

Policy & Procedure

Title:	Advance Directives, Addendum B Acute Care & DeMay Living Center Medical Orders for Life Sustaining Treatment (MOLST) Including Do Not Resuscitate Orders (DNR Orders)	Date of Origin:	10/95	Policy #	RGH GM:2b		
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Policy Statement:

Purpose and Scope

- I. Every patient of an acute care hospital and the DeMay Living Center in the ViaHealth system is presumed to have consented to Cardiopulmonary Resuscitation (CPR) in the event of cardiac or respiratory arrest, unless a Do Not Resuscitate Order (DNR Order) is entered into the patient's chart in a manner consistent with this Policy and the accompanying Procedure. (The DNR order may be stated in terms such as “to refer to MOLST forms or accept MOLST”).
 - A DNR Order applies only to CPR.
 - Entry of a DNR order does not constitute consent or authority to withhold or withdraw medical treatment other than CPR. Utilization of MOLST will further define levels of care for the patient.
 - Before obtaining the necessary consent, the Attending Physician must provide the person consenting with information about the patient's diagnosis and prognosis, the range of available resuscitation measures, the reasonably foreseeable risks and

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Policy Statement (continued)	<p>benefits of CPR for the patient, options for maintaining comfort without CPR and the consequences of a DNR Order.</p> <ul style="list-style-type: none"> ▪ A DNR Order is effective only when written and entered into the patient's chart. ▪ If a member of the Hospital's staff responsible for the care of a patient for whom a DNR Order has been issued objects to providing care in accordance with the DNR Order, the staff member shall communicate this to his/her department manager or designee. The department manager/designee shall take reasonable steps, such as adjustments in staff assignments, consistent with the care needs of the patient, to accommodate the staff member's objection. <p>Definitions</p> <p>II. The following words and phrases shall have the following meanings under this Policy and the accompanying Procedure.</p> <ul style="list-style-type: none"> ▪ An <u>adult</u> is a person who is eighteen years of age or older, or who is under the age of eighteen but is the parent of a child, or has married. ▪ <u>The Attending Physician</u> is the physician selected by or assigned to a patient in a hospital or, for the purpose of provisions governing non-hospital orders not to resuscitate, a patient not in a hospital, who has primary responsibility for the treatment and care of the patients. Where more than one physician shares such responsibility, any such physician may serve as the Attending Physician for purposes of this Policy. ▪ <u>Capacity</u> means the ability to understand and appreciate the nature and consequences of a DNR Order, including the benefits and disadvantages of such an order, and to reach an informed decision regarding the order. ▪ <u>CPR</u> means measures to restore cardiac function or to support ventilation in the event of a cardiac or respiratory arrest, such as manual chest compression, mouth-to-mouth rescue breathing, intubation, direct cardiac injection, intravenous medications, electrical defibrillation and open-chest cardiac massage. CPR does not include measures to improve ventilation or cardiac function in the absence of an arrest. ▪ A <u>close friend</u> is a person, 18 years of age or older, who presents an affidavit to the Attending Physician stating that he/she is a close friend of the patient, has maintained a close relationship with the patient as to be familiar with the patient's activities, health and religious or moral beliefs, and stating the facts and circumstances that demonstrate the familiarity. ▪ <u>Medically futile</u>, in this context, means that CPR will be unsuccessful in restoring cardiac and respiratory function or that the patient will experience repeated arrest
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in a short time period before death occurs.

- **Medical Orders for Life Sustaining Treatment (MOLST)** is a document designed to help health care providers honor the treatment wishes of their patients. The MOLST document is a short summary of a patient’s current treatment preferences. Depending on those preferences, a physician order for Do Not Resuscitate (DNR), Do Not Intubate (DNI), and/or other life-sustaining treatment that is easy to read in an emergency situation can be designated on the MOLST forms.
- Parent means a parent who has custody of a minor patient.
- Reasonably available means that the person can be contacted with diligent efforts by an Attending Physician or by someone acting on behalf of the Attending Physician or the Hospital.
- Terminal condition means an illness or injury from which there is no recovery, and which reasonably can be expected to cause death within one year.

