

House _____ Amendment NO. _____

Offered By

1 AMEND House Committee Substitute for House Bill No. 2502, Page 1, in the Title, Lines 2-3, by
2 deleting the phrase "the designated health care decision-maker act" and inserting in lieu thereof the
3 phrase "health care"; and

4
5 Further amend said bill and page, Section A, Line 3, by inserting immediately after all of said line
6 the following:

7
8 "191.1150. 1. This section shall be known as the "Caregiver, Advise, Record, and Enable
9 (CARE) Act".

10 2. As used in this section, the following terms shall mean:

11 (1) "After-care", assistance that is provided by a caregiver to a patient after the patient's
12 discharge from a hospital that is related to the condition of the patient at the time of discharge,
13 including assisting with activities of daily living, as defined in section 198.006; instrumental
14 activities of daily living, as defined in section 198.006; or carrying out medical or nursing tasks as
15 permitted by law;

16 (2) "Admission", a patient's admission into a hospital as an in-patient;

17 (3) "Ambulatory surgical center", as defined in section 197.200;

18 (4) "Caregiver", an individual who is eighteen years of age or older, is duly designated as a
19 caregiver by a patient pursuant to this section, and who provides after-care assistance to such patient
20 in the patient's residence;

21 (5) "Discharge", a patient's release from a hospital or an ambulatory surgical center to the
22 patient's residence following an admission;

23 (6) "Hospital", as defined in section 197.020;

24 (7) "Residence", a dwelling that the patient considers to be his or her home. "Residence"
25 shall not include:

26 (a) A facility, as defined in section 198.006;

27 (b) A hospital, as defined in section 197.020;

28 (c) A prison, jail, or other detention or correctional facility operated by the state or a
29 political subdivision;

30 (d) A residential facility, as defined in section 630.005;

31 (e) A group home or developmental disability facility, as defined in section 633.005; or

32 (f) Any other place of habitation provided by a public or private entity which bears legal or
33 contractual responsibility for the care, control, or custody of the patient and which is compensated
34 for doing so.

35 3. A hospital or ambulatory surgical center shall provide each patient or, if applicable, the
36 patient's legal guardian with an opportunity to designate a caregiver following the patient's

Standing Action Taken _____ Date _____

Select Action Taken _____ Date _____

1 admission into a hospital or entry into an ambulatory surgical center and prior to the patient's
2 discharge. Such designation shall include a written consent of the patient or the patient's legal
3 guardian to release otherwise confidential medical information to the designated caregiver if such
4 medical record would be needed to enable the completion of after-care tasks. The written consent
5 shall be in compliance with federal and state laws concerning the release of personal health
6 information. Prior to discharge, a patient may elect to change his or her caregiver in the event that
7 the original designated caregiver becomes unavailable, unwilling, or unable to care for the patient.
8 Designation of a caregiver by a patient or a patient's legal guardian does not obligate any person to
9 arrange or perform any after-care tasks for the patient.

10 4. The hospital or ambulatory surgical center shall document the patient's or the patient's
11 legal guardian's designation of caregiver, the relationship of the caregiver to the patient, and the
12 caregiver's available contact information.

13 5. If the patient or the patient's legal guardian declines to designate a caregiver, the hospital
14 or ambulatory surgical center shall document such information.

15 6. The hospital or ambulatory surgical center shall notify a patient's caregiver of the
16 patient's discharge or transfer to another facility as soon as practicable, which may be after the
17 patient's physician issues a discharge order. In the event that the hospital or ambulatory surgical
18 center is unable to contact the designated caregiver, the lack of contact shall not interfere with,
19 delay, or otherwise affect the medical care provided to the patient or an appropriate discharge of the
20 patient. The hospital or ambulatory surgical center shall document the attempt to contact the
21 caregiver.

22 7. Prior to being discharged, if the hospital or ambulatory surgical center is able to contact
23 the caregiver and caregiver is willing to assist, the hospital or ambulatory surgical center shall
24 provide the caregiver with the patient's discharge plan, if such plan exists, or instructions for the
25 after-care needs of the patient and give the caregiver the opportunity to ask questions about the
26 after-care needs of the patient.

27 8. A hospital or ambulatory surgical center is not required nor obligated to determine the
28 ability of a caregiver to understand or perform any of the after-care tasks outlined in this section.

29 9. Nothing in this section shall authorize or require compensation of a caregiver by a state
30 agency or a health carrier, as defined in section 376.1350.

31 10. Nothing in this section shall require a hospital or ambulatory surgical center to take
32 actions that are inconsistent with the standards of the federal Medicare program under Title XVIII
33 of the Social Security Act and its conditions of participation in the Code of Federal Regulations or
34 the standards of a national accrediting organization with deeming authority under Section
35 1865(a)(1) of the Social Security Act.

36 11. Nothing in this section shall create a private right of action against a hospital,
37 ambulatory surgical center, a hospital or ambulatory surgical center employee, or an individual with
38 whom a hospital or ambulatory surgical center has a contractual relationship.

39 12. A hospital, ambulatory surgical center, hospital or ambulatory surgical center employee,
40 or an individual with whom a hospital or ambulatory surgical center has a contractual relationship
41 shall not be liable in any way for an act or omission of the caregiver.

42 13. No act or omission under this section by a hospital, ambulatory surgical center, hospital
43 or ambulatory surgical center employee, or an individual with whom a hospital or ambulatory
44 surgical center has a contractual relationship shall give rise to a citation, sanction, or any other
45 adverse action by any licensing authority to whom such individual or entity is subject.

46 14. Nothing in this section shall be construed to interfere with the rights of an attorney in
47 fact under a durable power of health care pursuant to sections 404.800 to 404.872."; and
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- 1 Further amend said bill by amending the title, enacting clause, and intersectional references
- 2 accordingly.