STATE COMMITTEE OF PUBLIC HEALTH
ADMINISTRATIVE CODE

CHAPTER 420-5-19
ADVANCE DIRECTIVES

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420-5-19-.01 Advance Directives.

Surrogate health care decision makers, as authorized by Act 97-187, shall complete the form attached hereto as Appendix I which, when properly completed and duly notarized, shall constitute the certification of the surrogate as required by the act and shall authorize the surrogate, including a representative of the ethics committee or another duly appointed committee at the facility where the patient is being treated, acting by unanimous consent as the surrogate, to make standard health care decisions for the patient as well as to make decisions regarding the providing, withholding, or withdrawal of life-sustaining treatment and artificially provided nutrition and hydration in instances involving terminal illness or injury and permanent unconsciousness. This form is to be used in fulfillment of the purposes of Act 97-187.
Author: Rick Harris, Dennis Blair
Statutory Authority: Act No. 97-187.
History: **New Rule:** Filed August 20, 1997; effective September 24, 1997. **Amended:** Filed February 21, 2018; effective April 8, 2018.

420-5-19-.02 Portable Physician Do Not Attempt Resuscitation Orders.

(1) Definitions.

(a) Do Not Attempt Resuscitation (DNAR) Order. A physician's order that resuscitative measures not be provided to a person under a physician's care in the event the person is found with

cardiopulmonary cessation. A DNAR order would include, without limitation, physician orders written as "do not resuscitate," "do not allow resuscitation," "do not allow resuscitative measures," "DNAR," "DNR," "allow natural death," or "AND." A DNAR order must be entered with the consent of the person, if the person is competent; or in accordance with instructions in an advance directive if the person is not competent or is no longer able to understand, appreciate, and direct his or her medical treatment and has no hope of regaining that ability; or with the consent of a health care proxy or surrogate functioning under the provisions of Title 22, Chapter 8A, Code of Ala. 1975; or instructions by an attorney in fact under a durable power of attorney that duly grants powers to the attorney in fact to make those decisions described in Section 22-8A-4(b)(1), Code of Ala. 1975.

(b) Portable Physician DNAR Order. A DNAR order entered into the medical record by a physician using the required form designated by this rule and substantiated by completion of all applicable sections of the form.

(2) Physicians intending to enter a portable physician DNAR order shall utilize the form attached hereto as Appendix 2 which, when properly completed and executed, shall constitute the portable physician DNAR order as authorized by Act 2016-96. An electronic version of the form with same content may be utilized.

(3) Portable physician DNAR orders issued in accordance with this rule shall remain valid and in effect until revoked pursuant to Section 22-8A-5, Code of Ala. 1975, or by other recognized means. Qualified emergency medical services personnel and licensed health care practitioners in any facility, program, or organization including those operated, licensed, or owned by another state agency are authorized to follow portable physician DNAR orders that are available, known to them, and executed in accordance with this rule.

(4) If a person with a portable physician DNAR order is transferred from one health care facility to another health care facility, the health care facility initiating the transfer shall communicate the existence of the order to the receiving facility prior to or during the transfer. The transferring facility shall assure that a copy of the order accompanies the patient in transport to the receiving health care facility. Upon admission, the receiving facility shall make the order a part of the patient's permanent medical record.

(5) This rule does not prevent, prohibit, or limit a physician from issuing a facility-specific written order, other than a portable physician DNAR order, not to resuscitate a patient in accordance with accepted medical practices in the event of cardiopulmonary cessation. A facility-specific DNAR order is not a

portable physician DNAR order and does not transfer with the patient to another health care facility.

(6) DNAR orders issued before the effective date of this rule shall remain valid as a facility-specific DNAR order.
Author: Walter T. Geary Jr., M.D.
Statutory Authority: Act 2016-96.
History: **New Rule:** Filed August 19, 2016; effective October 3, 2016.

420-5-19-.03 Pediatric Palliative And End Of Life Care Orders.

(1) Definitions.

(a) Attending Physician. The physician selected by, or assigned to, the patient who has primary responsibility for the treatment and care of the patient.

(b) Health Care Provider. A person who is licensed, certified, registered, or otherwise authorized by the law of this state to administer or provide health care in the ordinary course of business or in the practice of a profession.

