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COMMITTEE REPORT

March 22, 2017

**H. 3487**

Introduced by Reps. Ridgeway, Govan, Duckworth, Hardee and Douglas

S. Printed 3/22/17--H.

Read the first time January 17, 2017.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 3487) to amend Sections 44-78-15, 44‑78‑20, 44‑78‑30, 44‑78‑45, all as amended, 44‑, etc., respectfully

**REPORT:**

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

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 17, 2017**

**State Expenditure**

This bill amends the current statue regarding do not resuscitate orders to allow the parent or legal guardian of a child under the age of eighteen to request a do not resuscitate order. Under current statute, an individual under eighteen is expressly prevented from obtaining a do not resuscitate order. This bill would allow a parent or legal guardian to follow the currently proscribed procedures for obtaining a do not resuscitate bracelet or order on behalf of a terminally ill child. The bill does not make changes to the procedures or requirements outlined by the Department of Health and Environmental Control for a do not resuscitate bracelet or order. Therefore, the bill is not expected to impact state expenditures for the general fund, other funds, or federal funds.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTIONS 44-78-15, 44‑78‑20, 44‑78‑30, 44‑78‑45, ALL AS AMENDED, 44‑78‑50, AND SECTION 44‑78‑60, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DO NOT RESUSCITATE ORDERS, SO AS TO ALLOW A PARENT OR LEGAL GUARDIAN OF A PATIENT WHO IS A CHILD TO REQUEST AND REVOKE A DO NOT RESUSCITATE ORDER FOR EMERGENCY SERVICES FOR THE CHILD.

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

SECTION 1. Section 44-78-15 of the 1976 Code, as last amended by Act 233 of 2016, is further amended to read:

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

(1) ‘Child’ means a person under the age of eighteen.

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

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

(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.

~~(2)~~(3) ‘Do not resuscitate order for emergency services’ means a document made 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.

~~(3)~~(4) ‘EMS personnel’ means emergency medical personnel certified by the South Carolina Department of Health and Environmental Control including first responders who have completed a Department of Health and Environmental Control approved medical first responder program.

~~(4)~~(5) ‘Health care provider’ means a person licensed to practice medicine or osteopathy pursuant to Chapter 47, Title 40.

~~(5)~~(6) ‘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.

~~(6)~~(7) ‘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.

~~(7)~~(8) ‘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 2. Section 44‑78‑20 of the 1976 Code, as last amended by Act 233 of 2016, if further amended to read:

“Section 44‑78‑20. (A) ~~A~~ An adult, married minor, or judicially emancipated minor patient who has a terminal condition, 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, or a parent or legal guardian of a patient who is a child with a terminal condition who is neither married nor judicially emancipated, 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:

(1) patient has a terminal condition; and

(2) 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); or

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

SECTION 3. Section 44‑78‑30 of the 1976 Code, as last amended by Act 233 of 2016, is further 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, OR THE PARENT OR LEGAL GUARDIAN OF A PATIENT WHO IS A CHILD, 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 health care provider’s order for the bracelet before distributing it to a patient.

(C) The cost of obtaining a bracelet must be borne by the patient, or the parent or legal guardian of a patient who is a child, and may not be provided by the department at the expense of the department.

(D) The vendor approved by the department shall not fulfill a request for a do not resuscitate bracelet without receiving a health care provider’s order for the bracelet with the request.”

SECTION 4. Section 44‑78‑45(A) of the 1976 Code, as last amended by Act 233 of 2016, is further amended to read:

“(A) A health care provider and an EMS personnel shall follow the request of the patient, or the parent or legal guardian of a patient who is a child, 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.”

SECTION 5. Section 44‑78‑50 of the 1976 Code is amended to read:

“Section 44‑78‑50. (A) Nothing in this chapter may be construed to condone, authorize, or approve mercy killing or euthanasia or to permit any affirmative action or deliberate act to end life other than to allow the natural process of dying.

~~(B)~~ ~~No person under the age of eighteen years may request or receive a ‘do not resuscitate order for emergency medical services’ as provided for in this article.~~

~~(C)~~(B) The withholding of resuscitative measures pursuant to this article does not constitute suicide for any purpose.”

SECTION 6. Section 44‑78‑60 of the 1976 Code, as last amended by Act 233 of 2016, is further amended to read:

“Section 44‑78‑60. A patient, or a parent or legal guardian of a patient who is a child, may revoke a ‘do not resuscitate order for emergency services’ 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 7. This act takes effect upon approval by the Governor.

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