

# Caregiver, Advise, Record, and Enable (CARE) Act

2018 Legislative and Regulatory Update Series

# At the conclusion of this presentation, attendees will be able to

- Verbalize content of the CARE Act
- Identify actions to fulfill the requirements of the Act
- Discuss possible outcomes of the Act



# Caregiver

According to AARP:

Anyone who provides unpaid assistance to another person who is ill, disabled or needs help with daily activities

# Caregiving in Missouri

700 Million Hours

Unpaid  
Family Care  
Annually

managing finances, providing transportation, helping with bathing and dressing, cooking meals, changing dressings, managing medication, maintaining medical equipment

\$8.5 billion in economic value

<https://states.aarp.org/mo-care-act-supports-caregivers/>

# Missouri Caregiver Profile

Caring for female family member, usually a mother

Working a full-time job

Spending over 20 hours per week providing care

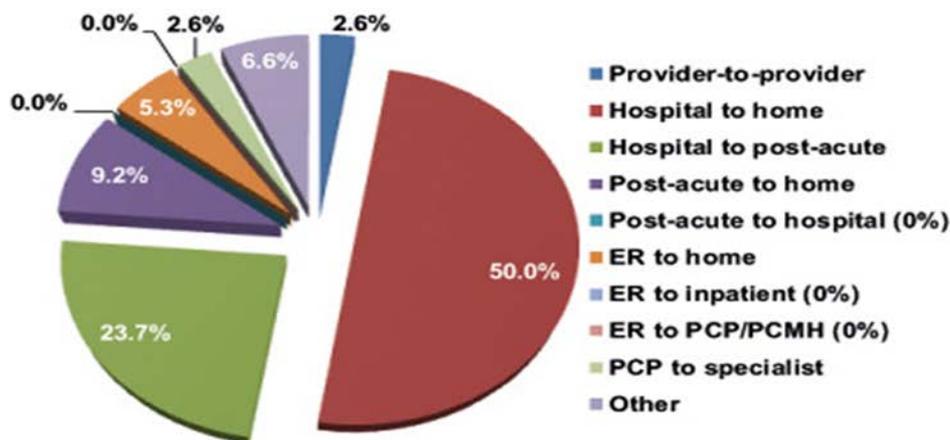
Does this for average of 5 years

female

49 years old

# Most Critical Transition - Hospital to Home

What Is the Most Critical Transition of Care?



Source: 2015 Healthcare Benchmarks: Care Transitions Management  
April 2015



# AARP - October 2017 Survey

- Missouri registered voters age 45-plus were surveyed with
  - 96% indicating their support for requiring hospitals to demonstrate medical tasks to caregivers
  - 93% support requiring hospitals to keep caregivers informed of major decisions
  - 83% support requiring hospitals and care facilities to record caregiver information upon admission

# Missouri CARE Act



- Missouri is the 40<sup>th</sup> state to pass legislation-[SB718](#)
- Signed into law by Governor Parson; effective August 28, 2018
- Impacts hospitals and ambulatory surgical centers
- Defined in statutory language under [191.1150](#)

The CARE act recognizes the important role of caregivers upon discharge to the patient's residence as well as the patient's right to have a caregiver involved in the discharge process. The Act outlines a hospital and ASC responsibility to reasonably ensure the caregiver of the patients choice is involved in their discharge plan.

# Residence does not include:



- A facility, the same as defined in section [198.006](#);
- A hospital, the same as defined in section [197.020](#);
- A prison, jail, or other detention or correctional facility operated by the state or a political subdivision;
- A residential facility, the same as defined in section [630.005](#);
- A group home or developmental disability facility, the same as defined in section [633.005](#);
- Any other place of habitation provided by a public or private entity which bears legal or contractual responsibility for the care, control, or custody of the patient and which is compensated for doing so

## Designation

- Hospital and ambulatory surgical centers give inpatients and discharges a chance to name a caregiver and appropriately document their information

## Notification

- Contact the caregiver prior to discharge or transfer

## Instruction

- Consult with caregiver and instruct them on the tasks they will need to carry out at home, including the chance to ask questions

# Designation

- Hospital or ASC must provide every admission (or his/her legal representative) the opportunity to designate a caregiver prior to discharge
- Must be documented consent from the patient (or his/her legal representative) to release otherwise confidential medical information
- Prior to discharge, a patient may elect to change the original designated caregiver in the event the original designated caregiver becomes unable, unwilling or unavailable

# Designation

- Designation ≠ Obligation
- Must document
  - patient or legal guardian choice
  - relationship of caregiver to patient
  - caregivers available contact information
- If the patient or legal guardian declines naming a caregiver, this must also be documented in the record
- While DHSS is supposed to provide a form, hospitals and ASC can utilize their own

## Notification

- Hospital or ASC shall notify a patient's caregiver of the patient's discharge or transfer to another facility as soon as practicable, which may be after the patient's physician issues a discharge order
- If the hospital or ambulatory surgical center is unable to contact the designated caregiver, the lack of contact shall not interfere with, delay, or otherwise affect the medical care provided to the patient or an appropriate discharge of the patient. Must be documented.

