

SENATE BILL No. 68

By Committee on Public Health and Welfare

1-23

1 AN ACT concerning health and healthcare; relating to hospitals; enacting
2 the Kansas lay caregiver act.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. (a) This section shall be known and may be cited as the
6 Kansas lay caregiver act.

7 (b) As used in this section:

8 (1) "Aftercare" means assistance that:

9 (A) Is provided by a caregiver to an eligible patient after discharge of
10 the patient from a hospital;

11 (B) is related to the condition of the patient at the time of discharge;
12 and

13 (C) does not require professional licensure pursuant to chapter 65 of
14 the Kansas Statutes Annotated, and amendments thereto, in order to
15 perform the assistance.

16 (2) "Caregiver" means an individual who:

17 (A) Is 16 years of age or older;

18 (B) has a significant relationship with the patient, including, but not
19 limited to, next of kin, partner, friend or neighbor;

20 (C) provides aftercare to an individual; and

21 (D) is identified by the patient, or the patient's legal guardian, as a
22 person who is involved with the healthcare of the patient.

23 (3) "Discharge" means the release of a patient from hospital care to
24 the residence or another location identified by the patient or legal guardian
25 as the temporary residence of the patient following an inpatient admission.

26 (4) "Hospital" means the same as defined by K.S.A. 65-425, and
27 amendments thereto.

28 (5) "Legal guardian" means an individual who is appointed by a court
29 to make decisions regarding the healthcare of a patient.

30 (6) "Patient" means an individual who has been admitted to a hospital
31 for inpatient care.

32 (7) "Residence" means the dwelling that the patient considers to be
33 the home of the patient, but does not include any rehabilitative facility,
34 hospital, nursing home, assisted living facility, group home or any other
35 healthcare facility licensed by the department of health and environment.

36 (c) (1) A hospital shall provide each patient, or the patient's legal

1 guardian, with an opportunity to designate a caregiver following the
2 patient's admission into the hospital and prior to the discharge of the
3 patient.

4 (2) Prior to discharge, a patient may elect to change the patient's
5 designated caregiver in the event that the original designated caregiver
6 becomes unavailable, unwilling or unable to care for the patient.

7 (3) Nothing in this section shall be construed to require an individual
8 that has been designated as a caregiver by a patient to accept the role of
9 caregiver.

10 (4) Nothing in this section shall be construed to require a patient to
11 designate a caregiver.

12 (5) A hospital shall be deemed to have complied in full with the
13 requirements of this subsection if the patient or the patient's legal
14 guardian.:

15 (A) Declines to designate a caregiver when given the opportunity; or

16 (B) objects to the disclosure of medical information to the caregiver
17 regarding the patient.

18 (d) (1) If a patient has designated a caregiver, the hospital shall notify
19 the designated caregiver concerning the discharge or transfer of the patient
20 to another licensed facility as soon as practicable prior to discharge or
21 transfer.

22 (2) In the event that the hospital is unable to contact the designated
23 caregiver, such lack of contact shall not interfere with, delay or otherwise
24 affect the medical care or appropriate discharge provided to the patient,
25 consultation with the caregiver or discharge instructions.

26 (3) As soon as practicable prior to the discharge of the patient, the
27 hospital shall attempt to consult with the designated caregiver to prepare
28 the caregiver to provide aftercare for the patient. The hospital shall provide
29 the designated caregiver and the patient an opportunity to ask questions
30 during the consultation.

31 (4) At or before discharge, the hospital shall:

32 (A) Provide the caregiver with any discharge instructions for the
33 patient, including any aftercare needs of the patient; and

34 (B) educate the caregiver concerning the aftercare of the patient in a
35 manner that is consistent with current accepted practices, based on the
36 learning needs of the caregiver and that allows the caregiver the
37 opportunity to ask questions about any aftercare tasks.

38 (5) In the event that the hospital is unable to contact the designated
39 caregiver, such lack of contact shall not interfere with, delay or otherwise
40 affect an appropriate discharge of the patient.

41 (e) This section shall not be construed to:

42 (1) Confer upon a caregiver any authority to make healthcare
43 decisions on behalf of a patient;

1 (2) create a private right of action against a hospital, hospital
2 employee or duly authorized agent of the hospital for any acts or
3 omissions pursuant to this section, including any acts or omissions by a
4 caregiver; or

5 (3) remove the obligation of a third-party payer to cover a healthcare
6 item or service that the third-party payer is obligated to provide to a patient
7 under the terms of a valid agreement, insurance policy, plan, certification
8 of coverage or health maintenance organization contract.

9 Sec. 2. This act shall take effect and be in force from and after its
10 publication in the statute book.