

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE
AT THE

SECOND REGULAR SESSION

January 4, 1978 to April 6, 1978

FIRST SPECIAL SESSION

(No laws enacted)

September 6, 1978 to September 15, 1978

SECOND SPECIAL SESSION

October 18, 1978

THIRD SPECIAL SESSION

December 6, 1978

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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1979

PUBLIC LAWS
OF THE
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AS PASSED AT THE
SECOND REGULAR SESSION
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ONE HUNDRED AND EIGHTH LEGISLATURE
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§ 119. Distribution of appropriations

The Commissioner of Educational and Cultural Services, with the advice of the Maine Library Commission, is authorized to apportion funds appropriated by the Legislature for the support of regional library systems.

Sec. 16. P&SL 1973, c. 11, § 1, Sect. 3 is amended. Section 3 of said charter, as amended by chapter 264 of the Acts of the Commonwealth of Massachusetts of 1973, and chapter 11 of the private and special laws of Maine of 1973 is hereby further amended to read as follows:

Sect. 3. And be it further enacted by the authority aforesaid, that for the more orderly conducting the business of the said corporation, the president and trustees shall have full power and authority, from time to time, to elect a vice president and secretary of the said corporation, and to declare the tenures and duties of their respective offices; and to elect trustees of said corporation, for such terms and upon such conditions as they may from time to time determine, and also to remove any trustee from the same corporation, when, in their judgment, he shall be incapable or shall neglect or refuse to perform the duties of his office. Provided nevertheless, that the number of the said trustees, including the president ~~and treasurer~~ of said college, for the time being, shall never be greater than 13, nor less than 7.

Sec. 17. Effective date. Section 16 shall take effect when approved for the purpose of its submission to the General Court of Massachusetts for its concurrence. It shall take effect for all purposes when a certificate is filed with the Secretary of State certifying that the General Court of Massachusetts has granted its concurrence.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect immediately, except that sections 7, 9, 11-D and 14 shall take effect on July 1, 1978; and except that section 16 shall take effect in accordance with section 17.

Effective March 30, 1978 Unless otherwise indicated

CHAPTER 691

AN ACT to Establish the Health Facilities Information Disclosure Act.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 22 MRSA c. 105 is enacted to read:

CHAPTER 105

HEALTH FACILITIES INFORMATION DISCLOSURE ACT

§ 351. Findings and declaration of purpose

The Legislature finds that the rising costs of health care and services provided by health care facilities are matters of vital concern to the people of this State and have a direct relationship to the ability of the people to obtain necessary health care.

The Legislature further finds that the informed development of public policy relating to health care requires that the State regularly assemble and analyze information pertaining to health care costs.

It is the intent of the Legislature that uniform systems of reporting health care information shall be established and public disclosure of that information shall not violate the privacy rights of patients and health care practitioners, and that all health care facilities shall, subject to this chapter, be required to file reports in a manner consistent with these systems.

It is further the intent of the Legislature to provide for the review of and comment on the proposed budgets of any hospital by either the Health Facilities Cost Review Board or an approved voluntary budget review organization and for the monitoring of any voluntary budget review organization by the Health Facilities Cost Review Board.

It is further the intent of the Legislature that the Health Facilities Cost Review Board report to the Legislature and the Governor annually on the status of the costs of services rendered by the health facilities and recommend, if appropriate, mechanisms to control those costs.

§ 352. Definitions

As used in this chapter, unless the context otherwise indicates, the following words and terms shall have the following meanings.

1. Board. "Board" means the Health Facilities Cost Review Board established by this chapter.
2. Department. "Department" means the Department of Human Services.
3. Direct provider of health care. "Direct provider of health care" means an individual whose primary current activity is the provision of health care to other individuals or the administrator of a facility in which that care is provided.

4. Health facility. "Health facility" means any health care facility required to be licensed under chapter 405 or its successor, with the exception of the Cutler Health Center and the Dudley Coe Infirmary.

5. Hospital. "Hospital" means any acute care institution licensed pursuant to chapter 405 or its successor, with the exception of the Cutler Health Center and the Dudley Coe Infirmary.

6. Independent data organization. "Independent data organization" means an organization of data users, a majority of whose members are not direct providers of health care services and whose purposes are the cooperative collection, storage and retrieval of health care information.

