

---

**SUBSTITUTE HOUSE BILL 2424**

---

**State of Washington**

**64th Legislature**

**2016 Regular Session**

**By** House Health Care & Wellness (originally sponsored by Representatives Tharinger, Johnson, Cody, Harris, Rodne, Riccelli, Jinkins, Walkinshaw, Moeller, Springer, and McBride)

1 AN ACT Relating to hospital discharge planning with lay  
2 caregivers; amending RCW 70.41.320; reenacting and amending RCW  
3 70.41.020; and adding new sections to chapter 70.41 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.41.020 and 2015 c 23 s 5 are each reenacted and  
6 amended to read as follows:

7 Unless the context clearly indicates otherwise, the following  
8 terms, whenever used in this chapter, shall be deemed to have the  
9 following meanings:

10 (1) "Aftercare" means the assistance provided by a lay caregiver  
11 to a patient under this chapter after the patient's discharge from a  
12 hospital. The assistance may include, but is not limited to,  
13 assistance with activities of daily living, wound care, medication  
14 assistance, and the operation of medical equipment. "Aftercare"  
15 includes assistance only for conditions that were present at the time  
16 of the patient's discharge from the hospital. "Aftercare" does not  
17 include:

18 (a) Assistance related to conditions for which the patient did  
19 not receive medical care, treatment, or observation in the hospital;  
20 or

1        (b) Tasks the performance of which requires licensure as a health  
2 care provider.

3        (2) "Department" means the Washington state department of health.

4        ~~((+2))~~ (3) "Discharge" means a patient's release from a hospital  
5 following the patient's admission to the hospital.

6        (4) "Distant site" means the site at which a physician or other  
7 licensed provider, delivering a professional service, is physically  
8 located at the time the service is provided through telemedicine.

9        ~~((+3))~~ (5) "Emergency care to victims of sexual assault" means  
10 medical examinations, procedures, and services provided by a hospital  
11 emergency room to a victim of sexual assault following an alleged  
12 sexual assault.

13        ~~((+4))~~ (6) "Emergency contraception" means any health care  
14 treatment approved by the food and drug administration that prevents  
15 pregnancy, including but not limited to administering two increased  
16 doses of certain oral contraceptive pills within seventy-two hours of  
17 sexual contact.

18        ~~((+5))~~ (7) "Hospital" means any institution, place, building, or  
19 agency which provides accommodations, facilities and services over a  
20 continuous period of twenty-four hours or more, for observation,  
21 diagnosis, or care, of two or more individuals not related to the  
22 operator who are suffering from illness, injury, deformity, or  
23 abnormality, or from any other condition for which obstetrical,  
24 medical, or surgical services would be appropriate for care or  
25 diagnosis. "Hospital" as used in this chapter does not include  
26 hotels, or similar places furnishing only food and lodging, or simply  
27 domiciliary care; nor does it include clinics, or physician's offices  
28 where patients are not regularly kept as bed patients for twenty-four  
29 hours or more; nor does it include nursing homes, as defined and  
30 which come within the scope of chapter 18.51 RCW; nor does it include  
31 birthing centers, which come within the scope of chapter 18.46 RCW;  
32 nor does it include psychiatric hospitals, which come within the  
33 scope of chapter 71.12 RCW; nor any other hospital, or institution  
34 specifically intended for use in the diagnosis and care of those  
35 suffering from mental illness, intellectual disability, convulsive  
36 disorders, or other abnormal mental condition. Furthermore, nothing  
37 in this chapter or the rules adopted pursuant thereto shall be  
38 construed as authorizing the supervision, regulation, or control of  
39 the remedial care or treatment of residents or patients in any  
40 hospital conducted for those who rely primarily upon treatment by

1 prayer or spiritual means in accordance with the creed or tenets of  
2 any well recognized church or religious denominations.

3 ~~((+6))~~ (8) "Lay caregiver" means any individual designated as  
4 such by a patient under this chapter who provides aftercare  
5 assistance to a patient in the patient's residence. "Lay caregiver"  
6 does not include a long-term care worker as defined in RCW  
7 74.39A.009.

8 (9) "Originating site" means the physical location of a patient  
9 receiving health care services through telemedicine.

10 ~~((+7))~~ (10) "Person" means any individual, firm, partnership,  
11 corporation, company, association, or joint stock association, and  
12 the legal successor thereof.

13 ~~((+8))~~ (11) "Secretary" means the secretary of health.

14 ~~((+9))~~ (12) "Sexual assault" has the same meaning as in RCW  
15 70.125.030.

16 ~~((+10))~~ (13) "Telemedicine" means the delivery of health care  
17 services through the use of interactive audio and video technology,  
18 permitting real-time communication between the patient at the  
19 originating site and the provider, for the purpose of diagnosis,  
20 consultation, or treatment. "Telemedicine" does not include the use  
21 of audio-only telephone, facsimile, or email.

22 ~~((+11))~~ (14) "Victim of sexual assault" means a person who  
23 alleges or is alleged to have been sexually assaulted and who  
24 presents as a patient.

25 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.41  
26 RCW to read as follows:

27 (1) In addition to the requirements in RCW 70.41.320, hospital  
28 discharge policies must ensure that the discharge plan is appropriate  
29 for the patient's physical condition, emotional and social needs,  
30 and, if a lay caregiver is designated takes into consideration, to  
31 the extent possible, the lay caregiver's abilities as disclosed to  
32 the hospital.

