

1719

2009-2010 Regular Sessions

I N A S S E M B L Y

January 9, 2009

Introduced by M. of A. GOTTFRIED, CLARK, EDDINGTON, FIELDS, GUNTHER,
HOYT, PAULIN, SCHIMMINGER -- Multi-Sponsored by -- M. of A. CAHILL,
GALEF, GLICK, JOHN, KELLNER, LAVINE, MCENENY, PHEFFER, N. RIVERA,
WEISENBERG -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to authorizing nurse
practitioners to execute orders not to resuscitate; and to repeal
subdivision 4 of section 2977 of such law relating to consent to
nonhospital orders not to resuscitate

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 2960 of the public health law, as added by chapter
2 818 of the laws of 1987, is amended to read as follows:
3 S 2960. Legislative findings and purpose. The legislature finds that,
4 although cardiopulmonary resuscitation has proved invaluable in the
5 prevention of sudden, unexpected death, it is appropriate for an attend-
6 ing physician OR ATTENDING NURSE PRACTITIONER, in certain circumstances,
7 to issue an order not to attempt cardiopulmonary resuscitation of a
8 patient where appropriate consent has been obtained. The legislature
9 further finds that there is a need to clarify and establish the rights
10 and obligations of patients, their families, and health care providers
11 regarding cardiopulmonary resuscitation and the issuance of orders not
12 to resuscitate.
13 S 2. Subdivisions 2, 5 and 20 of section 2961 of the public health
14 law, subdivision 2 as amended by chapter 370 of the laws of 1991, subdivi-
15 sions 5 and 20 as added by chapter 818 of the laws of 1987, subdivi-
16 sion 20 as renumbered by chapter 370 of the laws of 1991, are amended
17 and two new subdivisions 2-a and 16-a are added to read as follows:
18 2. "Attending physician" means the physician selected by or assigned
19 to a patient in a hospital or, for the purpose of provisions herein
20 governing nonhospital orders not to resuscitate, a patient not in a
21 hospital, who has primary responsibility for the treatment and care of

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 the patient. Where more than one physician AND/OR NURSE PRACTITIONER
2 shares such responsibility, any such physician OR NURSE PRACTITIONER may
3 act as the attending physician OR ATTENDING NURSE PRACTITIONER pursuant
4 to this article.

5 2-A. "ATTENDING NURSE PRACTITIONER" MEANS THE NURSE PRACTITIONER
6 SELECTED BY OR ASSIGNED TO A PATIENT IN A HOSPITAL OR, FOR THE PURPOSE
7 OF PROVISIONS HEREIN GOVERNING NONHOSPITAL ORDERS NOT TO RESUSCITATE, A
8 PATIENT NOT IN A HOSPITAL, WHO HAS PRIMARY RESPONSIBILITY FOR THE TREAT-
9 MENT AND CARE OF THE PATIENT. WHERE MORE THAN ONE PHYSICIAN AND/OR NURSE
10 PRACTITIONER SHARES SUCH RESPONSIBILITY, ANY SUCH PHYSICIAN OR NURSE
11 PRACTITIONER MAY ACT AS THE ATTENDING PHYSICIAN OR ATTENDING NURSE PRAC-
12 TITIONER PURSUANT TO THIS ARTICLE.

13 5. "Close friend" means any person, eighteen years of age or older,
14 who presents an affidavit to an attending physician OR ATTENDING NURSE
15 PRACTITIONER stating that he OR SHE is a close friend of the patient and
16 that he OR SHE has maintained such regular contact with the patient as
17 to be familiar with the patient's activities, health, and religious or
18 moral beliefs and stating the facts and circumstances that demonstrate
19 such familiarity.

