CHAPTER 66

Adult Health Care Consent Act

CROSS REFERENCES

Health Care Powers of Attorney, appointment of successor agents, see Section 62‑5‑511.

**SECTION 44‑66‑10.** Short title.

 This chapter may be cited as the “Adult Health Care Consent Act”.

HISTORY: 1990 Act No. 472, Section 1.

RESEARCH REFERENCES

Encyclopedias

40 Am. Jur. Proof of Facts 3d 287, Proof of Basis for Refusal or Discontinuance of Life‑Sustaining Treatment on Behalf of Incapacitated Person.

S.C. Jur. Death and Right to Die Section 9, Determination of Competency.

S.C. Jur. Death and Right to Die Section 15, Overview.

NOTES OF DECISIONS

In general 1

1. In general

Adult Health Care Consent Act confers authority on a health care surrogate to consent on the patient’s behalf to the provision or withholding of medical care and to make financial decisions obligating the patient to pay for the medical care provided. Thompson v. Pruitt Corp. (S.C.App. 2016) 416 S.C. 43, 784 S.E.2d 679, rehearing denied, certiorari denied. Health 910; Health 915; Health 942

The purpose of the Adult Health Care Consent Act is to insure that the patient’s wishes concerning her medical treatment are honored whenever possible, and that decision making by the surrogate is a last resort. Coleman v. Mariner Health Care, Inc. (S.C. 2014) 407 S.C. 346, 755 S.E.2d 450, certiorari denied 135 S.Ct. 477, 190 L.Ed.2d 358. Health 910

**SECTION 44‑66‑20.** Definitions.

 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.

HISTORY: 1990 Act No. 472, Section 1; 1992 Act No. 306, Section 3; 2002 Act No. 351, Sections 2, eff July 20, 2002; 2013 Act No. 39, Section 2, eff January 1, 2014.

CROSS REFERENCES

Health care power of attorney is a durable power of attorney, applicability of part, see Section 62‑5‑502.

Use of standards and procedures established by this section in determining inability to consent, to determine effectiveness of health care power of attorney, see Section 62‑5‑504.

Use of standards and procedures established by this section in determining mental incompetence, in relation to exercise of power of attorney, see Section 62‑5‑501.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Death and Right to Die Section 9, Determination of Competency.

S.C. Jur. Death and Right to Die Section 15, Overview.

**SECTION 44‑66‑30.** Persons who may make health care decisions for patient who is unable to consent; order of priority; exceptions.

 (A) Where a patient is unable to consent, decisions concerning his health care may be made by the following persons in the following order of priority:

 (1) a guardian appointed by the court pursuant to Article 5, Part 3 of the South Carolina Probate Code, if the decision is within the scope of the guardianship;

 (2) an attorney‑in‑fact appointed by the patient in a durable power of attorney executed pursuant to Section 62‑5‑501, if the decision is within the scope of his authority;

 (3) a person given priority to make health care decisions for the patient by another statutory provision;

 (4) a spouse of the patient unless the spouse and the patient are separated pursuant to one of the following:

 (a) entry of a pendente lite order in a divorce or separate maintenance action;

 (b) formal signing of a written property or marital settlement agreement; or

 (c) entry of a permanent order of separate maintenance and support or of a permanent order approving a property or marital settlement agreement between the parties;

 (5) an adult child of the patient, or if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation;

 (6) a parent of the patient;

 (7) an adult sibling of the patient, or if the patient has more than one adult sibling, a majority of the adult siblings who are reasonably available for consultation;

 (8) a grandparent of the patient, or if the patient has more than one grandparent, a majority of the grandparents who are reasonably available for consultation;

 (9) any other adult relative by blood or marriage who reasonably is believed by the health care professional to have a close personal relationship with the patient, or if the patient has more than one other adult relative, a majority of those other adult relatives who are reasonably available for consultation.

 (B) Documentation of efforts to locate a decision maker who is a person identified in subsection (A) must be recorded in the patient’s medical record.

