LAWS

OF THE

STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

FIRST REGULAR SESSION
December 6, 2006 to June 21, 2007

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NON-EMERGENCY LAWS IS
SEPTEMBER 20, 2007

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

Penmor Lithographers
Lewiston, Maine
2007

public notice consistent with the provisions of this subsection.

Sec. 20. 22 MRSA §348, as corrected by RR 2001, c. 2, Pt. A, §29, is amended to read:

§348. Withholding of funds

A health care facility or other provider may be eligible to apply for or receive any reimbursement, payment or other financial assistance from any state agency or other 3rd-party payor, either directly or indirectly, for any capital expenditure or operating costs attributable to any project for which a certificate of need is required by this chapter only if the certificate of need has been obtained. Reimbursement, payment or other financial assistance, either directly or indirectly, from a state agency or other 3rd-party payor may be subject to an enforcement action by the commissioner to withhold or deny reimbursement, in whole or in part, with respect to a project granted a certificate of need when the commissioner determines that the applicant fails to meet any of the conditions set forth in the certificate of need approval in accordance with the procedures set forth in section 332. For the purposes of this section, the department shall determine the eligibility of a facility to receive reimbursement for all projects subject to the provisions of this chapter.

Sec. 21. 22 MRSA §350-A, as reallocated by RR 2001, c. 2, Pt. A, §30, is amended to read:

§350-A. Cost-of-living adjustment

Every 2 years, beginning January 1, 2005, the department shall review the monetary figures contained in this chapter. The department shall ~~revise those~~ publish revised figures to correspond to changes in the Consumer Price Index medical index ~~by adopting rules setting the new figures~~.

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

Effective June 27, 2007.

CHAPTER 441

S.P. 664 - L.D. 1849

An Act To Protect Consumers from Rising Health Care Costs

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the costs of health care in Maine are making health care coverage unaffordable for many consumers and contributing to a health care crisis in this State; and

Whereas, this legislation expands the duties of the Advisory Council on Health Systems Development to include the collecting and reporting of data on health care costs and the development of specific recommendations for reductions in health care spending; and

Whereas, these recommendations will assist the Legislature in determining what actions may be taken to lower the costs of health care for Maine consumers; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 2 MRSA §104, as enacted by PL 2003, c. 469, Pt. B, §1 and amended by c. 689, Pt. B, §6, is further amended to read:

§104. Advisory Council on Health Systems Development

~~**1. Appointment; composition.** The Advisory Council on Health Systems Development, established in Title 5, section 12004-I, subsection 31-A and referred to in this section as "the council," consists of the following 11 members appointed by the Governor with approval of the joint standing committee of the Legislature having jurisdiction over health and human services matters:~~

~~A. Two individuals with expertise in health care delivery;~~

~~B. One individual with expertise in long-term care;~~

~~C. One individual with expertise in mental health;~~

~~D. One individual with expertise in public health care financing;~~

~~E. One individual with expertise in private health care financing;~~

~~F. One individual with expertise in health care quality;~~

~~G. One individual with expertise in public health;~~

~~H. Two representatives of consumers; and~~

~~I. One representative of the Department of Health and Human Services, Bureau of Health program that works collaboratively with other or-~~

~~ganizations to improve the health of the citizens of this State.~~

~~Prior to making appointments to the council, the Governor shall seek nominations from the public, from statewide associations representing hospitals, physicians and consumers and from individuals and organizations with expertise in health care delivery systems, health care financing, health care quality and public health.~~

1-A. Appointment; composition. The Advisory Council on Health Systems Development, established in Title 5, section 12004-I, subsection 31-A and referred to in this section as "the council," consists of 19 members appointed pursuant to this subsection.

A. The Governor shall appoint 14 members with the approval of the joint standing committee of the Legislature having jurisdiction over health and human services matters:

(1) Two individuals with expertise in health care delivery, one of whom represents hospitals;

(2) One individual with expertise in long-term care;

(3) One individual with expertise in mental health;

(4) One individual with expertise in public health care financing;

(5) One individual with expertise in private health care financing;

(6) One individual with expertise in health care quality;

(7) One individual with expertise in public health;

(8) Two representatives of consumers;

(9) One individual with expertise in the insurance industry;

(10) Two individuals with expertise in business, one representing a business or businesses with fewer than 50 employees; and

(11) One representative of the Department of Health and Human Services, Maine Center for Disease Control and Prevention that works collaboratively with other organizations to improve the health of the citizens of this State.

