

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SEVENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 3, 2014 to July 16, 2015**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**OCTOBER 15, 2015**

**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**  
**2015**

census of employment and wages. Notwithstanding this subsection, with respect to a call center in Aroostook or Washington county and upon approval of the commissioner, a qualified business located in a county in which the average annual unemployment rate at the time of certification for the most recent calendar year is greater than the state average for that same year qualifies for a phase-in of salary threshold requirements. A qualified business under this provision must meet 70% of the average weekly wage as derived from the quarterly census of employment and wages in the first year of certification, 80% of the average weekly wage as derived from the quarterly census of employment and wages in the 2nd year of certification and 90% of the average weekly wage as derived from the quarterly census of employment and wages in all following years of certification. Failure to meet any of these requirements results in automatic revocation of certification.

**Sec. 6. 36 MRSA §6753, sub-§12-A** is enacted to read:

**12-A. Quarterly census of employment and wages.** "Quarterly census of employment and wages" means the comprehensive tabulation of employment and wage information for workers produced by the quarterly census of employment and wages program, a cooperative program involving the federal Department of Labor, Bureau of Labor Statistics and the state employment security agencies.

See title page for effective date.

**CHAPTER 369**

**H.P. 381 - L.D. 557**

**An Act To Provide Reasonable Accommodations for School Attendance for Children Certified for the Medical Use of Marijuana**

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

**Sec. 1. 20-A MRSA §6306** is enacted to read:

**§6306. Eligibility to attend school**

A child who holds a written certification for the medical use of marijuana under Title 22, section 2423-B may not be denied eligibility to attend school solely because the child requires medical marijuana in a nonsmokeable form as a reasonable accommodation necessary for the child to attend school.

**Sec. 2. 22 MRSA §2426, sub-§1, ¶B,** as enacted by IB 2009, c. 1, §5, is amended to read:

**B. Possess** Except as provided in subsection 1-A, possess marijuana or otherwise engage in the medical use of marijuana:

- (1) In a school bus;
- (2) On the grounds of any preschool or primary or secondary school; or
- (3) In any correctional facility;

**Sec. 3. 22 MRSA §2426, sub-§1-A** is enacted to read:

**1-A. School exceptions.** Notwithstanding subsection 1, paragraph B, a primary caregiver designated pursuant to section 2423-A, subsection 1, paragraph E may possess and administer marijuana in a nonsmokeable form in a school bus and on the grounds of the preschool or primary or secondary school in which a minor qualifying patient is enrolled only if:

A. A medical provider has provided the minor qualifying patient with a current written certification for the medical use of marijuana under this chapter; and

B. Possession of marijuana in a nonsmokeable form is for the purpose of administering marijuana in a nonsmokeable form to the minor qualifying patient.

See title page for effective date.

**CHAPTER 370**

**H.P. 447 - L.D. 666**

**An Act To Allow a Patient To Designate a Caregiver in the Patient's Medical Record**

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

**Sec. 1. 22 MRSA §1711-B, sub-§3, ¶C,** as amended by PL 1997, c. 793, Pt. A, §5 and affected by §10, is further amended to read:

C. The designee of a durable health care power of attorney executed by the person who is the subject of the record, at such time as the power of attorney is in effect; ~~or~~

**Sec. 2. 22 MRSA §1711-B, sub-§3, ¶D,** as enacted by PL 1997, c. 793, Pt. A, §6 and affected by §10, is amended to read:

D. The agent, guardian or surrogate pursuant to the Uniform Health-care Decisions Act; ~~or~~

**Sec. 3. 22 MRSA §1711-B, sub-§3, ¶E** is enacted to read:

E. The lay caregiver designated pursuant to section 1711-G by the person who is the subject of the record.

**Sec. 4. 22 MRSA §1711-C, sub-§6, ¶¶R and S,** as enacted by PL 1999, c. 512, Pt. A, §5 and affected by §7 and c. 790, Pt. A, §§58 and 60, are amended to read:

R. To a member of the media who asks a health care facility about an individual by name, of brief confirmation of general health status unless expressly prohibited by the individual or a person acting pursuant to subsection 3-B; ~~and~~

S. To a member of the public who asks a health care facility about an individual by name, of the room number of the individual and brief confirmation of general health status unless expressly prohibited by the individual or a person acting pursuant to subsection 3-B; ~~and~~

**Sec. 5. 22 MRSA §1711-C, sub-§6, ¶T** is enacted to read:

T. To a lay caregiver designated by an individual pursuant to section 1711-G.

**Sec. 6. 22 MRSA §1711-G** is enacted to read:

**§1711-G. Designated lay caregivers**

**1. Definitions.** As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Aftercare" means any assistance to a patient, after the patient's discharge, that is directly related to the content of the patient's hospital discharge plan and that is provided by a lay caregiver designated pursuant to subsection 2, including assistance with basic or instrumental activities of daily living, performance of medical and nursing tasks, assistance in administering medication and operation of medical equipment.

B. "Discharge" means a patient's exit or release from a hospital to the patient's residence or another health care setting following any medical care or treatment at the hospital or observation at the hospital for a period that includes midnight of at least one calendar day.

C. "Residence" means a dwelling that a person considers to be the person's home. "Residence" does not include a rehabilitation facility, hospital, nursing home, assisted living facility, group home or any other health care facility licensed by the State.

