
A BILL FOR AN ACT

RELATING TO CAREGIVING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that Hawaii's population
2 of older adults is rapidly increasing and the State relies
3 heavily on unpaid caregivers, including family and friends, to
4 provide long-term care and support. In 2012, Hawaii had the
5 highest percentage of residents over the age of eighty-five in
6 the United States and this population, most likely to need long-
7 term care, is projected to grow sixty-five per cent over the
8 next twenty years. The AARP Public Policy Institute estimated
9 that in 2013, there were 154,000 caregivers in Hawaii who
10 provided approximately 144,000,000 hours of unpaid care in the
11 State, at a value of \$2,100,000,000.

12 The legislature further finds that the role of caregivers
13 is expanding. While family caregivers have traditionally
14 assisted with bathing, dressing, eating, and household tasks,
15 including shopping and managing finances, it is now common for
16 family caregivers to perform complex medical and nursing tasks
17 that historically were only provided in hospitals and nursing



1 homes, including medication management, help with assistive
2 mobility devices, preparation of special diets, and wound care.
3 The rise in caregivers providing medical or nursing care is
4 attributed to an increase in the prevalence of chronic
5 conditions in older adults, economic pressures to reduce
6 hospital stays, and reduction of formal home-care services due
7 to the growth of in-home technology.

8 The legislature additionally finds that despite the
9 critical and expanding role of caregivers serving Hawaii's aging
10 population, caregivers are often left out of hospital
11 discussions involving the patient's care and are expected to
12 provide post-hospital care, including medical and nursing tasks,
13 without any training or support from professionals.

14 According to the Hawaii Health Information Corporation, in
15 2013, there were approximately five thousand five hundred
16 preventable hospital readmissions within thirty days of
17 discharge. These readmissions are associated with approximately
18 \$239,000,000 in costs, and recently, fifty-six per cent of
19 Hawaii's hospitals were penalized for excessive readmissions
20 under the federal hospital readmissions reduction program.



H.B. NO. 1879

1 To successfully address the challenges of a surging
2 population of older adults and others who have significant needs
3 for long-term care and support, including avoiding costly
4 hospital readmissions, the State must develop methods to help
5 caregivers support their loved ones at home and in the
6 community. Ensuring that caregivers receive basic, uniform
7 training and assistance from a facility where a family member is
8 treated, regardless of the location of the facility, will
9 support family caregivers.

10 The purpose of this Act is to enable caregivers to provide
11 competent, post-hospital care to family members and other loved
12 ones, at a minimal cost to the taxpayers, to complement
13 initiatives that are being pursued by county agencies,
14 hospitals, and insurance companies in efforts to reduce
15 readmission rates and better train family caregivers.

16 SECTION 2. The Hawaii Revised Statutes is amended by
17 adding a new chapter to be appropriately designated and to read
18 as follows:

19 "CHAPTER

20 HOSPITAL REQUIREMENTS REGARDING LAY CAREGIVERS

21 § -1 Definitions. For the purpose of this chapter:



1 "After-care" means any assistance provided by a caregiver
2 to a patient following the patient's discharge from a hospital
3 that is related to the patient's condition at the time of
4 discharge, including but not limited to assisting with basic
5 activities of daily living, instrumental activities of daily
6 living, and other tasks as determined to be appropriate by the
7 discharging physician or other health care professional licensed
8 pursuant to chapter 453.

9 "Caregiver" means any individual duly designated by a
10 patient to provide after-care to the patient in the patient's
11 residence. The term includes but is not limited to a relative,
12 spouse, partner, friend, or neighbor who has a significant
13 relationship with the patient.

14 "Contact information" means legal name, phone number,
15 electronic mailing address, mailing address, and home address,
16 where available.

17 "Discharge" means a patient's exit or release from a
18 hospital to the patient's residence following any medical care
19 or treatment rendered to the patient following an inpatient
20 admission.



1 "Entry" means a patient's entrance into a hospital for the
2 purposes of receiving in-patient medical care.

3 "Hospital" means a facility licensed under section 321-
4 14.5.

5 "Legally authorized representative" means legal guardians,
6 health care agents, and surrogates designated or selected by a
7 consensus of interested persons.

8 "Residence" means a dwelling that the patient considers to
9 be the patient's home and shall not include any rehabilitation
10 facility, hospital, nursing home, assisted living facility, or
11 group home licensed by the State.

