



STATE OF MAINE  
GOVERNOR'S OFFICE OF POLICY INNOVATION AND THE FUTURE  
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AUGUSTA, MAINE  
04333-0181

GORDON SMITH  
DIRECTOR, OPIOID RESPONSE

January 17, 2024

Sen. Joseph Baldacci, Chair  
Rep. Michele Meyer, Chair  
Joint Standing Committee on Health and Human Services  
Maine State Legislature

Re: L.D. 1975, An Act to Implement a Statewide Public Health Response to Substance Use and Amend the Laws Governing Scheduled Drugs, Before The Joint Standing Committee On Health and Human Services

Dear Senator Baldacci, Representative Meyer and Members of the Committee:

I am Gordon Smith, of East Winthrop, Maine and I serve as the State's Director of Opioid Response in the Mills Administration. I appreciate the opportunity to testify remotely today and will hope to be with you personally at the work session. I am speaking today to the amended version of the bill as Rep. Crafts was kind enough to share with Molly Bogart and I the new draft and we have had an opportunity to meet with her on two recent occasions to discuss the proposal. We have appreciated these discussions and applaud Rep. Crafts on her efforts to promote a public health approach to the issue of substance use in our state. This approach is entirely consistent with Priority A in our updated Opioid Response Strategic Action Plan, which states, Build a statewide infrastructure to support evidence-based and community focused actions in response to Maine's Opioid Crisis. With respect to the proposals in this draft calling for more investments in SUD treatment, the bill is aspirational and deserves your consideration. But, the proposal is also unrealistic in its goals and is impractical in its approach. For these reasons, and for the additional reasons set forth below, the Administration opposes the bill and urges an ought not to pass report. There are four major features in the bill and I will address each one of them.

1. Substance Use Health & Safety Fund. The new draft proposes to establish a dedicated fund within DHHS to finance substance use treatment and other SUD related services. The fund is replenished annually through use of the cannabis related taxes and savings from the reduced arrests and related prosecutions and correctional system costs estimated to be achieved through the decriminalization of scheduled drugs. As the cannabis taxes are now largely paid into the general fund, the removal of this source of revenue would result in a very significant fiscal note. I believe a representative of the Maine Revenue Service or DAFS will be testifying also regarding their inability to do the calculation called for in 2.A of section 2 of the bill. I will leave to the Service and Department the details of their concern. But, I also note that the use of this funding stream is

not part of our updated Opioid Response Strategic Action Plan, a copy of which was provided to each of you in December.

2. The bill proposes to fund at least one SUD receiving center in each county to provide SUD treatment and harm reduction services. The centers would be required to provide a minimum of seven distinct services and DHHS is mandated to provide grants, to the greatest extent possible, to support 11 additional services including treatment for medically supervised withdrawal. A number of requirements are attached to these proposals and a particularly troublesome one is the requirement that all services be provided free of charge to the person receiving the service, regardless of income or assets.

While well-intended, the proposal is more aspirational than practical and does not fit well with the logistical expansion of services being developed by DHHS, with federal and state funds and more recently with the investments of the Maine Recovery Council. DHHS has been working to support receiving centers across the state, including a pilot Crisis Receiving Center in Cumberland County and a recently-announced SUD Receiving Center and Medically Monitored Withdrawal (detox) site in Kennebec County, funded by legislation passed in 2023. The Department is supportive of these models, but, has concerns about the ability to stand up additional centers as proposed in this draft. One crisis center per county is simply not feasible, nor affordable, by Jan. 1, 2025. Nor is one such center per county necessarily the appropriate way to allocate these resources. Development, contracting, and implementation of these centers takes significant work, resources and time. We urge the committee to consider ways to meet these needs that are mindful of existing and needed resources and limitations.

3. The new drafts in section 3 inserts a new role for the Maine Recovery Council, including final approval of the proposed grants (the DHHS shall act with the advice and approval of the Maine Recovery Council). This role is not consistent with the role of the Council as established by the court documents controlling the national settlements and enhanced by the state legislation enacted by the 130th legislature. And it is not appropriate for the Council to have ultimate control over state funds which are not part of the settlements. Consultation with the Council is appropriate and occurs currently on a regular basis, but administrative state functions should not be subject to approval of a non-state entity.

4. Part B in its major part (B. 4) removes from the Maine Criminal Code the existing crimes of possession of schedule W,X,Y and Z drugs. While I will leave to the Department of Public Safety, the Maine Drug Enforcement Agency, The Maine Prosecutor's Association and the Attorney General's office the significant implications of this proposed change, the removal of these provisions from Maine law at a time when the street drugs are the most lethal they have ever been, is not a proposal the Administration can support at this time. We continue to review the decriminalization experience in Oregon. On a more positive note, those provisions of the bill which simply clean up the effort that began in the 129th Legislature to remove punishment for

possession of drug paraphernalia, we can support. The action taken previously has been helpful in implementing distribution of fentanyl and more recently xylazine test strips as part of our harm reduction strategies.

Thank you for the opportunity to testify today and I would be happy to answer any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Gordon Smith". The signature is fluid and cursive, with the first name "Gordon" being more prominent than the last name "Smith".

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