

HOUSE BILL 1277

J3, J1

6lr1479
CF SB 336

By: **Delegates Cullison, Angel, Kelly, Kipke, McMillan, Miele, Morgan, Oaks, Pena-Melnyk, Saab, Sample-Hughes, West, ~~and K. Young~~ K. Young, Hammen, Barron, Bromwell, Hayes, Hill, Krebs, McDonough, Morhaim, Pendergrass, and Rose**

Introduced and read first time: February 12, 2016

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2016

CHAPTER _____

1 AN ACT concerning

2 **Hospitals – Designation of Lay Caregivers**

3 FOR the purpose of requiring a hospital to provide a patient or the legal guardian of the
4 patient with an opportunity to designate a certain lay caregiver before the patient is
5 discharged from the hospital; requiring a hospital to document a certain decision by
6 a certain patient or the legal guardian of the patient in the patient's medical record;
7 providing that a hospital shall be deemed to be in compliance with this Act under
8 certain circumstances; requiring a hospital to record certain information in a
9 patient's medical record; requiring a hospital to request the written consent of a
10 patient or the legal guardian of the patient to release certain medical information;
11 providing that a hospital, under certain circumstances, is not required to provide
12 certain notice required under a certain provision of this Act or to consult with or
13 provide certain information to a certain lay caregiver; authorizing a patient or the
14 legal guardian of a patient to change the designation of a certain lay caregiver under
15 certain circumstances; providing that a designation of a certain lay caregiver does
16 not obligate an individual to perform certain aftercare; providing that certain
17 provisions of this Act may not be construed to require a patient or the legal guardian
18 of the patient to designate a certain lay caregiver; requiring a hospital to notify a
19 certain lay caregiver of the discharge of a patient or the transfer of a patient to
20 another hospital or a certain facility as soon as practicable; requiring a hospital, as
21 soon as practicable before discharge, to consult with a certain lay caregiver and issue
22 a certain discharge plan; providing that the inability of a hospital to consult with a

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 certain lay caregiver may not interfere with, delay, or otherwise affect certain
 2 medical care or a patient's discharge; authorizing a hospital's discharge process to
 3 incorporate certain standards of accreditation and certain Conditions of
 4 Participation; prohibiting the use of certain federal or State funds for a certain
 5 purpose; providing that no federal or State program funding may be impacted by this
 6 Act; providing for the construction of this Act; defining certain terms; and generally
 7 relating to hospitals and the designation of lay caregivers.

8 BY repealing and reenacting, without amendments,
 9 Article – Health – General
 10 Section 19–301(a) and (f)
 11 Annotated Code of Maryland
 12 (2015 Replacement Volume)

13 BY adding to
 14 Article – Health – General
 15 Section 19–380 through 19–385 to be under the new part “Part XI. Designation of
 16 Lay Caregivers”
 17 Annotated Code of Maryland
 18 (2015 Replacement Volume)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 20 That the Laws of Maryland read as follows:

21 **Article – Health – General**

22 19–301.

23 (a) In this subtitle the following words have the meanings indicated.

24 (f) “Hospital” means an institution that:

25 (1) Has a group of at least 5 physicians who are organized as a medical
 26 staff for the institution;

27 (2) Maintains facilities to provide, under the supervision of the medical
 28 staff, diagnostic and treatment services for 2 or more unrelated individuals; and

29 (3) Admits or retains the individuals for overnight care.

30 **19–378. RESERVED.**

31 **19–379. RESERVED.**

32 **PART XI. DESIGNATION OF LAY CAREGIVERS.**

33 **19–380.**

1 (A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS
2 INDICATED.

3 (B) (1) "AFTERCARE" MEANS ANY ASSISTANCE PROVIDED BY A LAY
4 CAREGIVER TO A PATIENT AFTER DISCHARGE OF THE PATIENT.

5 (2) "AFTERCARE" INCLUDES TASKS THAT ARE LIMITED TO THE
6 PATIENT'S CONDITION AT THE TIME OF DISCHARGE THAT DO NOT REQUIRE A
7 LICENSED PROFESSIONAL.

