

# SENATE BILL No. 784

January 25, 2018, Introduced by Senators WARREN, JONES, BIEDA and BRANDENBURG and referred to the Committee on Judiciary.

A bill to amend 1996 PA 193, entitled "Michigan do-not-resuscitate procedure act," by amending sections 2, 3a, 4, 8, 10, 11, and 13 (MCL 333.1052, 333.1053a, 333.1054, 333.1058, 333.1060, 333.1061, and 333.1063), sections 2 and 11 as amended by 2017 PA 157 and section 3a as added and sections 4, 8, and 10 as amended by 2013 PA 155, and by adding section 3b.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 2. As used in this act:

2           (a) "Actual notice" includes the physical presentation of an  
3 order, a revocation of an order, or another written document  
4 authorized under this act from or on behalf of a declarant.

5           (b) "Attending physician" means the physician who has primary  
6 responsibility for the treatment and care of a declarant.

1           (C) "COMFORT OR CARE MEASURE" MEANS TREATMENT OF A DECLARANT  
2 DESIGNED BY AN ATTENDING PHYSICIAN TO ENSURE THE DECLARANT'S MENTAL  
3 OR PHYSICAL COMFORT. COMFORT OR CARE MEASURE DOES NOT INCLUDE  
4 TREATMENT THAT ATTEMPTS TO PROLONG A DECLARANT'S LIFE.

5           (D) ~~(e)~~"Declarant" means an individual who has executed a do-  
6 not-resuscitate order on his or her own behalf or on whose behalf a  
7 do-not-resuscitate order has been executed as provided in this act.

8           (E) ~~(d)~~"Delegatee" means an individual to whom a physician  
9 has delegated the authority to perform 1 or more selected acts,  
10 tasks, or functions under section 16215 of the public health code,  
11 MCL 333.16215.

12           (F) ~~(e)~~"Do-not-resuscitate identification bracelet" or  
13 "identification bracelet" means a wrist bracelet that meets the  
14 requirements of section 7 and that is worn by a declarant while a  
15 do-not-resuscitate order is in effect.

16           (G) ~~(f)~~"Do-not-resuscitate order" or "order" means a document  
17 executed under this act directing that, if an individual suffers  
18 cessation of both spontaneous respiration and circulation in a  
19 setting outside of a hospital, resuscitation will not be initiated.

20           (H) ~~(g)~~"Emergency medical technician" means that term as  
21 defined in section 20904 of the public health code, MCL 333.20904.

22           (I) ~~(h)~~"Emergency medical technician specialist" means that  
23 term as defined in section 20904 of the public health code, MCL  
24 333.20904.

25           (J) ~~(i)~~"Guardian" means that term as defined in section 1104  
26 of the estates and protected individuals code, 1998 PA 386, MCL  
27 700.1104.

1           (K) ~~(j)~~—"Hospital" means that term as defined in section 20106  
2 of the public health code, MCL 333.20106.

3           (I) ~~(k)~~—"Medical first responder" means that term as defined  
4 in section 20906 of the public health code, MCL 333.20906.

5           (M) **"MINOR CHILD" MEANS AN INDIVIDUAL WHO IS LESS THAN 18**  
6 **YEARS OF AGE AND IS NOT EMANCIPATED BY OPERATION OF LAW AS PROVIDED**  
7 **IN SECTION 4 OF 1968 PA 293, MCL 722.4.**

8           (N) ~~(l)~~—"Nurse" means an individual **WHO IS** licensed or  
9 otherwise authorized to engage in the practice of nursing or  
10 practice of nursing as a licensed practical nurse under part 172 of  
11 the public health code, MCL 333.17201 to 333.17242.

12           (O) ~~(m)~~—"Organization" means a company, corporation, firm,  
13 partnership, association, trust, or other business entity or a  
14 governmental agency.

15           (P) ~~(n)~~—"Paramedic" means that term as defined in section  
16 20908 of the public health code, MCL 333.20908.

17           (Q) **"PARENT" MEANS THE NATURAL OR ADOPTIVE PARENT OF A MINOR**  
18 **CHILD WHO POSSESSES LEGAL DECISION-MAKING AUTHORITY AS TO THE**  
19 **IMPORTANT DECISIONS AFFECTING THE WELFARE OF THE MINOR CHILD.**

20           (R) ~~(o)~~—"Patient advocate" means an individual **WHO IS**  
21 designated to make medical treatment decisions for a patient under  
22 sections 5506 to 5515 of the estates and protected individuals  
23 code, 1998 PA 386, MCL 700.5506 to 700.5515.

