

**First Regular Session
Seventieth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

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

Health & Human Services

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.*

SENATE
Amended 2nd Reading
April 14, 2015

HOUSE
3rd Reading Unamended
March 25, 2015

HOUSE
Amended 2nd Reading
March 24, 2015

- ! 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, FOLLOWING AN INPATIENT HOSPITAL STAY,
9 AND MAY INCLUDE: ASSISTING WITH BASIC ACTIVITIES OF DAILY LIVING;
10 ASSISTING WITH INSTRUMENTAL ACTIVITIES OF DAILY LIVING; AND
11 CARRYING OUT MEDICAL OR NURSING TASKS SUCH AS MANAGING WOUND
12 CARE, ASSISTING IN ADMINISTERING MEDICATIONS, AND OPERATING
13 MEDICAL EQUIPMENT.

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

17 (c) "HOSPITAL" MEANS A FACILITY CURRENTLY LICENSED OR
18 CERTIFIED BY THE DEPARTMENT AS A GENERAL HOSPITAL PURSUANT TO
19 THE DEPARTMENT'S AUTHORITY UNDER SECTIONS 25-1.5-103 AND
20 25-3-101.

21 (d) "RESIDENCE" MEANS THE PATIENT'S HOME. "RESIDENCE" DOES
22 NOT INCLUDE A REHABILITATION FACILITY, HOSPITAL, NURSING HOME,

1 ASSISTED LIVING FACILITY, OR LICENSED GROUP HOME.

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

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

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

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

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

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

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

1 HOURS OF THE CHANGE.

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

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

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

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

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

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

26 (b) THE HOSPITAL SHALL PROVIDE THE CAREGIVER WITH
27 INSTRUCTIONS CONCERNING ALL AFTERCARE TASKS DESCRIBED IN THE

1 DISCHARGE PLAN. THE INSTRUCTIONS SHALL INCLUDE:

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

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

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

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

18 (6) NOTHING IN THIS SECTION:

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

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

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

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

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

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

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