Please note: DNI (Do Not Intubate) is not the same as DNR. DNI is a specific request regarding care a patient may ask for. For example, the patient may allow for chest compressions and ventilation using an airway.

Capacity

- III. Every adult shall be presumed to have capacity to make a decision regarding CPR unless determined otherwise pursuant to this Policy or by court order.
- A determination by the Attending Physician that an adult lacks capacity shall be made to a reasonable degree of medical certainty. The determination shall be made in writing in the patient's chart, and shall contain the physician's opinion regarding the cause, nature, extent and probable duration of the incapacity.
 - At least one other physician must concur in the determination that an adult lacks capacity for purposes of a DNR Order. The concurrence shall be in writing and included in the patient's chart, and shall contain the concurring physician's opinion regarding the cause, nature, extent and probable duration of the incapacity.
 - If the Attending Physician determines that the patient lacks capacity because of mental illness, the concurring determination shall be provided by a physician licensed to practice in New York State, who is a diplomate or eligible to be certified by the American Board of Psychiatry and Neurology or certified or eligible to be certified by the American Osteopathic Board of Neurology and Psychiatry. For purposes of this Policy, mental illness does not include

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regarding DNR Status as soon as the medical basis for not consulting the patient no longer exists.

Surrogate Selection for Adult Without Capacity

- C. The Appointed Healthcare Agent for an Adult Without Capacity shall have all rights and authority that a patient with capacity would have under this Policy, subject to the terms of the Healthcare proxy and in accordance with the patient's wishes as set forth in the patient's living will, if any. The Healthcare Agent's decisions take priority over any other person, except the patient or as otherwise provided in the Healthcare proxy.
- D. For an Adult Without Capacity Without a Healthcare Agent, who has not previously consented to entry of a DNR Order, the consent of a surrogate must be obtained. Only the following persons may serve as surrogates. One person serves as the patient's surrogate, in the order of priority listed below. If the person highest on the list is not reasonably available, willing to make a decision concerning CPR, and competent to make a decision, the next person on the list is selected.
 1. Committee of the person or court-appointed guardian, if any.
 2. Spouse.
 3. Son or Daughter 18 years of age or older.
 4. Parent.
 5. Brother or sister 18 years of age or older.
 6. Close friend.

The surrogate's decision shall be based on the adult patient's wishes, including a consideration of the patient's religious and moral beliefs, or, if the patient's wishes are not known and cannot be ascertained, on the basis of the patient's best interests.

If the Attending Physician has notice that any individual on the surrogate's list opposes the surrogate's consent to a DNR Order, he/she shall submit the matter to the dispute mediation system. In addition, a potential surrogate's opposition to a determination that he/she lacks competence to serve as surrogate may be appealed through the dispute mediation system.

A surrogate may consent to a DNR Order only if the Attending Physician, with concurrence of another physician, has determined to a reasonable degree of medical certainty and documented in the patient's chart that (1) the patient has a terminal condition, or (2) the patient is permanently unconscious, or (3) resuscitation would be medically futile, or (4) resuscitation would impose an extraordinary burden on the patient in light of the patient's medical condition and the expected outcome of CPR.

- E. Adult Patient Without Capacity, with No Healthcare Agent or Competent Surrogate Willing to Make a CPR Decision. In this circumstance, the Attending Physician may enter a DNR Order if he/she determines and records in the chart

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specified regarding resuscitation, intubation and mechanical ventilation. Additional guidance about acceptable/unacceptable intervention relevant to the patient/resident may also be documented such as future hospitalizations/transfers, artificially administered fluids and nutrition, and/or antibiotics.

- **NO LIMITATIONS ON MEDICAL INTERVENTIONS** - All indicated treatment are provided except as specified regarding resuscitation, intubation and mechanical ventilation.

Such classification shall be initiated in conjunction with discussions of DNR status, but shall not be effective unless informed consent for the classification/**Additional Treatment Guidelines** is obtained and documented in the medical record or **on the MOLST forms**.

