

# MAINE STATE LEGISLATURE

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# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 120

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S.P. 49

In Senate, January 21, 2021

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### **An Act To Lower Health Care Costs through the Establishment of the Office of Affordable Health Care**

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Received by the Secretary of the Senate on January 19, 2021. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by President JACKSON of Aroostook.  
Cosponsored by Speaker FECTEAU of Biddeford and  
Senators: BRENNER of Cumberland, CURRY of Waldo, MAXMIN of Lincoln, SANBORN,  
H. of Cumberland, VITELLI of Sagadahoc, Representatives: MELARAGNO of Auburn,  
TEPLER of Topsham.

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

2 **Sec. 1. 3 MRSA c. 39** is enacted to read:

3 **CHAPTER 39**

4 **OFFICE OF AFFORDABLE HEALTH CARE**

5 **§1021. Definitions**

6 **1. Advisory council.** "Advisory council" means the Advisory Council on Affordable  
7 Health Care established in Title 5, section 12004-I, subsection 31-B.

8 **2. Director.** "Director" means the director of the office.

9 **3. Legislative oversight committee.** "Legislative oversight committee" means the  
10 joint standing committee of the Legislature having jurisdiction over health coverage  
11 matters.

12 **4. Office.** "Office" means the Office of Affordable Health Care established in section  
13 1022, subsection 1.

14 **§1022. Office of Affordable Health Care**

15 **1. Office established.** The Office of Affordable Health Care is established for the  
16 purpose of analyzing health care costs in this State in accordance with the duties set forth  
17 in this chapter and as provided in this section.

18 **2. Director; appointment.** The Legislative Council shall appoint by an affirmative  
19 vote of 8 members of the Legislative Council a nonpartisan director for the purposes set  
20 forth in this chapter. The director must be appointed to an initial 5-year term, which is  
21 subject to renewal by the Legislative Council every 5 years thereafter. During the term of  
22 the contract, the director may be terminated only for cause by an affirmative vote of 8  
23 members of the Legislative Council. The Legislative Council shall establish the  
24 compensation of the director.

25 **3. Duties.** The office's duties must be performed independently and in a nonpartisan  
26 manner but under the general policy direction of the legislative oversight committee and  
27 the advisory council. The office shall report at least annually to the legislative oversight  
28 committee pursuant to section 1025 and upon request of the legislative oversight committee  
29 on matters affecting the cost of health care in this State. The office shall, at a minimum,  
30 use data available from the Maine Health Data Organization, established pursuant to Title  
31 22, chapter 1683, and the Maine Quality Forum, established in Title 24-A, section 6951,  
32 to:

33 **A.** Analyze health care cost growth trends and correlation to the quality of health care;

34 **B.** Analyze health care spending trends by consumer categories, payer type, provider  
35 categories or any other measurement that presents available data in a manner that may  
36 assist the legislative oversight committee in understanding health care cost drivers,  
37 health care quality and utilization trends, consumer experience with the health care  
38 system or any other aspect of the health care system;

39 **C.** Monitor the adoption of alternative payment methods in this State and other states  
40 that foster innovative health care delivery and payment models to reduce health care  
41 cost growth and improve the quality of health care;

1 D. Based upon the data obtained and the analysis pursuant to paragraphs A to C,  
2 develop proposals for consideration by the legislative oversight committee on potential  
3 methods to improve the cost-efficient provision of high-quality health care to the  
4 residents of this State;

5 E. Develop proposals for consideration by the legislative oversight committee on  
6 potential methods to improve consumer experience with the health care system,  
7 including the provision of a consumer advocacy function on health care matters not  
8 addressed by the Health Insurance Consumer Assistance Program established in Title  
9 24-A, section 4326 or the Department of Professional and Financial Regulation,  
10 Bureau of Insurance, Consumer Health Care Division established in Title 24-A, section  
11 4321; and

12 F. Provide staffing assistance to the Maine Prescription Drug Affordability Board  
13 established in Title 5, chapter 167, at the request of the board and with the approval of  
14 the Legislative Council.

15 **4. Data; confidentiality.** Data provided to the office under subsection 3 is confidential  
16 to the same extent it is confidential while in the custody of the entity that provided the data  
17 to the office.

18 **5. Supervision; employees.** The director shall supervise the staff of the office in  
19 accordance with policies adopted by the legislative oversight committee and consistent  
20 with the policies of the Legislative Council. The director shall prepare and present a  
21 biennial budget to the Legislative Council for its approval. Employees of the office must  
22 be nonpartisan. Employees of the office are employed by and are responsible to the  
23 director, who shall hire and fix the compensation of each employee, subject to the approval  
24 of the Legislative Council and within resources available in the biennial budget.

25 **6. Coordination with other entities.** The director may contract with individuals or  
26 entities and may seek assistance and coordinate efforts in accordance with this chapter with  
27 other agencies or divisions of State Government and with other entities as long as the  
28 contract, assistance or coordination does not present a conflict of interest. For the purposes  
29 of this subsection, "conflict of interest" means an association, including a financial or  
30 personal association, that has the potential to bias or have the appearance of biasing the  
31 office's decisions or the conduct of the office's activities.

32 **§1023. Advisory Council on Affordable Health Care**

33 The Advisory Council on Affordable Health Care, established in Title 5, section  
34 12004-I, subsection 31-B, is an advisory council to the office on matters affecting the cost  
35 of health care in this State.

36 **1. Duties of advisory council.** The advisory council shall advise the office on matters  
37 affecting the cost of health care in this State.

