



Alliance for Addiction and Mental Health Services, Maine

The unified voice for Maine's community behavioral health providers

Malory Otteson Shaughnessy, Executive Director

Testimony in Support of LD 1424

Resolve, To Change the Educational Requirements of Behavioral Health Professionals Providing Services for Children

Sponsored by Representative Salisbury on April 26, 2021

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Good afternoon Senator Claxton, Representative Meyers, and esteemed members of the Joint Standing Committee on Health and Human Services. I am Malory Shaughnessy, a resident of Westbrook, and the Executive Director of the Alliance for Addiction and Mental Health Services. Please accept this testimony on behalf of the Alliance **in support of** LD 1424.

LD 1424 is designed to align the requirements of becoming a behavioral health professional (or a BHP) across the different MaineCare services or programs. There are very different requirements for these same positions across different sections and programs **within Section 65 and Section 28**. It simply adds complexity, creates a barrier to hiring and retaining staff, and does not make sense.

Many providers that hire BHPs offer several of these services and it would ease staffing concerns if these BHPs could work within all programs. It would allow a provider to offer a fulltime position which many people are seeking. It also enables movement of these staff when other staff are out due to vacations or sickness. This would be especially helpful as this pandemic continues and we continue to see outbreaks impacting staffing.

There is really no reason to continue to have different requirements as the work conducted is basically the same across these services. A BHP should be a BHP no matter where they work.

Currently, the dashboard for children's behavioral health services shows that Section 65 Home and Community Therapy has nearly 600 children on waitlists with an average of 6 months wait time in some counties. One of the reasons for this growing waitlist is due to stagnant reimbursement rates (*something which we are working on with other legislation*), but it is also due to this barrier and the inability to hire BHPs to work in multiple services. Providers across the state are also seeing turnover rates with these direct care essential workers of 40-50%, and many positions advertised remain vacant for months to sometimes over a year.

Anything we can do to improve this situation, without reducing effectiveness of the programs is needed. I would be happy to bring additional information to the work session if needed.

All of these direct care workers must begin within 30 days of hire, **the specific training to become a BHP. The curriculum overview is on the next page. [Here is a link to the details.](#)**

I am including a timeline of the changes to the BHP program over the years. **It is important to note that in 2018, the 28-hour School Based BHP curriculum and the 35-hour BHP curriculum were merged into one course and certificate for all BHPs,** regardless of the setting they are working in. **This bill will help the rules catch up to this merger.**

On the last pages of my testimony I have included the various different requirements currently to become a BHP depending on the program. **Also attached is a flow chart that shows the confusion of the current state of affairs.**

Curriculum Blueprint BHP Training (35 hours)

1. BHP Module 1	3 hours
2. Professionalism	2.5 hours
3. Working as a Team	2 hours
4. Cultural Competency and Family Dynamics	2.5 hours
5. Communication	3 hours
6. Documentation	2.5 hours
7. Child Development	2 hours
8. Children's Behavioral Health	3.5 hours
9. Autism	2 hours
10. Trauma	4 hours
11. Understanding & Managing Behavior	2.5 hours
12. Principles of Instruction	2.5 hours
Closing Activity, Evaluations, and Final Exam	3 hours

Adult and Child CPR & First Aid Certification and completion of Bloodborne Pathogen Training are also required for BHP certification

Section 65 and Section 28 BHP requirements from the MaineCare Manual below:

Section 65 - Behavioral Health Services

65.06-9.D. Provider Requirements for Children's Home and Community Based Treatment

Staff allowed to provide this treatment include a clinician and, when appropriate, a staff certified as a Behavioral Health Professional.

To provide Home and Community Based Treatment the employee must meet the educational requirement and complete the required Behavioral Health Professional (BHP) training within the prescribed time frames, as described in 65.06-9(E).

Educational requirement to deliver the Home and Community Based Treatment services can be one (1) of the following:

- 1) A minimum of 60 higher education credit hours in a related field of social services, human services, health or education;
- 2) A minimum of 90 higher education credit hours in an unrelated field with the provider required to have a specific plan for supervision and training documented in the personnel file of the employee;
- 3) A high school diploma or equivalent and a minimum of 3 years of direct experience working with children in a behavioral health children's services program with the provider required to have a specific plan for supervision and training documented in the personnel file of the employee.