Prior to making appointments to the council, the Governor shall seek nominations from the public, from statewide associations representing hospitals, physicians and consumers and from individuals and organizations with expertise in health care delivery systems, health care financing, health care quality and public health.

B. Five members of the council must be members of the Legislature who serve on the joint standing committee of the Legislature having jurisdiction over health and human services matters or the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters:

(1) Two members of the Senate, appointed by the President of the Senate, including one member recommended by the Senate Minority Leader; and

(2) Three members of the House of Representatives appointed by the Speaker of the House, including one member recommended by the House Minority Leader.

2. Term. ~~Members~~ Except for members who are Legislators, members of the council serve 5-year terms except for initial appointees. Initial appointees must include 3 members appointed to 3-year terms, 4 members appointed to 4-year terms and 4 members appointed to 5-year terms. A member may not serve more than 2 consecutive terms. Members of the Legislature serve 2-year terms coterminous with their elected terms. Except for a member who is a Legislator, a member may continue to serve after expiration of the member's term until a successor is appointed.

3. Compensation. Members of the council are entitled to compensation according to the provisions of Title 5, chapter 379. Members of the council who are Legislators are entitled to receive the legislative per diem as defined in the Maine Revised Statutes, Title 3, section 2 and reimbursement for travel for attendance at meetings of the council.

4. Quorum. A quorum is a majority of the members of the council.

5. Chair. The council shall annually choose one of its members to serve as chair for a one-year term.

6. Meetings. The council shall meet at least 4 times a year at regular intervals and may meet at other times at the call of the chair or the Governor. Meetings of the council are public proceedings as provided by Title 1, chapter 13, subchapter 1.

7. Duties. The council shall advise the Governor in developing the plan to the extent data and resources are available by:

A. Collecting and coordinating data on health systems development in this State;

B. Synthesizing relevant research; ~~and~~

C. Conducting at least 2 public hearings on the plan and the capital investment fund each biennium~~.~~;

D. Conducting a systemic review of cost drivers in the State's health care system, including, but

not limited to, market failure, supply and demand for services, provider charges and costs, public and commercial payor policies, consumer behavior, cost and pricing of pharmaceuticals and the need for and availability and cost of capital equipment and services;

E. Collecting and reporting on health care cost indicators, including the cost of services and the cost of health insurance. The council shall report on both administrative and service costs. These indicators must, at a minimum, include:

(1) The annual rate of increase in the unit cost, adjusted for case mix or other appropriate measure of acuity or resource consumption, of key components of the total cost of health care, including without limitation hospital services, surgical and diagnostic services provided outside of a hospital setting, primary care physician services, specialized medical services, the cost of prescription drugs, the cost of long-term care and home health care and the cost of laboratory and diagnostic services;

(2) The interaction of indicators including, but not limited to, cost shifting among public and private payors and cost shifting to cover uncompensated care to persons unable to pay for items or services and the effect of these practices on the total cost paid by all payment sources for health care;

(3) The administrative costs of health insurance and other health benefit plans, including the relative costliness of private insurance as compared to Medicare and MaineCare, and the potential for measures and policies that would tend to encourage greater efficiency in the administration of public and private health benefit plans provided to consumers in this State;

(4) Geographic distribution of services with attention to appropriate allocation of high-technology resources;

(5) Regional variation in quality and cost of services; and

(6) Overall growth in utilization of health care services.

F. Identifying specific potential reductions in total health care spending without shifting costs onto consumers and without reducing access to needed items and services for all persons, regardless of individual ability to pay. In identifying specific potential reductions pursuant to this paragraph, the council shall recommend methods to reduce the rate of increase in overall health care spending and the rate of increase in health care costs to a level that is equivalent to the rate of increase in the cost of living to make health care and health coverage more affordable for people in this State; and

G. Beginning March 1, 2008 and annually thereafter, make specific recommendations relating to paragraphs A to F to the joint standing committee of the Legislature having jurisdiction over insurance and financial services matters and the joint standing committee of the Legislature having jurisdiction over health and human services matters and to any appropriate state agency.

8. Staff support. The Governor's office shall provide staff support to the council. The Department of Health and Human Services, ~~Bureau of Health~~ Maine Center for Disease Control and Prevention, the Maine Health Data Organization and other agencies of State Government as necessary and appropriate shall provide additional staff support or assistance to the council.