 (C) If persons of equal priority disagree on whether certain health care should be provided to a patient who is unable to consent, an authorized person, a health care provider involved in the care of the patient, or any other person interested in the welfare of the patient may petition the probate court for an order determining what care is to be provided or for appointment of a temporary or permanent guardian.

 (D) Priority pursuant to this section must not be given to a person if a health care provider responsible for the care of a patient who is unable to consent determines that the person is not reasonably available, is not willing to make health care decisions for the patient, or is unable to consent as defined in Section 44‑66‑20(8).

 (E) An attending physician or other health care professional responsible for the care of a patient who is unable to consent may not give priority or authority pursuant to subsections (A)(5) through (A)(10) to a person if the attending physician or health care professional has actual knowledge that, before becoming unable to consent, the patient did not want that person involved in decisions concerning his care.

 (F) This section does not authorize a person to make health care decisions on behalf of a patient who is unable to consent if, in the opinion of the certifying physicians, the patient’s inability to consent is temporary, and the attending physician or other health care professional responsible for the care of the patient determines that the delay occasioned by postponing treatment until the patient regains the ability to consent will not result in significant detriment to the patient’s health.

 (G) A person authorized to make health care decisions pursuant to subsection (A) shall base those decisions on the patient’s wishes to the extent that the patient’s wishes can be determined. Where the patient’s wishes cannot be determined, the person shall base the decision on the patient’s best interest.

 (H) A person authorized to make health care decisions pursuant to subsection (A) either may consent or withhold consent to health care on behalf of the patient.

HISTORY: 1990 Act No. 472, Section 1; 1992 Act No. 306, Section 4; 2016 Act No. 226 (H.3999), Section 1, eff June 3, 2016.

CROSS REFERENCES

Application of Adult Health Care Consent Act to patients in need of health care as not affected by provisions pertaining to consent for surgery, electro‑convulsive therapy, or major medical therapy or treatment by person deemed unable to consent to such procedures, see Section 44‑22‑40.

Protection of persons under disability and their property, “supports and assistance” defined, see Section 62‑5‑101.

Testamentary nomination of guardian for incapacitated individual, see Section 62‑5‑301.

Library References

Health 910, 915.

Westlaw Topic No. 198H.

C.J.S. Hospitals Section 42.

C.J.S. Right to Die Sections 1 to 2, 5, 7 to 15, 18 to 25, 31 to 39, 41 to 43, 48, 50 to 51.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Death and Right to Die Section 9, Determination of Competency.

S.C. Jur. Death and Right to Die Section 14, Nature of a Health Care Power of Attorney.

S.C. Jur. Death and Right to Die Section 15, Overview.

S.C. Jur. Death and Right to Die Section 37, Actions Involving Incompetent Persons.

S.C. Jur. Hospitals Section 29, Consent to Medical Treatment.

NOTES OF DECISIONS

In general 1

Arbitration 2

Review 3

1. In general

Adult Health Care Consent Act confers authority on a health care surrogate to consent on the patient’s behalf to the provision or withholding of medical care and to make financial decisions obligating the patient to pay for the medical care provided. Thompson v. Pruitt Corp. (S.C.App. 2016) 416 S.C. 43, 784 S.E.2d 679, rehearing denied, certiorari denied. Health 910; Health 915; Health 942

The decision to place an incapacitated adult in a nursing facility or a rehabilitative institution is delegated to the surrogate under the Adult Health Care Consent Act; once the decision is made that such placement is appropriate, the surrogate must decide which institution will provide the best care, and in making this critical decision, the surrogate must also bear in mind the financial resources of the patient. Coleman v. Mariner Health Care, Inc. (S.C. 2014) 407 S.C. 346, 755 S.E.2d 450, certiorari denied 135 S.Ct. 477, 190 L.Ed.2d 358. Health 276; Health 912

