

MAINE STATE LEGISLATURE

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DATE: 5-6-99

(Filing No. H-483)

HEALTH AND HUMAN SERVICES

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
119TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 1003, L.D. 1401, Bill, "An Act to Amend the Maine Health Data Organization Statutes"

Amend the bill by inserting after the title and before the enacting clause the following:

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

Whereas, amendment to the budget provisions of the Maine Health Data Organization is required prior to the end of the current fiscal year; and

Whereas, without emergency legislative authorization, such amendment can not be accomplished prior to the end of the fiscal year; 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, '

Further amend the bill by inserting after section 2 the following:

'Sec. 3. 22 MRSA §8703, sub-§2, ¶A, as amended by PL 1997, c. 568, §1, is further amended to read:

COMMITTEE AMENDMENT

COMMITTEE AMENDMENT "A" to H.P. 1003, L.D. 1401

2 A. The Governor shall appoint 16 board members in
accordance with the following requirements. Appointments by
the Governor are not subject to review or confirmation.

4
6 (1) Three members must represent consumers. For the
purposes of this section, "consumer" means a person who
is not affiliated with or employed by a 3rd-party
payor, a provider or an association representing those
providers or those 3rd-party payors.

10
12 (2) Three members must represent employers. One
member must be chosen from a list provided by a health
management coalition in this State.

14
16 (3) Two members must represent 3rd-party payors.

18
20 (4) Eight members must represent providers. Two
provider members must represent hospitals chosen from a
list of at least 5 current hospital representatives
provided by the Maine Hospital Association. Two
22 provider members must be physicians or representatives
of physicians chosen from a list of at least 5 nominees
provided jointly by the Maine Medical Association and
24 the Maine Osteopathic Association. ~~One provider member
must be a dentist chosen from a list of at least 3
26 nominees provided by the Maine Dental Association.~~ One
provider member must be a chiropractor chosen from a
list provided by a statewide chiropractic association.
28 One provider member must be a representative, chosen
from a list provided by the Maine Ambulatory Care
30 Coalition, of a federally qualified health center. Two
32 provider members must be representatives of other
health care providers, at least one of whom is a
34 current representative of a home health care company.'

36 Further amend the bill by inserting after section 5 the
following:

38 'Sec. 6. 22 MRSA §8704, sub-§1, ¶E is enacted to read:

40
42 E. The board shall exempt from reporting by a provider data
regarding a person who informs the provider of the person's
44 objection, or the objection of a parent of a minor, to
inclusion in data collection based on a sincerely held
46 religious belief.'

48 Further amend the bill by striking out all of section 6 and
inserting in its place the following:

2 'Sec. 6. 22 MRSA §8704, sub-§2, as enacted by PL 1995, c. 653,
Pt. A, §2 and affected by §7, is amended to read:

4 2. **Contracts for data collection; processing.** The board
6 shall contract with one or more qualified, nongovernmental,
8 independent 3rd parties for services necessary to carry out the
10 data collection, processing and storage activities required under
12 this chapter. For purposes of this subsection, a group or
14 organization affiliated with the University of Maine System is
16 not considered a governmental entity. Unless permission is
18 specifically granted by the board, a 3rd party hired by the
organization may not release, publish or otherwise use any
information to which the 3rd party has access under its contract
and shall otherwise comply with the requirements of this
chapter. If an appropriate contract can not be entered into or
is terminated, data collection, processing and storage activities
required under this chapter may be performed by the organization
for a period of up to 12 months.

20 Further amend the bill in section 7 by striking out all of
subsections 1 and 2 and inserting in their place the following:

22
24 '1. **Rulemaking.** The board shall adopt rules setting a
26 schedule of forfeitures for willful failure to file data as
28 required and failure to pay assessments, and willful failure to
safeguard the identity of patients, providers, health care
facilities or 3rd-party payors. The rules may contain procedures
for monitoring compliance with this chapter.

