

In Ohio there are several legally recognized ways for you to give doctors and other health care providers instructions about the medical treatment you wish to receive (or do not wish to receive)—before you actually need the care. You may have heard about *advance directives* such as

living wills

and

health care powers of attorney

. Ohio law also recognizes another tool to help you and your doctor do effective health care planning for the end of life. It is called a DNR order. Unlike a living will or health care power of attorney, a DNR order is a medical order that must be written by a physician or other authorized person.

What does DNR mean?

DNR stands for "Do Not Resuscitate." A person who does not wish to have cardiopulmonary resuscitation (CPR) performed may make this wish known through a doctor's order called a DNR order. A DNR order addresses the various methods used to revive people whose hearts have stopped functioning or who have stopped breathing. Examples of these treatments include chest compressions, electric heart shock, artificial breathing tubes, and special drugs.

Under its DNR Comfort Care Protocol, the Ohio Department of Health has established two standardized DNR orders. When completed by a doctor (or certified nurse practitioner or clinical nurse specialist, as appropriate), these standardized DNR orders allow patients to choose the extent of the treatment they wish to receive at the end of life. A patient with a *DNR Comfort Care-Arrest Order*

will receive all the appropriate medical treatment, including resuscitation, until the patient has a cardiac arrest (heart has stopped beating) or pulmonary arrest (patient has stopped breathing), at which point comfort care will be provided. By requesting a

DNR Comfort Care Order (DNR-CC)

, a patient chooses other measures such as drugs to correct abnormal heart rhythms. With this order, comfort care or other requested treatment would be provided at a point even before the heart or breathing stops. Comfort care involves keeping the patient comfortable with pain medication and providing palliative care. A DNR-CC does

not

mean "do not treat." Your doctor can explain the differences in DNR orders. At the time of this printing, Ohio has two trigger points for the DNR protocol (the DNR Comfort Care and DNR Comfort Care-Arrest), but changes regarding DNR protocol are being considered. Consult your health care professional for details.

Does everyone want CPR?

Although in some cases it does save lives, CPR (cardiopulmonary resuscitation) frequently is not successful or does not benefit those who receive it, especially elderly people or those with serious medical conditions. Even if revived, the person can be left with painful injuries, or in a debilitated state, or with brain damage resulting from oxygen deprivation. Resuscitation can involve such things as drugs, forcefully pressing on the chest, giving electric shocks to restart

the heart or placing a tube down the nose or throat to provide artificial breathing. People with terminal illnesses or other serious health conditions may prefer to be resuscitated when the end nears. For more information about the pros and cons of CPR and whether it is right for you, talk with your doctor, your family and, perhaps, your religious leader.

How do I make my wishes about CPR known? How do I get a DNR order? If you *do* want to receive CPR when it is medically appropriate, you don't have to do anything. Emergency squads and other health care providers must provide CPR whenever a person is without heartbeat or respirations. If you do

not

want CPR, you always have the right to refuse it (or any other medical treatment), but there is a good chance that you won't be able to state your wishes when an emergency happens.

Therefore, if you do not

want CPR, you should talk with your doctor about your wishes, and whether it would be appropriate for you to have a DNR order (a medical order saying that CPR should not be given).

The doctor will explain the different ways the order can be written. Your doctor is encouraged to use the standard DNR Identification Form. This form is easily recognized by paramedics and other health care workers, remains in effect in any Ohio health care center and can be accessed through the Ohio Department of Health's Web site at www.odh.ohio.gov.

Why did Ohio adopt a law about DNR?

Because Ohio's 1991 Living Will Law focused on patients in hospitals and nursing homes, there was uncertainty about the circumstances under which an emergency health care worker could act on a DNR order and honor a person's wish not to have CPR. The purpose of the 1998 DNR law is to help people communicate their wishes about resuscitation to medical personnel outside a hospital or nursing home setting. It allows emergency medical workers to honor patients' physician-written DNR orders even if they are at home rather than in the hospital when the heart or breathing stops. The 1998 DNR law also protects emergency squads and other health care providers from liability if they follow their patients' DNR orders outside a hospital or nursing home setting.

How will the emergency squad or anyone else know I have a DNR order? It would be wise to provide your doctor and your local hospital with a copy of your advance directives and DNR Identification Form before an emergency arises. If you are a patient in a hospital or nursing home, the DNR order should be in your medical chart. You or your family also should notify the medical staff that you have such an order any time you are admitted to a facility or are transferred from one facility to another. If you are receiving care at home, you should tell your family and caregivers where to find your DNR order and post it in an easy-to-find place, such as your refrigerator door. You also may want to ask your doctor about getting DNR identification such as a wallet card or bracelet that tells medical personnel you have a DNR order.

Can anyone else override my wishes about CPR?

You have the right to make your own decisions about your health care. If you are not able to

express your wishes, other people such as your legal guardian, a person you named in a health care power of attorney, or a family member can speak for you. You should make sure these people know your desires about CPR. If your doctor writes a DNR order at your request, your family cannot override it.

What if I change my mind after my doctor writes a DNR order?

You always have the right to change your mind and request CPR. If you do change your mind, you should talk with your doctor right away about revoking your DNR order. You also should tell your family and caregivers about your decision, mark "cancelled" on the actual DNR order, and destroy any DNR wallet cards or other identification items you may have. If you have a DNR order, but change your mind about the level of care you would want regarding CPR and medical interventions that may prolong life, you will need a new order.

What is the difference between a living will and a DNR order?

Both living wills and DNR orders deal with end-of-life decisions, but they are different. You may complete a living will document yourself even when you are healthy. Your living will document specifies in advance the kind of medical treatment you would want if and when you have a terminal illness or are in a permanently unconscious state and are no longer able to state your own wishes.

