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COMMITTEE REPORT

May 19, 2016

**H. 4773**

Introduced by Reps. Duckworth, Kirby, Jordan, Johnson, Collins, Hill, Brannon, Merrill and Tinkler

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Read the first time April 19, 2016.

**THE COMMITTEE ON MEDICAL AFFAIRS**

To whom was referred a Bill (H. 4773) to amend the Code of Laws of South Carolina, 1976, so as to enact “Margy’s Law”; to amend Section 44-78-15, relating to definitions in, etc., respectfully

**REPORT:**

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

RAYMOND E. CLEARY III for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT “MARGY’S LAW”; TO AMEND SECTION 44‑78‑15, RELATING TO DEFINITIONS IN THE EMERGENCY MEDICAL SERVICES DO NOT RESUSCITATE ORDER ACT, SO AS TO DEFINE THE TERM “DO NOT RESUSCITATE BRACELET”; TO AMEND SECTION 44‑78‑20, RELATING TO THE AVAILABILITY OF DO NOT RESUSCITATE ORDERS FOR EMERGENCY SERVICES TO THE TERMINALLY ILL, SO AS TO PROVIDE FOR THE AVAILABILITY OF DO NOT RESUSCITATE BRACELETS IN ADDITION TO WRITTEN ORDERS; AND TO AMEND SECTIONS 44‑78‑25, 44‑78‑30, 44‑78‑35, 44‑78‑40, 44‑78‑45, AND 44‑78‑60, ALL RELATING TO MISCELLANEOUS PROVISIONS IN THE ACT, SO AS TO MAKE CONFORMING CHANGES.

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

SECTION 1. This act must be known and may be cited as “Margy’s Law”.

SECTION 2. Section 44‑78‑15 of the 1976 Code is amended to read:

“Section 44‑78‑15. As used in this chapter:

(1) ‘Do not resuscitate bracelet’ or ‘bracelet’ means a standardized identification bracelet that:

(a) meets the specifications established under Section 44‑78‑30(B)(1) or that is approved by the department under Section 44‑78‑30(B)(2);

(b) bears the inscription ‘Do Not Resuscitate’; and

(c) signifies that the wearer is a patient who has obtained a do not resuscitate order which has not been revoked.

(~~1~~2) ‘Do not resuscitate order for emergency services’ means a document made ~~in accordance with~~ pursuant to this article to prevent EMS personnel from employing resuscitative measures or any other medical process that would only extend the patient’s suffering with no viable medical reason to perform the procedure~~;~~.

(~~2~~3) ‘EMS personnel’ means emergency medical personnel certified by the South Carolina Department of Health and Environmental Control~~, and for purposes of this chapter, “EMS personnel” includes~~ including first responders who have completed a Department of Health and Environmental Control approved medical first responder program~~;~~.

(~~3~~4) ‘Health care provider’ means a person licensed to practice medicine or osteopathy pursuant to Title 40, Chapter 47~~;~~.

(~~4~~5) ‘Palliative treatment’ means the degree of treatment which must be provided to a patient in the routine delivery of emergency medical services, which assures the comfort and alleviation of pain and suffering to all extents possible, regardless of whether the patient has executed a document as provided for in this chapter~~;~~.

(~~5~~6) ‘Resuscitative treatment’ means artificial stimulation of the cardiopulmonary systems of the human body, through either electrical, mechanical, or manual means including, but not limited to, cardiopulmonary resuscitation~~;~~.

(~~6~~7) ‘Terminal condition’ means an incurable or irreversible condition that within reasonable medical judgment could cause death within a reasonably short period of time if life sustaining procedures are not used.”

SECTION 3. Section 44‑78‑20 of the 1976 Code is amended to read:

“Section 44‑78‑20. (A) A patient who has a terminal condition ~~or~~, a surrogate for a patient with a terminal condition under the Adult Health Care Consent Act, or an agent of a person with a terminal condition named by the patient in a Health Care Power of Attorney may request a health care provider responsible for the care of the patient to execute a ‘do not resuscitate order for emergency services’ if the ~~following conditions apply~~:

(1) ~~the~~ patient has a terminal condition; and

(2) ~~the~~ terminal condition has been diagnosed by a health care provider and the health care provider’s record establishes the time, date, and medical condition which gives rise to the diagnosis of a terminal condition.

(B) At the request of the patient for whom a do not resuscitate order is written or his surrogate or agent, the health care provider who executes the do not resuscitate order shall make the order in writing on a form conforming to the requirements of Section 44‑78‑30(A), and either shall:

(1) affix to the wrist of the patient a do not resuscitate bracelet that meets the specifications established under Section 44‑78‑30(B)(1); or

(2) provide the patient or his surrogate or agent with an order form, from a commercial vendor approved by the department pursuant to Section 44‑78‑30(B)(2), to allow the patient to order a do not resuscitate bracelet from the commercial vendor.”

