

JAN 22 2016

A BILL FOR AN ACT

RELATING TO DISCHARGE PLANNING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that hospitals in Hawaii
2 follow strict, comprehensive guidelines mandated by the federal
3 government called conditions of participation. In order to
4 receive funding from federal programs such as medicare and
5 medicaid, hospitals must agree to a significant number of these
6 conditions of participation, including discharge planning
7 requirements. If a hospital is found to be non-compliant with
8 any of these conditions of participation, it would lose its
9 eligibility to receive funding from these federal programs and,
10 consequently, lose a substantial amount of revenue and the
11 ability to continue to remain in operation.

12 The legislature further finds that one of the significant
13 conditions of participation that hospitals must follow relates
14 to discharge planning. Among other things, hospitals must
15 assess and consider the unique preferences and needs of patients
16 and their caregivers when developing a discharge plan.
17 Hospitals are also responsible for helping to arrange after-care



1 services, including setting up appointments with the patient's
2 primary care doctor, specialists, or other special services.

3 The legislature additionally finds that, in November 2015,
4 the federal government proposed updates to the conditions of
5 participation relating to discharge planning codified in title
6 42 Code of Federal Regulations section 482.43 that will add
7 significant new tasks for hospitals to carry out in order to
8 remain compliant. The estimated cost of additional nursing time
9 needed for Hawaii hospitals to implement the proposed changes is
10 approximately \$23,000,000.

11 The legislature also finds that hospital staff must have
12 flexibility in order to tailor each discharge plan to the unique
13 needs and preferences of their patients and their patients'
14 families.

15 The purpose of this Act is to complement the federal
16 discharge planning requirements that hospitals follow by
17 allowing admitted inpatients to designate a caregiver, provide
18 written and oral instructions to designated caregivers prior to
19 discharge, and requiring hospitals to notify designated
20 caregivers prior to a patient's discharge or transfer.



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 "CHAPTER

5 HOSPITAL DISCHARGE PLANNING - DESIGNATION OF A CAREGIVER

6 § -1 Definitions. As used in this chapter:

7 "After-care" means any assistance provided by a caregiver
8 to a patient following the patient's discharge from a hospital
9 that is related to the patient's condition at the time of
10 discharge, including but not limited to assisting with basic
11 activities of daily living, instrumental activities of daily
12 living, and other tasks as determined to be appropriate by the
13 discharging physician or other health care professional licensed
14 pursuant to chapter 453 or 457.

15 "Caregiver" means any individual duly designated by a
16 patient to provide after-care to the patient in the patient's
17 residence. The term includes but is not limited to a relative,
18 spouse, partner, friend, or neighbor who has a significant
19 relationship with the patient.

20 "Contact information" means name, phone number, electronic
21 mail address, and address of residence, where available.



1 "Discharge" means a patient's exit or release from a
2 hospital to the patient's residence following any medical care
3 or treatment rendered to the patient following an inpatient
4 admission.

5 "Entry" means a patient's entrance into a hospital for the
6 purpose of receiving inpatient medical care.

7 "Hospital" means a facility licensed under section 321-
8 14.5, excluding children's hospitals and specialty hospitals.

9 "Patient" means an individual admitted to a hospital for
10 inpatient treatment who has been evaluated by the hospital as
11 likely to suffer adverse health consequences upon discharge if
12 there is no adequate discharge planning.

13 "Residence" means a dwelling that the patient considers to
14 be the patient's home and shall not include any residential
15 facility, treatment facility, or home licensed or certified by
16 the department of health under chapter 321, or a private
17 residence used for commercial purposes to care for dependent
18 individuals.

19 § -2 Designation of a caregiver. (a) Each hospital
20 shall adopt and maintain a written discharge policy or policies
21 that include the following components:



- 1 (1) Each patient is provided an opportunity to designate a
2 caregiver, to be included in the patient's electronic
3 health record;
- 4 (2) Each patient and the patient's designated caregiver
5 are given the opportunity to participate in the
6 discharge planning;
- 7 (3) Each patient and the patient's designated caregiver
8 are given the opportunity to receive instruction,
9 prior to discharge, related to the patient's after-
10 care needs; and
- 11 (4) Each patient's caregiver is notified of the patient's
12 discharge or transfer. A hospital shall make
13 reasonable attempts to notify the patient's caregiver
14 of the patient's discharge to the patient's residence
15 as soon as practicable. In the event that the
16 hospital is unable to contact the designated
17 caregiver, the lack of contact shall not interfere
18 with, delay, or otherwise affect the medical care
19 provided to the patient or an appropriate discharge of
20 the patient.



1 (b) The discharge policy or policies must specify the
2 requirements for documenting:

- 3 (1) The caregiver who is designated by the patient; and
- 4 (2) The caregiver's contact information.

5 (c) The discharge policy or policies shall incorporate
6 established, evidence-based practices, including but not limited
7 to:

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

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

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



1 § -3 **Non-interference with existing health care**
2 **directives.** Nothing in this chapter shall be construed to
3 interfere with the rights of an agent operating under a valid
4 health care directive under section 327E-3 or confer upon the
5 caregiver any authority to make healthcare decisions on behalf
6 of the patient unless the caregiver is designated as an agent in
7 a health care directive under section 327E-3.

8 § -4 **Limitation of liability.** (a) Nothing in this
9 chapter shall be construed to give rise to a private cause of
10 action against a hospital, hospital employee, or a consultant or
11 contractor that has a contractual relationship with a hospital.

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

16 § -5 **Preservation of coverage.** Nothing in this chapter
17 shall be construed to remove the obligation of a third-party
18 payer to cover a healthcare item or service that the third-party
19 payer is obligated to provide to a patient under the terms of a
20 valid agreement, insurance policy, plan, or certification of
21 coverage or health maintenance organization contract."



S.B. NO. 2397

1 SECTION 3. This Act shall take effect on July 1, 2017.

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S.B. NO. 2397

Report Title:

Hospital Discharge Planning; Caregiver Designation; Health Care

Description:

Requires hospitals to adopt and maintain discharge policies, consistent with recent updates to federal regulations, to ensure that patients continue to receive necessary care after leaving the hospital. Effective July 1, 2017.

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