

SENATE BILL NO. 177—COMMITTEE ON
HEALTH AND HUMAN SERVICES

FEBRUARY 19, 2015

Referred to Committee on Health and Human Services

SUMMARY—Allows a person to designate a caregiver when admitted to a hospital. (BDR 40-512)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public health; authorizing certain persons to designate a caregiver for a patient in certain circumstances; requiring a hospital to provide an opportunity for a patient who is admitted as an inpatient or certain other persons to designate a caregiver for the patient; requiring a hospital to attempt to provide certain notification, information and training to a caregiver before taking certain actions concerning a patient; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 7 of this bill authorizes a patient, a legal representative of a patient who is incompetent or a parent or guardian of a patient who is a minor to designate a caregiver for the patient upon admission of the patient to a hospital as an inpatient.

Section 7 authorizes the designation of another caregiver if the person originally designated is unable or unwilling to perform his or her duties. **Section 7** also provides that a person is under no obligation to a patient solely because the person has been designated as a caregiver for the patient.

Section 8 of this bill requires a hospital to provide the opportunity to designate a caregiver for the patient to: (1) a patient who is admitted to the hospital as an inpatient; (2) a legal representative of such a patient who is incompetent; or (3) a parent or guardian of such a patient who is a minor. **Section 8** also requires a hospital to provide a patient who was unconscious or otherwise incompetent upon admission but regains competence while an inpatient at the hospital with an opportunity to designate a caregiver. **Section 9** of this bill requires a hospital to record the designation of a caregiver or declination to do so in the medical record of the patient.

Federal regulations provide that certain health information concerning a patient can only be released by a health care facility in certain circumstances. (45 C.F.R. §



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164.502(a)) Federal regulations authorize the release of health information relevant to the care of a patient to a person designated by the patient or the patient's representative. (45 C.F.R. § 164.510(b)(1)(i)) If a patient has a designated caregiver, **section 9** requires a hospital to request the written consent of the patient, the representative of the patient or the parent or guardian of the patient, as applicable, to release medical information to the caregiver if such consent is required by federal or state law.

If a patient provides such consent, **sections 10 and 11** of this bill require a hospital to attempt to notify a caregiver of the planned discharge or transfer of the patient and attempt to provide the caregiver with certain information and training concerning aftercare for the patient. **Section 12** of this bill requires a hospital to proceed with the planned discharge or transfer of the patient if the hospital is not successful in providing this notification, information and training to the caregiver. **Section 13** of this bill provides that a hospital is not liable for aftercare provided improperly or not provided by the caregiver.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 449 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 14, inclusive, of this act.

Sec. 2. *As used in sections 2 to 14, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. (Deleted by amendment.)

Sec. 4. *"Aftercare" means care or assistance that is provided to a patient after the patient is discharged following inpatient treatment at a hospital.*

Sec. 5. *"Caregiver" means a person designated as such pursuant to section 7 of this act, including, without limitation, a relative, spouse, partner, foster parent, friend or neighbor.*

Sec. 6. *"Representative of the patient" means a legal guardian of the patient, a person designated by the patient to make decisions governing the withholding or withdrawal of life-sustaining treatment pursuant to NRS 449.600 or a person given power of attorney to make decisions concerning health care for the patient pursuant to NRS 162A.700 to 162A.860, inclusive.*

Sec. 7. 1. *A caregiver may be designated for a patient by:*

(a) The patient if he or she is 18 years of age or older and of sound mind;

(b) The representative of the patient if the patient is 18 years of age or older and incompetent; or

(c) The parent or legal guardian of the patient if the patient is less than 18 years of age.



2. A patient described in subsection 1 may have a caregiver designated for him or her upon admission to a hospital as an inpatient in the manner described in section 8 of this act.

3. If a caregiver is unable or unwilling to perform the duties of a caregiver, the designation of that person as a caregiver may be removed and a new caregiver may be designated by:

(a) The patient if he or she is 18 years of age or older and of sound mind;

(b) The representative of the patient if the patient is 18 years of age or older and incompetent; or

(c) The parent or legal guardian of the patient if the patient is less than 18 years of age.

