Illinois Health and Hospital Association

August 6, 2015

On July 31, 2015, the Governor signed into law SB 1298 (now Public Act 99-0222), the Caregiver Advise, Record and Enable Act (CARE Act), effective January 27, 2016. The CARE Act requires hospitals to:

- Offer inpatients the opportunity to designate a family member or friend as a caregiver to provide aftercare in the patient's residence after discharge; hospitals must record the caregiver's name, if one is designated.
- Notify the caregiver of the patient's upcoming discharge or transfer.
- Consult with and provide a discharge plan to the caregiver that includes the aftercare that the patient will require.
- Make an effort to provide instruction to the caregiver in after care tasks described in the discharge plan.

Background

The consumer advocacy organization AARP estimates that more than 2.4 million Illinoisans help loved ones continue to live at home. These caregivers provide increasingly complex care for which they often need preparation. To that end, AARP caused legislation to be introduced in several states, including Illinois, requiring hospitals to provide instruction to caregivers.

In its original form, the AARP draft bill included specific time limitations within which hospitals were to perform certain tasks, as well as many requirements to record information in the patient record. IHA worked with AARP to eliminate onerous requirements and to focus on essential components consistent with best practice and federal requirements, within a framework deemed appropriate by the patient's healthcare providers.

Due to its patient-centered approach, compliance with SB 1298 should augment hospitals' efforts to decrease readmissions and increase patient satisfaction.

Learn about the requirements of SB 1298 for hospitals.

Protections

SB 1298 provides certain protections for individuals and hospitals. SB 1298 provides that nothing in the Act shall interfere with the rights of an agent operating under a valid healthcare directive or power of attorney.

While an agent or other legal representative is authorized to make healthcare decisions for the patient, a designated caregiver is not authorized to do so unless he or she is also the patient's legal representative.

Nothing in the Act creates a private right of action against a hospital, a hospital affiliate, a hospital employee, or a consultant or contractor with whom a hospital has a contractual relationship solely for providing instruction to a designated caregiver, as described in the Act. Neither shall any of the above persons/entities be held liable, except for willful or wanton misconduct, for services rendered or not rendered by the caregiver to the patient.

Finally, nothing in the Act shall delay the discharge of a patient or the transfer of a patient from a hospital to another facility.

As hospital leaders adjust their current procedures to incorporate the requirements of SB 1298, they may wish to begin to track how any new procedure contributes to increased patient satisfaction and/or decreases readmissions.