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Current through the end of the 2009 Session**

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**Title 44 - Health**

**CHAPTER 37.**

**CARE OF THE NEWLY BORN**

**SECTION 44-37-10.** Report of infants with diseased eyes.

Should one or both eyes of an infant become reddened or inflamed at any time after birth, the midwife, nurse or person having charge of such infant shall report such condition at once to the county health department. Any person who fails to comply with the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than twenty-five dollars or imprisoned for not more than thirty days.

**SECTION 44-37-20.** Instillation of prophylactic to prevent blindness within one hour after birth.

Every doctor, midwife, nurse or other person attending the delivery at birth of a child in this State shall instill, or have instilled, into the eyes of the baby, within one hour after birth, some effective prophylactic approved by the Department of Health and Environmental Control, for prevention of blindness from ophthalmia neonatorum. A record of such administration or instillation shall be reported on the birth certificate, showing the time with respect to the birth and the kind of prophylactic administered.

**SECTION 44-37-30.** Neonatal testing of children; storage and availability of blood samples for future tests; confidentiality; religious exemption; violation and penalties.

(A) A child born in this State, except a child born of a parent who objects on religious grounds and indicates this objection before testing on a form promulgated in regulation by the Department of Health and Environmental Control, shall have neonatal testing to detect inborn metabolic errors and hemoglobinopathies.

(B) Information obtained as a result of the tests conducted pursuant to this section is confidential and may be released only to a parent or legal guardian of the child, the child's physician, and the child when eighteen years of age or older when requested on a form promulgated in regulation by the department.

(C) A blood sample obtained pursuant to this section is confidential and may be released only as the parent or legal guardian of the child from whom a blood sample was obtained, or the child when eighteen years of age or older, directs the department at the time of testing or at any time after that on a form promulgated in regulation by the department.

(D)(1) Unless otherwise directed pursuant to this subsection, a blood sample obtained pursuant to this section must be stored by the department at minus 20° centigrade and may be released for purposes of confidential, anonymous scientific study. The release of a blood sample must conform with regulations promulgated by the department. At the time of testing or at any time after that, on a form promulgated in regulation by the department, the parent or legal guardian of the child from whom a blood sample was obtained, or the child when eighteen years of age or older, may direct the department to:

(a) return a blood sample in its entirety and any test results not less than two years after the date of testing;

(b) destroy a blood sample in a scientifically acceptable manner not less than two years after the date of the testing; or

(c) store a blood sample at minus 20° centigrade but not release the blood sample for confidential, anonymous scientific study.

(2) A blood sample released for confidential, anonymous study pursuant to this section must not contain information which may be used to determine the identity of the donor. A blood sample released pursuant to this section may contain demographic or other statistical information. If scientific study identifies genetic information that may benefit the child, the department may notify confidentially the parent or legal guardian, or the child if eighteen years of age or older, of this information.

(E)(1) A blood sample that has not been stored at minus 20° centigrade before the effective date of this section must be destroyed in a scientifically acceptable manner six months from the effective date of this section unless a parent or legal guardian of a child from whom a blood sample was obtained, or the child if eighteen years of age or older, requests return of the blood sample on a form provided by the department.

(2) A blood sample stored at minus 20° centigrade pursuant to this section before the effective date of this section must be retained as prescribed in subsection (D) unless directed by the parent or legal guardian of the child from whom a blood sample was obtained to destroy or return the blood sample.

(F) The department shall promulgate regulations necessary for the implementation of this section. All forms must include information concerning the benefits of neonatal testing and storage of a blood sample.

(G) A person who violates this section or the regulations promulgated pursuant to this section or who provides or obtains or otherwise tampers with a blood sample collected pursuant to this section is guilty of a misdemeanor and, upon conviction, may be fined not more than fifty thousand dollars or imprisoned for not more than three years.

#### **SECTION 44-37-40.** Universal Newborn Hearing Screening and Intervention Act.

(A) This section may be cited as the "Universal Newborn Hearing Screening and Intervention Act".