65.06-13.B. Provider Requirements for Behavioral Health Day Treatment

Staff qualified to provide this treatment include the following clinicians (Psychiatrist, Psychologist, LCSW, LMSW, LCPC, LMFT) and staff *certified as a Behavioral Health Professional (BHP) who has completed ninety (90) documented college credit hours or Continuing Education Units (CEU's).*

To provide Behavioral Health Day Treatment as a BHP, the employee must meet the education requirement and complete the required BHP training within the prescribed time frames, as described in 65.06-13.C.

Section 28 - Rehabilitative and Community Support Services For Children With Cognitive Impairments and Functional Limitations

28.08-2 Staff Requirements

A. Qualification Requirements for Direct Care Staff

1. Direct care staff *must meet the following minimum requirements:*

- Be at least 18 years of age;
- Have a high school diploma or equivalent;
- All direct care staff must obtain a Behavioral Health Professional (BHP) certification within one (1) year of hire. OR

3. Provisional Approval of Providers

Staff must begin receiving the Behavioral Health Professional training within thirty (30) days from the date of hire. The provisional candidate must complete the training and obtain certification within one (1) year from the date of hire.

C. Requirements for Behavioral Health Professional providing Specialized Services

2. Behavioral Health Professional providing Specialized Services *must meet all of the certification requirements as stated for the Certification as Behavioral Health Professional or equivalent* as determined by the Department **and must:**

- a. Be under the Supervision of a Licensed Psychologist, Board Certified Behavior Analyst or equivalent as determined by the Department, and
- b. Be able to demonstrate specific competencies required to provide Specialized Services including but not limited to the basic principles of behavior; and
- c. Be able to apply, under the direction of the supervisor, an array of procedures specific to Specialized Services.

Timeline:

- January 1997: *French v. Concannon* lawsuit filed. The plaintiffs asserted that Maine’s long waitlists for children’s case management and home and community based services were in violation of Medicare’s Early and Periodic Screening, Diagnosis and Treatment (EPSDT) requirement. (Approximately 75% of Maine’s Medicaid expenditures were spent on the most restrictive and costly services for children including residential treatment and psychiatric hospitalization. Maine had approximately 260 children in out-of-state residential placements - average length of stay was four times longer and the cost was three times greater than in-state placements.)
- December 1997: In response to LD 1744, Maine DHHS published “A Plan for Children’s MH Services” for expanding home and community based services for children that included in-home behavioral health services. <https://www.documentcloud.org/documents/4495895-PLAN.html>
- 2000: *Risinger v. Concannon* lawsuit filed. The state was required to develop a system to track. In response, DHHS enhanced the Enterprise Information System (EIS) to track children who request behavioral health services and assure that children receive timely and consistent access to services. (The lawsuit was resolved in 2007, and DHHS reached full compliance in 2008.)
- These children’s behavioral health services have been regulated under various sections of MaineCare over the past few decades:
 - Section 65 M&N (around 2006) – Child and Family Behavioral Health Treatment (65 M); Community Based Treatment for Children Without Permanency (65 N)
 - Section 24 Day Habilitation Services for Children with Mental Retardation or Pervasive Developmental Disorders (later absorbed by Section 28)
 - Currently, these services are regulated under:
 - Established 2010: Section 28 Rehabilitative & Community Support Services for Children with Cognitive Impairments and Functional Limitations (both Standard and Specialized; in-home and school-based), and
 - Established 2008: Section 65 Behavioral Health Services - 65 HCT and 65 Day-Treatment
 - February 2020: Proposed Section 106 School Based Behavioral Health Services Rule withdrawn.

BHP Training & Certificate Program

- 1998: DHHS recognized the need to train the non-licensed, direct care staff who were part of the team providing in-home services. DHHS hosted forums for parents, educators, and providers to ask, “What knowledge and skills are required for direct care staff (later called BHPs) to provide quality services?”
- 1999: Spurwink’s Behavioral Health Sciences Institute (BHSI) in partnership with Muskie School of Public Service published the first version of the curriculum - Behavior Specialist/Habilitation Specialist (BS/HS1).
- 2003-2004: Module on Trauma added.

