Frequently Asked Questions
Do Not Resuscitate Orders

The yellow pre-hospital DNR Order Form (DH Form 1896)

1. Does Shands honor the yellow, pre-hospital DNR Order Form (DH Form 1896) a/k/a/ "the Yellow Form"?

A properly completed Yellow Form will be honored in the ED, and while the patient transitions through the in-patient admissions or transfer process. Prior to implementation the patient’s identity shall be confirmed to be the individual named in the Yellow Form. Once the patient becomes an in-patient at Shands, the patient’s attending physician shall assess the patient's present condition and determine whether or not a DNR Order should be written.

2. Once admitted as an in-patient at Shands, how is the patient with a Yellow Form handled?

The patient’s attending physician will, at the earliest reasonable opportunity, assess the patient’s present condition and consider the appropriateness of writing a DNR order for the patient.

If the patient is an adult and has capacity to make medical decisions: the attending physician will discuss treatment options with the patient and if the patient expresses his or her decision not to be resuscitated in the event of cardiac or respiratory arrest, the attending physician shall document the patient's refusal of such treatment and enter a DNR order in the patient's chart. This DNR order shall continue throughout the patient's hospitalization, even in the event the patient subsequently becomes incapacitated. So long as the patient remains capacitated to make medical decisions, the patient may revoke their refusal of treatment, whereupon the physician will document the patient's revocation in the chart and cancel the DNR order.

If the patient is incapacitated (not competent to make medical decisions): and

(a) has a Living Will that states the patient's desire not to be resuscitated in the event of cardiac or respiratory arrest OR
(b) the patient’s surrogate/proxy requests a DNR order,

before a DNR order is written, the patient's attending physician and one other credentialed physician shall each evaluate the patient's condition, and document in the patient's chart that the patient has or is in:

(1) a terminal condition OR a persistent vegetative state OR end-stage condition and
(2) the patient has no reasonable probability of recovering capacity.

The Unfriendled Incapacitated Patient

3. May the attending physician and one other credentialed physician enter a DNR order for an incapacitated patient with no advance directive and no surrogate or proxy?
No. If a patient is incapacitated and does not have a Living Will, and does not have a healthcare surrogate designated to make a DNR decision, then the Florida proxy law identifies the persons legally authorized to make healthcare decisions (including DNR decisions), for the patient.

In order of priority, the current Florida proxy law is as follows:

a) judicially appointed guardian
b) spouse
c) adult child (majority of adult children reasonably available for consultation)
d) parent
e) adult sibling (majority of adult siblings reasonably available for consultation)
f) adult relative
g) friend
h) a licensed clinical social worker (LCSW), not employed by Shands or University of Florida College of Medicine, and appointed by the Ethics Committee (see CP2.10, Consent for Treatment, or for Shands Jacksonville see "Policy on Appointment of Social Worker Proxy")

**Special Note:** LCSW proxy decisions to withhold or withdraw life-prolonging procedures must be reviewed by the Ethics Committee

**Special Note re patients in permanent vegetative state:** a LCSW proxy may not make decisions to withhold or withdraw life-prolonging procedures patients in a permanent vegetative state. Only a judicially appointed guardian may make such decisions for the unfriended patient in a permanent vegetative state.

4. May a DNR order be entered for an unfriended, incapacitated patient who is NOT in a permanent vegetative state, does NOT have a terminal or end-stage condition, but does have a Living Will that reflects the patient's wish not to be resuscitated in the event of a cardiac or respiratory arrest?

No. Current Florida law provides that a person: (1) must be in a permanent vegetative state or in a terminal condition or in an end-stage condition and (2) have no reasonable probability of recovering capacity before a Living Will's directive to withhold or withdraw of life-prolonging procedures may be given effect.

5. Same scenario as Question 4, plus the patient's attending physician and one other credentialed physician believe it is in the patient's best interest to enter a DNR order. May a DNR order be entered?

No. Current Florida law requires that before a DNR order may be entered based a Living Will, two credentialed physicians must evaluate the patient's condition and document in the chart that the patient is in: (1) a permanent vegetative state, or an end-stage condition, or a terminal condition, and (2) has no reasonable probability of recovering capacity.

6. May a DNR order be entered for an unfriended, incapacitated patient in a terminal condition without direction from a Living Will, proxy or surrogate if the attending physician and one other credentialed physician believe cardiac/respiratory resuscitation would be futile?
No. Current Florida law does not support futility alone (without direction from a Living Will, a proxy or surrogate) as a basis for issuing a DNR order for a patient in a terminal condition.

7. If a patient is not in a terminal condition, end stage condition or a persistent vegetative state, however, upon admission to the hospital for an acute illness instructs her physician that she does not want resuscitation in the event of cardiac or respiratory arrest, may a DNR order be entered?

Yes. A capacitated patient has the right to refuse treatment. Unless the patient later requests otherwise, this order continues throughout the patient's hospitalization despite any subsequent incapacity.

8. If a patient, with a DNR order entered, is inadvertently resuscitated and placed on a ventilator, can the patient request that the ventilator be discontinued?

Yes. A capacitated patient has the right to refuse treatment, including the withholding or with drawing of life-prolonging procedures.

An Incapacitated Patient with Living Will & Proxy/Surrogate Problems

9. May a DNR order be entered for an incapacitated patient who is NOT in a permanent vegetative state, does NOT have a terminal or end-stage condition, but has a Living Will that reflects the patient's wish not to be resuscitated in the event of a cardiac or respiratory arrest plus the patient's surrogate/proxy want a DNR order entered. May a DNR order be entered?

