



Northern Light Health
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Northern Light Health
Acadia Hospital
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Eastern Maine Medical Center
Home Care & Hospice
Inland Hospital
Maine Coast Hospital
Mayo Hospital
Mercy Hospital
Northern Light Health Foundation
Northern Light Pharmacy
Sebasticook Valley Hospital

LD 960 An Act Facilitating the Discharge of Hospitalized Patients to Nursing Facilities

Testimony in Support March 24, 2025

Senator Ingwersen, Representative Meyer and members of the Health and Human Services Committee, my name is Lisa Harvey-McPherson RN. I am speaking today in support of this bill on behalf of Northern Light Health and our member organizations. Northern Light Health member organizations include 10 hospitals located in southern, central, eastern and northern Maine, nursing facilities, air and ground ambulance, behavioral health, addiction treatment, pharmacy, primary and specialty care practices and a state-wide home care and hospice program. Ninety three percent of Maine's population lives in the Northern Light Health service area. Northern Light Health is also proud to be one of Maine's largest employers with more than 10,000 employees statewide.

Our hospitals, and patients in need of discharge to a nursing facility, continue to experience significant challenges accessing nursing facility level of care. In general, on any given day, we have approximately 40 patients clinically qualified for discharge from a Northern Light Hospital and another 15 to 20 patients in the process of guardianship or MaineCare application process that will ultimately result in their need for a nursing facility bed for purposes of discharge from the hospital. It is not unusual for patients to wait months for discharge, this is not only a challenge for the patients and families, but also financially devastating for our hospitals. Acute care beds occupied by patients that clinically do not need to be in the hospital limits access to care throughout the State disrupting our ability to turn those beds over to patients in need of acute care for which we can then bill for the care we provide. Addressing this challenge is foundational to our financial recovery work.

This bill addresses three regulatory barriers that result in extended hospitalization for patients clinically qualified for discharge to a nursing facility.

Elimination of the 60 Mile Radius Discharge Rule – MaineCare rules state the following:

If the member does not select community-based services, he/she must accept the first available, appropriate nursing facility placement within a sixty (60)-mile radius of his/her home, or MaineCare reimbursement will cease. If the member refuses to accept the placement, the hospital discharge planner must notify the Department. The Department will issue a ten (10) day notice of intent to terminate services. The member may accept a placement beyond the sixty (60) miles from home radius, however, this cannot be required of the member.

The rule is well intended, we understand the challenges for patients and families when nursing home placement is geographically distant from family and friends. But, with closure of so many nursing homes there are large geographic regions of Maine where there is no nursing facility within 60 miles of the patient's home. Aroostook County has 6671 square miles of land with 8 nursing homes. Soon to be down to 7 nursing facilities with a closure pending in Eagle Lake. Hancock County has 1588 square miles of land and no nursing facilities at all, they have all closed. The 60-mile radius rule has no practical value for large geographic regions of our State and only serves as an unachievable regulatory barrier that further delays our ability to discharge patients to nursing facilities.

Adult Protective Services Emergency Guardianship for Purposes of Nursing Home Placement.

LD 366, An Act Regarding Emergency Guardianship was enacted during the first special session of the 130th Legislature and went into effect October 18, 2021. Accordingly, 18-C § 5-312 was amended to include that "delay of discharge of a patient in a hospital until the appointment of a guardian constitutes substantial harm" for purposes of establishing grounds for appointment of an emergency guardian. Hospitals advanced this legislation to address the significant discharge delays for hospitalized patients in need of guardianship for nursing home placement. In November of 2021 APS notified the Maine Hospital Association of guidelines they will use to implement the law. The guidelines include a requirement that a placement outside the hospital has been identified that will meet the individual's level of care needs and such placement is reasonably expected to be available to the individual only upon appointment of a guardian. This means that a hospital must have a commitment from a nursing facility to accept the patient once the emergency guardianship process is completed. Operationally nursing homes are not willing to commit and hold a bed for months while APS completes the emergency guardianship process. With this unachievable standard, patients live in hospitals for months waiting for the guardianship process to start while we work to find a nursing facility willing to accept the patient and commit to holding a bed prior to the proceeding. We believe that the APS guideline represents a barrier to discharge never envisioned by a law intended to improve the timeliness of discharge for guardianship patients.

Reducing the MaineCare Application Approval Timeframe from 45 Days to 30 Days for Hospitalized Patients.

