business.

"Slow sand filtration" means a process involving passage of raw water through a bed of sand at low velocity (generally less than 0.4 m/h) resulting in substantial particulate removal by physical and biological mechanisms.

"Small waterworks," means, for the purpose of 12VAC5-590-370 B 6, 12VAC5-590-420 C through F, 12VAC5-590-530 D and 12VAC5-590-550 D only, a waterworks that serves 3,300 persons or fewer.

"Standard sample" means that portion of finished drinking water that is examined for the presence of coliform bacteria.

"Surface water" means all water open to the atmosphere and subject to surface runoff.

"SUVA" means specific ultraviolet absorption at 254 nanometers (nm), an indicator of the humic content of water. It is a calculated parameter obtained by dividing a sample's ultraviolet absorption at a wavelength of 254 nm (UV_{254}) (in m^{-1}) by its concentration of dissolved organic carbon (DOC) (in mg/L).

"Synthetic organic chemicals (SOC)" means one of the family of organic man-made compounds generally utilized for agriculture or industrial purposes.

"System hazard" means a condition posing an actual, or threat of, damage to the physical properties of the waterworks or a consumer's water system.

"Terminal reservoir" means an impoundment providing end storage of water prior to treatment.

"Too numerous to count" means that the total number of bacterial colonies exceeds 200 on a 47-mm diameter membrane filter used for coliform detection.

"Total effective storage volume" means the volume available to store water in distribution reservoirs measured as the difference between the reservoir's overflow elevation and the minimum storage elevation. The minimum storage elevation is that elevation of water in the reservoir that can provide a minimum pressure of 20 psi at a flow as determined in 12VAC5-590-690 C to the highest elevation served within that reservoir's service area under systemwide maximum daily water demand.

"Total organic carbon" (TOC) means total organic carbon in mg/L measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two significant figures.

"Total trihalomethanes (TTHM)" means the sum of the concentrations of the trihalomethanes expressed in milligrams per liter (mg/L) and rounded to two significant figures. For the purpose of these regulations, the TTHM's shall mean trichloromethane (chloroform), dibromochloromethane, bromodichloromethane, and tribromomethane (bromoform).

"Transmission main" means a water main whose primary purpose is to move significant quantities of treated water among service areas.

"Treatment technique requirement" means a requirement ~~which~~ that specifies for a contaminant a specific treatment technique(s) demonstrated to the satisfaction of the division to lead to a reduction in the level of such contaminant sufficient to comply with these regulations.

"Trihalomethane (THM)" means one of the family of organic compounds, named as derivatives of methane, wherein three of the four hydrogen atoms in methane are each substituted by a halogen atom in the molecular structure.

"Two-stage lime softening" means a process in which chemical addition and hardness precipitation occur in each of two distinct unit clarification processes in series prior to filtration.

"Uncovered finished water storage facility" means a tank, reservoir, or other facility used to store water that will undergo no further treatment to reduce microbial pathogens (except residual disinfection) and is directly open to the atmosphere.

"Unregulated contaminant (UC)" means a contaminant for which a monitoring requirement has been established, but for which no MCL or treatment technique requirement has been established.

"Used water" means any water supplied by a water purveyor from the waterworks to a consumer's water system after it has passed through the service connection.

"Variance" means a conditional waiver of a specific regulation ~~which~~ that is granted to a specific waterworks. A PMCL Variance is a variance to a Primary Maximum Contaminant Level, or a treatment technique requirement. An Operational Variance is a variance to an operational regulation or a Secondary Maximum Contaminant Level. Variances for monitoring, reporting and public notification requirements will not be granted.

"Virus" means a microbe that is infectious to humans by waterborne transmission.

"Volatile synthetic organic chemical (VOC)" means one of the family of manmade organic compounds generally characterized by low molecular weight and rapid vaporization at relatively low temperatures or pressures.

"Waterborne disease outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a waterworks ~~which~~ that is deficient in treatment, as determined by the commissioner or the State Epidemiologist.

"Water purveyor" (same as owner).

"Water supply" means water that shall have been taken into a waterworks from all wells, streams, springs, lakes, and other bodies of surface waters (natural or impounded), and the tributaries thereto, and all impounded groundwater, but the term "water supply" shall not include any waters above the point of intake of such waterworks (see Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia).

"Water supply main" or "main" means any water supply pipeline that is part of a waterworks distribution system.

"Water Well Completion Report" means a report form published by the State Water Control Board entitled "Water Well Completion Report," which requests specific information pertaining to the ownership, driller, location, geological formations penetrated, water quantity and quality encountered as well as construction of water wells. The form is to be completed by the well driller.

"Waterworks" means a system that serves piped water for drinking or domestic use to (i) the public, (ii) at least 15 connections, or (iii) an average of 25 individuals for at least 60 days out of the year. The term "waterworks" shall include all structures, equipment and appurtenances used in the storage, collection, purification, treatment and distribution of pure water except the piping and fixtures inside the building where such water is delivered (see Article 2 (§ 32.1-167 et seq.) of Chapter 6 of Title 32.1 of the Code of Virginia).

"Waterworks with a single service connection" means a waterworks ~~which~~ that supplies drinking water to consumers via a single service line.

"Wholesale waterworks" means a waterworks that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another waterworks. Delivery may be through a direct connection or through the distribution system of one or more consecutive waterworks.

12VAC5-590-125. Chronically noncompliant waterworks.

A. The commissioner may identify a waterworks as chronically noncompliant (CNC) whenever he determines that:

1. The waterworks has a documented performance record that demonstrates the waterworks is not a dependable supplier of potable water;
2. The owner has shown inadequate technical, financial, or managerial capabilities to provide potable water;
3. The owner has failed to comply with an order issued by the commissioner;
4. The owner has abandoned the waterworks and has discontinued providing potable water to the consumers; or
5. The owner is subject to a forfeiture order pursuant to § 32.1-174.1 of the Code of Virginia.

B. Once the commissioner determines that a waterworks is CNC, he shall issue an order to the owner containing a schedule to bring the waterworks into compliance with this chapter and require the submission of a comprehensive business plan pursuant to § 32.1-172 B of the Code of Virginia. If capital improvements are necessary to bring the waterworks into compliance, and the owner does not possess sufficient assets to make the necessary improvements, the order shall require the owner to make annual, good faith applications for loans, grants, or both, to appropriate financial institutions to secure funding for such improvements, until such improvements are complete and operational. The owner shall provide a copy of the order to

each consumer with a copy of the compliance schedule within 10 calendar days of issuance of the order.

C. The owner shall provide the commissioner a copy of the notice distributed and a signed certification of the distribution completion date within five calendar days of completing the notification required in subsection B of this section.

D. The commissioner shall send a copy of the order to the chief administrative officer of the locality in which the waterworks is located for appropriate action under § 15.2-2146 of the Code of Virginia.

E. In addition to the provisions of § 32.1-27 of the Code of Virginia, any owner who violates this chapter, an order of the board, or a statute governing public water supplies shall be subject to those civil penalties provided in §§ 32.1-167 through 32.1-176 of the Code of Virginia.

Certification Statement:

I certify that this regulation is full, true, and correctly dated.

_____ (Signature of certifying official)

Name and title of certifying official: _____

Name of agency: _____

Date: _____

June 25, 2010

MEMORANDUM

TO: Members of the State Board of Health

FROM: Gary R. Brown, Director
Office of Emergency Medical Services

Subject: Approval of Final Draft Regulations relating to Regulations Governing
Durable Do Not Resuscitate Orders 12VAC5-66

Please find enclosed those documents for your review and approval of the final amendments to the regulations governing the Durable Do Not Resuscitate program. These final amendments will simplify and create fewer obstacles for healthcare providers and Emergency Medical Services providers to recognize and honor such requests. This action is a result of the agency's own initiative and during the course of the regulatory process, legislation passed affecting the current regulations. With your approval at your upcoming meeting July 16, 2010, the final draft regulations will then be forwarded for Executive Branch review.

We will be present at your July 16, 2010 meeting to provide any explanations needed and solicit your support for approval for the final draft regulations.



Final Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation	12 VAC 5 -66
Regulation title	Regulations Governing Durable Do Not Resuscitate Orders
Action title	Comprehensive amending and revisions addressing the issuance and honoring of Durable Do Not Resuscitate Orders
Date this document prepared	June 2010

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

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

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, to clarify 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).

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

Enter statement here

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 numbers, if applicable, and (2) promulgating entity, i.e., 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 states in part, the ability for healthcare practioners 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. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

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. 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 improve 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 identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

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 there are no disadvantages to the public or the Commonwealth, please indicate.