20 16-A. "NURSE PRACTITIONER" MEANS A NURSE PRACTITIONER CERTIFIED PURSU-
21 ANT TO SECTION SIXTY-NINE HUNDRED TEN OF THE EDUCATION LAW, AND WHO IS
22 PRACTICING PURSUANT TO A WRITTEN PRACTICE AGREEMENT AND WRITTEN PRACTICE
23 PROTOCOLS ENTERED INTO WITH HIS OR HER COLLABORATING PHYSICIAN, IN
24 ACCORDANCE WITH SUBDIVISION THREE OF SECTION SIXTY-NINE HUNDRED TWO OF
25 THE EDUCATION LAW.

26 20. "Reasonably available" means that a person to be contacted can be
27 contacted with diligent efforts by an attending physician, ATTENDING
28 NURSE PRACTITIONER or another person acting on behalf of the attending
29 physician, THE ATTENDING NURSE PRACTITIONER or the hospital.

30 S 3. Subdivisions 2 and 3 of section 2962 of the public health law, as
31 added by chapter 818 of the laws of 1987, are amended to read as
32 follows:

33 2. It shall be lawful for the attending physician OR ATTENDING NURSE
34 PRACTITIONER to issue an order not to resuscitate a patient, provided
35 that the order has been issued pursuant to the requirements of this
36 article. The order shall be included in writing in the patient's chart.
37 An order not to resuscitate shall be effective upon issuance.

38 3. Before obtaining, pursuant to this article, the consent of the
39 patient, or of the surrogate of the patient, or parent or legal guardian
40 of the minor patient, to an order not to resuscitate, the attending
41 physician OR ATTENDING NURSE PRACTITIONER shall provide to the person
42 giving consent information about the patient's diagnosis and prognosis,
43 the reasonably foreseeable risks and benefits of cardiopulmonary resus-
44 citation for the patient, and the consequences of an order not to resus-
45 citate.

46 S 4. Paragraphs (a) and (d) of subdivision 2 of section 2964 of the
47 public health law, as added by chapter 818 of the laws of 1987, are
48 amended to read as follows:

49 (a) During hospitalization, an adult with capacity may express a deci-
50 sion consenting to an order not to resuscitate orally in the presence of
51 at least two witnesses eighteen years of age or older, one of whom is a
52 physician OR ATTENDING NURSE PRACTITIONER affiliated with the hospital
53 in which the patient is being treated. Any such decision shall be
54 recorded in the patient's medical chart.

55 (d) Prior to issuing an order not to resuscitate a patient who has
56 expressed a decision consenting to an order not to resuscitate under

1 specified medical conditions, the attending physician OR ATTENDING NURSE
2 PRACTITIONER must make a determination, to a reasonable degree of
3 medical certainty, that such conditions exist, and include the determi-
4 nation in the patient's medical chart.

5 S 5. The opening paragraph of paragraph (c) of subdivision 2 of
6 section 2964 of the public health law, as added by chapter 818 of the
7 laws of 1987, is amended to read as follows:

8 An attending physician OR ATTENDING NURSE PRACTITIONER who is provided
9 with or informed of a decision pursuant to this subdivision shall record
10 or include the decision in the patient's medical chart if the decision
11 has not been recorded or included, and either:

12 S 6. The opening paragraph of paragraph (a) and paragraph (b) of
13 subdivision 3 of section 2964 of the public health law, as added by
14 chapter 818 of the laws of 1987, are amended to read as follows:

15 In the event that the attending physician OR ATTENDING NURSE PRACTI-
16 TIONER determines, in writing, that, to a reasonable degree of medical
17 certainty, an adult patient who has capacity would suffer immediate and
18 severe injury from a discussion of cardiopulmonary resuscitation, the
19 attending physician OR ATTENDING NURSE PRACTITIONER may issue an order
20 not to resuscitate without obtaining the patient's consent, but only
21 after:

22 (b) Where the provisions of this subdivision have been invoked, the
23 attending physician OR ATTENDING NURSE PRACTITIONER shall reassess the
24 patient's risk of injury from a discussion of cardiopulmonary resusci-
25 tation on a regular basis and shall consult the patient regarding resus-
26 citation as soon as the medical basis for not consulting the patient no
27 longer exists.

