ASSEMBLY, No. 300

STATE OF NEW JERSEY

221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:
Assemblywoman MICHELE MATSIKOUSDIS
District 21 (Morris, Somerset and Union)
Assemblywoman MARGIE DONLON, M.D.
District 11 (Monmouth)
Assemblyman AL BARLAS
District 40 (Bergen, Essex and Passaic)

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: 4/4/2024)
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).

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d. A designation made pursuant to this section shall not
oblige 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.

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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.

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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.

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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.

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4. This act shall take effect immediately.

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STATEMENT

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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.

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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.