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**S. 802**

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 5/16/2023 Scrivener's error corrected

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**VERSIONS OF THIS BILL**

[05/11/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/802_20230511.docx)

[05/16/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/802_20230516.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 44‑4‑120, RELATING TO PURPOSE OF THE SOUTH CAROLINA HOMELAND SECURITY ACT, SO AS TO LIMIT THE SCOPE OF PURPOSE OF THE ACT TO COLLECTION OF DATA AND RECORDS; BY REPEALING SECTION 44‑4‑300 RELATING TO POWERS OVER DANGEROUS FACILITIES AND MATERIALS; BY REPEALING SECTION 44‑4‑310 RELATING TO USE OF HEALTH CARE FACILITY OR SERVICES IN RESPONSE TO PUBLIC HEALTH EMERGENCY; BY AMENDING SECTION 44‑4‑330, RELATING TO PURCHASE AND DISTRIBUTION OF PHARMACEUTICAL AGENTS OR MEDICAL SUPPLIES, RATIONING, AND QUOTAS, SO AS TO MAKE CONFORMING CHANGES; BY AMENDING SECTION 44‑4‑340, RELATING TO DESTRUCTION OF PROPERTY AND CIVIL PROCEEDINGS, SO AS TO MAKE CONFORMING CHANGES; BY REPEALING SECTION 44‑4‑500 RELATING TO CONTROL AND TREATMENT OF INFECTIOUS DISEASE; BY REPEALING SECTION 44‑4‑510 RELATING TO PHYSICAL EXAMINATIONS OR TESTS AND ISOLATION OR QUARANTINE OF PERSONS REFUSING EXAMINATION; BY AMENDING SECTION 44‑4‑520, RELATING TO VACCINATIONS AND TREATMENT, SO AS TO PROVIDE THAT VACCINATIONS MUST BE ON A VOLUNTARY BASIS AND THAT ISOLATION AND QUARANTINE MAY ONLY BE RECOMMENDED; BY AMENDING SECTION 44‑4‑530, RELATING TO ISOLATION AND QUARANTINE OF INDIVIDUALS OR GROUPS AND A PENALTY FOR NONCOMPLIANCE, SO AS TO PROVIDE THAT DHEC MAY RECOMMEND ISOLATION OR QUARANTINE AND MAKE CONFORMING CHANGES TO LIMIT DHEC’S AUTHORITY; BY REPEALING SECTION 44‑4‑540 RELATING TO ISOLATION AND QUARANTINE PROCEDURES AND ORDER TO SHOW CAUSE FOR NOT RELEASING; BY AMENDING SECTION 44‑4‑560, RELATING TO ACCESS TO PROTECTED HEALTH INFORMATION, SO AS TO RESTRICT ACCESS TO PROTECTED HEALTH INFORMATION BY REMOVING DHEC’S ACCESS TO SUCH INFORMATION PURSUANT TO A COURT ORDER OR EXECUTIVE ORDER OF THE GOVERNOR; AND BY AMENDING SECTION 44‑4‑570, RELATING TO EMERGENCY POWERS REGARDING LICENSING OF HEALTH PERSONNEL, APPOINTMENT OF IN‑STATE AND OUT‑OF‑STATE PROVIDERS, LIABILITY OF APPOINTED PROVIDERS FOR CIVIL DAMAGES, APPOINTMENT OF EMERGENCY MEDICAL EXAMINERS OR CORONERS, WAIVER OF LICENSING FEES AND REQUIREMENTS, AND IMMUNITY, SO AS TO MAKE CONFORMING CHANGES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 44‑4‑120 of the S.C. Code is amended to read:

 Section 44‑4‑120. The purposes of this act are:

 (1) to authorize the collection of data and records, the control of property, the management of persons, and access to communications as may be strictly necessary to accomplish the purposes of this act;

 (2) to facilitate the early detection of a qualifying health event or public health emergency, and allow for immediate investigation of such an emergency by granting access to individuals' health information under specified circumstances;

