

MAINE STATE LEGISLATURE

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122nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2005

Legislative Document

No. 1401

S.P. 490

In Senate, March 22, 2005

An Act To Further Coordinate the Laws Regarding Certificate of Need, the State Health Plan and the Capital Investment Fund

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in cursive script, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BRENNAN of Cumberland.
Cosponsored by Representative MILLETT of Waterford and
Senators: DAMON of Hancock, MARTIN of Aroostook, MAYO of Sagadahoc, SNOWE-
MELLO of Androscoggin, STRIMLING of Cumberland, Representatives: NUTTING of
Oakland, PERRY of Calais.

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

2 **Sec. 1. 2 MRSA §101, sub-§1, ¶D**, as enacted by PL 2003, c.
4 469, Pt. B, §1, is amended to read:

6 D. Establish a limit for allocating resources under the
8 certificate of need program described in Title 22, chapter
10 103-A, called the capital investment fund, for each year of
12 the plan pursuant to section 102.

14 **Sec. 2. 2 MRSA §103, sub-§2**, as enacted by PL 2003, c. 469,
16 Pt. B, §1, is amended to read:

18 **2. Input.** In developing the plan, the Governor shall, at a
20 minimum, review the process for the development of the plan with
22 the joint standing committee of the Legislature having
24 jurisdiction over health and human services matters and seek
26 input from the Advisory Council on Health Systems Development,
28 pursuant to section 104; the Maine Quality Forum and the Maine
30 Quality Forum Advisory Council, pursuant to Title 24-A, chapter
32 87, subchapter 2; a statewide health performance council; and
34 other agencies and organizations.

36 **Sec. 3. 2 MRSA §103, sub-§3, ¶A**, as enacted by PL 2003, c.
38 469, Pt. B, §1, is amended to read:

40 A. Assess health care cost, quality and access in the State
42 based on demographic, health care service and health care
44 cost data;

46 **Sec. 4. 2 MRSA §103, sub-§3, ¶¶E and F**, as enacted by PL 2003,
48 c. 469, Pt. B, §1, are amended to read:

E. Outline strategies to:

(1) Promote health systems change;

(2) Address the factors influencing health care cost
increases; and

(3) Address the major threats to public health and
safety in the State, including, but not limited to,
lung disease, diabetes, cancer and heart disease; and

F. Provide recommendations to help purchasers and providers
make decisions that improve public health and build an
affordable, high-quality health care system; and

Sec. 5. 2 MRSA §103, sub-§3, ¶G is enacted to read:

2 G. Be consistent with the requirements of the certificate
4 of need program described in Title 22, chapter 103-A.

6 **Sec. 6. 2 MRSA §103, sub-§3-A** is enacted to read:

8 3-A. Review. The plan must be reviewed by the joint
10 standing committee of the Legislature having jurisdiction over
12 health and human services matters prior to being finalized and
14 issued by the Governor.

16 **Sec. 7. 2 MRSA §103, sub-§4**, as enacted by PL 2003, c. 469,
18 Pt. B, §1, is amended to read:

20 **4. Uses of plan.** The plan must be used in determining the
22 capital investment fund amount pursuant to section 102 ~~and must~~
24 ~~guide the issuance of certificates of need by the State and.~~ The
26 plan must be considered by the Commissioner of Health and Human
28 Services in making determinations regarding applications for
30 certificates of need under Title 22, chapter 103-A and must serve
32 as a guide for the health care lending decisions of the Maine
34 Health and Higher Education Facilities Authority. -A-certificate
36 of-need-or-public Public financing that affects health care costs
38 may not be provided unless it meets goals and budgets explicitly
40 outlined in the plan.

