

Publications

Health Care Alert: Comments on Proposed Do-Not-Resuscitate Order and Protocol Due October 11

CLIENT ALERT | 9.18.2018

On September 11, 2018, the Ohio Department of Health (ODH) published proposed revisions to the administrative rules establishing its approved Do-Not-Resuscitate (DNR) Order form and protocol.

These revisions are a component of the routine five-year review required for all administrative rules under Ohio law, and are generally intended to streamline and clarify the rules without effecting significant substantive changes. For example, rather than list the particular types of licensed medical professionals permitted to sign a DNR order form in each relevant rule, the proposed rules add a new defined term, “authorized health care provider,” to encompass all such professionals.

Similarly, the proposed rules substitute the term “advanced practice registered nurse,” or “APRN,” wherever the current versions refer to a “clinical nurse specialist” (CNS) and/or “certified nurse practitioner” (CNP). However, because the term “advanced practice registered nurse” is defined to include certified nurse midwives and certified registered nurse anesthetists (CRNAs) as well as CNSs and CNPs, this change has the effect of expanding the authorized scope of practice for these newly-included types of licensees. Specifically, Rule 3701-62-02 currently provides that “[a] person who holds a certificate of authority to practice as a certified nurse practitioner or clinical nurse specialist...may take any action that may be taken by an attending physician” under the chapter.[1] As proposed, this authorization will now apply to any person who holds a “current, valid license to practice...as an advanced practice registered nurse,” as will the immunity provided under section 2133.22 of the Revised Code for certain medical professionals who withdraw or withhold CPR based on valid DNR identification.

The proposed rules also attempt to clarify the circumstances in which DNR identification does and does not supersede the authority of a durable power of attorney for health care,[2] and that the burden of ensuring that DNR identification accompanies a patient during transfer to another facility falls on the transferring provider.[3] Additionally, the proposed rules explicitly state that emergency medical personnel are not required to search a person for DNR identification in an emergency situation.[4] The full text of the proposed rules is available [here](#).

ODH is accepting comments on the proposed rules until **October 11, 2018**.

If you have questions about the proposed rules or how to submit your comments, please contact Matt Albers, Mairi Mull, or your regular Vorys attorney.

[1] O.A.C. § 3701-62-02(A).

[2] O.A.C. § 3701-62-10 (as proposed).

[3] O.A.C. § 3701-62-09(C) (as proposed).

[4] O.A.C. § 3701-62-07(C).