

HEALTH SERVICES POLICY & PROCEDURE MANUAL

North Carolina Department Of Correction
Division Of Prisons

SECTION: Administrative – Death & Dying

POLICY # AD V-1

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SUBJECT: Right to Natural Death

EFFECTIVE DATE: February 2002

SUPERCEDES DATE: June 1996

PURPOSE

This policy is to establish an optional and nonexclusive procedure by which a patient or his representative may exercise their rights to a Natural Death.

GENERAL

The Division of Prisons treatment philosophy recognizes that an individual's rights include the right to a peaceful and natural death and that a patient or his representative has the fundamental right to control the decisions relating to the rendering of his own medical care, including the decisions to have extraordinary means withheld or withdrawn in instances of a terminal condition.

Nothing in this policy shall be construed to authorize any affirmative or deliberate act or omission to end life other than to permit the natural process of dying. Nothing in this policy shall impair or supersede any legal right or legal responsibility which any person may have to effect the withholding or withdrawal of life-sustaining procedures in any lawful manner. In such respect, the provisions of this policy are cumulative.

PROCEDURES

An adult who is competent has the right to refuse treatment. This concept of self determination forms the basis of North Carolina's Right to Natural Death Laws, enacted in 1977. The North Carolina Right to Natural Death Act recognizes a patient's right to a peaceful and natural death. The statute offers civil and criminal immunity protections. The statute defines "extraordinary means" as "any medical procedure or intervention which in the judgement of the attending physician would serve only to postpone artificially the moment of death by sustaining, restoring, or supplanting a vital function."

The withholding or discontinuance of extraordinary means and/or the withholding or discontinuance of either artificial nutrition or hydration, or both in accordance with this policy shall not be considered the cause of death for any civil or criminal purposes nor shall it be considered unprofessional conduct. (N.C. Natural Death Act GS 90-321 [a], [2], and [h])

WHERE THERE IS A DECLARATION OF A DESIRE FOR A NATURAL DEATH

A patient may declare, through a "Declaration of a Desire for a Natural Death" executed in accordance with G.S. 90-321(c) a desire that his life not be prolonged by extraordinary means if his condition is determined to be terminal and incurable (See "Declaration of a Desire for a Natural Death").

NOTE: Signature must be notarized. Witnesses may not be related by blood or marriage to the declarant or to the declarant's spouse, must not know or have a reasonable expectation that they would be entitled to any portion of the estate of the declarant upon his death under any will of the declarant or codicil thereto then existing or under the Intestate Succession Act as it then provides, must not be the attending physician, or an employee of the attending physician, or an employee of a health facility in which the declarant is a patient, or an employee of the North

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Carolina Department of Correction, and must not have a claim against any portion of the estate of the declarant at the time of the declaration.

1. Inmates may not be a witness to a Declaration of Desire for a Natural Death.
2. No North Carolina Department of Correction Employee may witness a Declaration of a Desire for a Natural Death. (See exception #3 below)
3. Under extraordinary circumstances defined below an employee of the DOC who is not a health care employee or not an employee of the facility to which an inmate is assigned may witness a declaration of a Desire for a Natural Death. (An extraordinary circumstance is one in which the inmate is of sound mind and faces an imminent risk of being in a persistent vegetative state which might include, but is not limited to:
 - a. high risk surgery
 - b. rapid medical deterioration related to disease and/or injury)
4. Persons who may be a witness to a Declaration of a Desire for a Natural Death may include but are not limited to:
 - a. Community sponsors
 - b. Non-employee volunteers
 - c. PLS attorneys
 - d. Community college instructors
5. The role of the nurse/medical provider is to counsel about availability of and to provide medical information relating to the “Declaration of a Desire for a Natural Death.”
6. At the inmate’s request the nurse/medical provider initiates a referral to the institution/unit designee responsible for implementing the “Declaration of a Desire for a Natural Death” (social worker, chaplain, psychologist)
7. The Department will recognize and honor a pre-existing “Declaration of a Desire for a Natural Death” on receipt of a current valid copy.
8. A notarized original and a notarized copy will be executed. The original will be given to the inmate and the notarized copy maintained in the medical record.

The declaration may be revoked by the declarant, in any manner by which he is able to communicate his intent to revoke, without regard to his mental or physical condition. Such revocation shall become effective only upon communication to the attending physician by the declarant or by an individual acting on behalf of the declarant.

The execution and consummation of declarations made in accordance with this policy shall not constitute suicide for any purpose.

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No person shall be required to sign a declaration as contained in this policy as a condition for receiving any medical treatment.

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DECLARATION OF A DESIRE FOR A NATURAL DEATH

I, _____, being of sound mind, desire that as specified below, my life not be prolonged by extraordinary means (defined as any medical procedure or intervention which in the judgement of the attending physician would serve only to postpone artificially the moment of death by sustaining, restoring, or supplanting a vital function), or by artificial nutrition or hydration if my condition is determined to be terminal and incurable or if I am diagnosed as being in a persistent vegetative state (defined as a medical condition whereby in the judgment of the attending physician the patient suffers from a sustained complete loss of self-aware cognition and, without the use of extraordinary means or artificial nutrition or hydration, will succumb to death within a short period of time). I am aware and understand that this writing authorizes a physician to withhold or discontinue extraordinary means or artificial nutrition or hydration, in accordance with my specifications set forth below:
(Initial any of the following, as desired):

“ ___ If my condition is determined to be terminal and incurable,

I authorize the following:

___ My physician may withhold or discontinue extraordinary means only.

___ In addition to withholding or discontinuing extraordinary means if such means are necessary, my physician may withhold or discontinue either artificial nutrition or hydration or both.”

