

# MAINE STATE LEGISLATURE

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42  
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46  
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**HEALTH AND HUMAN SERVICES**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
118TH LEGISLATURE  
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT "A" to H.P. 767, L.D. 1044, Bill, "An Act to Clarify Requirements Pertaining to the Maine Certificate of Need Act"

Amend the bill by striking out everything after the enacting clause and before the summary and inserting in its place the following:

**Sec. 1. 22 MRSA §304-A, sub-§1-A is enacted to read:**

1-A. Acquisition of control. Any acquisition of control of a health care facility under lease, management agreement or comparable arrangement or through donation that would have required review if the acquisition of control had been by purchase, except in emergencies when such acquisition of control is at the direction of the department;

**Sec. 2. 22 MRSA §308, sub-§1-A is enacted to read:**

1-A. Acquisition of control. The department shall waive the requirements of section 309, subsection 1, paragraphs C and D and conduct a simplified review process in accordance with this section for an acquisition of control of health care facilities pursuant to section 304-A, subsection 1-A, if the acquisition consists of a management agreement or similar arrangement and primarily involves day-to-day operation of the facility in its current form. The department shall complete its review of arrangements qualifying for simplified review within 45 days of the filing of a completed application.

**COMMITTEE AMENDMENT**

**Sec. 3. Report by department.** No later than January 1, 1998 the Department of Human Services shall furnish a written report to the joint standing committee of the Legislature having jurisdiction over health and human services matters, setting forth the number of letters of intent, applications and requests for determination of nonapplicability that the department has received with respect to proposed or contemplated management agreements or management service contracts for health care facilities. The department shall also report on the number of nonapplicability determinations, the number of certificate of need decisions and the number of pending certificate of need review proceedings involving management agreements or management service contracts occurring between the effective date of this Act and the close of the calendar year immediately preceding the reporting deadline. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall review the department's report and consider whether any legislative action is necessary to avoid overly broad certificate of need review requirements in connection with management agreements. The committee may report out any necessary legislation to the Second Regular Session of the 118th Legislature.'

Further amend the bill by inserting at the end before the summary the following:

#### FISCAL NOTE

The additional costs associated with the limited number of new certificate of need applications and the report requirement can be absorbed by the Department of Human Services utilizing existing budgeted resources. The department may also experience a minor increase in Other Special Revenue from additional filing fees.'

#### SUMMARY

This amendment replaces the original bill with language more specifically targeting the special class of management agreements that effectively transfer control of a health care facility in such a manner that a certificate of need review would have been triggered if the transfer had been accomplished by purchase. This amendment is designed to make it clear that this change in the certificate of need law is not intended to extend certificate of need review processes to all management agreements and similar contracts with health care facilities but only to require review of management agreements that effectuate an acquisition of control that would have required review if it had been accomplished by purchase of the facility. It adds a fiscal note to the bill.