

ACT 69

H.B. NO. 2252

A Bill for an Act Relating to Discharge Planning.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

**“CHAPTER
HOSPITAL DISCHARGE PLANNING – DESIGNATION OF A
CAREGIVER**

§ -1 Definitions. As used in this chapter:

“After-care” means any assistance provided by a caregiver to a patient following the patient’s discharge from a hospital that is related to the patient’s condition at the time of discharge, including but not limited to assisting with basic activities of daily living, instrumental activities of daily living, and other tasks determined to be appropriate by the discharging physician or other health care professional licensed pursuant to chapter 453 or 457.

“Caregiver” means any individual duly designated by a patient to provide after-care to the patient in the patient’s residence. The term includes but is not limited to a relative, spouse, partner, friend, or neighbor who has a significant relationship with the patient.

“Contact information” means name, phone number, electronic mail address, and address of residence, where available.

“Discharge” means a patient’s exit or release from a hospital to the patient’s residence following any medical care or treatment rendered to the patient following an inpatient admission.

“Entry” means a patient’s entrance into a hospital for the purpose of receiving inpatient medical care.

“Hospital” means a facility licensed under section 321-14.5, excluding children’s hospitals and specialty hospitals.

“Patient” means an individual admitted to a hospital for inpatient treatment.

“Residence” means a dwelling that the patient considers to be the patient’s home and shall not include any residential facility, treatment facility, or home licensed or certified by the department of health under chapter 321, or a private residence used for commercial purposes to care for dependent individuals.

§ -2 Designation of a caregiver. (a) Each hospital shall adopt and maintain a written discharge policy or policies that include the following components:

- (1) Each patient is provided an opportunity to designate a caregiver, to be included in the patient’s electronic health record;
- (2) Each patient and the patient’s designated caregiver are given the opportunity to participate in the discharge planning;
- (3) Each patient and the patient’s designated caregiver are given the opportunity to receive instruction, prior to discharge, related to the patient’s after-care needs; and
- (4) Each patient’s caregiver is notified of the patient’s discharge or transfer. A hospital shall make reasonable attempts to notify the patient’s caregiver of the patient’s discharge to the patient’s residence as soon as practicable. In the event that the hospital is unable to contact the designated caregiver, the lack of contact shall not interfere with, delay, or otherwise affect the medical care provided to the patient or an appropriate discharge of the patient.

(b) The discharge policy or policies shall specify the requirements for documenting:

- (1) The caregiver who is designated by the patient; and
 - (2) The caregiver’s contact information.
- (c) The discharge policy or policies shall also incorporate one of the following:

- (1) Standards for accreditation adopted by The Joint Commission or other nationally recognized hospital accreditation organizations; or
- (2) The conditions of participation for hospitals adopted by the Centers for Medicare and Medicaid Services.

(d) This section does not require hospitals to adopt discharge policies that would:

- (1) Delay a patient’s discharge or transfer to another facility; or
- (2) Require the disclosure of protected health information without obtaining the patient’s consent as required by state and federal laws governing health information privacy and security.

§ -3 Non-interference with existing health care directives. Nothing in this chapter shall be construed to interfere with the rights of an agent operating under a valid health care directive under section 327E-3 or confer upon the caregiver any authority to make health care decisions on behalf of the patient unless the caregiver is designated as an agent in a health care directive under section 327E-3.

§ -4 Limitation of liability. (a) Nothing in this chapter shall be construed to give rise to a private cause of action against a hospital, hospital employee, or a consultant or contractor that has a contractual relationship with a hospital.

(b) A hospital, hospital employee, or a consultant or contractor that has a contractual relationship with a hospital shall not be held liable for the services rendered or not rendered by a caregiver to a patient at the patient's residence.

§ -5 Preservation of coverage. Nothing in this chapter shall be construed to remove the obligation of a third-party payer to cover a health care item or service that the third-party payer is obligated to provide to a patient under the terms of a valid agreement, insurance policy, plan, or certification of coverage or health maintenance organization contract.”

SECTION 2. This Act shall take effect on July 1, 2017.

(Approved June 16, 2016.)