



## Testimony of Trevor Putnoky

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

#### In Support of

#### **LD 1890, An Act to Facilitate the Development of Ambulatory Surgical Facilities by Increasing the Monetary Threshold for Certain Facilities from the Requirement to Obtain a Certificate of Need and to Index the Threshold Annually Thereafter**

**January 7, 2026**

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

My name is Trevor Putnoky, and I'm here today to testify in support of LD 1890. I'm the President and CEO of the Healthcare Purchaser Alliance of Maine. The HPA is a nonprofit representing 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.

Like 34 other states,<sup>1</sup> Maine has a certificate of need (CON) law that requires state approval for major capital healthcare projects. When state CON laws were first established decades ago, those laws were based at least partly on the premise that rising healthcare costs were associated with over-capacity, which drove up utilization and cost. But today, research has shown that it's rising prices—not utilization—that are driving the increase in healthcare costs.<sup>2</sup> Further, studies show that regions with competition—which sometimes means extra capacity—have lower prices.<sup>3</sup> So, when Maine's CON process bars new providers

<sup>1</sup> National Conference of State Legislatures, *Certificate of Need State Laws*, April 29, 2025. Available at: <https://www.ncsl.org/health/certificate-of-need-state-laws>.

<sup>2</sup> Health Care Cost Institute, *2022 Health Care Cost and Utilization Report*, April 2024. Available at: [https://healthcostinstitute.org/images/pdfs/HCCI\\_2021\\_Health\\_Care\\_Cost\\_and\\_Utilization\\_Report.pdf](https://healthcostinstitute.org/images/pdfs/HCCI_2021_Health_Care_Cost_and_Utilization_Report.pdf).

<sup>3</sup> 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](https://healthcarepricingproject.org/sites/default/files/Updated_the_price_aint_right_qje.pdf).



from entering a region—because there are already sufficient resources in that region—that decision could end up preserving a highly consolidated regional market, and the higher prices that may go along with it. And in fact, a 2024 review of 45 empirical assessments of CON found that “sixty percent associate CON with higher spending per service, while just 7% associate CON with lower spending per service. The rest find negligible results.”<sup>4</sup>

As of January 2024, 12 states have fully repealed their CON programs or allowed the program to expire, including New Hampshire, which repealed its CON program in 2016.<sup>5</sup> In addition, in 2025, Washington DC,<sup>6</sup> New York,<sup>7</sup> and Vermont<sup>8</sup> substantially increased their thresholds for CON review, essentially exempting more providers from the CON process.

The amended version of LD 1890 would increase from \$3 million to \$5 million the threshold amount for new healthcare capital expenditures subject to Maine’s CON process, and index the threshold to medical CPI thereafter. The threshold has not been increased in many years, and the proposed update is consistent with a recommendation from Maine’s Commission to Evaluate the Scope of Regulatory Review and Oversight over Health Care Transactions That Impact the Delivery of Health Care Services in the State, of which I am a member. Noting that the establishment of a new healthcare facility is the only type of project that is not updated for inflation under Maine’s CON law, the Commission recommends that the threshold for such projects be increased from \$3 million to the 2025 adjusted amount based on medical CPI.

Updating the CON threshold would exempt additional healthcare providers, including many ambulatory surgical centers, from the CON process, making it easier for them to enter the Maine market and potentially reducing costs for Maine consumers and employers, many of whom are struggling to afford the high cost of care in our state. Specifically, research on independent ASCs shows that they deliver services at lower price points relative to hospital outpatient departments. In a 2024 claims-data analysis published in *The American Journal of Managed Care*, for example, researchers found that prices paid in hospital outpatient departments were 54.9% higher than those charged in ambulatory surgical centers for a

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<sup>4</sup> Matthew D Mitchell, “Certificate of Need Laws in Health Care: Past, Present, and Future,” *Inquiry*. 2024 Jan-Dec;61:469580241251937. doi: 10.1177/00469580241251937. PMID: 38727175; PMCID: PMC11088301. Available at: <https://journals.sagepub.com/doi/10.1177/00469580241251937#core-bibr42-00469580241251937-2>.

<sup>5</sup> National Conference of State Legislatures, *Certificate of Need State Laws*, April 29, 2025. Available at: <https://www.ncsl.org/health/certificate-of-need-state-laws>.

<sup>6</sup> [https://lims.dccouncil.gov/downloads/LIMS/56852/Committee\\_Report/B26-0025-Committee\\_Report1.pdf?Id=206126](https://lims.dccouncil.gov/downloads/LIMS/56852/Committee_Report/B26-0025-Committee_Report1.pdf?Id=206126)

<sup>7</sup> [https://www.health.ny.gov/facilities/cons/docs/regulation\\_24-12.pdf](https://www.health.ny.gov/facilities/cons/docs/regulation_24-12.pdf)

<sup>8</sup> Vermont General Assembly, H.96 (Act 15). Available at: <https://legislature.vermont.gov/bill/status/2026/H.96>.



colonoscopy, 44.4% higher for an arthroscopy, and 44.0% higher for cataract removal surgery.<sup>9</sup> And while some stakeholders are concerned that relaxing CON review could threaten the viability of—and access to—hospital medical care if ASCs siphon away more profitable (i.e., private pay) patients, particularly in rural areas, a 2024 study found no evidence that CON repeal is associated with hospitals closures in rural areas.<sup>10</sup>

I hope the committee will support this measured and important update to Maine’s CON law, which would encourage more affordable surgical options to locate in our state. At a time when Maine families and businesses are struggling with skyrocketing insurance premiums and healthcare costs, policies that expand access to more affordable care are more critical than ever.

Thank you for the opportunity to provide HPA’s feedback on LD 1890, and thank you to Rep. Foley for bringing forward this important piece of legislation. I’d be happy to answer any questions.

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<sup>9</sup> Robinson, James C., et al. “Prices and Complications in Hospital-Based and Freestanding Surgery Centers,” *The American Journal of Managed Care*, vol. 30, no. 4, Apr. 2024, pp. 179–84. PubMed. Available at: <https://doi.org/10.37765/ajmc.2024.89529>.

<sup>10</sup> Thomas Stratmann, Markus Bjoerkheim, and Christopher Koopman, “The Causal effect of repealing Certificate-of-Need laws for ambulatory surgical centers: Does access to medical services increase? *Southern Economic Journal*, August 13, 2024. Available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4826590](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4826590).