Maine Developmental Services Oversight and Advisory Board – Meeting Summary

Date: September 29, 2026
Location: Zoom
Time: 10:00 a.m. – Noon

Key Topics

- Positive Behavioral Support Plan - status of pending Support and Safety Committee
- Texas v. Kennedy - implications for the right to community integration
- Recent Residential Closures
- Lifespan Waiver Application – continued discussion

Attending

Board: Cullen Ryan (Chair), David Cowing, Rachel Dyer, Richard Estabrook, Kim Humphrey, Ann-Marie Mayberry, Kim Moody (for Barrett Littlefield), Jennifer Putnam, Katie Qualey, Rory Robb, Fatia Waite, Joshua Weidemann
Staff: Valerie Landry, Interim Executive Director; Amanda King, Clerk of the Board

Actions

- Accepted without objection: 2026 Financial Close-out Report
- Accepted with clarification: September 9, 2026 Board Meeting Summary
- Agreed: Send questions to DHHS regarding status of new Positive Behavioral Support Plan
- Agreed: Send questions to DHHS regarding recent residential closures
- Agreed: Acknowledge Governor Mills' efforts to preserve community integration rights

Asterisks (*) next to information below denotes additional information at the conclusion of the summary.

Discussion

1. 2026 Financial Close-out Report presented by Susan Prew
   → Motion to accept: Richard Estabrook
   Seconded: Fatia Waite
   Accepted without objection

2. September 9, 2026, Meeting Summary, as clarified
   → Motion to accept: Rory Robb
   Seconded: Fatia Waite
   Clarification made to Summary item 1.5. The word "assigned" refers to the DHHS explanation that some existing case managers might apply/assume case management positions under the proposed Community Resource Coordination waiver. Therefore, individuals might not lose existing case managers who could be working in the new system. The draft 9/9/26 summary will be modified.
   Accepted without objection

3. Positive Behavioral Support Plan – Support and Safety Committee
   Richard Estabrook

   Per LD 769*, the regional review committees are replaced by a Support and Safety Committee, which includes representation from self-advocates, families, Disability Rights Maine, and MDSOAB. Rory Robb has been nominated as the MDSOAB representative. DHHS disbanded the prior review committees in April 2026 with

little information to members or providers regarding transition to the new model. Subsequently, DHHS stated that the new committee and associated rules are not expected until Spring 2027, which could mean a one-year gap in oversight and review of behavioral plans. As of March 2026, 35 people had aversive behavior modification plans, which were reviewed every six months by the prior review committees.

→ Motion made to request information from DHHS regarding the status of existing plans and the status of implementation of LD 769. (See questions below.)
Motion made by Richard Estabrook
Seconded by Rory Robb
Agreed without objection

- How many people have behavioral plans? How are these plans being reviewed and monitored?
- What progress has been made in developing differential reinforcement of incompatible behavior and/or environmental modifications?
- What guidance has been issued to individuals, families, and service providers?
- Who are the members of the new committee? When will it convene?
- What is the timetable for issuing draft regulations? Who will be involved in creating them?

4. Texas v. Kennedy
Richard Estabrook

On September 23, 2026, the U.S. District Court for the Northern District of Texas issued a final judgment* approving a joint settlement that vacates the community integration provisions "most integrated setting," from the U.S. Department of Health and Human Services 2024 Section 504 regulations. The order applies nationwide. Although this ruling does not overturn *Olmstead** or change the ADA or Section 504, which require services to be provided in the most integrated setting appropriate, it weakens enforcement of these laws. No immediate impact is expected in Maine which has robust state laws that protect individual rights to community services. It is not clear however, how this ruling will affect federally funded programs, and it will make it more difficult for individuals to harness legal resources to force states to deinstitutionalize. Most, if not all, disability advocacy groups have criticized the decision as rolling back decades of progress. Eighteen governors, including Governor Janet Mills, sent a letter* to Attorney General Todd Blanche which stated, "We strongly oppose any federal actions that would weaken protections against unnecessary segregation or diminish the right of people with disabilities to receive services in the most integrated settings appropriate to meet their needs, consistent with established *Olmstead* precedent. Community integration is not an abstract legal concept. It means having a home, being able to work, attend school, shop, worship, build relationships, and participate in an ordinary civic life."

Comments:

- Contact federal representatives and remain abreast of developments regarding the HCBS Access Act*.
- Brief candidates for federal and state offices. DRM, DD Council, and SUFU have convened candidate forums. Although well-attended in prior years. attendance was not as high this year.

