

CHAPTER 166

HEALTH AND ENVIRONMENT

HOUSE BILL 15-1242

BY REPRESENTATIVE(S) Danielson, Roupe, Windholz, Buckner, Duran, Fields, Garnett, Ginal, Lebsack, Lontine, Melton, Mitsch Bush, Moreno, Pabon, Pettersen, Primavera, Priola, Rosenthal, Ryden, Salazar, Vigil, Winter, Young, Hullinghorst, Williams;
also SENATOR(S) Aguilar, Crowder, Guzman, Heath, Hodge, Jahn, Johnston, Jones, Kefalas, Martinez Humenik, Merrifield, Newell, Todd.

AN ACT

CONCERNING THE RIGHT OF A MEDICAL PATIENT TO DESIGNATE A CAREGIVER TO ASSIST THE PATIENT WITH BASIC TASKS FOLLOWING RELEASE FROM A MEDICAL FACILITY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 25-1-128 as follows:

25-1-128. Designation of caregiver - notice - instructions - definitions. (1) As USED IN THIS SECTION:

(a) "AFTERCARE" MEANS ASSISTANCE PROVIDED BY A CAREGIVER TO A PATIENT IN THE PATIENT'S RESIDENCE AFTER THE PATIENT'S DISCHARGE FROM A HOSPITAL, FOLLOWING AN INPATIENT HOSPITAL STAY, AND MAY INCLUDE: ASSISTING WITH BASIC ACTIVITIES OF DAILY LIVING; ASSISTING WITH INSTRUMENTAL ACTIVITIES OF DAILY LIVING; AND CARRYING OUT MEDICAL OR NURSING TASKS SUCH AS MANAGING WOUND CARE, ASSISTING IN ADMINISTERING MEDICATIONS, AND OPERATING MEDICAL EQUIPMENT.

(b) "CAREGIVER" MEANS A PERSON EIGHTEEN YEARS OF AGE OR OLDER DESIGNATED BY A PATIENT TO PROVIDE AFTERCARE TO A PATIENT LIVING IN HIS OR HER RESIDENCE.

(c) "HOSPITAL" MEANS A FACILITY CURRENTLY LICENSED OR CERTIFIED BY THE DEPARTMENT AS A GENERAL HOSPITAL PURSUANT TO THE DEPARTMENT'S AUTHORITY UNDER SECTIONS 25-1.5-103 AND 25-3-101.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(d) "RESIDENCE" MEANS THE PATIENT'S HOME. "RESIDENCE" DOES NOT INCLUDE A REHABILITATION FACILITY, HOSPITAL, NURSING HOME, ASSISTED LIVING FACILITY, OR LICENSED GROUP HOME.

(2)(a) A HOSPITAL SHALL GIVE EACH PATIENT OR THE PATIENT'S LEGAL GUARDIAN THE OPPORTUNITY TO DESIGNATE AT LEAST ONE CAREGIVER NO LATER THAN TWENTY-FOUR HOURS AFTER THE PATIENT'S ADMISSION TO THE HOSPITAL AND PRIOR TO THE PATIENT'S RELEASE FROM THE HOSPITAL OR NONEMERGENCY TRANSFER TO ANOTHER FACILITY.

(b) IF A PATIENT IS UNCONSCIOUS OR INCAPACITATED UPON HIS OR HER ADMISSION TO THE HOSPITAL, THE HOSPITAL SHALL GIVE THE PATIENT OR THE PATIENT'S LEGAL GUARDIAN THE OPPORTUNITY TO DESIGNATE A CAREGIVER AS SOON AS PRACTICABLE AFTER THE PATIENT'S RECOVERY OF CONSCIOUSNESS OR CAPACITY.

(c) A PATIENT OR PATIENT'S LEGAL GUARDIAN IS NOT OBLIGATED TO DESIGNATE A CAREGIVER AT ANY TIME.

(d) IF THE PATIENT OR THE PATIENT'S LEGAL GUARDIAN DECLINES TO DESIGNATE A CAREGIVER, THE HOSPITAL SHALL DOCUMENT THIS IN THE PATIENT'S MEDICAL RECORD.

(3) (a) IF THE PATIENT OR THE PATIENT'S LEGAL GUARDIAN DESIGNATES A CAREGIVER, THE HOSPITAL SHALL REQUEST CONSENT FROM THE PATIENT OR THE PATIENT'S LEGAL GUARDIAN TO RELEASE MEDICAL INFORMATION TO THE CAREGIVER.

(b) THE HOSPITAL SHALL RECORD THE DESIGNATION OF THE CAREGIVER, THE RELATIONSHIP OF THE CAREGIVER TO THE PATIENT, AND THE NAME, TELEPHONE NUMBER, AND ADDRESS OF THE CAREGIVER IN THE PATIENT'S MEDICAL RECORD.

(c) A PATIENT OR THE PATIENT'S LEGAL GUARDIAN MAY CHANGE THE CAREGIVER DESIGNATION AT ANY TIME. THE HOSPITAL SHALL RECORD THE CHANGE IN THE PATIENT'S MEDICAL RECORD WITHIN TWENTY-FOUR HOURS OF THE CHANGE.

