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HOUSE BILL NO. 2162

Offered January 13, 2021

Prefiled January 12, 2021

A BILL to amend the Code of Virginia by adding in Article 1 of Chapter 5 of Title 32.1 a section numbered 32.1-137.08, relating to medical care facilities; persons with disabilities; designated support persons.

Patrons—Tran, Adams, D.M., Mundon King, Bell, Keam, Levine, Murphy and Price

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 1 of Chapter 5 of Title 32.1 a section numbered 32.1-137.08 as follows:

§ 32.1-137.08. Medical care facilities; persons with disabilities; designated support persons.

A. As used in this section:

"Activity of daily living" means a personal care task such as bathing, dressing, toileting, transferring, and eating or feeding.

"Admission" means (i) with regard to a medical care facility that is a general hospital or hospice, accepting a person for bed occupancy and care that is anticipated to span at least two midnights and (ii) with regard to a medical care facility that is an outpatient surgical hospital, accepting a person for care irrespective of anticipated length of care.

"Designated support person" means a person who is 18 years of age or older; knowledgeable about the needs of a person with a disability; and designated, orally or in writing, by the person with a disability or his guardian, authorized representative, or care provider to provide support and assistance necessary due to the specifics of the person's disability to the person with a disability at any time during which health care services are provided.

"Medical care facility" means a general hospital, outpatient surgical hospital, or hospice licensed by the Department and any institution exempt from licensure pursuant to clause (vi) of § 32.1-124.

"Observation" means, with regard to a medical care facility that is a general hospital, accepting a person for care that is anticipated to span less than two midnights.

"Person with a disability" means a person who, prior to admission to or observation at a medical care facility, had a physical or mental impairment that substantially limited one or more major life activities, or who has a record of such impairment.

"Support and assistance necessary due to the specifics of the person's disability" means support and assistance with activities of daily living, monitoring health status and physical condition and other medical needs, supervision, communication, and decision-making necessary due to the absence, loss, diminution, or impairment of a physical, behavioral, or cognitive function of the person due to the specifics of his disability provided by a designated support person that is ongoing and necessary for the care of the person with a disability.

B. Every medical care facility shall allow a person with a disability who requires support and assistance necessary due to the specifics of the person's disability to be accompanied by a designated support person at any time during which health care services are provided. In any case in which the duration of health care services is anticipated to last more than 24 hours, the person with a disability may designate more than one designated support person. However, no medical care facility shall be required to allow more than one designated support person to be present with a person with a disability at any time.

C. A designated support person is not a visitor and shall not be subject to any restrictions on visitation adopted by a medical care facility. However, such designated support person may be required to comply with all reasonable requirements of the medical care facility adopted to protect the health and safety of patients and staff of the medical care facility, and a medical care facility may restrict a designated support person's access to specified areas of and movement on the premises of the medical care facility if such restrictions are clearly stated in the medical care facility's policies and procedures and are uniformly applied to all designated support persons.

D. Every medical care facility shall establish policies applicable to designated support persons and shall (i) make such policies available to the public on a website maintained by the medical care facility and (ii) provide such policies, in writing, to the patient at such time as health care services are provided.

E. Nothing in this section shall alter the obligation of a medical care facility to provide patients with

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59 *effective communication support or other required services, regardless of the presence of a designated*
60 *support person or other reasonable accommodation, consistent with applicable federal or state law or*
61 *regulations.*