

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 441

Short Title: Caregiver Advise, Record, & Enable (CARE) Act. (Public)

Sponsors: Representatives Cunningham, Lambeth, White, and Holley (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Aging, if favorable, Health

March 23, 2017

1 A BILL TO BE ENTITLED
2 AN ACT ENACTING THE CAREGIVER ADVISE, RECORD, AND ENABLE (CARE)
3 ACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** This act shall be known and may be cited as "The Caregiver Advise,
6 Record, and Enable Act of 2017" or "The CARE Act."

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

9 "**§ 131E-79.5. Designation of caregiver.**

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

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

16 (2) Caregiver. – Any individual duly designated by a patient or the patient's
17 legal guardian as a caregiver pursuant to subsection (b) of this section and
18 who provides after-care assistance to a patient living in the patient's
19 residence. The term includes a relative, partner, friend, or neighbor who has
20 a significant relationship with the patient.

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

23 (4) Entry. – A patient's admission into a hospital for the purposes of medical
24 care.

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

28 (b) Opportunity to Designate Caregiver. – Each hospital licensed under this Article
29 shall provide each patient or, if applicable, the patient's legal guardian with at least one
30 opportunity to designate at least one caregiver no later than 24 hours following the patient's
31 entry into a hospital and prior to the patient's discharge or transfer to another facility.

32 In the event that the patient is unconscious or otherwise incapacitated upon entry into a
33 hospital, the hospital shall provide the patient or the patient's legal guardian with an opportunity
34 to designate a caregiver within 24 hours following the patient's recovery of consciousness or
35 capacity.



1 If the patient or the patient's legal guardian declines to designate a caregiver, the hospital
2 shall promptly document this decision in the patient's medical record.

3 If the patient or the patient's legal guardian elects to designate a caregiver, all of the
4 following apply:

5 (1) The hospital shall promptly request the written consent of the patient or the
6 patient's legal guardian to release medical information to the patient's
7 designated caregiver in a manner that complies with the hospital's
8 established procedures for releasing personal health information and any
9 applicable State and federal laws.

10 (2) If the patient or the patient's legal guardian declines to consent to release
11 medical information to the patient's designated caregiver, the hospital is not
12 required to provide to the designated caregiver the notice required by
13 subsection (c) of this section or the instructions described in subsection (d)
14 of this section.

15 (3) The hospital shall record in the patient's medical record the name of the
16 designated caregiver, the relationship of the designated caregiver to the
17 patient, and the name, telephone number, and address of the designated
18 caregiver.

19 (4) A patient or the patient's legal guardian may elect to change a designated
20 caregiver at any time, and the hospital shall record this change in the
21 patient's medical record within 24 hours after the patient elects to make a
22 change.

23 A designation of a caregiver by a patient or a patient's legal guardian pursuant to this
24 section does not obligate any individual to perform any after-care tasks for any patient.

25 (c) Hospital Notice to Designated Caregiver. – A hospital shall notify the patient's
26 designated caregiver of the patient's discharge or transfer to another hospital or facility licensed
27 in this State as soon as possible, which may be after the patient's physician issues a discharge
28 order, but not later than four hours prior to the patient's actual discharge or transfer to another
29 hospital or facility.

30 (d) Hospital Instructions to Designated Caregiver. – As soon as possible but not later
31 than 24 hours prior to a patient's discharge from a hospital, the hospital shall consult with the
32 designated caregiver along with the patient regarding the designated caregiver's capabilities and
33 limitations and issue a discharge plan that describes a patient's after-care needs at the patient's
34 residence. A discharge plan must at a minimum include (i) the name and contact information of
35 the designated caregiver, (ii) a description of all after-care tasks necessary to maintain the
36 patient's ability to reside at home, taking into account the capabilities and limitations of the
37 designated caregiver, and (iii) contact information for any health care, community resources,
38 and long-term services and supports necessary to successfully carry out the patient's discharge
39 plan.

40 The hospital issuing the discharge plan shall provide designated caregivers with instruction
41 in all after-care tasks described in the discharge plan. These instructions must include at least
42 all of the following:

43 (1) A live demonstration of the after-care tasks by a hospital employee or an
44 individual with whom the hospital has a contractual relationship who is
45 authorized to perform the after-care tasks. The live demonstration must be
46 provided in a culturally competent manner and in accordance with the
47 hospital's requirements under State and federal law to provide language
48 access services.

49 (2) An opportunity for the designated caregiver and the patient or the patient's
50 legal guardian to ask questions about the after-care tasks.

1 (3) Answers to questions by the designated caregiver, the patient, or the patient's
2 legal guardian provided in a culturally competent manner and in accordance
3 with the hospital's requirements under State and federal law to provide
4 language access services.

5 Any instruction provided pursuant to this section shall be documented in the patient's
6 medical record, including, at a minimum, the date, time, and contents of the instruction.

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

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

13 (g) Construction of Section. – This section shall not be construed to require a patient or
14 a patient's legal guardian to designate any individual as a caregiver.

15 (h) Limitation of Actions. – Nothing in this section shall be construed to create a private
16 right of action against a hospital, a hospital employee, or an individual with whom a hospital
17 has a contractual relationship, or to otherwise supersede or replace existing rights or remedies
18 under any other provision of law."

19 **SECTION 3.** This act becomes effective January 1, 2018.