Periodic Review

VI. Each inpatient's DNR Order must be reviewed by the Attending Physician at least every seven days to determine if the order is still appropriate in light of the patient's condition. For alternate level of care patients, such review shall take place every time the patient is required to be seen by a physician, but at least every sixty days. Review of DNR orders for long term care is every 60 days. The Attending Physician must document the review in the patient's record. Failure by the physician to comply with the seven-day review shall not render the DNR Order ineffective.

Each outpatient's DNR Order must be reviewed by the Attending Physician each time the physician examines the patient, whether in the Hospital or elsewhere, provided that such review need not take place more than once every seven days.

- If the physician determines that the DNR Order is no longer appropriate because the patient's medical condition has improved, he/she shall immediately notify the person who consented to the DNR Order. If the person declines to revoke consent, the physician will make reasonable efforts to arrange for transfer of the patient to another physician or submit the matter to dispute mediation.
- If consent was given by a surrogate, parent or guardian, and the attending physician determines at any time that: (1) the patient does not have a terminal condition; (2) the patient is not permanently unconscious, (3) resuscitation would not be medically futile, and (4) resuscitation would not impose an extraordinary burden on the patient in light of the patient's medical condition and the expected outcome of CPR, the physician shall immediately cancel the DNR Order and notify the person who consented of the revocation of the Order.

Revocation

VII. An adult patient with capacity may revoke or cancel his/her consent to a DNR Order

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(continued)**

Order)")

Dispute Mediation System

XI. The Executive Committee of the Medical and Dental Staff shall establish a panel of qualified persons who will be available on a standby basis to participate in the mediation of disputes that may arise under this Policy, as described below. These persons may be physicians, dentists, nurses, social workers, clergy, etc. who are knowledgeable in the issues of terminal illness and patients' rights to select levels of care/Additional Treatment Guidelines.

- In the event of a dispute concerning lack of capacity due to mental illness, the panel must include a physician who is a diplomate or eligible to be certified by the American Board of Psychiatry and Neurology or certified or eligible to be certified by the American Osteopathic Board of Neurology and Psychiatry.
- In the event of a dispute concerning lack of capacity due to developmental disability, the panel must include a physician or psychologist employed by a school named in Section 13.17 of the Mental Hygiene Law (e.g. Finger Lakes DDSO), or who has been employed for a minimum of two years to render care and service in a facility operated or licensed by the Office of Mental Retardation and Developmental Disabilities (OMRDD), or who has been approved by the Commissioner of OMRDD in accordance with his/her regulations.

Members of the Ethics Committee will be authorized to mediate any dispute concerning issuance of a DNR Order or the determination of a patient's capacity, whether or not the dispute is described elsewhere in this Policy:

- Arising between an adult patient or parent/legal guardian of a minor patient and the Attending Physician or the Hospital; or
- Arising between or among a parent, non-custodial parent, legal guardian of a minor patient, any person on the surrogates list, the Attending Physician, the Hospital, and, if the patient was transferred from a mental health facility, the director of the facility.

The procedure for implementing the dispute mediation process is set forth in the procedure section of this policy.

Immunity

XII. Public Health Law Section 2974 provides that no physician, Healthcare professional, nurse's aide, hospital or person employed by or under contract with a hospital shall be subject to criminal prosecution, civil liability, or be deemed to have

