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State of Maine  
 ONE HUNDRED AND TWENTY-EIGHT LEGISLATURE  
 COMMITTEE ON APPROPRIATIONS AND FINANCIAL AFFAIRS

The Honorable Paul R. LePage  
 Governor of Maine  
 1 State House Station  
 Augusta, ME 04333

January 6, 2017


Dear Governor LePage,

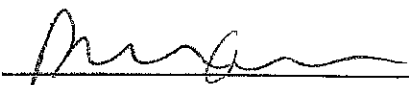
Attached is a list of questions from various members of the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services. The list of questions was generated during and following a joint meeting held on January 5<sup>th</sup> under the direction of the Legislative Council to provide recommendations on the placement of a proposed secure forensic facility. Also attached is testimony that was presented by a patient and signed by several other forensic patients currently residing at Riverview. This testimony contains a number of questions which may be useful to the hospital administration as they communicate upcoming changes to the affected patients.

We would appreciate a response by the end of the day on Friday January 13, 2017 with answers to as many questions as possible and a time by which the remainder of the responses will be provided. You may provide the responses to either one of us directly or to either Committee Analyst ([Maureen.Dawson@legislature.maine.gov](mailto:Maureen.Dawson@legislature.maine.gov) or [Anna.Broome@legislature.maine.gov](mailto:Anna.Broome@legislature.maine.gov).)

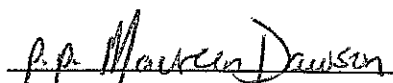
Thank you for your consideration in this matter.

Sincerely,

  
 \_\_\_\_\_  
 James Hamper, Senate Chair  
 Appropriations and Financial Affairs

  
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 Drew Gattine, House Chair  
 Appropriations and Financial Affairs

  
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 Eric L. Brakey, Senate Chair  
 Health and Human Services

  
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 Patricia Hymanson, House Chair  
 Health and Human Services

Enclosure

cc: Mary Mayhew, Commissioner, Department of Health and Human Services  
 Richard Rosen, Commissioner, Department of Administration and Financial Services

# Questions for the Administration New Forensic Facility

## Joint Standing Committees Appropriations and Financial Affairs and Health and Human Services January 5, 2017

### 1. Structure and Location

- The administration has said that it has now determined that Bangor is a preferable location. Why does the administration believe that Bangor is more advantageous than Augusta?
- Describe any changes to the design, construction and scope of the facility based on the change in the planned location.
- When it came before the Legislative Council, the Department said that moving ahead in a location other than Augusta would result in an additional cost of \$1 million to the project. What is the basis for those additional costs? Is this true for the location selected for Bangor?
- Would there be operational savings in areas such as food service, laundry, etc. if the facility were co-located with Riverview or Dorothea Dix?
- According to Judge Wathen, all or most of the patients for this new facility will be coming from Riverview. How will the facility deal with the concerns of the Court Master regarding transporting patients back and forth between Riverview and the step-down facility? How much does the department estimate the additional transportation and security will cost on an annual basis compared to locating the new facility in Augusta?
- What is the intended supervisory, consulting or patient management relationship between Dorothea Dix staff and the step-down facility?

### 2. Population and Services

- The Department described to the Augusta Planning Board that the facility will be limited to the Not Criminally Responsible (NCR) population. Is this still accurate or will it include other forensic patients (ISTs, jail transfers, people awaiting evaluation, etc.)?
- The administration last year brought a proposal that would have allowed DHHS to send some forensic patients to the prison at Warren. Please confirm that this is a different population of patients than those who would go to this new facility.
- Would you describe the proposed facility as more correctional or health care? Why?
- Describe the security aspects and rehabilitation goals of the facility. Are there any current models within or outside of Maine that we can look to?

