

CERTIFICATION OF ENROLLMENT
SUBSTITUTE SENATE BILL 6327

Chapter 226, Laws of 2016

64th Legislature
2016 Regular Session

HOSPITAL DISCHARGE PLANNING--LAY CAREGIVERS

EFFECTIVE DATE: 6/9/2016

Passed by the Senate March 10, 2016
Yeas 49 Nays 0

BRAD OWEN

President of the Senate

Passed by the House March 10, 2016
Yeas 98 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Approved April 1, 2016 4:57 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6327** as passed by Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

April 4, 2016

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6327

AS AMENDED BY THE HOUSE

Passed Legislature - 2016 Regular Session

State of Washington 64th Legislature 2016 Regular Session

By Senate Health Care (originally sponsored by Senators Bailey, Keiser, Nelson, Conway, Mullet, and Dammeier)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to hospital discharge planning with lay
2 caregivers; amending RCW 70.41.320; reenacting and amending RCW
3 70.41.020; and adding new sections to chapter 70.41 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.41.020 and 2015 c 23 s 5 are each reenacted and
6 amended to read as follows:

7 Unless the context clearly indicates otherwise, the following
8 terms, whenever used in this chapter, shall be deemed to have the
9 following meanings:

10 (1) "Aftercare" means the assistance provided by a lay caregiver
11 to a patient under this chapter after the patient's discharge from a
12 hospital. The assistance may include, but is not limited to,
13 assistance with activities of daily living, wound care, medication
14 assistance, and the operation of medical equipment. "Aftercare"
15 includes assistance only for conditions that were present at the time
16 of the patient's discharge from the hospital. "Aftercare" does not
17 include:

18 (a) Assistance related to conditions for which the patient did
19 not receive medical care, treatment, or observation in the hospital;
20 or

1 (b) Tasks the performance of which requires licensure as a health
2 care provider.

3 (2) "Department" means the Washington state department of health.

4 ~~((+2))~~ (3) "Discharge" means a patient's release from a hospital
5 following the patient's admission to the hospital.

6 (4) "Distant site" means the site at which a physician or other
7 licensed provider, delivering a professional service, is physically
8 located at the time the service is provided through telemedicine.

9 ~~((+3))~~ (5) "Emergency care to victims of sexual assault" means
10 medical examinations, procedures, and services provided by a hospital
11 emergency room to a victim of sexual assault following an alleged
12 sexual assault.

13 ~~((+4))~~ (6) "Emergency contraception" means any health care
14 treatment approved by the food and drug administration that prevents
15 pregnancy, including but not limited to administering two increased
16 doses of certain oral contraceptive pills within seventy-two hours of
17 sexual contact.

18 ~~((+5))~~ (7) "Hospital" means any institution, place, building, or
19 agency which provides accommodations, facilities and services over a
20 continuous period of twenty-four hours or more, for observation,
21 diagnosis, or care, of two or more individuals not related to the
22 operator who are suffering from illness, injury, deformity, or
23 abnormality, or from any other condition for which obstetrical,
24 medical, or surgical services would be appropriate for care or
25 diagnosis. "Hospital" as used in this chapter does not include
26 hotels, or similar places furnishing only food and lodging, or simply
27 domiciliary care; nor does it include clinics, or physician's offices
28 where patients are not regularly kept as bed patients for twenty-four
29 hours or more; nor does it include nursing homes, as defined and
30 which come within the scope of chapter 18.51 RCW; nor does it include
31 birthing centers, which come within the scope of chapter 18.46 RCW;
32 nor does it include psychiatric hospitals, which come within the
33 scope of chapter 71.12 RCW; nor any other hospital, or institution
34 specifically intended for use in the diagnosis and care of those
35 suffering from mental illness, intellectual disability, convulsive
36 disorders, or other abnormal mental condition. Furthermore, nothing
37 in this chapter or the rules adopted pursuant thereto shall be
38 construed as authorizing the supervision, regulation, or control of
39 the remedial care or treatment of residents or patients in any
40 hospital conducted for those who rely primarily upon treatment by

1 prayer or spiritual means in accordance with the creed or tenets of
2 any well recognized church or religious denominations.

3 ~~((+6))~~ (8) "Lay caregiver" means any individual designated as
4 such by a patient under this chapter who provides aftercare
5 assistance to a patient in the patient's residence. "Lay caregiver"
6 does not include a long-term care worker as defined in RCW
7 74.39A.009.

