

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

SECOND REGULAR SESSION-2008

Legislative Document

No. 2044

H.P. 1428

House of Representatives, December 21, 2007

An Act To Prohibit Hospitals from Charging for Treatment To Correct Medical Mistakes

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 19, 2007. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative CROCKETT of Augusta.
Cosponsored by Representative BRAUTIGAM of Falmouth, Senator BARTLETT of Cumberland and Representatives: BLISS of South Portland, CANAVAN of Waterville, CONOVER of Oakland, FAIRCLOTH of Bangor, HASKELL of Portland, PERRY of Calais, PINGREE of North Haven, TREAT of Hallowell.

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

2 **Sec. 1. 22 MRSA §1721** is enacted to read:

3 **§1721. Prohibition on charging for health care facility mistakes**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
5 following terms have the following meanings.

6 A. "Health care facility" means a hospital or ambulatory surgical center licensed
7 under chapter 405.

8 B. "Mistake or preventable adverse event" includes but is not limited to:

9 (1) Surgery performed on the wrong body part;

10 (2) Surgery performed on the wrong patient;

11 (3) The wrong surgical procedure performed on a patient;

12 (4) Retention of a foreign object in a patient after surgery or another procedure;

13 (5) Intraoperative or immediately postoperative death of a patient classified as a
14 normal healthy patient under guidelines published by a national association of
15 anesthesiologists;

16 (6) Patient death or serious disability associated with the use of contaminated
17 drugs, devices or biologics provided by a hospital or ambulatory surgical center;

18 (7) Patient death or serious disability associated with the use or function of a
19 device in patient care in which the device is used for functions other than as
20 intended;

21 (8) Patient death or serious disability associated with an intravascular air
22 embolism that occurs while being cared for in a health care facility;

23 (9) An infant's being discharged to the wrong person;

24 (10) Patient death or serious disability associated with a patient's elopement for
25 more than 4 hours;

26 (11) Patient suicide or attempted suicide resulting in serious disability while
27 being cared for in a health care facility;

28 (12) Patient death or serious disability associated with a medication error such as
29 an error involving the wrong drug, wrong dose, wrong patient, wrong time,
30 wrong rate, wrong preparation or wrong route of administration;

31 (13) Patient death or serious disability associated with a hemolytic reaction due
32 to the administration of incompatible blood or blood products;

33 (14) Maternal death or serious disability associated with labor or delivery in a
34 low-risk pregnancy while being cared for in a health care facility;

35 (15) Patient death or serious disability associated with hypoglycemia, the onset of
36 which occurs while the patient is being cared for in a health care facility;

- 1 (16) Death or serious disability associated with failure to identify and treat
2 hyperbilirubinemia in neonates;
- 3 (17) Stage 3 or 4 pressure ulcers acquired after admission to a health care facility;
- 4 (18) Patient death or serious disability due to spinal manipulative therapy;
- 5 (19) Patient death or serious disability associated with an electric shock while
6 being cared for in a health care facility;
- 7 (20) Any incident in which a line designated for oxygen or other gas to be
8 delivered to a patient contains the wrong gas or is contaminated by toxic
9 substances;
- 10 (21) Patient death or serious disability associated with a burn incurred from any
11 source while being cared for in a health care facility;
- 12 (22) Patient death associated with a fall while being cared for in a health care
13 facility;
- 14 (23) Patient death or serious disability associated with the use of restraints or
15 bedrails while being cared for in a health care facility;
- 16 (24) Any instance of care ordered by or provided by someone impersonating a
17 physician, nurse, pharmacist or other licensed health care provider;
- 18 (25) Abduction of a patient of any age;
- 19 (26) Sexual assault of a patient within or on the grounds of a health care facility;
20 and
- 21 (27) Death or significant injury of a patient or staff member resulting from a
22 physical assault that occurs within or on the grounds of a health care facility.

23 **2. Prohibition.** A health care facility is prohibited from charging a patient or the
24 patient's insurer for a mistake or preventable adverse event committed while the patient is
25 in the care of that health care facility or for the care provided by that health care facility
26 to correct the mistake or preventable adverse event.

27 SUMMARY

28 This bill prohibits a health care facility from charging a patient or the patient's
29 insurer for a mistake made by that health care facility or for a preventable adverse event
30 that occurs while the patient is in the care of a health care facility or for the care provided
31 by that health care facility to correct its mistakes or rectify the preventable adverse event.
32 A list of 27 such mistakes or preventable adverse events is provided and is taken from the
33 recommendations of the National Quality Forum in 2002.