~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 7, 2019

**H. 3821**

Introduced by Rep. Clary

S. Printed 3/7/19--H.

Read the first time January 31, 2019.

**THE COMMITTEE ON MEDICAL,**

**MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

To whom was referred a Bill (H. 3821) to amend the Code of Laws of South Carolina, 1976, so as to enact the “Advanced Practice Registered Nurse Act”; to amend Section 32‑8‑325, 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 deleting all after the enacting words and inserting:

/ SECTION 1. This act must be known and may be cited as the “Advanced Practice Registered Nurse Act”.

SECTION 2. Section 40‑33‑34(D)(2) and (F)(1)(e) and (f) of the 1976 Code, as last amended by Act 234 of 2018, is further amended to read:

“(2) Notwithstanding any provisions of state law other than this chapter and Chapter 47, and to the extent permitted by federal law, an APRN may perform the following medical acts unless otherwise provided in the practice agreement:

(a) provide noncontrolled prescription drugs at an entity that provides free medical care for indigent patients;

(b) certify that a student is unable to attend school but may benefit from receiving instruction given in his home or hospital;

(c) refer a patient to physical therapy for treatment;

(d) pronounce death, certify the manner and cause of death, and sign death certificates pursuant to the provisions of Chapter 63, Title 44 and Chapter 8, Title 32;

(e) issue an order for a patient to receive appropriate services from a licensed hospice as defined in Chapter 71, Title 44; ~~and~~

(f) certify that an individual is handicapped and declare that the handicap is temporary or permanent for purposes of the individual’s application for a placard; and

(g) execute a do not resuscitate order pursuant to the provisions of Chapter 78, Title 44.

(e) may include Schedule II narcotic substances if listed in the practice agreement and as authorized by Section 44‑53‑300, provided, however, that the prescription must not exceed a five‑day supply and another prescription must not be written without the written agreement of the physician with whom the nurse practitioner, certified nurse‑midwife, or clinical nurse specialist has entered into a practice agreement, unless the prescription is written for patients in hospice or palliative care or for patients residing in long‑term care facilities;

(f) may include Schedule II narcotic substances for patients in hospice or palliative care, or for patients in long‑term care facilities, if listed in the practice agreement as authorized by Section 44‑53‑300, provided, however, that each such prescription must not exceed a thirty‑day supply;”

SECTION 3. This act takes effect sixty days after approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

LEON HOWARD for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**Introduced on January 31, 2019**

**State Expenditure**

**Labor, Licensing and Regulation.** This bill adds to the list of medical acts that may be performed by an APRN. APRNs are licensed by the Board of Nursing, which is under the regulation of LLR. LLR indicates that this bill does not add to the regulatory duties of the board. Therefore, this bill will have no expenditure impact on LLR.

**Department of Health and Environmental Control.** This bill includes APRNs among those authorized to sign death certificates. Death certificates are filed with the Bureau of Vital Statistics, which is under the regulation of DHEC. DHEC indicates that any necessary training or outreach to APRNs can be managed within current appropriations. Therefore, this bill will have no expenditure impact on DHEC.

