

**KINGS COUNTY HOSPITAL CENTER
POLICY & PROCEDURE MANUAL**

HOSPITAL MANUAL#: 90-02-06

**DEPT: RISK MANAGEMENT
DEPT: MANUAL (DM)#:**

Page 1 of 13 Pages

CATEGORY: RIGHTS and RESPONSIBILITIES of the INDIVIDUAL (RI)

SUBJECT: DO NOT RESUSCITATE (DNR) - NO EMERGENCY CPR – RI. 1.05.01

DATE ISSUED: March 2002

SUPERSEDES: 90-01-06

(COVER SHEET)

I. POLICY STATEMENT:

To comply with the Patient's Self Determination Act and the mandates of New York State as they relate to DO NOT RESUSCITATE (**DNR**) regulations promulgated by the State Health Department.

It is the policy at Kings County Hospital Center that all physicians adhere to the guidelines established in the attached Policy and Procedure when there has been a request for the issuance of a DNR Order.

II. PURPOSE:

To provide the rules and procedures that must be followed, in accordance with New York State Law and the Health and Hospital Corporation's policy when writing an Order Not to Resuscitate (DNR) at Kings County Hospital Center.

III. SCOPE:

This procedure and policy applies to all medical, nursing and administrative staff.

IV. RESPONSIBILITY:

1. It is the responsibility of the physician to take appropriate action when there is a request for the issuance of a DNR Order.
2. At the Physician's request, the appropriate clinical administrator will be available as a resource to assist with the review to ensure compliance with the attached documentation requirements. The Risk Manager is also available as a resource. During off hours the AOD and/or Risk Manager is available to review each request.
3. Physicians are to follow the appropriate documentation sheets which set forth the steps to be taken before the issuance of a DNR Order.
4. Attached to each documentation sheet are any consent forms which may be necessary before a DNR Order is written.

CATEGORY: RIGHTS and RESPONSIBILITIES of the INDIVIDUAL (RI)

SUBJECT: DO NOT RESUSCITATE (DNR)

(CONTINUATION PAGE)

V. PROCEDURES:

New York Health Law section 2960-2978 and Regulations of the New York State Commissioner of health - 10 NYCRR 405.42 set forth circumstances under which the hospital may authorize the issuance of DNR Order, which are orders not to attempt cardiopulmonary resuscitation of a patient.

Cardiopulmonary Resuscitation (CPR) of a patient is an invaluable method of preventing sudden unexpected death. Legally, every patient is presumed to consent to CPR in the event of cardiac or pulmonary arrest. However, in certain circumstances, with appropriate consent, an order not to resuscitate may be appropriate. Accordingly, the Hospital requires that the following procedure be followed whenever an order not to resuscitate a patient is considered. In the absence of a valid written DNR order, resuscitation should be instituted on all patients with sudden unexpected cardiopulmonary arrest. The procedure embodies the following concepts:

1. ENCOURAGEMENT OF EARLY DIALOGUE AND DISCUSSION OF CPR WITH THE PATIENT OR WHERE APPROPRIATE THE SURROGATE.

The patient's Attending Physician should discuss the use of CPR with any patient having capacity for DNR decisions or when appropriate with the surrogate, when there is substantial reason to believe that a patient will suffer cardiopulmonary arrest during the current hospitalization or in the near future.

2. NOTIFICATION TO STAFF OF DNR STATUS.

Notification to staff of DNR status must be made immediately following such determination. It must be clear and unambiguous. It is the responsibility of the Attending Physician to insure that the DNR order and its meanings are discussed with appropriate members of the hospital staff, particularly the charge nurse.

3. IDENTIFICATION OF DNR PATIENTS.

Upon identification of a DNR patient, the charge nurse/primary nurse will place a Purple Dot Tab on the patient's

- Patient's Kardex

and

- a Purple Identification Band on the patient

CATEGORY: RIGHTS and RESPONSIBILITIES of the INDIVIDUAL (RI)

SUBJECT: DO NOT RESUSCITATE (DNR)

(CONTINUATION PAGE)

4. **EFFECTS OF A DNR ORDER ON OTHER TREATMENT.**

Issuance of a DNR order shall not constitute authority to withhold or withdraw medical treatment other than cardiopulmonary resuscitation. A DNR order is compatible with carrying out other possible life sustaining measures for the patient. Nothing in this procedure is intended to indicate to the medical and nursing staff or to the patient and family an intention to diminish appropriate medical and nursing care to the patient.