As an individual with priority under the Adult Health Care Consent Act, sister of incapacitated patient was authorized to make decisions concerning patient’s health care, including the provision or withholding of medical care and placement in a facility that provides such care, and to make certain financial decisions that obligated patient to pay for the services rendered; patient had no guardian or attorney‑in‑fact, no other individual had statutory priority, and she had neither a spouse, a parent, nor an adult child. Coleman v. Mariner Health Care, Inc. (S.C. 2014) 407 S.C. 346, 755 S.E.2d 450, certiorari denied 135 S.Ct. 477, 190 L.Ed.2d 358. Health 910; Health 915; Health 942

Whether surgeon was required to seek consent of patient’s mother for unplanned emergency treatment following elective surgery for which patient had indicated he was a Jehovah’s Witness and did not wish to receive blood was an issue for the jury in patient’s informed consent case after patient received blood transfusion during emergency surgery. Harvey v. Strickland (S.C. 2002) 350 S.C. 303, 566 S.E.2d 529. Health 927

2. Arbitration

Arbitration agreement signed by nursing home resident’s son was separate from the admission agreement, which resident’s son was authorized to execute under the Adult Health Care Consent Act, and therefore, any authority son had to sign the arbitration agreement on patient’s behalf could not come from the Act. Thompson v. Pruitt Corp. (S.C.App. 2016) 416 S.C. 43, 784 S.E.2d 679, rehearing denied, certiorari denied. Alternative Dispute Resolution 141; Health 910

Resident’s right to disclaim the arbitration agreement without having to terminate her residency at the nursing home facility indicated the parties’ intent to keep the arbitration agreement separate from the admission agreement; this was consistent with arbitration agreement’s statement that its execution was not a condition precedent for being admitted to the nursing home. Thompson v. Pruitt Corp. (S.C.App. 2016) 416 S.C. 43, 784 S.E.2d 679, rehearing denied, certiorari denied. Alternative Dispute Resolution 141

Although admission agreement incorporated by reference all exhibits to the agreement, the admission agreement was ambiguous as to whether admission agreement incorporated the arbitration agreement, which was one of the exhibits, and therefore, the admission agreement’s provision incorporating all “exhibits” would be construed against nursing home, which sought to arbitrate resident’s claim. Thompson v. Pruitt Corp. (S.C.App. 2016) 416 S.C. 43, 784 S.E.2d 679, rehearing denied, certiorari denied. Alternative Dispute Resolution 141

Nursing home’s arbitration agreement did not require the type of decision for which the Adult Health Care Consent Act conferred authority on a surrogate, i.e., health care or payment for health care; arbitration agreement was separate from the admission agreement. Thompson v. Pruitt Corp. (S.C.App. 2016) 416 S.C. 43, 784 S.E.2d 679, rehearing denied, certiorari denied. Alternative Dispute Resolution 141; Health 910

Nursing home resident’s son had neither actual nor apparent authority to execute arbitration agreement on resident’s behalf, and therefore, son did not have the authority to bind resident to the arbitration agreement; incapacity of nursing home resident, who had dementia, prevented her from consciously or impliedly representing another to be her agent. Thompson v. Pruitt Corp. (S.C.App. 2016) 416 S.C. 43, 784 S.E.2d 679, rehearing denied, certiorari denied. Alternative Dispute Resolution 141; Parent and Child 299

Because nursing home resident’s son was not authorized to execute the arbitration agreement on resident’s behalf, resident could not be the third‑party beneficiary of the alleged arbitration agreement between herself and nursing home. Thompson v. Pruitt Corp. (S.C.App. 2016) 416 S.C. 43, 784 S.E.2d 679, rehearing denied, certiorari denied. Alternative Dispute Resolution 141

Nursing home resident’s diminished mental capacity prevented her from assenting to terms of arbitration agreement, and therefore, resident’s estate could not be bound by the arbitration agreement. Thompson v. Pruitt Corp. (S.C.App. 2016) 416 S.C. 43, 784 S.E.2d 679, rehearing denied, certiorari denied. Alternative Dispute Resolution 134(3)

