CHAPTER 30

Health Care Professionals

Editor's Note

Chapter 30 title renamed from "Health Care Professional Compliance Act" by 2016 Act No. 189, Section 2.A.

ARTICLE 1

Health Care Professional Compliance Act

Editor's Note

Sections 44‑30‑10 through 44‑30‑90 designated as Article 1 by 2016 Act No. 189, Section 2.B.

**SECTION 44‑30‑10.** Short title.

 This article may be cited as the "South Carolina Health Care Professional Compliance Act".

HISTORY: 1992 Act No. 403, Section 8; 1993 Act No. 181, Section 1100.

Code Commissioner's Note

Pursuant to the directive in 2016 Act No. 189, Section 3, "article" was substituted for "chapter" in this section.

**SECTION 44‑30‑20.** Definitions.

 As used in this article:

 (1) "CDC" means the Centers for Disease Control of the Public Health Service.

 (2) "CDC recommendations" means the July 12, 1991, CDC document (MMWR, Volume 40, No. RR‑8) entitled "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure‑Prone Invasive Procedures" or equivalent guidelines developed by the department and approved by the CDC and any appropriate supplements or revisions thereto.

 (3) "Department" means the South Carolina Department of Health and Environmental Control.

 (4) "Educational institutions" means the health professional schools of dentistry, medicine, and nursing and any other educational program or institution providing training for health care professionals.

 (5) "Expert review panel" means a panel of experts in composition and function as defined in the CDC recommendations and appointed or approved by the department.

 (6) "Health care professional" means a physician, physician's assistant, dentist, dental hygienist, registered nurse, licensed practical nurse, or podiatrist practicing or licensed to practice in South Carolina.

 (7) "Licensing board" means these health professional licensing boards which are state agencies and which license and regulate specific health care professions: the State Board of Medical Examiners, the State Board of Nursing for South Carolina, the South Carolina State Board of Dentistry, and the State Board of Podiatry Examiners.

 (8) "Public law" means Public Law 102‑141, Section 633, enacted October 28, 1991, applicable to health care professionals.

 (9) "State public health official" means the director of the department or the director's designee.

HISTORY: 1992 Act No. 403, Section 8; 1993 Act No. 181, Section 1100.

Code Commissioner's Note

Pursuant to the directive in 2016 Act No. 189, Section 3, "article" was substituted for "chapter" in this section.

**SECTION 44‑30‑30.** Department to oversee implementation of PL 102‑141, Section 633, and CDC recommendations; assistance to licensing boards to ensure compliance; expert review panel.

 (A) The department is authorized to ensure and oversee the implementation of Public Law 102‑141, Section 633, and applicable CDC recommendations and any appropriate supplements and revisions to the CDC recommendations which apply to health care professionals.

 (B) The department shall provide consultation and assistance to licensing boards, as appropriate, to ensure compliance with CDC recommendations.

 (C) The department shall appoint at least one or approve an existing expert review panel, consistent with the CDC recommendations in composition and function, whose recommendations must be considered requirements and must be binding upon the affected health care professionals.

HISTORY: 1992 Act No. 403, Section 8.

**SECTION 44‑30‑40.** Adoption of CDC recommendations by licensing boards; notice to health care professionals; disciplinary action regarding violations by health care professionals.

 (A) By October 1, 1992, each licensing board shall adopt the CDC recommendations and shall communicate with its respective health care professionals by written notice of their adoption. This written notice must include information that noncompliance may subject the licensee to disciplinary proceedings before the licensing board. The notice must provide information regarding education and training in the areas of infection control, universal precautions, and disinfection and sterilization techniques.

 (B) Each licensing board shall institute disciplinary or other action for violations by its respective health care professionals of the CDC recommendations and any other requirements adopted pursuant to this article.

HISTORY: 1992 Act No. 403, Section 8.

Code Commissioner's Note

Pursuant to the directive in 2016 Act No. 189, Section 3, "article" was substituted for "chapter" in this section.

**SECTION 44‑30‑50.** Immunity from liability for members of review panels and licensing boards and consultants and persons providing information thereto.

