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4/28/2025

Senator Ingwersen, Chair
Representative Meyer, Chair
Members, Joint Standing Committee on Health and Human Services
100 State House Station
Augusta, ME 04333-0100

Re: LD 1745 – *An Act to Stabilize Residential Treatment Capacity for Children and Youth in Maine*

Senator Ingwersen, Representative Meyer and members of the Joint Standing Committee on Health and Human Services:

Thank you for the opportunity to provide information in opposition to LD 1745, *An Act to Stabilize Residential Treatment Capacity for Children and Youth in Maine*.

This bill would require the Department of Health and Human Services (Department) to do the following:

1. Notify the Legislature within two weeks of the closure of a children's residential care facility, including the name, services provided, number of beds, employees, and reasons for closure.
2. Convene a stakeholder group of children residential providers to identify the short-term and long-term staffing and resource needs to ensure sustainability with a report to the Legislature.
3. Assess the costs associated with children and youth with behavioral health care needs or developmental disabilities with a report to the Legislature.
4. Amend its rules in Chapter 101: MaineCare Benefits Manual, Chapter III, Section 97, Private Non-Medical Institution Services, Appendix D to establish a payment model for aftercare services attempts on a per member, per month basis. The payment model must include travel costs and require minimum standards for service delivery attempts, with a maximum of two reimbursable unsuccessful delivery attempts per case. The rules must also allow for delivery of aftercare services by staff who have qualifications below a bachelor's degree but have experience with the family, as long as the family provides consent.

While well-intentioned, this bill is duplicative of recent legislation and a less effective response to residential program closures in the state. Last session, the Department was required to study children's residential treatment and services throughout the state and submit a report pursuant to LD 435, which addressed many of the concerns in LD 1745. The Office of Behavioral Health (OBH) recognizes this report has not yet been submitted but assures the Committee that it is forthcoming and will soon elucidate much of what this bill seeks to address, including information from provider engagement, needs assessments, current priorities, implementation progress of the strategic plan, and an analysis of the capacity, occupancy, and availability of and access to residential treatment services in and out of Maine.

OBH believes that while the information required under this bill may be helpful to the Legislature, it would result in more administrative exercise without tangible, actionable results. For example, facilities close for a multitude of reasons, including non-compliance with licensing rules, operational changes, staffing challenges, and other financial challenges. Section 5 of this bill allocates one-time emergency funding to stabilize children's residential care facilities in danger of closing. It is unclear what criteria would be utilized to determine how imminent a provider would need to be to access this funding. Additionally, these are one-time funds, and the one-time nature could destabilize programs in the future. We are concerned the funding would not have the expected impact intended by the bill. While fiscal solvency is a primary driver of *some* closures, there are other factors such as those referenced above.

With regard to Section 4, this bill also proposes altering the reimbursement for MaineCare services outside of 22 M.R.S. § 3173-J, a rate reform process established to analyze and prioritize rates paid to providers. The goal of 22 M.R.S. § 3173-J was in part to move toward more consistent, equitable, and data-driven rates that create incentives for efficiency and high-quality care for members. This bill would perpetuate a one-off approach to rate setting which conflicts with 22 M.R.S. § 3173-J by implementing a per-member, per-month payment methodology for aftercare services that has not been developed through the mandated systematic, methodological approach under the statute. Should LD 1745 move forward as written, the statutorily prescribed rate determination process will still need to be followed to amend the reimbursement methodology. Further, the Department will need to request the necessary state plan amendments from the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services, and adopt routine technical rules upon federal approval. Completing and obtaining this approval, developing new rates, and completing the required rulemaking is not possible within the bill's proposed timeframe.

This bill is seeking to address a real problem, but the approach will not be the most effective way to address the needs of our children's residential system. If this bill were to proceed, OBH proposes an amendment that would instead require *annual* reporting on closures. This not only reduces the administrative burden on the Department but also allows the Legislature to see a bigger picture and better comparison as to why each program or facility closed for a meaningful analysis which would allow for more informed and directed legislation, as necessary, to effectively work toward addressing the root causes(s) of closures.

The Department is actively working to address the behavioral health needs of children and families through its work on the implementation of the Settlement Agreement. The Department also recognizes that work is needed to strengthen the system of care at all levels, for example through filling gaps with services like Psychiatric Residential Treatment Facility services and the \$2 million RFA recently awarded to Sweetser. Additionally, OMS recently completed a Rate Determination for the Temporary High Intensity Staffing rate, which resulted in a 28% rate increase, implemented April 1st. Addressing this rate was critical as upstaffing costs directly contributed to some program closures last year. The Department agrees that closures of these programs create additional challenges for families in need of these services. However, not moving forward with this bill will allow the Department to use time and resources on the current work and more tailored planning for additional improvements or resolutions to residential and other program closures that may have greater positive outcomes.

Please feel free to contact me if you have any questions during your deliberation of this bill.

Sincerely,

A handwritten signature in black ink that reads "Sarah Squirrell". The script is cursive and fluid, with the first letters of each word being capitalized and slightly larger than the rest of the letters.

Sarah Squirrell

Director

Office of Behavioral Health

Maine Department of Health and Human Services