RACHAEL A. CABRAL-GUEVARA

STATE SENATOR • 19TH SENATE DISTRICT

Testimony before the Senate Committee on Health

Senator Rachael Cabral-Guevara

February 14, 2024

Thank you committee members for allowing me to testify on Senate Bills 1027, 1028, and 1029, an important package of bills that will help address the growing problem of complex patients finding the proper setting for care.

Complex and post-acute care has been a challenge for both hospitals and long-term care facilities alike. Hospitals have the ability to provide the care, but are often not properly reimbursed for it. Long-term care facilities often do not have the staff needed to properly care for these types of patients.

This package of bills attempts to start addressing three of the issues surrounding these complex patients: discharging complications from hospitals, making sure beds are available for them, and setting up a complex patient pilot program. It also includes an appropriate level of funding to ensure we are adequately executing on these pilot programs for patients, providers, and health care facilities.

Without delivering on the key components of this legislation, we risk continuing the unreimbursed care of patients that should be in different settings. It is inappropriate for people to unnecessarily remain in a hospital for weeks on end because of the inability to discharge to a more appropriate, longer-term care setting. It also is not right to force these patients into understaffed facilities. That is why this package is so critical: we need to see what works, what does not, and find a solution by testing this pilot program.

I look forward to continuing discussions around what we can do to improve this package and sincerely hope to finalize it this session. Thank you again for allowing me to testify on these critical bills and I am hopeful you will support them.

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PATRICK SNYDER

STATE REPRESENTATIVE • 85th ASSEMBLY DISTRICT

Testimony in Support of Assembly Bills 1086, 1087, and 1088

Assembly Committee on Family Law
February 14th, 2024

Chairwoman Rozar and members of the Committee:

Thank you for taking the time to allow me to testify on these three important bills that are the result of many conversations and negotiations with our hospital and long-term care partners. Together these bills address concerns we've heard from these providers in ensuring patients with complex needs receive the care they need in the most appropriate settings. This is a shared problem in Wisconsin and I believe that this legislation will be the solution by encouraging everyone in the sector to work together in collaboration on behalf of patients with complex needs.

I am going to start with AB 1088. This legislation makes changes to the surrogate decision-making process that this Committee has previously discussed. This issue has long been on my radar since one my constituents, an attorney, first explained the complexities of moving some of these patients out of hospitals in a timely matter. This legislation will ensure that incapacitated patients not requiring hospital care can be moved to more appropriate facilities in a timely fashion by clarifying that the surrogate-decision making process applies to admissions from hospitals but without the time restrictions or the required filing of a petition for guardianship or protective placement. It is important to note this legislation maintains all current protections under s. 50.06.

The bill also requires the Department of Health Services (DHS) to release 250 nursing home beds to providers who will prioritize admissions of patients with complex needs who have been unable to find appropriate placement at another facility.

Finally, the package expands the $5 million complex care pilot program that was passed in the budget. The goal of this pilot program is to help spur development of innovative partnerships between nursing homes and hospitals in providing care to patients with complex needs in the most appropriate setting. In addition finding innovative ways to provide care to these complex patients in the most appropriate settings, the pilot will help us better identify the characteristics and needs of these patients to inform our policy making decisions in the future.

To that end, AB 1086 and 1087 use one time money to address this crisis by:

- An additional $10 million GPR to expand funding for the complex patient pilot program to a total amount of $15 million. This will enable more pilots to be created throughout the state to better serve these complex patients.

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- $20 million GPR for supplemental hospital payments to help hospitals that care for patients that are ready to be discharged but stranded at a hospital because they are unable to be discharged to a more appropriate setting
    - AB 1087 requires DHS to distribute quarterly payments from this fund to hospitals based on the number of delayed discharge days.
- $10 million GPR for enhanced payments to nursing homes for bariatric patients and patients with complex wound care if they were transferred directly from a hospital. Bariatric needs and complex wound care are two conditions identified by long-term care and hospital partners that can create added complexities in providing care.

