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Testimony of Director William Montejo, RN
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In Support of LD 97, *An Act to Repeal the Hospital and Health Care Provider Cooperation Act*

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

January 31, 2023

Senator Bailey, Representative Perry and Members of the Joint Standing Committee on Health Coverage, Insurance, and Financial Services: My name is Bill Montejo and I am the Director of the Division of Licensing and Certification for the Department of Health and Human Services. I am here today to help introduce and speak in support of LD 97, *An Act to Repeal the Hospital and Health Care Provider Cooperation Act*. We would like to express our appreciation to Representative Perry for sponsoring this Department bill.

This bill will repeal Maine's Hospital and Health Care Provider Cooperation Act, which enables the Department to allow for certain hospital and health care provider agreements that might otherwise be subject to antitrust with the intent of cost containment and improved quality and access of care. These agreements are codified by the Department by issuing a Certificate of Public Advantage (COPA).

COPAs have not been utilized frequently. DLC is aware of only two (2) recent instances in which health care facilities pursued COPA approvals, one in 2009 and another in 2010. Both COPAs have since expired.

More importantly, the Federal Trade Commission, (FTC), issued a concerning study finding that COPAs improved neither quality nor cost and are "often detrimental for patient costs, patient care, and healthcare worker wages."¹ Likewise, a Staff Policy Paper, published by the FTC in August of 2022, suggests states avoid using COPAs altogether.²

Further, in a recently published Fact Sheet, the FTC states that the "FTC staff urges states to avoid using COPAs and invites state lawmakers to work collaboratively with competition policy experts

¹ FTC Policy Paper Warns About Pitfalls of COPA Agreements for Patient Care and Healthcare Workers Some Hospital Mergers Subject to Certificate of Public Advantage Agreements Led to Higher Prices, Reduced Quality. August 15, 2022. Viewed on January 19, 2023, at <https://www.ftc.gov/news-events/news/press-releases/2022/08/ftc-policy-paper-warns-about-pitfalls-copa-agreements-patient-care-healthcare-workers>.

² FTC Policy Perspectives on Certificates of Public Advantage. August 15, 2022. Viewed on January 19, 2023, at https://www.ftc.gov/system/files/ftc_gov/pdf/COPA_Policy_Paper.pdf

to minimize the harmful effects of further hospital consolidation on local patients, employers, and hospital employees.”³

Because of the low utilization, and the growing concerns about the ineffectiveness and potential negative effects of COPAs, the Department believes that this provision should be repealed. We hope you will support this proposal, and I am happy to answer any questions you have and will attend your work session if needed. Thank you for your consideration of this bill.

³ Federal Trade Commission. Key COPA Facts. Viewed on January 19, 2023, at https://www.ftc.gov/system/files/ftc_gov/pdf/Key_COPA_Facts.pdf