

Kansas Lay Caregiver Act; SB 68

SB 68 creates the Kansas Lay Caregiver Act (Act). The bill includes the following definitions:

- “Aftercare” means assistance that is provided by a caregiver to an eligible patient after discharge of the patient from the hospital, is related to the condition of the patient at the time of discharge, and does not require professional licensure in order to perform the assistance;
- “Caregiver” means an individual who is 16 years of age or older, has a significant relationship with the patient, provides aftercare to an individual, and is identified by the patient or the patient’s legal guardian as a person who is involved with the healthcare of the patient;
- “Discharge” means the release of a patient from hospital care to the residence or temporary residence of the patient following an inpatient admission;
- “Legal guardian” means an individual who is appointed by a court to make decisions regarding the healthcare of a patient; and
- “Residence” means the dwelling the patient considers to be the home of the patient, but does not include any rehabilitative facility, hospital, nursing home, assisted living facility, group home, or other healthcare facility licensed by the Kansas Department of Health and Environment (KDHE).

A hospital is required to provide each patient, or the patient’s legal guardian, with an opportunity to designate a caregiver following the patient’s admission into the hospital and prior to the discharge of the patient. Prior to discharge, a patient is allowed to change the designated caregiver; however, a patient is not required to designate a caregiver. The bill does not require an individual designated as a caregiver by a patient to accept the role of caregiver.

A hospital is deemed to have complied in full with the Act if the patient or the patient’s legal guardian:

- Declines to designate a caregiver when given the opportunity; or
- Objects to the disclosure of medical information to the caregiver regarding the patient.

If a patient has designated a caregiver, the hospital is required to notify the designated caregiver concerning the discharge or transfer of the patient to another licensed facility as soon as practicable prior to discharge or transfer. In the event the hospital is unable to contact the designated caregiver, such lack of contact shall not interfere with the medical care or appropriate discharge provided to the patient. As soon as practicable prior to the discharge of the patient, the hospital is required to attempt to consult with the designated caregiver to

prepare the caregiver to provide aftercare for the patient. The hospital is required to provide the patient and the caregiver an opportunity to ask questions during the consultation.

At or before discharge, the hospital is required to:

- Provide the caregiver with any discharge instructions for the patient; and
- Educate the caregiver concerning the aftercare of the patient in a manner consistent with current accepted practices, based on learning needs of the caregiver, and that allows the caregiver the opportunity to ask questions about aftercare.

In the event the hospital is unable to contact the designated caregiver, such lack of contact shall not interfere with, delay, or otherwise affect an appropriate discharge of the patient.

The bill does not:

- Confer upon a caregiver any authority to make healthcare decisions on behalf of the patient;
- Create a private right of action against a hospital, hospital employee, or duly authorized agent of the hospital for any acts or omissions, including by a caregiver;
- Remove the obligation of a third-party payer to cover a healthcare item or service that the third-party payer is obligated to provide to a patient under the terms of a valid agreement; or
- Provide grounds for any adverse licensure action or other disciplinary action against any hospital by KDHE, against any licensee of the State Board of Healing Arts, or against any licensee of the Board of Nursing.

The Act takes effect July 1, 2018.