



Adam Harr &lt;ash@portlandmaine.gov&gt;

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**Fwd: Joint Letter from Maine Medical Center and Mercy Hospital**

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Jon Jennings &lt;jpj@portlandmaine.gov&gt;

Mon, Feb 11, 2019 at 12:47 PM

To: Adam Harr &lt;ash@portlandmaine.gov&gt;, Dawn Stiles &lt;dcs@portlandmaine.gov&gt;, Kristen Dow &lt;kjd@portlandmaine.gov&gt;

For the backup materials.

----- Forwarded message -----

From: **Katie Harris** <HARRIK2@mainehealth.org>

Date: Mon, Feb 11, 2019 at 12:03 PM

Subject: Joint Letter from Maine Medical Center and Mercy Hospital

To: bsr@portlandmaine.gov &lt;bsr@portlandmaine.gov&gt;, pali@portlandmaine.gov &lt;pali@portlandmaine.gov&gt;, bbatson@portlandmaine.gov &lt;bbatson@portlandmaine.gov&gt;

Cc: estrimling@portlandmaine.gov &lt;estrimling@portlandmaine.gov&gt;, jcosta@portlandmaine.gov &lt;jcosta@portlandmaine.gov&gt;, kcook@portlandmaine.gov &lt;kcook@portlandmaine.gov&gt;, nmm@portlandmaine.gov &lt;nmm@portlandmaine.gov&gt;, jduson@portlandmaine.gov &lt;jduson@portlandmaine.gov&gt;, jpj@portlandmaine.gov &lt;jpj@portlandmaine.gov&gt;, atorregrossa@portlandmaine.gov &lt;atorregrossa@portlandmaine.gov&gt;, Therrien, Charles &lt;ctherrien@northernlight.org&gt;, Gilman, Edward &lt;gilmane@northernlight.org&gt;, Jeffrey Sanders &lt;SANDEJ4@mmc.org&gt;, Deborah S. Boroyan &lt;BOROYD@mmc.org&gt;

Good Morning,

Attached, please find a joint letter from Maine Medical Center and Mercy Hospital explaining our positions on the proposed Paid Sick Leave Ordinance.

Please do not hesitate to contact Ed Gilman or me with questions.

Thank you,

Katie

Katie Fullam Harris, Senior Vice President

Government Relations and Accountable Care Strategy

MaineHealth

(207) 661-7542 – Office

(207) 232-6183 - Mobile

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Jon P. Jennings  
City Manager  
City of Portland

3/14/2019

City of Portland Mail - Fwd: Joint Letter from Maine Medical Center and Mercy Hospital

389 Congress Street  
Portland, ME 04101  
(207) 874-8689 Office  
(207) 874-8669 Fax  
[jpj@portlandmaine.gov](mailto:jpj@portlandmaine.gov)  
[www.portlandmaine.gov](http://www.portlandmaine.gov)  
Twitter: @portlandmanager

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 **MMC NL Paid Sick Leave Letter FINAL.pdf**  
642K

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**Fwd: Memo on earned paid sick days from the SMWC, DSA, and MWL**

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**Ethan Strimling** <estrimling@portlandmaine.gov>

Fri, Oct 19, 2018 at 2:06 PM

To: Adam Harr &lt;ash@portlandmaine.gov&gt;

Cc: Belinda Ray &lt;bsr@portlandmaine.gov&gt;

Here is the memo from Drew. Thanks.

----- Forwarded message -----

From: **DrewChristopher Joy** <drew@maineworkers.org>

Date: Thu, Oct 18, 2018 at 4:32 PM

Subject: Memo on earned paid sick days from the SMWC, DSA, and MWL

To: Pious Ali &lt;pali@portlandmaine.gov&gt;, Belinda Ray &lt;Bsr@portlandmaine.gov&gt;, Brian Batson &lt;bbatson@portlandmaine.gov&gt;, Ethan Strimling &lt;estrimling@portlandmaine.gov&gt;

CC: Eliza Townsend &lt;etownsend@mainewomen.org&gt;, Jennifer Sorkin &lt;jsorkin@mainewomen.org&gt;, Arlo Hennessey &lt;arlo@maineworkers.org&gt;, Kbigosinski &lt;kbigosinski@protonmail.com&gt;, Kate Sykes &lt;kate\_sykes\_writer@yahoo.com&gt;

Hi Councilors Ray, Baston, and Ali,

In anticipation of your conversation on finalizing the paid sick days ordinance at the HHS meeting this Tuesday, SMWC, the Maine Women's Lobby, and the Southern Maine DSA, put together a memo outlining our position and concerns on various elements of the ordinance. We hope that you will take this into consideration as you make your decisions on this policy.

I've been out sick for two days this week, and the cold and flu season is just getting started, I can't imagine how I'd get through the winter if I only had one more day. [This news](#) is also a terrifying reminder of why earned paid sick days are important for our whole community.

Thank you again for your work on this urgent and important issue. We look forward to the conversation on Tuesday.

Best,  
Drew

**DrewChristopher Joy, Director**  
Southern Maine Workers' Center  
[www.maineworkers.org](http://www.maineworkers.org) • [www.facebook.com/maineworkers](https://www.facebook.com/maineworkers)  
56 North St. Suite 100 • Portland, ME 04101  
207.200.7692 (Office) • 207.699.9269 (Cell)

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Ethan Strimling  
Mayor, Portland  
389 Congress Street  
Portland, ME 04101  
207-874-8941

**Memo to H&HS committee October 2018.docx**

90K



Adam Harr &lt;ash@portlandmaine.gov&gt;

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**Fwd: Paid Sick Leave**

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Jon Jennings <jpj@portlandmaine.gov>  
To: Dawn Stiles <dcs@portlandmaine.gov>, ash@portlandmaine.gov

Thu, Jan 3, 2019 at 5:38 AM

Jon P. Jennings  
City Manager  
City of Portland  
389 Congress Street  
Portland, ME 04101  
(207) 874-8689 Office  
[jpj@portlandmaine.gov](mailto:jpj@portlandmaine.gov)  
[www.portlandmaine.gov](http://www.portlandmaine.gov)  
Twitter: @portlandmanager

Begin forwarded message:

**From:** Nick Mavodones <nmm@portlandmaine.gov>  
**Date:** January 2, 2019 at 4:23:30 PM EST  
**To:** Jon Jennings <jpj@portlandmaine.gov>  
**Subject:** Fwd: Paid Sick Leave

