



Testimony of Britt Crewse, MaineHealth
In Strong Opposition to LD 189, “An Act to Increase Availability and
Affordability of Mental Health Care and Substance Use Disorder Services by
Removing the Certificate of Need Requirement” and
LD 743, “An Act to Increase the Availability and Affordability of Health Care
by Eliminating Certificate of Need Requirements
March 11, 2025

Senator Bailey, Representative Mathieson and distinguished members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services, my name is Britt Crewse, Southern Region President for MaineHealth, and I am here to testify in opposition to both LD 189 and LD 743, which would repeal Maine’s Certificate of Need statute.

MaineHealth is an integrated non-profit health care system that provides a continuum of health care services to communities throughout Maine and New Hampshire. Every day, our over 24,000 care team members support our vision of “Working Together so Our Communities are the Healthiest in America” by providing a range of services from primary and specialty physician services to a continuum of behavioral health care services, community and tertiary hospital care, home health care, a lab, and retail and specialty pharmacy services.

MaineHealth’s ability to be nimble and meet the evolving needs of our communities relies upon the infrastructure that we have built as an integrated hospital system. Maine’s Certificate of Need law (CON) plays an important role in ensuring that the state has a strong and cost-effective care delivery system to meet the needs of our communities.

Per Title 22, Sub. 2, Chapter 103-A, the Maine statute’s declaration of findings and purpose, the CON law “helps to prevent the unnecessary construction or modification to health care facilities or duplication of health services that are substantial factors in the cost of health care while ensuring that the public can obtain necessary medical services. . . .”

Specifically, the CON review process is used to promote effective health planning, ensure access to cost effective services, and support the reasonable availability of choices in health care services. The process also plays an important role in preventing excessive and unnecessary duplication of services which can lead to increased and unnecessary health care costs. It is important to note that CON requirements do not block change, but rather they provide a necessary evaluation of proposed projects.

The Maine Legislature has updated the CON law several times over the years, most recently in 2011. The result of an extensive stakeholder process led by the Department of Health and Human Services, the most recent changes amended the scope and process through which the law is now implemented. Key thresholds were changed, indexed to reflect inflation, and the CON now only covers major transactions, such as:

1. Capital expenditures of \$14,304,312 or more
2. New health care facilities of \$3,000,000 or more
3. Major medical equipment of \$4,577,380 or more

These are not small thresholds, and the CON ensures that the return on these investments – which would come from health policy holders – meets a community need and will not create unintended consequences.

In fact, I stand before you today in opposition to these bills despite having a currently pending CON application. In order to meet a significant and growing need for additional surgical capacity and to further our commitment to reducing the financial burden on patients, we recently filed a CON application to open an Ambulatory Surgical Center in Southern Maine. This is a setting where the costs are inherently lower, reducing the cost burden on patients, and it will help to create additional access to orthopedic surgeries. With that said, though we do not always agree with the Department's interpretation of CON, we do believe strongly that the law is necessary to protect the fragile ecosystem of Maine's health care delivery landscape.

With regards to LD 189, we share the concern of the sponsor – Maine is experiencing a behavioral health crisis, and our hospital emergency departments are bearing the brunt of that crisis. Every day people with behavioral health needs, particularly children, languish in hospital Emergency Departments for days, weeks, and sometimes months. Just in the past year, 243 children were in MaineHealth's Emergency Departments for longer than 2 days and the average length of stay was over 5 days. Maine Medical Center's Emergency Departments cared for over 65% (159) of those children. The moral distress on our care team and the psychological impact on these children of being stuck in the wrong care setting is profound, but the answer to the solution is not more inpatient hospital beds. The children who are getting stuck for long periods of time do not meet inpatient hospital level criteria. Usually, they need services that either don't exist in Maine or for which there are long waitlists. We need to rebuild the full continuum of care from in-home supports to residential treatment – all things that likely would not meet the CON threshold. Removing the CON will only serve to create a system where for-profit providers could create more inpatient beds and ignore the needs of our communities by refusing to serve MaineCare patients and the uninsured, further destabilizing our increasingly fragile system.

Finally, CON provides a stabilizing force which allows existing providers to embrace new payment models that move away from reliance on fee for service and create incentives for providers to take financial risk, such as MaineCare's Accountable Communities. The development of a full continuum of integrated care is the objective of these care delivery and payment models. In most parts of Maine, there is sufficient availability and capacity of health care delivery services to support new models of care without allowing unchecked proliferation of new services and facilities. In fact, repealing Maine's CON law under currently evolving payment models would result in fragmentation rather than promoting the integration of care.

These are exceptionally challenging times in health care and it critically important to consider what impact eliminating CON oversight might have on the ability of our state's nonprofit health

care providers to weather this storm and provide essential access to health care for Maine's most vulnerable residents, to rural communities, and to those who lack adequate insurance coverage.

Thank you for the opportunity and I would be happy to answer any questions that you may have.