(c) Pediatric Palliative and End of Life (PPEL) Care Order. A directive that, once executed by the representative of a qualified minor and entered into the record by the attending physician of the qualified minor in accordance with Section 22-8A-15, Code of Ala. 1975, becomes the medical order for all health care providers with respect to the extent of use of emergency medical equipment and treatment, medication, and any other technological or medical interventions available to provide palliative and supportive care to the qualified minor.

(d) Physician. A person licensed to practice medicine and osteopathy in the state of Alabama.

(e) Qualified Minor. An individual ranging in age from birth until the age of 19 who has been diagnosed as a terminally ill or injured patient and whose diagnosis has been confirmed by at least one additional physician who is not the patient's attending physician.

(f) Representative of a Qualified Minor. Any of the following:

1. A parent of a qualified minor whose medical decision-making rights have not been restricted.

2. A legal guardian of a qualified minor.

3. A person acting as a parent, as the term is defined in Section 30-3B-102, Code of Ala. 1975, of a qualified minor.

(2) Representatives of qualified minors seeking to execute a PPEL Care Order, and attending physicians intending to enter a PPEL Care Order into the medical record of a qualified minor, shall utilize the form attached hereto as Appendix III which, when properly completed and executed, shall constitute the PPEL Care Order authorized by Act 2018-466.

(3) PPEL Care Orders issued in accordance with this rule shall remain valid and in effect until revoked pursuant to Section 22-8A-5, Code of Ala. 1975, or by other recognized means. Qualified emergency medical services personnel and individual licensed health care providers in any facility including those operated, licensed, or owned by another state agency are authorized to follow PPEL Care Orders that are available, known to them, and executed in accordance with this rule.

(4) If a person with a PPEL Care Order is transferred from one health care facility to another health care facility, the health care facility initiating the transfer must communicate the existence of the order to the receiving facility prior to, during, or as soon as reasonably possible after the transfer. Upon obtaining a copy of a PPEL Care Order, the receiving facility shall make the order a part of the patient's medical record.
Author: Dennis Blair
Statutory Authority: Act No. 2018-466.
History: New Rule: Filed April 18, 2019; effective June 2, 2019.
Amended: Published September 30, 2019; effective November 14, 2019.

420-5-19-A1 **Appendix I.**

PATIENT'S NAME: _____
SURROGATE'S NAME:_____

I certify that:

(a) I am at least 19 years old.

(b) The patient whose name is given above either has not, to my knowledge, made an advance directive for health care (living will or durable power of attorney), or the patient has executed an advance directive for health care, but the document fails to address his or her present circumstances.

(c) I have consulted with the physician who is now overseeing the patient's care.

(d) I am qualified to act as a surrogate health care decision maker for this patient because:

I. My relationship to the patient is the one indicated by checkmark below.

II. I have spoken to or attempted to speak to all other adults, if there are any, who fit into my category, and to all those who fit into a higher category (on the list below, a higher category is one listed before my category). Each such person that I spoke to has either agreed that I may act as surrogate, or has expressed no objection to my acting as surrogate.

III. If I have not spoken to any such person, it is because the person is in an unknown location, or because he or she is in a location so remote that he or she cannot, as a practical matter, be contacted in a timely fashion, or because he or she has been adjudged incompetent and remains incompetent today.

_____1. I am the judicially-appointed guardian of the patient. My guardianship appointment specifically gives me the authority to make health care decisions for the patient and to make decisions regarding the providing, withholding, or withdrawal of life-sustaining treatment or artificially provided nutrition and hydration in instances involving terminal illness or injury and permanent unconsciousness.

_____2. I am the husband or wife of the patient and am neither legally separated from the patient nor a party to a divorce proceeding with the patient.

_____3. I am a child of the patient.

_____4. I am a parent of the patient.

_____5. I am a brother or sister of the patient.

_____6. I am another person related to the patient by blood. To my knowledge, the patient has no other living relatives, or the patient's closer living relatives either cannot or will not serve as surrogates. I am the patient's _____.

_____7. The patient has not known relatives who are able and willing to act as surrogate. I am a representative of the ethics committee at the facility where the patient is being treated or I am a representative of some other committee duly appointed to make health care decisions for this patient.

