

**SENATE APPROPRIATIONS COMMITTEE  
FISCAL NOTE**

**BILL NO.** Senate Bill 425

**PRINTER NO.** 616

**AMOUNT**

No Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

March 15, 2021

**PRIME SPONSOR**

Senator Gordner

**DESCRIPTION AND PURPOSE OF BILL**

Senate Bill 425 amends the Medical Care Availability and Reduction of Error (Mcare) Act to permit a physician to fulfill their duty to obtain a patient’s or the patient’s authorized representative’s consent by a qualified practitioner prior to conducting surgery or administering radiation or chemotherapy, blood transfusions, or medications and devices.

The bill provides that a physician may, but is not required to, delegate the task of obtaining informed consent for a procedure to a qualified practitioner. A physician or qualified practitioner performing a procedure may rely on information provided by another qualified practitioner to obtain informed consent, and the information shall be competent evidence in a proceeding in which it is alleged a physician or qualified practitioner performing a procedure failed to obtain informed consent.

Liability for failure to obtain informed consent under this section is expanded to include if the qualified practitioner knowingly misrepresents to the patient the professional credentials, training or experience of the physician or qualified practitioner who performs the procedure.

The bill states the informed consent shall be satisfied if obtained for human research pursuant to approval by an institutional review board or similar entity in accordance with federal laws and regulations relating to protection of human subjects.

A physician or qualified practitioner performing a procedure shall not be required to obtain a separate or new informed consent provided it was already obtained with respect to the procedure.

Senate Bill 425 defines “qualified practitioner” as a physician assistant, certified registered nurse practitioner, midwife or nurse-midwife, a registered nurse authorized to administer anesthesia, another physician, or a physician in a medical residency or fellowship training program. A qualified practitioner shall have knowledge of the patient’s condition and the procedure and shall be acting under the supervision of, at the direction of, or in collaboration or cooperation with the physician.

This act shall take effect immediately.

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## **FISCAL IMPACT:**

Senate Bill 425 will have no fiscal impact on Commonwealth funds.