**State Revenue**

**Department of Health and Environmental Control.** This bill allows APRNs to certify the cause of death. DHEC currently has the authority to impose a fine on physicians for failure to certify the cause of death in a timely manner. This bill allows DHEC to impose the same penalty on APRNs. The penalty amounts are set at $250, $500, and $1,000 for the first, second, and third or subsequent violations respectively. Any penalties collected must be allocated to the Bureau of Vital Statistics. DHEC indicates that it has not charged any administrative penalties to date for this infraction. Therefore, while DHEC is not able to predict the number of violations due to this bill, this bill is not expected to have any revenue impact on DHEC.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “ADVANCED PRACTICE REGISTERED NURSE ACT”; TO AMEND SECTION 32‑8‑325, RELATING TO THE USE OF DEATH CERTIFICATES TO AUTHORIZE CREMATORIES TO CREMATE HUMAN REMAINS, SO AS TO INCLUDE ADVANCED PRACTICE REGISTERED NURSES AMONG THE PERSONS AUTHORIZED TO SIGN SUCH DEATH CERTIFICATES; TO AMEND SECTION 32‑8‑340, RELATING TO CONDITIONS FOR CREMATIONS, SO AS TO INCLUDE ADVANCED PRACTICE REGISTERED NURSES AMONG THE PERSONS AUTHORIZED TO SIGN DEATH CERTIFICATES AND WAIVE CERTAIN TIME REQUIREMENTS; TO AMEND SECTION 40‑33‑34, AS AMENDED, RELATING TO MEDICAL ACTS THAT ADVANCED PRACTICE REGISTERED NURSES MAY PERFORM, SO AS TO INCLUDE CERTIFYING THE MANNER OF DEATH AND EXECUTING DO NOT RESUSCITATE ORDERS AMONG THE MEDICAL ACTS THAT MAY BE PERFORMED UNLESS OTHERWISE PROVIDED IN A PRACTICE AGREEMENT, AND TO PERMIT THE PRESCRIPTION OF SCHEDULE II NARCOTIC SUBSTANCES FOR PATIENTS RESIDING IN LONG‑TERM CARE SETTINGS IN CERTAIN CIRCUMSTANCES; TO AMEND SECTION 44‑63‑74, RELATING TO THE MANDATORY ELECTRONIC FILING OF DEATH CERTIFICATES WITH THE BUREAU OF VITAL STATISTICS OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SO AS TO MAKE CONFORMING CHANGES TO REFLECT THE AUTHORITY OF ADVANCED PRACTICE REGISTERED NURSES TO SIGN DEATH CERTIFICATES AND CERTIFY CAUSES OF DEATH, AND TO PROVIDE ADVANCED PRACTICE REGISTERED NURSES WHO FAIL TO COMPLY WITH CERTAIN TIME LIMITS FOR CERTIFYING A CAUSE OF DEATH MAY BE SUBJECT TO CERTAIN PENALTIES; TO AMEND SECTION 44‑78‑15, RELATING TO DEFINITIONS IN THE DO NOT RESUSCITATE ORDER ACT, SO AS TO REVISE THE DEFINITION OF A “HEALTH CARE PROVIDER” TO INCLUDE ADVANCED PRACTICE REGISTERED NURSES; AND TO AMEND SECTION 44‑78‑30, RELATING TO THE FORM OF DO NOT RESUSCITATE ORDERS, 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 the “Advanced Practice Registered Nurse Act”.

SECTION 2. Section 32‑8‑325(A)(1) of the 1976 Code is amended to read:

“(1) An abstract of information from a filed death certificate available on the electronic vital records system or a certified copy of the death certificate; however, if the decedent was pronounced dead during hours the department was not open to the public, a completed copy of the death certificate, excluding the signature of the State Registrar of Vital Statistics, signed by the attending physician or advanced practice registered nurse, coroner, or medical examiner must be provided to the crematory authority; the death certificate signed by the registrar must be filed the next working day of the department and a certified copy must be provided to the crematory authority.”

SECTION 3. Section 32‑8‑340(A) of the 1976 Code is amended to read:

“(A) Human remains may not be cremated before twenty‑four hours have elapsed from the time of death as indicated on the attending physician’s or advanced practice registered nurse’s, medical examiner’s, or coroner’s certificate of death, or an abstract of information from a filed death certificate available on the electronic vital records system. However, if it is known that the decedent had an infectious or dangerous disease and if the time requirement is waived in writing by the attending physician or advanced practice registered nurse, medical examiner, or coroner in the county in which the death occurred, the remains may be cremated before twenty‑four hours have elapsed.”

SECTION 4. Section 40‑33‑34(D)(2) and (F)(1)(e) and (f) of the 1976 Code, as last amended by Act 234 of 2018, is further amended to read:

“(2) Notwithstanding any provisions of state law other than this chapter and Chapter 47, and to the extent permitted by federal law, an APRN may perform the following medical acts unless otherwise provided in the practice agreement:

(a) provide noncontrolled prescription drugs at an entity that provides free medical care for indigent patients;

(b) certify that a student is unable to attend school but may benefit from receiving instruction given in his home or hospital;

(c) refer a patient to physical therapy for treatment;

(d) pronounce death, certify the manner and cause of death, and sign death certificates;

(e) issue an order for a patient to receive appropriate services from a licensed hospice as defined in Chapter 71, Title 44; ~~and~~

(f) certify that an individual is handicapped and declare that the handicap is temporary or permanent for purposes of the individual’s application for a placard; and

(g) execute a do not resuscitate order pursuant to the provisions of Chapter 78, Title 44.

