



**Testimony neither for nor against LD 250: “An Act To Assist Nursing Homes in the Management of Facility Beds”**

Senator Claxton, Representative Meyer, and the distinguished members of the Committee on Health and Human Services, my name is Nick Murray and I serve as policy analyst for Maine Policy Institute, a nonpartisan, non-profit organization that advocates for individual liberty and economic freedom in Maine. Thank you for the opportunity to testify neither for nor against LD 250.

Last spring, the public began to understand the value of sufficient hospital and nursing home bed capacity. This was originally the priority in managing the pandemic, under the strategy of “flattening the curve.” Thankfully, we never faced the worst-case scenario, a stressed and rationed healthcare system.

If our ICUs had been overwhelmed last May, or even this January, CON reform would be even more crucial. I have little doubt that Governor Mills would have issued a swift order to remove this roadblock and suspended CON altogether.

Instead, she enabled an expedited process, one that allowed 11 applications to sail through, each within a week, instead of the usual 3-4 months.

We support any bill that loosens some of the rules, but there are many other bills that will more fully reform the CON process this session. We encourage this committee to hear, expand on, and advance those bills rather than act on this one. LD 250 merely tinkers with a law with major, existential problems.

Maine needs comprehensive CON reform. A study by the Mercatus Center showed that CON reform leads to more satisfaction and access to care, especially in [rural areas](#). Researchers found that in counties with CON laws:

“healthcare expenses per Medicare beneficiary are higher, as are utilization rates of ambulance services, emergency departments, and readmissions. These findings hold true both before and after controlling for social risk factors such as race, education, and poverty status.”

No health organization should have to appeal to the state and their competitors to simply return their bed capacity to what it was under their previously accepted application. This is unnecessary time, money, and focus directed away from the administration of crucial health care services to Mainers who desperately need it.

If hospitals thought increasing prices would make them more money, they would do it, with or without CON. They don't need to build out extra beds in order to rationalize it. CON allows established providers to hide behind this faulty logic and use state regulation to insulate their position in the industry. It ultimately restricts competition, care capacity, and options for consumers.

The Federal Trade Commission and the Antitrust Division of The Department of Justice agreed in a [2016 statement](#), noting that “CON laws raise considerable competitive concerns and generally do not appear to have achieved their intended benefits for health care consumers.”

In the shadow of a year-long public health and public policy crisis, it's time for Maine to finally scrap this outdated, anti-competitive law.

We recommend this committee table LD 250, as the Committee on Health Coverage, Insurance, and Financial Services will hear the many other bills that will make more substantive reforms to Maine's Certificate of Need program (LDs 927, 931, 932, 935). Thank you for your time and consideration.