


Nancy Dahlstrom
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Triptaa Surve, Department of Health
FROM: April Simpson, Office of the Lieutenant Governor 
465.4081
DATE: April 26, 2024
RE: Filed Permanent Regulations: Department of Health

Department of Health regulations re: Do-Not-Resuscitate Protocol and Identification (7 AAC 16)

Attorney General File:	2023200464
Regulation Filed:	4/26/2024
Effective Date:	5/26/2024
Print:	250, July 2024

cc with enclosures: Colleen Bailey, Department of Law
Judy Herndon, LexisNexis



THE STATE
of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

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April 25, 2024

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110015
Juneau, AK 99811-0015

Re: *7 AAC 16: DOH/DPH - Do-Not-Resuscitate Protocol and Identification*
Our file: 2023200464

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Department of Health against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This letter constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Department of Health after the close of the public comment period.

In conformance with ch. 58, SLA 2022 (SCS CSHB 392(HSS)), the regulations add an attending advanced practice registered nurse and an attending physician assistant to the existing category of an attending physician who may execute a do-not-resuscitate protocol in accordance with a patient's advance instructions.

Because ch. 58, SLA 2022 is already in effect by operation of law, we respectfully request that you file these regulations as soon as possible.

The November 12, 2023 public notice and the April 23, 2024 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.060 is not required.

No technical corrections were necessary to conform the regulations in accordance with AS 44.62.060.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL

By: Rebecca C. Polizzotto
Digitally signed by
Rebecca C. Polizzotto
Date: 2024.04.25
16:02:17 -08'00'

Rebecca C. Polizzotto
Chief Assistant Attorney General
Legislation, Regulations, and
Legislative Research Section

RCP/bhp

CC w/enclosure: Triptaa Surve, Regulations Contact
Department of Health

Leah R. Farzin, Assistant Attorney General
Department of Law

Steven C. Weaver, Assistant Attorney General
Department of Law

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE DEPARTMENT OF HEALTH.

The attached five pages of regulations, dealing with Do-Not Resuscitate Protocol and Identification, Provider Orders for Life-Sustaining Treatment (POLST), are adopted and certified to be a correct copy of the regulation changes that the Department of Health adopts under the authority of AS 13.52.060, AS 13.52.065, AS 13.52.080, AS 13.52.090, AS 13.52.100, AS 13.52.110, AS 13.52.120, AS 13.52.130, AS 13.52.135, AS 13.52.140, AS 13.52.150, AS 13.52.160, AS 13.52.300, and AS 13.52.390, and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Health paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Heidi Hedberg
Digitally signed by Heidi Hedberg
Date: 2024.04.23 09:10:01 -08'00'

Heidi Hedberg, Commissioner
Department of Health

FILING CERTIFICATION

April Simpson for

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on

April 26, 2024, at 1:50 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

for April Simpson
Lieutenant Governor Nancy Dahlstrom

Effective: May 26, 2024.

Register: 250, July 2024.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

April Simpson, Regulations and Initiatives Specialist

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

7 AAC 16.010(a) is amended to read:

(a) This section, and the ***Provider*** [PHYSICIAN] *Orders for Life Sustaining Treatment (POLST) Program*, adopted by reference in 7 AAC 16.020, establish the do-not-resuscitate (DNR) protocol for a [PHYSICIANS AND OTHER] health care **provider** [PROVIDERS] to withhold cardiopulmonary resuscitation under AS 13.52.065. The [PHYSICIAN OR OTHER] health care provider implementing the protocol shall comply with applicable state and federal laws and regulations related to the provision of or withholding of care.

The introductory language of 7 AAC 16.010(b) is amended to read:

(b) Unless exempted under (c) of this section, a [THE PHYSICIAN OR OTHER] health care provider must first clearly confirm the identity of a [THE] patient by one of the following methods:

...

(((Publisher: Please remove the "or" connector from the end of 7 AAC 16.010(b)(4).)))

7 AAC 16.010(c) is amended to read:

(c) If a patient is unconscious or otherwise unresponsive to questions regarding the patient's identity, a [THE PHYSICIAN OR OTHER] health care provider may rely solely on the department-approved DNR necklace or bracelet worn by the patient, without using other methods to identify the patient.

The introductory language of 7 AAC 16.010(d) is amended to read:

(d) Once a [THE] patient's identity is determined under (b) or (c) of this section, a [THE

PHYSICIAN OR OTHER] health care provider shall examine the patient, patient's available medical records, and other sources to determine the patient's DNR status. The **patient's** DNR status and the patient's desire for resuscitative efforts may be determined using the following:

...

