

§1299.58.3. Making of declaration; notification; illustrative form; registry; issuance of do-not-resuscitate identification bracelets

A.(1) Any adult person may, at any time, make a written declaration directing the withholding or withdrawal of life-sustaining procedures in the event such person should have a terminal and irreversible condition.

(2) A written declaration shall be signed by the declarant in the presence of two witnesses.

(3) An oral or nonverbal declaration may be made by an adult in the presence of two witnesses by any nonwritten means of communication at any time subsequent to the diagnosis of a terminal and irreversible condition.

B.(1) It shall be the responsibility of the declarant to notify his attending physician that a declaration has been made.

(2) In the event the declarant is comatose, incompetent, or otherwise mentally or physically incapable of communication, any other person may notify the physician of the existence of the declaration. In addition, the attending physician or health care facility may directly contact the registry to determine the existence of any such declaration.

(3) Any attending physician who is so notified, or who determines directly or is advised by the health care facility that a declaration is registered, shall promptly make the declaration or a copy of the declaration, if written, or a notation of the existence of a registered declaration, a part of the declarant's medical record.

(4) If the declaration is oral or nonverbal, the physician shall promptly make a recitation of the reasons the declarant could not make a written declaration and make the recitation a part of the patient's medical records.

C.(1) The declaration may, but need not, be in the following illustrative form and may include other specific directions including but not limited to a designation of another person to make the treatment decision for the declarant should he be diagnosed as having a terminal and irreversible condition and be comatose, incompetent, or otherwise mentally or physically incapable of communications:

DECLARATION

Declaration made this _____ day of _____ (month, year).

I, _____, being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below and do hereby declare:

If at any time I should have an incurable injury, disease or illness, or be in a continual profound comatose state with no reasonable chance of recovery, certified to be a terminal and irreversible condition by two physicians who have personally examined me, one of whom shall be my attending physician, and the physicians have determined that my death will occur whether or not life-sustaining procedures are utilized and where the application of life-sustaining procedure would serve only to prolong artificially the dying process, I direct (initial one only):

___ That all life-sustaining procedures, including nutrition and hydration, be withheld or withdrawn so that food and water will not be administered invasively.

___ That life-sustaining procedures, except nutrition and hydration, be withheld or withdrawn so that food and water can be administered invasively.

I further direct that I be permitted to die naturally with only the administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care.

In the absence of my ability to give directions regarding the use of such life-sustaining procedures, it is my intention that this declaration shall be honored by my family and physician(s) as the final expression of my legal right to refuse medical or surgical treatment and accept the consequences from such refusal.

I understand the full import of this declaration and I am emotionally and mentally competent to make this declaration.

Signed _____

City, Parish, and State of Residence _____

The declarant has been personally known to me and I believe him or her to be of sound mind.

Witness _____

Witness _____

(2) Should any of the other specific directions be held to be invalid, such invalidity shall not affect other directions of the declaration which can be given effect without the invalid direction, and to this end the directions in the declaration are severable.

(3)(a) Any declaration executed prior to January 1, 1992, which does not contain directions regarding life-sustaining procedures in the event that the declarant is in a continual profound comatose state shall not be invalid for that reason. Such declaration shall be applicable to any terminal and irreversible condition, as defined in this Part, unless it clearly provides to the contrary.

(b) Any declaration executed prior to August 15, 2005, which does not contain an option to specifically initial a choice regarding nutrition and hydration shall not be invalid for that reason nor presumed to mean that the declarant desires

the invasive administration of nutrition or hydration.

D.(1)(a) The secretary of state shall establish a declaration registry in which a person, or his attorney, if authorized by the person to do so, may register the original, multiple original, or a certified copy of the declaration.

(b) The secretary of state shall issue a do-not-resuscitate identification bracelet to qualified patients listed in the registry. The do-not-resuscitate identification bracelet must include the patient's name, date of birth, and the phrase "DO NOT RESUSCITATE".

(2) Any attending physician or health care facility may, orally or in writing, request the secretary of state to confirm immediately the existence of a declaration and to disclose the contents thereof for any patient believed to be a resident of Louisiana. A copy of the declaration or a facsimile thereof transmitted from the office of the secretary of state shall be deemed authentic. However, nothing herein requires a physician or health care facility to confirm the existence of such declaration or obtain a copy thereof prior to the withholding or withdrawal of medical treatment or life-sustaining procedures.

(3) The secretary of state may charge a fee of twenty dollars for registering a declaration and issuing a do-not-resuscitate identification bracelet and a fee of five dollars for filing a notice of revocation. No charge shall be made for the furnishing of information concerning the existence of a declaration, the disclosure of its contents, or the providing of a copy or facsimile thereof.

Acts 1984, No. 382, §1; Acts 1985, No. 187, §1, eff. July 6, 1985; Acts 1991, No. 194, §1; Acts 1991, No. 321, §1, eff. Jan. 1, 1992; Acts 1999, No. 641, §1, eff. July 1, 1999; Acts 2005, No. 447, §1.