

3701-62-03

Immunity from criminal prosecution, civil liability, and professional disciplinary action.**(A) Persons with DNR identification.**

(1) None of the persons listed in paragraph (A)(2) of this rule are subject to any of the following arising out of or relating to the withholding or withdrawal of CPR from a person after DNR identification is discovered in the person's possession and reasonable efforts have been made to determine that the person in possession of the DNR identification is the person named on the DNR identification:

(a) Criminal prosecution;

(b) Liability in damages in a tort or other civil action for injury, death, or loss to person or property; or

(c) Professional disciplinary action.

(2) The immunity described in paragraph (A)(1) of this rule attaches to the following persons:

(a) A physician, or CNP or CNS as provided in rule 3701-62-02 of the Administrative Code, who causes the withholding or withdrawal of CPR from the person possessing the DNR identification;

(b) A person who participates under the direction of or with the authorization of a physician, or CNP or CNS as provided in rule 3701-62-02 of the Administrative Code, in the withholding or withdrawal of CPR from the person possessing the DNR identification; or

(c) Any emergency medical services personnel who cause or participate in the withholding or withdrawal of CPR from the person possessing the DNR identification.

(3) Paragraph (A) of this rule does not apply when CPR is withheld or withdrawn from a person who possesses DNR identification or for whom a do-not-resuscitate order has been issued unless the withholding or withdrawal is in accordance with the do-not-resuscitate protocol.

(B) Persons in health care facilities.

- (1) None of the persons listed in paragraph (B)(2) of this rule are subject to any of the following arising out of or relating to the withholding or withdrawal of CPR from a person in a health care facility after DNR identification is discovered in the person's possession and reasonable efforts have been made to determine that the person in possession of the DNR identification is the person named on the DNR identification or a do-not-resuscitate order is issued for the person:
 - (a) Criminal prosecution;
 - (b) Liability in damages in a tort or other civil action for injury, death, or loss to person or property; or
 - (c) Professional disciplinary action.
- (2) The immunity described in paragraph (B)(1) of this rule attaches to the following persons:
 - (a) The health care facility or the administrator of the health care facility;
 - (b) A physician, or CNP or CNS as provided in rule 3701-62-02 of the Administrative Code, who causes the withholding or withdrawal of CPR from the person possessing the DNR identification or for whom the do-not-resuscitate order has been issued;
 - (c) Any person who works for the health care facility as an employee, contractor, or volunteer and who participates under the direction of or with the authorization of a physician, or CNP or CNS as provided in rule 3701-62-02 of the Administrative Code, in the withholding or withdrawal of CPR from the person possessing the DNR identification; and
 - (d) Any person who works for the health care facility as an employee, contractor, or volunteer and who participates under the direction of or with the authorization of a physician, or CNP or CNS as provided in rule 3701-62-02 of the Administrative Code, in the withholding or withdrawal of CPR from the person for whom the do-not-resuscitate order has been issued.
- (3) Paragraph (B) of this rule does not apply when CPR is withheld or withdrawn from a person who possesses DNR identification or for whom a

do-not-resuscitate order has been issued unless the withholding or withdrawal is in accordance with the do-not-resuscitate protocol.

(C) For the purposes of paragraphs (A) and (B) of this rule, information that may be used to determine if the person in possession of DNR identification is the person named on the DNR identification include but are not limited to the following:

- (1) Verification of the person's identity by the person or a family member, friend, or caregiver;
- (2) Personal knowledge of the person by the emergency medical services personnel, physician, or CNP or CNS as provided in rule 3701-62-02 of the Administrative Code, or person working for a health care facility;
- (3) Health care facility identification band;
- (4) Driver's license;
- (5) Passport; or
- (6) Other identification bearing the person's name and photograph.

(D) Request for CPR by person with DNR identification. If, after DNR identification is discovered in the possession of a person, the person makes an oral or written request to receive CPR, any person who provides CPR pursuant to the request, any health care facility in which CPR is provided, and the administrator of any health care facility in which CPR is provided are not subject to any of the following:

- (1) Criminal prosecution as a result of the provision of the CPR;
- (2) Liability in damages in a tort or other civil action for injury, death, or loss to person or property that arises out of or is related to the provision of the CPR;
or
- (3) Professional disciplinary action as a result of the provision of the CPR.

(E) Do-not-resuscitate orders.

- (1) None of the persons listed in paragraph (E)(2) of this rule who comply with a do-not-resuscitate order issued by a physician, or CNP or CNS as provided in rule 3701-62-02 of the Administrative Code, are subject to any of the

following:

- (a) Liability in damages in a civil action for injury, death, or loss to person or property that arises out of or is related to compliance with the order;
 - (b) Criminal prosecution as a result of compliance with the order; or
 - (c) Professional disciplinary action as a result of compliance with the order.
- (2) The immunity described in paragraph (E)(1) of this rule attaches to the following persons:
- (a) Any emergency medical services personnel who comply with a do-not-resuscitate order issued by a physician, or CNP or CNS as provided in rule 3701-62-02 of the Administrative Code; and
 - (b) Any individuals who work for a health care facility as employees, contractors, or volunteers and who comply with a do-not-resuscitate order issued by a physician, or CNP or CNS as provided in rule 3701-62-02 of the Administrative Code.
- (3) Paragraph (E) of this rule does not apply when CPR is withheld or withdrawn from a person who possesses DNR identification or for whom a do-not-resuscitate order has been issued unless the withholding or withdrawal is in accordance with the do-not-resuscitate protocol.

(F) Emergency situations.

- (1) In an emergency situation, emergency medical services personnel and emergency department personnel are not required to search a person to determine if the person possesses DNR identification.
- (2) If a person possesses DNR identification, if emergency medical services personnel or emergency department personnel provide CPR to the person in an emergency situation, and if, at that time, the personnel do not know and do not have reasonable cause to believe that the person possesses DNR identification, the emergency medical services personnel and emergency department personnel are not subject to any of the following:
 - (a) Criminal prosecution as a result of the provision of the CPR;

- (b) Liability in damages in a tort or other civil action for injury, death, or loss to person or property that arises out of or is related to the provision of the CPR; or
 - (c) Professional disciplinary action as a result of the provision of the CPR.
- (G) Nothing in sections 2133.21 to 2133.26 of the Revised Code, this rule, or the do-not-resuscitate protocol grants immunity to a physician, or CNP or CNS as provided in rule 3701-62-02 of the Administrative Code, for issuing a do-not-resuscitate order that is contrary to reasonable medical standards or that the physician, or CNP or CNS as provided in rule 3701-62-02 of the Administrative Code, knows or has reason to know is contrary to the wishes of the patient or of a person who is lawfully authorized to make informed medical decisions on the patient's behalf.
- (H) Pursuant to paragraphs (B) and (C) of rule 3701-62-13 of the Administrative Code, neither paragraph (G) of this rule nor any other provision of this chapter requires provision of CPR to a person if, in the judgment of the attending physician, or CNP or CNS as provided in rule 3701-62-02 of the Administrative Code, CPR would be futile, or if the person or another person lawfully authorized to make decisions on behalf of the person declines CPR.

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