

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 1591

H.P. 1150

House of Representatives, April 18, 2019

An Act To Provide Access to Health Care for Maine Citizens

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

Robert B. Hunt
ROBERT B. HUNT
Clerk

Presented by Representative BRENNAN of Portland.

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

2 **Sec. 1. 22 MRSA §1722, sub-§1, ¶¶A and B**, as reallocated by RR 2007, c. 2,
3 §9, are amended to read:

4 A. Each hospital may voluntarily hold its consolidated operating margin to no more
5 than 3%. For purposes of this paragraph, a hospital's consolidated operating margin
6 is calculated by dividing its consolidated operating income by its total consolidated
7 operating revenue. Annually, for each hospital, the department shall establish a
8 recommended percentage that the hospital should hold its consolidated operating
9 margin to and notify a hospital of the department's recommendation for that hospital.

10 B. Each hospital may voluntarily restrain its increase in its expense per
11 casemix-adjusted inpatient and volume-adjusted outpatient discharge to no more than
12 110% of the forecasted increase in the hospital market basket index for the coming
13 federal fiscal year, as published in the Federal Register, when the federal Centers for
14 Medicare and Medicaid Services publishes the Medicare program's hospital inpatient
15 prospective payment system rates for the coming federal fiscal year. For purposes of
16 this paragraph, the measure of a hospital's expense per casemix-adjusted inpatient and
17 volume-adjusted outpatient discharge is calculated by:

- 18 (1) Calculating the hospital's total hospital-only expenses;
- 19 (2) Subtracting from the hospital's total hospital-only expenses the amount of the
20 hospital's bad debt;
- 21 (3) Subtracting from the amount reached in subparagraph (2) the hospital taxes
22 paid to the State during the hospital's fiscal year; and
- 23 (4) Dividing the amount reached in subparagraph (3) by the product of:
 - 24 (a) The number of inpatient discharges, adjusted by the all payer case mix
25 index for the hospital; and
 - 26 (b) The ratio of total gross patient service revenue to gross inpatient service
27 revenue.

28 For the purposes of this paragraph, a hospital's total hospital-only expenses include
29 any item that is listed on the hospital's Medicare cost report as a subprovider, such as
30 a psychiatric unit or rehabilitation unit, and does not include nonhospital cost centers
31 shown on the hospital's Medicare cost report, such as home health agencies, nursing
32 facilities, swing beds, skilled nursing facilities and hospital-owned physician
33 practices. For purposes of this paragraph, a hospital's bad debt is as defined and
34 reported in the hospital's Medicare cost report and as submitted to the Maine Health
35 Data Organization pursuant to Title 22, chapter 1683. Annually, for each hospital, the
36 department shall establish a recommended limit on an increase in the hospital's
37 expenses under this paragraph and notify the hospital of the department's
38 recommendation for that hospital.

39 **Sec. 2. 36 MRSA §2892**, as amended by PL 2017, c. 284, Pt. III, §1, is further
40 amended by adding at the end a new paragraph to read:

1 For state fiscal years beginning on or after July 1, 2020, the hospital's taxable year is
2 the hospital's fiscal year that ended during calendar year 2018.

3 **Sec. 3. Medicare Buy-in Program and Affordable Care Act subsidies;**
4 **plan for increased funding.** The Department of Health and Human Services shall
5 develop a plan to provide increased funding for the Medicare Buy-in Program and for
6 subsidies to individuals under the federal Patient Protection and Affordable Care Act
7 using revenue resulting from changing, from 2014 to 2018, the base year on which the
8 hospital tax is imposed under the Maine Revised Statutes, Title 36, section 2892. By
9 December 4, 2019, the department shall submit a report on the plan to the Joint Standing
10 Committee on Health Coverage, Insurance and Financial Services and the committee may
11 report out a bill relating to the report to the Second Regular Session of the 129th
12 Legislature.

13 **Sec. 4. Wholesale prescription drug importation program; design.** The
14 Department of Health and Human Services, in consultation with relevant other state
15 agencies, federal agencies and interested parties, shall design a wholesale prescription
16 drug importation program that complies with 21 United States Code, Section 384,
17 including requirements regarding safety and cost savings. By December 4, 2019, the
18 department shall submit the design for a wholesale prescription drug importation program
19 to the Joint Standing Committee on Health Coverage, Insurance and Financial Services
20 and the committee may report out a bill to the Second Regular Session of the 129th
21 Legislature. In designing the wholesale prescription drug importation program, the
22 department must ensure that the program:

23 1. Designates a state agency to oversee the program and become a licensed
24 wholesaler for the purpose of seeking federal certification and approval to import safe
25 prescription drugs that will provide savings to consumers in the State;

26 2. Uses Canadian suppliers of prescription drugs regulated under the appropriate
27 Canadian or provincial laws;

28 3. Includes a process to sample the purity, chemical composition and potency of
29 imported prescription drugs;

30 4. Ensures that only those prescription drugs expected to generate substantial savings
31 for consumers in the State are imported into the State;

32 5. Ensures that imported prescription drugs will not be distributed, dispensed or sold
33 outside of the State;

34 6. Ensures that consumers and health plans are charged only the actual acquisition
35 cost of the imported, dispensed prescription drugs;

36 7. Ensures that the health plan payment of the prescription drug component of
37 pharmacy and health care provider billing reimburses no more than the actual acquisition
38 cost of the dispensed, imported prescription drug;

