

MAINE STATE LEGISLATURE

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HUMAN RESOURCES

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
117TH LEGISLATURE
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 548, L.D. 744, Bill, "An Act to Apply the Hospital Cooperation Act of 1992 to a Broader Range of Health Care and Social Service Agencies"

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

Sec. 1. 22 MRSA §1882, sub-§1, as enacted by PL 1991, c. 814, §1, is amended to read:

1. Cooperative agreement. "Cooperative agreement" means an agreement among 2 or more hospitals or nonprofit mental health care providers for the sharing, allocation or referral of patients, personnel, instructional programs, mental health services, support services and facilities or medical, diagnostic or laboratory facilities or procedures or other services traditionally offered by hospitals or nonprofit mental health care providers, or for the coordinated negotiation and contracting with payors or employers.

Sec. 2. 22 MRSA §1882, sub-§3 is enacted to read:

3. Nonprofit mental health care provider. "Nonprofit mental health care provider" means a corporation organized under the Maine Nonprofit Corporation Act or an organization recognized as exempt from federal income tax under 26 United States Code, Section 501(c)(3) that is engaged primarily in the provision of mental health services.

Sec. 3. 22 MRSA §1883, sub-§1, as enacted by PL 1991, c. 814, §1, is amended to read:

1. **Authority.** A hospital or nonprofit mental health care provider may negotiate and enter into cooperative agreements with other hospitals or nonprofit mental health care providers in the State if the likely benefits resulting from the agreements outweigh any disadvantages attributable to a reduction in competition that may result from the agreements.

Sec. 4. 22 MRSA §1883, sub-§4, ¶¶A and B, as enacted by PL 1991, c. 814, §1, are amended to read:

A. In evaluating the potential benefits of a cooperative agreement, the department shall consider whether one or more of the following benefits may result from the cooperative agreement:

(1) Enhancement of the quality of hospital and hospital-related or nonprofit mental health care or related care provided to Maine citizens;

(2) Preservation of hospital or nonprofit mental health care provider and related facilities in geographical proximity to the communities traditionally served by those facilities;

(3) Gains in the cost efficiency of services provided by the hospitals or nonprofit mental health care providers involved;

(4) Improvements in the utilization of hospital or nonprofit mental health care provider resources and equipment; and

(5) Avoidance of duplication of hospital or nonprofit mental health care resources.

B. The department's evaluation of any disadvantages attributable to any reduction in competition likely to result from the agreement may include, but need not be limited to, the following factors:

(1) The extent of any likely adverse impact on the ability of health maintenance organizations, preferred provider organizations, managed health care service agents or other health care payors to negotiate optimal payment and service arrangements with hospitals, physicians, allied health care professionals or other health care providers;

(2) The extent of any reduction in competition among physicians, allied health professionals, other health

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care providers or other persons furnishing goods or services to, or in competition with, hospitals or nonprofit mental health care providers that is likely to result directly or indirectly from the hospital cooperative agreement;

(3) The extent of any likely adverse impact on patients or clients in the quality, availability and price of health care services; and

(4) The availability of arrangements that are less restrictive to competition and achieve the same benefits or a more favorable balance of benefits over disadvantages attributable to any reduction in competition likely to result from the agreement.

Sec. 5. 22 MRSA §1885, sub-§6, as enacted by PL 1991, c. 814, §1, is amended to read:

6. Fees and costs. If the Attorney General prevails in an action under this section, the Department of the Attorney General is entitled to an award of the reasonable costs of deposition transcripts incurred in the course of the investigation or litigation and reasonable attorney's fees, expert witness fees and court costs incurred in litigation. In addition, a nonprofit mental health care provider shall reimburse the Department of the Attorney General for the costs incurred by the department in its review of an application for a certificate of public advantage submitted by a nonprofit mental health care provider or a proposed cooperative agreement submitted to the Attorney General by a nonprofit mental health care provider prior to the filing of an application, including but not limited to the costs of retaining experts, travel and obtaining data.

Sec. 6. 22 MRSA §1887, as enacted by PL 1991, c. 814, §1, is amended to read:

§1887. Assessment

Except for state-operated mental health hospitals, all hospitals licensed by the department are subject to an annual assessment under this chapter. The department shall collect the assessment. The amount of the assessment must be based upon each hospital's gross patient service revenue. For any fiscal year, the aggregate amount raised by the assessment must be equal to the amount allocated by law to carry out the purposes of this chapter in that fiscal year. The allocation for the fiscal years 1995-96 and 1996-97 is limited to no more than \$200,000 per year. The department shall deposit funds collected under this

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2 section into a dedicated revenue account. Funds remaining in the
3 account at the end of each fiscal year do not lapse but carry
4 forward into subsequent years. Funds deposited into the account
5 must be allocated to carry out the purposes of this chapter.

6 **Sec. 7. 22 MRSA §1888**, as enacted by PL 1991, c. 814, §1, is
7 amended to read:

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§1888. Review

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11 ~~The department may not accept any application under this~~
12 ~~chapter after June 30, 1995.~~ By January 1, 1995 1999, the
13 Attorney General and the department shall submit recommendations,
14 along with any necessary legislation, to the joint standing
15 committee of the Legislature having jurisdiction over human
16 resources matters regarding whether this chapter should be
17 amended.

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19 **Sec. 8. Allocation.** The following funds are allocated from
20 Other Special Revenue to carry out the purposes of this Act.

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1995-96 1996-97

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ATTORNEY GENERAL, DEPARTMENT OF

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Administration - Attorney General

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All Other \$20,000 \$20,000

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Provides funds for the cost
of experts and other costs
related to analyzing hospital
cooperative activity.'

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Further amend the bill by inserting at the end before the
statement of fact the following:

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FISCAL NOTE

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1995-96 1996-97

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APPROPRIATIONS/ALLOCATIONS

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Other Funds \$20,000 \$20,000

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REVENUES

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Other Funds \$20,000 \$20,000

This bill provides Other Special Revenue allocations of \$20,000 annually in fiscal years 1995-96 and 1996-97 to the Department of the Attorney General for costs associated with additional hospital cooperative activity. The additional dedicated revenue to support these costs will be generated through the assessments authorized in the Maine Revised Statutes, Title 22, section 1887. These additional allocations are within the statutory limit on the assessment of \$200,000 annually established by this bill.'

STATEMENT OF FACT

This amendment extends the definition of cooperative agreement for purposes of the Hospital Cooperation Act of 1992 to cover nonprofit mental health care providers and to cover coordinated negotiation and contracting with payors or employers. It requires nonprofit mental health care providers to reimburse the Department of the Attorney General for the reasonable costs of expenses incurred by the department. It caps the possible assessment to pay for work under the Act to \$200,000 per year in the next biennium. It extends from 1995 to 1999 the date for submission of recommendations regarding the Act. It allocates \$20,000 per year to pay for the cost of experts and other costs related to analyzing hospital cooperative activity. It adds a fiscal note.