(e) may include Schedule II narcotic substances if listed in the practice agreement and as authorized by Section 44‑53‑300, provided, however, that the prescription must not exceed a five‑day supply and another prescription must not be written without the written agreement of the physician with whom the nurse practitioner, certified nurse‑midwife, or clinical nurse specialist has entered into a practice agreement, unless the prescription is written for patients in hospice or palliative care or for patients residing in long‑term care settings;

(f) may include Schedule II narcotic substances for patients in hospice or palliative care, or for patients in long‑term care facilities, if listed in the practice agreement as authorized by Section 44‑53‑300, provided, however, that each such prescription must not exceed a thirty‑day supply;”

SECTION 5. Section 44‑63‑74(A)(3), (4) and (5) of the 1976 Code is amended to read:

“(3) Medical certifications of cause of death must be completed and returned to the funeral home director within forty‑eight hours after receipt of notice of the death by the physician or advanced practice registered nurse in charge of the patient’s care for the illness or condition which resulted in death, except when an inquiry is required by a coroner or medical examiner. If the cause of death cannot be determined within forty‑eight hours after death, the medical certification must be entered as pending, and the physician, advanced practice registered nurse, medical examiner, or coroner shall submit a supplemental report to the state registrar on a form furnished by or approved by him as soon as practicable. The supplemental report ~~shall~~ must be made a part of the death certificate. If the forty‑eight hour period terminates on a weekend, federal holiday, or state holiday, the physician or advanced practice registered nurse must file the certification by the end of the next business day. In the absence of this physician or advanced practice registered nurse or with his approval, the certificate may be completed by his associate physician or advanced practice registered nurse, the chief medical officer of the institution in which the death occurred, or by the pathologist who performed an autopsy upon the decedent.

(4) Death certificates must be transmitted electronically between the funeral home director and the physician or advanced practice registered nurse, coroner, or medical examiner certifying the cause of death in order to document the death certificate information prescribed by this chapter. Required signatures on death certificates must be provided by electronic signature. An individual who acts, without compensation, as a funeral director on behalf of a deceased family member or friend, physicians or advanced practice registered nurses certifying fewer than twelve deaths per year, and funeral homes that perform fewer than twelve funerals per year are exempt from the requirement to file electronically but must comply with the requirements of items (2) or (3), as applicable.

(5)(a) A physician or advanced practice registered nurse who fails to certify the cause of death within forty‑eight hours, without good cause shown, may be assessed an administrative penalty for violating item (3). The department shall notify the Board of Medical Examiners if a penalty is assessed. Each day after the initial forty‑eight hour period shall constitute an additional violation.

(b) An advanced practice registered nurse who fails to certify the cause of death within forty‑eight hours, without good cause shown, may be assessed an administrative penalty for violating item (3). The department shall notify the Board of Nursing if a penalty is assessed. Each day after the initial forty‑eight‑hour period constitutes an additional violation.

(c) A funeral home or funeral director who fails to file a death certificate or collect data or collect medical certification of cause of death as required in items (1), (2), or both, without good cause shown, may be assessed an administrative penalty for violating the respective item. However, the department must not assess a penalty against a funeral home or funeral director for the delay or inability to collect personal data of the decedent pursuant to item (2)(a). The department shall notify the Board of Funeral Services if a penalty is assessed. Each day after the initial five day period in item (1) shall constitute an additional violation of that item.

(~~c~~d) A physician, funeral director, or funeral home that is required to file electronically pursuant to item (4) but who fails to file accordingly may be assessed an administrative penalty for violating item (4).

(~~d~~e) The administrative penalties are:

(i) two hundred fifty dollars for a first violation or a warning letter;

(ii) five hundred dollars for a second violation; and

(iii) one thousand dollars for a third or subsequent violation.

(~~e~~f) The department shall retain any administrative penalties collected pursuant to this subsection and must allocate all of these funds to the Bureau of Vital Statistics for its use.”

SECTION 6. Section 44‑78‑15(4) of the 1976 Code is amended to read:

“(4) ‘Health care provider’ means a person licensed to practice medicine or osteopathy pursuant to Chapter 47, Title 40, or a person licensed as an advanced practice registered nurse pursuant to the provisions of Chapter 33, Title 40.”

SECTION 7. Section 44‑78‑30(A) of the 1976 Code is amended to read:

“(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~~ Health care provider’s signature

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

~~Physician’s~~ Health care provider’s address

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

~~Physician’s~~ Health care provider’s telephone number”

SECTION 8. This act takes effect upon approval by the Governor.

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