

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

FIRST REGULAR SESSION-2007

Legislative Document

No. 1535

H.P. 1060

House of Representatives, March 20, 2007

**Resolve, To Establish the Work Group To Review and Recommend
Improvements for the Certificate of Need Program**

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

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative MILLER of Somerville.
Cosponsored by Senator BRANNIGAN of Cumberland and
Representatives: CRAVEN of Lewiston, PERRY of Calais, PINGREE of North Haven.

1 **Sec. 1. Work group established. Resolved:** That the Work Group to Review
2 and Recommend Improvements for the Certificate of Need Program, referred to in this
3 resolve as "the work group," is established; and be it further

4 **Sec. 2. Work group membership. Resolved:** That the work group consists of
5 12 members appointed as follows.

6 1. The President of the Senate and the Speaker of the House shall appoint 6 members
7 to the work group as follows:

8 A. The President of the Senate shall appoint one member of the Senate who serves
9 on the Joint Standing Committee on Health and Human Services and 2
10 representatives from businesses, unions, advocacy organizations or public health
11 groups; and

12 B. The Speaker of the House shall appoint one member of the House of
13 Representatives who serves on the Joint Standing Committee on Health and Human
14 Services and 2 representatives from businesses, unions, advocacy organizations or
15 public health groups.

16 The Senate and House appointees must represent the 2 major political parties. Businesses,
17 unions, advocacy organizations and public health groups must each be represented when
18 the appointments of the President of the Senate and the Speaker of the House are
19 combined.

20 2. The Governor shall appoint 4 medical representatives: 2 representatives of
21 hospitals, nominated by the Maine Hospital Association; one representative of a statewide
22 association of physicians, nominated jointly by the Maine Medical Association and the
23 Maine Osteopathic Association; and one representative of the ambulatory surgical
24 centers; and

25 3. The Director of the Governor's Office of Health Policy and Finance, or the
26 director's designee, and the Director of Licensing and Regulatory Services within the
27 Department of Health and Human Services shall serve as nonvoting ex officio members;
28 and be it further

29 **Sec. 3. Chairs. Resolved:** That the Senate member and the House of
30 Representatives member of the work group shall serve as cochairs of the work group; and
31 be it further

32 **Sec. 4. Appointments; convening of work group. Resolved:** That all
33 appointments must be made no later than 30 days following the effective date of this
34 resolve. The appointing authorities shall notify the Executive Director of the Legislative
35 Council once all appointments have been completed. Within 15 days after the
36 appointment of all members, the chairs shall call and convene the first meeting of the
37 work group; and be it further

38 **Sec. 5. Duties. Resolved:** That the work group may hold up to 4 meetings to
39 prioritize and examine some or all of the following issues. Based on findings from the
40 examination of the prioritized issues, the work group shall identify improvements and

1 make recommendations for changes in law or rule. The work group may examine the
2 following issues:

3 1. Recent changes made by law or rule to the certificate of need program and the
4 need for any modifications to the law or rule;

5 2. The current dollar amount threshold used in determining whether a project
6 requires review and, if inadequate, a potential process for identifying projects that fall
7 below the threshold;

8 3. The current statutory authority of and methods used by the Department of Health
9 and Human Services to determine whether review is needed. This should include the
10 definition of “reviewable project” and clarification of the term “new service”;

11 4. The current statutory authority of and methods used by the Department of Health
12 and Human Services to define community need for new services or facilities;

13 5. The relationship between the State Health Plan, the certificate of need process and
14 the capital investment fund;

15 6. The roles of the Maine Quality Forum; the Department of Health and Human
16 Services, Maine Center for Disease Control and Prevention; and the Department of
17 Professional and Financial Regulation, Bureau of Insurance in the certificate of need
18 review process;

19 7. The criteria used by the Department of Health and Human Services for evaluating
20 a certificate of need application along with procedures for public hearings and the use of
21 review panels;

22 8. Historical review of revenues and expenditures in the certificate of need unit to
23 identify and determine the amount of resources that are adequate to have a highly
24 functioning unit;

25 9. Historical review of the certificate of need application process including number
26 of submissions, approvals, disapprovals and withdrawn applications and associated
27 timelines to determine any improvements needed;

28 10. Review of the most recent studies on the impact that the competitive market
29 versus regulation has on health care costs and access; and

30 11. Additional topics determined by unanimous agreement of the work group
31 members; and be it further

32 **Sec. 6. Staff assistance. Resolved:** That the Legislative Council shall provide
33 necessary staffing services to the work group; and be it further

34 **Sec. 7. Compensation. Resolved:** That the legislative members of the work
35 group are entitled to receive the legislative per diem, as defined in the Maine Revised
36 Statutes, Title 3, section 2, and reimbursement for travel and other necessary expenses
37 related to their attendance at authorized meetings of the work group. Public members not

1 otherwise compensated by their employers or other entities that they represent are entitled
2 to receive reimbursement of necessary expenses and, upon a demonstration of financial
3 hardship, a per diem equal to the legislative per diem for their attendance at authorized
4 meetings of the work group; and be it further

5 **Sec. 8. Department background report on certificate of need. Resolved:**
6 That, no later than 45 days after the effective date of this resolve, the Department of
7 Health and Human Services shall provide a written report to the work group that provides
8 information on revenues, expenditures, staffing levels, staffing needs and review cycles,
9 including submissions, approvals, disapprovals and withdrawals of certificate of need
10 applications for the last 5 years of the certificate of need program; and be it further

11 **Sec. 9. Report. Resolved:** That, no later than December 1, 2007 the work group
12 shall submit a report that includes its findings and recommendations, including suggested
13 legislation, for presentation to the Second Regular Session of the 123rd Legislature. The
14 work group is authorized to introduce legislation related to its report to the Second
15 Regular Session of the 123rd Legislature at the time of submission of its report; and be it
16 further

17 **Sec. 10. Extension. Resolved:** That, if the work group requires a limited
18 extension of time to complete its study and make its report, it may apply to the
19 Legislative Council, which may grant an extension; and be it further

20 **Sec. 11. Work group budget. Resolved:** That the chairs of the work group,
21 with assistance from the work group staff, shall administer the work group's budget.
22 Within 10 days after its first meeting, the work group shall present a work plan and
23 proposed budget to the Legislative Council for its approval. The work group may not
24 incur expenses that would result in the work group's exceeding its approved budget.
25 Upon request from the work group, the Executive Director of the Legislative Council
26 shall promptly provide the work group chairs and staff with a status report on the work
27 group budget, expenditures incurred and paid and available funds.

28 SUMMARY

29 This resolve creates the 12-member Work Group to Review and Recommend
30 Improvements for the Certificate of Need Program, which includes 6 members appointed
31 by the President of the Senate and the Speaker of the House, 4 members appointed by the
32 Governor, a nonvoting ex officio member from the Governor's Office of Health Policy
33 and Finance and a nonvoting ex officio member from the Department of Health and
34 Human Services. The work group may hold up to 4 meetings to prioritize and examine
35 some or all of 11 issues that are listed in the resolve and then, based on findings from the
36 examination of the prioritized issues, identify improvements and make recommendations
37 for changes in law or rule. The resolve requires the Department of Health and Human
38 Services to provide a certificate of need background report to the work group no later
39 than 45 days after the effective date of this resolve. The resolve also requires the work
40 group to submit a report that includes its findings and recommendations, including
41 suggested legislation, for presentation to the Second Regular Session of the 123rd

1 Legislature by December 1, 2007 and authorizes the work group to introduce legislation
2 related to its report.