In 1978 the State of Maine entered into a consent decree agreement - Polk vs James Longley. The decree requires the Department of Human Services to act on all Medicaid applications within forty-five (45) days. This standard has not changed in 47 years. This bill lowers the application timeline to 30 days for hospitalized patients in need of MaineCare for discharge to a nursing facility. Hospital care coordination teams prepare the application information for MaineCare and work with families to support them to obtain financial documents necessary for the application. We believe 30 days is a reasonable timeline for MaineCare to decide on a completed application noting that the patient's hospitalization is extended by the number of days it takes for applications to be approved.

We ask for that you support this important legislation, thank you.

Janet T. Mills
Governor

Jeanne M. Lambrew, Ph.D.
Commissioner



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MEMORANDUM

TO: Maine Hospital Association
FROM: Erin Salvo, Associate Director – Adult Protective Services
DATE: November 19, 2021
RE: *LD 366 – An Act Regarding Emergency Guardianship*

In light of the passage of LD 366, An Act Regarding Emergency Guardianship, this memo is intended to communicate the Department's approach to applying the law during the public guardianship petition process.

As you know, LD 366 was enacted during the first special session of the 130th Legislature and went into effect October 18, 2021. Accordingly, 18-C MRSA § 5-312 is amended to include that "delay of discharge of a patient in a hospital until the appointment of a guardian constitutes substantial harm" for purposes of establishing grounds for appointment of an emergency guardian.

The Maine Department of Health and Human Services (Department), through the Adult Protective Services program, has the authority to petition for guardianship when an adult is being abused, neglected or exploited (or at risk thereof) and lacks the capacity to consent to protective services, and all less restrictive alternatives have been tried and have failed. In other words, the Department petitions for public guardianship as a last resort when an adult requires a substitute decision-maker, no alternatives to guardianship are sufficient to meet the individual's needs, and no private party is able and willing to serve as a guardian or surrogate decision-maker.

The Department recognizes that there are several factors that may impact an individual's ability to discharge from the hospital unrelated to an individual's guardianship status, and probate courts may have differing responses to the language established by LD 366. In order to maintain consistent expectations statewide, the Department will rely on some key basic guidelines when making decisions on the type of petition to file. Accordingly, the need for appointment of a guardian will generally be considered the reason for delay of discharge for purposes of filing an emergency public guardianship petition when the following conditions exist:

1. The individual has been medically cleared for discharge from a hospital; AND
2. A Petition for Appointment of Guardian for Adult requesting permanent guardianship over the individual has been or is being filed in the appropriate Probate Court; AND
3. A placement outside the hospital has been identified that will meet the individual's level of care needs and such placement is reasonably expected to be available to the individual only upon appointment of a guardian; AND
4. Appointment of an emergency guardian is reasonably expected to result in the individual's discharge from the hospital to an appropriate placement outside the hospital prior to the final guardianship hearing.

These guidelines are intended to provide a general framework regarding the Department's plans pursuant to LD 366 and may not encompass every factor relevant to a specific individual's situation. If you have any questions on a particular public guardianship study, please contact the Adult Protective Services

Investigation Supervisor based on the districts listed below. If you have any questions on this policy generally, please contact the Associate Director of Adult Protective Services, Erin Salvo (erin.salvo@maine.gov). To initiate APS involvement with an adult in need of a guardian or in a situation involving abuse, neglect, or exploitation of an incapacitated or dependent adult, please contact APS Intake: 1-800-624-8404 (available 24/7).

District	County	APS Supervisor	Email
1	York	Jessica Gagne	Jessica.L.Gagne@maine.gov
2	Cumberland	Sarah Bennett	Sarah.Bennett@maine.gov
3	Androscoggin	Benjamin Bergeron	Benjamin.A.Bergeron@maine.gov
	Oxford		
	Franklin		
4	Sagadahoc	Joanne Cookson	Joanne.Cookson@maine.gov
	Lincoln		
	Knox		
	Waldo		
5	Kennebec	Heather Pease	Heather.Pease@maine.gov
	Somerset		
6	Penobscot	Janice Archer	Janice.Archer@maine.gov
	Piscataquis		
7	Hancock	Michael Libby	Michael.Libby@maine.gov
	Washington		
8	Aroostook	Annie Torres	Annie.Torres@maine.gov

cc: Paul Saucier, Director – DHHS Office of Aging and Disability Services
Molly Bogart, DHHS Government Relations Director
Cody Hopkins, Assistant Attorney General