

May 22, 2023

To: Senator Carney, Representative Moonen, and Honorable members of the Judiciary Committee

From: J. Shinay

Re: Testimony in Support of LD 1902, “An Act to Protect Personal Health Data”

My name is J. Shinay. I am a resident of Portland and a student at the University of Maine School of Law. I am writing both in my role as a law student and in my personal capacity to urge you to vote “Ought to Pass” on LD 1902 for the following reasons.

1) LD 1902 as Assuring a Right to Privacy for Health Care Data

In the aftermath of the *Dobbs* decision, the long-held Constitutional right to privacy in healthcare, as grounded in the concept of Substantive Due Process, is under attack. Regardless of one’s personal opinions regarding the background of the *Dobbs* decision, the Supreme Court has in no uncertain terms suggested that all health care decisions and personal health care data may no longer be protected under the right to privacy.¹ Additional protections are therefore needed to ensure the legacy that will soon be wrought by *Dobbs* does not broadly threaten health care privacy rights.

2) LD 1902 as Providing Additional Protection for Gaps in HIPPA Coverage

Although HIPPA serves as a crucial protector of consumer health care data, this law is often misunderstood and provides insufficient protection. HIPPA serves only to protect that health care data transmitted to specific health care providers who interface with health insurance providers.² This means data collected by apps, private devices, websites, or even providers who do not utilize

¹ See *Dobbs v. Jackson*, 597 U.S. ___, 9 (2022) (stating the right to privacy is found nowhere in the Constitution and that the language of the document provides a fixed standard of rights).

² See *generally* Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936 (1996).

insurance are not protected under HIPPA. As such, it is vital that we ensure this data is properly protected by passing LD 1902.

3) LD 1902 as Protecting the Dignity and Safety of Trans Mainers

Finally, I urge you to pass LD 1902 for reasons that personally affect me as a constituent and citizen of Maine. I am a trans non-binary person who plans to undergo certain medical interventions towards gender affirmation. Across America, people like me are being targeted by anti-trans legislation that seeks to strip us of our health care and privacy rights. I live in fear that these laws may soon be founded in Maine, and my entire personal life may be up for debate. While this bill will not prevent further attacks and may not protect trans health care broadly, it will provide at least one safeguard against trans Mainers having some of the private information about their gender affirmation care broadcasted to the world or to other third parties. I am hopeful the tides of anti-trans legislation will soon abate. In the meanwhile, however, bills like LD 1902 will help make me and other trans Mainers feel safe to pursue all the different forms of health care they need to feel at home and at peace in their own bodies. The right to feel safe in one's own skin is more than just a legal right – it is a human right.

For these reasons, I respectfully urge this Committee to vote “Ought to Pass” on 1902. Thank you for your time and consideration.

Respectfully submitted,

J. Shinay