

Senate File 90 - Introduced

SENATE FILE 90

BY JOCHUM

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. NEW SECTION. 144E.1 Definitions.

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

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

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

20 3. "*Discharge*" means a patient's exit or release from a
21 hospital to the patient's residence following an inpatient
22 admission.

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

25 5. "*Facility*" means a health care facility as defined in
26 section 135C.1, an elder group home as defined in section
27 231B.1, or an assisted living program as defined in section
28 231C.2.

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

31 7. "*Residence*" means the dwelling that the patient considers
32 to be the patient's home. "*Residence*" does not include any
33 rehabilitation facility, hospital, nursing home, assisted
34 living facility, or group home licensed by the department of
35 inspections and appeals.

1 Sec. 2. NEW SECTION. 144E.2 Caregiver — opportunity to
2 designate.

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

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

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

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

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

30 (2) The hospital shall record the patient's designation of
31 caregiver, the relationship of the caregiver to the patient,
32 and the name, telephone number, and address of the patient's
33 caregiver in the patient's medical record.

34 e. A patient or the patient's legal guardian may elect to
35 change the designation of the patient's caregiver at any time,

1 and the hospital shall record such change in the patient's
2 medical record prior to the patient's discharge.

3 2. The designation of a caregiver by a patient or a
4 patient's legal guardian does not obligate the designated
5 individual to perform any after-care assistance for the
6 patient.

7 3. This section shall not be construed to require a patient
8 or a patient's legal guardian to designate any individual as a
9 caregiver.

10 Sec. 3. NEW SECTION. 144E.3 **Notification of caregiver.**

11 A hospital shall notify the patient's caregiver of the
12 patient's discharge or transfer to another hospital or facility
13 as soon as possible upon issuance of a discharge or transfer
14 order by the patient's attending physician and prior to the
15 patient's actual discharge or transfer to another hospital or
16 facility. If the hospital is unable to contact the caregiver,
17 the lack of contact shall not interfere with, delay, or
18 otherwise affect the medical care provided to the patient, or
19 an appropriate discharge or transfer of the patient.

20 Sec. 4. NEW SECTION. 144E.4 **Instructions to caregiver.**

21 1. a. As soon as possible and prior to a patient's
22 discharge from a hospital, the hospital shall consult with the
23 caregiver along with the patient regarding the caregiver's
24 capabilities and limitations and issue a discharge plan that
25 describes the patient's after-care assistance needs at the
26 patient's residence. At a minimum, the discharge plan shall
27 include:

28 (1) The name and contact information of the caregiver.

29 (2) A description of all after-care assistance tasks
30 necessary to maintain the patient's ability to reside at the
31 patient's residence.

32 (3) Contact information for any health care, community
33 resource, and long-term services and supports necessary to
34 successfully carry out the patient's discharge plan.

35 b. If the hospital is unable to contact the caregiver,

1 the lack of contact shall not interfere with, delay, or
2 otherwise affect the medical care provided to the patient, or
3 an appropriate discharge or transfer of the patient.

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

8 a. A live demonstration or video instruction of the
9 after-care tasks, performed by a hospital employee or
10 an individual with whom the hospital has a contractual
11 relationship, who has the appropriate education and competency
12 in the task to be performed and is authorized to perform the
13 task, in a culturally-competent manner and in accordance with
14 the 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. 5. NEW SECTION. 144E.5 Adoption of rules.

23 The department of inspections and appeals, in consultation
24 with the department of public health, 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. 6. 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. 7. NEW SECTION. 144E.7 Limitations.

34 1. 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 limit or otherwise
3 supersede or replace existing rights or remedies under any
4 other provision of law.

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

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

11 4. Nothing in this chapter shall be construed to grant
12 decision-making authority to a caregiver to determine the type
13 of provider or provider of the patient's posthospital care as
14 specified in the patient's discharge plan.

15 EXPLANATION

16 The inclusion of this explanation does not constitute agreement with
17 the explanation's substance by the members of the general assembly.

18 This bill relates to the designation of a caregiver relative
19 to an inpatient admission of a patient to a hospital to
20 provide after-care assistance to the patient upon discharge
21 of the patient to the patient's residence. The bill provides
22 definitions used in the new Code chapter 144E, including
23 "after-care assistance", "caregiver", "discharge", "entry",
24 "facility", "hospital", and "residence".

25 The bill requires a hospital to provide each patient or, if
26 applicable, the patient's legal guardian, with an opportunity
27 to designate at least one caregiver following the patient's
28 entry into a hospital, and prior to the patient's discharge
29 or transfer to another hospital or facility, and provides for
30 situations in which the patient is unconscious or otherwise
31 incapacitated or if the patient or patient's legal guardian
32 declines to designate a caregiver. If a patient or patient's
33 legal guardian designates a caregiver, the hospital is required
34 to promptly request the written consent of the patient or the
35 patient's legal guardian to release medical information to

1 the patient's caregiver following the hospital's established
2 procedures and in compliance with all federal and state
3 laws. If the patient or the patient's legal guardian declines
4 to consent to release medical information to the patient's
5 caregiver, the hospital is not required to provide notification
6 to the caregiver or to provide information contained in the
7 patient's discharge plan to the caregiver. The hospital is
8 required to record the patient's designation of caregiver, the
9 relationship of the caregiver to the patient, and the name,
10 telephone number, and address of the patient's caregiver in
11 the patient's medical record. The bill allows for a change in
12 the caregiver designation by a patient or the patient's legal
13 guardian at any time. The bill provides that the designation
14 of a caregiver by a patient or a patient's legal guardian
15 does not obligate the designated individual to perform any
16 after-care assistance for the patient and that the provisions
17 of the bill are not to be construed to require a patient or
18 a patient's legal guardian to designate any individual as a
19 caregiver.

20 Under the bill, a hospital is required to notify the
21 patient's caregiver of the patient's discharge or transfer to
22 another hospital or facility as soon as possible upon issuance
23 of a discharge or transfer order by the patient's attending
24 physician and prior to the patient's actual discharge or
25 transfer to another hospital or facility. If the hospital is
26 unable to contact the caregiver, the lack of contact shall not
27 interfere with, delay, or otherwise affect the medical care
28 provided to the patient, or an appropriate discharge of the
29 patient.

30 Under the bill, as soon as possible and prior to a patient's
31 discharge from a hospital, the hospital is required to consult
32 with the caregiver along with the patient regarding the
33 caregiver's capabilities and limitations and issue a discharge
34 plan that describes the patient's after-care assistance needs
35 at the patient's residence. The bill also requires specified

1 minimum instructions to be provided to the caregiver.
2 The bill directs the department of inspections and appeals
3 to adopt rules, in cooperation with the department of public
4 health, to administer the bill. The bill is not to be
5 construed to interfere with the rights of an agent operating
6 under a valid durable power of attorney for health care;
7 is not to be construed to create a private right of action
8 against a hospital, a hospital employee, or any consultant or
9 contractor with whom a hospital has a contractual relationship,
10 or to otherwise supersede or replace existing rights or
11 remedies under any other provision of law; shall not delay
12 the appropriate discharge or transfer of a patient; is not
13 to be construed to interfere with or supersede a health care
14 provider's instructions regarding a Medicare-certified home
15 health agency or any other postacute care provider; and is
16 not to be construed to grant decision-making authority to a
17 caregiver to determine the type of provider or provider of
18 the patient's posthospital care as specified in the patient's
19 discharge plan.