7. Uniform system of reporting. "Uniform system of reporting" means the external reporting of health care facility activities through the preparation of financial and service data reports which in no way supersedes the responsibility reporting requirements of individual institutions.

8. Voluntary budget review organization. "Voluntary budget review organization" means a nonprofit organization established to conduct reviews of budgets of hospitals to determine that prospectively determined rates and charges are reasonably just and are reasonably related to financial requirements, and that these prospective rates and charges are allocated equitably among all purchasers of health services without undue discrimination, except as required by federal and state statutes or regulations.

9. Performance standards. "Performance standards" means the numerical measures of the costs of health care services rendered, as calculated according to methods used by the board to define these measures.

§ 353. Health Facilities Cost Review Board; membership; terms; vacancies

A Health Facilities Cost Review Board shall be established as follows.

1. Health Facilities Cost Review Board; established. There is established a Health Facilities Cost Review Board which shall function as an independent board. The board shall be composed of 10 members. Eight members shall be appointed by the Governor, subject to review by the Joint Standing Committee on Health and Institutional Services and confirmation by the Legislature. The Commissioner of Human Services or his designee shall serve as an ex officio voting member of the board; the Superintendent of Insurance or his designee shall serve as an ex officio nonvoting member of the board. The 8 members appointed by the Governor shall be selected in accordance with the following requirements:

A. One member shall be appointed from a list of 3 names submitted by the Maine Hospital Association;

B. One member shall be appointed from a list of 3 names submitted by the Maine Health Care Association;

C. One member shall have had at least 5-years' experience in the field of health insurance or in the administration of a health care service plan within the 10 years preceding the initial appointment; and

D. Five public members shall be appointed as consumers of health care. Neither the public members nor their spouses or children shall, within the preceding 12 months, have been affiliated with, employed by, or have had any professional affiliation with any health care facility or institution, health product manufacturer or corporation or insurer providing coverage for hospital or medical care.

2. Term of appointed members. Appointed members of the board shall serve for a term of 4 years. Members shall hold office until the appointment and confirmation of their successors. Of the members first appointed by the Governor, the member from the Maine Hospital Association and 2 public members shall hold office for 4 years, the member from the Maine Health Care Association and one public member shall hold office for 3 years, the member from the insurance field and one public member shall hold office for 2 years and one public member shall hold office for one year.

3. Vacancies. Vacancies among appointed members shall be filled by appointment by the Governor for the unexpired term. The Governor may remove any appointed member who becomes disqualified by virtue of the requirements of subsection 1, or for neglect of any duty required by law, or for incompetency or dishonorable conduct.

§ 354. Meetings; chairman; compensation

The board shall meet and receive compensation as follows.

1. Meetings; chairman and vice-chairman. The board shall hold one regular meeting annually in Augusta. Additionally, the board may meet from time to time as required to fulfill its responsibilities. The Governor shall appoint a chairman and vice-chairman from the public members, who shall serve in this capacity at his pleasure.

2. Compensation. Each appointed member of the board shall receive a per diem allowance of \$25 for each day that he is actively engaged in performing the work of the board and each member shall be reimbursed for the actual and necessary traveling and other expenses incurred in the discharge of his duties.

3. Quorum; voting and official action. Six members of the board shall constitute a quorum. Actions of the board shall be by majority vote. No action of the board shall be official unless a majority of the appointed public members are present.

§ 355. Executive director

The board may appoint an executive director, who shall perform the duties delegated to him by the board and be responsible to it for the accomplishment of these duties. The executive director shall serve at the pleasure of the board and his salary shall be set by the board.

§ 356. Staff

The board is authorized to employ, subject to the personnel laws, such staff as it deems necessary. The department may provide staff, facilities and other appropriate assistance to the board. Any staff provided by the department shall carry out duties assigned by the board.

