**South Carolina General Assembly**

121st Session, 2015-2016

**A226, R258, H3999**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Henderson, G.M. Smith, Ridgeway and Atwater

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Introduced in the House on April 16, 2015

Introduced in the Senate on March 22, 2016

Last Amended on June 1, 2016

Passed by the General Assembly on June 2, 2016

Governor's Action: June 3, 2016, Signed

Summary: Health care decisions

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 4/16/2015 House Introduced and read first time ([House Journal‑page 18](file:///h%3A%5CHJ%20Archive%5C2015%5C04-16-15.docx))

 4/16/2015 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 18](file:///h%3A%5CHJ%20Archive%5C2015%5C04-16-15.docx))

 3/9/2016 House Committee report: Favorable with amendment **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 28](file:///h%3A%5CHJ%20Archive%5C2016%5C03-09-16.docx))

 3/15/2016 House Debate adjourned until Wed., 3‑16‑16 ([House Journal‑page 21](file:///h%3A%5CHJ%20Archive%5C2016%5C03-15-16.docx))

 3/16/2016 House Amended ([House Journal‑page 76](file:///h%3A%5CHJ%20Archive%5C2016%5C03-16-16.docx))

 3/16/2016 House Debate adjourned until Thur., 3‑17‑16 ([House Journal‑page 93](file:///h%3A%5CHJ%20Archive%5C2016%5C03-16-16.docx))

 3/17/2016 House Amended ([House Journal‑page 21](file:///h%3A%5CHJ%20Archive%5C2016%5C03-17-16.docx))

 3/17/2016 House Read second time ([House Journal‑page 21](file:///h%3A%5CHJ%20Archive%5C2016%5C03-17-16.docx))

 3/17/2016 House Roll call Yeas‑99 Nays‑0 ([House Journal‑page 24](file:///h%3A%5CHJ%20Archive%5C2016%5C03-17-16.docx))

 3/17/2016 House Unanimous consent for third reading on next legislative day ([House Journal‑page 26](file:///h%3A%5CHJ%20Archive%5C2016%5C03-17-16.docx))

 3/18/2016 House Read third time and sent to Senate ([House Journal‑page 1](file:///h%3A%5CHJ%20Archive%5C2016%5C03-18-16.docx))

 3/22/2016 Senate Introduced and read first time ([Senate Journal‑page 6](file:///h%3A%5CSJ%20Archive%5C2016%5C03-22-16.docx))

 3/22/2016 Senate Referred to Committee on **Medical Affairs** ([Senate Journal‑page 6](file:///h%3A%5CSJ%20Archive%5C2016%5C03-22-16.docx))

 5/19/2016 Senate Committee report: Favorable **Medical Affairs** ([Senate Journal‑page 6](file:///h%3A%5CSJ%20Archive%5C2016%5C05-19-16.docx))

 5/31/2016 Senate Read second time ([Senate Journal‑page 43](file:///h%3A%5CSJ%20Archive%5C2016%5C05-31-16.docx))

 5/31/2016 Senate Roll call Ayes‑45 Nays‑0 ([Senate Journal‑page 43](file:///h%3A%5CSJ%20Archive%5C2016%5C05-31-16.docx))

 6/1/2016 Senate Amended

 6/1/2016 Senate Read third time and returned to House with amendments

 6/1/2016 Senate Roll call Ayes‑41 Nays‑0

 6/2/2016 House Concurred in Senate amendment and enrolled ([House Journal‑page 34](file:///h%3A%5CHJ%20Archive%5C2016%5C06-02-16.docx))

 6/2/2016 House Roll call Yeas‑104 Nays‑0 ([House Journal‑page 34](file:///h%3A%5CHJ%20Archive%5C2016%5C06-02-16.docx))

 6/2/2016 Ratified R 258

 6/3/2016 Signed By Governor

 6/9/2016 Effective date 06/03/16

 6/9/2016 Act No. 226

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**VERSIONS OF THIS BILL**

[4/16/2015](file:///p%3A%5Cpprever%5C2015-16%5C3999_20150416.docx)

[3/9/2016](file:///p%3A%5Cpprever%5C2015-16%5C3999_20160309.docx)

[3/16/2016](file:///p%3A%5Cpprever%5C2015-16%5C3999_20160316.docx)