- How will the Administration address the issue of continuity of treatment plans and patient relationships for Riverview patients moved to the step-down facility?
- The Department has said that the facility will be licensed under its Assisted Living Rules as either a “Level IV Residential Care Facility” (RCF) or a “Level IV Private Non-Medical Institution” (PNMI). These licensing rules lay out a description of those facilities in broad terms but there is nothing specific in those rules that provide any insight into how treatment would be provided for a forensic population or people with mental illness. How does this facility meet the needs of both patients and providers with regard to management, treatment, and safety?
  - Some of the design aspects of the building (high walls, thick doors) seem very prison-like, and not consistent with an assisted living facility. How is a Level IV RCF or PNMI consistent with the level of security that this population might need? Is this consistent with the needs of this forensic population?
  - A Level IV RCF or PNMI can operate with as few as two staff people. That does not seem consistent with this population of people, the security needs or their treatment needs. What will the staffing levels be in this facility? What is the staffing plan? What will be the roles of the varying staff members?
  - A Level IV RCF or PNMI provider is required to provide the department with a written admissions policy at the time of application for licensing. What will be the admission criteria? Who will decide who moves into this facility and how will that decision be made? Does the Department believe it needs a Court order to move people into the facility or to move them back into the hospital, or is this within the Commissioner’s discretion?
- Does the Department anticipate medication management, both prescribing and administering, as part of the scope of treatment in this facility?
- In addition to admission criteria, what are the discharge criteria? Will there be discharge planning and defined discharge standards in conjunction with families, other service providers, law enforcement, housing?

### **3. Relationship With the Community Mental Health System**

- How and at what point in the process does the Administration intend to solicit and incorporate stakeholder input, especially mental health advocacy perspectives? And how will the Department incorporate input from the Consumer Council System of Maine, NAMI, Disability Rights Maine and other critical stakeholders into each phase of the Riverview Secure Rehabilitation Facility project’s development, including vendor selection, site location, building, staffing, and care.
- Where does the proposed step-down facility fit into a broader strategic plan for mental health prevention and care in Maine? What are the other priorities for expanded services (e.g., elderly,

children, aggressive patients), and does the Administration have a comprehensive, longer term plan for prioritizing and coordinating initiatives?

- What new or different community-based services will be needed to accommodate releases from the step--down facility?
- How does the proposed facility address the requirements of the consent decree?
- What preventive mental health strategies does the Administration intend to bring forward to minimize institutionalization and bricks and mortar investments in the future?

#### **4. Outsourcing/Vendor Selection**

- Why does the Department think outsourcing the facility operation is preferable to the State continuing to manage the care of these patients?
- Would a publicly run facility be incompatible with the Department's goals? How?
- Was a cost analysis done of a public vs. private facility?
- What is the length of the contract and why?
- What are the qualifications that the Department will require for the vendor?
- What previous experience will the Department require of the vendor?
- Will the vendor be responsible for providing treatment or just for the custodial care and security of the patients?
- What will the payment structure be to the vendor? Fixed fee? Capitated? Cost-based? Other?
- Would a private vendor/contractor be required to provide similar training, salary and benefit programs as similar state employees?
- Who will ultimately have oversight over the patients as they are moved into this facility? What, if any, role will there be for the superintendent, medical staff, social workers, and other RPC staff currently serving? What will be the relationship between RPC and this new facility?
- What performance standards will the Department require in the contract and how will the provider's performance be evaluated?
- Will the contractor keep and maintain public records and provide the public with the same level of transparency under the State's Freedom of Access laws and open meeting laws?
- How are accountability, transparency, consent decree compliance, patients' rights, and reporting requirements built into the RFP? What paths of recourse will be built into the RFP and contract to deal with failure to comply with the terms of the contract?

## 5. Funding

- How did the Department come up with its estimated budget for operations? What are the assumptions that went into the estimate of \$2.6 million per year?
- We need to understand more about how this facility is funded, for both construction and ongoing operations. What accounts are these funds coming from? What was the original intended use of these funds? Were these funds available because of cut or decreased services in another area?
- Is it more economically beneficial to build two smaller facilities so this proposed solution is not an IMD? Are there other configurations possible that would make it possible to draw down federal Medicaid funds to support the facility (e.g. two 15-bed facilities)?
- What legal authority does the Department have to build this facility or create this new service model without legislative approval or a specific appropriation?

## 6. Update on status of CMS certification and funding

- How will the proposed facility ensure that Riverview regains CMS certification and have there been specific discussions between DHHS and CMS regarding the impact that the building of this facility would have on regaining federal certification?
- Is the Department continuing to draw down federal funds to fund Riverview operations? If so, are there any updates on whether CMS will allow Maine to continue to draw down these funds and is there a potential for CMS recoupment?
- How are other states addressing similar certification issues resulting from housing forensic patients who no longer require hospital level of care?

To Whom It May Concern:

Many patients on the Upper Saco Unit at the Riverview Psychiatric Center have questions and concerns pertaining to the new 21 bed "step down" facility being contemplated. No matter who we ask questions to they say they don't know. That the answers will depend on who will be running the facility. We have been told that it would be privatized but nobody seems to know who will be selected for that job. Meanwhile it appears that there is a push to build the new facility without input by the patients who will be living there.

