

ASSEMBLY, No. 4456

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JULY 27, 2020

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman CAROL A. MURPHY

District 7 (Burlington)

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

As introduced.



(Sponsorship Updated As Of: 9/21/2020)

1 AN ACT concerning the rights of hospital patients with
2 developmental disabilities and supplementing Title 26 of the
3 Revised Statutes.

4

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

7

8 1. a. As used in this section:

9 “Caregiver” means the same as that term is defined by section 2
10 of P.L.2010, c.5 (C.30:6D-74).

11 “Developmental disability” means the same as that term is
12 defined by section 3 of P.L.1977, c.82 (C.30:6D-3).

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

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

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

33 b. In addition to the other rights that are retained by a hospital
34 patient under section 2 of P.L.1989, c.170 (C.26:2H-12.8) or under
35 any other law, an individual with a developmental disability who is
36 admitted to a hospital shall have the right to be personally
37 accompanied by a family member, guardian, direct support
38 professional, or other caregiver designated pursuant to section 2 of
39 P.L. , c. (C.) (pending before the Legislature as this bill)
40 throughout the duration of the individual’s stay at the hospital,
41 except when the patient is actively undergoing a surgical procedure
42 and would be endangered by the presence of the designated person
43 in the room where surgery is being performed.

44

45 2. a. As used in this section:

46 “Caregiver” means the same as that term is defined by section 2
47 of P.L.2010, c.5 (C.30:6D-74).

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

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

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

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

23 b. Immediately upon the admission of a patient with a
24 developmental disability to a hospital, the hospital shall provide the
25 patient or the patient’s parent or legal guardian, as appropriate, with
26 an opportunity to designate a family member, guardian, direct
27 support professional, or other caregiver to accompany the patient
28 throughout the patient’s hospital stay, as provided by section 1 of
29 P.L. , c. (C.) (pending before the Legislature as this bill).
30 If the patient is unconscious or is otherwise incapacitated upon
31 admission to the hospital, the patient’s parent or guardian, if any
32 and as appropriate, shall be given the opportunity to make the
33 designation pursuant to this subsection unless the patient is an adult
34 who does not have a guardian, in which case, the adult patient shall
35 be given the opportunity to make the designation as soon as
36 practicable after the patient regains consciousness or decision-
37 making capacity. If a patient with a developmental disability is a
38 minor child whose parents are divorced, the custodial parent shall
39 have the authority to make a designation pursuant to this
40 subsection.

41 c. A hospital shall:

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

47 (2) allow any person designated pursuant to subsection b. of this
48 section to accompany the patient throughout the course of the

1 patient's hospital stay, except as otherwise provided by section 1 of
2 P.L. , c. (C.) (pending before the Legislature as this bill).

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

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

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

19
20 3. The Department of Health, in consultation with the
21 Department of Human Services, shall adopt rules and regulations,
22 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
23 (C.52:14B-1 et seq.), as may be necessary to implement the
24 provisions of this act.

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26 4. This act shall take effect immediately.
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29 STATEMENT

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

40 The bill would require a hospital, immediately upon the
41 admission of an individual with a developmental disability thereto,
42 to provide the patient or the patient's parent or legal guardian, as
43 appropriate, with an opportunity to designate a family member,
44 guardian, direct support professional, or other caregiver to
45 accompany the patient throughout the patient's hospital stay. If the
46 patient is unconscious or otherwise incapacitated at the time of
47 admission to the hospital, the hospital, the patient's parent or
48 guardian, if any and as appropriate, is to be given the opportunity to

1 make the designation under the bill unless the patient is an adult
2 who does not have a guardian, in which case, the adult patient is to
3 be given the opportunity to make a designation as soon as
4 practicable after the patient regains consciousness or decision-
5 making capacity. If a patient with a developmental disability is a
6 minor child whose parents are divorced, it is the custodial parent
7 who will have the authority to make a designation under the bill's
8 provisions.

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

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

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