

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

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Legislative Document

No. 1591

H.P. 1129

House of Representatives, December 22, 2009

An Act To Amend the Maine Certificate of Need Act of 2002 Concerning Right of Entry and Investigation

Submitted by the Department of Health and Human Services pursuant to Joint Rule 204.
Received by the Clerk of the House on December 18, 2009. 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 MILLER of Somerville.

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

2 **Sec. 1. 22 MRSA §349-A** is enacted to read:

3 **§349-A. Compliance investigation**

4 To ensure compliance with this chapter or rules adopted under this chapter, the
5 department may investigate a health care facility or other entity subject to this chapter
6 when the department has a reasonable basis to suspect that a violation has occurred. The
7 health care facility or other entity subject to this chapter may not interfere with or impede
8 the investigation.

9 **1. Right of entry.** The department may enter and inspect the premises of a health
10 care facility or other entity subject to this chapter with the permission of the owner or
11 person in charge, or with an administrative inspection warrant issued pursuant to the
12 Maine Rules of Civil Procedure, Rule 80E by the District Court authorizing entry and
13 inspection, when the department has a reasonable basis to suspect that a provision of this
14 chapter or a rule adopted under this chapter has been violated. The right of entry extends
15 to any premises that the department has reason to believe is operated and maintained in
16 violation of this chapter or rules adopted under this chapter. A letter of intent or an
17 application for a certificate of need made pursuant to this chapter and rules adopted under
18 this chapter constitutes permission for entry or inspection of the premises for which the
19 certificate of need is sought in order to facilitate verification of the information submitted
20 on or in connection with a letter of intent or an application for a certificate of need.

21 **2. Access to information.** The department, at any reasonable time, upon demand,
22 has the right to inspect and copy books, accounts, papers, records and other documents or
23 information, whether stored electronically, on paper or in other forms, including, but not
24 limited to, documents and information regarding total capital expenditures and operating
25 costs for a project, ownership or control of a health care facility or other entity subject to
26 this chapter or health services provided, when the department has a reasonable basis to
27 suspect that a provision of this chapter or a rule adopted under this chapter has been
28 violated.

29 **3. Findings of fact.** Upon completion of an investigation pursuant to this section,
30 the department shall prepare findings of fact and make a recommendation to the
31 commissioner as to whether a provision of this chapter or a rule adopted under this
32 chapter has been violated. If the commissioner determines that a violation has occurred,
33 the commissioner may pursue one or more of the remedies authorized under this Act.

34 **4. Rules.** The department may adopt rules to implement this section. Rules adopted
35 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
36 subchapter 2-A.

37 **SUMMARY**

38 This bill authorizes the Department of Health and Human Services to enter and
39 inspect a health care facility or other entity subject to the Maine Certificate of Need Act

1 of 2002 when the department has a reasonable basis to suspect that a violation has
2 occurred.