

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2005

Sec. 3. Report. Resolved: That the Public Utilities Commission and the Maine State Housing Authority, no later than January 31, 2006, shall report to the Joint Standing Committee on Utilities and Energy the results of and any recommendations produced by the stakeholder discussions coordinated in accordance with section 1 and the form developed pursuant to section 2. The report must include suggested legislation to implement any recommendations of the commission resulting from its activities pursuant to this resolve; and be it further

Sec. 4. Authority to report legislation. Resolved: That the Joint Standing Committee on Utilities and Energy may report out legislation relating to the subject matter of this resolve to the Second Regular Session of the 122nd Legislature.

See title page for effective date.

CHAPTER 110

H.P. 747 - L.D. 1094

Resolve, To Study Adoption of the Streamlined Sales and Use Tax Agreement

Sec. 1. Report and legislation regarding Streamlined Sales and Use Tax Agreement. Resolved: That the Department of Administrative and Financial Services, Bureau of Revenue Services shall prepare for submission to the Second Regular Session of the 122nd Legislature a report that:

1. Identifies any changes to the Maine Revised Statutes that are needed in order to conform the State's laws to the Streamlined Sales and Use Tax Agreement and the options available to provide conformity;
2. Identifies the impact of each option identified pursuant to subsection 1; and
3. Identifies and explains any fiscal and policy issues associated with conformity with the Streamlined Sales and Use Tax Agreement.

The bureau shall submit its report, along with legislation conforming the State's sales and use tax law with the Streamlined Sales and Use Tax Agreement in a manner that, as nearly as possible, maintains the State's current sales and use tax laws no later than January 15, 2006.

See title page for effective date.

CHAPTER 111

H.P. 1181 - L.D. 1672

Resolve, Regarding Legislative Review of Portions of Chapter 1: Procedures; Portions of Chapter 3: Maine Clean Election Act and Related Practices; and Campaign Reporting Forms for Candidates, Major Substantive Rules of the Commission on Governmental Ethics and Election Practices

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

Whereas, the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A requires legislative authorization before major substantive agency rules may be finally adopted by the agency; and

Whereas, the above-named major substantive rules have been submitted to the Legislature for review; and

Whereas, immediate enactment of this resolve is necessary to record the Legislature's position on final adoption of the rules; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Adoption. Resolved: That final adoption of portions of Chapter 1: Procedures; portions of Chapter 3: Maine Clean Election Act and Related Practices; and Campaign Reporting Forms for Candidates, provisionally adopted major substantive rules of the Commission on Governmental Ethics and Election Practices that have been submitted to the Legislature for review pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A, is authorized only if the following changes are made.

In Chapter 1, section 7, with regard to the advance purchase of goods and services, the language must be changed to include radio and television contracts and contracts for design work among the goods and services that, if contracted or paid for prior to the primary election, must be received prior to the primary election to be considered primary election expenditures. The language in Chapter 1, section 7, with regard to the advance purchase of goods and services, must also be changed to remove the requirement that a report be filed when a preponderance of

goods purchased during the primary election cycle are used during the general election cycle. The change must also provide that, upon complaint regarding the use of goods and services purchased during a primary election during a general election, the commission may request a report of such expenditures.

Emergency clause. In view of the emergency cited in the preamble, this resolve takes effect when approved.

Effective June 10, 2005.

CHAPTER 112

H.P. 1002 - L.D. 1438

Resolve, Regarding Discharges from Hospitals

Sec. 1. Hospital discharge guidelines. Resolved: That the Department of Health and Human Services shall convene a working group of interested parties for the purpose of developing hospital discharge guidelines for patients who are ready for discharge to community-based or facility-based long-term care services. The guidelines must take into consideration the resources that are available to meet the clinical needs of the patient, the recommendations of the patient's health care provider and the preferences of the patient and patient's family. The department shall report to the Joint Standing Committee on Health and Human Services by February 1, 2006 regarding the hospital discharge guidelines.

See title page for effective date.

CHAPTER 113

S.P. 493 - L.D. 1404

Resolve, To Increase the Quality of Care and Reduce Administrative Burdens in the Pharmacy Prior Approval Process

Sec. 1. Preferred drug lists and prior authorization. Resolved: That the Department of Health and Human Services shall take the following actions to promote the quality of care and reduce administrative burdens in the pharmacy prior approval process.

1. The department shall specify on the preferred drug list and on the prior authorization form the number, titration if required and classes of preferred drugs that must be determined to be clinically inappropriate or ineffective before the department will permit the use of a nonpreferred drug.

2. In the next changes to the MaineCare Benefits Manual, but no later than January 15, 2006, the department shall adopt a provision to articulate the current standards for off-label drug use of prescription drugs for children.

3. The department shall change the prior authorization forms to provide examples of clinical conditions and functional limitations that could support a waiver of prior authorization.

4. By January 2006, the department shall amend its rules regarding prior authorization to include the criteria for approving special exception overrides. The department shall arrange to modify the message screen to include a reminder that overrides may be available. The message format must comply with National Council for Prescription Drug Programs standards.

5. By October 1, 2005, the department shall minimize the burden on providers of submitting duplicative medical records on behalf of a MaineCare member. In order to reduce the submission of duplicate information, the department shall work to provide notice to providers of the types of documentation required and to create a prior authorization file for each member.

6. The department shall provide prompt notice of changes to the preferred drug list through posting on its website, its group electronic mailings regarding pharmacy issues and notices to provider organizations.

7. The department shall arrange to allow submission of the prior authorization form and other required documentation as an e-mail attachment when such submissions are feasible.

8. By January 15, 2006, the department shall amend its rules regarding the drug utilization review committee under the MaineCare Benefits Manual, chapter II, section 80.01-13 to establish conflict-of-interest standards for members of the committee.

9. The department shall consult with the MaineCare Advisory Committee on the design of future studies related to pharmacy prior authorization, including a survey of MaineCare members. The department shall report to the Joint Standing Committee on Health and Human Services by February 1, 2006 on its progress in implementing this subsection.

See title page for effective date.