----- Forwarded message -----

From: <lisa@mainemfg.com>  
Date: Wednesday, January 2, 2019  
Subject: Paid Sick Leave  
To: [pali@portlandmaine.gov](mailto:pali@portlandmaine.gov), [bbatson@portlandmaine.gov](mailto:bbatson@portlandmaine.gov), Kim Cook <[kcook@portlandmaine.gov](mailto:kcook@portlandmaine.gov)>, Justin Costa <[jcosta@portlandmaine.gov](mailto:jcosta@portlandmaine.gov)>, Spencer Thibodeau <[sthibodeau@portlandmaine.gov](mailto:sthibodeau@portlandmaine.gov)>, Nick Mavodones <[nmm@portlandmaine.gov](mailto:nmm@portlandmaine.gov)>, Belinda Ray <[bsr@portlandmaine.gov](mailto:bsr@portlandmaine.gov)>, Ethan Strimling <[estrimling@portlandmaine.gov](mailto:estrimling@portlandmaine.gov)>, Jill Duson <[jduson@portlandmaine.gov](mailto:jduson@portlandmaine.gov)>

Dear City Council,

As a lifelong resident and an employer in Portland, I urge you to reconsider implementing a sick leave ordinance in Portland.

My reasoning is as follows:

- 1) We currently offer Paid Time Off (PTO) that is all inclusive of sick leave, vacation and personal time. In addition, we provide 11 paid holidays.
- 2) We currently employ 1 very part time approx. 10 hours per week (a senior at Deering HS) as an entry level admin assistance.
- 3) We would not be in a position to provide additional benefits to this position as it is not a long term nor will lead to full time position. We would need to eliminate this

position if forced to pay for sick leave when we offer flexible schedule so pay is not affected when sick or has an appointment.

I realize that the sick leave is a focus of one or two industry which have a very different business model that most private and non-profit businesses.

To force all of us to concede to an ordinance that will negatively impact our part-time worker, who is gaining great experience before she goes to college, would be detrimental on your part.

This is not how to encourage business or people to come to Portland, live here, build a business, employ more people and provide gainful employment.

As a tax paying resident, I also encourage you to reconsider as you know that only private businesses create wealth. Without it, you only have a "barter system". Try seeing how that works when budgeting for city services. I assure you, it does not work.

I trust you will make this important decision and not hurt the business that support this city.

My Best,

Lisa G. Martin

Executive Director

The Manufacturers Association of Maine

[101 Mcalister Farm Road](#)

[Portland, Maine 04103](#)

P:(207)747-4406

C: (207)329-9933

[lisa@mainemfg.com](mailto:lisa@mainemfg.com)

[www.mainemfg.com](http://www.mainemfg.com)

Home and Administrator for the Maine Aerospace Alliance (MEAA), Maine Manufacturers Career and Training Foundation, Robotics Institute of Maine, Joint Manufacturing & Quality Council (JMQC), American Society of Quality (ASQ), Association for Operations Management (APICS), SME and the Maine Wood Products Council

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Nick Mavodones  
City Council At-Large  
[389 Congress Street](#)  
[Portland ME 04101](#)  
(207) 874-8685  
[nmm@portlandmaine.gov](mailto:nmm@portlandmaine.gov)

Sent from Gmail Mobile

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## Fwd: Sick Leave concerns

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**Dawn Stiles** <dcs@portlandmaine.gov>  
To: Adam Harr <ash@portlandmaine.gov>

Mon, Oct 1, 2018 at 2:23 PM

Public Comment

Director, Health & Human Services  
City of Portland  
389 Congress Street  
Portland, Maine 04101  
o 207.874.8775  
c 207.956.3262  
[dcs@portlandmaine.gov](mailto:dcs@portlandmaine.gov)

----- Forwarded message -----

From: **Bob Gaudreau** <[bob@hardypond.com](mailto:bob@hardypond.com)>

Date: Mon, Oct 1, 2018 at 2:08 PM

Subject: Sick Leave concerns

To: [bsr@portlandmaine.gov](mailto:bsr@portlandmaine.gov) <[bsr@portlandmaine.gov](mailto:bsr@portlandmaine.gov)>, [sthibodeau@portlandmaine.gov](mailto:sthibodeau@portlandmaine.gov) <[sthibodeau@portlandmaine.gov](mailto:sthibodeau@portlandmaine.gov)>, [bbatson@portlandmaine.gov](mailto:bbatson@portlandmaine.gov) <[bbatson@portlandmaine.gov](mailto:bbatson@portlandmaine.gov)>, [jcosta@portlandmaine.gov](mailto:jcosta@portlandmaine.gov) <[jcosta@portlandmaine.gov](mailto:jcosta@portlandmaine.gov)>, [kcook@portlandmaine.gov](mailto:kcook@portlandmaine.gov) <[kcook@portlandmaine.gov](mailto:kcook@portlandmaine.gov)>, [nmm@portlandmaine.gov](mailto:nmm@portlandmaine.gov) <[nmm@portlandmaine.gov](mailto:nmm@portlandmaine.gov)>, [pali@portlandmaine.gov](mailto:pali@portlandmaine.gov) <[pali@portlandmaine.gov](mailto:pali@portlandmaine.gov)>, [jduson@portlandmaine.gov](mailto:jduson@portlandmaine.gov) <[jduson@portlandmaine.gov](mailto:jduson@portlandmaine.gov)>, [estrimling@portlandmaine.gov](mailto:estrimling@portlandmaine.gov) <[estrimling@portlandmaine.gov](mailto:estrimling@portlandmaine.gov)>, [jpj@portlandmaine.gov](mailto:jpj@portlandmaine.gov) <[jpj@portlandmaine.gov](mailto:jpj@portlandmaine.gov)>, [dcs@portlandmaine.gov](mailto:dcs@portlandmaine.gov) <[dcs@portlandmaine.gov](mailto:dcs@portlandmaine.gov)>

Hello Mayor and Councilors,

I am writing out of concern with the Mayor's proposed paid sick leave mandate. I have attached a letter with my comments to see this email.

Feel free to reach out and I would be happy to discuss further.

