

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

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.

6. It raises the maximum percentage of ownership interests available to for-profit interests in health insurance affiliates from 20% to 25% in the case of individual physicians and limits the maximum ownership interest to 20% for nonprofit and noncharitable physician-hospital organizations in the aggregate, or in combination with individual physicians.
7. It clarifies that the tax exemption for nonprofit hospital and medical service organizations will be removed after a material change in form in the event that the entire charitable interest is transferred to a charitable trust.
8. It makes necessary clarifications and technical changes.
9. It adds an allocation section and a fiscal note.

Enacted law summary

Public Law 1997, chapter 344 clarifies the charitable status of nonprofit hospital and medical service organizations currently and following a material change in form or a conversion to a for-profit stock insurer, permits the formation of health insurance affiliates in joint ventures including nonprofit hospital and medical service organizations, allows the conversion of a nonprofit hospital and medical service organization to a stock insurer pursuant to a plan approved by the Superintendent of Insurance and institutes an expedited process of rate review for individual and Medicare supplement insurance products.

Public Law 1997, chapter 344 explicitly states that a nonprofit hospital and medical service organization, such as Blue Cross Blue Shield of Maine, is a charitable and benevolent institution and a public charity. The charitable purposes for which a nonprofit hospital and medical service organization holds its assets are defined to include providing access to medical care through affordable health insurance and affordable managed care products to persons of all incomes; identifying and addressing unmet health needs of the State, particularly with regard to medically uninsured and underserved populations; making services available through participating providers; and improving the quality of care for medically uninsured and underserved populations.

The law enacts provisions under the Attorney General's charitable authority outlining the charitable status of the organization in the event that a nonprofit hospital and medical service organization converts to a for-profit stock insurer or materially changes its form. In the event of a conversion or a material change in form, the law establishes a formula for determining what percentage of assets will be paid to subscribers. In any conversion or material change in form transaction, not less than 90% of the fair market value of a nonprofit hospital and medical service organization must be transferred to a charitable trust and applied for charitable purposes. The Attorney General must initiate litigation in Kennebec County Superior Court by December 31, 1997 on the issue of the designation of ownership interests and the charitable purposes of a nonprofit hospital and medical service organization. Any person may file objections to the designation, but must file within 90 days of notice of filing by the Superior Court. The Superior Court must rule on designation of ownership interests and charitable purposes and any claim of ownership in the organization.

Public Law 1997, chapter 344 prohibits a nonprofit hospital and medical service organization from converting to a mutual insurer. It provides a mechanism for conversion to a for-profit stock insurer only after a review and approval of the Superintendent of Insurance. Review of a conversion plan may not begin until the Superior Court has approved or approved with modifications the charitable trust plan or unless the Superintendent determines an earlier review is necessary. Final approval of the conversion may not occur unless the terms and conditions of the plan are fair and equitable, the plan is approved by a vote of not less than 2/3 of the organization's board of directors and the plan provides for the issuance of capital stock or assets or a combination of these, without

consideration, to the charitable trust and to subscribers, if applicable, in the amount prescribed under the established formula.

The law authorizes the establishment of for-profit affiliates by nonprofit hospital and medical service organizations with other nonprofit institutions and for-profit health care providers as long as the nonprofit hospital and medical service organization has 50% or more control of the affiliate. The for-profit ownership interests in the affiliate may not exceed 25% if held by individual physicians, individually and aggregate; or 20% if held by nonprofit and non-charitable physician-hospital organizations, individually or in combination with individual physicians. The health insurance affiliate must have corporate purposes that are consistent with and in furtherance of the charitable purposes of the nonprofit hospital and medical service organization.

Public Law 1997, chapter 344 also streamlines the process for review of premium rates for individual and Medicare supplement insurance products for nonprofit hospital and medical service organizations and for-profit insurance companies regulated by the Maine Insurance Code. If a rate filing seeks an increase of less than 1.5 times the rate of inflation for medical costs and the company has a loss ratio of 80% or greater, the burden of proof is shifted from the insurance company to the Bureau of Insurance and any party asserting that the rates are excessive to prove that the rates are excessive. The burden of proving that rates are adequate and not unfairly discriminatory remains with the insurance company or the nonprofit hospital and medical service organization. The provisions governing rate review for individual and Medicare supplement insurance policies are repealed October 1, 2001.

LD 1857

An Act to Protect Patients of Managed Care Plans

CARRIED OVER

<u>Sponsor(s)</u> BROOKS		<u>Committee Report</u>		<u>Amendments Adopted</u>
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LD 1857 proposes to establish a duty and standard of ordinary care that must be provided by an insurance company, health maintenance organization, preferred provider organization or a nonprofit hospital and medical service organization under a managed health care plan. It also would authorize a person enrolled in a managed health care plan to bring a legal action for damages against a carrier if the person is harmed by a carrier's failure to exercise ordinary care.

LD 1857 was carried over to the Second Regular Session.

LD 1869

An Act to Create a Universal Bank Charter

**PUBLIC 398
EMERGENCY**

<u>Sponsor(s)</u> CARLETON MURRAY		<u>Committee Report</u> OTP-AM		<u>Amendments Adopted</u> H-523 S-284 MURRAY
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In November 1996, the Bureau of Banking formed a study group consisting of bankers, attorneys and bureau staff to study the various bank chartering options under state law. LD 1869 proposed to incorporate the recommendations of that study group in the development of a universal bank charter in the banking laws of this State by making the following changes.