5. **PHYSICIAN REVIEW OF DNR ORDERS.**

- a. At least once **every seven days** the Attending Physician must review the chart of each patient for whom a DNR order has been issued in order to determine that the order is still medically appropriate. If it is determined that a DNR order is appropriate the order must be rewritten no later than the seventh day by the Attending Physician. DNR orders must be reviewed if there is improvement in the patients condition. All reviews **must be documented** in the Medical Record.
- b. If the attending physician determines that a DNR order is no longer appropriate due to improvement in the patient's condition, he or she must immediately notify the person who consented to the order. The hospital utilizes the Ethics Consultation Committee as the mechanism for the dispute resolution in the process of performing DNR orders. If that person refuses to revoke consent to the order, the attending physician must submit the matter to the Hospital's Consultation Committee except where the person who consented was a surrogate, parent or guardian. And if any physician determines that the patient no longer suffers from the medical condition which gave rise to the consent to the DNR order, then the attending physician must:
 1. Record this determination in the patients' medical record
 2. Immediately cancel the DNR order
 3. Notify the person who consented to the cancellation, and
 4. Notify the Hospital staff of the cancellation
 5. If a DNR order was issued on the consent of an agent or surrogate and the patient subsequently gains capacity, the attending physician must immediately cancel the order, and notify the agent or surrogate and the Hospital staff of the cancellation.
- c. A physician's failure to review the order on time does not make the order ineffective.

CATEGORY: RIGHTS and RESPONSIBILITIES of the INDIVIDUAL (RI)

SUBJECT: DO NOT RESUSCITATE (DNR)

(CONTINUATION PAGE)

6. REVOCATION OF CONSENT TO A DNR ORDER

- a. At any time, a patient may revoke consent to a DNR order for himself, by a written or oral declaration to a physician or nurse of the Hospital, or by any other acts evidencing the intent to revoke the consent.
- b. A health care agent, surrogate, parent or guardian who consented to an order on behalf of a patient may revoke his/her consent by notifying a physician or nurse in the Hospital in a written statement, dated and signed or by orally notifying the attending physician in the presence of one witness age 18 years or older.
- c. Any physician notified of a revocation must immediately cancel the DNR order, note the revocation in the patient's medical record and notify the Hospital staff of the revocation and cancellation of the order. Any nurse notified of the revocation must immediately notify a physician of the revocation.

7. INTER-INSTITUTIONAL TRANSFER.

- a. If a DNR order is issued for a patient at KCHC and the patient is transferred to another hospital, KCHC shall notify the ambulance personnel and the hospital to which the patient is being transferred of the DNR order.
- b. If the DNR order is issued for a patient at another facility and the patient is transferred to KCHC, the order is effective until the attending physician examines the patient and either:
 - Issues an order to continue the DNR order or
 - Cancels the DNR order
- c. If the attending physician determines that a DNR order is no longer appropriate, he or she must immediately notify the person who consented to the order and the hospital staff responsible for the patient's care and/or proceed as outlined in 5(b) of this policy.

8. DNR ORDERS IN THE O.R.

1. O.R. Booking Office and Clinical Director of Anesthesia should be informed by attending surgeon of the scheduling of a patient with a DNR order.

CATEGORY: RIGHTS and RESPONSIBILITIES of the INDIVIDUAL (RI)

SUBJECT: DO NOT RESUSCITATE (DNR)

(CONTINUATION PAGE)

2. In the event of surgery scheduled for a patient with a DNR order, the existing order can only be suspended after explicit discussion between the appropriately designated medical staff, and with consent of the patient, or if appropriate, the patient's health care agent or surrogate. Explicit discussion regarding cardiopulmonary resuscitation should identify cardiopulmonary resuscitation, as specified in New York State regulations, as measures to restore cardiac function or to support ventilation in the event of cardiac or respiratory arrest. In this regard, cardiopulmonary resuscitation shall not include measures to improve ventilation and cardiac functions in the absence of an arrest.
3. The duration of any suspension of DNR order should be discussed with patient, agent or surrogate before surgery to allow agreement in advance about reinstatement of DNR order. Any suspension will remain in effect postoperatively or at least until the anesthesiologist has evaluated the patient to be recovered from the effects of anesthesia. While the time period for suspension should be discussed with the family, a 24 hour period is suggested.
4. In the event that the patient elects not to suspend the DNR order the wishes of the patient, agent or surrogate must be respected. This means that resuscitation outside the normal realm of anesthetic practice would not be instituted.
5. Disagreement of whether to suspend a DNR order or an ethical conflict among the professional parties involved may be referred to the Ethics Committee.

