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Indicates New Matter

AS PASSED BY THE SENATE

May 18, 2010

**H. 3735**

Introduced by Rep. Vick

S. Printed 5/18/10--S.

Read the first time February 23, 2010.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, TO ENACT THE “ANN S. PERDUE INDEPENDENT AUTOPSY FAIRNESS ACT OF 2009”, BY ADDING SECTION 44‑43‑730 SO AS TO PROVIDE THAT IF A PERSON DIES IN A HOSPITAL, THE HOSPITAL SHALL OFFER IN WRITING TO THE PATIENT’S FAMILY THE RIGHT OF HAVING AN AUTOPSY PERFORMED; AND TO AMEND SECTION 17‑5‑530, RELATING TO CIRCUMSTANCES REQUIRING THE CORONER OR MEDICAL EXAMINER TO BE NOTIFIED OF CERTAIN DEATHS, SO AS TO REQUIRE SUCH NOTIFICATION WHEN A PERSON DIES IN A HEALTH CARE FACILITY WITHIN TWENTY FOUR HOURS OF ENTERING A HEALTH CARE FACILITY OR OF HAVING AN INVASIVE SURGICAL PROCEDURE PERFORMED.

Amend Title To Conform

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

SECTION 1. This act may be cited as the “Ann S. Perdue Independent Autopsy Fairness Act of 2010”.

SECTION 2. Article 9, Chapter 43, Title 44 of the 1976 Code is amended by adding:

“Section 44‑43‑730. If a patient dies in a hospital or a health care facility where invasive surgical procedures are performed, the person authorized to consent, as determined in accordance with Section 44‑43‑710, has the right to have an autopsy performed. The hospital or health care facility where invasive surgical procedures are performed, in writing, shall inform the person authorized to consent of this right. The notification must inform the person that if there is a charge for the autopsy the cost is to be paid by a private source.”

SECTION 3. Section 17‑5‑530 of the 1976 Code, is amended to read:

“Section 17‑5‑530. (A) If a person dies:

(1) as a result of violence;

(2) as a result of apparent suicide;

(3) when in apparent good health;

(4) when unattended by a physician;

(5) in any suspicious or unusual manner;

(6) while an inmate of a penal or correctional institution;

(7) as a result of stillbirth when unattended by a physician; or

(8) in a health care facility, as defined in Section 44‑7‑130(10) other than nursing homes, within twenty‑four hours of entering a health care facility or within twenty‑four hours after having undergone an invasive surgical procedure at the health care facility;

a person having knowledge of the death immediately ~~must~~ shall notify the county coroner’s or medical examiner’s office. This procedure also must be followed upon discovery of anatomical material suspected of being or determined to be a part of a human body.

(B) The coroner or medical examiner ~~must~~ shall make an immediate inquiry into the cause and manner of death and ~~must~~ shall reduce the findings to writing on forms provided for this purpose. If the inquiry is made by a medical examiner, the medical examiner ~~must~~ shall retain one copy of the form and forward one copy to the coroner. In the case of violent death, one copy must be forwarded to the county solicitor of the county in which the death occurred.

(C) The coroner or medical examiner ~~must~~ shall notify in writing the deceased person’s next‑of‑kin, if known, that in the course of performing the autopsy, body parts may have been retained for the purpose of investigating the cause and manner of death.

(D) In performing an autopsy or post‑mortem examination, no body parts, as defined in Section 44‑43‑305, removed from the body may be used for any purpose other than to determine the cause or manner of death unless the person authorized to consent, as defined in Section 44‑43‑315, has given informed consent to the procedure. The person giving the informed consent must be given the opportunity to give informed consent and authorize the procedure on a witnessed, written consent form using language understandable to the average lay person after face‑to‑face communication with a physician, coroner, or medical examiner about the procedure. If the person authorizing the procedure is unable to consent in person, consent may be given through a recorded telephonic communication.

(E) If the coroner or medical examiner orders an autopsy upon review of a death pursuant to item (8) of subsection (A), the autopsy must not be performed at the health care facility where the death occurred or by a physician who treated the patient or is employed by the health care facility in which the death occurred.”

SECTION 4. This act takes effect July 1, 2010.

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