

SENATE BILL NO. 72

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY SENATORS GIESSEL, Gardner, Stevens, Micciche, Bishop, Egan, MacKinnon, McGuire, Costello, Stoltze

Introduced: 3/11/15

Referred: Health and Social Services, Labor and Commerce

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to caregivers of patients after release or departure from a hospital; and**
2 **providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 18.20 is amended by adding new sections to read:

5 **Article 5. Caregivers of Hospital Patients after Discharge.**

6 **Sec. 18.20.500. Naming a caregiver.** (a) Except as otherwise provided in this
7 section, a hospital shall provide a patient or the patient's legal guardian with the
8 opportunity to name a caregiver to provide aftercare to the patient in the patient's
9 home after discharge from the hospital. The hospital shall provide the opportunity as
10 soon as possible after the patient's admission to the hospital or after the patient
11 recovers consciousness or capacity if the patient is unconscious or otherwise
12 incapacitated at the time of the patient's admission to the hospital.

13 (b) If a hospital discharges a patient before 24 hours have elapsed under (a) of
14 this section, the hospital shall provide the opportunity before discharge to name a

1 caregiver.

2 (c) To name an individual to be a caregiver under (a) or (b) of this section, a
3 patient or the patient's legal guardian shall provide the hospital with the name,
4 telephone number, and address of the individual.

5 (d) A patient or the patient's legal guardian may change the patient's named
6 caregiver at any time before discharge.

7 (e) A patient or the patient's legal guardian is not required to name a caregiver.

8 (f) A named caregiver may be a relative, partner, friend, neighbor, or another
9 individual who has a significant relationship with the patient.

10 (g) If a patient or the patient's legal guardian declines to name a caregiver
11 under this section, the hospital does not have any further obligations under
12 AS 18.20.500 - 18.20.590, except to perform the documentation required by
13 AS 18.20.560(b).

14 (h) The hospital shall make a good faith effort to contact and confirm the
15 name, telephone number, and address of the named caregiver within a reasonable time
16 after the patient or the patient's legal guardian names the caregiver under this section.

17 **Sec. 18.20.510. Release of medical information.** (a) If a patient names a
18 caregiver under AS 18.20.500(c), the hospital shall promptly ask the patient or the
19 patient's legal guardian to consent to the release of the patient's medical information
20 by the hospital to the named caregiver. If the patient or the patient's legal guardian
21 consents to the release, the hospital shall release the information to the named
22 caregiver. The hospital shall comply with federal and state law on the release of
23 medical information and follow the hospital's established procedures for releasing
24 medical information.

25 (b) If a patient or the patient's legal guardian does not consent to the release of
26 the patient's medical information under (a) of this section, the hospital is not required
27 to contact the named caregiver under AS 18.20.500(h), to provide notice to the named
28 caregiver under AS 18.20.520, or to provide information in the patient's discharge plan
29 to the named caregiver under AS 18.20.540 or 18.20.550.

30 **Sec. 18.20.520. Notice to named caregiver.** A hospital shall notify a patient's
31 named caregiver of the date and time when the hospital will discharge the patient or

1 transfer the patient to another hospital or facility as soon as possible after the hospital
2 determines the anticipated date and time of the discharge or transfer.

3 **Sec. 18.20.530. Caregiver not obligated.** Even if a patient or the patient's
4 legal guardian names an individual to be the patient's caregiver under
5 AS 18.20.500(c), the named individual is not required to provide aftercare to the
6 patient after the hospital discharges the patient.

7 **Sec. 18.20.540. Discharge plan.** (a) As soon as possible after the hospital
8 determines the anticipated date and time of a patient's discharge, the hospital shall
9 meet with the patient's named caregiver and the patient or the patient's legal guardian
10 to prepare a discharge plan and to assess the named caregiver's ability to provide
11 aftercare for the patient.

12 (b) A discharge plan must include, at a minimum,

13 (1) the name and contact information of the named caregiver;

14 (2) a description of the aftercare needed to maintain the patient's ability
15 to live at home; the description must consider the capabilities and limitations of the
16 named caregiver;

17 (3) contact information for health care, medical resources, community
18 resources, long-term services, and support services that are available and necessary to
19 carry out the discharge plan successfully; and

20 (4) contact information for a hospital or the instruction contractor
21 representative who is able to respond to questions from the named caregiver about the
22 discharge plan and the instruction provided under AS 18.20.550.

23 **Sec. 18.20.550. Caregiver instruction.** (a) A hospital shall instruct a named
24 caregiver on how to perform each of the tasks to be performed by the named caregiver
25 under the discharge plan.

26 (b) The hospital may provide the instruction required by this section by using
27 a person with whom the hospital has contracted to provide the instruction, if the
28 instruction contractor or the instruction contractor's employees have the necessary
29 education, competence, and licensing to provide the instruction. If the hospital
30 provides the instruction through an instruction contractor, the hospital shall provide
31 the named caregiver with the instruction contractor's name and contact information.

