

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.~~

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

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

27 **Hospital discharge policies - Uncompensated caregivers.**

28 **1. As used in this section:**

- 29 **a. "Aftercare" means assistance related to a patient's condition at the time of**  
30 **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.