

SECOND REGULAR SESSION

# HOUSE BILL NO. 2293

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FRANKLIN.

6058H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 191, RSMo, by adding thereto one new section relating to patient-designated caregivers.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapter 191, RSMo, is amended by adding thereto one new section, to be known as section 191.1150, to read as follows:

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

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

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

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

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

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

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

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

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17           (7) "Residence", a dwelling that the patient considers to be his or her home.

18 "Residence" shall not include:

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

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

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

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

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

25 or

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

29           3. A hospital or ambulatory surgical center shall provide each patient or, if  
30 applicable, the patient's legal guardian with an opportunity to designate a caregiver  
31 following the patient's admission into a hospital or entry into an ambulatory surgical  
32 center and prior to the patient's discharge. Such designation shall include a written  
33 consent of the patient or the patient's legal guardian to release otherwise confidential  
34 medical information to the designated caregiver if such medical record would be needed  
35 to enable the completion of after-care tasks. The written consent shall be in compliance  
36 with federal and state laws concerning the release of personal health information. Prior  
37 to discharge, a patient may elect to change his or her caregiver in the event that the original  
38 designated caregiver becomes unavailable, unwilling, or unable to care for the patient.  
39 Designation of a caregiver by a patient or a patient's legal guardian does not obligate any  
40 person to arrange or perform any after-care tasks for the patient.

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

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

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

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

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

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

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

68           **11. Nothing in this section shall create a private right of action against a hospital,**  
69 **ambulatory surgical center, a hospital or ambulatory surgical center employee, or an**  
70 **individual with whom a hospital or ambulatory surgical center has a contractual**  
71 **relationship.**

72           **12. A hospital, ambulatory surgical center, hospital or ambulatory surgical center**  
73 **employee, or an individual with whom a hospital or ambulatory surgical center has a**  
74 **contractual relationship shall not be liable in any way for an act or omission of the**  
75 **caregiver.**

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

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

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