February 3, 2016

TO: House Health and Human Services Committee

FROM: Chad Austin, Sr. Vice President Government Relations
Deborah F. Stern, Sr. Vice President Clinical Services and General Counsel

RE: House Bill 2058 Care Act

The Kansas Hospital Association appreciates the opportunity to provide testimony in opposition to House Bill 2058 which would require hospitals to perform certain functions related to lay caregivers.

This proposed legislation, which appears to require new ways of treating and communicating with patients and their caregivers, is duplicative of the many standards and regulations already in place in Kansas hospitals. These include the Medicare/Medicaid Conditions of Participation and The Joint Commission standards for hospital licensure. Persons not associated with the health care field may not be aware that these hospital standards exist.

For example, any Kansas hospital wishing to be reimbursed for treating Medicare and Medicaid patients must meet federal requirements known as Conditions of Participation along with their accompanying Interpretive Guidelines. The Centers for Medicare and Medicaid Services (CMS) developed these Conditions of Participation (Conditions) and state surveyors, working under the direction of the Kansas Department of Health and Environment, use the Conditions of Participation as the basis of all hospital surveys. A hospital failing to meet these Conditions, can have their ability to participate in the Medicare program and collect Medicaid payments put on hold, or cancelled until the Condition is satisfactorily met. These health and safety standards are the foundation for improving quality and protecting the health and safety of beneficiaries.

HB 2058 repeats many of the provisions already included in CMS' Conditions of Participation. Like HB 2058, the Conditions require a hospital to begin discharge planning for inpatients preferably when the patient is admitted, or at least 48 hours in advance of the patient's discharge. In the Conditions and Interpretive Guidelines, the discharge planning process and the requirements regarding patient caregivers are clearly delineated and mimic the provisions outlined in HB 2058. The Conditions and Guidelines address discharge planning and follow-up care, patient self- care and others providing care to the patient after discharge, documenting discharge communications in the medical record, evaluating and identifying care givers that can assist the patient, and involving both the patient and any caregivers in the discharge planning process.

Below is a brief portion of the Conditions/Interpretive Guidelines:

- The discharge planning process is a collaborative one that must include the participation of the patient and the patient's informal caregiver or representative, when applicable. In addition, other family or support persons who will be providing care to the patient after discharge need to be engaged in the process. Keeping the patient, and, when applicable, the patient's representative and other support persons informed throughout the development of the plan is essential for its success. Providing them with information on post-discharge options, what to expect after discharge and, as applicable, instruction and training in how to provide care is essential.
- The results of the discharge planning evaluation must be discussed with the patient or the patient's representative. Documentation of this communication must be included in the medical record, including if the patient rejects the results of the evaluation. It is not necessary for the hospital to obtain a signature from the patient (or the patient's representative, as applicable) documenting the discussion.

- If the patient is not able to provide some or all of the required self-care, the evaluation must also address whether the patient has family or friends available who are willing and able to provide the required care at the times it will be needed, or who could, if willing, be trained by the hospital sufficiently to provide the required care.
- The patient or the patient's representative must be actively engaged in the development of the plan, so that the discussion of the evaluation results represents a continuation of this active engagement.
- Accordingly, hospitals are expected to engage the patient, or the patient's representative, actively in the development of the discharge evaluation, not only as a source of information required for the assessment of self-care capabilities, but also to incorporate the patient's goals and preferences as much as possible into the evaluation.

KHA has met with representatives of AARP on several occasions and we understand their position of trying to improve the care that patients receive related to the discharge planning process. We understand that a significant balloon amendment will be presented to the Committee and we have worked with AARP to mold portions of this revised bill. Even with changes to the bill, however, our member hospitals are not in consensus with having legislation on this issue and many feel that it is duplicative of current regulations.

We have found that mandating certain actions through legislation does not necessarily bred success. Instead of legislation, KHA has offered to work with AARP to provide education to our hospitals about the importance of thorough discharge planning and providing adequate care instructions to the patient and his or her representative.

In summary, we understand the position of those supporting HB 2058, but strongly assert that the requirements of the bill are already part of the standards and regulations currently used by hospitals along with consequences for non-compliance. There are other ways to meet AARP's goal. For the reasons provided herein, KHA requests that you oppose this legislation.

Thank you for your consideration of our comments.

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