8 (C) "DISCHARGE" MEANS THE EXIT OR RELEASE OF A PATIENT FROM
9 INPATIENT CARE IN A HOSPITAL TO THE RESIDENCE OF THE PATIENT.

10 (D) "LAY CAREGIVER" MEANS AN INDIVIDUAL WHO:

11 (1) IS AN ADULT;

12 (2) IS DESIGNATED AS A LAY CAREGIVER BY A PATIENT OR THE LEGAL
13 GUARDIAN OF A PATIENT UNDER THIS PART; AND

14 (3) PERFORMS AFTERCARE FOR THE PATIENT AT THE RESIDENCE OF
15 THE PATIENT.

16 (E) (1) "RESIDENCE" MEANS A DWELLING THAT A PATIENT CONSIDERS
17 TO BE HOME.

18 (2) "RESIDENCE" DOES NOT INCLUDE:

19 (I) A REHABILITATION FACILITY;

20 (II) A HOSPITAL;

21 (III) A NURSING HOME;

22 (IV) AN ASSISTED LIVING FACILITY; OR

23 (V) A GROUP HOME LICENSED BY THE STATE.

24 19-381.

25 (A) A HOSPITAL SHALL PROVIDE A PATIENT OR THE LEGAL GUARDIAN OF A
26 PATIENT WITH AN OPPORTUNITY TO DESIGNATE ONE LAY CAREGIVER BEFORE
27 DISCHARGE OF THE PATIENT.

1 **(B) IF A PATIENT OR THE LEGAL GUARDIAN OF A PATIENT DECLINES TO**
2 **DESIGNATE A LAY CAREGIVER:**

3 **(1) THE HOSPITAL SHALL DOCUMENT THE DECISION IN THE**
4 **PATIENT'S MEDICAL RECORD; AND**

5 **(2) THE HOSPITAL SHALL BE DEEMED TO BE IN COMPLIANCE WITH**
6 **THE PROVISIONS OF THIS PART.**

7 **(C) IF A PATIENT OR THE LEGAL GUARDIAN OF A PATIENT DESIGNATES A**
8 **LAY CAREGIVER, THE HOSPITAL SHALL:**

9 **(1) RECORD IN THE PATIENT'S MEDICAL RECORD:**

10 **(I) THE DESIGNATION OF THE LAY CAREGIVER;**

11 **(II) THE RELATIONSHIP OF THE LAY CAREGIVER TO THE**
12 **PATIENT; AND**

13 **(III) THE NAME, TELEPHONE NUMBER, AND ADDRESS OF THE**
14 **LAY CAREGIVER; AND**

15 **(2) REQUEST THE WRITTEN CONSENT OF THE PATIENT OR THE LEGAL**
16 **GUARDIAN OF THE PATIENT TO RELEASE MEDICAL INFORMATION TO THE LAY**
17 **CAREGIVER IN ACCORDANCE WITH:**

18 **(I) THE PROCEDURES OF THE HOSPITAL FOR RELEASING**
19 **PERSONAL HEALTH INFORMATION; AND**

20 **(II) ALL APPLICABLE FEDERAL AND STATE LAWS.**

21 **(D) IF A PATIENT OR THE LEGAL GUARDIAN OF A PATIENT DECLINES TO**
22 **CONSENT TO THE RELEASE OF MEDICAL INFORMATION TO THE LAY CAREGIVER, THE**
23 **HOSPITAL IS NOT REQUIRED TO:**

24 **(1) PROVIDE TO THE LAY CAREGIVER THE NOTICE REQUIRED UNDER**
25 **§ 19-382 OF THIS PART; OR**

26 **(2) CONSULT WITH THE LAY CAREGIVER OR PROVIDE TO THE LAY**
27 **CAREGIVER INFORMATION CONTAINED IN THE DISCHARGE PLAN ISSUED UNDER §**
28 **19-383 OF THIS PART.**

