



Senate

General Assembly

File No. 194

January Session, 2015

Substitute Senate Bill No. 290

Senate, March 24, 2015

The Committee on Aging reported through SEN. FLEXER of the 29th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING PATIENT-DESIGNATED CAREGIVERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-504c of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) For purposes of this section and section 2 of this act:

4 (1) "Caregiver" means any individual who a patient designates as a
5 caregiver to provide post-discharge assistance to the patient in the
6 patient's home in the community. The term caregiver includes, but is
7 not limited to, a relative, spouse, partner, friend or neighbor who has a
8 significant relationship with the patient. For the purposes of this
9 section and section 2 of this act, the term caregiver shall not include
10 any individual who receives compensation for providing post-
11 discharge assistance to the patient.

12 (2) "Home" means the dwelling that the patient considers to be the
13 patient's home in the community. The term home shall not include,

14 and the provisions of this act shall not apply to, a discharge to any
15 rehabilitation facility, hospital, nursing home, assisted living facility,
16 group home or any other setting that was not the patient's home in the
17 community immediately preceding the patient's inpatient admission.

18 (3) "Hospital" has the same meaning as provided in section 19a-490.

19 (4) "Post-discharge assistance" means nonprofessional care provided
20 by a designated caregiver to a patient following the patient's discharge
21 from an inpatient admission to a hospital in accordance with the
22 written discharge plan of care signed by the patient or the patient's
23 representative, including, but not limited to, assisting with basic
24 activities of daily living, instrumental activities of daily living and
25 carrying out support tasks, such as assisting with wound care,
26 administration of medications and use of medical equipment.

27 (b) The Department of Public Health shall adopt regulations, in
28 accordance with the provisions of chapter 54, to set minimum
29 standards for hospital discharge planning services. Such standards
30 shall include, but not necessarily be limited to, requirements for (1) a
31 written discharge plan prepared in consultation with the patient, or the
32 patient's family or representative, and the patient's physician, and (2) a
33 procedure for advance notice to the patient of the patient's discharge
34 and provision of a copy of the discharge plan to the patient prior to
35 discharge.

36 (c) Whenever a hospital refers a patient's name to a nursing home as
37 part of the hospital's discharge planning process, or when a hospital
38 patient requests such a referral, the hospital shall make a copy of the
39 patient's hospital record available to the nursing home and shall allow
40 the nursing home access to the patient for purposes of care planning
41 and consultation.

42 (d) Whenever a hospital's discharge planning indicates that an
43 inpatient will be discharged to the patient's home, the hospital shall
44 allow the patient to designate a caregiver at, or prior to, the time that a
45 written copy of the discharge plan is provided to the patient. A patient

46 is not required to designate any individual as a caregiver and any
47 individual designated as a caregiver under this section is not obligated
48 to perform any post-discharge assistance for the patient.

49 (e) If an inpatient designates a caregiver pursuant to subsection (d)
50 of this section prior to receiving written discharge instructions, the
51 hospital shall:

52 (1) Record the patient's designation of caregiver, the relationship of
53 the designated caregiver to the patient, and the name, telephone
54 number and address of the patient's designated caregiver in the
55 discharge plan.

56 (2) Make reasonable attempts to notify the patient's designated
57 caregiver of the patient's discharge to the patient's home as soon as
58 practicable. In the event the hospital is unable to contact the
59 designated caregiver, the lack of contact shall not interfere with, delay,
60 or otherwise affect the medical care provided to the patient or an
61 appropriate discharge of the patient.

62 (3) Prior to discharge, provide caregivers with instructions in all
63 post-discharge assistance tasks described in the discharge plan.
64 Training and instructions for caregivers may be conducted in person or
65 through video technology, at the discretion of the caregiver. Any
66 training or instructions provided to a caregiver shall be provided in
67 nontechnical language, to the extent possible. At a minimum, this
68 instruction shall include: (A) A live or recorded demonstration of the
69 tasks performed by an individual designated by the hospital who is
70 authorized to perform the post-discharge assistance task and is able to
71 perform the demonstration in a culturally competent manner and in
72 accordance with the hospital's requirements to provide language
73 access services under state and federal law; (B) an opportunity for the
74 caregiver to ask questions about the post-discharge assistance tasks;
75 and (C) answers to the caregiver's questions provided in a culturally
76 competent manner and in accordance with the hospital's requirements
77 to provide language access services under state and federal law.