By contrast, you do not write a DNR order for yourself. Instead, you make your wishes known to your doctor, who writes a DNR order if and when your condition warrants it. The DNR order addresses your current state of health and the kind of medical treatment you and your physician decide is appropriate under current circumstances.

A living will may not protect you from receiving CPR or other medical interventions that may prolong life. It *only* takes effect if you are in a certifiably terminal or permanently unconscious state, and emergency squad personnel cannot determine if you meet these conditions. A DNR order provides better protection, if you are sure you do not want CPR or other interventions.

How does a person use a living will to obtain a DNR order?

Ohio has a standard Living Will Declaration form that is widely available. This standard form specifically directs your doctor to write a DNR order for you if two doctors have agreed that you are either terminally ill or permanently unconscious. Your attorney and your doctor can help answer questions about the living will form, including the DNR issue.

How does a health care power of attorney differ from a living will? From a DNR order?

Another kind of advance directive available under Ohio law is called the health care power of attorney. This is a document that names another person (usually a spouse, child, or other relative, and preferably someone who can understand your health status and make potentially difficult decisions on your behalf, if necessary) to make health care decisions for you whenever you are unable to do so yourself. These decisions could range from something as simple as whether to see a doctor to something as significant as whether to have surgery or to discontinue treatment.

Unlike a health care power of attorney, a living will expresses your wishes directly to the health care provider and applies only if you are terminally ill or permanently unconscious.

A health care power of attorney is not a DNR order, though it ordinarily would permit the person you appoint to agree to a DNR order for you, if you are unable to express your wishes at the time.

More information about advance directives is available in the Ohio State Bar Association publication, "What you should know about . . . Living Wills and Health Care Powers of Attorney."

Can I use a general power of attorney to address my health care wishes?

No. You may have given your general power of attorney to someone to manage your financial affairs while you were on vacation or in the hospital. This general power of attorney usually does not address health care issues and ends if you become disabled.

If you want a *general* power of attorney to continue, even if you become disabled, the document must state that it is a *durable*, or continuing, power of attorney.

A health care power of attorney is a *durable*

power; it continues even after you become disabled and appoints someone to carry out your health care wishes. Health care providers will more readily recognize your power of attorney if it is in a separate document expressly addressing health care matters.

How are DNR orders, living wills, and health care powers of attorney used?

A living will might be used to direct a physician to write a DNR order:

Jane decides she does not want to receive CPR. She obtains a living will form and fills it out properly. Later, Jane becomes debilitated and needs home health care, but she hasn't discussed resuscitation with her doctor and a specific DNR order has not been written.

One day, the visiting nurse arrives to find that Jane is not breathing. At this point, the nurse begins CPR, because a DNR order has not been written. If Jane is resuscitated and transferred to a hospital, her doctors may write a DNR order, but only if they decide she is terminally ill or permanently unconscious. Jane's living will can serve as evidence that she does not want to be resuscitated in such a circumstance. Her doctor may write a DNR order so that, if Jane's heart stops beating again, she will not be resuscitated.

A health care power of attorney might be used to authorize a DNR order:

Bill decides that, under some circumstances, he would not want to receive CPR and informs his family of this decision. He completes a health care power of attorney form, appointing his wife to make health care decisions for him if he is unable to do so. Later, Bill is seriously injured in an accident and is moved to a hospital while he is unconscious. Bill's wife shows the doctors the health care power of attorney and explains that Bill would not want CPR if his heart or lungs should stop functioning. The doctors write a DNR "CC-Arrest" order, indicating on Bill's medical chart that he is not to be resuscitated if he dies, but that he should receive aggressive medical treatment before that time. Bill receives treatment, including medicine, a breathing tube and other resuscitative measures, until his heart stops. At that point, the health care workers do not resuscitate him.

A DNR order alone might be used as in the following example:

John is chronically ill and decides he does not want to receive CPR, although he wants limited medical treatment. He talks with his doctor, who writes a "DNR-CC" order on the DNR Identification Form provided by the Ohio Department of Health, signs it, and gives it to John.

Later, John needs home health care. John tells his family about his DNR order and gives them a copy. One day, his daughter comes in and finds that John is having trouble breathing. She calls 9-1-1, and shows the DNR order to the medic who arrives. The medic transports John to the hospital, where he is treated with antibiotics for pneumonia and is sent back home. A week later, John stops breathing. His daughter calls 9-1-1, and again shows the DNR order to the medic. This time, since John has stopped breathing, the squad does not resuscitate him, although John receives comfort care.

Where can I get further information? Can I draw up my own documents?

You cannot draw up your own DNR order. Instead, you will need to speak with your doctor, who can complete the appropriate forms for the order, and can tell you how to obtain a wallet card, bracelet or other DNR identification.

You *may* draw up your own living will and health care power of attorney documents, but it is a good idea to consult with an attorney about how these documents fit into your overall estate plan. The Ohio State Bar Association, the Ohio State Medical Association, the Midwest Care Alliance (formerly Ohio Hospice and Palliative Care Organization), and the Ohio Hospital Association jointly revised a standard Living Will Declaration form and a standard Health Care Power of Attorney form. Although you do not have to use the standard forms, your documents must meet certain requirements under Ohio law.

Contact the Law Office of Michael J. Davis

To talk to Michael J. Davis about your legal concerns, please contact us by calling 513-604-8391 or emailing us at davislaw01@gmail.com

Michael J. Davis is located in Mason, Ohio, and serves clients throughout Ohio, including Lebanon, Maineville, Mason, Morrow, Springboro, South Lebanon, West Chester, Warren County, Butler County, Hamilton County, Clermont County and Clinton County, Ohio.