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Policy Statement (continued)	<p>engaged in unprofessional conduct for:</p> <ul style="list-style-type: none"> ▪ Carrying out in good faith, pursuant to provisions of the Public Health Law, a decision regarding CPR by or on behalf of a patient; ▪ Providing CPR to a patient contrary to a written DNR Order when the person was reasonably and in good faith unaware of the written order, or reasonably and in good faith believed that the order had been revoked; or ▪ Acts performed in good faith as a mediator in the Hospital's dispute mediation system. <p><u>Notice to Patients</u></p> <p>XIII. All patients admitted to an acute care hospital in the ViaHealth system, or their representatives, shall be given a copy of the New York State Department of Health brochure, "Your Rights as a Hospital Patient."</p>
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Procedure:	<p><u>Purpose and Scope</u></p> <p>I. The purpose of this Procedure is to implement communications mechanisms between all members of the Healthcare team to identify, respect and protect patients' rights with respect to DNR Orders and to implement the system for mediation of disputes relating to issuance of DNR Orders. Definitions applicable to this Procedure are contained in the definition section of this policy.</p> <p><u>Initiation of DNR Status</u></p> <p>II. In the event that a patient's medical condition indicates a need for discussion of the advisability of issuance of a DNR Order, the following procedure will be implemented.</p> <p><i>Note: Residents (MD) may complete the MOLST form and write an order for DNR following conversation with the family or agent and attending physician (physician responsible for care). The resident is acting under the authorization of the attending physician. The order and MOLST forms must be cosigned within 24 hours by the attending physician. NP's and</i></p>
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Procedure (continued):	<p><u><i>PA's may not write DNR orders or complete the MOLST forms.</i></u></p> <p>A. The Attending Physician:</p> <ul style="list-style-type: none"> ▪ Determines patient's capacity. ▪ Obtains concurring opinion in the event of lack of capacity. ▪ Notifies patient/representative of determination of lack of capacity, if applicable. ▪ Determines appropriate person to consent on behalf of patient. ▪ Provides the person consenting with information about the patient's diagnosis and prognosis, the range of available resuscitation measures, the reasonably foreseeable risks and benefits of CPR for the patient, options for maintaining comfort without CPR and the consequences of a DNR Order. ▪ Obtains informed consent for Level of Care/Additional Treatment Guidelines, if desired. ▪ In the case of a patient transferred from a facility for the mentally ill or developmentally disabled, or a correctional facility, gives notice (or arranges for a member of the Hospital Staff to give notice) of the determination that the patient lacks capacity, of applicable, and/or the patient's or representative's consent to a DNR Order to the facility's director. ▪ Refers the matter to dispute mediation in the event of a dispute concerning capacity or DNR Status. ▪ Completes MOLST and appropriate Supplemental Forms (informed consent) and obtains necessary signatures (See Attachment I). ▪ Signs or initials actions taken. ▪ Writes order in patient's medical record indicating DNR status (and Level of Care/Additional Treatment Guidelines, if desired). <p>B. The Attending Physician or his/her delegate places the MOLST Forms in the Advance Directive section of the patient's medical</p>
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Procedure (continued):	<p>record.</p> <p>C. The RN:</p> <ul style="list-style-type: none"> ▪ Reviews the MOLST Form to ensure that it is completely filled out. If not, he/she addresses missing items with the Attending Physician. ▪ Transcribes and/or validates the accuracy of the transcribed order on the Kardex. <p>D. The RN/LPN in acute care settings:</p> <ul style="list-style-type: none"> ▪ Identifies the patient's DNR status by attaching a blue DNR bracelet to the patient's wrist. ▪ Explains to the patient and family that the blue bracelet is a visual cue for Hospital staff, indicating the issuance of the DNR Order so patient's wishes would be followed. ▪ If after explanation, patient refuses or prefers not to wear the bracelet, document on patient's kardex. <p><u>Consent Process</u></p> <p>IV. Following appropriate discussion with the patient or the appropriate representative concerning the reasonably foreseeable risks and benefits of CPR for the patient, and the consequences of a DNR Order, the patient or representative may give consent in the following manner.