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H.B. No. 2425

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) "Patient" means a person that is receiving or has
7 received health care services at a hospital.

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

10 Sec. 317.0015. APPLICABILITY. This chapter applies only to
11 a patient who is:

12 (1) 18 years of age or older; or

13 (2) younger than 18 years of age who has had the
14 disabilities of minority removed.

15 Sec. 317.002. DESIGNATION OF CAREGIVER. (a) On admission
16 to a hospital or before the patient is discharged or transferred to
17 another facility, the hospital shall provide the patient, the
18 patient's legal guardian, or the patient's surrogate decision-maker
19 the opportunity to designate a caregiver.

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

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

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

25 (B) the relationship of the designated caregiver
26 to the patient; and

27 (2) request written authorization from the patient,

1 the patient's legal guardian, or the patient's surrogate
2 decision-maker to disclose health care information to the patient's
3 designated caregiver.

4 (c) If a patient, a patient's legal guardian, or a patient's
5 surrogate decision-maker declines to designate a caregiver, the
6 hospital shall promptly record in the patient's medical record that
7 the patient, the patient's legal guardian, or the patient's
8 surrogate decision-maker did not wish to designate a caregiver.

9 (d) If a patient, a patient's legal guardian, or a patient's
10 surrogate decision-maker declines to give authorization to a
11 hospital to disclose health care information to the designated
12 caregiver, a hospital is not required to comply with Sections
13 317.003 and 317.004.

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

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

21 Sec. 317.003. NOTICE TO DESIGNATED CAREGIVER. (a) Except
22 as provided by Section 317.002(d), as soon as possible before a
23 patient's discharge or transfer to another facility but not later
24 than the time the patient's attending physician issues a discharge
25 order, a hospital shall notify the designated caregiver of the
26 patient's discharge or transfer. The inability of the hospital to
27 contact the designated caregiver may not interfere with, delay, or

1 otherwise affect any medical care provided to the patient or the
2 discharge of the patient.

3 (b) If the hospital is unable to contact the designated
4 caregiver, the hospital shall promptly record in the patient's
5 medical record that the hospital attempted to contact the
6 designated caregiver.

7 Sec. 317.004. DISCHARGE PLAN. (a) Except as provided by
8 Section 317.002(d), before a patient's discharge from a hospital,
9 the hospital shall provide to the patient and designated caregiver
10 a written discharge plan that describes the patient's aftercare
11 needs.

12 (b) A discharge plan must include:

13 (1) the name and contact information of the designated
14 caregiver and the designated caregiver's relationship to the
15 patient;

16 (2) a description of the aftercare tasks that the
17 patient requires written in a manner that is culturally competent;
18 and

19 (3) the contact information for any health care
20 resources necessary to meet the patient's aftercare needs.

21 Sec. 317.005. INSTRUCTION IN AFTERCARE TASKS. Before a
22 patient's discharge from the hospital to any setting in which
23 health care services are not regularly provided to others, the
24 hospital shall provide the designated caregiver instruction and
25 training as necessary for the caregiver to perform aftercare tasks.

26 Sec. 317.006. RULES. The executive commissioner of the
27 Health and Human Services Commission shall adopt rules necessary to

1 implement this chapter.

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

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

6 (2) alter, amend, revoke, or supersede any existing
7 right or remedy granted under any other provision of law.

8 (b) This chapter does not create a private right of action
9 against:

10 (1) a hospital, a hospital employee, or a person in a
11 contractual relationship with a hospital; or

12 (2) a designated caregiver.

13 (c) A hospital, a hospital employee, or a person in a
14 contractual relationship with a hospital may not be held liable in
15 any way for services rendered or not rendered by a patient's
16 designated caregiver to the patient.

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

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

21 (1) to alter the obligation of an insurance company,
22 health service corporation, hospital service corporation, medical
23 service corporation, health maintenance organization, or other
24 entity issuing health benefit plans to provide coverage required
25 under a health benefit plan;

26 (2) to affect, impede, or otherwise disrupt or reduce
27 the reimbursement obligations of an insurance company, health

1 service corporation, hospital service corporation, medical service
2 corporation, health maintenance organization, or other entity
3 issuing health benefit plans; or

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

6 SECTION 2. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2017.