



Illinois Department of Corrections

Administrative Directive

Number: 04.03.109	Title: Living Will, Do Not Resuscitate Order and Durable Power of Attorney for Health Care	Effective: 9/1/2021
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Authorized by:	<i>[Original Authorized Copy on File]</i>	Rob Jeffreys Director
Supersedes:	04.03.109 effective 5/1/2019	

Authority: 730 ILCS 5/3-2-2 755 ILCS 35/1, et. seq.	Related ACA Standards: 5-ACI-1E-02, 5-ACI-6A-04, 07, 20 and 25; 5-ACI-6C-02, 03, 04 and 10
Referenced Policies:	Referenced Forms: DOC 0088 – Medical Problem List for Individuals in Custody DOC 0090 – Health Status Transfer Summary

I. POLICY

The Department recognizes the right of an individual in custody, if competent, to control decisions that would artificially postpone the dying process in instances of incurable and irreversible injury, disease or illness judged to be terminal. Therefore, Living Wills, Do Not Resuscitate Orders and Durable Power of Attorney for Health Care executed by an individual in custody shall be maintained in the individual in custody's medical records and shall be construed in accordance with Illinois law.

II. PROCEDURE

A. Purpose

The purpose of this directive is to establish uniform procedures for the availability and maintenance of Living Wills, Do Not Resuscitate Orders and Durable Power of Attorney for Health Care executed by individuals in custody.

B. Applicability

This directive is applicable to all correctional facilities within the Department.

C. Facility Reviews

A facility review of this directive shall be conducted at least annually.

D. Requirements

- Individuals in custody who have reached their 18th birthday or who have obtained the status of an emancipated minor may request to sign a Living Will, a Do Not Resuscitate Order (DNR) or a Durable Power of Attorney for Health Care (DPA-HC) at any time while in the custody of the Department.
- Living Wills, DNR and DPA-HC forms shall be obtained from the Illinois Department of Public Health website.
- A Living Will, DNR or DPA-HC, shall be prepared by a physician subject to the provisions described in Paragraph II.D.4.
- Prior to preparing an individual in custody's Living Will, DNR or DPA-HC, the physician shall complete an assessment of the individual in custody's mental health and explain the Living Will,

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DNR or DPA-HC process to the individual in custody.

5. The Living Will, DNR or DPA-HC must be signed in the presence of two witnesses who shall be at least 18 years old and normally be health care or other institutional staff. The Chief Administrative Officer may designate staff who routinely serve as witnesses to individuals in custody in the execution of their Living Wills, DNR or DPA-HC. The physician who completes an individual in custody's Living Will may not serve as a witness for that individual in custody's Living Will, DNR or DPA-HC except in limited circumstances where a second witness is not immediately available.
 6. All individual in custody's Living Wills, DNR and DPA-HC shall be maintained and be construed in accordance with the provisions of Illinois law.
 7. The completed Living Will, DNR and DPA-HC shall always be filed as the last three documents in the miscellaneous section of the individual in custody's medical record. If the medical record is divided into multiple volumes, the Living Will, DNR and DPA-HC shall always be placed in the current volume.
 8. A member of the health care staff shall write or stamp in bold the words "Living Will, DNR or DPA-HC signed" and the date of the declaration on the Medical Problem List for Individuals in Custody, DOC 0088, in the front of the individual in custody's medical record.
 9. If the individual in custody changes his or her mind, health care staff shall:
 - a. Line-out the notation on the DOC 0088.
 - b. Note in bold the word "canceled" on the Living Will, DNR or DPA-HC along with the date, time, signatures and title of the health care staff person making the notation.
 - c. Document in the progress notes that the Living Will, DNR or DPA-HC is canceled.
 10. Health care staff shall place an indicator in the appropriate field in Offender 360 (O360), indicating the individual in custody has executed a Living Will, DNR or DPA-HC. Before enforcing a Living Will, DNR or DPA-HC, staff shall obtain a copy of the individual in custody's most recent Living Will, DNR or DPA-HC, the validity of which shall be judged in accordance with Illinois law. If the Living Will, DNR or DPA-HC is canceled, health care staff shall delete the indicator from O360.
 11. All Living Wills, DNR and DPA-HC executed by individuals in custody shall be recognized.
 12. Upon transfer of an individual in custody to a transition center, the health care staff at the transferring facility shall make a notation of "Living Will, DNR or DPA-HC signed" on the Health Status Transfer Summary, DOC 0090.
 13. When possible, in cases of medical emergencies, the Department shall notify outside facilities, such as hospitals, of the existence of an individual in custody's Living Will, DNR or DPA-HC.
 14. The Living Will, DNR or DPA-HC shall remain in place unless revoked by the individual in custody.
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