28 S 7. The opening paragraph of paragraph (c) of subdivision 3 of
29 section 2965 of the public health law, as added by chapter 818 of the
30 laws of 1987, such subdivision as renumbered by chapter 370 of the laws
31 of 1991, is amended to read as follows:

32 A surrogate may consent to an order not to resuscitate on behalf of an
33 adult patient only if there has been a determination by an attending
34 physician OR ATTENDING NURSE PRACTITIONER with the concurrence of another
35 physician selected by a person authorized by the hospital to make
36 such selection, given after personal examination of the patient that, to
37 a reasonable degree of medical certainty:

38 S 8. Paragraphs (a) and (b) of subdivision 4 of section 2965 of the
39 public health law, paragraph (a) as amended by chapter 370 of the laws
40 of 1991 and paragraph (b) as added by chapter 818 of the laws of 1987,
41 such subdivision as renumbered by chapter 370 of the laws of 1991, are
42 amended to read as follows:

43 (a) A surrogate shall express a decision consenting to an order not to
44 resuscitate either (i) in writing, dated, and signed in the presence of
45 one witness eighteen years of age or older who shall sign the decision,
46 or (ii) orally, to two persons eighteen years of age or older, one of
47 whom is a physician OR NURSE PRACTITIONER affiliated with the hospital
48 in which the patient is being treated. Any such decision shall be
49 recorded in the patient's medical chart.

50 (b) The attending physician OR ATTENDING NURSE PRACTITIONER who is
51 provided with the decision of a surrogate shall include the decision in
52 the patient's medical chart and, if the surrogate has consented to the
53 issuance of an order not to resuscitate, shall either:

54 (i) promptly issue an order not to resuscitate the patient and inform
55 the hospital staff responsible for the patient's care of the order; or

(ii) promptly make the attending physician's OR ATTENDING NURSE PRACTITIONER'S objection to the issuance of such an order known to the surrogate and either make all reasonable efforts to arrange for the transfer of the patient to another physician, if necessary, or promptly refer the matter to the dispute mediation system.

S 9. Subdivision 1 of section 2966 of the public health law, as added by chapter 818 of the laws of 1987, is amended to read as follows:

1. If no surrogate is reasonably available, willing to make a decision regarding issuance of an order not to resuscitate, and competent to make a decision regarding issuance of an order not to resuscitate on behalf of an adult patient who lacks capacity and who had not previously expressed a decision regarding cardiopulmonary resuscitation, an attending physician OR ATTENDING NURSE PRACTITIONER (a) may issue an order not to resuscitate the patient, provided that the attending physician OR ATTENDING NURSE PRACTITIONER determines, in writing, that, to a reasonable degree of medical certainty, resuscitation would be medically futile, and another physician selected by a person authorized by the hospital to make such selection, after personal examination of the patient, reviews and concurs in writing with such determination, or, (b) shall issue an order not to resuscitate the patient, provided that, pursuant to subdivision one of section twenty-nine hundred seventy-six of this article, a court has granted a judgment directing the issuance of such an order.

S 10. Subdivisions 1, 3 and 4 of section 2967 of the public health law, subdivisions 1 and 4 as added by chapter 818 of the laws of 1987, and subdivision 3 and paragraphs (a) and (b) of subdivision 4 as amended by chapter 370 of the laws of 1991, are amended to read as follows:

1. An attending physician OR ATTENDING NURSE PRACTITIONER, in consultation with a minor's parent or legal guardian, shall determine whether a minor has the capacity to make a decision regarding resuscitation.

3. A parent or legal guardian may consent to an order not to resuscitate on behalf of a minor only if there has been a written determination by the attending physician OR ATTENDING NURSE PRACTITIONER, with the written concurrence of another physician selected by a person authorized by the hospital to make such selections given after personal examination of the patient, that, to a reasonable degree of medical certainty, the minor suffers from one of the medical conditions set forth in paragraph (c) of subdivision three of section twenty-nine hundred sixty-five of this article. Each determination shall be included in the patient's medical chart.

