THE MONTANA CAREGIVER ACT:
Hospitals Helping Caregivers in Montana and Nationwide
The Montana Caregiver Act – HB 163

• Enacted March 31, 2017.
• Takes effect **October 1, 2017.**
• Better involves family caregivers when their loved ones go into the hospital and as they transition home.
• Ensures that caregivers have what they need — such as instruction on managing medication regimes, wound care, and other medical/nursing tasks — to help care recipients at home.
Family Caregiving in Montana

118,000 Family Caregivers in Montana

110 Million Hours Unpaid Family Care

$12.97 economic value per hour

total economic value $1.4 billion

Meet the Montana Caregiver

The Average MT Lay Caregiver:
• 55 years old or older
• Female (59%)
• Married or living with significant other (75%)
• College educated (55%)
• Working full- or part-time (50%)
• Annual household income of less than $60,000 (56%)

Source: 2015 AARP Caregiving Survey of Montana Registered Voters Age 45 and Older
AARP’s *Home Alone* Report

AARP PPI surveyed 1,677 family caregivers and found:

- Family caregivers perform complicated medical/nursing tasks and medication management
- Training is limited
- Most care recipients do not receive home visits by health professionals
- Performing medical/nursing tasks may prevent nursing home placement
- Quality of life is affected

The Most Critical Transition - Hospital to Home

What Is the Most Critical Transition of Care?

- Provider-to-provider: 0.0%
- Hospital to home: 2.6%
- Hospital to post-acute: 5.3%
- Post-acute to home: 6.6%
- Post-acute to hospital: 9.2%
- ER to home: 23.7%
- ER to inpatient: 0%
- ER to PCP/PCM: 0%
- PCP to specialist: 0%
- Other: 50.0%

Source: 2015 Healthcare Benchmarks: Care Transitions Management
April 2015
Montana Public Support

Support for Proposals to Require Hospitals to Engage with Family Caregivers (n=800 Montana Registered Voters Age 45-plus)

- 92% in instructing caregivers on medical tasks
- 91% in informing caregivers of major decisions
- 82% in recording caregivers in patient records

*Graph shows respondents who checked "strongly or somewhat support" under each type of action.

Source: 2015 AARP Caregiving Survey of Montana Registered Voters Age 45 and Older
The Montana Caregiver Act

• Provision #1: Designation
  – Give hospital inpatients the chance to name a caregiver and appropriately document their information

• Provision #2: Notification
  – Contact the caregiver prior to discharging the patient or transferring to another facility

• Provision #3: Instruction
  – Consult with the caregiver and instruct them on the tasks they will need to carry out at home, including a chance to ask questions
Similar Bills Nationwide

The Caregiver Advise, Record, Enable (CARE) Act

The CARE Act is a commonsense solution that supports family caregivers when their loved ones go into the hospital, and provides for instruction on the medical tasks they will need to perform when their loved one returns home.

CARE Act goes into effect:
- Oklahoma, 11/5/16; Colorado, 5/9/15; New Jersey, 5/12/15; West Virginia, 6/3/15; New Mexico, 6/17/15; Mississippi, 7/1/15; Virginia, 7/1/15; Arkansas, 7/22/15; Connecticut, 10/7/15; Nevada, 10/1/15; Maine, 10/1/15; Puerto Rico, 12/31/15; California, 1/1/16; Indiana, 1/1/16; New Hampshire, 1/1/16; Oregon, 1/1/16; Illinois, 1/27/16; Utah, 2/13/16; Nebraska, 3/30/16; Virgin Islands, 3/30/16; New York, 4/22/16; Washington, 4/9/16; Wyoming, 7/1/16; Washington D.C., 7/1/16; Michigan, 7/13/16; Louisiana, 8/11/16; Maryland, 10/1/16; Alaska, 1/1/17; Delaware, 7/1/17; Minnesota, 1/1/17; Rhode Island, 3/14/17; Ohio, 3/25; Pennsylvania, 4/20/17; Kentucky, 6/29/17; Hawaii, 7/1/17; Montana, 10/1/17; Kansas, 7/1/2018; Massachusetts, TBD; Texas, TBD

**Updated on 6/10/2017**
Montana Caregiver Act – HB 163
Bill Signing – March 31, 2017
Caregiver Designation

• Each hospital inpatient (or his/her legal representative) is given the **opportunity to designate** a “lay caregiver” who will provide aftercare assistance to the patient in the patient’s residence after discharge.
  – The patient’s “**residence**” does not include nursing facilities, assisted living facilities, group homes, or similar settings.
  – A “**lay caregiver**” may not be someone who receives third-party payment (other than Medicaid self-directed programs).