 No member of an expert review panel or licensing board and no person or organization providing consultation to an expert review panel or licensing board may be subject to civil or criminal liability for actions or omissions made during investigations or hearings or made in rulings or decisions when acting within the scope of official duties and while carrying out the responsibilities of this article. No other person providing written or oral information to an expert review panel or a licensing board may be subject to civil or criminal liability for actions taken or statements made in good faith during an investigation or hearing.

HISTORY: 1992 Act No. 403, Section 8.

Code Commissioner's Note

Pursuant to the directive in 2016 Act No. 189, Section 3, "article" was substituted for "chapter" in this section.

**SECTION 44‑30‑60.** Confidentiality of expert review panel proceedings, records and information; notification of noncompliance; reports of accidents and incidents.

 (A) An expert review panel is considered a professional committee pursuant to Chapter 71, Title 40, "Liability of Members of Professional Committees". Proceedings, records, and information acquired or produced by the panel are confidential pursuant to Section 40‑71‑20, except that the expert review panel may notify a person or entity charged with supervision or monitoring of the requirements set forth in Section 44‑30‑30(3) and must notify the appropriate licensing board and the department of any occurrence of noncompliance by the health care professional with the requirements of the expert review panel.

 (B) Nothing in this section affects the duty of a facility or activity licensed by the department to report accidents or incidents pursuant to the department's regulations. Provided, however, anything reported pursuant to the department's regulations shall not be considered to waive any privilege or confidentiality provided in subsection (A).

HISTORY: 1992 Act No. 403, Section 8; 2006 Act No. 372, Section 2, eff June 9, 2006.

Effect of Amendment

The 2006 amendment designated subsection (A) and added subsection (B) relating to reporting accidents and incidents.

**SECTION 44‑30‑70.** Disciplinary action for violation of expert review panel recommendations or related regulations.

 A health care professional who violates a recommendation of the expert review panel as set forth in Section 44‑30‑40 and related regulations is subject to disciplinary action by the appropriate licensing board. Nothing in this article prohibits the department from taking any action it considers necessary to protect the public health pursuant to Section 44‑1‑140.

HISTORY: 1992 Act No. 403, Section 8.

Code Commissioner's Note

Pursuant to the directive in 2016 Act No. 189, Section 3, "article" was substituted for "chapter" in this section.

**SECTION 44‑30‑80.** Educational institutions providing training in preparation for licensure to certify they provide appropriate curricula.

 An educational institution providing basic training programs for health care professionals in preparation for licensure in the State shall certify annually to the department that it provides curricula for infection control, universal precautions, and sterilization and disinfection techniques appropriate for health care professionals participating in its education programs.

HISTORY: 1992 Act No. 403, Section 8.

**SECTION 44‑30‑90.** Regulations; order authentication and contents.

 The department and each licensing board shall promulgate regulations necessary to accomplish the purposes set forth in this article and to comply with public law no later than October 1, 1992. All orders for medication dispensed or treatment provided in a hospital shall be authenticated according to hospital policy. The orders shall be taken by personnel qualified by hospital medical staff rules and shall include the date, time, and name of persons who gave the order, and the signature of the person taking the order. The Department of Health and Environmental Control shall promulgate regulations consistent with this provision.

HISTORY: 1992 Act No. 403, Section 8; 1999 Act No. 85, Section 2.

Code Commissioner's Note

Pursuant to the directive in 2016 Act No. 189, Section 3, "article" was substituted for "chapter" in this section.

ARTICLE 3

Immunity from Liability for Providing Free Health Care Services

**SECTION 44‑30‑310.** Free health care services; immunity from liability.

 If a health care provider, licensed pursuant to the laws of this State, informs his or her patient in writing, which may include use of an electronic medical record device, before treatment that the treatment to be rendered by the health care provider will be provided free of charge, the health care provider is not liable for any civil damages for any personal injury as a result of any act or omission by the health care provider rendering treatment free of charge or failure to act to provide or arrange for further treatment, except acts or omission amounting to gross negligence or wilful or wanton misconduct. For purposes of this section, a health care provider includes a dentist maintaining a restricted volunteer license pursuant to Section 40‑15‑177, a practitioner maintaining a special volunteer license pursuant to Section 40‑47‑34, and a chiropractor maintaining a special volunteer license pursuant to Section 40‑9‑85.

HISTORY: 2016 Act No. 189 (H.4999), Section 1, eff May 25, 2016.