

February 12, 2026

Committee on Health Coverage, Insurance and Financial Services

Re: Testimony on LD 2190

Chair Bailey, Chair Mathieson, and members of the Committee on Health Coverage, Insurance and Financial Services,

My name is Liam Sigaud. I'm a research analyst at the Knee Regulatory Research Center at West Virginia University. Thank you for this opportunity to submit testimony on LD 2190. My comments are not made on behalf of any party or interest group.

This bill implements several of the recommendations made by the Commission to Evaluate the Scope of Regulatory Review and Oversight Over Health Care Transactions That Impact the Delivery of Health Care Services in the State. These changes relate to Maine's certificate-of-need regulations, which require that certain health care projects be evaluated and approved by the Division of Licensing and Certification within the Department of Health and Human Services.

Certificate-of-need laws were originally intended to decrease health care costs by preventing the unnecessary duplication of medical services. Since their inception in the mid-20<sup>th</sup> century, scholars have extensively studied the effects of certificate-of-need laws on a variety of outcomes. Overwhelmingly, research finds that these laws have not achieved their goals.<sup>1</sup> In 2016, the Federal Trade Commission and the Antitrust Division of the US Department of Justice released a joint statement on the impact of certificate-of-need laws on the health care system. The agencies wrote:

“...after considerable experience, it is now apparent that [certificate-of-need] laws can prevent the efficient functioning of health care markets in several ways that may undermine those goals. First, [certificate-of-need] laws create barriers to entry and expansion, limit consumer choice, and stifle innovation. Second, incumbent firms seeking to thwart or delay entry or expansion by new or existing competitors may use [certificate-of-need] laws to achieve that end. Third, ...[certificate-of-need] laws can deny consumers the benefit of an effective remedy following the consummation of an anticompetitive merger. Finally, the evidence to date does not suggest that [certificate-of-need] laws have generally succeeded in controlling costs or improving quality.”<sup>2</sup>

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<sup>1</sup> For an extensive overview of this research, see:

Conover, C. J., & Bailey, J. (2020). Certificate of need laws: a systematic review and cost-effectiveness analysis. *BMC Health Services Research*, 20, 1-29.

Mitchell, M. D. (2024). Certificate of Need Laws in Health Care: Past, Present, and Future. *INQUIRY: The Journal of Health Care Organization, Provision, and Financing*, 61, 00469580241251937.

<sup>2</sup> Federal Trade Commission and U.S. Department of Justice. “Joint Statement of the Federal Trade Commission and the Antitrust Division of the U.S. Department of Justice on Certificate-of-Need Laws and South Carolina House Bill 3250,” January 11, 2016. Available at: [https://www.ftc.gov/system/files/documents/advocacy\\_documents/joint-statement-federal-trade-commission-antitrust-division-u.s.department-justice-certificate-need-laws-south-carolina-house-bill-3250/160111ftc-doj-sclaw.pdf](https://www.ftc.gov/system/files/documents/advocacy_documents/joint-statement-federal-trade-commission-antitrust-division-u.s.department-justice-certificate-need-laws-south-carolina-house-bill-3250/160111ftc-doj-sclaw.pdf)

In a recent academic paper, my co-authors and I found that states that repealed certificate-of-need regulations experienced a substantial increase in the number of hospital inpatient admissions, including in rural areas that often lack adequate health care infrastructure.<sup>3</sup> Other recent studies have found that certificate-of-need laws

worsened the COVID-19 pandemic,<sup>4</sup> undermined access to psychiatric and mental health treatment,<sup>5</sup> and contributed to the opioid crisis.<sup>6</sup>

Informed by decades of research and practical experience, many states have rolled back their certificate-of-need statutes, and more than a dozen states have implemented full repeals.

This bill makes several changes to Maine's certificate-of-need laws. I'd like to address two: 1) broadening the criteria considered during a certificate-of-need review to include the project's impact on health care affordability and accessibility; and 2) expanding the scope of certificate-of-need review when the applicant's ownership structure involves a private equity company or real estate investment trust.

It is difficult to predict the effect of broadening the criteria considered during a certificate-of-need review to include the project's impact on health care affordability and accessibility. To the extent that this change encourages the Department of Health and Human Services to consider the competitive benefits of increasing the supply of providers in Maine, this reform could have positive effects on affordability and access. As documented above, there is robust evidence that relaxing certificate-of-need restrictions improves access to services. On the other hand, the staff of the Department of Health and Human Services may not be adequately equipped with the data and expertise needed to formulate detailed projections of the effects of specific projects seeking certificate-of-need approval. This could create added complexity and cost to the certificate-of-need review process, causing delays and deterring investment.

The bill also expands the scope of certificate-of-need review when the applicant's ownership structure involves a private equity company or real estate investment trust. The Department of Health and Human Services would be required to contract with an external consultant to carry out an investigation of the prior activities and conduct of the private equity company or real estate investment trust. The applicant is required to cover the costs of this review. It is unclear why these specific entities are targeted for additional scrutiny beyond the normal certificate-of-need process. Further, this requirement would add to the complexity and cost applicants face, which could divert investment to other jurisdictions with fewer regulatory barriers, such as New Hampshire.

Thank you for your consideration.

Liam Sigaud

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<sup>3</sup> Melo, V., Sigaud, L., Neilson, E., & Bjoerkheim, M. (2024). Rural healthcare access and supply constraints: A causal analysis. *Southern Economic Journal*, 1-19.

<sup>4</sup> Mitchell, M., & Stratmann, T. (2021). The economics of a bed shortage: certificate-of-need regulation and hospital bed utilization during the COVID-19 pandemic. *Journal of Risk and Financial Management*, 15(1), 10.

<sup>5</sup> Bailey, J., & Lewin, E. (2021). Certificate of Need and Inpatient Psychiatric Services. *The Journal of Mental Health Policy and Economics*, 24(4), 117-124.

<sup>6</sup> Plemmons, A., Deyo, D., & Drain, S. (2024). The effect of Certificate-of-Need laws on substance use disorder care for vulnerable populations. *Southern Economic Journal*.