

TEXAS DEPARTMENT OF HEALTH STANDARD OUT-OF-HOSPITAL DO-NOT-RESUCITATE ORDERS

PURPOSE: WHAT DOES THE OOHDNR ORDER DO?

Allows patients to direct health care professionals in the out-of-hospital setting to withhold or withdraw specific life-sustaining treatments in the event of respiratory or cardiac arrest.

It is the patient's choice to execute a TDH STANDARD Out-Of-Hospital Do Not Resuscitate (OOHDNR) Order; it cannot be made a requirement for any reason, including the issuance of insurance or the provision of health care. This OOHDNR Order should be used in addition to the Directive to Physicians and Family or Surrogates (formerly called Living Wills) and Medical Power of Attorney (formerly called Medical Power of Attorney for Health Care) documents.

DEFINITIONS

There is no time related criteria; e.g. 6 months life expectancy.

TDH OOHDNR Orders do not apply to known pregnant persons.

TDH OOHDNR Orders applies to **health care professionals, including:**

- Physicians
- Physician Assistants
- Nurses
- EMS Personnel

Note: A Physician's DNR Order (such as one written by a physician, physician's assistant or a nurse practitioner) may be honored by health care personnel **except for Emergency Medical Services personnel.**

A licensed nurse or person providing health care services in an out-of-hospital setting may honor a physician's do-not-resuscitate order.

However, EMS personnel shall honor only a properly executed or issued TDH OOHDNR order or proper DNR identification device.

An out-of-hospital setting is any setting outside of a licensed acute care hospital in-patient room in which health care professionals are called for assistance. Among these are:

- Home health
- Hospice
- Long-term care
- EMS
- Schools
- Malls, restaurants, homes, businesses, etc.
- Hospital emergency department, outpatient centers, etc.

Hospital emergency departments are included because the patient is not a hospital in-patient at this point; long-term care facilities and the like may also be considered out-of-hospital if the patient is not an in-patient of the hospital. Both general hospitals and specialty hospitals are included in the definition of an “acute care hospital.”

Life sustaining procedures are:

- Cardiopulmonary resuscitation (CPR)
- Defibrillation
- Advanced airway management
- Artificial ventilations
- Transcutaneous cardiac pacing

Respiratory or cardiac arrest ensues upon the cessation of spontaneous respirations or pulse.

WHO CAN EXECUTE THE ORDER?

A patient, who is competent, and who is an adult, may execute a written TDH OOHDNR Order at any time.

If a patient is incompetent, but previously executed a Directive to Physicians and Family document, the physician may rely on the directive as the patient’s instructions to issue a TDH OOHDNR Order.

If a patient is incompetent, but previously executed a Directive to Physicians and Family document, the designated proxy may make any decisions required.

If a patient is incompetent, but previously executed a Medical Power of Attorney (MPA) document designating an agent, the agent may make any decision required.

A patient, who is competent, and who is an adult, may issue a TDH OOHDNR Order by nonwritten communication.

The following may execute a TDH OOHDNR Order on behalf of a minor (*a person who has not reached their 18th birthday*) if the minor has been diagnosed with a terminal or irreversible condition:

- Parent;
- Legal guardian;
- Managing conservator.

No one may execute a TDH OOHDNR order for a minor unless the minor has been diagnosed by a physician as suffering from a terminal or irreversible condition.

If a patient is comatose, incompetent, or otherwise mentally or physically incapable of communication, the person’s legal guardian, proxy or MPA agent may execute a TDH OOHDNR Order.

If a patient does not have a legal guardian, proxy or MPA agent, the attending physician and a second physician not involved in treating the patient may execute a TDH OOHDNR Order based on the knowledge of what the patient would have desired.

In all cases the desire of a patient who is competent supersedes the effect of a TDH OOHDNR Order.

PROCEDURE FOR EXECUTION

The patient or the patient’s representative is responsible for contacting his or her physician or health care provider for assistance on executing this order.

The attending physician is required to complete the Physician’s Statement and also sign the bottom of the form in Section 3. This doctor will document the existence of a TDH OOHDNR Order in the patient’s medical record.

