DESIGNATED CAREGIVER ACT
Act 85 of 2016

AN ACT to allow for designation of a caregiver; to prescribe the duties of a designated caregiver; to enable a hospital to assist in designating a caregiver; and to prescribe the duties of state departments and agencies.

History: 2016, Act 85, Eff. July 12, 2016.

The People of the State of Michigan enact:

333.26281 Short title.

Sec. 1. This act shall be known and may be cited as the "designated caregiver act".

History: 2016, Act 85, Eff. July 12, 2016.

333.26283 Definitions.

Sec. 3. As used in this act:

(a) "After-care assistance" means assistance provided by a lay caregiver to a patient following the patient's discharge from a hospital that is related to the patient's condition at the time of discharge. After-care assistance includes, but is not limited to, 1 or more of the following:

(*i*) Assisting with basic activities of daily living.

(*ii*) Assisting with instrumental activities of daily living.

(*iii*) Assisting with medical or nursing tasks, including managing wound care, assisting in administering medications, or operating medical equipment.

(b) "Attending physician" means that term as defined in section 20102 of the public health code, 1978 PA 368, MCL 333.20102.

(c) "Caregiver", "designated caregiver", or "lay caregiver" means an individual 18 years of age or older designated as a caregiver by a patient under this act who voluntarily provides after-care assistance to a patient in the patient's residence. Caregiver, designated caregiver, or lay caregiver includes, but is not limited to, a relative, spouse, partner, friend, or neighbor who has a significant relationship with the patient.

(d) "Discharge" means a patient's exit or release from a hospital to the patient's residence following any medical care or treatment rendered to the patient following an inpatient admission.

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

(f) "Health care professional" means an individual licensed or otherwise authorized to practice medicine under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(g) "Hospital" means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(h) "Patient advocate" means that term as described and used in section 5506 of the estates and protected individuals code, 1998 PA 386, MCL 700.5506.

(i) "Residence" means the dwelling that the patient considers to be his or her home. Residence does not include a rehabilitation facility, hospital, or nursing home.

History: 2016, Act 85, Eff. July 12, 2016.

333.26285 Designation of lay caregiver.

Sec. 5. (1) As soon as practicable following a patient's admission to a hospital as an inpatient and before the patient's discharge from the hospital to the patient's residence, the hospital shall provide each patient or, if applicable, the patient's legal guardian or patient advocate with an opportunity to designate a lay caregiver.

(2) If the patient is unconscious or otherwise incapacitated upon entry into the hospital, the hospital shall provide the patient, the patient's legal guardian, or the patient advocate with an opportunity to designate a lay caregiver within a given time frame, at the discretion of the attending physician, following the patient's recovery of consciousness or capacity.

(3) If the patient, the patient's legal guardian, or the patient advocate declines to designate a caregiver under this act, the hospital shall document that decline in the patient's medical record. Upon the documentation in the patient's medical record described in this subsection, the hospital has complied with the requirements of this act.

(4) If the patient, the patient's legal guardian, or the patient advocate designates an individual as a caregiver under this act, the hospital shall record the patient's designation of caregiver, the relationship of the designated caregiver to the patient, and the name, telephone number, and other appropriate contact information of the patient's designated caregiver in the patient's medical record.

(5) A patient, the patient's legal guardian, or the patient advocate may elect to change the patient's

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designated caregiver at any time, and the hospital must record the change in the patient's medical record before the patient's discharge.

(6) This does not require a patient or a patient's legal guardian to designate an individual as a caregiver.

(7) A designation of a caregiver by a patient, a patient's legal guardian, or a patient advocate does not obligate the designated individual to perform any after-care assistance for the patient.

(8) If the patient is a minor child and the parents of the patient are divorced, the custodial parent has the authority to designate a caregiver. If the parents have joint custody of the patient, the parents shall jointly designate the caregiver.

History: 2016, Act 85, Eff. July 12, 2016.

333.26287 Notification of patient's discharge or transfer.

Sec. 7. A hospital shall notify the patient's designated caregiver of the patient's discharge or transfer to another facility as soon as practicable and, in any event, upon issuance of a discharge order by the patient's attending physician. If the hospital is unable to contact the designated caregiver, the lack of contact shall not interfere with, delay, or otherwise affect the medical care provided to the patient, or an appropriate discharge of the patient. The hospital shall promptly document the attempt in the patient's medical record.

History: 2016, Act 85, Eff. July 12, 2016.

333.26289 Consultation before discharge; issuance of discharge plan; live or recorded aftercare demonstration; documentation in medical record.

Sec. 9. (1) As soon as practicable before the patient's discharge from a hospital to the patient's residence, the hospital shall attempt to consult with the designated caregiver to prepare the designated caregiver for the patient's after-care assistance needs and issue a discharge plan that describes the patient's after-care assistance needs, if any, at the patient's residence. The discharge plan may include contact information for health care, community resources, and long-term services and supports necessary to successfully carry out the discharge plan. To the extent possible, training or instructions provided to a designated caregiver shall be provided in nontechnical language, in a culturally competent manner, and in accordance with the hospital's requirements to provide language access services under state and federal law.

(2) As part of the consultation under subsection (1), the hospital shall attempt to provide the designated caregiver the opportunity to ask questions and receive answers about the after-care assistance needs of the patient. If the hospital personnel who consult with the designated caregiver determine, in the exercise of their professional judgment, that a live or recorded demonstration is necessary in order to appropriately prepare the designated caregiver for the patient's after-care needs, the hospital may provide to a designated caregiver a live or recorded demonstration of the aftercare described in the patient's discharge plan and contact information for a hospital employee who can respond to questions about the discharge plan after the instruction provided. If the hospital is unable to contact the designated caregiver, the lack of contact shall not interfere with, delay, or otherwise affect the medical care provided to the patient, or an appropriate discharge of the patient.

(3) Instruction required under this act shall be documented in the patient's medical record, including, at a minimum, the date, time, and contents of the instruction.

History: 2016, Act 85, Eff. July 12, 2016.

333.26291 Agent operating under advance directive.

Sec. 11. (1) This act does not interfere with the rights of an agent operating under a valid advance directive.

(2) A patient may designate a caregiver in an advance directive.

History: 2016, Act 85, Eff. July 12, 2016.

333.26293 Entities in contractual relationship; liability; entities issuing health benefits plans; reimbursement obligations of insurance companies.

Sec. 13. (1) This act does not create a private right of action against a hospital, a hospital employee, or a consultant or contractor with whom a hospital has a contractual relationship.

(2) A hospital, a hospital employee, or a consultant or contractor with whom a hospital has a contractual relationship shall not be held liable, in any way, for the services rendered or not rendered by the caregiver to the patient at the patient's residence.

(3) This act does not obviate the obligation of an insurance company, health service corporation, hospital service corporation, medical service corporation, health maintenance organization, or any other entity issuing health benefits plans to provide coverage required under a health benefits plan.

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(4) This act does not impact, impede, or otherwise disrupt or reduce the reimbursement obligations of an insurance company, including an insurance company providing any form of no-fault automobile personal protection insurance as required under chapter 31 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3119, an insurance company providing any form of worker's compensation benefits under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, a health service corporation, hospital service corporation, medical service corporation, health maintenance organization, or any other entity responsible to pay any of a patient's medical expenses or issuing other health benefits plans to provide coverage under those health benefits plans.

History: 2016, Act 85, Eff. July 12, 2016.

333.26295 Discharge or transfer to another facility; delay.

Sec. 15. This act does not delay the discharge of a patient or the transfer of a patient from a hospital to another facility.

History: 2016, Act 85, Eff. July 12, 2016.

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