

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2293
99TH GENERAL ASSEMBLY

6058H.02C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

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

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
2 known as section 191.1150, to read as follows:

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

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

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

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

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

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

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

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

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

18 **"Residence" shall not include:**

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.

- 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 or duplicative of the standards of the federal
65 Medicare program under Title XVIII of the Social Security Act and its conditions of
66 participation in the Code of Federal Regulations or the standards of a national accrediting
67 organization with 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.

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

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