

By: Sheffield, Miller of Fort Bend, Giddings

H.B. No. 3903

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 assistance provided by a designated caregiver to a person after that person's discharge from a hospital, as described by this chapter. The term includes assistance with tasks that are related to the person's condition at the time of that person's discharge from a hospital but does not include those tasks required to be performed by a licensed health care professional.

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

(A) is at least 18 years of age;

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

(C) will provide aftercare to the patient.

1 (3) "Discharge" means a patient's release from a
2 hospital following an inpatient admission.

3 (4) "Hospital" means a general or special hospital
4 licensed under Chapter 241 or exempt from licensure under Section
5 241.004(3).

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

8 Sec. 317.002. DESIGNATION OF CAREGIVER. (a) On admission
9 to a hospital or at the time the patient is discharged or
10 transferred to another facility, the hospital shall provide the
11 patient, the patient's legal guardian, or the patient's surrogate
12 decision-maker the opportunity to designate a caregiver.

13 (b) If a patient, a patient's legal guardian, or a patient's
14 surrogate decision-maker designates a caregiver, a hospital shall:

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

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

18 (B) the relationship of the designated caregiver
19 to the patient; and

20 (2) request written authorization from the patient,
21 the patient's legal guardian, or the patient's surrogate
22 decision-maker to disclose health care information to the patient's
23 designated caregiver.

24 (c) If a patient, a patient's legal guardian, or a patient's
25 surrogate decision-maker declines to designate a caregiver, the
26 hospital shall promptly record in the patient's medical record that
27 the patient, the patient's legal guardian, or the patient's

1 surrogate decision-maker did not wish to designate a caregiver.

2 (d) If a patient, a patient's legal guardian, or a patient's
3 surrogate decision-maker declines to give authorization to a
4 hospital to disclose health care information to the designated
5 caregiver, a hospital is not required to comply with Sections
6 317.003 and 317.004.

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

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

14 Sec. 317.003. NOTICE TO DESIGNATED CAREGIVER. (a) Except
15 as provided by Section 317.002(d), as soon as possible before a
16 patient's discharge or transfer to another facility but not later
17 than the time the patient's attending physician issues a discharge
18 order, a hospital shall notify the designated caregiver of the
19 patient's discharge or transfer. The inability of the hospital to
20 contact the designated caregiver may not interfere with, delay, or
21 otherwise affect any medical care provided to the patient or the
22 discharge of the patient.

23 (b) If the hospital is unable to contact the designated
24 caregiver, the hospital shall promptly record in the patient's
25 medical record that the hospital attempted to contact the
26 designated caregiver.

27 Sec. 317.004. DISCHARGE PLAN. (a) Except as provided by

1 Section 317.002(d), as soon as possible, but not later than 24 hours
2 before a patient's discharge from a hospital, the hospital shall
3 consult with the designated caregiver and the patient regarding the
4 designated caregiver's capabilities and limitations and issue a
5 discharge plan that describes the patient's aftercare needs.

6 (b) A discharge plan must include:

7 (1) the name and contact information of the designated
8 caregiver;

9 (2) a description of the aftercare tasks included in
10 the discharge plan, taking into account the capabilities and
11 limitations of the caregiver; and

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

15 Sec. 317.005. INSTRUCTION IN AFTERCARE TASKS. (a) The
16 hospital shall provide the designated caregiver instruction in the
17 aftercare tasks described in the discharge plan under Section
18 317.004 in a manner that is culturally competent and in accordance
19 with applicable requirements to provide language access services.
20 The instruction may be provided in person or by video or other
21 technology-based method. If a hospital offers instruction using a
22 method other than in-person instruction, the designated caregiver
23 may choose the method by which the designated caregiver receives
24 the instruction.

25 (b) Training and instruction provided to a designated
26 caregiver under Subsection (a) must:

27 (1) to the extent practicable, be provided using

1 clear, nontechnical language; and

2 (2) include:

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

7 (B) an opportunity for the designated caregiver
8 and patient to ask questions and receive answers regarding the
9 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 and time the instruction was given to the patient and
13 designated caregiver.

14 Sec. 317.006. RULES. The executive commissioner of the
15 Health and Human Services Commission shall adopt rules necessary to
16 implement this chapter.

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

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

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

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

26 (c) A hospital, a hospital employee, or a person in a
27 contractual relationship with a hospital may not be held liable in

1 any way for services rendered or not rendered by a patient's
2 designated caregiver to the patient.

3 (d) A designated caregiver may not be reimbursed by a
4 government or commercial payer for aftercare assistance provided
5 under this chapter.

6 (e) Nothing in this chapter may be construed:

7 (1) to alter the obligation of an insurance company,
8 health service corporation, hospital service corporation, medical
9 service corporation, health maintenance organization, or other
10 entity issuing health benefit plans to provide coverage required
11 under a health benefit plan;

12 (2) to affect, impede, or otherwise disrupt or reduce
13 the reimbursement obligations of an insurance company, health
14 service corporation, hospital service corporation, medical service
15 corporation, health maintenance organization, or other entity
16 issuing health benefit plans; or

17 (3) to affect the time at which a patient may be
18 discharged or transferred from a hospital to another facility.

19 SECTION 2. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2015.