HOUSE OF REPRESENTATIVES
2 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0002
(207) 287-1400
TTY: MAINE RELAY 711

Dan Shagoury
P.O. Box 202
Hallowell, ME 04347
Phone: 207-242-2169
Dan.Shagoury@legislature.maine.gov

April 9, 2025

Testimony of Representative Dan Shagoury introducing
LD 1239, An Act to Require Data Collection on and Reporting of Psychiatric Hospital Resources and Transparency in Denials of Emergency Involuntary Admissions to Psychiatric Hospitals
Before the Health and Human Services Committee

Good morning, Senator Ingwersen, Representative Meyer and fellow members of the Joint Standing Committee on Health and Human Services. I am Representative Dan Shagoury, and I represent House District 55 – the communities of Hallowell, Manchester and West Gardiner. I am glad to present to you **LD 1239, An Act to Require Data Collection on and Reporting of Psychiatric Hospital Resources and Transparency in Denials of Emergency Involuntary Admissions to Psychiatric Hospitals**.

This bill is a measured and thoughtful response to an issue that has become increasingly visible in our state and to our committee: the prolonged stays of individuals in emergency departments (ED) under emergency psychiatric holds, with no clear pathway to appropriate inpatient care.

The urgency of this issue was brought into sharp focus by the case of a woman, referred to as A.F., who remained in an emergency department for 65 days after being "blue papered." During that time, she was denied admission by multiple psychiatric hospitals across the state. These facilities—both public and private—declined to accept her, often citing that she was not a good fit or that her needs were too acute. Meanwhile, other individuals in the same ED were transferred and admitted.

She was transferred to a psychiatric hospital only after legal action was filed on her behalf. Although the case became technically moot—since she was moved the day after the filing and later returned to her apartment after receiving the treatment she needed—the court still held a hearing and issued a written decision. It acknowledged that her rights had been violated and called on the legislative and executive branches to take action.

At first, I thought the root of the problem was simply a lack of inpatient beds. But what I've come to understand through A.F.'s case is that while capacity plays a role, access and decision-making processes within the current system are just as significant—and often hidden from view.

That's why this bill is so important.

Under current Maine law, emergency departments may continue to hold individuals beyond the initial 24-hour emergency psychiatric hold—extending the hold for up to two additional 48-hour periods—if certain conditions are met. For the second 48-hour period, one of those conditions is that the hospital must notify the Department of Health and Human Services (DHHS), providing details such as the individual's name, the evaluation, and the hospital's efforts to find an inpatient psychiatric bed.

However, the law does not place a limit on how many times this process can be restarted. As long as the process is followed—including the required notification to the Department of Health and Human Services—the clock can reset again and again. In practice, this means a person—like A.F.—can end up being held indefinitely in an emergency department, even when they meet the criteria for involuntary admission for inpatient psychiatric care.

But here's the real problem: while the Department is notified that someone is stuck, the law doesn't require hospitals to explain why. There is no requirement for psychiatric hospitals to disclose why a referral was declined, what criteria were applied, or what might change to make admission possible. As a result, DHHS receives only part of the picture. They can see that a backlog exists—but not what's causing it. Without that information, the Department is left without the necessary tools to assess patterns, intervene meaningfully, or address the underlying issues that keep people waiting in emergency departments.

LD 1239 addresses this gap by adding this requirement: when a psychiatric hospital declines a referral, it must document its reasons and provide that documentation to the Emergency Department, which will then forward it to DHHS. With this added layer of transparency and increased information, the Department can begin to identify patterns—whether the refusals are due to clinical criteria, staffing shortages, bed shortages, behavioral concerns, or other factors—and work more strategically to address them.

It's the difference between knowing that someone is waiting, and knowing why they're waiting—and only with both pieces can the Department, and if need be the Legislature, take meaningful action to reduce these prolonged emergency department stays.

LD 1239 does not seek to interfere with clinical judgment or require hospitals to override their own assessments for admission. I understand and respect that hospitals have legitimate concerns

about preserving clinical autonomy. This bill was carefully crafted to focus on process, transparency and data gathering, not second-guessing medical decisions. It does not mandate admission. It simply asks for documentation and clearer communication—especially when the result is a person remaining in an emergency department for months.

Specifically, the bill would require:

- Psychiatric hospitals to document the reasons for declining a referral and outline what, if anything, would allow for reconsideration;
- Reporting from hospitals and the Department to help us better understand where the barriers lie—whether they are resource-related, clinical, or logistical;
- A more transparent view of available inpatient capacity statewide, updated regularly.

The goal here is not to assign blame, but to make sure we are accurately diagnosing the problem so we can invest in the right solutions. Without meaningful data and visibility into how decisions are made across the system, we risk misunderstanding what's really causing the delays—and pouring resources into fixes that might not actually address the root issue. That kind of misstep not only wastes money, it leaves people stuck in emergency departments with no clear path forward.

Finally, the court in A.F.'s case was clear: this is not a problem the Judiciary can solve on its own. It's up to us—the Legislature—to take steps toward a more transparent and responsive system.

LD 1239 is not a sweeping overhaul. It is a first step—a step toward better information, more accountability, and a clearer path forward for people in crisis, and for the hospitals and EDs trying to serve them.

I hope you will join me in supporting this bill. Disability Rights Maine, who represented A.F., will be following my testimony. Thank you very much for your time and consideration and I will be glad to answer any questions.