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January 17, 2024

Testimony of Speaker Rachel Talbot Ross presenting

LD 1955, An Act to Require Hospitals and Hospital-affiliated Providers to Provide Financial Assistance for Medical Care

Before the Joint Standing Committee on Health and Human Services

Good afternoon Senator Baldacci, Representative Meyer, and esteemed members of the Joint Standing Committee on Health and Human Services. My name is Rachel Talbot Ross. I represent House District 118 in Portland, and I serve as Speaker of the House. Thank you for the opportunity to present **LD 1955, An Act to Require Hospitals and Hospital-affiliated Providers to Provide Financial Assistance for Medical Care.**

This bill comes to you as part of a longstanding commitment on the part of this Legislature and those before it to ease the financial burden of medical care for Mainers and Maine families. The need for action has grown particularly acute since the pandemic. A report released last week by the Lown Institute reports that nearly 50% of U.S. adults report struggling to keep up with the cost of healthcare, with four in ten ringing in the new year with medical debt. Medical debt is a major burden that often forces people to delay–and sometimes forgo–access to care. Not only do outstanding medical bills undermine health, but they also represent the most common type of collections, with estimates ranging anywhere from $81 to $140 billion.

According to a survey released last year by Consumers for Affordable Health Care, 42% of Mainers have medical debt in their household. More than two-thirds of Mainers say they are one major medical bill away from financial disaster, and one in three skipped or delayed going to a doctor when they were sick because of concerns about cost. Nearly three out of four Mainers with medical debt report that the debt originated from a hospital bill.

When we hold these data up next to the stories of those who are affected, many of which you'll get to hear today, we understand that this problem is pervasive and it is devastating. Previous legislative work has done much to further the project of greater affordability. A law passed in the 117th Legislature, in 1995, established guidelines for a charity care program, to be administered by nonprofit hospitals, with the same income guidelines as the federal Hill-Burton Act of 1946 (formally the Hospital Survey and Construction Act), in which patients would receive free care services in the case of their medical necessity and if their incomes were up to a certain percentage of the federal poverty limit. Additionally, these guidelines mandated that

hospitals investigate the coverage of the patient by any insurance or state or federal programs of medical assistance, provide notice to the public, and provide the opportunity for a fair hearing regarding eligibility for Free Care in Maine.

The program eligibility guidelines have not changed since that time, and with improvements in health coverage and a significant decrease in the amount of Free Care being provided by Maine hospitals, it is now incumbent upon us to expand upon this program and other laws relating to hospitals in order to ensure greater access to affordable health care, an accessible process for those seeking free care, protection from undue debt collection, and greater transparency on part of hospitals.

To enable this more just and expansive vision for Mainers' experiences in seeking and finding the medical care they need and can afford, this bill does the following:

- First, this bill expands the eligibility of Maine's Free Care Program by requiring that nonprofit hospitals provide free, medically necessary services to those with incomes of a higher percentage of the federal poverty level than is currently mandated, significantly expanding the group of Mainers eligible for free care.
- Second, this bill sets the parameters for a streamlined and accessible application process for free care, in order for hospitals to best facilitate the provision of free care for eligible Mainers.
- Third, it sets forth standards for the administration of reasonable debt repayment plans and limits extraordinary collections actions, which often result in legal and financial difficulty.
- Fourth, it mandates that hospitals comply with price transparency requirements already in federal law, and dictates that hospitals found to have been in noncompliance may not take collections actions against patients.

Next, I'll explain each of these steps in greater detail. First, an important note regarding the language. You'll notice that in the bill, the word "hospital-affiliated provider" is included next to "hospital" in every instance of each word. The bill's scope thus extends to any clinics or other medical providers who are hospital-affiliated, as they are often the sites of assessment of medical bills. However, in this testimony, I may use only the word "hospital" for brevity, but you should understand "hospital-affiliated provider" to be included each time.

First, the bill expands the eligibility of the Free Care program, such that more Mainers with low income will be eligible to receive free care. Hospitals would be required to provide free medically necessary health care services to patients whose income is equal to or less than 200% of the federal poverty level. As of now, according to rules set by the Department of Health and Human Services, hospitals are currently required to administer free care to those with incomes of up to 150% of the federal poverty level, again, this has not changed since 1995. Many of the state's hospitals already provide this service for patients whose incomes are up to 200% of the

FPL, and many of the hospitals that don't have some kind of discount program for those whose incomes fall between 150 and 200%. According to 2022 data compiled by the National Academy for State Health Policy, of 32 Maine hospitals, charity care made up 1% or less of net patient revenue for each selected hospital in all but five hospitals. In those five, Waldo County General Hospital, Inland Hospital, Maine Medical Center, Penobscot Bay Medical Center, and Southern Maine Medical Center, charity care made up 1.2%, 1.3%, 1.4%, 1.4%, and 1.7% of net patient revenue, respectively.