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.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
10	<p><u>"Alternate Durable DNR" means a Durable DNR bracelet or necklace issued by a vendor approved by the Virginia Office of Emergency Medical Services.</u></p> <p>"Durable Do Not Resuscitate Order <u>Form</u>" or "Durable DNR Order <u>Form</u>" means a written physician's order issued pursuant to § 54.1-2987.1 of the Code of Virginia in a form <u>form(s)</u> authorized by the board <u>Board</u> 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, <u>administration of cardiac resuscitative medications</u>, 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 <u>Form or other Do Not Resuscitate Orders</u> is not and shall not be construed as an advance directive. When used in these regulations, the term</p>	<p><u>"Alternate Durable DNR" [jewelry] means a 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 § 54.1-2987.1 of the Code of Virginia in a <u>form or forms</u> 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, <u>administration of cardiac resuscitative medications</u>, 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 [Form] <u>or other DNR Order</u> 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 alternate form of identification <u>Alternate Durable DNR [Jewelry jewelry]</u> issued in conjunction with an original</p>	<p>This is the term used most often in the body of the regulation.</p>

	<p>"Durable DNR Order Form" shall include any authorized alternate form of identification <u>Alternate Durable DNR Jewelry</u> issued in conjunction with an original Durable DNR Order form <u>Form</u>.</p> <p>"Incapable of making an informed decision" means the inability of an adult patient, because of mental illness, mental retardation, or any other mental or physical disorder that precludes communication or impairs judgment and that has been diagnosed and certified in writing by his physician with whom he has a bona fide physician/patient relationship and a second physician or licensed clinical psychologist after personal examination of such patient, to make an informed decision about providing, withholding or withdrawing a specific medical treatment or course of treatment because he is unable to understand the nature, extent or probable consequences of the proposed medical decision, or to make a rational evaluation of the risks and benefits of alternatives to that decision. For purposes of this article, persons who are deaf, dysphasic or have other communication disorders, who are otherwise mentally competent and able to communicate by means other than speech, shall not be considered incapable of making an informed decision.</p> <p><u>"Other Do Not Resuscitate Orders" or "Other Do Not Resuscitate Orders" means a written physician's order on a form other than the authorized state standardized Durable DNR Form. Other Do Not Resuscitate Orders must</u></p>	<p>Durable DNR Order form [<u>Form</u>].</p> <p>"Incapable of making an informed decision" means the inability of an adult patient, because of mental illness, mental retardation, or any other mental or physical disorder that precludes communication or impairs judgment [and that has been diagnosed and certified in writing by his physician with whom he has a bona fide physician/patient relationship and a second physician or licensed clinical psychologist after personal examination of such patient], to make an informed decision about providing, withholding, or withdrawing a specific medical treatment or course of treatment because he is unable to understand the nature, extent, or probable consequences of the proposed medical decision, or to make a rational evaluation of the risks and benefits of alternatives to that decision. For purposes of this article, persons who are deaf [; or] dysphasic or have other communication disorders [; but] who are otherwise mentally competent and able to communicate by means other than speech, shall not be considered incapable of making an informed decision. [<u>The determination that the patient is "incapable of making an informed decision" shall be made in accordance with § 54.1-2983.2.</u>]</p> <p><u>"Other Do Not Resuscitate Order" or "Other DNR Order" means a written physician's order [not to resuscitate a patient in the event of cardiac or respiratory arrest] on a form other than the authorized state standardized Durable DNR Form [under policies and procedures of the health care</u></p>	<p>Conforms to recent legislative changes.</p> <p>Addressed within the context of the regulations.</p>
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	<p><u>contain all the information required in subdivision 1 of 12VAC5-66-40 to be subject to these regulations.</u></p>	<p><u>facility to which the individual who is subject of the order has been admitted]</u>. [An Other DNR form must contain all the information required in subdivision 1 of 12VAC5-66-40 to be covered by these regulations.]</p>	
<p>40</p>	<p>B. Effective Period for a Signed Durable DNR Order Form - A signed Durable DNR Order shall remain valid until revoked;</p> <p>D. <u>Availability Displaying of the Durable DNR Order Form</u> - The original Durable DNR Order Form that complies with 12VAC5-66-50 or an <u>Alternate Durable DNR form that complies with 12 VAC 5-66-60</u> shall be maintained and displayed <u>readily available</u> at the patient's current location or residence. <u>Within any facility, program or organization operated or licensed by the Board, or by the Department of Mental 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>2. Effective Period for a Signed Durable DNR Order [Form] - A signed Durable DNR Order shall remain valid until revoked [<u>in accordance with § 54.1-2987.1 and 12VAC5-66-80 E or until rescinded, in accordance with accepted medical practice, by the provider who issued the Durable Do Not Resuscitate Order</u>].</p> <p>4. <u>Availability of the Durable DNR Order Form.</u> The original Durable DNR Order or an alternate form Form that complies with [12VAC5-66-50 this section] or [an] <u>Alternate Durable DNR [jewelry] that complies with [12VAC5-66-60 12VAC5-66-50]</u> shall be maintained and displayed <u>readily available [to qualified health care personnel]</u> 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. [Within any facility, program or organization operated or licensed by the State Board of Health or by DBHDS 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.]</p>	<p>Reflects legislative changes in language.</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 physical cancellation or destruction by the patient or having another person in his/her presence and at his direction destroy 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. 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></p> <p><u>H. Distribution of Durable DNR Order Forms – Authorized The authorized Virginia Durable DNR Order Forms, with instructions, shall be a standardized form available only to physicians. for download via the internet from the Office of Emergency</u></p>	<p><u>5. Qualified health care personnel may honor a legible photocopy of a Durable DNR Form or Other Durable DNR Order [as if it were an original].</u></p> <p><u>6. A patient who is traveling outside his home or between health care facilities should have an original or photocopied Durable DNR Order [Form or .] Other Durable DNR Order [, or an Alternate Durable DNR jewelry] accompany him.</u></p> <p><u>[4. 7. Revocation of a Durable DNR Order Form - A Durable DNR Order may be revoked at any time by the patient (i) by physical cancellation physically destroying the Durable DNR Order Form or destruction by the patient or having another person in his presence and at his direction of destroy 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. If an Other Durable DNR Order exists and a patient or his 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></p> <p><u>5. [8. 7.] Distribution of Durable DNR Order Forms - Authorized The authorized Virginia Durable DNR Order Form shall be a standardized form available only to physicians for download via the Internet from the Office of Emergency Medical Services website. The downloadable form will contain</u></p>	
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	<p><u>Medical Services Website. The downloadable form will contain 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><u>I. Hard copies of the Durable DNR Order Form shall be also 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 DNT Order Form for a nominal fee can be charged to cover printing and shipping fees.</u></p>	<p><u>directions for completing the form and three identical Durable DNR Order Forms: one [original] form to be kept by the patient, [;] the second to be placed in the patient's permanent medical record [;] and the third to be used [by the patient] for requesting [an] Alternate Durable DNR [jewelry].</u></p> <p><u>[9; 8.] 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 may] be charged [in an amount necessary] to cover printing and shipping fees.</u></p>	
<p>50</p>	<p><u>The Board authorizes the issuance use of alternate forms of Alternate Durable DNR Order identification Jewelry in conjunction with the issuance of Durable DNR Orders Order Forms. These alternate forms Alternate Durable DNR Jewelry items shall be uniquely-designed and uniquely-identifiable bracelets and necklaces that are available only from a vendor approved by the Virginia Department of Health, Office of EMS. These alternate forms of identification The Alternate Durable DNR Jewelry must be purchased from the approved vendor by the person to whom a Durable DNR Order Form applies, or that the person authorized to consent on the patient's behalf, and in conjunction with a. An original Durable DNR Order Form must be</u></p>	<p><u>The board authorizes the issuance use of alternate forms of Alternate Durable DNR Order identification [Jewelry jewelry] in conjunction with the issuance of a Durable DNR Orders Order [Forms]. These alternate forms Alternate Durable DNR [Jewelry jewelry] items shall be uniquely-designed and uniquely-identifiable bracelets and necklaces that are available only from a vendor approved by the Virginia Department of Health, Office of EMS. These alternate forms of identification The Alternate Durable DNR [Jewelry jewelry] must be purchased from the approved vendor by the person to whom a Durable DNR Order Form applies or that the person authorized to consent on the patient's behalf, and in conjunction with a. An original Durable DNR Order Form must be obtained from a physician and provided to the vendor in order to receive Alternate Durable DNR [Jewelry jewelry]. Such a necklace or bracelet may be utilized either to validate the Durable DNR Order Form or in place of an original Durable DNR</u></p>	<p>Provides clarification based on public input.</p>

	<p><u>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>original standard Durable DNR Order Form</u>, this alternate form of identification <u>the Alternate Durable DNR Jewelry</u> must contain the minimum information approved by the State Board of Health in <u>12VAC5-66-60</u>.</p>	<p>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 original standard Durable DNR Order Form, this alternate form of identification <u>the Alternate Durable DNR [Jewelry jewelry]</u> must contain the minimum information approved by the State Board of Health in <u>12VAC5-66-60</u>.</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><u>A. 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 12VAC5-66-40 and the time of issuance by the physician in accordance with accepted medical</u></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. <u>Do Not Resuscitate order in accordance with the applicable policies and procedures of the health care facility in which they practice.</u>]</p> <p>B. Additionally, nothing in these regulations or in the definition of Durable DNR Orders provided in § 54.1-2982 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</p> <p>[A. B.] <u>Qualified health care personnel [can are authorized to] 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</u></p>	<p>Provides clarification for known public concerns regarding DNR orders not utilized on the standard state form.</p>

