

Health Care Guardianship

Hospitals frequently treat patients who at some point no longer require acute care, but cannot consent to discharge to a lower level of care. When such patients do not have family or another qualified medical decision-maker to consent on their behalf, it can become dangerous for the patient and can encumber vital hospital resources. In these cases, Polsinelli can assist with facilitating patient discharge and other related issues, often through obtaining Temporary or Permanent Guardianship.

Three step process:

- Determining whether guardianship is needed or if another solution exists
- Obtaining Guardianship and facilitating decision-making authority
- Transferring or Discharging the Patient in accordance with Federal and State law

Polsinelli has experience in:

- Temporary and Permanent Guardianship Applications
 - Guardianship of the Person
 - Guardianship of the Estate
 - Scope of authority of appointed Guardian for decisions
 - Where no decision-maker exists
 - Where the decision-maker is not available
 - Where conflicts exist on who will make decisions
- Obtaining Payor Source for Patients to assist in transfer
- Facilitating transfer of patients internationally when required
- Patient transfer to appropriate facility and/or facilitating safe discharge planning
- Identifying legal decision-makers in complex situations. e.g.:
 - Does the patient have a “common law” spouse, and does that person have authority to make decisions without registering the marriage?
 - Which adult child makes decisions for an incapacitated parent?
 - What if the decision-maker is “unavailable”?
- Reviewing validity of Medical Powers of Attorney, Advanced Directives, and other legal documents impacting patient care
- Futility of care – what can or should the Hospital do if it believes the treatment decisions made by a caretaker on behalf of a patient are inappropriate?
- Healthcare Transfer/Discharge Decisions – when and where appropriate
- Resolving reimbursement issues crucial to admissions or transfers