

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 3, 2008 to June 13, 2009**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 12, 2009**

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

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**Augusta, Maine**  
**2009**

stances leading to the order for temporary guardianship no longer exist or if a judgment has been entered following a hearing pursuant to section 5-303 ~~has been entered~~ with findings made pursuant to section 5-304.

**Sec. 7. 18-A MRSA §5-401, sub-§(2)**, as enacted by PL 1979, c. 540, §1, is amended to read:

(2). Appointment of a conservator or other protective order may be made in relation to the estate and affairs of a person if the court determines ~~that (i); by clear and convincing evidence that~~ the person is unable to manage ~~his~~ the person's property and affairs effectively for reasons such as mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, or disappearance; and ~~(ii) by a preponderance of the evidence that~~ the person has property ~~which that~~ will be wasted or dissipated unless proper management is provided; or that funds are needed for the support, care and welfare of the person or those entitled to be supported by ~~him~~ the person and that protection is necessary or desirable to obtain or provide funds. If the allegedly incapacitated person files voluntary written consent to the appointment of a conservator with the court or appears in court and consents to the appointment, unless the court finds the consent suspect, the court may appoint a conservator or coconservator as requested upon a finding by a preponderance of the evidence that the person is unable to manage the person's property and affairs effectively for reasons such as mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power or disappearance. For the purposes of this subsection, voluntary written consent is valid only if the consent was obtained by a visitor, a guardian ad litem or an attorney representing the allegedly incapacitated person and the allegedly incapacitated person gave the consent outside the presence of the person or persons seeking conservatorship.

**Sec. 8. 18-A MRSA §5-408-A, sub-§(c)**, as amended by PL 1995, c. 203, §7, is further amended to read:

(c). At the expedited hearing, the court may render a judgment authorizing the temporary conservatorship to continue for a period not to exceed 6 months from the date of entry of the ex parte order. The temporary conservatorship terminates on the date specified in the order or, if no date is specified in the order, 6 months following the date of entry of the ex parte order, or at any prior time if the court determines the circumstances leading to the order for temporary conservatorship no longer exist or if a judgment has been entered following a hearing pursuant to section 5-407 ~~has been entered~~ with findings made pursuant to section 5-401.

**Sec. 9. 18-A MRSA §5-430**, as amended by PL 2007, c. 308, §2, is further amended to read:

### **§5-430. Termination of proceeding**

The protected person, the protected person's personal representative, the conservator or any other interested person may petition the court to terminate the conservatorship. ~~A protected person seeking termination is entitled to the same rights and procedures as in an original proceeding for a protective order. In an action to terminate a conservatorship brought by the protected person, upon presentation by the petitioner of evidence establishing a prima facie case that the person is able to manage the person's property and affairs, the court shall order the termination unless the respondent proves by clear and convincing evidence that the person is unable to manage the person's property and affairs effectively for reasons such as mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power or disappearance. The court, upon determining after notice and hearing that the minority or disability of the protected person has ceased that a conservatorship is no longer necessary, shall terminate the conservatorship upon approval of a final account. Upon termination, title to assets of the estate passes to the former protected person or to the former protected person's successors subject to provision in the order for expenses of administration or to conveyances from the conservator to the former protected person or the former protected person's successors, to evidence the transfer.~~

See title page for effective date.

## **CHAPTER 350**

### **S.P. 529 - L.D. 1444**

#### **An Act To Protect Consumers and Small Business Owners from Rising Health Care Costs**

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

### **PART A**

**Sec. A-1. 22 MRSA §8712, sub-§2**, as repealed and replaced by PL 2009, c. 71, §8, is amended to read:

**2. Cost and quality.** The organization shall create a publicly accessible interactive website that presents reports related to health care facility and practitioner payments for services rendered to residents of the State. The services presented must include, but not be limited to, imaging, preventative health, radiology and surgical services and other services that are predominantly elective and may be provided to a large number of patients who do not have health insurance or are underinsured. The website must also be constructed to display prices paid by individual commer-

cial health insurance companies, 3rd-party administrators and, unless prohibited by federal law, governmental payors.

A. The organization shall promote public transparency of the quality and cost of health care in the State, in conjunction with the Maine Quality Forum as established in Title 24-A, section 6951, and shall collect, synthesize and publish information and reports on an annual basis that are easily understandable by the average consumer and in a format that allows the user to compare the information listed in this section to the extent practicable. The organization's publicly accessible websites and reports shall, to the extent practicable, coordinate, link and compare information regarding health care services, their outcomes, the effectiveness of those services, the quality of those services by health care facility and by individual practitioner and the location of those services. The organization's health care costs website must provide a link in a publicly accessible format to provider-specific information regarding quality of services required to be reported to the Maine Quality Forum.

**Sec. A-2. 24-A MRSA §6951, sub-§4,** as enacted by PL 2003, c. 469, Pt. A, §8, is amended to read:

**4. Reporting.** The forum shall work collaboratively with the Maine Health Data Organization, health care providers, health insurance carriers and others to report in useable formats comparative health care quality information to consumers, purchasers, providers, insurers and policy makers. The forum shall produce annual quality reports in conjunction with the Maine Health Data Organization pursuant to Title 22, section 8712. No later than September 1, 2010, the forum shall make provider-specific information regarding quality of services available on its publicly accessible website.