Doctrine of equitable estoppel was not applicable, and thus, estate of nursing home resident was not estopped from asserting that the lack of resident’s signature precluded enforcement of arbitration agreement; admission agreement and arbitration agreement were independent of each other, any possible benefit emanating from the arbitration agreement alone was offset by the agreement’s requirement that resident waive her right to access to the courts and her right to a jury trial, and resident had dementia, and her incapacity prevented her from forming the intent or having the requisite knowledge to mislead nursing home or to assent to the arbitration agreement’s terms. Thompson v. Pruitt Corp. (S.C.App. 2016) 416 S.C. 43, 784 S.E.2d 679, rehearing denied, certiorari denied. Alternative Dispute Resolution 182(1)

Sister, who lacked the authority under the Adult Health Care Consent Act to execute a voluntary arbitration agreement between health care facility and incapacitated patient, which involved neither health care nor financial terms for payment of such care, was not equitably estopped from denying the agreement’s enforceability on the basis an admission agreement signed by sister on behalf of patient and the voluntary arbitration agreement had merged; even though the two agreements were executed at the same time, by the same parties, and in the course of the same transaction, the admission agreement included an “entirety” provision that evinced an intention that each contract remain separate. Coleman v. Mariner Health Care, Inc. (S.C. 2014) 407 S.C. 346, 755 S.E.2d 450, certiorari denied 135 S.Ct. 477, 190 L.Ed.2d 358. Alternative Dispute Resolution 182(1)

Sister of incapacitated patient did not have authority under the Adult Health Care Consent Act to bind patient to a voluntary arbitration agreement which involved neither health care nor financial terms for payment of such care; the scope of sister’s authority to consent to decisions concerning patient’s health care extended to the admission agreement, which was the basis upon which facility agreed to provide health care and sister agreed to pay for it, and the separate arbitration agreement concerned neither health care nor payment, but instead provided an optional method for dispute resolution between facility and patient or sister should issues arise in the future. Coleman v. Mariner Health Care, Inc. (S.C. 2014) 407 S.C. 346, 755 S.E.2d 450, certiorari denied 135 S.Ct. 477, 190 L.Ed.2d 358. Alternative Dispute Resolution 141

3. Review

Nursing home’s claim that arbitration agreement merged with the admission agreement, which resident’s son was authorized to execute under the Adult Health Care Consent Act, thereby making both agreements one and the same, was waived for appeal since nursing home did not raise this issue below. Thompson v. Pruitt Corp. (S.C.App. 2016) 416 S.C. 43, 784 S.E.2d 679, rehearing denied, certiorari denied. Alternative Dispute Resolution 213(4)

**SECTION 44‑66‑40.** Provision of health care without consent where there is serious threat to health of patient or to relieve suffering; person having highest priority to make health care decision.

 (A) Health care may be provided without consent to a patient who is unable to consent if no person authorized by Section 44‑66‑30 to make health care decisions for the patient is available immediately, and in the reasonable medical judgment of the attending physician or other health care professional responsible for the care of the patient, the delay occasioned by attempting to locate an authorized person, or by continuing to attempt to locate an authorized person, presents a substantial risk of death, serious permanent disfigurement, or loss or impairment of the functioning of a bodily member or organ, or other serious threat to the health of the patient. Health care for the relief of suffering may be provided without consent at any time that an authorized person is unavailable.

 (B) Health care decisions on behalf of a patient who is unable to consent may be made by a person named in Section 44‑66‑30 if no person having higher priority under that section is available immediately, and in the reasonable medical judgment of the attending physician or other health care professional responsible for the care of the patient, the delay occasioned by attempting to locate a person having higher priority presents a substantial risk of death, serious permanent disfigurement, loss or impairment of the functioning of a bodily member or organ, or other serious threat to the health of the patient.

