

**SSB 6327 - H AMD 973**

By Representative Cody

ADOPTED 03/10/2016

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 70.41.020 and 2015 c 23 s 5 are each reenacted and  
4 amended to read as follows:

5 Unless the context clearly indicates otherwise, the following  
6 terms, whenever used in this chapter, shall be deemed to have the  
7 following meanings:

8 (1) "Aftercare" means the assistance provided by a lay caregiver  
9 to a patient under this chapter after the patient's discharge from a  
10 hospital. The assistance may include, but is not limited to,  
11 assistance with activities of daily living, wound care, medication  
12 assistance, and the operation of medical equipment. "Aftercare"  
13 includes assistance only for conditions that were present at the time  
14 of the patient's discharge from the hospital. "Aftercare" does not  
15 include:

16 (a) Assistance related to conditions for which the patient did  
17 not receive medical care, treatment, or observation in the hospital;  
18 or

19 (b) Tasks the performance of which requires licensure as a health  
20 care provider.

21 (2) "Department" means the Washington state department of health.

22 ~~((+2))~~ (3) "Discharge" means a patient's release from a hospital  
23 following the patient's admission to the hospital.

24 (4) "Distant site" means the site at which a physician or other  
25 licensed provider, delivering a professional service, is physically  
26 located at the time the service is provided through telemedicine.

27 ~~((+3))~~ (5) "Emergency care to victims of sexual assault" means  
28 medical examinations, procedures, and services provided by a hospital  
29 emergency room to a victim of sexual assault following an alleged  
30 sexual assault.

31 ~~((+4))~~ (6) "Emergency contraception" means any health care  
32 treatment approved by the food and drug administration that prevents

1 pregnancy, including but not limited to administering two increased  
2 doses of certain oral contraceptive pills within seventy-two hours of  
3 sexual contact.

4 ~~((+5))~~ (7) "Hospital" means any institution, place, building, or  
5 agency which provides accommodations, facilities and services over a  
6 continuous period of twenty-four hours or more, for observation,  
7 diagnosis, or care, of two or more individuals not related to the  
8 operator who are suffering from illness, injury, deformity, or  
9 abnormality, or from any other condition for which obstetrical,  
10 medical, or surgical services would be appropriate for care or  
11 diagnosis. "Hospital" as used in this chapter does not include  
12 hotels, or similar places furnishing only food and lodging, or simply  
13 domiciliary care; nor does it include clinics, or physician's offices  
14 where patients are not regularly kept as bed patients for twenty-four  
15 hours or more; nor does it include nursing homes, as defined and  
16 which come within the scope of chapter 18.51 RCW; nor does it include  
17 birthing centers, which come within the scope of chapter 18.46 RCW;  
18 nor does it include psychiatric hospitals, which come within the  
19 scope of chapter 71.12 RCW; nor any other hospital, or institution  
20 specifically intended for use in the diagnosis and care of those  
21 suffering from mental illness, intellectual disability, convulsive  
22 disorders, or other abnormal mental condition. Furthermore, nothing  
23 in this chapter or the rules adopted pursuant thereto shall be  
24 construed as authorizing the supervision, regulation, or control of  
25 the remedial care or treatment of residents or patients in any  
26 hospital conducted for those who rely primarily upon treatment by  
27 prayer or spiritual means in accordance with the creed or tenets of  
28 any well recognized church or religious denominations.

29 ~~((+6))~~ (8) "Lay caregiver" means any individual designated as  
30 such by a patient under this chapter who provides aftercare  
31 assistance to a patient in the patient's residence. "Lay caregiver"  
32 does not include a long-term care worker as defined in RCW  
33 74.39A.009.

34 (9) "Originating site" means the physical location of a patient  
35 receiving health care services through telemedicine.

36 ~~((+7))~~ (10) "Person" means any individual, firm, partnership,  
37 corporation, company, association, or joint stock association, and  
38 the legal successor thereof.

39 ~~((+8))~~ (11) "Secretary" means the secretary of health.

1       (~~(9)~~) (12) "Sexual assault" has the same meaning as in RCW  
2 70.125.030.

3       (~~(10)~~) (13) "Telemedicine" means the delivery of health care  
4 services through the use of interactive audio and video technology,  
5 permitting real-time communication between the patient at the  
6 originating site and the provider, for the purpose of diagnosis,  
7 consultation, or treatment. "Telemedicine" does not include the use  
8 of audio-only telephone, facsimile, or email.

