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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 210

01/15/2015 Authored by Zerwas, Schoen, Hamilton, Loon, Liebling and others
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to health care; requiring a hospital to provide a patient the opportunity to
1.3 designate a caregiver upon entry to the hospital; requiring a hospital to provide
1.4 a discharge plan and aftercare instructions to a designated caregiver prior to
1.5 discharge; proposing coding for new law in Minnesota Statutes, chapter 144.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. [144.6522] DESIGNATION OF A CAREGIVER.

1.8 Subdivision 1. **Definitions.** For purposes of this section:

1.9 (a) "Hospital" means a facility licensed under sections 144.50 to 144.56.

1.10 (b) "Aftercare" means any assistance provided to a patient in the patient's residence
1.11 by a caregiver designated by the patient in accordance with this section after the patient's
1.12 discharge from a hospital. Assistance may include, but is not limited to, assisting with
1.13 basic activities of daily living (ADLs), instrumental activities of daily living (IADLs),
1.14 or carrying out medical or nursing tasks, such as managing wound care, assisting in
1.15 administering medications, and operating medical equipment.

1.16 (c) "Designated caregiver" means any individual 18 years of age or older who is
1.17 designated as a caregiver by a patient to provide aftercare assistance in the patient's
1.18 residence to the patient after the patient's discharge from a hospital. A designated
1.19 caregiver may include, but is not limited to, a relative, partner, friend, or neighbor who
1.20 has a relationship with the patient.

1.21 (d) "Discharge" means a patient's exit or release from a hospital to the patient's
1.22 residence following an inpatient admission.

1.23 (e) "Entry" means a patient's admission to a hospital for the purposes of inpatient
1.24 medical care.

2.1 (f) "Residence" means a dwelling that the patient considers to be the patient's home.
2.2 For the purposes of this section, a residence does not include a rehabilitation facility,
2.3 hospital, nursing facility, or other health care or residential facility.

2.4 Subd. 2. **Opportunity to designate a caregiver.** (a) A hospital shall provide each
2.5 patient or, if applicable, the patient's legal guardian with an opportunity to designate at least
2.6 one caregiver no later than 24 hours upon the patient's entry into a hospital and before the
2.7 patient is discharged from the hospital or transferred to another health care facility. If the
2.8 patient is unconscious or otherwise incapacitated upon entry into the hospital, the hospital
2.9 shall provide the patient or the patient's legal guardian with an opportunity to designate a
2.10 caregiver within 24 hours following the patient's recovery of consciousness or capacity.

2.11 (b) If the patient or the patient's legal guardian designates an individual as a
2.12 caregiver, the hospital shall record the patient's designation of caregiver, the relationship
2.13 of the designated caregiver to the patient, and the name, telephone number, and address
2.14 of the patient's designated caregiver in the patient's medical record. If the patient or the
2.15 patient's legal guardian declines to designate a caregiver, the hospital shall document this
2.16 in the patient's medical record.

2.17 (c) If the patient designates a caregiver, the hospital shall request the written
2.18 consent of the patient or the patient's legal guardian to release medical information to the
2.19 designated caregiver following the hospital's established procedures for releasing personal
2.20 health information and in compliance with all federal and state laws. If the patient or
2.21 the patient's legal guardian declines to consent to the release of medical information to
2.22 the patient's designated caregiver, the hospital is not required to provide notice to the
2.23 designated caregiver under subdivision 3 or provide information contained in the patient's
2.24 discharge plan under subdivision 4.

2.25 (d) A patient may elect to change their designated caregiver at any time, and the
2.26 hospital shall record the change in the patient's medical record within 24 hours.

2.27 (e) A designation of a caregiver by a patient or a patient's legal guardian does not
2.28 obligate the designated caregiver to perform any aftercare tasks for the patient.

2.29 Subd. 3. **Notice to designated caregiver.** (a) A hospital shall notify the patient's
2.30 designated caregiver of the patient's discharge or transfer to another hospital or health care
2.31 facility after the patient's physician issues a discharge or transfer order, but no later than
2.32 four hours prior to the patient's actual discharge or transfer to another health care facility.

2.33 (b) Failure to contact a designated caregiver or failure of the designated caregiver to
2.34 be present at the hospital to receive the discharge plan and aftercare instructions described
2.35 in subdivision 4, shall not interfere with or delay the discharge or transfer of the patient
2.36 so long as the hospital has made a good faith effort to contact the designated caregiver

3.1 within the required time period. The hospital shall document the efforts made to contact
3.2 the designated caregiver in the patient's medical record.

3.3 (c) This subdivision shall not apply if the patient is transferred to another health
3.4 care facility due to an emergency situation.

3.5 **Subd. 4. Discharge plan and aftercare instructions to designated caregiver.** (a)
3.6 Prior to a patient's discharge from the hospital to the patient's residence, the hospital shall
3.7 consult with the designated caregiver and the patient, and issue a discharge plan that
3.8 describes the patient's aftercare needs and instructions for all aftercare tasks described in
3.9 the discharge plan.

3.10 (b) At a minimum, a discharge plan must include:

3.11 (1) the name and contact information of the designated caregiver;

3.12 (2) a description of and instructions for all aftercare tasks necessary to maintain the
3.13 patient's ability to reside at home, taking into account the capabilities and limitations of
3.14 the designated caregiver;

3.15 (3) contact information for any health care, community resources, and long-term
3.16 services and supports necessary to successfully carry out the patient's discharge plan; and

3.17 (4) contact information of a hospital employee who can respond to questions about
3.18 the discharge plan and instructions that are required to be provided under this subdivision
3.19 after the patient has been discharged.

3.20 (c) At a minimum, the instructions for aftercare tasks included in the discharge
3.21 plan must include:

3.22 (1) a live demonstration or video instruction of the aftercare tasks performed by a
3.23 hospital employee or individual with whom the hospital has a contractual relationship
3.24 authorized to perform the task, in a culturally competent manner and in accordance with the
3.25 hospital's requirements to provide language access services under state and federal law; and

3.26 (2) an opportunity for the designated caregiver and patient to ask questions about
3.27 the aftercare tasks, and to provide answers to any questions in a culturally competent
3.28 manner and in accordance with the hospital's requirements to provide language access
3.29 services under state and federal law.

3.30 (d) The hospital shall document the discharge plan and a description of the
3.31 instructions provided in the patient's medical record, including, at a minimum, the date,
3.32 time, and content of the instructions provided.

3.33 **Subd. 5. Limitations.** (a) Nothing in this section shall be construed to create a
3.34 private right of action against a hospital, a hospital employee, or an individual with whom
3.35 a hospital has a contractual relationship, or to otherwise supersede or replace existing
3.36 rights or remedies under any other provision of state or federal law.

4.1 (b) Nothing in this section shall be construed to require a patient or a patient's legal
4.2 guardian to designate a caregiver.

4.3 (c) Nothing in this section shall be construed to interfere with the powers of an agent
4.4 operating under a valid health care directive under chapter 145C.

4.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.