

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 1352

S.P. 489

In Senate, April 21, 2015

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### **An Act To Facilitate the Delivery of Health Care Services through Telemedicine and Telehealth**

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

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Secretary of the Senate

Presented by Senator GRATWICK of Penobscot.  
Cosponsored by Representative FOLEY of Wells and  
Senators: CUSHING of Penobscot, LIBBY of Androscoggin, Representatives: BATES of  
Westbrook, DAVITT of Hampden, VACHON of Scarborough.

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

2               **Sec. 1. 22 MRSA §1726** is enacted to read:

3       **§1726. Telemedicine and telehealth**

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

6               A. "Patient originating site" means a site where a patient is physically located at the  
7       time that health care services are provided through the use of electronic information  
8       and telecommunications and information technologies.

9               B. "Provider distant site" means a site where a health care provider who provides  
10       health care services is located while providing these services through the use of  
11       electronic information and telecommunications and information technologies.

12               C. "Telehealth" means the use of electronic information and telecommunications and  
13       information technologies to support clinical health care, patient and professional  
14       health-related education, public health and health administration.

15               D. "Telemedicine" means the use of electronic information and telecommunications  
16       and information technologies to provide clinical health care when a patient is at the  
17       patient originating site and a health care provider is at the provider distant site.

18               **2. Delivery of services through telemedicine, telehealth.** A hospital licensed by  
19       the State under chapter 405 that is controlled, directly or indirectly, by an entity that  
20       controls at least one other hospital licensed by the State under chapter 405 shall include in  
21       its strategic plan as an integral part of its mission the delivery of health care services  
22       through telemedicine and telehealth.

23               **Sec. 2. 22 MRSA §3172, sub-§§4, 5, 6 and 7** are enacted to read:

24               **4. Patient originating site.** "Patient originating site" means a site where a patient is  
25       physically located at the time that health care services are provided through the use of  
26       electronic information and telecommunications and information technologies.

27               **5. Provider distant site.** "Provider distant site" means a site where a health care  
28       provider who provides health care services is located while providing these services  
29       through the use of electronic information and telecommunications and information  
30       technologies.

31               **6. Telehealth.** "Telehealth" means the use of electronic information and  
32       telecommunications and information technologies to support clinical health care, patient  
33       and professional health-related education, public health and health administration.

34               **7. Telemedicine.** "Telemedicine" means the use of electronic information and  
35       telecommunications and information technologies to provide clinical health care when a  
36       patient is at the patient originating site and a health care provider is at the provider distant  
37       site.

1           **Sec. 3. 22 MRSA §3173-G** is enacted to read:

2           **§3173-G. Reimbursement for services delivered through telemedicine or telehealth**

3           Services under MaineCare that are delivered through telemedicine or telehealth must  
4           be reimbursed at the same rates as those services that are not delivered through  
5           telemedicine or telehealth.

6           **Sec. 4. 24-A MRSA §4316, sub-§3** is enacted to read:

7           **3. Facility fee.** A telemedicine facility fee must be shared between the site where  
8           the patient is physically located at the time the health care services are provided and the  
9           site where the health care provider who provides health care services to the patient is  
10           located. The providers located at each site shall negotiate the proportion of the fee to be  
11           borne by each.

12           **Sec. 5. 35-A MRSA §9204, sub-§2, ¶D-1** is enacted to read:

13           D-1. Facilitate the availability of communications technology infrastructure  
14           necessary to support the delivery of health care services through telemedicine or  
15           telehealth;

16           **Sec. 6. 35-A MRSA §9204, sub-§4**, as enacted by PL 2005, c. 665, §3, is  
17           amended to read:

18           **4. Limitations on activities of the authority.** The authority may not develop,  
19           acquire, fund, coordinate or otherwise undertake any project or make any grant, direct  
20           investment or loan under this chapter unless:

21           ~~A. The action is taken on behalf of, in partnership with or in support of one or more~~  
22           ~~communications service providers that are remitting assessments to the authority~~  
23           ~~under section 9211; and~~

24           B. The authority determines that, without the authority's action, the installation of  
25           adequate advanced communications technology infrastructure in an unserved or  
26           underserved area would not otherwise occur; and

27           C. The recipient of the grant, direct investment or loan is partnered with a technical  
28           advisor that qualifies as impartial and objective under rules adopted by the authority.

29           The authority may not provide a grant, direct investment or loan or otherwise provide  
30           any funds to a telecommunications service provider or any other entity that, under  
31           rules adopted by the authority, constitutes an interested entity.

32           Notwithstanding any other provision of this chapter, the authority may not provide any  
33           wireline, wireless, satellite, voice, data or video service at retail or wholesale.

