



# LAWS OF ALASKA

1994

**Source**  
HB 356

**Chapter No.**  
104

## AN ACT

Relating to living wills and do not resuscitate orders; and providing for an effective date.

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**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

THE ACT FOLLOWS ON PAGE 1

**Approved by the Governor:** June 9, 1994

**Actual Effective Date:** AS 18.12.035(b) and AS 18.12.037, enacted by sec. 1, and sec. 13 take effect June 10, 1994; remainder of Act is conditional

AN ACT

1 Relating to living wills and do not resuscitate orders; and providing for an effective date.

2

3 \* **Section 1.** AS 18.12 is amended by adding new sections to read:

4 Sec. 18.12.035. DO NOT RESUSCITATE ORDERS AND PROTOCOLS. (a)  
5 An attending physician may issue a do not resuscitate order for a patient of the  
6 physician. The physician shall document the grounds for the order in the patient's  
7 medical file.

8 (b) The Department of Health and Social Services shall, by regulation, adopt  
9 a do not resuscitate protocol that sets out a standardized method of procedure for the  
10 withholding of cardiopulmonary resuscitation by physicians and other health care  
11 providers. The regulations may not be adopted unless they have been approved by the  
12 State Medical Board.

13 (c) A health care provider other than a physician shall comply with the do not

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1 resuscitate protocol adopted under (b) of this section when presented with any of the  
2 following: DNR identification, an oral do not resuscitate order issued directly by a  
3 physician, or a written do not resuscitate order entered on a form prescribed by the  
4 Department of Health and Social Services.

5 Sec. 18.12.037. LIVING WILL AND DNR IDENTIFICATION. The  
6 Department of Health and Social Services shall develop standardized designs for DNR  
7 identification cards, forms, necklaces, and bracelets that signify, when carried or worn,  
8 that the possessor has executed a declaration under this chapter or is a patient for  
9 whom a physician has issued a do not resuscitate order.

10 \* Sec. 2. AS 18.12.040(a) is amended to read:

11 (a) A qualified patient or a patient for whom a physician has issued a do  
12 not resuscitate order has the right to make decisions regarding use of  
13 cardiopulmonary resuscitation and other life-sustaining procedures as long as the  
14 patient is able to do so. If a qualified patient or patient for whom a physician has  
15 issued a do not resuscitate order is not able to make these decisions, the declaration  
16 or do not resuscitate protocol governs decisions regarding use of cardiopulmonary  
17 resuscitation and other life-sustaining procedures.

18 \* Sec. 3. AS 18.12.050(b) is amended to read:

19 (b) If the policies of a health care facility preclude compliance with the  
20 declaration of a qualified patient under this chapter or a do not resuscitate order  
21 issued by an attending physician, or the facility is unwilling to accept DNR  
22 identification as evidence of the existence of a declaration or do not resuscitate  
23 order, that facility shall take all reasonable steps to notify the patient or, if the patient  
24 is not able to make treatment decisions, the patient's guardian, of the facility's policy  
25 and shall take all reasonable steps to effect the transfer of the patient to the patient's  
26 home or to a facility where the provisions of this chapter can be carried out.

27 \* Sec. 4. AS 18.12.060(a) is amended to read:

28 (a) In the absence of actual notice of the revocation of a declaration or do not  
29 resuscitate order, as applicable, the following, while acting in accordance with the  
30 do not resuscitate protocol adopted under AS 18.12.035 or with the other  
31 requirements of this chapter, are not subject to civil or criminal liability or guilty of

1 unprofessional conduct:

2 (1) a physician who causes the withholding or withdrawal of  
3 life-sustaining procedures from a qualified patient or the withholding or withdrawal  
4 of cardiopulmonary resuscitation from a patient for whom a do not resuscitate  
5 order has been issued or who possesses DNR identification;

6 (2) a person who participates in the withholding or withdrawal of  
7 cardiopulmonary resuscitation or other life-sustaining procedures under the direction  
8 or with the authorization of a physician or upon discovery of DNR identification  
9 upon a person;

10 (3) persons who cause or participate in providing cardiopulmonary  
11 resuscitation or other life-sustaining procedures after an oral or written request  
12 communicated to them by a person who possesses DNR identification;

13 (4) the health care facility in which the providing, withholding, or  
14 withdrawal occurs.

15 \* Sec. 5. AS 18.12.070 is amended to read:

16 Sec. 18.12.070. PENALTIES. (a) An attending physician who fails to comply  
17 with a do not resuscitate order or the declaration of a qualified patient or to make  
18 the necessary arrangements to effect a transfer under AS 18.12.050 has no right to  
19 compensation for medical services provided to a [QUALIFIED] patient after  
20 withholding or withdrawal should have been effective or after transfer should have  
21 occurred and may be liable to the [QUALIFIED] patient and to the heirs of the  
22 [QUALIFIED] patient for a civil penalty not to exceed \$1,000.00 plus the actual costs  
23 associated with the failure to comply with the order or declaration, and this shall be  
24 the exclusive remedy at law for damages.