• If the patient designates a lay caregiver, the hospital requests the patient’s **written consent** to release medical information to the caregiver.
Caregiver Designation (cont.)

• If the patient designates a lay caregiver, the hospital **appropriately documents** the caregiver’s information (name, address, phone number, and relationship to patient).

• If the patient **declines to designate** a lay caregiver, or will not consent to the release of medical information, then the hospital documents this choice and is not required to perform the other parts of the law.

• The patient can **change** the designated lay caregiver at any time.
Caregiver Notification

• The hospital notifies the designated lay caregiver of the patient’s impending discharge or transfer to another facility as soon as practicable.

• If the hospital is unable to contact the lay caregiver, the lack of contact will not interfere with the medical care or appropriate discharge of the patient.
Caregiver Instruction

• As soon as practicable before the patient’s discharge, the hospital:
  – **Consults** with the lay caregiver and the patient
  – Issues a **discharge plan** describing the aftercare needs of the patient, taking into account the capabilities and limitations of the caregiver, and including contact information for relevant follow-up care and resources
  – Provides the lay caregiver with an **opportunity for instruction** in the aftercare tasks described in the discharge plan, provided in non-technical language, in a culturally competent manner, and with a chance for the caregiver to ask questions. Instruction may be conducted in person, by telephone, or by video technology at the discretion of the lay caregiver.
Protects for Caregivers

- Patients are not required to designate a lay caregiver, and designated lay caregivers are not required to perform aftercare tasks.
- Designation as a lay caregiver does not authorize the lay caregiver to make health care decisions for the patient and does not interfere with a valid health care directive.
Protections for Hospitals

- Nothing in the Caregiver Act will affect the medical care provided to patients or the appropriate discharge or transfer of a patient.
- The Caregiver Act does not create a new right of action against a hospital, its employees, contractors, or similar personnel.
- Hospitals and their personnel will not be held liable for the services rendered or not rendered by a lay caregiver if the hospital has complied with the law and acted reasonably and in good faith.
Implementation and Education

• The Montana Caregiver Act takes effect October 1, 2017.

The Montana Caregiver Act

Making a difference when you or a loved one enter the hospital.

Hospitals, AARP Montana, and other groups are encouraged to work together to educate the public and ensure an effective implementation.
Upon admission

Does inpatient wish to designate a lay caregiver?

Prior to discharge, provide caregiver with discharge plan

Upon discharge...

Does inpatient wish to designate an available alternate lay caregiver?

Upon discharge to patient’s residence, is designated lay caregiver available?

Provide & document necessary lay caregiver training/education in a culturally and linguistically appropriate manner for compliant discharge plan

Document instructions, date and time, resources, providers, resource person at hospital to answer questions, relationship to patient, name, telephone and address

Document. No further action needed. Patient/family receives discharge plan and information upon discharge

Document designation in medical record; obtain written consent to release info to caregiver
Hospital Implementation

• Assess existing discharge planning policies to ensure they meet the Conditions of Participation (§482.43)
• If these items do not currently exist in written policies and procedures, add or incorporate the following for all inpatients:
  – Inquiry process regarding lay caregiver designation (and what to do if patient declines)
  – Obtaining written consent to release information to caregiver
  – Location designation for documentation of caregiver information and instructions (name, relationship to patient, telephone number and address)
  – Notification (& documentation) of lay caregiver for patient’s impending discharge or transfer
  – Instruction of aftercare tasks to lay caregiver—content and methods used
Additional Key Points

- ‘Aftercare’ means assistance with ADLs, IADLs, medical/nursing tasks that do not need a professional
  - Take into account capabilities of caregiver
  - Include contact info for follow-up care & resources
- If patient is incapacitated upon admission, may ask legal representative to designate a lay caregiver
- Patient or legal representative may change caregiver at any time; document this if it occurs
- The designated caregiver is not obligated to perform the aftercare tasks
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