

1 **State of Arkansas**  
2 **79th General Assembly**  
3 **Regular Session, 1993**  
4 **By: Representative Pryor**

# A Bill

**ACT 1101 OF 1993**  
**HOUSE BILL 1556**

## For An Act To Be Entitled

"THE ARKANSAS EMS DO NOT RESUSCITATE ACT"

### Subtitle

"THE ARKANSAS EMS DO NOT RESUSCITATE ACT"

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Definitions. As used in this part, unless the context clearly requires otherwise, the following definitions apply:

(1) "Attending physician" has the meaning provided in § 20-17-201(1).

(2) "Board" means the State Board of Health.

(3) "Department" means the Arkansas Department of Health.

(4) "DNR identification" means a standardized identification card, form, necklace, or bracelet of uniform size and design, approved by the Department, that signifies that the possessor has executed an advance directive as provided in 20-17-201 which specifically addresses the CPR option of health care, that has not been revoked or that the possessor\_s attending physician has issued an emergency medical services do not resuscitate order for the possessor and has documented the grounds for the order in the possessor\_s medical file.

(5) "Emergency Medical Services Do Not Resuscitate Order" means a written physician\_s order in a form approved by the Department which authorizes qualified emergency medical service personnel to withhold cardiopulmonary resuscitation from a particular patient in the event of cardiac or respiratory arrest. For purposes of this article, cardiopulmonary resuscitation shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, defibrillation, administration of cardiac resuscitation medications, and related procedures. Emergency Medical Services Do Not Resuscitate Orders shall not authorize the

1 withholding of other medical interventions, such as intravenous fluids, oxygen  
2 or other indicated therapies short of CPR unless such therapies are also  
3 specified by advance directive to be withheld. The Emergency Medical Services  
4 Do Not Resuscitate Orders shall not authorize the withholding of therapies  
5 deemed necessary to provide comfort care or alleviate pain.

6 (6) "The Emergency Medical Services do not resuscitate protocol" means  
7 a standardized method of procedure, approved by the board and adopted in the  
8 rules of the Department, for the withholding of emergency life-sustaining  
9 procedures by emergency medical services personnel.

10 (7) "Emergency medical services personnel" means paid or volunteer  
11 firefighters, law enforcement officers, first responders, emergency medical  
12 technicians, or other emergency service personnel acting within the ordinary  
13 course of their professions.

14 (8) "Health care facility" means any institution, building, or agency  
15 or portion thereof, private or public, excluding federal facilities, whether  
16 organized for profit or not, used, operated, or designed to provide health  
17 services, medical treatment, or nursing, rehabilitative, or preventive care to  
18 any person or persons. The term includes but is not limited to ambulatory  
19 surgical facilities, health maintenance organizations, home health agencies,  
20 hospices, hospitals, infirmaries, kidney treatment centers, long-term care  
21 facilities, medical assistance facilities, mental health centers, outpatient  
22 facilities, public health centers, rehabilitation facilities, residential  
23 treatment facilities, and adult day-care centers.

24 (9) "Life-sustaining procedure" means cardiopulmonary resuscitation or  
25 a component of cardiopulmonary resuscitation.

26 (10) "Physician" means a person licensed to practice medicine in this  
27 state pursuant to the Arkansas Medical Practices Act, § 17-93-201 et seq.

28

29 SECTION 2. Immunities. (1) The following are not subject to civil or  
30 criminal liability and are not guilty of unprofessional conduct upon discovery  
31 of DNR identification upon a person:

32 (a) a physician who causes the withholding or withdrawal of  
33 life-sustaining procedures from that person;

34 (b) a person who participates in the withholding or withdrawal  
35 of life-sustaining procedures under the direction or with the authorization of

1 a physician;

2 (c) emergency medical services personnel who cause or  
3 participate in the withholding or withdrawal of life-sustaining procedures  
4 from that person;

5 (d) a health care facility in which withholding or withdrawal of  
6 life-sustaining procedures from that person occurs;

7 (e) physicians, persons under the direction or authorization of  
8 a physician, emergency medical services personnel, or health care facilities  
9 that provide life-sustaining procedures pursuant to an oral or written request  
10 communicated to them by a person who possesses DNR identification.

11 (2) The provisions of subsections (1)(a) through (1)(d) apply when a  
12 life-sustaining procedure is withheld or withdrawn *in accordance with the EMS*  
13 *do not resuscitate protocol*.

14 (3) Emergency medical services personnel who follow a do not  
15 resuscitate order from a licensed physician are not subject to civil or  
16 criminal liability and are not guilty of unprofessional conduct.

