15.0349.03000

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1279

Introduced by

Representatives Fehr, D. Anderson, Bellew, Hofstad, Seibel

A BILL for an Act to create and enact chapter 23-48 of the North Dakota Century Code, relating to a hospital patient's designation of a caretaker to assist with after-care.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 23-48 of the North Dakota Century Code is created and enacted as follows:

23-48-01. Definitions.

As used in this chapter:

1. "After-care" means assistance provided by a caregiver to a patient after the patient's release from a hospital. The term may include assisting with behavioral health support services, basic activities of daily living, instrumental activities of daily living, and carrying out medical or nursing tasks, such as managing wound care, assisting in administering medications, and operating medical equipment.
2. "Caregiver" means an individual duly designated as a caregiver by a patient under this chapter, who provides after-care assistance to a patient in the patient's residence. The term may include a relative, partner, friend, or neighbor or any individual who has a significant relationship with the patient.
3. "Entry" means a patient's admission to a hospital for the purposes of medical care or behavioral health care.
4. "Hospital" means a facility licensed under chapter 23-16.
5. "Release" means a patient's exit or discharge from a hospital to the patient's residence following an inpatient admission.
6. "Residence" means a dwelling the patient considers to be the patient's home or temporary home. The term does not include a rehabilitation facility, hospital, nursing home, assisted living facility, or group home.

23-48-02. Designation of caregiver.

1. Within twenty-four hours following a patient's entry to a hospital and again before the patient's release or transfer to another hospital or facility, the hospital shall provide each patient or the patient's legal guardian with at least one opportunity to designate at least one caregiver for purposes of this chapter.
   a. If the patient is unconscious or otherwise incapacitated upon entry to a hospital, within twenty-four hours following the patient's recovery of consciousness or capacity the hospital shall provide such patient or the patient's legal guardian with an opportunity to designate a caregiver for purposes of this chapter.
   b. If the patient or the patient's legal guardian declines to designate a caregiver under this section, the hospital shall document this in the patient's medical record.
   c. If the patient or the patient's legal guardian designates an individual as a caregiver:
      (1) The hospital shall request the written consent of the patient or the patient's legal guardian to release medical information to the patient's caregiver, following the hospital's established procedures for releasing personal health information and in compliance with all federal and state laws. If the patient or the patient's legal guardian declines to consent to release medical information to the patient's caregiver, the hospital is not required under section 23-48-03 to provide notice to the caregiver or to provide information contained in the patient's discharge plan.
      (2) The hospital shall record in the patient's record the patient's or legal guardian's designation of caregiver; the relationship of the caregiver to the patient; and the name, telephone number, and address of the caregiver.
   d. A patient or legal guardian may elect to change a caregiver designation at any time. If a patient or legal guardian notifies the hospital of a change in caretaker designation, within twenty-four hours of such notification the hospital shall record this change in the patient's medical record.
2. A designation of a caregiver by a patient or a patient's legal guardian under this section does not obligate an individual to perform any after-care tasks for a patient.

3. This section may not be construed to require a patient or a patient's legal guardian to designate a caregiver.

23-48-03. Caregiver notice and instruction - Rules.

1. A hospital shall notify the patient's caregiver of the patient's release or transfer to another hospital or facility. This notice may be provided after the patient's physician issues a discharge order and may not be less than four hours before the patient's actual release or transfer to such hospital or facility.
2. Before a hospital transfers a patient to another hospital or facility, the transferring hospital shall include in the patient's discharge plan the name and contact information of the caregiver.
3. Before a patient's release from a hospital, the hospital shall consult with the caregiver and the patient regarding the caregiver's capabilities and limitations and shall issue a discharge plan that describes a patient's after-care needs at the patient's residence.
   a. At a minimum, the discharge plan must include:
      (1) The name and contact information of the caregiver;
      (2) A description of all after-care tasks necessary to maintain the patient's ability to live at the patient's residence, taking into account the capabilities and limitations of the caregiver; and
      (3) Contact information for any health care, community resources, and long-term services and supports necessary to successfully carry out the patient's discharge plan.
   b. The hospital issuing the discharge plan shall provide a caregiver with instruction in all after-care tasks described in the discharge plan.
      (1) At a minimum, the instruction must include a demonstration of the after-care tasks performed and at the time of the demonstration an opportunity for the caregiver and patient to have questions answered about the after-care tasks.
      (2) The hospital shall document in the patient's medical record the instruction required under this subsection, including, at a minimum, the date, time, and contents of the instruction.

4. The state health council may adopt rules to implement the provisions of this chapter, including rules to further define the content and scope of any instruction provided to a caregiver under this chapter.

23-48-04. Limitations.

1. This chapter may not be construed to interfere with the rights of an agent operating under a valid health care directive under chapter 23-06.5.
2. To the extent the unique circumstances of a patient's care require the hospital to vary from complying with provisions of this chapter, that hospital shall document the variance and the efforts made by the hospital to comply with the provisions of this chapter.
3. This chapter does not create a private right of action against a hospital, a hospital employee, or an individual with whom a hospital has a contractual relationship and does not supersede or replace exiting rights or remedies under any other provision of law.