

# MaineHealth

## Testimony of Christopher Wellins, MD, MS, FACP

### MaineHealth

### In Support of LD 366,

### “An Act Regarding Emergency Guardianship”

Wednesday, February 24, 2021

#### MaineHealth Member Organizations:

Franklin Community Health Network

LincolnHealth

MaineHealth Care At Home

Maine Behavioral Healthcare

Memorial Hospital

Maine Medical Center

NorDx

Pen Bay Medical Center

Southern Maine Health Care

Synernet

Waldo County General Hospital

Western Maine Health

#### Part of the MaineHealth Family:

MaineHealth Accountable Care Organization

#### MaineHealth Affiliates:

MaineGeneral Health

Mid Coast-Parkview Health

New England Rehabilitation Hospital of Portland

St. Mary's Health System

Senator Carney, Representative Harnett and distinguished members of the Joint Standing Committee on Judiciary, I am Dr. Chris Wellins, Senior Medical Director of Utilization Management at Maine Medical Center and Internal Medicine Physician with Maine Medical Partners Cape Elizabeth, and I am here to testify in strong support of LD 366, “An Act Regarding Emergency Guardianship.”

MaineHealth is Maine’s largest integrated non-profit health care system that provides the full continuum of health care services to the residents of eleven counties in Maine and one in New Hampshire. Every day MaineHealth’s local health systems are challenged with discharging patients to the next appropriate level of care, oftentimes, due to guardianship challenges.

The legislation before you today will standardize the conditions for appointment of a temporary emergency guardian by acknowledging that a patient in a hospital whose discharge is delayed until the appointment of a guardian constitutes substantial harm.

Currently, Maine Medical Center has 16 patients that have been cleared for discharge, but due to a lack of guardian and/or a lack of MaineCare Long Term Care coverage, are unable to be discharged to the next appropriate level of care. These patients have an average length of stay ranging from 20-257 days for a total length of stay of 1,563 days. 8 of these patients will require State guardianship and their stays range from 20-150 days for a total length of stay of 680 days.

It takes on average 3-4 months until a petition for non-emergency guardianship can be granted by the Probate Court for a patient who is deemed to lack capacity. Ultimately, this means that a patient cannot be discharged from the hospital for 5 to 6 months until guardianship is granted and then MaineCare Long Term Care coverage is in place, and finally an accepting Long Term Care bed is identified.

To keep patients who no longer need acute care in the acute care setting is not patient-centered care. Acute care hospitals are not designed, equipped, or staffed to best deal with the needs of patients who require a long term care setting. Being in an ill-equipped milieu is extremely stressful for the patient and the staff who are trying to care for them and it is not uncommon for us to see patients regress both physically and psychologically. Again, this simply is not patient-centered care.

I would like to share one patient’s story with you – and I know her story well because I was her primary care provider for over 15 years. After a medical episode, my patient, who had multiple chronic conditions, was hospitalized and her care team expressed concern that she lacked decision-making capacity. She agreed that things were not going

well at home and expressed a willingness to go to an assisted living facility if she could bring her small dog. Despite having living family, due to certain circumstances, none were willing to assume guardianship. Over the course of 70 days, her care team worked tirelessly to arrange a guardianship study and to secure the necessary information to complete a MaineCare long-term care application. At the same time, my patient's health rapidly declined and I firmly believe that it was as a result of being stuck in an inappropriate care environment for a prolonged period of time. The care environment took her away from her beloved dog and was not suited for a patient who was used to being ambulatory. She spent more and more time in bed and developed painful medical complications. After 70 days in the hospital, my patient's health declined to such a point that she was discharged to a hospice house. Days later she passed away. Her life was unnecessarily shortened by this system failure.

I have personally participated in the work group approved by this Committee last session to study the issue of guardianship and I appreciate the commitment of the members of the work group, but progress has not been made. We have patients languishing in our hospitals that are not being cared for in the appropriate setting, like my patient I just described. I urge this Committee to set a standard – that some Probate Courts use, but not all – and clarify that a patient in a hospital whose discharge is delayed until the appointment of a guardian constitutes substantial harm so that we can avoid more tragic stories similar to that of my patient's.

Thank you and I would be happy to answer any questions you may have.