§ 357. Powers and duties

The board shall:

1. Data reporting systems. Establish uniform systems for reporting financial and other health service data as provided in section 358;
2. Review of budgets and revenues. Have the power to review the reasonableness of the budget of any hospital, as provided in section 359;
3. Studies and analyses. Have the power to conduct studies and analyses relating to health care costs and other related matters as provided in section 360;
4. Annual report. Prepare an annual report for transmission to the Legislature and the Governor as provided in section 361;
5. Receipt of grants, gifts and payments. Have the power to apply for and receive grants, gifts and other payments from any governmental agency, private entity or other person as provided in section 362;
6. Contract for services. Have the power to contract with 3rd parties for services necessary to carry out the activities of the board as provided in section 363;
7. Approval of budget review organizations. Approve voluntary budget review organizations for the purposes of section 359 as provided in section 364; and
8. Performance standards. Have the power to develop performance standards, after a public hearing pursuant to section 366, sub-section 1, in order to

evaluate the effects of any approved voluntary budget review organization on the costs of health care services rendered by hospitals participating in the organization.

§ 358. Uniform systems of reporting

Uniform systems of reporting health care information shall be established as follows.

1. Establishment. The board shall establish, after consultation with appropriate agencies and organizations and after holding public hearings in several areas of the State, uniform systems of reporting health care information.

2. Compliance with systems. Each health facility shall comply with the required systems for its fiscal year period to be effective at such time as the board shall direct. The board shall allow any health facility, which does not maintain its records and data in a manner consistent with the requirements of the board, a period of up to 18 months from the date which the requirements become effective to conform to these requirements. Any facility for which these requirements are temporarily waived by the board shall during the period of the waiver provide information required by the board in the manner in which the facility does assemble this information.

3. Filing. Unless the board grants in writing an extension of time, each health facility shall file with the board, as applicable, not later than 120 days after the end of its fiscal year, information as provided under subsection 4.

4. Information required. Pursuant to rules adopted by the board for form and content, each health facility shall file reports containing the following information:

A. Financial information including costs of operation, revenues, assets, liabilities, fund balances, other income, rate, charges, units of services and such other financial information as the board deems necessary for the performance of its duties; and

B. Scope of service information, including bed capacity, by service provided, special services, ancillary services, physician profiles in the aggregate by clinical specialties, and such other scope of service information as the board deems necessary for the performance of its duties.

5. Discharge data. Each health facility shall file with an independent data organization a completed Uniform Hospital Discharge Data Set, or comparable information, for each patient discharged from the facility. The board shall have access to data through the independent data organization, provided that individual patients or health care practitioners are not directly identified. Publicly released data shall not identify individual patients or health care practitioners directly. The board shall adopt its own policies pursuant to section 366 and after a public

hearing for publicly released information which may indirectly identify individual patients or health care practitioners. The affected health facility shall be provided copies of any requests by the board for data sets or analyses and have an opportunity to comment on the data or analyses before they are released by the board.

6. Modification of reporting systems. The board may allow and provide for modifications in the reporting system in order to better carry out its functions or to reflect differences in the scope or type of services, size and other differences among health facilities subject to the requirements of this chapter.

7. Compatibility with other systems. To the extent feasible, the board in establishing uniform systems shall take into account the data requirements of relevant reimbursement programs and reporting requirements of a voluntary budget review organization as approved under section 364. Existing systems of accounting and reporting used by health facilities and a model system, such as the American Hospital Association chart of accounts, shall be examined and given due consideration by the board in developing uniform systems of reporting required by this section. The reporting requirements established under this chapter, insofar as feasible and consistent with the requirements of this chapter, shall be compatible with the reporting requirements established by the Secretary of Health, Education and Welfare, under the provisions of Section 1121 of the Federal Social Security Act.

8. More than one licensed health facility operated. Where more than one licensed health facility is operated by the reporting organization, the information required by this section shall be reported for each health facility separately.

9. Certification required. The board may require certification of such financial reports as it may specify and may require attestation as to these statements from responsible officials of the facility that these reports have to the best of their knowledge and belief been prepared in accordance with the requirements of the board.

§ 359. Review of budgets

The board is authorized to review the budget of any hospital as follows.

1. Review authority. Effective with fiscal years beginning on or after July 1, 1979, the board shall have the authority to review and comment upon the reasonableness of the budget of any hospital which does not participate in a voluntary budget review program approved by the board, pursuant to section 364.

2. Submission of budget. Commencing with fiscal years beginning on or after July 1, 1979, hospital subject to review under subsection 1 shall submit to the board its budget for its next fiscal year, together with such other relevant supplemental reports and information as the board may require, within a reasonable time period as determined by the board, pursuant to rules adopted under section 366.