4. (a) A parent or legal guardian of a minor, in making a decision regarding cardiopulmonary resuscitation, shall consider the minor patient's wishes, including a consideration of the minor patient's religious and moral beliefs, and shall express a decision consenting to issuance of an order not to resuscitate either (i) in writing, dated and signed in the presence of one witness eighteen years of age or older who shall sign the decision, or (ii) orally, to two persons eighteen years of age or older, one of whom is a physician OR NURSE PRACTITIONER affiliated with the hospital in which the patient is being treated. Any such decision shall be recorded in the patient's medical chart.

(b) The attending physician OR ATTENDING NURSE PRACTITIONER who is provided with the decision of a minor's parent or legal guardian, expressed pursuant to this subdivision, and of the minor if the minor has capacity, shall include such decision or decisions in the minor's medical chart and shall comply with the provisions of paragraph (b) of

1 subdivision four of section twenty-nine hundred sixty-five of this arti-
2 cle.

3 (c) If the attending physician OR ATTENDING NURSE PRACTITIONER has
4 actual notice of the opposition of a parent or non-custodial parent to
5 consent by another parent to an order not to resuscitate a minor, the
6 physician OR NURSE PRACTITIONER shall submit the matter to the dispute
7 mediation system and such order shall not be issued or shall be revoked
8 in accordance with the provisions of subdivision three of section twenty-
9 ty-nine hundred seventy-two of this article.

10 S 11. Paragraph (b) of subdivision 2 of section 2967 of the public
11 health law, as amended by chapter 370 of the laws of 1991, is amended to
12 read as follows:

13 (b) Where the attending physician OR ATTENDING NURSE PRACTITIONER has
14 reason to believe that there is another parent or a non-custodial parent
15 who has not been informed of a decision to issue an order not to resus-
16 citate the minor, the attending physician OR ATTENDING NURSE PRACTITION-
17 ER, or someone acting on behalf of the attending physician OR ATTENDING
18 NURSE PRACTITIONER, shall make reasonable efforts to determine if the
19 uninformed parent or non-custodial parent has maintained substantial and
20 continuous contact with the minor and, if so, shall make diligent
21 efforts to notify that parent or non-custodial parent of the decision
22 prior to issuing the order.

23 S 12. Subdivisions 2 and 3 of section 2969 of the public health law,
24 subdivision 2 as amended by chapter 370 of the laws of 1991 and subdivi-
25 sion 3 as added by chapter 818 of the laws of 1987, are amended to read
26 as follows:

27 2. Any surrogate, parent, or legal guardian may at any time revoke his
28 or her consent to an order not to resuscitate a patient by (a) notifying
29 a physician or member of the nursing staff of the revocation of consent
30 in writing, dated and signed, or (b) orally notifying the attending
31 physician OR ATTENDING NURSE PRACTITIONER in the presence of a witness
32 eighteen years of age or older.

33 3. Any physician OR NURSE PRACTITIONER who is informed of or provided
34 with a revocation of consent pursuant to this section shall immediately
35 include the revocation in the patient's chart, cancel the order, and
36 notify the hospital staff responsible for the patient's care of the
37 revocation and cancellation. Any member of the nursing staff, OTHER THAN
38 A NURSE PRACTITIONER, who is informed of or provided with a revocation
39 of consent pursuant to this section shall immediately notify a physician
40 OR NURSE PRACTITIONER of such revocation.

