

As Passed by the Senate

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Senator Lehner

Cosponsors: Senators Cafaro, Coley, Tavares, Hite, Beagle, Jones, Brown, Eklund, Hughes, Jordan, Manning, Oelslager, Patton, Sawyer, Schiavoni, Seitz, Skindell, Thomas

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 19
patient who has been admitted to a hospital on an inpatient 20
basis from the hospital directly to the patient's residence. 21
"Discharge" does not include the transfer of a patient to 22
another facility or setting. 23

(D) "Discharging health care professional" means a health 24
care professional who is authorized by division (B)(1) of 25
section 3727.06 of the Revised Code to admit a patient to a 26
hospital and who has assumed responsibility for directing the 27
creation of the patient's discharge plan under section 3727.75 28
of the Revised Code. 29

(E) "Guardian" has the same meaning as in section 2133.01 30
of the Revised Code. 31

(F) "Lay caregiver" means an adult designated under 32
section 3727.71 of the Revised Code to provide after-care to a 33
patient. 34

(G) "Lay caregiver designation" means the designation of a 35
lay caregiver for a patient as described in section 3727.71 of 36
the Revised Code. 37

(H) (1) "Patient's residence" means either of the 38
following: 39

(a) The dwelling that a patient or the patient's guardian 40
considers to be the patient's home; 41

(b) The dwelling of a relative or other individual who has 42
agreed to temporarily house the patient following discharge and 43
who has communicated this fact to hospital staff. 44

(2) "Patient's residence" does not include any of the 45
following: 46

(a) A hospital; 47

(b) A nursing home, residential care facility, county 48
home, or district home, as defined in section 3721.01 of the 49
Revised Code; 50

(c) A veterans' home operated under Chapter 5907. of the 51
Revised Code; 52

(d) A residential facility, as defined in section 5119.34 53
of the Revised Code; 54

(e) A residential facility, as defined in section 5123.19 55
of the Revised Code; 56

(f) A hospice care program, as defined in section 3712.01 57
of the Revised Code; 58

(g) A freestanding inpatient rehabilitation facility 59
licensed under section 3702.30 of the Revised Code; 60

(h) Another facility similar to one specified in this 61
division. 62

Sec. 3727.71. (A) In the case of a patient who is at least 63
fifty-five years of age and not unconscious or otherwise 64
incapacitated at the time of admission, a hospital shall offer 65
the patient or the patient's guardian an opportunity to 66
designate a lay caregiver for the patient. The offer shall be 67
made after the patient's admission and before the patient's 68
discharge. 69

(B) In the case of a patient who is at least fifty-five 70
years of age and unconscious or otherwise incapacitated at the 71

time of admission, a hospital shall offer the patient or the 72
patient's guardian an opportunity to designate a lay caregiver 73
for the patient. The offer shall be made after the patient 74
regains consciousness or capacity and before the patient's 75
discharge. 76

Sec. 3727.72. (A) If a patient or guardian makes a lay 77
caregiver designation, the hospital shall do both of the 78
following: 79

(1) To the extent the information is available, record in 80
the patient's medical record the lay caregiver's name, address, 81
telephone number, electronic mail address, and relationship to 82
the patient; 83

(2) Request from the patient or guardian consent to 84
disclose the patient's medical information to the lay caregiver 85
in accordance with hospital policy and state and federal law. 86

(B) If a patient or guardian declines to make a lay 87
caregiver designation, the hospital shall note that decision in 88
the patient's medical record and have no other obligation under 89
sections 3727.71 to 3727.79 of the Revised Code. 90

Sec. 3727.73. A patient or guardian may revoke a lay 91
caregiver designation at any time before the patient's discharge 92
by communicating that intent to hospital staff. After 93
revocation, a new lay caregiver designation may be completed in 94
accordance with section 3727.71 of the Revised Code. 95

Sec. 3727.74. (A) Except as provided in division (B) of 96
this section, a hospital that intends to discharge a patient, or 97
transfer a patient to another hospital or facility, shall notify 98
the patient's lay caregiver of that intent as soon as 99
practicable. 100

(B) Division (A) of this section does not apply if the 101
patient or guardian has not given the consent described in 102
division (A) (2) of section 3727.72 of the Revised Code. 103

Sec. 3727.75. (A) A hospital that intends to discharge a 104
patient shall, as soon as practicable, create a discharge plan 105
in accordance with state and federal law and hospital policy and 106
review that plan with the patient or the patient's guardian. If 107
a lay caregiver designation has been made, the discharging 108
health care professional has determined that the lay caregiver's 109
participation in the review would be appropriate, and the lay 110
caregiver is available within a reasonable amount of time, the 111
hospital shall arrange for the lay caregiver to also participate 112
in the review. The review shall be conducted in accordance with 113
section 3727.76 of the Revised Code. 114