7 AAC 16.010(d)(4) is amended to read:

(4) the department's [POLST REGISTRY, OR THE DEPARTMENT'S] *Alaska POLST (Provider [PHYSICIAN] Orders for Life Sustaining Treatment) Form, dated January 4, 2024*[JUNE 3, 2020,] and adopted by reference;

The introductory language of 7 AAC 16.010(d)(5) is amended to read:

(5) an attending physician's, **attending advanced practice registered nurse's, or attending physician assistant's** DNR order, if

...

7 AAC 16.010(d)(5)(B) is amended to read:

(B) a verbal order has been issued directly to a [THE PHYSICIAN OR] health care provider by the attending physician, **attending advanced practice registered nurse, or attending physician assistant;** [.]

7 AAC 16.010(d)(6) is amended to read:

(6) a DNR, POLST, or MOLST order or identification for the patient that is executed or issued in another state or a territory or possession of the United States and that meets

the requirements of AS 13.52.150.

7 AAC 16.010(e) is amended to read:

(e) A [THE PHYSICIAN OR OTHER] health care provider shall immediately proceed with patient assessment and care, including cardiopulmonary resuscitation, until the information required under (b) - (d) of this section is obtained. Cardiopulmonary resuscitation (CPR) need not be started or continued if the [PHYSICIAN OR OTHER] health care provider determines that it would be futile.

7 AAC 16.010(f) is amended to read:

(f) After establishing that a [THE] patient is a qualified DNR patient under AS 13.52 and this chapter, a [THE PHYSICIAN OR] health care provider may not attempt CPR for a patient who does not have a pulse or is not breathing. The DNR order does not affect other care or services that the [PHYSICIAN OR OTHER] health care provider has determined are appropriate for the patient and may lawfully be performed by that provider.

7 AAC 16.010(g) is amended to read:

(g) A [THE] qualified DNR patient, or the patient's attending physician, **attending advanced practice registered nurse, or attending physician assistant** may revoke the patient's DNR status at any time and in any manner in accordance with AS 13.52. (Eff. 10/10/96, Register 140; am 5/6/2021, Register 238; am 5 / 26 / 2024, Register 250)

Authority:	AS 13.52.060	AS 13.52.100	AS 13.52.135
	AS 13.52.065	AS 13.52.110	AS 13.52.140

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AS 13.52.080

AS 13.52.120

AS 13.52.150

AS 13.52.090

AS 13.52.130

AS 13.52.160

7 AAC 16.020 is amended to read:

7 AAC 16.020. Department-approved DNR program. The department adopts by reference the department's ***Provider [PHYSICIAN] Orders for Life Sustaining Treatment (POLST) Program***, dated **January 4, 2024** [JUNE 3, 2020], as its standards for the department-approved do-not-resuscitate (DNR) protocol. (Eff. 10/10/96, Register 140; am 5/6/2021, Register 238; am 5/26/2024, Register 250)

Authority: AS 13.52.060 AS 13.52.065

Editor's note: A copy of the ***Provider [PHYSICIANS] Orders for Life Sustaining Treatment (POLST) Program***, adopted by reference in 7 AAC 16.020, may be accessed online at **<https://doh.alaska.gov/dph/Emergency/Pages/ems/programs/Alaska-Provider-Orders-for-Life-Sustaining-Treatment.aspx>**

[**[HTTPS://DHSS.ALASKA.GOV/DPH/EMERGENCY/PAGES/EMS/PROGRAMS/ALASKA-PHYSICIAN-ORDERS-FOR-LIFE-SUSTAINING-TREATMENT.ASPX](https://dhss.alaska.gov/dph/emergency/pages/ems/programs/alaska-physician-orders-for-life-sustaining-treatment.aspx)**], or may be reviewed at the State of Alaska, Department of Health, Division of Public Health, Section of Rural and Community Health Systems, 3601 C Street, Suite 424, Anchorage, AK 99503.

7 AAC 16.090(5) is amended to read:

(5) "POLST" means **provider** [PHYSICIAN] orders for life sustaining treatment, including DNR orders and other orders that specify a patient's wishes for other life sustaining

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treatment; for purposes of this paragraph, "provider" or "health care provider" means a licensed physician, advanced practice registered nurse, or attending physician assistant;[.]

7 AAC 16.090 is amended by adding a new paragraph to read:

(6) "provider" or "health care provider" has the meaning given in AS 13.52.390.

(Eff. 10/10/96, Register 140; am 5/6/2021, Register 238; am 5 /20 /2024, Register 250.)

Authority: AS 13.52.065 AS 13.52.300 AS 13.52.390