41 S 13. Section 2970 of the public health law, as added by chapter 818
42 of the laws of 1987, subdivision 1 and paragraph (b) of subdivision 2 as
43 amended by chapter 370 of the laws of 1991, is amended to read as
44 follows:

45 S 2970. Physician AND NURSE PRACTITIONER review of the order not to
46 resuscitate. 1. For each patient for whom an order not to resuscitate
47 has been issued, the attending physician OR ATTENDING NURSE PRACTITIONER
48 shall review the patient's chart to determine if the order is still
49 appropriate in light of the patient's condition and shall indicate on
50 the patient's chart that the order has been reviewed:

51 (a) for a patient, excluding outpatients described in paragraph (b) of
52 this subdivision and alternate level of care patients, in a hospital,
53 other than a residential health care facility, at least every seven
54 days;

55 (b) for an outpatient whose order not to resuscitate is effective
56 while the patient receives care in a hospital, each time the attending

1 physician OR ATTENDING NURSE PRACTITIONER examines the patient, whether
2 in the hospital or elsewhere, provided that the review need not occur
3 more than once every seven days; and

4 (c) for a patient in a residential health care facility or an alter-
5 nate level of care patient in a hospital, each time the patient is
6 required to be seen by a physician OR NURSE PRACTITIONER but at least
7 every sixty days.

8 Failure to comply with this subdivision shall not render an order not
9 to resuscitate ineffective.

10 2. (a) If the attending physician OR ATTENDING NURSE PRACTITIONER
11 determines at any time that an order not to resuscitate is no longer
12 appropriate because the patient's medical condition has improved, the
13 physician OR NURSE PRACTITIONER shall immediately notify the person who
14 consented to the order. Except as provided in paragraph (b) of this
15 subdivision, if such person declines to revoke consent to the order, the
16 physician OR NURSE PRACTITIONER shall promptly (i) make reasonable
17 efforts to arrange for the transfer of the patient to another physician
18 or (ii) submit the matter to the dispute mediation system.

19 (b) If the order not to resuscitate was entered upon the consent of a
20 surrogate, parent, or legal guardian and the attending physician OR
21 ATTENDING NURSE PRACTITIONER who issued the order, or, if unavailable,
22 another attending physician OR ATTENDING NURSE PRACTITIONER at any time
23 determines that the patient does not suffer from one of the medical
24 conditions set forth in paragraph (c) of subdivision three of section
25 twenty-nine hundred sixty-five of this article, the attending physician
26 OR ATTENDING NURSE PRACTITIONER shall immediately include such determi-
27 nation in the patient's chart, cancel the order, and notify the person
28 who consented to the order and all hospital staff responsible for the
29 patient's care of the cancellation.

30 (c) If an order not to resuscitate was entered upon the consent of a
31 surrogate and the patient at any time gains or regains capacity, the
32 attending physician OR ATTENDING NURSE PRACTITIONER who issued the
33 order, or, if unavailable, another attending physician OR ATTENDING
34 NURSE PRACTITIONER shall immediately cancel the order and notify the
35 person who consented to the order and all hospital staff directly
36 responsible for the patient's care of the cancellation.

37 S 14. The opening paragraph and subdivision 2 of section 2971 of the
38 public health law, as amended by chapter 370 of the laws of 1991, are
39 amended to read as follows:

40 If a patient for whom an order not to resuscitate has been issued is
41 transferred from a hospital to a different hospital the order shall
42 remain effective, unless revoked pursuant to this article, until the
43 attending physician OR ATTENDING NURSE PRACTITIONER first examines the
44 transferred patient, whereupon the attending physician OR ATTENDING
45 NURSE PRACTITIONER must either:

46 2. Cancel the order not to resuscitate, provided the attending physi-
47 cian OR ATTENDING NURSE PRACTITIONER immediately notifies the person who
48 consented to the order and the hospital staff directly responsible for
49 the patient's care of the cancellation. Such cancellation does not
50 preclude the entry of a new order pursuant to this article.

51 S 15. Subdivisions 2 and 4 of section 2972 of the public health law,
52 subdivision 2 as amended by chapter 370 of the laws of 1991 and subdivi-
53 sion 4 as added by chapter 818 of the laws of 1987, are amended to read
54 as follows:

55 2. The dispute mediation system shall be authorized to mediate any
56 dispute, including disputes regarding the determination of the patient's

1 capacity, arising under this article between the patient and an attend-
2 ing physician, ATTENDING NURSE PRACTITIONER or the hospital that is
3 caring for the patient and, if the patient is a minor, the patient's
4 parent, or among an attending physician, AN ATTENDING NURSE PRACTITION-
5 ER, a parent, non-custodial parent, or legal guardian of a minor
6 patient, any person on the surrogate list, the hospital that is caring
7 for the patient and, where the dispute involves a patient who is in or
8 is transferred from a mental hygiene facility, the facility director.

