

SECOND REGULAR SESSION

# SENATE BILL NO. 1102

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SILVEY.

Read 1st time February 29, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

6664S.011

## 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  
2 section, to be known as section 191.1150, to read as follows:

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

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

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

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

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

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

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

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

21 **(7) "Residence", a dwelling that the patient considers to be his or**

22 her home. "Residence" shall not include:

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

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

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

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

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

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

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

50 4. The hospital or ambulatory surgical center shall document the  
51 patient's or the patient's legal guardian's designation of caregiver, the  
52 relationship of the caregiver to the patient, and the caregiver's  
53 available contact information.

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

57 6. The hospital or ambulatory surgical center shall notify a  
58 patient's caregiver of the patient's discharge or transfer to another

59 facility as soon as practicable, which may be after the patient's  
60 physician issues a discharge order. In the event that the hospital or  
61 ambulatory surgical center is unable to contact the designated  
62 caregiver, the lack of contact shall not interfere with, delay, or  
63 otherwise affect the medical care provided to the patient or an  
64 appropriate discharge of the patient. The hospital or ambulatory  
65 surgical center shall document the attempt to contact the caregiver.

66 7. Prior to being discharged, if the hospital or ambulatory  
67 surgical center is able to contact the caregiver and caregiver is willing  
68 to assist, the hospital or ambulatory surgical center shall provide the  
69 caregiver with the patient's discharge plan, if such plan exists, or  
70 instructions for the after-care needs of the patient and give the  
71 caregiver the opportunity to ask questions about the after-care needs  
72 of the patient.

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

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

79 10. Nothing in this section shall require a hospital or ambulatory  
80 surgical center to take actions that are inconsistent with the standards  
81 of the federal Medicare program under Title XVIII of the Social  
82 Security Act and its conditions of participation in the Code of Federal  
83 Regulations or the standards of a national accrediting organization  
84 with deeming authority under Section 1865(a)(1) of the Social Security  
85 Act.

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

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

94 13. No act or omission under this section by a hospital,  
95 ambulatory surgical center, hospital or ambulatory surgical center

96 **employee, or an individual with whom a hospital or ambulatory**  
97 **surgical center has a contractual relationship shall give rise to a**  
98 **citation, sanction, or any other adverse action by any licensing**  
99 **authority to whom such individual or entity is subject.**

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

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Bill

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