Please be aware that we are working on an amendment to increase reporting requirements on these significant investments. I want to stress that in many ways this entire legislative package is a pilot program to work together and address the needs of patients requiring complex care in our State. Too often the nature of these needs causes these patients to be left behind. It is my hope that this package incentivizes all providers to work together in getting them the treatment that they need.

I am happy to answer any questions you may have.

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February 14, 2024

To: Senate Committee on Health

From: Laura Leitch
Policy Counsel

Subject: WHA testimony in support of SB 1027, 1028, and 1029

Every day in Wisconsin hospitals, there are about 500 patients who are ready to be discharged but remain in the hospital awaiting a post-acute care placement. The 500 avoidable hospital days each day have a significant impact not only on those patients whose post-acute care is being delayed but also on the health care system broadly.

According to a report written by Baker Tilly for DHS, in 2022, there were about 177,000 avoidable hospital days statewide. Baker Tilly estimated the cost to care for the patients waiting for discharge to be about $485 million. In addition to the costs, the avoidable patient days also affect hospital capacity. The 177,000 avoidable hospital days are 177,000 days that are not available to care for other patients who need hospital-level services.

Although the number of delayed discharges increased during the pandemic, exceeding 700 patients a day during the Covid surges, the number has remained stubbornly high.

There are a variety reasons for the delayed discharges from hospitals and, unfortunately, there isn't one solution. The package of policies in SB 1027 and 1028 are targeted at specific causes of delayed discharges identified by the acute and post-acute care communities and we are hopeful that they would have a substantial impact on the issues:

1. **Patients remain in the hospital due to guardianship delays.**

In Wisconsin, an incapacitated patient's family members, the next of kin, can consent to an admission directly from a hospital to a nursing home or CBRF. Before admission, however, a petition for guardianship of the incapacitated patient must be filed with the court and the patient's stay in the facility without a guardian is limited to 60 days (s. 50.06). But it often takes months for the guardianship process to come to a resolution. Further, the guardianship process is a significant emotional and financial burden on families and patients.

According to a report from the American Bar Association, at least 45 states explicitly recognize next of kin authority for some type of surrogate decision-making. In Wisconsin, in addition to

the limited authority in s. 50.06, there is next-of-kin authority for organ donation (s. 157.06) and hospice care (s. 50.94).

The bill would extend the next of kin's authority to consent to the admission to and care in a nursing home or CBRF for their incapacitated loved one beyond the current 60 days and without first filing a petition for guardianship. The bill also maintains and adds patient protections.

2. There are too few providers who will accept patients who have complex conditions.

a. Relax the nursing home bed cap.

Since the mid-1980s, the number of nursing home beds has been capped at around 52,000 beds. DHS, however, has administered the cap as a moratorium, not approving additional beds to replace beds that close. In 2018, around 30,000 licensed nursing home beds remained. According to Baker Tilly, there were fewer than 26,000 licensed nursing home beds in 2022, a decrease of about 4,000 beds in 4 years.

Further, the nursing homes that remain continue to limit the number of Medicaid patients they accept. The number of Medicaid patients in nursing homes is expected to drop from 6,500 to 5,400 in the current biennium, which will make it even harder for hospitals to place patients with complex health care needs who are often on Medicaid.

In an effort to expand the state's nursing home capacity available for high-acuity patients, the bill would allow organizations to apply for and require DHS to approve 250 additional nursing home beds:

- The facility with the new beds would prioritize the admission of patients with complex care needs and patients who have not been accepted by other facilities.
- DHS could approve an applicant's request for up to 50 beds.
- The facility with the additional nursing home beds would need to meet current licensing standards and be certified as a Medicaid provider.

b. Complex Patient Pilot.

The nursing home associations requested support for a complex patient pilot in the most recent state budget. According to DHS:

- The pilot seeks innovative approaches to enable these patients to get the care they need by transitioning from inpatient to post-acute settings in a timely way.
- DHS plans to award the funds through a competitive grant application process to select hospital and post-acute facility partnership groups.

