Testimony of Katie Fullam Harris
MaineHealth
Regarding LD 1363, "Resolve, Regarding Legislative Review of Chapter 11: Rules Governing the Controlled Substances Prescription Monitoring Program and Prescription of Opioid Medications, a Late-filed Major Substantive Rule of the Department of Health and Human Services."
April 20, 2017

Senator Brakey, Representative Hymanson and distinguished members of the Joint Standing Committee on Health and Human Services, I am Katie Fullam Harris of MaineHealth, and I am here today requesting several specific but important modifications to Public Law 488, the opioid prescribing bill that you passed last year.

MaineHealth is an integrated health care delivery system whose members employ over 900 physicians who care for patients in Maine's southernmost counties and one county in New Hampshire. MaineHealth is in the process of implementing a comprehensive approach to addressing the opioid crisis, and our prescribers are working hard to comply with the law and its corresponding rule. MaineHealth supported passage of what has become Public Law, Chapter 488, and we appreciate the opportunity to suggest modifications to the law that will support its intent while ensuring that providers are not hindered in providing the most appropriate, evidence-based care to their patients. <u>We offer these comments in addition to those provided by the Maine Hospital Association, of which we are fully supportive.</u>

<u>Exceptions</u>

Public Law 488 allows an exception to the amount of opioids that can be provided to patients under certain circumstances. Patients who undergo surgery are often appropriately administered opioids in excess of 100 morphine equivalents. The law provides for this scenario when patients receive surgery as an inpatient, but it fails to recognize the need for the exception to address surgery provided in other locations, such as outpatient facilities. For example, Maine Medical Center has an extensive outpatient surgical facility in Scarborough that is not addressed in the current law.

We ask that the following language be added to address this critically important scenario:

"B. When directly ordering or administering a benzodiazepine or opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long term care facility or a residential care facility, <u>or to a person in connection with a surgical procedure."</u>

Medication Intolerance or Allergy

In response to a request from MaineHealth, the Department provided an exception to the amount of opioid medication that a patient can be prescribed within a seven day period if the patient has a documented intolerance or allergy to the first prescribed medication. We appreciate that the Department attempted to address this scenario in its rules by adding Exemption Code H. Unfortunately, Exemption Code H requires the patient "to bring the full remainder of the initial prescription to the pharmacy for collection prior to dispensation of the second prescription." This provision directly conflicts with the Drug Enforcement Agency's Final Rules on Prescription Drug Disposal which requires that pharmacies be registered takeback sites if they are to take back controlled substances (and there are very few takeback sites in Maine) and, in the case in which a pharmacy is an authorized drug takeback site, it explicitly prohibits authorized collectors' staff from handling collected substances. This precludes a pharmacy from identifying whether the patient has brought the "full remainder" of the prescription back to the pharmacy for collection.

To address this problem we suggest that you add a specific exemption to the law in the cases in which a prescriber documents that a patient is intolerant to the prescribed medication.

Exemption for Failed Taper with Documented Loss of Function

Medicine is not a perfect science, and circumstances arise from time to time that defy our current medical knowledge. In these cases, it is critical that prescribers not be placed in the untenable position of breaking the law to provide the best care and treatment for a patient. We respectfully ask that the department add a provision that allows for exceptions in these rare circumstances. Such exceptions should require documentation in the patient record of a loss of function and a history of failed attempts to taper the individual.

Prescription Monitoring Program (PMP)

MaineHealth is committed to using the Prescription Monitoring Program as a means to ensure that patients are not being overprescribed opioids and benzodiazepines. As a hospital-based system, we have identified a significant challenge for our patient-centered surgical care teams, as members of the teams serve multiple functions to support the best care of a given patient. As such, there are multiple members of a team who may prescribe opioids or benzodiazepines to a patient. The PMP requires a designee to identify the specific prescriber for whom he or she is checking the PMP. This creates significant problems when the designee does not yet know which member of the care team will write the opioid or benzodiazepine orders upon patient discharge.

Members of care teams are defined by the hospital, and are currently listed in the PMP. The challenge is which prescriber to select for a given patient.

We request that the law clarify that a designate of the PMP have the ability to select "surgical care team" on the PMP without specifying the individual prescriber. If this is not acceptable, we would ask that a care team be allowed to identify a "prescriber lead" who could be selected on behalf of the care team, though not necessarily write the prescription.

Electronic Prescribing and the Veterans' Administration

Many of our patients are also patients of the Veterans Administration (VA). It is not infrequent that a MaineHealth provider writes a prescription to be filled by the VA. The VA system cannot accept electronic prescriptions, and we are told that it will not be able to do so in the foreseeable future. This will create significant challenges for our patients who currently get their prescriptions filled through the VA.

We recommend that the law create an exemption to the electronic prescribing requirement for opioid prescriptions filled by the VA.

As a health system, we are making important strides to address the opioid epidemic. When PL 488 passed, we knew that tweaks would need to be made. We have now identified those tweaks, and we ask that you support amending the law to allow improved implementation of PL 488 to ensure the best patient care possible.

Thank you for your time and attention, and we would be happy to answer questions.