

## Caregiver Advise, Record and Enable Act

The Act requires hospitals to give each patient or patient’s legal guardian an opportunity to designate a caregiver who will provide after-care assistance to the patient following discharge from the hospital. The Act also requires the hospital to record the name and contact information of the caregiver in the patient’s medical record and to notify the caregiver upon the patient’s discharge or transfer to another facility.

Submitted as:

Oklahoma

[SB 1536](#)

Status: Signed into law on May 9, 2014.

### Suggested State Legislation

(Title, enacting clause, etc.)

- 1 Section 1. [*Definitions.*]
- 2 1. “Aftercare” means any assistance provided by a designated lay caregiver to an individual
- 3 under this act after the patient's discharge from a hospital. Such assistance may include tasks
- 4 that are limited to the patient's condition at the time of discharge that do not require a
- 5 licensed professional;
- 6 2. “Discharge” means a patient's exit or release from a hospital to the patient's residence
- 7 following any inpatient stay;
- 8 3. “Hospital” means a facility licensed pursuant to the provisions of [Insert citation.];
- 9 4. “Lay caregiver” means any individual eighteen (18) years of age or older, including next of
- 10 kin, duly designated as a lay caregiver pursuant to the provisions of this act who provides
- 11 aftercare assistance to a patient in the patient's residence; and
- 12 5. “Residence” means a dwelling considered by a patient to be his or her home, not including
- 13 any hospital as defined by [Insert citation.], nursing home or group home as defined by
- 14 [Insert citation.], or assisted living facility as defined by [Insert citation.].
- 15
- 16 Section 2. [*Designation of a lay caregiver.*]
- 17 A. Hospitals shall provide each patient or the patient's legal guardian with an opportunity to
- 18 designate one lay caregiver following the patient's admission into a hospital and prior to the
- 19 patient's discharge to the patient's residence:
- 20 1. In the event the patient is unconscious or otherwise incapacitated upon admission to the
- 21 hospital, the hospital shall provide the patient's legal guardian with an opportunity to
- 22 designate a lay caregiver following the patient's recovery of consciousness or capacity, so
- 23 long as the designation or lack of a designation does not interfere with, delay or otherwise
- 24 affect the medical care provided to the patient.
- 25 2. In the event the patient or the patient's legal guardian declines to designate a lay caregiver
- 26 under this act, the hospital shall promptly document such in the patient's medical record,
- 27 and the hospital shall be deemed to comply with the provisions of this act.
- 28 3. In the event that the patient or the patient's legal guardian designates an individual as a
- 29 lay caregiver under this act, the hospital shall promptly request the written consent of the

1 patient or the patient's legal guardian to release medical information to the patient's  
2 designated lay caregiver pursuant to the hospital's established procedures for releasing  
3 personal health information and in compliance with applicable state and federal law.

4 4. If the patient or the patient's legal guardian declines to consent to the release of medical  
5 information to the patient's designated lay caregiver, the hospital is not required to  
6 provide notice to the lay caregiver pursuant to the provisions of Section 3 of this act.

7 5. The hospital shall record the patient's designation of a lay caregiver, the relationship of  
8 the lay caregiver to the patient, and the name, telephone number, and physical address of  
9 the patient's designated lay caregiver in the patient's medical record.

10 B. A patient may elect to change his or her designated lay caregiver in the event that the lay  
11 caregiver becomes incapacitated.

12 C. Designation of a lay caregiver by a patient or a patient's legal guardian pursuant to the  
13 provisions of this act does not obligate any individual to perform any aftercare tasks for the  
14 patient.

15 D. This section shall not be construed so as to require a patient or a patient's legal guardian to  
16 designate any individual as a lay caregiver as defined by this act.

17  
18 Section 3. [*Notification of discharge to designated lay caregiver.*]

19 If a patient has designated a lay caregiver, a hospital shall notify the patient's designated lay  
20 caregiver of the patient's discharge to the patient's residence or transfer to another licensed  
21 facility as soon as practicable. In the event the hospital is unable to contact the designated lay  
22 caregiver, the lack of contact shall not interfere with, delay or otherwise affect the medical care  
23 provided to the patient, or an appropriate discharge of the patient.

24  
25 Section 4. [*Consultation with designated lay caregiver.*]

26 As soon as practicable, the hospital shall attempt to consult with the designated lay caregiver to  
27 prepare him or her for aftercare and issue a discharge plan describing a patient's aftercare needs.  
28 In the event the hospital is unable to contact the designated lay caregiver, the lack of contact  
29 shall not interfere with, delay or otherwise affect an appropriate discharge of the patient.

30  
31 Section 5. [*Health care decisions; private rights of action.*]

32 A. Nothing in this act shall be construed to interfere with the rights of a person legally  
33 authorized to make health care decisions as defined in [Insert citation.]

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

37  
38 Section 6. [*Prohibition of payment to lay caregivers.*]

39 No state or federal dollars shall be used for payment to any lay caregiver as defined in this act  
40 after discharge from a hospital. No state or federal program funding shall be impacted by this act.