

As Introduced

131st General Assembly

Regular Session

2015-2016

S. B. No. 314

Senator Lehner

Cosponsors: Senators Cafaro, Coley, Tavares, Hite, Beagle

A BILL

To enact sections 3727.70, 3727.71, 3727.72, 1
3727.73, 3727.74, 3727.75, 3727.76, 3727.77, 2
3727.78, and 3727.79 of the Revised Code to 3
provide for the designation of a lay person to 4
provide after-care to a hospital inpatient and 5
participate in discharge planning. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3727.70, 3727.71, 3727.72, 7
3727.73, 3727.74, 3727.75, 3727.76, 3727.77, 3727.78, and 8
3727.79 of the Revised Code be enacted to read as follows: 9

Sec. 3727.70. As used in this section and sections 3727.71 10
to 3727.79 of the Revised Code: 11

(A) "Admission" means a patient's admission to a hospital 12
on an inpatient basis by a health care professional specified in 13
division (B) (1) of section 3727.06 of the Revised Code. 14

(B) "After-care" means assistance provided by a lay 15
caregiver to a patient in the patient's residence after the 16
patient's discharge and includes only the caregiving needs of 17
the patient at the time of discharge. 18

(C) "Discharge" means the discharge or release of a patient who has been admitted to a hospital on an inpatient basis from the hospital directly to the patient's residence. "Discharge" does not include the transfer of a patient to another facility or setting. 19
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(D) "Guardian" has the same meaning as in section 2133.01 of the Revised Code. 24
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(E) "Lay caregiver" means an adult designated under section 3727.71 of the Revised Code to provide after-care to a patient. 26
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(F) "Lay caregiver designation" means the designation of a lay caregiver for a patient as described in section 3727.71 of the Revised Code. 29
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(G) (1) "Patient's residence" means either of the following: 32
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(a) The dwelling that a patient or the patient's guardian considers to be the patient's home; 34
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(b) The dwelling of a relative or other individual who has agreed to temporarily house the patient following discharge and who has communicated this fact to hospital staff. 36
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(2) "Patient's residence" does not include any of the following: 39
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(a) A hospital; 41

(b) A nursing home, residential care facility, county home, or district home, as defined in section 3721.01 of the Revised Code; 42
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(c) A veterans' home operated under Chapter 5907. of the 45

<u>Revised Code;</u>	46
<u>(d) A residential facility, as defined in section 5119.34</u>	47
<u>of the Revised Code;</u>	48
<u>(e) A residential facility, as defined in section 5123.19</u>	49
<u>of the Revised Code;</u>	50
<u>(f) A hospice care program or pediatric respite care</u>	51
<u>program, as defined in section 3712.01 of the Revised Code;</u>	52
<u>(g) A freestanding inpatient rehabilitation facility</u>	53
<u>licensed under section 3702.30 of the Revised Code;</u>	54
<u>(h) Another facility similar to one specified in this</u>	55
<u>division.</u>	56
<u>Sec. 3727.71. (A) In the case of a patient who is at least</u>	57
<u>eighteen years of age and not unconscious or otherwise</u>	58
<u>incapacitated at the time of admission, a hospital shall offer</u>	59
<u>the patient or the patient's guardian an opportunity to</u>	60
<u>designate a lay caregiver for the patient. The offer shall be</u>	61
<u>made after the patient's admission and before the patient's</u>	62
<u>discharge.</u>	63
<u>(B) In the case of a patient who is at least eighteen</u>	64
<u>years of age and unconscious or otherwise incapacitated at the</u>	65
<u>time of admission, a hospital shall offer the patient or the</u>	66
<u>patient's guardian an opportunity to designate a lay caregiver</u>	67
<u>for the patient. The offer shall be made after the patient</u>	68
<u>regains consciousness or capacity and before the patient's</u>	69
<u>discharge.</u>	70
<u>Sec. 3727.72. (A) If a patient or guardian makes a lay</u>	71
<u>caregiver designation, the hospital shall do both of the</u>	72
<u>following:</u>	73

