



Testimony of the Division of Licensing and Certification  
Maine Department of Health and Human Services

Before the Joint Standing Committee on Health and Human Services

In Opposition to LD 759, *An Act to Increase Patient Safety in Long-term Care Facilities*

Sponsor: Senator Hickman

Hearing Date: 4/1/2025

Senator Ingwersen, Representative Meyer and members of the Joint Standing Committee on Health and Human Services. My name is Bill Montejo, and I serve as the Director of the Division of Licensing and Certification for the Maine Department of Health and Human Services and I am here today to testify in opposition to LD 759, *An Act to Increase Patient Safety in Long-term Care Facilities*.

This bill requires that a Long-Term Care Facility equip a resident's bed with side rails if the resident or their guardian requests it or when required for safety. While the intent of the bill appears to honor resident choice and address resident safety, passage of the bill will create conflict with federal requirements for nursing facilities regarding bed rail installation and use.

Regulatory standards for the Centers of Medicare and Medicaid Services (CMS) at 42 CFR §483.25(n) require that facilities attempt appropriate alternatives before installing/ using bed rails. Current standards within the CMS Conditions of Participation do indicate that while a resident or guardian may request the use of side rails on a resident's bed, the request can't be granted without "medical symptoms" that warrant their use and a practitioner's order to use them. Use of side rails must be included in the resident's care plan. They must be limited to "the least amount of time possible," and the facility must provide ongoing re-evaluation while they are being used. The use of bed rails may be considered a 'restraint' and usage must be limited to be the least restrictive alternative and reevaluated periodically.

Facilities may utilize mobility-assistive devices such as a grab bar or small quarter rail if such devices are installed to address a specific medical need such as mobility issues, and the device is installed consistent with manufacturer's guidelines, and does not pose a risk of entrapment of the resident.

DLC would urge the committee to vote ought not to pass on LD 759. I'm happy to take any questions.