

AMENDED IN ASSEMBLY JUNE 23, 2015

AMENDED IN SENATE APRIL 21, 2015

SENATE BILL

No. 675

Introduced by Senator Liu
(Coauthor: Senator Wolk)

February 27, 2015

An act to ~~add Section 1262.55 to~~ *amend Section 1262.5 of the Health and Safety Code, relating to health facilities.*

LEGISLATIVE COUNSEL'S DIGEST

SB 675, as amended, Liu. ~~Health facilities: Hospitals:~~ family caregivers.

Existing law requires the State Department of Public Health to license and regulate health facilities, defined to mean a facility, place, or building that is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, as specified. Existing law requires hospitals, among other things, to have a written discharge planning policy and process that requires appropriate arrangements to be made for posthospital care. A violation of those provisions is a crime.

This bill ~~would, subject to the federal Health Insurance Portability and Accountability Act of 1996,~~ *would* require a hospital to take specified actions relating to family caregivers, including, among others, notifying the family caregiver of the patient's discharge or transfer to another facility and providing information ~~or instruction and counseling~~ regarding the posthospital care needs of the ~~patient~~ *patient, if the patient has consented to the disclosure of this information.* By expanding the scope of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. ~~Section 1262.55 is added to the Health and Safety~~
2 ~~Code, immediately following Section 1262.5, to read:~~

3 ~~1262.55.— (a) Subject to the provisions of the federal Health~~
4 ~~Insurance Portability and Accountability Act of 1996 (42 U.S.C.~~
5 ~~Sec. 300gg), a hospital shall do all of the following:~~

6 ~~(1) Provide an opportunity for an individual patient who has~~
7 ~~been admitted to the hospital as an inpatient to identify one family~~
8 ~~caregiver who may assist in posthospital care, and record that~~
9 ~~information in the patient’s medical chart.~~

10 ~~(A) In the event that the patient is unconscious or otherwise~~
11 ~~incapacitated upon admittance to the hospital, the hospital shall~~
12 ~~provide the patient or patient’s legal guardian with an opportunity~~
13 ~~to designate a caregiver within a specified time period, at the~~
14 ~~discretion of the attending physician, following the patient’s~~
15 ~~recovery of consciousness or capacity. The hospital shall promptly~~
16 ~~document the attempt in the patient’s medical record.~~

17 ~~(B) In the event that the patient or legal guardian declines to~~
18 ~~designate a caregiver pursuant to this section, the hospital shall~~
19 ~~promptly document this declination in the patient’s medical record,~~
20 ~~when appropriate.~~

21 ~~(2) Notify the patient’s designated family caregiver of the~~
22 ~~patient’s discharge or transfer to another facility as soon as possible~~
23 ~~and, in any event, upon issuance of a discharge order by the~~
24 ~~patient’s attending physician. If the hospital is unable to contact~~
25 ~~the designated caregiver, the lack of contact shall not interfere~~
26 ~~with, delay, or otherwise affect the medical care provided to the~~
27 ~~patient or an appropriate discharge of the patient. The hospital~~
28 ~~shall promptly document the attempted notification in the patient’s~~
29 ~~medical record.~~

1 ~~(3) Provide an opportunity for the patient and his or her~~
2 ~~designated family caregiver to engage in the discharge planning~~
3 ~~process, which shall include providing information or instruction~~
4 ~~regarding the posthospital care needs of the patient, and education~~
5 ~~and counseling about the patient’s medications, including dosing~~
6 ~~and proper use of medication delivery devices, when applicable.~~
7 ~~This instruction shall be provided in a culturally competent manner~~
8 ~~and in a language that is comprehensible to the patient and~~
9 ~~caregiver, consistent with the requirements of state and federal~~
10 ~~law.~~

11 ~~(4) Provide contact information for any health care service,~~
12 ~~community resource, or other service necessary to successfully~~
13 ~~carry out the care plan.~~

