

MAINE STATE LEGISLATURE

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**STATE OF MAINE
118TH LEGISLATURE**

**FIRST REGULAR SESSION
AND
FIRST SPECIAL SESSION**

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
BANKING AND INSURANCE**

JULY 1997

MEMBERS:

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ONE HUNDRED EIGHTEENTH LEGISLATURE
FIRST REGULAR AND FIRST SPECIAL SESSIONS

Summary Of Legislation Before The Joint Standing Committees
August 1997

We are pleased to provide this summary of bills that were considered by the 15 Joint Standing Committees of the Maine Legislature staffed by this office. The document is a compilation of bill summaries which describe each bill, committee amendments and other relevant amendments, as well as the final action taken on the bill. Also included are statistical summaries of bill activity this Session for the Legislature and each of its joint standing committees.

The document is organized for convenient reference to information on bills handled by the joint standing committees. It is organized alphabetically by committees and within committees by bill (LD) number. The committee report(s), prime sponsor for each bill and the lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are listed by paper number. Two indices, a subject index and a numerical index by LD number are provided for easy reference to bills. They are located at the back of the document. A separate publication, History and Final Disposition of Legislative Documents, may also be helpful in providing information on the disposition of bills. These bill summaries also are available at the Law and Legislative Reference Library and on the Internet (www.state.me.us/legis/opla).

Final action on each bill is noted to the right of the bill title. The abbreviations used for various categories of final action are as follows:

<i>CARRIED OVER</i>	<i>Bill carried over to Second Regular Session</i>
<i>CON RES XXX</i>	<i>Chapter # of Constitutional Resolution passed by both Houses</i>
<i>CONF CMTE UNABLE TO AGREE</i>	<i>Committee of Conference unable to agree; bill died</i>
<i>DIED BETWEEN BODIES</i>	<i>House & Senate disagree; bill died</i>
<i>DIED IN CONCURRENCE</i>	<i>One body accepts ONTP report; the other indefinitely postpones the bill</i>
<i>DIED ON ADJOURNMENT</i>	<i>Action incomplete when session ended; bill died</i>
<i>EMERGENCY</i>	<i>Enacted law takes effect sooner than 90 days</i>
<i>FAILED EMERGENCY ENACTMENT/FINAL PASSAGE</i>	<i>Emergency bill failed to get 2/3 vote</i>
<i>FAILED ENACTMENT/FINAL PASSAGE</i>	<i>Bill failed to get majority vote</i>
<i>FAILED MANDATE ENACTMENT</i>	<i>Bill imposing local mandate failed to get 2/3 vote</i>
<i>INDEF PP</i>	<i>Bill Indefinitely Postponed</i>
<i>ONTP</i>	<i>Ought Not To Pass report accepted</i>
<i>OTP ND</i>	<i>Committee report Ought To Pass In New Draft</i>
<i>OTP ND/NT</i>	<i>Committee report Ought To Pass In New Draft/New Title</i>
<i>P&S XXX</i>	<i>Chapter # of enacted Private & Special Law</i>
<i>PUBLIC XXX</i>	<i>Chapter # of enacted Public Law</i>
<i>RESOLVE XXX</i>	<i>Chapter # of finally passed Resolve</i>
<i>UNSIGNED</i>	<i>Bill held by Governor</i>
<i>VETO SUSTAINED</i>	<i>Legislature failed to override Governor's Veto</i>

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is June 26, 1997 and September 19, 1997 for the First Special Session.

David E. Boulter, Director
 Offices Located in the State House, Rooms 101/107/135

The amendment also adds an allocation section and a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 435 authorizes the establishment of captive insurers. Captive insurance companies are formed for the purpose of providing insurance coverage with respect to the exposures of their parent or affiliated companies. The companies may be owned and controlled by single corporations, by groups of corporations or by associations. While the capital and surplus requirements and taxation of captive insurance companies are different than those otherwise applicable to commercial insurers, captive insurers are subject to regulation by the Bureau of Insurance.

LD 1808

An Act to Make Maine Health Insurance Laws Consistent with Federal Laws

**PUBLIC 445
EMERGENCY**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MITCHELL E KIEFFER	OTP-AM MAJ OTP-AM MIN	H-610

The Health Insurance Portability and Accountability Act of 1996 was enacted by Congress and signed by the President of the United States on August 21, 1996. Included in that act are health insurance reforms providing for portability of coverage, limits on preexisting condition exclusions, guaranteed renewability and guaranteed issue to small groups and certain individuals.

Although this State has had similar reforms and in many cases stronger reforms, in place for several years, many of the details differ. For this reason, many of the State's reform laws would be preempted by the federal law if not amended to conform to federal standards. LD 1808 proposed to make the necessary changes to avoid preemption and allow the State to continue to enforce its health insurance reform laws.

The bill proposed to eliminate duplicative language by making nonprofit hospital and medical service organizations subject to the continuity laws in the Maine Revised Statutes, Title 24-A rather than including identical language in Title 24.

The bill also proposed to amend the State's individual health insurance reform laws by clarifying residency requirements and waiving some of these requirements for federally eligible individuals. The bill also added provisions allowing managed care plans to deny coverage to individuals not within their service area and provides a mechanism by which those plans may close enrollment if their capacity is exceeded. The bill eliminates language providing guaranteed renewal, which is now addressed in a new section applicable to both individual and group policies.