	<p>practice, for patients who are currently admitted to a hospital or other health care facility.</p>	<p>of a cardiac or respiratory arrest as if it were a Durable Do Not Resuscitate Order] 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 or is in transit from a qualified health care facility provided that such order includes] the same information as listed in subdivision 1 of 12VAC5-66-40 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 [except that an other DNR order shall not be required to include the signature of the patient or a person authorized to consent for the patient on the order itself].</p>	
<p>70</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>C. <u>The authorized Durable DNR Order Form can be honored by qualified health care providers in any setting.</u></p> <p>D. <u>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>E. <u>Other DNR Orders can be honored any time when a patient is within</u></p>	<p>A. A Durable DNR Order [Form or Other 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>C. <u>The authorized Durable DNR Order [Form] can be honored by qualified health care [providers personnel] in any setting.</u></p> <p>D. [Patients who 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>Qualified health care personnel are authorized to honor only a Durable DNR order or an authorized form or Alternate DNR jewelry as provided in 12VAC5-66-60 of these regulations.]</u></p> <p>[E. Other DNR Orders can be honored any time when a patient is within a qualified health care facility or during</p>	<p>Provides clarifying language to reduce public confusion.</p>

<p><u>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>B. F. 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"> <u>1. Explain when the Durable DNR Form is valid.</u> <u>2. Explain how to and who may revoke the Durable DNR.</u> <u>3. Document the patient's full legal name.</u> <u>4. Document the execution date of the Durable DNR.</u> <p>4. 5. Obtain the signature of the patient or the person authorized to consent on the patient's behalf <u>on all three forms, the patients copy, medical record copy, and the copy used for obtaining DNR Jewelry.</u></p> <p>2. Execute and date the Physician Order on the Durable DNR Order Form.</p> <ol style="list-style-type: none"> <u>6. The physician name should be clearly printed and the form signed.</u> <u>7. Note the contact telephone number for the issuing physician.</u> <p>3. 8. Issue the original Durable DNR Order Form, <u>patient and DNR Jewelry copies to the patient and maintain the medical record copy in the patient's</u></p>	<p>transfer between qualified health care facilities when the patient remains attended by qualified health care providers.]</p> <p>B. [F. The E. Prior to issuing a <u>Durable DNR Order the]</u> 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 [for response in the event of cardiac or respiratory arrest]. 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"> <u>1. Explain when the [when the circumstances under which qualified health care personnel may follow a] Durable DNR Form is valid [Form is valid].</u> <u>2. Explain how to and who may revoke the Durable DNR [order].</u> <u>3. Document the patient's full legal name.</u> <u>4. Document the execution date of the Durable DNR [order].</u> <p>4. 5. Obtain the signature of the patient or the person authorized to consent on the patient's behalf <u>on all three forms, [;] the patient's copy, [;] medical record copy, [;] and the copy used for obtaining DNR [Jewelry jewelry].</u></p> <p>2. Execute and date the Physician Order on the Durable DNR Order Form.</p> <ol style="list-style-type: none"> <u>6. Make sure that the [issuing] physician's name is clearly printed and the form is signed.</u> <u>7. [Note Record] the contact telephone number for the issuing physician.</u> <p>3. 8. Issue the original Durable DNR Order Form, <u>patient and DNR jewelry copies to the patient and maintain the medical record copy in the patient's</u></p>	
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	<p><u>medical file.</u></p> <p>4. Explain how to and who may revoke the Durable DNR Order.</p>	<p><u>medical file.</u></p> <p>4. Explain how to and who may revoke the Durable DNR Order.</p>	
<p>80</p>	<p>B. Initial assessment and intervention. Perform routine patient assessment and resuscitation or intervention until the a valid <u>a valid</u> Durable DNR Order <u>Form</u> or other <u>Other</u> DNR Order validity status is can be <u>confirmed</u>, as follows:</p> <p>1. Determine the presence of a Durable DNR Order Form or, an approved alternate form of <u>Alternate Durable DNR identification Jewelry, or Other DNR Order.</u></p> <p>2. <u>If the patient is within a qualified health care facility, any qualified health care personnel may honor a written physician's order that contains the items noted in 12VAC5-66-40 (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>2. <u>3.</u> Determine that the Durable DNR item is not altered.</p> <p>3. <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 other <u>Other</u> DNR Order was issued.</p> <p>4. <u>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</u></p>	<p>B. Initial assessment and intervention. Perform routine patient assessment and resuscitation or intervention until the a valid <u>a valid</u> Durable DNR Order [<u>Form, Alternate DNR jewelry,]</u> or other <u>Other</u> DNR Order validity status is can be <u>confirmed</u>, as follows:</p> <p>1. Determine the presence of a Durable DNR Order [<u>Form</u>] or, [an] approved alternate form of <u>Alternate Durable DNR identification [Jewelry jewelry], or Other DNR Order.</u></p> <p><u>2. If the patient is within a qualified health care facility [or in transit between qualified health care facilities], any qualified health care personnel may honor [a written physician's order that contains the items noted in 12VAC5-66-40 (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) an Other DNR Order as set forth in 12VAC5-66-60].</u></p> <p>2. <u>3.</u> Determine that the Durable DNR [item form or Alternate DNR jewelry] is not altered.</p> <p>3. <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, Alternate DNR jewelry,]</u> or other <u>Other</u> DNR Order was issued.</p> <p>4. <u>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.</u></p> <p>[<u>5. If a Durable DNR Order Form or</u></p>	<p>Provides language that emphasizes the DNR is not limited to the EMS environment.</p>