→ Motion made by Richard Estabrook to thank Governor Mills for joining other Governors in letter to Attorney General Todd Blanche.
Seconded by Rory Robb
Agreed without objection

5. Recent Residential Closures

Comments:

1. The board became aware via media reports* of the closures of several residential programs resulting in the relocation of dozens of individuals to alternative settings.
2. Although the MDSOAB was informed at its 9/9/26 board meeting that closures were underway with more expected, it did not receive formal notification regarding the specific organizations or circumstances.
3. DRM was formally notified of the closures.
4. It was noted that these events result from the decision several years ago to rely on unlicensed residences with inexperienced providers. The result was predictable and predicted.
5. The extent of DHHS oversight and monitoring of these unlicensed residences is unclear.
6. The interval between hiring direct support staff and Child Protective Services background checks is approximately three-weeks, which often results in losing candidates—a serious problem given staff shortages.
7. The DHHS open Vendor Call process does not support the careful pairing of individuals (particularly those with high needs) with providers with the requisite experience and capacity.
8. Background checks are not being done consistently.
9. Individuals in an unlicensed home in Hampden, Maine were subjected to extreme abuse. *

The board compiled the following questions to discuss with DHHS. [Note: include topics from prior meetings.]

- How are the issues in these residences being discovered?
- How many individuals have been relocated? Where? Are all new locations licensed?
- If more closures are expected. how many other people could be affected?
- What is the impact on individual plans, i.e., community activities, relationships, clinical services, and employment? Has that information been documented?
- Have affected individuals and families been interviewed to understand their experiences? If so, is that information consolidated for review? If not, what steps can be taken to hear from them directly?
- What are the characteristics of the closed residences, e.g., size, profit, nonprofit, years in operation?
- Why were unlicensed residences allowed? How many individuals now reside in unlicensed residences?
- How many unlicensed residences are in operation? How many have conditional licenses?
- What was/is the monitoring/oversight of these unlicensed residences, i.e., who visits, how frequently, how are background checks monitored/verified, etc.? How are Shared Living residences and/or independent living residences monitored?
- Are individuals and families apprised of the distinction in due diligence between unlicensed and licensed (or accredited) settings?
- How are case managers involved in monitoring, relocation, and licensing reviews?
- What provisions were made for high-needs individuals given the providers limited experience?
- What steps have been taken, information compiled, and lessons learned regarding the failure in oversight at Lee Residential Care? How have the individual and family involved been supported?

6. Lifespan Waiver Applications

Comments:
The comments below add to prior board comments and questions expressed to DHHS

- Recent residential closures have heightened concern for some regarding DHHS capacity to effectively implement Lifespan, especially as many aspects of Lifespan have yet to be developed or clarified.
- Concern was expressed regarding the capacity/effectiveness of existing DHHS oversight and monitoring.
- The system itself needs to be redesigned; adding Lifespan will result in continuation of the same problems.
- How many waivers exist in other states of similar size to Maine?
- What financial and human resources will be needed in the years ahead to provide existing services?

- What funds will be diverted from existing services in order to fund Lifespan?
- Complaints about services can result in retaliation; complaints are not taken seriously or are ignored.
- The increased use of for-profit entities prompted the following questions and observations:
  - In at least one instance a for-profit provider left the state after establishing presence here.
  - How are for-profit providers deriving profit from MaineCare funded services given that reimbursements rates do not cover the full cost as is?
  - For-profits are not able to fundraise, reducing potential long-term needed resource development.
  - Questions exist about business plans that involve the sale of real estate, extracting as much money from the system as possible, and reducing the availability of residential options.
  - Concern expressed regarding reduced local accountability.

*Additional information: Texas v. Kennedy judgement; Olmstead History; Governors' Letter; National Council on Independent Living; HCBS All Access Act; Lee Residential Care.

1. Texas v. Kennedy final judgement: https://www.aapd.com/wp-content/uploads/2026/09/125._Order_and_Final_Judgment.pdf

2. Olmstead history: Olmstead Rights, https://www.olmsteadrights.org/about-olmstead/#Brief%20History%20of%20Olmstead)

3. Governors' Letter to Attorney General Todd Blanche (September 3, 2026) https://www.governor.ny.gov/sites/default/files/2026-09/Governors_Letter_on_Olmstead_9-2026.pdf

4. National Council on Independent Living regarding House resolution in support of community integration. https://ncil.org/news/announcements/house-resolution-introduced/

5. HCBS All Access Act: https://www.congress.gov/bill/118th-congress/senate-bill/762/text

6. Link to media report on residential closures, including DHHS formal notification to providers. https://wgme.com/news/local/two-care-providers-to-lose-mainecare-billing-privileges-next-month-maine-healthcare-quality-care-access-we-care-residential-services

7. Excerpt from Portland Press Herald, September 10, 2024, Lee Residential, Hampden
BANGOR — A residential care center employee in Maine is going to prison after pleading guilty to what prosecutors described as "grotesque and pervasive" assaults on a disabled man. Zachery Conners, 26, was among four workers accused of abuse including waterboarding, choking and sexually assaulting a nonverbal adult male client at the Lee Residential Care center in Hampden. He pleaded guilty to endangering the welfare of a dependent person over a three-year period and was sentenced on Aug. 30 to 2 ½ years in prison. His three former colleagues await trial on similar charges, according to court documents. Prosecutors said the four workers had complete control over residents and used their power to commit torture and abuse. Conners was accused of choking the victim until he passed out and participating in waterboarding in which the victim's face was covered with cloth while water was sprayed on his face to simulate drowning, prosecutors said.

The next board meeting is October 20, 2026, from 10:00 – Noon via Zoom.