17

18 SECTION 3. Authorization to follow Emergency Medical Services Do Not  
19 Resuscitate Orders in the pre-hospital setting. Qualified emergency medical  
20 services personnel shall be authorized to follow Emergency Medical Services Do  
21 Not Resuscitate Orders pertaining to adult patients in the pre-hospital  
22 setting in accordance with regulations promulgated by the Board of Health, if  
23 the order available to such personnel is in a *format* approved by the  
24 Department. This section shall not authorize emergency medical personnel to  
25 follow an Emergency Medical Services Do Not Resuscitate Order for any patient  
26 who is able to, and does, express to such personnel the desire to be  
27 resuscitated prior to cardiac or respiratory arrest.

28

29 SECTION 4. Adherence to do not resuscitate protocol--transfer of  
30 patients.

31 (1) Emergency medical services personnel other than physicians shall  
32 comply with the do not resuscitate protocol when presented with either do not  
33 resuscitate identification approved by the Department, an oral do not  
34 resuscitate order issued directly by a physician, or a written do not  
35 resuscitate order entered on a form prescribed by the Department.

1           (2)    An attending physician or a health care facility who receives a  
2 patient from EMS with a valid DNR identification which the patient or his  
3 health care proxy does not remand by written or oral statement and who is  
4 unwilling or unable to comply with a do not resuscitate order shall take all  
5 reasonable steps to transfer that person possessing DNR identification to  
6 another physician or to a health care facility in which the do not resuscitate  
7 order will be followed.

8

9           SECTION 5.   Effect on insurance--patient\_s decision.

10          (1)    Death resulting from the withholding or withdrawal of emergency  
11 life-sustaining procedures pursuant to the do not resuscitate protocol and in  
12 accordance with this part is not, for any purpose, a suicide or homicide.

13          (2)    The possession of DNR identification pursuant to this part does  
14 not affect in any manner the sale, procurement, or issuance of any policy of  
15 life insurance, nor does it modify the terms of an existing policy of life  
16 insurance. A policy of life insurance is not legally impaired or invalidated  
17 in any manner by the withholding or withdrawal of emergency life-sustaining  
18 procedures from an insured person possessing DNR identification,  
19 notwithstanding any term of the policy to the contrary.

20          (3)    A physician, health care facility, or other health care provider  
21 and a health care service plan, insurer issuing disability insurance, self-  
22 insured employee welfare benefit plan, or nonprofit hospital plan may not  
23 require a person to possess DNR identification as a condition for being  
24 insured for or receiving health care services.

25          (4)    This part does not create a presumption concerning the intention  
26 of an individual who does not possess DNR identification with respect to the  
27 use, withholding, or withdrawal of emergency life-sustaining procedures.

28          (5)    This part does not increase or decrease the right of a patient to  
29 make decisions regarding the use of emergency life-sustaining procedures if  
30 the patient is able to do so, nor does this part impair or supersede any right  
31 or responsibility that a person has to effect the withholding or withdrawal of  
32 medical care in any lawful manner. In that respect, the provisions of this  
33 part are cumulative.

34          (6)    This part does not authorize or approve mercy killing.

35

1 SECTION 6. Rulemaking authority.

2 (1) Upon the adoption of an EMS do not resuscitate protocol by the  
3 Board, the Department may adopt a standard form of DNR identification to be  
4 used statewide.

5 (2) The Department shall adopt rules to administer the provisions of  
6 this part.

7

8 SECTION 7. Reciprocity. An advance directive executed in another state  
9 shall be deemed to be validly executed for the purposes of this article if  
10 executed in compliance with the laws of the State of Arkansas or the laws of  
11 the state where executed. Such advance directives shall be construed in  
12 accordance with the laws of the State of Arkansas.

13

14 SECTION 8. Penalties.

15 (1) A physician who willfully fails to transfer a patient in  
16 accordance with *Section 4 of this act* is guilty of a Class A misdemeanor.

17 (2) A person who purposely conceals, cancels, defaces, or obliterates  
18 the DNR identification of another without the consent of the possessor or who  
19 falsifies or forges a revocation of the DNR identification of another is  
20 guilty of a Class A misdemeanor.

21 (3) A person who falsifies or forges the DNR identification of another  
22 or purposely conceals or withholds personal knowledge of a revocation of DNR  
23 identification with the intent to cause the use, withholding, or withdrawal of  
24 life-sustaining procedures is guilty of a Class D felony.

25

26 SECTION 9. All provisions of this act of a general and permanent nature  
27 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
28 Revision Commission shall incorporate the same in the Code.

29

30 SECTION 10. If any provision of this act or the application thereof to  
31 any person or circumstance is held invalid, such invalidity shall not affect  
32 other provisions or applications of the act which can be given effect without  
33 the invalid provision or application, and to this end the provisions of this  
34 act are declared to be severable.

35

1           SECTION 11. All laws and parts of laws in conflict with this act are  
2 hereby repealed.

3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

*/s/Mark Pryor*

APPROVED: 04/13/93

***As Engrossed: 2/24/93 3/12/93***

**HB 1556**

- 1
- 2
- 3
- 4
- 5

**mhf617**