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Robert Patton, Director Oklahoma Department of Corrections		Signature on File	

Offender Living Will/Advance Directive for Health Care and Do Not Resuscitate (DNR) Consent

The Oklahoma Department of Corrections (DOC) has implemented the guidelines required by the Oklahoma Advance Directive Act (O.S.63 § 3101.14 et seq.) and the "Oklahoma Do-Not-Resuscitate Act" (O.S. 63 §3131.1.et seq.)

The offender's right to refuse medical treatment is not absolute and, in all cases, will be weighed against legitimate governmental interests, including the security and orderly operation of correctional facilities.

For the purpose of this procedure, the term "offender" will apply to anyone under the authority, custody or care of a prison or a community-based facility operated by or contracted with the Oklahoma Department of Corrections (DOC).

I. Living Will/Advance Directive

The living will/advance directive allows individuals of sound mind, who are 18 years of age or older, the opportunity to execute advance directives regarding their medical care and provision of life-sustaining treatment. The document states how the individual wishes to be treated if he/she becomes incapacitated by illness, injury, or old age.

A. In a living will/advance directive, a person may choose whether they want all possible medical intervention or limits on treatment when they become incapacitated. A living will/advance directive enables a person to make their own decisions and ensures that others are aware of these decisions.

B. A health care proxy may be designated to ensure the individual's wishes are carried out.

II. Health Care Proxy

The health care proxy is a person, 18 years old or older, appointed by the offender as the legal person to make health care decisions for the offender in the event the offender can no longer do so.

A. DOC employees may NOT serve as a health care proxy for any offender, unless, the offender and the DOC employee are currently married and the marriage existed prior to employment with the agency. The facility head/district supervisor will review a copy of the marriage license to confirm validity and date of marriage. The facility head/district supervisor or designee will notify the director's office when an offender has named an employee/spouse as a health care proxy.

B. Any currently incarcerated person may not serve as a health care proxy for any offender.

III. Anatomical Gifts

According to O.S. 63 § 2200. 1A, "Oklahoma Uniform Anatomical Gift Act," an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research or education by the donor, if the donor is an adult. The gift becomes effective upon death. To facilitate anatomical gifts, the "Living Will/Advance Directive for Health Care" form (DOC 140138A, Part III, attached) must be completed.

IV. Establishing the Living Will/Advance Directive

A. "The Living Will/Advance Directive for Health Care" form (DOC 140138A, attached) will be utilized to initiate an offender's living will/advanced directive. During the orientation session at reception or upon transfers to other facilities and in accordance with OP-140117 entitled "Access to Health Care," offenders will receive information about establishing a living will/advance directive for health care.

B. When an offender establishes a "Living Will/Advance Directive for Health Care" while in an outside hospital/health care facility, that outside facility may follow its own procedures and protocols.

C. The responsibilities of the health services staff include being

knowledgeable of the applicable laws and being available to provide information to the offender upon request.

D. A qualified health care professional may assist an offender in completing the "Living Will/Advance Directive for Health Care" at any time during his/her incarceration. This document may not be completed by a family member, guardian or another offender.

E. If the offender wishes to use a private attorney to prepare a "Living Will/Advance Directive for Health Care," this will be at the offender's expense.

F. The "Living Will/Advance Directive for Health Care" will be scanned into the electronic healthcare record (EHR), in accordance with OP-140106 entitled "Healthcare Record System." Authorization to release information must be obtained in accordance with OP- 140108 entitled "Privacy of Protected Health Information" utilizing (DOC 140108A) entitled "Authorization for Release of Protected Health Information."

G. As specified in the "Living Will/Advance Directive for Health Care," the "attending physician" is defined as the physician who has primary responsibility for the treatment and care of the patient. "Another physician" is defined as an individual licensed to practice medicine in the state of Oklahoma.

V. Activation of a Living Will/Advance Directive

A. When it is determined that the offender has become incapacitated by illness, injury or old age, the attending physician and another physician, may determine that the terms of the "Living Will/Advance Directive for Health Care" will be carried out. The attending physician or designee, will notify the correctional health service administrator (CHSA) or designee, facility head/district supervisor or designee immediately by faxing the completed "Notification of Activation for a Living Will/Advance Directive and/or Do Not Resuscitate (DNR)" form (DOC 140138B, attached).

