COMMITTEE REPORT

May 30, 2013

**H. 3764**

Introduced by Reps. Long, K.R. Crawford, Powers Norrell, Knight, Erickson, Barfield, Delleney, Dillard, Douglas, Gagnon, Henderson, Loftis, Newton, Pope, Ridgeway, Spires, Stringer and Wood

S. Printed 5/30/13--H.

Read the first time March 6, 2013.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3764) to amend the Code of Laws of South Carolina, 1976, so as to enact the “Nonembryonic and Nonfetal Cell Therapy Act” by adding Article 15 to Chapter 43, 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 Section 44-43-1550(2), as contained in SECTION 1, page 3, and inserting:

/ (2) a physician licensed or authorized in this State by the South Carolina Board of Medical Examiners to practice medicine or health care to others if the mode of delivery used by the person to deliver the nonembryonic and nonfetal cells is a mode of delivery permitted under the person’s license or authorization. /

Amend the bill further, by deleting section 44‑43‑1570(B), as contained in SECTION 1, beginning on page 3, and inserting:

/ (B) A physician who is licensed or authorized in this State by the South Carolina Board of Medical Examiners to practice medicine or health care to others may administer, or assist in the administration of, to a person described in subsection (A)(1), the imported compound, drug, or other treatment to a person described in subsection (A) if the mode of delivery used to deliver the nonembryonic and nonfetal cells by the person who is licensed or authorized in this State is a mode of delivery permitted under the person’s license or authorization.” /

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “NONEMBRYONIC AND NONFETAL CELL THERAPY ACT” BY ADDING ARTICLE 15 TO CHAPTER 43, TITLE 44 SO AS TO AUTHORIZE THE ESTABLISHMENT AND OPERATION OF NONEMBRYONIC AND NONFETAL CELL OR TISSUE BANKS; TO DEFINE NONEMBRYONIC AND NONFETAL CELL FOR PURPOSES OF THE ARTICLE; TO PROHIBIT STATE AND LOCAL GOVERNMENTAL AUTHORITIES FROM REGULATING NONEMBRYONIC AND NONFETAL CELL OR TISSUE BANKS OR FROM TAKING DISCIPLINARY ACTION OR IMPOSING PENALTIES OR CIVIL OR CRIMINAL LIABILITY FOR ENGAGING IN ACTIVITIES AUTHORIZED BY THIS ARTICLE; TO PROHIBIT LICENSING BOARDS FROM ABSOLVING THEMSELVES OF THE RESPONSIBILITY TO REGULATE LICENSEES OR TO REGULATE PROCEDURES USED TO PERFORM THE ACTIVITIES PERMITTED PURSUANT TO THIS ARTICLE; TO PROHIBIT IMMUNITY FROM PENALTIES OR CIVIL AND CRIMINAL LIABILITY FOR INDIVIDUALS WHO FAIL TO EXERCISE REASONABLE CARE IN PROVIDING SERVICES PURSUANT TO THIS ARTICLE; AND TO ESTABLISH QUALIFICATIONS AND LIMITATIONS PERTAINING TO THE PURCHASE, COMPOUNDING, DELIVERY, AND ADMINISTRATION OF NONEMBRYONIC AND NONFETAL CELLS.

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

SECTION 1. Chapter 43, Title 44 of the 1976 Code is amended by adding:

“Article 15

Nonembryonic and Nonfetal Cell Therapy Act

Section 44‑43‑1510.This article may be cited as the ‘Nonembryonic and Nonfetal Cell Therapy Act’.

Section 44‑43‑1520.As used in this article, and unless the specific context indicates otherwise:

(1) ‘Allogeneic’ means originating from the body of another person.

(2) ‘Autologous’ means originating from within a person’s own body.

(3) ‘Cell or tissue bank’ means a facility that stores nonembryonic and nonfetal cells or tissues, or both.

(4) ‘DHEC’ means the South Carolina Department of Health and Environmental Control.

(5) ‘FDA’ means the United States Food and Drug Administration.

(6) ‘Nonembryonic and nonfetal cells’ means autologous or cellular material including, but not limited to, stem cells and immune cells that:

(a) have not been isolated or obtained by any means from human embryos or fetuses; and

(b) may have been or may be combined with one or more naturally occurring biomaterials or materials approved or cleared for any purpose by the FDA or other applicable agency or authority.

For purposes of this article nonembryonic and nonfetal cells include stem cells obtained from umbilical cord blood banking procedures.

Section 44‑43‑1530.(A) Notwithstanding another provision of law, no department, commission, board, or agency of the State or of a local government including, but not limited to, a professional board created pursuant to Title 40, may:

(1) except as otherwise provided in Sections 44‑43‑1550 and 44‑43‑1570, regulate the activities authorized under this article; or

(2) take disciplinary action or impose civil or criminal liability or penalties against a person for engaging in an activity authorized under this article.

(B) This section does not:

(1) absolve a professional licensing board of the duty to regulate licensees or otherwise prohibit or limit the powers and duties of a licensing board to regulate the procedures used to administer nonembryonic and nonfetal cells; or

(2) absolve a person of civil or criminal liability or penalty for failure to use the reasonable care, skill, or knowledge ordinarily used in rendering medical services under similar circumstances.

Section 44‑43‑1540. Nothing in this article indicates whether the activities authorized in this article are authorized under federal law.

Section 44‑43‑1550. Notwithstanding another provision of law, nonembryonic and nonfetal cells may be administered to a person by:

(1) that person himself or herself; or

(2) a person licensed or authorized in this State to practice, or assist in the practice of, medicine or health care to others if the mode of delivery used by the person to deliver the nonembryonic and nonfetal cells is a mode of delivery permitted under the person’s license or authorization.

Section 44‑43‑1560.Notwithstanding another provision of law:

(1) a drug, medicine, or health product may be compounded using, as an ingredient by itself or with other ingredients, nonembryonic and nonfetal cells; and

(2) a pharmacy that compounds a drug, medicine, or health product described in item (1) may be owned or operated, or both, in this State.

Section 44‑43‑1570.Notwithstanding another provision of law:

(A) A person may import a compound, drug, or other treatment containing nonembryonic and nonfetal cells into this State if:

(1) the person obtained the compound, drug, or other treatment without violating the laws of the jurisdiction in which it was obtained; and

(2) the compound, drug, or other treatment is for personal use.

(B) A person who is licensed or authorized in this State to practice, or assist in the practice of, medicine or health care to others may administer, or assist in the administration of, to a person described in subsection (A)(1), the imported compound, drug, or other treatment to a person described in subsection (A) if the mode of delivery used to deliver the nonembryonic and nonfetal cells by the person who is licensed or authorized in this State is a mode of delivery permitted under the person’s license or authorization.”

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

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