HOUSE BILL NO. HB0076

Designated caregiver.

Sponsored by: Representative(s) Harvey, Dayton, Halverson, McKim, Pelkey, Schwartz and Wilson and Senator(s) Craft, Dockstader, Landen and Peterson

A BILL

for

AN ACT relating to public health and safety; providing for the appointment of a designated caregiver; providing definitions; requiring patient consent; requiring hospital record keeping; requiring notices to caregivers as specified; requiring coordination between hospitals and caregivers as specified; limiting applicability of the act; prohibiting the use of specified funds; prohibiting impacts on state or federal funds; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 35-30-101 through 35-30-106 are created to read:

CHAPTER 30

WYOMING CAREGIVER ACT

35-30-101. Definitions.

(a) As used in this act:

(i) "Aftercare" means any assistance provided by a designated caregiver to a patient pursuant to this act after the patient's discharge from a hospital. Assistance under this act may include the performance of tasks necessary for the treatment of the patient's condition at the time of discharge and which do not require a licensed professional;

(ii) "Caregiver" means any person eighteen (18) years of age or older, including next of kin, duly designated as a caregiver pursuant to the provisions of this act who provides aftercare to a patient in the patient's residence;

(iii) "Discharge" means a patient's exit or release from a hospital to the patient's residence following any inpatient stay;

(iv) "Hospital" means as defined by W.S. 35-2-901(a)(xiii);

(v) "Representative of the patient" means any person who:

(A) Is a legal guardian;

(B) Holds a medical or legal power of attorney; or

(C) Is a representative named in an advanced care directive in Wyoming or other similar law in another state.

(vi) "Residence" means a dwelling considered by a patient to be his home, but does not include:

(A) A hospital;

(B) A nursing care facility as defined by W.S. 35-2-901(a)(xvi); or

(C) An assisted living facility as defined by W.S. 35-2-901(a)(xxii).

(vii) "This act" means W.S. 35-30-101 through 35-30-106.

35-30-102. Designation of caregivers by hospital patients.

(a) Hospitals shall provide each patient or the representative of the patient with an opportunity to designate one (1) caregiver following the inpatient admission at the hospital and prior to the patient's discharge to the patient's residence or to another place:

(i) In the event the patient is unconscious or otherwise incapacitated upon admission to the hospital, the hospital shall provide the representative of the patient with an opportunity to designate a caregiver to care for

the patient so long as the designation or lack of a designation does not interfere with, delay or otherwise affect the medical care provided to the patient;

(ii) In the event the patient or the representative of the patient declines to designate a caregiver under this act, the hospital shall document that determination in the patient's medical record and the hospital shall be deemed to be in compliance with the provisions of this act;

(iii) In the event that the patient or the representative of the patient designates an individual as a caregiver under this act, the hospital shall promptly request the written consent of the patient or the representative of the patient to release personal health information pertinent to the patient's designated caregiver pursuant to the hospital's established procedures for releasing personal health information and in compliance with applicable state and federal law;

(iv) If the patient or the representative of the patient declines to consent to the release of personal

health information to the patient's designated caregiver, the hospital is not required to provide notice to the caregiver as provided in W.S. 35-30-103 and shall not release personal health information;

(v) The hospital shall record the patient's designation of a caregiver, the relationship of the caregiver to the patient and the name, telephone number and physical address of the patient's designated caregiver, if available, in the patient's medical record.

(b) A patient or representative of the patient may elect to change the designated caregiver.

(c) Designation of a caregiver by a patient or a representative of the patient pursuant to the provisions of this act shall not obligate any individual to perform any aftercare tasks for the patient.

(d) This section shall not be deemed to require a patient or a representative of the patient to designate any individual as a caregiver under this act.

35-30-103. Notification by hospital to caregiver.

If a patient has designated a caregiver, a hospital shall notify the caregiver of the patient's discharge to the patient's residence or to another place, including another hospital or medical facility, as soon as practicable. In the event 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 the discharge of the patient.

35-30-104. Consultation with caregiver by hospital; discharge plan.

(a) As soon as practicable after designation of a caregiver, the hospital shall attempt to consult with the designated caregiver to prepare for the patient's aftercare and shall issue a discharge plan describing a patient's aftercare needs.

(b) Before discharge, the hospital shall provide individualized explanations and in-person instruction about

tasks the caregiver will need to carry out at home after discharge.

(c) In the event the hospital is unable to contact the designated caregiver, the lack of contact shall not interfere with, delay or otherwise affect the discharge of the patient.

35-30-105. Construction of act.

(a) Nothing in this act shall interfere with the rights of a person legally authorized to make health care decisions for a patient.

(b) Nothing in this act shall create a private right of action against a hospital, hospital employee or a duly authorized agent of a hospital, or otherwise supersede or replace rights or remedies available under any other law.

35-30-106. Impact on state or federal program funding.

No monies of the state or federal government shall be used for the payment of any caregiver pursuant to this act. No state or federal program funding shall be impacted by this act.

Section 2. This act is effective July 1, 2016.

(END)