9 4. If a dispute between a patient who expressed a decision rejecting
10 cardiopulmonary resuscitation and an attending physician, ATTENDING
11 NURSE PRACTITIONER or the hospital that is caring for the patient is
12 submitted to the dispute mediation system, and either:

13 (a) the dispute mediation system has concluded its efforts to resolve
14 the dispute, or

15 (b) seventy-two hours have elapsed from the time of submission without
16 resolution of the dispute, whichever shall occur first, the attending
17 physician OR ATTENDING NURSE PRACTITIONER shall either: (i) promptly
18 issue an order not to resuscitate the patient or issue the order at such
19 time as the conditions, if any, specified in the decision are met, and
20 inform the hospital staff responsible for the patient's care of the
21 order; or (ii) promptly arrange for the transfer of the patient to
22 another physician or hospital.

23 S 16. Subdivision 1 of section 2973 of the public health law, as
24 amended by chapter 577 of the laws of 1993, is amended to read as
25 follows:

26 1. The patient, an attending physician, AN ATTENDING NURSE PRACTITION-
27 ER, a parent, non-custodial parent, or legal guardian of a minor
28 patient, any person on the surrogate list, the hospital that is caring
29 for the patient and, in disputes involving a patient who is in or is
30 transferred from a mental hygiene or correctional facility, the facility
31 director, may commence a special proceeding pursuant to article four of
32 the civil practice law and rules, in a court of competent jurisdiction,
33 with respect to any dispute arising under this article, except that the
34 decision of a patient not to consent to issuance of an order not to
35 resuscitate may not be subjected to judicial review. In any proceeding
36 brought pursuant to this subdivision challenging a decision regarding
37 issuance of an order not to resuscitate on the ground that the decision
38 is contrary to the patient's wishes or best interests, the person or
39 entity challenging the decision must show, by clear and convincing
40 evidence, that the decision is contrary to the patient's wishes includ-
41 ing consideration of the patient's religious and moral beliefs, or, in
42 the absence of evidence of the patient's wishes, that the decision is
43 contrary to the patient's best interests. In any other proceeding
44 brought pursuant to this subdivision, the court shall make its determi-
45 nation based upon the applicable substantive standards and procedures
46 set forth in this article.

47 S 17. Subdivision 1 of section 2976 of the public health law, as added
48 by chapter 818 of the laws of 1987, is amended to read as follows:

49 1. If no surrogate is reasonably available, willing to make a decision
50 regarding issuance of an order not to resuscitate, and competent to make
51 a decision regarding issuance of an order not to resuscitate on behalf
52 of an adult patient who lacks capacity and who had not previously
53 expressed a decision regarding cardiopulmonary resuscitation pursuant to
54 this article, an attending physician, ATTENDING NURSE PRACTITIONER or
55 hospital may commence a special proceeding pursuant to article four of
56 the civil practice law and rules, in a court of competent jurisdiction,

1 for a judgment directing the physician OR NURSE PRACTITIONER to issue an
2 order not to resuscitate where the patient has a terminal condition, is
3 permanently unconscious, or resuscitation would impose an extraordinary
4 burden on the patient in light of the patient's medical condition and
5 the expected outcome of resuscitation for the patient, and issuance of
6 an order not to resuscitate is consistent with the patient's wishes
7 including a consideration of the patient's religious and moral beliefs
8 or, in the absence of evidence of the patient's wishes, the patient's
9 best interests.

