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Indicates New Matter

COMMITTEE REPORT

February 25, 2016

**S. 371**

Introduced by Senator Bryant

S. Printed 2/25/16--S.

Read the first time January 28, 2015.

**THE COMMITTEE ON MEDICAL AFFAIRS**

To whom was referred a Bill (S. 371) to amend Section 40‑33‑110, Code of Laws of South Carolina, 1976, relating to grounds for disciplining nurses, so as to add the overmedicating or undermedicating, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

/ SECTION 1. This act may be cited as “Samuel’s Law”. SECTION 2. Section 40-33-110 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( )(1) This subsection shall be known as “Samuel’s Law”.

(2) Upon a finding by the board that a person licensed under this chapter acted in a willful, wanton, or grossly negligent manner by misreading a physician’s order causing a patient to be overmedicated or undermedicated and resulting in the patient’s death, the board shall consider revocation of the person’s license to practice nursing in this State, either permanently or for a period of time determined appropriate by the Board. If the Board determines that revocation is not warranted under the circumstances, the Board shall include a statement in its order regarding its rational for not revoking the person’s license. As used in this subsection, “wilful, wanton, or grossly negligent” means an act or course of action, or inaction, which denotes deceit or a conscious disregard or indifference to the rights, safety, or welfare of others and which does or could result in death. As used in this section “misreading” means to unreasonably misinterpret or misunderstand under the particular circumstances of the event.”

SECTION 3. Section 40-33-80 of the 1976 Code is amended to read:

“Section 40-33-80. (A) The department shall investigate complaints and violations of this chapter as provided in Section 40-1-80.

(B)(1) The department shall begin an investigation of a complaint within forty-eight hours of receipt of the complaint in instances involving a patient death and the complaint alleges a person licensed under this chapter misread a physician order resulting in the overmedication or undermedication of the patient and contributed to the patient’s death. For purposes of this section ‘within forty-eight hours’ excludes Saturday, Sunday and state holidays.

(2) Upon initiation of the investigation, representatives of the department shall meet as soon as practicable with family members of the deceased patient to make a statement of facts and an impact statement from family members who wish to provide such information. The department shall also provide an explanation of the procedures for processing complaints and inform family members that a family member whom they designate will be kept apprised of the events and the final disposition of the matter.

(3) Upon receipt of the complaint described in subsection (B)(1) and receipt of sufficient evidence demonstrating a person licensed under this chapter poses a substantial threat of serious harm to the public, the Board may place the licensee on temporary suspension pending a final determination as provided for in this chapter and Chapter 1, Title 40. The licensee may request a hearing to contest the interim suspension of the license to show cause why suspension should not occur. The request shall be submitted with forty-eight hours after receipt of the temporary suspension order. The hearing shall be held by a hearing officer appointed by the Board and shall take place within five days of the filing for the request for review, unless otherwise agreed to by the parties. A decision on the temporary suspension order shall be rendered no later than five days after the date of the hearing. A licensee who is temporarily suspended pursuant to this section shall be afforded at a reasonable interval an opportunity to demonstrate to the Board the ability to resume practice with reasonable skill and safety.

(4) Notwithstanding any other provision of law, the Board shall review and consider the statements provided to the department by family members of the deceased patient prior to issuing a final determination. The department shall be required to advise the designated family member, in writing, of scheduled events in the disciplinary process and of the final disposition of the matter.

(5) Notwithstanding any other provision of law, the Board shall permit designated family members to be present at the hearing.

(6) For purposes of this section ‘family member’ or ‘family members’ shall mean the spouse, parent, brother, sister, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

(C) The Board shall publish on its website an explanation of the procedures for processing complaints and how to locate information about a specific licensee on its website.”

SECTION 4. It is not the intent of the General Assembly to burden the nursing profession by this legislation. As a result, the department and the Board are prohibited from promulgating new regulations, adding educational requirements, or imposing additional duties on nurses based solely on this legislation.

SECTION 5. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

HARVEY S. PEELER, JR. for Committee.

**A** **BILL**

TO AMEND SECTION 40‑33‑110, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO GROUNDS FOR DISCIPLINING NURSES, SO AS TO ADD THE OVERMEDICATING OR UNDERMEDICATING OF A PATIENT BY A NURSE WHO MISREADS A PHYSICIAN’S ORDER AS A GROUND TO REVOKE THE NURSE’S LICENSE.

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

SECTION 1. Section 40-33-110 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( ) Upon the board’s finding that a licensed nurse misreads the physician’s order and overmedicates or undermedicates a patient, the board shall revoke the person’s license to practice nursing in this State.”

SECTION 2. This act takes effect upon approval by the Governor.

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