(e) Under penalty of perjury, I affirm that I am exercising my best independent judgment and agreeing to do what I believe the patient desires. I understand that under the laws of Alabama, certification on this form of any information known by me to be false is a Class C felony, which has a penalty of up to 10 years imprisonment, and a fine of up to $5,000.

_____
Signature of Health Care Decision Surrogate

Witness to the Signature of the Health Care Decision Surrogate (need two witnesses to sign):

By signing this document, I hereby certify that I am at least 19 years of age; that I have witnessed the signature of the individual signing as the surrogate; and that I am not the patient's health care provider or a nonrelative employee of the patient's health care provider.

Name of first witness:_____

Signature:_____

Date:_____

Name of second witness:_____

Signature:_____

Date:_____

Author: Rick Harris
Statutory Authority: Act No. 97-187.

History: New Rule: Filed August 20, 1997; effective September 24, 1997. **Amended:** Filed February 21, 2018; effective April 8, 2018. **Amended:** Published August 31, 2022; effective October 15, 2022.

420-5-19-A2 **Appendix II.**

Alabama Portable Physician Do Not Attempt Resuscitation Order
No CPR/ Allow Natural Death

_____

Patient/Resident Full Name (PRINT) and Date of Birth:

Instructions. This order is valid only if Section I, II, III, OR IV is completed AND a physician has completed Section V.

Section I. Patient/Resident Consent.

I, the undersigned patient/resident, direct that resuscitative measures be withheld from me in the event of cardiopulmonary cessation. I have discussed this decision with my physician, and I understand the consequences of this decision.

_____ _____
Signature of Patient/Resident Date

Section II. Incompetent Patient/Resident with DNAR instructions in Advance Directive.

The patient/resident is not competent or is no longer able to understand, appreciate, and direct his/her medical treatment and has no hope of regaining that ability. A duly executed Advance Directive for Health Care with instructions that no life sustaining treatment be provided was previously authorized by the patient/resident and is part of his/her medical record.

_____
Signature of provider or facility representative

_____ _____
Print name Date

Section III. Health Care Proxy or Attorney-in-Fact Consent.

I, the undersigned, am the health care proxy or attorney-in-fact designated by the patient/resident to make decisions regarding the providing, withholding, or withdrawal of life-sustaining treatment for the patient/resident. I hereby direct that resuscitative measures be withheld from the patient/resident in the event of cardiopulmonary cessation. A copy of the proxy or attorney-in-fact designation (e.g., living will, power of attorney, etc.) has been made part of the patient/resident's medical record.

_____
Signature of Proxy or Attorney-in-Fact

_____ _____
Print name Date

Section IV. Surrogate Consent.

I, the undersigned, am the surrogate certified to make decisions, in consultation with the attending physician, regarding the providing, withholding, or withdrawal of life-sustaining treatment for the patient/resident. After consultation with the attending physician, I hereby direct that resuscitative measures be withheld from the patient/resident in the event of cardiopulmonary cessation. I believe that this decision conforms as closely as possible to what the patient/resident would have wanted. I make this decision in good faith and without consideration of the financial benefit or burden which may accrue to me or to the health care provider as a result of this decision. A copy of the Certification of Health Care Decision Surrogate has been made part of the patient/resident's medical record.

_____
Signature of Surrogate

_____ _____
Print name Date

Section V. Physician Authorization.

Based on the information above, I hereby direct any and all medical personnel, emergency responders, and paramedical personnel to withhold resuscitative measures, i.e., cardiopulmonary resuscitation, chest compression, endotracheal intubation and other advanced airway management, artificial ventilation, cardiac resuscitative medications, and cardiac defibrillation, in the event of cardiopulmonary cessation in the patient/resident.

I further direct the implementation of all reasonable comfort care such as oxygen, suction, control of bleeding, administration of pain medication by personnel so authorized, and other therapies to provide comfort and alleviate suffering by the patient/resident; and to provide support to the patient, family members, friends, and others present.

_____
Signature of Physician

_____ _____
Print name Date

Author: Walter T. Geary Jr., M.D.
Statutory Authority: Act 2016-96.
History: **New Rule:** Filed August 19, 2016; effective October 3, 2016.

