

1 SB376  
2 197499-1  
3 By Senators Figures and Livingston  
4 RFD: Healthcare  
5 First Read: 02-MAY-19

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8 SYNOPSIS: This bill would provide a procedure for the  
9 aftercare of certain patients discharged from a  
10 hospital.

11 This bill would provide for the designation  
12 of a family caregiver.

13 This bill would provide for notice and  
14 instruction to a patient and his or her guardian  
15 and his or her designated caregiver. This bill  
16 would impose limitation of liability in regard to  
17 hospitals.

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT  
22

23 Relating to the release of patients from hospital  
24 care; to provide a procedure for aftercare of certain patients  
25 discharged from a hospital, the designation of a caregiver,  
26 notice and instruction to a patient, his or her guardian, and  
27 the patient's designated caregiver prior to the discharge of

1 the patient from a hospital; and to provide for limitation of  
2 liability in regard to hospitals.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. This act shall be known and may be cited  
5 as the Alabama Family Caregiver Act.

6 Section 2. As used in this act, the following terms  
7 shall have the following meanings:

8 (1) AFTERCARE. Any assistance provided by a  
9 caregiver to a patient pursuant to this act after the  
10 discharge of the patient from a hospital which may include  
11 tasks that are limited to the condition of the patient at the  
12 time of discharge and that do not require a licensed  
13 professional.

14 (2) CAREGIVER. An individual who meets all of the  
15 following conditions:

16 a. Is 18 years of age or older.

17 b. Provides aftercare to an individual.

18 c. Is identified by the patient or, if applicable,  
19 the legal guardian of the patient as a person who is involved  
20 with the health care of the patient pursuant to 45 CFR  
21 164.510(b), as it existed on January 1, 2018.

22 (3) DISCHARGE. The release of a patient from  
23 hospital care to his or her residence following an inpatient  
24 admission.

25 (4) HOSPITAL. A facility as defined in Section  
26 22-21-20, Code of Alabama 1975.

1           (5) PATIENT. An individual 18 years of age or older  
2 who has been admitted to a hospital for inpatient care.

3           (6) RESIDENCE. A dwelling that the patient considers  
4 to be his or her home. The term does not include a  
5 rehabilitation facility, hospital, nursing home, assisted  
6 living facility, or group home.

7           Section 3. (a) (1) A hospital shall provide each  
8 patient or, if applicable, the legal guardian of the patient  
9 with at least one opportunity to designate a caregiver  
10 following the inpatient admission of the patient into the  
11 hospital and prior to the discharge of the patient.

12           (2) If the patient is unconscious or otherwise  
13 incapacitated upon his or her entry into a hospital, the  
14 hospital shall provide the patient or his or her legal  
15 guardian with an opportunity to designate a caregiver  
16 following his or her return to consciousness or capacity.

17           (3) If the patient or his or her legal guardian  
18 designates an individual as a caregiver, the hospital shall  
19 record the name, telephone number, and address of the  
20 designated caregiver in the medical records of the patient.

21           (4) If the original designated caregiver becomes  
22 unavailable, unwilling, or unable to care for the patient  
23 prior to discharge, a patient may elect to change his or her  
24 designated caregiver, and the hospital shall record this  
25 change in the medical record of the patient.

1 (b) A hospital shall be deemed to have complied in  
2 full with this act if the patient or, if applicable, the legal  
3 guardian of the patient declines to designate a caregiver.

4 (c) A designation of a caregiver by a patient or the  
5 legal guardian of the patient does not obligate any individual  
6 to perform any aftercare tasks for any patient.

7 Section 4. If a patient or the legal guardian of the  
8 patient has designated a caregiver, a hospital shall make a  
9 good faith attempt to notify the designated caregiver of the  
10 discharge of the patient to the residence of the patient as  
11 soon as possible prior to the discharge of the patient. If the  
12 hospital is unable to contact the designated caregiver, the  
13 lack of contact may not interfere with, delay, or otherwise  
14 affect the medical care provided to the patient, or an  
15 appropriate discharge of the patient.

16 Section 5. (a) As soon as practicable, the hospital  
17 shall make a reasonable effort to consult with the designated  
18 caregiver and the patient or his or her legal guardian, taking  
19 into account the capabilities and limitations of the  
20 caregiver, to accomplish the aftercare tasks that may be  
21 included in a discharge care plan that describes the patient's  
22 aftercare needs at his or her residence.

23 (b) As part of the consultation required under  
24 subsection (a), the hospital shall educate and instruct the  
25 caregiver concerning the aftercare needs of the patient in a  
26 manner that is consistent with the discharge plan and is based  
27 on the learning needs of the caregiver. In addition, the

1 hospital shall also provide an opportunity for the caregiver  
2 and patient or his or her legal guardian to ask questions and  
3 receive explanations about the aftercare tasks.

4 (c) If the hospital is unable to contact the  
5 designated caregiver, the lack of contact shall not interfere  
6 with, delay, or otherwise affect an appropriate discharge of  
7 the patient.

8 Section 6. This act may not be interpreted or  
9 construed to:

10 (1) Allow a caregiver to make any medical decisions  
11 or provide informed consent on behalf of the patient unless  
12 the caregiver is otherwise authorized to do so pursuant to law  
13 or affect the rights of a patient provided by other provisions  
14 of law.

15 (2) Create a cause of action against a hospital,  
16 hospital employee, duly authorized agent of the hospital, or  
17 any consultant or contractor with whom the hospital has a  
18 contractual relationship.

19 Section 7. (a) A hospital, hospital employee, or any  
20 consultant or contractor with whom a hospital has a  
21 contractual relationship is not liable, vicariously, or  
22 otherwise, to any patient for any injury, death, loss, civil  
23 penalty, or damage as a result of any act or omission of a  
24 designated caregiver in rendering assistance or care to a  
25 patient or as a result of any act or failure to act or failure  
26 to provide care rendered by a designated caregiver to a  
27 patient.

1 (b) A hospital, hospital employee, or any consultant  
2 or contractor with whom a hospital has a contractual  
3 relationship is not liable to a designated caregiver, except  
4 for gross negligence or willful and wanton misconduct directly  
5 related to the education and instruction provided to the  
6 designated caregiver concerning the aftercare needs of the  
7 patient, for any injury, death, loss, civil penalty, or damage  
8 as a result of any act or omission of a caregiver in rendering  
9 assistance or care to a patient or as a result of any act or  
10 failure to act or failure to provide care rendered by the  
11 designated caregiver to a patient.

12 Section 8. A designated caregiver may not accept  
13 compensation in exchange for aftercare provided to the  
14 patient. A licensed medical professional may be designated as  
15 a caregiver as long as the individual does not accept  
16 compensation for aftercare provided to the patient.

17 Section 9. This act shall become effective on the  
18 first day of the third month following its passage and  
19 approval by the Governor, or its otherwise becoming law.