

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2017

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SENATE BILL 437

Short Title: Clarify Hospital Patient Discharge Rights. (Public)

Sponsors: Senators Wade and Tucker (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 29, 2017

1 A BILL TO BE ENTITLED
2 AN ACT CLARIFYING HOSPITAL PATIENT DISCHARGE RIGHTS AND REQUIRING
3 HOSPITALS TO PROVIDE A DETAILED STATEMENT OF PATIENT DISCHARGE
4 RIGHTS AT THE TIME OF ADMISSION.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 131E-90 reads as rewritten:

7 **"§ 131E-90. Authority of administrator; refusal to leave after discharge.**

8 (a) The Except as provided in subsection (b) of this section, the case of a patient who
9 refuses or fails to leave the hospital upon discharge by the attending physician shall be
10 reviewed by two physicians licensed to practice medicine in this State, one of whom may be
11 the attending physician. If in the opinion of the physicians, the patient should be discharged as
12 cured or as no longer needing treatment or for the reason that treatment cannot benefit the
13 patient's case or for other good and sufficient reasons, the patient's refusal to leave shall
14 constitute a trespass. The patient shall be guilty of a Class 3 misdemeanor.

15 (b) This section does not apply to patients who elect to exercise any of the applicable
16 grievance or appeal rights described in G.S. 131E-90.1 during the pendency of the grievance or
17 appeal. If the final grievance or appeal decision is to discharge the patient and the patient
18 refuses or fails to leave the hospital, the patient's refusal to leave shall constitute a trespass. The
19 patient shall be guilty of a Class 3 misdemeanor."

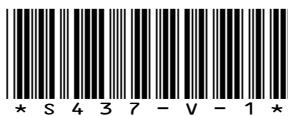
20 **SECTION 2.** Part 4 of Article 5 of Chapter 131E of the General Statutes is
21 amended by adding a new section to read:

22 **"§ 131E-90.1. Patient discharge rights; detailed statement of rights due upon admission.**

23 (a) Each hospital licensed under this Article shall, at the time of admission, provide to
24 each patient or the patient's next of kin or other legally responsible representative a detailed
25 statement of patient rights with respect to transfer and discharge. The statement shall include
26 and inform the patient of at least all of the following:

27 (1) When medically permissible, a patient may be transferred to another facility
28 only after the patient or the patient's next of kin or other legally responsible
29 representative has received complete information and an explanation
30 concerning the needs for and alternatives to such a transfer. The facility to
31 which the patient is to be transferred must first have accepted the patient for
32 transfer.

33 (2) Except for medical reasons, the patient's own or another patient's welfare,
34 nonpayment for the stay, or when the transfer or discharge is mandated
35 under Title XVIII (Medicare) or Title XIX (Medicaid) of the Social Security
36 Act, each patient has the right not to be transferred or discharged from a



1 facility without at least five days' advance written notice of a transfer or
2 discharge in order to ensure an orderly transfer or discharge, unless the
3 attending physician orders immediate transfer or discharge. All transfer and
4 discharge decisions and the reasons for these decisions shall be documented
5 in the patient's medical record. A patient or the patient's next of kin or other
6 legally responsible representative may dispute a transfer or discharge
7 decision as specified in subdivision (3) or (4) of this section, or both, as
8 appropriate.

9 (3) The patient has the right to file a complaint with the Division of Health
10 Service Regulation Complaint Intake Unit about a transfer or discharge at
11 any time. The hospital shall provide the patient with contact information for
12 filing a complaint by telephone, facsimile, or mail.

13 (4) A patient who is a Medicare beneficiary has the right to all of the following:
14 a. An explanation of the patient's hospital inpatient rights under
15 Medicare, including the right to receive Medicare covered services,
16 be involved in any decisions about the patient's hospital stay, and
17 information about who will pay for any services the patient receives.
18 b. Information in advance of the hospital furnishing or discontinuing
19 care to the patient, whenever possible.
20 c. An explanation of the patient's discharge rights under Medicare,
21 including an explanation of the hospital's obligation to involve the
22 patient and the patient's family in developing a discharge plan.
23 d. An explanation of the process for filing with the hospital a verbal or
24 written grievance or appeal regarding premature discharge and a
25 process for prompt resolution of that grievance or appeal. The
26 explanation must do all of the following:

- 27 1. Inform the patient of the specific procedures to be followed in
28 filings a grievance or appeal, which must specify (i) the time
29 frames for review of the grievance and the provision of a
30 response and (ii) the hospital's obligation to provide the
31 patient with written notice of its decision that contains the
32 name of the hospital contact person, the steps taken on behalf
33 of the patient to investigate the grievance, the results of the
34 grievance process, and the date of completion.
- 35 2. Inform the patient how to contact the Quality Improvement
36 Organization (QIO) to appeal a premature discharge.
- 37 3. Inform the patient that, if a grievance or appeal is filed before
38 the discharge date, the patient will not be responsible for
39 paying for services received during the pendency of the
40 grievance or appeal, except for charges such as co-pays and
41 deductibles.

42 (b) No hospital licensed under this Article shall violate the rights described in
43 subsection (a) of this section.

44 (c) As used in this section, "Quality Improvement Organization" or "QIO" means the
45 federal Centers for Medicare and Medicaid Services contractor charged with reviewing the
46 appropriateness and quality of care rendered to Medicare beneficiaries in the hospital setting."

47 **SECTION 3.** This act becomes effective October 1, 2017.