



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5402

by Rep. Katherine Cloonen

SYNOPSIS AS INTRODUCED:

New Act

Creates the Caregiver Advise, Record, and Enable Act. Provides that before a patient is discharged from a hospital and no later than 24 hours after a patient enters a hospital, the hospital shall provide the patient or the patient's legal guardian with the opportunity to designate a caregiver. Provides that the hospital shall document the patient's designation of a caregiver and shall provide instruction regarding after-care tasks to the caregiver. Requires the hospital to notify the patient's caregiver at least 4 hours before the patient is discharged. Authorizes the Department of Public Health to adopt rules relating to the implementation of the Act. Makes other changes. Effective immediately.

LRB098 17442 RPS 52543 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, the following
7 terms have the meaning given in this Section.

8 "After-care" means any assistance provided by a caregiver
9 to a patient after the patient's discharge from a hospital.
10 After-care may include, but is not limited to, assisting with
11 basic activities of daily living (ADLs), assisting with
12 instrumental activities of daily living (IADLs), or carrying
13 out medical or nursing tasks, such as managing wound care,
14 assisting in administering medications, and operating medical
15 equipment.

16 "Caregiver" means any individual who provides after-care
17 to a patient living in his or her residence and is duly
18 designated as a caregiver by a patient. A designated caregiver
19 may include, but is not limited to, a relative, partner,
20 friend, or neighbor who has a significant relationship with the
21 patient.

22 "Discharge" means a patient's exit or release from a
23 hospital to the patient's residence following any medical care,

1 treatment, or observation.

2 "Entry into a hospital" means a patient's entrance into a
3 hospital for the purposes of medical care, treatment, or
4 observation. For purposes of this Act, "entry into a hospital"
5 does not require that a patient be formally admitted to a
6 hospital.

7 "Hospital" means a facility licensed under the Hospital
8 Licensing Act.

9 "Residence" means a dwelling that the patient considers to
10 be his or her home. A "residence" does not include any
11 rehabilitation facility, hospital, nursing home, assisted
12 living establishment, or group home licensed by the Department
13 of Public Health.

14 Section 10. Opportunity to designate caregiver.

15 (a) Before any patient is discharged or transferred to
16 another facility, but no later than 24 hours after a patient's
17 entry into a hospital, the hospital shall provide the patient
18 or the patient's legal guardian with at least one opportunity
19 to designate one or more caregivers under this Act.

20 (1) If a patient is unconscious or otherwise
21 incapacitated upon his or her entry into a hospital, the
22 hospital shall provide the patient or the patient's legal
23 guardian with an opportunity to designate a caregiver
24 within 24 hours following the patient's recovery of his or
25 her consciousness or capacity.

1 (2) If a patient or the patient's legal guardian
2 declines to designate a caregiver under this Act, the
3 hospital shall promptly document in the patient's medical
4 record that the patient or the patient's legal guardian
5 declined to designate a caregiver.

6 (3) If a patient or the patient's legal guardian
7 designates an individual as a caregiver under this Act:

8 (A) the hospital shall promptly request the
9 written consent of the patient or the patient's legal
10 guardian to release medical information to the
11 patient's designated caregiver following the
12 hospital's established procedures for releasing
13 personal health information and in compliance with all
14 State and federal laws; and

15 (B) the hospital shall record the patient's
16 designation of caregiver, the relationship of the
17 designated caregiver to the patient, and the name,
18 telephone number, and address of the patient's
19 designated caregiver in the patient's medical record.

20 (4) If a patient or the patient's legal guardian
21 declines to consent to the release of medical information
22 to the patient's designated caregiver, then the hospital is
23 not required to provide notice to the caregiver under
24 Section 15 of this Act or provide information contained in
25 the patient's discharge plan under Section 20 of this Act.

26 (5) A patient may elect to change his or her designated

1 caregiver at any time, and the hospital must record this
2 change in the patient's medical record within 24 hours of
3 the change.

4 (b) A designation of a caregiver by the patient or the
5 patient's legal guardian under this Section does not obligate
6 any individual to provide any after-care for the patient.

7 (c) This Section shall not be construed to require a
8 patient or a patient's legal guardian to designate any
9 individual as a caregiver under this Act.

10 Section 15. Notice to designated caregiver. A hospital
11 shall notify a patient's designated caregiver of the patient's
12 discharge or transfer to another hospital or facility licensed
13 by the Department of Public Health as soon as possible, but no
14 later than 4 hours prior to the patient's actual discharge or
15 transfer to that facility.

16 Section 20. Instruction to designated caregiver.

17 (a) As soon as possible but no later than 24 hours prior to
18 a patient's discharge from a hospital, the hospital shall
19 consult with the designated caregiver regarding the
20 caregiver's capabilities and limitations and shall issue a
21 discharge plan that describes the patient's after-care needs at
22 his or her residence.

23 (1) At minimum, a discharge plan shall include:

24 (A) the name and contact information of the

1 caregiver designated under this Act;

2 (B) a description of all after-care necessary to
3 maintain the patient's ability to reside at home,
4 taking into account the capabilities and limitations
5 of the caregiver; and

6 (C) contact information for any health care
7 providers, community resources, and long-term services
8 and supports necessary to successfully carry out the
9 patient's discharge plan.

10 (b) The hospital that issues the discharge plan must
11 provide caregivers with instruction in all after-care
12 described in the discharge plan.

13 (1) At minimum, the instruction shall include:

14 (A) a live demonstration of the after-care tasks
15 performed by a hospital employee authorized to perform
16 each after-care task, provided in a culturally
17 competent manner and in accordance with the hospital's
18 requirements to provide language access services under
19 State and federal law;

20 (B) an opportunity for the caregiver to ask
21 questions about the after-care; and

22 (C) answers to the caregiver's questions provided
23 in a culturally competent manner and in accordance with
24 the hospital's requirements to provide language access
25 services under State and federal law.

26 (2) Any instruction provided under this Act shall be

1 documented in the patient's medical record, including, but
2 not limited to, documentation of the date, time, and
3 contents of the instruction.

4 (c) The Department of Public Health is authorized to adopt
5 rules to implement the provisions of this Act, including, but
6 not limited to, rules to further define the content and scope
7 of any instruction provided to caregivers under this Act.

8 Section 25. Non-interference with powers of existing
9 health care directives. Nothing in this Act shall be construed
10 to interfere with the rights of an agent operating under a
11 valid health care directive that was in existence prior to a
12 patient's entry into a hospital.

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.