42 **Sec. 8. 22 MRSA §335, sub-§1, ¶B**, as enacted by PL 2003, c.
44 469, Pt. C, §8, is amended to read:

46 B. ~~Is consistent with~~ Furtheres the goals of the State
48 Health Plan;

50 **Sec. 9. 22 MRSA §335, sub-§7**, as amended by PL 2003, c. 514,
52 §1, is further amended to read:

54 **7. Review; approval.** Except as provided in section 336,
56 the commissioner shall issue a certificate of need if the
58 commissioner determines and makes specific written findings
60 regarding that determination that:

62 A. The applicant is fit, willing and able to provide the
64 proposed services at the proper standard of care as
66 demonstrated by, among other factors, whether the quality
68 of any health care provided in the past by the applicant or
70 a related party under the applicant's control meets industry
72 standards;

74 B. The economic feasibility of the proposed services is
76 demonstrated in terms of the:

2 (1) Capacity of the applicant to support the project
3 financially over its useful life, in light of the rates
4 the applicant expects to be able to charge for the
5 services to be provided by the project; and

6
7 (2) Applicant's ability to establish and operate the
8 project in accordance with existing and reasonably
9 anticipated future changes in federal, state and local
10 licensure and other applicable or potentially
11 applicable rules;

12
13 C. There is a public need for the proposed services as
14 demonstrated by certain factors, including, but not limited
15 to:

16
17 (1) Whether, and the extent to which, the project will
18 substantially address specific health problems as
19 measured by health needs in the area to be served by
20 the project;

21
22 (2) Whether the project will have a positive impact on
23 the health status indicators of the population to be
24 served;

25
26 (3) Whether the services affected by the project will
27 be accessible to all residents of the area proposed to
28 be served; and

29
30 (4) Whether the project will provide demonstrable
31 improvements in quality and outcome measures applicable
32 to the services proposed in the project;

33
34 D. The proposed services are consistent with the orderly
35 and economic development of health facilities and health
36 resources for the State as demonstrated by:

37
38 (1) The impact of the project on total health care
39 expenditures after taking into account, to the extent
40 practical, both the costs and benefits of the project
41 and the competing demands in the local service area and
42 statewide for available resources for health care;

43
44 (2) The availability of state funds to cover any
45 increase in state costs associated with utilization of
46 the project's services; and

47
48 (3) The likelihood that more effective, more
49 accessible or less costly alternative technologies or
50 methods of service delivery may become available; and

2 E. The project meets the criteria set forth in subsection
4 1+; and

6 F. The project protects the public health and safety.

8 In making a determination under this subsection, the commissioner
10 shall use data available in the ~~state-health-plan~~ State Health
12 Plan under Title 2, section 103, including demographic, health
14 care service and health care cost data, data from the Maine
16 Health Data Organization established in chapter 1683 and other
18 information available to the commissioner. Particular weight
must be given to information that indicates that the proposed
health services are innovations in ~~high-quality~~ high-quality
health care delivery, that the proposed health services are not
reasonably available in the proposed area and that the facility
proposing the new health services is designed to provide
excellent quality health care.

20 In making all determinations under this subsection, the
22 commissioner shall consider the State Health Plan as described in
Title 2, section 103.

24

SUMMARY

26

28 This bill provides coordination among the State Health Plan
and the capital investment fund, adopted by the Governor under
the Maine Revised Statutes, Title 2, chapter 5, and the
30 certificate of need process under Title 22, chapter 103-A as
follows.

32

34 1. It clarifies that the capital investment fund serves as
a limit for allocating resources under the certificate of need
program.

36

38 2. It specifies that demographic, health care service and
health care cost data must be used by the Governor in drafting
the State Health Plan. It requires that the State Health Plan be
40 consistent with the requirements of the certificate of need
program. It requires review of the process for the development
42 of the State Health Plan and the plan itself by the joint
standing committee of the Legislature having jurisdiction over
44 health and human services matters prior to its being finalized
and issued by the Governor.

46

48 3. It specifies that demographic, health care service and
health care cost data must be used by the Commissioner of Health
and Human Services in making determinations regarding issuance of

certificates of need. It requires certificate of need decisions
2 to further the goals of the State Health Plan. It adds to the
certificate of need standards protection of the public health and
4 safety. It requires the Commissioner of Health and Human
Services in making decisions regarding certificate of need to
6 consider the State Health Plan.