24           (S) ~~(p)~~—"Physician" means an individual **WHO IS** licensed or  
25 otherwise authorized to engage in the practice of medicine or the  
26 practice of osteopathic medicine and surgery under article 15 of  
27 the public health code, MCL 333.16101 to 333.18838.

1           (T) ~~(e)~~—"Physician's assistant" means an individual who is  
2 licensed as a physician's assistant under part 170 or part 175 of  
3 the public health code, MCL 333.17001 to 333.17084 and 333.17501 to  
4 333.17556.

5           (U) ~~(r)~~—"Public health code" means the public health code,  
6 1978 PA 368, MCL 333.1101 to 333.25211.

7           (V) EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION (W),  
8 "RESUSCITATE" MEANS PERFORM CARDIOPULMONARY RESUSCITATION OR A  
9 COMPONENT OF CARDIOPULMONARY RESUSCITATION, INCLUDING, BUT NOT  
10 LIMITED TO, ANY OF THE FOLLOWING:

11           (i) CARDIAC COMPRESSION.

12           (ii) ENDOTRACHEAL INTUBATION OR OTHER ADVANCED AIRWAY  
13 MANAGEMENT.

14           (iii) ARTIFICIAL VENTILATION.

15           (iv) DEFIBRILLATION.

16           (v) THE ADMINISTRATION OF A CARDIAC RESUSCITATION MEDICATION.

17           (vi) ANOTHER RELATED PROCEDURE.

18           (W) "RESUSCITATE" DOES NOT INCLUDE THE HEIMLICH MANEUVER OR A  
19 SIMILAR PROCEDURE USED TO EXPEL AN OBSTRUCTION FROM A DECLARANT'S  
20 THROAT.

21           (X) "SCHOOL" MEANS A NONPUBLIC SCHOOL AND A PUBLIC SCHOOL AS  
22 THOSE TERMS ARE DEFINED IN SECTION 5 OF THE REVISED SCHOOL CODE,  
23 1976 PA 451, MCL 380.5.

24           (Y) ~~(s)~~—"Vital sign" means a pulse or evidence of respiration.

25           (Z) ~~(t)~~—"Ward" means that term as defined in section 1108 of  
26 the estates and protected individuals code, 1998 PA 386, MCL  
27 700.1108.

1           Sec. 3a. (1) A guardian with the power to execute a do-not-  
2 resuscitate order under section 5314 of the estates and protected  
3 individuals code, 1998 PA 386, MCL 700.5314, may execute a do-not-  
4 resuscitate order on behalf of a ward after complying with section  
5 5314 of the estates and protected individuals code, 1998 PA 386,  
6 MCL 700.5314. **A GUARDIAN OF A WARD WHO IS A MINOR CHILD MAY EXECUTE**  
7 **A DO-NOT-RESUSCITATE ORDER ON BEHALF OF THE WARD.**

8           (2) An order executed under this section ~~shall~~**MUST** be on a  
9 form described in section 4. The order ~~shall~~**MUST** be dated, ~~and~~  
10 executed voluntarily, and signed by each of the following  
11 individuals:

12           (a) The guardian.

13           (b) The ward's attending physician.

14           (c) Two witnesses 18 years of age or older, at least 1 of whom  
15 is not the ward's spouse, parent, child, grandchild, sibling, or  
16 presumptive heir.

17           (3) The names of all signatories ~~shall~~**MUST** be printed or  
18 typed below the corresponding signatures. A witness shall not sign  
19 an order unless the guardian appears to the witness to be of sound  
20 mind and under no duress, fraud, or undue influence.

21           (4) At any time after an order is signed and witnessed, the  
22 guardian, the attending physician or his or her delegatee, or an  
23 individual designated by the guardian may apply an identification  
24 bracelet to the ward's wrist.

25           (5) A guardian who executes an order under this section shall  
26 maintain possession of the order and shall have the order  
27 accessible within the ward's place of residence or other setting

1 outside of a hospital or, if applicable, provide a copy of the  
2 order to ~~the administrator of~~ THE FOLLOWING:

3 (A) THE ADMINISTRATOR OF THE WARD'S SCHOOL OR TO THE  
4 ADMINISTRATOR'S DESIGNEE.

