

Do Not Resuscitate: Who Decides?

A DNR order' (Do Not Resuscitate) is a medical order to withhold cardiopulmonary resuscitation (CPR) techniques. All families with aging parents should talk about what to do in the event of a serious or terminal illness.

Various terms have been used to describe such an order including 'No CPR', NFR (not for resuscitation), NFAR (not for attempted resuscitation), DNAR (do not attempt resuscitation), and AND (allow natural death).

Such an order informs the health care team that in the event of a cardiac arrest, cardiopulmonary resuscitation will not be conducted. Measures will then be provided to promote comfort during the dying process.

Given the seriousness of the consequences of a DNR order, various guidelines have been issued in Australia with the aim of supporting health providers, patients and their families during this process.

Most notably, the guidelines emphasise the importance of open and unambiguous communication between the relevant parties.

The guidelines stress that a DNR order is to be issued in consultation with the patient, their agent or guardian if applicable, senior medical and nursing staff. In particular, doctors play an important role in the provision or withholding of resuscitation treatment in nearly all situations – where a DNR order exists, doctors play a critical role in assessing its validity; and where a DNR order does not exist, doctors assess whether the patient has capacity to make such decisions, and if not, who is authorised to participate in the making of such decisions on the patient's behalf.

Research suggests, somewhat disturbingly, that doctors are not well versed with the laws surrounding DNR orders. (see Doctors need to swot up on end-of-life laws: research, <http://www.theleader.com.au/story/2480017/doctors-need-to-swot-up-on-end-of-life-laws-research/?cs=3943>)

This research has revealed that Australian patients are at risk from doctors who do not understand laws regarding the withholding and withdrawing of life-sustaining medical treatment. This research was based on a survey of 867 Australian doctors and found "critical gaps" in their legal knowledge that could expose them to criminal charges including murder, manslaughter or assault if they act against a patient's wishes.

Given the significant consequences of a DNR order and the importance of preserving patients' rights to individual autonomy and bodily integrity, it is imperative that the medical profession has a sound understanding of this area of law.

Equally important is awareness amongst the public regarding one's right to make such decisions or appoint substitute decision makers to act on their behalf.

How to Make a DNR Request?

Common law and legislation in some states allow for an individual to make an advance health directive (DNR), which effectively informs the patient's health team regarding the care the patient would like in the future should the patient become unable to make medical decisions. It can cover the withholding of CPR.

In the event that a DNR order does not formally exist, two possible situations arise.

1. The patient can refuse resuscitation given the patient is competent and has capacity. This common law right to refuse treatment resonates with notions of protecting an individual's autonomy. This refusal of treatment will be determinative regardless of whether or not the doctor finds CPR could be beneficial.
2. The second situation arises where the patient is unconscious or otherwise found not to have capacity to make medical decisions. Such situations are often complicated by the role of the medical profession, who at times play a more active role in advocating a DNR request on behalf of the patient.

In such cases, guardianship legislation in each State plays a vital role. Legislation provides that substitute decision-makers will be involved in the decision-making process. A substituted decision maker could have been either formerly appointed by the patient whilst the patient was conscious and had capacity, or by default mechanisms as specified in state legislation.

This is a complex subject. Families should take legal advice on the whole question of Enduring Powers of Attorney, Advanced Health Directives and DNRs. The message is, don't leave it too long!