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DNR Orders in Georgia Long-Term Care Facilities

Recent reports in the media have brought attention to Do Not Resuscitate (DNR) orders and how they are addressed in long-term care facilities. There is often confusion among consumers as to what is required under the law with respect to such orders.

Georgia has specific laws about DNR orders and how these orders should be treated at long-term care facilities. This article will discuss Georgia laws regarding DNR orders at independent living, personal care homes, and assisted living communities.

Georgia law provides that individuals are presumed to consent to the administration of cardiopulmonary resuscitation (CPR) in the event of cardiac or respiratory arrest, unless there is consent or authorization for the issuance of an order not to resuscitate (pursuant to O.C.G.A. § 31-39-3). Georgia law also describes the requirements for a valid DNR order and forms that the DNR order may take. A written order by an attending physician using the term "do not resuscitate," "DNR," "order not to resuscitate," "no code," or substantially similar language in a patient's chart constitutes a legally sufficient DNR order. DNR orders may also be evidenced by a bracelet or a necklace. After a DNR order is issued, an individual may, at any time, revoke his or her consent to the DNR order by making either a written or an oral declaration or by any other act demonstrating a specific intent to revoke his or her consent which is communicated in the presence of an attending physician, nurse, physician assistant, caregiver, health care professional, or emergency medical technician.

Independent living facilities are not licensed in Georgia, so there are no specific licensing rules that govern how DNR orders should be addressed by staff members. Therefore, only the Georgia statutes regarding DNR orders apply. The Georgia statutes provide that any physician, health care professional, nurse, physician assistant, caregiver, or emergency medical technician is authorized to effectuate a DNR for a person who is not a patient in a hospital, nursing home, or licensed hospice. In other words, if a resident of a Georgia independent living facility has a valid DNR order and undergoes cardiac or respiratory arrest, then the individuals named above are legally authorized to honor that order.

Georgia law also provides protections for individuals who carry out decisions regarding DNR orders in good faith. Physicians, health care professionals, nurses, physician assistants, caregivers, health care facilities, other licensed facilities, emergency medical technicians, or persons employed by, acting as the agent of, or under contract with any of the individuals or entities named above cannot be criminally prosecuted or held liable for carrying out in good faith a decision regarding CPR. The individuals and entities named above also cannot be criminally prosecuted or held liable for providing CPR to a patient for whom a DNR order has been issued, provided that the person providing CPR reasonably and in good faith was either unaware of the issuance of the DNR order, or reasonably and in good faith believed that consent to the DNR order had been revoked or canceled. Furthermore, a person cannot be held civilly liable for failing or refusing in good faith to effectuate a DNR order.

Unlike independent living facilities, personal care homes are licensed in Georgia and are subject to licensing rules. The Georgia Department of Community Health (DCH) recently released new rules for personal care homes which became effective January 8, 2013. A key change in the new rules concerns DNR orders. The personal care home licensing rules provide specific requirements for what homes should immediately do if a resident undergoes cardiac or respiratory arrest. The licensing rules describe what actions staff members should take depending on the resident's status.

The rules state that if the resident has a valid DNR order, the caregiver may effectuate the DNR order if done in good faith. The rules also provide specific procedures for staff members to take if the resident does not have a DNR order but is enrolled in a licensed hospice and has a specific hospice plan of care. The rules also specify procedures for when the resident does not have a DNR order but has appointed a health care agent in a living will, durable power of attorney for health care or a valid advance directive for health care. In these situations, the home must immediately contact the health care agent for direction about the care to be provided. If the health care agent is not immediately available, then the home must initiate CPR right away and call 911.

If the resident is not enrolled in hospice, and does not have either a DNR or an advance directive, then the staff of the home must immediately initiate CPR and call 911, unless it is obvious that the resident has already passed away (e.g., the body is stiff, cool to the touch, blue or grayish in color).

The rules for Georgia assisted living communities addressing DNR orders are essentially the same as the rules for personal care homes, outlined above. All long-term care providers should be aware of Georgia laws regarding DNR orders and should tailor their policies to comply with Georgia requirements.

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