



March 21, 2023

Senator Joseph Baldacci, Chair
Representative Michele Meyer, Chair
Joint Standing Committee on Health and Human Services
Cross Office Building, Room 209
Augusta, Maine 04333

Re: L. D. 821, *Resolve, To Improve Access to Neurobehavioral Services*

Dear Senator Baldacci, Representative Meyer and Members of the Health and Human Services Committee;

My name is Sara Squires and I am the Public Policy Director for Disability Rights Maine (DRM), Maine's designated protection and advocacy agency for people with disabilities. On behalf of DRM, I want to thank you for the opportunity to offer testimony in opposition to LD 821, *Resolve, To Improve Access to Neurobehavioral Services*.

In its decision in *Olmstead v. L.C.*, the United States Supreme Court wrote, "institutional placement of persons who can handle and benefit from community settings perpetuates unwarranted assumptions that persons so isolated are incapable of or unworthy of participating in community life...[and] confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment."¹

Maine currently administers five Home and Community-Based Services (HCBS) Waivers that serve individuals with intellectual disabilities and autism spectrum disorder, adults with brain injury, adults with other related conditions, and elderly and adults with disabilities. The purpose of these waivers is to offer an array of services and supports that enable individuals with disabilities to live in their communities and not be forced into institutions. Even with these services in place, we know that individuals' need for support in their homes and communities far exceeds the capacity of our service system. Across all waiver programs, individuals must contend with long waits for services, in large part due to a professional work shortage being

¹ https://archive.ada.gov/olmstead/olmstead_about.htm

experienced throughout Maine. We also recognize that there are those whose needs cannot be met by the current systems.

Despite the foregoing, DRM is concerned by any proposal that directs public money toward the development of institutions as a response to challenges currently faced in the brain injury and developmental services systems. At a time when eligible recipients are not able to access the services they need, Maine must be innovative and forward-thinking; a brick and mortar response cannot be viewed as a solution to the current crisis in our service system. Individuals have a right to be served in the least restrictive setting, even when they may have a higher level of need. If short-term, enhanced services would benefit individuals, we should look to how these can be provided under the existing waivers.

While the “evaluation and short-term” provision in this bill envisions a stay of no longer than one year, there are unanswered questions about how we can ensure this will be adhered to. What is the enforcement mechanism that will compel facilities to plan for eventual discharge? If the current system is unable to serve people now, what assurances do we have that when the 12 months are up, individuals will not be forced to remain in the facility because no community options are available or, worse yet, be forcibly discharged with no services and supports in place?

DRM strongly supports the efforts to develop and implement of Home and Community-Based service system. Unfortunately, the promises offered by these waivers have not been realized and the need only grows; however, the answer to these problems lies not within the creation of new facilities. In fact, doing so is counter to both *Olmstead* and Maine’s long-standing commitment to community integration for people with disabilities. This proposal would put us on a slippery slope to undoing several decades of progress. For these reasons, we respectfully request that this Committee vote ought not to pass on LD 821.

Sincerely,

A handwritten signature in black ink, appearing to read "Sara R. Squires". The signature is fluid and cursive, with a large loop at the end.

Sara R. Squires
Public Policy Director