

AN ACT

ENTITLED, An Act to provide for the designation of a caregiver to receive information regarding residents of treatment facilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 27A-1 be amended by adding a NEW SECTION to read:

A resident of a treatment facility may designate a caregiver to receive notice of the resident's treatment and aftercare plan developed under § 27A-12-3.7 upon the resident's admission into the treatment facility or, for any resident who is unconscious or otherwise incapacitated upon admission into the treatment facility, upon the resident's recovery of consciousness or capacity. For any resident who is unable to make decisions upon the resident's admission into a treatment facility, the resident's guardian, durable power of attorney for healthcare as defined in § 34-12C-1, or any person authorized to make decisions for the resident under § 34-12C-2 may designate a caregiver to receive notice of the resident's treatment and aftercare plan.

Upon a resident's admission into a treatment facility, or upon the resident's recovery of consciousness or capacity, the treatment facility shall inform the resident of the right to designate a caregiver to receive notice of the resident's treatment and aftercare plan.

A treatment facility shall request and document in a resident's record the name, address, telephone number, and relationship to the resident of any caregiver designated under this section; a choice under this section not to make a designation under this section; and any change in designation of a caregiver under this section. The record under this section shall be provided to any treatment facility to which the resident may be transferred.

A resident may revoke the designation of a caregiver under this section at any time.

For purposes of this section, a caregiver is a person who provides informal support and advocacy, without pay, for any family member or friend who is a resident in need of support due to any

physical, cognitive, or mental health condition. A caregiver under this section is not a health care professional.

Nothing in this section alters or interferes with any right or obligation of an agent designated as a power of attorney for health care under § 59-7-2.1. Nothing in this section imposes any obligation or any civil liability on a caregiver designated under this section.

Section 2. That chapter 27A-1 be amended by adding a NEW SECTION to read:

A treatment facility shall provide reasonable notice to a caregiver designated under section 1 of this Act of the resident's discharge or transfer to a different treatment facility prior to the resident's discharge or transfer. Prior to a resident's discharge from a treatment facility, the treatment facility shall consult with the resident and the caregiver designated under section 1 of this Act regarding any after-discharge plan, including a description of the resident's aftercare plan developed under § 27A-12-3.7. A treatment facility may not be held liable in any civil action for failure to provide notice under this section.

Nothing in this section prohibits a treatment facility, in the exercise of professional judgment and its experience with common practice to make reasonable inferences of the resident's best interests, from:

- (1) Determining not to disclose any information related to the resident to a caregiver designated under section 1 of this Act; and
- (2) Disclosing information related to the resident to a caregiver of the treatment facility's choice.

An Act to provide for the designation of a caregiver to receive information regarding residents of treatment facilities.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1099

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1099  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State