

# SENATE BILL 572

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By: **Senator Kelley**

Introduced and read first time: February 6, 2015

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Hospitals – Designation of Caregivers**

3 FOR the purpose of requiring a hospital to provide a certain patient or the legal guardian  
4 of a certain patient with a certain number of opportunities to designate a caregiver  
5 within a certain number of hours after the entrance of the patient to the hospital and  
6 before the patient is discharged from the hospital; requiring a hospital to provide a  
7 certain patient who is unconscious or otherwise incapacitated on entry into a hospital  
8 or the legal guardian of the patient with the opportunity to designate a caregiver  
9 within a certain number of hours after the patient regains consciousness or  
10 otherwise regains capacity; requiring a hospital to document in a certain patient's  
11 medical record certain information; requiring a hospital to request consent from a  
12 certain patient or the legal guardian of the patient to release certain medical  
13 information; providing that a hospital is not required to provide certain notice  
14 required under a certain provision of this Act or consult with or provide certain  
15 information under a certain provision of this Act to a caregiver under certain  
16 circumstances; authorizing a patient to change the designation of a caregiver;  
17 requiring a hospital to record a change in the designation of a caregiver in the  
18 patient's medical record within a certain number of hours after the change; providing  
19 that a designation as a caregiver does not obligate an individual to perform certain  
20 tasks; requiring a hospital to notify a caregiver of the discharge of a patient or  
21 transfer of a patient to a certain facility within a certain time period; requiring a  
22 hospital to consult with the caregiver and patient regarding certain issues and issue  
23 a certain discharge plan within a certain time period; requiring a discharge plan to  
24 include certain information; requiring a hospital to provide in a certain manner and  
25 in accordance with certain requirements and laws a caregiver and patient with  
26 certain instructions, an opportunity for certain questions, and certain answers;  
27 requiring that certain discharge plans and instructions be documented in a patient's  
28 medical record; authorizing the Department of Health and Mental Hygiene to adopt  
29 certain regulations; providing for the construction of this Act; defining certain terms;  
30 and generally relating to the designation of caregivers.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, without amendments,  
2 Article – Health – General  
3 Section 19–301(a) and (f)  
4 Annotated Code of Maryland  
5 (2009 Replacement Volume and 2014 Supplement)

6 BY adding to  
7 Article – Health – General  
8 Section 19–380 through 19–385 to be under the new part “Part XI. Designation of  
9 Caregivers”  
10 Annotated Code of Maryland  
11 (2009 Replacement Volume and 2014 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
13 That the Laws of Maryland read as follows:

14 **Article – Health – General**

15 19–301.

16 (a) In this subtitle the following words have the meanings indicated.

17 (f) “Hospital” means an institution that:

18 (1) Has a group of at least 5 physicians who are organized as a medical  
19 staff for the institution;

20 (2) Maintains facilities to provide, under the supervision of the medical  
21 staff, diagnostic and treatment services for 2 or more unrelated individuals; and

22 (3) Admits or retains the individuals for overnight care.

23 **19–378. RESERVED.**

24 **19–379. RESERVED.**

25 **PART XI. DESIGNATION OF CAREGIVERS.**

26 **19–380.**

27 (A) IN THIS PART XI OF THIS SUBTITLE THE FOLLOWING WORDS HAVE THE  
28 MEANINGS INDICATED.

29 (B) (1) “AFTER-CARE TASK” MEANS ASSISTANCE PROVIDED BY A  
30 CAREGIVER TO A PATIENT AFTER THE PATIENT IS DISCHARGED FROM A HOSPITAL.

1           **(2) “AFTER-CARE TASK” INCLUDES:**

2                   **(I) ASSISTING WITH BASIC ACTIVITIES OF DAILY LIVING;**

3                   **(II) ASSISTING WITH INSTRUMENTAL ACTIVITIES OF DAILY**  
4 **LIVING; AND**

5                   **(III) CARRYING OUT MEDICAL OR NURSING TASKS, INCLUDING:**

6                           **1. MANAGEMENT OF WOUND CARE;**

7                           **2. ASSISTANCE IN ADMINISTERING MEDICATIONS; AND**

8                           **3. OPERATING MEDICAL EQUIPMENT.**

9           **(C) “CAREGIVER” MEANS AN INDIVIDUAL DESIGNATED AS A CAREGIVER BY**  
10 **A PATIENT UNDER THIS PART WHO PERFORMS AFTER-CARE TASKS FOR A PATIENT**  
11 **AT THE RESIDENCE OF THE PATIENT.**

