



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-0648/P1  
JPC:cdc

DOA:.....Stinebrink, BB0187 - Responsibilities of hospitals with caregivers

**FOR 2021-2023 BUDGET -- NOT READY FOR INTRODUCTION**

**AN ACT ...; relating to:** the budget.

---

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**GENERAL HEALTH AND HUMAN SERVICES**

***Requiring hospitals to allow designation of a caregiver***

This bill requires hospitals to provide a patient or, if applicable, a patient's legal guardian with an opportunity to designate a caregiver who will receive, before the patient is discharged from the hospital, instruction regarding assistance with the patient's care after discharge.

Under the bill, a hospital must, no later than 24 hours following a patient's admission to a hospital and before the patient is discharged or transferred, provide at least one opportunity for a patient or, if applicable, a patient's legal guardian to designate at least one caregiver. If a patient is unconscious or otherwise incapacitated when admitted, the hospital shall provide an opportunity for caregiver designation within 24 hours after the patient regains consciousness or capacity. If a patient or legal guardian designates a caregiver, a hospital must promptly record the name and contact information of the caregiver. If a patient or legal guardian declines to designate a caregiver, the hospital must also promptly document that information. Patients are not required to designate a caregiver under the bill and, further, the designation of a caregiver does not obligate any individual to provide aftercare for the patient. A patient may elect to change the designated caregiver at any time, and the hospital must record the change within 24 hours.

The bill requires that if a patient designates a caregiver, the hospital must promptly request written consent to release medical information to the patient's caregiver. If the patient or the patient's legal guardian declines to provide consent, the hospital is relieved of its notification and consultation obligations.

Under current law, patient medical records are kept confidential except in certain limited circumstances, including if a patient or a person authorized by the patient gives consent to the disclosure. Even without agreement, a health care provider may provide to the patient's immediate family, another relative, a close personal friend of the patient, or an individual identified by the patient, that portion of information from the health care record directly relevant to that individual's involvement in the patient's care. The bill adds designated caregivers to the list of individuals permitted access to information directly relevant to that individual's involvement in the patient's care.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SECTION 1.** 50.379 of the statutes is created to read:

**50.379 Designated caregivers. (1) DEFINITIONS.** In this section:

(a) "Aftercare assistance" means any assistance provided by a caregiver to a patient under this section after the patient's discharge and related to the patient's condition at the time of discharge, including assisting with basic activities of daily living or instrumental activities of daily living, or carrying out medical or nursing tasks, such as managing wound care, assisting in administering medications, or operating medical equipment.

(b) "Caregiver" means any individual, including a relative, partner, friend, neighbor, or other person who has a significant relationship with a patient, who is designated as a caregiver under this section to provide aftercare assistance to that patient.

(c) "Discharge" means a patient's exit or release from a hospital to the patient's residence following an inpatient admission.

(d) "Hospital" has the meaning given in s. 50.33 (2).

(e) “Incapacitated” has the meaning given in s. 50.94 (1) (b).

(f) “Residence” means a dwelling that the patient considers to be his or her home. “Residence” does not include any rehabilitation facility, hospital, nursing home, assisted living facility, or group home licensed by the department.

**(2) CAREGIVER DESIGNATION.** (a) A hospital shall provide a patient or, if applicable, a patient’s legal guardian at least one opportunity to designate at least one caregiver no later than 24 hours following the patient’s admission to a hospital and before the patient’s discharge or transfer to another hospital or facility licensed by the department.

(b) If a patient is unconscious or otherwise incapacitated upon admission to the hospital, the hospital shall provide the patient or, if applicable, the patient’s legal guardian with an opportunity to designate a caregiver within 24 hours following the patient’s recovery of his or her consciousness or capacity.

(c) If a patient or a patient’s legal guardian declines to designate a caregiver under this section, the hospital shall promptly document that information in the patient’s medical record.

(d) If a patient or the patient’s legal guardian designates a caregiver under this section, the hospital shall promptly record the designation of the caregiver, the relationship of the caregiver to the patient, and the name, telephone number, and address of the caregiver in the patient’s medical record.