# Notification

Prior to being discharged, if the hospital or ambulatory surgical center is able to contact the caregiver and the caregiver is willing to assist, the hospital or ambulatory surgical center shall

- provide the caregiver with the patient's discharge plan, if such plan exists, or instructions for the after-care needs of the patient and
- give the caregiver the opportunity to ask questions about the after-care needs of the patient

# Instruction

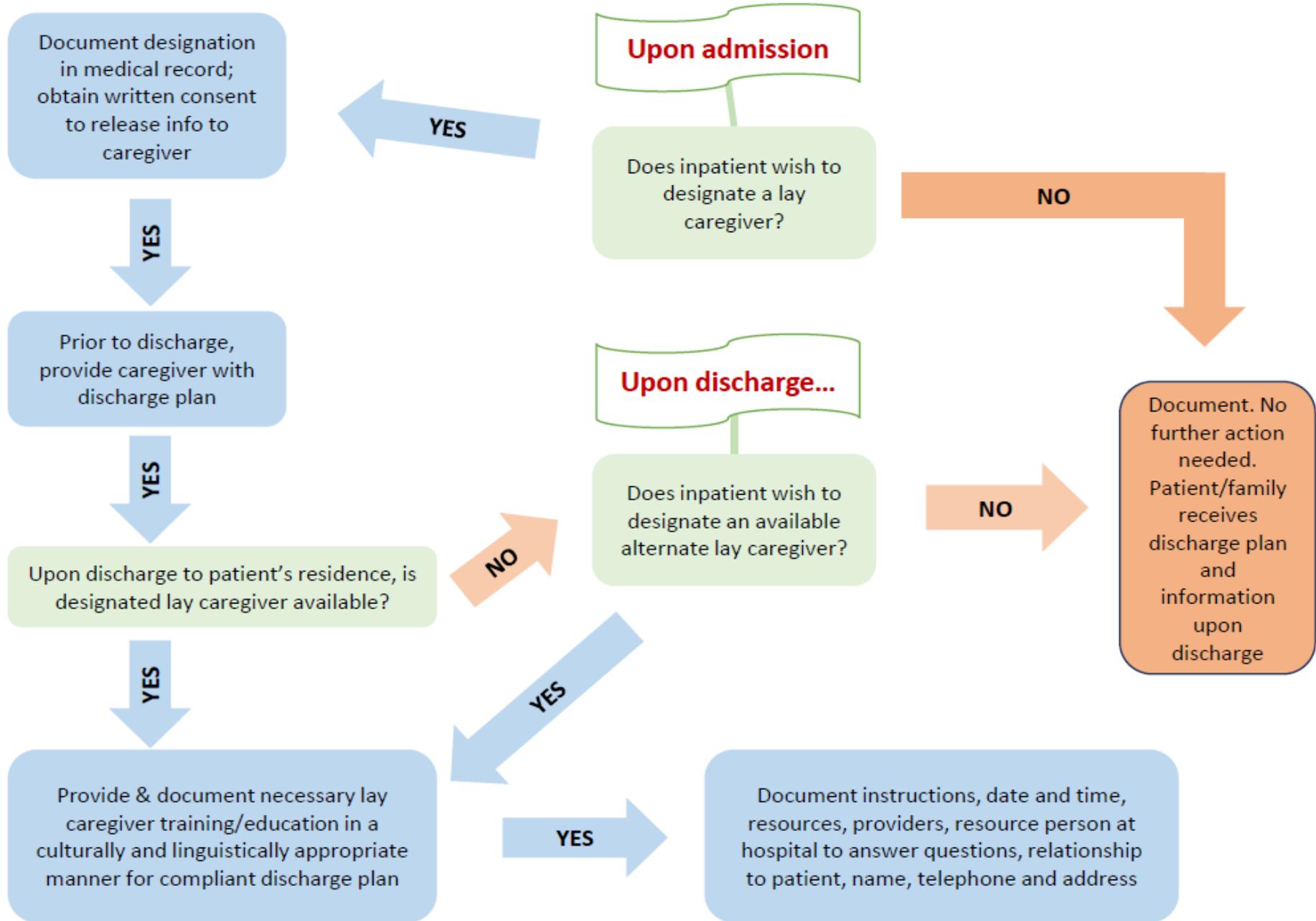
- As soon as practicable before the patient's discharge, the hospital or ASC:
  - **Consults** with the lay caregiver and the patient
  - Issues a **discharge plan** describing the aftercare needs of the patient, taking into account the capabilities and limitations of the caregiver, and including contact 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

# Liability

- A hospital or ASC is not required nor obligated to determine the ability of a caregiver
- Designation as a caregiver does not mean payment as a caregiver under Medicaid
- No additional private right of action against the facility, its employee, or contracted individual is allowed
- The facility, its employee, or contracted individual isn't liable for any omission of the caregiver

# Liability

- Hospitals nor ambulatory surgical centers are required to take actions that are inconsistent with or duplicative of CMS Conditions of Participation or their deeming organization
- No act or omission under this section shall give rise to a citation, sanction, or any other adverse action by any licensing authority to whom such individual or entity is subject
- Nothing in this section shall be construed to interfere with the rights of an attorney-in-fact under a durable power of health care under sections 404.800 to 404.872



# Additional Resources

- Sarah Willson, VP Clinical and Regulatory Affairs, MHA, [swillson@mhanet.com](mailto:swillson@mhanet.com), 573-893-3700 ext. 1304
- Meghan Henderson, Associate General Counsel, MHA, [mhenderson@mhanet.com](mailto:mhenderson@mhanet.com), 573-893-3700 ext.
- AARP Caregiver [website](#)

# Questions?

Thank You!