

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 849

Introduced by Crawford, 45; Campbell, 25; Cook, 13; Haar, 21; Hansen, 26;
Hilkemann, 4; Howard, 9; Kolowski, 31; McCollister, 20;
Morfeld, 46; Pansing Brooks, 28.

Read first time January 08, 2016

Committee:

- 1 A BILL FOR AN ACT relating to health care; to adopt the Assisting
- 2 Caregiver Transitions Act.
- 3 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 8 of this act shall be known and may be
2 cited as the Assisting Caregiver Transitions Act.

3 Sec. 2. For purposes of the Assisting Caregiver Transitions Act:

4 (1) Activities of daily living means transfer, ambulation, exercise,
5 toileting, eating, self-administration of medication, and similar
6 activities;

7 (2) Aftercare means assistance provided by a caregiver to a patient
8 in the patient's residence after the patient's discharge from a hospital
9 following an inpatient stay and may include, but is not limited to, (a)
10 assisting with activities of daily living and (b) carrying out medical or
11 nursing tasks, including, but not limited to, managing wound care,
12 assisting in administration of medication, and operating medical
13 equipment;

14 (3) Caregiver means a person nineteen years of age or older who is
15 designated by a patient or a patient's legal guardian to provide
16 aftercare;

17 (4) Hospital means a general acute hospital as defined in section
18 71-412; and

19 (5) Residence means the home in which a patient resides. Residence
20 does not include an assisted-living facility as defined in section
21 71-406, a group home, a hospital as defined in section 71-419, an
22 intermediate care facility as defined in section 71-420, a rehabilitation
23 hospital as defined in section 71-427 or other rehabilitation facility, a
24 nursing facility as defined in section 71-424, or a skilled nursing
25 facility as defined in section 71-429.

26 Sec. 3. (1) A hospital shall give each patient or patient's legal
27 guardian the opportunity to designate at least one caregiver no later
28 than twenty-four hours after the patient's admission to the hospital and
29 prior to the patient's release or nonemergency transfer to another
30 facility.

31 (2) If a patient is unconscious or incapacitated upon his or her

1 admission to the hospital, the hospital shall give the patient the
2 opportunity to designate a caregiver as soon as possible after the
3 patient's recovery of consciousness or capacity.

4 (3) A patient or his or her legal guardian is not required to
5 designate a caregiver at any time. If a patient or a patient's legal
6 guardian declines to designate a caregiver, the hospital shall document
7 this fact in the patient's medical record.

8 Sec. 4. (1) If a patient or a patient's legal guardian designates a
9 caregiver, the hospital shall request that the patient or legal guardian
10 consent in writing for the hospital to release the patient's medical
11 information to the caregiver. The hospital shall maintain a record of the
12 consent in the patient's medical record and in the hospital's records.

13 (2) The hospital shall record in the patient's medical record the
14 designated caregiver's name, his or her relationship to the patient, and
15 the caregiver's telephone number, residence address, and other contact
16 information.

17 (3) A patient or a patient's legal guardian may change the caregiver
18 designation at any time. The hospital shall document the change in the
19 patient's medical record within twenty-four hours it is notified of such
20 change.

21 (4) A person designated as a caregiver is not obligated to accept
22 such designation or to perform aftercare for the designating patient or
23 patient's legal guardian.

24 Sec. 5. If a patient or a patient's legal guardian designates a
25 caregiver, the hospital shall notify the caregiver of the patient's
26 discharge from the hospital or transfer to another facility as soon as
27 practicable which may be after the patient's physician issues a discharge
28 or transfer order. If the hospital is unable to contact the caregiver,
29 such lack of contact shall not interfere with, delay, or otherwise affect
30 the medical care provided to the patient or the medically appropriate
31 discharge or transfer of the patient. The hospital shall document all

1 attempts to contact the caregiver in the patient's medical record.

2 Sec. 6. (1) As soon as possible after designation of a caregiver
3 and prior to the patient's discharge, the hospital shall consult with the
4 patient or the patient's legal guardian and the caregiver and shall
5 create a discharge plan that describes the patient's aftercare needs. The
6 discharge plan shall include, but need not be limited to:

7 (a) The name and contact information of the caregiver, as provided
8 by him or her;

9 (b) A description of the aftercare tasks necessary to maintain the
10 patient's ability to reside in his or her residence; and

11 (c) Contact information for health care services, community
12 resources, and long-term services and support necessary to successfully
13 carry out the discharge plan.

14 (2) The hospital shall provide the caregiver with instructions
15 concerning all aftercare tasks described in the discharge plan. The
16 instructions shall include, but need not be limited to:

17 (a) A live demonstration of the aftercare tasks, as performed by a
18 hospital employee or other authorized individual in a culturally
19 competent manner;

20 (b) An opportunity for the caregiver and the patient or the
21 patient's guardian to ask questions about aftercare; and

22 (c) Answers to the caregiver's, patient's and patient's legal
23 guardian's questions in a culturally competent manner.

24 (3) The hospital shall document the instructions in the patient's
25 medical record, including the date, time, and contents of the
26 instructions and whether the caregiver accepted or refused the offer of
27 instruction.

28 Sec. 7. The Assisting Caregiver Transitions Act does not:

29 (1) Create a private right of action against a hospital, a hospital
30 employee, or a person with whom the hospital has a contractual
31 relationship;

1 (2) Create additional civil or regulatory liability for a hospital,
2 a hospital employee, or a person with whom the hospital has a contractual
3 relationship;

4 (3) Supersede or replace existing rights or remedies under any other
5 law;

6 (4) Affect a license issued to a hospital pursuant to the Health
7 Care Facility Licensure Act;

8 (5) Establish a new requirement to reimburse or otherwise pay for
9 services rendered by a caregiver for aftercare; or

10 (6) Interfere with an individual acting under a valid health care
11 power of attorney as defined in section 30-3401 or acting as a
12 conservator as defined in section 30-2209.

13 Sec. 8. The Department of Health and Human Services may adopt and
14 promulgate rules and regulations to carry out the Assisting Caregiver
15 Transitions Act.