3. The high costs associated with delayed discharges affects health care capacity and access to care.

a. Supplemental payment to hospital.

As previously mentioned, the 177,000 avoidable days and the $485 million in costs to care for the patients impact hospitals' ability to care for other patients. To recognize a portion of the hospitals' staffing and other costs associated with avoidable days, the proposed supplemental payment pool would be distributed to hospitals quarterly based on the number of qualifying avoidable patient days at each hospital.

- Qualifying avoidable patient days would be days after a high-acuity patient has been ready for discharge for more than 7 days but the hospital has not been able to locate a place to discharge the patient.
- High acuity patients are patients with conditions such as obesity, a non-ambulatory disability, a mental illness, high behavior needs, need for wound care, substance use disorder, or require dialysis. Hospitals struggle to locate nursing homes and CBRFs that are willing to accept high-acuity patients because of the significant staffing and other costs to care for them.
- According to the Kaiser Family Foundation, the average cost of caring for a hospital inpatient in Wisconsin is about $2,700 a day. The distribution of the $20 million supplemental payment pool is expected to recognize a small, but important portion of those costs.

b. Enhanced complex patient rate for nursing homes.

A significant number of the patients ready for discharge from the hospitals and awaiting placement in a nursing home are bariatric patients and patients with wounds. The staffing and other costs dedicated to caring for patients with these conditions is substantial and, thus, nursing homes indicate they are reluctant to admit the patients.

To encourage nursing homes to accept these complex patients by recognizing the higher costs, the bill would provide funding for an enhanced Medicaid rate for nursing homes caring for non-ambulatory bariatric patients and patients needing significant wound care.

Hospitals estimate that around 25 percent of the high-acuity patients pending a post-acute care placement are bariatric patients or patients with significant would care needs. A significant percentage of those patients are on or have applied for Medicaid. Encouraging nursing homes to accept the patients from hospitals could open hospitals beds for patients needing hospital-level care.

Thank you for the opportunity to testify in support of SB 1027, 1028, and 1029. WHA appreciates the bills' authors, other legislators, hospitals, members of the post-acute care community, and many others who have been working to address these challenges.

bellinhealth GUNDERSEN HEALTH SYSTEM.

Date: **February 14, 2024**

To: **Senate Committee on Health**

From: **Bellin and Gundersen Health System**
Collin Bowman, MD – Palliative Medicine

Re: **Senate Bill 1027**

Chair Cabral-Guevara and members of the Senate Committee on Health, thank you for allowing me to testify today in support of Senate Bill 1027. I would like to share my concerns about the current process of transferring medically incapacitated patients, whom do not have advance care planning document(s), from hospitals to nursing homes, and how this legislation would help patients and families.

Bellin and Gundersen Health System is an integrated care delivery system providing services to over 600,000 patients throughout 35 counties in Wisconsin, Iowa, Minnesota, and Michigan's UP. Our system provides patients and communities with access to top-tier care at 11 hospitals, 100+ local clinic locations via more than 1,400 providers.

Wisconsin's current process of transferring medically incapacitated patients, whom do not have advance care planning documents, is harming patients and families. It is taking away patient's ability to choose their desired path of future medical care. It is impeding the ability of healthcare professionals to do right by patients and families. It is causing increased suffering by trapping patients and families in hospitals while they wait for the guardianship process to unfold. We can and must do better. All patients deserve the same standards of care.

An example that will highlight this suffering is John (pertinent identification and medical information will be omitted in accordance to HIPPA). He was admitted to the hospital with a heart attack. This emergent situation required open heart surgery that saved his life. Subsequently, he suffered multiple serious health complications that resulted in loss of his medical capacity. He had no advance care planning documents and denied to fill them out in the past. The guardianship process was started given concerns about future need for nursing home placement. The family felt that we were taking away both John's and their ability to make medical decisions on his behalf. The therapeutic doctor-patient relationship had been shattered. Trust had been lost. When this happens, emotions heighten and suffering for both John and his family increased. John's medical situation was already traumatizing and scary. Unfortunately, our current system only worsened John's situation.

