Good afternoon Senator Craven, Representative Farnsworth, and Members of the Joint Standing Committee on Health & Human Services. I am Andrew MacLean, Deputy Executive Vice President of the Maine Medical Association (MMA), and I am speaking in support of L.D. 198, An Act To Clarify Physician’s Delegation of Medical Care.

The MMA is a professional association representing more than 3800 physicians, residents, and medical students in Maine whose mission is to support Maine physicians, advance the quality of medicine in Maine, and promote the health of all Maine citizens.

I thank Dr. Dorney for sponsoring L.D. 198 on our behalf and I begin by telling you that the bill is an effort to bring Maine law on physician delegation into conformity with the structure and operations of medical practices today. I also caution you that 32 M.R.S.A. §3270-A in the Board of Licensure in Medicine statutes (M.D.s) and the parallel provision in the osteopathic statutes (D.O.s) are not models of clear legislative drafting and are somewhat challenging to read and interpret. These are the statutory
provisions addressing delegation to licensed Physician Assistants, but they also address physician delegation to unlicensed assisting personnel in medical offices who are commonly known as Medical Assistants. In an effort to focus your attention on the statutory language that is important to your discussion about the two issues with physician delegation in this bill, I have emphasized parts of §3270-A below. The two sentences underlined establish a physician’s authority to delegate medical tasks to Medical Assistants when the physician is supervising the Medical Assistant and is accepting the legal liability for those delegated medical tasks. The language in bold describes in general terms, the scope of medical tasks that may be delegated by a physician to a Medical Assistant. The language “carried out by custom and usage” is purposely flexible enough to account for the evolution of medical practice.

32 §3270-A. ASSISTANTS

This chapter may not be construed to prohibit an individual from rendering medical services if these services are rendered under the supervision and control of a physician or surgeon and if that individual has satisfactorily completed a training program approved by the Board of Licensure in Medicine and a competency examination determined by this board. Supervision and control may not be construed as requiring the personal presence of the supervising and controlling physician at the place where these services are rendered, unless a physical presence is necessary to provide patient care of the same quality as provided by the physician. This chapter may not be construed as prohibiting a physician or surgeon from delegating to the physician's or surgeon's employees certain activities relating to medical care and treatment carried out by custom and usage when the activities are under the control of the physician or surgeon who must be present on the premises at the time the activities are performed. The physician delegating these activities to employees, to program graduates or to participants in an approved training program is legally liable for the activities of those individuals, and any individual in this relationship is considered the physician's agent. This section may not be construed to apply to registered nurses acting pursuant to chapter 31.

With this background on the statutory construction in this bill, I would like to tell you more about the education, training, and professional accreditation of Medical
Assistants. Traditionally, a Medical Assistant might be the physician’s spouse or an individual hired right out of high school and trained by the physician “on the job.”

Today, Medical Assistants usually are graduates of an associates degree program who may sometimes have a national professional accreditation as a Certified Medical Assistant (CMA) through the American Association of Medical Assistants (AAMA). In Maine and in most states, if not all, they are unlicensed personnel who work under delegation from a physician. For example, Southern Maine Community College awards an Associate in Applied Science Degree in Medical Assisting whose sample curriculum includes the following courses:

- Medical Terminology
- Medical Office Procedures
- Introduction to Medical Assisting and Allied Health
- Disease Pathology/Diagnostic Lab Tests
- Clinical Office Procedures
- Billing Procedures and Administration
- Electronic Medical Records
- Medical Ethics and Law
- Medical Office Administration
- Pharmacology
- Anatomy and Physiology I and II with Lab
- English Composition
- Introduction to Literature
- Introduction to Psychology
- Developmental Psychology
- Fine Arts/Humanities and Mathematics electives

According to the AAMA, common job responsibilities for Medical Assistants include:

1. Administrative duties
   a. Using computer applications
   b. Answering telephones
   c. Greeting patients
   d. Updating and filing patient medical records
   e. Coding and filling out insurance forms
   f. Scheduling appointments
   g. Arranging for hospital admissions and laboratory services
   h. Handling correspondence, billing, and bookkeeping

2. Clinical duties
   a. Taking medical histories
   b. Explaining treatment procedures to patients
   c. Preparing patients for examination
   d. Assisting the physician during the exam
   e. Collecting and preparing laboratory specimens
   f. Performing basic laboratory tests
   g. Instructing patients about medication and special diets
   h. Preparing and administering medications as directed by a physician
   i. Authorizing prescription refills as directed
j. Drawing blood  
k. Taking electrocardiograms  
l. Removing sutures and changing dressings  

As this job description suggests, Medical Assistants fill a vital role in medical offices today.  

Now that you know a bit about the statute we are seeking to amend and something of the education and training of Medical Assistants, I will describe the two amendments we ask you to make to these statutes to ensure that Maine law keeps pace with the evolution of medical practice.

1. **Amend the description of agents to whom physicians may delegate medical tasks to include “support staff” in addition to “employees.”** Current law dates to a time when most physicians owned private practices and hired employees for their businesses. As we all know, more physicians are employed by hospitals, health care systems, or federally-qualified health centers and support staff, therefore, are not employees of the physician. They are employees of the institution or organization, but they still work in the same relationship with physicians and mid-level practitioners.

2. **Strike the requirement that the physician be present on the premises at the time the Medical Assistant is performing medical tasks.** This problem with the current statute was brought to our attention during a continuing medical education program on delegation at our office last year when a participant pointed out that it is not
uncommon for patients to arrive at a medical office and for Medical Assistants to be performing medical tasks preparing those patients for examination before the first physician arrives for the business day. I understand that some might be concerned about the patient safety implications of such a change, but I would point out that the statute still provides that the Medical Assistant is performing these medical tasks under the supervision and control of a physician who remains liable for the standard of care, meaning that medical assisting protocols must be in place for performance of the delegated tasks and that the scope of delegated tasks is the routine types of clinical activities described above.

These two statutory changes are necessary to ensure an adequate health care work force in Maine and the efficient operation of our medical practices. Thank you for considering the MMA’s perspective on L.D. 198 and I respectfully ask you to vote the bill “ought to pass.” I would be happy to respond to any questions you may have.