8 (9) "Originating site" means the physical location of a patient
9 receiving health care services through telemedicine.

10 ~~((+7))~~ (10) "Person" means any individual, firm, partnership,
11 corporation, company, association, or joint stock association, and
12 the legal successor thereof.

13 ~~((+8))~~ (11) "Secretary" means the secretary of health.

14 ~~((+9))~~ (12) "Sexual assault" has the same meaning as in RCW
15 70.125.030.

16 ~~((+10))~~ (13) "Telemedicine" means the delivery of health care
17 services through the use of interactive audio and video technology,
18 permitting real-time communication between the patient at the
19 originating site and the provider, for the purpose of diagnosis,
20 consultation, or treatment. "Telemedicine" does not include the use
21 of audio-only telephone, facsimile, or email.

22 ~~((+11))~~ (14) "Victim of sexual assault" means a person who
23 alleges or is alleged to have been sexually assaulted and who
24 presents as a patient.

25 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.41
26 RCW to read as follows:

27 (1) In addition to the requirements in RCW 70.41.320, hospital
28 discharge policies must ensure that the discharge plan is appropriate
29 for the patient's physical condition, emotional and social needs,
30 and, if a lay caregiver is designated takes into consideration, to
31 the extent possible, the lay caregiver's abilities as disclosed to
32 the hospital.

33 (2) As part of a patient's individualized treatment plan,
34 discharge criteria must include, but not be limited to, the following
35 components:

36 (a) The details of the discharge plan;

37 (b) Hospital staff assessment of the patient's ability for self-
38 care after discharge;

39 (c) An opportunity for the patient to designate a lay caregiver;

1 (d) Documentation of any designated lay caregiver's contact
2 information;

3 (e) A description of aftercare tasks necessary to promote the
4 patient's ability to stay at home;

5 (f) An opportunity for the patient and, if designated, the
6 patient's lay caregiver to participate in the discharge planning;

7 (g) Instruction or training provided to the patient and, if
8 designated, the patient's lay caregiver, prior to discharge, to
9 perform aftercare tasks. Instruction or training may include
10 education and counseling about the patient's medications, including
11 dosing and proper use of medication delivery devices when applicable;
12 and

13 (h) Notification to a lay caregiver, if designated, of the
14 patient's discharge or transfer.

15 (3) In the event that a hospital is unable to contact a
16 designated lay caregiver, the lack of contact may not interfere with,
17 delay, or otherwise affect the medical care provided to the patient,
18 or an appropriate discharge of the patient.

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.41
20 RCW to read as follows:

21 Section 2 of this act does not require a hospital to adopt
22 discharge policies or criteria that:

23 (1) Delay a patient's discharge or transfer to another facility
24 or to home; or

25 (2) Require the disclosure of protected health information to a
26 lay caregiver without obtaining a patient's consent as required by
27 state and federal laws governing health information privacy and
28 security, including chapter 70.02 RCW and the federal health
29 insurance portability and accountability act of 1996 and related
30 regulations.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.41
32 RCW to read as follows:

33 Nothing in section 2 of this act may be construed to:

34 (1) Interfere with the rights or duties of an agent operating
35 under a valid health care directive under RCW 70.122.030;

36 (2) Interfere with designations made by a patient pursuant to a
37 physician order for life-sustaining treatment under RCW 43.70.480;

1 (3) Interfere with the rights or duties of an authorized
2 surrogate decision maker under RCW 7.70.065;

3 (4) Establish a new requirement to reimburse or otherwise pay for
4 services performed by the lay caregiver for aftercare;

5 (5) Create a private right of action against a hospital or any of
6 its directors, trustees, officers, employees, or agents, or any
7 contractors with whom the hospital has a contractual relationship;

8 (6) Hold liable, in any way, a hospital, hospital employee, or
9 any consultants or contractors with whom the hospital has a
10 contractual relationship for the services rendered or not rendered by
11 the lay caregiver to the patient at the patient's residence;

12 (7) Obligate a designated lay caregiver to perform any aftercare
13 tasks for any patient;

14 (8) Require a patient to designate any individual as a lay
15 caregiver as defined in RCW 70.41.020;

16 (9) Obviate the obligation of a health carrier as defined in RCW
17 48.43.005 or any other entity issuing health benefit plans to provide
18 coverage required under a health benefit plan; and

19 (10) Impact, impede, or otherwise disrupt or reduce the
20 reimbursement obligations of a health carrier or any other entity
21 issuing health benefit plans.

