
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1329 Session of
2015

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M. DALEY, MENTZER AND HARHART, JUNE 12, 2015

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,
JUNE 12, 2015

AN ACT

1 Requiring certain hospitals to allow patients an opportunity to
2 designate caregivers in patients' medical records and
3 imposing duties on hospitals.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known as the Caregiver Advise, Record and
8 Enable Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "After-care assistance." Any assistance provided by a lay
14 caregiver to a patient following the patient's discharge from a
15 hospital, which assistance is related to the patient's condition
16 at the time of discharge, including, but not limited to,

1 assisting with basic activities of daily living, instrumental
2 activities of daily living and any other tasks as determined to
3 be appropriate by the discharging physician or other health care
4 professional licensed pursuant to 28 Pa. Code Ch. 105 (relating
5 to admission and discharge).

6 "Discharge." A patient's exit or release from a hospital to
7 the patient's residence following medical care or treatment
8 rendered to the patient following an inpatient admission.

9 "Entry." A patient's admission into a hospital for the
10 purposes of receiving inpatient medical care.

11 "Hospital." A general acute care hospital as defined and
12 licensed under Title 28 of the Pennsylvania Code (relating to
13 health and safety).

14 "Lay caregiver." An individual with a significant
15 relationship to a patient and who:

16 (1) is designated and accepts the role as a lay
17 caregiver by the patient pursuant to this act; and

18 (2) provides after-care assistance to the patient living
19 in the patient's residence.

20 "Residence." The dwelling that a patient considers to be the
21 patient's home. The term includes the residence of a patient's
22 designated lay caregiver. The term shall not include a
23 rehabilitation facility, hospital, nursing home, personal care
24 home, assisted living facility or group home licensed by the
25 Department of Health.

26 Section 3. Caregiver designation and consent.

27 (a) General rule.--A hospital shall provide each patient or,
28 if applicable, the patient's legal guardian an opportunity to
29 designate at least one lay caregiver following the patient's
30 entry into a hospital and, prior to the patient's discharge to

1 the residence, in a time frame that is consistent with the
2 discharge planning process provided by regulation. The hospital
3 shall promptly document the request in the patient's medical
4 record.

5 (b) Unconscious and incapacitated patients.--In the event
6 that the patient is unconscious or otherwise incapacitated upon
7 entry into a hospital, the hospital shall provide the patient or
8 the patient's legal guardian with an opportunity to designate a
9 lay caregiver as soon as possible following the patient's
10 recovery of consciousness or capacity. The hospital shall
11 promptly document the designation in the patient's medical
12 records.

13 (c) Declining of designation.--In the event that the patient
14 or the patient's legal guardian declines to designate a lay
15 caregiver pursuant to this act, the hospital shall promptly
16 document the decision in the patient's medical record.

17 (d) Designation of lay caregivers.--In the event that the
18 patient or the patient's legal guardian designates an individual
19 as lay caregiver under this act:

20 (1) The hospital shall promptly request the written
21 consent of the patient or the patient's legal guardian to
22 release medical information to the patient's designated lay
23 caregiver following the hospital's established procedures for
24 releasing personal health information and in compliance with
25 all Federal and State laws, including the Health Insurance
26 Portability and Accountability Act of 1996 (Public Law 104-
27 191, 110 Stat. 1936) and related regulations.

28 (2) If the patient or the patient's legal guardian
29 declines to consent to release medical information to the
30 patient's designated lay caregiver, the hospital is not

1 required to provide notice to the lay caregiver or provide
2 information contained in the patient's discharge plan.

3 (3) The hospital shall record the patient's designation
4 of lay caregiver, the relationship of the designated lay
5 caregiver to the patient and the name, telephone number and
6 address of the patient's designated lay caregiver in the
7 patient's medical record.

8 (e) Change of lay caregiver.--A patient or the patient's
9 legal guardian may elect to change the patient's lay caregiver
10 at any time, and the hospital shall record the change in the
11 patient's medical record before the patient's discharge.

12 (f) Construction.--This section shall not be construed to
13 require a patient or patient's legal guardian to designate an
14 individual as a lay caregiver.

15 (g) After-care assistance.--A designation of a lay caregiver
16 by a patient or a patient's legal guardian does not obligate the
17 designated individual to perform any after-care assistance for
18 the patient.

19 (h) Minor children.--In the event that the patient is a
20 minor child and the parents of the patient are divorced, the
21 custodial parent shall have the authority to designate a lay
22 caregiver. If the parents have joint custody of the patient,
23 they shall jointly designate the lay caregiver.

24 Section 4. Notice requirements.

25 (a) Duty to hospital.--A hospital shall notify a patient's
26 designated lay caregiver of any discharge order for the patient,
27 the patient's actual discharge or the patient's transfer to
28 another facility as soon as possible.

29 (b) Documentation.--The hospital shall promptly document the
30 attempt in the patient's medical record.