(B) (1) A discharge plan may include the following 115
information: 116

(a) A description of the tasks that are necessary to 117
facilitate the patient's transition from the hospital to the 118
patient's residence; 119

(b) Contact information for the health care providers or 120
providers of community or long-term care services that the 121
hospital and the patient or guardian believe are necessary for 122
successful implementation of the discharge plan. 123

(2) If a lay caregiver designation has been made and the 124
discharging health care professional has determined that the lay 125
caregiver is to have a role in the discharge plan, the discharge 126
plan may include any of the following: 127

(a) The lay caregiver's name, address, telephone number, 128
electronic mail address, and relationship to the patient, if 129

<u>available;</u>	130
<u>(b) A description of all after-care tasks to be performed</u>	131
<u>by the lay caregiver, taking into account the lay caregiver's</u>	132
<u>capability to perform such tasks;</u>	133
<u>(c) Any other information the hospital believes is</u>	134
<u>necessary for successful implementation of the discharge plan.</u>	135
<u>(C) A discharging health care professional shall not be</u>	136
<u>subject to criminal prosecution or professional disciplinary</u>	137
<u>action, or be liable in a tort action or other civil action, for</u>	138
<u>an event or occurrence that allegedly arises out of the health</u>	139
<u>care professional's determination that a patient's lay caregiver</u>	140
<u>should or should not participate in the review of the patient's</u>	141
<u>discharge plan.</u>	142
<u>Sec. 3727.76.</u> (A) <u>The review of a discharge plan that has</u>	143
<u>been created under section 3727.75 of the Revised Code shall be</u>	144
<u>conducted in a manner that is culturally sensitive to each</u>	145
<u>individual who participates in the review. In accordance with</u>	146
<u>state and federal law and if appropriate, the hospital shall</u>	147
<u>arrange for an interpreter to be present during the instruction.</u>	148
<u>(B) (1) The review described in division (A) of this</u>	149
<u>section shall, subject to division (B) (2) of this section,</u>	150
<u>include the following components:</u>	151
<u>(a) If the discharging health care professional determines</u>	152
<u>that it is appropriate, a live demonstration of each task</u>	153
<u>described in the discharge plan performed by a hospital employee</u>	154
<u>or an individual under contract with the hospital to provide the</u>	155
<u>instruction;</u>	156
<u>(b) An opportunity for each participant to ask questions</u>	157
<u>and receive responses;</u>	158

(c) Any other component the hospital believes is necessary 159
to ensure that each participant receives adequate instruction on 160
the tasks described in the discharge plan. 161

(2) It is the intent of the general assembly that 162
execution of the components in division (B) (1) of this section 163
not unreasonably delay a patient's discharge. 164

(C) The hospital shall document information concerning the 165
instruction provided under this section in the patient's medical 166
record. The information shall include the date and time the 167
instruction was provided and a description of the instruction 168
content. 169

Sec. 3727.77. (A) Sections 3727.70 to 3727.76 of the 170
Revised Code do not require a patient or guardian to make a lay 171
caregiver designation. 172

(B) A lay caregiver designation does not obligate any 173
individual to perform after-care. 174

(C) A lay caregiver designation or the absence of one 175
shall not interfere with, delay, or otherwise affect the 176
provision of health care to the patient. 177

Sec. 3727.78. It is the intent of the general assembly 178
that sections 3727.70 to 3727.77 of the Revised Code not to be 179
construed to do any of the following: 180

(A) Interfere with the authority of a patient's attorney- 181
in-fact under sections 1337.11 to 1337.17 of the Revised Code or 182
a patient's proxy under sections 2135.01 to 2135.14 of the 183
Revised Code; 184

(B) Create a right of action against a hospital or an 185
employee, agent, or contractor of the hospital; 186

<u>(C) Create a liability for a hospital or an employee,</u>	187
<u>agent, or contractor of the hospital;</u>	188
<u>(D) Limit, impair, or supersede any right or remedy that a</u>	189
<u>person has under any other statute, rule, regulation, or the</u>	190
<u>common law of this state;</u>	191
<u>(E) Alter the obligations of an insurer under a health</u>	192
<u>insurance policy, contract, or plan.</u>	193
<u>Sec. 3727.79. The department of health may adopt rules</u>	194
<u>pursuant to Chapter 119. of the Revised Code as necessary to</u>	195
<u>implement sections 3727.70 to 3727.78 of the Revised Code.</u>	196