Testimony of Gina DiDonato, Spring Harbor Hospital, In Support of LD 378, “Resolve, to Eliminate the So-called Fail First Requirement for Children's Residential Services for Certain Individuals Whose Needs Are Unable to Be Met with Home and Community-based Services by Expanding Eligibility for Those Individuals”
Thursday, February 16, 2023

Senator Baldacci, Representative Meyer and distinguished members of the Joint Standing Committee on Health and Human Services, I am Gina DiDonato, Associate Chief Nursing Officer at Spring Harbor Hospital, and I am here to testify in strong support of LD 378, “Resolve, to Eliminate the So-called Fail First Requirement for Children's Residential Services for Certain Individuals Whose Needs Are Unable to Be Met with Home and Community-based Services by Expanding Eligibility for Those Individuals.”

MaineHealth is an integrated non-profit health care system that provides the full continuum of health care services to the residents of eleven counties in Maine and one in New Hampshire. As part of our mission of “Working Together So Maine’s Communities are the Healthiest in America,” MaineHealth provides a range of behavioral health services throughout our footprint. These range from community based outpatient therapy, medication management, substance use treatment and care management to inpatient treatment in four community hospitals and Spring Harbor Hospital.

The bill before you today directs the Department of Health and Human Services to permanently repeal a MaineCare policy that requires a child to “fail” community or home-based services within the past two to six months before they will approve residential services. As you heard from the sponsor, most community or home-based services either maintain months-long waiting lists or simply don’t exist – especially in our rural communities. For children who do not have access to community-based services, including those in DHHS custody or those currently hospitalized, this MaineCare policy is preventing them from accessing the residential care that is needed to help them on their journey to stabilize and recover.
Attached to my testimony you’ll see the MaineCare policy that references the requirement for documentation that demonstrates the child’s functioning has not improved using outpatient or home and community-based treatment over the prior two to six months.

I’d like to share one example of the disastrous impacts this policy can have. In December 2021, an adolescent was admitted to Spring Harbor Hospital after languishing in a hospital Emergency Department for approximately 7 weeks. Shortly after he was admitted, our clinical experts determined that the child needed residential care and completed the residential care application. The application was denied citing insufficient information to support that the patient’s treatment needs could not be met by a lower level of care within the home or community. Our team requested reconsideration and it was again denied. The family, who had previously tried community-based services and could no longer safely care for their child at home, submitted a second appeal. A determination was not made until in early March 2022 – over two months later – and, again, the appeal was denied. I would also note that the Department’s CALOCUS-CASii, which is a process they use to determine a youth’s needed level of care, scored this adolescent as requiring residential care, but his application was still denied because he hadn’t failed a lower level of care within the past 6 months.

In May 2022, our team re-submitted the residential application and DHHS ultimately made an exception to the “fail first” rule and approved the application. It then took an additional 7 months to identify a residential facility that could safely care for this child’s needs.

In December 2022, the child was transferred to a residential facility in Florida – one year after he was hospitalized at Spring Harbor Hospital. This patient experienced an entire year of holidays, a birthday, and a full year of his formative teen years in a hospital, further institutionalizing his experience at the highest level of care. The “fail first” requirement prolonged his hospital stay for a full 5 months while we sought MaineCare’s approval, and his year-long hospitalization cost the system $1.25 million. Unfortunately, this patient’s story is not unique.

Spring Harbor Hospital is an acute care, locked, inpatient facility intended to safely assess and treat patients at the peak of their mental health crisis. Our length of stay is intended to be approximately 14 days. It is not acceptable for a child to live in this extremely restrictive setting for a year. Based on that length of stay, we could have served 10 to 11 other adolescent patients requiring inpatient level of care in the time that it took to seek MaineCare’s approval for this one patient.

Although DHHS is allowing exceptions to the “fail first” rule, it is not without an extremely lengthy process of applications, denials, re-considerations, and appeals. This prolongs hospitalization unnecessarily, prevents us from providing services to patients languishing in hospital Emergency Departments with more acute treatment needs, and promotes institutionalization at an even more restrictive setting than residential environments. It is for that reason, I urge you to vote “Ought to Pass” on LD 378 and permanently repeal this requirement for children in certain situations.

Thank you and I would be happy to answer any questions you may have.