

## **IC 16-21-12**

### **Chapter 12. The Caregiver Advise, Record, and Enable (CARE) Act**

#### **IC 16-21-12-1**

##### **"After care"**

Sec. 1. As used in this chapter, "after care" means assistance provided by a lay caregiver to a patient in the patient's residence under an at home care plan following the patient's discharge from a hospital. The assistance may include any of the following:

- (1) Assisting with basic activities of daily living.
- (2) Assisting with instrumental activities of daily living.
- (3) Assisting with medical or nursing tasks, including:
  - (A) managing wound care;
  - (B) assisting in administering medications; or
  - (C) operating medical equipment.

*As added by P.L.137-2015, SEC.6.*

#### **IC 16-21-12-2**

##### **"At home care plan"**

Sec. 2. As used in this chapter, "at home care plan" means any plan that serves to describe the after care needs of a patient upon discharge from a hospital to the patient's residence, if the at home care plan:

- (1) is developed by:
  - (A) a registered nurse licensed under IC 25-23, social worker licensed under IC 25-23.6, or other licensed health care professional; or
  - (B) an individual supervised by a licensed registered nurse, licensed social worker, or other licensed health care professional;
- (2) is based on an evaluation of the patient's need for after care, taking into consideration the patient's functional status and cognitive ability, including the patient's capacity for self care; and
- (3) includes contact information for hospital personnel or the patient's physician if the patient or the patient's lay caregiver designated under this chapter has questions regarding the patient's after care.

The term includes a discharge plan prepared for the patient that is developed under the discharge planning requirements of the Medicare program's conditions of participation.

*As added by P.L.137-2015, SEC.6.*

#### **IC 16-21-12-3**

##### **"Discharge"**

Sec. 3. As used in this chapter, "discharge" means a patient's exit or release from a hospital following an inpatient hospitalization.

*As added by P.L.137-2015, SEC.6.*

#### **IC 16-21-12-4**

##### **"Health care representative"**

Sec. 4. As used in this chapter, "health care representative" means an individual appointed as the patient's health care representative under IC 16-36-1-7 or an individual holding the patient's health care power of attorney under IC 30-5-5-16. However, if the patient has not appointed a health care representative under IC 16-36-1-7 or granted a health care power of attorney to an individual under IC 30-5-5-16, the term means an individual authorized to consent to health care for the patient under IC 16-36-1-5.

*As added by P.L.137-2015, SEC.6.*

#### **IC 16-21-12-5**

##### **"Lay caregiver"**

Sec. 5. As used in this chapter, "lay caregiver" means an individual who:

- (1) has a significant relationship with a patient;
- (2) is designated as a lay caregiver by:
  - (A) the patient;
  - (B) the patient's health care representative; or
  - (C) if the patient has not appointed a health care representative, the patient's legal guardian;under this chapter; and
- (3) provides after care to the patient.

*As added by P.L.137-2015, SEC.6.*

#### **IC 16-21-12-6**

##### **"Residence"**

Sec. 6. As used in this chapter, "residence" means a dwelling considered by a patient to be the patient's temporary or permanent home. The term does not include a hospital licensed under this article, a health facility or residential care facility licensed under IC 16-28, a state mental health institution operated under IC 12-24-1-3, a private mental health institution licensed under IC 12-25, an assisted living facility registered with the office of the secretary of family and social services as a housing with services establishment, or an institution or facility operated by the department of correction or a law enforcement agency.

*As added by P.L.137-2015, SEC.6.*

#### **IC 16-21-12-7**

##### **Opportunity to designate lay caregiver; documentation; hospital responsibilities upon designation**

Sec. 7. (a) As soon as practicable following a patient's admission to a hospital as an inpatient and before the patient's discharge from the hospital to the patient's residence or transfer to another facility,

the hospital shall provide each patient or the patient's health care representative with an opportunity to designate a lay caregiver. A patient or the patient's health care representative may decline to designate a lay caregiver.

(b) If a patient or the patient's health care representative declines to designate a lay caregiver, or does not provide the written consent or the information described in subsection (c), the hospital shall document that fact in the patient's medical record and the hospital is considered to have complied with the requirements of this chapter.

(c) If a patient or the patient's health care representative designates a lay caregiver, the hospital shall do the following:

(1) Request written consent by the patient or the patient's health care representative to release medical information to the patient's designated lay caregiver following the hospital's procedures for releasing personal health information in compliance with federal and state laws.

(2) Record the following information in the patient's medical record concerning the designated lay caregiver:

(A) The name, address, and telephone number of the designated lay caregiver.

(B) The relationship between the patient and the designated lay caregiver.