</p> <ul style="list-style-type: none"> ▪ An <u>adult patient with capacity</u> may consent either (A) orally, in the presence of at least two witnesses age eighteen or older, one of whom is a physician affiliated with the Hospital; or (B) in writing, dated and signed in the presence of at least two witnesses age eighteen or older, who shall also sign the document. ▪ A <u>surrogate</u> may consent either (A) in writing, dated and signed in the presence of one witness age eighteen or older, who shall also sign the document; or (B) orally, to two persons age eighteen or older, one of whom is a physician affiliated with the Hospital. ▪ A <u>parent or guardian of a minor</u> may consent either (A) in writing, signed and dated in the presence of one witness age eighteen or older, who shall also sign the document; or (b) orally, to two persons age eighteen or older, one of whom is a physician affiliated with the
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Procedure (continued):	<p>Hospital.</p> <p>All decisions shall be recorded in the medical record.</p> <p><u>Periodic Review</u></p> <p>V. The Attending Physician shall, with respect to each patient for whom a DNR Order has been issued:</p> <ul style="list-style-type: none"> ▪ For inpatients, review DNR status at least every seven days to determine if the order is still appropriate in light of the patient's condition. ▪ For alternate level of care patients, review the patient's DNR status every time the patient is required to be seen by the physician, but at least every sixty days. ▪ For outpatients, review DNR status each time the physician examines the patient, whether in the Hospital or elsewhere, provided that such review need not take place more than once every seven days. ▪ Document the review by dating and signing the “MOLST Renew/Review Form” contained in the patient's medical record. (See Attachment II) <p>If the physician determines that the DNR Order is no longer appropriate because the patient's medical condition has improved, he/she shall:</p> <ul style="list-style-type: none"> ▪ Immediately notify the person who consented to the DNR Order. If the person declines to revoke consent, the physician will make reasonable efforts to arrange for transfer of the patient to another physician or submit the matter to dispute mediation. ▪ Immediately notify the RN, who shall take the steps outlined with respect to revocation of consent, below. <p>If the physician determines that the patient has regained capacity, he/she shall:</p> <ul style="list-style-type: none"> ▪ Discuss appropriateness of DNR Order with patient. ▪ Document the discussion and patient’s wishes in the Progress Notes. ▪ In the event the patient revokes the DNR, the physician shall follow steps listed below under “Revocation.”
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Procedure (continued):	<p><u>Revocation</u></p> <p>VI. If a patient (or representative, where applicable) revokes consent to the DNR Order:</p> <ul style="list-style-type: none"> ▪ If the request is made to a person other than the Attending Physician, the RN notifies the Attending Physician. ▪ The RN/LPN removes the patient's blue bracelet. ▪ The Attending Physician confirms the request with the patient or patient's representative and writes an order discontinuing the DNR Order. ▪ The person transcribing the order draws a red diagonal line through the front page of the MOLST Form and MOLST Renew/Review Form and writes under the patient stamp: Revoked, Date, First Initial and Last Name, Title. ▪ The RN/LPN updates the patient's Plan for Care, discontinuing DNR status. <p><u>DNR Orders and Surgery or Procedure</u></p> <p>IX. Prior to surgery or a procedure requiring moderate sedation, the physician <u>must</u> review the DNR Order with the patient, surrogate, parent or guardian.</p> <ul style="list-style-type: none"> ▪ If patient decides <u>not to suspend</u> DNR, Physician documents summary of discussion and patient's wishes in the Progress Notes. ▪ If patient decides <u>to suspend</u> DNR, Physician documents discussion and order to suspend DNR including duration on the "Prescriber Order Form Do Not Resuscitate – Suspension During Surgery or Procedure". (Attachment III) <p><u>For Inpatient</u></p> <p>For patients wanting to <u>maintain DNR Order during surgery or procedure</u>: Document Review Date and Signature on MOLST Renew/Review Form.</p> <p>For patients wishing to <u>suspend DNR</u>:</p> <ul style="list-style-type: none"> ▪ Physician records the following information on the "Prescriber Order
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**Procedure
(continued):**

