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Testimony of Rep. Lori K. Gramlich presenting

LD 330, An Act To Prevent Accidental Overdoses by Establishing a Protocol for Prescription Drug Recovery *Before the Joint Standing Committee on Health and Human Services*

Senator Claxton, Representative Meyer and distinguished colleagues of the Joint Standing Committee on Health and Human Services, I am Lori Gramlich, Representative for House District 13, which is the town of Old Orchard Beach. I am honored to present **LD 330, An Act To Prevent Accidental Overdoses by Establishing a Protocol for Prescription Drug Recovery**, which I will refer to as “Trip’s Bill.”

Here’s why: I submitted this legislation in response to a tragic incident that I suspect may be all too familiar for many. Last winter, a friend of ours lost her son, Trip Wilson, to an accidental drug overdose, due to him finding his deceased family member’s morphine, which had been prescribed for her while she was receiving home hospice care. This family member had been deceased for three years, and the medications had never been properly disposed of.

Because opioid medications are often used to manage pain for hospice patients, unused opioid medications are frequently left behind when a patient passes away under the care of home hospice care. But in most states, and in Maine, hospice employees cannot or do not assist in the disposal of controlled substances, including opioid medications. As a result, these powerful medications are left in their home and in the hands of grieving family members - which was tragically the case for Trip Wilson and sadly, I suspect, many others.

As some of you know, I am a Licensed Master Social Worker, having worked in prevention based social work within the social service and nonprofit sector, as well as for State Government with the Department of Health and Human Services, and municipal government here in Maine for nearly 35 years.

In fact, I worked in the Bureau of Medical Services, the Division of Licensing and Certification, as a Program Specialist responsible for licensing adult care facilities in five northern and eastern counties throughout Maine. To be clear, this legislation is not applicable to residential care facilities, but rather, specific to home hospice.

This legislation builds upon a provision included in a bipartisan bill in Congress to address the opioid crisis by amending the Controlled Substances Act to allow hospice employees to handle the lawfully dispensed controlled substances of a deceased hospice patient to assist with disposal of the controlled substances.

In 2018, U.S Senators Elizabeth Warren (D-Mass.), Marco Rubio (R-Fla.), Maggie Hassan (D-N.H.), Shelley Moore Capito (R-W.Va.), Tammy Baldwin (D-Wisc.) and Susan Collins (R-Maine) introduced the bipartisan *Hospice Safe Drug Disposal Act* to authorize home hospice providers to safely dispose of unused prescriptions of controlled substances.

In my effort to offer transparency and to provide information to the committee so we can find solutions to this problem, I will tell you, and as I am sure that you are aware, the Home Care and Hospice Alliance has expressed concern with implementing the intent of this proposed legislation – the intent being to assure that these medications prescribed for hospice patients are properly and adequately disposed of once the hospice patient has passed away.

While I can understand, on a level, the liability issue that Home Care and Hospice Alliance raises, I believe it is imperative to have mechanisms in place to avoid these unused drugs getting into the hands of anyone for whom they were not intended. The opioid crisis and consequential deaths as a result of this epidemic elevate that **we must do all that we can to assure tenants of my bill are implemented.**

Families dealing with the loss of a loved one should not also have to worry about leftover medications. Further, illegal diversion of prescribed medication has become a significant issue in the opioid epidemic.

Unused prescription medications in a home pose a real risk and too often, as in Trip's case, a preventable tragedy. Many people who misuse prescription opioids take pills that were originally legally prescribed to someone else.

According to the Substance Abuse and Mental Health Services Administration (SAMHSA), more than 70 percent of people who misuse prescription painkillers got them from a friend, relative or doctor.

The federal legislation I have referenced includes several safeguards to prevent against diversion of drugs by hospice employees, including requiring hospice programs to document disposal of controlled substances. It also requires the DEA to issue guidance to assist hospice programs in complying with federal rules around safe disposal. Specifically, The Safe Disposal of Unused Medication Act would permit hospice staff (physicians and registered nurses) or emergency medical services professionals to dispose of controlled substances when a patient dies or a medication expires. It requires:

- Qualified hospice programs to have a written policy and procedure for drug disposal in place to be distributed to a patient's family.

- Hospice employees, defined as doctors or registered nurses, to hold a mandatory conversation with a patient's family member or representative about drug disposal policies when a controlled substance is first ordered; and,
- All drug disposals to be documented in the clinical record.

I have included the text of S.2661 - Hospice Safe Drug Disposal Act of 2018, for your reference: <https://www.congress.gov/bill/115th-congress/senate-bill/2661/text>

My bill requires agencies and personnel providing home hospice care in Maine to adhere and conform to federal law.

It is also noteworthy that The National Association for Home Care & Hospice (NAHC) has applauded this federal legislation and, in fact, had sent a letter in support, articulating that this legislation works to address the challenges faced by hospice programs related to disposal of controlled substances and signals a clear understanding of the need for “real world” solutions to enable hospice providers to reduce the potential for diversion or misuse of controlled substances in patients' places of residence. This is according to NAHC President William Dombi.

On the rare occasions where the family is not cooperative, hospice staff can document this as part of the final patient record. Staff can also tell families about drug take-back days and can instruct families with proper means for disposal.

The bottom line and intent of my proposed legislation is this: We need to assure that these medications are properly disposed of within close proximity to death – and I am hopeful we can find a solution we all can agree upon. We cannot change the tragedy that the Wilson family and countless other families have endured, but if we can prevent others from going through these enormous life-changing events, we can say that we indeed have made a difference.

Here with me today are Trip's mom and possibly others who will share with you their lived experiences and how this devastating opioid crisis has impacted them.

When you hear from them, you will hear why we cannot wait and why I urge you to unanimously pass this bill.

Thank you for your time, for tackling the very difficult issues that come before you and for your consideration of this critically important issue. I would be happy to try to answer any questions for you.