12 § -2 Opportunity to designate caregiver. (a) A
13 hospital shall provide each patient or, if applicable, the
14 patient's legally authorized representative, with an opportunity
15 to designate one or more caregivers following the patient's
16 entry into a hospital and prior to the patient's discharge to
17 the patient's residence or transfer to another facility, in a
18 timeframe that is consistent with the discharge planning
19 process; provided that if the patient is unconscious or
20 otherwise incapacitated upon entry into a hospital, the hospital
21 shall provide the patient or patient's legally authorized



1 representative with an opportunity to designate a caregiver
2 within a given timeframe, at the discretion of the attending
3 physician, following the patient's recovery of consciousness or
4 capacity.

5 (b) If the patient or patient's legally authorized
6 representative declines to designate a caregiver pursuant to
7 subsection (a), the hospital shall promptly document this in the
8 patient's medical record.

9 (c) If the patient or the patient's legally authorized
10 representative designates an individual as a caregiver under
11 this chapter, the hospital shall:

12 (1) Promptly request the written consent of the patient or
13 the patient's legally authorized representative to
14 release medical information to the patient's caregiver
15 following the hospital's established procedures for
16 releasing personal health information and in
17 compliance with all federal and state laws and
18 regulations. If the patient or the patient's legally
19 authorized representative declines to consent to
20 release medical information to the patient's
21 caregiver, the hospital is not required to provide



1 notice to the caregiver under section -3 or
2 include the caregiver in discharge planning or provide
3 instruction in aftercare pursuant to the hospital
4 discharge policies under section -4; and

5 (2) Record the patient's designation of caregiver, the
6 relationship of the caregiver to the patient, and the
7 contact information of the patient's caregiver in the
8 patient's medical record.

9 (d) A patient may elect to change the patient's designated
10 caregiver at any time. The hospital shall record this change in
11 the patient's medical record, along with the contact information
12 for the newly designated caregiver, before the patient's
13 discharge to the patient's residence or transfer to another
14 facility.

15 (e) A designation of caregiver by a patient or a patient's
16 legally authorized representative under this section does not
17 require the caregiver to perform any after-care for the patient.

18 (f) This section shall not be construed to require a
19 patient or a patient's legally authorized representative to
20 designate an individual as a caregiver.



1 § -3 **Notice to caregiver.** A hospital shall notify the
2 patient's caregiver of the patient's discharge or transfer to
3 another licensed facility as soon as possible and at the latest,
4 upon issuance of a discharge order by the patient's attending
5 physician. If the hospital is unable to contact the designated
6 caregiver, the lack of contact shall not interfere with, delay,
7 or affect the medical care provided to the patient, or discharge
8 of the patient. The hospital shall promptly document the
9 attempt to contact the designated caregiver in the patient's
10 medical record.

11 § -4 **Hospital discharge policies.** (a) Hospitals shall
12 adopt, maintain, and enforce written discharge policies for all
13 hospital inpatients that include the following components:

- 14 (1) An opportunity for the patient and any caregiver
15 designated pursuant to section -2 to participate
16 in the discharge planning;
- 17 (2) An opportunity for the patient and any caregiver
18 designated pursuant to section -2 to receive
19 instruction, prior to discharge, to prepare the
20 caregiver to perform required medical and nursing
21 aftercare following discharge;



- 1 (3) An opportunity for the patient and any caregiver
- 2 designated pursuant to section -2 to ask questions
- 3 to the hospital staff and receive answers, prior to
- 4 discharge, regarding the patient's discharge plan and
- 5 after-care;
- 6 (4) With respect to paragraphs (1) to (3), procedures
- 7 which require that the opportunities given the patient
- 8 and the designated caregiver shall be offered
- 9 personally and expressly by the responsible hospital
- 10 staff and that the acceptance or declining of the
- 11 opportunities be personally expressed by the caregiver
- 12 or, if the caregiver cannot be contacted, by the
- 13 patient; and
- 14 (5) Requirements for documenting in the patient's medical
- 15 record the details of the discharge plan and a
- 16 description of the instructions provided.
- 17 (b) The discharge policies may incorporate established
- 18 evidence-based practices, including but not limited to:
- 19 (1) Standards for accreditation adopted by the Joint
- 20 Commission or other nationally recognized hospital
- 21 accreditation organization; and



1 (2) The Conditions of Participation for hospitals adopted
2 by the Centers for Medicare and Medicaid Services.

3 (c) The discharge policies must ensure that the discharge
4 planning is appropriate to the condition of the patient and
5 shall be interpreted in a manner and as necessary to meet the
6 needs and acuity of the patient and the abilities of the
7 caregiver.

8 (d) The department of health may adopt rules pursuant to
9 chapter 91 to carry out the purpose of this chapter, including
10 rules to further define the content and scope of any instruction
11 provided to caregivers under the hospital discharge policies.

12 § -5 Non-interference with existing health care
13 directives. Nothing in this chapter shall be construed to
14 interfere with the rights of an agent operating under a valid
15 health care directive under section 327G-3.

