

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2010 to June 29, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 28, 2011**

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

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**Augusta, Maine**  
**2011**

**CHAPTER 456**  
**H.P. 662 - L.D. 903**

**An Act To Allow a Student  
Attending Private School  
Access to Public School  
Cocurricular, Interscholastic  
and Extracurricular Activities**

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

**Sec. 1. 20-A MRSA §5021-A** is enacted to read:

**§5021-A. Standards for participation in public schools by students enrolled in equivalent instruction programs in private schools**

A school administrative unit shall conform to the following standards in making public school resources and services available to a student enrolled in an equivalent instruction program. For the purposes of this section, "student enrolled in an equivalent instruction program" means a student otherwise eligible to attend school in that school administrative unit, including a student who resides in the unorganized territory, when the student is enrolled in an equivalent instruction program in a private school that is recognized as an equivalent instruction alternative under section 5001-A, subsection 3, paragraph A, subparagraph (1), division (a) or (b) and that is not a member of an association that promotes, organizes or regulates statewide interscholastic activities in both public and private schools.

**1. Participation in cocurricular activities.** A student enrolled in an equivalent instruction program is eligible to participate in cocurricular activities sponsored by the local school unit as long as the following requirements are met.

A. The student or the student's parent or guardian, on behalf of the student, applies in writing to and receives written approval from the principal of the school or the principal's designee. The principal or the principal's designee may withhold approval.

B. The student agrees to meet established behavioral, disciplinary, attendance and other rules applicable to all students.

**2. Participation in extracurricular and interscholastic activities.** A student enrolled in an equivalent instruction program is eligible to try out for extracurricular and interscholastic activities sponsored by the local school unit as long as the following requirements are satisfied.

A. The student applies for and receives written approval from the principal of the school or the principal's designee, who may withhold such approval.

B. The student agrees to abide by rules of participation equivalent to those applicable to regularly enrolled students participating in the activity and provides evidence that the rules of participation are being met.

C. The student complies with the same physical examination, immunization, insurance, age and semester eligibility requirements as regularly enrolled students participating in the activity. All required documentation must be made available upon request by the local school unit.

D. The student meets academic standards equivalent to those established for regularly enrolled students participating in the activity and provides evidence that the academic standards are being met.

E. The student abides by the same transportation policy as regularly enrolled students participating in the activity.

See title page for effective date.

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**CHAPTER 457**  
**H.P. 58 - L.D. 70**

**An Act To Include  
Independent Practice Dental  
Hygienists in MaineCare**

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

**Sec. 1. 22 MRSA §3174-QQ** is enacted to read:

**§3174-QQ. Dental hygienist reimbursement**

**1. Reimbursement.** By October 1, 2012, the department shall provide for the reimbursement under the MaineCare program of independent practice dental hygienists practicing as authorized under Title 32, section 1094-I for the following procedures:

A. Prophylaxis performed on a person who is 21 years of age or younger;

B. Topical application of fluoride performed on a person who is 21 years of age or younger;

C. Provision of oral hygiene instructions;

D. The application of sealants;

E. Temporary fillings; and

F. X-rays.

Reimbursement must be provided to independent practice dental hygienists directly or to a federally qualified health center pursuant to section 3174-V when an independent practice dental hygienist is employed as a core provider at the center.

**2. Rulemaking.** The department shall adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**Sec. 2. Appropriations and allocations.** The following appropriations and allocations are made.

**HEALTH AND HUMAN SERVICES,  
DEPARTMENT OF (FORMERLY DHS)**

**Medical Care - Payments to Providers 0147**

Initiative: Appropriates and allocates funds for the costs of MaineCare reimbursement for 6 specific procedures provided by dental hygienists practicing independently effective October 1, 2012.

<b>GENERAL FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$54,320
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<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$54,320</b>
<b>FEDERAL EXPENDITURES FUND</b>	<b>2011-12</b>	<b>2012-13</b>
All Other	\$0	\$93,570
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<b>FEDERAL EXPENDITURES FUND TOTAL</b>	<b>\$0</b>	<b>\$93,570</b>

See title page for effective date.

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**CHAPTER 458**

**H.P. 272 - L.D. 346**

**An Act Regarding Pharmacy  
Reimbursement in MaineCare**

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

**Sec. 1. 22 MRSA §3173-C, sub-§2,** as amended by PL 2007, c. 240, Pt. GGG, §1, is further amended to read:

**2. Prescription drug services.** Except as provided in this subsection and subsections 3 and 4, a payment of pharmacy shall charge a MaineCare member \$3.00 for each drug is to be collected from the MaineCare member for each drug prescription that is an approved MaineCare service. The department shall adopt and follow procedures to ensure compliance with the requirements of 42 United States Code, Section 1396o-1. A pharmacy that has followed the procedures adopted by the department to ensure compliance with the requirements of 42 United States Code, Section 1396o-1 may refuse to dispense the drug if the

copayment is not paid. Copayments must be capped at \$30 per month per member. If a member is prescribed a drug in a quantity specifically intended by the provider or pharmacist, for the recipient's health and welfare, to last less than one month, only one payment for that drug for that month is required.

**Sec. 2. 22 MRSA §3173-C, sub-§8** is enacted to read:

**8. Notification.** The department shall notify each MaineCare member who is subject to the copayment requirement in subsection 2 of the copayment requirements, any exemptions and limitations prior to coding the member's information for required copayments and shall notify the member again during annual recertification of eligibility.

**Sec. 3. Review of cost of dispensing a prescription drug; report.** The Department of Health and Human Services shall review the cost of dispensing a prescription drug under the MaineCare program. By January 15, 2012, the department shall provide a report with recommendations to the Joint Standing Committee on Health and Human Services. In performing the review the department shall:

1. Provide opportunity for input to pharmacists and pharmacies licensed in the State and their representatives;
2. Consider changing copayments and dispensing fees under the MaineCare program;
3. Consider all recent federal studies of formulae for pharmacy reimbursement and information available from the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services; and
4. Review current and pending pharmacy reimbursement formulae under federal Medicaid law.

**Sec. 4. Effective date.** Those sections of this Act that amend the Maine Revised Statutes, Title 22, section 3173-C, subsection 2 and enact Title 22, section 3173-C, subsection 8 take effect upon amendment and federal approval of the Medicaid state plan but no earlier than October 1, 2011.

See title page for effective date, unless otherwise indicated.

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**CHAPTER 459**

**S.P. 176 - L.D. 584**

**An Act To Appropriate Funds  
for the Maine Downtown  
Center**

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