1 Section 5. Hospital discharge plan.

2 (a) Duty to issue.--

3 (1) As soon as possible prior to a patient's discharge
4 from a hospital to the residence, the hospital shall consult
5 with the designated lay caregiver and issue a discharge plan
6 that describes the patient's after-care assistance needs, if
7 any, at the residence.

8 (2) The consultation and issuance of a discharge plan
9 shall occur on a schedule that takes into consideration the
10 severity of the patient's condition, the setting in which
11 care is to be delivered and the urgency of the need for lay
12 caregiver services.

13 (3) In the event the hospital is unable to contact the
14 designated lay caregiver, the lack of contact shall not
15 interfere with, delay or otherwise affect the medical care
16 provided to the patient or an appropriate discharge of the
17 patient.

18 (4) At a minimum, the discharge plan shall include:

19 (i) The name and contact information of the lay
20 caregiver designated under this act.

21 (ii) A description of all after-care assistance
22 tasks necessary to maintain the patient's ability to
23 reside at home.

24 (iii) Contact information for any health care,
25 community resources, long-term care services and supports
26 necessary to successfully carry out the patient's
27 discharge plan and contact information for a hospital
28 employee who can respond to questions about the discharge
29 plan after the instruction provided pursuant to
30 subsection (b).

1 (b) Instructions for lay caregivers.--

2 (1) The hospital issuing the discharge plan shall
3 provide lay caregivers with instructions in all after-care
4 tasks described in the discharge plan. Training and
5 instructions for lay caregivers may be conducted in person or
6 through video technology at the discretion of the lay
7 caregiver. Any training or instructions provided to a lay
8 caregiver shall be provided in nontechnical language, to the
9 extent possible.

10 (2) At minimum, such instruction shall include:

11 (i) A live or recorded demonstration of the tasks
12 performed by an individual designated by the hospital,
13 who is authorized to perform the after-care task, and is
14 able to perform the demonstration in a culturally
15 competent manner and in accordance with the hospital's
16 requirements to provide language access services under
17 Federal and State law.

18 (ii) An opportunity for the lay caregiver and
19 patient to ask questions about the after-care assistance
20 task.

21 (iii) Answers to the lay caregiver's questions
22 provided in a culturally competent manner and in
23 accordance with the hospital's requirements to provide
24 language access services under Federal and State law.

25 Section 6. Advanced directives.

26 (a) General rule.--A patient may designate a lay caregiver
27 in an advanced directive.

28 (b) Construction.--Nothing in this act shall be construed to
29 interfere with the rights of an agent operation under a valid
30 advanced directive pursuant to the provisions under 20 Pa.C.S.

1 Ch. 54 (relating to health care).

2 Section 7. Private rights of action.

3 (a) General rule.--A hospital, a hospital employee or any
4 consultants or contractors with whom a hospital has a
5 contractual relationship shall not be held liable, in any way,
6 for the services rendered or not rendered by the lay caregiver
7 to the patient at the residence.

8 (b) Construction.--Nothing in this act shall be construed:

9 (1) To create a private right of action against a
10 hospital, a hospital employee or any consultants or
11 contractors with whom a hospital has a contractual
12 relationship.

13 (2) To obviate the obligation of an insurance company,
14 health service organization, hospital service corporation,
15 medical service corporation, health maintenance organization
16 or any other entity issuing health benefit plans to provide
17 coverage under a health benefits plan.

18 (c) Reimbursements.--

19 (1) No lay caregiver may be reimbursed by a government
20 or commercial payer for after-care assistance that is
21 provided pursuant to this act.

22 (2) Nothing in this act shall be construed to impact,
23 impede or otherwise disrupt or reduce the reimbursement
24 obligations of an insurance company, health service
25 corporation, hospital service corporation, medical service
26 corporation, health maintenance organization or any other
27 entity issuing a health benefits plan, including any
28 government waiver program already providing reimbursement to
29 a lay caregiver pursuant to this act.

30 Section 8. Delay of discharge.

1 Nothing in this act shall be construed to delay the discharge
2 of a patient or the transfer of a patient from a hospital to
3 another facility.

4 Section 9. Joint State Government Commission study.

5 (a) Duty to conduct.--No later than three years after the
6 effective date of this section, the Joint State Government
7 Commission shall conduct a study regarding the impact of this
8 act on certain patient outcomes, including, but not limited to,
9 hospital readmissions.

10 (b) Input to be solicited.--In conducting the study, the
11 Joint State Government Commission shall solicit input from all
12 key stakeholders, including, but not limited to, patients, lay
13 caregivers, physicians, nurses and hospitals.

14 (c) Deadline to submit findings.--The Joint State Government
15 Commission shall submit its findings to the General Assembly no
16 later than five years after the effective date of this section.

17 Section 10. Effective date.

18 This act shall take effective in 12 months.