This story demonstrates how providers hands are tied by the current dynamic and patients think it is hospitals doing this to them, not the limitations in state law. This legislation would fix those limitations and is squarely aimed at reducing suffering for patients and families. It eases the mostly unnecessary process of seeking guardianship by allowing patient's families, the ones

bellinhealth GUNDERSEN HEALTH SYSTEM.

who know the patient's goals and values the best, to be their voice. It preserves patient's autonomy to make their own medical decisions despite being medically incapacitated. It allows medical providers to do right by patients instead of holding them in the hospital against their will. It improves the quality of care we give.

Thank you for your time and consideration of our testimony. We respectfully ask that you support Senate Bill 1027.

Sincerely,

Collin E. Bowman, MD

Collin Bowman, MD
Palliative Care Physician at Bellin Health in Green Bay, Wisconsin

LeadingAge™ Wisconsin

Better Services for Better Aging

Date: February 14, 2024
To: Chair, Vice Chair, and Members of the Senate Committee on Health
From: Rene Eastman, VP of Financial & Regulatory Services, LeadingAge Wisconsin
Subject: Senate Bill 1027, 1028, 1029: Complex Patient Legislation

Thank you for this opportunity to provide testimony on the legislation intended to address post-acute care discharges.

LeadingAge Wisconsin represents hundreds of senior living providers across the state. The shared mission of our largely non-profit members is to provide exceptional quality care to their residents and to serve their communities.

While we continue to serve as many Wisconsinites as possible by constantly seeking innovative solutions to workforce, reimbursement, and regulatory challenges, we recognize that the combination of these factors and the aging demographics of the state have resulted in the unfortunate situation where it may be difficult for a patient to find a timely and appropriate post-acute care placement.

We look forward to continuing to problem solve these challenges with the members of this committee and the legislature as a whole, and we appreciate the leadership of Speaker Vos in convening a workgroup of interested parties to make progress on that issue this session. We were promised at the outset that there would be some things in the legislation that we would like and other things that we would live with and that is indeed the case.

We know that innovative approach to addressing challenges will need to continue and that's why we fully support the complex patient pilot, which will draw grant applications from partnerships of hospitals and post-acute facilities who know the issues on the ground the best and will inform future policy solutions.

We know that paperwork can be burdensome and that situations exist where it doesn't make sense to hold up an admission for a guardianship proceeding when there is a clear next of kin to approve a patients' move to a more appropriate setting. This could allow for more peaceful end-of-life care.

While we have reservations about new nursing home bed licenses being issued, we recognize there are significant challenges intermingling some identified complex care populations (such as younger residents with severe behavioral health needs) with traditional nursing home residents and we welcome facilities dedicated to specializing in this type of care.

We look forward to continuing to identify solutions that allow residents to be served in the most appropriate settings across our continuum of long-term care services. We believe that nursing homes are the appropriate regulated setting for bariatric patients requiring extensive assistance with activities of daily living and for patients requiring specialized wound care. These specialties both require a greater number of staff and staff with more specialized training, as well as equipment and supplies. Transferring

bariatric residents requires multiple staff being available, even on nights, and comes with higher risks of staff injury or regulatory risk when a lift/transfer is not completed correctly. With workforce challenges increasing past a crisis level, it is not surprising that residents with these higher care needs are waiting longer to access skilled nursing beds.

If providers are resourced to be able to step forward, it would be a no-brainer to improve Medicaid fiscal sustainability and free hospital capacity by providing more bariatric and wound care in the skilled nursing setting, as an enhanced daily nursing home rate would still cost less than the daily cost of a hospitalization.

