

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1401

H.P. 1003

House of Representatives, February 18, 1999

An Act to Amend the Maine Health Data Organization Statutes.

Submitted by the Maine Health Data Organization pursuant to Joint Rule 204.
Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative FULLER of Manchester.
Cosponsored by Senator MITCHELL of Penobscot and
Representatives: BRUNO of Raymond, KANE of Saco, SHIELDS of Auburn, Senator:
PARADIS of Aroostook.

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

2
4 **Sec. 1. 22 MRSA §8702, sub-§4**, as amended by PL 1997, c. 525, §1, is further amended to read:

6 **4. Health care facility.** "Health care facility" means a
8 public or private, proprietary or not-for-profit entity or
10 institution providing health services, including, but not limited
12 to, a radiological facility licensed under chapter 160, a health
14 care facility licensed under chapter 405 or certified under
16 chapter 405-D, a federally qualified health center or rural
18 health clinic certified by the Division of Licensing and
20 Certification within the Department of Human Services, a home
health care provider licensed under chapter 419, a residential
care facility licensed under chapter 1665, a hospice provider
licensed under chapter 1681, a community rehabilitation program
licensed under Title 20-A, chapter 701, a state institution as
defined under Title 34-B, chapter 1 and a mental health facility
licensed under Title 34-B, chapter 1.

22 **Sec. 2. 22 MRSA §8703, sub-§1**, as enacted by PL 1995, c. 653,
Pt. A, §2 and affected by §7, is amended to read:

24 **1. Objective.** The purpose of the organization is to ~~create~~
26 ~~and maintain an objective, accurate and comprehensive health~~
28 ~~information data base for the State built upon existing clinical~~
30 ~~and financial data bases administered and maintained by the Maine~~
32 ~~Health-Care-Finance-Commission~~ improve the health of Maine
34 citizens through the creation and maintenance of a useful,
36 objective, reliable and comprehensive health information
38 database. This database must be publicly accessible while
protecting patient confidentiality and respecting providers of
care. The ~~Maine-Health-Care-Finance-Commission~~ organization
shall collect, process and analyze clinical and financial data as
defined in this section ~~until such time as the Maine Health Data~~
~~Organization becomes operational, as determined by the board, or~~
~~December 31, 1996, whichever is earlier~~ chapter.

40 **Sec. 3. 22 MRSA §8703, sub-§2, ¶C**, as enacted by PL 1995, c.
653, Pt. A, §2 and affected by §7, is repealed.

42 **Sec. 4. 22 MRSA §8703, sub-§4**, as enacted by PL 1995, c. 653,
Pt. A, §2 and affected by §7, is amended to read:

44 **4. Meetings; officers.** ~~By June 1, 1996, the Governor shall~~
46 ~~convene the first meeting of the board, at which the Board~~
48 ~~members shall elect a chair and a cochair~~ vice-chair from among
50 the membership to serve 2-year terms. All meetings of the board
are public proceedings within the meaning of the Freedom of
Access Law, Title 1, chapter 13, subchapter I.

2 **Sec. 5. 22 MRSA §8704, sub-§1, ¶A**, as enacted by PL 1995, c.
653, Pt. A, §2 and affected by §7, is amended to read:

4 A. The board shall develop and implement data collection
6 policies and procedures for the collection, processing,
storage and analysis of clinical, financial and
8 restructuring data in accordance with this subsection for
the following purposes:

10 (1) To use, build and improve upon and coordinate
12 existing data sources and measurement efforts through
the integration of data systems and standardization of
14 concepts;

16 (2) To coordinate the development of a linked public
and private sector information system;

18 (3) To emphasize data that is useful, relevant and is
not duplicative of existing data;

20 (4) To minimize the burden on those providing data;

22 (5) To preserve the reliability, accuracy and
24 integrity of collected data while ensuring that the
data is available in the public domain; and

26 (6) To collect information from providers who were
28 required to file data with the Maine Health Care
Finance Commission ~~on July 1, 1996, data that is~~
30 ~~substantially similar to the data that was required to~~
32 ~~be filed with the commission.~~ The organization may
34 collect additional information from the same providers
and information from additional providers and payors
36 only when a linked information system for the
electronic transmission, collection and storage of data
is reasonably available to providers.

