

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## SECOND REGULAR SESSION-1992

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Legislative Document

No. 2168

H.P. 1535

House of Representatives, January 16, 1992

Submitted by the Maine Health Care Finance Commission pursuant to Joint Rule 24.  
Reference to the Committee on Human Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative MANNING of Portland.

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STATE OF MAINE

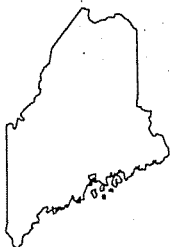
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-TWO

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**An Act to Clarify and Make Technical Changes in the Hospital Care  
Financing System.**

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

2  
4       **Sec. 1. 22 MRSA §396, sub-§3, ¶B**, as amended by PL 1991, c.  
485, §5, is further amended to read:

6           B. For payment years beginning or deemed to begin on or  
8           after October 1, 1992, the commission shall regulate  
10           outpatient services by setting the rate per unit of service  
12           by--department or per classification, exclusive of the  
14           capital-related revenues subject to the component  
16           established under paragraph C. For payment years beginning  
18           or deemed to begin before October 1, 1992, the commission  
20           shall establish revenue limits for outpatient services using  
methods consistent with those used in setting gross patient  
service revenue limits for payment years beginning prior to  
October 1, 1990, except that the capital-related revenues  
subject to the component established under paragraph C must  
be excluded. Nothing in this paragraph prohibits the  
commission from refining or modifying the method of  
adjusting for outpatient volume.

22       **Sec. 2. 22 MRSA §396-I, sub-§4**, as repealed and replaced by PL  
24       1989, c. 588, Pt. A, §33, is amended to read:

26           **4. Negotiated discounts.** As of March 1, 1991, any hospital  
28           that is participating, or has chosen to participate or must  
30           participate, in the rate per case system, may negotiate discounts  
32           to charges with payors or purchasers. Negotiated discounts may  
34           include capitation arrangements and other contracts in which an  
36           agreed payment amount may, in individual cases, be more or less  
38           than the established charge for the services rendered. Between  
40           March 1, 1991 and September 30, 1991, negotiated discounts may  
not exceed 5% of the hospital's established charges for inpatient  
services or 7% of its established charges for outpatient  
services. There shall--be is no limit on the magnitude of  
negotiated discounts after September 30, 1991. Hospitals in the  
total revenue system may negotiate discounts with the approval of  
the commission according to standards adopted by rule of the  
commission. The revenue losses resulting from negotiated  
discounts shall may not be reflected in the computation of a  
hospital's revenue limit.

42       **Sec. 3. 22 MRSA §396-L, sub-§4, ¶¶H and I**, as enacted by PL  
44       1989, c. 919, §13 and affected by §18, are amended to read:

46           H. A hospital participating in the rate per case payment  
48           system or a hospital-capitalized affiliate of a hospital  
50           participating in the rate per case payment system may engage  
in a hospital restructuring without commission approval  
unless:

- 2 (1) The hospital restructuring involves the transfer  
of an existing hospital patient care service, or the  
4 undertaking by an affiliated interest of a hospital  
patient care service that is not an outpatient service;  
6 ex
- 8 (2) The hospital restructuring involves a transfer or  
pledge of assets or credit that is not exempt from  
10 approval under paragraph F+;
- 12 (3) The hospital restructuring involves a merger or  
other corporate change in which hospital assets  
14 exceeding the value that may be transferred under  
paragraph F are combined with the assets of another  
16 corporation or entity; or
- 18 (4) The hospital restructuring involves a merger or  
other corporate change in which an existing hospital  
20 patient care service is combined with or offered by  
another corporation or entity.

22 As a condition to the transfer of any hospital assets under  
24 this paragraph, and without regard to whether prior approval  
is necessary, the commission shall require that provision be  
26 made for a fair return on the hospital's investment. In  
cases of transfers where when prior commission approval is  
28 not required, the hospital shall file a notice setting forth  
the nature of the transfer and documentation of the  
30 provision of a fair return to the hospital.

32 In cases where when a hospital previously participating in  
the rate per case payment system seeks entry into the total  
34 revenue system, the commission has the authority to review  
those hospital restructurings carried out pursuant to this  
36 paragraph that have not been reviewed and approved  
previously by the commission. As a consequence of that  
38 review, the commission may attach conditions to the transfer  
of the hospital to the total revenue system that it  
40 determines consistent with the interest of the people of the  
State. These conditions may include a condition requiring  
42 divestiture of affiliated interests created in accordance  
with this paragraph, or reinclusion of services provided by  
44 those affiliated interests into the hospital corporation.

46 I. No less than ~~10~~ 45 days prior to the effective date of  
any hospital restructuring that is exempt from approval  
48 under paragraph H, each affected hospital shall file with  
the commission a notice including a description of the  
50 contemplated restructuring, the date on which it is expected

2 to occur and other information the commission may reasonably  
3 require about the characteristics and expected effects of  
4 the restructuring. No more than 30 days after each  
5 restructuring described in a notice under this subsection  
6 occurs, each affected hospital shall file with the  
7 commission a report of the date on which the restructuring  
8 took place, any differences between the restructuring that  
9 occurred and the description furnished in the notice and any  
10 corrections or amendments of the other information in the  
11 notice that ~~is~~ are necessary to reflect the results of the  
12 restructuring that actually took place.

14 **Sec. 4. 22 MRSA §396-L, sub-§8** is enacted to read:

16 8. Corporate purposes of holding company. The corporate  
17 purposes of any parent organization of a hospital, as set forth  
18 in its articles of incorporation as amended from time to time,  
19 must contain a statement that ensures that the primary purpose of  
20 the parent organization is to support the interests and purposes  
21 of the hospital or hospitals controlled by that parent  
22 organization. Any parent organization of a hospital shall  
23 operate and organize in a manner that supports and facilitates  
24 the provision of patient services by the hospital or hospitals  
25 that it controls.

26  
28 **STATEMENT OF FACT**

30 This bill makes several changes to the laws governing the  
31 hospital care financing system administered by the Maine Health  
32 Care Finance Commission.

34 The bill amends the law concerning outpatient service rate  
35 setting for hospitals regulated under the average revenue per  
36 case payment system.

38 The bill clarifies that purchasers as well as 3rd-party  
39 payors may negotiate discounts with hospitals. It also clarifies  
40 the meaning of a negotiated discount by stating that capitation  
41 arrangements and similar contracts may be considered discounts  
42 for purposes of the hospital care financing system.

44 The bill clarifies that mergers involving transfers of  
45 existing services or transfers of substantial amounts of hospital  
46 assets remain subject to commission review and approval.

48 The bill extends the notice requirement from 10 days to 45  
49 days for any hospital engaging in restructuring that is exempt  
50 from commission approval.

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Finally, the bill makes a substantive change to the laws governing hospital restructuring by adding a provision concerning the corporate purpose of holding companies.