

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: S3/16/15 S3/19/15

A Bill

SENATE BILL 1053

By: Senator G. Stubblefield

By: Representatives Love, Bragg

For An Act To Be Entitled

AN ACT TO CREATE THE ARKANSAS LAY CAREGIVER ACT; AND
FOR OTHER PURPOSES.

Subtitle

TO CREATE THE ARKANSAS LAY CAREGIVER ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 20, Chapter 77, is amended to add an additional subchapter to read as follows:

Subchapter 26 – Arkansas Lay Caregiver Act

20-77-2601. Title.

This act shall be known and may be cited as the "Arkansas Lay Caregiver Act".

20-77-2602. Definitions.

As used in this subchapter:

(1) "Aftercare" means assistance that:

(A) Is provided by a caregiver to a patient after the discharge of the eligible patient from a hospital;

(B) Is related to the condition of the patient at the time of discharge; and

(C) Does not require a professional license under Arkansas Code Title 17, Subtitle 3, or specialized training under § 20-77-2301 et seq. in order to perform the assistance;



(2) "Caregiver" means an individual who:

(A) Is eighteen (18) years of age or older;

(B) Provides aftercare to an individual; and

(C) Is identified by the patient or, if applicable, the legal guardian of the patient as a person who is involved with the health care of the patient under 45 C.F.R. § 164.510(b), as it existed on January 1, 2015.

(3) "Compensation" means money or another type of property of value received by an individual in exchange for the assistance or services without regard to the source of payment of the money or other type of property;

(4) "Discharge" means the release of a patient from hospital care to the residence of the patient following an inpatient admission;

(5) "Hospital" means a facility that is licensed by the Division of Health Facilities Services under § 20-9-213 as either a surgery and general medical care hospital or a general hospital;

(6) "Legal guardian" means an individual who is appointed by the court to make decisions about the health or medical care of a patient;

(7) "Patient" means an individual who has been admitted to a hospital for inpatient care and who is eighteen (18) years of age or older; and

(8) "Residence" means the dwelling that the patient considers to be the home of the patient, but does not include any rehabilitative facility, hospital, nursing home, assisted living facility, group home, or other healthcare facility licensed by the Division of Health Facilities Services or the Office of Long-Term Care.

20-77-2603. Designation of caregiver.

(a)(1) A hospital shall provide each patient or, if applicable, the patient's legal guardian, with an opportunity to designate a caregiver following the patient's admission into a hospital and before the discharge of the patient to the residence of the patient.

(2) Prior to discharge, a patient may elect to change the patient's designated caregiver in the event that the original designated caregiver becomes unavailable, unwilling, or unable to care for the patient.

(b) Designation of an individual as a caregiver pursuant to this

section does not obligate that individual to accept the role of caregiver for the patient.

(c) This section does not require a patient to designate a caregiver.

(d) The hospital shall be deemed to have complied in full with the requirements of this subchapter, in the event that the patient or, if applicable, the legal guardian of the patient:

(1) Declines to designate a caregiver under this section; or

(2) Objects to the disclosure of medical information concerning the patient to the caregiver.

20-77-2604. Compensation to caregiver.

(a) A caregiver designated under this subchapter shall not accept compensation in exchange for aftercare provided to the patient.

(b) This subchapter does not prevent an individual who is a licensed medical professional under Arkansas Code Title 17, Subtitle 3, or has completed training as a trained in-home assistant under § 20-77-2301, et seq. from serving as a caregiver under this subchapter so long as the individual does not accept compensation in exchange for aftercare provided to the patient.

20-77-2605. Notification to caregiver.

(a) If a patient has designated a caregiver, the hospital shall notify the designated caregiver of the patient concerning the discharge or transfer of the patient to another licensed facility as soon as possible before discharge or transfer.

(b) In the event that the hospital is unable to contact the designated 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.

20-77-2606. Consultation with caregiver – Discharge plan.

(a)(1) As soon as practicable prior to the discharge of the patient, the hospital shall attempt to consult with the designated caregiver to prepare the caregiver to provide for the aftercare needs of the patient.

(2) As part of the consultation under subdivision (a)(1) of this section, the hospital shall provide the designated caregiver the opportunity

to ask questions and receive answers about the aftercare needs of the patient.

(b)(1) At or before discharge, the hospital shall provide the caregiver with the discharge plan of the patient that describes any aftercare needs of the patient.

(2) The hospital will educate the caregiver concerning the aftercare of the patient in a manner that is consistent with current accepted practices and is based on the learning needs of the caregiver.

(c) In the event that the hospital is unable to contact the designated caregiver, the lack of contact shall not interfere with, delay, or otherwise affect an appropriate discharge of the patient.

20-77-2607. Construction – Immunity.

(a) This subchapter shall not:

(1) Confer upon the caregiver any authority to make healthcare decisions on behalf of the patient;

(2) Create a private right of action against a hospital, hospital employee, or duly authorized agent of the hospital; or

(3) Remove the obligation of a third-party payer to cover a healthcare item or service that the third-party payer is obligated to provide to a patient under the terms of a valid agreement, insurance policy, plan, or certification of coverage or health maintenance organization contract.

(b) A hospital, hospital employee, contractor leaving a contractual relationship with a hospital, or duly authorized agent of a hospital shall not be held liable in any way for an act or omission of the caregiver.

/s/G. Stubblefield