

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0743.01 Kristen Forrestal x4217

HOUSE BILL 15-1242

HOUSE SPONSORSHIP

Danielson, Roupe, Windholz

SENATE SPONSORSHIP

Aguilar,

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill requires each general hospital to give each patient or the patient's legal guardian the opportunity to designate a caregiver within 24 hours after the patient's admission to the hospital and prior to the patient's release from the hospital or transfer to another facility. The hospital is required to:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! Record the designation of the caregiver in the patient's medical record;
- ! Consult with the patient regarding the capabilities and limitations of the caregiver;
- ! Provide a discharge plan to the patient; and
- ! Provide the caregiver with instructions and training concerning the aftercare of the patient.

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

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

4 **25-1-128. Designation of caregiver - notice - instructions -**
5 **definitions.** (1) AS USED IN THIS SECTION:

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

13 (b) "CAREGIVER" MEANS A PERSON DESIGNATED BY A PATIENT TO
14 PROVIDE AFTERCARE TO A PATIENT LIVING IN HIS OR HER RESIDENCE.

15 (c) "HOSPITAL" MEANS A GENERAL HOSPITAL THAT IS LICENSED
16 AND CERTIFIED AS A GENERAL HOSPITAL, IS CERTIFIED BY THE CENTERS
17 FOR MEDICARE AND MEDICAID SERVICES, AND UNDER AN ORGANIZED
18 MEDICAL STAFF, PROVIDES INPATIENT SERVICES, EMERGENCY MEDICAL
19 AND SURGICAL CARE, CONTINUOUS NURSING SERVICES, AND NECESSARY
20 ANCILLARY SERVICES. A GENERAL HOSPITAL MAY ALSO OFFER AND
21 PROVIDE OUTPATIENT SERVICES OR ANY OTHER SUPPORTIVE SERVICES FOR
22 PERIODS OF LESS THAN TWENTY-FOUR HOURS PER DAY.

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

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

9 (b) IF A PATIENT IS UNCONSCIOUS OR INCAPACITATED UPON HIS OR
10 HER ADMISSION TO THE HOSPITAL, THE HOSPITAL SHALL GIVE THE PATIENT
11 OR THE PATIENT'S LEGAL GUARDIAN THE OPPORTUNITY TO DESIGNATE A
12 CAREGIVER WITHIN TWENTY-FOUR HOURS AFTER THE PATIENT'S
13 RECOVERY OF CONSCIOUSNESS OR CAPACITY.

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

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

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

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

27 (c) A PATIENT OR THE PATIENT'S LEGAL GUARDIAN MAY CHANGE

1 THE CAREGIVER DESIGNATION AT ANY TIME. THE HOSPITAL SHALL RECORD
2 THE CHANGE IN THE PATIENT'S MEDICAL RECORD WITHIN TWENTY-FOUR
3 HOURS OF THE CHANGE.

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

6 (4) IF A PATIENT OR THE PATIENT'S LEGAL GUARDIAN DESIGNATES
7 A CAREGIVER, THE HOSPITAL SHALL NOTIFY THE PATIENT'S CAREGIVER AT
8 LEAST FOUR HOURS BEFORE THE PATIENT IS RELEASED OR TRANSFERRED
9 TO ANOTHER FACILITY.

10 (5) (a) AS SOON AS POSSIBLE AND NO LATER THAN TWENTY-FOUR
11 HOURS PRIOR TO THE PATIENT'S RELEASE FROM THE HOSPITAL, THE
12 HOSPITAL SHALL CONSULT WITH THE PATIENT OR THE PATIENT'S LEGAL
13 GUARDIAN REGARDING THE CAREGIVER'S CAPABILITIES AND LIMITATIONS
14 AND ISSUE A DISCHARGE PLAN THAT DESCRIBES THE PATIENT'S AFTERCARE
15 NEEDS. THE DISCHARGE PLAN MUST INCLUDE:

16 (I) THE NAME AND CONTACT INFORMATION OF THE CAREGIVER;

17 (II) A DESCRIPTION OF THE AFTERCARE TASKS NECESSARY TO
18 MAINTAIN THE PATIENT'S ABILITY TO RESIDE IN HIS OR HER RESIDENCE,
19 TAKING INTO ACCOUNT THE CAPABILITIES AND LIMITATIONS OF THE
20 CAREGIVER; AND

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

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

27 (I) A LIVE DEMONSTRATION OF THE AFTERCARE TASKS PERFORMED

1 BY A HOSPITAL EMPLOYEE OR OTHER AUTHORIZED INDIVIDUAL AND
2 PROVIDED IN A CULTURALLY COMPETENT MANNER AND IN ACCORDANCE
3 WITH THE HOSPITAL'S REQUIREMENTS TO PROVIDE LANGUAGE ACCESS
4 SERVICES;

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

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

12 (c) THE HOSPITAL SHALL DOCUMENT THE INSTRUCTIONS REQUIRED
13 IN THIS SUBSECTION (5) IN THE PATIENT'S MEDICAL RECORD, INCLUDING
14 THE DATE, TIME, AND CONTENTS OF THE INSTRUCTIONS.

15 (6) NOTHING IN THIS SECTION:

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

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

21 (c) SUPERSEDES OR REPLACES EXISTING RIGHTS OR REMEDIES
22 UNDER ANY OTHER LAW.

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