

House Bill 1304 (AS PASSED HOUSE AND SENATE)

By: Representatives Hawkins of the 27th, Jackson of the 128th, Cooper of the 43rd, Dempsey of the 13th, Gaines of the 117th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 31 of the Official Code of Georgia Annotated, relating to health, so as to
2 create the "Georgia Caregivers Act"; to provide for definitions; to require hospitals to provide
3 patients with the opportunity to identify lay caregivers; to provide that named lay caregivers
4 are not obligated to provide aftercare; to provide for notice requirements to lay caregivers;
5 to provide that inability to contact lay caregivers shall not affect the medical care or
6 appropriate discharge of patients; to require hospitals to include lay caregivers in discharge
7 planning; to provide that lay caregivers do not supersede authority of individuals serving as
8 agents under a Georgia Advance Directive for Health Care; to provide that no new private
9 right of action is created; to provide for statutory construction; to provide for related matters;
10 to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Title 31 of the Official Code of Georgia Annotated, relating to health, is amended by adding
14 a new chapter to read as follows:

15 "CHAPTER 36B16 31-36B-1.17 This chapter shall be known and may be cited as the 'Georgia Caregivers Act.'18 31-36B-2.19 As used in this chapter, the term:20 (1) 'Aftercare' means any assistance provided by a lay caregiver to an individual under
21 this chapter after the patient's discharge from a hospital, including tasks that are limited
22 to the patient's condition at the time of discharge and do not require a licensed
23 professional.24 (2) 'Discharge' means a patient's exit or release from a hospital to the patient's residence
25 after any inpatient stay.26 (3) 'Hospital' means any institution classified and having a permit as a hospital from the
27 Department of Community Health pursuant to this title and such department's rules and
28 regulations.29 (4) 'Lay caregiver' means any individual 18 years of age or older, including next of kin,
30 who is identified by the patient as someone who will provide aftercare assistance to the
31 patient in the event the patient is discharged from the hospital.32 (5) 'Residence' means a dwelling considered by a patient to be his or her home, not
33 including an institution as defined in subparagraph (A) of paragraph (4) of Code
34 Section 31-7-1.35 31-36B-3.36 (a) Upon inpatient admission to a hospital, each patient shall have the opportunity to
37 identify at least one lay caregiver to be involved in the discharge planning process.

38 (b) A patient may elect to change his or her lay caregiver by notifying the hospital of such
39 change.

40 (c) Identification of a lay caregiver by a patient under this chapter does not obligate any
41 individual to perform any aftercare tasks for the patient.

42 (d) This Code section shall not be construed so as to require a patient to identify any
43 individual as a lay caregiver.

44 31-36B-4.

45 (a) If a patient or a person authorized to consent to medical treatment, in accordance with
46 Code Section 31-9-2, has identified a lay caregiver under this chapter, a hospital shall
47 notify the lay caregiver of the patient's discharge to the patient's residence, discharge to a
48 post-acute healthcare facility, or transfer to another hospital as soon as practicable. If the
49 hospital is unable to contact the lay caregiver, the lack of contact shall not interfere with,
50 delay, or otherwise affect the medical care provided to the patient or an appropriate
51 discharge of the patient.

52 (b) As soon as practicable prior to the discharge of the patient, the hospital shall actively
53 engage the patient and the identified lay caregiver in discharge planning tailored to the
54 patient's individual aftercare needs in order to provide the patient and the lay caregiver the
55 necessary education and training regarding the aftercare needs of the patient.

56 31-36B-5.

57 (a) Nothing in this chapter shall be construed to interfere with the rights of a patient or
58 other person legally authorized to make healthcare decisions under Chapter 32 of this title,
59 the 'Georgia Advance Directive for Health Care Act,' or under Code Section 31-9-2, or to
60 grant healthcare decision-making authority to a lay caregiver.

61 (b) Nothing in this chapter shall delay the appropriate discharge or transfer of a patient.

62 (c) Nothing in this chapter shall be construed to interfere with or supersede a healthcare
63 provider's instructions regarding a Medicare certified home health agency or any other
64 post-acute care provider.

65 (d) Nothing in this chapter shall be construed to create a private right of action against a
66 hospital, hospital employee, or duly authorized agent of the hospital, or otherwise
67 supersede or replace existing rights or remedies under any other general or special law.

68 (e) Nothing in this chapter shall be construed to conflict with or replace the Center for
69 Medicare and Medicaid Services Conditions of Participation."

70 **SECTION 2.**

71 All laws and parts of laws in conflict with this Act are repealed.