

**Senate Study Bill 1182 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
HUMAN RESOURCES BILL BY  
CHAIRPERSON MATHIS)

**A BILL FOR**

1 An Act relating to the designation of a caregiver relating to a  
2 patient's inpatient stay at a hospital.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. FINDINGS AND INTENT. The general assembly finds  
2 and declares that:

3 1. According to AARP Iowa, at any given time, an estimated  
4 540,000 Iowans provide varying degrees of unreimbursed  
5 care to adults with limitations in daily activities at some  
6 point during a year. The total value of such unpaid care to  
7 individuals in need of long-term services and supports amounts  
8 to an estimated \$4.1 billion, annually.

9 2. Caregivers are often members of the individual's  
10 immediate family, but friends and other community members also  
11 serve as caregivers. Although most caregivers are asked to  
12 assist an individual with basic activities of daily living,  
13 such as mobility, eating, and dressing, many are expected to  
14 perform complex tasks on a daily basis, such as administering  
15 multiple medications, providing wound care, and operating  
16 medical equipment.

17 3. Despite the vast importance of caregivers in the  
18 individual's day-to-day care, many caregivers find they are  
19 often left out of discussions involving a patient's care while  
20 in the hospital and, upon the patient's discharge, receive  
21 little instruction on the tasks they are expected to perform.

22 4. The centers for Medicare and Medicaid Services of the  
23 United States department of health and human services estimates  
24 that \$17 billion in Medicare funds is spent each year on  
25 unnecessary hospital readmissions. Additionally, hospitals  
26 desire to avoid the imposition of new readmission penalties  
27 under the federal Patient Protection and Affordable Care Act,  
28 Pub. L. No. 111-148, as amended by the federal Health Care and  
29 Education Reconciliation Act of 2010, Pub. L. No. 111-152.

30 5. In order to successfully address the challenges of a  
31 surging population of older adults and others living with  
32 chronic conditions and who have significant needs for long-term  
33 services and supports, the state must develop methods to enable  
34 caregivers to continue to support their loved ones at home and  
35 in the community, and avoid costly hospital readmissions.

1 6. It is the intent of the general assembly that this Act  
2 enables caregivers to provide competent post-hospital care to  
3 their family members and other loved ones, at minimal cost to  
4 the taxpayers of Iowa.

5 Sec. 2. NEW SECTION. 144E.1 **Definitions.**

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

8 1. "*After-care assistance*" means any assistance provided  
9 by a caregiver to a patient following the patient's discharge  
10 from a hospital that is related to the patient's condition  
11 at the time of discharge, including but not limited to  
12 assisting with basic activities of daily living, assisting  
13 with instrumental activities of daily living, and performing  
14 other tasks including but not limited to managing wound care,  
15 assisting in the administering of medications, and operating  
16 medical equipment, as determined to be appropriate by the  
17 patient's discharging physician or other licensed health care  
18 professional.

19 2. "*Caregiver*" means any individual designated as a  
20 caregiver by a patient who provides after-care assistance to a  
21 patient in the patient's residence. "*Caregiver*" includes but is  
22 not limited to a relative, spouse, partner, friend, or neighbor  
23 who has a significant relationship with the patient.

24 3. "*Discharge*" means a patient's exit or release from a  
25 hospital to the patient's residence following an inpatient  
26 admission.

27 4. "*Entry*" means a patient's admission into a hospital for  
28 the purposes of receiving inpatient medical care.

29 5. "*Facility*" means a health care facility as defined in  
30 section 135C.1, an elder group home as defined in section  
31 231B.1, or an assisted living program as defined in section  
32 231C.2.

33 6. "*Hospital*" means a licensed hospital as defined in  
34 section 135B.1.

35 7. "*Residence*" means the dwelling that the patient considers

1 to be the patient's home. "Residence" does not include any  
2 rehabilitation facility, hospital, nursing home, assisted  
3 living facility, or group home licensed by the department of  
4 inspections and appeals.

5 Sec. 3. NEW SECTION. 144E.2 Caregiver — opportunity to  
6 designate.

7 1. a. A hospital shall provide each patient or, if  
8 applicable, the patient's legal guardian with an opportunity  
9 to designate at least one caregiver within twenty-four hours  
10 following the patient's entry into a hospital, and prior to  
11 the patient's discharge or transfer to another hospital or  
12 facility.

