

Sixty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1039

Introduced by

Legislative Management

(Human Services Committee)

1 A BILL ~~for an Act to create and enact chapter 23-49 of the North Dakota Century Code, relating~~
2 ~~to hospital discharge policies; for an Act to create and enact a new section to chapter 23-16 of~~
3 ~~the North Dakota Century Code, relating to hospital discharge policies.~~

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 ~~**SECTION 1.** Chapter 23-49 of the North Dakota Century Code is created and enacted as~~
6 ~~follows:~~

7 ~~**23-49-01. Definitions.**~~

8 ~~As used in this chapter:~~

9 ~~1. "Aftercare" means assistance related to a patient's condition at the time of discharge~~
10 ~~provided by an uncompensated caregiver to a patient after the patient's discharge.~~
11 ~~The term may include assistance with activities of daily living, instrumental activities of~~
12 ~~daily living, or medical or nursing tasks.~~

13 ~~2. "Discharge" means a patient's release from a hospital following the patient's admission~~
14 ~~to the hospital.~~

15 ~~3. "Uncompensated caregiver" means an individual who, at the request of a patient,~~
16 ~~agrees to provide, without compensation, aftercare to the patient in the patient's~~
17 ~~residence.~~

18 ~~**23-49-02. Hospital discharge policies.**~~

19 ~~1. A hospital shall establish and maintain written discharge policies. Components of the~~
20 ~~discharge policies must include:~~

21 ~~a. Assessment of the patient's ability for self-care after discharge.~~

22 ~~b. Opportunity for the patient to designate an uncompensated caregiver.~~

23 ~~c. Documentation of an uncompensated caregiver designated by a patient.~~

- ~~d. Notification of the designated uncompensated caregiver of the patient's discharge or transfer to another facility.~~
 - ~~e. Opportunity for the patient and designated uncompensated caregiver to participate in discharge planning.~~
 - ~~f. Opportunity for instruction and training for the patient and designated uncompensated caregiver before discharge for the uncompensated caregiver to perform aftercare.~~
 - ~~g. Documentation of the details of the discharge plan.~~
 - ~~2. The discharge policies may incorporate established standards, such as:~~
 - ~~a. Standards for accreditation adopted by a nationally recognized hospital accreditation organization; or~~
 - ~~b. The conditions of participation for hospitals and for critical access hospitals adopted by the centers for medicare and medicaid services.~~
- ~~**23-49-03. Limitations - Immunity.**~~
- ~~1. This chapter may not be construed to interfere with the rights of an agent operating under a valid health care directive under chapter 23-06.5.~~
 - ~~2. This chapter does not require a hospital to adopt discharge policies that would delay a patient's discharge or transfer to another facility or require the disclosure of protected health information without obtaining a patient's consent as required by state and federal laws governing health information privacy and security.~~
 - ~~3. This chapter does not require a patient designate an uncompensated caregiver.~~
 - ~~4. This chapter does not create a private right of action against a hospital or a hospital's employee, contractor, or duly authorized agent for providing the instruction and services required under this chapter.~~

SECTION 1. A new section to chapter 23-16 of the North Dakota Century Code is created and enacted as follows:

Hospital discharge policies - Uncompensated caregivers.

1. As used in this section:

- a. "Aftercare" means assistance related to a patient's condition at the time of discharge provided by an uncompensated caregiver to a patient after the**

1 patient's discharge. The term may include assistance with activities of daily living,
2 instrumental activities of daily living, or medical or nursing tasks.

3 b. "Discharge" means a patient's release from a hospital following the patient's
4 admission to the hospital.

5 c. "Uncompensated caregiver" means an individual who, at the request of a patient,
6 agrees to provide, without compensation, aftercare to the patient in the patient's
7 residence.

8 2. A hospital shall establish and maintain written discharge policies in accordance with
9 the medicare and medicaid conditions of participation. The discharge policies apply to
10 all patients of the hospital, regardless of whether the patient receives medicare or
11 medicaid.

12 3. A patient or a patient's guardian may identify an uncompensated caregiver.

13 4. This section may not be construed to interfere with the rights of an agent operating
14 under a valid health care directive under chapter 23-06.5.