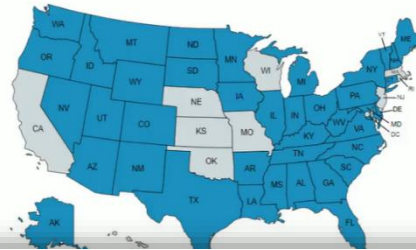


WISCONSIN NEEDS NEXT-OF-KIN LEGISLATION



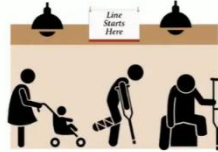
WISCONSIN IS ONE OF JUST A FEW STATES TO NOT RECOGNIZE THIS SOLUTION.



SOME PATIENTS ARE EXPERIENCING SIGNIFICANT DELAYS IN RECEIVING NECESSARY POST-ACUTE CARE



GENERALLY, NURSING HOMES WILL NOT ACCEPT AN INCAPACITATED PATIENT FROM THE HOSPITAL...UNLESS...



BUT ALSO, PEOPLE WHO NEED HOSPITAL-LEVEL CARE WAIT ON THESE HOSPITAL BEDS



PATIENTS CAN WAIT IN BED FOR WEEKS OR EVEN MONTHS BEFORE A COURT APPOINTS A GUARDIAN...

“Next-of-Kin” Legislation – WI Act 115 Basics

June 1, 2026



ADVOCATE.
ADVANCE.
LEAD.

Requirements for New NOK Process

1. Patient must be admitted directly from hospital inpatient unit.



2. NOK must sign and submit a declaration (on form prescribed by DHS) to:

Hospital	CBRF/SNF	County APS of patient's home residence	Patient rep's family members that can be reasonably contacted	County Register in Probate of patient's home residence	Must include this in the hospital and SNF/CBRF medical record
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3. Physician/APC who determined incapacity must prepare written statement on DHS form to:

Patient's Medical Record	County Register in Probate of patient's home residence (within 72 hours)	County APS of patient's home residence (within 72 hours)
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(Physician/APC) Written Statement Form

Department of Health Services
Division of Public Health
F-03435 (06/2026-05/2029)

State of Wisconsin
Wis. Stat. § 50.06 (4)
Page 1 of 2

Medical Certification of Capacity for Determining a Patient's Representative Authority to Act

Instructions

This form is the written statement prepared by a physician or advanced practice clinician who has determined that an individual is incapacitated pursuant to Wis. Stat. § 50.06. The purpose of this form is to determine if the patient's representative has authority to act.

Copies of this completed form should be included in the patient's health care records. Within 72 hours following admission to the post-hospital facility, this form is to be filed with the register in probate for the county in which the incapacitated individual resides and sent to the adult protective services agency for the county in which the incapacitated individual resides.

Patient information

Name (Last, First, MI): _____

Date of birth: _____

Permanent address – Street: _____

City: _____ State: _____ ZIP code: _____

Phone number: _____

Name of patient's representative: _____

Due to the patient's health care needs, will post-hospital facility placement be necessary?

Yes No Other, specify: _____

Name of post-hospital receiving facility: _____

Medical determination of incapacity

On (date(s)) _____ at (location) _____

(Name of patient) _____ was personally examined by two physicians or a physician and advanced practitioner who have determined that the patient is incapacitated.

The medical conditions of the individual that led to the current assessment that the patient is incapacitated is/are:

Physician attestation

I have personally examined the patient and have determined that he or she is unable to receive and evaluate information effectively or communicate decisions to such an extent that the individual lacks the capacity to manage his or her health care decisions, including decisions about his or her post-hospital care and that his or her incapacity is not due to mere old age, eccentricity, or physical disability, either singly or together.

F-03435

Page 2 of 2

I am not a relative, as defined in s. 242.01 (11), Wis. Stats., of the patient and, to the best of my knowledge, I am not entitled to or have a claim on any portion of the patient's estate.

