

BILL ANALYSIS

H.B. 3903
By: Sheffield
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Texans caring for aging parents or loved ones and helping them live independently in their own homes have a huge responsibility. Recent data shows that most care recipients do not have a home visit by a health care professional after discharge from a hospital and instead receive medical care from a family caregiver who performs medical or nursing tasks. These tasks often include managing medications and administering intravenous fluids and injections and there are concerns that caregivers receive little or no training to perform these tasks. In recognition of the critical role family caregivers play in keeping their loved ones out of costly institutions, H.B. 3903 seeks to better support these caregivers as they safely help Texas seniors stay at home.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 of this bill.

ANALYSIS

H.B. 3903 amends the Health and Safety Code to require a hospital, on admission to the hospital or at the time a patient is discharged or transferred to another facility, to provide the patient, the patient's legal guardian, or the patient's surrogate decision-maker the opportunity to designate a caregiver. The bill requires a hospital, if a patient, a patient's legal guardian, or a patient's surrogate decision-maker designates a caregiver, to document in the patient's medical record the name, telephone number, and address of the patient's designated caregiver and the relationship of the designated caregiver to the patient and to request written authorization from the patient, the patient's legal guardian, or the patient's surrogate decision-maker to disclose health care information to the patient's designated caregiver.

H.B. 3903 requires the hospital, if a patient, a patient's legal guardian, or a patient's surrogate decision-maker declines to designate a caregiver, to promptly record in the patient's medical record that the patient, the patient's legal guardian, or the patient's surrogate decision-maker did not wish to designate a caregiver. The bill authorizes a patient, a patient's legal guardian, or a patient's surrogate decision-maker to change the patient's designated caregiver at any time and requires the hospital to document the change in the patient's medical record. The bill specifies that the designation of a person as the patient's caregiver does not obligate the person to serve as the patient's designated caregiver or to provide aftercare to the patient.

H.B. 3903 requires a hospital, as soon as possible before a patient's discharge or transfer to another facility but not later than the time the patient's attending physician issues a discharge

order, to notify the designated caregiver of the patient's discharge or transfer. The bill prohibits the inability of the hospital to contact the designated caregiver from interfering with, delaying, or otherwise affecting any medical care provided to the patient or the discharge of the patient. The bill requires the hospital, if the hospital is unable to contact the designated caregiver, to promptly record in the patient's medical record that the hospital attempted to contact the designated caregiver. The bill requires the hospital, as soon as possible but not later than 24 hours before a patient's discharge from the hospital, to consult with the designated caregiver and the patient regarding the designated caregiver's capabilities and limitations and issue a discharge plan that describes the patient's aftercare needs. The bill prescribes the required contents of a discharge plan and exempts a hospital from these notice and discharge plan requirements if a patient, a patient's legal guardian, or a patient's surrogate decision-maker declines to give authorization to the hospital to disclose health care information to the designated caregiver.

H.B. 3903 requires the hospital to provide the designated caregiver instruction in the aftercare tasks described in the discharge plan in a manner that is culturally competent and in accordance with applicable requirements to provide language access services. The bill provides for the methods by which the instruction may be provided and requires the training and instruction to be provided using clear, nontechnical language, to the extent practicable, and to include a demonstration of each aftercare task that is performed by a hospital employee or a person in a contractual relationship with the hospital who is authorized by the hospital to perform the task and an opportunity for the designated caregiver and patient to ask questions and receive answers regarding the aftercare tasks. The bill requires the hospital to document the instruction given in the patient's medical record, including the date and time the instruction was given to the patient and designated caregiver.

H.B. 3903 requires the executive commissioner of the Health and Human Services Commission to adopt rules necessary to implement the bill's provisions. The bill prohibits its provisions from being construed to interfere with the rights of an agent operating under a valid advance directive or to alter, amend, or revoke any existing right or remedy granted under any other provision of law and expressly does not create a private right of action against a hospital, a hospital employee, or a person in a contractual relationship with a hospital. The bill prohibits a hospital, hospital employee, or a person in a contractual relationship with a hospital from being held liable in any way for services rendered or not rendered by a patient's designated caregiver to the patient and prohibits the reimbursement of a designated caregiver by a government or commercial payer for aftercare assistance provided under the bill's provisions. The bill prohibits its provisions from being construed to alter the obligation of an entity issuing health benefit plans to provide coverage required under a health benefit plan; to affect, impede, or otherwise disrupt or reduce the reimbursement obligations of an entity issuing health benefit plans; or to affect the time at which a patient may be discharged or transferred from a hospital to another facility.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2015.