1 (c) At a minimum, the instruction provided under (a) of this section must

2 (1) include a live or prerecorded visual demonstration of each task by
3 an individual who is licensed or otherwise authorized to perform the task; if the
4 hospital or the instruction contractor is not able to provide a live or prerecorded visual
5 demonstration under this paragraph because of the situation of the patient or the
6 named caregiver, the hospital or the instruction contractor may provide the
7 information contained in the demonstration by electronic means or by telephone; and

8 (2) allow the named caregiver and the patient or the patient's legal
9 guardian to ask questions about each task and the discharge plan.

10 (d) A hospital or the instruction contractor shall, as necessary,

11 (1) provide the instruction under (a) of this section in a manner that
12 demonstrates an understanding of, communication with, and effective interaction with
13 individuals of different cultures, including, notwithstanding a provision of
14 AS 44.12.300 - 44.12.390 to the contrary, translation or other language access
15 services; and

16 (2) comply with applicable federal law, including 25 U.S.C. 2901 -
17 2906 (Native American Languages Act).

18 (e) A hospital or the instruction contractor shall provide the instruction
19 required by this section before the patient is discharged from the hospital unless the
20 instruction would delay the discharge. If the instruction would delay the discharge, the
21 hospital or the instruction contractor shall provide the instruction as soon as possible
22 after the discharge.

23 **Sec. 18.20.560. Recording obligations.** (a) A hospital shall promptly record in
24 a patient's medical record

25 (1) the naming of a caregiver, the relationship of the named caregiver
26 to the patient, and the name, telephone number, and address of the named caregiver;

27 (2) a summary of the instruction given under AS 18.20.550, including,
28 at a minimum, the date, time, and contents of the instruction;

29 (3) a change of the named caregiver to another individual, the
30 relationship of the new named caregiver to the patient, and the name, telephone
31 number, and address of the new named caregiver; and

1 (4) the hospital's efforts to contact the patient's named caregiver under
2 AS 18.20.500(h).

3 (b) If a patient or the patient's legal guardian declines to name a caregiver
4 under this section, the hospital shall promptly document that fact in the patient's
5 medical record.

6 **Sec. 18.20.565. No delay of discharge or transfer.** Compliance with the
7 provisions in AS 18.20.500 - 18.20.590 is not required if compliance would delay the
8 discharge of a patient or the transfer of a patient from a hospital to another hospital or
9 facility.

10 **Sec. 18.20.570. Construction of provisions.** The provisions of AS 18.20.500 -
11 18.20.590 may not be construed to

12 (1) create a right of action against a hospital, a hospital employee, or a
13 contractor of the hospital, including an instruction contractor, based on an action
14 performed or not performed under AS 18.20.500 - 18.20.590; or

15 (2) replace, change, or otherwise to affect rights or remedies that are
16 provided under another provision of law, including common law.

17 **Sec. 18.20.580. Coordination with other authority.** AS 18.20.500 -
18 18.20.590 may not be interpreted to interfere with the powers or duties of

19 (1) an agent operating under a valid advance health care directive
20 under AS 13.52; or

21 (2) a legal guardian of the individual.

22 **Sec. 18.20.585. Regulations.** The Department of Health and Social Services
23 may adopt regulations under AS 44.62 (Administrative Procedure Act) to implement
24 AS 18.20.500 - 18.20.590.

25 **Sec. 18.20.590. Definitions.** In AS 18.20.500 - 18.20.590,

26 (1) "admission" means accepted by a hospital for medical care on an
27 inpatient basis;

28 (2) "aftercare" means the assistance provided by a named caregiver to
29 an individual under a discharge plan;

30 (3) "caregiver" means an individual who provides, without pay,
31 aftercare to an individual;

1 (4) "discharge" means, after a patient's admission to a hospital, the
2 patient's departure or release from the hospital to the patient's home;

3 (5) "discharge plan" means the discharge plan a hospital issues under
4 AS 18.20.540;

5 (6) "home" means a dwelling that the patient considers to be the
6 patient's home; in this paragraph, "dwelling" does not mean a rehabilitation facility,
7 hospital, nursing home, assisted living facility, or group home;

8 (7) "hospital" has the meaning given in AS 18.20.130, but does not
9 include a hospital that is limited to the treatment of mental disorders;

10 (8) "instruction contractor" means the person with whom the hospital
11 has contracted under AS 18.20.550(b);

12 (9) "legal guardian" means

13 (A) if the patient is under 18 years of age,

14 (i) a parent of the patient;

15 (ii) an individual who acts as a guardian of the patient
16 by testamentary or court appointment under AS 13.26.030 - 13.26.085;
17 or

18 (iii) if the patient is committed to the custody of the
19 Department of Health and Social Services under AS 47.10 or AS 47.12,
20 a person who is under a duty to exercise general supervision over the
21 patient;

22 (B) an individual who acts as a guardian of the patient by
23 testamentary or court appointment under AS 13.26.090 - 13.26.150;

24 (10) "named caregiver" means an individual named as a caregiver
25 under AS 18.20.500(c).

26 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 **TRANSITION: REGULATIONS.** The Department of Health and Social Services may
29 adopt regulations necessary to implement AS 18.20.500 - 18.20.590, enacted by sec. 1 of this
30 Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not
31 before January 1, 2016.

- 1 * **Sec. 3.** Section 2 of this Act takes effect immediately under AS 01.10.070(c).
- 2 * **Sec. 4.** Except as provided in sec. 3 of this Act, this Act takes effect January 1, 2016.