

## SENATE BILL No. 377

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-36-5.

**Synopsis:** Out of hospital do not resuscitate (DNR) orders. Provides that a declarant may issue an out of hospital DNR order without a determination by an attending physician that the declarant is a "qualified person" if the declarant is an adherent of the teaching and practice of and is a member of a church or religious denomination that has a public record of healing by spiritual means through prayer and that accredits public practitioners the cost of whose services are reimbursable under an insurance policy and deductible under federal Internal Revenue Service rules. Provides a form for an out of hospital DNR declaration and order for such a declarant.

**Effective:** July 1, 2000.

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**Miller**

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January 10, 2000, read first time and referred to Committee on Health and Provider Services.

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Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

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# SENATE BILL No. 377



A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 16-36-5-12, AS ADDED BY P.L.148-1999,
- 2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2000]: Sec. 12. (a) An out of hospital DNR order **may be**
- 4 **issued on a form as provided under section 15(a) of this chapter**
- 5 **only:**
- 6 (1) ~~may be issued only~~ by the declarant's attending physician; and
- 7 (2) ~~may be issued only~~ if both of the following apply:
- 8 (A) The attending physician has determined the patient is a
- 9 qualified person.
- 10 (B) The patient has executed an out of hospital DNR
- 11 declaration under section 11 of this chapter.
- 12 (b) **If a declarant is an adherent of the teaching and practice of**
- 13 **and is a member of a church or religious denomination that:**
- 14 (1) **has a public record of healing by spiritual means alone**
- 15 **through prayer; and**
- 16 (2) **accredits public practitioners the cost of whose services:**
- 17 (A) **are reimbursable under an insurance policy; and**



1                   **(B) are deductible under federal Internal Revenue Service**  
 2                   **rules;**  
 3                   **the declarant may issue, or a representative of the declarant may**  
 4                   **issue on the declarant's behalf if the declarant is incompetent, an**  
 5                   **out of hospital DNR order on a form as provided under section**  
 6                   **15(b) of this chapter.**

7                   **(c) An out of hospital DNR order issued under subsection (b)**  
 8                   **must be:**

9                   **(1) voluntary;**

10                   **(2) in writing;**

11                   **(3) signed:**

12                   **(A) by the declarant;**

13                   **(B) by another individual in the declarant's presence and**  
 14                   **at the declarant's express direction; or**

15                   **(C) by the declarant's representative if the declarant is**  
 16                   **incompetent;**

17                   **(4) dated; and**

18                   **(5) signed in the presence of at least two (2) competent**  
 19                   **witnesses.**

20                   SECTION 2. IC 16-36-5-15, AS ADDED BY P.L.148-1999,  
 21                   SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22                   JULY 1, 2000]: Sec. 15. **(a) An out of hospital DNR declaration and**  
 23                   **order issued under section 12(a) of this chapter** must be in  
 24                   substantially the following form:

25                   OUT OF HOSPITAL DO NOT RESUSCITATE DECLARATION  
 26                   AND ORDER

27                   This declaration and order is effective on the date of execution and  
 28                   remains in effect until the death of the declarant or revocation.

29                   OUT OF HOSPITAL DO NOT RESUSCITATE DECLARATION  
 30                   Declaration made this \_\_\_\_ day of \_\_\_\_\_. I, \_\_\_\_\_,  
 31                   being of sound mind and at least eighteen (18) years of age, willfully  
 32                   and voluntarily make known my desires that my dying shall not be  
 33                   artificially prolonged under the circumstances set forth below. I  
 34                   declare:

35                   My attending physician has certified that I am a qualified person,  
 36                   meaning that I have a terminal condition or a medical condition such  
 37                   that, if I suffer cardiac or pulmonary failure, resuscitation would be  
 38                   unsuccessful or within a short period I would experience repeated  
 39                   cardiac or pulmonary failure resulting in death.

40                   I direct that, if I experience cardiac or pulmonary failure in a  
 41                   location other than an acute care hospital or a health facility,  
 42                   cardiopulmonary resuscitation procedures be withheld or withdrawn



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and that I be permitted to die naturally. My medical care may include any medical procedure necessary to provide me with comfort care or to alleviate pain.

I understand that I may revoke this out of hospital DNR declaration at any time by a signed and dated writing, by destroying or canceling this document, or by communicating to health care providers at the scene the desire to revoke this declaration.

I understand the full import of this declaration.

Signed \_\_\_\_\_

Printed name \_\_\_\_\_

\_\_\_\_\_  
City and State of Residence \_\_\_\_\_

The declarant is personally known to me, and I believe the declarant to be of sound mind. I did not sign the declarant's signature above, for, or at the direction of, the declarant. I am not a parent, spouse, or child of the declarant. I am not entitled to any part of the declarant's estate or directly financially responsible for the declarant's medical care. I am competent and at least eighteen (18) years of age.

