

EXHIBIT I

AFFIDAVIT OF CHARLENE KINNELLY

I, Charlene Kinnelly, being duly sworn, depose and say:

1. My name is Charlene Kinnelly and I live in Gardiner, Maine. I am currently working as a consultant for public policy and legislative affairs to the Maine Association for Community Services (MACSP). The Association is composed of over seventy agencies throughout the state, who provide services and supports to adults and children with cognitive and developmental disabilities. In my role with the Association, I attend monthly meetings of the full Association, all meetings of the MACSP legislative committee, and many meetings of the financial managers of member agencies,

2. I worked at Pineland Center from 1966 until 1980 in a variety of capacities. I began my career as a social worker and was the Assistant Superintendent when I left. I also served as the acting Superintendent in 1978 and 1979 – the first two years of implementation of the original Pineland Consent Decree. Along with my management team, I put the systems in place which resulted in Pineland being released from Federal Court supervision in 1981.

3. I then worked as the Executive Director of Uplift, Inc. until my retirement at the end of June, 2008. I served as chair of the MACSP legislative committee for 25 years. In addition, I have served on numerous committees and task forces through the years dealing with policy and fiscal issues around mental retardation services. I included in the above are the Advisory Committee on Staff Retention – a legislatively initiated panel whose work resulted in Wage parity with state employees for direct support staff in community-based Intermediate Care Facilities for Persons with Mental Retardation in 1983. I also served on two study commissions charged with analyzing the adequacy of services to persons with mental retardation (1966 and 2003)

4. From 2006 until January, 2009, I represented MACSP on a three person team that worked with the Department on implementation strategies in the standardized rate system, which was implemented in December, 2007. In October, 2008, the Department announced that they were experiencing a shortfall in the Section 21 Waiver account which was projected to be in excess of thirty million dollars in the current fiscal year. The focus of the work group changed to conducting an analysis of the account to determine the cause(s) for the shortfall and serving as the communication liaison to community agencies as the Department has developed its plan to close the deficit .

5. My comments will focus on the impact of the cuts the Department initiated in October, 2008, on Uplift. It should be stated, however, that Uplift's experience is not unlike the experiences of agencies throughout the state. I have learned through my formal and informal discussions with member agency staff that agencies from Houlton to York County have taken some or all of the actions of Uplift which I will detail below.

6. Beginning in 1998, Uplift served as a pilot site for the Department to convert its services to a fully inclusive model. People who lived in homes supported by the agency began

“living their lives from home” rather than participating in traditional day services. People who resided in other settings outside of the agency participated in non-center based integration and employment settings in their respective communities. Larger residential settings within the agency were converted to smaller homes funded through the Waiver. The conversion did not happen easily or quickly. It was a ten year journey. We did learn, however, that individuals supported could live, work, and recreate in their communities regardless of the medical or behavioral challenges they may be faced with. By 2008, 42 people had enjoyed work experiences in integrated settings and earning wages at or above minimum wage. 40+ people supported in integration services were contributing over 100 hours each week volunteering in their local communities in schools, libraries, soup kitchens, and animal shelters, at the Natural Resources Council and the American Red Cross. Many people were taking classes through adult education programs. Others were members of fraternal organizations such as the Elks Club. People had memberships in the local YMCA. On any given day, the building which had previously housed the segregated day program was virtually empty. Only a handful of people were present at any given time.

7. In 2008, Uplift recognized that it could no longer provide fully inclusive services because of the cuts imposed by the Department. It closed its employment division and laid off four employees in April, 2008.

8. It revised its integration program and returned to more large group, segregated activities in order to live within funding mandates based on a staff to consumer ratio of 1:3. Four more employees were laid off in the fall of 2008. The homes operated by the agency had to reduce staffing in order to comply with the Department’s mandate to move toward median staffing. Since the prior staffing approvals were based on all supports being delivered from home, people’s ability to participate in their communities has been cut back. Since the agency supports many individuals with significant medical and nursing challenges, the cut in the rate for Medical Add-ons has presented additional challenges in recruitment and retention of nursing personnel.

9. In order to cut costs, the agency eliminated two paid holidays, altered its paid time off program, and froze the agency contribution to employee health, dental, and life insurance. It assumed management of a small agency in the area when it closed. It changed a four person home to a five person home.

10. With the changes detailed above, the agency projects that it can continue to operate under the current rate structure. If rates are cut further, sustainability becomes questionable. In addition, the projections are based on an assumption that it will have 100% occupancy in its residential settings. Since the Department has closed the Waiver program, that assumption is shaky at best. This is particularly true because the agency supports so many people whose health is compromised because of aging and physical and medical challenges.

11. As stated above, Uplift is not unlike many other agencies. Agencies around the state have closed programs, reduced employee benefits, laid off staff, and closed residences and moved individuals into existing vacancies in other homes. Uplift and others have made significant changes in order to remain viable. Given the current economic climate and the almost certain prospect of further cuts in the immediate future, on-going viability becomes questionable. People

served will be spending more and more time in large group settings, segregated from their communities.

12. In 1983, Maine became the first state in the nation to achieve compliance with the original Pineland Consent Decree. Maine was found in substantial compliance with the provisions of the Decree, both at Pineland Center and in the community. Mechanisms had been put in place to meet the provisions of the Decree. By 1991, however, Maine was slipping out of compliance. State budgetary problems resulted in preventing the remaining residents of Pineland moving to community services. Insufficient funding prevented establishing a sound crisis intervention system which could support people in the community. A “revolving door” led to the reinstitutionalization of people who had been in the community, but were returned to Pineland. Young adults who were exiting the public schools were put on waiting lists because there was no funding for them.

13. These problems led to the reopening of the law suit and the subsequent Community Consent Decree. Today, the comprehensive Waiver (Section 21) is closed. The Section 29 Waiver, which provided day and employment supports to people who live at home, is about to be closed. The community crisis system is facing severe challenges dealing with people who are unable to enter the Waiver. As a result, the crisis system’s ability to respond effectively to crises experienced by people within the system has been compromised.

14. On October 14, Commissioner Harvey informed the Legislature’s Health and Human Services Committee that she expected that she would need to cut up to eighty million dollars from her Department’s budget.

15. Santayana once said that “those who ignore history are doomed to repeat it.” During my forty plus years of working in this field, I have seen this happen repeatedly. I fear that we are beginning to see it once again. The victims are and will be people with severe cognitive disabilities – both members of the Class and non-members.

Dated at Augusta, Maine this 19th day of October, 2009.

/s/ Charlene Kinelly

Charlene Kinnelly

STATE OF MAINE

KENNEBEC COUNTY, ss:

October 19, 2009

Personally appeared the above-named Charlene Kinnelly, and made oath that the foregoing statements by her are true and correct and are made on the basis of her personal knowledge.
Before me,

/s/ Cynthia Barnes

Notary Public/Attorney-at-Law

My Commission Expires: May 5, 2010