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Testimony of the Office of Behavioral Health
Maine Department of Health and Human Services

Before the Joint Standing Committee on Health and Human Services

In opposition to LD 1631, *“Resolve, to Implement the Recommendations of the Stakeholder Group to Address Child Stay Times in Hospital Emergency Departments”*

Sponsor: Representative Gramlich
Hearing Date: Insert Date April 28, 2025

Senator Ingwersen, Representative Meyer, and members of the Joint Standing Committee on Health and Human Services, my name is Dean Bugaj, and I serve as the Associate Director of Children’s Behavioral Health of the Office of Behavioral Health (OBH) in the Maine Department of Health and Human Services. I am here today to testify in opposition to LD 1631, *Resolve, to Implement the Recommendations of the Stakeholder Group to Address Child Stay Times in Hospital Emergency Departments*.

This bill requires the Department of Health and Human Services to implement recommendations made by the stakeholder group established by Resolve 2023, chapter 134, to address the problem of children and adolescents experiencing long stays in hospital emergency departments as outlined in the group’s January 2025 report to the Committee. The primary objectives of this implementation focus on addressing the closure of residential services for youth; ensuring the Department is meeting its obligations to make available and maximize its use of funding for early and periodic screening, diagnostic and treatment services (EPSDT); and submitting three reports to the Legislature related to youth long stays in emergency departments, youth services, a gap analysis of youth beds and programs added and removed since 2018, waitlist information, and policy implementation and development updates. It also requires the Department to take specific actions to prevent additional closures and encourage the reopening of beds for youth residential treatment and to develop an internal compliance process designed to ensure the Department is meeting its obligations to make available and maximize its use of funding for EPSDT services.

The Department is supportive of the intent of this bill, specifically developing and implementing solutions and system improvements to reduce the number of youths experiencing long stays in emergency departments; increasing access to community-based and as clinically appropriate, residential services; and maximizing EPSDT services and programming. The Office of Behavioral Health would like to note, however, that nearly all the requirements of this legislation, including reporting, are currently being addressed through the DOJ Settlement Agreement, recent legislation (e.g., Resolve 2023, chapter 158), or

through potentially duplicative legislation being heard this session, with LD 791 and LD 1745. Respectfully, should any of these bills pass it would be important to ensure they did not duplicate directives and confuse the demands on the Department. We agree with the fundamental philosophy of these bills and strengthening the children's behavioral health system of care, but the approach to doing so should not be piece meal and uncoordinated, or we risk having valuable resources pulled from the most critical areas of need. For example, relating to Section 5 of this bill, the analysis of residential beds is already occurring under Resolve, 2023, Chapter 158. Updates on specific programming can be seen in our annual reports, and information on wait-times for services is publicly available information on the CBHS website.

Section 2 of this bill requires the Department to provide emergency funding to residential providers supporting intensive staffing levels for youth who require 1:1, 2:1, or 3:1 staffing ratios. OMS recently completed a Rate Determination for the Temporary High Intensity Staffing rate, which resulted in a 28% rate increase for the service. The Department recognizes the urgency here and implemented the new rate, effective April 1st. Addressing this rate was critical as upstaffing costs directly contributed to some program closures last year. It is unclear if the bill intends additional support to providers in this area or if this issue would be considered resolved.

Similarly, the Office of MaineCare Services (OMS) is already required to report on the funding of covered services and programs which aligns with the requirements under Section 3, and if LD 791 is passed this session, the Department would be required to submit monthly reports to the Legislature providing the total number of children in a hospital emergency room who stayed longer than 48 hours after no longer meeting medical necessity, number of children under the age of 12 who have entered an emergency setting directly from a residential program, and the necessary services currently unavailable that may lead to children remaining in emergency departments. OMS also employs an EPSDT Coordinator responsible for ensuring MaineCare compliance with federal EPSDT statute and regulations and to educate providers, members, and other Department staff on EPSDT to maximize its use and impact.

Broad implementation of the recommendations from the report pursuant to Resolve 2023, chapter 158 would have significant fiscal implications not addressed in this bill, including releasing emergency funding for children's residential care facility programs (CRCF), providing additional flexible services under EPSDT obligations, strengthening the community-based network of IDD providers, and establishing crisis receiving centers, IDD-specific crisis residential beds, additional intermediate care facility beds, and more. Given the extensive scope of these recommendations, compliance would come at a significant cost even before considering additional resources that may be necessary for providers to hire appropriate staff to provide the requisite data analytics noted in the bill. Additionally, should all of these recommendations move forward, there may be additional staffing necessary to support their implementation, also not considered in this bill.

Rather than duplicating existing efforts OBH recommends utilizing proposed DOJ Settlement Agreement's forthcoming implementation plan and reporting to achieve the

intent of this bill. Using the forthcoming implantation plan to address the number of days and reasons that youth remain in emergency departments would effectively and efficiently provide what is sought in LD 1631. It would also mitigate the fiscal impact this bill would have as it would require OBH to provide funding to providers for staffing, additional individualized planning services, and increased staffing to address further data needs. It would also be beneficial for hospitals as the current draft is expected to create unintentional administrative burdens resulting from the additional reporting and data processes associated with the bill. If enacted, OBH proposes, at a minimum, amending the submission dates of the required Department reports to December 2026 and November 2027 to allow necessary focused attention on the DOJ Settlement Agreement and provide the requisite time to comprehensively address LD 1631's requirements. OBH respectfully suggests allowing the Department to continue with its existing work to accomplish similar goals. There are significant efforts underway with our current reporting, programming, strategic planning, and the DOJ Settlement Agreement. Passing additional legislation that duplicates this work may unintentionally redirect attention and resources toward replication that may hinder the progress being made toward widespread system and service improvements.

Thank you for your time and attention. I would be happy to answer any questions you may have and to make myself available for questions at the work session.