5 (B) THE ADMINISTRATOR OF a facility in which the ward is a  
6 patient or resident or to the administrator's designee.

7 SEC. 3B. (1) A PARENT MAY EXECUTE A DO-NOT-RESUSCITATE ORDER  
8 ON BEHALF OF HIS OR HER MINOR CHILD. IF THE PARENT SHARES WITH  
9 ANOTHER PARENT LEGAL DECISION-MAKING AUTHORITY AS TO THE IMPORTANT  
10 DECISIONS AFFECTING THE WELFARE OF THE MINOR CHILD, BOTH PARENTS OF  
11 THE MINOR CHILD MUST EXECUTE THE ORDER.

12 (2) AN ORDER EXECUTED UNDER THIS SECTION MUST BE ON A FORM  
13 DESCRIBED IN SECTION 4. THE ORDER MUST BE DATED, EXECUTED  
14 VOLUNTARILY, AND SIGNED BY EACH OF THE FOLLOWING INDIVIDUALS:

15 (A) THE PARENT OR, IF REQUIRED UNDER SUBSECTION (1), BOTH  
16 PARENTS OF THE MINOR CHILD.

17 (B) THE MINOR CHILD'S ATTENDING PHYSICIAN.

18 (C) TWO WITNESSES 18 YEARS OF AGE OR OLDER, EACH OF WHOM IS  
19 NOT THE MINOR CHILD'S PARENT, CHILD, GRANDCHILD, SIBLING, OR  
20 PRESUMPTIVE HEIR.

21 (3) THE NAMES OF ALL SIGNATORIES MUST BE PRINTED OR TYPED  
22 BELOW THE CORRESPONDING SIGNATURES. A WITNESS SHALL NOT SIGN AN  
23 ORDER UNLESS THE PARENT APPEARS OR, IF REQUIRED UNDER SUBSECTION  
24 (1), BOTH PARENTS OF THE MINOR CHILD APPEAR, TO THE WITNESS TO BE  
25 OF SOUND MIND AND UNDER NO DURESS, FRAUD, OR UNDUE INFLUENCE.

26 (4) AT ANY TIME AFTER AN ORDER IS SIGNED AND WITNESSED, THE  
27 PARENT, THE ATTENDING PHYSICIAN OR HIS OR HER DELEGATEE, OR AN

1 INDIVIDUAL DESIGNATED BY THE PARENT MAY APPLY AN IDENTIFICATION  
2 BRACELET TO THE MINOR CHILD'S WRIST.

3 (5) A PARENT WHO EXECUTES AN ORDER UNDER THIS SECTION SHALL  
4 MAINTAIN POSSESSION OF THE ORDER AND SHALL HAVE THE ORDER  
5 ACCESSIBLE WITHIN THE MINOR CHILD'S PLACE OF RESIDENCE OR OTHER  
6 SETTING OUTSIDE OF A HOSPITAL OR, IF APPLICABLE, PROVIDE A COPY OF  
7 THE ORDER TO THE FOLLOWING:

8 (A) THE ADMINISTRATOR OF THE MINOR CHILD'S SCHOOL OR TO THE  
9 ADMINISTRATOR'S DESIGNEE.

10 (B) THE ADMINISTRATOR OF A FACILITY IN WHICH THE MINOR CHILD  
11 IS A PATIENT OR RESIDENT OR TO THE ADMINISTRATOR'S DESIGNEE.

12 Sec. 4. A do-not-resuscitate order executed under section 3,  
13 ~~or 3a, shall~~ OR 3B MUST include, but is not limited to, the  
14 following language, and ~~shall~~ MUST be in substantially the  
15 following form:

16 "DO-NOT-RESUSCITATE ORDER

17 This do-not-resuscitate order is issued by  
18 \_\_\_\_\_, attending physician for  
19 \_\_\_\_\_.  
20 (Type or print declarant's, ~~ex~~-ward's, OR MINOR CHILD'S name)

21 Use the appropriate consent section below:

22 A. DECLARANT CONSENT

23 I have discussed my health status with my physician named  
24 above. I request that in the event my heart and breathing should  
25 stop, no person shall attempt to resuscitate me.