<p>Durable DNR Order Form or other written DNR order.</p> <p>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.</p> <p>5. 6. If the Durable any type of DNR Order or approved alternate form of identification is not intact or has been altered or other DNR Order is produced, the qualified health care personnel is presented to qualified health care personnel, it shall consider the Durable DNR Order to be invalid considered valid.</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 Form, Alternate Durable DNR Jewelry, or Other DNR Order under the criteria set forth above in subsection B of this section, 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> <ol style="list-style-type: none"> 1. Cardiopulmonary Resuscitation (CPR); 2. Endotracheal Intubation or other advanced airway management; 3. <u>2.</u> Artificial ventilation; 4. <u>3.</u> Defibrillation; <p>or</p> <ol style="list-style-type: none"> 4. <u>Endotracheal Intubation or other advanced</u> 	<p>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.]</p> <p>[5. 6.] If [the Durable] [any type of] DNR Order or approved alternate form of identification is not intact or has been altered or other [, Alternate DNR jewelry, or Other DNR Order is] produced; [intact, unaltered, and verified as issued for the patient,] the qualified health care personnel [is presented to] qualified health care personnel may [it shall consider] the Durable DNR Order to [be] invalid [considered it] valid.</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 [Form] , Alternate Durable DNR [Jewelry jewelry] , or Other DNR Order under the criteria set forth above in subsection B of this section, [the following procedures should be withheld or withdrawn by] qualified health care personnel [shall withhold or withdraw cardiopulmonary resuscitation (CPR)] unless otherwise directed by a physician physically present at the patient location [÷ . CPR shall include:]</p> <ol style="list-style-type: none"> 1. [Cardiopulmonary Resuscitation (CPR) Cardiac compression]; 2. Endotracheal Intubation or other advanced airway management; 3. <u>2.</u> Artificial ventilation; 4. <u>3.</u> Defibrillation; or 4. <u>Endotracheal Intubation or other advanced airway management including supra-glottic devices such as the LMA, or other airway devices that</u> 	
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<p><u>airway management including supra-glottic devices such as the Laryngeal Mask Airway (LMA), or other airway devices that pass beyond the oral pharynx, such as the Combi Tube, Pharyngeal Tracheal Lumen (PTL), or other similar devices; or</u></p> <p>5. Continuation of related procedures or cardiac resuscitation medications as prescribed by the patient's physician or medical protocols.</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 or other DNR Order of any type, the following interventions may be provided, depending on the needs of the particular patient:</p> <ol style="list-style-type: none"> 1. Airway management (excluding intubation or advanced, including placement of nasal or pharyngeal airways management; 2. Suctioning; 3. Supplemental oxygen delivery devices; 4. Pain medications or intravenous fluids; 5. Bleeding control; 6. Patient positioning; or 7. Other therapies deemed necessary to provide comfort care or to alleviate pain. <p>E. Revocation.</p> <ol style="list-style-type: none"> 1. These regulations shall not authorize any qualified health care personnel to follow a Durable DNR Order for any patient 	<p><u>pass beyond the oral pharynx, such as the Combi Tube, PTL etc.; or</u></p> <p>5. [Continuation Administration] of related procedures or cardiac resuscitation medications as prescribed by the patient's physician or medical protocols.</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 or other DNR Order of any type [or Other DNR Order] the following interventions may be provided, depending on the needs of the particular patient:</p> <ol style="list-style-type: none"> 1. Airway management (excluding intubation or advanced, including positioning, nasal or pharyngeal airway management) placement; 2. Suctioning; 3. Supplemental oxygen delivery devices; 4. Pain medications or intravenous fluids; 5. Bleeding control; 6. Patient positioning; or 7. Other therapies deemed necessary to provide comfort care or to alleviate pain. <p>E. Revocation.</p> <ol style="list-style-type: none"> 1. [These regulations shall not authorize any qualified health care personnel to follow a Durable DNR Order for any patient who is able to, and does, express to such qualified health care personnel the desire to be resuscitated in the event of cardiac or respiratory arrest. <p>If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the</p>	
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<p>who is able to, and does, express to such qualified health care personnel the desire to be resuscitated in the event of cardiac or respiratory arrest.</p> <p>If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall so revoke the qualified health care personnel's authority to follow a Durable DNR Order of any type.</p> <p>F. Documentation. When following a Durable DNR Order 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> <ol style="list-style-type: none"> 1. Use standard patient care reporting documents (i.e. patient chart, pre-hospital patient care report). 2. Describe assessment of patient's status. 3. Document which identification (Durable DNR Order Form, <u>Alternate Durable DNR</u>, or other Other DNR Order or alternate form of identification) was used to confirm Durable DNR status and that it was intact, not altered, not canceled or not officially revoked. 4. Record the <u>name of the patient's physician who issued the Durable DNR Order</u> Number and name of patient's physician Form, or <u>Other DNR Order</u>. 5. If the patient is being transported, keep the 	<p>person authorized to consent on the patient's behalf shall so revoke the qualified health care personnel's authority to follow a Durable DNR Order or other DNR Order <u>If a patient is able to, and does, express to a health care provider or practitioner the desire to be resuscitated in the event of cardiac or respiratory arrest, such expression shall revoke the provider's or practitioner's authority to follow a Durable DNR Order or Other DNR Order. In no case shall any person other than the patient have authority to revoke a Durable DNR Order or Other DNR Order upon the request of and with the consent of the patient himself.</u></p> <p><u>If the patient is a minor or is otherwise incapable of making an informed decision and the Durable DNR Order or Other DNR Order was issued upon the request and with the consent of the person authorized to consent on the patient's behalf, then the expression by said person to a health care provider or practitioner of the desire that the patient be resuscitated shall so revoke the provider's or practitioner's authority to follow a Durable DNR Order or Other DNR Order]</u>.</p> <p>F. Documentation. When following a Durable DNR Order or [other Other] DNR Order for a particular patient [<u>admitted to a qualified health care facility</u>], qualified health care personnel shall document [<u>care rendered or withheld as required by facility policies and procedures. When following a Durable DNR Order or Other DNR Order for a particular patient who is not admitted to a qualified health care facility or who is in transit from a health care facility, qualified health care personnel shall document</u>] in the patient's medical record the care rendered or withheld in the following manner:</p> <ol style="list-style-type: none"> 1. Use standard patient care reporting documents (i.e. patient chart, pre-hospital patient care report). 2. Describe assessment of patient's 	
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	<p>Durable DNR Order, <u>Alternate Durable DNR</u>, or <u>Other DNR Order</u> with the patient.</p> <p>G. General considerations. The following general principles shall apply to implementation of Durable DNR Orders.</p> <p>1. If there is misunderstanding with family members or others present at the patient's location or if there are other concerns about following the Durable DNR Order or other DNR Order, contact the patient's physician or EMS medical control for guidance.</p> <p>2. If there is any question about the validity of a Durable DNR Order, resuscitative measures should be administered until the validity of the Durable DNR Order is established.</p>	<p>[<u>cardiac or respiratory arrest</u>] status.</p> <p>3. Document which identification (Durable DNR Order [<u>Form</u>], <u>Alternate Durable DNR</u> [<u>jewelry</u>], or other <u>Other</u> DNR Order or alternate form of identification) was used to confirm Durable DNR status and that it was intact, not altered, not canceled or not officially revoked.</p> <p>4. Record the <u>name of the patient's physician who issued the Durable DNR Order</u> Number and name of patient's physician [<u>Form</u>], or <u>Other DNR Order</u>.</p> <p>5. If the patient is being transported, keep the Durable DNR Order [<u>Form</u>], <u>Alternate Durable DNR</u> [<u>jewelry</u>], or <u>Other DNR Order</u> with the patient.</p> <p>G. General considerations. The following general principles shall apply to implementation of [<u>all</u>] Durable DNR Orders.</p> <p>1. If there is misunderstanding with family members or others present at the patient's location or if there are other concerns about following the Durable DNR Order or [other <u>Other</u>] DNR Order, contact the patient's physician or EMS medical control for guidance.</p> <p>2. If there is any question about the validity of a Durable DNR Order, resuscitative measures should be administered until the validity of the Durable DNR Order [<u>or Other DNR Order</u>] is established.</p>	
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Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Commenter	Comment	Agency response
Virginia Hospital and Healthcare	Part I	Agree with all recommended changes as they reflect

