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FISCAL IMPACT REPORT

SPONSOR Salazar, T ORIGINAL DATE 02/11/15
 LAST UPDATED 03/20/15 HB 139/aHJC

SHORT TITLE Lay Caregiver Aftercare Training SB _____

ANALYST Dunbar/Daly

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		
		NFI	

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

SOURCES OF INFORMATION

Responses Received From
 Department of Health (DOH)
 Aging and Long-Term Services Department (ALTSD)
 Miners' Hospital of New Mexico (MH)
 Board of Nursing (BN)
 Medical Board (MB)
 University of New Mexico (UNM)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee Amendment to House Bill 139 strikes Subsection K, which barred the use of state or federal funds for payment to a lay caregiver for aftercare.

Synopsis of Original Bill

House Bill 139 requires hospitals to provide each patient or the patient's legal guardian the opportunity to designate one lay caregiver. The hospital must give a copy of the patient's discharge plan and provide aftercare information and training to the designated caregiver on how to provide care to the patient after discharge.

FISCAL IMPLICATIONS

UNM notes that the costs cannot be calculated at this time due to the complexity of the various pieces this Act includes. As an example, if the caregiver is given the training at the same time as the family and does not delay discharge, then the fiscal impact would be minimal; however, if this process slows down discharge, the impact could be very significant.

SIGNIFICANT ISSUES

The University of New Mexico Hospital (UNMH) currently trains caregivers to take patients home. UNMH also trains caregivers to do complicated procedures like tube feeds, tracheostomy care and giving IV medications. Additionally, UNMH trains care givers to do medication management and assist patients with their activities of daily living. This is part of the multidisciplinary plan of care for patients going home based on the care needs. This is documented in different discipline notes such as nursing, rehab, pharmacy and dietary.

The UNMH also facilitates training to continue in the home by referring patients to home health care, outpatient therapy and other community resources.

HB 139 would require hospitals to offer all admitted patients an opportunity to select a lay caregiver to be educated about the patient's care needs after discharge. DOH, states that this is a common practice in hospitals; however, the specific requirements of HB 139 may not be implemented in all hospitals. Currently, a family may designate a family member or caregiver who will care for the patient. HB 139 allows the designated lay caregiver to be someone who is not related to the family. This may be a barrier in some hospitals concerned about HIPAA implications.

HB 139 would not obligate the designated lay caregiver to take any action. HB 139 under Section 11 indicates that nothing in this bill would create a private right of action against the hospital or remove the obligation of a third-party payer to cover any item or service specific to the lay caregiver. The hospital will not be held liable for an act or omission of the lay caregiver.

In addition, the Medical Board suggests additional possibilities for the utilization of the "lay caregiver" in the later phase of the hospitalization, when more acute nursing care is becoming less necessary. Participation in the non-medical aspects of the patient's care at the end of the hospitalization might be very effective in itself, and also act as a "trial period" for what will follow at home. It might smooth out the "training" phase and avoid the traps of "last minute" training.

A significant observation by the Board of Nursing indicates that the bill codifies the responsibility of patient/caregiver education as belonging to the discharging institution, but does not recognize that this professional level skill is not appropriate for all hospital employees to perform. The Nursing Practice Act (NPA) definition of registered professional nursing includes "providing counseling and health teaching" [*§61-3-1.M Practice of Nursing (7)*], but does not include similar language for the practice of licensed practical nursing [*§61-3-1.J. Licensed Practical Nursing*]. Discharge teaching and home care instructions are crucially important to patient outcomes and preventing re-admissions. The NPA does not include this function in the scope of practice for any of the certificate holders or licensees below the professional level. This bill, in its current form, could codify an obligation for hospitals to perform a specific type of

discharge instruction delivered to an intermediary or patient agent without regard to whether it is performed by a regulated professional registered nurses, or if it will be generalized to unregulated hospital employees.

Other states have pursued similar legislation, including Kansas, Oklahoma and Hawaii.

ADMINISTRATIVE IMPLICATIONS

An interesting point raised by UNM is that not every patient and their caregiver need the same complexity of training to go home. The hospital will have to invest resources in developing processes to formalize identifying a caregiver and documenting this process for every patient. This process of who will be the care giver is sometimes difficult and changes during the patient's hospital stay.

OTHER SUBSTANTIVE ISSUES

The American Association of Retired Persons (AARP) has promoted the Caregiver Advise, Record, and Enable (CARE) Act, which supports family caregivers when our loved ones go into the hospital, and it helps caregivers learn what they must do to safely provide care when patients are discharged home.

The CARE Act features three important parts:

- The name of the family caregiver is recorded when a loved one is admitted into a hospital or rehabilitation facility.
- The family caregiver is notified if the loved one is to be discharged to another facility or back home.
- The hospital or rehabilitation facility must provide an explanation and live instruction of the medical tasks – such as medication management, injections, wound care and transfers – that the family caregiver will perform at home.

The Aging and Long-Term Services Department, in accordance with House Joint Memorial 4, passed in 2014, has convened a task force charged with delivering a New Mexico state plan for family caregivers. One of the task force's five work groups is dedicated to coordination of care. The plan will be delivered prior to Nov. 1, 2015.

TECHNICAL ISSUES

The Medical Board recommends that training of the “lay caregiver” could also involve equipment, and might need to be done by the hospital departments using such equipment. In short, careful coordination of the training will be necessary.

BD/je/bb/aml