420-5-19-A3 **Appendix III.**

ALABAMA ORDER FOR PEDIATRIC PALLIATIVE AND END OF LIFE (PPEL) CARE

_____
Qualified Minor's Full Name (PRINT) and Date of Birth

Instructions: Once executed by the representative, signed by the physicians, and entered into the medical record of the Qualified Minor by the attending physician, this order becomes the medical order for all health care providers with respect to the extent of use of emergency medical equipment and treatment, medication, and any medical interventions available to provide palliative and supportive care to the qualified minor.

The representative must complete and execute Sections 1 and 3. ONCE THESE SECTIONS ARE COMPLETED AND EXECUTED, the attending physician should sign Sections 1 and 2. Once a second physician has signed Section 2, enter the executed directive into the medical record of the Qualified Minor, which then becomes the PPEL Order.

The attending physician may assist the representative(s) with completing this document. After all sections are completed and signed, the attending physician enters the entire completed form into the medical record of the qualified minor. The physician orders will be generated from a PPEL Order entered into the Qualified Minor's medical record.

This form does not supersede or nullify any internal requirements that a health care facility may require for physician's orders to be entered in the health care facility's medical records.

Note: The representative is responsible for updating the form if circumstances or the wishes of the representative change.

Section 1. Medical Orders

A physician may be sought to assist in completing this section after discussion with and in collaboration with the parent(s) or representative

A. Medical orders that, upon execution by the representative, signing by the physicians, and entering into the medical record, become the physician orders:

1. The extent of emergency medical equipment and treatment, medication, and any medical interventions available to provide palliative and supportive care. (Life sustaining treatment does not include the administration of medication or the performance of any medical treatment where, in the opinion of the attending physician, the medication or treatment is necessary to

provide comfort or to alleviate pain.) (See Section 22-8A-3 (10), Code of Alabama)

(ATTACH ADDITIONAL PAGES AS NECESSARY):

(a) CPR (RESUSCITATION) STATUS (choose one):
_____ 1) Attempt CPR.
_____ 2) No CPR.

(b) HOSPITAL TRANSFER where the Qualified Minor is not a patient of a hospital (choose one):
_____ 1) Transfer to hospital for any situation requiring hospital-level care.
_____ 2) Transfer to hospital for severe pain or severe symptoms that cannot be controlled otherwise.
_____ 3) Do not transfer to hospital, but treat with options available outside the hospital.

(c) MEDICAL WORKUP in a hospital or other licensed health care facility (choose one):
_____ 1) May perform any medical tests indicated to diagnose or treat a medical condition.
_____ 2) Only perform limited medical tests necessary for symptomatic treatment or comfort.
_____ 3) Do not perform any medical tests for diagnosis or treatment.

(d) ARTIFICIALLY ADMINISTERED FLUIDS AND NUTRITION (choose one):
_____ 1) May give artificially administered fluids and nutrition, even indefinitely, if medically indicated.
_____ 2) Do not provide artificially administered fluids or nutrition.

2. The Extent of the Use of Antibiotics: (ATTACH ADDITIONAL PAGES AS NECESSARY):
_____ 1) May use antibiotics (oral, intravenous, or intramuscular) as medically indicated.
_____ 2) Do not treat with antibiotics.

3. The extent of the use of any other technological or medical interventions available to provide palliative and supportive care (ATTACH ADDITIONAL PAGES AS NECESSARY):

a)_____
b)_____
c)_____

B. Patient Goals and Medical Conditions: (What are the Qualified Minor's overall medical conditions and the representative's treatment goals?)

_____

_____ _____
(Signature of Attending Physician) (Date)

Section 2. Physician Certification of Terminal Illness or Injury

I certify that I am qualified by experience in making a terminal illness or injury diagnosis, and based on my examination of this patient, have determined that the patient's death is imminent or that the patient's condition, to a reasonable degree of medical certainty, is hopeless unless the patient is supported through life sustaining procedures.

_____ _____
(Signature of Attending Physician) (Date)

I certify that I am qualified by experience in making a terminal illness or injury diagnosis, and based on either my examination of this patient or review of their medical record, and have confirmed that the patient's death is imminent or that the patient's condition, to a reasonable degree of medical certainty, is hopeless unless the patient is supported through life sustaining procedures.