If the attending physician refuses to execute or comply with the TDH OOHDNR Order, the physician must inform the patient or patient representative and make a reasonable attempt to transfer the care of the patient to a physician who is willing to execute or comply with the order.

At the same time and place **or** at a separate time and place, the patient or patient’s representative and the witnesses should complete Sections 1 and 2 and the remainder of the signature lines at the bottom of the form in Section 3.

The instructions for the completion of the TDH OOHDNR Order should be referenced during execution of the order.

The patient **may choose to wear** an official ID device. The patient can not be required to wear an official ID device.

STANDARDIZED FORM

<i>Review the form:</i>	Section 1	Patient demographics
	Section 2	Execution information
		Witnesses
		Physician statement
	Section 3	All signatures repeated.

So that the form is available for filing upon the death of the patient, the original or a copy of the form must travel with the patient during interfacility transfers. Upon the death of the patient, the health care provider having the last patient contact shall file the TDH OOHDNR Order in the patient’s medical records.

If no health care provider is present upon the death of the patient and someone other than a health care provider handles disposition of the body, the document may be retained by the family or returned to the patient’s primary health care provider.

HONORING THE ORDER

The Texas OOHDNR statute specifically states, “When responding to a call for assistance, health care professionals shall honor an out-of-hospital DNR order in accordance with the statewide protocol...”

PATIENT IDENTIFICATION

Health care providers identify patients as having a TDH OOHDNR Order when the:

Original or copy of the form is present and appears valid, **OR** patient is wearing an approved ID device.

PATIENT CARE DOCUMENTATION MUST INCLUDE:

- Confirmation that a TDH OOHDNR Order was presented and what format was accepted;
- Any problems accepting the TDH OOHDNR Order;
- Assessment of patient's condition;
- Name of the patient's attending physician;
- Name, address and phone number of witnesses used for patient identification.

REVOCACTION

The TDH OOHDNR Order may be revoked when the:

- **Patient** or someone with the patient and at the patient's direction destroys the form and removes any ID device;
- **Person executing the OOHDNR order** or someone in this person's presence and at the person's direction destroys the form and removes any ID device;
- **Patient communicates** his or her intent to revoke the OOHDNR Order;
- **Person executing order orally states** his or her intent to revoke the OOHDNR Order.

The TDH OOHDNR Order is automatically revoked in cases of:

- Known pregnancy of the patient;
- Suspected criminal activity involving the patient.

PROTOCOL DEVELOPMENT

Local protocols must be written which include:

- Copy of the TDH Out-of-Hospital DNR Order document;
- Explanation of the identification devices;
- On-site conflict resolution process, including physician contact.

In the event of an on-site conflict, the Texas Department of Health State Health Services (DSHS), formerly the Texas Department of Health (TDH), recommends health care providers start or continue resuscitation, until a verbal order is given by medical control, the attending physician, etc.

PROTOCOL CONSIDERATIONS

- Body Disposition

Follow local protocols regarding notification of the physician for the purpose of signing the death certificate and for notification of the coroner's office or funeral home.

- Notification of local authorities

According to the DSHS Bureau of Vital Statistics, there is no state law that requires notification of local law enforcement authorities when a death occurs. However, there may be local laws that do require

such notification or have other requirements. You should be familiar with the laws relating to the out-of-hospital deaths in your area. Contact your local Justice of the Peace, police department or sheriff's department for guidance relating to the issue.

According to a representative of the Texas Justice of the Peace Association, Texas Justices of the Peace are only responsible for deaths in which the circumstances mandate an inquest. Normally deaths that occur under a valid TDH Out-of-Hospital DNR Order do not meet the requirements for an inquest. In this situation, the death is expected, occurs due to natural causes and the patient is under the care of a physician. Therefore, an inquest would not be required. The requirements for inquest are listed in Article 49.04 of the Texas Criminal Procedures.

PALLIATIVE CARE

All health care providers should have provisions for palliative care on place. This includes comfort care and pain control.