Bob Gaudreau

**doc03591220181001095942.pdf**

412K



Adam Harr &lt;ash@portlandmaine.gov&gt;

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**Fwd: wording of Paid Sick Leave bill**

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**Dawn Stiles** <dcs@portlandmaine.gov>  
To: Adam Harr <ash@portlandmaine.gov>

Wed, Oct 24, 2018 at 10:07 AM

public comment

Director, Health & Human Services  
City of Portland  
389 Congress Street  
Portland, Maine 04101  
o 207.874.8775  
c 207.956.3262  
[dcs@portlandmaine.gov](mailto:dcs@portlandmaine.gov)

----- Forwarded message -----

From: **Brian Batson** <[bbatson@portlandmaine.gov](mailto:bbatson@portlandmaine.gov)>  
Date: Wed, Oct 24, 2018 at 9:28 AM  
Subject: Re: wording of Paid Sick Leave bill  
To: Diana Cundy <[dianawcundy@gmail.com](mailto:dianawcundy@gmail.com)>  
Cc: <[bsr@portlandmaine.gov](mailto:bsr@portlandmaine.gov)>, Pious Ali <[pali@portlandmaine.gov](mailto:pali@portlandmaine.gov)>, <[dcs@portlandmaine.gov](mailto:dcs@portlandmaine.gov)>

Diana,

Thanks for reaching out and I hope Ed feels better soon! It's a great point you make regarding the position of CNA's as they are technically "Certified" and operate under the official license of the RN and or LPN. With that being said I am not sure if it will be necessary from an ordinance language perspective to adjust this in the ordinance or if it is fine as is, since the position falls under the requested positions of employees of a healthcare facility. From a staffing perspective this along with RN were the positions that stood out and were most important to address, from my perspective as well as what we have seen in other ordinances. Thank you so much for your thoughts on this and again was a very good observation.

Respectfully,

Brian Batson

On Tue, Oct 23, 2018, 7:34 PM Diana Cundy <[dianawcundy@gmail.com](mailto:dianawcundy@gmail.com)> wrote:

Dear Belinda,

My apologies for our abrupt departure this evening - my husband has been fighting an upper respiratory infection for several weeks and was about to go into a lot of coughing, so he thought it was best to leave.

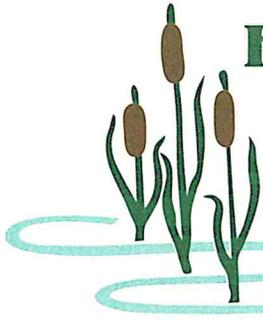
I wanted to mention another wrinkle as you work on definitions in your bill about paid sick leave - the role of the CNA. I'm sure you can find human resource expertise on this - I am a former nurse educator. CNA's are classified as Unlicensed assistive personnel and do NOT have a license - they have a certificate. They practice under the supervision of a registered nurse rather than independently. I don't have the documents in front of me, but I think you may need to refine your wording to reflect this.

I hope this is helpful.

Best wishes,

Diana Cundy





# HARDYPOND CONSTRUCTION

7 TEE DRIVE  
PORTLAND, ME 04103  
(207) 797-6066  
FAX (207) 797-8986  
info@hardypond.com

I am proud to have started and run a business in Portland until 2015, when my daughter took over. This business, Hardypond Construction, is based on the principles of honesty and fairness, and we utilize such practices as profit sharing, great benefits, and hiring a diverse workforce to achieve these goals. Hardypond Construction has always strived to do right by its employees – since they are the reason we've been a success story.

We are based in Portland and have been for more than 10 years, but more than half of our work takes place outside of the city. This means we've paid a bit more in taxes than we would elsewhere, but we like Portland and it has been home since we moved to our current office and shop space in 2004. Portland has also treated us well and embraces small, local businesses like Hardypond.

Mayor Strimling's proposed paid sick leave mandate changes all of that. Rather than employers deciding with their workers the benefits package that best suits the business, this mandate lifts the power right out of the hands of businesses like mine and places it instead in City Hall. The paid sick leave mandate would change how we run our business and it wouldn't allow us to treat our employees like family or with compassion in their times of need.

The proposed language of the mandate shows what happens when business leaders are not involved in making these types of decisions. The mandate is a one-size-fits-all policy that would uniquely disadvantage businesses like mine that work in so many different municipalities.

Portland has been home for us since 2004, but if the paid sick leave mandate passes then we would be forced to move our company to a surrounding city. I would imagine we are not the only ones.

A handwritten signature in black ink, appearing to read 'Robert Gaudreau', written over a horizontal line.

Robert Gaudreau, Vice President  
Hardypond Construction



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Compose

hall once a year after a clerk reviews the benefit package offered by the other information you would want to see.

In regards to my plan, part time employees do not get paid time off. I thir to ask businesses to provide this benefit to employees who may give as per week (totaling 10 hours). Yes I understand that they may be missing be forced to come in sick to earn money and that is not good for anyone options like employees switching days with other healthy co-workers, err another shift later in the week, etc. Certain perks should come along with commitment to the company. If I am a full time employee, dedicating 40 I employer, I think I should get more in perks/benefits than a part time emj am giving full availability to my employer for scheduling. Part time emplo and usually dictate what days they can work.

