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President and CEO

Ambassador (ret.) Barry B. White
Chairperson of MAMH Board of Directors

September 12, 2023

The Honorable Jay D. Livingstone
Chair, Joint Committee on Children, Families
and Persons with Disabilities
24 Beacon Street, Room 146
Boston, MA 02133

The Honorable Robyn K. Kennedy
Chair, Joint Committee on Children, Families
and Persons with Disabilities
24 Beacon Street, Room 507
Boston, MA 02133

Submitted via: JointCommittee.Children&Families@malegislature.gov

Dear Chair Livingstone, Chair Kennedy, and members of the Joint Committee on Children, Families and Persons with Disabilities:

Re: H.3870/S.2434, An Act Establishing a Designation of a State Protection and Advocacy System

On behalf of the Massachusetts Association for Mental Health, we write in support of H.3870/S.2434, An Act Establishing a Designation of a State Protection and Advocacy System.

Formed over a century ago, MAMH is dedicated to promoting mental health and well-being, while preventing behavioral health conditions and associated disability. We are committed to advancing prevention, early intervention, effective treatment, and research for people of all ages. We seek to eliminate stigma and discrimination and advance full inclusion in all aspects of community life. This includes discrimination affecting not only people with behavioral health conditions, but also people who face unequal burdens and barriers to the protections and benefits of citizenship due to their race, ethnicity, gender identity, or disability status. MAMH furthers its mission by convening stakeholders across the behavioral health and public health communities; disseminating emerging knowledge; and providing subject matter expertise to inform public policy, service delivery, and payment methodologies. MAMH works on behalf of people of all ages who are at risk for or live with behavioral health conditions and addresses as a priority the adverse conditions that most often disrupt mental health and well being.

MAMH has a strong interest in ensuring the safety and welfare of persons with disabilities. While we firmly believe in the potential for persons with behavioral health disabilities to live fully realized lives, we also are aware that there remains in our society the potential for abuse, neglect, and financial exploitation of such persons. While there are a range of possible approaches to mitigate such risks, having a robust legal advocacy system is a fundamental requirement for redress. However, when legal advocates are hindered in their investigatory efforts by inadvertent yet real obstacles, their capacity for offering protection is dangerously muted. In our experience, we have seen the risks and injuries, sometimes fatal, that persons with behavioral health conditions have endured in Massachusetts. We have also witnessed the obstacles that federally-funded Protection & Advocacy staff have faced, due to shortcomings of the federal statutory language. We urge you to support these bills to protect against such outcomes in the future.

We believe this legislation is correct in its focus. It has targeted specific areas where Protection & Advocacy staff have experienced frustration in obtaining basic information necessary to ensure public safety. The agency already has wide investigatory authority under federal law; this legislation simply codifies that authority in state law and addresses access points that have presented confusion in recent years, resulting in delay for the exposure of problems and the diversion of resources by all parties for resolutions which could be better used for care of persons served.

Among the pressing issues this bill would resolve are these three:

- The bill would provide the Protection & Advocacy agency with monitoring authority in all places where there are health and safety issues potentially affecting residents. This may include locations inaccessible to individuals but which present risks nonetheless. The Disability Law Center (DLC) has cited the example of locations within Bridgewater State Hospital (BSH) where mold was present as an example. MAMH has been a consistent advocate for the health of BSH patients, including their physical health. We have depended upon DLC having full information in their work at BSH as we advocate for short term fixes and longer-term reform.
- This bill would provide the Protection & Advocacy agency with access to discharge-ready lists in state psychiatric hospitals without need for a probable cause determination. From our experience advocating for individuals stuck in emergency departments, on acute care psychiatric units, and in Department of Mental Health (DMH) operated and contracted chronic care psychiatric units, we know that it is necessary for advocates to understand the barriers individuals are facing to discharge – both to remedy individual cases and to pursue systemic reforms. We need this information to help address the crisis in our emergency departments and throughout our behavioral health continuum of care. Moreover, this information allows advocates the opportunity to work with state officials to ensure that the Commonwealth is in compliance with *Olmstead* requirements.
- This bill would provide the Protection & Advocacy agency with access to death investigations without a probable cause determination. Lack of full access has been a problem in recent years in DMH death investigations. MAMH remains concerned about the risk of fatality in institutions where people with disabilities are confined including hospitals, schools, therapeutic homes, prisons, and jails. For example, in the past budget cycle, MAMH has sought to address the high risk of suicide for people in our county jails and prison, seeking funding for expert reviews of these facilities. Our work has convinced us that many institutional suicides and suicide attempts could be avoided with proper analysis of past events, and that review must involve independent outsiders. But that requires access to all information around deaths. This bill is essential for such efforts.

For all of the above reasons, MAMH urges the Committee to act favorably on H.3870/S.2434, An Act Establishing a Designation of a State Protection and Advocacy System, and establish these needed state law protections for people with disabilities.

Thank you for the opportunity to provide testimony regarding this legislation.

Sincerely,



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Co-Director of Public Policy and Government Relations



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c. Rep. Christine Barber
Sen. James Eldridge