The specific procedures required to be followed will vary with the circumstances presented by the patient. The physician should refer to the following number coded documentation sheets for specific types of patient requirements.

- Adult with Decisional Capacity #1
- Adult without Decisional Capacity and with a Surrogate #2
- Adult Patients Qualifying for Therapeutic Exceptions #3
- Adult Patients without Decisional Capacity and without a Surrogate #4
- Minor Patients #5

CATEGORY: RIGHTS and RESPONSIBILITIES of the INDIVIDUAL (RI)

SUBJECT: DO NOT RESUSCITATE (DNR)

(CONTINUATION PAGE)

A. Adult with Decisional Capacity - #1

1. An adult with capacity must consent before a DNR order is issued unless the therapeutic exception is invoked.
2. The consent must be obtained at or about the time the order is issued, even if the patient previously had consented to a DNR order.
3. Prior to consenting to a DNR order, the patient must be given information about his/her diagnosis, prognosis, the reasonable foreseeable risks and benefits of CPR and the consequences of a DNR order.
4. Consent must be documented in writing, dated and signed in the presence of two witnesses who must sign the document and who must be 18 years of age or older, or orally in the presence of two witnesses, both 18 years of age or older, one of whom must be a physician affiliated with the hospital.
5. The patient's consent obtained by the attending physician must be recorded in the medical chart. This is automatically done by placing the completed #1 documentation sheet in the Medical Record.
6. Once the attending physician obtains consent, the physician must:
 - a. Issue a DNR order and inform the hospital staff responsible for the patient's care that the order has been issued; or
 - b. Tell the patient of his objections to issuing the order, and either transfer the patient to another physician or submit the issue to the Ethics Committee for dispute resolution.
7. If a member of the hospital staff responsible for the case of a patient for whom a DNR order has been issued objects to providing care in accordance with the order, the Hospital shall take reasonable steps, such as adjustment in staff assignments, consistent with the care and needs of the patients, to accommodate the staff members' objections.
8. If a patient has been transferred from a mental hygiene facility, notice of the patient's consent to a DNR order must be given to the administrator of the mental hygiene facility. If the administrator concludes that the patient does not have capacity or that a DNR order is inconsistent with the hospital's wishes, the Administrator may submit the issue to the Hospital's Ethics Committee for dispute resolution.

CATEGORY: RIGHTS and RESPONSIBILITIES of the INDIVIDUAL (RI)

SUBJECT: DO NOT RESUSCITATE (DNR)

(CONTINUATION PAGE)

B. Adult without Decisional Capacity and with a Health Care Agent or Surrogate - #2

1. For adults who lack capacity, consent of a health care agent or surrogate is required before a DNR order may be issued.
 - a. An adult with capacity may designate a health care or surrogate to make a DNR decision in the event that the adult is subsequently determined to lack capacity, in either of two ways:
 - i) in writing, dated and signed in the presence of two witnesses, age 18 or older, who must also sign the document or,
 - ii) orally, during hospitalization, to two adult witnesses one of whom must be a physician affiliated with KCHC.
 - b. If there is no person designated as a health care agent or surrogate by the patient, one of the following persons, in order of priority listed, may be empowered to act as a surrogate.
 - A judicially appointed committee or guardian of the patient, if one has been appointed.
 - A spouse
 - A son or daughter at least 18 years old
 - A parent
 - A brother or sister at least 18 years old
 - A close friend
 - c. The name of the health care agent or surrogate must be entered in the patient's Medical Record.
 - d. A determination that a health care agent or surrogate lacks capacity to act as a surrogate shall be made in the same manner as the determination made concerning patients who lack capacity. The health care agent or surrogate who has been determined to lack capacity may appeal to the Hospital's Ethics Consultation Committee. The Committee's findings are final.
2. The basis for the health care agent or surrogates' decision must be the patient's wishes (including religious and moral beliefs), or if unknown the patient's best interests.