B. These officials will then determine if it is appropriate to transfer the offender to a DOC infirmary, hospital, or if the current setting is appropriate. The attending physician will write an order which will activate the conditions of the living will/advance directive.

VI. Revocation of the Living Will/Advance Directive

The "Living Will/Advance Directive for Health Care" may be revoked by the issuing offender at any time. Revocation will be in writing with the offender's signature or initials. A verbal revocation will be accepted when expressed to the physician, other health care provider, or other witness and witnessed by another individual, regardless of the offender's physical or mental condition.

A. Upon the offender's request to revoke the "Living Will/Advance Directive for Health Care," the "Living Will/Advance Directive for Health Care" form (DOC 140138A) will be marked through and signed on each page as "Revoked by" with the offender's name and signature, and the date of the revocation.

1. Should the offender be unable to sign the revocation, a family member may sign the revocation on the offender's behalf.

2. If no family member is readily available, a staff member from the medical division will document the offender's verbal revocation in the medical record.

B. The revoked living will/advance directive and all living will/advance directive information will be removed from the offender's person/property immediately, and scanned into the EHR. A progress note will be documented in the EHR to account for the date and time the "Living Will/Advance Directive for Health Care" was revoked.

VII. Reporting of a Living Will/Advance Directive

Each facility head/district supervisor or designee will be responsible for the dissemination of information to the appropriate staff regarding offenders with a living will/advance directive.

A copy of the "Living Will/Advance Directive for Health Care" will be attached to the consultation form when the offender is transported to an outside provider or with the transfer summary if being transferred to another facility.

VIII. Medical Care for Offenders Unable to Consent to or Refuse Treatment

In situations where an offender has not prepared a living will, advanced directive, or a DNR; and is unable to actually consent, all providers may presume the offender prefers life and will provide resuscitation as required. For procedures performed by outside providers that are diagnostic rather than resuscitative, outside providers will follow its own procedures for obtaining consent. DOC medical and/or facility staff will provide family contact information if needed. If consent cannot be obtained by either the agency or the outside provider, the CHSA will contact the Office of the General Counsel immediately to determine whether guardianship proceedings should be initiated.

IX. Pregnant Offenders

The "Living Will/Advance Directive for Health Care" or "Do Not Resuscitate (DNR) Consent Form" (DOC 140138C, attached) of a female offender known to

the attending physician to be pregnant will not be operative during the course of the pregnancy.

X. Do-Not-Resuscitate (DNR)

A. A Do Not Resuscitate consent states the offender does not want cardiopulmonary resuscitation (CPR) if the heart stops beating or if the offender stops breathing.

1. A consent not to resuscitate will be consistent with sound medical practice and not in any way associated with assisting suicide, voluntary euthanasia, or expediting the offender's death.

2. Any offender with a "Do Not Resuscitate (DNR) Consent Form" (DOC 140138C) in the medical record will receive maximal therapeutic efforts short of resuscitation.

B. Establishing a DNR

1. DOC will utilize the "Do Not Resuscitate (DNR) Consent Form" (DOC 140138C) to establish an offender's DNR. All offenders entering DOC will receive information about establishing a DNR consent form at reception or upon transfers to other facilities in accordance with OP-140117 entitled "Access to Health Care."

2. When an offender establishes a "Do Not Resuscitate (DNR) Consent Form" while in an outside hospital/health care facility, that outside facility may follow their own procedures and protocols.

3. The responsibilities of the health service staff include being knowledgeable of the applicable laws and being available to provide information to the offender upon request regarding the DNR consent.

4. A qualified health care professional may assist an offender in completing the DNR consent at any time during his/her incarceration. This document can not be completed by a family member, guardian, or another offender.

5. If the offender wishes to use a private attorney to prepare a "Do Not Resuscitate (DNR) Consent Form," this will be at the offender's expense.

6. The original form will be scanned into the EHR in accordance with OP-140106 entitled "Healthcare Record System." Authorization to release information must be obtained in accordance with OP-140108 entitled "Privacy of Protected Health Information" (DOC 140108A). A "Do Not Resuscitate" indicator will be documented in

the alert section of the offender's opening page in the EHR.

