

A BILL TO BE ENTITLED

AN ACT

relating to a requirement that a hospital allow a patient to designate a caregiver to receive aftercare instruction regarding the patient.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 4, Health and Safety Code, is amended by adding Chapter 317 to read as follows:

CHAPTER 317. DESIGNATION OF CAREGIVER FOR RECEIPT OF AFTERCARE

INSTRUCTION

Sec. 317.001. DEFINITIONS. In this chapter:

(1) "Aftercare" means the assistance provided by a caregiver to a patient after the patient's discharge from a hospital, including:

(A) assisting with basic activities of daily living;

(B) assisting with instrumental activities of daily living; and

(C) carrying out medical or nursing tasks, including:

(i) wound care;

(ii) administering medications; and

(iii) operating medical equipment.

(2) "Designated caregiver" means an individual designated by a patient, including a relative, partner, friend, or

1 neighbor, who:

2 (A) is at least 18 years of age;

3 (B) has a significant relationship with the  
4 patient; and

5 (C) will provide aftercare to the patient in the  
6 patient's or caregiver's residence.

7 (3) "Discharge" means a patient's release from a  
8 hospital to the patient's or caregiver's residence following an  
9 inpatient admission.

10 (4) "Hospital" means a general or special hospital  
11 licensed under Chapter 241 or exempt from licensure under Section  
12 241.004(3).

13 (5) "Residence" means the dwelling where a person  
14 primarily resides. The term does not include a rehabilitation  
15 facility, hospital, nursing facility, assisted living facility, or  
16 group home.

17 (6) "Surrogate decision-maker" has the meaning  
18 assigned by Section 313.002.

19 Sec. 317.002. DESIGNATION OF CAREGIVER. (a) Not later than  
20 the time the patient is discharged or transferred to another  
21 facility, the hospital shall provide the patient, the patient's  
22 legal guardian, or the patient's surrogate decision-maker the  
23 opportunity to designate at least one caregiver.

24 (b) If a patient, a patient's legal guardian, or a patient's  
25 surrogate decision-maker designates a caregiver, a hospital shall  
26 promptly:

27 (1) document in the patient's medical record:

1           (A) the name, telephone number, and address of  
2 the patient's designated caregiver; and

3           (B) the relationship of the designated caregiver  
4 to the patient; and

5           (2) request written authorization from the patient,  
6 the patient's legal guardian, or the patient's surrogate  
7 decision-maker to disclose health care information to the patient's  
8 designated caregiver.

9           (c) If a patient, a patient's legal guardian, or a patient's  
10 surrogate decision-maker declines to designate a caregiver, the  
11 hospital shall promptly record in the patient's medical record that  
12 the patient, the patient's legal guardian, or the patient's  
13 surrogate decision-maker did not wish to designate a caregiver.

14           (d) If a patient, a patient's legal guardian, or a patient's  
15 surrogate decision-maker declines to give authorization to a  
16 hospital to disclose health care information to the designated  
17 caregiver, a hospital is not required to comply with Sections  
18 317.003 and 317.004.

19           (e) A patient, a patient's legal guardian, or a patient's  
20 surrogate decision-maker may change the patient's designated  
21 caregiver at any time, and the hospital must document the change in  
22 the patient's medical record.

23           (f) The designation of a person as the patient's caregiver  
24 does not obligate the person to serve as the patient's designated  
25 caregiver or to provide aftercare to the patient.

26           Sec. 317.003. NOTICE TO DESIGNATED CAREGIVER. Except as  
27 provided by Section 317.002(d), as soon as possible before a

1 patient's discharge or transfer to another facility, a hospital  
2 shall notify the designated caregiver of the patient's discharge or  
3 transfer. The inability of the hospital to contact the designated  
4 caregiver may not interfere with, delay, or otherwise affect any  
5 medical care provided to the patient or the discharge of the  
6 patient.

7 Sec. 317.004. DISCHARGE PLAN. (a) Except as provided by  
8 Section 317.002(d), as soon as possible before a patient's  
9 discharge from a hospital, the hospital shall consult with the  
10 designated caregiver and the patient regarding the designated  
11 caregiver's capabilities and limitations and issue a discharge plan  
12 that describes the patient's aftercare needs at the patient's or  
13 caregiver's residence.

14 (b) A discharge plan must include:

15 (1) the name and contact information of the designated  
16 caregiver;

17 (2) a description of each aftercare task necessary to  
18 maintain the patient's ability to reside at home or at the  
19 caregiver's home, taking into account the capabilities and  
20 limitations of the caregiver; and

21 (3) the contact information for any health care  
22 services, community resources, and long-term services and supports  
23 necessary to successfully implement the patient's discharge plan.

24 Sec. 317.005. INSTRUCTION IN AFTERCARE TASKS. (a) The  
25 hospital shall provide each designated caregiver instruction in  
26 each aftercare task described in the discharge plan under Section  
27 317.004 in a manner that is culturally competent and in accordance

1 with applicable requirements to provide language access services.

2 (b) The instruction under Subsection (a) must include:

3 (1) a live demonstration of each aftercare task that  
4 is performed by a hospital employee or a person in a contractual  
5 relationship with the hospital that is authorized by the hospital  
6 to perform the task; and

7 (2) an opportunity for the designated caregiver and  
8 patient to ask questions and receive satisfactory answers regarding  
9 the aftercare tasks.

10 (c) The hospital shall document in the patient's medical  
11 record the instruction given under Subsection (a), including the  
12 date, time, and content of the instruction.

13 Sec. 317.006. RULES. The executive commissioner of the  
14 Health and Human Services Commission shall adopt rules necessary to  
15 implement this chapter, including requirements for the content and  
16 scope of any instruction required to be provided by a hospital to a  
17 designated caregiver.

18 Sec. 317.007. RIGHTS AND REMEDIES. (a) This chapter may not  
19 be construed to:

20 (1) interfere with the rights of an agent operating  
21 under a valid advance directive in accordance with Chapter 166; or

22 (2) alter, amend, or revoke any existing right or  
23 remedy granted under any other provision of law.

24 (b) This chapter does not create a private right of action  
25 against a hospital, a hospital employee, or a person in a  
26 contractual relationship with a hospital.

27 SECTION 2. This Act takes effect immediately if it receives

H.B. No. 2157

1 a vote of two-thirds of all the members elected to each house, as  
2 provided by Section 39, Article III, Texas Constitution. If this  
3 Act does not receive the vote necessary for immediate effect, this  
4 Act takes effect September 1, 2015.