

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

FIRST REGULAR SESSION-2009

Legislative Document

No. 1444

S.P. 529

In Senate, April 7, 2009

An Act To Protect Consumers and Small Business Owners from Rising Health Care Costs

Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator BARTLETT of Cumberland.
Cosponsored by Speaker PINGREE of North Haven and
Senators: ALFOND of Cumberland, BOWMAN of York, MARRACHÉ of Kennebec,
President MITCHELL of Kennebec, Representatives: PERRY of Calais, PRIEST of
Brunswick, TREAT of Hallowell.

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

2 **PART A**

3 **Sec. A-1. 5 MRSA §12004-I, sub-§30-B** is enacted to read:

4 **30-B.**

5 Health Care Advisory Council on Not Authorized 22 MRSA §8714
6 Payment Reform

7 **Sec. A-2. 22 MRSA §8712, sub-§2, ¶A** is enacted to read:

8 A. The organization shall promote public transparency of the quality and cost of
9 health care in the State, and shall collect, synthesize and publish reports that are
10 easily understandable by the average consumer and in a format that allows the user to
11 compare each of the information items listed in this paragraph to the extent
12 practicable. The reports shall coordinate, link and compare information regarding
13 health care services, outcomes and effectiveness of those services, quality of those
14 services by health care facility and by practitioner, the location of those services,
15 prices paid by individual commercial health insurance companies, 3rd-party
16 administrators and, unless prohibited by federal law, government payors and any
17 disparities in the delivery or availability of those services. The organization shall
18 post the reports on a publicly accessible website that is well publicized and updated at
19 least quarterly.

20 **Sec. A-3. 22 MRSA §8714** is enacted to read:

21 **§8714. Advisory Council on Payment Reform**

22 **1. Establishment and membership.** The Advisory Council on Payment Reform,
23 established in Title 5, section 12004-I, subsection 30-B and referred to in this section as
24 "the council," is established within the organization. The council consists of 7 members
25 appointed by the board by a vote of a majority of board members. Members of the
26 council include the following:

27 A. One representative of a private employer with more than 1,000 full-time
28 equivalent employees;

29 B. One representative of a private employer with fewer than 50 full-time equivalent
30 employees;

31 C. One representative of a labor union representing employees of a private employer
32 with more than 1,000 full-time equivalent employees. The private employer may not
33 be the private employer represented under paragraph A;

34 D. One representative of the uninsured or underinsured;

35 E. One representative of a public purchaser using state funds to purchase health care
36 services or health insurance for state employees;

37 F. One representative of a consumer health advocacy coalition; and

- 1 G. One representative of MaineCare recipients.
- 2 2. Term. Members of the council serve one-year terms. A member may not serve
3 more than 4 consecutive terms. A member may continue to serve after expiration of the
4 member's term until a successor is appointed, except for a member representing the
5 Governor's Office of Health Policy and Finance.
- 6 3. Compensation. Compensation for members of the council is not authorized.
- 7 4. Quorum. A quorum is a majority of the members of the council.
- 8 5. Chair. The council shall annually choose one of its members to serve as chair for
9 a one-year term.
- 10 6. Meetings. The council shall meet at least once bimonthly and may meet at other
11 times at the call of the chair. Meetings of the council are public proceedings as provided
12 by Title 1, chapter 13, subchapter 1.
- 13 7. Duties. The council shall advise the organization in evaluating the public and
14 private health care payment systems and shall develop and propose reforms to those
15 systems.
- 16 8. Data. The council shall solicit data and information from both the public and
17 private sectors to help inform the council's work.
- 18 A. The department shall forward to the council relevant data.
- 19 B. Public purchasers using state or municipal funds to purchase health care services
20 or health insurance shall submit to the council a consolidated public purchasers
21 expenditure report outlining all funds expended in the most recently completed state
22 fiscal year for hospital inpatient and outpatient care, physician services, prescription
23 drugs, long-term care, mental health and other services and administration, organized
24 by agency.
- 25 C. The council shall encourage private purchasers established under Title 13, Title
26 13-B and Title 13-C to develop and submit to the council a health expenditure report
27 similar to that described in paragraph B.
- 28 D. The organization and the Maine Quality Forum established in Title 24-A, section
29 6951 shall forward to the council cost and quality data annually and any additional
30 data requested by the council.
- 31 9. Funding. The council may apply for grants and other nongovernmental funds to
32 provide staff support or consultant support to carry out the duties and requirements of this
33 section.
- 34 10. Repeal. This section is repealed October 1, 2014.

35 **Sec. A-4. Development of proposed reforms**

36 **1. Development.** The Advisory Council on Payment Reform, established in the
37 Maine Revised Statutes, Title 5, section 12004-I, subsection 30-B and referred to in this

1 section as "the council," shall develop a comprehensive set of proposed reforms to
2 provide incentives for cost-effective and patient-centered care.

3 A. The council shall examine payment methodologies and purchasing strategies,
4 including, but not limited to, alternatives to fee-for-service models such as blended
5 capitation rates, episodes-of-care payments, medical home models and global
6 budgets; pay-for-performance programs; tiering of providers; and evidence-based
7 purchasing strategies.