26 This order will remain in effect until it is revoked as  
27 provided by law.

1 Being of sound mind, I voluntarily execute this order, and  
2 I understand its full import.

3 \_\_\_\_\_  
4 (Declarant's signature) (Date)

5 \_\_\_\_\_  
6 (Signature of person who signed for (Date)  
7 declarant, if applicable)

8 \_\_\_\_\_  
9 (Type or print full name)

10 B. PATIENT ADVOCATE CONSENT

11 I authorize that in the event the declarant's heart and  
12 breathing should stop, no person shall attempt to resuscitate  
13 the declarant. I understand the full import of this order and  
14 assume responsibility for its execution. This order will remain  
15 in effect until it is revoked as provided by law.

16 \_\_\_\_\_  
17 (Patient advocate's signature) (Date)

18 \_\_\_\_\_  
19 (Type or print patient advocate's name)

20 C. PARENT CONSENT

21 I AUTHORIZE THAT IN THE EVENT THE MINOR CHILD'S HEART AND  
22 BREATHING SHOULD STOP, NO PERSON SHALL ATTEMPT TO RESUSCITATE  
23 THE MINOR CHILD. I UNDERSTAND THE FULL IMPORT OF THIS ORDER AND  
24 ASSUME RESPONSIBILITY FOR ITS EXECUTION. THIS ORDER WILL REMAIN  
25 IN EFFECT UNTIL IT IS REVOKED AS PROVIDED BY LAW.

26 \_\_\_\_\_  
27 (PARENT'S SIGNATURE) (DATE)

1 \_\_\_\_\_  
2 (TYPE OR PRINT PARENT'S NAME)

3 \_\_\_\_\_  
4 (PARENT'S SIGNATURE) (DATE)

5 \_\_\_\_\_  
6 (TYPE OR PRINT PARENT'S NAME)

7 D. ~~C.~~ GUARDIAN CONSENT

8 I authorize that in the event the ward's heart and breathing  
9 should stop, no person shall attempt to resuscitate the ward.

10 I understand the full import of this order and assume  
11 responsibility for its execution. This order will remain in  
12 effect until it is revoked as provided by law.

13 \_\_\_\_\_  
14 (Guardian's signature) (Date)

15 \_\_\_\_\_  
16 (Type or print guardian's name)

17 \_\_\_\_\_  
18 (Physician's signature) (Date)

19 \_\_\_\_\_  
20 (Type or print physician's full name)

21

22 ATTESTATION OF WITNESSES

23 The individual who has executed this order appears to be of  
24 sound mind, and under no duress, fraud, or undue influence.

25 Upon executing this order, the declarant has (has not) received  
26 an identification bracelet.

27 \_\_\_\_\_

1 (Witness signature) (Date) (Witness signature) (Date)  
 2 \_\_\_\_\_  
 3 (Type or print witness's name) (Type or print witness's  
 name)

4

5 **THIS FORM WAS PREPARED PURSUANT TO, AND IS IN COMPLIANCE WITH,**  
 6 **THE MICHIGAN DO-NOT-RESUSCITATE PROCEDURE ACT."**

7 Sec. 8. An attending physician who signs a declarant's do-not-  
 8 resuscitate order under section 3, ~~or 3a~~, **OR 3B** shall immediately  
 9 obtain a copy or a duplicate of the executed order and make that  
 10 copy or duplicate part of the declarant's permanent medical record.

11 Sec. 10. (1) A declarant may revoke an order executed by  
 12 himself or herself or executed on his or her behalf at any time and  
 13 in any manner by which he or she is able to communicate his or her  
 14 intent to revoke the order. If the declarant's revocation is not in  
 15 writing, an individual who observes the declarant's revocation of  
 16 the order shall describe the circumstances of the revocation in  
 17 writing, sign the writing, and deliver the writing to the  
 18 declarant's attending physician or his or her delegatee and, if the  
 19 declarant is a patient or resident of a facility **OR A PUPIL OF A**  
 20 **SCHOOL**, to the administrator of the facility **OR SCHOOL** or the  
 21 administrator's designee. A patient advocate, **PARENT**, or guardian  
 22 may revoke an order on behalf of a declarant at any time by issuing  
 23 the revocation in writing and provide actual notice of the  
 24 revocation by delivering the written revocation to the declarant's  
 25 attending physician or his or her delegatee and, if the declarant  
 26 is a patient or resident of a facility **OR A PUPIL OF A SCHOOL**, to  
 27 the administrator of the facility **OR SCHOOL** or the administrator's

1 designee. Upon revocation, the declarant, patient advocate, **PARENT**,  
2 guardian, or attending physician or his or her delegatee who has  
3 actual notice of a revocation of an order under this section shall  
4 do all of the following:

5 (a) Write "void" on all pages of the order.