9       (~~(11)~~) (14) "Victim of sexual assault" means a person who  
10 alleges or is alleged to have been sexually assaulted and who  
11 presents as a patient.

12       NEW SECTION.   **Sec. 2.** A new section is added to chapter 70.41  
13 RCW to read as follows:

14       (1) In addition to the requirements in RCW 70.41.320, hospital  
15 discharge policies must ensure that the discharge plan is appropriate  
16 for the patient's physical condition, emotional and social needs,  
17 and, if a lay caregiver is designated takes into consideration, to  
18 the extent possible, the lay caregiver's abilities as disclosed to  
19 the hospital.

20       (2) As part of a patient's individualized treatment plan,  
21 discharge criteria must include, but not be limited to, the following  
22 components:

- 23       (a) The details of the discharge plan;
- 24       (b) Hospital staff assessment of the patient's ability for self-  
25 care after discharge;
- 26       (c) An opportunity for the patient to designate a lay caregiver;
- 27       (d) Documentation of any designated lay caregiver's contact  
28 information;
- 29       (e) A description of aftercare tasks necessary to promote the  
30 patient's ability to stay at home;
- 31       (f) An opportunity for the patient and, if designated, the  
32 patient's lay caregiver to participate in the discharge planning;
- 33       (g) Instruction or training provided to the patient and, if  
34 designated, the patient's lay caregiver, prior to discharge, to  
35 perform aftercare tasks. Instruction or training may include  
36 education and counseling about the patient's medications, including  
37 dosing and proper use of medication delivery devices when applicable;  
38 and

1 (h) Notification to a lay caregiver, if designated, of the  
2 patient's discharge or transfer.

3 (3) In the event that a hospital is unable to contact a  
4 designated lay caregiver, the lack of contact may not interfere with,  
5 delay, or otherwise affect the medical care provided to the patient,  
6 or an appropriate discharge of the patient.

7 NEW SECTION. **Sec. 3.** A new section is added to chapter 70.41  
8 RCW to read as follows:

9 Section 2 of this act does not require a hospital to adopt  
10 discharge policies or criteria that:

11 (1) Delay a patient's discharge or transfer to another facility  
12 or to home; or

13 (2) Require the disclosure of protected health information to a  
14 lay caregiver without obtaining a patient's consent as required by  
15 state and federal laws governing health information privacy and  
16 security, including chapter 70.02 RCW and the federal health  
17 insurance portability and accountability act of 1996 and related  
18 regulations.

19 NEW SECTION. **Sec. 4.** A new section is added to chapter 70.41  
20 RCW to read as follows:

21 Nothing in section 2 of this act may be construed to:

22 (1) Interfere with the rights or duties of an agent operating  
23 under a valid health care directive under RCW 70.122.030;

24 (2) Interfere with designations made by a patient pursuant to a  
25 physician order for life-sustaining treatment under RCW 43.70.480;

26 (3) Interfere with the rights or duties of an authorized  
27 surrogate decision maker under RCW 7.70.065;

28 (4) Establish a new requirement to reimburse or otherwise pay for  
29 services performed by the lay caregiver for aftercare;

30 (5) Create a private right of action against a hospital or any of  
31 its directors, trustees, officers, employees, or agents, or any  
32 contractors with whom the hospital has a contractual relationship;

33 (6) Hold liable, in any way, a hospital, hospital employee, or  
34 any consultants or contractors with whom the hospital has a  
35 contractual relationship for the services rendered or not rendered by  
36 the lay caregiver to the patient at the patient's residence;

37 (7) Obligate a designated lay caregiver to perform any aftercare  
38 tasks for any patient;

1 (8) Require a patient to designate any individual as a lay  
2 caregiver as defined in RCW 70.41.020;

3 (9) Obviate the obligation of a health carrier as defined in RCW  
4 48.43.005 or any other entity issuing health benefit plans to provide  
5 coverage required under a health benefit plan; and

6 (10) Impact, impede, or otherwise disrupt or reduce the  
7 reimbursement obligations of a health carrier or any other entity  
8 issuing health benefit plans.

9 **Sec. 5.** RCW 70.41.320 and 1998 c 245 s 127 are each amended to  
10 read as follows:

11 (1) Hospitals and acute care facilities shall:

12 (a) Work cooperatively with the department of social and health  
13 services, area agencies on aging, and local long-term care  
14 information and assistance organizations in the planning and  
15 implementation of patient discharges to long-term care services.

