

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 1536

By: Crain, Shortey and Allen of
the Senate

3

and

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Wright of the House

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[designated caregivers - hospital patients -
notation in medical records - discharge plans to
caregivers - exceptions - codification - effective
date]

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12 AUTHORS: Add the following House Coauthors: Pittman, Shelton,
Hulbert, DeWitt, Echols, Scott and Blackwell

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14 AUTHOR: Add the following Senate Coauthor: Johnson (Constance)

15 AMENDMENT NO. 1. Strike the stricken title, enacting clause and
entire bill and insert

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"An Act relating to designated caregivers; providing
definitions; permitting hospital patients to
designate certain caregivers; requiring patient
consent; requiring certain notation in medical
records; permitting modifications to caregiver
designations; prohibiting certain construction;
requiring certain notices to caregivers; requiring
hospital to consult with caregiver to prepare for
aftercare and to issue discharge plan; providing for
circumstances in which hospital is unable to contact
caregiver; prohibiting certain construction;
prohibiting use of state or federal funds for
payment of caregivers; prohibiting impact on state

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1 or federal funds; providing for codification; and
2 providing an effective date.

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4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5 SECTION 1. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3112 of Title 63, unless there
7 is created a duplication in numbering, reads as follows:

8 For the purposes of Sections 2 through 6 of this act:

9 1. "Aftercare" means any assistance provided by a designated
10 lay caregiver to an individual under this act after the patient's
11 discharge from a hospital. Such assistance may include tasks that
12 are limited to the patient's condition at the time of discharge that
13 do not require a licensed professional;

14 2. "Discharge" means a patient's exit or release from a
15 hospital to the patient's residence following any inpatient stay;

16 3. "Hospital" means a facility licensed pursuant to the
17 provisions of Section 1-701 et seq. of Title 63 of the Oklahoma
18 Statutes;

19 4. "Lay caregiver" means any individual eighteen (18) years of
20 age or older, including next of kin, duly designated as a lay
21 caregiver pursuant to the provisions of this act who provides
22 aftercare assistance to a patient in the patient's residence; and

23 5. "Residence" means a dwelling considered by a patient to be
24 his or her home, not including any hospital as defined by Section 1-

1 701 et seq. of Title 63 of the Oklahoma Statutes, nursing home or
2 group home as defined by the Long-Term Care Reform and
3 Accountability Act of 2001, or assisted living facility as defined
4 by the Continuum of Care and Assisted Living Act.

5 SECTION 2. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3113 of Title 63, unless there
7 is created a duplication in numbering, reads as follows:

8 A. Hospitals shall provide each patient or the patient's legal
9 guardian with an opportunity to designate one lay caregiver
10 following the patient's admission into a hospital and prior to the
11 patient's discharge to the patient's residence:

12 1. In the event the patient is unconscious or otherwise
13 incapacitated upon admission to the hospital, the hospital shall
14 provide the patient's legal guardian with an opportunity to
15 designate a lay caregiver following the patient's recovery of
16 consciousness or capacity, so long as the designation or lack of a
17 designation does not interfere with, delay or otherwise affect the
18 medical care provided to the patient.

19 2. In the event the patient or the patient's legal guardian
20 declines to designate a lay caregiver under this act, the hospital
21 shall promptly document such in the patient's medical record, and
22 the hospital shall be deemed to comply with the provisions of this
23 act.

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1 3. In the event that the patient or the patient's legal
2 guardian designates an individual as a lay caregiver under this act,
3 the hospital shall promptly request the written consent of the
4 patient or the patient's legal guardian to release medical
5 information to the patient's designated lay caregiver pursuant to
6 the hospital's established procedures for releasing personal health
7 information and in compliance with applicable state and federal law.

8 4. If the patient or the patient's legal guardian declines to
9 consent to the release of medical information to the patient's
10 designated lay caregiver, the hospital is not required to provide
11 notice to the lay caregiver pursuant to the provisions of Section 3
12 of this act.

13 5. The hospital shall record the patient's designation of a lay
14 caregiver, the relationship of the lay caregiver to the patient, and
15 the name, telephone number, and physical address of the patient's
16 designated lay caregiver in the patient's medical record.

17 B. A patient may elect to change his or her designated lay
18 caregiver in the event that the lay caregiver becomes incapacitated.

19 C. Designation of a lay caregiver by a patient or a patient's
20 legal guardian pursuant to the provisions of this act does not
21 obligate any individual to perform any aftercare tasks for the
22 patient.

1 D. This section shall not be construed so as to require a
2 patient or a patient's legal guardian to designate any individual as
3 a lay caregiver as defined by this act.

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 3114 of Title 63, unless there
6 is created a duplication in numbering, reads as follows:

7 If a patient has designated a lay caregiver, a hospital shall
8 notify the patient's designated lay caregiver of the patient's
9 discharge to the patient's residence or transfer to another licensed
10 facility as soon as practicable. In the event the hospital is
11 unable to contact the designated lay caregiver, the lack of contact
12 shall not interfere with, delay or otherwise affect the medical care
13 provided to the patient, or an appropriate discharge of the patient.

14 SECTION 4. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 3115 of Title 63, unless there
16 is created a duplication in numbering, reads as follows:

17 As soon as practicable, the hospital shall attempt to consult
18 with the designated lay caregiver to prepare him or her for
19 aftercare and issue a discharge plan describing a patient's
20 aftercare needs. In the event the hospital is unable to contact the
21 designated lay caregiver, the lack of contact shall not interfere
22 with, delay or otherwise affect an appropriate discharge of the
23 patient.

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1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3116 of Title 63, unless there
3 is created a duplication in numbering, reads as follows:

4 A. Nothing in this act shall be construed to interfere with the
5 rights of a person legally authorized to make health care decisions
6 as defined in paragraph 4 of Section 3090.2 of Title 63 of the
7 Oklahoma Statutes.

8 B. Nothing in this act shall be construed to create a private
9 right of action against a hospital, hospital employee, a duly
10 authorized agent of the hospital, or otherwise supersede or replace
11 existing rights or remedies under any other general or special law.

12 SECTION 6. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 3117 of Title 63, unless there
14 is created a duplication in numbering, reads as follows:

15 No state or federal dollars shall be used for payment to any lay
16 caregiver as defined in this act after discharge from a hospital.
17 No state or federal program funding shall be impacted by this act.

18 SECTION 7. This act shall become effective November 1, 2014."
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