Testimony of Angela Cole Westhoff, President and CEO
Maine Health Care Association

To the Joint Standing Committee on Health & Human Services

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LD 938, An Act to Assist Nursing Homes in the Management of Facility Beds

Good afternoon Senator Baldacci, Representative Meyer, and distinguished members of the Committee on Health and Human Services. My name is Angela Westhoff, and I serve as the President & CEO of the Maine Health Care Association. We represent approximately 200 nursing homes, assisted living, and residential care facilities (also known as Private Non-Medical Institutions or PNMIs) across the state. Our mission is to empower members to ensure the integrity, quality, and sustainability of long term care in Maine.

I am here today to provide testimony in support of *LD 938, An Act to Assist Nursing Homes in the Management of Facility Beds* and would like to thank Representative Perry for bringing this bill forward again.

Until 2007, nursing homes were able to participate in a program that allowed them to temporarily take beds offline, while reserving their use for a later date. So called "bed banking" makes sense if a facility is experiencing lower occupancy rates. A reduced census historically has triggered occupancy penalties, and in some circumstances, it can negatively affect rate calculations. The minimum occupancy penalty has been temporarily waived. However, with the Public Health Emergency (PHE) ending on May 11th this waiver will likely end.

During the past several years we have seen a significant decline in occupancy that is directly related to the COVID-19 pandemic. While occupancy rates are slowly beginning to recover, they

are still much lower compared to pre-pandemic. Independent studies have projected that Maine will struggle to meet future demand for long term care services of all types. Temporarily delicensing beds make sense in these circumstances.

Over the past three years, we have lost over 280 beds due to facility closures. We already had the lowest number of beds per thousand people over age 65 in New England. In these uncertain times, we believe it is important to preserve the capacity that we have, particularly as Maine is the oldest state in the nation. The demand for long term care beds is only going to grow and we already do not have the capacity to meet the need.

Nursing home reimbursement for medical director compensation is currently capped at $10,000 per year. This expense is included in the "routine component" which is subject to its own cap. In other words, this is a cap within a cap. Based on 2021 as-filed cost reports, we know that the average facility's medical director cost was approximately $27,000 per year. A large facility in an urban area is likely to be paying three times that amount, or over $80,000 per year. Many facilities struggle to find a doctor willing to take on these duties, which had already been growing even before the pandemic. Nursing homes would still have to live within their overall routine cap, and we ask the Committee to eliminate this further restriction, which appears to be micromanagement.

LD 938 also addresses a reimbursement issue brought about by a change in technology. Nursing homes are reimbursed for certain software purchases as a fixed capital cost. However, when most of these acquisitions became cloud based, DHHS Audit rejected them as fixed costs, putting them under the routine component — where many facilities are already over their cap. We urge the Committee to make this adjustment that will simply be keeping up with technological advances. In closing, this Committee has historically supported these initiatives. The efforts have stalled once released from this Committee for a variety of reasons, usually lack of funding. I hope you will support these measures again and thank you for the opportunity to comment.