

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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SENATE BILL 161  
PROPOSED COMMITTEE SUBSTITUTE S161-PCS15341-SH-13

Short Title: Enact the North Carolina Caregivers Act.

(Public)

Sponsors:

Referred to:

February 28, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT ENACTING THE NORTH CAROLINA CAREGIVERS ACT.  
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** This act shall be known and may be cited as "The North Carolina  
5 Caregivers Act."

6 **SECTION 2.** Article 5 of Chapter 131E of the General Statutes is amended by adding  
7 a new section to read:

8 "**§ 131E-79.5. Designation of caregiver.**

9 (a) Definitions. – As used in this section, the following definitions apply:

10 (1) Aftercare. – Any assistance provided by a caregiver to a patient after the  
11 patient's discharge from a hospital, including assistance with basic activities  
12 of daily living, instrumental activities of daily living, or carrying out medical  
13 or nursing tasks, such as managing wound care, assisting in the administration  
14 of medications, and operating medical equipment.

15 (2) Caregiver. – Any individual duly designated by a patient or the patient's legal  
16 guardian as a caregiver pursuant to subsection (b) of this section and who  
17 provides aftercare assistance to a patient living in the patient's residence.

18 (3) Discharge. – A patient's exit or release from a hospital to the patient's  
19 residence following an inpatient admission.

20 (4) Residence. – A dwelling that the patient considers to be home. The term does  
21 not include any rehabilitation facility, hospital, nursing home, assisted living  
22 facility, or group home licensed in this State.

23 (b) Opportunity to Designate Caregiver. – Each hospital licensed under this Article may  
24 provide each patient or, if applicable, the patient's legal guardian with at least one opportunity to  
25 designate at least one caregiver as soon as possible following the patient's admission into a  
26 hospital and prior to the patient's discharge or transfer to another facility. If the patient or the  
27 patient's legal guardian declines to designate a caregiver, the hospital may document this decision  
28 in the patient's medical record. If the patient or the patient's legal guardian elects to designate a  
29 caregiver, all of the following apply:

30 (1) The hospital may request the written consent of the patient or the patient's  
31 legal guardian to release medical information to the patient's designated  
32 caregiver in a manner that complies with the hospital's established procedures  
33 for releasing personal health information and any applicable State and federal  
34 laws.

35 (2) If the patient or the patient's legal guardian declines to consent to release  
36 medical information to the patient's designated caregiver, the hospital is not



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1 required to provide to the designated caregiver the notice required by  
2 subsection (c) of this section or the instructions described in subsection (d) of  
3 this section.

4 (3) The hospital may record in the patient's medical record the designated  
5 caregiver's name and contact information along with the relationship of the  
6 designated caregiver to the patient.

7 (4) A patient or the patient's legal guardian may elect to change a designated  
8 caregiver at any time, and the hospital may record this change in the patient's  
9 medical record as soon as possible after the patient elects to make a change.

10 A designation of a caregiver by a patient or a patient's legal guardian pursuant to this section  
11 does not obligate any individual to perform any aftercare tasks for any patient.

12 (c) Hospital Notice to Designated Caregiver. – A hospital may make a good-faith effort  
13 to notify the patient's designated caregiver of the patient's discharge or transfer to another hospital  
14 or facility licensed in this State as soon as possible prior to discharge. If the hospital is unable to  
15 contact the designated caregiver, the hospital may document its efforts in the patient's medical  
16 record. The lack of contact may not interfere with, delay, or otherwise affect (i) the medical care  
17 provided by the hospital to the patient or (ii) an otherwise appropriate discharge of the patient.

18 (d) Hospital Instructions to Designated Caregiver. – As soon as possible prior to a  
19 patient's discharge from a hospital, the hospital may consult with the patient along with the  
20 designated caregiver regarding the designated caregiver's capabilities and limitations and issue a  
21 discharge plan that describes a patient's aftercare needs at the patient's residence. During this  
22 consultation, the hospital may provide the patient and the designated caregiver an opportunity  
23 for instruction in related aftercare tasks. Any instruction provided pursuant to this subsection  
24 may be documented in the patient's medical record.

25 (e) Rules. – The Division of Health Service Regulation may adopt rules as necessary to  
26 implement the provisions of this section, including rules to further define the content and scope  
27 of any instruction provided to designated caregivers pursuant to this section.

28 (f) Noninterference With Advance Health Care Directives. – Nothing in this section shall  
29 be construed to interfere with the rights of an agent operating under a valid health care power of  
30 attorney or other valid advance health care directive.

31 (g) Caregiver Designation Not Required. – Nothing in this section shall be construed to  
32 require a patient or a patient's legal guardian to designate any individual as a caregiver.

33 (h) Limitation of Actions. – Nothing in this section shall be construed to do any of the  
34 following:

35 (1) Create a private right of action against a hospital, a hospital employee, or an  
36 individual with whom a hospital has a contractual relationship, or to otherwise  
37 supersede or replace existing rights or remedies under any other provision of  
38 law.

39 (2) Make a hospital, hospital employee, or an individual with whom a hospital  
40 has a contractual relationship liable, in any way, for the services rendered or  
41 not rendered by a designated caregiver to the patient after the patient's  
42 discharge from the hospital."

43 **SECTION 3.** This act becomes effective January 1, 2020, and applies to hospital  
44 admissions occurring on and after that date.