(e) Nothing in this section requires a patient or a patient’s legal guardian to designate a caregiver.

(f) A patient may elect to change a designated caregiver at any time. The hospital shall, within 24 hours, record in the patient’s medical record any designation change and any new information required under par. (d).

(g) Designation of a caregiver under the provisions of this section does not obligate any individual to perform aftercare assistance for the patient.

**(3) RELEASE OF MEDICAL INFORMATION.** (a) If a patient or a patient's legal guardian designates an individual as a caregiver under this section, the hospital shall promptly request the written consent of the patient or the patient's legal guardian to release medical information to the patient's designated caregiver following the hospital's established procedures for releasing personal health information and in accordance with applicable federal and state law.

(b) If a patient or the patient's legal guardian declines to consent to the release of medical information to the patient's designated caregiver, the hospital is not required to provide notice to the caregiver or provide information contained in the patient's discharge plan as required under subs. (4) and (5).

**(4) NOTIFICATION AND INSTRUCTION TO DESIGNATED CAREGIVER.** Subject to sub. (3), if a patient or a patient's legal guardian designates a caregiver under this section, a hospital shall do all of the following:

(a) Notify the patient's designated caregiver of the patient's discharge or transfer to another hospital or facility licensed by the department as soon as possible, which may be after the patient's physician issues a discharge order, but not less than 4 hours before the patient's actual discharge or transfer to the other hospital or facility.

(b) No less than 24 hours before a patient's discharge from a hospital, consult with the designated caregiver along with the patient regarding the caregiver's capabilities and limitations and issue a written discharge plan that describes a patient's aftercare assistance needs at the patient's residence.

**(5) DISCHARGE PLAN.** (a) For purposes of this section, a hospital shall include in a discharge plan at least all of the following:

1. The name and contact information of the caregiver designated under this section.

2. A description of all aftercare assistance tasks necessary to maintain the patient's ability to reside at home, taking into account the capabilities of the caregiver.

3. Contact information for any health care, community resources, and long-term services and supports necessary to successfully carry out the patient's discharge plan.

(b) A hospital issuing a discharge plan under this section shall provide caregivers with instruction in all aftercare assistance tasks described in the discharge plan, and must include at least all of the following:

1. A live demonstration of the tasks performed by a hospital employee or individual with whom the hospital has a contractual relationship authorized to perform the aftercare assistance task, provided in a culturally competent manner and in accordance with the hospital's requirements to provide language access services under state and federal law.

2. An opportunity for the caregiver and patient to ask questions about the aftercare assistance tasks.

3. Answers to the caregiver's and patient's questions provided in a culturally competent manner and in accordance with the hospital's requirements to provide language access services under state and federal law.

**(6) NO INTERFERENCE WITH AUTHORIZED DECISION MAKING.** Nothing in this section shall be construed to interfere with the rights of a person authorized by law to make health care decisions on behalf of a patient.

**(7) NO RIGHT OF ACTION.** Nothing in this section shall be construed to create a private right of action against a hospital, a hospital employee, or any authorized agent of the hospital, or to otherwise supercede or replace existing rights or remedies.

**SECTION 2.** 146.82 (4) (b) 2. a. of the statutes is amended to read:

146.82 (4) (b) 2. a. A member of the patient's immediate family, another relative of the patient, a close personal friend of the patient, a caregiver designated under s. 50.379, or an individual identified by the patient, that portion that is directly relevant to the involvement by the member, relative, friend, caregiver designated under s. 50.379, or individual in the patient's care.

**SECTION 3.** 146.82 (4) (c) of the statutes is created to read:

146.82 (4) (c) Notwithstanding subs. (1) and (4) (b), a health care provider may provide a caregiver who is designated under s. 50.379, and who is otherwise permitted access to a portion of a patient health care record under this subsection, with a copy of any written discharge plan issued under s. 50.379 (4) and (5).

(END)