

SENATE BILL 336

J3, J1

6lr1478
CF 6lr1479

By: **Senators Kelley, Astle, Benson, Feldman, Klausmeier, Middleton, and Pugh**
Introduced and read first time: January 27, 2016
Assigned to: Finance

A BILL ENTITLED

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 to
14 change the designation of a certain lay caregiver under certain circumstances;
15 providing that a designation of a certain lay caregiver does not obligate an individual
16 to perform certain aftercare; providing that certain provisions of this Act may not be
17 construed to require a patient or the legal guardian of the patient to designate a
18 certain lay caregiver; requiring a hospital to notify a certain lay caregiver of the
19 discharge of a patient or the transfer of a patient to another hospital or a certain
20 facility as soon as practicable; requiring a hospital, as soon as practicable before
21 discharge, to consult with a certain lay caregiver and issue a certain discharge plan;
22 providing that the inability of a hospital to consult with a certain lay caregiver may
23 not interfere with, delay, or otherwise affect certain medical care or a patient's
24 discharge; authorizing a hospital's discharge process to incorporate certain
25 standards of accreditation and certain Conditions of Participation; prohibiting the
26 use of certain federal or State funds for a certain purpose; providing that no federal
27 or State program funding may be impacted by this Act; providing for the construction
28 of this Act; defining certain terms; and generally relating to hospitals and the
29 designation of lay caregivers.

30 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Health – General
 2 Section 19–301(a) and (f)
 3 Annotated Code of Maryland
 4 (2015 Replacement Volume)

5 BY adding to
 6 Article – Health – General
 7 Section 19–380 through 19–385 to be under the new part “Part XI. Designation of
 8 Lay Caregivers”
 9 Annotated Code of Maryland
 10 (2015 Replacement Volume)

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

13 **Article – Health – General**

14 19–301.

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

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

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

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

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

22 **19–378. RESERVED.**

23 **19–379. RESERVED.**

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

25 **19–380.**

26 (A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS
 27 INDICATED.

28 (B) (1) “AFTERCARE” MEANS ANY ASSISTANCE PROVIDED BY A LAY
 29 CAREGIVER TO A PATIENT AFTER DISCHARGE OF THE PATIENT.

1 **(2) “AFTERCARE” INCLUDES TASKS THAT ARE LIMITED TO THE**
2 **PATIENT’S CONDITION AT THE TIME OF DISCHARGE THAT DO NOT REQUIRE A**
3 **LICENSED PROFESSIONAL.**

4 **(C) “DISCHARGE” MEANS THE EXIT OR RELEASE OF A PATIENT FROM**
5 **INPATIENT CARE IN A HOSPITAL TO THE RESIDENCE OF THE PATIENT.**

6 **(D) “LAY CAREGIVER” MEANS AN INDIVIDUAL WHO:**

7 **(1) IS AN ADULT;**

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

10 **(3) PERFORMS AFTERCARE FOR THE PATIENT AT THE RESIDENCE OF**
11 **THE PATIENT.**

12 **(E) (1) “RESIDENCE” MEANS A DWELLING THAT A PATIENT CONSIDERS**
13 **TO BE HOME.**

14 **(2) “RESIDENCE” DOES NOT INCLUDE:**

15 **(I) A REHABILITATION FACILITY;**

16 **(II) A HOSPITAL;**

17 **(III) A NURSING HOME;**

18 **(IV) AN ASSISTED LIVING FACILITY; OR**

19 **(V) A GROUP HOME LICENSED BY THE STATE.**

20 **19-381.**

21 **(A) A HOSPITAL SHALL PROVIDE A PATIENT OR THE LEGAL GUARDIAN OF A**
22 **PATIENT WITH AN OPPORTUNITY TO DESIGNATE ONE LAY CAREGIVER BEFORE**
23 **DISCHARGE OF THE PATIENT.**

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

26 **(1) THE HOSPITAL SHALL DOCUMENT THE DECISION IN THE**
27 **PATIENT’S MEDICAL RECORD; AND**

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

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

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

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

7 **(II) THE RELATIONSHIP OF THE LAY CAREGIVER TO THE**
8 **PATIENT; AND**

9 **(III) THE NAME, TELEPHONE NUMBER, AND ADDRESS OF THE**
10 **LAY CAREGIVER; AND**

11 **(2) REQUEST THE WRITTEN CONSENT OF THE PATIENT OR THE LEGAL**
12 **GUARDIAN OF THE PATIENT TO RELEASE MEDICAL INFORMATION TO THE LAY**
13 **CAREGIVER IN ACCORDANCE WITH:**

14 **(I) THE PROCEDURES OF THE HOSPITAL FOR RELEASING**
15 **PERSONAL HEALTH INFORMATION; AND**

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

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

20 **(1) PROVIDE TO THE LAY CAREGIVER THE NOTICE REQUIRED UNDER**
21 **§ 19-382 OF THIS PART; OR**

22 **(2) CONSULT WITH THE LAY CAREGIVER OR PROVIDE TO THE LAY**
23 **CAREGIVER INFORMATION CONTAINED IN THE DISCHARGE PLAN ISSUED UNDER §**
24 **19-383 OF THIS PART.**

25 **(E) A PATIENT MAY CHANGE THE DESIGNATION OF A LAY CAREGIVER IN THE**
26 **EVENT THE LAY CAREGIVER BECOMES INCAPACITATED.**

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

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

3 **19-382.**

4 **IF A PATIENT OR THE LEGAL GUARDIAN OF A PATIENT HAS DESIGNATED A LAY**
5 **CAREGIVER UNDER § 19-381 OF THIS PART, THE HOSPITAL SHALL NOTIFY THE LAY**
6 **CAREGIVER OF THE DISCHARGE OF THE PATIENT OR THE TRANSFER OF THE**
7 **PATIENT TO ANOTHER HOSPITAL OR FACILITY LICENSED BY THE STATE AS SOON AS**
8 **PRACTICABLE.**

9 **19-383.**

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

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

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

16 **(B) THE INABILITY OF A HOSPITAL TO CONSULT WITH A PATIENT'S**
17 **DESIGNATED LAY CAREGIVER MAY NOT INTERFERE WITH, DELAY, OR OTHERWISE**
18 **AFFECT THE MEDICAL CARE PROVIDED TO THE PATIENT OR THE PATIENT'S**
19 **DISCHARGE.**

20 **19-384.**

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

23 **(1) STANDARDS FOR ACCREDITATION ADOPTED BY THE JOINT**
24 **COMMISSION OR ANOTHER NATIONALLY RECOGNIZED HOSPITAL ACCREDITATION**
25 **ORGANIZATION; AND**

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

28 **19-385.**

29 **(A) THIS PART MAY NOT BE CONSTRUED TO:**

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

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

7 **(B) NO FEDERAL OR STATE:**

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

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

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