Thank you,

Kevin Walker  
Senior General Manager



65 Commercial Street  
Portland , ME 04101  
Office (207)780-0780

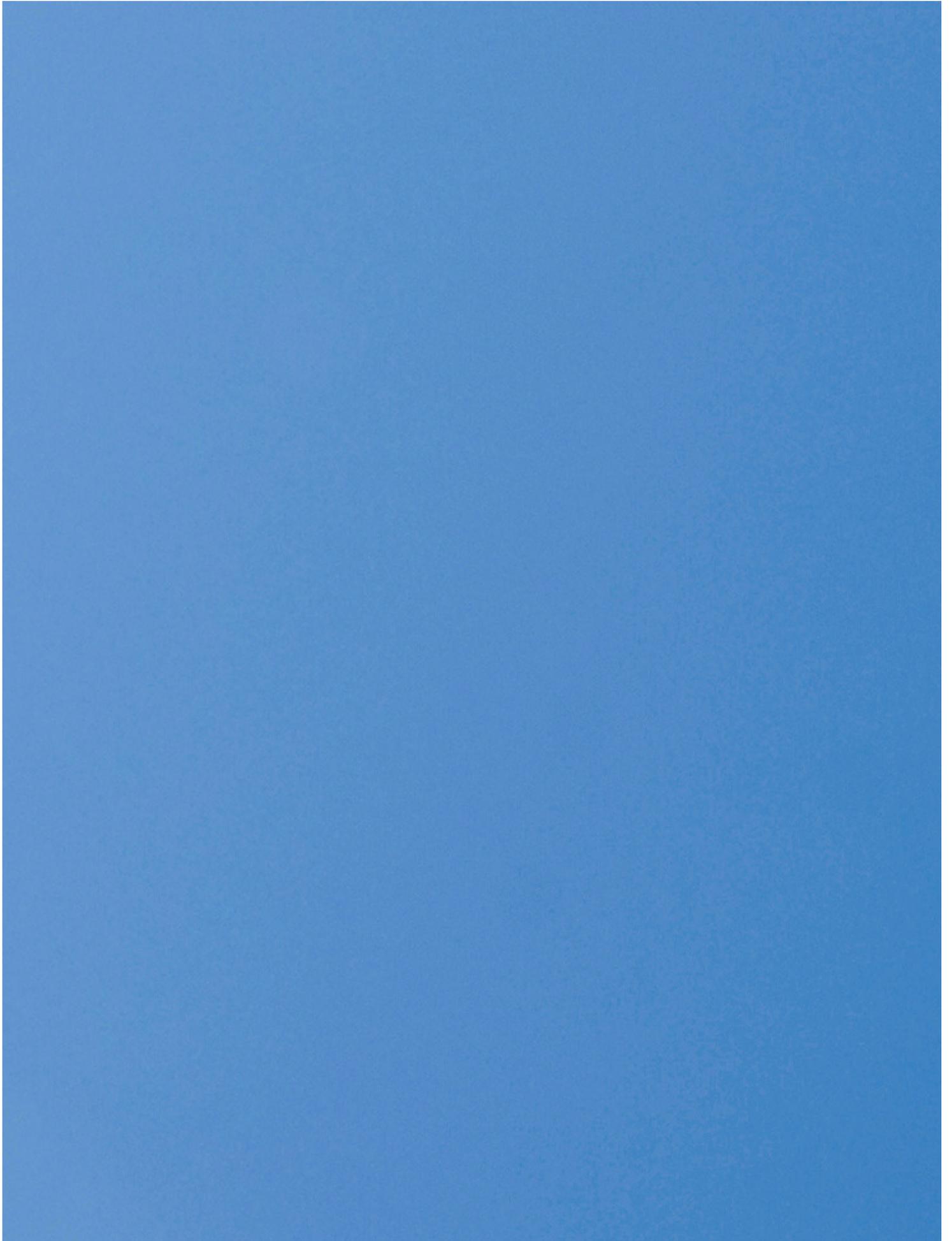


“As hotel men and women, it is our responsibility to fill the earth with th of hospitality”. – Conrad Hilton, 11/5/1954

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Compose

300 Congress St. Rm. 200  
Portland, ME 04101  
P: 207-874-8610  
F: 207-874-8612

----- Forwarded message -----

From: **Robert Milholland** <[rmilhol2@yahoo.com](mailto:rmilhol2@yahoo.com)>  
Date: Tue, Feb 12, 2019 at 3:52 PM  
Subject: Proposed sick-leave ordinance  
To: [cityclerk@portlandmaine.gov](mailto:cityclerk@portlandmaine.gov) <[cityclerk@portlandmaine.gov](mailto:cityclerk@portlandmaine.gov)>

Dear Ms. Jones and City Councilors,

I am a Mercy Hospital ("Northern Light") employee, and I

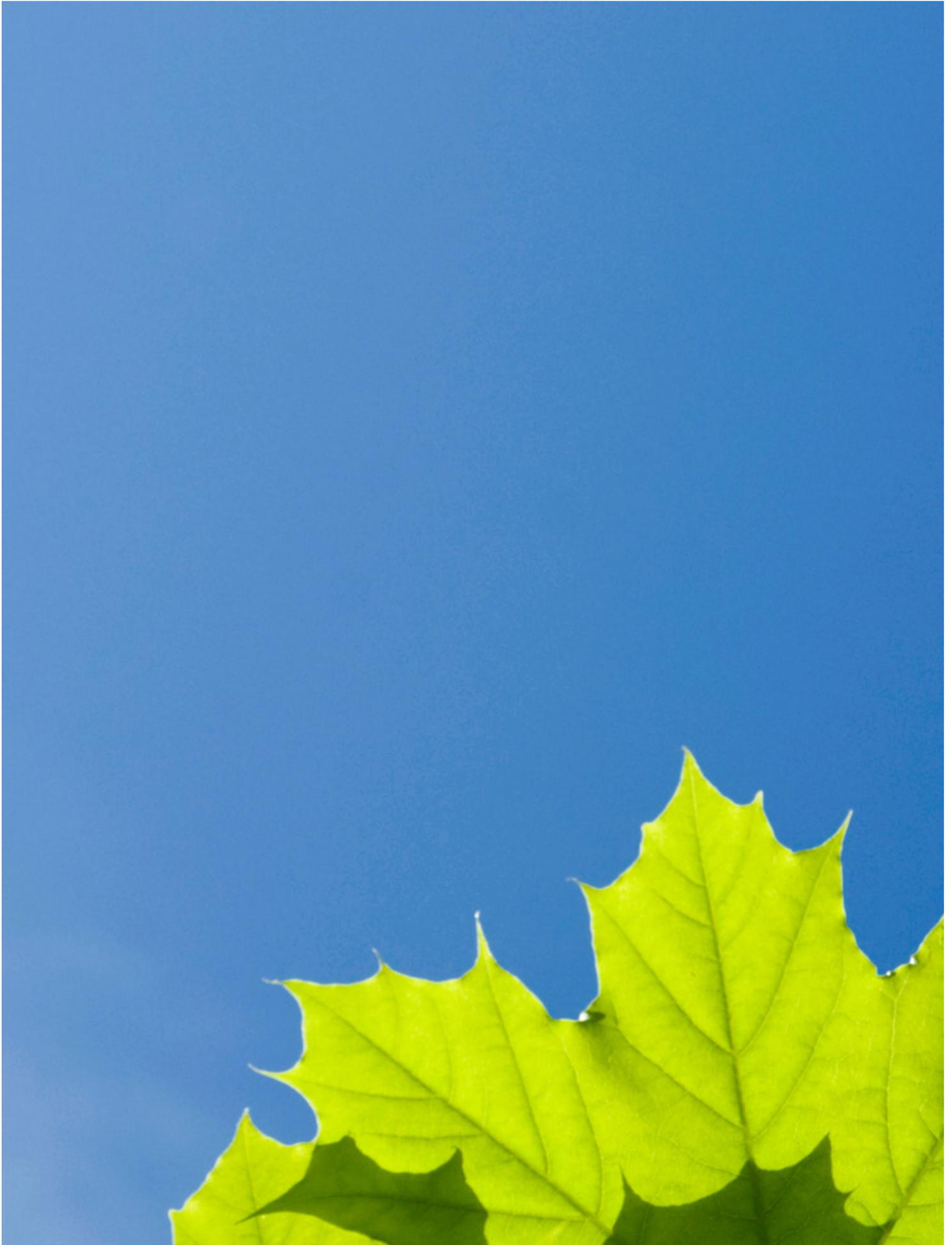
First, the powers that be at Mercy Hospital are under the i or injury. I looked up the proposed law and *did* see that 26 MRSA s treatment of our own or a relative's medical conditions, but does t

