



SPONSOR: Sen. Poore & Rep. Seigfried  
Sens. Ennis, Hansen, Lockman, McBride, Sokola; Reps.  
Baumbach, Bolden, Carson, Cooke, Longhurst, Minor-  
Brown, Michael Smith, Viola

DELAWARE STATE SENATE  
150th GENERAL ASSEMBLY

SENATE BILL NO. 246

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO HEALTH AND SAFETY AND  
OBLIGATIONS OF HEALTH-CARE PROVIDERS FOR NON-ACUTE PATIENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           WHEREAS, in 2019, the 150<sup>th</sup> General Assembly enacted Senate Concurrent Resolution No. 30 establishing the  
2 Non-Acute Medical Guardianship Task Force; and

3           WHEREAS, Senate Concurrent Resolution No. 30 recognized that inpatient stays at hospitals are designed to  
4 address the acute health needs of admitted patients, and

5           WHEREAS, Senate Concurrent Resolution No. 30 also recognized that when a patient's health status is no longer  
6 acute, whether they are best served by in-home health care or long-term care, their health interests are best served by  
7 discharge from a hospital; and

8           WHEREAS, some hospital patients who need assistance in making healthcare and financial decisions require  
9 either a guardian or medical decision maker to act in their best interests; and

10           WHEREAS, some patients do not have the financial means to afford a guardian or are dependent upon a family  
11 member to act as a decision maker, and some family care-givers actively or effectively abandon relatives at hospitals by  
12 failing to engage in communications and or actions with hospital discharge planners, resulting in the continued  
13 hospitalization of non-acute patients whose health status is not served by extended stays in hospitals; and

14           WHEREAS, a study examining the two-year period ending in 2017 of patients abandoned at Delaware hospitals  
15 revealed that 115 Extended Stay patients were in Delaware hospitals a total of 11,398 days; and

16           WHEREAS, it is not in the best health interests of non-acute patients to stay in hospitals beyond their period of  
17 acute need because hospital stays can expose individuals to increased risk of infection, will result in patients being confined  
18 to a smaller space than often afforded individuals who receive appropriate non-acute care at home or at a long-term care  
19 facility, will deny such patients the opportunity for programming and interactions available to individuals in long-term care  
20 facilities, and often means that such patients do not venture out-of-doors for extended periods of time; and

21 WHEREAS, the Non-Acute Medical Guardianship Task Force concluded that legislation is needed to establish a  
22 process and timeline whereby health-care institutions can take steps to help obtain a guardianship for non-acute patients  
23 who no longer require acute care and can be transferred to another type of health-care setting;

24 NOW THEREFORE:

25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

26 Section 1. Amend Chapter 25, Title 16 of the Delaware Code, by adding a new § 2509, by making deletions as  
27 shown by strike through and insertions as shown by underline as follows, and by redesignating accordingly:

28 § 2509 Health-care institutions and guardianships for non-acute patients.

29 (a) A health-care institution must, as early as 3 but no later than 5 business days of determining that a patient no  
30 longer requires acute care in the health-care institution, provide a written notice to the patient, the patient's surrogate, and,  
31 if the patient does not have a surrogate, to any member of the patient's family who is reasonably available, in the  
32 descending order of priority set forth in § 2507 of this title, that the health-care institution has concluded that the non-acute  
33 patient would benefit from the appointment of a guardian, who shall be fully authorized with powers necessary to transfer  
34 the patient from acute care to less restrictive non-acute care, and that a petition for the appointment of a guardian should be  
35 filed within 10 business days of the date of the notice.

36 (b) If the process of appointing a guardian for the non-acute patient has not been initiated within the period set  
37 forth in the notice required under paragraph (a) of this section, the institution shall provide a second written notice to the  
38 patient, the patient's surrogate, and if the patient does not have a surrogate, to any member of the patient's family who is  
39 reasonably available, in the descending order of priority set forth in § 2507 of this title, that the petition for the appointment  
40 of a guardian must be filed within 10 business days of the date of the second notice, or the institution will initiate the  
41 process of appointing a guardian.

42 (c) If the process of appointing a guardian for the non-acute patient has not been initiated within the time set forth  
43 in the second notice required under paragraph (b) of this section, or if a guardian who is fully authorized with powers  
44 necessary to transfer the patient from acute care to less restrictive non-acute care has not been appointed within 30 days  
45 from the date of the filing of a petition for appointment of a guardian, the health-care institution may initiate the process of  
46 appointing a guardian.

#### SYNOPSIS

Presently, a legal process does not exist for a Delaware hospital to seek the appointment of a guardian for a non-acute patient who has been a patient at the hospital for an extended period, after having been abandoned by family. This bill authorizes a hospital to petition for a court-appointed guardian for such a patient after providing two notices to the patient, the patient's surrogate, or the patient's family if there is no surrogate, of the need to seek a guardian for the patient.

Author: Senator Poore