

SENATE No. 1153

The Commonwealth of Massachusetts

PRESENTED BY:

Linda Dorcena Forry

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to CARE (Caregiver, Advise, Record and Enable).

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>
<i>Eileen M. Donoghue</i>	<i>First Middlesex</i>
<i>Barbara L'Italien</i>	<i>Second Essex and Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Joan B. Lovely</i>	<i>Second Essex</i>
<i>Daniel Cullinane</i>	<i>12th Suffolk</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Cynthia S. Creem</i>	<i>First Middlesex and Norfolk</i>

<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol and Middlesex</i>
<i>Robert L. Hedlund</i>	<i>Plymouth and Norfolk</i>
<i>Viriato M. deMacedo</i>	<i>Plymouth and Barnstable</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>

SENATE No. 1153

By Ms. Forry, a petition (accompanied by bill, Senate, No. 1153) of Linda Dorcena Forry, Harriette L. Chandler, Kathleen O'Connor Ives, Thomas M. McGee and other members of the General Court for legislation relative to CARE. Public Health.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act relative to CARE (Caregiver, Advise, Record and Enable).

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 111 of the General Laws is hereby amended by adding the following section:-

2 Section 233. (a) As used in this section, the following words shall have the following
3 meanings, unless the context clearly requires otherwise:

4 “Hospital”, a facility licensed under section 51.

5 “After-care”, assistance provided by a caregiver to a patient after the patient’s discharge
6 from a hospital; provided, however, that such assistance may include, but is not limited to,
7 assisting with basic activities of daily living, instrumental activities of daily living or carrying
8 out medical or nursing tasks, such as managing wound care, assisting in administering
9 medications and operating medical equipment.

10 “Caregiver”, an individual duly designated as a caregiver by a patient who provides after-
11 care assistance to a patient living in the patient’s residence which may, but shall not be limited

12 to, include a relative, partner, friend, or neighbor who has a significant relationship with the
13 patient.

14 “Discharge”, a patient’s exit or release from a hospital to the patient’s residence
15 following an inpatient admission.

16 “Entry”, a patient’s admission into a hospital for medical care.

17 “Residence”, a dwelling that the patient considers to be home; provided, however, that a
18 “residence” shall not include a rehabilitation facility, hospital, nursing home, or assisted living
19 facility.

20 (b) A hospital shall provide each patient or, if applicable, the patient’s legal guardian an
21 opportunity to designate at least 1 caregiver under this section not later than 24 hours after the
22 patient’s entry into a hospital and prior to the patient’s discharge or transfer to another facility.
23 In the event that the patient is unconscious or otherwise incapacitated upon the patient’s entry
24 into the hospital, the hospital shall provide the patient or the patient’s legal guardian with an
25 opportunity to designate a caregiver within 24 hours following the patient’s recovery of
26 consciousness or capacity. If the patient or the patient’s legal guardian declines to designate a
27 caregiver under the Act, the hospital shall promptly document that decision in the patient’s
28 medical record.

29 If the patient or the patient’s legal guardian designates an individual as a caregiver under
30 this section, the hospital shall: (i) promptly request the written consent of the patient or the
31 patient’s legal guardian to release medical information to the patient’s designated caregiver
32 following the hospital’s established procedures for releasing personal health information and in
33 compliance with all federal and state laws; and (ii) record the patient’s designation of a

34 caregiver, the relationship of the designated caregiver to the patient and the name, telephone
35 number and address of the patient's designated caregiver in the patient's medical record. If the
36 patient or the patient's legal guardian declines to consent to the release medical information to
37 the patient's designated caregiver, the hospital shall not provide notice to the caregiver under
38 subsection (c) or provide information contained in the patient's discharge plan under subsection
39 (d).

40 A patient may elect to change a designated caregiver at any time and the hospital shall
41 record this change in the patient's medical record within 24 hours.

42 A designation of a caregiver by a patient or a patient's legal guardian under this Section
43 does not obligate any individual to perform any after-care tasks for any patient. This section
44 shall not be construed to require a patient or a patient's legal guardian to designate any individual
45 as a caregiver under this section.

46 (c) A hospital shall notify the patient's designated caregiver of the patient's discharge or
47 transfer to another hospital or facility licensed under section 51 as soon as possible. Such notice
48 may be given after the patient's physician issues a discharge order, shall not be later than 4 hours
49 prior to the patient's actual discharge or transfer to another hospital or facility.

50 (d) As soon as possible and not later than 24 hours prior to a patient's discharge from a
51 hospital, the hospital shall consult with the designated caregiver along with the patient regarding
52 the caregiver's capabilities and limitations. The hospital shall issue a discharge plan that
53 describes a patient's after-care needs at the patient's residence. A discharge plan shall include,
54 but shall not be limited to: (i) the name and contact information of the caregiver designated under
55 this section; (ii) a description of all after-care tasks necessary to maintain the patient's ability to

56 reside at home, taking into account the capabilities and limitations of the caregiver; and (iii) the
57 contact information for any health care, community resources and long-term services and
58 supports necessary to successfully carry out the patient's discharge plan.

59 The hospital issuing the discharge plan must provide caregivers with instruction in all
60 after-care tasks described in the discharge plan. The instruction shall include, but shall not be
61 limited to: (i) a live demonstration of the tasks performed by a hospital employee or individual
62 with whom the hospital has a contractual relationship authorized to perform the after-care task,
63 provided in a culturally competent manner and in accordance with the hospital's requirements to
64 provide language access services under state and federal law; (ii) an opportunity for the caregiver
65 and patient to ask questions about the after-care tasks; and (iii) answers to the caregiver's and
66 patient's questions provided in a culturally competent manner and in accordance with the
67 hospital's requirements to provide language access services under state and federal law.
68 Instruction required under this subsection shall be documented in the patient's medical record
69 and shall include, but shall not be limited to, the date, time and contents of the instruction.

70 (e) The department of public health may promulgate regulations to implement this
71 section, including, but not limited to, regulations to further define the content and scope of any
72 instruction provided to caregivers under subsection (d).

73 (f) Nothing in this section shall be construed to interfere with the rights of an agent
74 operating under a valid health care proxy established under chapter 201D.