Second, *if* that is true, would this ordinance apply only to e Family Practice. I rarely keep more than 50 hours or so of PTO "ba complications (everything from a broken car engine to a broken-he these past twelve years without having to take a hit on my next pa the event of illness or injury).

Any information you can provide to help answer these que

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- HR





**Memo – Portland Paid Sick Leave**

<b>Date:</b>	1/25/19
<b>To:</b>	Portland City Counselors
<b>RE:</b>	Mandate for Portland Paid Sick Leave
<b>From:</b>	Olympia Hotel Management

Olympia Hotel Management is opposed to the City of Portland “mandating” paid sick leave. We believe the City should wait to see what the State is going to pass. We have hotels in the communities surrounding Portland, and this ordinance creates unequal treatment among employees working for the same employer.

To reduce the financial and administrative burden being place on local employers, some possible compromises to consider would be the following:

- Change the accrual rate from 1 hour for every 30 hours work to 1 hour for every 40 hours worked
- Change the eligibility to include only Full Time and Part Time employees, excluding seasonal and J1 employees.
- Change the waiting period for usage from 45 days to 90 days
- Change the carryover from 72 hours to 40 hours (why carry over 72 hours when the maximum you can use in a calendar year is 40?)
- Keep the maximum use per Calendar year at 40 hours
- To reduce the huge administrative burden of tracking, the Rehire provision should be removed. (A 12 month gap is too long to warrant restoration.) A rehired employee should have to again meet the waiting period and start accruing as a new hire, as this would discourage job hopping.
- The definition of Family Member should follow the Federal definition under the Family and Medical Leave Act. The proposed definition is overly broad.

We reward and incent our Full Time employees who work 35+ hours a week or, 70 hours a bi-weekly pay period, by offering a generous PTO plan. Part-Time employees do not receive PTO as they have the flexibility of working a reduced schedule of 10 to 29 hours based on their personal needs, i.e. school, child care, etc. If our Part-Time employees are sick or want a day off, they can “trade” their shifts with other employees so that they do not have a financial loss.

If this ordinance is passed, we will have to consider how best to off-set the added expense and possibly need to reduce the current generous benefit offered to our Full-Time employees to pay for the mandated benefit for “all” employees. Help us to not have to make that choice by reducing the financial and administrative burden by seriously considering the compromises we have listed above.

To: Portland City Council's H&HS Committee

From: Eliza Townsend, Maine Women's Lobby, DrewChristopher Joy, Southern Maine Workers' Center, and Kate Sykes, Southern Maine Democratic Socialists of America

October 18, 2018

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Councilors Ray, Ali, and Batson,

As you conclude your first pass of reviewing the proposed ordinance to allow all Portland workers to earn paid sick and safe time, I want to thank you for your time and attention and reiterate a few points.

### **Urgency**

We have been discussing the policy for more than a year and are now heading in to another flu and cold season. Let's remember that in the 2017-18 season, there were 85 deaths from the flu in Maine, and the Maine CDC tells us this is likely an underrepresentation. While other counties experienced higher rates, Cumberland County had the highest number of resulting hospitalizations. This information comes from the CDC's weekly Influenza Surveillance Reports, available at:

<https://www.maine.gov/dhhs/mecdc/infectious-disease/epi/influenza/influenza-surveillance-weekly-updates.shtml>



The flu is not the only form of illness we are concerned about, but it serves as an example of the importance of the ability to earn paid sick time because it is a highly contagious, *preventable* disease. The CDC tells us to wash our hands and to stay home when we are sick, yet many workers cannot afford to stay home. Paid sick time is an important strategy to improve public health.

### **Need**

The argument that "employers can always have a stronger policy" misses the point. Laws governing public health, public safety, and employment exist to address those who will not act in the interest of others unless required to do so. That is why we have health and safety codes, a minimum wage, speed limits, or noise regulations.

An earned paid sick time ordinance will benefit workers in low-wage jobs, primarily women and immigrants. These are the people least able to advocate for themselves with their employers.

The impact on public health and the benefit to low wage workers are two reasons we support a universal policy.

### **Decisions not yet resolved**

There are issues that remain undecided that are very important to our coalition and the workers we represent. These are our positions on several of these issues.

1. Cap on accrual We remain committed to allowing up to 6 full work days in one year. According the CDC, adults with the flu can infect others within 6 feet for up to 7 days after becoming sick. Children may remain contagious longer. <https://www.cdc.gov/flu/about/disease/spread.htm>  
As Mayor Strimling documented on October 9, many municipalities require 48 hours as a minimum. The proposal to cut by half the total number of sick hours an employee of a small business can earn penalizes their workers and isn't aligned with good public health policy. We are not in favor of a tiered policy,

however, if this is the policy Council that council pursues, it should add hours over 48 for large businesses, rather than lowering the total accrual for workers in small businesses.

