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Testimony Presenting:

L.D. 1398, “An Act to Change Driver’s License Requirements for Obstructive Sleep Apnea”
Joint Standing Committee on Transportation

Senator Diamond, Representative Martin and members of the Joint Standing Committee my name is Nathan Wadsworth and I represent the towns of Hiram, Porter, Brownfield, Fryeburg, and Lovell. I’m here today to present LD 1398 – “An Act to Change Driver’s License Requirements for Obstructive Sleep Apnea.”

This bill was brought forward by a constituent of mine who moved from New Hampshire into Maine and was threatened immediately with a driver’s license suspension for not wearing his CPAP machine at night. The Secretary of State and the Maine Bureau of Motor Vehicles Medical Review Section closely monitoring the medical treatment compliance of Maine residents that have not violated any laws and have a safe driving record is both a significant violation of privacy and extreme government over-reach.

Current rules created by the Medical Review Section of the Maine Bureau of Motor Vehicles and approved by the Maine Secretary of State require the refusal to issue or to renew a Class C Driver’s License and to suspend a Class C Driver’s License that has already been issued if the driver has been diagnosed with Obstructive Sleep Apnea and is “non-responsive or non-adherent to therapy” as defined by Maine’s Functional Ability Profile. Specifically, a driver is deemed “non-responsive or non-adherent to therapy” if they have 15 or more obstructive events per hour during sleep. If the driver requires use of a CPAP machine to reduce his/her obstructive events per hour to less than 15 (the standard treatment for Obstructive Sleep Apnea), then the driver is required to use the CPAP machine successfully for at least 4 hours a night 70% of the time. Current rules require the refusal to issue or to renew a Class C Driver’s License and to suspend an already issued Class C Driver’s License for all Maine drivers that are “non-compliant or non-adherent to therapy” even if that driver has a safe driving record with no history of accidents or near misses, no traffic violations, and the driver’s physician has no concerns about the driver’s safety. The Maine Bureau of Motor Vehicles Medical Review Section monitors all Maine drivers that have been diagnosed with obstructive sleep apnea by requiring the driver to submit documentation from his/her physician annually to demonstrate that the driver has complied with Maine’s requirements for use of CPAP. The Maine Bureau of Motor Vehicles initially identifies Maine drivers that have a diagnosis of Obstructive Sleep Apnea by legally mandating all drivers with this diagnosis to self-report on their initial application or renewal application for a Class C Driver’s License.

Use of CPAP, especially for patients that require a full-face mask due to mouth breathing, can be extremely uncomfortable and challenging. Due to the extreme discomfort of a CPAP machine, some patients get even less sleep when using the machine due to inability to fall asleep or frequently waking up throughout the night. Further, doctors often advise patients with sinus symptoms, congestion, coughing, sore throats, etc. caused by colds and other viruses to take a break from using their CPAP machine until their condition clears to avoid exacerbating their symptoms. Consequently, many patients with Obstructive Sleep Apnea struggle to use CPAP successfully. The decision about whether to use a CPAP for patients diagnosed with Obstructive Sleep Apnea should be left up to a doctor and patient and should not be mandated by the Maine state Government to avoid suspension of a Class C Driver's License if the driver maintains a safe driving record.

A person's driver's license should be suspended if that person has an unsafe driving record (traffic violations, accidents or near misses, a history of falling asleep behind the wheel or driving while drowsy, etc.). A person's driver's license should not be suspended solely for not successfully using a CPAP if they have a safe driving record.

While many states, including Maine, require holders of a commercial driver's license (eg. truck drivers) to successfully treat Obstructive Sleep Apnea, this requirement makes sense because these drivers are driving large trucks, buses, or other large commercial vehicles for many hours a day. In contrast, a driver with a class C driver's license just has a standard driver's license which is required to drive a car.

Sleep apnea is not narcolepsy and patients with sleep apnea do not typically fall asleep behind the wheel while driving. Most people that snore loudly while sleeping suffer from sleep apnea. According to Maine's Bureau of Motor Vehicles Medical Review Section, it is estimated that 25% of adult men in the United States suffer from Obstructive Sleep Apnea, although for many folks their sleep apnea has never been diagnosed and therefore remains untreated. As more Mainers learn that a diagnosis of Obstructive Sleep Apnea will cause them to be closely monitored for treatment compliance by the Maine Bureau of Motor Vehicles Medical Review Section for the rest of their lives if they continue to hold a Maine driver's license, many Mainers will likely avoid completing the necessary sleep study to obtain a diagnosis of Obstructive Sleep Apnea. If a Mainer does not complete the necessary sleep study to obtain the diagnosis of Obstructive Sleep Apnea, then that Mainer can avoid government monitoring and will have a much lower risk of having his/her driver's license suspended. In short, the current rules create the unintended consequence of discouraging Mainers from obtaining a diagnosis of and treatment for sleep apnea.

Maintaining a driver's license is essential for the survival of many Maine residents that live in rural areas with no public transportation. Mainers in rural areas need a driver's license for transportation to/from their jobs, the ability to run essential errands, etc. The Maine Secretary of State suspending a person's driver's license solely because that person has a diagnosis of Obstructive Sleep Apnea and is not successfully using a CPAP even if that person has a safe driving record causes significant harm to Maine residents and is unjust.

Thank you for your consideration.

Respectfully Submitted,

Nathan Wadsworth
State Representative