10 S 18. Subdivisions 4, 5, 7, 8 and 9 of section 2977 of the public
11 health law, subdivision 4 as amended by chapter 577 of the laws of 1993
12 and subdivisions 5, 7, 8 and 9 as added by chapter 370 of the laws of
13 1991, are amended to read as follows:

14 4. (a) Consent to a nonhospital order not to resuscitate shall be
15 governed by sections twenty-nine hundred sixty-four through twenty-nine
16 hundred sixty-seven of this article, provided, however, that an adult
17 with capacity, whether or not hospitalized or a health care agent, may
18 also consent to a nonhospital order not to resuscitate orally to the
19 attending physician OR ATTENDING NURSE PRACTITIONER.

20 (b) When the concurrence of a second physician is sought to fulfill
21 the requirements for the issuance of an order not to resuscitate for
22 patients in a correctional facility, such second physician shall be
23 selected by the chief medical officer of the department of corrections
24 or his or her designee.

25 This paragraph shall not apply to the issuance of an order not to
26 resuscitate pursuant to section [two thousand nine] TWENTY-NINE hundred
27 sixty-six of this article.

28 (C) WHEN THE CONCURRENCE OF A SECOND PHYSICIAN IS SOUGHT TO FULFILL
29 THE REQUIREMENTS FOR THE ISSUANCE OF AN ORDER NOT TO RESUSCITATE FOR
30 HOSPICE AND HOME CARE PATIENTS, SUCH SECOND PHYSICIAN SHALL BE SELECTED
31 BY THE HOSPICE MEDICAL DIRECTOR OR HOSPICE NURSE COORDINATOR DESIGNATED
32 BY THE MEDICAL DIRECTOR OR BY THE HOME CARE SERVICES AGENCY DIRECTOR OF
33 PATIENT CARE SERVICES, AS APPROPRIATE TO THE PATIENT.

34 5. The attending physician OR ATTENDING NURSE PRACTITIONER shall
35 record the issuance of a nonhospital order not to resuscitate in the
36 patient's medical chart.

37 7. An attending physician OR ATTENDING NURSE PRACTITIONER who has
38 issued a nonhospital order not to resuscitate, and who transfers care of
39 the patient to another physician, shall inform the physician of the
40 order.

41 8. For each patient for whom a nonhospital order not to resuscitate
42 has been issued, the attending physician OR ATTENDING NURSE PRACTITIONER
43 shall review whether the order is still appropriate in light of the
44 patient's condition each time he or she examines the patient, whether in
45 the hospital or elsewhere, but at least every ninety days, provided that
46 the review need not occur more than once every seven days. The attend-
47 ing physician OR ATTENDING NURSE PRACTITIONER shall record the review in
48 the patient's medical chart record provided, however, that a registered
49 nurse who provides direct care to the patient may record the review in
50 the chart record at the direction of the physician. In such case, the
51 attending physician shall include a confirmation of the review in the
52 patient's medical chart within fourteen days of such review. Failure to
53 comply with this subdivision shall not render a nonhospital order not to
54 resuscitate ineffective.

55 9. A person who has consented to a nonhospital order not to resusci-
56 tate may at any time revoke his or her consent to the order by any act

1 evidencing a specific intent to revoke such consent. Any health care
2 professional informed of a revocation of consent to a nonhospital order
3 not to resuscitate shall notify the attending physician OR ATTENDING
4 NURSE PRACTITIONER of the revocation. An attending physician OR ATTEND-
5 ING NURSE PRACTITIONER who is informed that a nonhospital order not to
6 resuscitate has been revoked shall record the revocation in the
7 patient's medical chart, cancel the order and make diligent efforts to
8 retrieve the form issuing the order, and the standard bracelet, if any.
9 S 19. Subdivision 4 of section 2977 of the public health law, as
10 amended by chapter 308 of the laws of 1993, is REPEALED.
11 S 20. This act shall take effect on the one hundred twentieth day
12 after it shall have become a law, provided that effective immediately
13 any rules and regulations necessary to implement the provisions of this
14 act are authorized and directed to be amended, repealed and/or promul-
15 gated on or before such date.