

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 582

S.P. 174

In Senate, February 15, 2011

### An Act To Amend the Maine Certificate of Need Act of 2002

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

*Joseph G. Carleton Jr.*

JOSEPH G. CARLETON, JR.  
Secretary of the Senate

Presented by Senator McCORMICK of Kennebec.  
Cosponsored by Representative MALABY of Hancock.

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

2 **Sec. 1. 22 MRSA §328, sub-§16**, as amended by PL 2009, c. 383, §3, is further  
3 amended to read:

4 **16. Major medical equipment.** "Major medical equipment" means a single unit of  
5 medical equipment or a single system of components with related functions used to  
6 provide medical and other health services that costs ~~\$1,600,000~~ \$3,200,000 or more.  
7 "Major medical equipment" does not include medical equipment acquired by or on behalf  
8 of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is  
9 independent of a physician's office and a hospital and has been determined to meet the  
10 requirements of the United States Social Security Act, Title XVIII, Section 1861(s),  
11 paragraphs 10 and 11. In determining whether medical equipment costs more than the  
12 threshold provided in this subsection, the cost of studies, surveys, designs, plans, working  
13 drawings, specifications and other activities essential to acquiring the equipment must be  
14 included. If the equipment is acquired for less than fair market value, the term "cost"  
15 includes the fair market value. Beginning January 1, 2012 and annually thereafter, the  
16 threshold amount for review must be updated by the commissioner to reflect any change  
17 in the Consumer Price Index for medical care services, with an effective date of January  
18 1st each year.

19 **Sec. 2. 22 MRSA §328, sub-§17-A**, as amended by PL 2009, c. 383, §4, is  
20 further amended to read:

21 **17-A. New health service.** "New health service" means:

22 A. The obligation of any capital expenditures by or on behalf of a health care facility  
23 of ~~\$110,000~~ \$300,000 or more that is associated with the addition of a health service  
24 that was not offered on a regular basis by or on behalf of the health care facility  
25 within the 12-month period prior to the time the services would be offered;

26 B. The addition of a health service that is to be offered by or on behalf of a health  
27 care facility that was not offered on a regular basis by or on behalf of the health care  
28 facility within the 12-month period prior to the time the services would be offered  
29 and that, for the 3rd fiscal year of operation, including a partial first year following  
30 addition of that service, is projected to entail incremental annual operating costs  
31 directly attributable to the addition of that health service of at least ~~\$400,000~~  
32 \$1,000,000; or

33 C. The addition in the private office of a health care practitioner, as defined in Title  
34 24, section 2502, subsection 1-A, of new technology that costs ~~\$1,600,000~~  
35 \$3,200,000 or more. The department shall consult with the Maine Quality Forum  
36 Advisory Council established pursuant to Title 24-A, section 6952, prior to  
37 determining whether a project qualifies as a new technology in the office of a private  
38 practitioner. With regard to the private office of a health care practitioner, "new  
39 health service" does not include the location of a new practitioner in a geographic  
40 area.

41 "New health service" does not include a health care facility that extends a current service  
42 within the defined primary service area of the health care facility by purchasing within a

1 12-month time period new equipment costing in the aggregate less than the threshold  
2 provided in section 328, subsection 16;

3 Beginning January 1, 2012 and annually thereafter, the threshold amounts for review in  
4 paragraphs A, B and C must be updated by the commissioner to reflect any change in the  
5 Consumer Price Index for medical care services, with an effective date of January 1st  
6 each year;

7 **Sec. 3. 22 MRSA §329, sub-§2-A, ¶B**, as amended by PL 2009, c. 383, §5, is  
8 further amended to read:

9 B. The following acquisitions of major medical equipment do not require a  
10 certificate of need:

11 (1) Major medical equipment being replaced by the owner, ~~as long as the~~  
12 ~~replacement cost is less than \$2,000,000;~~ and

13 (2) The use of major medical equipment on a temporary basis in the case of a  
14 natural disaster, major accident or major medical equipment failure.

15 **Sec. 4. 22 MRSA §329, sub-§3**, as amended by PL 2009, c. 383, §6 and affected  
16 by §16, is further amended to read:

17 **3. Capital expenditures.** Except as provided in subsection 6, the obligation by or  
18 on behalf of a health care facility of any capital expenditure of ~~\$3,100,000~~ \$6,200,000 or  
19 more. Capital expenditures in the case of a natural disaster, major accident or equipment  
20 failure or for replacement equipment that is not major medical equipment as defined in  
21 section 328, subsection 16 or for parking lots and garages, information and  
22 communications systems or physician office space do not require a certificate of need.  
23 Beginning January 1, 2012 and annually thereafter, the threshold amount for review must  
24 be updated by the commissioner to reflect any change in the Consumer Price Index for  
25 medical care services, with an effective date of January 1st each year;

26 **Sec. 5. Rules.** The Department of Health and Human Services shall convene a  
27 stakeholders group no later than October 1, 2011 to review the rules that implement the  
28 Maine Certificate of Need Act of 2002 and make recommendations for changes. The  
29 department shall invite participation from a range of groups, including, but not limited to,  
30 the Maine Medical Association, the Maine Hospital Association, the Maine Health Care  
31 Association, private attorneys who have practiced in the area of health care and a  
32 multispecialty, physician-owned and physician-directed professional organization.

### 33 SUMMARY

34 The bill amends the Maine Certificate of Need Act of 2002 as follows:

35 1. It raises the threshold for the review of purchases of major medical equipment to  
36 \$3,200,000;

37 2. It raises the threshold for review of a health care facility's utilization of new health  
38 services to \$300,000 and the 3rd-year costs associated with it to \$1,000,000, and raises  
39 the threshold for the utilization of new health services in private practice to \$3,200,000;

- 1           3. It strikes the certificate of need review threshold related to the purchase of  
2 replacement equipment;
- 3           4. It raises the threshold for the review of capital expenditures to \$6,200,000;
- 4           5. It adds an inflation adjustment factor for threshold amounts for review; and
- 5           6. It establishes a stakeholder group to review the Department of Health and Human  
6 Services' rules implementing the Maine Certificate of Need Act of 2002.