<p>Association</p>	<p style="text-align: center;">Definitions</p> <p>12VAC5-66-10. Definitions.</p> <p>The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:</p> <p>"Agent" means an adult appointed by the declarant under an advance directive, executed or made in accordance with the provisions of § 54.1-2983 of the Code of Virginia to make health care decisions for him.</p> <p><u>"Alternate Durable DNR jewelry" means a Durable DNR bracelet or necklace issued by a vendor approved by the Virginia Office of Emergency Medical Services. A Durable DNR Order must be obtained by the patient, from a physician, to obtain Durable DNR jewelry.</u></p> <p><i>This is the term used most often in the body of the regulation</i></p> <p>"Board" means the State Board of Health.</p> <p>"Cardiac arrest" means the cessation of a functional heartbeat.</p> <p>"Commissioner" means the State Health Commissioner.</p> <p>"Durable Do Not Resuscitate Order " or "Durable DNR Order " means a written physician's order issued pursuant to § 54.1-2987.1 of the Code of Virginia in a form <u>or forms</u> 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</p>	<p>the intent of the recent legislative changes.</p>
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	<p>airway management, artificial ventilation, and defibrillation, <u>administration of cardiac resuscitative medications</u>, 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 <u>or other DNR Order</u> 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 <u>Alternate Durable DNR jewelry</u> issued in conjunction with an original Durable DNR Order form.</p> <p>"Emergency Medical Services" or "EMS" means the services rendered by an agency licensed by the Virginia Office of Emergency Medical Services, an equivalent agency licensed by another state or a similar agency of the federal government when operating within this Commonwealth.</p> <p>"Emergency medical services agency" or "EMS agency" means any person <u>agency</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>"Incapable of making an informed decision" means the inability of an adult patient, because of mental illness, mental retardation, or any other mental or physical disorder that precludes communication or impairs judgment, to make an informed decision about providing, withholding or withdrawing a specific medical treatment or course of treatment because he is unable to</p>	
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	<p>understand the nature, extent or probable consequences of the proposed medical decision, or to make a rational evaluation of the risks and benefits of alternatives to that decision. For purposes of this article, persons who are deaf, dysphasic or have other communication disorders, who are otherwise mentally competent and able to communicate by means other than speech, shall not be considered incapable of making an informed decision. The determination that the patient is "incapable of making an informed decision" shall be made in accordance with §54.1-2983.2.</p> <p><i>This change will allow incorporation of legislation now being considered by the General Assembly (SB 275) that revises procedures governing the determination of incapacity.</i></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 Order" or "Other DNR Order" means a written physician's order not to resuscitate a patient in the event of cardiac or respiratory arrest on a form other than the authorized state standardized Durable DNR Form under policies and procedures of the health care facility to which the individual who is the subject of the order has been admitted.</u></p> <p><i>The stricken provisions are and should be addressed in the body of the regulations.</i>" Person authorized to consent on the patient's behalf" means any person authorized by</p>	
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	<p>law to consent on behalf of the 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>"Physician" means a person licensed to practice medicine in the Commonwealth of Virginia or in the jurisdiction where the treatment is to be rendered or withheld.</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><u>"Qualified health care facility" means a facility, program, or organization operated or licensed by the State Board of Health or by the Department of Behavioral Health and Developmental Services (DBHDS) or operated, licensed, or owned by another state agency.</u></p> <p>"Qualified health care personnel" means any qualified emergency medical services personnel and any licensed healthcare provider or practitioner functioning in any 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 <u>DBHDS</u> or operated, licensed, or owned by another state agency.</p> <p>"Respiratory arrest" means cessation of breathing.</p> <p style="text-align: center;">Part III Requirements and Provisions 12VAC5-66-40. The Durable Do</p>	
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	<p>Not Resuscitate Order Form.</p> <p>The Durable DNR Order Form shall be a unique <u>standardized</u> 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 - A signed Durable DNR Order shall remain valid until revoked in accordance with §54.1-2987.1 and 12VAC5-66-80 E or until rescinded, in accordance with accepted medical practice, by the provider who issued the Durable Do Not Resuscitate Order.</p> <p><i>This change accurately reflects statutory language governing revocation and rescission.</i></p> <p>3. <u>A</u> Durable DNR Order or alternate form <u>Alternate Durable DNR jewelry</u> that complies with 12VAC5-66-50 shall be valid for <u>the purposes of withholding or withdrawing cardiopulmonary resuscitation by qualified health care personnel in the event of cardiac or respiratory arrest.</u></p> <p><u>4. Availability of the Durable DNR Order Form.</u> The original Durable</p>	
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	<p>DNR Order or an alternate form Form that complies with 12VAC5-66-40 or Alternate Durable DNR jewelry that complies with 12VAC5-66-50 shall be maintained and displayed readily available to qualified health care personnel 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><i>It is unclear what the last sentence means with respect to “readily available” – the order or the form? Given the purpose of this section in current regulations (availability of the order to health care providers who would be implementing it), we believe the last sentence is not needed.</i></p> <p><i>Other changes correct cross-references and terminology.</i></p> <p><u>5. Qualified health care personnel may honor a legible photocopy of a Durable DNR Form or Other Durable DNR Order as if it were an original.</u></p> <p><i>This clarifies that this provision doesn't convey separate authority but only establishes that copies are as valid as an original document. We believe this more accurately reflects the limited authority in the law for the regulations to govern “other DNR orders.”</i></p>	
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	<p><u>6. A patient who is traveling outside his home or between health care facilities should have an original or photocopied Durable DNR Order or Other Durable DNR Order or an Alternate Durable DNR jewelry accompany him.</u></p> <p><i>We suggest deleting this revocation provision (which does not reflect 2009 statutory changes) and addressing revocation in Subsection E of 12VAC5-66-80 only.</i> 5: 7</p> <p><u>Distribution of Durable DNR Order Forms - Authorized The authorized Virginia Durable DNR Forms, with instructions, Order Form shall be a standardized form available only to physicians for download via the Internet from the Office of Emergency Medical Services website. The downloadable form will contain directions for completing the form and three identical Durable DNR Order Forms: one original form to be kept by the patient; the second to be placed in the patient's permanent medical record; and the third to be used by the patient for requesting Alternate Durable DNR jewelry.</u></p> <p><u>8. 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 may be charged in an amount necessary to cover printing and shipping fees.</u></p> <p><i>We request this clarification that fees should not exceed the amount</i></p>	
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	<p><i>needed to cover these program expenses.</i></p> <p>12VAC5-66-50. Authorized alternate forms of Durable DNR Order identification jewelry.</p> <p>The board authorizes the issuance use of alternate forms of Alternate Durable DNR Order identification jewelry in conjunction with the issuance of Durable DNR Orders <u>Orders</u>. These alternate forms <u>Alternate Durable DNR jewelry items</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, Office of EMS. These alternate forms of identification <u>The Alternate Durable DNR jewelry</u> must be purchased from the approved vendor by the person to whom a Durable DNR Order applies, or that <u>the</u> person authorized to consent on the patient's behalf, and in conjunction with a. <u>An original 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 original <u>standard Durable DNR Order Form,</u> this alternate form of identification <u>the Alternate Durable DNR Jewelry</u> must contain the minimum information approved by the State Board of Health in <u>12VAC5-66-60.</u></p>	
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	<p>12VAC5-66-60. Other DNR Orders.</p> <p>A. Nothing in these regulations shall be construed to preclude licensed health care practitioners from following an other written orders of a physician not to resuscitate a patient in the event of cardiac or respiratory arrest. <u>Do Not Resuscitate order in accordance with the applicable policies and procedures of the health care facility in which they practice.</u></p> <p>B. Additionally, nothing in these regulations or in the definition of Durable DNR Orders provided in § 54.1-2982 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</p> <p><u>Qualified health care personnel are authorized to honor any other do not resuscitate (DNR) order as if it were a Durable Do Not Resuscitate Order when the patient is currently admitted to a hospital or other qualified health care facility or is in transit from a qualified health care facility provided that such order includes the same information as listed in subdivision 1 of 12VAC5-66-40 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 except that an other DNR order shall not be required to include the signature of the patient</u></p>	
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	<p>or a person authorized to consent for the patient on the order itself.</p> <p><i>These changes are intended to more clearly state the regulations' limited authority over the use of "other DNR orders."</i></p> <p>The deletion of the requirement for a signature on the "other DNR order" reconciles the regulations more closely with institutional practices in order to give effect to these orders. In practice, these orders usually are used in EMS settings when EMS providers arrive at a hospital or nursing home and are shown an institutional "other DNR order." Requiring a patient signature will limit their usefulness. Patient consent is required by institutional policies and procedures for issuing these "other DNR orders," but neither these nor other physician orders are signed by the patient. We have suggested inserting in Paragraph A of this section a provision that these orders are written in accordance with facility policies and procedures; this will require that there is patient consent without necessitating a signature. This change should help to resolve some of the recently reported confusion among EMS providers as to their authority to follow "other DNR orders."</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 such patient.</p> <p>Part IV Implementation Procedures</p>	
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	<p>12VAC5-66-70. Issuance of a Durable DNR Order.</p> <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><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 can be honored by qualified health care personnel in any setting.</u></p> <p><u>D. Qualified health care personnel are authorized to honor only a Durable DNR Order on an authorized form or Alternate DNR jewelry except as provided in 12VAC5-66-60 of these regulations</u></p> <p>⋮</p> <p><i>Subsection E is redundant of provisions of 12VAC5-66-60; these changes cross-reference the two sections.</i></p> <p>B. F. Prior to issuing a Durable DNR Order, the physician shall explain to the patient, or the person authorized to consent on the patient's behalf, the alternatives available <i>[for what?]</i> for response in the event of cardiac or respiratory arrest, including issuance of a Durable DNR Order. If the option</p>	
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	<p>of a Durable DNR Order is agreed upon, the physician shall have the following responsibilities:</p> <p><u>1. Explain the circumstances under which qualified health care personnel may follow a Durable DNR Order .</u></p> <p><u>2. Explain how to and who may revoke the Durable DNR order.</u></p> <p><u>3. Document the patient's full legal name.</u></p> <p><u>4. Document the execution date of the Durable DNR order.</u></p> <p>4. <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><i>The reference to "alternatives available" is unclear; the added language is an attempt to clarify. Other changes revise terminology and punctuation.</i></p> <p>2. Execute and date the Physician Order on the Durable DNR Order Form.</p> <p><u>6. Make sure that the issuing physician's name is clearly printed and the form is signed.</u></p> <p><u>7. Record the contact telephone number for the issuing physician on the Durable DNR Form.</u></p> <p>3. <u>8. Issue the original Durable DNR Order Form and the form for obtaining Alternate Durable DNR jewelry to the patient and maintain the medical record copy in the patient's medical file.</u></p> <p><i>Clarifying change</i></p> <p><i>We also suggest that the</i></p>	
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	<p><i>requirements set out in this section be noted in the DDNR form so that the form will document that they have been addressed.</i></p> <p>4. Explain how to and who may revoke the Durable DNR Order.</p> <p>C. G. 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. The following words: Do Not Resuscitate;</u></p> <p>2. The patient's full legal name;</p> <p>2. The Durable DNR number on the Virginia Durable DNR form or a number unique to the patient that is assigned by the vendor;</p> <p>3. The physician's name and phone number; and</p> <p>4. The Virginia Durable DNR issuance date.</p> <p>12VAC5-66-80. Durable DNR Order implementation procedures.</p> <p>A. Qualified health care personnel shall comply with the following general procedures and published Virginia Durable DNR Order Implementation Protocols when caring for a patient who is in cardiac or respiratory arrest and who is known or suspected to have</p>	
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	<p>a Durable DNR Order in effect.</p> <p>B. Initial assessment and intervention. Perform routine patient assessment and resuscitation or intervention until the <u>a valid Durable DNR Order Form, Alternate DNR jewelry or other Other DNR Order validity status is</u> can be confirmed, as follows:</p> <p>1. Determine the presence of a Durable DNR Order Form or an approved alternate form of <u>Alternate Durable DNR identification jewelry, or Other DNR Order.</u></p> <p><u>2. If the patient is within a qualified health care facility or in transit between qualified health care facilities, any qualified health care personnel may honor an other DNR order as set forth in 12VAC5-66-60.</u></p> <p><i>Eliminates redundancies and cross-references sections.</i></p> <p>2. <u>3.</u> Determine that the Durable DNR form or Alternate DNR jewelry is not altered.</p> <p>3. <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, alternate DNR jewelry or other <u>Other</u> DNR Order was issued.</p> <p>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.</p>	
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	<p><i>This is stated in 12VAC5-66-80 B introducing this list of procedures.</i></p> <p>5. <u>6.</u> If the Durable DNR, alternate DNR jewelry or other DNR order is intact, unaltered and verified as issued for the patient, qualified health care personnel may consider it valid.</p> <p><i>Clarifying changes.</i></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 <u>in subsection B of this section</u>, qualified health care personnel shall withhold or withdraw cardiopulmonary resuscitation (CPR) unless otherwise directed by a physician physically present at the patient location. CPR shall include:</p> <ol style="list-style-type: none"> 1. cardiac compression; 2. Endotracheal Intubation or other advanced airway management; 3. <u>2.</u> Artificial ventilation; 4. <u>3.</u> Defibrillation; or 4. <u>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.; or</u> <p><i>These changes describe “CPR” consistent with what is described as “CPR” in the definition of “Durable Do Not Resuscitate Order” in 12VAC 5-66-10.</i></p> <p><i>Is it clear what is “advanced airway management” and what “airway management” as used in</i></p>	
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	<p><i>Subsection D below?</i></p> <p>5. Administration of related procedures or cardiac resuscitation medications as prescribed by the patient's physician or medical protocols.</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 of any type or other DNR Order, the following interventions may be provided, depending on the needs of the particular patient:</p> <p>This change clarifies that comfort care is administered even if there are “other DNR orders,” which are not “Durable DNR orders.”</p> <ol style="list-style-type: none"> 1. <u>Airway management (excluding intubation or advanced, including positioning, nasal or pharyngeal airway management) placement;</u> 2. Suctioning; 3. Supplemental oxygen delivery devices; 4. Pain medications or intravenous fluids; 5. Bleeding control; 6. Patient positioning; or 7. Other therapies deemed necessary to provide comfort care or to alleviate pain. <p>E. Revocation.</p> <ol style="list-style-type: none"> 1. <p>If a patient is able to, and does, express to a health care provider or practitioner the desire to be resuscitated in the event of cardiac or respiratory arrest, such</p>	
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	<p>expression shall revoke the provider's or practitioner's authority to follow a Durable Do Not Resuscitate Order. In no case shall any person other than the patient have authority to revoke a Durable Do Not Resuscitate Order executed upon the request of and with the consent of the patient himself.</p> <p>If the patient is a minor or is otherwise incapable of making an informed decision and the Durable Do Not Resuscitate Order was issued upon the request of and with the consent of the person authorized to consent on the patient's behalf, then the expression by said authorized person to a health care provider or practitioner of the desire that the patient be resuscitated shall so revoke the provider's or practitioner's authority to follow a Durable Do Not Resuscitate Order.</p> <p><i>This change incorporates the 2009 legislative changes governing revocation.</i></p> <p>2. The expression of such desire to be resuscitated prior to cardiac or respiratory arrest shall constitute revocation of the order; however, a new order may be issued upon consent of the patient or the person authorized to consent on the patient's behalf.</p> <p>3. The provisions of this section shall not authorize any qualified emergency medical services personnel or licensed health care provider or practitioner who is attending the patient at the time of cardiac or respiratory arrest to provide, continue, withhold or withdraw treatment if such provider or practitioner knows that taking such action is protested by the patient incapable of making an informed decision. No person shall</p>	
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	<p>authorize providing, continuing, withholding or withdrawing treatment pursuant to this section that such person knows, or upon reasonable inquiry ought to know, is contrary to the religious beliefs or basic values of a patient incapable of making an informed decision or the wishes of such patient fairly expressed when the patient was capable of making an informed decision.</p> <p>F. Documentation. When following a Durable DNR Order or other DNR Order for a particular patient admitted to a qualified health care facility, qualified health care personnel shall document care rendered or withheld as required by facility policies and procedures. When following a Durable DNR order or other DNR Order for a particular patient who is not admitted to a qualified health care facility or who is in transit from a health care facility, qualified health care personnel shall document in the patient's medical record the care rendered or withheld in the following manner:</p> <p><i>This change is intended to clarify and limit appropriately the authority of the regulations over other DNR orders issued and followed in health care facilities. The procedures below are intended primarily to govern EMS procedures.</i></p> <ol style="list-style-type: none"> 1. Use standard patient care reporting documents (i.e. patient chart, pre-hospital patient care report). 2. Describe assessment of patient's cardiac or respiratory arrest status. 3. Document which identification (Durable DNR Order Form, 	
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	<p><u>Alternate Durable DNR jewelry, or other Other DNR Order or alternate form of identification) was used to confirm Durable DNR status and that it was intact, not altered, not canceled or not officially revoked.</u></p> <p>4. Record the <u>name of the patient's physician who issued the Durable DNR Order Number and name of patient's physician or Other DNR Order.</u></p> <p>5. If the patient is being transported, keep the Durable DNR Order Form, <u>Alternate Durable DNR jewelry, or Other DNR Order</u> with the patient.</p> <p>G. General considerations. The following general principles shall apply to implementation of Durable DNR Orders.</p> <p>1. If there is misunderstanding with family members or others present at the patient's location or if there are other concerns about following the Durable DNR Order or other DNR Order, contact the patient's physician or EMS medical control for guidance.</p> <p>2. If there is any question about the validity of a Durable DNR Order, resuscitative measures should be administered until the validity of the Durable DNR Order is established.</p>	
<p>Cathy Behrens RN AL Administrator, Our Lady of Perpetual Help</p>	<p>I have read the proposed VA. DNR regulations submitted and agree. No additional comments.</p>	<p>No Actions</p>

