Illinois Health and Hospital Association

SB 1298, now Public Act 99-0222, became effective January 27, 2016. Below are the law's requirements, with explanations or suggestions from IHA in italics.

1. Designation of a caregiver: A "caregiver" is an individual designated by a patient (or the patient's legal representative) to provide after care to the patient. A designated caregiver may include, but is not limited to a relative, spouse, partner, friend or neighbor.

There is nothing to prevent a patient from designating his or her legal representative as a designated caregiver, if the legal representative will also provide after care to the patient. Note that the designated caregiver does not become the legal representative through this process.

- "After care" means clinical assistance to a patient provided by a caregiver in the patient's residence following the patient's discharge from an inpatient hospital stay. The clinical assistance is related to the patient's condition at the time of discharge, as determined appropriate by the discharging physician or other healthcare professional. Clinical assistance may include activities of daily living or medication management.
- "Patient" means an individual admitted to a hospital as an inpatient. It does not include a pediatric patient or a patient who is not capable of designating a caregiver due to a healthcare condition or other circumstances, as determined by the healthcare provider.
- "Residence" means a dwelling that the patient considers to be home. It does not include a nursing home, assisted living establishment, licensed group home or state-operated facility.

The hospital must provide each patient or the patient's legal representative with an opportunity to designate a caregiver following the patient's admission as an inpatient and prior to discharge.

Should the patient be unconscious or otherwise incapacitated, the hospital shall provide the patient or legal representative the opportunity to designate a caregiver within a timeframe deemed appropriate by the attending physician or other licensed healthcare provider.

Recording the Declination to Designate a Caregiver
Nothing requires a patient or his or her legal representative to designate a caregiver. If a patient or his or her legal representative declines to designate a caregiver, the hospital must document this declination in the patient's medical record and has no further responsibilities under this Act.

- Recording the designation of a caregiver: If a patient or the patient's legal representative designates a caregiver, the hospital must record the designation, the relationship of the caregiver to the patient and the name, telephone number and address of the caregiver in the patient's medical record. A patient may elect to change his or her designated caregiver at any time, and the hospital must record the change and treat the newly named person as the designated caregiver.
- Access to Protected Health Information (PHI): PA99-0222 does not specify how PHI should be provided to the designated caregiver, so hospitals should follow their normal procedures for granting the designated caregiver access to patient information. Designation of a caregiver does not obligate anyone to provide after care for the patient.

2. Notice to the designated caregiver: A hospital must notify a patient's designated caregiver of the patient's discharge or transfer to another hospital or facility licensed by the Department of Public Health. Notice must be given as soon as possible prior to the patient's actual discharge or transfer and, in any event, upon issuance of a discharge order by the patient's attending physician, unless the patient indicates he or she does not wish the designated caregiver to be notified.

Hospitals should make a reasonable effort to reach the caregiver. Leaving a message is acceptable. If the hospital is unable to

contact the caregiver, the lack of contact shall not interfere with, delay or otherwise affect the medical care provided to the patient or an appropriate discharge or transfer.

3. Consultation with designated caregiver on discharge plan: As soon as possible prior to a patient's discharge from a hospital to the patient's residence, the hospital shall consult with the designated caregiver and issue a discharge plan that describes a patient's after care needs, if any, at the patient's residence. The after care needs must be determined by the discharging physician or other healthcare professional.

- Timing of consultation and issuance of discharge plan: The consultation and issuance of a discharge plan shall occur on a schedule that takes into consideration the severity of the patient's condition and the urgency of the need for caregiver services.

Hospitals should make a reasonable effort to reach the caregiver. Leaving a message is acceptable. If 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 an appropriate discharge.

- Components of discharge plan. At a minimum, the discharge plan shall include:
  - A description of the after care deemed appropriate by a discharging physician or other healthcare professional; and
  - Contact information for any healthcare, clinical community resources, and long-term services and supports that may be helpful in carrying out the patient's discharge plan.
  - Contact information for an individual designated by the hospital who can respond to questions about the discharge plan.

4. Instruction to the designated caregiver: The hospital issuing the discharge plan must make an effort to provide or arrange for the designated caregiver to receive instructions in after care described in the discharge plan.

The instruction to the caregiver can occur as the opportunity arises while the patient is hospitalized and the caregiver is present. For example, if it can reasonably be anticipated that the discharge instructions will include wound care, then staff can instruct the caregiver about caring for the patient's wound at any time during the patient's hospital stay that the caregiver happens to be present.

Training and instructions for caregivers may be conducted in person or through video technology, and shall be provided in non-technical language, to the extent possible. At a minimum, the instruction shall include:

- A live or recorded demonstration of the tasks performed by an individual designated by the hospital who is authorized to perform the after care and is able to perform the demonstration in a culturally competent manner, in accordance with the hospital's requirements to provide language access services under state and federal law and in accordance with the hospital's procedures for providing education to patients and family caregivers.
- An opportunity for the caregiver to ask questions about the after care.
- Answers provided in a culturally competent manner and in accordance with state and federal law.

Hospitals should make a reasonable effort to reach the caregiver and to provide instruction. In the event the designated caregiver cannot be reached, is not available or is not willing to receive the instruction, the lack of contact or instruction shall not interfere with, delay or otherwise affect an appropriate discharge of the patient.

Staff may wish to but are not required to document that an effort was made to provide the instruction to the caregiver. This is consistent with the requirement under the Medicare Conditions of Participation to document in the patient's medical record the arrangements made for initial implementation of the discharge plan, including training and materials provided to the patient or the patient's informal caregiver or representative, as applicable. (SOM Appendix A Rev. 137, 04-01-15) on 42 CFR 482.43 (c) (3) and (c) (5)).

Hospitals may wish to make a video recording of the performance of and instruction about common tasks that caregivers can access on their mobile devices or hospital televisions.

If appropriate, the hospital can arrange for an equipment provider to provide instruction on equipment that will be used in the home.

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