13 b. If the patient is unconscious or otherwise incapacitated  
14 upon entry into the hospital, the hospital shall provide the  
15 patient or the patient's legal guardian with an opportunity to  
16 designate a caregiver within twenty-four hours following the  
17 patient's recovery of consciousness or capacity.

18 c. If the patient or legal guardian declines to designate  
19 a caregiver, the hospital shall promptly document this  
20 declination in the patient's medical record.

21 d. If the patient or the patient's legal guardian designates  
22 an individual as a caregiver, all of the following shall apply:

23 (1) The hospital shall promptly request the written consent  
24 of the patient or the patient's legal guardian to release  
25 medical information to the patient's caregiver following the  
26 hospital's established procedures for releasing personal health  
27 information and in compliance with all federal and state  
28 laws. If the patient or the patient's legal guardian declines  
29 to consent to release medical information to the patient's  
30 caregiver, the hospital shall not be required to provide notice  
31 to the caregiver under section 144E.3 or to provide information  
32 contained in the patient's discharge plan to the caregiver  
33 under section 144E.4.

34 (2) The hospital shall record the patient's designation of  
35 caregiver, the relationship of the caregiver to the patient,

1 and the name, telephone number, and address of the patient's  
2 caregiver in the patient's medical record.

3 e. A patient or the patient's legal guardian may elect to  
4 change the designation of the patient's caregiver at any time,  
5 and the hospital shall record such change in the patient's  
6 medical record within twenty-four hours and prior to the  
7 patient's discharge.

8 2. The designation of a caregiver by a patient or a  
9 patient's legal guardian does not obligate the designated  
10 individual to perform any after-care assistance for the  
11 patient.

12 3. This section shall not be construed to require a patient  
13 or a patient's legal guardian to designate any individual as a  
14 caregiver.

15 Sec. 4. NEW SECTION. 144E.3 **Notification of caregiver.**

16 A hospital shall notify the patient's caregiver of the  
17 patient's discharge or transfer to another hospital or facility  
18 as soon as possible upon issuance of a discharge or transfer  
19 order by the patient's attending physician, but no later than  
20 four hours prior to the patient's actual discharge or transfer  
21 to another hospital or facility. If the hospital is unable to  
22 contact the caregiver, the lack of contact shall not interfere  
23 with, delay, or otherwise affect the medical care provided to  
24 the patient, or an appropriate discharge or transfer of the  
25 patient.

26 Sec. 5. NEW SECTION. 144E.4 **Instructions to caregiver.**

27 1. As soon as possible and no later than twenty-four hours  
28 prior to a patient's discharge from a hospital, the hospital  
29 shall consult with the caregiver along with the patient  
30 regarding the caregiver's capabilities and limitations and  
31 issue a discharge plan that describes the patient's after-care  
32 assistance needs at the patient's residence. At a minimum, the  
33 discharge plan shall include:

34 a. The name and contact information of the caregiver.

35 b. A description of all after-care assistance tasks

1 necessary to maintain the patient's ability to reside at the  
2 patient's residence.

3 *c.* Contact information for any health care, community  
4 resource, and long-term services and supports necessary to  
5 successfully carry out the patient's discharge plan.

6 2. The hospital issuing the discharge plan shall provide  
7 a caregiver with instructions for all after-care assistance  
8 tasks described in the discharge plan. At a minimum, this  
9 instruction shall include:

10 *a.* A live demonstration of the tasks performed by an  
11 individual designated by the hospital who is authorized  
12 to perform the after-care assistance task, provided in  
13 a culturally-competent manner and in accordance with the  
14 hospital's requirements to provide language access services  
15 under state and federal law.

16 *b.* An opportunity for the caregiver to ask questions about  
17 the after-care assistance tasks.

18 *c.* Answers to the caregiver's questions provided in  
19 a culturally-competent manner and in accordance with the  
20 hospital's requirements to provide language access services  
21 under state and federal law.

22 **Sec. 6. NEW SECTION. 144E.5 Adoption of rules.**

23 The department of public health, in consultation with the  
24 department of inspections and appeals, may adopt rules pursuant  
25 to chapter 17A to administer this chapter including but not  
26 limited to rules to further define the content and scope of any  
27 instructions provided to caregivers under this chapter.