2. Exempting businesses based on size or on their start-up status We are committed to a universal policy that covers businesses of all sizes, in order to achieve the best public health benefit and to improve the well-being of the highest number of employees. This is consistent with most states and municipalities that have adopted earned paid sick time policies and is consistent with the recent trend toward stronger protections. We are unclear as to whether the committee is weighing a phase-in approach for new businesses. If so, it would be important to differentiate between established businesses moving to Portland and start-ups.
3. Accrual of time We remain committed to allowing all workers to accrue time beginning with the commencement of employment. All work has value and should be appropriately compensated. Delaying the accrual by as much as 90 days would have the effect of excluding seasonal workers, which we strongly oppose. The chart distributed by Councilor Ray at the September 25 meeting makes clear that accrual is slow even for full time employees, who would need to work 6 weeks to earn one full day off; part-time workers would accrue at a pro-rated rate.
4. Penalties and back-wages We listened with interest when Ms. Torregossa stated that section 8 (b) 3 conflicts with state law. We direct your attention to a related state law, Title 26, Chapter 7, Subsection 6-B which can be found at: <http://legislature.maine.gov/legis/statutes/26/title26sec850.html> That law provides for liquidated damages paid to the affected individual in an amount equal to 3 times the amount of total assessed fines. Thus, there is precedent in state law for damages being payable to the individual rather than the government.

### **Decisions made to date**

We congratulate and thank you for adhering to a broad definition of family. We are delighted that you have chosen not to exclude part-time, seasonal workers, and most per diem workers.

Other decisions need not hold up the passage of this ordinance. We are comfortable with the requirement of 7 days' notice if the situation is foreseeable; access to information monthly or on request instead of on a pay stub; retaining records for 3 years rather than 6. We are confident that the city can find a solution and translate a poster into multiple languages, which is an important strategy to reach immigrant workers.

Several decisions are ones we can live with, depending on the final details. We look forward to:

- A specific definition of a health care worker (as it pertains to per diem workers)
- A proposed Return to Work affidavit as an alternative to documentation from a doctor
- The city's proposal for how it will hold accountable employers with inadequate documentation.

To summarize, we appreciate your time and attention to this important matter of public health and basic rights for all workers. We recognize the heavy workload of your committee but ask you to move this policy forward before Portland finds itself in the throes of another flu season.

As you move forward, we urge you to adopt a strong policy to protect the widest number of workers (and their coworkers, customers and charges), allow them to accrue time immediately and truly get well before returning to work, and that includes strong enforcement mechanisms.

We look forward to continuing to work with you to advance this important policy.



Health & Human Services and Public Safety Committee  
Portland City Council  
City Hall  
Congress Street  
Portland, ME 04101

February 11, 2019

Chair Belinda Ray, Councilor Brian Batson and Councilor Pious Ali:

On behalf of Maine Medical Center and Northern Light Mercy Hospital, the 10,800 individuals we jointly employ, including 2,789 who reside in Portland, and the patients we serve, we are writing to express our significant concerns with the proposed paid sick leave ordinance being considered by your Committee. Though we provided testimony that highlighted our concerns both in April, 2018 and again in January, 2019, we wanted to provide more detail about the benefits we offer and the reasons that this ordinance represents significant problems as we work hard to be employers of choice in our region.

As two large nonprofit hospitals, we share a goal with your committee to improve the health of the residents of Portland. Maine Medical Center and Mercy Hospital invest significantly in the Greater Portland community, including such projects as assisting the City's most vulnerable at the Preble Street Learning Collaborative and responding to the opioid crisis through our integrated medication assisted treatment programs. In FY '17 alone, Maine Medical Center and Mercy Hospital invested over \$300 million in improving the health of our communities. As health care providers, we appreciate the intent of this ordinance to ensure that all Portland workers and their families have the opportunity to heal when they are sick. However, as currently written, the ordinance would negatively impact our ability to offer best-practice paid time off (PTO) plans, hire per-diem workers, and offer aligned benefits across our systems that comply with city, state, and federal requirements.

### **Paid Time Off**

Our health systems offer best-practice PTO programs to all full-time and the vast majority of part-time employees. Our PTO policies allow employees to use their PTO at their discretion. We do not track nor ask why they are taking time off, and they are able to use the time for any purpose. This provides important flexibility to employees to help manage their work/life balance. Additionally, as employers competing nationally for top-level talent, our PTO programs help us attract the best workers to Portland.

It is our understanding that the intention behind the proposed Section 2(g) of the current proposed ordinance is to ensure that employers who offer 48 or more hours of PTO do not have to change their policy to comply with the ordinance; however, the language does not meet that intention. Rather, Section 2(g) states that an employer need not track sick leave and/or actual reasons for leave, and may maintain its PTO policy even if it does not distinguish between, sick, vacation, or other time off, so long as (1) the PTO policy allows for the same amounts of accrual for time off needed for sick leave, and (2) the PTO policy allows for PTO to be used for the same purposes and under the same conditions as earned paid sick leave as otherwise provided under the ordinance.

The restrictions imposed in Section 2(g) are critical because they necessitate that in order for a PTO plan to be truly exempt from this ordinance, it must specifically align with every detail of the ordinance. If an employer does not change their PTO plan to meet all of the requirements of the ordinance, the employer would be mandated to provide an additional six days of paid sick leave under conditions that do align with the ordinance. For example, our PTO policies would still need to meet conditions imposed by the termination sections, including that employees have their earned time reinstated on rehire. Our PTO policies provide employees with a cash out provision and therefore with pay, for accrued but unused hours earned. When we rehire employees (or hire new employees), they have the ability to “borrow” up to 24 hours of PTO against future accrual starting immediately. This provision would put our PTO policies out of compliance with the PTO exemption in the ordinance, forcing us to track and provide paid sick days separately from time off taken under our PTO policy.

Another example, Section 3(a)(1) provides that sick time – included within PTO in our case – “shall be provided” at the request of the employee. This means that we are not allowed to decline any employee PTO request that is related to sick time use, which we will not know unless we ask the employee for the reason for their absence. Also, this means that we would have to provide paid sick time on top of PTO if an employee had used all of their PTO then asked for paid sick time. Similarly, Section 5 of the Ordinance prohibits employers from retaliating against employees for use of sick time; however, under our PTO programs, we do not know the intended use of time off. We would need to ask, and then track, the reasons for time off taken. Thus, while one provision in the ordinance states that qualified PTO plans would be exempt from the policy and tracking, compliance with the other provisions of the policy would necessarily require that we ask, and subsequently track, the reason for the PTO request. The requirements of Section 3(a) and Section 5 (among other provisions) thus entirely contradict the notion that we need not “track” the reasons for our PTO.