25 (b) A person who wilfully conceals, cancels, defaces, obliterates, or damages  
26 the DNR identification or declaration of another person without the other's  
27 [DECLARANT'S] consent or who falsifies or forges a revocation of the DNR  
28 identification or declaration of another person may be civilly liable to the other  
29 person [QUALIFIED PATIENT] and to the heirs of the other person [QUALIFIED  
30 PATIENT].

31 \* Sec. 6. AS 18.12.080(a) is amended to read:

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1 (a) Death resulting from the withholding or withdrawal of cardiopulmonary  
2 resuscitation or other life-sustaining procedures under a do not resuscitate order or  
3 protocol, under a declaration, or upon discovery of DNR identification on a person  
4 and in accordance with this chapter does not, for any purpose, constitute a suicide or  
5 homicide.

6 \* Sec. 7. AS 18.12.080(b) is amended to read:

7 (b) The issuing of a do not resuscitate order, the possession of DNR  
8 identification, or the making of a declaration under AS 18.12.010 does not affect in  
9 any manner the sale, procurement, or issuance of a policy of life insurance, nor does  
10 it modify the terms of an existing policy of life insurance. A policy of life insurance  
11 is not legally impaired or invalidated in any manner by the withholding or withdrawal  
12 of life-sustaining procedures from an insured qualified patient or the withholding or  
13 withdrawal of cardiopulmonary resuscitation from an insured patient who  
14 possesses DNR identification or for whom a do not resuscitate order has been  
15 issued, notwithstanding any term of the policy to the contrary.

16 \* Sec. 8. AS 18.12.080(c) is amended to read:

17 (c) A physician, health care facility, or other health care provider, and a health  
18 care service plan, insurer issuing disability insurance, self-insured employee welfare  
19 benefit plan, or nonprofit hospital plan, may not require a person to execute a  
20 declaration, obtain a do not resuscitate order from a physician, or possess DNR  
21 identification as a condition for being insured for, or receiving, health care services.

22 \* Sec. 9. AS 18.12.080(d) is amended to read:

23 (d) This chapter creates no presumption concerning the intention or intended  
24 treatment of an individual who does not have DNR identification, has not executed  
25 a declaration, or for whom a do not resuscitate order has not been issued with  
26 respect to the use, withholding, or withdrawal of cardiopulmonary resuscitation or  
27 other life-sustaining procedures [IN THE EVENT OF A TERMINAL CONDITION].

28 \* Sec. 10. AS 18.12.080(e) is amended to read:

29 (e) Nothing in this chapter increases or decreases the right of a patient to make  
30 decisions regarding use of cardiopulmonary resuscitation or other life-sustaining  
31 procedures as long as the patient is able to do so, or impairs or supersedes any right

1 or responsibility that a person has to effect the withholding or withdrawal of medical  
2 care in a lawful manner. In that respect, the provisions of this chapter are cumulative.

3 \* **Sec. 11.** AS 18.12.090 is amended to read:

4 Sec. 18.12.090. RECOGNITION OF DECLARATIONS AND ORDERS  
5 EXECUTED OR ISSUED IN OTHER STATES. A declaration, do not resuscitate  
6 order, or DNR identification executed, issued, or authorized in another state or a  
7 territory or possession of the United States in compliance with the law of that  
8 jurisdiction is effective for purposes of this chapter.

9 \* **Sec. 12.** AS 18.12.100 is amended by adding new paragraphs to read:

10 (8) "cardiopulmonary resuscitation" means cardiopulmonary  
11 resuscitation or a component of cardiopulmonary resuscitation;

12 (9) "DNR identification" means identification substantially similar to  
13 that approved under AS 18.12.037;

14 (10) "do not resuscitate order" means a directive from a licensed  
15 physician that emergency cardiopulmonary resuscitation should not be administered to  
16 a particular person;

17 (11) "do not resuscitate protocol" means the protocol developed under  
18 AS 18.12.035(b).

19 \* **Sec. 13.** The commissioner of health and social services shall promptly begin the  
20 procedure to adopt regulations implementing AS 18.12.035 and 18.12.037, enacted by sec. 1  
21 of this Act, so that the regulations can take effect as soon as practicable.

22 \* **Sec. 14.** AS 18.12.035(b) and 18.12.037, enacted by sec. 1 of this Act, and sec. 13 of  
23 this Act take effect immediately under AS 01.10.070(c).

24 \* **Sec. 15.** Except as provided in sec. 14 of this Act, this Act takes effect on the effective  
25 date of the regulations adopted under AS 18.12.035 or 18.12.037, enacted by sec. 1 of this  
26 Act, whichever is later. The commissioner of health and social services shall notify the  
27 revisor of statutes and the lieutenant governor of that date.