

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 161

Short Title: Enact the North Carolina Caregivers Act. (Public)

Sponsors: Senators Krawiec, Bishop, and Hise (Primary Sponsors).

Referred to: Rules and Operations of the Senate

February 28, 2019

1 A BILL TO BE ENTITLED
2 AN ACT ENACTING THE NORTH CAROLINA CAREGIVERS ACT.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** This act shall be known and may be cited as "The North Carolina
5 Caregivers Act."

6 **SECTION 2.** Article 5 of Chapter 131E of the General Statutes is amended by adding
7 a new section to read:

8 "**§ 131E-79.5. Designation of caregiver.**

9 (a) Definitions. – As used in this section, the following definitions apply:

10 (1) Aftercare. – Any assistance provided by a caregiver to a patient after the
11 patient's discharge from a hospital, including assistance with basic activities
12 of daily living, instrumental activities of daily living, or carrying out medical
13 or nursing tasks, such as managing wound care, assisting in the administration
14 of medications, and operating medical equipment.

15 (2) Caregiver. – Any individual duly designated by a patient or the patient's legal
16 guardian as a caregiver pursuant to subsection (b) of this section and who
17 provides aftercare assistance to a patient living in the patient's residence.

18 (3) Discharge. – A patient's exit or release from a hospital to the patient's
19 residence following an inpatient admission.

20 (4) Residence. – A dwelling that the patient considers to be home. The term does
21 not include any rehabilitation facility, hospital, nursing home, assisted living
22 facility, or group home licensed in this State.

23 (b) Opportunity to Designate Caregiver. – Each hospital licensed under this Article shall
24 provide each patient or, if applicable, the patient's legal guardian with at least one opportunity to
25 designate at least one caregiver as soon as possible following the patient's admission into a
26 hospital and prior to the patient's discharge or transfer to another facility. If the patient or the
27 patient's legal guardian declines to designate a caregiver, the hospital shall document this
28 decision in the patient's medical record. If the patient or the patient's legal guardian elects to
29 designate a caregiver, all of the following apply:

30 (1) The hospital shall request the written consent of the patient or the patient's
31 legal guardian to release medical information to the patient's designated
32 caregiver in a manner that complies with the hospital's established procedures
33 for releasing personal health information and any applicable State and federal
34 laws.

35 (2) If the patient or the patient's legal guardian declines to consent to release
36 medical information to the patient's designated caregiver, the hospital is not



1 required to provide to the designated caregiver the notice required by
2 subsection (c) of this section or the instructions described in subsection (d) of
3 this section.

4 (3) The hospital shall record in the patient's medical record the designated
5 caregiver's name and contact information along with the relationship of the
6 designated caregiver to the patient.

7 (4) A patient or the patient's legal guardian may elect to change a designated
8 caregiver at any time, and the hospital shall record this change in the patient's
9 medical record as soon as possible after the patient elects to make a change.

10 A designation of a caregiver by a patient or a patient's legal guardian pursuant to this section
11 does not obligate any individual to perform any aftercare tasks for any patient.

12 (c) Hospital Notice to Designated Caregiver. – A hospital shall make a good-faith effort
13 to notify the patient's designated caregiver of the patient's discharge or transfer to another hospital
14 or facility licensed in this State as soon as possible prior to discharge. If the hospital is unable to
15 contact the designated caregiver, the hospital shall document its efforts in the patient's medical
16 record. The lack of contact shall not interfere with, delay, or otherwise affect (i) the medical care
17 provided by the hospital to the patient or (ii) an otherwise appropriate discharge of the patient.

18 (d) Hospital Instructions to Designated Caregiver. – As soon as possible prior to a
19 patient's discharge from a hospital, the hospital shall consult with the patient along with the
20 designated caregiver regarding the designated caregiver's capabilities and limitations and issue a
21 discharge plan that describes a patient's aftercare needs at the patient's residence. During this
22 consultation, the hospital shall provide the patient and the designated caregiver an opportunity
23 for instruction in related aftercare tasks. Any instruction provided pursuant to this subsection
24 shall be documented in the patient's medical record.

25 (e) Rules. – The Division of Health Service Regulation may adopt rules as necessary to
26 implement the provisions of this section, including rules to further define the content and scope
27 of any instruction provided to designated caregivers pursuant to this section.

28 (f) Noninterference With Advance Health Care Directives. – Nothing in this section shall
29 be construed to interfere with the rights of an agent operating under a valid health care power of
30 attorney or other valid advance health care directive.

31 (g) Caregiver Designation Not Required. – Nothing in this section shall be construed to
32 require a patient or a patient's legal guardian to designate any individual as a caregiver.

33 (h) Limitation of Actions. – Nothing in this section shall be construed to do any of the
34 following:

35 (1) Create a private right of action against a hospital, a hospital employee, or an
36 individual with whom a hospital has a contractual relationship, or to otherwise
37 supersede or replace existing rights or remedies under any other provision of
38 law.

39 (2) Make a hospital, hospital employee, or an individual with whom a hospital
40 has a contractual relationship liable, in any way, for the services rendered or
41 not rendered by a designated caregiver to the patient after the patient's
42 discharge from the hospital."

43 **SECTION 3.** This act becomes effective January 1, 2020, and applies to hospital
44 admissions occurring on and after that date.