

1 State of Arkansas *As Engrossed: S3/16/15 S3/19/15*

2 90th General Assembly

# A Bill

3 Regular Session, 2015

SENATE BILL 1053

4

5 By: Senator G. Stubblefield

6 *By: Representatives Love, Bragg*

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## For An Act To Be Entitled

9

AN ACT TO CREATE THE ARKANSAS LAY CAREGIVER ACT; AND

10

FOR OTHER PURPOSES.

11

12

13

## Subtitle

14

TO CREATE THE ARKANSAS LAY CAREGIVER ACT.

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17

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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19

*SECTION 1. Arkansas Code Title 20, Chapter 77, is amended to add an additional subchapter to read as follows:*

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*Subchapter 26 – Arkansas Lay Caregiver Act*

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23

*20-77-2601. Title.*

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*This act shall be known and may be cited as the "Arkansas Lay Caregiver Act".*

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*20-77-2602. Definitions.*

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*As used in this subchapter:*

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*(1) "Aftercare" means assistance that:*

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*(A) Is provided by a caregiver to a patient after the*

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*discharge of the eligible patient from a hospital;*

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*(B) Is related to the condition of the patient at the time*

33

*of discharge; and*

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*(C) Does not require a professional license under Arkansas*

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*Code Title 17, Subtitle 3, or specialized training under § 20-77-2301 et seq.*

36

*in order to perform the assistance;*



1 (2) "Caregiver" means an individual who:

2 (A) Is eighteen (18) years of age or older;

3 (B) Provides aftercare to an individual; and

4 (C) Is identified by the patient or, if applicable, the  
5 legal guardian of the patient as a person who is involved with the health  
6 care of the patient under 45 C.F.R. § 164.510(b), as it existed on January 1,  
7 2015.

8 (3) "Compensation" means money or another type of property of  
9 value received by an individual in exchange for the assistance or services  
10 without regard to the source of payment of the money or other type of  
11 property;

12 (4) "Discharge" means the release of a patient from hospital  
13 care to the residence of the patient following an inpatient admission;

14 (5) "Hospital" means a facility that is licensed by the  
15 Division of Health Facilities Services under § 20-9-213 as either a surgery  
16 and general medical care hospital or a general hospital;

17 (6) "Legal guardian" means an individual who is appointed by the  
18 court to make decisions about the health or medical care of a patient;

19 (7) "Patient" means an individual who has been admitted to a  
20 hospital for inpatient care and who is eighteen (18) years of age or older;  
21 and

22 (8) "Residence" means the dwelling that the patient considers to  
23 be the home of the patient, but does not include any rehabilitative facility,  
24 hospital, nursing home, assisted living facility, group home, or other  
25 healthcare facility licensed by the Division of Health Facilities Services or  
26 the Office of Long-Term Care.

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28 20-77-2603. Designation of caregiver.

29 (a)(1) A hospital shall provide each patient or, if applicable, the  
30 patient's legal guardian, with an opportunity to designate a caregiver  
31 following the patient's admission into a hospital and before the discharge of  
32 the patient to the residence of the patient.

33 (2) Prior to discharge, a patient may elect to change the  
34 patient's designated caregiver in the event that the original designated  
35 caregiver becomes unavailable, unwilling, or unable to care for the patient.

36 (b) Designation of an individual as a caregiver pursuant to this

1 section does not obligate that individual to accept the role of caregiver for  
2 the patient.

3 (c) This section does not require a patient to designate a caregiver.

4 (d) The hospital shall be deemed to have complied in full with the  
5 requirements of this subchapter, in the event that the patient or, if  
6 applicable, the legal guardian of the patient:

7 (1) Declines to designate a caregiver under this section; or

8 (2) Objects to the disclosure of medical information concerning  
9 the patient to the caregiver.

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11 20-77-2604. Compensation to caregiver.

12 (a) A caregiver designated under this subchapter shall not accept  
13 compensation in exchange for aftercare provided to the patient.

14 (b) This subchapter does not prevent an individual who is a licensed  
15 medical professional under Arkansas Code Title 17, Subtitle 3, or has  
16 completed training as a trained in-home assistant under § 20-77-2301, et seq.  
17 from serving as a caregiver under this subchapter so long as the individual  
18 does not accept compensation in exchange for aftercare provided to the  
19 patient.

20  
21 20-77-2605. Notification to caregiver.

22 (a) If a patient has designated a caregiver, the hospital shall notify  
23 the designated caregiver of the patient concerning the discharge or transfer  
24 of the patient to another licensed facility as soon as possible before  
25 discharge or transfer.

26 (b) In the event that the hospital is unable to contact the designated  
27 caregiver, the lack of contact shall not interfere with, delay, or otherwise  
28 affect the medical care provided to the patient or an appropriate discharge  
29 of the patient.

30  
31 20-77-2606. Consultation with caregiver – Discharge plan.

32 (a)(1) As soon as practicable prior to the discharge of the patient,  
33 the hospital shall attempt to consult with the designated caregiver to  
34 prepare the caregiver to provide for the aftercare needs of the patient.

35 (2) As part of the consultation under subdivision (a)(1) of this  
36 section, the hospital shall provide the designated caregiver the opportunity

1 to ask questions and receive answers about the aftercare needs of the  
2 patient.

3 (b)(1) At or before discharge, the hospital shall provide the  
4 caregiver with the discharge plan of the patient that describes any aftercare  
5 needs of the patient.

6 (2) The hospital will educate the caregiver concerning the  
7 aftercare of the patient in a manner that is consistent with current accepted  
8 practices and is based on the learning needs of the caregiver.

9 (c) In the event that the hospital is unable to contact the designated  
10 caregiver, the lack of contact shall not interfere with, delay, or otherwise  
11 affect an appropriate discharge of the patient.

12  
13 20-77-2607. Construction – Immunity.

14 (a) This subchapter shall not:

15 (1) Confer upon the caregiver any authority to make healthcare  
16 decisions on behalf of the patient;

17 (2) Create a private right of action against a hospital,  
18 hospital employee, or duly authorized agent of the hospital; or

19 (3) Remove the obligation of a third-party payer to cover a  
20 healthcare item or service that the third-party payer is obligated to provide  
21 to a patient under the terms of a valid agreement, insurance policy, plan, or  
22 certification of coverage or health maintenance organization contract.

23 (b) A hospital, hospital employee, contractor leaving a contractual  
24 relationship with a hospital, or duly authorized agent of a hospital shall  
25 not be held liable in any way for an act or omission of the caregiver.

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27 /s/G. Stubblefield

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30 **APPROVED: 04/02/2015**