

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

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ONE HUNDRED AND NINTH LEGISLATURE

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**Legislative Document**

**No. 256**

H. P. 209

House of Representatives, February 1, 1979

Referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Masterman of Milo.

Cosponsors: Mr. Michael of Auburn, Mr. Wood of Sanford, Mr. Stetson of Wiscasset.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-NINE

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**AN ACT to Clarify the Powers and Authority of Nonprofit Hospital Associations to Give or Deny Participating Hospital Status under their Hospitalization Plans.**

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

**Sec. 1.** 24 MRSA § 2301, sub-§ 1, as repealed and replaced by PL 1971, c. 444, § 1, is amended by adding at the end a new paragraph to read:

**Provided that, any corporation so organized shall grant participating status under its programs to any hospital that is duly licensed by, and in good standing under applicable statutes and regulations with, the Department of Human Services. A certificate issued by the commissioner of that department or his designee shall be conclusive evidence of that licensure and standing.**

**Sec. 2.** P&SL, 1939, c. 24, as last amended by P&SL, 1967, c. 99, is further amended by adding at the end a new section to read:

**16. Standards for granting participating status. This corporation shall grant participating status under its programs to any hospital that is duly licensed by, and in good standing under applicable statutes and regulations with, the Department of Human Services. A certificate issued by the commissioner of that department or his designee shall be conclusive evidence of that licensure and standing.**

## STATEMENT OF FACT

This bill clarifies and specifies the powers and authority of nonprofit hospital associations, and particularly Associated Hospital Service of Maine, to give or deny status as participating hospitals under their hospitalization plans. In recent years, Associated Hospital Service of Maine, through its Blue Cross program, has terminated the participating status of one Maine hospital and threatened to terminate the participating status of another. Its basis has been that under its own standards the hospitals have not fully complied with applicable planning statutes. Those planning statutes are generally of federal origin and under the statutory scheme are administered by state agencies or nonprofit organizations. Those statutes have specific standards for compliance and are generally applicable to planning review for Medicare purposes. Under the planning structure, if a hospital desires to be reimbursed for certain expenditures, such as capital expenditures for Medicare purposes, it must submit to the planning process. There are instances where the planning process may not apply; where the planning agencies may determine not to review; or where the hospital may decide on its own to absorb certain costs and not to pass them on to the Medicare program.

Blue Cross has attempted to superimpose on the planning process more stringent standards than those contained on the statutes and to recognize that the hospitals abide by not only planning statutes, but Blue Cross' own standards in order to get benefits under Blue Cross' contract. In many cases this has created financial hardships for hospitals because of the cost of the planning process. In one case Blue Cross' position has resulted in its insistence that the hospital go through the planning process twice and in another case, because of this and other reasons, the hospital closed and only recently has reopened. Blue Cross' present posture leaves it, and not the government, as the final arbiter of whether the planning process applies. That decision should be left up to the State and Federal Government and to the agencies charged with administering the statutes and not to Associated Hospital Service of Maine.

It should be noted that there is a consumer effect to Blue Cross' position caused by the fact that, if a hospital goes through the planning process, the cost must ultimately be passed on to the consumer. This legislation then has 2 general thrusts. It permits hospitals to look forward to complying with existing statutory standards, whatever those may be from time to time, and however they may be applicable. Hospitals which are duly licensed and in good standing should be able to afford Blue Cross subscribers' use of their facilities when illness or injury strikes. Additionally, and importantly, the bill relieves hospitals of the financial burden of going through the planning process simply for Blue Cross purposes and having to pass that cost on to the already overburdened consumer.