“ ___ If my physician determines that I am in a persistent vegetative state, I authorize the following:

___ My physician may withhold or discontinue extraordinary means only.

___ In addition to withholding or discontinuing extraordinary means if such means are necessary, my physician may withhold or discontinue either artificial nutrition or hydration or both.”

“This is the _____ day of _____, 20 _____

Signature _____”

File: Sec. II Medical Record

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“I hereby state that the declarant, _____, being of sound mind signed the above declaration in my presence and that I am not related to the declarant by blood or marriage and that I do not know or have a reasonable expectation that I would be entitled to any portion of the estate of the declarant under any existing will or codicil of the declarant or as an heir under the Intestate Succession Act if the declarant died on this date without a will. I also state that I am not the declarant’s attending physician or an employee of the declarant’s attending physician, or an employee of a health facility in which the declarant is a patient or an employee of a nursing home or any group-care home where the declarant resides. I further state that I do not now have any claim against the declarant.”

Witness _____

Witness _____

The clerk or the assistant clerk, or a notary public may, upon proper proof, certify the declaration as follows:

Certificate (GS 90-321[d])

“I, _____, Clerk (Assistant Clerk) of Superior Court or Notary Public (circle one as appropriate) for _____ County hereby certify that _____, the declarant, appeared before me and swore to me and to the witnesses in my presence that this instrument is his Declaration of a Desire for a Natural Death, and that he had willingly and voluntarily made and executed it as his free act and deed for the purposes expressed in it.”

“I further certify that _____ and _____, witnesses, appeared before me and swore that they witnessed _____, declarant, sign the attached declaration, believing him to be of sound mind; and also swore that at the time they witnessed the declaration (i) they were not related within the third degree to the declarant or to the declarant’s spouse, and (ii) they did not know or have a reasonable expectation that they would be entitled to any portion of the estate of the declarant upon the declarant’s death under any will of the declarant or codicil thereto then existing or under the Intestate Succession Act as it provides at that time, (iii) they were not a physician attending the declarant or an employee of an attending physician or an employee of a health facility in which the declarant was a patient or an employee of a nursing home or any group-care home in which the declarant resided, and (iv) they did not have a claim against the declarant. I further certify that I am satisfied as to the genuineness and due execution of the declaration,

This the _____ day of _____, 20_____

Clerk (Assistant Clerk) of Superior Court or Notary Public (circle on as appropriate) for the county of _____”

Notary Public

My Commission Expires: ____ / ____ / _____

File: Sec. II Medical Record

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End of Life Decisions- No Code or Do Not Resuscitate

The patient's right and authority to refuse cardiopulmonary resuscitation (CPR) is implemented by a physician's "No Code" or "Do Not Resuscitate" (DNR) order.

Only an attending physician shall issue no Code or DNR orders. All DNR orders must be written on the yellow **DO NOT RESUSCITATE** order sheet sanctioned by the North Carolina Medical Society and obtained from local EMS. In the event of a Code, the nurse or responsible physician must confirm the patient's Do Not Resuscitate status or have confirmed same within the previous 24 hours. That confirmation should include a determination that the order remains in effect as provided below.

There are three distinct categories of patient to whom this procedure may pertain. These categories are distinguished by the patient's medical and legal status.

Non Acutely Ill , Legally Competent Patient

A patient who is legally competent and who has a medical condition, which will result in death in the foreseeable future, may be provided necessary forms to insure his/her wishes are documented. If these forms are not available, this patient may designate his wishes in the same manner as the acute patient discussed immediately below.

Acutely Ill, Legally Competent Patient

A patient who is legally competent and whose medical condition is too acute to permit execution of a living will or health care power of attorney must give informed consent to any No Code or DNR order. The informed consent must be documented in the Progress Note by the ordering physician. Informed consent is achieved by discussion with the patient, health care agent or authorized family member concerning the physician's best medical judgment as to the likelihood the patient will survive after CPR, for how long, and with what quality of life, i.e. autonomy, ability to perform activities of daily living.

Acutely Ill, Legally Incompetent Patient

The acutely ill, legally incompetent patient may give consent to a No Code or DNR order only through a court appointed guardian to give informed consent on patient's behalf. Any such consent must be documented in the same manner as consent by the patient himself.

The presence of a living will or health care power of attorney does not require the issuance of a No Code or DNR order. Each No Code or DNR order must be discussed and determined individually according to the relevant medical circumstances. The cost of care and the inmate's custody status are not medical circumstances.

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DO NOT RESUSCITATE ORDER must be reviewed periodically according to patient's clinical status. This review must be completed at least quarterly in conjunction with the rewriting of medication orders. Order will expire if DNR is not reviewed and documentation concerning patient's clinical status and continued need for DNR not completed in a progress note by attending physician. The DNR order will expire one year from the effective date, unless rewritten by the attending physician. The yellow order sheet must accompany the patient whenever transferred within or outside of the Facility. The yellow DNR order is to be filled out in duplicate, one for the inpatient chart and one for the outpatient chart (this form cannot be copied). There shall be supporting documentation in each chart signed by the ordering physician. The supporting documentation could be copied and placed in the second chart.



2/28/02

Paula Y. Smith, M.D., Director of Health Services

Date

SOR: Deputy Medical Director, Legal Counsel