SECTION 4. Section 44‑78‑25 of the 1976 Code is amended to read:

“Section 44‑78‑25. When called to render emergency medical services, EMS personnel must not use any resuscitative treatment if the patient has a ‘do not resuscitate order for emergency services’ and the document is presented to the EMS personnel upon their arrival or if the patient is wearing a do not resuscitate bracelet. EMS personnel must provide that degree of palliative care called for under the circumstances which exist at the time treatment is rendered.”

SECTION 5. Section 44‑78‑30 of the 1976 Code is amended to read:

“Section 44‑78‑30. (A) A document purporting to be a ‘do not resuscitate order’ for EMS purposes must be in substantially the following form:

NOTICE TO EMS PERSONNEL

This notice is to inform all emergency medical personnel who may be called to render assistance to \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ he/she has a terminal condition which has been diagnosed by me and has specifically requested that no resuscitative efforts including artificial stimulation of the cardiopulmonary system by electrical, mechanical, or manual means be made in the event of cardiopulmonary arrest.

REVOCATION PROCEDURE

THIS FORM MAY BE REVOKED BY AN ORAL STATEMENT BY THE PATIENT TO EMS PERSONNEL OR BY MUTILATING, OBLITERATING, OR DESTROYING THE DOCUMENT IN ANY MANNER.

Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Patient’s signature (or surrogate or agent)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Physician’s signature

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Physician’s address

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Physician’s telephone number

(B) The department may approve a do not resuscitate bracelet developed and distributed by a commercial vendor if the bracelet contains an emblem that displays an internationally recognized medical symbol on the front and the words ‘South Carolina Do Not Resuscitate EMS’ and the patient’s first name and last name on the back. The department may not approve a do not resuscitate bracelet developed and distributed by a commercial vendor if the vendor does not require a doctor’s order for the bracelet before distributing it to a patient.

(C) The cost of obtaining a bracelet must be borne by the patient and may not be provided by the department at the expense of the department.”

SECTION 6. Section 44‑78‑35 of the 1976 Code is amended to read:

“Section 44‑78‑35. No health care provider or EMS personnel is liable for ~~any~~ damages ~~or~~, may be the subject of disciplinary proceedings, or may be subject to civil or criminal liability due to:

(1) issuing a ‘do not resuscitate order for emergency medical services’ or do not resuscitate bracelet;

(2) good faith reliance on a ‘do not resuscitate order for emergency medical services’ or a do not resuscitate bracelet resulting in:

(a) the withholding of resuscitative treatment; or

(b) the withholding of resuscitative treatment already in progress once a duly executed ‘do not resuscitate order for emergency medical services’ is identified;

(3) initiating resuscitative treatment on a ‘do not resuscitate patient’ if EMS personnel were unaware of the existence of the order or bracelet or if EMS personnel reasonably and in good faith believed the ‘do not resuscitate order’ had been ~~cancelled~~ canceled or revoked or, where applicable, if the do not resuscitate bracelet has been tampered with or removed; or

(4) initiating resuscitative treatment on a ‘do not resuscitate patient’ where in the best medical judgment of EMS personnel, the care was necessary to relieve pain or suffering or to provide comfort care to the patient.”

SECTION 7. Section 44‑78‑40 of the 1976 Code is amended to read:

“Section 44‑78‑40. In the absence of a ‘do not resuscitate order for emergency medical services’ or a do not resuscitate bracelet, EMS personnel shall give full resuscitative measures as are medically indicated in all cases.”

SECTION 8. Section 44‑78‑45 of the 1976 Code is amended to read:

“Section 44‑78‑45. (A) A health care provider and an EMS personnel shall follow the request of the patient and must not provide resuscitative measures when the patient has a ‘do not resuscitate order for emergency medical services’ or is wearing a do not resuscitate bracelet, except where the:

(1) order is revoked pursuant to Section 44‑78‑60; or

(2) bracelet, when applicable, appears to have been tampered with or removed.

(B) A health care provider or EMS personnel who cannot honor the order ~~must~~ or bracelet immediately must transfer care of the patient to an EMS personnel or health care provider who will honor the order or bracelet.”

SECTION 9. Section 44‑78‑60 of the 1976 Code is amended to read:

“Section 44‑78‑60. A patient may revoke a ‘do not resuscitate order for emergency services’ ~~may be revoked by an oral statement by the patient to EMS personnel or by mutilating, obliterating, or destroying the document in any manner~~ by:

(1) mutilating, obliterating, or destroying the ‘do not resuscitate order for emergency medical services’ document in any manner;

(2) orally expressing to an emergency medical technician, first responder, or to a person who serves as a member of an emergency health care facility’s personnel, the desire to be resuscitated, after which the emergency medical technician, first responder, or the member of the emergency health care facility shall disregard the ‘do not resuscitate order for emergency medical services’ document and, if applicable, promptly remove the bracelet;

(3) defacing, burning, cutting, or otherwise destroying the bracelet, if applicable; or

(4) removing the bracelet or asking another person to remove the bracelet.”

SECTION 10. This act takes effect upon approval by the Governor.

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