For context, the current FPL is $14,580 gross income for individuals, $19,720 for a family of two, and $30,000 for a family of four. This bill would thus facilitate the provision of free care to individuals with gross incomes of up to $29,160, families of two with incomes of up to $39,440, and families of four with incomes of up to $58,320. According to the most recent Census data, 235,656 Mainers are at or below 150% of the federal poverty level, and 350,396 Mainers are at or below 200%. So by increasing the eligibility from 150% to 200%, we would expand the legal eligibility of this program to 114,740 Mainers of low and lower-middle incomes.

Second, the bill establishes requirements for a transparent and accessible application program, in order to ease an often-stressful process for those applying or seeking to learn about and apply for free care. First, it establishes that hospitals and affiliated providers must use a single streamlined application for all financial assistance programs and provides for other resources relating to applications and for the determination of a patient's financial assistance. These financial assistance programs must be widely publicized by hospitals within the community, both in accessible formats online and in printed copies around the hospital.

Finally, it sets forth standards for the application process itself. Hospitals would bear the affirmative duty to investigate and determine a patient's eligibility for charity care, and must inform patients eligible for financial assistance if any service, treatment, procedure or test is not covered by the hospital's financial assistance program. They must accept a financial assistance application at any time, including again after the patient's receipt of a denial; patients are also entitled to a fair hearing following a determination of ineligibility. Additionally, it requires that hospitals provide translation services into languages spoken by all significant populations of nonnative English speakers. Last, it sets standards for the required response times by a hospital at each step of the process, and determines that the eligibility will be valid 12 months following the date of determination of eligibility.

By conforming to these requirements, hospitals and affiliated providers will ensure that they meet a reasonable standard in facilitating the application process for those seeking charity care, in informing the public about these programs, and in providing accommodation for the vulnerable populations who they often serve.

Third, it shields patients from the accumulation of burdensome debt and the collections actions that often follow. First, it sets standards for reasonable payment of debt: specifically,

hospitals must offer patients payment plan options with terms of at least 2 years, with monthly payments not to exceed 3% of the patient's monthly gross income, so as to avoid burdening patients with debt that they cannot feasibly or sustainably pay off.

It also limits hospitals in their ability to take certain collections actions. For at least 240 days beginning on the date the hospital provides a billing statement to the patient who has received medical care and left the hospital, the hospital may not take extraordinary collection action against the patient, defined as "the sale of a patient's medical debt to a collection agency or any action against a patient that requires a legal or judicial process". It also prohibits other billing or collections actions by a hospital until the hospital fully determines a patient's eligibility for charity care, including by resolving an appeal filed by the patient. Further, it prohibits the reporting of information on unpaid debt to a credit reporting agency or bureau and the sale of debt to a debt buyer *unless* there is a legally binding agreement in which the debt buyer affirms that the information will not be reported to a credit reporting agency.

Finally, it provides that the Department of Health and Human Services enforce the provisions of this law and establishes a civil penalty for hospitals that knowingly or willfully violate these provisions or engage in a pattern of noncompliance.

Taken together, these provisions ensure that should a patient leave a procedure with medical debt, that they can establish a sustainable monthly repayment plan and will be shielded by debt collection actions that can and do often result in further legal and financial trouble, which further inhibit the patient in paying medical and other outstanding debts.

Fourth, it sets forth requires hospitals to comply with the price transparency requirements established in 45 Code of Federal Regulations, Part 180. Hospitals are prohibited from initiating or pursuing a collections action against a patient for services provided on a date on which the hospital was not in compliance with the price transparency requirements. Though the price transparency requirements I'm describing are set by federal law, not by the state, this bill would establish that hospitals found to have been in noncompliance would be inhibited in initiating extraordinary debt collection actions.

This bill, including each of the steps it delineates, represents an essential step in easing the financial burden of medical debt for Mainers. I'd like to thank the Committee for your ongoing commitment to the effort of greater affordability and access to critically needed health care in this state, and I'm happy to answer any questions you may have.