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# DISABILITY RIGHTS MAINE

March 17, 2025

Senator Anne Beebe-Center, Chair  
Representative Tavis Hasenfus, Chair  
Joint Standing Committee on Criminal Justice and Public Safety  
100 State House Station, Room 436  
Augusta, ME 04333

*Re: LD 532 An Act to Protect Health Care Workers by Addressing Assaults in Health Care Settings*

Senator Beebe-Center, Representative Hasenfus, and Members of the Joint Standing Committee on Criminal Justice and Public Safety:

My name is Emily Mott and I am an attorney at Disability Rights Maine, Maine's protection and advocacy agency for people with disabilities. Disability Rights Maine writes in opposition to Re: LD 532 *An Act to Protect Health Care Workers by Addressing Assaults in Health Care Settings*.

LD 532 seeks to expand the scope of assault on health care workers from emergency rooms to many other health care settings and increase the penalty to a Class C crime.

While DRM appreciates the intent of protecting health care workers from harm, we are deeply concerned that this expansion will not accomplish that goal and will only serve to disproportionately impact individuals with mental health conditions by criminalizing disability-related behavior. For the purposes of this hearing, I will focus on the bill's potential consequences for individuals with mental health conditions who are receiving care in psychiatric hospitals and community-based mental health residences.

## Concerns Regarding Psychiatric Hospitals

Psychiatric hospitals operate under federal and state regulations that allow for the use of restraint in specific circumstances. Both state and federal laws acknowledge that restraint may be employed only when absolutely necessary to prevent serious physical injury to the patient or others and must be discontinued at the earliest possible time.<sup>1</sup>

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<sup>1</sup> State Regulation: Restraint may only be used when absolutely necessary to protect the recipient from serious physical injury to self or others and shall impose the least possible restriction consistent with its purpose. (Code Me.

In the context of these state and federal laws, it is foreseeable that, some form of "bodily injury" as defined in the statute (i.e., physical pain, physical illness, or any impairment of physical condition) could result during the course of a restraint. If incidents related to restraints, which could currently be charged as a Class D misdemeanor (punishable by up to 364 days in county jail and a fine of up to \$2,000), are elevated to Class C felonies, it will unfairly criminalize individuals with psychiatric disabilities who are already in a vulnerable state and are receiving treatment in a facility. This would be particularly harmful, as these individuals are in a facility that is meant to provide care, not punishment.

## **Concerns Regarding Community Residences for Persons with Mental Illness**

Community-based residential facilities for individuals with mental illness are funded through Medicaid under Section 97, specifically *Appendix E: Community Residences for Persons with Mental Illness* (97.02-6). These facilities are designed to provide a structured, supportive environment for individuals who require residential care due to significant mental health needs. Admission into these facilities requires an assessment using the Level of Care Utilization System for Psychiatric and Addiction Services (LOCUS)<sup>2</sup>, which explicitly evaluates an individual's risk of harm and observes that "[T]his dimension of the assessment acknowledges that ... in many cases unintentional harm may result from misinterpretations of reality" due to the nature of their mental illness.

Furthermore, staff working in these facilities must complete a full Mental Health Rehabilitation Technician (MHRT-I) certification, which includes training in behavioral intervention techniques, such as:

- MANDT<sup>3</sup>
- PRAB (Psychosocial Response to Aggressive Behavior)
- Safe Crisis Management<sup>4</sup>

These training programs prepare staff with tools to work with individuals by de-escalating situations and mitigating harm without resorting to criminalizing behaviors that may have a nexus to their diagnosis. These programs are designed to prevent harm and provide treatment in a supportive environment. This bill will only serve to punish individuals for actions that may be related to their diagnosis.

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R. tit. 14-472 Ch. 1, Pt. B, § VI); Federal Regulation: Restraint or seclusion may only be imposed to ensure the immediate physical safety of the patient, a staff member, or others and must be discontinued at the earliest possible time. (42 CFR 482.13(e)).

<sup>2</sup> Members must meet the following eligibility criteria, with documentation of all of the following information in the member's plan... demonstrates a need for residential care as assessed by the LOCUS with a score on the LOCUS of at least 23 or greater or a Level V or more. (Section 97.02-7).

<sup>3</sup> A "holistic evidence based training to reduce workplace violence." <https://www.mandtsystem.com/>

<sup>4</sup> A training that "provides staff with a capacity to prevent or safely respond to dangerous situations. <https://cfl-muskie.org/wp-content/uploads/2019/03/MHRT-I-How-To-Guide.pdf> at page 4.

## Impact of Elevating the Crime to a Class C.

Currently, individuals who engage in behaviors that result in "bodily injury" can be charged under existing assault laws. Increasing the penalty to a Class C--punishable by up to five years incarceration and a \$5,000 fine--will disproportionately affect individuals with mental health conditions. This bill, if passed, could result in the following unintended consequences.

1. **Increase Incarceration Rates for Individuals with Mental Illness:** Instead of providing appropriate mental health interventions, individuals may face punitive responses that do not address their underlying needs and impede their ability to access support services.
2. **Discourage Individuals from Seeking Treatment:** Individuals may be deterred from seeking treatment in psychiatric hospitals or group homes due to fear of criminal repercussions.
3. **Contradict the Fundamental Principles of Mental Health Care:** This bill would run counter to the foundational principles of mental health care, which emphasizes treatment and rehabilitation rather than punitive responses for those in need of care.<sup>5</sup>
4. **Further Marginalization:** Elevating the offense to a Class C felony would increase the collateral consequences for individuals who statistically already face barriers to housing programs, employment opportunities, and mental health treatment programs. The negative impacts of a felony conviction would only serve to further marginalize vulnerable individuals who are already struggling.

We recognize and appreciate the importance of protecting health care workers from harm, but we strongly believe that this bill will not achieve the desired outcomes and will instead have harmful, unintended consequences for individuals with mental health conditions.<sup>6</sup> Rather than criminalizing behaviors related to a person's disability, we should be focusing on improving treatment options that provide appropriate support for both individuals and their healthcare providers.

We respectfully ask the Committee to vote **ought not to pass** on LD 532. Thank you for your consideration.

Sincerely,



Emily Mott  
Staff Attorney  
Disability Rights Maine

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<sup>5</sup> The "philosophical difference between psychology, which is rehabilitative at heart, and corrections, which is currently punishment-oriented." <https://www.apa.org/monitor/julaug03/rehab>.

<sup>6</sup> "A year-old law seems to have done little to curb a surge in violence against health care workers . . . despite increasing charges for assaults on nonmedical staff – such as custodial, security or administrative workers – who are providing emergency medical care." Foust, A. "A law passed last year made assault in an emergency room a felony. Did it help curb violence?" *The Maine Monitor*, July 13, 2024, <https://themainemonitor.org/violence-against-health-care-workers-law-impact/>.