(d) THIS SECTION DOES NOT OBLIGATE A PERSON DESIGNATED AS A CAREGIVER TO PERFORM AFTERCARE TASKS FOR A PATIENT.

(4) IF A PATIENT OR THE PATIENT'S LEGAL GUARDIAN DESIGNATES A CAREGIVER, THE HOSPITAL SHALL NOTIFY THE PATIENT'S CAREGIVER OF THE PATIENT'S DISCHARGE OR TRANSFER TO ANOTHER FACILITY AS SOON AS PRACTICABLE, WHICH MAY BE AFTER THE PATIENT'S PHYSICIAN ISSUES A DISCHARGE ORDER. IF THE HOSPITAL IS UNABLE TO CONTACT THE CAREGIVER, THE LACK OF CONTACT SHALL NOT INTERFERE WITH, DELAY, OR OTHERWISE AFFECT THE MEDICAL CARE PROVIDED TO THE PATIENT OR THE APPROPRIATE DISCHARGE OF THE PATIENT. THE HOSPITAL SHALL PROMPTLY DOCUMENT THE ATTEMPT IN THE PATIENT'S MEDICAL RECORD.

(5) (a) AS SOON AS POSSIBLE AND PRIOR TO THE PATIENT'S RELEASE FROM THE HOSPITAL, THE HOSPITAL SHALL CONSULT WITH THE PATIENT OR THE PATIENT'S LEGAL GUARDIAN AND THE CAREGIVER AND ISSUE A DISCHARGE PLAN THAT DESCRIBES THE PATIENT'S AFTERCARE NEEDS. THE DISCHARGE PLAN MUST INCLUDE:

(I) THE NAME AND CONTACT INFORMATION OF THE CAREGIVER, AS PROVIDED BY THE CAREGIVER;

(II) A DESCRIPTION OF THE AFTERCARE TASKS NECESSARY TO MAINTAIN THE PATIENT'S ABILITY TO RESIDE IN HIS OR HER RESIDENCE; AND

(III) CONTACT INFORMATION FOR ANY HEALTH CARE, COMMUNITY RESOURCES, AND LONG-TERM SERVICES AND SUPPORTS NECESSARY TO SUCCESSFULLY CARRY OUT A PATIENT'S DISCHARGE PLAN.

(b) THE HOSPITAL SHALL PROVIDE THE CAREGIVER WITH INSTRUCTIONS CONCERNING ALL AFTERCARE TASKS DESCRIBED IN THE DISCHARGE PLAN. THE INSTRUCTIONS SHALL INCLUDE:

(I) ALIVE DEMONSTRATION OF THE AFTERCARE TASKS PERFORMED BY A HOSPITAL EMPLOYEE OR OTHER AUTHORIZED INDIVIDUAL AND PROVIDED IN A CULTURALLY COMPETENT MANNER AND IN ACCORDANCE WITH THE HOSPITAL'S REQUIREMENTS TO PROVIDE LANGUAGE ACCESS SERVICES;

(II) AN OPPORTUNITY FOR THE CAREGIVER AND THE PATIENT OR THE PATIENT'S LEGAL GUARDIAN TO ASK QUESTIONS ABOUT THE AFTERCARE TASKS; AND

(III) ANSWERS TO THE CAREGIVER'S, PATIENT'S, AND PATIENT'S LEGAL GUARDIAN'S QUESTIONS IN A CULTURALLY COMPETENT MANNER AND IN ACCORDANCE WITH THE HOSPITAL'S REQUIREMENTS TO PROVIDE LANGUAGE ACCESS SERVICES.

(c) THE HOSPITAL SHALL DOCUMENT THE INSTRUCTIONS REQUIRED IN THIS SUBSECTION (5) IN THE PATIENT'S MEDICAL RECORD, INCLUDING THE DATE, TIME, AND CONTENTS OF THE INSTRUCTIONS, AND WHETHER THE CAREGIVER ACCEPTED OR REFUSED THE OFFER OF INSTRUCTION.

(6) NOTHING IN THIS SECTION:

(a) INTERFERES WITH THE RIGHTS OF AN AGENT ACTING UNDER A VALID HEALTH CARE DIRECTIVE;

(b) CREATES A PRIVATE RIGHT OF ACTION AGAINST A HOSPITAL, A HOSPITAL EMPLOYEE, OR A PERSON WITH WHOM THE HOSPITAL HAS A CONTRACTUAL RELATIONSHIP;

(c) CREATES ADDITIONAL CIVIL OR REGULATORY LIABILITY FOR A HOSPITAL OR HOSPITAL EMPLOYEE;

(d) SUPERSEDES OR REPLACES EXISTING RIGHTS OR REMEDIES UNDER ANY OTHER LAW; OR

(e) AFFECTS A LICENSE ISSUED TO A HOSPITAL PURSUANT TO SECTION 25-3-102.

(7) THE BOARD OF HEALTH MAY PROMULGATE RULES TO ENSURE COMPLIANCE WITH THIS SECTION.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 8, 2015