The bill also proposed to amend the State's small group health insurance reform laws. The most significant change is that this law would apply to groups with up to 50 employees, up from 24 employees in the current law. The rating restrictions for the newly covered groups take effect January 1, 1998, and are phased in over a three-year period. Also, insurance carriers are permitted to establish a minimum group size of 2 employees. The federal law defines small groups as those with two to 50 employees. The bill also amends the rules for counting employees to conform to federal standards. As in the individual reform laws, provisions are added allowing managed care plans to deny coverage to individuals not within their service area and providing a mechanism by which those plans may

close enrollment if capacity is exceeded. Provisions dealing with guaranteed renewal and limitations on preexisting condition exclusions are deleted because they are addressed in new sections with broader applicability. The bill defines terms used to define "federally eligible individuals," who are entitled to certain rights detailed in other sections.

The bill also proposed to tighten the current restrictions on preexisting condition limitations to conform to the federal law. Use of genetic information is not allowed as a basis for an exclusion. In group contracts, only conditions for which medical advice, diagnosis, care or treatment was recommended or received in the past six months may be excluded and no exclusion may be imposed relating to pregnancy as a preexisting condition. No exclusion at all is permitted for federally eligible individuals.

The bill proposed to make the continuity laws applicable to certain self-insured groups that are not otherwise exempt from state law.

The bill proposed to require guaranteed renewal of all medical policies with certain exceptions that are based on the federal laws. Unlike the current laws, which apply to individuals and small groups, this guaranteed renewal provision applies to large groups as well.

The bill proposed to prohibit group insurance carriers from discriminating against individuals within a group with respect to eligibility standards or premium contributions based on the individual's medical condition or claims experience. Similar requirements already apply to individuals and small groups, but this bill applies to large groups as well.

The requirements of the bill apply to policies, contracts and certificates issued or renewed on or after July 1, 1997. This is the effective date for the group health insurance reforms of the federal laws.

Committee Amendment "A" (H-610) is the majority report. It proposed to add a statutory provision to comply with the "special enrollment period" of the federal law. Although the federal law addresses long-term care insurance, health care fraud and other issues as well as health insurance, the amendment and the bill address health insurance only and do not apply to disability or long-term care insurance. The amendment proposed to clarify the guaranteed issuance, guaranteed renewal and continuity of coverage health insurance laws and make technical changes.

The amendment also adds a fiscal note to the bill.

Committee Amendment "B" (H-611) is the minority report. It differs from the majority report in that it proposed to extend the prohibition against imposing a preexisting condition exclusion related to a pregnancy for group insurance policies and contracts contained in the bill to individual policies and contracts as well.

The amendment also adds a fiscal note to the bill. Committee Amendment "B" was not adopted.

Enacted law summary

Public Law 1997, chapter 445 makes changes to Maine's health insurance laws to conform with changes in federal law included in the Health Insurance Portability and Accountability Act of 1996. The changes made in this law are necessary to avoid preemption by the federal law and to allow the State to continue to enforce its health insurance reform laws.

Public Law 1997, chapter 445 was enacted as an emergency measure effective June 10, 1997; the requirements of chapter 445 apply to all policies and contracts issued or renewed on or after July 1, 1997.

LD 1848 **An Act to Create the Managed Care Ombudsman Program** **CARRIED OVER**

<u>Sponsor(s)</u> SAXL J		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1848 proposes to create the Managed Care Ombudsman Program within the Office of the Public Advocate to educate and assist consumers with managed care plan selection, assist enrollees in understanding their rights and responsibilities under managed care plans, advocate for policies and programs that protect consumer rights and interests and handle complaints and appeals and provide individual case representation. The bill establishes the Managed Care Ombudsman Program Fund, a dedicated fund to receive income from assessments on nonprofit hospital and medical service organizations, insurers and health maintenance organizations.

LD 1848 was carried over to the Second Regular Session.

LD 1849 **An Act to Clarify the Charitable Status of Nonprofit Hospital and Medical Service Organizations, to Permit Their Creation of Health Insurance Affiliates and Their Conversion to Stock Insurers and to Ensure Regulatory Equity** **PUBLIC 344**

<u>Sponsor(s)</u> SAXL M LAWRENCE		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-701
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LD 1849 proposed to clarify the charitable status of nonprofit hospital and medical service organizations, permit their creation of health insurance affiliates, permit their conversion to stock insurers and ensure regulatory equity.

Committee Amendment "A" (H-701) proposed to do the following.

1. It adds a requirement that the board of directors of any charitable trust established after a conversion or a material change in form represent the interests of the medically uninsured and underserved populations.
2. It clarifies that a nonprofit hospital and medical service organization may not convert to a mutual insurer.
3. It prohibits a nonprofit hospital and medical service organization from serving as the charitable trust after a conversion or material change in form.
4. It requires a nonprofit hospital and medical service organization to file an annual report to the Attorney General and the Superintendent of Insurance describing its efforts to fulfill its charitable and benevolent purposes.
5. It clarifies that the bill does not affect the charitable status or obligations of current nonprofit health care service organization plans that provide dental and vision services in the State.