



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1298

Introduced 2/18/2015, by Sen. Chapin Rose

SYNOPSIS AS INTRODUCED:

New Act

Creates the Caregiver Advise, Record, and Enable Act. Provides that after a patient is admitted as an inpatient into a hospital and before the patient is discharged or transferred, the hospital shall provide the patient or the patient's legal representative with an opportunity to designate a caregiver. Provides that the hospital shall document the patient's designation of a caregiver. Requires the hospital to notify the patient's designated caregiver prior to the patient's discharge or transfer, unless the patient indicates that he or she does not want the designated caregiver to be notified. Requires the hospital to consult with the designated caregiver and issue a discharge plan that contains certain information. Provides that the hospital issuing the discharge plan shall make an effort to provide or arrange for the designated caregiver to receive instructions in the after-care assistance tasks described in the discharge plan. Provides that the Act shall not be construed to interfere with the rights of an agent operating under a valid health care directive and shall not be construed to create a private right of action against certain individuals and entities. Contains other provisions. Effective 180 days after becoming law.

LRB099 09289 RPS 29493 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Caregiver Advise, Record, and Enable Act.

6 Section 5. Definitions. As used in this Act:

7 "After-care" means clinical assistance to a patient
8 provided by a caregiver in the patient's residence following
9 the patient's discharge from an inpatient hospital stay that is
10 related to the patient's condition at the time of discharge, as
11 determined appropriate by the discharging physician or other
12 health care professional. Clinical assistance may include
13 activities of daily living or medication management.

14 "Caregiver" means any individual designated by a patient to
15 provide after-care to a patient. A designated caregiver may
16 include, but is not limited to, a relative, spouse, partner,
17 friend, or neighbor.

18 "Discharge" means a patient's release from a hospital to
19 the patient's residence following an inpatient admission.

20 "Hospital" means a general acute care hospital licensed
21 under the Hospital Licensing Act or the University of Illinois
22 Hospital Act.

23 "Legal representative" means a personal representative

1 having designated legal status, including an agent designated
2 through a power of attorney.

3 "Patient" means an individual admitted to a hospital as an
4 inpatient. "Patient" does not include a pediatric patient or a
5 patient who is not capable of designating a caregiver due to a
6 health care condition or other circumstances, as determined by
7 the health care provider.

8 "Residence" means a dwelling that the patient considers to
9 be the patient's home. "Residence" does not include a
10 rehabilitation facility, hospital, nursing home, assisted
11 living establishment, group home licensed by the Department of
12 Public Health or the Department of Human Services, or a
13 State-operated facility.

14 Section 10. Opportunity to designate a caregiver.

15 (a) A hospital shall provide each patient or, if
16 applicable, the patient's legal representative with an
17 opportunity to designate a caregiver following the patient's
18 admission into the hospital as an inpatient and prior to the
19 patient's discharge to the patient's residence or transfer to
20 another facility.

21 (b) In the event that a patient is unconscious or otherwise
22 incapacitated, the hospital shall provide the patient or the
23 patient's legal representative with an opportunity to
24 designate a caregiver within a timeframe deemed appropriate by
25 the attending physician or other licensed health care provider.

1 (c) If a patient or legal representative declines to
2 designate a caregiver pursuant to this Act, the hospital shall
3 document this declination in the patient's medical record and
4 has no further responsibilities under this Act.

5 (d) If a patient or the patient's legal representative
6 designates an individual as a caregiver under this Act, the
7 hospital shall record the patient's designation of caregiver,
8 the relationship of the designated caregiver to the patient,
9 and the name, telephone number, and address of the patient's
10 designated caregiver in the patient's medical record.

11 (e) A patient may elect to change his or her designated
12 caregiver at any time, and the hospital must record this change
13 in the patient's medical record and thereafter treat the newly
14 named person as the designated caregiver.

15 (f) A designation of a caregiver by a patient or the
16 patient's legal representative does not obligate any
17 individual to provide any after-care for the patient.