12           **(D) “DISCHARGE” MEANS THE EXIT OR RELEASE OF A PATIENT FROM A**  
13 **HOSPITAL TO THE RESIDENCE OF THE PATIENT FOLLOWING ANY MEDICAL CARE,**  
14 **TREATMENT, OR OBSERVATION.**

15           **(E) “ENTRY” MEANS THE ENTRANCE OF A PATIENT INTO A HOSPITAL FOR**  
16 **PURPOSES OF MEDICAL CARE, TREATMENT, OR OBSERVATION.**

17           **(F) (1) “RESIDENCE” MEANS A DWELLING THAT A PATIENT CONSIDERS**  
18 **TO BE HOME.**

19                   **(2) “RESIDENCE” DOES NOT INCLUDE:**

20                           **(I) A REHABILITATION FACILITY;**

21                           **(II) A HOSPITAL;**

22                           **(III) A NURSING HOME;**

23                           **(IV) AN ASSISTED LIVING FACILITY; OR**

24                           **(V) A GROUP HOME LICENSED BY THE STATE.**

25 **19-381.**

1           **(A) (1) A HOSPITAL SHALL PROVIDE A PATIENT OR THE LEGAL GUARDIAN**  
2 **OF THE PATIENT WITH AT LEAST ONE OPPORTUNITY TO DESIGNATE A CAREGIVER:**

3                   **(I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, WITHIN**  
4 **24 HOURS AFTER THE ENTRANCE OF THE PATIENT INTO THE HOSPITAL; AND**

5                   **(II) BEFORE THE PATIENT IS DISCHARGED FROM THE HOSPITAL**  
6 **OR TRANSFERRED TO ANOTHER FACILITY LICENSED BY THE STATE.**

7           **(2) IF A PATIENT IS UNCONSCIOUS OR OTHERWISE INCAPACITATED**  
8 **ON ENTRY INTO A HOSPITAL, WITHIN 24 HOURS AFTER THE PATIENT REGAINS**  
9 **CONSCIOUSNESS OR OTHERWISE REGAINS CAPACITY, THE HOSPITAL SHALL**  
10 **PROVIDE THE PATIENT OR LEGAL GUARDIAN OF THE PATIENT WITH AN**  
11 **OPPORTUNITY TO DESIGNATE A CAREGIVER.**

12           **(B) IF A PATIENT OR THE LEGAL GUARDIAN OF A PATIENT DECLINES TO**  
13 **DESIGNATE A CAREGIVER, THE HOSPITAL SHALL DOCUMENT THE DECISION IN THE**  
14 **PATIENT'S MEDICAL RECORD.**

15           **(C) IF A PATIENT OR THE LEGAL GUARDIAN OF A PATIENT DESIGNATES A**  
16 **CAREGIVER, THE HOSPITAL SHALL:**

17                   **(1) RECORD IN THE PATIENT'S MEDICAL RECORD:**

18                           **(I) THE DESIGNATION OF THE CAREGIVER;**

19                           **(II) THE RELATIONSHIP OF THE CAREGIVER TO THE PATIENT;**

20 **AND**

21                           **(III) THE NAME, TELEPHONE NUMBER, AND ADDRESS OF THE**  
22 **CAREGIVER; AND**

23           **(2) REQUEST THE WRITTEN CONSENT OF THE PATIENT OR THE LEGAL**  
24 **GUARDIAN OF THE PATIENT TO RELEASE MEDICAL INFORMATION TO THE**  
25 **CAREGIVER IN ACCORDANCE WITH:**

26                           **(I) THE PROCEDURES OF THE HOSPITAL FOR RELEASING**  
27 **PERSONAL HEALTH INFORMATION; AND**

28                           **(II) ALL APPLICABLE FEDERAL AND STATE LAWS.**

1 (D) IF THE PATIENT OR THE LEGAL GUARDIAN OF THE PATIENT DECLINES  
2 TO CONSENT TO THE RELEASE OF MEDICAL INFORMATION TO THE CAREGIVER, THE  
3 HOSPITAL IS NOT REQUIRED TO:

4 (1) PROVIDE TO THE CAREGIVER THE NOTICE REQUIRED UNDER §  
5 19-382 OF THIS PART; OR

6 (2) CONSULT WITH THE CAREGIVER OR PROVIDE TO THE CAREGIVER  
7 INFORMATION CONTAINED IN THE DISCHARGE PLAN UNDER § 19-383 OF THIS PART.

8 (E) (1) A PATIENT MAY CHANGE THE DESIGNATION OF A CAREGIVER AT  
9 ANY TIME.

10 (2) WITHIN 24 HOURS AFTER A CHANGE IN THE DESIGNATION OF A  
11 CAREGIVER, THE HOSPITAL SHALL RECORD THE CHANGE IN THE PATIENT'S  
12 MEDICAL RECORD.

