

1 ENGROSSED SENATE
2 BILL NO. 1536

By: Crain, Shortey and Allen of
the Senate

3 and

4 Wright of the House

5
6
7 [designated caregivers - hospital patients -
8 notation in medical records - discharge plans to
9 caregivers - exceptions - codification - effective
10 date]

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

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

15 For the purposes of Sections 2 through 5 of this act:

16 1. "After-care" means any assistance provided by a designated
17 caregiver to an individual under this act after the patient's
18 discharge from a hospital. Such assistance may include, but shall
19 not be limited to, assistance with basic activities of daily living,
20 instrumental activities of daily living, carrying out
21 medical/nursing tasks, such as managing wound care, assisting in
22 administering medications, and operation of medical equipment;

23 2. "Caregiver" means any individual eighteen (18) years of age
24 or older, including next of kin, duly designated as a caregiver

1 pursuant to the provisions of this act who provides after-care
2 assistance to a patient residing in the patient's own home;

3 3. "Discharge" means a patient's exit or release from a
4 hospital to the patient's residence following any medical care,
5 treatment, or observation;

6 4. "Entry" means a patient's entrance into a hospital for the
7 purposes of medical care, treatment, or observation. A patient need
8 not to be formally admitted to a hospital to meet the provisions of
9 this definition for the purposes of this act;

10 5. "Hospital" means a facility licensed pursuant to the
11 provisions of Section 1-701 et seq. of Title 63 of the Oklahoma
12 Statutes; and

13 6. "Residence" means a dwelling considered by a patient to be
14 his or her home, not including any hospital as defined by Section 1-
15 701 et seq. of Title 63 of the Oklahoma Statutes, nursing home or
16 group home as defined by the Long-Term Care Reform and
17 Accountability Act of 2001, or assisted living facility as defined
18 by the Continuum of Care and Assisted Living Act.

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

22 A. Hospitals shall provide each patient or the patient's legal
23 guardian with an opportunity to designate at least one caregiver no
24 later than twenty-four (24) hours following the patient's entry into

1 a hospital and prior to the patient's discharge or transfer to
2 another facility.

3 1. In the event the patient is unconscious or otherwise
4 incapacitated upon entry to the hospital, the hospital shall provide
5 the patient or the patient's legal guardian with an opportunity to
6 designate a caregiver within twenty-four (24) hours following the
7 patient's recovery of consciousness or capacity.

8 2. In the event the patient or the patient's legal guardian
9 declines to designate a caregiver under this act, the hospital shall
10 promptly document such in the patient's medical record.

11 3. In the event that the patient or the patient's legal
12 guardian designates an individual as a caregiver under this act, the
13 hospital shall promptly request the written consent of the patient
14 or the patient's legal guardian to release medical information to
15 the patient's designated caregiver pursuant to the hospital's
16 established procedures for releasing personal health information and
17 in compliance with applicable state and federal law.

18 4. If the patient or the patient's legal guardian declines to
19 consent to the release of medical information to the patient's
20 designated caregiver, the hospital is not required to provide notice
21 to the caregiver pursuant to the provisions of Section 3 of this
22 act; and

23 5. The hospital shall record the patient's designation of a
24 caregiver, the relationship of the caregiver to the patient, and the

1 name, telephone number, and physical address of the patient's
2 designated caregiver in the patient's medical record.

3 B. A patient may elect to change his or her designated
4 caregiver at any time. Any requested change shall be recorded in
5 the patient's medical record by the hospital within twenty-four (24)
6 hours.

7 C. Designation of a caregiver by a patient or a patient's legal
8 guardian pursuant to the provisions of this act does not obligate
9 any individual to perform any after-care tasks for the patient.

10 D. This section shall not be construed so as to require a
11 patient or a patient's legal guardian to designate any individual as
12 a caregiver as defined by this act.

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

16 A hospital shall notify the patient's designated caregiver of
17 the patient's discharge or transfer to another licensed facility as
18 soon as practicable and prior to the patient's actual discharge or
19 transfer to such facility.

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

23 A. Prior to a patient's discharge from a hospital, the hospital
24 shall consult with the designated caregiver regarding the

1 caregiver's capabilities and limitations and issue a discharge plan
2 describing a patient's after-care needs at the patient's residence.

3 At a minimum, the discharge plan shall include:

4 1. The name and contact information of the designated
5 caregiver;

6 2. A description of all after-care tasks necessary to maintain
7 the patient's ability to reside at the patient's residence, taking
8 into account the capabilities and limitations of the caregiver; and

9 3. Contact information for any health care provider or other
10 community resources necessary to successfully administer the
11 patient's discharge plan.

12 B. 1. The facility issuing the discharge plan shall provide
13 the caregiver with an opportunity to receive instruction in all
14 after-care tasks described in the discharge plan. At a minimum,
15 such instruction shall include:

16 a. a live demonstration of the tasks to be performed, by
17 a hospital employee authorized to perform the after-
18 care task, and

19 b. an opportunity for the caregiver to inquire about
20 after-care tasks and answers to questions posed by the
21 caregiver; and

22 2. Any instruction required under this act shall be documented
23 in the patient's medical record, including the date and time
24 instruction was offered to the caregiver and notation of whether the

1 caregiver accepted, refused, or failed to respond to the offer of
2 instruction.

3 C. The State Board of Health may promulgate and adopt rules
4 necessary to implement the provisions of this act.

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

8 Nothing in this act shall be construed to interfere with the
9 rights of an agent operating under a valid advance directive for
10 health care as provided for in Section 3101.4 of Title 63 of the
11 Oklahoma Statutes, provided that any advance directive for health
12 care claimed to be in conflict with the provisions of this act must
13 be operative prior to the patient's entry into the hospital.

14 SECTION 6. This act shall become effective November 1, 2014.

15 Passed the Senate the 18th day of February, 2014.

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Presiding Officer of the Senate

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19 Passed the House of Representatives the ____ day of _____,

20 2014.

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Presiding Officer of the House
of Representatives

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