[3/17/2016](file:///p%3A%5Cpprever%5C2015-16%5C3999_20160317.docx)

[5/19/2016](file:///p%3A%5Cpprever%5C2015-16%5C3999_20160519.docx)

[6/1/2016](file:///p%3A%5Cpprever%5C2015-16%5C3999_20160601.docx)

(A226, R258, H3999)

**AN ACT TO AMEND SECTION 44‑66‑30, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERSONS WHO MAY MAKE HEALTH CARE DECISIONS FOR PATIENTS WHO ARE UNABLE TO PROVIDE CONSENT, SO AS TO MAKE CHANGES TO THE ORDER OF PRIORITY, TO ADD CLASSES OF PERSONS WITH THE AUTHORITY TO MAKE THESE HEALTH CARE DECISIONS, AND FOR OTHER PURPOSES.**

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

**Health care decisions, incompetent patients**

SECTION 1. Section 44‑66‑30 of the 1976 Code is amended to read:

 “Section 44‑66‑30. (A) Where a patient is unable to consent, decisions concerning his health care may be made by the following persons in the following order of priority:

 (1) a guardian appointed by the court pursuant to Article 5, Part 3 of the South Carolina Probate Code, if the decision is within the scope of the guardianship;

 (2) an attorney‑in‑fact appointed by the patient in a durable power of attorney executed pursuant to Section 62‑5‑501, if the decision is within the scope of his authority;

 (3) a person given priority to make health care decisions for the patient by another statutory provision;

 (4) a spouse of the patient unless the spouse and the patient are separated pursuant to one of the following:

 (a) entry of a pendente lite order in a divorce or separate maintenance action;

 (b) formal signing of a written property or marital settlement agreement; or

 (c) entry of a permanent order of separate maintenance and support or of a permanent order approving a property or marital settlement agreement between the parties;

 (5) an adult child of the patient, or if the patient has more than one adult child, a majority of the adult children who are reasonably available for consultation;

 (6) a parent of the patient;

 (7) an adult sibling of the patient, or if the patient has more than one adult sibling, a majority of the adult siblings who are reasonably available for consultation;

 (8) a grandparent of the patient, or if the patient has more than one grandparent, a majority of the grandparents who are reasonably available for consultation;

 (9) any other adult relative by blood or marriage who reasonably is believed by the health care professional to have a close personal relationship with the patient, or if the patient has more than one other adult relative, a majority of those other adult relatives who are reasonably available for consultation.

 (B) Documentation of efforts to locate a decision maker who is a person identified in subsection (A) must be recorded in the patient’s medical record.

 (C) If persons of equal priority disagree on whether certain health care should be provided to a patient who is unable to consent, an authorized person, a health care provider involved in the care of the patient, or any other person interested in the welfare of the patient may petition the probate court for an order determining what care is to be provided or for appointment of a temporary or permanent guardian.

 (D) Priority pursuant to this section must not be given to a person if a health care provider responsible for the care of a patient who is unable to consent determines that the person is not reasonably available, is not willing to make health care decisions for the patient, or is unable to consent as defined in Section 44‑66‑20(8).

 (E) An attending physician or other health care professional responsible for the care of a patient who is unable to consent may not give priority or authority pursuant to subsections (A)(5) through (A)(10) to a person if the attending physician or health care professional has actual knowledge that, before becoming unable to consent, the patient did not want that person involved in decisions concerning his care.

 (F) This section does not authorize a person to make health care decisions on behalf of a patient who is unable to consent if, in the opinion of the certifying physicians, the patient’s inability to consent is temporary, and the attending physician or other health care professional responsible for the care of the patient determines that the delay occasioned by postponing treatment until the patient regains the ability to consent will not result in significant detriment to the patient’s health.

 (G) A person authorized to make health care decisions pursuant to subsection (A) shall base those decisions on the patient’s wishes to the extent that the patient’s wishes can be determined. Where the patient’s wishes cannot be determined, the person shall base the decision on the patient’s best interest.

 (H) A person authorized to make health care decisions pursuant to subsection (A) either may consent or withhold consent to health care on behalf of the patient.”

**Time effective**

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

Ratified the 2nd day of June, 2016.

Approved the 3rd day of June, 2016.

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