 (3) to grant state officials the authority to use and appropriate property as necessary for the care, treatment, and housing of patients, and for the destruction or decontamination of contaminated materials;

 (4) to grant state officials the authority to provide care and treatment to persons who are ill or who have been exposed to infection, and to separate affected individuals from the population at large for the purpose of interrupting the transmission of infectious disease;

 (5) to ensure that the needs of infected or exposed persons will be addressed to the fullest extent possible, given the primary goal of controlling serious health threats;

 (6) to provide state officials with the ability to prevent, detect, manage, and contain emergency health threats without unduly interfering with civil rights and liberties; and

 (7) to require the development of a comprehensive plan to provide for a coordinated, appropriate response in the event of a public health emergency.

SECTION 2. Section 44‑4‑300 of the S.C. Code is repealed.

SECTION 3. Section 44‑4‑310 of the S.C. Code is repealed.

SECTION 4. Section 44‑4‑330 of the S.C. Code is amended to read:

 Section 44‑4‑330. (A) After the declaration of a public health emergency, DHEC may purchase and distribute antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies that it considers advisable in the interest of preparing for or controlling a public health emergency, without any additional legislative authorization.

 (B)(1) If a state of public health emergency results in a statewide or regional shortage or threatened shortage of any product covered by subsection (a), whether or not such product has been purchased by DHEC, DHEC may control, restrict, and regulate by rationing and using quotas, prohibitions on shipments, price fixing, allocation or other means, the use, sale, dispensing, distribution, or transportation of the relevant product necessary to protect the health, safety, and welfare of the people of the State. In making rationing or other supply and distribution decisions, DHEC must give preference to health care providers, disaster response personnel, and mortuary staff.

 (2) During a state of public health emergency, DHEC may procure, store, or distribute any antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies located within the State as may be reasonable and necessary for emergency response, with the right to take immediate possession thereof.

 (3) If a public health emergency simultaneously affects more than one state, nothing in this section shall be construed to allow DHEC to obtain antitoxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents or medical supplies for the primary purpose of hoarding such items or preventing their fair and equitable distribution among affected states.

SECTION 5. Section 44‑4‑340 of the S.C. Code is amended to read:

 Section 44‑4‑340. To the extent practicable and consistent with the protection of public health, prior to the destruction of any property under this article, DHEC in coordination with the applicable law enforcement agency must institute appropriate civil proceedings against the property to be destroyed in accordance with the existing laws and rules of the courts of this State or any such rules that may be developed by the courts for use during a state of public health emergency. Any property acquired by DHEC through such proceedings must, after entry of the decree, be disposed of by destruction as the court may direct.

SECTION 6. Section 44‑4‑500 of the S.C. Code is repealed.

SECTION 7. Section 44‑4‑510 of the S.C. Code is repealed.

SECTION 8. Section 44‑4‑520 of the S.C. Code is amended to read:

 Section 44‑4‑520. (A) During a state of public health emergency, DHEC may exercise the following emergency powers, in addition to its existing powers, over persons as necessary to address the public health emergency:

 (1) to vaccinate persons on a voluntary basis as protection against infectious disease and to prevent the spread of contagious or possibly contagious disease;

 (2) to treat persons exposed to or infected with disease; and

 (3) to prevent the spread of contagious or possibly contagious disease, DHEC may recommend isolation or quarantine forisolate or quarantine, pursuant to the applicable sections of this act, persons who are unable or unwilling for any reason (including, but not limited to, health, religion, or conscience) to undergo vaccination or treatment pursuant to this section.

 (B) Vaccinations or treatment, or both, must be provided only to those individuals who agree to the vaccinations or treatment, or both.

 (C)(1) Vaccination may be performed by any qualified person authorized by DHEC.

 (2) To be administered pursuant to this section, a vaccine must not be such as is reasonably likely to lead to serious harm to the affected individual.

 (D)(1) Treatment must be administered by any qualified person authorized to do so by DHEC.