HISTORY: 1990 Act No. 472, Section 1.

Library References

Health 910, 915.

Westlaw Topic No. 198H.

C.J.S. Hospitals Section 42.

C.J.S. Right to Die Sections 1 to 2, 5, 7 to 15, 18 to 25, 31 to 39, 41 to 43, 48, 50 to 51.

NOTES OF DECISIONS

Questions of fact 1

1. Questions of fact

Whether an emergency situation existed necessitating a transfusion was issue for jury on patient’s claims for medical malpractice and medical battery arising out of blood transfusion given to patient during what surgeon called emergency surgery, where patient was a Jehovah’s Witness and had indicated that he did not want blood or blood products used during elective surgery. Harvey v. Strickland (S.C. 2002) 350 S.C. 303, 566 S.E.2d 529. Health 927

**SECTION 44‑66‑50.** Provision of health care without consent to relieve suffering, restore bodily function, or to preserve life, health, or bodily integrity of patient.

 Health care may be provided without consent to a patient who is unable to consent if no person authorized by Section 44‑66‑30 to make health care decisions for the patient is reasonably available and willing to make the decisions, and, in the reasonable medical judgment of the attending physician or other health care professional responsible for the care of the patient, the health care is necessary for the relief of suffering or restoration of bodily function or to preserve the life, health, or bodily integrity of the patient.

HISTORY: 1990 Act No. 472, Section 1.

Library References

Health 910, 915.

Westlaw Topic No. 198H.

C.J.S. Hospitals Section 42.

C.J.S. Right to Die Sections 1 to 2, 5, 7 to 15, 18 to 25, 31 to 39, 41 to 43, 48, 50 to 51.

LAW REVIEW AND JOURNAL COMMENTARIES

Planning for health care using living wills and durable powers of attorney: A guide for the South Carolina attorney. 42 S.C. L. Rev. 525 (Spring 1991).

**SECTION 44‑66‑60.** No authority to provide health care to patient who is unable to consent where health care is against religious beliefs of patient or patients prior instructions.

 (A) Unless the patient, while able to consent, has stated a contrary intent to the attending physician or other health care professional responsible for the care of the patient, this chapter does not authorize the provision of health care to a patient who is unable to consent if the attending physician or other health care professional responsible for the care of the patient has actual knowledge that the health care is contrary to the religious beliefs of the patient.

 (B) This chapter does not authorize the provision of health care to a patient who is unable to consent if the attending physician or other health care professional responsible for the care of the patient has actual knowledge that the health care is contrary to the patient’s unambiguous and uncontradicted instructions expressed at a time when the patient was able to consent.

 (C) This section does not limit the evidence on which a court may base a determination of a patient’s intent in a judicial proceeding.

HISTORY: 1990 Act No. 472, Section 1.

Library References

Health 910, 915.

Westlaw Topic No. 198H.

C.J.S. Hospitals Section 42.

C.J.S. Right to Die Sections 1 to 2, 5, 7 to 15, 18 to 25, 31 to 39, 41 to 43, 48, 50 to 51.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Death and Right to Die Section 15, Overview.

NOTES OF DECISIONS

In general 1

Admissibility of evidence 2

Questions of fact 3

1. In general

Whether an express contract existed not to use blood or blood products was issue for jury on patient’s breach of contract claim against surgeon arising out of transfusions given to patient during emergency surgery following elective surgery in which no transfusion was given, where patient was a Jehovah’s Witness and had indicated he did not want treatment with blood or blood products. Harvey v. Strickland (S.C. 2002) 350 S.C. 303, 566 S.E.2d 529. Health 927