38 **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:

40 **2. Contracts for data collection; processing.** The board
42 shall ~~may~~ contract with one or more qualified, nongovernmental,
independent 3rd parties for services necessary to carry out the
44 data collection, processing and storage activities required under
this chapter. For purposes of this subsection, a group or
46 organization affiliated with the University of Maine System is
not considered a governmental entity. Unless permission is
48 specifically granted by the board, a 3rd party hired by the
organization may not release, publish or otherwise use any
50 information to which the 3rd party has access under its contract
and shall otherwise comply with the requirements of this chapter.

2 **Sec. 7. 22 MRSA §8705**, as enacted by PL 1995, c. 653, Pt. A,
§2 and affected by §7, is amended to read:

4 **§8705. Enforcement**

6 The board shall adopt rules to ensure that providers file
7 data as required by section 8704, subsection 1, and that users
8 that obtain from the organization health data and information
safeguard the identification of patients and providers as
10 required by section 8707, subsections 1 and 3 and that payors and
providers pay all assessments as required by section 8706,
12 subsection 2.

14 **1. Rulemaking.** The board shall adopt rules setting a
schedule of forfeitures for willful failure to file data as
16 required and failure to pay assessments, and willful failure to
safeguard the identity of patients, providers, health care
18 facilities or 3rd-party payors. Rules adopted pursuant to this
subsection are routine technical rules as defined in the Maine
20 Administrative Procedure Act, Title 5, chapter 375, subchapter
II-A. The rules may contain procedures for monitoring compliance
22 with this chapter.

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

34 **3. Enforcement action.** Upon a finding that a person or
entity has ~~willfully refused~~ failed to comply with the
36 requirements of this chapter, including the payment of a
forfeiture determined under this section, the board may take any
38 of the following actions.

40 A. The board may file a complaint with the licensing board
of the provider seeking disciplinary action against the
42 provider.

44 B. The board may file a complaint with the Superior Court
in the county in which the person resides or the entity is
46 located, or in Kennebec County, seeking an order to require
that person or entity to comply with the requirements of
48 this chapter, enforcement of a forfeiture determined under
this section or for other relief from the court.

50 **Sec. 8. 22 MRSA §8706, sub-§1**, as enacted by PL 1995, c. 653,
52 Pt. A, §2 and affected by §7, is repealed.

2 **Sec. 9. 22 MRSA §8706, sub-§2, ¶C**, as repealed and replaced by
PL 1997, c. 525, §3, is amended to read:

4
6 C. ~~Beginning in fiscal year 1997-98, the~~ The operations of
the organization must be supported from 3 sources as
provided in this paragraph:

8 (1) Fees collected pursuant to paragraphs A and B;

10 (2) Annual assessments of not less than \$100 assessed
12 against the following entities licensed under Titles 24
and 24-A on the basis of the total annual health care
14 premium: nonprofit hospital and medical service
organizations, health insurance carriers, health
16 maintenance organizations and 3rd-party administrators
on the basis of administration of health benefits plans
18 administered for employers. ~~The assessments may not~~
~~exceed \$319,000 for fiscal year 1997-98 and \$325,000~~
20 ~~for fiscal year 1998-99~~ are to be determined on an
annual basis by the board. Health care policies issued
22 for specified disease, accident, injury, hospital
indemnity, Medicare supplement, disability, long-term
24 care or other limited benefit health insurance policies
are not subject to assessment under this subparagraph.
26 Assessments The total dollar amount of assessments
under this subparagraph must equal the assessments
28 under subparagraph 3 (3); and

30 (3) Annual assessments of not less than \$100 assessed
by the organization against providers. ~~The assessments~~
32 ~~may not exceed \$320,000 for fiscal year 1997-98 and~~
~~\$326,000 for fiscal year 1998-99~~ are to be determined
34 on an annual basis by the board. Assessments The total
dollar amount of assessments under this subparagraph
36 must equal the assessments under subparagraph 2 (2).

38 The aggregate level of annual assessments under
subparagraphs (2) and (3) ~~must be based on the difference~~
40 ~~between the authorized allocation for the fiscal year and~~
~~the beginning cash balance in the account established~~
42 ~~pursuant to section 8706, subsection 6~~ may not exceed
\$900,000. The board may waive assessments otherwise due
44 under subparagraphs (2) and (3) when a waiver is determined
to be in the interests of the organization and the parties
46 to be assessed.