33 (2) As part of a patient's individualized treatment plan,  
34 discharge criteria must include, but not be limited to, the following  
35 components:

36 (a) The details of the discharge plan;

37 (b) Hospital staff assessment of the patient's ability for self-  
38 care after discharge;

39 (c) An opportunity for the patient to designate a lay caregiver;

1 (d) Documentation of any designated lay caregiver's contact  
2 information;

3 (e) A description of aftercare tasks necessary to promote the  
4 patient's ability to stay at home;

5 (f) An opportunity for the patient and, if designated, the  
6 patient's lay caregiver to participate in the discharge planning;

7 (g) Instruction or training provided to the patient and, if  
8 designated, the patient's lay caregiver, prior to discharge, to  
9 perform aftercare tasks. Instruction or training may include  
10 education and counseling about the patient's medications, including  
11 dosing and proper use of medication delivery devices when applicable;  
12 and

13 (h) Notification to a lay caregiver, if designated, of the  
14 patient's discharge or transfer.

15 (3) In the event that a hospital is unable to contact a  
16 designated lay caregiver, the lack of contact may not interfere with,  
17 delay, or otherwise affect the medical care provided to the patient,  
18 or an appropriate discharge of the patient.

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.41  
20 RCW to read as follows:

21 Section 2 of this act does not require a hospital to adopt  
22 discharge policies or criteria that:

23 (1) Delay a patient's discharge or transfer to another facility  
24 or to home; or

25 (2) Require the disclosure of protected health information to a  
26 lay caregiver without obtaining a patient's consent as required by  
27 state and federal laws governing health information privacy and  
28 security, including chapter 70.02 RCW and the federal health  
29 insurance portability and accountability act of 1996 and related  
30 regulations.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.41  
32 RCW to read as follows:

33 Nothing in section 2 of this act may be construed to:

34 (1) Interfere with the rights or duties of an agent operating  
35 under a valid health care directive under RCW 70.122.030;

36 (2) Interfere with designations made by a patient pursuant to a  
37 physician order for life-sustaining treatment under RCW 43.70.480;

1 (3) Interfere with the rights or duties of an authorized  
2 surrogate decision maker under RCW 7.70.065;

3 (4) Establish a new requirement to reimburse or otherwise pay for  
4 services performed by the lay caregiver for aftercare;

5 (5) Create a private right of action against a hospital or any of  
6 its directors, trustees, officers, employees, or agents, or any  
7 contractors with whom the hospital has a contractual relationship;

8 (6) Hold liable, in any way, a hospital, hospital employee, or  
9 any consultants or contractors with whom the hospital has a  
10 contractual relationship for the services rendered or not rendered by  
11 the lay caregiver to the patient at the patient's residence;

12 (7) Obligate a designated lay caregiver to perform any aftercare  
13 tasks for any patient;

14 (8) Require a patient to designate any individual as a lay  
15 caregiver as defined in RCW 70.41.020;

16 (9) Obviate the obligation of a health carrier as defined in RCW  
17 48.43.005 or any other entity issuing health benefit plans to provide  
18 coverage required under a health benefit plan; and

19 (10) Impact, impede, or otherwise disrupt or reduce the  
20 reimbursement obligations of a health carrier or any other entity  
21 issuing health benefit plans.

22 **Sec. 5.** RCW 70.41.320 and 1998 c 245 s 127 are each amended to  
23 read as follows:

24 (1) Hospitals and acute care facilities shall:

25 (a) Work cooperatively with the department of social and health  
26 services, area agencies on aging, and local long-term care  
27 information and assistance organizations in the planning and  
28 implementation of patient discharges to long-term care services.

29 (b) Establish and maintain a system for discharge planning and  
30 designate a person responsible for system management and  
31 implementation.

32 (c) Establish written policies and procedures to:

33 (i) Identify patients needing further nursing, therapy, or  
34 supportive care following discharge from the hospital;

35 (ii) Subject to section 2 of this act, develop a documented  
36 discharge plan for each identified patient, including relevant  
37 patient history, specific care requirements, and date such follow-up  
38 care is to be initiated;

1 (iii) Coordinate with patient, family, caregiver, lay caregiver  
2 as provided in section 2 of this act, and appropriate members of the  
3 health care team;

4 (iv) Provide any patient, regardless of income status, written  
5 information and verbal consultation regarding the array of long-term  
6 care options available in the community, including the relative cost,  
7 eligibility criteria, location, and contact persons;

8 (v) Promote an informed choice of long-term care services on the  
9 part of patients, family members, and legal representatives; and

10 (vi) Coordinate with the department and specialized case  
11 management agencies, including area agencies on aging and other  
12 appropriate long-term care providers, as necessary, to ensure timely  
13 transition to appropriate home, community residential, or nursing  
14 facility care.

15 (d) Work in cooperation with the department which is responsible  
16 for ensuring that patients eligible for medicaid long-term care  
17 receive prompt assessment and appropriate service authorization.

18 (2) In partnership with selected hospitals, the department of  
19 social and health services shall develop and implement pilot projects  
20 in up to three areas of the state with the goal of providing  
21 information about appropriate in-home and community services to  
22 individuals and their families early during the individual's hospital  
23 stay.

24 The department shall not delay hospital discharges but shall  
25 assist and support the activities of hospital discharge planners. The  
26 department also shall coordinate with home health and hospice  
27 agencies whenever appropriate. The role of the department is to  
28 assist the hospital and to assist patients and their families in  
29 making informed choices by providing information regarding home and  
30 community options.

31 In conducting the pilot projects, the department shall:

32 (a) Assess and offer information regarding appropriate in-home  
33 and community services to individuals who are medicaid clients or  
34 applicants; and

35 (b) Offer assessment and information regarding appropriate in-  
36 home and community services to individuals who are reasonably  
37 expected to become medicaid recipients within one hundred eighty days  
38 of admission to a nursing facility.

--- END ---