It is appropriate that at the moment of death, although the cessation of spontaneous respiration or pulse may have not yet occurred (but it is obvious this is the moment of death) and the health care provider has identified a valid TDH OOHDNR Order, only palliative care should be initiated (and not those life-sustaining procedures) as directed by local protocols.

This is a new concept on patient care for many groups. Patient should not be transferred (to hospitals) simply to die. Patients should be allowed to die with dignity and comfort within their own homes. This includes surrogate homes also, such as long-term care facilities. For agencies that do not have existing palliative care protocols, DSHS suggests that relationships with area hospice providers be pursued for sharing resources and ideas. The Texas Hospice Association is available to assist providers with these resources.

OUT-OF-STATE ORDERS

Personnel may accept a OOHDNR Order or device that has been executed in any other state, if there is no reason to question the authenticity of the order or device.

AVAILABILITY OF TDH OOHDNR ORDERS AND DEVICES

TDH OOHDNR Orders forms can be downloaded off DSHS' website at www.tdh.state.tx.us/hcqs/ems/dnrhome.htm. Forms and vinyl bracelets are available to health care providers through the Texas Medical Association. Information can be obtained by calling (512) 370-1306. Metal ID devices can be ordered from either MedicAlert Foundation at (800) 755-1448 or American Medical Identifications at (800) 363-5985. All this information is on the website listed above.

The Texas Association for Home Care has materials available for their members. The Texas Hospice Association has materials available in single packets. Other groups may also choose to provide or distribute materials to health care providers.

DSHS does NOT recommend EMS providers act as distribution points; EMS does not normally hold relationships with patients and their traditional providers of health care.

For a list of providers of devices, go to www.tdh.state.tx.us/hcqs/ems and click on DNR.

SHORTFALLS

This process will not:

- Be foolproof;
- Prevent unnecessary EMS responses;
- Prevent litigation.

MYTHS

1. ***“The patient doesn’t have a right to tell me what to do.”***

The 14th amendment of the US Constitution relates to due process and right to privacy.

The federal Patient Self-Determination Act mandates patients be given a choice.

The Karen Ann Quinlan case resulted in the “right to die” doctrine.

2. ***“An OOHDNR Order means don’t do anything.”***

The statute specifically addresses the provision of palliative care.

The TDH OOHDNR Order only becomes effective upon the cessation of spontaneous respiratory and/or circulatory effort.

3. ***“The OOHDNR Order is a mechanism to assist suicide.”***

HSC 166.096 states that honoring an Out-of-Hospital DNR Order does not constitute an offense of aiding suicide.

HSC 166.099 states mercy killing is not condoned.

4. ***“I have no legal obligation to follow orders.”***

HSC Chapter 166 states “When responding to a call for assistance, health care professionals **shall** honor a TDH Out-of-Hospital DNR Order in accordance with the statewide DNR protocol.”

Frequently Asked Questions for DNR

Q: *What is TDH Out-of-Hospital Do-Not-Resuscitate Order?*

A: An order that allows patients to direct health care professionals in the out-of-hospital setting to withhold or withdraw specific life-sustaining treatments in the event of respiratory or cardiac arrest.

Q: *What are those life-sustaining treatments that are prohibited?*

A: **Cardiopulmonary resuscitation (CPR)** – Pushing down on the middle of a person’s chest whose heart has stopped beating to help beat his/her heart, and breathing into a person’s lungs through his/her mouth to fill his/her lungs with air for a person that has stopped breathing.

Transcutaneous Cardiac Pacing – Pads put on the outside of a person’s chest so an electrical impulse can be sent to the heart to try to regulate certain irregular beats that could be dangerous to a person’s life.

Defibrillation – An electric shock put through a person’s chest to try to start his/her heart beating again when it has stopped. Usually if a heart does not start beating again within 5-7 minutes, the person could die.

Advanced Airway Management – When trained people use what looks like a clear tube that they put into the mouth of a person, who has stopped breathing or is not able to breathe well on his/her own, to breathe for him/her.

Artificial Ventilation – When trained people use a football-sized bag and a mask that fits over a person’s mouth and nose to push air into his/her lungs when he/she can’t breathe on his/her own or have stopped breathing

Q: *Does this mean I can’t offer any comfort (palliative) measures?*

A: No. Comfort measures are specifically allowed.

