

By Senator Powell

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1 A bill to be entitled
2 An act relating to designated caregivers; creating s.
3 395.1013, F.S.; defining terms; requiring certain
4 facilities to provide patients admitted for inpatient
5 treatment or their legal representatives with an
6 opportunity to designate a caregiver for the patient's
7 aftercare within a specified timeframe; providing that
8 facilities are not responsible for facilitating or
9 providing recommendations for designated caregivers;
10 providing requirements for the designation;
11 authorizing patients or their legal representatives to
12 change their designations within a specified
13 timeframe; requiring facilities to document certain
14 caregiver designation information in the patient's
15 records; providing that a designation does not require
16 the person designated to be the patient's caregiver;
17 requiring facilities to inform designated caregivers
18 of this information; requiring facilities to document
19 and notify the patient or the patient's legal
20 representative of a designated caregiver's refusal to
21 serve as the patient's caregiver; requiring facilities
22 to notify a patient's designated caregiver of the
23 patient's discharge or transfer from the facility
24 within a specified timeframe; providing that a
25 facility's inability to reach a patient's caregiver
26 may not interfere with, delay, or otherwise affect the
27 patient's care, discharge, or transfer; requiring
28 facilities to document all attempts made to contact
29 the patient's caregiver in such instances; requiring

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30 facilities that are able to reach a patient's
31 designated caregiver to provide the designated
32 caregiver with certain information and instructions
33 and the opportunity to ask questions about the
34 patient's aftercare; providing that facilities are not
35 required to determine the ability of designated
36 caregivers to understand or perform aftercare for
37 patients; providing facilities, facility employees,
38 and persons under contract with a facility immunity
39 from liability in administrative, civil, and criminal
40 actions for certain acts or omissions of designated
41 caregivers; providing construction; requiring the
42 Agency for Health Care Administration to adopt rules;
43 providing an effective date.

44
45 Be It Enacted by the Legislature of the State of Florida:

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47 Section 1. Section 395.1013, Florida Statutes, is created
48 to read:

49 395.1013 Designated caregivers.-

50 (1) As used in this section, the term:

51 (a) "Admission" means the date on which a patient is
52 admitted to the hospital or ambulatory surgical center for
53 inpatient treatment.

54 (b) "Aftercare" means assistance that is provided by a
55 caregiver to a patient after the patient's discharge from a
56 hospital or an ambulatory surgical center which is related to
57 the patient's condition at the time of discharge, including
58 activities of daily living, instrumental activities of daily

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59 living, and medical or nursing tasks that may be performed
60 without a license or certificate.

61 (c) "Caregiver" means a person who is 18 years of age or
62 older who provides aftercare to a patient in the patient's
63 residence.

64 (d) "Discharge" means the date on which a patient is
65 discharged from a hospital or an ambulatory surgical center
66 after receiving inpatient treatment.

67 (e) "Facility" means a hospital or an ambulatory surgical
68 center licensed under this chapter.

69 (f) "Legal representative" means a patient's parent, a
70 legal guardian under chapter 744, a health care surrogate or
71 proxy designated under chapter 765, or an individual who is
72 authorized under a power of attorney to make health care
73 decisions on behalf of the qualified patient.

74 (g) "Residence" means a dwelling that the patient considers
75 his or her home. The term does not include any of the following:

76 1. An assisted living facility as defined in s. 429.02(5),
77 an intermediate care facility for the developmentally disabled
78 as defined in s. 400.960, or a nursing home facility as defined
79 in s. 400.021.

80 2. A hospital.

81 3. A prison, jail, or other detention or correctional
82 facility operated by a state or federal agency.

83 4. A foster care facility, group home facility, or
84 residential facility as those terms are defined in s. 393.063.

85 5. Any other place of habitation which is provided by a
86 public or private entity that has a legal or contractual
87 responsibility and is compensated for the care or custody of the

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88 patient.

89 (2) (a) A facility to which a patient is admitted for
90 inpatient treatment, at the time of admission, shall provide the
91 patient or the patient's legal representative an opportunity to
92 designate a caregiver of his or her own choosing who will
93 provide the patient's aftercare. Facilities are not responsible
94 for facilitating the selection of or providing recommendations
95 for designated caregivers.

96 (b) The caregiver designation must be on a form approved by
97 the agency and must include written consent, signed by the
98 patient or the patient's legal representative, to authorize the
99 facility to disclose otherwise confidential information to the
100 designated caregiver if such information is necessary for the
101 caregiver to provide adequate aftercare to the patient. A
102 patient or a patient's legal representative may change the
103 patient's designated caregiver in the same manner any time
104 before the patient's discharge from the facility.

105 (c) Facilities must document a patient's designation in the
106 patient's records, including the designated caregiver's contact
107 information and his or her relationship to the patient. If a
108 patient declines to designate a caregiver, the facility must
109 document that information in the patient's records.

110 (d) A designation by a patient or a patient's legal
111 representative does not require the person designated as a
112 caregiver to perform such aftercare. Facilities must inform a
113 designated caregiver that he or she may choose not to be the
114 patient's caregiver. If a designated caregiver so chooses, the
115 facility must document that information in the patient's records
116 and inform the patient or the patient's legal representative of

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117 the caregiver's decision not to serve so that he or she has the
118 opportunity to designate another caregiver.

119 (3) As soon as practicable after a patient's physician
120 issues an order to discharge or transfer the patient from the
121 facility, the facility must notify the patient's designated
122 caregiver, if any. However, the facility's inability to reach
123 the designated caregiver after making reasonable attempts to do
124 so may not interfere with, delay, or otherwise affect the
125 medical care provided to the patient or an appropriate discharge
126 or transfer of the patient. The facility must document in the
127 patient's records all attempts made to contact the patient's
128 designated caregiver in such instances.

129 (4) If the facility is able to reach the patient's
130 designated caregiver before the patient's discharge, and the
131 caregiver is willing to provide the patient's aftercare, the
132 facility must provide the caregiver with the patient's discharge
133 plan, if any, and any instructions for the aftercare needs of
134 the patient and must offer the caregiver an opportunity to ask
135 any questions about such aftercare. A facility is not required
136 to determine the ability of a designated caregiver to understand
137 or perform the aftercare for a patient.

138 (5) A facility, a facility employee, or a person under
139 contract with a facility is immune from liability in any
140 administrative, civil, or criminal action for any act or
141 omission of a designated caregiver relating to the patient's
142 aftercare.

143 (6) This section may not be construed to:

144 (a) Authorize or require any state or federal agency or
145 insurer as defined in s. 624.03 to compensate a designated

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146 caregiver for aftercare provided to a patient.

147 (b) Require a facility to take actions that are
148 inconsistent with or duplicative of any standards under the
149 federal Medicare program or its related conditions of
150 participation or the standards of a national accrediting
151 organization granted deeming authority by the Centers for
152 Medicare and Medicaid Services.

153 (c) Create a private right of action against a facility, a
154 facility employee, or a person under contract with the facility.

155 (d) Interfere with the rights of an attorney in fact under
156 a durable power of attorney.

157 (7) The agency shall adopt rules to implement this section.
158 Section 2. This act shall take effect July 1, 2021.