



April 7, 2021

Senator Ned Claxton, Chair
Representative Michele Meyer, Chair
Joint Standing Committee on Health and Human Services
Cross Office Building, Room 209
Augusta, Maine 04333

Re: Testimony LD 1080 Resolve, Directing the Department of Health and Human Services To Update the Rights of Recipients of Mental Health Services

Dear Senator Claxton, Representative Meyer, and Members of the Joint Standing Committee on Health and Human Services:

My name is Mark Joyce and I am a managing attorney at Disability Rights Maine, Maine's protection and advocacy agency for individuals with disabilities. I am also one of the class counsel in the case of Paul Bates, et al. v. Commissioner, Department of Health and Human Services, which is commonly referred to as the AMHI Consent Decree or Settlement Agreement class action.

Thank you for the opportunity for DRM to provide testimony in opposition to LD 1080, Resolve, Directing the Department of Health and Human Services To Update the Rights of Recipients of Mental Health Services. (RRMHS)

The RRMHS are regulations that were last amended approximately 26 years ago. There is no question that it is time for them to be revised. However LD 1080 is not the correct vehicle to accomplish such a revision. And there are two reasons for this.

The first reason is the these regulations are intricately tied to the terms of the AMHI Settlement Agreement. Paragraph 28 of the Agreement provides as follows:

By February 1, 1991, defendants shall draft revisions of the "Rights of Recipients of Mental Health Services" and the "Rights of Recipients Who are Children in Need of Services" as needed to incorporate the rules governing grievances and complaints, required above, and all other terms of this Agreement. The draft revisions shall be submitted to counsel for the plaintiffs and the master for his approval. Defendants shall

thereafter adopt said rules in accordance with the Maine Administrative Procedure Act, 5 M.R.S.A. §§ 8051 et seq. (emphasis added)

LD 1080 requires that the Department revise the RRMHS pursuant to the Maine Administrative Procedure Act without first going through the process required under the terms of the Settlement Agreement.

LD 1080 also mandates that the Department include in these rules provisions that are not in alignment with the terms of the Settlement Agreement. For example, the bill requires that "[t]he revisions must align with contractual agreements with service providers." Paragraph 51 of the Settlement Agreement requires that it be the other way around, i.e., that "[a]gencies with which defendants contract shall be required by contract to meet all applicable sections of this Agreement." The rights of clients are not modified to meet the terms of any provider contract, the terms of the providers contracts are, instead, required to be modified to comply with these rights.

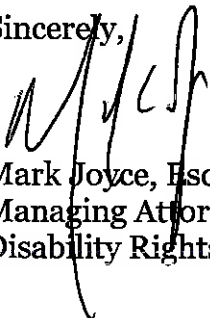
Therefore, any bill proposed to revise the RRMHS must be in compliance with the terms of the Settlement Agreement and LD 1080, as written, would not meet this requirement.

Secondly, just a little over two months ago, the Department and Plaintiff's counsel, with the assistance of the Court Master, reached an agreement implementing a new set of compliance standards regarding how the Department, through its contracts with providers, will be delivering core mental health services to individuals throughout Maine. As part of this process the Department will be producing quarterly data reports regarding how these services are being delivered. Therefore it is would be too early in the process to be considering a bill that would require a recommendation for changing the RRMHS without first reviewing enough of a sample size of the Department's data to assess where potential problem areas exist in the system and if any revisions to the RRMHS might be able to address these problems.

For the above reasons, DRM opposes LD 1080.

Thank you for your time and consideration.

Sincerely,



Mark Joyce, Esq.
Managing Attorney
Disability Rights Maine