34           **Sec. 7. 35-A MRSA §9205, sub-§3**, as enacted by PL 2005, c. 665, §3, is  
35           amended to read:

36           **3. Bylaws; rules.** To adopt bylaws and any rule necessary or useful for carrying out  
37           any of the authority's powers or duties pursuant to this chapter. Rules adopted pursuant

1 to this subsection are ~~major-substantive~~ routine technical rules as defined in Title 5,  
2 chapter 375, subchapter 2-A;

3 **Sec. 8. 35-A MRSA §9216**, as enacted by PL 2009, c. 612, §10, is repealed.

4 **Sec. 9. Rulemaking.** The Department of Health and Human Services shall adopt  
5 rules requiring that, in order to obtain licensing, a newly constructed residential long-term  
6 care facility must include space designed to accommodate the receipt by residents of  
7 health care delivered through telemedicine and telehealth. Rules adopted pursuant to this  
8 section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

9 **Sec. 10. Application for funds.** The ConnectME Authority shall apply to the  
10 Federal Communications Commission for funding from the commission's Universal  
11 Service Fund to improve the quality of health care available to patients in rural  
12 communities by ensuring access to telecommunications and broadband service for use in  
13 the delivery of health care services through telemedicine and telehealth. The ConnectME  
14 Authority shall report to the Legislature by January 15, 2016 on the status of its  
15 application.

16 **Sec. 11. Strategic plan; report.** The ConnectME Authority shall develop a  
17 strategic plan that includes how the ConnectME Authority will facilitate the availability  
18 of communications technology infrastructure necessary to support the delivery of health  
19 care services through telemedicine and telehealth in accordance with the Maine Revised  
20 Statutes, Title 35-A, section 9204, subsection 2, paragraph D-1. By September 15, 2015,  
21 the authority shall submit its strategic plan to the Joint Standing Committee on Energy,  
22 Utilities and Technology.

23 **Sec. 12. Task force; report.** The Department of Health and Human Services,  
24 referred to in this section as "the department," shall convene a task force to develop  
25 statewide standards designed to facilitate the use of telemedicine and telehealth to ensure  
26 higher quality medical care at a lower cost.

27 1. The department shall invite the participation of interested parties, including but  
28 not limited to the Maine Hospital Association, the Maine Medical Association, the Maine  
29 Osteopathic Association, the Maine State Nurses Association and a patient advocacy  
30 group.

31 2. In developing the standards, the task force shall:

32 A. Review telemedicine and telehealth protocols and best practices;

33 B. Consider methods to educate providers and patients about best practices for the  
34 use of telemedicine and telehealth;

35 C. Develop methods to determine and measure patient and provider satisfaction; and

36 D. Review reimbursement and other funding issues.

37 3. No later than November 4, 2015, the department shall submit to the Joint Standing  
38 Committee on Health and Human Services the findings and recommendations, including  
39 any necessary implementing legislation. After receipt and review of the report, the Joint

1 Standing Committee on Health and Human Services may report out a bill to the Second  
2 Regular Session of the 127th Legislature.

### 3 SUMMARY

4 This bill:

5 1. Requires a hospital that is part of a health care system that includes at least one  
6 other hospital to include in its strategic plan as an integral part of its mission the provision  
7 of telemedicine and telehealth;

8 2. Requires that services under MaineCare that are provided through telemedicine or  
9 telehealth be reimbursed at the same rates as those services that are not provided through  
10 telemedicine or telehealth;

11 3. Requires that a telemedicine facility fee must be shared between the site at which  
12 the patient is physically located and the site at which the health care provider providing  
13 service is located;

14 4. Expands the duties of the ConnectME Authority to include facilitation of the  
15 availability of communications technology infrastructure necessary to support the  
16 delivery of health care services through telemedicine and telehealth;

17 5. Removes restrictions on the ability of the ConnectME Authority to undertake a  
18 project or make an investment unless taken on behalf of, in partnership with or in support  
19 of one or more communications service providers that are remitting assessments to the  
20 authority;

21 6. Changes the designation of rules adopted by the ConnectME Authority from  
22 major substantive to routine technical;

23 7. Repeals the broadband sustainability fee;

24 8. Directs the Department of Health and Human Services to adopt rules requiring  
25 that, in order to obtain licensing, a newly constructed residential long-term care facility  
26 must include space designed to accommodate the receipt by residents of health care  
27 delivered through telemedicine and telehealth;

28 9. Directs the ConnectME Authority to apply to the Federal Communications  
29 Commission for funding from the commission's Universal Service Fund to improve the  
30 quality of health care available to patients in rural communities by ensuring access to  
31 telecommunications and broadband service for use in the delivery of health care services  
32 through telemedicine and telehealth;

33 10. Directs the ConnectME Authority to develop a strategic plan to facilitate the  
34 availability of communications technology infrastructure necessary to support the  
35 delivery of health care services through telemedicine and telehealth; and

1           11. Directs the Department of Health and Human Services to convene a task force to  
2 develop statewide standards designed to facilitate the use of telemedicine and telehealth  
3 to ensure higher quality medical care at a lower cost.