14 ~~(b) Discharge planning policies adopted by a hospital in~~
15 ~~accordance with this section shall ensure that planning is~~
16 ~~appropriate to the condition of the patient being discharged from~~
17 ~~the hospital and to the discharge destination and meets the needs~~
18 ~~and acuity of patients and the abilities of the designated family~~
19 ~~caregiver.~~

20 ~~(e) This section does not require a hospital to do either of the~~
21 ~~following:~~

22 ~~(1) Adopt a policy that would delay discharge or transfer of a~~
23 ~~patient.~~

24 ~~(2) Disclose information if the patient has not provided consent~~
25 ~~that meets the standards required by state and federal laws~~
26 ~~governing the privacy and security of protected health information.~~

27 ~~(d) For the purposes of this section, “family caregiver” means~~
28 ~~a relative, friend, or neighbor who provides assistance related to~~
29 ~~an underlying physical or mental disability but who is unpaid for~~
30 ~~those services.~~

31 *SECTION 1. Section 1262.5 of the Health and Safety Code is*
32 *amended to read:*

33 1262.5. (a) Each hospital shall have a written discharge
34 planning policy and process.

35 (b) The policy required by subdivision (a) shall require that
36 appropriate arrangements for posthospital care, including, but not
37 limited to, care at home, in a skilled nursing or intermediate care
38 facility, or from a hospice, are made prior to discharge for those
39 patients who are likely to suffer adverse health consequences upon
40 discharge if there is no adequate discharge planning. If the hospital

1 ~~determines that the patient and family members or interested~~
2 ~~persons need to be counseled to prepare them for posthospital care,~~
3 ~~the hospital shall provide for that counseling; the discharge of each~~
4 ~~patient.~~

5 *(c) As part of the discharge planning process, the hospital shall*
6 *provide each patient who has been admitted to the hospital as an*
7 *inpatient with an opportunity to identify one family caregiver who*
8 *may assist in posthospital care, and shall record this information*
9 *in the patient's medical chart.*

10 *(A) In the event that the patient is unconscious or otherwise*
11 *incapacitated upon admittance to the hospital, the hospital shall*
12 *provide the patient or patient's legal guardian with an opportunity*
13 *to designate a caregiver within a specified time period, at the*
14 *discretion of the attending physician, following the patient's*
15 *recovery of consciousness or capacity. The hospital shall promptly*
16 *document the attempt in the patient's medical record.*

17 *(B) In the event that the patient or legal guardian declines to*
18 *designate a caregiver pursuant to this section, the hospital shall*
19 *promptly document this declination in the patient's medical record,*
20 *when appropriate.*

21 *(d) The policy required by subdivision (a) shall require that the*
22 *patient's designated family caregiver be notified of the patient's*
23 *discharge or transfer to another facility as soon as possible and,*
24 *in any event, upon issuance of a discharge order by the patient's*
25 *attending physician. If the hospital is unable to contact the*
26 *designated caregiver, the lack of contact shall not interfere with,*
27 *delay, or otherwise affect the medical care provided to the patient*
28 *or an appropriate discharge of the patient. The hospital shall*
29 *promptly document the attempted notification in the patient's*
30 *medical record.*

31 ~~(e)~~

32 *(e) The process required by subdivision (a) shall require that*
33 *the patient and family caregiver be informed, orally or in writing,*
34 *informed of the continuing health care requirements following*
35 *discharge from the hospital. The right to information regarding*
36 *continuing health care requirements following discharge shall also*
37 *apply to the person who has legal responsibility to make decisions*
38 *regarding medical care on behalf of the patient, if the patient is*
39 *unable to make those decisions for himself or herself. In addition,*
40 *a patient may request that friends or family members be given this*