(B) For purposes of this section:

(1) "Advisory council" means the Newborn Hearing Screening and Intervention Advisory Council.

(2) "Audiologist" means an individual licensed to practice audiology by the South Carolina Board of Examiners in Speech-Language Pathology and Audiology.

(3) "Audiologic evaluation" means an evaluation consisting of procedures to assess the status of the auditory system; to establish the site of an auditory disorder; the type and degree of hearing loss, and the potential effects of hearing loss on communication; and to identify appropriate treatment and referral options. Referral options for evaluation should include linkage to state Part C "Individuals with Disabilities Education Act" coordinating agencies or other appropriate agencies, medical evaluation, hearing aid/sensory aid assessment, audiologic rehabilitation treatment, national and local consumer, self-help, parent and education organizations, and other family centered services.

(4) "Auditory habilitation" means intervention which includes the use of procedures, techniques, and technologies to facilitate the receptive and expressive communication abilities of a child with hearing loss.

(5) "Birth admission" means the time after birth that the newborn remains in the hospital nursery before discharge.

(6) "Commissioner" means the Commissioner of the South Carolina Department of Health and Environmental Control.

(7) "Department" means the South Carolina Department of Health and Environmental Control.

(8) "Early intervention" means providing appropriate services for a child with hearing loss and ensuring that the family of the child is provided comprehensive, consumer-oriented information about the full range of family support, training, information services, and communication options and is given the opportunity to consider the full range of educational and program placements and options for this child.

(9) "Hearing loss" for newborns and neonates means failure to pass the brainstem auditory evoked response performed at the audiologic evaluation. Current hearing screening technology detects levels of hearing loss as low as 35 decibels.

(10) "Hearing screening" means newborn and infant hearing screening consisting of objective physiologic procedures to detect possible hearing loss and to identify newborns and infants who, after rescreening, require further audiologic and medical evaluations.

(11) "Infant" means a child twenty-nine days to twenty-four months old.

(12) "Medical intervention" means the process by which a physician provides medical diagnosis and direction for medical or surgical treatment options for hearing loss or related medical disorders associated with hearing loss.

(13) "Newborn" means a child up to twenty-eight days old.

(14) "Normal hearing" for newborns and infants is 0-15 decibels hearing level. Any hearing level greater than 15 decibels can adversely affect speech and language development. The greater the hearing level the greater the adverse impact on speech and language development.

(15) "Parent" means a natural parent, step-parent, adoptive parent, legal guardian, or other legal custodian of a child.

(16) Part C of "Individuals with Disabilities Education Act" means the federal "Early Intervention Program for Infants and Toddlers with Disabilities and Developmental Delay Act" which encourages exemplary practices that lead to improved teaching and learning experiences for children with developmental delay, and that can result in more productive independent adult lives, including employment.

(C)(1) Beginning no later than June 30, 2001, newborn hearing screenings must be conducted during birth admission on all newborns born in hospitals in this State using procedures recommended or approved by the department. However, when a newborn is delivered in a hospital with an average of less than one hundred deliveries a year, the screening is not required, but the parents must be given the information required pursuant to subsection (C)(3).

(2) Beginning no later than April 1, 2001, every hospital in this State shall provide educational information for the parents of newborns born in that hospital concerning the hearing screening procedure and the importance of the screening. Education may not be considered a substitute for the hearing screening.

(3) When a newborn is delivered in a hospital where the hearing screening is not required pursuant to subsection (C)(1) or somewhere other than a hospital, the parents must be instructed on the importance of a hearing screening and of having the screening performed within one month of the child's birth date. Parents also must be given information to assist them in having the screening performed. The department shall determine the appropriate screening venue for newborns not receiving a hospital-conducted screening.

(D)(1) Newborns referred as a result of the screening process shall receive an audiologic evaluation by an audiologist and a medical evaluation by a physician or otolaryngologist, or both, as indicated.

(2) Newborns and infants referred as a result of the evaluation process shall receive medical intervention, audiologic habilitation, early intervention services, and augmentative hearing devices.

