**South Carolina General Assembly**

120th Session, 2013-2014

**A39, R45, S117**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Hayes, Courson, O'Dell, Verdin and Ford

Document Path: l:\council\bills\nbd\11035ac13.docx

Companion/Similar bill(s): 3366

Introduced in the Senate on January 8, 2013

Introduced in the House on April 11, 2013

Last Amended on April 9, 2013

Passed by the General Assembly on May 29, 2013

Governor's Action: June 7, 2013, Signed

Summary: Adult Heathcare Consent Act

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/18/2012 Senate Prefiled

 12/18/2012 Senate Referred to Committee on **Medical Affairs**

 1/8/2013 Senate Introduced and read first time ([Senate Journal‑page 79](file:///h%3A%5CSJ%20Archive%5C2013%5C01-08-13.docx))

 1/8/2013 Senate Referred to Committee on **Medical Affairs** ([Senate Journal‑page 79](file:///h%3A%5CSJ%20Archive%5C2013%5C01-08-13.docx))

 3/21/2013 Senate Committee report: Favorable with amendment **Medical Affairs** ([Senate Journal‑page 17](file:///h%3A%5CSJ%20Archive%5C2013%5C03-21-13.docx))

 3/22/2013 Scrivener's error corrected

 4/9/2013 Senate Committee Amendment Adopted ([Senate Journal‑page 46](file:///h%3A%5CSJ%20Archive%5C2013%5C04-09-13.docx))

 4/10/2013 Scrivener's error corrected

 4/10/2013 Senate Read second time ([Senate Journal‑page 33](file:///h%3A%5CSJ%20Archive%5C2013%5C04-10-13.docx))

 4/10/2013 Senate Roll call Ayes‑43 Nays‑0 ([Senate Journal‑page 33](file:///h%3A%5CSJ%20Archive%5C2013%5C04-10-13.docx))

 4/11/2013 Senate Read third time and sent to House ([Senate Journal‑page 11](file:///h%3A%5CSJ%20Archive%5C2013%5C04-11-13.docx))

 4/11/2013 House Introduced and read first time ([House Journal‑page 72](file:///h%3A%5CHJ%20Archive%5C2013%5C04-11-13.docx))

 4/11/2013 House Referred to Committee on **Judiciary** ([House Journal‑page 72](file:///h%3A%5CHJ%20Archive%5C2013%5C04-11-13.docx))

 4/23/2013 House Recalled from Committee on **Judiciary** ([House Journal‑page 108](file:///h%3A%5CHJ%20Archive%5C2013%5C04-23-13.docx))

 4/23/2013 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 108](file:///h%3A%5CHJ%20Archive%5C2013%5C04-23-13.docx))

 5/22/2013 House Committee report: Favorable **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 45](file:///h%3A%5CHJ%20Archive%5C2013%5C05-22-13.docx))

 5/28/2013 House Read second time ([House Journal‑page 17](file:///h%3A%5CHJ%20Archive%5C2013%5C05-28-13.docx))

 5/28/2013 House Roll call Yeas‑76 Nays‑32 ([House Journal‑page 17](file:///h%3A%5CHJ%20Archive%5C2013%5C05-28-13.docx))

 5/29/2013 House Read third time and enrolled ([House Journal‑page 7](file:///h%3A%5CHJ%20Archive%5C2013%5C05-29-13.docx))

 6/4/2013 Ratified R 45

 6/7/2013 Signed By Governor

 6/18/2013 Effective date 01/01/14

 6/18/2013 Act No. 39

**VERSIONS OF THIS BILL**

[12/18/2012](file:///p%3A%5Cpprever%5C2013-14%5C117_20121218.docx)

[3/21/2013](file:///p%3A%5Cpprever%5C2013-14%5C117_20130321.docx)

[3/22/2013](file:///p%3A%5Cpprever%5C2013-14%5C117_20130322.docx)

[4/9/2013](file:///p%3A%5Cpprever%5C2013-14%5C117_20130409.docx)

[4/10/2013](file:///p%3A%5Cpprever%5C2013-14%5C117_20130410.docx)

[5/22/2013](file:///p%3A%5Cpprever%5C2013-14%5C117_20130522.docx)

(A39, R45, S117)

**AN ACT TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 44‑66‑75 SO AS TO REQUIRE A HEALTH CARE PROVIDER TO GIVE A PATIENT AN OPPORTUNITY TO ALLOW DISCLOSURE OF CERTAIN INFORMATION TO DESIGNATED FAMILY MEMBERS AND OTHER INDIVIDUALS AND TO AUTHORIZE THE INVOLVEMENT OF THESE FAMILY MEMBERS AND OTHER INDIVIDUALS IN THE TREATMENT OF THE PATIENT; TO SPECIFY THE CONTENTS OF THE AUTHORIZATION; TO PROVIDE CIVIL AND CRIMINAL IMMUNITY FOR GOOD FAITH DISCLOSURE OF INFORMATION; AND TO AMEND SECTION 44‑66‑20, AS AMENDED, RELATING TO DEFINITIONS IN THE ADULT HEALTH CARE CONSENT ACT, SO AS TO DEFINE “PATIENT” AND “TREATMENT” AND TO AMEND OTHER DEFINITIONS.**

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

**Patient authorization to have medical condition disclosed to designated individual**

SECTION 1. Chapter 66, Title 44 of the 1976 Code is amended by adding:

 “Section 44‑66‑75. (A) A health care provider or the provider’s agent shall provide on the patient information form or by electronic health records, the opportunity for the patient to designate a family member or other individual they choose as a person with whom the provider may discuss the patient’s medical condition and treatment plan.