78 (4) Document in the patient's medical record any training for initial
79 implementation of the discharge plan provided to the patient, the
80 patient's representative or the designated caregiver. Any instruction
81 required under subdivision (3) of this subsection shall be documented
82 in the patient's medical record, including, at a minimum, the date, time
83 and contents of the instruction.

84 Sec. 2. (NEW) (*Effective October 1, 2015*) (a) Nothing in section 19a-
85 504c of the general statutes, as amended by this act, or this section shall
86 be construed to create a private right of action against a hospital, a
87 hospital employee, or any consultants or contractors with whom a
88 hospital has a contractual relationship.

89 (b) A hospital, a hospital employee, or any consultants or
90 contractors with whom a hospital has a contractual relationship shall
91 not be held liable, in any way, for the services rendered or not
92 rendered by the caregiver to the patient at the patient's home.

93 (c) Nothing in section 19a-504c of the general statutes, as amended
94 by this act, or this section shall be construed to obviate the obligation
95 of an insurance company, health service corporation, hospital service
96 corporation, medical service corporation, health maintenance
97 organization or any other entity issuing health benefits plans to
98 provide coverage required under a health benefits plan.

99 (d) (1) An individual designated as caregiver pursuant to subsection
100 (d) of section 19a-504c of the general statutes, as amended by this act,
101 shall not be reimbursed by any government or commercial payer for
102 post-discharge assistance that is provided pursuant to section 19a-504c
103 of the general statutes, as amended by this act.

104 (2) Nothing in section 19a-504c of the general statutes, as amended
105 by this act, or this section shall be construed to impact, impede or
106 otherwise disrupt or reduce the reimbursement obligations of an
107 insurance company, health service corporation, hospital service
108 corporation, medical service corporation, health maintenance
109 organization or any other entity issuing health benefits plans.

110 (3) Nothing in section 19a-504c of the general statutes, as amended
111 by this act, or this section shall delay the discharge of a patient or the
112 transfer of a patient from a hospital to another facility.

113 (4) Nothing in section 19a-504c of the general statutes, as amended
114 by this act, or this section shall affect, nor take precedence over, any
115 advance directive, conservatorship or other proxy health care rights as
116 may be delegated by the patient or applicable by law.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	19a-504c
Sec. 2	October 1, 2015	New section

Statement of Legislative Commissioners:

In Section 1(a)(1), "sections 1 and 2 of this act" was changed to "this section and section 2 of this act" for consistency with standard drafting conventions; in Section 1(a)(3), "\"Hospital\" means a general acute care hospital licensed pursuant to chapter 368v" was changed to "\"Hospital\" has the same meaning as provided in section 19a-490" for clarity and accuracy; and in Section 1(e)(2) "home in the community" was replaced with "home" for consistency with the defined term.

AGE *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
UConn Health Center	SF - Cost	Up to 325,000	300,000

Municipal Impact: None

Explanation

The bill requires hospitals to provide training and instruction for designated caregivers prior to a patient's discharge. This may be provided either in person, or through video technology, at the discretion of the caregiver. This requirement is expected to cost the John Dempsey Hospital at the University of Connecticut Health Center up to \$325,000 in FY 16 and \$300,000 in FY 17.

These costs represent salary and fringes for two and a half full time equivalent employees to provide an estimated half hour of training for each of the average 30 discharges from Dempsey each day, beginning October 1, 2015. Additionally, a one-time cost of up to \$100,000 would be incurred in FY 16 for software updates and modifications to the Lodgenet system in order to provide the video capabilities required by the bill.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 290*****AN ACT CONCERNING PATIENT-DESIGNATED CAREGIVERS.*****SUMMARY:**

This bill requires a hospital, when discharging a patient to his or her home, to:

1. allow the patient to designate a caregiver at, or before, the time the patient receives a written copy of his or her discharge plan;
2. document the designated caregiver in the patient's discharge plan;
3. attempt to notify the designated caregiver of the patient's discharge home; and
4. instruct the caregiver on post-discharge tasks with which he or she will assist the patient at home.

