

TESTIMONY OF ANYA TRUNDY, DIRECTOR OF LEGISLATIVE AFFAIRS  
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES

TESTIFYING IN OPPOSITION TO:  
LD 1311, *An Act Regarding the State Employee Health Commissioner*  
Sponsored by: Rep. Richard Evans

Before the Joint Standing Committee on Health Coverage, Insurance and Financial Services  
Hearing Date: April 22, 2021

Senator Sanborn, Representative Tepler, and Members of the Joint Standing Committee on Health Coverage, Insurance and Financial Services:

I am Anya Trundy, Director of Legislative Affairs for the Department of Administrative and Financial Services (DAFS). I am before you today to provide testimony in opposition to LD 1311, *An Act Regarding the State Employee Health Commission* because we sincerely don't understand why the proposed legislation is necessary. From DAFS perspective, the State Employee Health Commission can be held up as an example of a well-functioning labor-management committee; there's little to no existing conflict between the two parties, and the group has a track record of working together in good faith to address issues as they come before the Commission.

DAFS' two primary concerns with the bill are: 1) the addition at the end of Section 4, 5 MRSA §285-A, sub-§3 requiring that "votes of the commission must be unanimous for action to be taken," and 2) the replacement of "rules adopted" in Section 5, 5 MRSA §286 with "actions taken and counsel provided." Additionally, DAFS has technical concerns regarding the rewording in Section 2, 5 MRSA §285-A, sub-§1.

Presently, all votes of the Commission are to be cast as: one vote by the labor co-chair representing the majority opinion of the labor members, and one vote by the management co-chair on behalf of the management members. When there is disagreement between the two parties, current practice is to stay at the table and continue to work through the parties' differences until consensus can be reached. Historically, consensus has been achievable, so this proposed change feels like a solution in search of a problem. DAFS is concerned that should this bill pass, requiring a unanimous vote could be used as a means of obstruction in the future—which has the potential to result in missed deadlines, incurred costs, and failure to deliver services to plan members—outcomes that are unacceptable to DAFS.

Replacing "rules adopted" with "actions taken, and counsel provided," is a pivot away from well-established, carefully articulated regulations that receive thorough-vetting during the MAPA process, to a less intentionally formulated, more unpredictable guidance framework. If the SEHC wants to alter its overarching instruction to the Office of Employee Health and Wellness, DAFS would prefer it be done through rulemaking.

Finally, while this bill deals with Title 5 §285-A which established the State Employee Health Commission to serve as trustee of the group health plan and advise the Executive Director of the Office of Employee Health and Wellness, what you can't see in the bill text is that Title 5 §286 assigns responsibility for the state employee health insurance program to the DAFS Commissioner and charges the Executive Director of the Office of Employee Health and Wellness with daily operations and providing cost-effective, accessible and responsive services to employees and retirees. The Office of Employee Health and Wellness is comprised of subject matter experts with years of experience in health insurance and benefits administration that shouldn't be discounted. They administer the state employee health insurance program and other benefits within the budget and the law. The Commission is a group of individuals that all have other daily work responsibilities that are not in the field of health insurance and benefits administration. Additionally, the Commission's membership has a significant turnover rate and while the Office of Employee Health and Wellness takes steps to educate Commission members, it is a huge learning curve for those not immersed in the day to day administration. Both changes that DAFS has expressed concerns with could give rise to situations where Labor is at odds with the legislative directive DAFS has been tasked with, preventing DAFS from carrying out its responsibilities and interfering with the administration of benefits. It is DAFS' opinion that current statute establishes an appropriate balance of power and necessitates collaboration between the SEHC and DAFS and is not in need of change.

Thank you for allowing me to testify. I am happy to answer any questions you may have today and will be available at the work session.