4. A caregiver is under no obligation to a patient solely because the patient, the representative of the patient or the parent or guardian of the patient has designated the caregiver pursuant to this section.

Sec. 8. 1. After admitting a patient as an inpatient and before discharging the patient, a hospital shall provide the opportunity to designate a caregiver for the patient to:

(a) The patient if he or she is 18 years of age or older and of sound mind;

(b) The representative of the patient if the patient is 18 years of age or older and incompetent; or

(c) The parent or legal guardian of the patient if the patient is less than 18 years of age.

2. If a patient is unconscious or otherwise incompetent upon admission to a hospital as an inpatient and later regains competence while he or she is an inpatient at the hospital, the hospital shall, after the patient regains competence, provide the patient with the opportunity to designate a caregiver.

Sec. 9. 1. If a patient, the representative of a patient or the parent or guardian of a patient designates a caregiver pursuant to section 8 of this act or changes a caregiver pursuant to section 7 of this act, the hospital shall:

(a) Record the designation or change of the caregiver, the relationship of the caregiver to the patient and the name, telephone number and address of the caregiver in the medical record of the patient; and

(b) If required by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and any regulations adopted pursuant thereto or any other federal or state law, request the written consent of the patient, the representative of the patient or the parent or guardian of the patient, as applicable, to release medical information to the caregiver in a manner that complies with the applicable laws.



2. If a patient, the representative of a patient or the parent or guardian of a patient declines to designate a caregiver after being given the opportunity to do so pursuant to section 8 of this act, the hospital shall record the declination in the medical record of the patient.

Sec. 10. If a patient, the representative of a patient or the parent or guardian of a patient has provided consent for the hospital to release medical information to a caregiver pursuant to subsection 1 of section 9 of this act, the hospital shall, before the patient is discharged or transferred to another facility, attempt to notify the caregiver of the planned discharge or transfer.

Sec. 11. If a patient, the representative of a patient or the parent or guardian of a patient has provided consent for a hospital to release medical information to a caregiver pursuant to subsection 1 of section 9 of this act, the hospital shall, before the patient is discharged other than to a facility licensed pursuant to this chapter:

1. Attempt to provide the caregiver with a discharge plan. A discharge plan must include, without limitation:

- (a) The name and contact information of the caregiver;
- (b) A description of all necessary aftercare, including, without limitation, any requirements to maintain the ability of the patient to reside at home; and
- (c) Contact information for:

(1) Any providers of health care, community resources or other providers of services necessary to carry out the discharge plan; and

(2) An employee of the hospital who will be available before the patient is discharged to answer questions concerning the discharge plan.

2. Attempt to consult with the caregiver, in person or using video technology, concerning the aftercare set forth in the discharge plan. Such consultation must include, without limitation:

(a) A demonstration of the aftercare set forth in the discharge plan, performed by an appropriate member of the hospital staff in a culturally and linguistically appropriate manner; and

(b) An opportunity for the caregiver to ask questions concerning the aftercare.

Sec. 12. 1. A hospital shall document in the medical record of the patient:

(a) The attempt or completion of any actions required pursuant to section 10 or 11 of this act;

(b) Any instructions given pursuant to section 11 of this act; and



1 (c) *The date and time at which such instructions were given.*

2 2. *If a hospital is unable to reach a caregiver after attempting*
3 *to provide any information pursuant to section 10 or 11 of this act,*
4 *the hospital must proceed with the discharge or transfer of the*
5 *patient as scheduled.*

6 **Sec. 13.** *A hospital or an employee or contractor of a hospital*
7 *that acts in compliance with sections 2 to 14, inclusive, of this act*
8 *is not liable for any aftercare that is provided improperly or not*
9 *provided by a caregiver.*

10 **Sec. 14.** (Deleted by amendment.)

11 **Sec. 15.** (Deleted by amendment.)

12 **Sec. 16.** (Deleted by amendment.)

13 **Sec. 17.** (Deleted by amendment.)

14 **Sec. 18.** (Deleted by amendment.)

15 **Sec. 19.** (Deleted by amendment.)

16 **Sec. 20.** (Deleted by amendment.)

