

1 SB238
2 165391-1
3 By Senator Dial
4 RFD: Health and Human Services
5 First Read: 17-MAR-15

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8 SYNOPSIS: This bill would require hospitals to provide
9 a designated caregiver of a patient, prior to
10 discharge from the hospital, with a discharge plan
11 describing the patient's aftercare needs.

12 This bill would authorize the Alabama
13 Department of Public Health to promulgate rules.

14 This bill would also clarify that this act
15 would not interfere with the rights of an agent
16 operating under a valid advance directive for
17 health care.

18
19 A BILL

20 TO BE ENTITLED

21 AN ACT

22
23 Relating to caregivers; to require hospitals to
24 provide a designated caregiver of a patient, prior to
25 discharge from the hospital, with a discharge plan describing
26 the patient's aftercare needs; to authorize the Alabama
27 Department of Public Health to promulgate rules; and to

1 clarify that this act would not interfere with the rights of
2 an agent operating under a valid advance directive for health
3 care.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. This act shall be known and may be cited
6 as the "Caregiver Advise, Record, and Enable Act" or "CARE
7 Act."

8 Section 2. As used in this act, the following words
9 have the following meanings:

10 (1) AFTERCARE. Any assistance provided by a
11 designated caregiver to an individual under this act after the
12 patient's discharge from a hospital. Such assistance may
13 include, but shall not be limited to, assistance with basic
14 activities of daily living, instrumental activities of daily
15 living, carrying out medical/nursing tasks, such as managing
16 wound care, assisting in administering medications, and
17 operation of medical equipment.

18 (2) CAREGIVER. Any individual 18 years of age or
19 older, including next of kin, duly designated as a caregiver
20 pursuant to the provisions of this act who provides aftercare
21 assistance to a patient residing in the patient's own home.

22 (3) DISCHARGE. A patient's exit or release from a
23 hospital to the patient's residence following any medical
24 care, treatment, or observation.

25 (4) ENTRY. A patient's entrance into a hospital for
26 the purposes of medical care, treatment, or observation. A
27 patient need not be formally admitted to a hospital to meet

1 the provisions of this definition for the purposes of this
2 act.

3 (5) HOSPITAL. A facility licensed pursuant to the
4 provisions of Chapter 21, Title 22, Code of Alabama 1975.

5 (6) RESIDENCE. A dwelling considered by a patient to
6 be his or her home, not including any hospital, nursing home
7 or group home, or assisted living facility.

8 Section 3. (a) Hospitals shall provide each patient
9 or the patient's legal guardian with an opportunity to
10 designate at least one caregiver no later than 24 hours
11 following the patient's entry into a hospital and prior to the
12 patient's discharge or transfer to another facility in
13 accordance with this subsection.

14 (1) In the event the patient is unconscious or
15 otherwise incapacitated upon entry to the hospital, the
16 hospital shall provide the patient or the patient's legal
17 guardian with an opportunity to designate a caregiver within
18 24 hours following the patient's recovery of consciousness or
19 capacity.

20 (2) In the event the patient or the patient's legal
21 guardian declines to designate a caregiver under this act, the
22 hospital shall promptly document such in the patient's medical
23 record.

24 (3) In the event that the patient or the patient's
25 legal guardian designates an individual as a caregiver under
26 this act, the hospital shall promptly request the written
27 consent of the patient or the patient's legal guardian to

1 release medical information to the patient's designated
2 caregiver pursuant to the hospital's established procedures
3 for releasing personal health information and in compliance
4 with applicable state and federal law.

5 (4) If the patient or the patient's legal guardian
6 declines to consent to the release of medical information to
7 the patient's designated caregiver, the hospital is not
8 required to provide notice to the caregiver pursuant to the
9 provisions of subsection (a) of Section 4.

10 (5) The hospital shall record the patient's
11 designation of a caregiver, the relationship of the caregiver
12 to the patient, and the name, telephone number, and physical
13 address of the patient's designated caregiver in the patient's
14 medical record.

15 (b) A patient may elect to change his or her
16 designated caregiver at any time. Any requested change shall
17 be recorded in the patient's medical record by the hospital
18 within 24 hours.

19 (c) Designation of a caregiver by a patient or a
20 patient's legal guardian pursuant to the provisions of this
21 act does not obligate any individual to perform any aftercare
22 tasks for the patient.

23 (d) This section shall not be construed so as to
24 require a patient or a patient's legal guardian to designate
25 any individual as a caregiver as defined by this act.

26 Section 4. (a) A hospital shall notify the patient's
27 designated caregiver of the patient's discharge or transfer to

1 another licensed facility as soon as practicable and prior to
2 the patient's actual discharge or transfer to such facility.

3 (b) Prior to a patient's discharge from a hospital,
4 the hospital shall consult with the designated caregiver
5 regarding the caregiver's capabilities and limitations and
6 issue a discharge plan describing a patient's aftercare needs
7 at the patient's residence. At a minimum, the discharge plan
8 shall include all of the following:

9 (1) The name and contact information of the
10 designated caregiver.

11 (2) A description of all aftercare tasks necessary
12 to maintain the patient's ability to reside at the patient's
13 residence, taking into account the capabilities and
14 limitations of the caregiver.

15 (3) Contact information for any health care provider
16 or other community resources necessary to successfully
17 administer the patient's discharge plan.

18 (c)(1) The facility issuing the discharge plan shall
19 provide the caregiver with an opportunity to receive
20 instruction in all aftercare tasks described in the discharge
21 plan. At a minimum, such instruction shall include a live
22 demonstration of the tasks to be performed by a hospital
23 employee authorized to perform the aftercare task, and an
24 opportunity for the caregiver to inquire about aftercare tasks
25 and answers to questions posed by the caregiver.

26 (2) Any instruction required under this act shall be
27 documented in the patient's medical record, including the date

1 and time instruction was offered to the caregiver and notation
2 of whether the caregiver accepted, refused, or failed to
3 respond to the offer of instruction.

4 (d) The Alabama Department of Public Health may
5 promulgate and adopt rules necessary to implement the
6 provisions of this act pursuant to the Alabama Administrative
7 Procedure Act.

8 Section 5. Nothing in this act shall be construed to
9 interfere with the rights of an agent operating under a valid
10 advance directive for health care as provided for in Chapter
11 8A, Title 22, Code of Alabama 1975, provided that any advance
12 directive for health care claimed to be in conflict with the
13 provisions of this act must be operative prior to the
14 patient's entry into the hospital.

15 Section 6. This act shall become effective on the
16 first day of the third month following its passage and
17 approval by the Governor, or its otherwise becoming law.