

Statement on passage of AB 598: Bill lets hospital pick a decision maker, puts patient's rights at risk

Today the state Assembly passed AB 598, which lets hospitals pick a decision-maker based on a list set in statute (called a Patient's Representative) if a patient does not have a Power of Attorney for Health care and becomes unable to make medical decisions.

AB 598 bill has been amended three times, including the introduction of sub-amendments on the same day the bill was scheduled for a floor vote in the Assembly. **This legislation would benefit from bringing together all stakeholders, including patient advocates, to ensure any new decision-making process addresses hospital discharge concerns without doing any harm to medically incapacitated persons.** These amendments reviewed to date do not address the core issues of concern to patient advocates, and recent changes raise additional questions for advocates.

Patient advocates are [concerned](#) the bill will put patients at risk of exploitation and will create new legal and operational issues. The bill does not address the core reasons an unknown number of incapacitated patients who are not able to be transferred from the hospital to another setting.

This bill is broader, and grants much more expansive powers than any other state's Next of Kin laws. Wisconsin has deliberately designed its statutes and regulations to safeguard the rights of individuals; this bill bypasses those protections.

"Current health care decision-making depends heavily on families, and while we can take proactive steps to help families understand patient rights, their roles, and responsibilities as representatives, we also know from experience that policies and oversight mechanisms to protect individuals from relationships that go awry are needed," said Janet Zander, member of the Wisconsin Aging Advocacy Network.

[A recent national study from JAMA](#) supports the direct experience patient advocates have in Wisconsin. Staffing shortages in nursing homes and rehabilitation facilities are a major reason for hospital discharge delays.

"Giving hospitals the ability to pick a decision-maker in the event a patient is incapacitated does not address this core reason that an unknown number of incapacitated patients are unable to be discharged as expediently as hospitals would like," said Patti Becker, Survival Coalition Co-Chair. "Addressing the Home and Community Based workforce shortages and increasing support for unpaid family caregivers are also important strategies to speed up hospital discharges and relieve the pressure on facilities with limited staff."

Patient advocates want to work with the legislature on a comprehensive approach to addressing hospital discharge delays and have developed proposals and a list of policy approaches that we believe would improve the expediency of hospital discharges.

Summary of concerns about the bill:

- The Patient's Representative gets broad authority over the person and their money, where they live, and their medical care, without court oversight.
- The bill does not say the patient has to be re-evaluated to see if they can make their own medical decisions.
- It is unclear how the financial powers granted to the Patient Representative interact when there are other people with the same decision-making authority or are equal owners of money/assets.
- Courts do not have adequate oversight authority to prevent or respond to abuse, and cannot remove Patient Reps.
- If a Patient Representative no longer wants the role or becomes unable to do it (becomes incapacitated, dies, etc.) the bill does not say what happens.
- While the bill expires in three years, there will not be enough data collected to evaluate the true impact of the law on patients and families.

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