The bill specifies that its provisions do not create a private right of action against a (1) hospital or (2) its employees, contractors, or consultants. It prohibits these entities from being held liable for services a caregiver provides or does not provide to the patient in his or her home.

Additionally, the bill's provisions do not affect (1) health insurers' benefit plan or reimbursement obligations, (2) a patient's discharge or transfer from a hospital to another facility, or (3) a patient's proxy health care rights.

By law, a hospital is an establishment for the lodging, care, and treatment of people suffering from disease or other abnormal physical or mental conditions and includes general hospitals' inpatient

psychiatric services.

EFFECTIVE DATE: October 1, 2015

DESIGNATED CAREGIVERS

Under the bill, a caregiver is a person the patient designates to provide post-discharge assistance in the patient’s home (e.g., a relative, spouse, neighbor, or friend). A patient’s home does not include a long-term facility (e.g., a nursing home or assisted living facility), rehabilitation facility, hospital, or group home.

The bill requires caregivers to provide post-discharge assistance in accordance with the patient’s written discharge plan signed by the patient or his or her representative. Such assistance includes help with basic and instrumental activities of daily living and support tasks (e.g., wound care, medication administration, and medical equipment use).

The bill prohibits a caregiver from receiving compensation for providing such assistance, including reimbursement from a private or public health insurer.

It does not require a patient to designate a caregiver nor does it obligate the caregiver to perform any post-discharge assistance for the patient.

DOCUMENTATION AND NOTIFICATION REQUIREMENTS

If an inpatient designates a caregiver before receiving his or her written discharge instructions, the bill requires the hospital to:

1. record in the patient’s discharge plan the caregiver’s name, address, telephone number, and relationship to the patient and
2. make reasonable attempts to notify the caregiver of the patient’s discharge home as soon as practical.

The bill specifies that the hospital’s inability to contact the designated caregiver must not interfere with, delay, or otherwise affect the patient’s medical care or appropriate discharge.

CAREGIVER INSTRUCTION**Requirements**

The bill requires hospitals, prior to discharging a patient, to provide the designated caregiver with instructions in all post-discharge assistance tasks included in the patient's discharge plan.

To the extent possible, caregiver training or instruction must use nontechnical language and may be conducted in person or using video technology, at the caregiver's discretion. (The bill does not specify where the training must take place.) At a minimum, it must include:

1. a live or recorded demonstration of the post-discharge assistance tasks performed by a hospital designee authorized to perform the tasks;
2. an opportunity for the caregiver to ask questions about the tasks; and
3. answers to the caregiver's questions.

The demonstration must be conducted in a culturally competent manner according to the hospital's requirements for providing language access services under state and federal law.

Documentation

The bill requires hospitals to document in the patient's medical record any training provided to the (1) patient or (2) his or her representative or designated caregiver on how to initially implement the discharge plan.

The hospital must also document in the patient's medical record any caregiver instruction provided on post-discharge assistance tasks, including the date, time, and content of such instruction.

HEALTH INSURER OBLIGATIONS

The bill specifies that its provisions must not be construed to:

1. eliminate the obligation of an insurance company; health,

hospital, or medical service corporation; HMO; or any other entity issuing health benefit plans to provide required benefit coverage or

- 2. impact, impede, or otherwise disrupt or reduce these entities' reimbursement obligations.

PATIENTS' PROXY HEALTH RIGHTS

The bill specifies that its provisions do not affect or take precedence over an advance directive, conservatorship, or other proxy health care rights the patient delegates or applies by law.

COMMITTEE ACTION

Aging Committee

Joint Favorable Substitute

Yea 13 Nay 0 (03/05/2015)