

MAINE STATE LEGISLATURE

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**STATE OF MAINE
119TH LEGISLATURE**

FIRST REGULAR SESSION

**BILL SUMMARIES
JOINT STANDING COMMITTEE
ON
HEALTH AND HUMAN SERVICES**

JULY 1999

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ONE HUNDRED NINETEENTH LEGISLATURE
FIRST REGULAR SESSION

Summary Of Legislation Before The Joint Standing and Select Committees
August 1999

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

The document is organized for convenient reference to information on bills considered by the committees. It is organized 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:

CARRIED OVER..... *Bill carried over to Second Regular Session*
CON RES XXX..... *Chapter # of Constitutional Resolution passed by both Houses*
CONF CMTE UNABLE TO AGREE..... *Committee of Conference unable to agree; bill died*
DIED BETWEEN BODIES..... *House & Senate disagree; bill died*
DIED IN CONCURRENCE..... *One body accepts ONTP report; the other indefinitely postpones the bill*
DIED ON ADJOURNMENT..... *Action incomplete when session ended; bill died*
EMERGENCY..... *Enacted law takes effect sooner than 90 days*
ENACTMENT FAILED..... *Bill failed to get vote required for enactment or final passage*
NOT PROPERLY BEFORE THE BODY..... *Ruled out of order by the presiding officers; bill died*
INDEF PP..... *Bill Indefinitely Postponed*
ONTP..... *Ought Not To Pass report accepted*
OTP ND..... *Committee report Ought To Pass In New Draft*
OTP ND/NT..... *Committee report Ought To Pass In New Draft/New Title*
P&S XXX..... *Chapter # of enacted Private & Special Law*
PUBLIC XXX..... *Chapter # of enacted Public Law*
RESOLVE XXX..... *Chapter # of finally passed Resolve*
UNSIGNED..... *Bill held by Governor*
VETO SUSTAINED..... *Legislature failed to override Governor's Veto*

Please note the effective date for all non-emergency legislation enacted in the First Regular Session (unless otherwise specified in a particular law) is September 18, 1999.

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FULLER	OTP-AM MAJ	H-705
MITCHELL B	OTP-AM MIN	S-382 PARADIS
		S-383 PARADIS

LD 1653 proposed to clarify and expand the ability of a health care practitioner or facility to disclose health care information about an individual. The bill proposed to allow a health care provider or health care practitioner treating an incapacitated individual to obtain authorization to disclose health care information from the appropriate surrogate decision-maker for that individual, to allow an individual to orally authorize disclosure of his or her health care information, to allow an individual to orally authorize the release of the health care information to the extent necessary to bill those responsible for payment for the health care services provided to the individual and to allow the parent, legal guardian or guardian ad litem of a minor who has not consented to health care treatment in accordance with the provisions of state law to submit an addition to the minor's health care record. The bill also proposed to make related technical or clarifying changes in current law.

Committee Amendment "C" (H-705) is the report of the majority of the Joint Standing Committee on Health and Human Services. It proposed to replace the bill.

1. It proposed to clarify that, if the patient is a minor who has not consented to health care treatment in accordance with the laws of this State, the minor's parent, legal guardian or guardian ad litem may submit health care information that corrects or clarifies the patient's treatment record and obtain copies.
2. Within the provisions of the Maine Revised Statutes, Title 22, section 1711-C, it proposed to:
 - A. Define authorization to disclose and clarify that disclosures that are subject to the law are disclosures of health care information obtained as a result of a professional health care relationship between the individual and the health care practitioner or facility to a person or entity other than the individual. It proposed to clarify that "health care information" does not include information that is created or received by a member of the clergy or other person using spiritual means alone for healing and that "health care" includes treatment;
 - B. Repeal unnecessary provisions relating to confidentiality after health care information is disclosed;
 - C. Provide for oral authorization to disclose and for authorization to disclose provided by a 3rd party;
 - D. Clarify the provisions for revocation of authorization to disclose;
 - E. Provide that disclosures to another health care practitioner or facility may take place within the office, practice or organizational entity without authorization and outside of it without authorization, except that HIV and mental health information would require authorization in nonemergency circumstances;
 - F. Allow disclosure without authorization to family or household members unless expressly prohibited;
 - G. Allow disclosure without authorization for billing and insurance purposes to schools, camps, emergency services, corrections facilities and a branch of the federal or state military forces, for the purposes of

making and confirming appointments or tests and for the purposes of obtaining prescription medications and supplies;

- H. Allow disclosure without authorization to confirm admission to a health care facility and brief confirmation of general health status to the media when inquiring by name, unless expressly prohibited;
 - I. Allow disclosure without authorization to the clergy unless expressly prohibited;
 - J. Allow disclosure without authorization to members of the public inquiring by name unless expressly prohibited;
 - K. Clarify that disclosure under the law is subject to the professional judgment of the health care practitioner;
 - L. Add cross-references regarding authorizations to disclose;
 - M. Impose penalties for intentional violations and repeal penalties for negligent violations;
 - N. Clarify that other laws, rules and regulations pertaining to health care information govern that information and those entities subject to those laws, rules and regulations;
 - O. Clarify application of the provisions, making them applicable to requests, directives and authorizations executed on or after February 1, 2000, and provide a transition period for authorizations executed prior to that date until the date of the next health care encounter between the individual and the health care practitioner or facility;
 - P. It proposed to require that routine admission forms to health care facilities provide notice of the ability to remove one's name from the directory listing; and
 - Q. It proposed to require notice that removal from the directory listing could result in inability to direct telephone calls and visitors;
3. It proposed to provide that Title 22, section 1711-C is repealed on March 1, 2002.
 4. It proposed to provide that HIV testing and HIV status information will be governed by current law, not the more general law regarding the confidentiality of health care information of Title 22, section 1711-C.
 5. It proposed to delay implementation of the laws on health care confidentiality until February 1, 2000.

