



AMERICAN CIVIL LIBERTIES UNION

Maine

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TESTIMONY OF MEAGAN SWAY, ESQ.

**Ought Not to Pass**

**LD 2075, An Act to Protect Health Care Workers from HIV**

Joint Standing Committee on Health Coverage, Insurance and Financial Services

January 11, 2024

Senator Bailey, Representative Perry and members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services, greetings. My name is Meagan Sway, and I am Policy Director for the American Civil Liberties Union of Maine, a statewide organization committed to advancing and preserving civil liberties guaranteed by the Maine and U.S. Constitutions through advocacy, education, and litigation. On behalf of our members, we oppose LD 2075.

Since the US CDC's first report on AIDS in 1981, our response as a country to HIV has often been filled with fear, stigmatization, and inaction. Biased assessments of who is most likely to contract HIV and how they are likely to contract the virus (predominantly men who have sex with other men and people who use drugs intravenously) have colored our collective response to the disease, which has disproportionately harmed Black people, other people of color, and transgender people within these already marginalized communities at a higher risk of infection. As far as we have come from the science and attitudes of 1981, HIV remains a disease that is stigmatized by medical professionals and society at large. It is in part the stigma surrounding an HIV diagnosis that has led us to legally require informed consent before testing. And, in Maine, where everyone knows everyone, the chances of others in the community learning one's health status is great, and the chance of experiencing stigma is more acute.

It is with this background in mind that we oppose LD 2075. Although the bill limits the circumstances when testing for HIV may be done without consent, we do not think a change in the law is necessary. As you will hear from medical professionals today, the best course of

action to protect a medical professional when they are potentially exposed to HIV is to immediately begin post-exposure prophylaxis drugs (PEP), regardless of whether the exposing patient tests positive. This is the best course of treatment because it can take up to 90 days after contracting HIV before a test reveals that a person is positive. Additionally, HIV tests can return false negatives that would leave health care workers untreated while still subjecting patients to medical testing without their consent.

Testing a patient for HIV who has not given consent and who is incapacitated, when the best practice is to administer PEP to an exposed person regardless of the outcome of the HIV test, is a solution in search of a problem that would most harm the very communities that have already endured decades of stigma and discrimination. We urge you to vote **ought not to pass**.