



WISCONSIN DEPARTMENT  
*of* HEALTH SERVICES

# Update on Wisconsin Act 115: Next-of-Kin Decision Making DHS Response

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April 17, 2026

# Overview of Act 115

- Modifies [Wis. Stat. 50.06](#):
  - Establishes a new decision maker, Patient Representative
  - Removes the requirement of guardianship and protective placement petitions to be filed
  - Allows for the authorization of expenditures related to health care, including Medicaid
- Goes into effect June 1, 2026

# Next of Kin Hierarchy

Spouse or domestic partner

Adult son or daughter

Parent

Adult sibling

Grandparent

Adult close friend

[Wis Stat 50.06\(3\)](#)

# Criteria for Use of Patient Representative

- Patient is incapacitated, lacks legal decision maker, and requires post-hospital placement in nursing home or CBRF
- Facility admission directly from hospital inpatient unit
- Available next of kin resource
- Patient and next of kin consent to facility placement.

# Disqualifying Criteria for Use of Patient Representative

- Incapacitated patient discharged to home
- Patient or next of kin object to placement
- Disagreement between family members regarding selection of patient representative
- Patient has primary mental health or intellectual disability diagnosis

# Patient Representative Responsibilities

- Sign declaration and notify statutorily defined recipients
- Authorize admission to post-hospital facility
- Make health care decisions for the patient
- Manage the patient's finances and authorize resources to ensure access to health care
- Complete enrollment or annual updates for Medicaid

# Patient Representative Authority

- Effective upon completion of declaration and patient admission to facility care
- Does not have a time limit
- Same authority as guardian for managing patient health and finances
- Conduct can be reviewed through court process

# Expiration of Patient Representative Authority

- The patient regains decisional capacity
- The patient discharges to a non-facility setting
- A guardian is appointed
- A valid power of attorney document is found

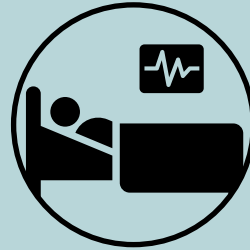
# Comparison of Decision Makers



Supported  
Decision  
Making



Health Care  
Power of  
Attorney



Patient  
Representative



Guardianship



# Process to Establish Patient Representative



## Incapacitated patient

- No advanced planning documents
- Discharge to facility-based care

## Two doctors or doctor and advanced practice clinician complete statement of incapacity

- Copy in medical file
- Notification to County Probate and APS

## Hospital selects Patient Representative

- Follows Next of Kin hierarchy

## Patient Representative signs declaration

- Notifies Next of Kin
- Files copy with County Probate, APS, and medical chart

# Statutory Safeguards

- Any person may request patient's capacity be reassessed.
- Any person may petition the court to review the actions of the Patient Representative.
- Facilities must notify APS regarding concerns about the patient or the Patient Representative.
- The court can review and remove the Patient Representative.

# DHS Program Readiness

- Identify DHS programs that may interface with Patient Representative
- Develop educational resources for county and Tribal programs
- Update program area guidance, eligibility, and workflow
- Communicate updates regarding DHS workplan and program-specific updates

# DHS Patient Representative Work Plan

Phase 1:  
By: June 1, 2026

- Engage DHS leaders
- Establish workplan
- Develop required forms
- Post documents and resources to DHS website
- Develop a communication plan

Phase 2  
Q3, Q4 2026

- Coordinate with State Courts for data collection
- Update impacted programs
- Provide resources for partners
- Implement communications plan including website update

Phase 3  
Q4 2026, 2027

- Increase public awareness of advanced directives
- Collect data and send report to legislature (April 2027)

# Questions

