

MAINE STATE LEGISLATURE

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120th MAINE LEGISLATURE

FIRST REGULAR SESSION-2001

Legislative Document

No. 802

H.P. 617

House of Representatives, February 13, 2001

An Act to Improve End-of-life Care in the State.

Reference to the Committee on Banking and Insurance suggested and ordered printed.

Millicent M. MacFarland

MILLICENT M. MacFARLAND, Clerk

Presented by Representative MADORE of Augusta.

Under suspension of the rules, cosponsored by Senator KILKELLY of Lincoln and Representatives: ANDREWS of York, ASH of Belfast, BAKER of Bangor, BERRY of Belmont, BOUFFARD of Lewiston, BOWLES of Sanford, BRANNIGAN of Portland, BROOKS of Winterport, BRUNO of Raymond, BULL of Freeport, CHICK of Lebanon, CHIZMAR of Lisbon, COLWELL of Gardiner, DAIGLE of Arundel, DAVIS of Falmouth, DESMOND of Mapleton, DUPLESSIE of Westbrook, ESTES of Kittery, ETNIER of Harpswell, FULLER of Manchester, GAGNE of Buckfield, GERZOFKY of Brunswick, GLYNN of South Portland, GREEN of Monmouth, HASKELL of Milford, HATCH of Skowhegan, HEIDRICH of Oxford, JACOBS of Turner, KOFFMAN of Bar Harbor, LaVERDIERE of Wilton, LAVERRIERE-BOUCHER of Biddeford, LEDWIN of Holden, LESSARD of Topsham, LOVETT of Scarborough, LUNDEEN of Mars Hill, MacDOUGALL of North Berwick, MARLEY of Portland, MATTHEWS of Winslow, MAYO of Bath, McGLOCKLIN of Embden, McKEE of Wayne, McLAUGHLIN of Cape Elizabeth, McNEIL of Rockland, MENDROS of Lewiston, MICHAUD of Fort Kent, MURPHY of Berwick, NASS of Acton, NORBERT of Portland, NUTTING of Oakland, O'BRIEN of Augusta, O'BRIEN of Lewiston, PARADIS of Frenchville, PATRICK of Rumford, RICHARDSON of Brunswick, SAVAGE of Buxton, Speaker SAXL of Portland, SCHNEIDER of Durham, SIMPSON of Auburn, SKOGLUND of St. George, SNOWE-MELLO of Poland, STEDMAN of Hartland, TOBIN of Dexter, WATSON of Farmingdale, WESTON of Montville, WHEELER of Bridgewater, Senators: CATHCART of Penobscot, DAGGETT of Kennebec, GOLDTHWAIT of Hancock, LONGLEY of Waldo, SMALL of Sagadahoc, TREAT of Kennebec.

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

4 **Sec. 1. 24 MRSA §2317-B, sub-§12-A is enacted to read:**

6 12-A. Title 24-A, sections 2759 and 2847-J. Hospice care, palliative care and end-of-life care, Title 24-A, sections 2759 and 2847-J;

8 **Sec. 2. 24-A MRSA §2759 is enacted to read:**

10 **§2759. Hospice care**

12 All individual health policies, except accidental injury, specified disease, hospital indemnity, Medicare supplement, long-term care and other limited benefit health insurance policies and contracts, must provide coverage for hospice, palliative and end-of-life care. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2002. For the purposes of this section, all contracts are deemed to be renewed no later than the next anniversary of the contract date.

14 **Sec. 3. 24-A MRSA §2847-J is enacted to read:**

16 **§2847-J. Hospice care**

18 All group insurance policies and contracts, except accidental injury, specified disease, hospital indemnity, Medicare supplement, long-term care and other limited benefit health insurance policies and contracts, must provide coverage for hospice, palliative and end-of-life care. The requirements of this section apply to all polices, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2002. For the purposes of this section, all contracts are deemed to be renewed no later than the next anniversary of the contract date.

20 **Sec. 4. 24-A MRSA §4249 is enacted to read:**

22 **§4249. Hospice care**

24 All health maintenance organization individual and group health contracts must provide coverage for hospice, palliative and end-of-life care. The requirements of this section apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2002. For the purposes of this section, all

2 contracts are deemed to be renewed no later than the next
3 anniversary of the contract date.

4 **Sec. 5. Medicaid reimbursement for hospice services.** The
5 Department of Human Services shall adopt rules to amend its state
6 plan to provide Medicaid reimbursement for hospice care. The
7 rules must meet the following requirements.

8
9
10 1. For hospice patients residing in nursing facilities, the
11 department shall diligently pursue mechanisms that will provide
12 for direct payment to nursing facilities for room and board. In
13 addition, receiving the Medicaid benefit should not preclude
14 access to other Medicaid services not covered by hospice.

15
16 2. The rate of reimbursement must be at least \$130 per day.