1 **(E) A PATIENT OR THE LEGAL GUARDIAN OF A PATIENT MAY CHANGE THE**
2 **DESIGNATION OF A LAY CAREGIVER IN THE EVENT THE LAY CAREGIVER BECOMES**
3 **INCAPACITATED.**

4 **(F) A DESIGNATION OF A LAY CAREGIVER BY A PATIENT OR THE LEGAL**
5 **GUARDIAN OF A PATIENT UNDER THIS SECTION DOES NOT OBLIGATE AN INDIVIDUAL**
6 **TO PERFORM ANY AFTERCARE FOR THE PATIENT.**

7 **(G) THIS SECTION MAY NOT BE CONSTRUED TO REQUIRE A PATIENT OR THE**
8 **LEGAL GUARDIAN OF A PATIENT TO DESIGNATE A LAY CAREGIVER.**

9 **19-382.**

10 **IF A PATIENT OR THE LEGAL GUARDIAN OF A PATIENT HAS DESIGNATED A LAY**
11 **CAREGIVER UNDER § 19-381 OF THIS PART, THE HOSPITAL SHALL NOTIFY THE LAY**
12 **CAREGIVER OF THE DISCHARGE OF THE PATIENT OR THE TRANSFER OF THE**
13 **PATIENT TO ANOTHER HOSPITAL OR FACILITY LICENSED BY THE STATE AS SOON AS**
14 **PRACTICABLE.**

15 **19-383.**

16 **(A) AS SOON AS PRACTICABLE BEFORE DISCHARGE OF A PATIENT, A**
17 **HOSPITAL SHALL ATTEMPT TO:**

18 **(1) CONSULT WITH THE PATIENT'S LAY CAREGIVER TO PREPARE THE**
19 **LAY CAREGIVER FOR AFTERCARE; AND**

20 **(2) ISSUE A DISCHARGE PLAN THAT DESCRIBES THE AFTERCARE**
21 **NEEDS OF THE PATIENT.**

22 **(B) THE INABILITY OF A HOSPITAL TO CONSULT WITH A PATIENT'S**
23 **DESIGNATED LAY CAREGIVER MAY NOT INTERFERE WITH, DELAY, OR OTHERWISE**
24 **AFFECT THE MEDICAL CARE PROVIDED TO THE PATIENT OR THE PATIENT'S**
25 **DISCHARGE.**

26 **19-384.**

27 **A HOSPITAL'S DISCHARGE PROCESS MAY INCORPORATE ESTABLISHED**
28 **EVIDENCE-BASED PRACTICES, INCLUDING THOSE DESCRIBED IN:**

29 **(1) STANDARDS FOR ACCREDITATION ADOPTED BY THE JOINT**
30 **COMMISSION OR ANOTHER NATIONALLY RECOGNIZED HOSPITAL ACCREDITATION**
31 **ORGANIZATION; AND**

(2) THE CONDITIONS OF PARTICIPATION FOR HOSPITALS ADOPTED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES.

19-385.

(A) THIS PART MAY NOT BE CONSTRUED TO:

(1) AFFECT THE RIGHTS OF AN AGENT TO MAKE HEALTH CARE DECISIONS UNDER TITLE 5, SUBTITLE 6 OF THIS ARTICLE; OR

(2) CREATE A PRIVATE RIGHT OF ACTION AGAINST A HOSPITAL, A HOSPITAL EMPLOYEE, OR A DULY AUTHORIZED AGENT OF A HOSPITAL, OR OTHERWISE SUPERSEDE OR REPLACE EXISTING RIGHTS OR REMEDIES UNDER ANY OTHER STATE OR FEDERAL LAW.

(B) NO FEDERAL OR STATE:

(1) FUNDS MAY BE USED FOR PAYMENT OF A LAY CAREGIVER; AND

(2) PROGRAM FUNDING MAY BE IMPACTED BY THIS PART.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2016.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.