

January 16, 2024

Re: Testimony AGAINST LD 2009 “An Act to Prevent Abandonment of Children and Adults with Disabilities in Hospitals”

Chairman Baldacci, Chairwoman Meyer, and Distinguished Members of the Joint Standing Committee on Health and Human Services:

My name is Alan Cobo-Lewis. I live in Orono. I am director of the Center for Community Inclusion and Disability Studies (CCIDS) at the University of Maine. CCIDS is Maine’s federally funded University Center for Excellence in Developmental Disabilities (UCEDD, pronounced “YOU-said”), authorized by the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 (“DD Act”). The purpose of the national network of UCEDDs is to provide leadership in advise federal state and community policy leaders about, and promote opportunities for individuals with developmental disabilities to exercise self-determination, be independent, be productive, and be integrated and included in all facets of community life. Part of the federal mandate of CCIDS is to educate and advise policymakers, including members of the state legislature. Consistent with CCIDS responsibilities under the DD Act and consistent with University of Maine Board of Trustees policies [212](#) and [214](#), I am submitting material pertaining to LD 2009 for myself and for CCIDS, not for the University of Maine or the University of Maine System as a whole.

People stranded in emergency rooms is a major challenge that reflects years of societal and state neglect of our systems of care and supports for mental health and for people with disabilities. A cursory [google search for people stuck in emergency rooms](#) brings up many links. [Some of them](#) even pertain to proposed bills in state legislatures (such as [Washington HB 1580, “Creating a system to support children in crisis”](#))—but none that I can find pertain to proposals like LD 2009.

To try to solve a deep systemic issue by forcing DHHS to unilaterally revoke custody from a parent or from a guardian of a vulnerable adult without due process is shocking and inappropriate.

A google [scholar](#) search for people stuck in emergency rooms reveals a deep literature—including literature about coercive practices by emergency room personnel, including attending physicians—that interfere with family decisions about appropriate care.

An elderly guardian living with a disability of their own, living in small quarters, or living with limited fixed income, might be completely competent to act as a guardian but be unable to accept immediate discharge from an emergency department. LD 2009 would put them in an impossible situation.

LD 2009 would empower attending physicians under pressure from a hospital employer to bypass decisions by Maine probate court—and to bypass protections in such federal and state legislation as the Indian Child Welfare Act^{1,2}—to force DHHS to seize custody. This would do nothing to solve the underlying problem but would instead take advantage of—and perpetuate—deep power imbalances and stigma that the disability and mental health communities have worked so hard to overcome.

¹ Indian Child Welfare Act. [25 United States Code Chapter 21](#).

² Maine Indian Child Welfare Act. [22 MRS Chapter 1066](#).