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Testimony of the Office of Aging and Disability Services
Maine Department of Health and Human Services

Before the Joint Standing Committee on Health and Human Services

In support of LD 769, An Act Regarding Access to Behavioral Health Supports for Adults with
Certain Disabilities

Sponsor: Senator Ingwersen
Hearing Date: March 18, 2025

Senator Ingwersen, Representative Meyer, and members of the Joint Standing Committee on Health and Human Services, my name is Betsy Hopkins, and I serve as the Associate Director of Developmental Disability and Brain Injury Services within the Office of Aging and Disability Services (OADS) in the Maine Department of Health and Human Services. I am here today to testify in support of LD 769, *An Act Regarding Access to Behavioral Health Supports for Adults with Certain Disabilities*. This bill was submitted by the Department, and we are grateful to Senator Ingwersen for presenting it.

This bill provides the authority to update our rules to improve the process for developing, implementing, and monitoring behavior and safety plans for adults with intellectual and developmental disabilities.¹ The current process, prescribed in statute, is cumbersome and time-consuming for all parties involved, and often delays the provision of behavioral supports to those who need them. The bill authorizes several key changes developed in consultation with a workgroup of interest holders:

- It replaces the current complex three-person review committee (consisting of OAB, DRM, and OADS staff) with an internal OADS review overseen by a clinical staff member. Data on behavioral support plans will be reviewed by a Support and Safety Committee convened at least quarterly by OADS and inclusive of self-advocates, family members, OAB, and DRM.
- In keeping with best practice nationally, it removes the authority to use planned restraints on adults. Restraints may continue to be used in emergency situations where immediate harm to the individual or others is imminent.
- It streamlines and codifies existing rules on safety devices, clarifying that these do not require the same level of review as positive behavioral support plans.
- It repeals a provision allowing providers to establish house rules, which conflicts with the principles of autonomy and self-determination outlined in the HCBS Global Rule at MaineCare Benefits Manual Chapter 1, Section 6.04 (A) and (B). Under the Global Rule,

¹ The current process is addressed in Chapter 5 of OADS rules, "Regulations Governing Behavioral Support, Modification, and Management for People with Intellectual Disabilities or Autism in Maine."

individuals have the ability to establish household guidelines collaboratively, ensuring their preferences and independence are respected.

From February 2023 through January 2024, OADS convened a workgroup consisting of self-advocates, providers, family members, Disability Rights Maine (DRM), the Developmental Disability Council, and the Oversight Advisory Board (OAB). The charge was to review the current rule and develop recommendations for revisions to the Department. The workgroup was convened in response to a widespread desire to improve behavioral supports for adults with disabilities and perennial complaints about the ineffectiveness of the current process. The current process has not had significant revisions since 2011, despite evolution of best practice since that time. The workgroup consulted with states such as Kentucky, Vermont, and Pennsylvania to understand best practices regarding the use of planned restraints for adults with intellectual and developmental disabilities.

We have received a few questions regarding why we did not address children's services in this bill. The Office of Behavioral Health (OBH), which oversees Children's Behavioral Health Services, was consulted on this question. Per LD 1080, OBH is currently working to update the Rights of Recipients for children and will consult with interest holders in those discussions. Because children's needs were not addressed in OADS' behavioral supports workgroup, it would be premature to include children in the bill at this time. OBH is prepared to offer future amendments addressing behavioral supports for children, as needed following engagement of interest holders.

With these changes, requests for safety devices and positive support plans will be processed more efficiently, ensuring timely access to necessary supports. As OADS develops and oversees this new approach, we will continue to collaborate with providers, families, and advocacy partners in the rulemaking process, and will create comprehensive training and related resources for all interest holders.

Thank you for your time and attention. I am happy to answer any questions and will be available for further discussion during the work session.