

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

regarding the mechanism employed to determine initial eligibility for such services. The Department of Human Services shall provide staff and other resources to support the completion of the study within existing resources. The working group shall submit its report and recommendations by January 15, 2004. The Joint Standing Committee on Health and Human Services may report out legislation during the Second Regular Session of the 121st Legislature to implement the recommendations of the working group for revisions in the assessment and reassessment mechanisms for persons with cognitive needs.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 4, 2003.

CHAPTER 417

S.P. 371 - L.D. 1099

**An Act To Amend the Laws
Governing the Maine Developmental
Disabilities Council**

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

Sec. 1. 5 MRSA §12004-I, sub-§66, as amended by PL 1993, c. 600, Pt. A, §5, is further amended to read:

| | | | |
|------------|--|--|--|
| 66. | Maine Mental Health and Mental Retardation | Expenses Developmental Disabilities Council | 34-B MRSA §1211 §17001 |
|------------|--|--|--|

Sec. 2. 34-B MRSA §1211, as amended by PL 2001, c. 25, §1, is repealed.

Sec. 3. 34-B MRSA c. 17 is enacted to read:

CHAPTER 17

DEVELOPMENTAL DISABILITIES

§17001. Maine Developmental Disabilities Council

1. Establishment. The Maine Developmental Disabilities Council, referred to in this section as "the council," is established as authorized by Title 5, section 12004-I, subsection 66 and in accordance with the Developmental Disabilities Assistance and Bill of Rights Act of 2000, Public Law 106-402.

2. Status. The council is a public instrumental-
ity of the State, and the exercise of the power con-

ferred by this section is the performance of essential governmental functions. The council may not be considered a state agency for any purposes, including, but not limited to, budgeting, accounts and control, auditing and purchasing.

3. Appointments. The Governor shall appoint appropriate representatives to the council, as required under the Developmental Disabilities Assistance and Bill of Rights Act of 2000, upon consideration of recommendations made by current members of the council.

4. Duties. The council shall perform its duties in compliance with the requirements of the Developmental Disabilities Assistance and Bill of Rights Act of 2000.

5. Designated state agency. In accordance with the Developmental Disabilities Assistance and Bill of Rights Act of 2000, the State shall identify an agency to act as the designated state agency to provide support for the council. The designated state agency must meet all requirements specified in 42 United States Code, Section 15025.

6. Council personnel and members. As of the effective date of this section:

A. All employees assigned to the council who state that they wish to continue as employees of the council must be transferred from state employment to employment of the council in its capacity as an independent advisory agency;

B. Accrued fringe benefits from state employment of transferred personnel, including, but not limited to, vacation and sick leave, health and life insurance and retirement credits, remain available to the transferred personnel;

C. Members and employees of the council are not considered state employees for the purpose of the state civil service provisions of Title 5, Part 2 and chapter 372 or for any other purpose except as follows.

(1) Employees of the council, including employees hired after the effective date of this section, are deemed state employees for the purposes of the state retirement provisions of Title 5, Part 20 and the state employee health insurance program under Title 5, chapter 13, subchapter 2.

(2) For purposes of the Maine Tort Claims Act, the council is deemed a governmental entity and its employees and members are deemed employees as those terms are defined in Title 14, section 8102; and

D. An employee of the council may return to state employment at any time up to 2 years from the effective date of this section. Employees expressing such a preference must be placed on the appropriate registers maintained by the Department of Administrative and Financial Services, Bureau of Human Resources and must be treated as though on recall in accordance with current collective bargaining provisions.

Sec. 4. Effective date. This Act takes effect September 30, 2003.

Sec. 5. Transfer of funds. The State Budget Officer is authorized to eliminate headcount and transfer funds by financial order in fiscal year 2003-04 from the Department of Behavioral and Developmental Services' Personal Services Federal Expenditures Fund allocations to the All Other line category of the Maine Developmental Disabilities Council to reflect the council as a public instrumentality of the State. The State Budget Officer shall consult with the Commissioner of Behavioral and Developmental Services on the amount to be transferred and may not transfer funds required to support the costs associated with the elimination of state employees and the establishment of the council as an independent advisory agency. Transfers made pursuant to this section are considered adjustments to allocations in fiscal year 2003-04.

Sec. 6. Appropriations and allocations. The following appropriations and allocations are made.

**BEHAVIORAL AND DEVELOPMENTAL SERVICES,
DEPARTMENT OF**

Maine Developmental Disabilities Council 0977

Initiative: Eliminates position count and provides for a line category transfer from Personal Services to All Other to reflect the Maine Developmental Disabilities Council as an independent advisory agency.

| Federal Expenditures Fund | 2003-04 | 2004-05 |
|---------------------------------|---------|-------------|
| Positions - Legislative Count | (0.000) | (-4.000) |
| Personal Services | \$0 | (\$281,802) |
| All Other | 0 | 281,802 |
| Federal Expenditures Fund Total | \$0 | \$0 |

Effective September 30, 2003.

CHAPTER 418

H.P. 283 - L.D. 363

**An Act to Ensure Patient Access to
Medical Records**

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

Sec. 1. 22 MRSA §1711, 5th ¶, as amended by PL 1997, c. 793, Pt. A, §1 and affected by §10, is further amended to read:

Reasonable costs incurred by the hospital in making and providing copies of medical records and additions to medical records; must be borne by the requesting person and the hospital may require payment prior to responding to the request. The charge for copies of records may not exceed \$10 for the first page and 35¢ for each additional page.

Sec. 2. 22 MRSA §1711-A, as amended by PL 1997, c. 793, Pt. A, §2, affected by PL 1999, c. 3, §§3 and 5 and affected by c. 512, Pt. A, §6, is further amended to read:

§1711-A. Fees charged for records

Whenever a health care practitioner defined in section 1711-B furnishes requested copies of a patient's treatment record or a medical report or an addition to a treatment record or medical report to the patient or the patient's authorized representative, the charge for the copies or the report may not exceed the reasonable costs incurred by the health care practitioner in making and providing the copies or the report. The charge for copies of records may not exceed \$10 for the first page and 35¢ for each additional page.

See title page for effective date.

CHAPTER 419

S.P. 444 - L.D. 1356

**An Act To Improve Complaint
Resolution and Hearing Procedures
in the Department of Human
Services**

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

Sec. 1. 22 MRSA §13, sub-§6 is enacted to read:

6. Limitation on actions to recover overpayments. The department may impose a sanction or withhold payment from a MaineCare provider in order to recover or impose penalties for an overpayment for services rendered or goods delivered under the MaineCare program as provided in this subsection.

A. The department may impose a sanction or withhold payment when the department has ob-