Should any committee members or other stakeholders have questions on this legislation or on any long-term care issues in the future I can be reached at (608) 400-5051 or reastman@leadingagewi.org. Thank you.

WHCA / WiCAL

Wisconsin Health Care Association Wisconsin Center for Assisted Living

Wisconsin Long-Term Care Providers: Supportive of Complex Patient Bills

The Wisconsin Health Care Association/Wisconsin Center for Assisted Living (WHCA/WiCAL) represents more than 400 long-term care providers across the Badger State. We are pleased to join you today to share our support for SB 1029/AB 1086, SB 1028/AB 1087, and SB 1027/AB 1088.

Post-hospital placement challenges for complex patients have existed across the country for many years. The COVID-19 pandemic further exacerbated this problem. This is a complex issue, and barriers to placement exist for a myriad of reasons: the complex medical and/or behavioral needs of a patient; challenges surrounding guardianship; and lack of payor source; among other challenges. The package before you today is a meaningful and thoughtful effort to help address the issue here in Wisconsin.

The bills today aim to address some of the challenges to hospital discharge, as well as create new opportunities for hospitals, post-acute providers, and other stakeholders to work together to find solutions for this complex patient population with the ultimate goal of providing the right care at the right time in the most appropriate setting. Ultimately, we want patients to receive the best care possible in the most appropriate setting based on their needs.

- **SB 1029/AB 1086 & SB 1028/AB 1087:** These bills together would create funding mechanisms to establish new enhanced rates for two complex patient profiles: bariatric patients and patients in need of complex wound care. Both complex wound care patients and bariatric patients require higher staffing needs and specialized equipment. The legislation would also appropriate an additional $10 million GPR to the complex patient pilot program, which was signed into law as part of the current biennial budget, to allow more health care partners across the state to find innovative solutions to help facilitate hospital transfers to appropriate post-acute settings.

- **SB 1027/AB 1088:** This bill seeks to address challenges related to placing complex patients by:
  - Creating new decision-making processes when an incapacitated patient ready for discharge does not have a guardian in place, while also balancing the future decision-making needs of the patient and allowing for important checks and balances to the process;
  - Allocating up to 250 total nursing home beds meant to be limited-use for purposes of placing complex patients when a hospital has been unable to find post-hospital placement; and
  - Building out the complex patient pilot which will allow acute- and post-acute health care partners to collaborate on finding provider-driven, patient-centered solutions to placing complex patients.

Long-term care providers have appreciated the opportunity to share our perspective and input on these issues. Providers are committed to working with their health care partners, with state policymakers, and with other stakeholders to address complex patient transfer challenges.

Thank you for the opportunity to share our support for these bills.

FOR MORE INFORMATION, CONTACT:

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Testimony to the Senate Committee on Health
Support for Senate Bills 1027, 1028, & 1029 – Post Acute Legislation
Sarah Becker, Social Service Director, Wisconsin
February 14th, 2024

Thank you to the committee chair and members of the committee. I appreciate you holding a hearing today on this important legislation. I am Sarah Becker, Social Service Director in Wisconsin for Aurora Health Care.

Over the last couple of years I've had the opportunity to work with WHA, legislators and other stakeholders on ideas to address the problems my team and I see every day when it comes to delayed discharges from our hospitals. I am happy to see this work coming to fruition and support all three of the bills before you today.

Right now there are approximately 50 patients in Aurora hospitals across Wisconsin who should not be in the hospital. This number fluctuates, sometimes it reaches double the current amount. But really it is a revolving number because as we discharge some of these patients, every day we have more patients who come to our facilities, some of whom will also be very difficult to discharge. At the same time, hospitals continue to struggle with capacity issues. The end result is patients having to wait for a bed to become available in order to move to nursing unit where they will receive their specialty care.

Of these patients who are waiting to leave our hospitals, approximately one-fourth are stuck due to a need for guardianship. In these instances, we invoke the provisions of 50.06 and seek a petition for guardianship and protective placement in order to facilitate the patient being able to move to post-acute care settings. However, this is not an immediate remedy.