 (2) Treatment must not be such as is reasonably likely to lead to serious harm to the affected individual.

SECTION 9. Section 44‑4‑530 of the S.C. Code is amended to read:

 Section 44‑4‑530. (A) During a public health emergency, DHEC may recommend that an individual or groups of individuals isolate or quarantine. an individual or groups of individuals. This includes individuals or groups who have not been vaccinated, treated, tested, or examined pursuant to Sections 44‑4‑510 and 44‑4‑520. DHEC may also establish and maintain places of isolation and quarantine, and set rules and make orders.

 (B) DHEC must adhere to the following conditions and principles when isolating or quarantining individuals or groups of individuals:

 (1) isolation and quarantine must be by the least restrictive means necessary to prevent the spread of a contagious or possibly contagious disease to others and may include, but are not limited to, confinement to private homes or other private and public premises;

 (2) individuals isolated because of objective evidence of infection or contagious disease must be confined separately from quarantined asymptomatic individuals;

 (3) the health status of isolated and quarantined individuals must be monitored regularly to determine if they require isolation or quarantine;

 (4) if a quarantined individual becomes infected or is reasonably believed to be infected with a contagious or possibly contagious disease, he or she must be promptly removed to isolation;

 (5) isolated and quarantined individuals must be immediately released when they pose no substantial risk of transmitting a contagious or possibly contagious disease to others;

 (6) the needs of persons isolated and quarantined must be addressed in a systematic and competent fashion including, but not limited to, providing adequate food, clothing, shelter, means of communication with those in isolation or quarantine and outside these settings, medication, and competent medical care;

 (7) premises used for isolation and quarantine must be maintained in a safe and hygienic manner and be designed to minimize the likelihood of further transmission of infection or other harms to persons isolated or quarantined; and

 (8) to the extent possible, cultural and religious beliefs must be considered in addressing the needs of the individuals and establishing and maintaining isolation and quarantine premises.

 (C) A person subject to isolation or quarantine must comply with DHEC's rules and orders, and must not go beyond the isolation or quarantine premises. Failure to comply with these rules and orders constitutes a felony and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than thirty days, or both.

 (D)(1) DHEC may authorize physicians, health care workers, or others access to individuals in isolation or quarantine as necessary to meet the needs of isolated or quarantined individuals.

 (2) No person, other than a person authorized by DHEC, shall enter isolation or quarantine premises. Failure to comply with this provision constitutes a felony and, upon conviction, a person must be fined not more than one thousand dollars or imprisoned not more than thirty days, or both.

 (3) A person entering an isolation or quarantine premises with or without authorization of DHEC may be isolated or quarantined as provided for in this chapter.

 (4) The public safety authority and other law enforcement officers may arrest, isolate, or quarantine an individual who is acting in violation of an isolation or quarantine order after the order is given to the individual pursuant to Section 44‑4‑540(B)(3) or after the individual is provided notice of the order. In a case where an individual is not the subject of an isolation or quarantine order under Section 44‑4‑540, law enforcement officers may provide written or verbal notice of the order. Law enforcement officers may arrest, isolate, or quarantine an individual who is acting in violation of isolation or quarantine rules after the rules are established and the individual is given written or verbal notice of the rules. An arrest warrant or an additional isolation or quarantine order is not required for arrest, isolation, or quarantine under Section 44‑4‑530(D)(4).

 (E) An employer may not fire, demote, or otherwise discriminate against an employee complying with an isolation or quarantine order issued pursuant to Section 44‑1‑80, 44‑1‑110, 44‑1‑140, 44‑4‑520, 44‑4‑530, or 44‑4‑540; however, nothing in this section prohibits an employer from requiring an employee to use annual or sick leave to comply with such an order.

SECTION 10. Section 44‑4‑540 of the S.C. Code is repealed.

