
SENATE BILL 6327

State of Washington 64th Legislature 2016 Regular Session

By Senators Bailey, Keiser, Nelson, Conway, Mullet, and Dammeier

Read first time 01/15/16. Referred to Committee on Health Care.

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 living in his or her residence.

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

8 ~~((+7))~~ (10) "Person" means any individual, firm, partnership,
9 corporation, company, association, or joint stock association, and
10 the legal successor thereof.

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

12 ~~((+9))~~ (12) "Sexual assault" has the same meaning as in RCW
13 70.125.030.

14 ~~((+10))~~ (13) "Telemedicine" means the delivery of health care
15 services through the use of interactive audio and video technology,
16 permitting real-time communication between the patient at the
17 originating site and the provider, for the purpose of diagnosis,
18 consultation, or treatment. "Telemedicine" does not include the use
19 of audio-only telephone, facsimile, or email.

20 ~~((+11))~~ (14) "Victim of sexual assault" means a person who
21 alleges or is alleged to have been sexually assaulted and who
22 presents as a patient.

23 NEW SECTION. Sec. 2. A new section is added to chapter 70.41
24 RCW to read as follows:

25 (1) A hospital shall adopt and maintain written discharge
26 policies. The discharge policies must ensure that the discharge plan
27 is appropriate for the patient's physical condition, emotional and
28 social needs, and if a lay caregiver is designated takes into
29 consideration, to the extent possible, the lay caregiver's abilities
30 as disclosed to the hospital.

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

34 (a) The details of the discharge plan;

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

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

38 (d) An opportunity for the patient to authorize disclosure of
39 medical information to the patient's designated lay caregiver

1 following the hospital's established procedures for releasing
2 personal health information and in compliance with all federal and
3 state laws, including chapter 70.02 RCW and the federal health
4 insurance portability and accountability act of 1996 and related
5 regulations;

6 (e) Documentation of any designated lay caregiver's contact
7 information;

8 (f) A description of aftercare tasks necessary to promote the
9 patient's ability to stay at home;

10 (g) An opportunity for the patient and, if designated, the
11 patient's lay caregiver to participate in the discharge planning;

12 (h) Instruction or training provided to the patient and, if
13 designated, the patient's lay caregiver, prior to discharge, to
14 perform aftercare tasks. Instruction or training may include
15 education and counseling about the patient's medications, including
16 dosing and proper use of medication delivery devices when applicable;
17 and

18 (i) Notification to a lay caregiver, if designated, of the
19 patient's discharge or transfer. In the event that a hospital is
20 unable to contact a designated lay caregiver, the lack of contact may
21 not interfere with, delay, or otherwise affect the medical care
22 provided to the patient, or an appropriate discharge of the patient.

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (8) Require a patient to designate any individual as a lay
19 caregiver as defined by section 1 of this act;

20 (9) Obviate the obligation of a health carrier as defined in RCW
21 48.43.005 or any other entity issuing health benefit plans to provide
22 coverage required under a health benefit plan; and

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

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

28 (1) Hospitals and acute care facilities shall:

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

33 (b) Establish and maintain a system for discharge planning and
34 designate a person responsible for system management and
35 implementation.

36 (c) Establish written policies and procedures to:

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

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

5 (iii) Coordinate with patient, family, caregiver, and appropriate
6 members of the health care team, subject to section 2 of this act;

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

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

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

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

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

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

34 In conducting the pilot projects, the department shall:

35 (a) Assess and offer information regarding appropriate in-home
36 and community services to individuals who are medicaid clients or
37 applicants; and

38 (b) Offer assessment and information regarding appropriate in-
39 home and community services to individuals who are reasonably

1 expected to become medicaid recipients within one hundred eighty days
2 of admission to a nursing facility.

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