2. Admissibility of evidence

In action arising out of surgeon’s unwanted use of blood products during emergency surgery following elective surgery, Jehovah’s Witness patient was not entitled to have hospital liaison committee worker, who worked with patients and doctors to attempt to prevent Jehovah’s Witness patients from receiving unwanted blood transfusions, testify as to what specific resources were available at hospital to someone who did not want to receive blood, where worker was able to testify generally that there were resources available at hospital to assist in the treatment of patients without use of blood products, and evidence about particular technology about which worker proposed to testify would have required expert testimony. Harvey v. Strickland (S.C. 2002) 350 S.C. 303, 566 S.E.2d 529. Health 923

3. Questions of fact

Whether Jehovah’s Witness patient, who had indicated he did not want any treatment involving the use of blood or blood products, suffered a legally cognizable injury when he received blood transfusion during emergency surgery following elective surgery was an issue for the jury in patient’s action against surgeon for lack of informed consent, breach of contract, medical malpractice, and medical battery. Harvey v. Strickland (S.C. 2002) 350 S.C. 303, 566 S.E.2d 529. Health 927

**SECTION 44‑66‑70.** Person who makes health care decision for another not subject to civil or criminal liability, nor liable for costs of care; health care provider not subject to civil or criminal liability.

 (A) A person who in good faith makes a health care decision as provided in Section 44‑66‑30 is not subject to civil or criminal liability on account of the substance of the decision.

 (B) A person who consents to health care as provided in Section 44‑66‑30 does not by virtue of that consent become liable for the costs of care provided to the patient.

 (C) A health care provider who in good faith relies on a health care decision made by a person authorized under Section 44‑66‑30 is not subject to civil or criminal liability or disciplinary penalty on account of his reliance on the decision.

 (D) A health care provider who in good faith provides health care pursuant to Sections 44‑66‑40 or 44‑66‑50 is not subject to civil or criminal liability or disciplinary penalty on account of the provision of care. However, this section does not affect a health care provider’s liability arising from provision of care in a negligent manner.

HISTORY: 1990 Act No. 472, Section 1.

Library References

Health 910, 915.

Westlaw Topic No. 198H.

C.J.S. Hospitals Section 42.

C.J.S. Right to Die Sections 1 to 2, 5, 7 to 15, 18 to 25, 31 to 39, 41 to 43, 48, 50 to 51.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Death and Right to Die Section 14, Nature of a Health Care Power of Attorney.

NOTES OF DECISIONS

In general 1

1. In general

Statute that provided immunity to persons who in good faith made health care decisions for a patient who was unable to consent did not provide doctor with immunity for his alleged negligence in declaring patient to be permanently incapacitated in regards to proceeding to appoint guardian for patient. Vaughan v. McLeod Regional Medical Center (S.C. 2007) 372 S.C. 505, 642 S.E.2d 744. Health 768

**SECTION 44‑66‑75.** Designating a family member with whom provider may discuss medical condition; exemptions.

 (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.

HISTORY: 2013 Act No. 39, Section 1, eff January 1, 2014.

Library References

Health 910, 915.

Westlaw Topic No. 198H.

C.J.S. Hospitals Section 42.

C.J.S. Right to Die Sections 1 to 2, 5, 7 to 15, 18 to 25, 31 to 39, 41 to 43, 48, 50 to 51.

**SECTION 44‑66‑80.** Other laws mandating or allowing testing or treatment without consent unaffected.

 No provision in this chapter affects the ability of a state agency or health care provider working in conjunction with a state agency to conduct testing or provide treatment which is mandated or allowed by other provisions of law.

HISTORY: 1990 Act No. 472, Section 1.

Library References

Health 910, 915.

Westlaw Topic No. 198H.

C.J.S. Hospitals Section 42.

C.J.S. Right to Die Sections 1 to 2, 5, 7 to 15, 18 to 25, 31 to 39, 41 to 43, 48, 50 to 51.

RESEARCH REFERENCES

Encyclopedias

40 Am. Jur. Proof of Facts 3d 287, Proof of Basis for Refusal or Discontinuance of Life‑Sustaining Treatment on Behalf of Incapacitated Person.

S.C. Jur. Death and Right to Die Section 9, Determination of Competency.