In order to meet the Ordinance provisions, we would have no choice but to reserve up to 48 hours (6 days) from our PTO plan for sick time use and track employee requests for time off. This is a significant departure from the flexible and unobtrusive PTO benefit that we currently provide, and it would represent a take away from our employees who can use the time to meet their own personal needs today.

It would be impossible for MaineHealth (the parent company of MMC) and Northern Light Health Care (the parent company of Mercy Hospital) to alter our PTO plans so that they meet the exemption threshold set in Section 2(g). Our employees would have to sacrifice PTO that they can currently use for any purpose for time they could only use for the purposes outlined in the proposed ordinance. This is neither best practice for employee benefits nor a provision that would further our goal of providing our employees with flexible benefits that best meet their personal needs. **We ask that the Committee fully exempt employers that provide PTO from all provisions of the ordinance.**

### **Per-diem Workers**

It is impossible to fully staff a hospital 24 hours a day, 365 days a year without creative and flexible working arrangements. Our per-diem workers enjoy the flexibility of choosing their own schedule, some work just a few times a year, others work more regularly. All per diem workers work on their own terms, coming to work on their own schedule. They are not “required” to work certain hours or days.

It is important to note that MMC’s per-diem workers fall into 120 job codes, and Mercy’s into 60. We appreciate that the Committee has attempted to limit the ordinance to those workers who are not licensed, but there are a number of people who currently have the flexibility of working on a per diem basis who would still fall under the proposed ordinance, such as security workers, interpreters and chaplains. We staff these positions because they’re essential to providing the best care to patients and their families, and their roles allow for flexible staffing that suits our needs as a health care provider and their needs as a worker. Per-diem employees already have the flexibility to attend health appointments, school meetings, and other circumstances cited as a need for this ordinance by simply not scheduling themselves during those times. With that said, mandating that employers provide paid sick time to this population would have unintended consequences and would make it more difficult for our hospitals to maintain or expand our per-diem population. **Given their current ability to work only when it is mutually beneficial, we ask that all per-diem workers be exempted from the ordinance.**

### **Jurisdictional Challenges**

With new leadership in Augusta, legislation to implement mandatory earned paid sick leave at the state level has been introduced and is being seriously considered. In fact, LD 369, “An Act to Support Healthy Workplaces and Healthy Families by Providing Earned Paid Sick Leave to Certain Employees” is being heard on Wednesday, February 13. MaineHealth and Northern Light Health have thousands of employees across the state and, as organizations that each operate under unified governance and operating structures, we aim to offer best in class uniform benefits to our combined 31,000 employees across the state.

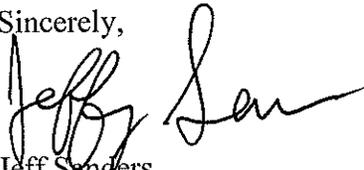
The implementation of different paid sick leave mandates at the state and municipal level would add to the already administratively complex burden for our health care organizations, especially given that our employees can work in multiple locations, including Portland. Two different mandates would make uniform benefits and policies surrounding our PTO program impossible. In addition to this issue, the Ordinance provisions that do not allow employers to seek additional information about the nature of

illnesses that are precluding employees from working is in direct conflict with state and federal disability laws that specifically allow for employers to collect such information, including but not limited to, for purposes of accommodation decisions. Likewise, the Ordinance's seeming allowance for the City to obtain employee health information from employers related to alleged violations of the Ordinance is in direct conflict with confidentiality provisions of state and federal disability laws. While the details of these and other conflicts between the proposed municipal Ordinance and state and federal laws extend beyond this letter, the fact is that they exist, compromising the ability of any employer to comply with all laws that apply to one employee in one situation.

From the beginning, we have felt that this is an issue to be dealt with at the state level. **With legislation that would implement a substantially different paid sick leave law than the ordinance your Committee is reviewing already being considered in Augusta, we respectfully ask that your Committee pause its work, and allow the Legislature an opportunity to consider the various paid sick leave proposals before voting on the ordinance before you.**

Thank you for the opportunity to comment on the proposal, and we remain available to work with you as you continue your deliberation on this matter.

Sincerely,



Jeff Sanders

President, Maine Medical Center



Charlie Therrien

President, Northern Light Mercy Hospital

Cc: Mayor Ethan Strimling  
Councilor Kim Cook  
Councilor Justin Costa  
Councilor Jill Duson  
Councilor Nick Mavadones  
Councilor Spencer Thibodeau  
City Manager Jon Jennings



Maine Medical Center

MaineHealth

**Testimony of Jeff Sanders, President of Maine Medical Center  
before the Health and Human Services and Public Safety Committee  
Portland City Council  
January 8, 2019**

Good Evening, Chairman Ray, Councilor Ali and Councilor Batson.

I am Jeff Sanders, and I live at 65 Brookside Road in Portland, and I am the President of Maine Medical Center, MaineHealth's flagship tertiary care center.

Maine Medical Center's mission is to train tomorrow's caregivers, research new ways of giving care and provide the community with excellent, patient-centered care regardless of ability to pay.

With 9,300 employees—2,000 of whom are Portland residents --Maine Medical Center is Portland's largest employer. Healthcare is a national commodity, and our success relies upon recruiting from all parts of the United States and beyond. As a result, we invest significant resources to ensure that we offer a strong and competitive benefits package that will help attract and retain top medical talent to our community. Our benefits include:

- Competitive, market-based salaries.
- Health insurance coverage options that are based on a sliding scale to ensure affordability to those who earn less - the cost to employees is tiered based on income.
- Retirement contributions that grow with time.
- Employer sponsored supplemental insurance for life, short term and long term disability.

Related to the ordinance before this committee, we offer paid time off (PTO) to all full-time and the majority of part-time employees. Our paid time off policy allows employees to use their PTO at their discretion. This provides important flexibility to employees to help manage their work/life balance.

We appreciate the Committee's deliberation of this proposed ordinance and we support the stated intention to ensure employees have the time needed to heal when sick. As a large employer in an increasingly competitive market for talent, we need to ensure that our benefits reflect the flexibility and innovation that will help us attract and retain top talent. Unfortunately, the proposed paid sick leave ordinance continues to raise serious concerns for employers that offer paid sick leave through the more flexible vehicle of paid time off. We continue to have concerns that this ordinance would create significant administrative burden while hampering a benefit that supports our employees.