8 B. The council shall analyze and synthesize relevant research.

9 C. The council shall recommend a common transparent payment methodology that
10 promotes coordination of care and chronic disease management; rewards primary
11 care physicians for improving health outcomes; reduces waste and duplication in
12 clinical care; decreases unnecessary hospitalizations and use of ancillary services;
13 and provides appropriate reimbursement for investment in health information
14 technology that reduces medical errors and enables coordination of care.

15 D. The council shall recommend a plan for the implementation of the common
16 payment methodology across all public and private payers in the State, including a
17 plan under which the State shall seek a waiver from federal rules to facilitate the
18 implementation of the common payment methodology.

19 **2. Involvement of interested parties.** In developing its proposal, the council shall
20 consult with the Maine Quality Forum, the Governor's Office of Health Policy and
21 Finance, health care economists and other individuals or organizations with expertise in
22 state and federal health care payment methodologies and reforms. The council shall use
23 data and recommendations gathered in the course of these consultations as a basis for its
24 findings and recommendations.

25 Before a final vote on any recommendations, the council shall consult with parties likely
26 to be affected by the recommendations, including, but not limited to, the Department of
27 Health and Human Services, the Governor's Office of Health Policy and Finance, the
28 Maine Hospital Association, Maine Medical Association, Maine Education Association
29 Benefits Trust, Maine Municipal Employees Health Trust, one or more employers
30 purchasing a fully insured health plan, one or more labor organizations with membership
31 of more than 500 persons, an academic medical center, one or more hospitals with a high
32 proportion of public payors, one or more retirement plans developed for union employees
33 under which many different employers collectively agree to contribute to their contractor
34 or employee retirement plans, one or more self-insured plans with membership of more
35 than 500 persons, an organization representing health plans and organizations
36 representing health care consumers.

37 **3. Meetings; report.** The council shall hold its first meeting no later than October 1,
38 2009 and shall submit a report that includes its findings and recommendations, including
39 suggested legislation, for presentation to the Joint Standing Committee on Health and
40 Human Services no later than February 1, 2010. After receipt and review of the report,
41 the Joint Standing Committee on Health and Human Services is authorized to introduce a
42 bill related to the subject matter of the report to the Second Regular Session of the 124th
43 Legislature.

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PART B

Sec. B-1. 24-A MRS §2694-A is enacted to read:

§2694-A. Physician performance measurement, reporting and tiering programs

1. Performance measurement, reporting and tiering programs. An insurer delivering or issuing for delivery within the State any individual health insurance policy or group health insurance policy or certificate shall annually file with the superintendent on or before October 1st a full and true statement of its criteria, standards, practices, procedures and programs, if any, that measure physician performance or tier physician performance. The statement must be on a form prepared by the superintendent and may be supplemented by additional information required by the superintendent. The statement must be verified by the oath of the insurer's president or vice-president, and secretary or chief medical officer. A filing and supporting information are public records notwithstanding Title 1, section 402, subsection 3.

2. Duties. The superintendent shall review the statements, if any, assemble the statements in one table using a side-by-side comparison format and provide an analysis identifying the commonalities and differences of the statements. Notwithstanding any provision of law to the contrary, the superintendent shall adopt by rule a program and performance measures designed to:

A. Ensure transparency and fairness and promote the continued strengthening of measurement programs to meet patients' needs;

B. Promote the consistency, efficiency and fairness of physician performance measurement; and

C. Promote an appropriate balance between innovation and standardization.

3. Advisory panel. The superintendent shall convene an advisory panel whose membership includes, but is not limited to, one or more organizations representing physicians, one or more employers purchasing a fully insured health plan and one or more organizations representing health care consumers. The advisory panel shall provide advice to the superintendent regarding the proposed rule.

4. Rulemaking. The superintendent shall adopt rules to implement this section. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

PART C

Sec. C-1. 5 MRS §194-L is enacted to read:

§194-L. Public benefit; hospitals and institutions

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

1 A. "Public benefit" means the provision of free health care in an amount equal to the
2 lesser of:

3 (1) Five percent of the hospital's or institution's gross revenues for patient
4 services; and

5 (2) The value of all State and local tax exemptions received by the hospital or
6 institution.

7 For purposes of this paragraph, "provision of free health care" does not include
8 expenditures for advertising or public relations unless the advertising or public
9 relations expressly promote the availability of free health care.

10 B. "Public charity" has the same meaning as set forth in section 194, subsection 1.

11 2. Requirement. In addition to any charity care requirements established in
12 accordance with Title 22, section 1716, a public charity that is an institution licensed
13 pursuant to Title 22, section 1811 must provide a public benefit.

14 3. Rules. The Attorney General shall adopt rules to implement this section. Rules
15 adopted pursuant to this subsection are routine technical rules pursuant to chapter 375,
16 subchapter 2-A.

17 SUMMARY

18 Part A of the bill establishes the Advisory Council on Payment Reform to advise the
19 Maine Health Data Organization and directs the council to develop a comprehensive set
20 of proposed reforms to provide incentives for cost-effective and patient-centered health
21 care.

22 Part B of the bill directs the Superintendent of Insurance to adopt rules for physician
23 performance measurement, reporting and tiering programs to promote cost-effective and
24 patient-centered care and create an advisory council.

25 Part C of the bill requires that hospitals and institutions licensed under the Maine
26 Revised Statutes, Title 22, section 1811 that are public charities must provide a certain
27 amount of free health care.