9. Data. The council shall solicit data and information from both the public and private sectors to help inform the council's work.

A. The following organizations shall forward data that documents key public health needs, organized by region of the State, to the council annually:

(1) The Department of Health and Human Services, ~~Bureau of Health~~ Maine Center for Disease Control and Prevention;

(2) The Maine Center for Public Health Practice established pursuant to Title 22, section 3-D; and

(3) A statewide public health association.

B. Public purchasers using state or municipal funds to purchase health care services or health insurance shall, beginning January 1, 2004, submit to the council a consolidated public purchasers expenditure report outlining all funds expended in the most recently completed state fiscal year for hospital inpatient and outpatient care, physician services, prescription drugs, long-term care, mental health and other services and administration, organized by agency.

C. The council shall encourage private purchasers established under Title 13, Title 13-B and Title 13-C to develop and submit to the council a health expenditure report similar to that described in paragraph B.

D. The Maine Health Data Organization and the Maine Quality Forum shall forward cost and quality data annually and any ad hoc data requested by the council.

10. Funding. The council may apply for grants and other nongovernmental funds to provide staff support or consultant support to carry out the duties and requirements of this section.

Sec. 2. Appointments; staggered terms. Notwithstanding the Maine Revised Statutes, Title 2, section 104, subsection 2, of the members of the Advisory Council on Health Systems Development appointed pursuant to Title 2, section 104, subsection 1-A, paragraph A, subparagraphs (1), (9) and (10), 2 members must be appointed for 4-year terms and 2 members must be appointed for 5-year terms.

Sec. 3. Current members continue to serve. Notwithstanding the Maine Revised Statutes, Title 2, section 104, subsection 2, any member serving on the Advisory Council on Health Systems Development on the effective date of this Act continues to serve until the expiration of the term for which the member was appointed or until a successor is appointed.

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

Effective June 27, 2007.

CHAPTER 442

H.P. 1272 - L.D. 1824

An Act To Regulate Outdoor Wood Boilers

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, this Act requires the Department of Environmental Protection to adopt major substantive rules to address issues relating to outdoor wood boilers; and

Whereas, the major substantive rules are to be adopted on an emergency basis pursuant to the Maine Revised Statutes, Title 5, section 8073 in order to have the rules in place prior to the height of the wood-burning season; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 38 MRSA §582, sub-§8-C is enacted to read:

8-C. Outdoor wood boiler. "Outdoor wood boiler" means a fuel burning device:

A. Designed to burn wood or other solid fuels;

B. That the manufacturer specifies for outdoor installation or in structures not normally occupied by humans; and

C. That heats building space and water through the distribution, typically through pipes, of a fluid heated in the device, typically water or a mixture of water and antifreeze.

Sec. 2. 38 MRSA §610-B is enacted to read:

§610-B. Outdoor wood boilers

1. Phase I emission standard. A person may not sell or distribute for sale an outdoor wood boiler after April 1, 2008 unless it meets a particulate matter emission limit of 0.6 pounds per million British Thermal Units heat input.

This subsection is repealed April 1, 2010.

2. Phase II emission standard. A person may not sell or distribute for sale an outdoor wood boiler after April 1, 2010 unless it meets a particulate matter emission limit of 0.32 pounds per million British Thermal Units heat output.

3. Nuisance condition. A person may not operate an outdoor wood boiler in a manner that creates a nuisance condition as defined in the department's rules.

The Department of Environmental Protection shall adopt rules to implement this section. Notwithstanding section 592-A, the rules must include a definition of "nuisance condition" specifically relating to the operation of outdoor wood boilers. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 3. Emergency major substantive rules; outdoor wood boilers. The Department of Environmental Protection shall adopt rules related to outdoor wood boilers. The rules must include provisions relating to siting, operation and labeling requirements, stack heights, dealer and manufacturer reporting, public notification of emission standards and operation and siting requirements, code enforcement officer training, nuisance conditions and existing inventory issues. The rules must provide for enforcement of the rules by the Department of Environmental Protection. Rules adopted pursuant to this section and the Maine Revised Statutes, Title 38, section 610-B may be adopted as emergency major substantive rules pursuant to Title 5, section 8073 and must be submitted to the Legislature for review by January 15, 2008.