Physician 1

Signature — Physician 1: _____

Name — Physician 1 (printed): _____

Date of attestation: _____

Office address and phone number: _____

Physician 2/Advanced clinician

Signature — Physician 2/Advanced clinician: _____

Name — Physician 2/Advanced clinician (printed): _____

Date of attestation: _____

Office address and phone number: _____

Medical determination for regained capacity

On (date) _____ at (location) _____

(Name of patient) _____ was personally examined by a physician or an advanced practitioner who has determined that the patient is no longer incapacitated.

The medical conditions or circumstances that led to the current assessment that the patient is no longer incapacitated is/are:

A copy of this statement will be placed in the patient's medical record and filed with the probate court and adult protective service unit for the county in which the individual resides within 72 hours of determination.

Physician/Advanced clinician

Signature — Physician/Advanced clinician: _____

Name — Physician/Advanced clinician (printed): _____

Date of attestation: _____

Office address and phone number: _____



NOK Patient Representative Declaration Form

Department of Health Services
Division of Public Health
F-03436 (06/2026-05/2029)

PRD
State of Wisconsin
Wis. Stat. § 50.06 (8)(a)
Page 1 of 5

Patient's Representative Declaration

Instructions

The patient's representative of an incapacitated individual must complete this Declaration and promptly submit copies of the signed declaration to the discharging hospital and the accepting facility, to the adult protective services agency for the county in which the incapacitated person resides, to all of the incapacitated individual's family members that can be reasonably contacted following admission of the incapacitated individual to a facility (i.e., nursing home or community based residential facility), and to the register in probate for the county in which the incapacitated individual resides for filing. Wis. Stat. § 50.06(8)(a)(2)

Patient's representative role and authority

Under Wisconsin Statute § 50.06(8)(a), a patient's representative may consent to an incapacitated individual's admission directly from a hospital inpatient unit to a nursing home or community-based residential facility if the individual is not diagnosed as developmentally disabled or as having a mental illness and the individual does not have a power of attorney for health care or a guardian. A patient representative may also:

1. Make health care decisions to the same extent as a guardian of the person,
2. Enroll the incapacitated individual in the Medicaid program to the same extent as a guardian of the estate, and
3. Authorize expenditures related to health care to the same extent as a guardian of the estate.

Who can act as a patient's representative?

An Individual, in the following order of priority, may act as a patient's representative and consent to an incapacitated individual's admission directly from a hospital inpatient unit to a nursing home or community-based residential facility:

- (a) The spouse or domestic partner under ch. 770 of the incapacitated individual.
- (b) An adult son or daughter of the incapacitated individual.
- (c) A parent of the incapacitated individual.
- (d) An adult brother or sister of the incapacitated individual.
- (e) A grandparent of the incapacitated individual.
- (f) An adult grandchild of the incapacitated individual.
- (g) An adult close friend of the incapacitated individual.

When does the patient's representative authority to act end?

The patient's representative authority to make health care decisions to the same extent as a guardian of the person, enroll the incapacitated individual in the Medical Assistance program to the same extent as a guardian of the estate, and authorize expenditures related to health care to the same extent as a guardian of the estate ends if any of the following occurs:

1. A court appoints a guardian for the incapacitated individual.
2. The incapacitated individual is discharged to a setting that is not a nursing home or community-based residential facility.
3. A previously executed health care power of attorney that was not identified at the time the patient's representative was established is found.
4. A physician or advanced practice clinician has determined the individual is no longer incapacitated.

F-03436

PRD
Page 2 of 5

Information regarding the incapacitated individual:

Name (Last, First, MI): _____

Date of birth: _____

Permanent address – Street: _____

City: _____ State: _____ ZIP code: _____

Name of the accepting facility: _____

Address of the accepting facility – Street: _____

City: _____ State: _____ ZIP code: _____

Phone number: _____

Information regarding the patient's representative:

Name (Last, First, MI): _____

Date of birth: _____

Relationship to the incapacitated individual: _____

Address – Street: _____

City: _____ State: _____ ZIP code: _____

Phone number: _____ Email: _____

Patient's representative declarations

As the patient's representative for (name of incapacitated individual) _____
I declare that:

