

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  
 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:  
 46 |

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  
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  
75 considers his or her home. The term does not include any of the

76 following:

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

81 2. A hospital.

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

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

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

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

97 (b) The caregiver designation must be on a form approved  
 98 by the agency and must include written consent, signed by the  
 99 patient or the patient's legal representative, to authorize the  
 100 facility to disclose otherwise confidential information to the

101 designated caregiver if such information is necessary for the  
102 caregiver to provide adequate aftercare to the patient. A  
103 patient or a patient's legal representative may change the  
104 patient's designated caregiver in the same manner any time  
105 before the patient's discharge from the facility.

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

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

120 (3) As soon as practicable after a patient's physician  
121 issues an order to discharge or transfer the patient from the  
122 facility, the facility must notify the patient's designated  
123 caregiver, if any. However, the facility's inability to reach  
124 the designated caregiver after making reasonable attempts to do  
125 so may not interfere with, delay, or otherwise affect the

126 medical care provided to the patient or an appropriate discharge  
127 or transfer of the patient. The facility must document in the  
128 patient's records all attempts made to contact the patient's  
129 designated caregiver in such instances.

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

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

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

145 (a) Authorize or require any state or federal agency or  
146 insurer as defined in s. 624.03 to compensate a designated  
147 caregiver for aftercare provided to a patient.

148 (b) Require a facility to take actions that are  
149 inconsistent with or duplicative of any standards under the  
150 federal Medicare program or its related conditions of

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151 participation or the standards of a national accrediting  
152 organization granted deeming authority by the Centers for  
153 Medicare and Medicaid Services.

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

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

158 (7) The agency shall adopt rules to implement this  
159 section.

160 Section 2. This act shall take effect July 1, 2021.