**A** **BILL**

TO AMEND SECTION 44‑66‑30 OF THE 1976 CODE, RELATING TO PERSONS WHO MAY MAKE HEALTH CARE DECISIONS FOR A PATIENT WHO IS UNABLE TO CONSENT, TO REVISE THE LIST OF AUTHORIZED DECISION MAKERS; AND TO AMEND SECTIONS 44‑26‑40, 44‑26‑50, AND 44‑26‑60(C) OF THE 1976 CODE, ALL RELATING TO CLIENTS OF THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS WHO ARE INCOMPETENT TO MAKE THEIR OWN HEALTH CARE DECISIONS, TO MAKE CONFORMING CHANGES.

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

SECTION 1. A. Section 44‑66‑30(A) of the 1976 Code is amended by adding a new item to read:

“(10) a person given authority to make health care decisions for the patient by another statutory provision.”

B. Section 44-66-30(A)(3) of the 1976 Code is amended to read:

“(3) a person given priority to make health care decisions for the patient by another statutory provision, when an agency has taken custody of the patient;”

SECTION 2. Section 44‑26‑40 of the 1976 Code is amended to read:

“Section 44‑26‑40. If a client resides in a facility operated by or contracted to by the department, the determination of that client’s competency to consent to or refuse major medical treatment must be made pursuant to Section 44‑66‑20~~(6)~~(8) of the Adult Health Care Consent Act. The department shall abide by the decision of a client found competent to consent.”

SECTION 3. Section 44‑26‑50 of the 1976 Code is amended to read:

“Section 44‑26‑50. If the client is found incompetent to consent to or refuse major medical treatment, the decisions concerning his health care must be made pursuant to Section 44‑66‑30 of the Adult Health Care Consent Act. An authorized designee of the department may make a health care decision pursuant to Section 44‑66‑30~~(8)~~(10) of the Adult Health Care Consent Act. The person making the decision must be informed of the need for major medical treatment, alternative treatments, and the nature and implications of the proposed health care and shall consult the attending physician before making decisions. When feasible, the person making the decision shall observe or consult with the client found to be incompetent.”

SECTION 4. Section 44‑26‑60(C) of the 1976 Code is amended to read:

“(C) Priority under this section must not be given to a person if a health care provider, responsible for the care of a client who is unable to consent, determines that the person is not reasonably available, is not willing to make health care decisions for the client, or is unable to consent as defined in Section 44‑66‑20~~(6)~~(8) of the Adult Health Care Consent Act.”

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

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