1 ~~information, even if the patient is able to make his or her own~~
2 ~~decisions regarding medical care. The hospital shall provide an~~
3 ~~opportunity for the patient and his or her designated family~~
4 ~~caregiver to engage in the discharge planning process, which shall~~
5 ~~include providing information and, when appropriate, instruction~~
6 ~~regarding the posthospital care needs of the patient. This~~
7 ~~information shall include, but is not limited to, education and~~
8 ~~counseling about the patient's medications, including dosing and~~
9 ~~proper use of medication delivery devices, when applicable. The~~
10 ~~information shall be provided in a culturally competent manner~~
11 ~~and in a language that is comprehensible to the patient and~~
12 ~~caregiver, consistent with the requirements of state and federal~~
13 ~~law, and shall include an opportunity for the caregiver to ask~~
14 ~~questions about the posthospital care needs of the patient.~~

15 ~~(d)~~

16 (f) (1) A transfer summary shall accompany the patient upon
17 transfer to a skilled nursing or intermediate care facility or to the
18 distinct part-skilled nursing or intermediate care service unit of
19 the hospital. The transfer summary shall include essential
20 information relative to the patient's diagnosis, hospital course,
21 pain treatment and management, medications, treatments, dietary
22 requirement, rehabilitation potential, known allergies, and treatment
23 plan, and shall be signed by the physician.

24 (2) A copy of the transfer summary shall be given to the patient
25 and the patient's legal representative, if any, prior to transfer to a
26 skilled nursing or intermediate care facility.

27 ~~(e)~~

28 (g) A hospital shall establish and implement a written policy to
29 ensure that each patient receives, at the time of discharge,
30 information regarding each medication dispensed, pursuant to
31 Section 4074 of the Business and Professions Code.

32 ~~(f)~~

33 (h) A hospital shall provide every patient anticipated to be in
34 need of long-term care at the time of discharge with contact
35 information for at least one public or nonprofit agency or
36 organization dedicated to providing information or referral services
37 relating to community-based long-term care options in the patient's
38 county of residence and appropriate to the needs and characteristics
39 of the patient. At a minimum, this information shall include contact
40 information for the area agency on aging serving the patient's

1 county of residence, local independent living centers, or other
2 information appropriate to the needs and characteristics of the
3 patient.

4 ~~(g)~~

5 (i) A contract between a general acute care hospital and a health
6 care service plan that is issued, amended, renewed, or delivered
7 on or after January 1, 2002, may not contain a provision that
8 prohibits or restricts any health care facility’s compliance with the
9 requirements of this section.

10 (j) *Discharge planning policies adopted by a hospital in*
11 *accordance with this section shall ensure that planning is*
12 *appropriate to the condition of the patient being discharged from*
13 *the hospital and to the discharge destination and meets the needs*
14 *and acuity of patients.*

15 (k) *This section does not require a hospital to do either of the*
16 *following:*

17 (1) *Adopt a policy that would delay discharge or transfer of a*
18 *patient.*

19 (2) *Disclose information if the patient has not provided consent*
20 *that meets the standards required by state and federal laws*
21 *governing the privacy and security of protected health information.*

22 (l) *This section does not supersede or modify any privacy and*
23 *information security requirements and protections in federal and*
24 *state law regarding protected health information or personally*
25 *identifiable information, including, but not limited to, the federal*
26 *Health Insurance Portability and Accountability Act of 1996 (42*
27 *U.S.C. Sec. 300gg).*

28 (m) *For the purposes of this section, “family caregiver” means*
29 *a relative, friend, or neighbor who provides assistance related to*
30 *an underlying physical or mental disability but who is unpaid for*
31 *those services.*

32 SEC. 2. No reimbursement is required by this act pursuant to
33 Section 6 of Article XIII B of the California Constitution because
34 the only costs that may be incurred by a local agency or school
35 district will be incurred because this act creates a new crime or
36 infraction, eliminates a crime or infraction, or changes the penalty
37 for a crime or infraction, within the meaning of Section 17556 of
38 the Government Code, or changes the definition of a crime within

1 the meaning of Section 6 of Article XIII B of the California
2 Constitution.

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