Patients who do not have a Power of Attorney for Health Care document which empowers their agent to be able to admit them to a nursing home or group home are typically people with limited socio-economic resources who have never had cause to meet with an attorney for any reason. When their family members are approached about needing to hire an attorney to petition for guardianship of the person and protective placement, they are first incredulous that as a family member, they do not have the power to consent to their loved one's admission to the next level of care and they are then bewildered about how to go about finding, hiring, and paying for an attorney to assist them with this process.

In all too many cases, the process becomes overwhelming and the family is unable to move forward, sometimes even choosing not to step into the role of becoming a guardian. As a last resort, hospitals are using our own legal representation to file petitions in order to facilitate getting the patient to the appropriate level of care. While there is a guardian ad litem appointed to look out for the legal rights of the patient, and while the hospital has legal representation, families are left without anyone to represent their interests in the guardianship process.

Some of our patients cross the Wisconsin/Illinois border to receive their acute care in our state, but then return to Illinois if they need post-acute care. When these patients become incapacitated and require nursing home placement, they are at an advantage because Illinois allows for family members in a hierarchy to admit them to a facility even in the absence of having a Power of Attorney for Health Care document. Patients in this circumstance can move to the appropriate level of care as soon as a skilled nursing facility is identified that can meet their needs. This is the standard in the vast majority of other states as well. Now it is time to make a similar change here in Wisconsin, by passing SB 1027. This will empower families to get their loved ones into a more appropriate setting for care, more quickly.

That said, the problem of difficult-to-discharge patients is more complicated than just solving the issue of who can consent to nursing and group home admissions. That is why we also support the other bills at this hearing.

Among the remaining patients who are unable to leave the hospital timely are the patients who are so complex that we are unable to find a skilled nursing facility that is willing to accept them. With dwindling nursing home beds available, the incentives favor taking patients who are more likely to have a short stay with limited needs. Allocating additional skilled nursing facility beds, while recognizing the need for those beds to be used for complex patients as outlined in SB 1029, is one more piece of the puzzle to solving the problem of difficult-to-discharge patients.

Finally, we also support SB 1028, which provides reimbursement to hospitals for avoidable patient days. Among our patients awaiting discharge are those who will likely never be accepted in traditional skilled nursing facilities, even with the other changes in today's legislation. This is often due to high-risk behaviors that would make the post-acute care environment unsafe for staff and other residents. Patients in that circumstance remain in a hospital setting until something about their situation changes, which would allow placement elsewhere. Without this funding pool, hospital care that these patients receive is largely uncompensated even though the patient and family have no realistic alternative options for care.

The problems we are facing with discharge delays are complex, and so there is no simple solution. However, this committee has before it legislation that will take a big step toward addressing the underlying issues. Therefore, I ask for your support of all of these bills, to allow my social service colleagues and I to help more patients and families gain access to the care settings they need.

Thank you for your time today, we would be happy to answer any questions.

Ascension

Wisconsin Senate Committee on Health

Testimony of Jamie Gill, RN,
Director of Case Management and Post Acute Strategy Ascension WI
Public Hearing on SB1027 and SB1028
February 14, 2024

Madame Chair and Members of the Committee:

Thank you for the opportunity to provide testimony on SB1027 and its proposed changes to the guardianship process for patients awaiting discharge from Wisconsin hospitals to the next level of care.

My name is Jamie Gill, and I am a registered nurse and the Director of Case Management and Post Acute Strategy for Ascension Wisconsin. Ascension Wisconsin is a faith-based health care organization committed to delivering compassionate, personalized care to all, with special attention to persons living in poverty and those most vulnerable. Serving Wisconsin since 1848, Ascension Wisconsin operates 17 hospital campuses, more than 100 related healthcare facilities and employs more than 1,100 primary and specialty care clinicians from Racine to Appleton. We provide over 1.8 million patient visits annually. During our last fiscal year, Ascension Wisconsin provided over $250 million in community benefit services to our communities.