3. Review and findings. In accordance with subsection 1, the board is authorized to conduct review of hospital budgets to determine that prospectively determined rates and charges are reasonably just and reasonably related to financial requirements, and that these prospective rates and charges are allocated equitably among all purchasers of health services without undue discrimination, except as required by federal and state statutes or regulations. Upon completion of its review, the board shall make a written report of its findings, a copy of which shall be sent to the hospital whose budget has been reviewed. The board shall provide this copy of its findings to the hospital at least 10 days prior to public disclosure of the findings.

§ 360. Studies and analyses

1. Studies and analyses. The board is authorized to conduct or cause to be conducted studies and analyses relating to costs of health care services rendered, to the financial status of any facility subject to this chapter or to any other related matters which it deems appropriate. The board shall coordinate its activities with any public or private agency in carrying out these studies and analyses when this coordination will promote economy, avoid duplication of effort and make the best use of available personnel and other resources. In addition, and at the request of planning agencies, the board may perform appropriate duties consistent with this chapter that may be required by the planning agencies under the National Health Planning and Development Act of 1974 or its successors.

2. Public disclosure. The board may publish or make any other type of public disclosure of studies and analyses it has conducted or caused to be conducted. If the studies or analyses specify a health facility by name or by geographic location, the health facility shall be afforded an opportunity, before public release, to review and comment upon the studies or analyses.

§ 361. Annual report

Annually, prior to January 1st, the board shall present a report to the Legislature and the Governor. This report shall include, but not be limited to, a description of its activities and the activities of any voluntary budget review organization during the previous year, a summary of the costs of services rendered by health facilities and any findings and recommendations which the board deems necessary, including recommendations for controlling health facilities' costs and for containing the costs of obtaining services from health facilities.

§ 362. Receipt of grants, gifts and other payments

The board is authorized to apply for and receive grants, gifts and other payments, including property and service, from any public or private entity or person, except from a direct provider of health care, and may make arrangements for the use of these receipts, including the undertaking of studies and other projects relating to health care costs.

§ 363. Contracts

The board shall contract with 3rd parties for services necessary to carry out its activities, when this contract will promote economy, avoid duplication of effort and make the best use of available personnel and other resources. Any 3rd party shall be prohibited from releasing, publishing or otherwise using any information made available to it under its contracted responsibility without the specific written authorization of the board.

§ 364. Approval of a voluntary budget review organization

1. Submission of hospital budget. For purposes of section 359, a hospital may agree to submit its budget, together with such other relevant information as may be required, to a voluntary budget review organization which has been approved by the board in accordance with this section.

2. Approval of voluntary budget review organization. The board shall approve a voluntary budget review organization which meets each of the following criteria.

A. The budget review procedures are likely to permit the voluntary budget review organization to determine whether prospectively determined overall rates and charges are reasonably just, are reasonably related to financial requirements and are allocated equitably among all purchasers of health services.

B. The structure of the organization provides for the reviews to be made and the actions to be taken with respect to the reviews by a body of the organization which includes equal representation from members approved by the Maine Hospital Association, major 3rd-party payers and consumers of health care. Neither the consumers nor their spouses, children or parents shall, within the preceding 12 months, have been affiliated with, employed by or have had any professional affiliation with any health care facility or institution, health product manufacturer or corporation or insurer providing coverage for hospital or medical care.

C. The procedures of the organization with respect to the filing of appropriate financial information and the analysis and verification of that information are sufficient to permit the organization to determine whether prospectively determined overall rates and charges are reasonably just, are reasonably related to financial requirements and are allocated equitably among all purchasers of health services.

D. The procedures of the organization provide for the public disclosure of its findings and comments prior to the effective date of the budget.

3. Time for approval. The board shall, upon receipt of a request for approval by a voluntary budget review organization, make a determination within a

reasonable period of time. For any request for approval received prior to March 15, 1979, the board shall make a determination on or before April 15, 1979.

4. **Withdrawal of approval.** The board may withdraw approval from a voluntary budget review organization after a public hearing, conducted in conformance with rules and regulations adopted under section 366, for either or both of the following reasons:

A. The actions of the voluntary budget review organization no longer satisfy the criteria contained in subsection 2; or

B. The performance standards established by the board have not been met by hospitals participating in the organization.

5. **Filing of findings and comments.** An approved voluntary budget review organization which conducts a review of a hospital budget shall file a copy of its findings and comments with the board within 30 days of completion of the review process. In addition, the voluntary budget review organization shall upon request make available to the board, the original and the accepted budget of the affected hospital and any other financial information acquired by the organization during the course of its review.