30 2. **Forfeitures.** A Except for circumstances beyond a
32 person's or entity's control, a person or entity that violates
34 the requirements of section-8704,--subsection-1-or-section-8707,
36 subsections-1-and-3 this chapter commits a civil violation for
which a forfeiture may be adjudged not to exceed \$1000 per day
for a health care facility or ~~\$25~~ \$100 per day for all other
persons, entities and providers. A forfeiture imposed under this
subsection may not exceed \$25,000 for a health care facility for
38 any one occurrence or ~~\$250~~ \$2,500 for any other person or entity
for any one occurrence.'

40
42 Further amend the bill in section 9 in subsection 2 in
44 paragraph C by striking out all of the last blocked paragraph
(page 4, lines 38 to 46 in L.D.) and inserting in its place the
following:

46 'The aggregate level of annual assessments under
subparagraphs (2) and (3) ~~must-be-based-on-the-difference~~

11 of 15

2 ~~between the authorized allocation for the fiscal year and~~
3 ~~the beginning cash balance in the account established~~
4 ~~pursuant to section 8706, subsection 6~~ must be an amount
5 ~~sufficient to meet the organization's expenditures~~
6 ~~authorized in the state budget established under Title 5,~~
7 ~~chapter 149. The annual assessment may not exceed \$760,000~~
8 ~~in fiscal year 1999-00. In subsequent fiscal years, the~~
9 ~~annual assessment may increase above \$760,000 by an amount~~
10 ~~not to exceed 5% per fiscal year. The board may waive~~
11 ~~assessments otherwise due under subparagraphs (2) and (3)~~
12 ~~when a waiver is determined to be in the interests of the~~
13 ~~organization and the parties to be assessed.'~~

14 Further amend the bill by relettering or renumbering any
15 nonconsecutive Part letter or section number to read
16 consecutively.

18 Further amend the bill by inserting after section 14 the
19 following:

20 **'Emergency clause.** In view of the emergency cited in the
21 preamble, this Act takes effect when approved.'

24 Further amend the bill by inserting at the end before the
25 summary the following:

28 **'FISCAL NOTE**

30 This bill establishes the cap on annual assessments to
31 support the operations of the Maine Health Data Organization. The
32 annual assessment may not exceed \$760,000 in fiscal year 1999-00
33 and in subsequent fiscal years, the annual assessment may
34 increase above \$760,000 by an amount not to exceed 5% per year.
35 Public Law 1999, chapter 16, the "current services" budget bill,
36 includes total allocations for the organization of \$685,495 in
37 fiscal year 1999-00 and \$744,738 in fiscal year 2000-01. No
38 adjustment to budgeted revenue will be required as a result of
39 this change.

40 The Maine Health Data Organization will incur some minor
41 additional costs to adopt rules, compliance monitoring and other
42 miscellaneous provisions. These costs can be absorbed within the
43 Maine Health Data Organization's existing budgeted resources.

46 The increase in the forfeiture level for noncompliant data
47 providers will result in insignificant increases of dedicated
48 revenue to the Maine Health Data Organization from increasing
49 forfeitures for a health care facility.'

50

SUMMARY

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4 This amendment changes the membership of the Board of
6 Directors of the Maine Health Data Organization by removing a
8 dentist and including a representative of a federally qualified
10 health center or rural health clinic. The amendment also allows
12 the organization to undertake data collection, processing and
14 storage procedures only on a limited basis. The amendment
16 exempts from collection data a person when there is an objection
18 based on a sincerely held religious belief. The amendment
removes a technical error printed in the original bill relating
to routine technical rules. An exclusion clause in the penalty
provisions for providers and facilities is included for
circumstances beyond a provider's or facility's control. The
amendment changes the ceiling on assessments charged to support
the activities of the organization. The assessment of \$760,000
for fiscal year 1999-00 is allowed to increase by 5% each fiscal
year. The amendment also adds a fiscal note.