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Family on a mission to force hospitals to call kin

By **Julie Deardorff** Tribune staff reporter

Six days passed before a Chicago hospital called to tell Janet Greenwald her 71-year-old mother, Elaine Sullivan, had been hospitalized after slipping on her bathroom floor. Her mother died alone, before her family could get there from Los Angeles to say goodbye.

In most states, including Illinois, hospitals are not legally required to contact a patient's family, even if the person cannot communicate or give informed consent. They do so because it's humane, considerate and important to families.

That voluntary phone call may become mandatory in Illinois, however, as a bill spearheaded by the Greenwalds moves through the state legislature. It would force hospitals to make reasonable efforts to locate the next of kin for patients who can't represent themselves.

The "next of kin" bill, sponsored by state Sen. John Cullerton (D-Chicago) and state Rep. Sara Feigenholtz (D-Chicago), unanimously passed the Senate on Thursday and has been sent to the House.

In California, a similar bill, also spearheaded by the Greenwalds, is up for its first hearing next month.

"Everyone has a mother and a grandmother and everyone knows what it feels like not to be with someone when they're hurting or need help," said Janet Greenwald's daughter, Laura. She and her mother, an entertainment writing team, live in the Los Angeles area, but are from Chicago.

They believe the 1995 death of Janet Greenwald's mother could have been prevented if they had been notified earlier. "If this can prevent this from happening to just one other family, it's worth it."

The proposal will require hospitals to attempt to contact family within 24 hours of a finding that a patient lacks the ability to make a decision.

The health care provider is to make a "reasonable inquiry," which might include identifying a family member by examining the patient's personal belongings or medical records.

Though hospitals generally do notify next of kin, when they don't, it can turn tragic. The family of a Virginia man who died at Beth Israel Medical Center in 1998 filed a lawsuit

claiming the hospital failed to notify them, performed an unauthorized autopsy and had him buried in a pauper's grave.

In Boston, when a man disappeared in 1994, his family spent the next 10 days frantically searching for him. He was found, complete with identification, in a hospital morgue.

In the Greenwalds' case, Janet's mother, an active and independent senior citizen, fell at home in Chicago in 1995 and was taken to a local hospital. She was conscious, but had hit her mouth and was unable to communicate, give a medical history or provide consent in any way, according to the Greenwalds, who filed a lawsuit against the hospital.

The Greenwalds allege the hospital neglected to treat her properly, and they believe they would have removed her from the hospital immediately had they known she was there.

Hospital officials and attorneys were unavailable for comment.

"We never got to tell her we loved her, to say goodbye. What you're left with are the unsaid things," said Janet Greenwald. "When you know that was the last opportunity you'll ever have, it makes you want to work so no one else has to go through this."

Greenwald and her daughter have spent the last few years researching and gathering support for their legislation. Groups like the Illinois Hospital and Health Systems Association, the California Medical Association, the California Healthcare Association, AARP and the Alzheimer's Association have all climbed on board.

"We believe this is what hospitals are doing now, but the law would codify that," said Karen Porter, a spokeswoman for the Illinois Hospital and Health Systems Association.

If the law passes, it would amend the state's Health Care Surrogate Act, which addresses decisions concerning end-of-life care.

"We realized the Health Care Surrogate Act spoke in a tense that assumed a family member was with a loved one," said Feigenholtz. "You'd think it was a hospital rule but it's not. It falls completely silent and doesn't talk to the first step of what a provider must do or should do in a situation to reach out."

"Any step that can improve the responsiveness of hospitals towards patients is welcome," said Michael Millenson, author of "Demanding Medical Excellence, Doctors and Accountability in the Information Age." "If this is a rare case so be it, but if not, then hopefully other people won't have to go through what the Greenwalds did."