Form – Do Not Resuscitate – Suspension During Surgery or Procedure”:

- Identity of individual with whom discussion was held.
- Summary of patient’s wishes (include any specific restrictions).
- Order to suspend DNR:
 - Duration [The policy is 24 hours from commencement of surgery/procedure unless otherwise stated].
 - Physician signature, date and time.
- Physician obtains signature of patient or patient’s representative on Suspension Order Form.
- RN validates order by signing DNR suspension order form.
- RN/LPN removes blue bracelet.
- At the commencement of the surgery/procedure, the RN fills in the “Suspend DNR” time and the “Resume DNR” calculated time based on the Prescriber’s Order in the space allotted along the right edge of the form.
- RN/LPN updates Plan of Care to discontinue DNR status.

A DNR suspension post surgery or procedure will be in effect until the time as designated in the physician’s order.

The DNR suspension **will automatically expire** at the designated time unless otherwise documented by the physician.

To re-initiate a DNR order following suspension:

The RN responsible for the patient at the “Resume DNR” time:

- Draws a red diagonal line through the suspension order form.
- Writes under addressograph “Revoked”, date, first initial, last name and title.
- Replaces the blue bracelet on the patient.
- Records DNR status on Plan of Care.

For Outpatient

For patients wanting to maintain DNR status during surgery or procedure:

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Procedure (continued):	<ul style="list-style-type: none"> ▪ Place a copy of the Community DNR (“Nonhospital Order Not to Resuscitate (DNR Order)”) in the patient’s record. (See Addendum D) <p>For patients wishing to suspend DNR status during surgery or procedure:</p> <ul style="list-style-type: none"> ▪ Physician documents patient’s wishes in the progress notes. <p>For outpatient/ambulatory departments (ie Ambulatory Surgery Center) where the surgery or procedure is performed in another area and the patient’s care may be transferred to others who are not familiar with the patient, follow the same process as for inpatients.</p> <p><u>Dispute Mediation System</u></p> <p>VII. In the event of a dispute concerning a patient's capacity or DNR status, a member of the Healthcare Team shall notify a member of the Ethics Committee.</p> <ul style="list-style-type: none"> ▪ An appropriate member of the Committee shall consult with members of the Healthcare Team, and the patient and his/her representatives. ▪ After a dispute has been submitted to a member of the Ethics Committee, a DNR Order shall not be issued, or shall be revoked and may not be reissued, until the earlier of (a) resolution of the dispute; (b) written notification by the Committee member to the Attending Physician that he or she has been unable to resolve the dispute; or (c) the lapse of 72 hours from the time of submission of the dispute to the Committee member. ▪ If the patient desires a DNR Order, and the dispute cannot be resolved, the Attending Physician shall, following the earlier of the conclusion of the Committee member's efforts or lapse of 72 hours, either (a) promptly issue a DNR Order, or (b) promptly arrange for transfer of the patient to another physician or hospital. ▪ Members of the Ethics Committee do not have the authority to determine whether a DNR Order shall be issued. ▪ Persons participating in the Dispute Mediation System shall be informed that they have the right to take the issue to court in accordance with the Public Health Law.
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and Affiliates

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Procedure (continued):	<p><u>Unresolved Issues</u></p> <p>VIII. In light of the sensitive nature of the issues involved, members of the Healthcare Team are encouraged to contact the President of the Medical and Dental Staff, Hospital Administrator on behalf of the Hospital President, or Medical Director in the event of uncertainty concerning the appropriate procedures to be followed, resolution of disputes, or decisions made relating to DNR status. The person contacted will determine whether legal counsel should be consulted.</p>
	<p><u>Discharge or Transfer</u></p> <p>XI. ViaHealth DNR orders do not extend beyond the current admission. As part of the discharge planning process for patients discharged to home, one may consider completion of the Community DNR (NYS “Nonhospital Order Not to Resuscitate (DNR Order)”) Form.</p> <ul style="list-style-type: none"> The NYS “Nonhospital Order Not to Resuscitate (DNR form) must be completed for a DNR order to be utilized in the home and other community settings, eg. Hospice, group homes, etc. MOLST forms may be utilized in nursing homes. MOLST forms (consent forms) do extend beyond the current admission. RN or delegate will make a copy of the MOLST form and place it in the current medical record under the Advance Directive tab. Staff member provides the patient or family with the original MOLST form (Including Renew/Review form) for use upon any readmission. At RGH: RN or delegate faxes the copy of the MOLST forms and any other advance directives to HIM to be scanned into CCS .
References:	New York State Public Health Law, Article 29-B

Approv	<u>Signature</u>	<u>Name</u>	<u>Title</u>	<u>Date</u>
		Samuel R. Huston	President/CEO, ViaHealth	3/3/04