6 (b) If applicable, remove the declarant's do-not-resuscitate  
7 identification bracelet.

8 (2) A physician or his or her delegatee who receives actual  
9 notice of a revocation of an order shall immediately make the  
10 revocation, including, if available, the written description of the  
11 circumstances of the revocation required by subsection (1), part of  
12 the declarant's permanent medical record. The administrator of a  
13 facility or his or her designee who receives actual notice of a  
14 revocation of an order of a declarant who is a patient or resident  
15 of the facility shall immediately make the revocation part of the  
16 patient's or resident's permanent medical record.

17 (3) A revocation of an order under this section is binding  
18 upon another person at the time that other person receives actual  
19 notice of the revocation.

20 Sec. 11. (1) One or more of the following health professionals  
21 who arrive at a declarant's location outside of a hospital shall  
22 determine if the declarant has 1 or more vital signs, whether or  
23 not the health professional views or has actual notice of an order  
24 that is alleged to have been executed by the declarant or other  
25 person authorized to execute an order on the declarant's behalf:

26 (a) A paramedic.

27 (b) An emergency medical technician.

1 (c) An emergency medical technician specialist.  
2 (d) A physician.  
3 (e) A nurse.  
4 (f) A medical first responder.  
5 (g) A respiratory therapist.  
6 (h) A physician's assistant.  
7 (2) If the health professional determines under subsection (1)  
8 that the declarant has no vital signs, and if the health  
9 professional determines that the declarant is wearing a do-not-  
10 resuscitate identification bracelet or has actual notice of a do-  
11 not-resuscitate order for the declarant, subject to section 11a,  
12 the health professional shall not attempt to resuscitate the  
13 declarant.

14 (3) IF THE DECLARANT IS LOCATED AT A SCHOOL, AN INDIVIDUAL WHO  
15 DETERMINES THAT THE DECLARANT IS WEARING A DO-NOT-RESUSCITATE  
16 IDENTIFICATION BRACELET OR HAS ACTUAL NOTICE OF A DO-NOT-  
17 RESUSCITATE ORDER FOR THE DECLARANT SHALL NOT ATTEMPT TO  
18 RESUSCITATE THE DECLARANT BEFORE A HEALTH PROFESSIONAL DESCRIBED IN  
19 SUBSECTION (1) ARRIVES AT THE DECLARANT'S LOCATION.

20 Sec. 13. A person or organization is not subject to civil or  
21 criminal liability for ~~either~~ **ANY** of the following:

22 (a) Attempting to resuscitate an individual who has executed a  
23 do-not-resuscitate order or on whose behalf an order has been  
24 executed, if the person or organization has no actual notice of the  
25 order.

26 (b) Failing to resuscitate an individual who has revoked a do-  
27 not-resuscitate order or on whose behalf a do-not-resuscitate order

1 has been revoked, if the person or organization does not receive  
2 actual notice of the revocation.

3           (C) FAILING TO CORRECTLY PERFORM A COMFORT OR CARE MEASURE  
4 THAT IS INCLUDED IN THE DECLARANT'S DO-NOT-RESUSCITATE ORDER, IF  
5 THE PERSON OR ORGANIZATION ACTED IN GOOD FAITH IN PERFORMING THE  
6 COMFORT OR CARE MEASURE. THE EXEMPTION FROM CIVIL OR CRIMINAL  
7 LIABILITY UNDER THIS SUBDIVISION DOES NOT APPLY IF THE PERSON OR  
8 ORGANIZATION NEGLIGENTLY FAILS TO PERFORM A COMFORT OR CARE MEASURE  
9 THAT IS INCLUDED IN THE DECLARANT'S DO-NOT-RESUSCITATE ORDER.

10           Enacting section 1. This amendatory act takes effect 90 days  
11 after the date it is enacted into law.