Testimony of Katie Fullam Harris
MaineHealth
in Opposition to LD 1554
“An Act to Repeal Certificate of Need Requirements for Health Care Providers”

April 27, 2023

Senator Bailey, Representative Perry and distinguished members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services, my name is Katie Fullam Harris of MaineHealth, and I am here to testify in opposition to LD 1554 that would repeal Maine’s Certificate of Need statute for MaineHealth is an integrated non-profit health care system that provides a continuum of health care services to communities throughout major health care expenditures, new facilities and expansions of inpatient capacity in Maine.

MaineHealth supports high quality health care, academic medicine and research in 11 counties in Maine and one in New Hampshire. Every day, our over 22,000 care team members support our vision of “Working Together so Our Communities are the Healthiest in America” by providing a range of services from primary and specialty physician services to a continuum of behavioral health care services, community and tertiary hospital care, home health care and a lab. Our academic mission includes training programs for RNs, CNAs and other specialty service providers, plus our Tufts/Maine Medical Center MaineTrack program, over 200 residency and fellowship spots, and the MaineHealth Institute for Research.

MaineHealth’s ability to be nimble and meet the evolving needs of our communities relies upon the infrastructure that we have built as an integrated health care system. Maine’s Certificate of Need law (CON) plays an important role in ensuring that the state has a strong and cost-effective care delivery system to meet the needs of our communities. The pandemic proved that system highly effective, as Maine’s hospitals and health care organizations successfully met the needs of our population, even during a very trying time.

Per Title 22, Sub. 2, Chapter 103-A, the Maine statute's declaration of findings and purpose, the CON law “helps to prevent the unnecessary construction or modification to health care facilities or duplication of health services that are substantial factors in the cost of health care while ensuring that the public can obtain necessary medical services. . . .”

Specifically, the CON review process is used to promote effective health planning, ensure access to cost effective services, and support the reasonable availability of choices in health care services. The process also plays an important role in preventing excessive and unnecessary duplication of services which can lead to increased and unnecessary health care costs. It is important to note that CON requirements do not block change, but rather they provide a necessary evaluation of proposed projects.

The Maine Legislature has updated the CON law several times over the years, most recently in 2011. The result of an extensive stakeholder process led by the Department of Health and Human Services, the most recent changes amended the scope and process through which the law is now implemented. Key thresholds
were changed, they are to be indexed to reflect inflation, and the CON now only covers major transactions, such as:

1. Capital expenditures of $13,919,209 or more
2. New health care facilities of $3,000,000 or more
3. Major medical equipment of $4,175,763 or more

These are not small investments, and the CON ensures that the return on these investments – which would come from health policy holders – meets a community need and will not create unintended consequences.

The 2011 effort resulted in consensus that only those projects that are of significant magnitude, as identified above, should be subject to the CON process. Though we do not always agree with the Department’s interpretation of CON, we do believe strongly that the law is necessary to protect the fragile ecosystem of Maine’s health care delivery landscape.

Finally, CON provides a stabilizing force which allows existing providers to embrace new payment models that move away from reliance on fee for service and create incentives for providers to take financial risk, such as the MaineCare Accountable Communities Initiative. The development of a full continuum of integrated care is the objective of these care delivery and payment models. In most parts of Maine, there is sufficient availability and capacity of health care delivery services to support new models of care without allowing unchecked proliferation of new services and facilities. In fact, repealing Maine's CON law under currently evolving payment models would result in fragmentation rather than promoting the integration of care. It is also important to consider what impact eliminating CON oversight might have on the ability of our state’s nonprofit health care providers to provide essential access to health care for Maine’s most vulnerable residents, to rural communities, and to those who lack adequate insurance coverage.

As we often say, “If it ain’t broke, don’t fix it.” And it ain’t broke.

Thank you for the opportunity to testify.