48 **Sec. 10. 22 MRSA §8707, sub-§1**, as enacted by PL 1995, c. 653,
Pt. A, §2 and affected by §7, is amended to read:

50 **1. Public access; confidentiality.** The board shall adopt
52 rules making available to any person, upon request, information,

2 except privileged medical information and confidential ~~commercial~~
information, provided to the organization under this chapter as
4 long as individual patients or health care practitioners are not
publicly identified. The board shall adopt rules governing
6 public access in the least restrictive means possible to
information that may indirectly identify a particular patient, ~~or~~
health care practitioner ~~or provider or payer~~.

8
10 **Sec. 11. 22 MRSA §8707, sub-§4**, as enacted by PL 1995, c. 653,
Pt. A, §2 and affected by §7, is amended to read:

12 **4. Confidential or privileged designation.** The rules must
determine to be confidential or privileged information all data
14 designated or treated as confidential or privileged by the Maine
Health Care Finance Commission. Information regarding discounts
16 off charges, including capitation and other similar agreements,
negotiated between a payor or purchaser and a provider of health
18 care that was designated as confidential only for a limited time
under the rules of the Maine Health Care Finance Commission is
20 confidential to the organization, notwithstanding the termination
date for that designation specified under the prior rules. The
22 board may determine financial data submitted to the organization
under section 8709 to be confidential information if the public
24 disclosure of the data will directly result in the provider of
the data being placed in a competitive economic disadvantage.
26 This section may not be construed to relieve the provider of the
data of the requirement to disclose such information to the
28 organization in accordance with this chapter and rules adopted by
the board.

30
32 **Sec. 12. 22 MRSA §8708**, as amended by PL 1997, c. 525, §4, is
further amended to read:

34 **§8708. Clinical data**

36 Clinical data must be filed, stored and managed as follows.

38 **1. Information required.** Pursuant to rules adopted by the
board for form, medium, content and time for filing, each health
40 care facility shall file with the organization the following
information:

42 ~~A. Scope of service information, including bed capacity, by~~
44 ~~service provided, special services, ancillary services,~~
~~physician profiles in the aggregate by clinical specialties,~~
46 ~~nursing services and such other scope of service information~~
~~as the organization determines necessary for the performance~~
48 ~~of its duties;~~

50 **B.** A completed uniform hospital discharge data set, or
comparable information, for each patient discharged from the
52 facility after June 30, 1983, ~~for each major ambulatory~~

2 ~~service-listed-in-rules-adopted-by-the-organization-pursuant~~
3 ~~to-subsection-4,-occurring-after-January-1,-1990;~~ and for
4 each hospital outpatient service occurring after June 30,
1996; and

6 C. In addition to any other requirements applicable to
7 specific categories of health care facilities ~~or-payers,~~ the
8 organization may require the filing of data as set forth in
9 this chapter or in rules adopted pursuant to this chapter.

10 **2. Additional information on ambulatory services and**
11 **surgery.** Pursuant to rules adopted by the board for form,
12 medium, content and time for filing, each provider shall file
13 with the organization a completed data set, comparable to data
14 filed by health care facilities under subsection 1, ~~paragraphs-A~~
15 ~~and paragraph B,~~ for each ambulatory service and surgery listed
16 in rules adopted pursuant to subsection 4, ~~paragraph-A,~~ occurring
17 after January 1, 1990. This subsection may not be construed to
18 require duplication of information required to be filed under
19 subsection 1. ~~Rules-adopted-pursuant-to-this-subsection-are~~
20 ~~routine-technical-rules-as-defined-by-Title-5,-chapter-375,~~
21 ~~subchapter-II-A.~~

24 **3. More than one licensed health care facility or**
25 **location.** When more than one licensed health care facility is
26 operated by the reporting organization, the information required
27 by this chapter must be reported for each health care facility
28 separately. When a provider of health care operates in more than
29 one location, the organization may require that information be
30 reported separately for each location.

32 **4. Data lists.** ~~The scope-of-clinical-data-to-be-collected~~
33 ~~must-be-defined-and-regulated-by-preparation-of-lists-in~~
34 ~~accordance-with-this board shall adopt rules establishing a list~~
35 ~~of major ambulatory services and surgeries for which data is to~~
36 ~~be collected. The board shall review the list annually to~~
37 ~~determine if any additions or deletions are necessary. The~~
38 ~~organization shall distribute the most current list to those~~
39 ~~providers of health care that are required to file information~~
40 ~~under subsection 2.~~