Witness \_\_\_\_\_ Printed name \_\_\_\_\_ Date \_\_\_\_\_

Witness \_\_\_\_\_ Printed name \_\_\_\_\_ Date \_\_\_\_\_

**OUT OF HOSPITAL DO NOT RESUSCITATE ORDER**

I, \_\_\_\_\_, the attending physician of \_\_\_\_\_, have certified the declarant as a qualified person to make an out of hospital DNR declaration, and I order health care providers having actual notice of this out of hospital DNR declaration and order not to initiate or continue cardiopulmonary resuscitation procedures on behalf of the declarant, unless the out of hospital DNR declaration is revoked.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Printed name \_\_\_\_\_

Medical license number \_\_\_\_\_

**(b) An out of hospital DNR declaration and order issued under section 12(b) of this chapter must be in substantially the following form:**

**OUT OF HOSPITAL DO NOT RESUSCITATE  
DECLARATION AND ORDER**

**This declaration and order is effective on the date of execution and remains in effect until the death of the declarant or revocation.**

**OUT OF HOSPITAL DO NOT RESUSCITATE  
DECLARATION**

**Declaration made this \_\_\_\_ day of \_\_\_\_\_. I, \_\_\_\_\_, being of sound mind and at least eighteen (18) years of age,**

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willfully and voluntarily make known my desires that my dying shall not be artificially prolonged under the circumstances set forth below. I declare:

I direct that, if I experience cardiac or pulmonary failure in a location other than an acute care hospital or a health facility, cardiopulmonary resuscitation procedures be withheld or withdrawn and that I be permitted to die naturally. My medical care may include, at my discretion or the discretion of my representative, any medical procedure intended to provide me with comfort care or to alleviate pain.

I understand that I may revoke this out of hospital DNR declaration at any time by a signed and dated writing, by destroying or canceling this document, or by communicating to health care providers at the scene the desire to revoke this declaration.

I understand the full import of this declaration.

Signed \_\_\_\_\_

Printed name \_\_\_\_\_

City and State of Residence \_\_\_\_\_

The declarant is personally known to me, and I believe the declarant to be of sound mind and under no duress, fraud, or undue influence. I did not sign the declarant's signature above, for, or at the direction of, the declarant. I am not a parent, spouse, child, grandchild, or sibling of the declarant. I am not entitled to any part of the declarant's estate or directly financially responsible for the declarant's medical care. I am competent and at least eighteen (18) years of age.

Witness \_\_\_\_\_ Printed name \_\_\_\_\_ Date \_\_\_\_\_

Witness \_\_\_\_\_ Printed name \_\_\_\_\_ Date \_\_\_\_\_

**OUT OF HOSPITAL DO NOT RESUSCITATE ORDER**

I, \_\_\_\_\_, order health care providers having actual notice of this out of hospital DNR declaration and order not to initiate or continue cardiopulmonary resuscitation procedures on my behalf, unless I have revoked the out of hospital DNR declaration.

Signed \_\_\_\_\_ Date \_\_\_\_\_

Printed name \_\_\_\_\_

The individual who has issued this out of hospital DNR order appears to be of sound mind and under no duress, fraud, or undue influence. I did not sign the individual's signature above, for, or at the direction of, the individual. I am not a parent, spouse, child,

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1 grandchild, or sibling of the declarant. I am not entitled to any part  
2 of the declarant's estate or directly financially responsible for the  
3 declarant's medical care. I am competent and at least eighteen (18)  
4 years of age.

5 Witness \_\_\_\_\_ Printed name \_\_\_\_\_ Date \_\_\_\_\_  
6 Witness \_\_\_\_\_ Printed name \_\_\_\_\_ Date \_\_\_\_\_

7 SECTION 3. IC 16-36-5-16, AS ADDED BY P.L.148-1999,  
8 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2000]: Sec. 16. (a) Copies of the out of hospital DNR  
10 declaration and order issued under section 12 (a) of this chapter must  
11 be kept:

12 (1) by the declarant's attending physician in the declarant's  
13 medical file; and

14 (2) by the declarant or the declarant's representative.

15 (b) Copies of the out of hospital DNR declaration and order  
16 issued under section 12(b) of this chapter must be kept by the  
17 declarant or the declarant's representative and must be accessible  
18 at the declarant's place of residence.

19 SECTION 4. IC 16-36-5-17, AS ADDED BY P.L.148-1999,  
20 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
21 JULY 1, 2000]: Sec. 17. (a) The emergency medical services  
22 commission shall develop an out of hospital DNR identification device  
23 that must be:

24 (1) a necklace or bracelet; and

25 (2) inscribed with:

26 (A) the declarant's name;

27 (B) the declarant's date of birth; and

28 (C) the words "Do Not Resuscitate".

29 (b) An out of hospital DNR identification device may be created for  
30 a declarant only after an out of hospital DNR declaration and order has  
31 been executed by:

32 (1) a declarant and an attending physician under section 12(a) of  
33 this chapter; or

34 (2) a declarant or a declarant's representative under section  
35 12(b) of this chapter.

36 (c) The device developed under subsection (a) is not a substitute for  
37 the out of hospital DNR declaration and order.

38 SECTION 5. IC 16-36-5-22, AS ADDED BY P.L.148-1999,  
39 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
40 JULY 1, 2000]: Sec. 22. (a) A person may challenge the validity of an  
41 out of hospital DNR declaration and order by filing a petition for  
42 review in a court in the county in which the declarant resides.

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1 (b) A petition filed under subsection (a) must include the name and  
 2 address of the declarant's attending physician.  
 3 (c) A court in which a petition is filed under subsection (a) may  
 4 declare an out of hospital DNR declaration and order void if the court  
 5 finds that the out of hospital DNR declaration and order was executed:  
 6 (1) when the declarant was incapacitated due to insanity, mental  
 7 illness, mental deficiency, duress, undue influence, fraud,  
 8 excessive use of drugs, confinement, or other disability;  
 9 (2) contrary to the declarant's wishes; or  
 10 (3) when the declarant was not a:  
 11 (A) qualified person; or  
 12 (B) declarant described in section 12(b) of this chapter.  
 13 (d) If a court finds that the out of hospital DNR declaration and  
 14 order is void, the court shall cause notice of the finding to be sent to the  
 15 declarant's attending physician.  
 16 (e) Upon notice under subsection (d), the declarant's attending  
 17 physician shall follow the procedures under section 18(e) of this  
 18 chapter.

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