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Chapter No. 434
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SENATE BILL NO. 2108

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2108

AN ACT TO AUTHORIZE HOSPITALS TO PROVIDE EACH PATIENT OR THE PATIENT'S LEGAL GUARDIAN AN OPPORTUNITY TO DESIGNATE A LAY CAREGIVER AFTER THE PATIENT'S ADMISSION INTO A HOSPITAL AND BEFORE THE PATIENT'S DISCHARGE TO THE PATIENT'S RESIDENCE; TO PROVIDE THAT DESIGNATION OF A LAY CAREGIVER BY A PATIENT OR A PATIENT'S LEGAL GUARDIAN DOES NOT OBLIGATE ANY INDIVIDUAL TO PERFORM ANY AFTERCARE TASKS FOR THE PATIENT; TO PROVIDE THAT IF A PATIENT OR THE PATIENT'S GUARDIAN HAS DESIGNATED A LAY CAREGIVER, A HOSPITAL SHALL NOTIFY THE DESIGNATED LAY CAREGIVER OF THE PATIENT'S DISCHARGE TO THE PATIENT'S RESIDENCE OR TRANSFER TO ANOTHER LICENSED FACILITY AS SOON AS PRACTICABLE; TO PROVIDE THAT 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; TO REQUIRE THE HOSPITAL TO MAKE A REASONABLE NUMBER OF ATTEMPTS TO CONSULT WITH THE DESIGNATED LAY CAREGIVER TO PREPARE HIM OR HER FOR AFTERCARE AND ISSUE A DISCHARGE PLAN DESCRIBING A PATIENT'S AFTERCARE NEEDS; TO PROVIDE THAT IF THE HOSPITAL IS UNABLE TO CONTACT THE DESIGNATED LAY CAREGIVER AFTER A REASONABLE NUMBER OF ATTEMPTS, THE LACK OF CONTACT SHALL NOT INTERFERE WITH, DELAY OR OTHERWISE AFFECT AN APPROPRIATE DISCHARGE OF THE PATIENT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. For the purposes of Sections 2 through 6 of this act:

(a) "Aftercare" means any assistance provided by a designated lay caregiver to an individual under this act after the patient's discharge from a hospital. The assistance may include tasks that are limited to the patient's condition at the time of discharge that do not require a licensed professional.

(b) "Discharge" means a patient's exit or release from a hospital to the patient's residence after any inpatient stay.

(c) "Hospital" means a facility licensed under the provisions of Section 41-9-1 et seq.

(d) "Lay caregiver" means any individual eighteen (18) years of age or older, including next-of-kin, duly designated as a lay caregiver under this act who provides aftercare assistance to a patient in the patient's residence.

(e) "Residence" means a dwelling considered by a patient to be his or her home, not including any hospital, nursing home, rehabilitation facility, assisted living facility or group home licensed by the State Department of Health.

SECTION 2. (1) Upon inpatient admission to a hospital, each patient or patient's legal guardian shall have the opportunity to designate one (1) lay caregiver after the patient's admission into a hospital and before the patient's discharge to the residence.

(a) If the patient is unconscious or otherwise incapacitated upon inpatient admission the hospital, the patient's legal guardian shall have an opportunity to designate one (1) lay caregiver after the patient's recovery of consciousness or

capacity, so long as the designation or lack of designation does not interfere with, delay or otherwise affect the medical care provided to the patient.

(b) If the patient or the patient's legal guardian does not designate a lay caregiver under this act, the hospital shall document that in the patient's medical record.

(c) If the patient or the patient's legal guardian designates a lay caregiver under this subsection (1), the hospital shall promptly request the written consent of the patient or the patient's legal guardian to release medical information to the designated lay caregiver in accordance with the hospital's established procedures for releasing personal health information and in compliance with applicable state and federal law.

(d) If the patient or the patient's legal guardian does not consent to the release of medical information to the designated lay caregiver, the hospital is not required to provide notice to the lay caregiver under Section 3 of this act.

(e) If the patient or the patient's legal guardian designates a lay caregiver under this subsection (1), the hospital shall record the designation of the lay caregiver, the relationship of the lay caregiver to the patient, and the name, telephone number and physical address of the designated lay caregiver in the patient's medical record.

(2) A patient or the patient's legal guardian may elect to change his or her designated lay caregiver if the lay caregiver becomes incapacitated.

(3) Designation of a lay caregiver by a patient or a patient's legal guardian under this act does not obligate any individual to perform any aftercare tasks for the patient.

(4) This section shall not be construed so as to require a patient or a patient's legal guardian to designate any individual as a lay caregiver.

SECTION 3. If a patient or the patient's legal guardian has designated a lay caregiver under this act, a hospital shall notify the designated lay caregiver of the patient's discharge to the patient's residence or transfer to another licensed facility 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. If a patient or patient's legal guardian has designated a lay caregiver, a hospital employee shall provide an opportunity for the caregiver and patient to ask questions about the aftercare tasks and shall discuss the discharge plan with the caregiver in a competent manner and in accordance with the hospital's requirements under state and federal law.

SECTION 5. (1) Nothing in this act shall be construed to interfere with the rights of a person legally authorized to make

health care decisions under the Uniform Health-Care Decisions Act, Section 41-41-201 et seq.

(2) Nothing in this act shall be construed to create a private right of action against a hospital, hospital employee, a duly authorized agent of the hospital, or otherwise supersede or replace existing rights or remedies under any other general or special law.

SECTION 6. No state or federal funds shall be used for payment to any lay caregiver as defined in this act after discharge from a hospital, and no state or federal program funding shall be impacted by this act.

SECTION 7. This act shall take effect and be in force from and after July 1, 2015.

PASSED BY THE SENATE
March 31, 2015

Tate Reeves

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 31, 2015

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

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