

The Truth About....MARRIAGE AMENDMENTS AND HOSPITAL VISITATION

- Hospitals often restrict patient visits to their spouses and family members. Unmarried partners of the same or opposite sex have been denied visitation rights. “Marriage amendments” complicate the issue even further.
- When Janice Langbehn’s partner of 18 years collapsed with an aneurysm in Florida, the hospital didn’t let Langbehn or the couples’ adopted children visit the dying woman.¹ Langbehn sued, but a Federal Court dismissed the suit.²
- When Sharon Reed’s partner of 17 years, Jo Ann Ritchie, was critically ill with liver failure, the night nurse denied Reed entry into Ritchie’s room.³ Jo Ann died the next day.
- Unmarried couples of opposite sex face the same limits to visitation. When Kathleen Labriola’s partner of 22 years, Rick, suffered complications after brain surgery, she was barred from the ICU, even though the hospital was aware that she was his designated agent, and had a valid Durable Power of Attorney.⁴
- Michael Dowd was the designated health care proxy for his girlfriend who had terminal brain cancer. She was moved from the hospital to hospice without Mr. Dowd’s consent, and he was barred from the facility when he objected to her care.⁵
- In Wisconsin, voters approved a constitutional amendment in 2006, which stated “A legal status identical or substantially similar to that of marriage for unmarried individuals shall not be valid or recognized in this state.”
- The Wisconsin legislature authorized a domestic partners registry that would protect the hospital visitation rights of unmarried couples. A conservative group, Wisconsin Family Action, sued the state, alleging that the registry violated the marriage amendment. Governor Scott Walker fired the law firm defending the state from the lawsuit and his spokesman stated that the governor believed the registry was unconstitutional.⁶
- The Wisconsin Supreme Court dismissed the case, and a Dane County circuit court denied the plaintiff’s request for summary judgment, stating that the domestic partners registry was constitutional.⁷
- In 2010, President Obama signed a memorandum⁸ stating “designated visitors . . . should enjoy visitation privileges that are no more restrictive than those that immediate family members enjoy. The memorandum went on to say “participating hospitals may not deny visitation privileges on the basis of race, color, national origin, religion, sex, sexual orientation, gender identity, or disability.”

¹<http://www.nytimes.com/2009/05/19/health/19well.html>

² [http://www.law.uh.edu/healthlaw/perspectives/2010/\(CC\)%20Langbehn.pdf](http://www.law.uh.edu/healthlaw/perspectives/2010/(CC)%20Langbehn.pdf)

³ <http://caselaw.findlaw.com/wa-court-of-appeals/1510225.html>

⁴ http://www.unmarried.org/images/atmp_comment_cms_visitation_rule.pdf

⁵ *ibid.*

⁶ <http://www.jsonline.com/news/statepolitics/121956273.html>

⁷ <http://media.jsonline.com/documents/Dane+Cty+Circuit+Court+Decision.pdf>

⁸ <http://www.whitehouse.gov/the-press-office/presidential-memorandum-hospital-visitation>