42 ~~A.-By-December-31,-1996,-and-at-least-annually-thereafter,~~
43 ~~the-board-shall-adopt-rules-establishing-a-list-of-major~~
44 ~~ambulatory-services-and-surgeries-for-which-data-is-to-be~~
45 ~~collected.-The-organization-shall-distribute-the-lists-to~~
46 ~~these-providers-of-health-care-that-are-required-to-file~~
47 ~~information-under-subsection-1-or-2.~~

48 ~~B.-In-addition-to-lists-prepared-pursuant-to-paragraph-A,~~
49 ~~and-subject-to-the-limitations-of-section-8704,-subsection~~
50 ~~1,-the-board-may-adopt-rules-requiring-the-filing-of-data~~
51 ~~for-other-outpatient-services-by-health-care-facilities,~~
52

2 ~~providers and 3rd party payors. In proposing a rule under~~
3 ~~this paragraph, the board shall consider the scope of~~
4 ~~information previously collected by the Maine Health Care~~
5 ~~Finance Commission and shall determine if or to what extent~~
6 ~~the collection of data on hospital outpatient services is~~
7 ~~appropriate after considering the costs and benefits to~~
8 ~~hospitals and the public of preparing, submitting and~~
9 ~~maintaining these data.~~

10 **5. Medical record abstract data.** In addition to the
11 information required to be filed under subsections 1 and 2 and
12 pursuant to rules adopted by the organization for form, medium,
13 content and time of filing, each health care facility shall file
14 with the organization such medical record abstract data as the
15 organization may require.

16 **6. Merged data.** The board may require the discharge data
17 submitted pursuant to subsection 1 and any medical record
18 abstract data required pursuant to subsection 5 to be merged with
19 associated billing data.

20 **6-A. Additional data.** Subject to the limitations of
21 section 8704, subsection 1, the board may adopt rules requiring
22 the filing of additional clinical data from other providers and
23 payors.

24 **7. Authority to obtain information.** Nothing in this
25 section may be construed to limit the board's authority to obtain
26 information that it considers necessary to carry out its duties.

27 **Sec. 13. 22 MRSA §8709,** as enacted by PL 1995, c. 653, Pt. A,
28 §2 and affected by §7, is amended to read:

29 **§8709. Financial data; scope of service data**

30 Financial data and scope of service data must be filed,
31 stored and managed as follows.

32 **1. Financial data.** Each health care facility shall file
33 with the organization, in a form specified by rule pursuant to
34 section 8704, financial information including costs of operation,
35 revenues, assets, liabilities, fund balances, other income,
36 rates, charges and units of services, except to the extent that
37 the board specifies by rule that portions of this information are
38 unnecessary.

39 **2. Certification required.** The board may require
40 certification of such financial reports and attestation from
41 responsible officials of the health care facility that such
42 reports have to the best of their knowledge and belief been
43 prepared in accordance with the requirements of the board.
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2 3. Scope of service data. Each health care facility shall
3 file with the organization scope of service information,
4 including bed capacity by service provided, special services,
5 ancillary services, physician profiles in the aggregate by
6 clinical specialties, nursing services and such other scope of
7 service information as the organization determines necessary for
8 the performance of its duties.

10 **Sec. 14. 22 MRSA §8711, sub-§2,** as enacted by PL 1995, c. 653,
11 Pt. A, §2 and affected by §7, is amended to read:

12 **2. Information on mandated services.** The organization is
13 authorized and directed to require providers of mammography
14 services to furnish information with respect to those services
15 for the purpose of assisting in the evaluation of the social and
16 financial impact and the efficacy of the mandated benefit for
17 screening mammograms under Title 24, section 2320-A and Title
18 24-A, sections 2745-A and 2837-A. The information that may be
19 collected includes the location of mammography units, the
20 purchase of new mammography units, the number of screening and
21 diagnostic mammograms performed, the charge per mammogram and the
22 method and amount of payment, and the number of cancers detected
23 by screening mammograms. ~~To--the--extent--practicable,--the~~
24 ~~organisation--shall--collect--information--consistent--with--that~~
25 ~~collected--by--the--Maine--Health--Care--Finance--Commission--in~~
26 ~~cooperation--with--the--Department--of--Human--Services,--Bureau--of~~
27 ~~Health--for--prior--periods.~~

30 SUMMARY

32 This bill makes a number of technical corrections to the
33 Maine Health Data Organization law and repeals language that is
34 outdated. In addition, this bill increases the forfeiture level
35 for noncompliant data providers that are not health care
36 facilities, provides the Maine Health Data Organization with
37 compliance monitoring authority, modifies the funding provisions
38 and allows specific financial information to be designated
confidential.