All changes made in this regulatory action

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

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10		<p>"Durable Do Not 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 <u>alternate</u> 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,</p>	<p><u>"Alternate Durable DNR" means a 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, and <u>defibrillation, administration of cardiac resuscitative medications,</u> 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 <u>Form or other DNR Order</u> is not and shall not be construed as an advance directive. When used in these regulations, the term "Durable DNR Order <u>Form</u>" shall include any authorized <u>Alternate Durable DNR Jewelry form of identification</u> issued in conjunction with an original Durable DNR Order <u>Form</u></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</u></p>

		<p>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 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>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 physician's order on a form other than the authorized State standardized Durable DNR Form. Any other DNR form must contain all the information required in subdivision 1 of 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><u>"Qualified health care facility" means a facility, program or organization operated or licensed by the State Board of Health, or by the Department of Behavioral Health and Developmental Services (DBHDS) 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>The Durable DNR Order Form shall be a unique <u>standardized</u> 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>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. Original <u>Alternate Durable DNR Order Form - An original Durable DNR Order or an Alternate Durable DNR Jewelry form</u> that complies with <u>12VAC5-66-50</u> shall be valid for <u>the</u> purposes of withholding or withdrawing cardiopulmonary resuscitation by qualified health care personnel in the event of cardiac or respiratory arrest;</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 12VAC5-66-50 shall be 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 12VAC5-66-50 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</p>	<p>D. Availability <u>Displaying</u> of the Durable DNR Order Form - The original Durable DNR Order Form that complies with 12VAC5-66-50 or an <u>Alternate Durable DNR form that complies with 12 VAC 5-66-60</u> shall be maintained and <u>displayed 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, of by the Department of Behavioral Health and Developmental Services (DBHDS) 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>E. <u>Qualified health care personnel may honor a legible photocopy of a Durable DNR Form or Other Durable DNR Order;</u></p> <p>F. <u>A patient who 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>G. Revocation of a Durable DNR Order Form - A Durable DNR Order Form may be revoked at any time by the patient (i) by physical physically destroying the Durable DNR Order Form cancellation or destruction by the patient or having another person in his/her presence and at his direction destroy 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</u></p>
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		<p>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 DNR Order Forms— Authorized Durable DNR Forms, with instructions, shall be available only to physicians.</p>	<p><u>DNR, health care personnel should assure the revocation is honored by updating or destroying the Other Durable DNR Order;</u></p> <p>H. <u>Distribution of Durable DNR Order Forms – Authorized The authorized Virginia Durable DNR Order Forms, with instructions, shall be a standardized form available only to physicians. for download via the Internet from the Office of Emergency Medical Services Website. The downloadable form will contain 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 patient's 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</p>	<p>The board authorizes the issuance use of <u>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>. These <u>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 the <u>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</p>

		<p>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 Order, this alternate form of identification must contain the minimum information approved by the State Board of Health.</p>	<p>found. In order to be honored by qualified health care personnel in place of the standard original Durable DNR Order Form, <u>the this Alternate Durable DNR jewelry form of identification</u> must contain the minimum information approved by the State Board of Health in <u>12 VAC 5-66-60</u>.</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 § 54.1-2982 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 12VAC5-66-40 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>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>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 12VAC5-66-40 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. <u>B. Nothing in these regulations shall prohibit qualified health care personnel from following any direct verbal order issued by a</u></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 such patient.</p>	<p>licensed physician not to resuscitate a patient in cardiac or respiratory arrest when such physician is physically present Statutory Authority.</p>
<p>70</p>		<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"> 1. Obtain the signature of the patient or the person authorized to consent on the patient's behalf. 2. Execute and date the Physician Order on the 	<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 who 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>B. 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, including issuance</p>

		<p>Durable DNR Order Form.</p> <p>3. Issue the original Durable DNR Order Form.</p> <p>4. Explain how to and who may revoke the Durable DNR Order.</p> <p>C. 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 Durable DNR necklace or bracelet. The necklace or bracelet must contain the following information:</p> <ol style="list-style-type: none"> 1. The patient's full legal name; 2. The Durable DNR number on the Virginia Durable DNR form or a number unique to the patient that is assigned by the vendor; 3. The physician's name and phone number; and 4. The Virginia Durable DNR issuance date. 	<p>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"> <u>1. Explain when the Durable DNR Form is valid;</u> <u>2. Explain how to and who may revoke the Durable DNR;</u> <u>3. Document the patient's full legal name;</u> <u>4. Document the execution date of the Durable DNR;</u> 4. <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> 2. <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> <u>7. Note the contact telephone number for the issuing physician;</u> 3. <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> 4. <u>Explain how to and who may revoke the Durable DNR Order.</u> <p>C. <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> <ol style="list-style-type: none"> <u>1. States: Do Not Resuscitate</u> 4. <u>2. The patient's full legal name;</u>
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			<p>2. The Durable DNR number on the Virginia Durable DNR form or a number unique to the patient that is assigned by the vendor;</p> <p>3. <u>4.</u> The physician's name and phone number; and</p> <p>4. <u>5.</u> The Virginia Durable DNR issuance date.</p> <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 <u>a valid</u> the Durable DNR Order <u>Form</u> or <u>Other</u> DNR Order validity status is <u>can be</u> confirmed, as follows:</p> <p>1. Determine the presence of a Durable DNR Order Form 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>2. <u>3.</u> Determine that the Durable DNR item is not altered.</p> <p>3. <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>
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			<p>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.</p> <p>5. <u>6.</u> If any type of DNR Order being presented to qualified health care personnel the Durable DNR Order or approved alternate form of identification is not intact or has been altered or other DNR Order is produced, the qualified health care personnel it shall be considered the <u>Durable DNR Order</u> to be invalid.</p> <p>C. Resuscitative measures to be withheld or withdrawn. In the event of cardiac or respiratory arrest of a patient with a valid <u>Durable DNR Order 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>2. Endotracheal intubation or other advanced airway management;</p> <p>3. 2. Artificial ventilation;</p> <p>4. <u>3.</u> Defibrillation; or</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 <u>Durable DNR Order or other DNR Order, of any type</u>, the following interventions may be provided, depending on the needs of the particular patient:</p> <p>1. Airway management; <u>including positioning, nasal or pharyngeal airway placement; (excluding intubation or advanced airway management);</u></p>
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			<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>3. Document which identification (Durable DNR Order <u>Form</u>, <u>Alternate Durable DNR</u>, or <u>Other DNR Order</u> or alternate form of identification) was used to confirm Durable DNR status and that it was intact, not altered, not canceled or not officially revoked.</p> <p>4. Record the <u>name of the patient's physician who issued the Durable DNR Order Form, or Other DNR Order; Number and name of patient's physician.</u></p> <p>5. If the patient is being transported, keep the Durable DNR Order, <u>Alternate Durable DNR</u>, or <u>Other DNR Order</u> with the patient.</p>
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Enter any other statement here