1. As the patient's representative, I acknowledge that I may make health care decisions to the same extent as a guardian of the person may and authorize expenditures related to health care to the same extent as a guardian of the estate, including enrolling in the Medicaid program on their behalf. Wis. Stat. § 50.06 (8)(a)(2)(a).
 Yes No
2. I agree to make health care decisions regarding the admission to and care and treatment at the accepting facility (a nursing home or community based residential facility), on the incapacitated individual's behalf and agree to authorize expenditures related to health care received at the accepting facility on the incapacitated individual's behalf. Wis. Stat. § 50.06 (8)(a)(2)(b).
 Yes No



(3) The following individuals, in the following order of priority, may consent to an admission under sub. (2):

- (a) The spouse or domestic partner under ch. 770 of the incapacitated individual.
- (b) An adult son or daughter of the incapacitated individual.
- (c) A parent of the incapacitated individual.
- (d) An adult brother or sister of the incapacitated individual.
- (e) A grandparent of the incapacitated individual.
- (f) An adult grandchild of the incapacitated individual.
- (g) An adult close friend of the incapacitated individual.

Note – the Patient's Representative must attest YES to all of the declarations included on the form - [50.06 \(8\)](#)



Commonly Asked Questions

Q: What health care decisions can the patient representative make?

- A:
1. Make health care decisions to the same extent as a guardian of the person.
 2. Enroll someone in Medicaid to the same extent as a guardian of the estate.
 3. Authorize expenditures related to health care to the same extent as the guardian of the estate.

[50.06\(5\)\(a\)](#)



When do NOK Powers end?

- A court appoints a guardian to make such decisions.
- Patient is discharged to a setting that is not a SNF/CBRF.
- Health Care POA is identified.
- Physician/APC determines they have regained medical capacity.

[50.06\(5\)\(am\)](#)



What if there's disagreement among family members? What does the statute say about family consensus?



1. 50.06(2) states:

(2) An individual under sub. (3) may consent to admission, directly from a hospital to a facility, of an incapacitated individual who does not have a valid power of attorney for health care and who has not been adjudicated incompetent in this state, if all of the following apply:

(a) No person who is listed under sub. (3) in the same order of priority as, or higher in priority than, the individual who is consenting to the proposed admission disagrees with the proposed admission.

(am)

1. Except as provided in subd. 2., no person who is listed under sub. (3) and who resides with the incapacitated individual disagrees with the proposed admission.
2. Subdivision 1. does not apply if any of the following applies:
 - a. The individual who is consenting to the proposed admission resides with the incapacitated individual.
 - b. The individual who is consenting to the proposed admission is the spouse or domestic partner under ch. 770 of the incapacitated person.

(3) The following individuals, in the following order of priority, may consent to an admission under sub. (2):

- (a)** The spouse or domestic partner under ch. 770 of the incapacitated individual.
- (b)** An adult son or daughter of the incapacitated individual.
- (c)** A parent of the incapacitated individual.
- (d)** An adult brother or sister of the incapacitated individual.
- (e)** A grandparent of the incapacitated individual.
- (f)** An adult grandchild of the incapacitated individual.
- (g)** An adult close friend of the incapacitated individual.



Fast-Track Temporary Guardianship

- If someone files for **temporary** guardianship after the NOK process has been used, they may request from the Register in Probate a copy of the physician/APC written statement.
- This constitutes prima facie evidence that a temporary guardian of the estate should be appointed by the court.
- The authors' intent is to allow this to work in concert, and not against the NOK. If someone requires powers beyond those granted to the NOK, such as financial, this may be a quicker avenue to obtain those.
- Sen. Wimberger also saw it as a protection against NOK being harmed financially.



How does 3-year Pilot work?



No new patient reps after June 1, 2029.

i.e. can't consent to new admissions from hospital to SNF/CBRF after that date



Existing patient reps keep their other powers to make health care decisions in CBRF/SNF on behalf of incapacitated patient already discharged by that date. Intent is to provide as much certainty as possible for CBRFs/SNFs that patients admitted prior to that date will continue to have someone authorized to make care decisions and pay bills.



April 1, 2027, and annually thereafter, WI DHS required to submit report to legislature on the number of patients admitted under this process, based on information provided by county registers in probate.



New legislation will have to pass by June 1, 2029 to continue utilizing this process