I'm here today to support SB1027 and share how it can help address the ongoing challenges that have blocked incapacitated patients from receiving the most appropriate care through timely admission to skilled nursing facilities. Currently, in instances where incapacitated patients have not identified their healthcare power of attorney, the patient's next of kin or representative must go through a lengthy and costly legal proceeding to obtain guardianship status. If the guardianship process hasn't been completed, skilled nursing facilities typically will not admit the patient. This has had profound impacts on inpatient capacity in hospitals across the state. The guardianship requirement – and delays in that process – have resulted in patients staying longer in Wisconsin hospitals, even after they are medically ready to move to a post-acute, long-term care facility that is better suited to provide them with care. While these delays have a negative impact on our hospitals, their most significant cost is to patients and their families who must wrestle with complexity and delay at a moment of vulnerability and distress. It's too much to ask of them.

The average hospital inpatient stay in Wisconsin is approximately 5 days. Following treatment, that patient can be discharged home or to a more appropriate setting, allowing the hospital to operate more efficiently to serve acute public health needs. However, if an incapacitated patient must remain in the

hospital for two or three months simply because of the guardianship process requirement, the hospital may be precluded from providing acute care to a dozen or more other patients. This scenario is counterproductive for everyone.

Ascension WI tracks excess length of stay or "excess days" for patients who have completed their care with us but can not be discharged to the next level of care for a variety of reasons, including awaiting guardianship proceedings. In 2023, we attributed 483 excess patient days to delays related to pending guardianship cases. This means there were nearly 500 days when a patient was not receiving the needed therapy and level of care to continue their healing. This number does not account for patients having difficulty with discharge planning due to complex medical, behavioral health and substance use disorder needs, insurance coverage, and a variety of other complexities impacting transition of care.

The proposed legislation would ensure that the most vulnerable person in these scenarios, the incapacitated patient, is appropriately discharged and gets access to the same quality of care that other patients who have capacity to consent to post-acute care themselves or patients who have an appointed healthcare power of attorney are able to receive .

As we work with families, they often express frustration that the existing system prevents them from moving quickly to meet the needs of their incapacitated loved ones. The current requirements inflict significant emotional and financial burden on families who are coping with a loved one's condition by forcing them also to navigate the complex guardianship process. This process is drawn out and often finally concludes with an appointment of a guardian who was recognized from the start as the patient's next-of-kin decision-maker.

Furthermore, the long-term hospitalization of incapacitated patients in the inpatient hospital setting causes significant capacity constraints that lead to longer wait times and fewer available beds for other patients seeking care for acute medical needs. As hospital beds are held for those awaiting discharge, a secondary disparity is created for patients coming into the hospitals through the emergency department who are awaiting often urgent and acute medical inpatient care.

I want to be clear, there is no clinical benefit to patients staying in inpatient hospital settings longer than medically indicated; there are only delayed therapies, added health risks, family frustrations, unreimbursed costs and delayed access for new patients needing inpatient care.

We support SB1027 because it achieves three important patient-centered objectives:

- It streamlines the current costly and complicated process to allow the next-of-kin representative to make a timely decision for their loved one to receive appropriate care in the most appropriate setting, while also ensuring other family members are informed.
- It preserves the guardianship petition process to protect the rights of patients and family members. This allows any party to petition the court to review whether the decision is appropriate and, if not, whether to reverse it.
- It maintains the guardianship process requirement in instances involving a patient who does not have a next-of-kin representative available to make appropriate care decisions.