17
18 3. The rules must provide for expedited determination of
19 eligibility within 14 days of application. The rules must also
20 cover other hospice eligibility issues, including, but not
21 limited to, physician certification of terminal illness, election
22 of hospice benefit and delineation of services that are
23 reasonable and necessary for the palliation or management of
24 terminal illness or related conditions.

25
26 4. The rules must address outlier payments for necessary
27 palliation for hospice patients, including chemotherapy,
28 radiation therapy, HIV/AIDS related medications, blood products,
29 total parenteral nutrition and radiographic diagnostics.

30 Rules adopted pursuant to this section are major substantive
31 rules as defined by the Maine Revised Statutes, Title 5, chapter
32 375, subchapter II-A.

33
34 The department shall report to the Joint Standing Committee
35 on Health and Human Services by January 1, 2002 regarding the
36 rulemaking.

37
38 **Sec. 6. Maine Center for End-of-life Care.** The Department of
39 Human Services, Bureau of Health may establish, through contract
40 or otherwise, the Maine Center for End-of-life Care. The purpose
41 of the center is to educate health care providers and the public
42 regarding pain management and palliative and end-of-life care.
43 The center must maintain a registry of health professionals
44 trained in pain management and palliative and end-of-life care.
45 The bureau may solicit and accept outside funding through grants
46 and other sources to establish and operate the center, which may
47 be hosted by an educational institution, professional association
48 or other entity interested in the care of the terminally ill. By
January 15th each year the bureau shall report to the joint

2 standing committee of the Legislature having jurisdiction over
health and human services matters regarding the operation of the
center and its funding.

4
6 **Sec. 7. Professional education.** The Department of Professional
and Financial Regulation, Office of Licensing and Registration
8 shall undertake a study of professional entry-level and
continuing educational requirements related to end-of-life care,
10 palliative care, hospice, pain management, advanced health care
directives, appointment of health care decision surrogates and
do-not-resuscitate orders. In considering the requirements for
12 professional training, licensure and registration, the office
shall work cooperatively with boards of licensure and
14 registration and with professionals working in end-of-life care.
The office shall work with boards and members of the following
16 professions: counselors, social workers, psychologists,
medicine, osteopathic licensure, nursing, funeral directors,
18 complimentary health care providers, hospice caregivers and
clergy. The office shall report to the Joint Standing Committee
20 on Health and Human Services by January 15, 2002 regarding
findings and any recommendations from the office.

22
24 **Sec. 8. Baseline data and standardized assessment tools.** The Maine
Health Data Organization, referred to in this section as the
"organization," established in the Maine Revised Statutes, Title
26 22, chapter 1683, shall direct an effort to gather baseline data
and standardized assessment tools regarding end-of-life care,
28 palliative care, pain and symptom management and quality
indicators for the care of terminally ill persons. The
30 organization shall work with professionals in the care of persons
who are terminally ill and shall consider the cost of untreated
32 pain, the effect of untreated pain on the workplace, the impact
of untreated pain on emergency room use and hospitalizations and
34 possible drug and alcohol abuse. The organization shall report
by January 15, 2002 to the Joint Standing Committee on Health and
36 Human Services regarding its findings and any recommended
legislation.

38
40 **Sec. 9. Study.** The Joint Standing Committee on Health and
Human Services shall undertake a study of end-of-life and
42 palliative care, pain management and barriers to the
establishment of inpatient hospice programs in the State. The
44 study must include recommendations for overcoming those barriers
and a strategic plan for providing end-of-life and palliative
care statewide and consider other issues as determined by the
46 committee. The committee shall meet at least 4 times prior to
January 1, 2002.

48
50 **Sec. 10. Appropriation.** The following funds are appropriated
from the General Fund to carry out the purposes of this Act.

2

2001-02

4 **HUMAN SERVICES, DEPARTMENT OF**

6 **Maine Hospice Council**

8 All Other \$50,000

10 Provides funds to support volunteer hospice
12 programs.

14 **SUMMARY**

16 This bill contains a number of provisions regarding hospice,
end-of-life and palliative care.

18

20 1. It requires health insurance and health maintenance
contracts to cover palliative, hospice and end-of-life care.

22 2. It provides reimbursement under the Medicaid program for
24 hospice care at \$130 per day.

26 3. It authorizes the Department of Human Services to
establish the Maine Center for End-of-life Care.

28 4. It requires a report from the Department of Professional
30 and Financial Regulation, Office of Licensing and Registration by
January 15, 2002 regarding professional education requirements
32 regarding end-of-life care, palliative care, hospice, pain
management, advanced health care directives, appointment of
34 health care decision surrogates and do-not-resuscitate orders.

36 5. It requires the Maine Health Data Organization to gather
baseline data and standardized assessment tools regarding
38 end-of-life care, palliative care, pain and symptom management
and quality indicators for the care of terminally ill persons.

40 6. It requires the Joint Standing Committee on Health and
Human Services to undertake a study of palliative care, hospice
42 care and the barriers to inpatient hospice care.

44 7. It appropriates \$50,000 for the Maine Hospice Council.