

By: Senator(s) Burton

To: Public Health and Welfare

SENATE BILL NO. 2108
(As Sent to Governor)

1 AN ACT TO AUTHORIZE HOSPITALS TO PROVIDE EACH PATIENT OR THE
 2 PATIENT'S LEGAL GUARDIAN AN OPPORTUNITY TO DESIGNATE A LAY
 3 CAREGIVER AFTER THE PATIENT'S ADMISSION INTO A HOSPITAL AND BEFORE
 4 THE PATIENT'S DISCHARGE TO THE PATIENT'S RESIDENCE; TO PROVIDE
 5 THAT DESIGNATION OF A LAY CAREGIVER BY A PATIENT OR A PATIENT'S
 6 LEGAL GUARDIAN DOES NOT OBLIGATE ANY INDIVIDUAL TO PERFORM ANY
 7 AFTERCARE TASKS FOR THE PATIENT; TO PROVIDE THAT IF A PATIENT OR
 8 THE PATIENT'S GUARDIAN HAS DESIGNATED A LAY CAREGIVER, A HOSPITAL
 9 SHALL NOTIFY THE DESIGNATED LAY CAREGIVER OF THE PATIENT'S
 10 DISCHARGE TO THE PATIENT'S RESIDENCE OR TRANSFER TO ANOTHER
 11 LICENSED FACILITY AS SOON AS PRACTICABLE; TO PROVIDE THAT IF THE
 12 HOSPITAL IS UNABLE TO CONTACT THE DESIGNATED LAY CAREGIVER, THE
 13 LACK OF CONTACT SHALL NOT INTERFERE WITH, DELAY OR OTHERWISE
 14 AFFECT THE MEDICAL CARE PROVIDED TO THE PATIENT, OR AN APPROPRIATE
 15 DISCHARGE OF THE PATIENT; TO REQUIRE THE HOSPITAL TO MAKE A
 16 REASONABLE NUMBER OF ATTEMPTS TO CONSULT WITH THE DESIGNATED LAY
 17 CAREGIVER TO PREPARE HIM OR HER FOR AFTERCARE AND ISSUE A
 18 DISCHARGE PLAN DESCRIBING A PATIENT'S AFTERCARE NEEDS; TO PROVIDE
 19 THAT IF THE HOSPITAL IS UNABLE TO CONTACT THE DESIGNATED LAY
 20 CAREGIVER AFTER A REASONABLE NUMBER OF ATTEMPTS, THE LACK OF
 21 CONTACT SHALL NOT INTERFERE WITH, DELAY OR OTHERWISE AFFECT AN
 22 APPROPRIATE DISCHARGE OF THE PATIENT; AND FOR RELATED PURPOSES.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

24 **SECTION 1.** For the purposes of Sections 2 through 6 of this
 25 act:

26 (a) "Aftercare" means any assistance provided by a
 27 designated lay caregiver to an individual under this act after the
 28 patient's discharge from a hospital. The assistance may include



29 tasks that are limited to the patient's condition at the time of
30 discharge that do not require a licensed professional.

31 (b) "Discharge" means a patient's exit or release from
32 a hospital to the patient's residence after any inpatient stay.

33 (c) "Hospital" means a facility licensed under the
34 provisions of Section 41-9-1 et seq.

35 (d) "Lay caregiver" means any individual eighteen (18)
36 years of age or older, including next-of-kin, duly designated as a
37 lay caregiver under this act who provides aftercare assistance to
38 a patient in the patient's residence.

39 (e) "Residence" means a dwelling considered by a
40 patient to be his or her home, not including any hospital, nursing
41 home, rehabilitation facility, assisted living facility or group
42 home licensed by the State Department of Health.

43 **SECTION 2.** (1) Upon inpatient admission to a hospital, each
44 patient or patient's legal guardian shall have the opportunity to
45 designate one (1) lay caregiver after the patient's admission into
46 a hospital and before the patient's discharge to the residence.

47 (a) If the patient is unconscious or otherwise
48 incapacitated upon inpatient admission the hospital, the patient's
49 legal guardian shall have an opportunity to designate one (1) lay
50 caregiver after the patient's recovery of consciousness or
51 capacity, so long as the designation or lack of designation does
52 not interfere with, delay or otherwise affect the medical care
53 provided to the patient.



54 (b) If the patient or the patient's legal guardian does
55 not designate a lay caregiver under this act, the hospital shall
56 document that in the patient's medical record.

57 (c) If the patient or the patient's legal guardian
58 designates a lay caregiver under this subsection (1), the hospital
59 shall promptly request the written consent of the patient or the
60 patient's legal guardian to release medical information to the
61 designated lay caregiver in accordance with the hospital's
62 established procedures for releasing personal health information
63 and in compliance with applicable state and federal law.

64 (d) If the patient or the patient's legal guardian does
65 not consent to the release of medical information to the
66 designated lay caregiver, the hospital is not required to provide
67 notice to the lay caregiver under Section 3 of this act.

68 (e) If the patient or the patient's legal guardian
69 designates a lay caregiver under this subsection (1), the hospital
70 shall record the designation of the lay caregiver, the
71 relationship of the lay caregiver to the patient, and the name,
72 telephone number and physical address of the designated lay
73 caregiver in the patient's medical record.

74 (2) A patient or the patient's legal guardian may elect to
75 change his or her designated lay caregiver if the lay caregiver
76 becomes incapacitated.



77 (3) Designation of a lay caregiver by a patient or a
78 patient's legal guardian under this act does not obligate any
79 individual to perform any aftercare tasks for the patient.

80 (4) This section shall not be construed so as to require a
81 patient or a patient's legal guardian to designate any individual
82 as a lay caregiver.

83 **SECTION 3.** If a patient or the patient's legal guardian has
84 designated a lay caregiver under this act, a hospital shall notify
85 the designated lay caregiver of the patient's discharge to the
86 patient's residence or transfer to another licensed facility as
87 soon as practicable. If the hospital is unable to contact the
88 designated lay caregiver, the lack of contact shall not interfere
89 with, delay or otherwise affect the medical care provided to the
90 patient, or an appropriate discharge of the patient.

91 **SECTION 4.** If a patient or patient's legal guardian has
92 designated a lay caregiver, a hospital employee shall provide an
93 opportunity for the caregiver and patient to ask questions about
94 the aftercare tasks and shall discuss the discharge plan with the
95 caregiver in a competent manner and in accordance with the
96 hospital's requirements under state and federal law.

97 **SECTION 5.** (1) Nothing in this act shall be construed to
98 interfere with the rights of a person legally authorized to make
99 health care decisions under the Uniform Health-Care Decisions Act,
100 Section 41-41-201 et seq.



101 (2) Nothing in this act shall be construed to create a
102 private right of action against a hospital, hospital employee, a
103 duly authorized agent of the hospital, or otherwise supersede or
104 replace existing rights or remedies under any other general or
105 special law.

106 **SECTION 6.** No state or federal funds shall be used for
107 payment to any lay caregiver as defined in this act after
108 discharge from a hospital, and no state or federal program funding
109 shall be impacted by this act.

110 **SECTION 7.** This act shall take effect and be in force from
111 and after July 1, 2015.