I would also like to express our support and appreciation for the proposed addition of 250 nursing home beds within skilled nursing facilities that prioritize admissions of patients with complex needs and admissions of patients who have been unable to find appropriate placement at another facility. This

provision addresses our patients with the most complex and critical health needs, including those with complex medical needs, memory care needs, bariatric care needs, and those with histories of behavioral health diagnoses and substance use disorders, who are often denied admission to post-acute facilities even when their conditions are well managed. Skilled nursing facilities serve a vital and very different role than their hospital counterparts, and we are grateful for their service and collaboration in ensuring quality long-term care for our patients. Hospitals are unable to offer the hours of therapies and daily enrichment programming to support patients' long-term psychological and rehabilitative needs, as skilled nursing facilities do.

We recognize this is a very sensitive and complex issue, and we appreciate Rep. Snyder and Sen. Cabral Guevara, and also Reps. Wichgers and Ortiz-Velez, for their efforts to address this important matter. We believe SB1027 strikes the right balance to protect patients and their families, improve the healthcare delivery system and help reduce the guardianship caseload in local courts.

For these reasons, we thank you for considering this critical legislation that will support appropriate transitions of care for patients needing discharge, as well as those needing hospital beds. We urge the committee to support this important measure.

Testimony to the Senate Committee on Health
Support for Senate Bills 1027, 1028, & 1029 – Post Acute Legislation
Carrie Killoran, President- Greater Milwaukee Area & Aurora St. Luke's Medical Center
February 14th, 2024

Thank you to the Committee Chair and members. My name is Carrie Killoran, President of Aurora Health Care's Greater Milwaukee Area and St. Luke's Medical Center. I am here today with my colleague Sarah Becker to speak on behalf of Aurora in support of Senate Bills 1027, 1028 and 1029, which will help address a problem that continues to plague Wisconsin hospitals: delayed patient discharges to post-acute care.

Located in Milwaukee, St. Luke's is the largest hospital in Wisconsin and licensed for 938 beds. We are consistently recognized as a destination medical center for everything from cardiac care to organ transplants.

But the problem of delayed discharges is felt across each of our 16 Aurora hospitals in Wisconsin. Internally, we have a daily tracking of our patients awaiting post-acute placement. Just yesterday we had over 50 such patients in our hospitals. But this number varies – and within the past year we have seen it up to nearly 100 people across our system. These are patients who are essentially stuck in a hospital when they no longer need hospital level care.

These discharge delays negatively impact us as an organization, our employees, and most importantly, also our patients and their families. Patients who are in a hospital have increased risk of exposure to disease, may not receive needed rehab, and may be less accessible to family and friends. On the operations side, these "stuck" patients decrease critical bed availability, increase demands on staff, and contribute to financial losses at a time when many hospitals are struggling to keep up with increasing costs.

Unfortunately, a patient may experience a delayed discharge for a variety of different reasons. However, one of the most challenging is caused when a patient is non-decisional and there is no health care Power of Attorney authorized to step in and consent to admission to post-acute care. The only option is then a court-order guardianship, a process that can take weeks – all the while the patient must remain in the hospital. As I am sure you are aware, our court system is quite overloaded. As a result, it can take 6-8 weeks to get a hearing scheduled. While we are waiting for this, the patient remains with us in the hospital, taking a bed that is then not available for a patient who has true acute needs.

I have also seen this issue from a different angle. Prior to my role in health care administration, I was a practicing attorney who worked on these guardianship cases. In the vast majority of these cases, we were petitioning to have the next of kin named as guardian. This was a necessary legal step that was required in the absence of a power of attorney. The next of kin was always our preferred candidate for guardianship as they were the best positioned to know the desires of the patient. It is only if no next

of kin were available would we pursue a corporate guardian. It is notable that in the vast majority of these cases, they proceeded with no objection and the next of kin is named guardian. We ended up in the same result as we would have if the next of kin were allowed to act as surrogate decisionmaker as this bill would permit, with the notable difference that the family involved incurred not insignificant legal expenses to get there.

For these reasons, as both a hospital leader and attorney who handled these cases, I'd like to thank the bill authors for introducing this legislation and ask this committee to support the bills. Thank you, I will now turn it over to Sarah who will speak to her experience on the social service side of this issue.