18 (g) This Section shall not be construed to require a
19 patient or a patient's legal representative to designate an
20 individual as a caregiver under this Act.

21 Section 15. Notice to designated caregiver. A hospital
22 shall notify a patient's designated caregiver of the patient's
23 discharge or transfer to another hospital or facility licensed
24 by the Department of Public Health as soon as possible prior to
25 the patient's actual discharge or transfer and, in any event,

1 upon issuance of a discharge order by the patient's attending
2 physician, unless the patient indicates he or she does not wish
3 the designated caregiver to be so notified. In the event the
4 hospital is unable to contact the designated caregiver, the
5 lack of contact shall not interfere with, delay, or otherwise
6 affect the medical care provided to the patient or an
7 appropriate discharge or transfer of the patient.

8 Section 20. Instruction to designated caregiver.

9 (a) As soon as possible prior to a patient's discharge from
10 a hospital to the patient's residence, the hospital shall
11 consult with the designated caregiver and issue a discharge
12 plan that describes a patient's clinical after-care assistance
13 needs, if any, at the patient's residence. The consultation and
14 issuance of a discharge plan shall occur on a schedule that
15 takes into consideration the severity of the patient's
16 condition and the urgency of the need for caregiver services.
17 In the event the hospital is unable to contact the designated
18 caregiver, the lack of contact shall not interfere with, delay,
19 or otherwise affect the medical care provided to the patient or
20 an appropriate discharge of the patient. At a minimum, the
21 discharge plan shall include:

22 (1) A description of the after-care assistance tasks
23 deemed appropriate by the discharging physician or other
24 health care professional.

25 (2) Contact information for any health care, clinical

1 community resources, and long-term services and supports
2 that may be helpful in carrying out the patient's discharge
3 plan, and contact information for an individual designated
4 by the hospital who can respond to questions about the
5 discharge plan.

6 (b) The hospital issuing the discharge plan must make an
7 effort to provide or arrange for the designated caregiver to
8 receive instructions in after-care assistance tasks described
9 in the discharge plan. Training and instructions for caregivers
10 may be conducted in person or through video technology. Any
11 training or instructions to a caregiver shall be provided in
12 non-technical language, to the extent possible. At a minimum,
13 this instruction shall include:

14 (1) A live or recorded demonstration of the tasks
15 performed by an individual designated by the hospital who
16 is authorized to perform the after-care assistance task and
17 is able to perform the demonstration in a
18 culturally-competent manner, in accordance with the
19 hospital's requirements to provide language access
20 services under State and federal law and in accordance with
21 the hospital's procedures for providing education to
22 patients and family caregivers.

23 (2) An opportunity for the caregiver to ask questions
24 about the after-care assistance tasks.

25 (3) Answers provided in a culturally competent manner
26 and in accordance with State and federal law.

1 (c) In the event the designated caregiver cannot be
2 reached, is not available, or is not willing to receive the
3 instruction, the lack of contact or instruction shall not
4 interfere with, delay, or otherwise affect an appropriate
5 discharge of the patient.

6 Section 25. Non-interference with health care directives.
7 Nothing in this Act shall be construed to interfere with the
8 rights of an agent operating under a valid health care
9 directive.

10 Section 30. No private right of action. Nothing in this Act
11 shall be construed to create a private right of action against
12 a hospital, a hospital affiliate, a hospital employee, or a
13 consultant or contractor with whom a hospital has a contractual
14 relationship.

15 A hospital, a hospital affiliate, a hospital employee, or a
16 consultant or contractor with whom a hospital has a contractual
17 relationship shall not be held liable, in any way, for services
18 rendered or not rendered by the caregiver to the patient.

19 Nothing in this Act shall delay the discharge of a patient
20 or the transfer of a patient from a hospital to another
21 facility.

22 Section 99. Effective date. This Act takes effect 180 days
23 after becoming law.