(3)(a) The department, upon consultation with the South Carolina Health Alliance, shall establish newborn hearing screening reporting procedures which must be followed by hospitals, audiologists, and early interventionists.

(b) The department also shall establish procedures to monitor and measure the effectiveness of newborn and infant hearing screening and intervention and shall report annually to the General Assembly and to participating hospitals.

(c) Subject to available appropriations, the department shall make reports required pursuant to this subsection available throughout the State, specifically to physicians whose practice includes the practice of obstetrics, neonatology, or the care of newborns and infants, to consumer groups, managed care organizations, other third party payers, and the media.

(E) The department shall establish the Newborn Hearing Screening and Intervention Advisory Council, consisting of representatives of agencies, professional disciplines, hospitals, and consumers to advise the department on matters related to the implementation of this section and duties of the department under this section.

(F) The department may promulgate regulations to the extent necessary to implement the provisions of this section.

(G) The department and the Department of Health and Human Services shall establish procedures for providing reimbursement for expenses incurred by entities providing newborn hearing screenings under this section.

(H) Responsibilities of the department under this section including, but not limited to, reimbursements authorized pursuant to subsection (G) must be funded from proceeds received by the State in the settlement agreement and related documents, between the State and leading United States tobacco manufacturers dated November 23, 1998.

**SECTION 44-37-50.** Shaking infant video and infant CPR information to be made available to parents and caregivers of newborn infants and adoptive parents.

(A) Every hospital in this State must make available to the parents of each newborn baby delivered in the hospital a video presentation on the dangers associated with shaking infants and young children. Every hospital also must make available information on the importance of parents and caregivers learning infant CPR. The hospital must request that the maternity patient, the father, or the primary caregiver view the video. Those persons whom the hospital requested to view the video shall sign a document prescribed by the Department of Health and Environmental Control stating that they have been offered an opportunity to view the video.

(B) The director, or his designee, of the Department of Health and Environmental Control must approve the video to be utilized by a hospital, pursuant to subsection (A). Upon the request of a hospital, the Director of the Department of Health and Environmental Control, or his designee, shall review a hospital's proposed video for possible approval. The Department of Health and Environmental Control may not require a hospital to use a video that would require the hospital to pay royalties for use of the video, restrict viewing in order to comply with public viewing or other restrictions, or be subject to other costs or restrictions associated with copyrights. The department must provide a copy of any approved video, at cost, to a hospital or any interested individual.

(C) The Department of Health and Environmental Control shall make available to all childcare facilities and childcare providers, regulated pursuant to Chapter 13, title 63, a video presentation on the dangers associated with shaking infants and young children. Childcare facilities, as defined in Section 63-13-20, shall include this video presentation in the initial and ongoing training of caregivers in the childcare facility. Caregivers in a registered family childcare home or church or religious childcare facility may participate in presentations offered pursuant to this subsection. The Department of Health and Environmental Control must provide a copy of any approved video, at cost, to a childcare facility or childcare provider or any interested individual.

(D) The Department of Health and Environmental Control shall establish a protocol for health care providers to educate parents or primary caregivers about the dangers associated with shaking infants and young children. The Department of Health and Environmental Control shall request family medicine physicians, pediatricians, and other pediatric health care providers to review these dangers with the parent or primary caregiver, who are present, of infants and young children up to the age of one at each well-baby visit.

(E) The Department of Social Services, Adoption Services must make available to all adopting parents a video presentation, approved by the Department of Health and Environmental Control, on the dangers associated with shaking infants and young children and the importance of parents and caregivers learning infant CPR. The department must request that the adopting parents view the video. The adopting parents must sign a document prescribed by the department stating that they have been offered an opportunity to view the video. This subsection only applies to adoptive placements administered by the Department of Social Services, Adoption Services.

(F) Nothing contained in this section may be construed to create any civil, criminal, or administrative cause of action or other liability against a health care facility or health care provider for any acts or omissions relating to compliance with this section.