

## CHAPTER 47

( SB 129 )

AN ACT relating to family caregivers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

*As used in Sections 1 to 6 of this Act:*

- (1) *"After-care" means assistance with self-care tasks to be provided by a lay caregiver to a patient in the patient's residence after the patient's discharge from a hospital and may include but is not limited to:*
  - (a) *Assisting with basic or instrumental activities of daily living; and*
  - (b) *Carrying out self-care tasks such as managing wound care, assisting in the administration of medications, and utilizing home medical supplies;*
- (2) *"Discharge" means a patient's exit or release from a hospital to the patient's residence following an inpatient stay;*
- (3) *"Hospital" means a health facility as defined in KRS 216B.015 that provides inpatient care;*
- (4) (a) *"Lay caregiver" means a nonmedical individual, eighteen (18) years of age or older, who takes care of a patient and is designated as a lay caregiver by that patient to provide after-care assistance to the patient living in his or her residence; and*
  - (b) *A lay caregiver includes but is not limited to a relative, partner, friend, or neighbor who has a significant relationship with the patient; and*
- (5) *"Residence" means a dwelling that the patient considers to be his or her home. A "residence" does not include any health facility licensed or certified by the Commonwealth.*

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

- (1) *A hospital shall provide each patient or, if applicable, the patient's legal guardian with at least one (1) opportunity to designate one (1) lay caregiver following the patient's admission into a hospital and prior to the patient's discharge.*
- (2) *If the patient is unconscious or otherwise incapacitated upon admission into a hospital, the hospital shall provide the patient or the patient's legal guardian with an opportunity to designate a lay caregiver when the patient recovers his or her consciousness or capacity, so long as the designation or lack of a designation does not interfere with, delay, or otherwise affect the medical care provided to the patient.*
- (3) *If the patient or the patient's legal guardian declines to designate a lay caregiver, the hospital shall document this election in the patient's medical record and the hospital shall be deemed to comply with Sections 1 to 6 of this Act.*
- (4) *If the patient or the patient's legal guardian designates an individual as a lay caregiver under this section, the hospital shall request the written consent of the patient or the patient's legal guardian to release medical information to the patient's designated lay caregiver following the hospital's established procedures for releasing personal health information and in compliance with all federal and state laws.*
- (5) *If the patient or the patient's legal guardian declines to consent to release medical information to the patient's designated lay caregiver, the hospital shall not be required to provide notice to the caregiver under Section 3 of this Act or provide information contained in the patient's discharge plan under Section 4 of this Act.*
- (6) *The hospital shall record the patient's designation of lay caregiver, the relationship of the designated caregiver to the patient, and the name, telephone number, and address of the patient's designated lay caregiver in the patient's medical record.*
- (7) *A patient may elect to change his or her designated lay caregiver at any time, and the hospital shall record this change in the patient's medical record as soon as practicable.*

- (8) *A designation of a lay caregiver by a patient or a patient's legal guardian under this section shall not obligate any individual to perform any after-care tasks for any patient.*
- (9) *This section shall not be construed to require a patient or a patient's legal guardian to designate any individual as a lay caregiver.*

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

*If a patient or a patient's legal guardian has designated a lay caregiver, the hospital shall notify the patient's designated lay caregiver of the patient's discharge as soon as practicable. If the hospital is unable to contact the designated lay caregiver, the lack of contact shall not interfere with, delay, or otherwise affect the medical care provided to the patient, or an appropriate discharge of the patient.*

➔SECTION 4. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

- (1) *As soon as practicable a hospital shall consult with a designated lay caregiver regarding the patient's after-care needs. If the hospital is unable to contact the designated lay caregiver, the lack of contact shall not interfere with, delay, or otherwise affect an appropriate discharge of the patient.*
- (2) *A discharge plan shall include:*
  - (a) *The name and contact information of the designated lay caregiver;*
  - (b) *A description of after-care tasks the patient may perform at the patient's residence; and*
  - (c) *Contact information for health care, community, and long-term care resources and supports that may be available and appropriate to assist in implementing the patient's discharge plan.*
- (3) *The purpose of the hospital's consultation with a patient's lay caregiver as described in this section is to assist the lay caregiver in preparing for the patient's after-care needs, which may include demonstrations of after-care tasks and an opportunity to ask questions. The date and time of the consultation shall be documented in the patient's medical record.*
- (4) *The Cabinet for Health and Family Services may promulgate administrative regulations it deems necessary to implement Sections 1 to 6 of this Act.*

➔SECTION 5. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

*Nothing in Sections 1 to 6 of this Act shall be construed to interfere with the rights of an agent operating under a valid health care directive pursuant to KRS Chapter 311.*

➔SECTION 6. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

*Nothing in Sections 1 to 6 of this Act shall be construed to create a private right of action or be construed as establishing a standard of care, with respect to a claim that a hospital has failed to comply with Sections 1 to 6 of this Act either in whole or in part.*

Signed by Governor March 20, 2017.