



# SENATE BILL 161: Enact the North Carolina Caregivers Act.

2019-2020 General Assembly

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<b>Committee:</b>	Senate Rules and Operations of the Senate	<b>Date:</b>	May 2, 2019
<b>Introduced by:</b>	Sens. Krawiec, Bishop, Hise	<b>Prepared by:</b>	Theresa Matula
<b>Analysis of:</b>	Second Edition		Committee Staff

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**OVERVIEW:** *Senate Bill 161 would enact the North Carolina Caregivers Act to provide the opportunity for a hospital patient to designate a caregiver to provide aftercare assistance.*

[As introduced, this bill was identical to H269, as introduced by Reps. White, Dobson, Lambeth, Black, which is currently in House Health.]

**BILL ANALYSIS:** Section 1 of the bill would designate the act as "The North Carolina Caregivers Act."

Section 2 would add a new statute, G.S. 131E-79.5, to Chapter 131E, Article 5 which contains the Hospital Licensure Act. The new statutory subsections are outlined below.

**Definitions** -Subsection (a) contains definitions for the following terms: after-care, caregiver, discharge, entry, residence. A "caregiver" is defined as any individual duly designated by a patient or the patient's legal guardian as a caregiver pursuant to subsection (b) of this section and who provides after-care assistance to a patient living in the patient's residence. A residence is a dwelling the patient considers home, but does not include a rehabilitation facility, hospital, nursing home, assisted living facility, or group home licensed by the State.

**Opportunity to Designate a Caregiver** – Subsection (b) would allow each hospital to provide each patient, or the patient's legal guardian, with at least one opportunity to designate at least one caregiver as soon as possible following the patient's entry into the hospital and prior discharge or transfer to another facility. If the patient or patient's legal guardian elects to designate a caregiver, all of the following may apply:

- (1) The hospital may request the written consent of the patient or the patient's legal guardian to release medical information to the patient's designated caregiver in a manner that complies with the hospital's established procedures for releasing personal health information and any applicable State and federal laws.
- (2) If the patient or the patient's legal guardian declines to consent to release medical information to the patient's designated caregiver, the hospital is not required to provide to the designated caregiver the notice required by subsection (c) or the instructions described in subsection (d).
- (3) The hospital may record in the patient's medical record the name of the designated caregiver, the relationship of the designated caregiver to the patient, and the name, telephone number, and address of the designated caregiver.
- (4) A patient or the patient's legal guardian may elect to change a designated caregiver at any time, and the hospital may record this change in the patient's medical record within 24 hours after the patient elects to make a change.

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

***Hospital Notice to Designated Caregiver*** – Subsection (c) allows a hospital to notify the patient's designated caregiver of the patient's discharge or transfer to another hospital or licensed facility which may be after the patient's physician issues a discharge order, but not later than four hours prior to the actual discharge or transfer.

***Hospital Instructions to Designated Caregiver*** – Subsection (d) allows hospital staff to consult with the patient and the designated caregiver regarding the caregiver's capabilities and limitations and issue a discharge plan that describes a patient's aftercare needs at the patient's residence. During the consultation, the hospital may provide the patient and the designated caregiver an opportunity for instruction in related aftercare tasks and the instruction may be documented in the patient's medical record.

## ***Other provisions-***

- Allows the Division of Health Service Regulation to adopt rules as necessary for implementation.
- Clarifies that this new statute does not interfere with a healthcare power of attorney or other advance health care directive.
- Does not require a patient or patient's legal guardian to designate a caregiver.
- Does not create a private right of action and does not make a hospital liable for services rendered or not rendered by a designated caregiver after discharge.

**EFFECTIVE DATE:** The act would become effective January 1, 2020, and applies to hospital admissions occurring on and after that date.