

## Session 109 - (1991-1992)

### **S\*0541 (Rat #0340, Act #0306 of 1992) General Bill, By I.E. Lourie, Bryan, Giese, J.C. Hayes, J.M. Long and Passailaigue**

A Bill to amend the Code of Laws of South Carolina, 1976, by adding Section 62-5-504 so as to provide for health care powers of attorney, to define terms, to explain the relationship between a health care power of attorney and a durable power of attorney, to provide that the Adult Health Consent Act applies to decisions made pursuant to a health care power of attorney, to provide standards for determining mental incompetence, to provide execution requirements, including witness qualifications, and a form for a health care power of attorney, to provide specific powers for a health care agent in addition to those provided in the health care power of attorney, to provide that a health care agent is not liable for health care costs incurred on behalf of a principal and is entitled to reimbursement but not compensation for services performed under a health care power of attorney, to provide that life-sustaining procedures may not be withheld pursuant to a durable power of attorney if the principal is pregnant, to provide that health care providers must follow directives of a health care agent under a power of attorney and that the agent must give directives in accordance with the principal's directives in the power of attorney or in a declaration of a desire for a natural death, to provide a good faith defense to those who make and those who rely on decisions made pursuant to a health care power of attorney, to provide that a principal may appoint successor agents and that if no agent is available, decisions must be made by a surrogate under the Adult Health Care Consent Act, in accordance with the directions in the power of attorney, to provide revocation procedures, to provide that execution and effectuation of a health care power of attorney does not constitute suicide, to provide that a health care power of attorney must not be required as a condition for insurance, medical treatment, or admission to a health care facility, to provide that this Section does not authorize mercy killing, to provide that the absence of a health care power of attorney does not give rise to any presumption regarding life-sustaining procedures, to provide penalties for violations, and to provide that a physician or facility that does not follow instructions pursuant to a health care power of attorney must attempt to find a physician or facility that will; to amend Section 44-43-330, relating to anatomical gifts, so as to reorder the priority of individuals who may consent to an anatomical gift for a decedent by adding an agent under a health care power of attorney; to amend Section 44-66-20, relating to definitions in the Adult Health Care Consent Act, so as to revise the definition of health care; to amend Section 44-66-30, relating to persons authorized to make health care decisions, so as to require that those decisions must be based on the patient's wishes, if known, and to allow the authorized person to either consent or withhold health care; and to amend Section 62-5-501, as amended, relating to the execution of a power of attorney not affected by physical disability, or mental incompetence, so as to provide how physical disability or mental incompetence may be determined, and to provide for the continued validity of a durable power of attorney for health care; to amend Section 44-43-950, relating to consent for organ donations, so as to reorder the priority for consent by adding an agent under a health care power of attorney; and to provide for the validity of a durable power of attorney for health care irrespective of amendments to Section 62-5-501 contained in this Act.-amended title

<b>01/23/91</b>	<b>Senate</b>	<b>Introduced and read first time SJ-9</b>
<b>01/23/91</b>	<b>Senate</b>	<b>Referred to Committee on Judiciary SJ-9</b>
<b>02/27/91</b>	<b>Senate</b>	<b>Committee report: Favorable Judiciary SJ-16</b>
<b>03/05/91</b>	<b>Senate</b>	<b>Read second time SJ-13</b>
<b>03/05/91</b>	<b>Senate</b>	<b>Ordered to third reading with notice of amendments SJ-14</b>
<b>03/06/91</b>	<b>Senate</b>	<b>Read third time and sent to House SJ-15</b>
<b>03/07/91</b>	<b>House</b>	<b>Introduced and read first time HJ-8</b>
<b>03/07/91</b>	<b>House</b>	<b>Referred to Committee on Judiciary HJ-9</b>
<b>02/26/92</b>	<b>House</b>	<b>Committee report: Favorable with amendment Judiciary HJ-35</b>
<b>03/05/92</b>	<b>House</b>	<b>Debate adjourned until Tuesday, March 17, 1992 HJ-2</b>
<b>03/18/92</b>	<b>House</b>	<b>Amended HJ-28</b>
<b>03/18/92</b>	<b>House</b>	<b>Debate adjourned until Thursday, March 19, 1992 HJ-29</b>
<b>03/19/92</b>	<b>House</b>	<b>Read second time HJ-16</b>
<b>03/24/92</b>	<b>House</b>	<b>Read third time and returned to Senate with amendments HJ-18</b>
<b>03/25/92</b>	<b>Senate</b>	<b>Concurred in House amendment and enrolled SJ-10</b>
<b>04/02/92</b>		<b>Ratified R 340</b>
<b>04/08/92</b>		<b>Signed By Governor</b>
<b>04/08/92</b>		<b>Effective date 04/08/92</b>
<b>04/08/92</b>		<b>Act No. 306</b>
<b>05/05/92</b>		<b>Copies available</b>