22 **Sec. 5.** RCW 70.41.320 and 1998 c 245 s 127 are each amended to
23 read as follows:

24 (1) Hospitals and acute care facilities shall:

25 (a) Work cooperatively with the department of social and health
26 services, area agencies on aging, and local long-term care
27 information and assistance organizations in the planning and
28 implementation of patient discharges to long-term care services.

29 (b) Establish and maintain a system for discharge planning and
30 designate a person responsible for system management and
31 implementation.

32 (c) Establish written policies and procedures to:

33 (i) Identify patients needing further nursing, therapy, or
34 supportive care following discharge from the hospital;

35 (ii) Subject to section 2 of this act, develop a documented
36 discharge plan for each identified patient, including relevant
37 patient history, specific care requirements, and date such follow-up
38 care is to be initiated;

1 (iii) Coordinate with patient, family, caregiver, lay caregiver
2 as provided in section 2 of this act, and appropriate members of the
3 health care team which may include a long-term care worker or a home
4 and community-based service provider. For the purposes of this
5 subsection (1)(c)(iii), long-term care worker has the meaning
6 provided in RCW 74.39A.009 and home and community-based service
7 provider includes an adult family home as defined in RCW 70.128.010,
8 an assisted living facility as defined in RCW 18.20.020, or a home
9 care agency as defined in RCW 70.127.010;

10 (iv) Provide any patient, regardless of income status, written
11 information and verbal consultation regarding the array of long-term
12 care options available in the community, including the relative cost,
13 eligibility criteria, location, and contact persons;

14 (v) Promote an informed choice of long-term care services on the
15 part of patients, family members, and legal representatives; ~~((and))~~

16 (vi) Coordinate with the department and specialized case
17 management agencies, including area agencies on aging and other
18 appropriate long-term care providers, as necessary, to ensure timely
19 transition to appropriate home, community residential, or nursing
20 facility care; and

21 (vii) Inform the patient or his or her surrogate decision maker
22 designated under RCW 7.70.065 if it is necessary to complete a valid
23 disclosure authorization as required by state and federal laws
24 governing health information privacy and security, including chapter
25 70.02 RCW and the federal health insurance portability and
26 accountability act of 1996 and related regulations, in order to allow
27 disclosure of health care information, including the discharge plan,
28 to an individual or entity that will be involved in the patient's
29 care upon discharge, including a lay caregiver as defined in RCW
30 70.41.020, a long-term care worker as defined in RCW 74.39A.009, a
31 home and community-based service provider such as an adult family
32 home as defined in RCW 70.128.010, an assisted living facility as
33 defined in RCW 18.20.020, or a home care agency as defined in RCW
34 70.127.010. If a valid disclosure authorization is obtained, the
35 hospital may release information as designated by the patient for
36 care coordination or other specified purposes.

37 (d) Work in cooperation with the department which is responsible
38 for ensuring that patients eligible for medicaid long-term care
39 receive prompt assessment and appropriate service authorization.

1 (2) In partnership with selected hospitals, the department of
2 social and health services shall develop and implement pilot projects
3 in up to three areas of the state with the goal of providing
4 information about appropriate in-home and community services to
5 individuals and their families early during the individual's hospital
6 stay.

7 The department shall not delay hospital discharges but shall
8 assist and support the activities of hospital discharge planners. The
9 department also shall coordinate with home health and hospice
10 agencies whenever appropriate. The role of the department is to
11 assist the hospital and to assist patients and their families in
12 making informed choices by providing information regarding home and
13 community options.

14 In conducting the pilot projects, the department shall:

15 (a) Assess and offer information regarding appropriate in-home
16 and community services to individuals who are medicaid clients or
17 applicants; and

18 (b) Offer assessment and information regarding appropriate in-
19 home and community services to individuals who are reasonably
20 expected to become medicaid recipients within one hundred eighty days
21 of admission to a nursing facility.

Passed by the Senate March 10, 2016.

Passed by the House March 10, 2016.

Approved by the Governor April 1, 2016.

Filed in Office of Secretary of State April 4, 2016.