

By: Taylor of Collin

S.B. No. 1417

A BILL TO BE ENTITLED

AN ACT

relating to a requirement that a hospital allow a patient to designate a caregiver to receive aftercare instruction regarding the patient.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 4, Health and Safety Code, is amended by adding Chapter 317 to read as follows:

CHAPTER 317. DESIGNATION OF CAREGIVER FOR RECEIPT OF AFTERCARE

INSTRUCTION

Sec. 317.001. DEFINITIONS. In this chapter:

(1) "Aftercare" means assistance provided by a designated caregiver to a person after that person's discharge from a hospital, as described by this chapter. The term includes assistance with tasks that are related to the person's condition at the time of that person's discharge from a hospital but does not include those tasks required to be performed by a licensed health care professional.

(2) "Designated caregiver" means an individual designated by a patient, including a relative, partner, friend, or neighbor, who:

(A) is at least 18 years of age;

(B) has a significant relationship with the patient; and

(C) will provide aftercare to the patient.

1 (3) "Discharge" means a patient's release from a
2 hospital following an inpatient admission.

3 (4) "Hospital" means a general or special hospital
4 licensed under Chapter 241 or exempt from licensure under Section
5 241.004(3).

6 (5) "Surrogate decision-maker" has the meaning
7 assigned by Section 313.002.

8 Sec. 317.002. DESIGNATION OF CAREGIVER. (a) On admission
9 to a hospital or before the patient is discharged or transferred to
10 another facility, the hospital shall provide the patient, the
11 patient's legal guardian, or the patient's surrogate decision-maker
12 the opportunity to designate a caregiver.

13 (b) If a patient, a patient's legal guardian, or a patient's
14 surrogate decision-maker designates a caregiver, a hospital shall:

15 (1) document in the patient's medical record:

16 (A) the name, telephone number, and address of
17 the patient's designated caregiver; and

18 (B) the relationship of the designated caregiver
19 to the patient; and

20 (2) request written authorization from the patient,
21 the patient's legal guardian, or the patient's surrogate
22 decision-maker to disclose health care information to the patient's
23 designated caregiver.

24 (c) If a patient, a patient's legal guardian, or a patient's
25 surrogate decision-maker declines to designate a caregiver, the
26 hospital shall promptly record in the patient's medical record that
27 the patient, the patient's legal guardian, or the patient's

1 surrogate decision-maker did not wish to designate a caregiver.

2 (d) If a patient, a patient's legal guardian, or a patient's
3 surrogate decision-maker declines to give authorization to a
4 hospital to disclose health care information to the designated
5 caregiver, a hospital is not required to comply with Sections
6 317.003 and 317.004.

7 (e) A patient, a patient's legal guardian, or a patient's
8 surrogate decision-maker may change the patient's designated
9 caregiver at any time, and the hospital must document the change in
10 the patient's medical record.

11 (f) The designation of a person as the patient's caregiver
12 does not obligate the person to serve as the patient's designated
13 caregiver or to provide aftercare to the patient.

14 Sec. 317.003. NOTICE TO DESIGNATED CAREGIVER. (a) Except
15 as provided by Section 317.002(d), as soon as possible before a
16 patient's discharge or transfer to another facility but not later
17 than the time the patient's attending physician issues a discharge
18 order, a hospital shall notify the designated caregiver of the
19 patient's discharge or transfer. The inability of the hospital to
20 contact the designated caregiver may not interfere with, delay, or
21 otherwise affect any medical care provided to the patient or the
22 discharge of the patient.

23 (b) If the hospital is unable to contact the designated
24 caregiver, the hospital shall promptly record in the patient's
25 medical record that the hospital attempted to contact the
26 designated caregiver.

27 Sec. 317.004. DISCHARGE PLAN. (a) Except as provided by

Section 317.002(d), before a patient's discharge from a hospital, the hospital shall provide to the patient and designated caregiver a written discharge plan that describes the patient's aftercare needs.

(b) A discharge plan must include:

(1) the name and contact information of the designated caregiver and the designated caregiver's relationship to the patient;

(2) a description of the aftercare tasks that the patient requires written in a manner that is culturally competent; and

(3) the contact information for any health care resources necessary to implement the patient's discharge plan.

Sec. 317.005. INSTRUCTION IN AFTERCARE TASKS. Before a patient's discharge from the hospital to any setting in which health care services are not regularly provided to others, the hospital shall provide the designated caregiver instruction and training as necessary for the caregiver to perform aftercare tasks.

Sec. 317.006. RULES. The executive commissioner of the Health and Human Services Commission shall adopt rules necessary to implement this chapter.

Sec. 317.007. RIGHTS AND REMEDIES. (a) This chapter may not be construed to:

(1) interfere with the rights of an agent operating under a valid advance directive in accordance with Chapter 166; or

(2) alter, amend, revoke, or supersede any existing right or remedy granted under any other provision of law.

1 (b) This chapter does not create a private right of action
2 against:

3 (1) a hospital, a hospital employee, or a person in a
4 contractual relationship with a hospital; or

5 (2) a designated caregiver.

6 (c) A hospital, a hospital employee, or a person in a
7 contractual relationship with a hospital may not be held liable in
8 any way for services rendered or not rendered by a patient's
9 designated caregiver to the patient.

10 (d) A designated caregiver may not be reimbursed by a
11 government or commercial payer for aftercare assistance provided
12 under this chapter.

13 (e) Nothing in this chapter may be construed:

14 (1) to alter the obligation of an insurance company,
15 health service corporation, hospital service corporation, medical
16 service corporation, health maintenance organization, or other
17 entity issuing health benefit plans to provide coverage required
18 under a health benefit plan;

19 (2) to affect, impede, or otherwise disrupt or reduce
20 the reimbursement obligations of an insurance company, health
21 service corporation, hospital service corporation, medical service
22 corporation, health maintenance organization, or other entity
23 issuing health benefit plans; or

24 (3) to affect the time at which a patient may be
25 discharged or transferred from a hospital to another facility.

26 SECTION 2. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2017.