 (B) The authorization provided for in subsection (A):

 (1) satisfies the requirements of Title 42 of the Code of Federal Regulations, relating to public health, and the privacy rule of the Health Insurance Portability and Accountability Act of 1996 (HIPAA);

 (2) must present the question in bold print and capitalized, or by electronic means: ‘DO YOU WANT TO DESIGNATE A FAMILY MEMBER OR OTHER INDIVIDUAL WITH WHOM THE PROVIDER MAY DISCUSS YOUR MEDICAL CONDITION? IF YES, WHOM?’; and

 (3) must specify that the patient may revoke or modify an authorization with regard to any family member or other individual designated by the patient in the authorization and that the revocation or modification must be in writing.

 (C) A health care provider may disclose information pursuant to an authorization unless the provider has actual knowledge that the authorization has been revoked or modified.

 (D) A health care provider who in good faith discloses information in accordance with an authorization signed by a patient pursuant to this section is not subject to civil liability, criminal liability, or disciplinary sanctions because of this disclosure.

 (E) Nothing in this section may be construed to:

 (1) require a health care provider to disclose information that he otherwise may withhold or limit;

 (2) limit or prevent a provider from disclosing information without written authorization from the patient if this disclosure is otherwise lawful or permissible;

 (3) prohibit a provider from receiving and using information relevant to the safe and effective treatment of the patient from family members; and

 (4) conflict with an individual’s health care power of attorney as provided for in the South Carolina Probate Code.

 (F) Notwithstanding any other provision of this chapter, this section does not apply to nursing homes, as defined in Section 44‑7‑130 or a dentist, dental hygienist, or dental technician licensed or registered in Chapter 15, Title 40.”

**Definitions**

SECTION 2. Section 44‑66‑20 of the 1976 Code, as last amended by Act 351 of 2002, is further amended to read:

 “Section 44‑66‑20. As used in this chapter:

 (1) ‘Health care’ means a procedure to diagnose or treat a human disease, ailment, defect, abnormality, or complaint, whether of physical or mental origin. Health care also includes the provision of intermediate or skilled nursing care; services for the rehabilitation of injured, disabled, or sick persons; and the placement in or removal from a facility that provides these forms of care.

 (2) ‘Health care provider’ or ‘provider’ means a person, health care facility, organization, or corporation licensed, certified, or otherwise authorized or permitted by the laws of this State to administer health care.

 (3) ‘Health care professional’ means an individual who is licensed, certified, or otherwise authorized by the laws of this State to provide health care to members of the public.

 (4) ‘Patient’ means an individual sixteen years of age or older who presents or is presented to a health care provider for treatment.

 (5) ‘Person’ includes, but is not limited to, an individual, a state agency, or a representative of a state agency.

 (6) ‘Physician’ means an individual who is licensed to practice medicine or osteopathy pursuant to Chapter 47, Title 40.

 (7) ‘Treatment’ means the broad range of emergency, outpatient, intermediate, and inpatient services and care that may be extended to a patient to diagnose and treat a human disease, ailment, defect, abnormality, or complaint, whether of physical or mental origin. Treatment includes, but is not limited to, psychiatric, psychological, substance abuse, and counseling services.

 (8) ‘Unable to consent’ means unable to appreciate the nature and implications of the patient’s condition and proposed health care, to make a reasoned decision concerning the proposed health care, or to communicate that decision in an unambiguous manner. This term does not apply to minors, and this chapter does not affect the delivery of health care to minors unless they are married or have been determined judicially to be emancipated. A patient’s inability to consent must be certified by two licensed physicians, each of whom has examined the patient. However, in an emergency the patient’s inability to consent may be certified by a health care professional responsible for the care of the patient if the health care professional states in writing in the patient’s record that the delay occasioned by obtaining certification from two licensed physicians would be detrimental to the patient’s health. A certifying physician or other health care professional shall give an opinion regarding the cause and nature of the inability to consent, its extent, and its probable duration. If a patient unable to consent is being admitted to hospice care pursuant to a physician certification of a terminal illness required by Medicare, that certification meets the certification requirements of this item.”

**Time effective**

SECTION 3. This act takes effect January 1, 2014.

Ratified the 4th day of June, 2013.

Approved the 7th day of June, 2013.

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