

An Act

ENROLLED SENATE
BILL NO. 1536

By: Crain, Shortey, Allen and
Johnson (Constance) of the
Senate

and

Wright, Pittman, Shelton,
Hulbert, DeWitt, Echols,
Scott and Blackwell of the
House

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

SUBJECT: Designated caregivers

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Passed the Senate the 5th day of May, 2014.

Presiding Officer of the Senate

Passed the House of Representatives the 24th day of April, 2014.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____