

Janet T. Mills
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Jeanne M. Lambrew, Ph.D.
Commissioner

Maine Department of Health and Human Services
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April 4, 2023

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

Re: LD 938, *An Act to Assist Nursing Homes in the Management of Facility Beds*

Senator Baldacci, Representative Meyer, and Members of the Joint Standing Committee on Health and Human Services:

Thank you for the opportunity to provide information and note the opposition of the Department of Health and Human Services to LD 938, *An Act to Assist Nursing Homes in the Management of Facility Beds*. We offer the Committee the following information for your consideration.

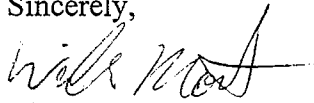
This bill restores the ability of nursing facilities to voluntarily reduce the number of their licensed beds and then later increase the number of their licensed beds to the prior level after obtaining a certificate of need and meeting certain conditions. The bill also modifies that process to obtain certificate of need approval to reopen reserved beds, requires the Department of Health and Human Services to include in its calculation of reimbursement for services provided by a nursing facility the cost incurred by the facility for a medical director, and requires the cost incurred by a nursing facility for the acquisition, use and maintenance of computer or cloud-based software systems to be included as a fixed cost.

DLC understands that long-term care facilities would like to be able to reserve beds to avoid penalties for low occupancy at the time of audit. However, if a long-term facility takes beds "offline" and reserves them, then later brings them back into service, we expect there will be an increase in cost to the MaineCare system due to inflation and other adjustments to their rates. Put simply, nursing facilities would benefit from the changes in this bill because the reimbursement rate gets adjusted using a total occupancy based on fewer beds. This would increase their per-day reimbursement. There would be no benefit to the Department or members, however. Bed capacity would be reduced but MaineCare would not receive a corresponding reduction in costs.

We also believe the current proposed language would significantly impact our Rate-Setting (changing reimbursement rates due to occupancy adjustments) and Audit teams' based-on cost settlement procedures. Finally, we assume beds would be taken "offline" when there is low need and reopened when there is necessity, however that process may not be immediate. This could reduce our flexibility and response time to fluctuations in bed need.

The Department is currently working on long-term care reform and this bill will likely frustrate those current efforts. DLC has discussed this proposed bill with both the Office of MaineCare Services and the Office of Aging and Disability Services, and they join us in our opposition. We thank you for your attention to this matter, and again, the Department suggests this bill ought not to pass. I would be happy to answer any questions you may have and make myself available for questions at the work session should you request.

Sincerely,

A handwritten signature in cursive script, appearing to read "William Montejo".

Director William Montejo, RN
Division of Licensing and Certification