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.

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 that will impact the family.

Chapter 66

REGULATIONS GOVERNING DURABLE DO NOT RESUSCITATE ORDERS

Part I

Definitions

12VAC5-66-10. Definitions.

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

"Agent" means an adult appointed by the declarant under an advance directive, executed or made in accordance with the provisions of § 54.1-2983 of the Code of Virginia to make health care decisions for him.

"Alternate Durable DNR" [jewelry] means a 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.

"Board" means the State Board of Health.

"Cardiac arrest" means the cessation of a functional heartbeat.

"Commissioner" means the State Health Commissioner.

"Durable Do Not Resuscitate Order [Form]" or "Durable DNR Order [Form]" means a written physician's order issued pursuant to § 54.1-2987.1 of the Code of Virginia in a form or forms 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, administration of cardiac resuscitative medications, 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 [~~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 ~~alternate form of identification~~ Alternate Durable DNR [~~Jewelry jewelry~~] issued in conjunction with an original Durable DNR Order form [~~Form~~].

"Emergency Medical Services" or "EMS" means the services rendered by an agency licensed by the Virginia Office of Emergency Medical Services, an equivalent agency licensed by another state or a similar agency of the federal government when operating within this Commonwealth.

"Emergency medical services agency" or "EMS agency" means any ~~person~~ agency, 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.

"Incapable of making an informed decision" means the inability of an adult patient, because of mental illness, mental retardation, or any other mental or physical disorder that precludes communication or impairs judgment [~~and that has been diagnosed and certified in writing by his physician with whom he has a bona fide physician/patient relationship and a second physician or licensed clinical psychologist after personal examination of such patient~~], to make an informed decision about providing, withholding, or withdrawing a specific medical treatment or course of treatment because he is unable to understand the nature, extent, or probable consequences of the proposed medical decision, or to make a rational evaluation of the risks and benefits of alternatives to that decision. For purposes of this article, persons who are deaf [; or] dysphasic or have other communication disorders [; but] who are otherwise mentally competent and able to communicate by means other than speech, shall not be considered incapable of making an informed decision. [The determination that the patient is "incapable of making an informed decision" shall be made in accordance with § 54.1-2983.2.]

"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).

"Other Do Not Resuscitate Order" or "Other DNR Order" means a written physician's order [not to resuscitate a patient in the event of cardiac or respiratory arrest] on a form other than the authorized state standardized Durable DNR Form [under policies and procedures of the health care facility to which the individual who is subject of the order has been admitted]. [~~An Other DNR form must contain all the information required in subdivision 1 of 12VAC5-66-40 to be covered by these regulations.]~~

"Person authorized to consent on the patient's behalf" means any person authorized by law to consent on behalf of the 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.

"Physician" means a person licensed to practice medicine in the Commonwealth of Virginia or in the jurisdiction where the treatment is to be rendered or withheld.

"Qualified emergency medical services personnel" means personnel certified to practice as defined by § 32.1-111.1 of the Code of Virginia when acting within the scope of their certification.

"Qualified health care facility" means a facility, program, or organization operated or licensed by the State Board of Health or by the Department of Behavioral Health and Developmental Services (DBHDS) or operated, licensed, or owned by another state agency.

"Qualified health care personnel" means any qualified emergency medical services personnel and any licensed healthcare provider or practitioner functioning in any 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~~ DBHDS or operated, licensed, or owned by another state agency.

"Respiratory arrest" means cessation of breathing.

Part II

Purpose and Applicability

12VAC5-66-20. Authority for regulation.

Section [54.1-2987.1](#) of the Code of Virginia vests authority for the regulation of Durable DNR Orders in the State Board of Health and directs the board to prescribe by regulation the procedures, including the requirements for forms to authorize qualified health care personnel to follow Durable DNR Orders. All EMS DNR Orders and all Durable Do Not Resuscitate Orders issued or in effect between July 1, 1999, and March 27, 2002, are to be considered valid Durable DNR Orders and shall remain valid until revoked.

12VAC5-66-30. Purpose of regulations.

The board has promulgated these regulations in order to carry out the intent of Virginia law that a person shall have the opportunity to execute a Durable DNR Order that comports with his wishes.

Part III

Requirements and Provisions

12VAC5-66-40. The Durable Do Not Resuscitate Order Form.

The Durable DNR Order Form shall be a ~~unique~~ standardized 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.

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.

2. Effective Period for a Signed Durable DNR Order [Form] - A signed Durable DNR Order shall remain valid until revoked [in accordance with § 54.1-2987.1 and 12VAC5-66-80 E or until rescinded, in accordance with accepted medical practice, by the provider who issued the Durable Do Not Resuscitate Order].

3. Original Durable DNR Order Form - An original A Durable DNR Order or an alternate form Alternate Durable DNR Jewelry that complies with 12VAC5-66-50 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.

4. Availability of the Durable DNR Order Form. The original Durable DNR Order or an alternate form Form that complies with [~~12VAC5-66-50~~ this section] or [~~an~~] Alternate Durable DNR [jewelry] that complies with [~~12VAC5-66-60~~ 12VAC5-66-50] shall be maintained and displayed readily available [to qualified health care personnel] 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. [Within any facility, program or organization operated or licensed by the State Board of Health or by DBHDS 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.]~~

5. Qualified health care personnel may honor a legible photocopy of a Durable DNR Form or Other Durable DNR Order [as if it were an original].

6. A patient who is traveling outside his home or between health care facilities should have an original or photocopied Durable DNR Order [~~Form or~~], Other Durable DNR Order [, or an Alternate Durable DNR jewelry] accompany him.

~~[4. 7. Revocation of a Durable DNR Order Form – A Durable DNR Order may be revoked at any time by the patient (i) by physical cancellation physically destroying the Durable DNR Order Form or destruction by the patient or having another person in his presence and at his direction of destroy 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. If an Other Durable DNR Order exists and a patient or his authorized agent revokes the Durable DNR, health care personnel should assure the revocation is honored by updating or destroying the Other Durable DNR Order.]~~

~~5. [8. 7.] Distribution of Durable DNR Order Forms - Authorized The authorized Virginia Durable DNR Forms, with instructions, Order Form shall be a standardized form available only to physicians for download via the Internet from the Office of Emergency Medical Services website. The downloadable form will contain directions for completing the form and three identical Durable DNR Order Forms: one [original] form to be kept by the patient, [7 ;] the second to be placed in the patient's permanent medical record [7 ;] and the third to be used [by the patient] for requesting [an] Alternate Durable DNR [jewelry].~~

~~[9. 8.] 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 may] be charged [in an amount necessary] to cover printing and shipping fees.~~

12VAC5-66-50. Authorized alternate forms of Durable DNR Order identification jewelry.

The board authorizes the issuance use of alternate forms of Alternate Durable DNR Order identification [Jewelry jewelry] in conjunction with the issuance of Durable DNR Orders Order [Forms]. These alternate forms Alternate Durable DNR [Jewelry jewelry] items shall be uniquely-designed and uniquely-identifiable bracelets and necklaces that are available only from a vendor approved by the Virginia Department of Health,

~~Office of EMS. These alternate forms of identification~~ The Alternate Durable DNR [Jewelry jewelry] must be purchased from the approved vendor by the person to whom a Durable DNR Order Form applies, or ~~that the~~ person authorized to consent on the patient's behalf, ~~and in conjunction with a.~~ An original Durable DNR Order Form must be obtained from a physician and provided to the vendor in order to receive Alternate Durable DNR [Jewelry jewelry]. Such a necklace or bracelet may be utilized either to validate the Durable DNR Order Form or in place of an original Durable DNR Order Form 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 standard Durable DNR Order Form, ~~this alternate form of identification the~~ Alternate Durable DNR [Jewelry jewelry] must contain the minimum information approved by the State Board of Health in 12VAC5-66-60.

12VAC5-66-60. Other DNR Orders.