_____ _____
(Signature of Attending Physician) (Date)

Section 3. Declaration by Representative of Qualified Minor:

The representative must initial at each blank:

____I am the parent whose medical decision-making rights have not been restricted, or a legal guardian of the qualified minor, or a person acting as a parent of the qualified minor according to Alabama Code §30-30B-102.

____The attending physician(s) and I have discussed the treatment goals and objectives about end of life care and I agree that the medical orders in Section 1 reflect my directions about the qualified minor's medical care; and, upon execution, signing by the physicians, and entering into the medical record, shall become the physician orders.

____I consent to the medical orders becoming the physician orders in Section 1.

____I understand that either I or the qualified minor can revoke this PPEL Order at any time by verbally revoking the

PPEL Order or by an act demonstrating the intent to revoke the PPEL Order.

____I understand that any health care provider or health care facility acting within the applicable standard of care who is signing, executing, ordering, or attempting to follow this Order for PPEL Care shall not be subject to criminal or civil liability.

____I understand that resuscitative measures may be withheld from the qualified minor based upon the instructions provided in this PPEL Order.

By executing this PPEL Order, I am certifying under penalty of perjury that the information contained in this PPEL Order is correct to the best of my knowledge. I am directing the attending physician to enter this form into the medical record, which shall make this a valid PPEL Order.

*Signatures of Representative(s)	Date
_____	_____
_____	_____
_____	_____
_____	_____

***Use more lines for more signatures, if necessary.**

Instructions for completing this form:

I. <u>Directions for Health Care Professionals</u>.

A PPEL Order contains instructions for health care providers (individual professionals, for example, physicians, nurses, and emergency medical technicians) only for the use of emergency medical equipment and treatment, medication, and any medical interventions available to provide palliative and supportive care to be provided to that qualified minor in a licensed health care facility (for example, hospitals and nursing homes). The form must be signed by two separate physicians acknowledging that the minor has been diagnosed as either terminally ill or injured, before it is valid.

II. <u>Completing the PPEL Order Form</u>.

It is the intent that an adult with authority over medical care decisions for the qualified minor (parent, legal guardian, or other adult acting as the parent of the minor) has considered the various medical care options as outlined in the form, has had conversations or assistance from the attending physician where appropriate or both, and has had the opportunity to consult with

other professionals (for example, attorneys and clergy) for assistance in completing the form. As a result of these conversations or assistance or both, the adult individual indicates on the form the emergency medical equipment and treatment, medication, and any medical interventions available to provide palliative and supportive care to the qualified minor.

III. Using the PPEL Order Form.

If the minor's condition changes and time permits, the representative should be contacted by a facility or the attending physician to assure that the form is updated as appropriate.

If any section has not been completed, then the health care provider should follow other appropriate methods to determine treatment.

An automated external defibrillator should not be used on a person who has chosen "No CPR." Oral fluids and nutrition must always be offered if medically feasible.

When comfort cannot be achieved in the current setting, which would include someone with "palliative and supportive care" only, the qualified minor should be transferred to a setting able to provide comfort care (e.g., compound skeletal fracture).

A qualified minor for whom their representative has chosen "palliative and supportive care" may choose or decline transport or referral to a facility with a higher level of care.

An IV medication to enhance comfort may be appropriate for a minor for whom a representative has chosen "palliative and supportive care."

Treatment of dehydration is a measure which may prolong life. A person who desires IV fluids should indicate the level of "artificially provided fluids and hydration" to be provided on the PPEL Order Form.

A qualified minor or the representative who completed the form and gave consent for the PPEL Order may revoke consent to any part of this PPEL Order at any time verbally or in writing.

IV. Review of Form.

This form should be reviewed periodically (at least annually) and a new form should be completed if necessary when: 1) the minor is transferred from one health care

facility to another health care facility, or 2) there is a substantial change in the minor's health status, or 3) the treatment preferences for the minor change. It is the sole responsibility of the representative, and not the health care provider or health care facility, to periodically review this form.

V. Revoking the PPEL Order.

Whenever the form becomes invalid by verbal revocation or is replaced by an updated version, the representative of the qualified minor should draw a diagonal line through the first page, writing "VOID" in large letters across the form and signing and dating the form, or tear the form into two or more pieces.

Author: Dennis Blair
Statutory Authority: Act No. 2018-466.
History: **New Rule:** Filed April 18, 2019; effective June 2, 2019.