



**Testimony of Peter Hayes
to the Joint Standing Committee on Health Coverage, Insurance and Financial Services**

In Support of

LD 953, An Act to Protect Maine Patients Regarding Hospital Price Transparency

April 24, 2023

Good afternoon, Senator Bailey, Representative Perry, and Members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services.

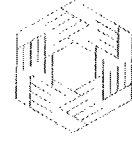
My name is Peter Hayes and I'm the President and CEO of the Healthcare Purchaser Alliance of Maine. The HPA is a nonprofit that represents the purchasers of healthcare in Maine. Our mission is to advance healthcare value and to support and incentivize high-quality, affordable care. We have over 60 members, including some of the largest public and private employers and health trusts in Maine. Collectively, our members spend over a billion dollars annually providing health care for nearly one quarter of the commercially insured population in the state.

I am here today to testify in support of LD 953. By incentivizing compliance with federal transparency mandates, LD 953 will help make timely provider price information available, helping Maine consumers to understand price variation among providers and allowing them to make more informed decisions about where to receive care.

The cost of healthcare services are a major expense for most Maine families. Yet too often, we have no idea what the price of a service is until weeks after it's been delivered, and there's often no way for consumers to compare prices from different providers ahead of time to try to find the most affordable option. And medical services are not small ticket items. For instance, the average cost per day of an inpatient hospital in Maine was \$2,765 in 2021,¹ and our data shows that, depending on the procedure, prices can vary by more than 500 percent depending on where a patient receives care. And while the MHDO's CompareMaine website is a fantastic source for *average* price information, it doesn't provide specific prices based on a patient's health plan.

But in 2020, the federal government took a huge step towards more comprehensive transparency when they promulgated regulations that require hospitals to publicly post crucial price information that will empower consumers to make more informed decisions about their health care. In addition to machine-readable files on various standard charges (including gross charges, payer-specific negotiated rates, and discounted cash prices), the regulation also requires hospitals to provide patients with an out-of-pocket cost estimator tool or payer-specific negotiated rates for at least 300 shoppable services. And as these data come online, several organizations are beginning to leverage the information to create user friendly pricing tools for consumers.

¹ Kaiser Family Foundation State Health Facts, "Hospital Adjusted Expenses per Inpatient Day: 2021." Available at: <https://www.kff.org/health-costs/state-indicator/expenses-per-inpatient-day/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>.



These rules—and the resulting shopping tools—are a game changer for consumers who will be able to better understand and compare the prices for their health care, based on their own insurance coverage. But while the transparency rules went into effect over two years ago (in January 2021), many hospitals have still not fully complied with the mandates, leaving their patients without critical information about the prices of their services. And among those hospitals that have published machine-readable files, many include incomplete information, leaving out prices for many common services.

To improve compliance rates, in January 2022 the federal government increased annual penalties to up to \$109,500 for small hospitals and up to \$2 million for large hospitals.² Yet despite this increase, many hospitals remain noncompliant. Today, estimates of compliance rates vary, ranging from 25%³ to 70%⁴ nationwide, but even if compliance is at 70 percent, that means well over 1,000 hospitals nationwide are still not compliant. And if 70 percent of Maine hospitals are compliant, that would mean that nine are currently not supplying the price transparency information that they are required to provide. In its February 2023 report, which analyzed the websites of 2,000 hospitals focusing on the nations' largest health systems, PatientRightsAdvocate.org (a nonprofit organization focused on price transparency) found that only one of the four Maine hospitals included in its review—which included three of the largest hospitals in the state—was fully compliant.⁵ They noted that although the majority of hospitals nationwide have posted files, noncompliance was due to most hospitals' files being "incomplete, illegible, or not having prices clearly associated with both payer and plan."⁶ We have downloaded Maine hospital files ourselves and found omissions. One hospital, for example, did not include any drug pricing information in their file.

With so many hospitals still noncompliant with the federal mandates more than two years after they were enacted, we agree with Representative Libby that additional enforcement mechanisms are needed to bring non-compliant hospitals fully in line with the federal mandate. And we think the enforcement tool proposed in LD 953 makes a lot of sense, as it would preclude hospitals from sending patients to collections agencies for unpaid bills when the patient didn't have access to all federally mandated pricing information beforehand.

Lastly, as currently drafted, the bill would allow a patient, the Attorney General, or the Department of Health and Human Services to apply to Maine's Superior or District Court for relief. Asking a patient to pursue relief in the courts may discourage some patients from pursuing such relief. Hence, the committee may want to consider identifying a state agency to assess the compliance status of Maine hospitals with the transparency mandates, which would allow patients to check the compliance status of a hospital pursuing collections against them, and if that hospital is out of compliance, for them to receive relief based on that status.

² Centers for Medicare and Medicaid Services, "Hospital Price Transparency Frequently Asked Questions (FAQ)s," November 29, 2022. Available at: <https://www.cms.gov/files/document/hospital-price-transparency-frequently-asked-questions.pdf>.

³ Patient Rights Advocate.Org, "Fourth Semi-Annual Hospital Price Transparency Report," February 2023. Available at: <https://www.patientrightsadvocate.org/february-semi-annual-compliance-report-2023>.

⁴ Meena Seshamani and Douglas Jacobs, "Hospital Price Transparency: Progress And Commitment To Achieving Its Potential," Health Affairs, February 14, 2023. Available at: <https://www.healthaffairs.org/content/forefront/hospital-price-transparency-progress-and-commitment-achieving-its-potential>.

⁵ Patient Rights Advocate.Org.

⁶ Ibid.



Finally, I would emphasize that the penalties laid out in LD 953 will not impact Maine hospitals who are already in full compliance with the federal regulations and providing their patients with the critical pricing information they need to make informed choices. But for any hospitals that have remained noncompliant with federal mandates for over two years, and that continue to deny consumers access to the pricing information required under federal regulation, LD 953 would create a powerful incentive to encourage compliance.

Thank you for the opportunity to share our feedback on LD 953, and many thanks to Representative Libby for introducing this important legislation. I'd be happy to answer any questions and will be available for the work session.