We have been told that this new facility will be "somewhat like a group home." We know what other group homes in Augusta are like and what happens in them. We would like to know how much "like a group home" this new facility will be.

When Riverview was built the patients were told about it but were not included in any discussions about the inner workings of the facility. As a result there were changes needed after the patients moved in.

Each unit has two phones for patients to make and receive phone calls. However these phones were out in the open so anybody walking by could hear what was being said by the patient on the phone.

The Rights of Recipients requires privacy for patients to speak with their lawyers, clergy, etc. After grievances were filed, Riverview had to build a phone booth with a door on each unit in order to comply with the Consent Decree.

There is a computer lab with 5 computers to share with 92 patients and no room to expand.

There is a visiting room on each unit that has to be shared with the other patients on that unit. Patients are allowed to order out a meal to share with their visitor. However, if another patient gets a visit, the present visit is cut to one hour and the meal ordered is not able to be eaten because of the time restraints.

These are just some examples of things that could have been avoided had the patients been involved in discussions prior to Riverview being built.

After speaking with the patients on Upper Saco here at Riverview, the following are the questions and concerns voiced by the patients. We feel they are valid questions and concerns and we would like to have answers to them prior to the new facility being built or at least before moving into the new facility.

Since we have not seen any blueprints of the new facility, we don't know if any of the following questions and concerns have already been addressed.

Will there be an onsite medical doctor to take care of medical needs? If not, where will medical needs be taken care of? Will there be an onsite medical exam room?

Will there be an onsite substance abuse counselor with his own office to speak privately with patients?

Will there be onsite Peer Support, Patient Advocates, and Therapeutic Recreational Staff with their own offices? If not, will they even be involved with us?

Will there be onsite counselors with their own offices for conversations with patients. If not, how would we make them available?

Will there be onsite case workers with their own offices to assist with patient needs?

Who would oversee our medical, dental, and vision situations?

Will we have full time providers?

Who will write our institutional reports?

How will medication be administered?

What would be the staffing ratios?

Would there be Nursing 24hours a day?

Where religious services would be held? At Riverview? In the community? What about patients who can't go into the community?

Will there be an activity room or a day room for patients to do things in?

Will there be a courtyard for outside activities?

Will smoking be allowed as in other group homes? If so, will there be a designated smoking area for patients who can't go off grounds?

Would there be an all-male population or would there also be female patients housed there?

Would each patient have their own private room?

Would there be private or community bathrooms and showers?

Will there be a kitchenette or someplace for patients to store their own food?

How often would there be treatment team meetings?

Will patients be allowed their own televisions in their room? If so, would it have to be locked in a box as at Riverview?

Will patients have access to electronic gaming stations? Personal or otherwise?

Will there be a computer lab or will the patients be allowed to have their own computers in their room as in other group homes?

Will there be phone booths for private conversations with lawyers, clergy, etc. or will patients be allowed to have their own phones on them as in other group homes?

Will meals be provided in the new facility or will food be transferred from Riverview to the new facility?

Will patients still fall under the Consent Decree if privatization is involved?

Will patients retain the same privileges that currently have here at Riverview?

Will there be adequate visiting areas?

Will the new facility have onsite groups or will they be able to return to Riverview for groups?

Patients living on AMHI grounds cannot collect Social Security. At Riverview, patients can get jobs within the facility. However, the new facility will only hold 21 patients. If a patient does not have court permission to go into the community, what kind of employment opportunities would the patient have to earn money? Many patients would like to be able to save some money so they have something to start off with when they get out.

Will patients be able to leave the new facility to a supervised apartment?

Will patients at the new facility have the opportunity to move forward?

What will be done at the new facility that is not already being done at Riverview?

Will there be onsite washers and dryers so patients can do their laundry? If not, where would the laundry be done?

Will there be a gym for patients to use?

Will there be a library or a reading room with books for the patients to use?

We believe the above questions are valid and worthy of discussions and answers.

*Paul Paul*  
Respectfully, *Paul Paul*

*Donald Beuchone*

*LeRay Smith*

*Thomas V. Cole*

*William B. ...*

*Scott John Audet*

*Jason Woods*

*Misty Cornell*

*Pat Carpenter*

*Emergy Finney*