CATEGORY: RIGHTS and RESPONSIBILITIES of the INDIVIDUAL (RI)

SUBJECT: DO NOT RESUSCITATE (DNR)

(CONTINUATION PAGE)

3. The health care agent or surrogate may consent to a DNR order only if the attending physician and a concurring physician, who has examined the patient and determined that:
 - the patient has a terminal condition; or,
 - the patient is permanently unconscious; or
 - resuscitation would be medically futile; or
 - resuscitation would impose an extraordinary burden on the patient in light of the patient's condition and the expected outcome of resuscitation.

The physician's determination must be included in the patient's chart by including the #2 documentation form in the Medical Record. If a physician is designated as the surrogate, he/she may not make the determination concerning DNR order.

C. Minor Patient - #5

1. The attending physician, in consultation with a custodial parent or guardian, must determine if the minor has capacity to make a resuscitation decision.
2. Before a DNR order may be issued, the consent of a custodial parent and the minor, if he/she has been determined to have capacity, must be obtained.
3. If the attending physician has reason to believe there is another parent who has maintained substantial and continuous contact with the minor and who has not been informed of the DNR decision, the physician must make diligent efforts to notify that parent of the DNR decision prior to issuing the order.
4. A parent or guardian may consent to a DNR order on behalf of a minor only if the attending physician determines, in writing, and with the written concurrence of a second physician on the KCHC medical staff, based upon a personal examination of the patient, that to a reasonable degree of medical certainty:
 - the minor has a terminal condition, or
 - the minor is permanently unconscious, or
 - resuscitation would be medically futile, or
 - resuscitation would impose an extraordinary burden on the minor in light of the medical condition and the expected outcome.

CATEGORY: RIGHTS and RESPONSIBILITIES of the INDIVIDUAL (RI)

SUBJECT: DO NOT RESUSCITATE (DNR)

(CONTINUATION PAGE)

Such determination must be entered in the minor's medical record by placing the completed form in the chart.

5. The parent or guardian in making a decision on behalf of the minor, must consider the minor's religious and moral beliefs.
6. If the minor was transferred from a mental hygiene facility, notice of the decision to issue a DNR order must be given to the designated administrator. If the designated administrator believes that issuance of the order is inconsistent with regulation, the matter may be submitted to the Hospital's Ethics Consultation Committee for final decision.
7. If the physician has actual knowledge of an objection to an issuance of a DNR order by a parent other than the consenting parent, the physician must submit the matter to the Ethics Consultation Committee.

D. Adults Qualifying for Therapeutic Exceptions - #3

1. DNR order may be issued without the consent of an adult who has capacity if the attending physician determines, to a reasonable degree of medical certainty, that the adult patient would suffer immediate and severe injury from a discussion of CPR, but only after;
 - obtaining a concurring second opinion from another physician on the KCHC Medical Staff, who personally examined the patient and who confirms that a discussion of CPR will cause immediate and severe injury to the patient and;
 - ascertaining the patient's wishes to the extent possible without subjecting the patient to immediate and severe injury and;
 - including the reason for not consulting with the patient in the medical record and;
 - obtaining the consent of a health care agent or surrogate.
2. When this limited exception is invoked, the physician must reassess the patient's risk of injury from a discussion of CPR on a regular basis (at least every seventh day) and must discuss resuscitation with the patient as soon as the medical basis for not consulting with the patient no longer exists.

CATEGORY: RIGHTS and RESPONSIBILITIES of the INDIVIDUAL (RI)

SUBJECT: DO NOT RESUSCITATE (DNR)

(CONTINUATION PAGE)

3. If the patient has been transferred from a mental hygiene facility, notice of the DNR order must be given to the designated administrator. If the designated administrator believes that the order is inconsistent with the regulations, the matter may be referred to the Ethics Consultation Committee.

