

(5) A MENTAL DISABILITY, INCLUDING SENILITY.

(B) SCOPE OF SECTION.

THIS SECTION DOES NOT AUTHORIZE ANY TREATMENT OF A DISABLED INDIVIDUAL IF THE ATTENDING PHYSICIAN KNOWS THAT THE TREATMENT IS AGAINST THE RELIGIOUS BELIEF OF THE DISABLED INDIVIDUAL.

(C) TREATMENT WITHOUT CONSENT.

A PHYSICIAN OR A HEALTH CARE FACILITY MAY TREAT A DISABLED INDIVIDUAL WITHOUT CONSENT IF:

(1) A PERSON WHO IS AUTHORIZED TO GIVE THE CONSENT IS NOT AVAILABLE IMMEDIATELY;

(2) THE ATTENDING PHYSICIAN DETERMINES:

(I) THERE IS A SUBSTANTIAL RISK OF DEATH OR IMMEDIATE AND SERIOUS HARM TO THE DISABLED INDIVIDUAL; AND

(II) WITH A REASONABLE DEGREE OF MEDICAL CERTAINTY, THE LIFE OR HEALTH OF THE DISABLED INDIVIDUAL WOULD BE AFFECTED ADVERSELY BY DELAYING TREATMENT TO OBTAIN CONSENT; AND

(3) TREATMENT IS OF AN EMERGENCY MEDICAL NATURE.

(D) LIABILITIES.

A PHYSICIAN OR AN INDIVIDUAL UNDER THE DIRECTION OF A PHYSICIAN WHO TREATS A DISABLED INDIVIDUAL IS NOT LIABLE FOR CIVIL DAMAGES OR SUBJECT TO ANY CRIMINAL OR DISCIPLINARY PENALTY SOLELY BECAUSE THE DISABLED INDIVIDUAL DID NOT HAVE CAPACITY TO CONSENT UNDER THIS SECTION.

REVISOR'S NOTE: This section is new language derived without substantive change from former Article 43, § 135C.

Throughout this section, the defined word "physician" is substituted for the ambiguous term "licensed physician", for clarity.

In subsection (a)(5) of this section, the former phrase "other mental weakness" is deleted as unnecessary in light of the broad reference to a "mental disability" and the definition of "includes"/"including" in Title 1 of this article.

The Commission to Revise the Annotated Code notes, for consideration by the General Assembly,