

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

*Codification
District of
Columbia
Official Code*

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To amend, on a temporary basis, Chapter 20 of Title 21 of the District of Columbia Official Code to add a definition of "emergency care" to the guardianship law, and to amend the Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978 to authorize the Administrator of the Mental Retardation and Developmental Disabilities Administration, or the Administrator's designee, to grant, refuse, or withdraw consent, with certain limitations, on behalf of incapacitated customers, for health care services, treatment, or procedures, upon the certification of 2 licensed physicians.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Citizens with Mental Retardation Substituted Consent for Health Care Decisions Temporary Amendment Act of 2004".

Sec. 2. Chapter 20 of Title 21 of the District of Columbia Official Code is amended as follows:

Note,
§ 21-2011

(a) Section 21-2011 is amended by adding a new paragraph (5A) to read as follows:
"(5A) "Emergency care" means immediate treatment, including diagnostic treatment, provided in response to a sudden, acute, and unanticipated medical crisis in order to avoid injury, extreme pain, impairment, or death."

(b) Section 21-2046(a) is amended by striking the phrase "life threatening emergency" and inserting the phrase "life-threatening situation or a situation involving emergency care" in its place.

Sec. 3. The Mentally Retarded Citizens Constitutional Rights and Dignity Act of 1978, effective March 3, 1979 (D.C. Law 2-137; D.C. Official Code § 7-1301.01 *et seq.*), is amended as follows:

Note,
§ 7-1305.07

(a) Section 507 (D.C. Official Code § 7-1305.07) is amended to read as follows:
"Sec. 507. Authority of Administrator to make health care decisions.

"(a) Subject to the limitations provided in subsection (b) of this section, if a customer is certified as an incapacitated individual in accordance with D.C. Official Code § 21-2204, and

there is no known person reasonably available, mentally capable, and willing to act pursuant to D.C. Official Code § 21-2210, the Administrator of the Mental Retardation and Developmental Disabilities Administration ("Administrator"), or the Administrator's designee, is authorized to grant, refuse, or withdraw consent on behalf of a customer with respect to the provision of any health care service, treatment, or procedure; provided, that 2 licensed physicians have certified in writing that the health care service, treatment, or procedure is clinically indicated to maintain the health of the customer.

"(b) The Administrator, or the Administrator's designee, is not authorized, unless authorized by a court, to consent to the following:

"(1) An abortion, sterilization, psychosurgery, or removal of a bodily organ, except to preserve the life or prevent the immediate serious impairment of the physical health of the customer;

"(2) Convulsive therapy;

"(3) Experimental treatments or behavior modification programs involving aversive stimuli or deprivation of rights; or

"(4) The withholding of life-saving medical procedures.

"(c) Nothing in this section shall be read to require any person to execute a durable power of attorney for health care."

(b) A new section 507a is added to read as follows:

"Sec. 507a. Provision of health care decisionmakers.

"(a) It shall be the policy of the District government to ensure that incapacitated persons have available health care decisionmakers. The Administrator of the Mental Retardation and Developmental Disabilities Administration shall establish a plan to encourage, as much as possible, the provision of health care decisionmakers pursuant to D.C. Official Code § 21-2210 for all incapacitated and potentially incapacitated persons under the Administrator's jurisdiction.

"(b) Nothing in this section shall be read to require any person to execute a durable power of attorney for health care."

Sec. 4. Fiscal impact statement.

The Council anticipates that this act will reduce costs to the Mental Retardation and Developmental Disabilities Administration by reducing legal costs associated with guardianships. This act will also reduce Medicaid costs to the District of Columbia because prompt attention to medical needs will reduce medical costs.

Sec. 5. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review

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as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

Chairman
Council of the District of Columbia

Mayor
District of Columbia