38 **2. Membership.** The advisory council consists of 10 members as follows:

39 A. Eight members of the advisory council appointed as follows, subject to review by  
40 the legislative oversight committee and confirmation by the Senate:

41 (1) Four members appointed by the President of the Senate, including one member  
42 who represents hospital interests, one member who represents primary care  
43 provider interests, one member who represents the interests of older residents of

1 this State and one member who represents a health care consumer advocacy  
2 organization; and

3 (2) Four members appointed by the Speaker of the House, including one member  
4 who represents health insurance interests, one member who represents purchasers  
5 of health care, one member with demonstrated expertise in health care delivery,  
6 health care management at a senior level or health care finance and administration  
7 and one member who represents the health care workforce; and

8 B. At the invitation of the President of the Senate and the Speaker of the House, 2 ex  
9 officio nonvoting members:

10 (1) The Commissioner of Health and Human Services or the commissioner's  
11 designee; and

12 (2) The Commissioner of Administrative and Financial Services or the  
13 commissioner's designee.

14 **3. Terms of office.** Appointed members of the advisory council serve 5-year terms  
15 and may be reappointed. A vacancy for an unexpired term must be filled in accordance  
16 with subsection 2, paragraph A or B. A member may serve until a replacement is appointed  
17 and qualified.

18 **4. Chair; vice-chair.** The advisory council shall annually elect a chair and a vice-  
19 chair from among its members.

20 **5. Quorum.** Five voting members of the advisory council constitute a quorum.

21 **6. Affirmative vote.** An affirmative vote of a majority of the voting members is  
22 required for any action taken by the advisory council.

23 **7. Meetings.** The advisory council shall meet at least once every 2 months and may  
24 also meet at other times at the call of the chair. Meetings may be cancelled or postponed  
25 at the discretion of the chair. All meetings of the advisory council are public proceedings  
26 within the meaning of Title 1, chapter 13, subchapter 1.

27 **8. Recusal.** A member of the advisory council with a conflict of interest shall elect to  
28 be recused. For purposes of this subsection, "conflict of interest" means any instance in  
29 which a member, staff member or contractor of the advisory council or an immediate family  
30 member of the member, staff member or contractor of the advisory council has received or  
31 could receive either of the following:

32 A. A direct financial benefit of any amount deriving from the results or findings of a  
33 study or determination by or for the advisory council; or

34 B. A financial benefit from individuals or companies that own or manufacture  
35 prescription drugs or health care services or items to be studied by the advisory council  
36 that in the aggregate exceeds \$5,000 per year. For purposes of this paragraph,  
37 "financial benefit" includes honoraria, fees, stock or other financial benefit and the  
38 current value of already existing stock holdings, in addition to any direct financial  
39 benefit deriving from the results or findings of a study or determination by or for the  
40 advisory council.

41 **§1024. Annual public hearing**

1 Beginning in 2022, the office shall convene an annual public hearing on cost trends no  
2 later than October 1st annually. The hearing must provide an opportunity for public  
3 comment on health care cost trends. The advisory council, the legislative oversight  
4 committee and the director shall preside over the hearing.

5 **§1025. Annual report**

6 No later than January 1, 2023 and annually thereafter, the office shall submit an annual  
7 report to the legislative oversight committee and the advisory council of its findings in  
8 accordance with this chapter. The report must include a summary of comments received  
9 at the annual public hearing convened under section 1024.

10 **Sec. 2. 5 MRSA §12004-I, sub-§31-B** is enacted to read:

11 **31-B.**

12 Health Care      Advisory Council on      Expenses Only      3 MRSA §1023  
13 Affordable Health Care

14 **Sec. 3. Annual reports for 2023 and 2024.** The annual reports due pursuant to  
15 the Maine Revised Statutes, Title 5, section 1025 for the calendar years 2023 and 2024  
16 must include, in addition to the requirements contained in section 1025, recommendations  
17 to the joint standing committees of the Legislature having jurisdiction over health coverage,  
18 insurance and health and human services matters regarding how to ensure appropriate  
19 public health infrastructure throughout the State and how to develop the most effective  
20 consumer resource for health care issues that extend beyond access to health insurance  
21 coverage.

22 **Sec. 4. Staggered terms; Advisory Council on Affordable Health Care.**

23 Notwithstanding the Maine Revised Statutes, Title 3, section 1023, subsection 3, of the  
24 members initially appointed to the Advisory Council on Affordable Health Care, 3  
25 members must be appointed to serve initial terms of 2 years, 3 members must be appointed  
26 to serve initial terms of 3 years and 2 members must be appointed to serve initial terms of  
27 4 years.

28 **SUMMARY**

29 This bill establishes the Office of Affordable Health Care within the Legislature. The  
30 office is charged with analyzing data from the Maine Health Data Organization and the  
31 Maine Quality Forum and making recommendations to the joint standing committee of the  
32 Legislature having jurisdiction over health coverage matters on methods to improve the  
33 cost-efficient provision of high-quality health care to the residents of this State. The office  
34 is required to hold an annual public hearing on cost trends no later than October 1st annually  
35 at which the public may comment on health care cost trends. The office is required to  
36 submit an annual report.

37 The office is independent and nonpartisan, and the legislative committee and an  
38 advisory council provide advice on matters affecting health care costs in the State. The  
39 advisory council consists of 8 appointed members, including a member who represents  
40 hospital interests, a member who represents primary care provider interests, a member who  
41 represents a health care consumer advocacy organization, a member who represents health  
42 insurance interests, a member who represents purchasers of health care, a member who  
43 represents the health care workforce, a member who represents the interests of older

1 residents of this State and a member with demonstrated expertise in health care delivery,  
2 health care management at a senior level or health care finance and administration. The  
3 Commissioner of Administrative and Financial Services and the Commissioner of Health  
4 and Human Services are ex officio members of the advisory council.