With respect to PTO, because the ordinance does not exempt employers that offer PTO from the entirety of the ordinance, including the requirement of tracking the reasons that employees are taking time off, we would be required to separate PTO and sick leave. This would require us to ask our employees the purpose of their time off and track their utilization, which would create both an expensive administrative task and an unnecessary invasion into employees' privacy.

Currently, we offer the best-practice approach of providing one form of paid time off, without requiring our employees to justify their use of time used. Should the ordinance pass as written, we would need to reduce the number of flexible PTO days, replacing them with “sick” days. This would create frustration among our workforce, particularly those who are rarely sick, and add a layer of administrative reporting that we are unsure is manageable.

Additionally, while we appreciate the Committee’s partial acknowledgement that per diem workers in health care facilities should not be included in the ordinance, the current language only applies to a small portion of the per diem workforce that Maine Medical Center relies on to stay fully staffed and operable 24 hours a day, 365 days a year. Our per diem workers fall into 120 job codes, from RNs to CNAs, administrative assistants, chaplains, security and interpreters. Per Diem workers enjoy the flexibility when they work, with some working a few times per year and others more regularly. This is a relationship in which employees maintain discretion over their work schedule, and Maine Medical Center has individuals from which it can call upon to meet variable staffing needs. If this ordinance is passed, we estimate the cost to provide paid sick leave to our per diem population to exceed \$500,000 annually.

While these represent two major problems with the ordinance, we have a number of other questions and concerns. The ordinance lacks sufficient definitions and specifics regarding who it applies to and how it should be interpreted, leaving many questions about how it would be implemented and enforced. For example, we continue to have questions about implementation of such a mandate at the municipal level. As written, it is unclear as to whether we would be required to track every hour that a worker from a site outside of Portland spends in meetings or doing other job-related activities within Portland city limits. Such details and definitions are critical to understanding the implications of major policy changes such as this.

Finally, as a unified health care system, MaineHealth would likely be forced to develop and administer separate benefits for employees who spend any time working in Portland from those that work in other municipalities. Further, we would likely be required to change our policies in a manner that would penalize employees who take fewer sick days. This would create an uneven playing field, and one that would be unwelcome by employees and difficult and expensive to administer as the employer.

Thank you for the opportunity to testify, and we remain available to work with you as consider your deliberation on this matter.



**Testimony of Judy West, Chief Human Resources Officer  
Maine Medical Center and MaineHealth  
before the Health and Human Services and Public Safety Committee  
Portland City Council  
April 24, 2018**

Good Evening, Chairman Ray, Councilor Ali and Councilor Batson.

My name is Judy West, my residency is 18 Pine Street, Portland. I am the senior vice president & chief human resources officer at Maine Medical Center and for the entire MaineHealth system that provides accessible care to 1.1 million people in 11 counties in Maine and Carroll County, New Hampshire.

Maine Medical Center's mission is to train tomorrow's caregivers, research new ways of giving care and provide the community with excellent, patient-centered care. Our broader MaineHealth vision is "working together so our communities are the healthiest in America." MaineHealth is Maine's largest private employer, employing approximately 19,000 employees, full-time and part-time in excellent jobs across our footprint. Maine Medical Center alone employs 9,300 people right here in Greater Portland.

As an employer, we offer a strong and competitive compensation and benefits package. Total compensation that includes:

- Competitive, market-based salaries. Our goal is to provide an annual raise for all employees.
- Health insurance coverage options that are based on a sliding scale to ensure affordability to those who earn less - the cost to employees is based on their income level.
- Healthcare saving account options.
- Retirement contributions that grow with time.
- Wellness benefits for all employees that help them stay healthy, including free flu shots as well as cash rewards for a range of healthy activities from nutrition & weight loss to gym memberships to community agriculture shares and more.
- We also provide employer sponsored supplemental insurance for life, short term and long term disability.

One of our best and most popular benefits is paid time off – which we call PTO. We use a best practice that offers one kind of PTO to full-time and the majority of our part-time employees. This paid time off can be used at the discretion of the employee to meet their own personal need for time off, regardless of the cause. We don't ask how our employees use their time off, and therefore we don't track anything but the amount of time taken for PTO. Our PTO benefit allows

for an incredible amount of flexibility to accommodate the paid leave need of employees who are sick or have loved ones who require short and long term care. They can even - and do regularly - donate PTO hours for team members who have a long term need like cancer. It also allows those employees who work hard to stay healthy to use their PTO as they see fit. It is a win-win for everyone, and our employees really love this benefit.

So let me speak now the proposed ordinance.

**With respect to our PTO**, this proposal would restrict the flexibility that our employees now enjoy and limit their ability to take paid time off without restriction, and instead box them into a strict sick-time policy. They would lose the flexibility that they have come to appreciate so much. This would result in a reduction in PTO for those who would use their time for other purposes, and an administrative challenge for us, as we would be required to track time off used for sick time separately from time off used for other purposes.

**We also worry about how to implement and manage a local policy like this.** For employers like us who have locations in multiple regions of the state, this lack of uniformity will create confusion for employees as well as us. Who does it apply to? And how do we track it? How do we address the addiction psychiatrist who works in Biddeford, Portland, Westbrook, Scarborough and Windham?

**And that really leads to the fundamental problem of multiple jurisdictions.** What happens when other towns come up with their own local sick time ordinances, ones that might differ from what was done here in Portland? How do we come up with one system that complies with many different sets of regulations? We have employees whose work carries them to multiple locations across Maine and in New Hampshire. It just isn't practical or financially feasible to have multiple sets of local regulations for a benefit like this.

### **In conclusion**

As drafted, this proposal contains a large number of problems. And while there is much to be concerned about with the particulars of this proposal, fundamentally we see this as unworkable at the municipal level. There's no tweak or change that in our mind would make this worth pursuing for the city.

We are proud to provide flexible paid time off for our employees. And frankly, I'm concerned that if we have to alter our current policy in a way that reduces flexibility, our employees will perceive it as a takeaway and our recruiting efforts will suffer because we don't have a best-practice benefit.

As Portland's largest employer and a world class health care provider, we know the importance of a healthy workforce. Our vision after all is working together so our communities are the healthiest in America. This proposed ordinance hinders our efforts to achieve that vision because it risks creating an impractical set of rules across multiple jurisdictions and it undermines a benefit that our employees tell us meets both their needs and those of their families.