ACTION ALERT: Contact Your State Senator & Representative re: Patient Representative (Next-of-Kin) Legislation AB 598/SB 578

608-228-7253
janet.zander@gwaar.org
gwaar.org/waan
@WAAN.ACTION

November 4, 2025

Wisconsin state legislators have introduced legislation (SB 578/AB 598) that creates "Patient Representatives" who would be given the authority to consent to patient admissions to nursing homes without requiring a petition for guardianship or protective placement. This legislation is similar to Assembly Bill 1088 which was introduced last session; opposed by GWAAR and other aging, disability, and legal advocates; and failed to pass in the Senate before the session ended.

On **Nov. 5, 2025, the Senate Health committee is holding a public hearing** on SB 578. **GWAAR and other aging, disability, and legal advocates are opposing this legislation** as we feel this legislation creates risk for patients and family members, has legal and operational issues, and does not resolve the issue it was designed to address - quick transition of hospitalized patients who have become incapacitated to make health care decisions, are medically ready to be discharged, and do not have a Power of Attorney for Health Care (POAHC).

This legislation circumvents the Wisconsin statutes and regulations specifically designed to safeguard the rights of individuals by giving "hospital appointed" patient representatives more authority than that given by an adult (via their POAHC documents) to their personally selected health care agent(s) and the same authority over the person's money, where they live, and their medical care as a guardian would have, only without any court oversight. This legislation ignores the already existing process for obtaining a temporary guardian in Wisconsin, which would allow a decision-maker to be put in place much quicker than the permanent guardianship process, and provides court-oversight and timelines for consideration of permanent guardianship, if needed.

The Hospital would choose a Patient Representative based on a list set in statute. The Patient Representative would then be given broad authority over the person and their money. The bill does not say how, who, or when the person can be re-evaluated to get their rights to make their own medical decisions restored. The patient representative's authority potentially continues indefinitely.

Take Action:

If this issue is important to you, contact your State Senator and State Representative (enter your home address in the text box here: Find Your Legislator) and share your thoughts.

Our health and long-term care systems face many issues that can result in longer than necessary hospital stays, including:

- **Staffing shortages at rehabilitation and nursing home facilities.** Facilities cannot accept patients if they do not have the staffing needed to accommodate the patient's level of care needs.
- **Insufficient Community Services.** Provider capacity and staffing shortages to limit access to home care services that could help families care for patients at home.
- **Inability to return to a previous care setting** (assisted living facilities or nursing home) after hospitalization because their because their condition now requires a higher level of care. Affordability, availability, and facility acceptance all play significant roles.
- **Time needed for families** to gather needed information, **apply for Medicaid**, and have workers verify income, assets, and other requirements to determine Medicaid eligibility.
- **Hospitals not having information about which patients are enrolled in Family Care** (Family Care MCOs have a role in discharge planning for Family Care members).
- **Patients who do not have family or other close relationships to provided needed assistance and support.**

The proposed legislation **(SB 578/AB 598)** does not address any of the above issues. Additionally, this legislation is more expansive than "Next of Kin" laws existing in other states.

SB 578/AB 598 Does Not:

- Require any screening or background checks to prevent individuals with financial motives or history of abuse from being appointed as a patient representative.
- Establish a process for contesting the appointment of a patient representative whose decisions or priorities conflict with those of the individual.
- Sets no limits on how long a patient representative can make decisions on behalf of the individual.
- Require that the finding of incapacity – or the appointment of a patient representative – be communicated to the individual. As a result, a person may lose their right to make their own decisions without knowing who is acting for them and why.
- Provide a mechanism for the individual to object to decisions made by the patient representative (other than the decision to admit)
- Ensure oversight of health care decisions. Instead, the bill grants the patient representative decision-making authority that is equivalent to that of a guardian of person, but without any court oversight. That would allow patient representatives to override the individual's wishes and authorize involuntary care (with some exceptions). Agents authorized under a Health Care Power

of Attorney do not have that authority, and Guardians of the Person are subject to court oversight.

- Specify when or whether an incapacitated individual must be re-evaluated for capacity, who can/must perform the evaluation, or who is responsible for ensuring it occurs.
- Provide any requirements or timelines for a court to hear a petition reviewing the patient representative's conduct.
- Authorize a court to remove the patient representative.
- Provide a process for patient representative to resign, and does not address what happens if the representative becomes incapacitated or dies.
- Define what is included in "health care expenditures."
- Clarify whether a patient representative can liquidate assets (including real estate) on limits of the PR's ability to liquidate assets (including real estate) to privately pay for placement and/or to spenddown to be eligible for Medicaid.
- Clearly authorize a patient representative to access bank accounts, retirement accounts, life insurance policies, and other financial information used to verify Medicaid eligibility.
- Speak to what happens when a patient is transferred to a different facility or between facilities.
- Specify who in the hospital must notify corporation counsel or Adult Protective Services, set timelines for such notification, or outline consequences if notice is not provided.
- Address what happens if the individual has no known county of legal residence or if their most recent residence was in another state.
- Address decision-making for incapacitated individuals while they are in the hospital.

Please reach out to your State Senator and Assembly Representative to share your thoughts regarding this legislation that could move the process quickly.

Take Action:

If this issue is important to you, contact your State Senator and State Representative (enter your home address in the text box here: Find Your Legislator) and share your thoughts.