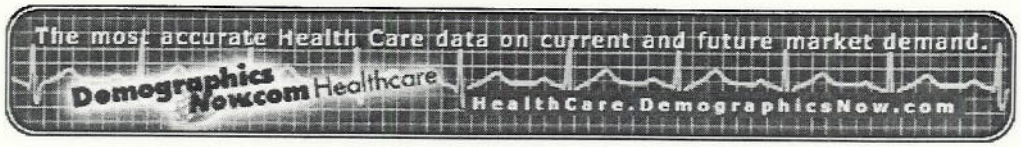

AHA News
American Hospital Association

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AHA News Monday, April 30, 2001

Chicago death spurs efforts for state, federal next-of-kin legislative action

by Glen Thomas Hicks

A tragedy in Chicago six years ago may trigger state and federal legislative efforts to mandate when hospitals should notify the next of kin of a patient who cannot notify their relatives themselves.

Last week the Illinois legislature was expected to join a small but growing number of states with next-of-kin notification laws that may help propel the issue onto the national political agenda. The floor vote on the bill had not been held by *AHA News*' deadline on April 27. In California, a similar bill (S.B. 1041) won Senate approval on April 26 and is now before the Assembly.

Two leaders of the push to get state and national next-of-kin laws are Janet and Laura Greenwald, mother and daughter screenwriters who are from Chicago but live in Los Angeles. They have spent the past six years working to get laws to help prevent other families from going through what they experienced over the death of Janet's mother.

Janet's 71-year-old mother, Elaine Sullivan, suffered a fall at her home in Chicago in 1995 and was taken to a local hospital. Although conscious, she was unable to speak, to give information about her injury or to request treatment. Janet Greenwald claims the hospital did not call her or her daughter for six days after her mother's injury and that they were unable to reach her before she died. The Greewalds have filed a suit against the hospital. Since the suit has not come to trial, neither side would comment on the

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case.

The pair has since embarked on an effort to persuade state legislatures and Congress to pass legislation commonly called next-of-kin notification laws.

So far, Texas, Utah, Hawaii, Minnesota and Virginia have enacted such laws. The Greenwalds also told AHA News there is talk of introduction of similar legislation in Congress.

Karen Porter, assistant vice president of the Illinois Hospital & HealthSystems Association, said the Illinois legislation would require hospitals to attempt to identify and notify the family of a patient who lacks decisional capacity. However, she said, the state's Health Care Surrogate Act already requires hospitals to make a reasonable inquiry as to the availability of a health care agent or surrogate, and the new bill would simply codify current hospital practice.

Janet Greenwald said the purpose of next-of-kin legislation is to require hospitals to make every reasonable effort to notify the next of kin of patients who are unconscious or cannot give informed consent, within 24 hours of their admission.

An important issue for hospitals regarding such legislation is whether it would violate the privacy provisions or the Health Insurance Portability and Accountability Act. The HIPAA regs call for hospitals to use their best judgment in such cases and are pre-empted by stricter state standards, which would be the case with most of the current and proposed state laws.

This article first appeared in the April 30 2001 issue of AHA News