

**As Reported by the Senate Health and Human Services Committee**

**131st General Assembly**

**Regular Session**

**2015-2016**

**Sub. S. B. No. 314**

**Senator Lehner**

**Cosponsors: Senators Cafaro, Coley, Tavares, Hite, Beagle, Jones, Brown**

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**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

<u>(a) A hospital;</u>	47
<u>(b) A nursing home, residential care facility, county home, or district home, as defined in section 3721.01 of the Revised Code;</u>	48 49 50
<u>(c) A veterans' home operated under Chapter 5907. of the Revised Code;</u>	51 52
<u>(d) A residential facility, as defined in section 5119.34 of the Revised Code;</u>	53 54
<u>(e) A residential facility, as defined in section 5123.19 of the Revised Code;</u>	55 56
<u>(f) A hospice care program, as defined in section 3712.01 of the Revised Code;</u>	57 58
<u>(g) A freestanding inpatient rehabilitation facility licensed under section 3702.30 of the Revised Code;</u>	59 60
<u>(h) Another facility similar to one specified in this division.</u>	61 62
<b><u>Sec. 3727.71. (A) In the case of a patient who is at least fifty-five years of age and not unconscious or otherwise incapacitated at the time of admission, a hospital shall offer the patient or the patient's guardian an opportunity to designate a lay caregiver for the patient. The offer shall be made after the patient's admission and before the patient's discharge.</u></b>	63 64 65 66 67 68 69
<u>(B) In the case of a patient who is at least fifty-five years of age and unconscious or otherwise incapacitated at the time of admission, a hospital shall offer the patient or the patient's guardian an opportunity to designate a lay caregiver for the patient. The offer shall be made after the patient</u>	70 71 72 73 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  
available; 130

(b) A description of all after-care tasks to be performed 131  
by the lay caregiver, taking into account the lay caregiver's 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. (A) 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
<u>(c) Any other component the hospital believes is necessary</u>	159
<u>to ensure that each participant receives adequate instruction on</u>	160
<u>the tasks described in the discharge plan.</u>	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

(C) Create a liability for a hospital or an employee, 187  
agent, or contractor of the hospital; 188

(D) Limit, impair, or supersede any right or remedy that a 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><b>Sec. 3727.79.</b> 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