



COMMENTS OF THE MAINE HOSPITAL ASSOCIATION

Neither For Nor Against

LD 985 - *An Act to Impose A Moratorium on the Ownership or Operation of Hospitals in the State by Private Equity Companies*

May 6, 2025

Senator Bailey, Representative Mathieson and members of the Health Care, Insurance and Financial Services Committee, my name is Jeffrey Austin, and I am offering this testimony on behalf of the Maine Hospital Association neither for nor against LD 985. I apologize that I am not able to deliver this testimony in person.

Overview. Our members are very mindful of the actions of private equity in the healthcare space during the past several years. From the Steward issues in Massachusetts and Texas to Prospect in Pennsylvania and Lateral Investment Management in Arizona, private equity has not made a great name for itself in hospital operation and management.

It's not that such management is easy. Closures and reductions in service occur with all types of ownership. We know that all too well in Maine.

Private equity firms own healthcare entities (other than hospitals) in Maine now.

That said, we believe that the Maine Legislature should be careful not to legislate against an entire group because of the actions of some members of that group.

Legislatures normally don't do that – ban every member of a group from an activity because of the actions of some members of that group.

Typically, legislatures ban activities that they find objectionable – regardless of what form of entity engages in that activity.

Furthermore, one of the reasons MHA and our members have been steadfast defenders of Maine's often criticized Certificate of Need (CON) program, administered by DHHS, is for just this sort of concern. One type of CON review is the review of a sale of a hospital – 'transfer of ownership.' We have long felt that Maine people – and by extension their government – have an interest in assuring that any potential purchaser of a major healthcare facility be scrutinized.

CON Statute. The existing standard in Maine law is (22 MRSA §329(1)):

Transfer of ownership; acquisition by lease, donation, transfer; acquisition of control. *Any transfer of ownership or acquisition under lease or comparable arrangement or through donation or any acquisition of control of a health care facility under lease, management agreement or comparable arrangement or through donation that would have required review if the transfer or acquisition had been by purchase, except in emergencies when that acquisition of control is at the direction of the department or except if the transfer of ownership or acquisition of control involves only entities or health care facilities that are direct or indirect subsidiaries of the same parent corporation, is between a parent corporation and its direct or indirect subsidiaries or is between entities or health care facilities all under direct or indirect ownership of or ultimate control by the same parent corporation immediately prior to the transfer or acquisition*

The standard for review is in 22 MRSA §335:

[DHHS] shall issue a certificate of need if the commissioner or the commissioner's designee determines and makes specific written findings regarding that determination that:

A. The applicant is fit, willing and able to provide the proposed services at the proper standard of care as demonstrated by, among other factors, whether the quality of any health care provided in the past by the applicant or a related party under the applicant's control meets industry standards....;

B. The economic feasibility of the proposed services is demonstrated in terms of the:

(1) Capacity of the applicant to support the project financially over its useful life, in light of the rates the applicant expects to be able to charge for the services to be provided by the project; and

(2) Applicant's ability to establish and operate the project in accordance with existing and reasonably anticipated future changes in federal, state and local licensure and other applicable or potentially applicable rules.;

CON Rule. The DHHS CON rule (Chapter 503) for CON (not including nursing homes) is 42 pages.

Suggested Amendment. While we cannot endorse an outright 5-year ban against a class of potential owners; we would suggest an alternative. The Legislature could direct the DHHS CON unit to develop particular standards to address the objectional **activities** associated with private equity ownership for potential inclusion in the CON statute and implementing rule. Further, the Committee could consider a 1-year moratorium during such rule development.

My apologies for not being able to attend the hearing.

Thank you.