MHCA

Maine Health Care Association

Testimony of Angela Cole Westhoff
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Wednesday, February 12, 2025 at 1:00 PM

To the Joint Standing Committee on Appropriations and Financial Affairs and the Joint Standing Committee on Health and Human Services

In Opposition to:

LD 210, An Act Making Unified Appropriations and Allocations from the General Fund and Other Funds for the Expenditures of State Government and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2025, June 30, 2026 and June 30, 2027

Good afternoon, Senator Rotundo, Representative Gattine, Senator Ingwerson, Representative Meyer and distinguished members of the Joint Standing Committees. My name is Angela Westhoff and I serve as the President and CEO of the Maine Health Care Association (MHCA). 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. On behalf of our membership, I am submitting testimony in opposition to LD 210.

I oppose the Biennial Budget not for what it includes, but rather for what it seeks to eliminate for long term care facilities. To be clear, we sincerely appreciate all of the past support from the legislature and the collaborative work that DHHS has engaged with MHCA on nursing facility rate reform. Over the past year and a half, we have worked in earnest to develop meaningful rate changes. The new model is currently in rulemaking, and by and large, the process leading up to this point has gone well. I want to express my appreciation to both Paul Saucier and Michelle

Probert and their teams for this work. While we did not always agree, we compromised and made progress with a shared goal of finding a pathway forward to try and sustain care in Maine.

My comments today are specifically focused on Language Part "UU," which consolidates statutory language related to the adjustment of MaineCare reimbursement into the MaineCare rate reform statute under 22 M.R.S.A. § 3173-J and stipulates that such adjustments are subject to available appropriations.

Starting on page 93 of the language document for the Biennial Budget, Part UU makes two critical changes to reimbursement for nursing homes in 22 MSRA §1708. The first is the **elimination of a regional wage index** that addresses geographic variances for labor costs, and the second is the **removal of the regular rebasing of nursing facility rates**.

Maine's nursing home sector is very fragile. Just last month, another nursing home announced its closure in rural Maine, making a total of 29 nursing homes that have closed in our state over the last 10 years. One of the biggest challenges for long term care is the recruitment and retention of direct care workers. Wage data analysis performed by BerryDunn demonstrates wage variation by four regions in the state. While rural facilities have higher temporary agency costs, their average wages are lower than in urban areas of the state. A regional wage index has worked well to address hourly wages in areas of the state where worker wage competition is high. If we are to successfully reduce agency/traveler staffing dependence and compete with other healthcare sectors, we must be able to offer competitive wages and benefits throughout the state. The Department has performed its own data analysis and has stated that they do not support maintaining the regional wage index. Respectfully, we disagree. However, one indisputable thing is the fact that this brand-new rate model for nursing homes is untested. We do not know if this new system will stop the cascade of closures, so to eliminate regular rebasing of nursing home rates would be premature.

In fact, the Department is still working on the Value Based Payment portions of the system, and just this week, providers will receive their first payments under the new system if everything goes well! So, to throw caution to the wind and say we will check back in 5 years to see if rates

need to be reviewed would be a great risk and a disservice to the vulnerable populations we care for. Part UU seeks to eliminate the regular rebasing of NF rates currently every two years, and we emphatically disagree to striking that section.

A key premise of Maine's award-winning MaineCare Rate Reform system, as described in 22 MRSA §3173-J, is to *"establish a rate setting system for the development and* ***maintenance*** *of sustainable, efficient, and value-oriented MaineCare payment models and rates."* I think the keyword here is maintenance. If we do all this impressive work, and create new models, and change the way we pay by incentivizing providers to provide greater value, then the State must follow through on the commitment to the providers who engaged in this planning process and negotiated in good faith. And more importantly, we have to honor our commitments to the caregivers who provide care to Maine's oldest and most vulnerable residents.

Part UU also seeks to make the requirement that MaineCare rates cover at least **125% of minimum wage for direct care workers optional and subject to sufficient appropriations**. Long term care workforce levels are the lowest they have been in 15 years. While other health care sectors have seen rebounds in their workforce since the pandemic, staffing in nursing homes, residential care facilities, and assisted living homes remain at a crisis level. Equally, if not more concerning, Part UU seeks to also make **annual cost-of-living adjustments (COLAs) subject to availability of appropriations** and gives the Department the authority to "**reduce** specified cost of living adjustment amounts or rates in proportion to available funding, including **elimination** of a scheduled adjustment as necessary" as outlined on page 100.

We appreciate that these are difficult economic times, and many states find themselves in similar positions trying to find ways to balance budgets. However, Maine politicians often recognize that Maine people are our greatest asset. We couldn't agree more. The direct care workers providing care for older and disabled adults are a tremendous asset. And we don't have nearly enough of them. So, at a time when nursing homes and residential care centers are still facing a workforce crisis, it doesn't make sense to make cost of living increases or fulfilling the state's existing obligation to meet 125% of minimum wage for direct caregivers, merely optional.

In addition to protecting the COLA language that is already in law, Maine's **cost of living increases need to be included in this Biennial Budget.** The legislature must appropriate these funds in a sufficient manner to make these adjustments.

For the oldest state in the nation, with the fewest nursing home beds per capita in any state in the Northeast, we are moving in the wrong direction. Long term care services are not optional. Our caregivers are absolutely essential. Failing to provide cost of living increases to a sector whose workforce does such physically, mentally, and emotionally challenging work is unconscionable.

We struggle to find enough workers now. MaineCare rates are often inadequate and do not cover the full cost of care. Labor is a major expense, and centers will not be able to sustain current wages, let alone compete with other sectors that do not rely on MaineCare as the primary payor source. I would also add that while nursing facility rate reform is now launching, residential care rate reform is still on hold. Last month, the Division of Licensing and Certification provisionally adopted rules that will create a **huge unfunded mandate** for Maine's assisted living and residential care homes by significantly increasing staffing requirements and adding other regulatory burdens. To be clear, there are **zero dollars** in the Biennial Budget to pay for these increased costs.

Labor costs continue to rise year over year, and our sector has unique challenges of mandatory staffing requirements. Unlike the local coffee shop or a store that can adjust their hours when staffing is limited, we cannot. Our centers end up having to rely on extremely costly contract agency labor whose rates are 3-4 times the average pay for CNAs, LPNs, and RNs. We implore the joint standing committees to figure out a way to sustain the investments needed to keep caregivers employed and long term care facilities open. Maine's older adults deserve no less.

Thank you for the opportunity to comment, and I would be happy to answer any questions now or at your work session.