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Resolve, To Improve the Continuity of Care for Individuals with Behavioral Issues in Long-term Care

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, citizens of the State who are elderly and who develop behavioral issues due to dementia or other reasons are receiving inappropriate treatment, often at significant emotional costs to themselves and at significant financial cost to the State; and

Whereas, the long-term care facilities that provide care to these individuals lack the resources to serve the persons they are caring for; and

Whereas, there exist policies and best practices that could improve the treatment of these individuals and that can be made reasonably available within existing resources; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1 Implementation of recommendations. Resolved: That the Department of Health and Human Services, referred to in this resolve as "the department," shall continue its efforts to implement the recommendations contained in its report to the Joint Standing Committee on Health and Human Services pursuant to Resolve 2007, chapter 61. The department shall report to the Joint Standing Committee on Health and Human Services by February 1, 2010 on the department's progress. In implementing these recommendations, the department shall:

1. Redirect its services to adult MaineCare members to focus on earlier intervention so as to treat challenging behaviors at an earlier stage;
2. Identify individuals for earliest possible intervention and provide support and training to nursing facility staff in regard to managing the challenging behaviors of these individuals;
3. Provide support and training to in-state long-term care facilities that accept individuals who have been placed outside the State and who are returning to the State;
4. Convene an integrated team to develop a means to prevent placement outside the State and to assist in developing appropriate placements for individuals in in-state facilities;
5. Review each out-of-state placement annually to assess the individual's functional and behavioral status to determine if the individual may be returned safely to an in-state facility;
6. Educate long-term care facility staff regarding the obligations of the facilities under licensing rules governing transfer and discharge requirements; and
7. Review current contracts and practices regarding geropsychiatric units to determine if the geropsychiatric units are being properly used; and be it further

Sec. 2 Reimbursement. Resolved: That the department shall work with interested parties to undertake a review of the current reimbursement system used to establish payment for individuals in long-term care facilities to determine if current reimbursement is adequate and reasonable for the provision of high-quality care for individuals with behavioral issues. The department shall report its findings to the Joint Standing Committee on Health and Human Services by February 1, 2010; and be it further

Sec. 3 Standardized transfer protocol; improved discharge planning. Resolved: That the department shall work with representatives of the long-term care ombudsman program established pursuant to the Maine Revised Statutes, Title 22, section 5106, subsection 11-C, hospitals, nursing facilities and residential care facilities to improve the transparency and coordination of services between hospital discharge planning and long-term care facility admission to provide patients and their families with a more coordinated, efficient and patient-friendly process that meets the specific needs of individual patients, including behavioral health needs. The department shall develop and implement a standardized transfer protocol, including improving the support offered to a long-term care facility when a hospital has determined that an individual is ready to be discharged back to the long-term care facility, and consider the following:

1. The hospital discharge planning process and methods to provide at the outset all patients with a summary of patients' rights during the discharge process, including the right to await transition out of hospital care until satisfactory placement can be found at a nursing facility, residential care facility or other long-term care facility or with a home health care provider, based on the patient's medical needs;

2. Methods for providing patients in the hospital discharge planning process with a comprehensive list of patient resources and contact information for guidance and support during the discharge process, including contact information for the long-term care ombudsman program and the Department of Health and Human Services, Bureau of Elder and Adult Services, as well as a copy of the most recent report from the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services on the federal ranking system for nursing facilities providing care for Medicare and Medicaid recipients in those areas where the patient resides or wishes to reside; and

3. A hospital discharge planning process in cases where the patient has behavioral health issues that ensures the involvement or consultation with representatives from the Department of Health and Human Services, Bureau of Elder and Adult Services, and Office of Adult Mental Health Services to improve the coordination, planning and efficiency of the discharge process for the patient.

The department shall report on implementation of the protocol, as well as provide proposed recommendations for changes that would improve the hospital discharge planning process, to the Joint Standing Committee on Health and Human Services by February 1, 2010. The Joint Standing Committee on Health and Human Services is authorized to submit legislation related to the report to the Second Regular Session of the 124th Legislature; and be it further

Sec. 4 Alternative funding sources. Resolved: That the department shall undertake a review of existing and potential payment sources for assessments and treatments that are currently unavailable to individuals with behavioral issues because the individuals do not have a diagnosis of severe and persistent mental illness. The department shall submit a report, together with any recommendations for legislative or rule changes, to the Joint Standing Committee on Health and Human Services by February 1, 2010; and be it further

Sec. 5 Levels of care. Resolved: That the department shall work with interested parties to explore the need for a supplementary level of care to accommodate the needs of individuals with behavioral issues who, because of the severity of their behaviors, are not appropriate candidates for return to an existing long-term care facility but who no longer require an acute hospital setting. The department shall submit its report, together with any recommendations for legislative or rule changes, to the Joint Standing Committee on Health and Human Services by February 1, 2010; and be it further

Sec. 6 Coordination. Resolved: That the department shall conduct the work required by this resolve within existing resources and to the extent possible shall coordinate it with similar work addressing similar issues for any other population group. The department shall facilitate the exchange of information and communication among workgroups with the goal of maximizing department workload and fiscal efficiencies as well as the impact and effectiveness of approaches or solutions proposed or developed within the work process. A description of coordination efforts must be included in any report required by this resolve.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.