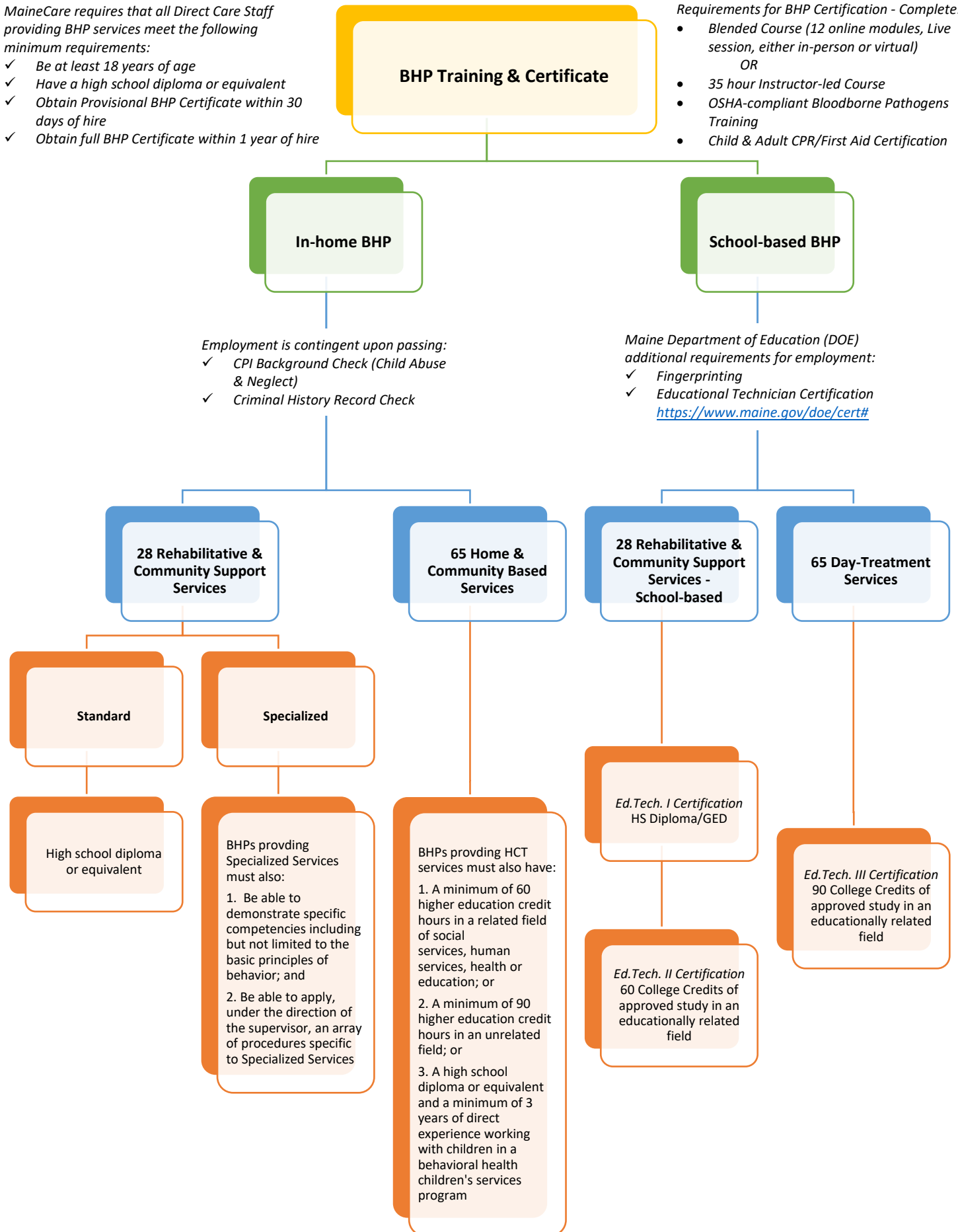
- 2006: Update and revision of the curriculum that included changing the certificate to Behavioral Health Professional (BHP), making the BS/HS1 certificate invalid. BHP Training - 50 contact hours and First Aid/CPR and Bloodborne pathogens training required for approximately another 7 contact hours.
- 2010: BHP Training & Certificate became mandatory for all direct staff billing as BHPs.
- 2010-2011: DOE & DHHS collaborated with BHSI to revise the curriculum, creating a separate School-Based BHP training (28 contact hours) for school programs intending to MaineCare for Section 28 and Section 65 school-based services.
- 2012: Woodfords Family Services (WFS) was awarded the contract for administering the BHP Training & Certificate Program.
- 2013 - 2016: WFS surveyed stakeholders and completed a comprehensive literature review. Revised the BHP curriculum to reflect current research and best practice - divided the content into 12 modules (instead of 10) including the addition of a module on Autism.
- 2016: Published the new 35-hour BHP Curriculum.
- 2017: Launched the BHP Blended Learning course (12 online modules and 7 hours of in-class instruction with a Certified BHP Instructor).
- 2018: Merged the 28-hour SBBHP curriculum and the 35-hour BHP curriculum into one course and certificate for all BHPs, regardless of the setting they are working in.
- 2020: Launched the Virtual Classroom – 7 hour Live Day taught in Adobe by Certified BHP Instructors. Revisions to the curriculum are ongoing as needed.

