



General Assembly

Amendment

February Session, 2016

LCO No. 5441



Offered by:

SEN. FLEXER, 29th Dist.

REP. SERRA, 33rd Dist.

SEN. KELLY, 21st Dist.

REP. BOLINSKY, 106th Dist.

To: Subst. Senate Bill No. 166

File No. 163

Cal. No. 156

"AN ACT EXPANDING UTILIZATION OF PATIENT-DESIGNATED CAREGIVERS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2016*) (a) For purposes of this
4 section and section 2 of this act:

5 (1) "Caregiver" means any individual who a resident designates to
6 provide post-discharge assistance to the resident in the resident's home
7 in the community. The term "caregiver" includes, but is not limited to,
8 a relative, spouse, partner, friend or neighbor who has a significant
9 relationship with the resident. For the purposes of this section and
10 section 2 of this act, the term "caregiver" shall not include any
11 individual who receives compensation for providing post-discharge
12 assistance to the resident.

13 (2) "Home" means the dwelling that the resident considers to be the
14 resident's home in the community. The term "home" shall not include,
15 and the provisions of this section and section 2 of this act, shall not
16 apply to, a discharge to any rehabilitation facility, hospital, assisted
17 living facility, group home or any other setting that was not the
18 resident's home in the community immediately preceding the
19 resident's admission.

20 (3) "Resident" means a resident of a nursing home facility or the
21 resident's representative.

22 (4) "Nursing home facility" has the same meaning as provided in
23 section 19a-521 of the general statutes.

24 (5) "Post-discharge assistance" means nonprofessional tasks
25 provided by a designated caregiver to a resident following the
26 resident's discharge from a nursing home facility in accordance with
27 the written discharge plan of care signed by the resident or the
28 resident's representative, which involves assisting with basic activities
29 of daily living, instrumental activities of daily living and carrying out
30 support tasks, such as assisting with wound care, administration of
31 medications and use of medical equipment.

32 (b) The Department of Public Health may adopt regulations, in
33 accordance with the provisions of chapter 54 of the general statutes, to
34 set minimum standards for nursing home facility discharge planning
35 services. Any such standards shall include, but need not be limited to,
36 requirements for (1) a written discharge plan prepared in consultation
37 with the resident, or the resident's family or representative, and the
38 resident's physician, and (2) a procedure for advance notice to the
39 resident of the resident's discharge and provision of a copy of the
40 discharge plan to the resident prior to discharge.

41 (c) Whenever a discharge plan from a nursing home facility
42 indicates that a resident shall be discharged to the resident's home, the
43 nursing home facility shall allow the resident to designate a caregiver
44 at, or prior to, the time that a written copy of the discharge plan is

45 provided to the resident. A resident is not required to designate any
46 individual as a caregiver and any individual designated as a caregiver
47 under this section is not obligated to perform any post-discharge
48 assistance for the resident or agree to receive any instruction required
49 under this section.

50 (d) If a resident designates a caregiver pursuant to subsection (c) of
51 this section prior to receiving written discharge instructions, the
52 nursing home facility shall:

53 (1) Record the resident's designation of caregiver, the relationship of
54 the designated caregiver to the resident and, if known, the name,
55 telephone number and address of the resident's designated caregiver
56 in the discharge plan.

57 (2) Make more than one reasonable attempt to notify the resident's
58 designated caregiver of the resident's discharge to the resident's home
59 as soon as practicable. In the event the nursing home facility is unable
60 to contact the designated caregiver, the lack of contact shall not
61 interfere with, delay, or otherwise affect the medical care provided to
62 the resident or an appropriate discharge of the resident.

63 (3) Prior to discharge, provide caregivers with instructions in all
64 post-discharge assistance tasks described in the discharge plan.
65 Training and instructions for caregivers may be provided in writing or
66 conducted in person or through video technology, as determined by
67 the nursing home facility to effectively provide the necessary
68 instruction. Any training or instructions provided to a caregiver shall
69 be provided in nontechnical language, to the extent possible. At a
70 minimum, this instruction shall include: (A) A written, live or recorded
71 demonstration of the tasks performed by an individual designated by
72 the nursing home facility who is authorized to perform the post-
73 discharge assistance task and is able to perform the demonstration in a
74 culturally competent manner and in accordance with the requirements
75 of the nursing home facility to provide language access services under
76 state and federal law; (B) an opportunity for the caregiver to ask

77 questions about the post-discharge assistance tasks; and (C) answers to
78 the caregiver's questions provided in a culturally competent manner
79 and in accordance with the requirements of the nursing home facility
80 to provide language access services under state and federal law.

81 (4) Document in the resident's medical record any training for initial
82 implementation of the discharge plan provided to the resident, the
83 resident's representative or the designated caregiver. Any instruction
84 required under subdivision (3) of this subsection shall be documented
85 in the resident's medical record, including, at a minimum, the date,
86 time and subject of the instruction.

87 Sec. 2. (NEW) (*Effective October 1, 2016*) (a) Nothing in this section or
88 section 1 of this act shall be construed to create a private right of action
89 against a nursing home facility, a nursing home facility employee, or
90 any consultants or contractors with whom a nursing home facility has
91 a contractual relationship.

92 (b) A nursing home facility, a nursing home facility employee or
93 any consultants or contractors with whom a nursing home facility has
94 a contractual relationship shall not be held liable, in any way, for the
95 services rendered or not rendered by the caregiver to the resident at
96 the resident's home.

97 (c) Nothing in this section or section 1 of this act shall be construed
98 to obviate the obligation of an insurance company, health service
99 corporation, hospital service corporation, medical service corporation,
100 health care center, as defined in section 38a-175 of the general statutes,
101 or any other entity issuing health benefits plans to provide coverage
102 required under a health benefits plan.

103 (d) (1) An individual designated as caregiver pursuant to subsection
104 (c) of section 1 of this act shall not be reimbursed by any government
105 or commercial payer for post-discharge assistance that is provided
106 pursuant to section 1 of this act.

107 (2) Nothing in this section or section 1 of this act shall be construed

108 to impact, impede or otherwise disrupt or reduce the reimbursement
 109 obligations of an insurance company, health service corporation,
 110 hospital service corporation, medical service corporation, health care
 111 center, as defined in section 38a-175 of the general statutes, or any
 112 other entity issuing health benefits plans.

113 (3) Nothing in this section or section 1 of this act shall delay the
 114 discharge of a resident or the transfer of a resident from a nursing
 115 home facility to another facility.

116 (4) Nothing in this section or section 1 of this act shall affect, nor
 117 take precedence over, any advance directive, conservatorship or other
 118 proxy health care rights as may be delegated by the patient or
 119 applicable by law.

120 Sec. 3. Section 19a-535 of the general statutes is amended by adding
 121 subsection (j) as follows (*Effective October 1, 2016*):

122 (NEW) (j) Whenever a facility is discharging a resident to the
 123 resident's home in the community, the discharge shall be in accordance
 124 with sections 1 and 2 of this act."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	New section
Sec. 2	<i>October 1, 2016</i>	New section
Sec. 3	<i>October 1, 2016</i>	19a-535