E. Adult Patients without Capacity and without A Surrogate - #4

1. A DNR order may be issued for an adult who lacks capacity and who had not previously expressed a decision regarding CPR, on behalf of whom no surrogate is reasonably available, willing and competent to make a decision, under either of the following conditions:
 - The attending physician has determined in writing that, to a reasonable degree of medical certainty, resuscitation would be medically futile, and a second physician on the KCHC Medical Staff, after personal examination of the patient, concurs in writing with the attending physician's determination, or;
 - A court has granted a judgement directing the issuance of a DNR order to fulfill the following Judicial Review Process.

2. JUDICIAL REVIEW

- a. The patient, an attending physician, parent or guardian of a minor, a non-custodial parent of a minor, any person on the surrogate list, the Executive Director, or the Director of a Mental Hygiene Facility may commence a special court proceeding regarding the issuance of any DNR order, except where a decision by a patient not to consent to a DNR order is not subject to a court review.
- b. If Judicial Review is sought, a court may issue a temporary restraining order, suspending the DNR order, pending the court's final disposition of the case. The Hospital will be bound by such an order and any final determination regarding the patient issued by the court.
- c. At any time, a patient may commence a special proceeding in court to resolve a dispute without first having to go through the Hospital's Ethics Consultation Review Process Committee.

CATEGORY: RIGHTS and RESPONSIBILITIES of the INDIVIDUAL (RI)

SUBJECT: DO NOT RESUSCITATE (DNR)

(CONTINUATION PAGE)

However, all other disputes must be submitted to the Hospital's Ethics Consultative Review Committee and the Committee must have concluded its efforts, or 72 hours after submission must have lapsed before a court proceeding can be commenced.

3. JUDICIALLY APPROVED DNR ORDERS

- a. If there is no health care agent or surrogate reasonably available, willing and competent to make a decision on behalf of an adult patient who lacks capacity and who had not previously expressed a decision regarding resuscitation, an attending physician, or the Hospital may commence a special court proceeding for judicial approval to issue a DNR order.
 - b. In order to obtain a court order, one of the following must apply:
 - the patient is in a terminal condition
 - the patient is permanently unconscious
 - resuscitation would impose an extraordinary burden on the patient, in light of his medical condition and the probable outcome of resuscitation.
 - resuscitation would be medically futile.
 - c. Additionally, it must be shown that issuance of the DNR order is consistent with patient's wishes, including religious and moral beliefs, or in the absence of evidence regarding his wishes, the patient's best interests.
4. If a patient is in this category or has been transferred from a mental hygiene facility, notice of the order must be given to the Executive Director. If the Executive Director believes that the patient has capacity or that issuance of the order is inconsistent with any provision of the law, the Executive Director may submit the issue to the Hospital's Ethics Consultation Committee.
 5. The patient must be given notice of the decision to issue a DNR order if there is any indication that the patient can comprehend the notice unless it is determined that notice would cause immediate and severe injury to the patient. If the patient objects to the order, it may not be issued.

CATEGORY: RIGHTS and RESPONSIBILITIES of the INDIVIDUAL (RI)

SUBJECT: DO NOT RESUSCITATE (DNR)

(CONTINUATION PAGE)

Attachments

- Att. I Adult with Decisional Capacity - #1
- Att. II Adult without Decisional Capacity and with a Surrogate - #2
- Att. III Adult patient Qualifying for Therapeutic Exceptions - #3
- Att. IV Adult patient without Decisional Capacity and without a surrogate - #4
- Att. V Minor Patients - #5

CATEGORY: RIGHTS and RESPONSIBILITIES of the INDIVIDUAL (RI)

SUBJECT: DO NOT RESUSCITATE (DNR)

(SIGNATURE/LAST PAGE)

Date Revised: 6/93, 2/97, 7/00, 11/01, 2/02

Reviewed: 4/03, 6/05, 3/09

PREPARED BY:	<u>Paulette Bainbridge</u> Sr. Associate Director, Risk Management
REVIEWED BY:	<u>Kathie T. Rones, M.D.</u> Medical Director
REVIEWED BY:	<u>Robert S. Kurtz, M.D.</u> Chair, CPR Committee
REVIEWED BY:	<u>Pearl John-Stiell</u> Deputy Executive Director, Patient Care Services
REVIEWED BY:	<u>Sharon Neysmith-Crawford</u> Associate Executive Director, Regulatory Affairs
APPROVED BY:	<u>Antonio D. Martin</u> <u>3/23/09</u> Executive Director Date