[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.~~ Do Not Resuscitate order in accordance with the applicable policies and procedures of the health care facility in which they practice.]

~~B. Additionally, nothing in these regulations or in the definition of Durable DNR Orders provided in § 54.1-2982 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~~

[~~A. B.~~] Qualified health care personnel [can are authorized to] 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 as if it were a Durable Do Not Resuscitate Order] 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 or is in transit from a qualified health care facility provided that such order includes] the same information as listed in subdivision 1 of 12VAC5-66-40 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 [except that an other DNR order shall not be required to include the signature of the patient or a person authorized to consent for the patient on the order itself].~~

[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 ~~in attendance of such patient.~~

Part IV

Implementation Procedures

12VAC5-66-70. Issuance of a Durable DNR Order [~~Form or Other DNR Order~~].

A. A Durable DNR Order [~~Form or Other 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.

B. The use of the authorized Durable DNR Order Form is encouraged to provide uniformity throughout the health care continuum.

C. The authorized Durable DNR Order [~~Form~~] can be honored by qualified health care [~~providers~~ personnel] in any setting.

D. [~~Patients who are not within a qualified health care facility must have an authorized Durable DNR Order Form to be honored by qualified health care providers~~ Qualified health care personnel are authorized to honor only a Durable DNR order or an authorized for or Alternate DNR jewelry as provided in 12VAC5-66-60 of these regulations.]

~~[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.]~~

B. ~~[E. The E. Prior to issuing a Durable DNR Order 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~~ ~~[for response in the event of cardiac or respiratory arrest]~~. If the option of a Durable DNR Order is agreed upon, the physician shall have the following responsibilities:

1. Explain when the ~~[when the]~~ circumstances under which qualified health care personnel may follow a] Durable DNR Form is valid [Form is valid].

2. Explain how to and who may revoke the Durable DNR [order].

3. Document the patient's full legal name.

4. Document the execution date of the Durable DNR [order].

~~4. 5.~~ Obtain the signature of the patient or the person authorized to consent on the patient's behalf on all three forms, [;] the patients copy, [;] medical record copy, [;] and the copy used for obtaining DNR [Jewelry jewelry].

~~2. Execute and date the Physician Order on the Durable DNR Order Form.~~

6. Make sure that the [issuing] physician's name is clearly printed and the form is signed.

7. [Note Record] the contact telephone number for the issuing physician.

~~3. 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.

~~4. Explain how to and who may revoke the Durable DNR Order.~~

G. ~~[G. E.]~~ 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 Alternate Durable DNR necklace or bracelet. The necklace or bracelet must contain the following information:

1. The following words: Do Not Resuscitate;

~~4.~~ 2. The patient's full legal name;

~~2.~~ The Durable DNR number on the Virginia Durable DNR form or a number unique to the patient that is assigned by the vendor;

3. The physician's name and phone number; and

4. The Virginia Durable DNR issuance date.

12VAC5-66-80. Durable DNR Order [Form] implementation procedures.

A. Qualified health care personnel shall comply with the following general procedures and published Virginia Durable DNR Order Implementation Protocols when caring for a patient who is in cardiac or respiratory arrest and who is known or suspected to have a Durable DNR Order in effect.

B. Initial assessment and intervention. Perform routine patient assessment and resuscitation or intervention until the a valid Durable DNR Order [Form, Alternate DNR jewelry,] or other Other DNR Order ~~validity status~~ is can be confirmed, as follows:

1. Determine the presence of a Durable DNR Order [~~Form~~] ~~or,~~ [~~an~~] approved ~~alternate form of~~ Alternate Durable DNR identification [Jewelry jewelry], or Other DNR Order.

2. If the patient is within a qualified health care facility [or in transit between qualified health care facilities], any qualified health care personnel may honor [a written physician's order that contains the items noted in 12VAC5-66-40 (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) an Other DNR Order as set forth in 12VAC5-66-60].

~~2.~~ 3. Determine that the Durable DNR [~~item~~ form or Alternate DNR jewelry] is not altered.

~~3.~~ 4. 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 [Form, Alternate DNR jewelry,] or other Other DNR Order was issued.

~~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.~~

~~[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.]~~

~~[5. 6.] If [the Durable] [any type of] DNR Order or approved alternate form of identification is not intact or has been altered or other [, Alternate DNR jewelry, or Other DNR Order is] produced, [intact, unaltered, and verified as issued for the patient,] the qualified health care personnel [is presented to] qualified health care personnel may [, it shall consider] the Durable DNR Order to [be] invalid [considered it] valid.~~

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 [Form] , Alternate Durable DNR [Jewelry jewelry] , or Other DNR Order under the criteria set forth above in subsection B of this section, [~~the following procedures should be withheld or withdrawn by~~] qualified health care personnel [shall withhold or withdraw cardiopulmonary resuscitation (CPR)] unless otherwise directed by a physician physically present at the patient location [:] CPR shall include:]

1. [Cardiopulmonary Resuscitation (CPR) cardiac compression];
- ~~2. Endotracheal Intubation or other advanced airway management;~~
- ~~3.~~ 2. Artificial ventilation;
- ~~4.~~ 3. Defibrillation; or

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.; or

5. [~~Continuation~~ Administration] of related procedures or cardiac resuscitation medications as prescribed by the patient's physician or medical protocols.

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 ~~or other DNR Order~~ of any type [or Other DNR Order] the following interventions may be provided, depending on the needs of the particular patient:

1. Airway management (~~excluding intubation or advanced~~ including positioning, nasal or pharyngeal airway management) placement;
2. Suctioning;
3. Supplemental oxygen delivery devices;
4. Pain medications or intravenous fluids;
5. Bleeding control;
6. Patient positioning; or
7. Other therapies deemed necessary to provide comfort care or to alleviate pain.

E. Revocation.

~~1. [These regulations shall not authorize any qualified health care personnel to follow a Durable DNR Order for any patient who is able to, and does, express to such qualified health care personnel the desire to be resuscitated in the event of cardiac or respiratory arrest.~~

~~If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall so revoke the qualified health care personnel's authority to follow a Durable DNR Order or other DNR~~

~~Order~~ If a patient is able to, and does, express to a health care provider or practitioner the desire to be resuscitated in the event of cardiac or respiratory arrest, such expression shall revoke the provider's or practitioner's authority to follow a Durable DNR Order or Other DNR Order. In no case shall any person other than the patient have authority to revoke a Durable DNR Order or Other DNR Order upon the request of and with the consent of the patient himself.

If the patient is a minor or is otherwise incapable of making an informed decision and the Durable DNR Order or Other DNR Order was issued upon the request and with the consent of the person authorized to consent on the patient's behalf, then the expression by said person to a health care provider or practitioner of the desire that the patient be resuscitated shall so revoke the provider's or practitioner's authority to follow a Durable DNR Order or Other DNR Order].

2. The expression of such desire to be resuscitated prior to cardiac or respiratory arrest shall constitute revocation of the order; however, a new order may be issued upon consent of the patient or the person authorized to consent on the patient's behalf.

3. The provisions of this section shall not authorize any qualified emergency medical services personnel or licensed health care provider or practitioner who is attending the patient at the time of cardiac or respiratory arrest to provide, continue, withhold or withdraw treatment if such provider or practitioner knows that taking such action is protested by the patient incapable of making an informed decision. No person shall authorize providing, continuing, withholding or withdrawing treatment pursuant to this section that such person knows, or upon reasonable inquiry ought to know, is contrary to the religious beliefs or basic values of a patient incapable of making an informed decision or the wishes of such patient fairly expressed when the patient was capable of making an informed decision.

F. Documentation. When following a Durable DNR Order or [~~other~~ Other] DNR Order for a particular patient [admitted to a qualified health care facility], qualified health care personnel shall document [care rendered or withheld as required by facility policies and procedures. When following a Durable DNR Order or Other DNR Order for a particular patient who is not admitted to a qualified health care facility or who is in

transit from a health care facility, qualified health care personnel shall document] in the patient's medical record the care rendered or withheld in the following manner:

1. Use standard patient care reporting documents (i.e. patient chart, pre-hospital patient care report).
2. Describe assessment of patient's [cardiac or respiratory arrest] status.
3. Document which identification (Durable DNR Order [~~Form~~], Alternate Durable DNR [jewelry], or ~~other~~ Other DNR Order or alternate form of identification) was used to confirm Durable DNR status and that it was intact, not altered, not canceled or not officially revoked.
4. Record the name of the patient's physician who issued the Durable DNR Order ~~Number and name of patient's physician~~ [Form], or Other DNR Order.
5. If the patient is being transported, keep the Durable DNR Order [Form], Alternate Durable DNR [jewelry], or Other DNR Order with the patient.

G. General considerations. The following general principles shall apply to implementation of [all] Durable DNR Orders.

1. If there is misunderstanding with family members or others present at the patient's location or if there are other concerns about following the Durable DNR Order or [~~other~~ Other] DNR Order, contact the patient's physician or EMS medical control for guidance.
2. If there is any question about the validity of a Durable DNR Order, resuscitative measures should be administered until the validity of the Durable DNR Order [or Other DNR Order] is established.

Certification Statement:

I certify that this regulation is full, true, and correctly dated.

_____ (Signature of certifying official)

Name and title of certifying official: _____

Name of agency: _____