SECTION 11. Section 44‑4‑560 of the S.C. Code is amended to read:

 Section 44‑4‑560. (A) Access to protected health information of persons who have participated in medical testing, treatment, vaccination, isolation, or quarantine programs or efforts by DHEC during a public health emergency is limited to those persons having a legitimate need to:

 (1) provide treatment to the individual who is the subject of the health information;

 (2) conduct epidemiological research; or

 (3) investigate the causes of transmission.

 (B) Protected health information held by DHEC must not be disclosed to others without individual specific informed authorization except for disclosures made:

 (1) directly to the individual;

 (2) to the individual's immediate family members or life partners;

 (3) to appropriate state or federal agencies or authorities when necessary to protect public health;

 (4) to health care personnel where needed to protect the health or life of the individual who is the subject of the information; or

 (5) pursuant to a court order or executive order of the Governor to avert a clear danger to an individual or the public health; or

 (6)(5) to coroners, medical examiners, or funeral directors or others dealing with human remains to identify a deceased individual or determine the manner or cause of death.

SECTION 12. Section 44‑4‑570 of the S.C. Code is amended to read:

 Section 44‑4‑570. (A) DHEC, in coordination with the appropriate licensing authority and the Department of Labor, Licensing and Regulation, may exercise, for such period as the state of public health emergency exists, in addition to existing emergency powers, the following emergency powers regarding licensing of health personnel:

 (1) to require in‑state health care providers to assist in the performance of vaccination, treatment, examination, or testing of any individual as a condition of licensure, authorization, or the ability to continue to function as a health care provider in this State;

 (2)(1) to accept the volunteer services of in‑state and out‑of‑state health care providers consistent with Title 8, Chapter 25, to appoint such in‑state and out‑of‑state health care providers as emergency support function volunteers, and to prescribe the duties as may be reasonable and necessary for emergency response; and

 (3)(2) to authorize the medical examiner or coroner to appoint and prescribe the duties of such emergency assistant medical examiners or coroners as may be required for the proper performance of the duties of the office.

 (B)(1) The appointment of in‑state and out‑of‑state health care providers pursuant to this section may be for a limited or unlimited time but must not exceed the termination of the state of public health emergency. DHEC may terminate the in‑state and out‑of‑state appointments at any time or for any reason provided that any termination will not jeopardize the health, safety, and welfare of the people of this State.

 (2) The appropriate licensing authority may waive any or all licensing requirements, permits, or fees required by law and applicable orders, rules, or regulations for health care providers from other jurisdictions to practice in this State.

 (C)(1) Any health care provider appointed by the department pursuant to this section must not be held liable for any civil damages as a result of medical care or treatment including, but not limited to, trauma care and triage assessment, related to the appointment of the health care provider and the prescribed duties unless the damages result from providing, or failing to provide, medical care or treatment under circumstances demonstrating a reckless disregard for the consequences so as to affect the life or health of the patient.

 (2) This subsection applies if the health care provider does not receive payment from the State other than as allowed in Section 8‑25‑40 for the appointed services and prescribed duties. However, if the health care provider is an employee of the State, the health care provider may continue to receive compensation from the health care provider's employer. This subsection applies whether the health care provider was paid, should have been paid, or expected to be paid for the services at the time of rendering the services from sources including, but not limited to, Medicaid, Medicare, reimbursement under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Section 512, et seq., or private health insurance.

 (D)(1) The appointment of emergency assistant medical examiners or coroners pursuant to this section may be for a limited or unlimited time, but must not exceed the termination of the state of public health emergency. The medical examiner or coroner may terminate the emergency appointments at any time or for any reason, if the termination will not impede the performance of the duties of the office.

 (2) The medical examiner or coroner may waive any or all licensing requirements, permits, or fees required by law and applicable orders, rules, or regulations for the performance of these duties.

 (3) Any emergency assistant medical examiner or coroner appointed pursuant to this section is immune from civil liability for damages resulting from services relating to and performed during the period of appointment unless the damages result from providing, or failing to provide, services under circumstances demonstrating a reckless disregard for the consequences.

SECTION 13. This act takes effect upon approval by the Governor.

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