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Indicates New Matter

RECALLED

May 29, 2014

**H. 4665**

Introduced by Reps. H.A. Crawford, Erickson, Atwater, Allison, Clemmons, Gagnon, Goldfinch, Hardee, Hardwick, Harrell, Henderson, Horne, Nanney, Putnam, Quinn, Ryhal and Knight

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Read the first time May 6, 2014.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 63‑13‑185 SO AS TO PROHIBIT THE ADMINISTRATION OF MEDICATION TO A MINOR CHILD BY AN EMPLOYEE OR VOLUNTEER OF A CHILDCARE FACILITY WITHOUT PARENTAL PERMISSION, TO INCLUDE EXCEPTIONS IN CIRCUMSTANCES OF EMERGENCIES, TO REQUIRE CHILDCARE FACILITIES TO MAINTAIN RECORDS THAT DOCUMENT RECEIPT OF PARENTAL PERMISSION, AND TO PROVIDE CRIMINAL PENALTIES.

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

SECTION 1. Article 1, Chapter 13, Title 63 of the 1976 Code is amended by adding:

“Section 63‑13‑185. (A) For purposes of this section, ‘medication’ means a drug that may be obtained with or without a prescription.

(B) It is unlawful for a director, owner, operator, caregiver, employee, or volunteer of a childcare facility, as defined in Section 63-13-20, to administer medication to a child under the care of the facility unless:

(1) the parent or guardian of the child has submitted to the childcare facility prior to the administration of the medication a signed and dated parental consent form that authorizes the facility to administer the medication to the child, and the authorization is for not longer than one year;

(2) the medication is administered as stated on the label directions, or as amended in writing by the child’s healthcare provider; and

(3) the medication has not expired.

(C)(1) Notwithstanding subsection (B), a director, owner, operator, caregiver, employee, or volunteer of a childcare facility may administer medication to a child without a signed authorization if the parent or guardian:

(a) submits to the childcare facility an authorization in an electronic format; or

(b) authorizes the childcare facility by telephone to administer a single dose of a medication.

(2) Written documentation of the electronic or telephonic authorization must be maintained by the facility in the child’s record.

(D) This section does not apply to a person that administers a medication to a child in a medical emergency to prevent the death of or serious bodily injury to the child if the medication is administered as prescribed, directed, and intended.

(E) A childcare facility shall maintain in each child’s record all written documentation and records of verbal communication that confirm parental or guardian permission to administer medication to the minor child as required pursuant to this section.

(F) A person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned not more than one year, or both.”

SECTION 2. Section 63‑13‑80(A) of the 1976 Code is amended to read:

“(A) In exercising the powers of licensing, approving, renewing, revoking, or making provisional licenses and approvals, the department shall investigate and inspect licensees and approved operators and applicants for a license or an approval. The authorized representative of the department may visit a childcare center, ~~or~~ group childcare home, or family childcare home anytime during the hours of operation without prior notice once a year for purposes of investigations and inspections. In conducting investigations and inspections, the department may call on political subdivisions and governmental agencies for appropriate assistance within their authorized fields. The inspection of the health and fire safety of childcare centers and group childcare homes must be completed upon the request of the department by the appropriate agencies (i.e., Department of Health and Environmental Control, the Office of the State Fire Marshal, or local authorities). Inspection reports completed by state agencies and local authorities must be furnished to the department and become a part of its determination of conformity for licensing and approval. After careful consideration of the reports and consultation where necessary, the department shall assume responsibility for the final determination of licensing, approving, renewing, revoking, or making provisional licenses and approvals. However, upon receipt of a regulatory complaint, the department shall conduct an unannounced inspection of the facility to investigate the complaint. If the complaint is written, the department shall provide a copy to the director upon request.”

SECTION 3. Section 63‑13‑840 of the 1976 Code is amended to read:

“Section 63‑13‑840. ~~(A)~~ ~~The department shall visit the facility when concerns are expressed by the community regarding the health and safety of the children, child abuse, or enrollment beyond the limits set forth in this chapter.~~

~~(B)~~ ~~If the concern is in regard to the health and safety of the children, the department may call on other appropriate agencies (i.e., State Department of Health and Environmental Control, Office of the State Fire Marshal) as necessary to conduct an inspection.~~

~~(C)~~ If ~~the concern~~ a complaint received by the department concerning a family childcare home pursuant to Section 63‑13‑80 indicates that the child has been abused, the department shall carry out its responsibility as authorized under Chapter 7. ~~(D)~~ If the visits and inspections verify conditions detrimental to the health and safety of the children or overenrollment, the department shall carry out its responsibility as authorized by Section 63‑13‑160 and Section 63‑13‑830(C).”

SECTION 4. This act takes effect upon approval by the Governor.

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