

## **BILL ANALYSIS**

Senate Research Center  
85R11798 JCG-F

S.B. 1417  
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4/13/2017  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Interested parties observe that patients discharged from a hospital may not receive consistent or needed follow-up care from a caregiver in order to ensure a successful recovery. Oftentimes a lack of understanding of the implementation of aftercare measures recommended to the patient by the doctor results in reduced aftercare effectiveness, prolonged recovery times, and the need for additional appointments. In some cases patients are re-admitted to the hospital. The lack of thoroughness in aftercare not only hinders a patient's recovery, it also increases the potential for a financial burden to be placed on the state, insurer, patient, and hospital if a patient requires additional care through re-admittance to a hospital. Given these concerns, interested parties observe that caregivers should be given more thorough information and instruction relating to the aftercare of the patient for whom they will be assisting.

S.B. 1417 requires that a hospital provide the patient with the opportunity to designate a caregiver. A hospital must document in the patient's medical record the contact information of the caregiver and their relationship to the patient. Upon the designation of a caregiver, the hospital must request written authorization from the patient to disclose health care information to the designated caregiver. If the patient declines to designate a caregiver, the hospital must document the patient's decision to decline in the medical record as well.

In order to fulfill the requirements of a designated caregiver, the designee must have a significant relationship to the patient and be at least 18 years of age. The role of the designee is to provide aftercare to a patient by assisting in tasks related to that patient's condition at the time of discharge. A patient possesses the ability to change their designated caregiver at any time and the hospital must document these changes in the patient's medical record.

Under S.B. 1417, hospitals must provide a written discharge plan to the patient and the designated caregiver. The discharge plan must include the information of the caregiver that was documented in the patient's medical record, a thorough description of the aftercare measures that a patient requires, and the contact information for any health care resources necessary to implement the patient's discharge plan. The hospital must provide any additional instruction or training that is needed to perform aftercare tasks.

As proposed, S.B. 1417 amends current law relating to a requirement that a hospital allow a patient to designate a caregiver to receive aftercare instruction regarding the patient.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 317.006, Health and Safety Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subtitle F, Title 4, Health and Safety Code, by adding Chapter 317, as follows:

#### **CHAPTER 317. DESIGNATION OF CAREGIVER FOR RECEIPT OF AFTERCARE INSTRUCTION**

Sec. 317.001. DEFINITIONS. Defines "aftercare," "designated caregiver," "discharge," "hospital," and "surrogate decision-maker."

Sec. 317.002. DESIGNATION OF CAREGIVER. (a) Requires the hospital, on admission to a hospital or before the patient is discharged or transferred to another facility, to provide the patient, the patient's legal guardian, or the patient's surrogate decision-maker the opportunity to designate a caregiver.

(b) Requires the hospital, if a patient, a patient's legal guardian, or a patient's surrogate decision-maker designates a caregiver, to document certain information in the patient's medical record and request written authorization from the patient, the patient's legal guardian, or the patient's surrogate decision-maker to disclose health care information to the patient's designated caregiver.

(c) Requires the hospital, if a patient, a patient's legal guardian, or a patient's surrogate decision-maker declines to designate a caregiver, to promptly record in the patient's medical record that the patient, the patient's legal guardian, or the patient's surrogate decision-maker did not wish to designate a caregiver.

(d) Exempts a hospital, if a patient, a patient's legal guardian, or a patient's surrogate decision-maker declines to give authorization to a hospital to disclose health care information to the designated caregiver, from being required to comply with Sections 317.003 and 317.004.

(e) Authorizes a patient, a patient's legal guardian, or a patient's surrogate decision-maker to change the patient's designated caregiver at any time, and requires the hospital to document the change in the patient's medical record.

(f) Provides that the designation of a person as the patient's caregiver does not obligate the person to serve as the patient's designated caregiver or to provide aftercare to the patient.

Sec. 317.003. NOTICE TO DESIGNATED CAREGIVER. (a) Requires the hospital, except as provided by Section 317.002(d), at a certain time, to notify the designated caregiver of the patient's discharge or transfer. Prohibits the inability of the hospital to contact the designated caregiver from interfering with, delaying, or otherwise affecting any medical care provided to the patient or the discharge of the patient.

(b) Requires the hospital, if the hospital is unable to contact the designated caregiver, to promptly record in the patient's medical record that the hospital attempted to contact the designated caregiver.

Sec. 317.004. DISCHARGE PLAN. (a) Requires the hospital, except as provided by Section 317.002(d), before a patient's discharge from a hospital, to provide to the patient and designated caregiver a written discharge plan that describes the patient's aftercare needs.

(b) Requires a discharge plan to include certain information.

Sec. 317.005. INSTRUCTION IN AFTERCARE TASKS. Requires the hospital, before a patient's discharge from the hospital to any setting in which health care services are not regularly provided to others, to provide the designated caregiver instruction and training as necessary for the caregiver to perform aftercare tasks.

Sec. 317.006. RULES. Requires the executive commissioner of the Health and Human Services Commission to adopt rules necessary to implement this chapter.

Sec. 317.007. RIGHTS AND REMEDIES. (a) Prohibits this chapter from being construed to interfere with the rights of an agent operating under a valid advance

directive in accordance with Chapter 166 (Advance Directives) or to alter, amend, revoke, or supersede any existing right or remedy granted under any other provision of law.

(b) Provides that this chapter does not create a private right of action against a hospital, a hospital employee, or a person in a contractual relationship with a hospital or a designated caregiver.

(c) Prohibits a hospital, a hospital employee, or a person in a contractual relationship with a hospital from being held liable in any way for services rendered or not rendered by a patient's designated caregiver to the patient.

(d) Prohibits a designated caregiver from being reimbursed by a government or commercial payer for aftercare assistance provided under this chapter.

(e) Provides that nothing in this chapter is authorized to be construed to alter the obligation of certain entities to provide coverage required under a health benefit plan; to affect, impede, or otherwise disrupt or reduce the reimbursement obligations of certain entities issuing health benefit plans; or to affect the time at which a patient may be discharged or transferred from a hospital to another facility.

SECTION 2. Effective date: upon passage or September 1, 2017.