

Liability: Obtaining and Relying on Consent for Treatment

S.D. Codified Laws 34-12C-7

A health care provider who, in good faith, relies on a health care decision made by an individual believed to have the authority to make decisions for another will not be held legally responsible or professionally disciplined for making this determination and acting based on it.

A health care provider who, in good faith, believes the individual with authority to make decisions for another is incapable of making a rational decision will also not be held legally responsible or professionally disciplined for making this determination and acting based on it.

A health care provider who, in good faith, believes an individual is capable of giving informed consent for their own treatment will not be held legally responsible or professionally disciplined for making this determination and acting based on it.

Immunity for health care provider or person acting in good faith

A health care provider acting or declining to act in reliance on a health care decision by a person whom the health care provider believes in good faith is authorized by this chapter to make a health care decision for another is not subject to criminal prosecution, civil liability or professional disciplinary action on the ground that the person either had or did not have authority, capacity or sufficient interest to make an informed health care decision or for disclosing to the person medical records or other information.

A health care provider who believes in good faith that a person is incapable of giving informed consent for himself or lacks authority, capacity or sufficient interest to make an informed health care decision for another is not subject to

criminal prosecution, civil liability or professional disciplinary action for failing to follow that person's direction or for making such determination.

A health care provider who in good faith believes that a person is capable of giving informed consent for his own health care is not subject to criminal prosecution, civil liability or professional disciplinary action for following that person's direction or for making such determination.

A person who in good faith believes that he is authorized under this chapter to make an informed health care decision for another is not subject to criminal prosecution or civil liability on the ground that he lacked authority or capacity.