28 **Sec. 7. NEW SECTION. 144E.6 Construction of chapter**  
29 **relative to other health care directive.**

30 Nothing in this chapter shall be construed to interfere with  
31 the rights of an agent operating under a valid durable power of  
32 attorney for health care pursuant to chapter 144B.

33 **Sec. 8. NEW SECTION. 144E.7 Limitations.**

34 Nothing in this chapter shall be construed to create  
35 a private right of action against a hospital, a hospital

1 employee, or any consultant or contractor with whom a hospital  
2 has a contractual relationship, or to otherwise supersede or  
3 replace existing rights or remedies under any other provision  
4 of law.

5

EXPLANATION

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The inclusion of this explanation does not constitute agreement with

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the explanation's substance by the members of the general assembly.

8 This bill relates to the designation of a caregiver relative  
9 to an inpatient admission of a patient to a hospital to provide  
10 after-care assistance to the patient upon discharge of the  
11 patient to the patient's residence. The bill provides the  
12 findings and intent of the general assembly and definitions  
13 used in the new Code chapter 144E, including "after-care  
14 assistance", "caregiver", "discharge", "entry", "facility",  
15 "hospital", and "residence".

16 The bill requires a hospital to provide each patient or, if  
17 applicable, the patient's legal guardian, with an opportunity  
18 to designate at least one caregiver within 24 hours following  
19 the patient's entry into a hospital, and prior to the patient's  
20 discharge or transfer to another hospital or facility, and  
21 provides for situations in which the patient is unconscious or  
22 otherwise incapacitated or if the patient or patient's legal  
23 guardian declines to designate a caregiver. If a patient or  
24 patient's legal guardian designates a caregiver, the hospital  
25 is required to promptly request the written consent of the  
26 patient or the patient's legal guardian to release medical  
27 information to the patient's caregiver following the hospital's  
28 established procedures and in compliance with all federal and  
29 state laws. If the patient or the patient's legal guardian  
30 declines to consent to release medical information to the  
31 patient's caregiver, the hospital is not required to provide  
32 notification to the caregiver or to provide information  
33 contained in the patient's discharge plan to the caregiver.  
34 The hospital is required to record the patient's designation of  
35 caregiver, the relationship of the caregiver to the patient,

1 and the name, telephone number, and address of the patient's  
2 caregiver in the patient's medical record. The bill allows  
3 for a change in the caregiver designation by a patient or the  
4 patient's legal guardian at any time. The bill provides that  
5 the designation of a caregiver by a patient or a patient's  
6 legal guardian does not obligate the designated individual to  
7 perform any after-care assistance for the patient and that  
8 the provisions of the bill are not to be construed to require  
9 a patient or a patient's legal guardian to designate any  
10 individual as a caregiver.

11 Under the bill, a hospital is required to notify the  
12 patient's caregiver of the patient's discharge or transfer to  
13 another hospital or facility as soon as possible upon issuance  
14 of a discharge or transfer order by the patient's attending  
15 physician, but no later than four hours prior to the patient's  
16 actual discharge or transfer to another hospital or facility.  
17 If the hospital is unable to contact the caregiver, the lack of  
18 contact shall not interfere with, delay, or otherwise affect  
19 the medical care provided to the patient, or an appropriate  
20 discharge of the patient.

21 Under the bill, as soon as possible and no later than 24  
22 hours prior to a patient's discharge from a hospital, the  
23 hospital is required to consult with the caregiver along  
24 with the patient regarding the caregiver's capabilities  
25 and limitations and issue a discharge plan that describes  
26 the patient's after-care assistance needs at the patient's  
27 residence. The bill also requires specified minimum  
28 instructions to be provided to the caregiver.

29 The bill directs the department of public health to adopt  
30 rules, in cooperation with the department of inspections  
31 and appeals, to administer the bill. The bill is not to be  
32 construed to interfere with the rights of an agent operating  
33 under a valid durable power of attorney for health care, and  
34 is not to be construed to create a private right of action  
35 against a hospital, a hospital employee, or any consultant or



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1 contractor with whom a hospital has a contractual relationship,  
2 or to otherwise supersede or replace existing rights or  
3 remedies under any other provision of law.