Senate Amendment "A" to Committee Amendment "C" (S-382) proposed to clarify the ability of a health care practitioner or facility to disclose health care information pursuant to subpoena from a governmental entity.

Senate Amendment "B" to Committee Amendment "C" (S-383) proposed to require that the confidentiality policies of health care facilities must provide to individuals being admitted for inpatient care notice of the right to control the disclosure of health care information.

Enacted law summary

Public Law 1999, chapter 512 does the following:

1. It clarifies that, if the patient is a minor who has not consented to health care treatment in accordance with the laws of this State, the minor's parent, legal guardian or guardian ad litem may submit health care information that corrects or clarifies the patient's treatment record and obtain copies.
2. Within the provisions of the Maine Revised Statutes, Title 22, section 1711-C, it:
 - A. Defines authorization to disclose and clarifies that disclosures that are subject to the law are disclosures of health care information obtained as a result of a professional health care relationship between the individual and the health care practitioner or facility to a person or entity other than the individual. It clarifies that "health care information" does not include information that is created or received by a member of the clergy or other person using spiritual means alone for healing and that "health care" includes treatment;
 - B. Repeals unnecessary provisions relating to confidentiality after health care information is disclosed;
 - C. Provides for oral authorization to disclose and for authorization to disclose provided by a 3rd party;
 - D. Clarifies the provisions for revocation of authorization to disclose;
 - E. Provides that disclosures to another health care practitioner or facility may take place within the office, practice or organizational entity without authorization and outside of it without authorization, except that HIV and mental health information require authorization in nonemergency circumstances;
 - F. Allows disclosure without authorization to family or household members unless expressly prohibited;
 - G. Allows disclosure without authorization for billing and insurance purposes to schools, camps, emergency services, corrections facilities and a branch of the federal or state military forces, for the purposes of making and confirming appointments or tests and for the purposes of obtaining prescription medications and supplies;
 - H. Allows disclosure without authorization to confirm admission to a health care facility and brief confirmation of general health status to the media when inquiring by name, unless expressly prohibited;
 - I. Allows disclosure without authorization to the clergy unless expressly prohibited;
 - J. Allows disclosure without authorization to members of the public inquiring by name unless expressly prohibited;
 - K. Clarifies that disclosure under the law is subject to the professional judgment of the health care practitioner;
 - L. Adds cross-references regarding authorizations to disclose;
 - M. Imposes penalties for intentional violations and repeals penalties for negligent violations;
 - N. Clarifies that other laws, rules and regulations pertaining to health care information govern that information and those entities subject to those laws, rules and regulations;

- O. Clarifies application of the provisions, making them applicable to requests, directives and authorizations executed on or after February 1, 2000, and provides a transition period for authorizations executed prior to that date until the date of the next health care encounter between the individual and the health care practitioner or facility;
- P. It requires that routine admission forms to health care facilities provide notice of the ability to remove one's name from the directory listing; and
- Q. It requires notice that removal from the directory listing could result in inability to direct telephone calls and visitors;
- R. It clarifies the ability of a health care practitioner or facility to disclose health care information pursuant to subpoena from a governmental entity.
- S. It requires that the confidentiality policies of health care facilities must provide to individuals being admitted for inpatient care notice of the right to control the disclosure of health care information.

- 3. It provides that Title 22, section 1711-C is repealed on March 1, 2002.
- 4. It provides that HIV testing and HIV status information will be governed by current law, not the more general law regarding the confidentiality of health care information of Title 22, section 1711-C.
- 5. It delays implementation of the laws on health care confidentiality until February 1, 2000.8

LD 1666 An Act to Ensure That Funds from Maine’s Medicaid Settlement with Tobacco Product Manufacturers are used to Expand Access to Health Care for Maine People ONTP

<u>Sponsor(s)</u> PINGREE	<u>Committee Report</u>	<u>Amendments Adopted</u>
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LD 1666 proposed to establish the Healthy Maine Program to provide health care coverage, Medicaid coverage and prescription drug coverage for adults 62 years of age and older, disabled persons and children. Benefits would be provided under the Healthy Maine Program, the Medicaid program and the Cub Care program. See also Public Law 1999, chapter 401, part QQ, expanding eligibility in the Cub Care program in FY 2000-01 from 150% to 185% of the federal poverty level.

LD 1668 An Act to Create the Drive ME Wheels-to-work Program CARRIED OVER

<u>Sponsor(s)</u> LAWRENCE QUINT	<u>Committee Report</u>	<u>Amendments Adopted</u>
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LD 1668 proposes to establish the Drive ME Wheels-to-work Program and require the Commissioner of Human Services to adopt rules to implement the program. The proposed program would provide loans for the purchase of used vehicles and for the purchase of repair and maintenance services to people who receive assistance through the federal Temporary Assistance for Needy Families program. The loans would be provided through