AN ACT concerning hospitals; relating to designated lay caregivers; duties; policies and procedures.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Sections 1 through 7, and amendments thereto, shall be known and may be cited as the designated lay caregivers act.

(b) For the purposes of sections 1 through 7, and amendments thereto, of this act:

1. "Aftercare" means any assistance provided by a designated lay caregiver to an individual under this act after the patient's discharge from a hospital. Such assistance may include tasks that are limited to the patient's condition at the time of discharge that do not require a licensed professional, such as, but not limited to, basic activities of daily living and other tasks determined to be appropriate by the discharging physician or other licensed healthcare provider;

2. "board" means a hospital board which is vested with the management and control of a hospital;

3. "discharge" means a patient's exit or release from a hospital to the patient's residence following any inpatient stay;

4. "hospital" means a licensed facility as defined in K.S.A. 65-425, and amendments thereto;

5. "lay caregiver" means any individual 18 years of age or older, including, but not limited to, next of kin, a partner, friend or neighbor who has a significant relationship with the patient, duly designated as a lay caregiver pursuant to the provisions of this act who provides aftercare assistance to a patient in the patient's residence; and

6. "residence" means a dwelling considered by a patient to be such patient's home, not including any rehabilitation facility, hospital, nursing home, assisted living facility, adult care home or group home.

Sec. 2. (a) Hospitals shall provide each patient or the patient's legal guardian with an opportunity to designate one lay caregiver following the patient's admission into a hospital and prior to the patient's discharge to the patient's residence.

(1) In the event the patient is unconscious or otherwise incapacitated upon admission to the hospital, the hospital shall provide the patient's legal guardian with an opportunity to designate a lay caregiver following the
(2) In the event the patient or the patient's legal guardian declines to designate a lay caregiver under this act, the hospital shall promptly document such in the patient's medical record, and the hospital shall be deemed to comply with the provisions of this act.

(3) In the event that the patient or the patient's legal guardian designates an individual as a lay caregiver under this act, the hospital shall promptly request the written consent of the patient or the patient's legal guardian to release medical information to the patient's designated lay caregiver pursuant to the hospital's established procedures for releasing personal health information and in compliance with applicable state and federal laws, including the federal health insurance portability and accountability act of 1996, Pub. L. 104-191, and related regulations.

(4) If the patient or the patient's legal guardian declines to consent to the release of medical information to the patient's designated lay caregiver, the hospital is not required to provide notice to the lay caregiver pursuant to the provisions of section 3, and amendments thereto.

(5) The hospital shall record the patient's designation of a lay caregiver, the relationship of the lay caregiver to the patient, and the name, telephone number and physical address of the patient's designated lay caregiver in the patient's medical record.

(b) A patient or the patient's legal guardian may elect to change such patient's designated lay caregiver in the event that the lay caregiver becomes incapacitated, refuses to be a lay caregiver or such patient or such patient's legal guardian changes such person's mind regarding the designated lay caregiver. The hospital must record this change in the patient's medical record before the patient's discharge.

(c) Designation of a lay caregiver by a patient or a patient's legal guardian pursuant to the provisions of this act does not obligate any individual to perform any aftercare tasks for the patient.

(d) In the event that the patient is a minor child, and the parents of the patient are divorced, the custodial parent shall have the authority to designate a lay caregiver. If the parents have joint custody of the patient, they shall jointly designate the lay caregiver.

(e) This section shall not be construed so as to require a patient or a patient's legal guardian to designate any individual as a lay caregiver as defined by this act.

Sec. 3. If a patient has designated a lay caregiver, a hospital, as soon as possible, shall notify the patient's designated lay caregiver of the patient's discharge to the patient's residence or transfer to another licensed facility to prepare such lay caregiver for aftercare and issue a discharge
plan describing a patient's aftercare needs. In the event the hospital is unable to contact the designated lay caregiver, the lack of contact shall not interfere with, delay or otherwise affect the medical care provided to the patient, or an appropriate discharge of the patient. The hospital shall promptly document the attempt in the patient's medical record.

Sec. 4. (a) At a minimum, the discharge plan shall include:
   (1) The name and contact information of the lay caregiver designated under this act;
   (2) a description of all aftercare assistance tasks necessary to maintain the patient's ability to reside at home; and
   (3) contact information for any health care, community resources and long-term services and supports necessary to successfully carry out the patient's discharge plan, and contact information for a hospital employee who can respond to questions about the discharge plan after the instruction provided pursuant to subsection (b).

   (b) The hospital issuing the discharge plan must provide lay caregivers with instructions in all aftercare assistance tasks described in the discharge plan. Training and instructions for lay caregivers may be conducted in person or through video technology, at the discretion of the lay caregiver. Any training or instructions provided to a lay caregiver shall be provided in nontechnical language, to the extent possible. At a minimum, this instruction shall include:
   (1) A live or recorded demonstration of the tasks performed by an individual designated by the hospital who is authorized to perform the aftercare assistance task and is able to perform the demonstration in a culturally competent manner and in accordance with the hospital's requirements to provide language access services under state and federal law;
   (2) an opportunity for the lay caregiver to ask questions about the aftercare assistance tasks; and
   (3) answers to the lay caregiver's questions provided in a culturally competent manner and in accordance with the hospital's requirements to provide language access services under state and federal law.

   (c) Any instruction required under this act shall be documented in the patient's medical record, including, at a minimum, the date, time and contents of the instruction.

Sec. 5. (a) Nothing in this act shall be construed to interfere with the rights of a person legally authorized to make health care decisions for the patient.

   (b) Nothing in this act shall be construed to create a private right of action against a hospital, hospital employee, a duly authorized agent of the hospital, any consultants or contractors with whom a hospital has a contractual relationship or otherwise supersede or replace existing rights or
remedies under any other general or special law.
(c) A hospital, a hospital employee, or any consultants or contractors
with whom a hospital has a contractual relationship shall not be held liable
in any way for the services rendered or not rendered by the lay caregiver to
the patient at the patient's residence.
(d) Nothing in this act shall be construed to obviate the obligation of
an insurance company, health service corporation, hospital service
corporation, medical service corporation, health maintenance organization
or any other entity issuing health benefits plans to provide coverage
required under a health benefits plan.
(e) (1) A lay caregiver shall not be reimbursed by any government or
commercial payer for aftercare assistance that is provided pursuant to this
act.
(2) Nothing in this act shall be construed to impact, impede or
otherwise disrupt or reduce the reimbursement obligations of an insurance
compny, health service corporation, hospital service corporation, medical
service corporation, health maintenance organization or any other entity
issuing health benefits plans.
Sec. 6. No state or federal dollars shall be used for payment to any
lay caregiver for aftercare as defined in this act after a patient has been
discharged from a hospital. No state or federal program funding shall be
impacted by this act.
Sec. 7. The board of each hospital shall adopt policies and procedures
to implement sections 1 through 6, and amendments thereto.
Sec. 8. This act shall take effect and be in force from and after its
publication in the statute book.