

State of South Dakota

NINETY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2019

384B0188

SENATE HEALTH AND HUMAN SERVICES ENGROSSED NO. **HB 1055** - 2/27/2019

Introduced by: Representatives Deutsch, Brunner, Chase, Dennert, Diedrich, Finck, Frye-Mueller, Glanzer, Goodwin, Gosch, Greenfield (Lana), Hammock, Hansen, Haugaard, Howard, Jensen (Kevin), Johns, Johnson (Chris), Johnson (David), Koth, Lake, Latterell, Marty, McCleerey, Milstead, Miskimins, Mulally, Perry, Peterson (Kent), Peterson (Sue), Pischke, Post, Qualm, Randolph, Rasmussen, Rounds, Schoenfish, Steele, Weis, Wiese, Willadsen, York, and Zikmund and Senators Steinhauer, Blare, Bolin, Cammack, Cronin, DiSanto, Ewing, Greenfield (Brock), Jensen (Phil), Klumb, Kolbeck, Langer, Maher, Monroe, Nelson, Novstrup, Otten (Ernie), Partridge, Rusch, Russell, Schoenbeck, Smith (VJ), Solano, Stalzer, Sutton, Wiik, and Youngberg

1 FOR AN ACT ENTITLED, An Act to require parental notification and agreement before the
2 institution of an order to withhold resuscitation from certain patients.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 34-12F be amended by adding a NEW SECTION to read:

5 If a physician determines that a patient who is an unemancipated minor has a life-limiting
6 illness, the physician may not institute an order to withhold resuscitation unless the physician
7 has:

8 (1) Informed at least one of the patient's parents or the patient's legal guardian of the
9 intent to institute such an order; and

10 (2) Made a reasonable attempt to inform the patient's other parent, if that parent's contact



1 information is available or discernible, and if that parent has custodial or visitation
2 rights.

3 The physician shall provide the information required by this section orally and in written
4 form unless, using medical judgment, the physician determines that the urgency of the patient's
5 condition requires reliance on only oral information.

6 The physician shall ensure that all communications made or attempted in accordance with
7 this section are contemporaneously documented in the patient's medical record and that the
8 record includes a listing of all participants in the communication, the date and time that
9 communications or attempted communications occurred, and whether the information was
10 provided orally or in written form. Copies of any written information provided must also be
11 placed in the medical record.

12 Either of the patient's parents or the patient's legal guardian may object, orally or in written
13 form, to the institution of an order to withhold resuscitation. The objection must be
14 contemporaneously documented in the patient's medical record. An objection under this section
15 precludes the physician from instituting an order to withhold resuscitation until the objection
16 is withdrawn or a court permits institution of the order.

17 If the patient's parents are unable to agree on the institution of an order to withhold
18 resuscitation, either parent may petition the circuit court of the county in which that parent
19 resides or in which the patient is receiving treatment for an order enjoining a violation or a
20 threatened violation of this section or to resolve a conflict. Pending a final determination,
21 including any appeals, an order to withhold resuscitation may not be instituted.