MaineCare requires that all Direct Care Staff providing BHP services meet the following minimum requirements:

- ✓ Be at least 18 years of age
- ✓ Have a high school diploma or equivalent
- ✓ Obtain Provisional BHP Certificate within 30 days of hire
- ✓ Obtain full BHP Certificate within 1 year of hire

Requirements for BHP Certification - Complete:

- Blended Course (12 online modules, Live session, either in-person or virtual)
OR
- 35 hour Instructor-led Course
- OSHA-compliant Bloodborne Pathogens Training
- Child & Adult CPR/First Aid Certification



Children's Behavioral Health Services

Medically necessary, evidence based behavioral health treatment and services for children from birth up to their 21st birthday. Services include providing information and assistance with referrals for children and youth with developmental disabilities/delays, intellectual disability, Autism Spectrum Disorders, and mental health disorders.
<https://www.maine.gov/dhhs/ocfs/cbhs/>

In-home BHP

School-based BHP

28 Rehabilitative & Community Support Services

65 Home & Community Based Services

28 Rehabilitative & Community Support Services - School-based

65 Behavioral Health Day Treatment

Treatment Services for Children with Cognitive Impairments and Functional Limitations

Treatment services are designed to retain or improve functional abilities which have been negatively impacted by the effects of cognitive or functional impairment and are focused on behavior modification and management, social development, and acquisition and retention of developmentally appropriate skills. Services include problem solving activities in order to help the member develop and maintain skills and abilities necessary to manage his or her behavioral health treatment needs, learning the social skills and behaviors necessary to live with and interact with other community members and independently, and to build or maintain satisfactory relationships with peers or adults, learning the skills that will improve a member's self-awareness, environmental awareness, social appropriateness and support social integration, and learning awareness of and appropriate use of community services and resources.

Specialized Services for Children with Cognitive Impairments and Functional Limitations

Services utilize behavioral interventions designed to improve socially significant behaviors and developmentally appropriate skills to a measurable degree. Services include problem solving activities in order to help the member develop and maintain skills and abilities necessary to manage his or her behavioral health treatment needs, learning the social skills and behaviors necessary to live with and interact with other community members and independently, and to build or maintain satisfactory relationships with peers or adults, learning the skills that will improve a member's self-awareness, environmental awareness, social appropriateness and support social integration, and learning awareness of and appropriate use of community services and resources.

Children's Home and Community Based Treatment

Services include providing treatment to members living with their families, as well as, members who are not currently living with a parent or guardian. The services assist the member and parent or caregiver to understand the member's behavior and developmental level including co-occurring mental health and substance abuse, teaching the member and family or caregiver how to appropriately and therapeutically respond to the member's identified treatment needs, supporting and improving effective communication between the parent or caregiver and the member, facilitating appropriate collaboration between the parent or caregiver and the member, and developing plans and strategies with the member and parent or caregiver to improve and manage the member's and/or family's future functioning in the home and community.

The goals of the treatment are to develop the member's emotional and physical capability in the areas of daily living, community inclusion and interpersonal functioning, to support inclusion of the member into the community, and to sustain the member in his or her current living situation or another living situation of his or her choice.

Treatment Services and Specialized Services for Children with Cognitive Impairments and Functional Limitations

School is a program that has been approved by the Department of Education, as either a Special Purpose Private School or a Regular Education Public School Program or a program operated by the Child Development Services System.

All School-based Services must:

1. Be medically necessary;
2. Be ordered, prescribed, or recommended by a physician or other licensed practitioner of the healing arts;
3. Be included in the member's Individualized Education Plan (IEP) or Individualized Family Service Plan (IFSP); and,
4. Be medical in nature (as opposed to educational).

Behavioral Health Day Treatment Services are structured therapeutic services designed to improve a member's functioning in daily living and community living. Programs may include a mixture of individual, group, and activities therapy, and also include therapeutic treatment oriented toward developing a child's emotional and physical capability in area of interpersonal functioning. This may include behavioral strategies and interventions. Services will be provided as prescribed in the ITP. Involvement of the member's family will occur in treatment planning and provision. Behavioral Health Day Treatment Services may be provided in conjunction with a residential treatment program. Services are provided based on time designated in the ITP but may not exceed six (6) hours per day, Monday through Friday, up to five days per week. Medically Necessary Services must be identified in the ITP.