**2. Designation of lay caregiver.** In accordance with this subsection, a hospital licensed under chapter 405, but not a private mental hospital as described in chapter 404, shall allow for the designation of a lay caregiver to provide aftercare to a patient.

A. For a patient with capacity to make health-care decisions, as described in Title 18-A, Article 5, Part 8, the hospital shall provide the patient with at least one opportunity to designate a lay caregiver following the patient's admission to the hospital, or observation at the hospital for a period that includes midnight of at least one calendar day, and prior to the patient's discharge.

B. For a patient without capacity to make health-care decisions, as described in Title 18-A, Article 5, Part 8, the hospital shall provide the patient's legal guardian, agent or surrogate who is reasonably available and acting pursuant to Title 18-A, Article 5, Part 8 with at least one opportunity to designate a lay caregiver following the patient's admission to the hospital, or observation at the hospital for a period that includes midnight of at least one calendar day, and prior to the patient's discharge.

C. The hospital shall document the designation of a lay caregiver under this subsection in the patient's medical record, including the lay caregiver's name, relationship to the patient, telephone number, address and any other contact information as provided. If the patient or the patient's legal guardian, agent or surrogate who is reasonably available and acting pursuant to Title 18-A, Article 5, Part 8 declines to designate a lay caregiver, the hospital shall document that decision in the patient's medical record and that documentation constitutes compliance by the hospital with the requirements of this section. A designated lay caregiver may be removed or changed by the patient or the patient's legal guardian, agent or surrogate at any time, so long as the change or removal is documented by the hospital in the patient's medical record.

D. Designation of a lay caregiver under this subsection by the patient or the patient's legal guardian, agent or surrogate who is reasonably available and acting pursuant to Title 18-A, Article 5, Part 8 is optional. A designated lay caregiver is not obligated under this section to perform any aftercare tasks for the patient.

**3. Written consent.** If a lay caregiver is designated under subsection 2, the hospital shall request that the patient or the patient's legal guardian, agent or surrogate who is reasonably available and acting pursuant to Title 18-A, Article 5, Part 8 provide written consent to release medical information regarding the scope of care to the patient's designated lay caregiver to carry out the purposes of this section. Written consent under this subsection must be provided pursuant to the hospital's established procedures for releasing personal health information and in compliance with state and federal law.

**4. Notice to designated lay caregiver.** For a patient unable to effectively communicate with a lay caregiver designated under subsection 2, and for whom written consent is received under subsection 3, a hospital shall make reasonable efforts to notify the designated lay caregiver prior to the patient's discharge or transfer to another hospital licensed under chapter 405. The hospital may not withhold, delay or otherwise fail to deliver medical care to the patient or an appropriate discharge or transfer of the patient because the hospital is unable to notify the designated lay caregiver in accordance with this subsection prior to the patient's discharge or transfer. A hospital shall document in the patient's medical record its attempt to notify the designated lay caregiver under this subsection.

**5. Discharge plan.** If written consent is received under subsection 3, a hospital shall make reasonable efforts to communicate with a lay caregiver designated under subsection 2 regarding the development of a patient's discharge plan to help prepare the designated lay caregiver for the patient's aftercare needs at the patient's residence in accordance with the hospital's discharge policy.

**6. Instruction to designated lay caregiver.** If written consent is received under subsection 3, prior to a patient's discharge, the hospital shall make reasonable efforts to instruct the patient's lay caregiver designated under subsection 2, in a culturally competent manner, on how to meet the patient's aftercare needs and shall provide a meaningful opportunity for the designated lay caregiver to ask questions about the patient's discharge plan.

**7. Noninterference with health care directives.** The provisions of this section may not be construed to interfere with the rights of an agent of a patient operating under a valid health care directive under Title 18-A, Article 5, Part 8.

**8. Rules.** The department may adopt rules to carry out the purposes of this section, including defining the content and scope of any instruction given under subsection 5 or 6. In the development of any rules pursuant to this subsection, the department shall consult with representatives of hospitals, consumers and organizations that represent seniors. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

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## CHAPTER 371 H.P. 638 - L.D. 919

### An Act To Provide Access to Opioid Analgesics with Abuse-deterrent Properties

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

**Sec. 1. 24-A MRSA §4320-J** is enacted to read:

#### **§4320-J. Coverage for abuse-deterrent opioid analgesic drug products**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Abuse-deterrent opioid analgesic drug product" means a brand or generic opioid analgesic drug product approved by the federal Food and Drug Administration with abuse-deterrent labeling claims that indicate the drug product is expected to result in a meaningful reduction in abuse.

B. "Cost sharing" means any coverage limit, co-payment, coinsurance, deductible or other out-of-pocket expense associated with a health plan.

C. "Opioid analgesic drug product" means a drug product in the opioid analgesic drug class prescribed to treat moderate to severe pain or other conditions, whether in immediate release or extended release, long-acting form and whether or not combined with other drug substances to form a single drug product or dosage form.

**2. Required coverage.** A carrier offering a health plan in this State shall provide coverage for abuse-deterrent opioid analgesic drug products listed on any formulary, preferred drug list or other list of drugs used by the carrier on a basis not less favorable than that for opioid analgesic drug products that are not abuse-deterrent and are covered by the health plan. An increase in enrollee cost sharing to achieve compliance with this section may not be implemented.

**Sec. 2. Application.** The requirements of this Act apply to all policies, contracts and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after January 1, 2016. For purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date.

See title page for effective date.

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