**Sec. A-3. Advisory Council on Health Systems Development; payment reform.** The Advisory Council on Health Systems Development shall solicit input and develop recommendations on payment reform. The council shall:

1. Solicit input from various stakeholders, including private purchasers of health care, working on the measurement and reporting of health care value;
2. Consult with state agencies with expertise in provider reimbursement and payment systems;
3. Integrate any reforms adopted by the United States Congress or federal agencies that affect provider reimbursement;
4. Review and consider payment reform proposals in other states; and

5. To the extent permitted by federal and state law, recommend unified payment systems across public and private sectors.

The council shall submit a report that includes its findings and recommendations, including suggested legislation, for presentation to the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Insurance and Financial Services no later than January 15, 2010. After receipt and review of the report, the Joint Standing Committee on Health and Human Services or the Joint Standing Committee on Insurance and Financial Services may introduce a bill related to the subject matter of the report to the Second Regular Session of the 124th Legislature.

## PART B

**Sec. B-1. 24-A MRSA §2694-A** is enacted to read:

### **§2694-A. Physician performance measurement, reporting and tiering programs**

**1. Performance measurement, reporting and tiering programs.** An insurer delivering or issuing for delivery within the State any individual health insurance policy or group health insurance policy or certificate shall annually file with the superintendent on or before October 1, 2010 and annually by October 1st in subsequent years a full and true statement of its criteria, standards, practices, procedures and programs that measure physician performance or tier physician performance. The statement must be on a form prepared by the superintendent and may be supplemented by additional information required by the superintendent. The statement must be verified by the oath of the insurer's president or vice-president, and secretary or chief medical officer. A filing and supporting information are public records notwithstanding Title 1, section 402, subsection 3, paragraph B.

**2. Duties.** The superintendent shall review the statements, if any, assemble the statements in one table using a side-by-side comparison format and provide an analysis identifying the commonalities and differences of the statements. Notwithstanding any provision of law to the contrary, the superintendent shall adopt by rule a program and performance measures designed to:

- A. Ensure transparency and fairness and promote the continued strengthening of measurement programs to meet patients' needs;
- B. Promote the consistency, efficiency and fairness of physician performance measurement; and
- C. Promote an appropriate balance between innovation and standardization.

**3. Advisory panel.** The superintendent may consult with the Advisory Council on Health Systems

Development for advice to the superintendent regarding the proposed rule.

**4. Rulemaking.** The superintendent may adopt rules to implement this section. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

### PART C

**Sec. C-1. 22 MRSA §1819-A, 2nd ¶**, as enacted by PL 2005, c. 249, §1, is amended to read:

Information required to be disclosed under this section must be submitted by the hospital to the department within 5 months after the end of the hospital's fiscal year or within 5 months after the date on which the entity files the applicable form with the Internal Revenue Service. The department shall make available for public inspection and photocopying copies of all documents required by this section and shall post those documents on the department's publicly accessible website. The department shall post a chart on the website listing each hospital and providing a link to the documents filed pursuant to subsection 1.

**Sec. C-2. Posting of documents.** Within 30 days of the effective date of this Act, the Department of Health and Human Services shall post the federal Internal Revenue Service Form 990 and all related disclosable schedules for each hospital licensed in the State and filed with the department as required in the Maine Revised Statutes, Title 22, section 1819-A.

See title page for effective date.

## CHAPTER 351

### H.P. 292 - L.D. 385

#### An Act To Ensure a Uniform Comprehensive State Policy Regarding Residency Restrictions for Sex Offenders

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

**Sec. 1. 30-A MRSA §3013** is enacted to read:

#### **§3013. Ordinances regarding residency restrictions for sex offenders**

**1. Application and scope.** The State intends to occupy and preempt the entire field of legislation concerning the regulation of persons convicted of a sex offense in this State or in another jurisdiction. Except as provided in this section, a municipality may not adopt or enforce any ordinance or bylaw addressing persons who have been convicted of a sex offense in this State or in another jurisdiction that would impose on them restrictions or requirements not imposed on other persons who have not been convicted of a sex

offense in this State or in another jurisdiction. As used in this section, "convicted of a sex offense in this State or in another jurisdiction" means a conviction for any current or former Maine crime listed in former Title 17, sections 2922 to 2924 or Title 17-A, chapter 11 or 12 or Title 17-A, section 556; a conviction for an attempt or solicitation of those listed crimes; or any conviction for any former or current crime in any other jurisdiction in which the person engaged in substantially similar conduct to that of the earlier specified current or former Maine crimes.

**2. Residency restriction ordinance.** A municipality may adopt an ordinance regarding residency restrictions for persons convicted of Class A, B or C sex offenses committed against persons who had not attained 14 years of age at the time of the offense. Any such ordinance is limited as follows.

A. An ordinance may restrict only residence. It may not impose additional restrictions or requirements, including, but not limited to, registration and fees.

B. A municipality may prohibit residence by a sex offender up to a maximum distance of 750 feet surrounding the real property comprising a public or private elementary, middle or secondary school or up to a maximum distance of 750 feet surrounding the real property comprising a municipally owned property where children are the primary users.

C. An ordinance may not restrict the residence of a person who lived in an area restricted pursuant to paragraph B prior to the adoption or amendment of the ordinance.

D. An ordinance may not be premised on a person's obligation to register pursuant to Title 34-A, chapter 15.

See title page for effective date.

## CHAPTER 352

### H.P. 751 - L.D. 1089

#### An Act To Regulate Mixed Martial Arts Competitions, Exhibitions and Events

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

**Sec. 1. 5 MRSA §12004-G, sub-§4-D** is enacted to read:

#### **4-D.**