13 (F) A DESIGNATION OF A CAREGIVER BY A PATIENT OR THE LEGAL  
14 GUARDIAN OF A PATIENT UNDER THIS SECTION DOES NOT OBLIGATE AN INDIVIDUAL  
15 TO PERFORM ANY AFTER-CARE TASKS FOR THE PATIENT.

16 (G) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE A PATIENT OR A  
17 LEGAL GUARDIAN OF A PATIENT TO DESIGNATE A CAREGIVER.

18 19-382.

19 IF A PATIENT HAS DESIGNATED A CAREGIVER UNDER § 19-381 OF THIS PART,  
20 THE HOSPITAL SHALL NOTIFY THE CAREGIVER OF THE DISCHARGE OF THE PATIENT  
21 OR TRANSFER OF THE PATIENT TO ANOTHER HOSPITAL OR FACILITY LICENSED BY  
22 THE STATE AS SOON AS POSSIBLE BUT NOT LATER THAN 4 HOURS BEFORE THE  
23 PATIENT IS DISCHARGED OR TRANSFERRED.

24 19-383.

25 (A) (1) AS SOON AS POSSIBLE BUT NOT LATER THAN 24 HOURS BEFORE  
26 THE DISCHARGE OF A PATIENT FROM A HOSPITAL, THE HOSPITAL SHALL:

27 (I) CONSULT WITH THE CAREGIVER AND THE PATIENT  
28 REGARDING THE CAPABILITIES AND LIMITATIONS OF THE CAREGIVER; AND

29 (II) ISSUE A DISCHARGE PLAN THAT DESCRIBES THE  
30 AFTER-CARE TASKS NEEDED BY THE PATIENT.

31 (2) A DISCHARGE PLAN SHALL INCLUDE:

1 (I) THE NAME AND CONTACT INFORMATION OF THE  
2 CAREGIVER;

3 (II) TAKING INTO ACCOUNT THE CAPABILITIES AND  
4 LIMITATIONS OF THE CAREGIVER, A DESCRIPTION OF ALL AFTER-CARE TASKS  
5 NECESSARY TO MAINTAIN THE ABILITY OF THE PATIENT TO RESIDE AT THE  
6 RESIDENCE; AND

7 (III) THE CONTACT INFORMATION FOR ANY HEALTH CARE,  
8 COMMUNITY RESOURCES, AND LONG-TERM SERVICES AND SUPPORTS NECESSARY  
9 TO SUCCESSFULLY CARRY OUT THE DISCHARGE PLAN.

10 (B) A HOSPITAL ISSUING A DISCHARGE PLAN SHALL PROVIDE, IN A  
11 CULTURALLY COMPETENT MANNER AND IN ACCORDANCE WITH THE  
12 REQUIREMENTS OF THE HOSPITAL AND STATE AND FEDERAL LAWS REGARDING THE  
13 PROVISION OF LANGUAGE ACCESSIBLE SERVICES, THE CAREGIVER AND THE  
14 PATIENT WITH:

15 (1) INSTRUCTIONS FOR ALL AFTER-CARE TASKS DESCRIBED IN THE  
16 DISCHARGE PLAN, INCLUDING A LIVE DEMONSTRATION OF THE AFTER-CARE TASKS  
17 PERFORMED BY A HOSPITAL EMPLOYEE AUTHORIZED TO PERFORM THE TASKS;

18 (2) AN OPPORTUNITY FOR THE CAREGIVER AND THE PATIENT TO ASK  
19 QUESTIONS ABOUT THE AFTER-CARE TASKS; AND

20 (3) ANSWERS TO ANY QUESTIONS ASKED BY THE CAREGIVER OR THE  
21 PATIENT ABOUT THE AFTER-CARE TASKS.

22 (C) THE DISCHARGE PLAN AND INSTRUCTIONS SHALL BE DOCUMENTED IN  
23 THE PATIENT'S MEDICAL RECORD, INCLUDING THE DATE, TIME, AND CONTENTS OF  
24 THE DISCHARGE PLAN AND INSTRUCTIONS.

25 19-384.

26 THE DEPARTMENT MAY ADOPT REGULATIONS TO IMPLEMENT THE  
27 PROVISIONS OF THIS PART.

28 19-385.

29 NOTHING IN THIS PART MAY BE CONSTRUED TO AFFECT THE RIGHTS OF AN  
30 AGENT TO MAKE HEALTH CARE DECISIONS UNDER TITLE 5, SUBTITLE 6 OF THIS  
31 ARTICLE.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
2   October 1, 2015.