

Senate File 84 - Introduced

SENATE FILE 84

BY SEGEBART

A BILL FOR

1 An Act providing for the designation of a lay caregiver
2 relating to a 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. 144F.1 Definitions.

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

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

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

13 3. "*Facility*" means a health care facility as defined in
14 section 135C.1, an elder group home as defined in section
15 231B.1, or an assisted living program as defined in section
16 231C.2.

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

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

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

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

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

35 Sec. 2. NEW SECTION. 144F.2 Discharge policies —

1 opportunity to designate lay caregiver.

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

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

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

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

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

33 b. (1) Request written consent from the patient or the
34 patient's legal representative to release medical information
35 to the lay caregiver in accordance with the hospital's

1 established procedures for releasing a patient's personal
2 health information and in compliance with all applicable state
3 and federal laws.

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

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

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

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

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

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

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

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

30 a. Consult with the patient's lay caregiver to prepare the
31 lay caregiver for the aftercare assistance the lay caregiver
32 may provide.

33 b. Issue a discharge plan that describes the aftercare
34 assistance needs of the patient and offer to provide the lay
35 caregiver with instructions for the aftercare assistance tasks

1 described in the discharge plan and the opportunity for the lay
2 caregiver to ask questions regarding such tasks.

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

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

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

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

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

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

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

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

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

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

35 3. Nothing in this chapter shall be construed to interfere

1 with or supersede a health care provider's instructions
2 regarding a Medicare-certified home health agency or any other
3 post-acute care provider.

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

8

EXPLANATION

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

11 This bill relates to the designation of a lay caregiver
12 relative to an inpatient stay of a patient in a hospital to
13 provide aftercare assistance to the patient upon discharge of
14 the patient to the patient's residence. The bill provides
15 definitions used in new Code chapter 144F.

16 The bill requires a hospital to adopt and maintain
17 evidence-based discharge policies and procedures that provide
18 for an assessment of the patient's ability for self-care
19 after discharge and provide the patient or, if applicable,
20 the patient's legal representative, with an opportunity to
21 designate one lay caregiver prior to the patient's discharge
22 from the hospital. The bill provides for the priority order
23 in determining who may designate a lay caregiver between
24 the patient, an agent under a durable power of attorney for
25 health care, or a guardian and provides that if a patient or
26 legal representative declines to designate a lay caregiver
27 the hospital is required to document the declination in the
28 patient's medical record and the hospital is then deemed in
29 compliance with the designation provision.

30 If a patient or the patient's legal representative
31 designates a lay caregiver, the hospital is required to
32 record the designation in the patient's medical record, and to
33 request the written consent of the patient or the patient's
34 legal representative to release medical information to the
35 lay caregiver in accordance with the hospital's established

1 procedures and in compliance with all federal and state laws.
2 If the patient or the patient's legal representative declines
3 to consent to release medical information to the lay caregiver,
4 the hospital is not required to provide notice to the lay
5 caregiver of the patient's discharge or to provide information
6 contained in the patient's discharge plan to the lay caregiver.

7 The bill allows for a change in the designation of a lay
8 caregiver by the patient or the patient's legal representative
9 if the lay caregiver becomes incapacitated. Under the bill,
10 the designation of a lay caregiver does not obligate the
11 designated individual to perform any aftercare assistance for
12 the patient and the bill is not to be construed to require a
13 patient or a patient's legal representative to designate a lay
14 caregiver.

15 Under the bill, a hospital is required to notify the
16 designated lay caregiver of the patient's discharge as soon as
17 practicable. If a lay caregiver is designated, the hospital
18 is required as soon as practicable prior to the patient's
19 discharge from a hospital, to attempt to consult with the
20 lay caregiver to prepare the lay caregiver for the aftercare
21 assistance that may be provided by the lay caregiver; and
22 to issue a discharge plan and offer to provide the lay
23 caregiver with instructions for the aftercare assistance tasks
24 described in the discharge plan and the opportunity to ask
25 questions. The inability of a hospital to consult with a lay
26 caregiver shall not interfere with, delay, or otherwise affect
27 the medical care provided to the patient or the patient's
28 discharge.

29 A hospital's discharge process adopted and maintained under
30 the bill may incorporate established evidence-based practices
31 including those specified in the bill. The bill is not to be
32 construed to interfere with the authority or responsibilities
33 of an agent operating under a valid durable power of attorney
34 for health care or with the power and duties granted a
35 guardian; or to create a private right of action against a

1 hospital, a hospital employee, or any consultant or contractor
2 with whom a hospital has a contractual relationship or to limit
3 or otherwise supersede or replace existing rights or remedies
4 under other provisions of law. Additionally, the bill shall
5 not delay the appropriate discharge or transfer of a patient;
6 shall not be construed to interfere with or supersede a health
7 care provider's instructions regarding a Medicare-certified
8 home health agency or any other post-acute care provider; and
9 shall not be construed to grant decision-making authority to a
10 lay caregiver to determine the type of provider or provider of
11 the patient's post-hospital care as specified in the patient's
12 discharge plan.