

The Legislature  
of the  
State of New Mexico

52nd Legislature, 1st Session

LAWS 2015

CHAPTER 155

HOUSE BILL 139, as amended

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Introduced by

REPRESENTATIVE TOMÁS E. SALAZAR AND  
REPRESENTATIVE DEBORAH A. ARMSTRONG



# CHAPTER 155

## AN ACT

RELATING TO HEALTH CARE; PROVIDING FOR THE DESIGNATION AND TRAINING OF LAY CAREGIVERS TO PROVIDE CARE TO PATIENTS AFTER DISCHARGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

### SECTION 1. LAY CAREGIVER--AFTERCARE--DESIGNATION.--

A. A hospital shall provide each patient or the patient's legal guardian with an opportunity to designate one lay caregiver following the patient's admission into a hospital and before the patient's discharge to the patient's residence.

B. As soon as practicable, a hospital shall attempt to consult with a designated lay caregiver to prepare the lay caregiver to provide aftercare. The hospital shall provide the lay caregiver with a discharge plan for the patient that describes the patient's aftercare needs. This discharge plan:

(1) may include, but is not limited to:

- (a) culturally competent training on how to provide care and tasks;
- (b) medication management guidelines;
- (c) aftercare guidelines; and
- (d) an identification of tasks that the discharging health care provider specifies;

1 (2) shall reflect the active engagement of a  
2 patient or lay caregiver in the discharge planning process and  
3 incorporate a patient's goals and preferences as much as  
4 possible; and

5 (3) shall educate a lay caregiver in a  
6 manner that is consistent with current accepted practices and  
7 is based on an assessment of the lay caregiver's learning  
8 needs.

9 C. A hospital shall allow a patient to change the  
10 patient's designation of a lay caregiver in the event that the  
11 originally designated lay caregiver becomes unavailable,  
12 unwilling or unable to care for the patient.

13 D. Designation of an individual as a lay caregiver  
14 pursuant to this section does not obligate that individual to  
15 accept the role of lay caregiver for the patient.

16 E. The provisions of this section shall not be  
17 construed to require a patient to designate a lay caregiver.

18 F. In the event that a patient or a patient's  
19 legal guardian declines to designate a lay caregiver pursuant  
20 to this section, a hospital shall promptly document this  
21 refusal to designate a lay caregiver in the patient's medical  
22 record.

23 G. A hospital shall not allow the process of  
24 appointing or refusal or failure to appoint a lay caregiver  
25 for a patient to interfere with, delay or otherwise affect the

1 services that the hospital provides to a patient.

2 H. In the event that a hospital is unable to  
3 contact a designated lay caregiver, this lack of contact shall  
4 not interfere with or otherwise affect an appropriate  
5 discharge of the patient.

6 I. The provisions of this section shall not be  
7 construed to:

8 (1) create a private right of action against  
9 a hospital, hospital employee, contractor having a contractual  
10 relationship with a hospital or duly authorized agent of a  
11 hospital; or

12 (2) remove the obligation of a third-party  
13 payer to cover any health care item or service that the third-  
14 party payer is obligated to provide to a patient pursuant to  
15 the terms of a valid agreement, insurance policy, plan or  
16 certificate of coverage or health maintenance organization  
17 contract.

18 J. A hospital, hospital employee, contractor  
19 having a contractual relationship with a hospital or duly  
20 authorized agent of a hospital shall not be held liable in any  
21 way for an act or omission of a lay caregiver.

22 K. As used in this section:

23 (1) "aftercare" means assistance provided in  
24 a private home by a designated lay caregiver to a patient  
25 after the patient's discharge from a hospital. "Aftercare"

1 includes exclusively those tasks related to a patient's  
2 condition at the time of discharge that do not require the lay  
3 caregiver performing the tasks to be a licensed, certified or  
4 otherwise authorized health care provider;

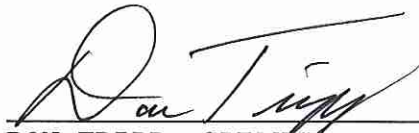
5 (2) "discharge" means a patient's exit or  
6 release from a hospital to that patient's residence following  
7 an inpatient stay;

8 (3) "hospital" means a health facility  
9 licensed as a general acute hospital by the department of  
10 health;

11 (4) "lay caregiver" means an individual who  
12 is eighteen years of age or older, who has been designated as  
13 a lay caregiver pursuant to this section and who provides  
14 aftercare to a patient in the patient's residence; and

15 (5) "residence" means a dwelling considered  
16 by a patient to be the patient's home, not including a  
17 hospital, nursing home or group home or assisted living  
18 facility. \_\_\_\_\_

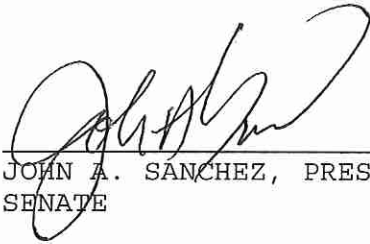
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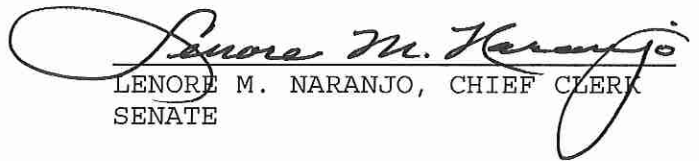
DON TRIPP, SPEAKER  
HOUSE OF REPRESENTATIVES



DENISE RAMONAS, CHIEF CLERK  
HOUSE OF REPRESENTATIVES

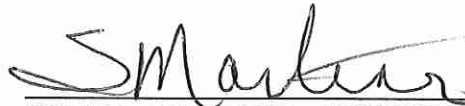


JOHN A. SANCHEZ, PRESIDENT  
SENATE



LENORE M. NARANJO, CHIEF CLERK  
SENATE

Approved by me this 10<sup>th</sup> day of April, 2015



SUSANA MARTINEZ, GOVERNOR  
STATE OF NEW MEXICO