Q: *Can a TDH OOHDNR be revoked?*

A: A TDH OOHDNR can be revoked at any time by the patient or the person who acted on behalf of the patient. Revocation can be in the form of communication to responding health care professionals, destruction of the form, or removal of devices.

Q: *Is a copy of the form acceptable?*

A: You can make copies of the form before it’s filled out and after it’s filled out. Copies should be accepted like the originals.

Q: *What happens if the patient is transported?*

A: A copy of the form or the device must accompany the patient.

Q: *What if EMS begins treatment and is then presented with the form?*

A: Once EMS begins treatment, they must continue treatment until the patient is delivered to a hospital emergency department or until EMS personnel are directed by their medical director to cease treatment.

Q: *Is the form available in Spanish or other languages?*

A: No, but the instructions are on the website (www.tdh.state.tx.us/hcqs/ems/dnrhome.htm) in Spanish. Since we don’t require health professionals to speak Spanish, we cannot require them to accept a form that is in Spanish.

Q: *What is an out-of-hospital setting?*

A: The law defines out-of-hospital as a “location in which healthcare professionals are called for assistance, including long-term care facilities, in-patient hospice facilities, private homes, hospital outpatient or emergency departments, physician’s offices and vehicles during transport.

Q: *Why does everyone have to sign twice?*

A: That is what the legislature directed in the statute.

Q: *What happens if the form is not filled out correctly or EMS has doubts about any of the information?*

A: Health professionals can refuse to honor a TDH OOHDNR if they think:

- The patient is pregnant;
- There are unnatural or suspicious circumstances surrounding the death;
- The form is not signed twice by all who need to sign it or is filled out incorrectly.

Q: *Does a person who wears a bracelet or necklace (called a device in the rules) have to also carry the form with them?*

A: The rule states that a OOHDNR device shall be honored in lieu of a TDH OOHDNR form.

Q: *Is there a website that explains all this information?*

A: Texas Department of State Health Service's Office of EMS/Trauma Systems Coordination has lots of information about DNR, with links to the rules and statutes.

For general information about DNR, a copy of the form, or names of companies that supply the device, go to www.tdh.state.tx.us/hcqs/ems/dnrhome.htm.

For a copy of the statute or the rules, go to www.tdh.state.tx.us/hcqs/ems/dnrhome.htm and scroll down to OOHDNR Legislation. There you will find a link to the Health and Safety Code 166 and the Texas Administrative Code 157.25.

Q: *How does a competent person who cannot sign his or her name fill out a TDH OOHDNR form under Section A?*

A: In the opinion of DSHS attorneys, have the person make some form of mark in Section 2A for signature. It does not have to be a person's legible name. The physicians and witnesses should be present at time of signing. On a separate sheet of paper, write that the signature in Section 2A is the person's signature and that they were competent upon signing the Patient Statement section of the form. Have the witnesses sign and date this also and attach it to the TDH OOHDNR form.

Q: *What is an outpatient healthcare facility's responsibility specifically in regards to addressing whether or not a person has a TDH OOHDNR?*

A: Healthcare professionals must honor a valid TDH OOHDNR. There is nothing in the law about a facility having to inform patients about TDH OOHDNR; however, there are penalties provided in the law for purposefully withholding the knowledge of the presence of a TDH OOHDNR. The Texas Department of Aging and Disability Services, which regulates nursing homes, does have a policy (not a rule or law) about nursing homes providing info about TDH OOHDNR. You might contact them at (512) 438-3161 for more information.

Q: *What is a healthcare professional?*

A: The law defines healthcare professionals as physicians, nurses, emergency medical personnel and physician's assistants.

Q: *It says that Witness One cannot provide direct patient care. Does that mean that social workers can't sign as Witness One?*

A: According to DADS, social workers, chaplains and people who provide nutrition services DO NOT provide direct patient care and therefore can sign as Witness One.

Q: *What if I have more questions?*

A: Call us at (512) 834-6700 or email us at the links on our website.