No. Current Florida law gives a competent adult the right to make a Living Will that provides that they not be resuscitated in the event of respiratory or cardiac arrest, and such direction will be honored so long as at the time the Living Will speaks for the patient, the patient is medically determined to be in a terminal condition, or end stage condition or in a permanent vegetative state, and with no reasonable probability for recovering capacity; a proxy or surrogate's consent cannot support entry of a DNR order if these threshold medical determinations are not made and documented in the chart.

10. If a terminally ill, incapacitated patient has a Living Will that reflects the patient's desire not to be resuscitated in the event of cardiac or respiratory arrest (and the chart reflects that condition in the opinion of the patient's attending and one other credentialed physician, as well as the opinion that the patient has no reasonable probability of recovering capacity), but the patient's family objects when the attending physician informs them that s/he will be entering a DNR order consistent with the patient's Living Will. Should the physician go ahead and issue the DNR order?

The attending physician should promptly consult with Shands Legal Services attorneys. The prudent and appropriate course of action will depend upon a full factual analysis, and therefore no answer can be given at this time. In addition to consulting with Legal Services regarding the rights of the various parties in interest, case management services should also be promptly consulted. Case management
professionals may help facilitate the family's acceptance of the patient's medical condition as well as the patient's wishes as expressed in the Living Will. However, once it is ultimately determined that the DNR order shall be written, if it is, before the DNR order is actually written, patient condition must be (again) confirmed, and (again) documented in the patient’s chart:

- the patient has no reasonable medical probability of recovering capacity and
- the patient has a terminal condition or
- an end stage condition or
- is in a permanent vegetative state and
- any limitations or conditions expressed in the Living Will have been considered and satisfied.

DNR Orders-Generally

11. If there is a DNR order, does that mean no fluids or meds are to be administered to the patient?

No. A DNR order means (only) "do not employ any resuscitative efforts in the event of the patient’s cardiac or respiratory arrest". DNR does not mean "do not treat". All other prescribed treatments such as pain meds, fluids, antibiotics should continue as ordered.

12. Isn’t a Living Will and a DNR order about the same thing?

No. A Living Will is one type of advance directive that allows a competent adult patient to express wishes regarding the full range of life-prolonging procedures in the event they are in a terminal condition, an end-stage condition or in a vegetative state, and are incapacitated and unable to directly participate in treatment decisions. Living Wills may address situations other than cardiac or respiratory arrest. Living Wills may also address treatment measures that a patient wants to have undertaken, as well as procedures they do not want undertaken. The patient may address different procedures to be undertaken (or withheld) depending upon any number of conditions or situations that the patient elects to describe.

A DNR order is a physician order prescribing that a patient not be resuscitated in the event of cardiac or respiratory arrest.

13. Once a DNR order is written, how long does it last?

A DNR order may be rescinded/canceled at any time by the attending physician based upon:
(1) the decision of a competent patient, or
(2) the decision of an incompetent patient’s surrogate/proxy with authority to consent to withholding or withdrawing life-prolonging procedures; or
(3) if patient's condition changes so that the patient is no longer in a terminal, or end-stage condition, or in a permanent vegetative state. Note that after a DNR order is issued, the attending physician shall evaluate the patient's condition, making the appropriate chart notation, no less frequently than every 48 hours. These changes must be noted in the chart.

In the event the patient recovers and is discharged from the hospital, a DNR order shall expire upon discharge from the hospital.

14. May the attending physician cancel a DNR order by telephone?

Yes. See the Shands Do Not Resuscitate Order Form – Section II "Rescind Do Not Resuscitate Order."

Minors

15. In the case of a minor patient, who has authority to consent to a DNR order?

Only a parent or legal guardian may act as the minor patient's proxy for a DNR. Note that the attending physician and one other credentialed physician must evaluate the patient's condition and note in the chart that the patient is

• in a terminal condition
  or
• in an end stage condition
  or
• in a permanent vegetative state

16. Where prenatal testing reveals the mother or fetus may experience respiratory or cardiac arrest during childbirth, may the parents and the attending consider a DNR order for mother or child for circumstances that may occur during childbirth?

Yes, so long as the threshold DNR patient conditions are satisfied for the mother patient and the neonate patient, as applicable. (see Answer to Question 2 above.)

17. Can a DNR order be entered for an incapacitated patient who is 2 months pregnant and in a terminal condition, end stage condition or persistent vegetative state base upon the request of the patient's surrogate or proxy?

No. Unless the patient, while capacitated, expressly delegated such authority to the surrogate or proxy in writing, or the surrogate or proxy has obtained court approval for the entry of a DNR order.

Physician Objection to Patient's Treatment Decision

18. What should an attending physician do if s/he finds a patient's Living Will or the surrogate's treatment decision to be personally objectionable, (and such patient treatment decisions are otherwise technically legal)?

The physician should make reasonable efforts to promptly transfer the patient to another physician or hospital that will comply with the patient's directive or treatment
decision. However, the patient's directive or surrogate's treatment decision must be carried out if the patient is not in fact transferred within 7 days; except, however if the legal process for judicial review the surrogate's decision has been invoked under F.S. 765.105, action on the treatment decision shall await the outcome of the judicial review. Legal Services should be promptly contacted if the physician learns that the legal process has been invoked.