6. **Notification of intent to become approved organization.** Prior to approval, any voluntary budget review organization duly incorporated under the laws of Maine shall notify the board in writing of its intention to become an approved voluntary budget review organization as defined in this section. Upon receipt of this notice, the board shall direct the organization to develop procedures and other criteria for approval as defined in subsection 2 and to conduct any pilot budget reviews of hospital budgets which it deems necessary. The board shall review and comment on the application prior to its determination of approval if the organization so requests.

7. **Temporary approval criteria.** The board shall grant temporary approval to any voluntary budget review organization that meets the following criteria.

A. The structure of the organization provides for the reviews to be made and the actions to be taken with respect to these reviews by a body of that organization which includes equal representation from members approved by the Maine Hospital Association, major 3rd-party payers and consumers of health care. Neither the consumers nor their spouses, children or parents shall, within the preceding 12 months, have been affiliated with, employed by or have had any professional affiliation with any health care facility or institution, health product manufacturer or corporation or insurer providing coverage for hospital or medical care.

B. The procedures of the organization provide, at a minimum, that the findings and recommendations with respect to its reviews be made public information.

C. The procedures of the organization shall be submitted to the board for its review and comment.

D. The organization intends to contract with an independent data organization for the purpose of fulfilling its responsibilities if such a contract would avoid duplication of effort.

No temporary approval granted by the board shall extend beyond April 15, 1979.

8. State anti-trust exemption. Any voluntary budget review organization approved by the board and any hospital submitting information to such an organization shall be exempt from Title 10, section 1101, et seq. and Title 5, section 207, et seq. for its reporting and budget review activities conducted pursuant to this section and section 352, subsection 8.

§ 365. Public information; availability of data

Any information, except privileged medical information, which is filed with the board under this chapter shall be made available to any public or private agencies or other persons upon request, provided that individual patients or health care practitioners are not directly identified. The board shall adopt its own policies, pursuant to section 366 and after a public hearing for information made available which may indirectly identify a particular patient or health care practitioner.

§ 366. Rules and regulations; public hearings; audit

1. Rules and regulations. The board shall adopt, amend and repeal such rules and regulations as are necessary for the proper administration and enforcement of this chapter. The board shall provide for public notice and hearing on all proposed rules and regulations pursuant to Title 5, c. 375.

2. Public hearings. The board is authorized to conduct public hearings when they are deemed necessary to carry out its responsibilities, but are not required by law.

3. Audit. The board is authorized, during normal business hours and upon reasonable notification, to audit, examine and inspect the financial accounting records of any health care facility to the extent that the activities are necessary to carry out its responsibilities.

§ 367. Enforcement

The Attorney General, upon the request of the board, shall institute and prosecute actions for the enforcement of this chapter and for any rules and regulations adopted pursuant to section 366.

§ 368. Penalty

Any person or health care facility violating any provision of this chapter or any valid order, rule or regulation made or promulgated pursuant to this chapter shall be deemed to have committed a civil violation for which forfeiture of not more than \$100 a day may be adjudged.

§ 369. Partial invalidity

If any provision of this chapter or the application thereof to any person or circumstance shall be held invalid, that invalidity shall not affect any provision or application of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

§ 370. Repeal

This chapter shall be repealed on July 1, 1982.

Sec. 2. Appropriation. The following funds shall be appropriated from the General Fund to carry out the purposes of this Act:

	1978-79
HEALTH FACILITIES COST REVIEW BOARD	
Personal Services	\$ 40,000
All Other	60,000
	\$100,000

It is the intent of the Legislature that any unexpended money appropriated by the Legislature under the category "All Other" shall not lapse, but shall be carried to the following year to be expended by the board for the purposes of this Act.

Effective July 6, 1978

CHAPTER 692

AN ACT to Make Necessary Corrections in the Knox County and Lincoln County Budget, the Errors and Inconsistencies Act and the Administrative Procedure Act.

Emergency preamble. Whereas, Acts and resolves passed by the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and