

COMAR Regulations
02.06.03

.01 Scope.

This chapter sets out the “Instructions on Current Life-Sustaining Treatment Options” form developed by the Office of the Attorney General and certain related procedures and requirements.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) "Advance directive" has the meaning stated in Health-General Article, §5-601(d), Annotated Code of Maryland.

(2) "Agent" has the meaning stated in Health-General Article, §5-601(c), Annotated Code of Maryland.

(3) "Facility" has the meaning stated in Health-General Article, §19-343(a), Annotated Code of Maryland.

(4) "Form" means the “Instructions on Current Life-Sustaining Treatment Options” form required to be developed pursuant to Health-General Article, §6-608.1, Annotated Code of Maryland.

(5) "Health care provider" has the meaning stated in Health-General Article, §5-601(k), Annotated Code of Maryland.

(6) "Medical record" has the meaning stated in Health-General Article, §4-301(g), Annotated Code of Maryland.

(7) "Patient" has the meaning stated in Health-General Article, §4-301(j), Annotated Code of Maryland.

(8) "Prepare" means to:

- (a) Assist a patient or proxy in making entries on a form; and
- (b) Obtain the signatures required on the form.

(9) "Proxy" means the agent or surrogate decision maker who is making health care decisions on behalf of a patient in accordance with the Health Care Decisions Act, Health-General Article, §§5-601–5-618, Annotated Code of Maryland.

(10) "Resident" means a patient who has been admitted to a facility.

(11) "Surrogate decision maker" means an individual who makes health care decisions for a patient pursuant to Health-General Article, §5-605, Annotated Code of Maryland.

.03 Nature and Contents of the Form.

- A. The form shall consist of two sides of a single sheet of paper.
- B. The format and contents of the form are as follows:

[Click Here for Form](#)

.04 Voluntary Use of the Form.

- A. Use of the form by a patient or proxy is voluntary.
- B. A patient or proxy may make an entry on some parts of the form and decline to do so on other parts.

.05 Offering of Form by Health Care Providers and Facilities.

- A. Any health care provider may offer the form to:
 - (1) A patient who has the capacity to use the form; or
 - (2) A proxy on behalf of a patient who lacks the capacity to use the form.

B. A facility shall, with reasonable promptness after a resident's admission, offer the form to:

- (1) A resident who has the capacity to use the form; or
- (2) A proxy on behalf of a resident who lacks the capacity to use the form.

C. If a resident or proxy who has been offered the form declines to use it, a facility shall document:

- (1) The date of the offer;
- (2) The identity of the individual who offered the form; and
- (3) The identity of the individual who declined the use of the form.

.06 Preparation of the Form.

A. A patient or proxy who is considering use of the Form shall be offered assistance by:

- (1) the patient's attending physician; or
- (2) another health care provider who:
 - (a) has been determined by the attending physician to have the knowledge and skills to properly conduct a discussion about the Form; and
 - (b) acts under the general direction of the attending physician.

B. If a Form is used by a proxy on behalf of a patient who has an advance directive in the patient's medical records, the health care provider preparing the Form shall take reasonable steps to ensure that entries made by the proxy are consistent with the advance directive.

C. A patient or proxy who completes any part of the form shall initial that part.

D. The Form shall be signed by:

- (1) the patient or proxy;

(2) the patient's attending physician; and

(3) if another health care provider prepared the Form, that health care provider.

E. A health care provider may initial a part of a form or sign a form on behalf of a patient or proxy if:

(1) The patient or proxy is unable to initial or sign personally;

(2) The patient or proxy expressly directs the health care provider to initial or sign on behalf of the patient or proxy; and

(3) The health care provider documents the circumstances in the patient's medical record.

.07 Maintenance of the Form.

A. A form prepared in accordance with Regulation .06 of this chapter is a medical record of the patient.

B. In a facility, the Form shall be maintained visibly at the front of the patient's active chart.

.08 Transmission and Review of the Form upon Transfer of Patient.

A. A health care provider that has prepared a Form for a patient or proxy who is transferred to the care of another health care provider shall include a complete and unaltered copy of the Form in the records that physically accompany a patient upon transfer.

B. If a health care provider, for good cause, is unable to include the form in the records that physically accompany a patient upon transfer, the facility shall promptly transmit by facsimile or make available by electronic means a complete and unaltered image of the form to the other health care provider.

C. A health care provider that receives a Form shall make it available to the patient's attending physician for review prior to the issuance of medical orders on matters addressed by entries on the Form.

.09 Reproduction and Alteration of Form.

A. A health care provider may freely copy, store electronically and subsequently print, or otherwise reproduce the Form.

B. A health care provider may include on the Form additional identifying information about a patient, or alter the spacing or position of identifying information about a patient, but may not otherwise alter the contents or format of the Form.

.10 Immunity.

A. A health care provider who, in good faith, issues medical orders based on the form prepared in accordance with Regulation .06 of this chapter is entitled to the immunity provided under Health-General Article, §5-609, Annotated Code of Maryland.

B. If medical orders are issued based on the form prepared in accordance with Regulation .06 of this chapter, a health care provider that, in good faith, provides, withholds, or withdraws treatment in furtherance of those orders is entitled to the immunity provided under Health-General Article, §5-609, Annotated Code of Maryland.