16 (b) Establish and maintain a system for discharge planning and  
17 designate a person responsible for system management and  
18 implementation.

19 (c) Establish written policies and procedures to:

20 (i) Identify patients needing further nursing, therapy, or  
21 supportive care following discharge from the hospital;

22 (ii) Subject to section 2 of this act, develop a documented  
23 discharge plan for each identified patient, including relevant  
24 patient history, specific care requirements, and date such follow-up  
25 care is to be initiated;

26 (iii) Coordinate with patient, family, caregiver, lay caregiver  
27 as provided in section 2 of this act, and appropriate members of the  
28 health care team which may include a long-term care worker or a home  
29 and community-based service provider. For the purposes of this  
30 subsection (1)(c)(iii), long-term care worker has the meaning  
31 provided in RCW 74.39A.009 and home and community-based service  
32 provider includes an adult family home as defined in RCW 70.128.010,  
33 an assisted living facility as defined in RCW 18.20.020, or a home  
34 care agency as defined in RCW 70.127.010;

35 (iv) Provide any patient, regardless of income status, written  
36 information and verbal consultation regarding the array of long-term  
37 care options available in the community, including the relative cost,  
38 eligibility criteria, location, and contact persons;

1 (v) Promote an informed choice of long-term care services on the  
2 part of patients, family members, and legal representatives; (~~and~~)

3 (vi) Coordinate with the department and specialized case  
4 management agencies, including area agencies on aging and other  
5 appropriate long-term care providers, as necessary, to ensure timely  
6 transition to appropriate home, community residential, or nursing  
7 facility care; and

8 (vii) Inform the patient or his or her surrogate decision maker  
9 designated under RCW 7.70.065 if it is necessary to complete a valid  
10 disclosure authorization as required by state and federal laws  
11 governing health information privacy and security, including chapter  
12 70.02 RCW and the federal health insurance portability and  
13 accountability act of 1996 and related regulations, in order to allow  
14 disclosure of health care information, including the discharge plan,  
15 to an individual or entity that will be involved in the patient's  
16 care upon discharge, including a lay caregiver as defined in RCW  
17 70.41.020, a long-term care worker as defined in RCW 74.39A.009, a  
18 home and community-based service provider such as an adult family  
19 home as defined in RCW 70.128.010, an assisted living facility as  
20 defined in RCW 18.20.020, or a home care agency as defined in RCW  
21 70.127.010. If a valid disclosure authorization is obtained, the  
22 hospital may release information as designated by the patient for  
23 care coordination or other specified purposes.

24 (d) Work in cooperation with the department which is responsible  
25 for ensuring that patients eligible for medicaid long-term care  
26 receive prompt assessment and appropriate service authorization.

27 (2) In partnership with selected hospitals, the department of  
28 social and health services shall develop and implement pilot projects  
29 in up to three areas of the state with the goal of providing  
30 information about appropriate in-home and community services to  
31 individuals and their families early during the individual's hospital  
32 stay.

33 The department shall not delay hospital discharges but shall  
34 assist and support the activities of hospital discharge planners. The  
35 department also shall coordinate with home health and hospice  
36 agencies whenever appropriate. The role of the department is to  
37 assist the hospital and to assist patients and their families in  
38 making informed choices by providing information regarding home and  
39 community options.

40 In conducting the pilot projects, the department shall:

1 (a) Assess and offer information regarding appropriate in-home  
2 and community services to individuals who are medicaid clients or  
3 applicants; and

4 (b) Offer assessment and information regarding appropriate in-  
5 home and community services to individuals who are reasonably  
6 expected to become medicaid recipients within one hundred eighty days  
7 of admission to a nursing facility."

8 Correct the title.

EFFECT: Requires hospitals and acute care facilities, as part of their duty to establish written policies and procedures, to: (1) Coordinate with appropriate members of the health care team which may include a long-term care worker and a home and community-based service provider; and (2) inform a patient or the patient's surrogate decision maker if it is necessary to complete a disclosure authorization in order to allow disclosure of health care information, including the discharge plan, to an individual or entity that will be involved in the patient's care upon discharge. If a valid disclosure authorization is obtained, the hospital may release information as designated by the patient for care coordination or other specified purposes.

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