(1) To the extent the information is available, record in the patient's medical record the lay caregiver's name, address, telephone number, electronic mail address, and relationship to the patient; 74
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(2) Request from the patient or guardian written consent to disclose the patient's medical information to the lay caregiver in accordance with hospital policy and state and federal law. 78
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(B) If a patient or guardian declines to make a lay caregiver designation, the hospital shall note that decision in the patient's medical record and have no other obligation under sections 3727.71 to 3727.79 of the Revised Code. 82
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Sec. 3727.73. A patient or guardian may revoke a lay caregiver designation at any time before the patient's discharge by communicating that intent to hospital staff. After revocation, a new lay caregiver designation may be completed in accordance with section 3727.71 of the Revised Code. 86
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Sec. 3727.74. (A) Except as provided in division (B) of this section, a hospital that intends to discharge a patient, or transfer a patient to another hospital or facility, shall notify the patient's lay caregiver of that intent as soon as practicable. 91
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(B) Division (A) of this section does not apply if the patient or guardian has not given the written consent described in division (B) of section 3727.72 of the Revised Code. 96
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Sec. 3727.75. (A) A hospital that intends to discharge a patient shall, as soon as practicable, create a discharge plan and review that plan with the patient or the patient's guardian. If a lay caregiver designation has been made, the patient's 99
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attending physician has determined that the lay caregiver's 103
participation in the review would be appropriate, and the lay 104
caregiver is available within a reasonable amount of time, the 105
hospital shall arrange for the lay caregiver to also participate 106
in the review. The review shall be conducted in accordance with 107
section 3727.76 of the Revised Code. 108

(B) (1) A discharge plan may include the following 109
information: 110

(a) A description of the tasks that are necessary to 111
facilitate the patient's transition from the hospital to the 112
patient's residence; 113

(b) Contact information for the health care providers or 114
providers of community or long-term care services that the 115
hospital and the patient or guardian believe are necessary for 116
successful implementation of the discharge plan. 117

(2) If a lay caregiver designation has been made and the 118
patient's attending physician has determined that the lay 119
caregiver is to have a role in the discharge plan, the discharge 120
plan shall include all of the following: 121

(a) The lay caregiver's name, address, telephone number, 122
electronic mail address, and relationship to the patient, if 123
available; 124

(b) A description of all after-care tasks to be performed 125
by the lay caregiver, taking into account the lay caregiver's 126
capability to perform such tasks; 127

(c) Any other information the hospital believes is 128
necessary for successful implementation of the discharge plan. 129

(C) An attending physician shall not be subject to 130

criminal prosecution or professional disciplinary action, or be 131
liable in a tort action or other civil action, for an event or 132
occurrence that allegedly arises out of the physician's 133
determination that a patient's lay caregiver should or should 134
not participate in the review of the patient's discharge plan. 135

Sec. 3727.76. (A) The review of a discharge plan that has 136
been created under section 3727.75 of the Revised Code shall be 137
conducted in a manner that is culturally sensitive to each 138
individual who participates in the review. In accordance with 139
state and federal law and if appropriate, the hospital shall 140
arrange for an interpreter to be present during the instruction. 141

(B) The review described in division (A) of this section 142
shall include the following components: 143

(1) If the patient's attending physician determines that 144
it is appropriate, a live demonstration of each task described 145
in the discharge plan performed by a hospital employee or an 146
individual under contract with the hospital to provide the 147
instruction; 148

(2) An opportunity for each participant to ask questions 149
and receive responses; 150

(3) Any other component the hospital believes is necessary 151
to ensure that each participant receives adequate instruction on 152
the tasks described in the discharge plan. 153

(C) The hospital shall document information concerning the 154
instruction provided under this section in the patient's medical 155
record. The information shall include the date and time the 156
instruction was provided and a description of the instruction 157
content. 158

Sec. 3727.77. (A) Sections 3727.70 to 3727.76 of the 159

Revised Code do not require a patient or guardian to make a lay caregiver designation. 160
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(B) A lay caregiver designation does not obligate any individual to perform after-care. 162
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(C) A lay caregiver designation or the absence of one shall not interfere with, delay, or otherwise affect the provision of health care to the patient. 164
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Sec. 3727.78. It is the intent of the general assembly that sections 3727.70 to 3727.77 of the Revised Code not to be construed to do any of the following: 167
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(A) Interfere with the authority of a patient's attorney-in-fact under sections 1337.11 to 1337.17 of the Revised Code or a patient's proxy under sections 2135.01 to 2135.14 of the Revised Code; 170
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(B) Create a right of action against a hospital or an employee, agent, or contractor of the hospital; 174
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(C) Create a liability for a hospital or an employee, agent, or contractor of the hospital; 176
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(D) Limit, impair, or supersede any right or remedy that a person has under any other statute, rule, regulation, or the common law of this state; 178
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(E) Alter the obligations of an insurer under a health insurance policy, contract, or plan. 181
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Sec. 3727.79. The department of health may adopt rules pursuant to Chapter 119. of the Revised Code as necessary to implement sections 3727.70 to 3727.78 of the Revised Code. 183
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