7. The "Do Not Resuscitate (DNR) Consent Form" (DOC 140138C) will be witnessed by two persons who are 18 years old or older and who will not benefit from the DNR consent. A currently incarcerated person may not act as a witness.

8. The physician will document the following information on a progress note in the EHR to accompany the "Do Not Resuscitate (DNR) Consent Form" (DOC 140138C). The progress note will include:

   a. The diagnosis;

   b. The prognosis;

   c. The offender's expressed wishes, accompanied by written documentation by the offender when possible (i.e., a "Living Will/Advance Directive for Health Care");

   d. Consensual decisions and recommendations of the medical staff, consultants, with documentation of names; and

   e. References concerning the offender's competency, when the decision was based on his/her concurrence.

C. Reporting of a DNR

1. Each facility head or designee will be responsible for the dissemination of information to the appropriate staff regarding offenders with a "Do Not Resuscitate (DNR) Consent Form."

2. A copy of the "Do Not Resuscitate (DNR) Consent Form" will be attached to the consultation form when the offender is transported to an outside provider or with the medical transfer summary if being transferred to another facility.

D. Activation of a DNR

1. The CHSA and facility head/district supervisor will be notified within 24 hours by the attending physician or designee, that a DNR has been activated. Notification to these authorities will be accomplished by completing and faxing the "Notification of Activation for a Living Will/Advance Directive and/or DNR" (DOC 140138B).

2. Health care providers will, when presented with the original or copy of any "Do Not Resuscitate (DNR) Consent Form" (DOC 140138C)

as provided under O.S. 63 § 3101, take appropriate actions to comply with the do-not-resuscitate request.

E. Revocation of the DNR

The "Do Not Resuscitate (DNR) Consent Form" (DOC 140138C) may be revoked by the issuing offender at any time. Revocation will be in writing with the offender's signature or initials. A verbal revocation will be accepted when expressed to the physician, other health care provider, or other witness, and witnessed by another individual, regardless of the offender's physical or mental condition.

1. Upon the offender's request to revoke the "Do Not Resuscitate (DNR) Consent Form" (DOC 140138C), the form will be marked through and signed on each page as "Revoked by" with the offender's name and signature, and the date of the revocation.

   a. Should the offender be unable to sign the revocation, a family member may sign the revocation on the offender's behalf.

   b. If no family member is readily available, a staff member from the medical division may document the offender's verbal revocation in the EHR.

   c. The completed revocation form will then be scanned into the EHR.

2. The DNR and all DNR information will be removed from the offender's person/property immediately and scanned into the EHR. A progress note will be documented in the EHR to account for the date and time the "Do Not Resuscitate (DNR) Consent Form" was revoked.

XI. References

63 O.S. § 3101.14 et seq. – "Oklahoma Advance Directive Act"

63 O.S. § 3131.1 et seq. – entitled, "Oklahoma Do-Not Resuscitate Act"

OP-140106 entitled "Healthcare Records System"

OP-140108 entitled "Privacy of Protected Health Information"

OP-140117 entitled "Access to Health Care"

63 O.S. § 2200. 1A, et seq. entitled "Oklahoma Uniform Anatomical Gift Act"

57 O.S. § 510

Federal Bureau of Prisons, Health Service Manual, Chapter VI, 1996

XII. Action

The chief medical officer is responsible for compliance with this procedure.

The division manager of Health Services is responsible for the annual review and revisions.

Any exceptions to this procedure require prior written approval from the director.

This procedure will be effective as indicated.

Replaced: Operations Memorandum No. OP-140138 entitled "Offender Living Will/Advance Directive for Health Care and Do Not Resuscitate (DNR) Consent" dated January 24, 2014

Deleted: OP-140138 Revisions-01 dated June 19, 2014

Distribution: Policy and Operations Manual
Agency Website

Referenced Forms	Title	Location
DOC 140108A	"Authorization for Release of Protected Health Information"	OP-140108
DOC 140138A	"Living Will/Advance Directive for Health Care"	Attached
DOC 140138B	"Notification of Activation for a Living Will/ Advance Directive and/or DNR"	Attached
DOC 140138C	"Do Not Resuscitate (DNR) Consent Form"	Attached