ASSEMBLY, No. 300

STATE OF NEW JERSEY
221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:
Assemblywoman MICHELE MATSIKOUDIS
District 21 (Morris, Somerset and Union)

Co-Sponsored by:
Assemblywoman Flynn

SYNOPSIS
Authorizes hospital patient with developmental disabilities to have designated family member, guardian, direct support professional, or other caregiver accompany patient throughout hospital stay.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 1/29/2024)
AN ACT concerning the rights of hospital patients with
developmental disabilities and supplementing Title 26 of the
Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. a. As used in this section:
   “Caregiver” means the same as that term is defined by section 2
   “Developmental disability” means the same as that term is
   defined by section 3 of P.L.1977, c.82 (C.30:6D-3).
   “Direct support professional (DSP)” means an individual who
   provides direct, non-medical supportive assistance, on a daily basis,
   to a person who has a developmental disability, with the aim of
   helping the person: become better integrated into the community or
   the least restrictive environment; more effectively understand,
   communicate, and advocate for, the person’s individual needs and
   desires; identify and participate in positive employment, job
   coaching, and training opportunities; make informed choices and
   better understand the options and possible consequences of choices
   relating to physical health, safety, and emotional well-being;
   address challenging behaviors through a person-centered approach;
   successfully engage in the basic activities of daily living; identify
   and participate in activities that promote a healthy lifestyle; and
   otherwise lead a self-directed and autonomous life.
   “Guardian” means a person appointed by a court to make
   decisions regarding the support, care, education, health, or welfare
   of a person with a developmental disability, but does not include a
   guardian ad litem.
   “Hospital” means a general hospital licensed by the Department
   of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).
   b. In addition to the other rights that are retained by a hospital
   patient under section 2 of P.L.1989, c.170 (C.26:2H-12.8) or under
   any other law, an individual with a developmental disability who is
   admitted to a hospital shall have the right to be personally
   accompanied by a family member, guardian, direct support
   professional, or other caregiver designated pursuant to section 2 of
   P.L. , c. (C. ) (pending before the Legislature as this bill)
   throughout the duration of the individual’s stay at the hospital,
   except when the patient is actively undergoing a surgical procedure
   and would be endangered by the presence of the designated person
   in the room where surgery is being performed.

2. a. As used in this section:
   “Caregiver” means the same as that term is defined by section 2
"Developmental disability" means the same as that term is defined by section 3 of P.L.1977, c.82 (C.30:6D-3).

"Direct support professional (DSP)" means an individual who provides direct, non-medical supportive assistance, on a daily basis, to a person who has a developmental disability, with the aim of helping the person: become better integrated into the community or the least restrictive environment; more effectively understand, communicate, and advocate for, the person’s individual needs and desires; identify and participate in positive employment, job coaching, and training opportunities; make informed choices and better understand the options and possible consequences of choices relating to physical health, safety, and emotional well-being; address challenging behaviors through a person-centered approach; successfully engage in the basic activities of daily living; identify and participate in activities that promote a healthy lifestyle; and otherwise lead a self-directed and autonomous life.

“Guardian” means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of a person with a developmental disability, but does not include a guardian ad litem.

“Hospital” means a general hospital licensed by the Department of Health pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.).

b. Immediately upon the admission of a patient with a developmental disability to a hospital, the hospital shall provide the patient or the patient’s parent or legal guardian, as appropriate, with an opportunity to designate a family member, guardian, direct support professional, or other caregiver to accompany the patient throughout the patient’s hospital stay, as provided by section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill).

If the patient is unconscious or is otherwise incapacitated upon admission to the hospital, the patient’s parent or guardian, if any and as appropriate, shall be given the opportunity to make the designation pursuant to this subsection unless the patient is an adult who does not have a guardian, in which case, the adult patient shall be given the opportunity to make the designation as soon as practicable after the patient regains consciousness or decision-making capacity. If a patient with a developmental disability is a minor child whose parents are divorced, the custodial parent shall have the authority to make a designation pursuant to this subsection.

c. A hospital shall:

(1) promptly include, in the patient’s medical record, either the name of the person designated pursuant to subsection b. of this section or a statement indicating that the patient or the patient’s parent or guardian, as the case may be, has declined to make a designation pursuant to subsection b. of this section; and

(2) allow any person designated pursuant to subsection b. of this section to accompany the patient throughout the course of the
patient’s hospital stay, except as otherwise provided by section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill).

d. A designation made pursuant to this section shall not obligate the designated family member, guardian, direct support professional, or other caregiver to provide direct support or personal care assistance to the patient during the patient’s hospital stay or after-care assistance to the patient following the patient’s discharge from the hospital.

e. A patient or the patient’s parent or guardian, as the case may be, may elect, at any time, to change the designation made pursuant to this section. Any such person wishing to change the designation shall provide notice of the change to the hospital at least one hour prior to the effectuation thereof, and the hospital shall promptly update the designation in the patient’s medical record.

f. This section shall not be construed to require a hospital patient with a developmental disability or the patient’s parent or guardian, as the case may be, to make any designation pursuant to this section.

3. The Department of Health, in consultation with the Department of Human Services, shall adopt rules and regulations, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to implement the provisions of this act.

4. This act shall take effect immediately.

STATEMENT

This bill would provide that, in addition to the other rights that are retained by a hospital patient under existing law, a hospital patient with a developmental disability has the right to be personally accompanied by a designated family member, guardian, direct support professional, or other caregiver throughout the duration of the patient’s stay at the hospital, except when the patient is actively undergoing a surgical procedure and would be endangered by the presence of the designated person in the room where surgery is being performed.

The bill would require a hospital, immediately upon the admission of an individual with a developmental disability thereto, to provide the patient or the patient’s parent or legal guardian, as appropriate, with an opportunity to designate a family member, guardian, direct support professional, or other caregiver to accompany the patient throughout the patient’s hospital stay. If the patient is unconscious or otherwise incapacitated at the time of admission to the hospital, the patient’s parent or guardian, if any and as appropriate, is to be given the opportunity to make the
designation under the bill unless the patient is an adult who does not have a guardian, in which case, the adult patient is to be given the opportunity to make a designation as soon as practicable after the patient regains consciousness or decision-making capacity. If a patient with a developmental disability is a minor child whose parents are divorced, it is the custodial parent who will have the authority to make a designation under the bill’s provisions.

The hospital will be required to promptly document, in the patient’s medical record, either the name of the person designated to accompany the patient or a statement indicating that the patient or the patient’s parent or guardian has declined to make a designation. The hospital will be required to allow the designated person to accompany the patient throughout the course of the patient’s hospital stay, except as otherwise provided by the bill.

A designation made under the bill will not obligate the designated person to provide direct support or personal care assistance to the patient during the patient’s hospital stay or after-care assistance to the patient following the patient’s discharge from the hospital.

A patient or the patient’s parent or guardian, as the case may be, may elect, at any time, to change the designation made pursuant to the bill. Any such person wishing to change the designation is to provide the hospital with notice of the change at least one hour prior to the effectuation thereof, and the hospital is to promptly update the designation in the patient’s medical record.