

Senate File 210 - Enrolled

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AN ACT

PROVIDING FOR THE DESIGNATION OF A LAY CAREGIVER RELATING TO A PATIENT'S INPATIENT STAY AT A HOSPITAL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 144F.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Aftercare assistance*" means any assistance provided by a lay caregiver to a patient following discharge of the patient that are tasks directly related to the patient's condition at the time of discharge, do not require a licensed professional, and are determined to be appropriate by the patient's discharging physician or other licensed health care professional.

2. "*Discharge*" means the exit or release of a patient from inpatient care in a hospital to the residence of the patient.

3. "*Facility*" means a health care facility as defined in section 135C.1, an elder group home as defined in section 231B.1, or an assisted living program as defined in section 231C.2.

4. "*Hospital*" means a licensed hospital as defined in section 135B.1.

5. "*Lay caregiver*" means an individual, eighteen years of age or older, who is designated as a lay caregiver under this chapter by a patient or the patient's legal representative, and who is willing and able to perform aftercare assistance for the

patient at the patient's residence following discharge.

6. "*Legal representative*" means, in order of priority, an attorney in fact under a durable power of attorney for health care pursuant to chapter 144B or, if no durable power of attorney for health care has been executed pursuant to chapter 144B or if the attorney in fact is unavailable, a legal guardian appointed pursuant to chapter 633.

7. "*Patient*" means an individual who is receiving or who has received inpatient medical care in a hospital.

8. "*Residence*" means the dwelling that a patient considers to be the patient's home. "*Residence*" does not include any rehabilitation facility, hospital, or facility.

Sec. 2. NEW SECTION. **144F.2 Discharge policies — opportunity to designate lay caregiver.**

1. *a.* A hospital shall adopt and maintain evidence-based discharge policies and procedures. At a minimum, the policies and procedures shall provide for an assessment of the patient's ability for self-care after discharge and, as part of the assessment, shall provide a patient, or if applicable the patient's legal representative, with an opportunity to designate one lay caregiver prior to discharge of the patient.

b. A legal representative who is an agent under a durable power of attorney for health care pursuant to chapter 144B shall be given the opportunity to designate a lay caregiver in lieu of the patient's designation of a lay caregiver only if, consistent with chapter 144B, in the judgment of the attending physician, the patient is unable to make the health care decision. A legal representative who is a guardian shall be given the opportunity to designate a lay caregiver in lieu of the patient's designation of a lay caregiver to the extent consistent with the powers and duties granted the guardian pursuant to section 633.635.

2. If a patient or the patient's legal representative declines to designate a lay caregiver, the hospital shall document the declination in the patient's medical record and the hospital shall be deemed to be in compliance with this section.

3. If a patient or the patient's legal representative designates a lay caregiver, the hospital shall do all of the

following:

a. Record in the patient's medical record the designation of the lay caregiver, in accordance with the hospital's policies and procedures, which may include information such as the relationship of the lay caregiver to the patient, and the name, telephone number, and address of the lay caregiver.

b. (1) Request written consent from the patient or the patient's legal representative to release medical information to the lay caregiver in accordance with the hospital's established procedures for releasing a patient's personal health information and in compliance with all applicable state and federal laws.

(2) If a patient or the patient's legal representative declines to consent to the release of medical information to the lay caregiver, the hospital is not required to provide notice to the lay caregiver under section 144F.3 or to consult with or provide information contained in the patient's discharge plan to the lay caregiver under section 144F.4.

4. A patient or the patient's legal representative may change the designation of a lay caregiver if the lay caregiver becomes incapacitated.

5. The designation of an individual as a lay caregiver under this section does not obligate the individual to perform any aftercare assistance for the patient.

6. This section shall not be construed to require a patient or the patient's legal representative to designate a lay caregiver.

Sec. 3. NEW SECTION. 144F.3 Notification of lay caregiver of discharge.

If a lay caregiver is designated under section 144F.2, the hospital shall, in accordance with the hospital's established policies and procedures, attempt to notify the lay caregiver of the discharge of the patient as soon as practicable.

Sec. 4. NEW SECTION. 144F.4 Aftercare assistance instructions to lay caregiver.

1. If a lay caregiver is designated under section 144F.2, as soon as practicable prior to discharge of a patient, a hospital shall attempt to do all of the following:

a. Consult with the patient's lay caregiver to prepare the

lay caregiver for the aftercare assistance the lay caregiver may provide.

b. Issue a discharge plan that describes the aftercare assistance needs of the patient and offer to provide the lay caregiver with instructions for the aftercare assistance tasks described in the discharge plan and the opportunity for the lay caregiver to ask questions regarding such tasks.

2. The inability of a hospital to consult with a patient's lay caregiver shall not interfere with, delay, or otherwise affect the medical care provided to the patient or the patient's discharge.

Sec. 5. NEW SECTION. 144F.5 Hospital discharge process — evidence-based practices.

A hospital's discharge process may incorporate established evidence-based practices, including but not limited to any of the following:

1. The standards for accreditation adopted by the joint commission on the accreditation of health care organizations or any other nationally recognized hospital accreditation organization.

2. The conditions of participation for hospitals adopted by the centers for Medicare and Medicaid services of the United States department of health and human services.

Sec. 6. NEW SECTION. 144F.6 Construction of chapter relative to other health care directives.

Nothing in this chapter shall be construed to interfere with the authority or responsibilities of an agent operating under a valid durable power of attorney for health care pursuant to chapter 144B or of the powers and duties granted to a guardian pursuant to section 633.635.

Sec. 7. NEW SECTION. 144F.7 Limitations.

1. Nothing in this chapter shall be construed to create a private right of action against a hospital, a hospital employee, or any consultant or contractor with whom a hospital has a contractual relationship, or to limit or otherwise supersede or replace existing rights or remedies under any other provision of law.

2. Nothing in this chapter shall delay the appropriate discharge or transfer of a patient.

3. Nothing in this chapter shall be construed to interfere with or supersede a health care provider's instructions regarding a Medicare-certified home health agency or any other post-acute care provider.

4. Nothing in this chapter shall be construed to grant decision-making authority to a lay caregiver to determine the type of provider or provider of the patient's post-hospital care as specified in the patient's discharge plan.

CHARLES SCHNEIDER
President of the Senate

LINDA UPMEYER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 210, Eighty-eighth General Assembly.

W. CHARLES SMITHSON
Secretary of the Senate

Approved _____, 2019

KIM REYNOLDS
Governor