



Karen Saylor, MD, President | Jeffrey S. Barkin, MD, President-Elect | Erik N. Steele, DO, FAAFP, Chair, Board of Directors
Andrew B. MacLean, JD, CEO | Dan Morin, Director of Communications & Government Affairs

MEMORANDUM

TO: The Honorable Anne Carney, Chair
The Honorable Thomm Harnett, Chair
Members, Joint Committee On Judiciary

FM: Dan Morin, Director of Communications and Government Affairs

DATE: February 24, 2021

RE: **Support**
LD 366—An Act Regarding Emergency Guardianship - Rep. Jay McCreight (Harpwell)

The [Maine Medical Association](#) is the state's largest professional physician organization representing more than 4300 physicians, residents, and medical students in Maine whose [mission](#) is to support Maine physicians, advance the quality of medicine in Maine and promote the health of all Maine residents.

We are providing testimony in support of [LD 273, An Act Regarding Emergency Guardianship](#). The bill deems a delay of patient discharge from a hospital until a guardian is appointed constitutes substantial harm and meets criteria for the appointment of an emergency guardian.

There has never been a better time to pass this bill. The public has become more aware of the limitations of hospital resources and surge capacity since the COVID-19 pandemic started to dominate the lives of every Mainer in March of 2020.

What is unknown to the general public are cases when an admitted hospital patient who already cannot make their own decisions, is fully cleared for discharge but remains under hospital care because they lack a guardian. There are also instances when a patient fully capable of making their own healthcare decisions arrives at a hospital for surgery, and a complication during the procedure renders them unable to make their own healthcare decisions. LD 366 would be a

welcomed solution.

Emergency physician members of the MMA have also asked us to support LD 366. There are too many cases when patients present to the emergency department and after being stabilized, the patient is deemed well enough for discharge, but hospital staff is not able to complete the discharge without a surrogate decision-maker in place. It is important to note that a sizable minority of ED patients frequently return to the ED and account for a disproportionately large share of overall visits and costs. Not to mention stressing the hospital's already limited resources.

Applying for guardianship status through the courts can be time consuming. LD 366 tweaks current law by determining a discharge ready patient who remains stuck in a hospital is a situation that warrants emergency status. More importantly, it doesn't change the legal status of the person or the analytical aspect of whether they need a guardian or their condition merits a guardian. It simply speeds up an important and necessary process.

It is for these reasons we offer these comments in support of LD 366 and respectfully urge the committee to vote Ought to Pass.