*As added by P.L.137-2015, SEC.6.*

#### **IC 16-21-12-8**

##### **Provision of preferred means to contact lay caregiver; use by hospital; notification to lay caregiver if patient unable**

Sec. 8. (a) If a patient or the patient's health care representative designates a lay caregiver, and provides the written consent and the other information described in section 7(c) of this chapter, the hospital shall, as soon as practicable before the patient's discharge from the hospital, provide the patient or the patient's health care representative with an opportunity to advise hospital personnel of a preferred means of contacting the lay caregiver.

(b) If the patient or the patient's health care representative advises hospital personnel of a preferred means of contacting the designated lay caregiver under subsection (a), the hospital shall, when attempting to contact a patient's designated lay caregiver, attempt to use the preferred means of contact provided in subsection (a) if the preferred means of contact is permitted by the hospital and is readily available for use by hospital personnel when attempting to contact the lay caregiver.

(c) If hospital personnel, in the exercise of their professional judgment, determine that a patient lacks the physical or mental capacity to accurately and timely notify the patient's lay caregiver of the patient's pending discharge or transfer to another facility, the hospital shall, within a reasonable time before the patient's discharge or transfer, attempt to notify the patient's lay caregiver of the pending

discharge or transfer.  
*As added by P.L.137-2015, SEC.6.*

#### **IC 16-21-12-9**

##### **Hospital attempt to consult with lay caregiver; at home care plan**

Sec. 9. (a) If a patient or the patient's health care representative:

- (1) designates a lay caregiver; and
- (2) provides the written consent and the other information described in section 7(c) of this chapter;

the hospital shall, as soon as practicable before the patient's discharge from a hospital, attempt to consult with the designated lay caregiver to prepare the lay caregiver for the patient's after care needs and issue an at home care plan that describes the patient's after care needs upon discharge from the hospital to the patient's residence.

(b) An at home care plan may include contact information for health care, community resources, and long term services and supports necessary to successfully carry out the patient's at home care plan.

*As added by P.L.137-2015, SEC.6.*

#### **IC 16-21-12-10**

##### **Opportunity for lay caregiver to ask questions; live or recorded demonstration of after care needs**

Sec. 10. (a) As part of the consultation under section 9(a) of this chapter, the hospital shall attempt to provide the designated lay caregiver the opportunity to ask questions and receive answers about the after care needs of the patient.

(b) If the hospital personnel who consult with the lay caregiver under section 9(a) of this chapter, determine, in the exercise of their professional judgment, that a live or recorded demonstration is necessary in order to appropriately prepare the lay caregiver for the patient's after care needs, the hospital may provide to a designated lay caregiver a live or recorded demonstration of the after care described in the patient's at home care plan.

*As added by P.L.137-2015, SEC.6.*

#### **IC 16-21-12-11**

##### **No interference or delay of medical care if unable to contact lay caregiver**

Sec. 11. If the hospital is unable to contact the designated lay caregiver, the lack of contact may not interfere with, delay, or otherwise affect the medical care provided to the patient or an otherwise appropriate discharge or transfer to another facility.

*As added by P.L.137-2015, SEC.6.*

#### **IC 16-21-12-12**

##### **No requirement to designate lay caregiver**

Sec. 12. This chapter may not be construed to require a patient or the patient's health care representative to designate a lay caregiver.  
*As added by P.L.137-2015, SEC.6.*

**IC 16-21-12-13**

**No obligation for lay caregiver to perform after care**

Sec. 13. The designation of a lay caregiver does not obligate any individual to perform any after care for the patient.  
*As added by P.L.137-2015, SEC.6.*

**IC 16-21-12-14**

**No interference with, delay, or affect on patient care**

Sec. 14. A hospital may not allow the process of appointing or the refusal or failure to appoint a lay caregiver for a patient to interfere with, delay, or otherwise affect the services that the hospital provides to a patient.  
*As added by P.L.137-2015, SEC.6.*

**IC 16-21-12-15**

**No interference with health care representative rights; no private right of action against hospital**

Sec. 15. (a) This chapter may not be construed to interfere with the rights of a health care representative appointed under IC 16-36-1.

(b) This chapter may not be construed to create a private right of action against a hospital, a hospital employee, or an individual with whom a hospital has a contractual relationship.

(c) No cause of action of any type arises against a hospital, a hospital employee, a staff member, or an individual with whom a hospital has a contractual relationship based upon an act or omission of a lay caregiver.

*As added by P.L.137-2015, SEC.6.*

**IC 16-21-12-16**

**No new reimbursement requirements under chapter**

Sec. 16. This chapter may not be construed to establish a new requirement to reimburse or otherwise pay for services rendered by a lay caregiver for after care services.

*As added by P.L.137-2015, SEC.6.*