

HOUSE AMENDMENT NO. _____
TO
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Offered By

1 AMEND House Amendment No. _____ to House Committee Substitute for Senate Committee Substitute for
2 Senate Bill No. 718, Page 2, Line 38, by deleting said line and inserting in lieu of the following:

3
4 "that he or she is the guardian ad litem of the minor child of the deceased.

5 191.1150. 1. This section shall be known as the "Caregiver, Advise, Record, and Enable (CARE)
6 Act".

7 2. As used in this section, the following terms shall mean:

8 (1) "Admission", a patient's admission into a hospital as an in-patient;

9 (2) "After-care", assistance that is provided by a caregiver to a patient after the patient's discharge
10 from a hospital that is related to the condition of the patient at the time of discharge, including assisting with
11 activities of daily living, as defined in section 198.006; instrumental activities of daily living, as defined in
12 section 198.006; or carrying out medical or nursing tasks as permitted by law;

13 (3) "Ambulatory surgical center", as defined in section 197.200;

14 (4) "Caregiver", an individual who is eighteen years of age or older, is duly designated as a caregiver
15 by a patient under this section, and who provides after-care assistance to such patient in the patient's
16 residence;

17 (5) "Discharge", a patient's release from a hospital or an ambulatory surgical center to the patient's
18 residence following an admission;

19 (6) "Hospital", as defined in section 197.020;

20 (7) "Residence", a dwelling that the patient considers to be his or her home. "Residence" shall not
21 include:

22 (a) A facility, as defined in section 198.006;

23 (b) A hospital, as defined in section 197.020;

24 (c) A prison, jail, or other detention or correctional facility operated by the state or a political
25 subdivision;

26 (d) A residential facility, as defined in section 630.005;

27 (e) A group home or developmental disability facility, as defined in section 633.005; or

28 (f) Any other place of habitation provided by a public or private entity which bears legal or
29 contractual responsibility for the care, control, or custody of the patient and which is compensated for doing
30 so.

31 3. A hospital or ambulatory surgical center shall provide each patient or, if applicable, the patient's
32 legal guardian with an opportunity to designate a caregiver following the patient's admission into a hospital
33 or entry into an ambulatory surgical center and prior to the patient's discharge. Such designation shall
34 include a written consent of the patient or the patient's legal guardian to release otherwise confidential
35 medical information to the designated caregiver if such medical record would be needed to enable the
36 completion of after-care tasks. The written consent shall be in compliance with federal and state laws

Action Taken _____ Date _____

1 concerning the release of personal health information. Prior to discharge, a patient may elect to change his or
 2 her caregiver in the event that the original designated caregiver becomes unavailable, unwilling, or unable to
 3 care for the patient. Designation of a caregiver by a patient or a patient's legal guardian does not obligate any
 4 person to arrange or perform any after-care tasks for the patient.

5 4. The hospital or ambulatory surgical center shall document the patient's or the patient's legal
 6 guardian's designation of caregiver, the relationship of the caregiver to the patient, and the caregiver's
 7 available contact information.

8 5. If the patient or the patient's legal guardian declines to designate a caregiver, the hospital or
 9 ambulatory surgical center shall document such information.

10 6. The hospital or ambulatory surgical center shall notify a patient's caregiver of the patient's
 11 discharge or transfer to another facility as soon as practicable, which may be after the patient's physician
 12 issues a discharge order. In the event that the hospital or ambulatory surgical center is unable to contact the
 13 designated caregiver, the lack of contact shall not interfere with, delay, or otherwise affect the medical care
 14 provided to the patient or an appropriate discharge of the patient. The hospital or ambulatory surgical center
 15 shall document the attempt to contact the caregiver.

16 7. Prior to being discharged, if the hospital or ambulatory surgical center is able to contact the
 17 caregiver and the caregiver is willing to assist, the hospital or ambulatory surgical center shall provide the
 18 caregiver with the patient's discharge plan, if such plan exists, or instructions for the after-care needs of the
 19 patient and give the caregiver the opportunity to ask questions about the after-care needs of the patient.

20 8. A hospital or ambulatory surgical center is not required nor obligated to determine the ability of a
 21 caregiver to understand or perform any of the after-care tasks outlined in this section.

22 9. Nothing in this section shall authorize or require compensation of a caregiver by a state agency or
 23 a health carrier, as defined in section 376.1350.

24 10. Nothing in this section shall require a hospital or ambulatory surgical center to take actions that
 25 are inconsistent with or duplicative of the standards of the federal Medicare program under Title XVIII of the
 26 Social Security Act and its conditions of participation in the Code of Federal Regulations or the standards of
 27 a national accrediting organization with deeming authority under Section 1865(a)(1) of the Social Security
 28 Act.

29 11. Nothing in this section shall create a private right of action against a hospital, ambulatory
 30 surgical center, a hospital or ambulatory surgical center employee, or an individual with whom a hospital or
 31 ambulatory surgical center has a contractual relationship.

32 12. A hospital, ambulatory surgical center, hospital or ambulatory surgical center employee, or an
 33 individual with whom a hospital or ambulatory surgical center has a contractual relationship shall not be
 34 liable in any way for an act or omission of the caregiver.

35 13. No act or omission under this section by a hospital, ambulatory surgical center, hospital or
 36 ambulatory surgical center employee, or an individual with whom a hospital or ambulatory surgical center
 37 has a contractual relationship shall give rise to a citation, sanction, or any other adverse action by any
 38 licensing authority to whom such individual or entity is subject.

39 14. Nothing in this section shall be construed to interfere with the rights of an attorney-in-fact under
 40 a durable power of health care under sections 404.800 to 404.872.

41 15. The department of health and senior services shall provide ambulatory surgical centers and
 42 hospitals a standard form that may be used to satisfy the requirements of this section. Nothing in this section
 43 shall prohibit a hospital or ambulatory surgical center from continuing the use of a current patient
 44 communication or disclosure form to satisfy the requirements of this section, provided that the facility's
 45 current form is compliant with Centers for Medicare and Medicaid Services (CMS) standards and
 46 regulations."; and"; and

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 48 Further amend said bill by amending the title, enacting clause, and intersectional references accordingly.

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 50 THIS AMENDS 4209H05.15H.