16 § -6 Limitation of liability. (a) Nothing in this
17 chapter shall be construed to give rise to a private cause of
18 action against a hospital, hospital employee, or a consultant or
19 contractor that has a contractual relationship with a hospital.

20 (b) A hospital, hospital employee, or a consultant or
21 contractor that has a contractual relationship with a hospital



1 shall not be held liable for the services rendered or not
2 rendered by the caregiver to the patient at the patient's
3 residence.

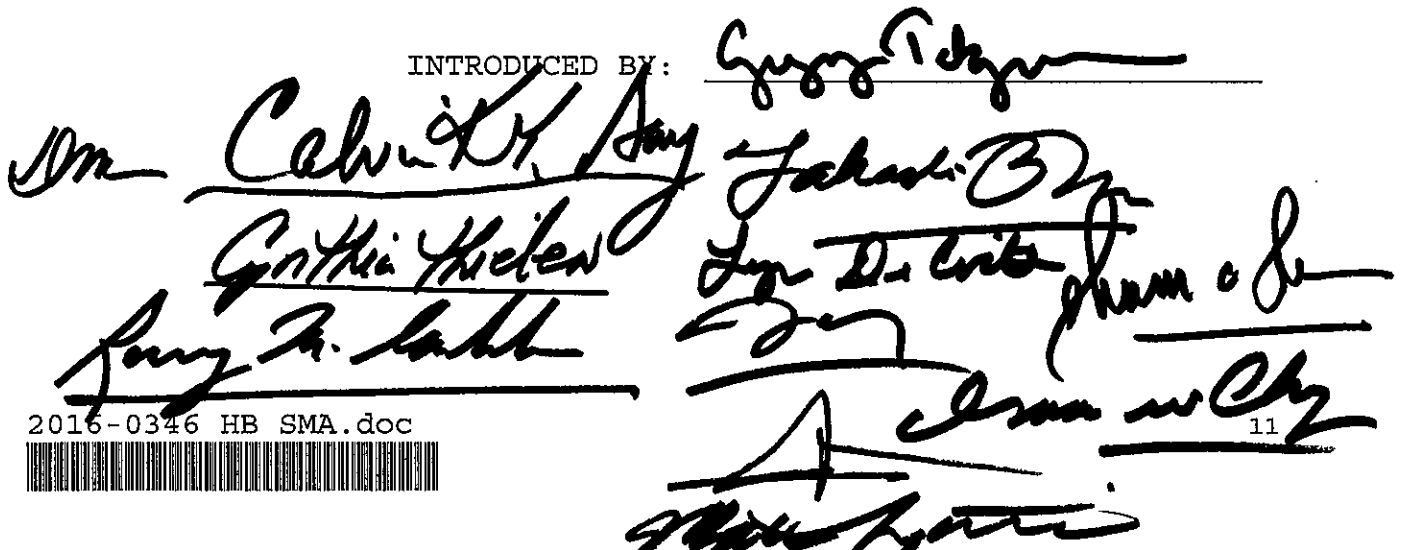
4 § -7 Discharge; transfer of patient. Nothing in this
5 chapter shall delay the discharge of a patient or the transfer
6 of a patient from a hospital to another facility."

7 SECTION 3. If any provision of this Act, or the
8 application thereof to any person or circumstance, is held
9 invalid, the invalidity does not affect other provisions or
10 applications of the Act that can be given effect without the
11 invalid provision or application, and to this end the provisions
12 of this Act are severable.

13 SECTION 4. This Act does not affect rights and duties that
14 matured, penalties that were incurred, and proceedings that were
15 begun before its effective date.

16 SECTION 5. This Act shall take effect on July 1, 2017.
17

INTRODUCED BY:


 A collection of handwritten signatures in black ink, arranged in two columns. The signatures are written over horizontal lines. The names are difficult to read due to the cursive style but appear to include names like 'Caleb K. ...', 'Guthrie ...', 'Ferry ...', 'George ...', 'Jacob ...', 'John ...', 'James ...', 'John ...', and 'Mark ...'.



Jack

OK

my

R. H. Cox

Andy Evans

Franklin

J. R. Doherty

John M. [Signature]

JAN 22 2016



H.B. NO. 1879

Report Title:

Kupuna Caucus; Human Services; Hospitals; Caregivers; Training

Description:

Requires hospitals to provide patients the opportunity to designate a caregiver upon entry to a hospital. Establishes hospital requirements regarding caregivers, including designation of a caregiver, notification to a caregiver, and a discharge plan for patients. Provides hospitals, hospital employees, and consultants or contractors that have a contractual relationship with a hospital with immunity regarding caregiving.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

