HEALTHCARE PURCHASER ALLIANCE OF MAINE

Testimony of Trevor Putnoky

to the Joint Standing Committee on Health Coverage, Insurance and Financial Services

In Support of

LD 1713, An Act to Prohibit Certain Provisions in Health Care Provider Contracts with Insurance Carriers

April 29, 2025

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

My name is Trevor Putnoky. I'm the President and CEO of the Healthcare Purchaser Alliance of Maine and The HPA is a nonprofit that represents the purchasers of health care in Maine. Our mission is to advance and support access to 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'm here today to testify in support of LD 1713. Maine has a concentrated healthcare market, with over half of the state's hospitals and many primary care and specialty practices owned by two large health systems. And while mergers and acquisitions of healthcare entities are often touted as ways to improve efficiencies, lower costs, and enhance quality, studies have found that prices in consolidated markets are actually higher than in competitive markets, with one study estimating average prices are 12 percent higher at monopoly hospitals, compared to markets with robust competition.[1] Results from that same study suggest that bargaining leverage is an important component in price variation.[2]

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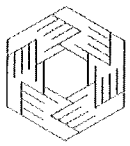
[1]Zack Cooper, Stuart Craig, Martin Gaynor & John Van Reenen, *The Price Ain't Right? Hospital Prices and Health Spending on the Privately Insured*, 134 Q.J. ECON. 51 (2019). Available at: https://healthcarepricingproject.org/sites/default/files/Updated_the_price_aint_right_qje.pdf.

[2] Ibid.



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Some will argue that carriers in Maine have more than enough market power to effectively negotiate with the state's major provider systems. But from employers' perspective, even the most dominant carrier in Maine is not a monopoly, as employers can—and often do—switch carriers. When it comes to providers, however, alternative options are not available in many parts of Maine. Employers can move from Anthem to Cigna, or Aetna to Anthem, but they don't have the same options when it comes to those providers whom they "must have" in their networks to maintain network adequacy standards. This essentially creates situations where those "must have" providers have near monopolistic power when it comes to carrier contract negotiations.

When this sort of market imbalance exists, dominant healthcare systems can insist on provisions in their contracts with carriers and plan sponsors that limit competition and ultimately increase costs to consumers. All-or-nothing clauses, for instance, require carriers to include all of a system's providers in their network or none of them, even when some of those system providers may be low quality or high cost. Anti-steering clauses prohibit carriers from offering lower copays to incentivize members to use non-system providers who offer higher value or more affordable services. LD 1713 isn't just about who holds the upper hand in contract negotiations. When included in contracts, the anti-competitive provisions called out in LD 1713 can hurt consumers who may end up paying more for care due to such anti-steering and all-or-nothing provisions.

In HPA's book of business, prices for many shoppable services (such as labs, imaging, and infusions) are typically higher in hospital or outpatient settings than in stand-alone or office settings—sometimes substantially higher. According to CompareMaine, for example, the price of an EKG at one Portland area hospital is $250, compared to just $17 at a doctor's office just a few miles away. Given these price differences, employers and consumers can benefit from narrow networks or lower copays that encourage employees to use more affordable sites of care—particularly if employees are on a high deductible plan. But such strategies would be off limits if their carrier was forced to include anti-steering provisions in its contracts.

There's no undoing the consolidation that has already occurred in Maine's healthcare market. But policies that prohibit anticompetitive contract terms can help ensure there is a level playing field in negotiations, limiting the leverage of providers who plan sponsors "must have" in their networks to maintain adequate access.

Thank you for the opportunity to provide HPA's feedback. I'd be happy to answer any questions.

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