

# MAINE STATE LEGISLATURE

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**STATE OF MAINE**  
124<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



Summaries of bills, adopted amendments and laws enacted or finally passed during the First Regular Session of the 124<sup>th</sup> Maine Legislature coming from the

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

July 2009

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# STATE OF MAINE

124<sup>TH</sup> LEGISLATURE  
FIRST REGULAR SESSION



## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all bills and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 124<sup>th</sup> Maine Legislature.

The *Digest* is arranged alphabetically by committee, and within each committee by LD number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each bill title. All adopted amendments are summarized and listed by paper number. A subject index is included with each committee. The appendices include a summary of relevant session statistics, an index of all bills by LD number and an index of enacted laws by law type and chapter number.

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.....	Carried over to a subsequent session of the Legislature
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
FAILED EMERGENCY ENACTMENT/FINAL PASSAGE.....	Emergency bill failed to get 2/3 vote
FAILED ENACTMENT/FINAL PASSAGE.....	Bill failed to get majority vote
FAILED MANDATE ENACTMENT.....	Bill imposing local mandate failed to get 2/3 vote
NOT PROPERLY BEFORE THE BODY.....	Ruled out of order by the presiding officers; bill died
INDEF PP.....	Bill Indefinitely Postponed; bill died
ONTP (or Accepted ONTP report).....	Ought Not To Pass report accepted; bill died
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

The effective date for non-emergency legislation enacted in the First Regular Session of the 124<sup>th</sup> Legislature is September 12, 2009. The effective date for legislation enacted as an emergency measure is specified in the enacted law summary for those bills.

## Joint Standing Committee on Health and Human Services

3. It clarifies in the laws governing workplace smoking that "business facility" may include a private residence or unit or apartment within a residential facility during the period of time that the private residence or unit or apartment is a place of employment; and
4. It clarifies that "residential facility" means a facility licensed by the Department of Health and Human Services.

### LD 1433 An Act Regarding the Creation of Capitated Behavioral Health Pilot Programs

ONTP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
MILLS P	ONTP	

This bill establishes 2 capitated behavioral health pilot programs, one in Kennebec County and Somerset County and one in Aroostook County, to serve eligible adult residents of those counties. The programs must provide an array of behavioral health services that meets the State's obligations under the consent decree in Bates v. Harvey, Kennebec County Superior Court Civil Action Docket No. 89-88; provide a core set of behavioral health services that are necessary, efficient and effective; and reduce the use of expensive treatment options, such as inpatient hospitalization, in favor of less intensive, community-based behavioral health service. The pilot programs will be overseen by an oversight committee consisting of Legislators and evaluated by an entity with experience in evaluating capitated behavioral health systems.

### LD 1435 An Act To Amend Sentinel Events Reporting Laws To Reduce Medical Errors and Improve Patient Safety

PUBLIC 358

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BOWMAN	OTP-AM	S-248

This bill defines additional terms in the law dealing with sentinel event reporting, including "health care facility acquired infection," "immediate jeopardy," "near miss" and "root cause analysis." It also amends the definition of "sentinel event." The bill adds a list of serious reportable events derived from a publication of the National Quality Forum and requires health care facilities to report suspected sentinel events as well as sentinel events. The bill also requires hospitals to follow a standardized procedure for the identification, notification and reporting requirements and allows health care facilities to voluntarily notify the Department of Health and Human Services, Division of Licensing and Regulatory Services of the occurrence of a near miss. This bill gives immunity to a person who in good faith reports a suspected sentinel event or a sentinel event, or expresses regret or an apology to the patient or the patient's family. This bill also increases the civil penalty to no more than \$25,000, instead of \$5,000, authorizes the division to collect the civil penalty without going to court and gives the health care facility the right to request an administrative hearing to contest the imposition of a penalty. In addition, it provides injunctive relief to require compliance with the sentinel events reporting law.

#### Committee Amendment "A" (S-248)

This amendment replaces the bill. It removes the definition of "health care facility acquired infection," modifies the definitions of "major permanent loss of function" and "sentinel event" and modifies notification requirements related to transfers of patients from one facility to another. It removes provisions related to mandatory reporting of suspected sentinel events, immunity for expressions of regret or apologies, the Department of Health and Human

## *Joint Standing Committee on Health and Human Services*

Services' responsibility for determining the reportability of sentinel events and the confidentiality of records for final administrative actions. The amendment also gives the Joint Standing Committee on Health and Human Services authority to submit a bill related to the recommendations of the CY 2008 Sentinel Events report dated April 28, 2009 to the Second Regular Session of the 124th Legislature. The amendment excludes protected professional competence review information from the root cause analysis submitted to the department's Division of Licensing and Regulatory Services. It requires the division to determine whether a suspected sentinel event constitutes a sentinel event, to complete an initial review and to take other action within the jurisdiction of the division. It provides that personnel responsible for sentinel event oversight shall report to the division's licensing personnel only immediate jeopardy as defined in the Maine Revised Statutes, Title 22, section 8752, subsection 2-A and each condition of participation in the federal Medicare program related to the immediate jeopardy for which the provider is out of compliance.

It maintains the provisions related to compliance, which increases the penalty for violations and authorizes the division to collect the penalty without going to court, but reduces the penalty from the bill's proposal of \$25,000 per unreported sentinel event to \$10,000 per violation.

### **Enacted Law Summary**

Public Law 2009, chapter 358 modifies the sentinel event reporting laws. The law defines additional terms related to sentinel event reporting, including "immediate jeopardy," "near miss" and "root cause analysis" and modifies the definitions of "major permanent loss of function" and "sentinel event." It requires hospitals to follow a standardized procedure for identification, notification and reporting requirements and allows health care facilities to voluntarily notify the Department of Health and Human Services, Division of Licensing and Regulatory Services of the occurrence of a near miss. It modifies notification requirements related to transfers of patients from one facility to another. The law adds root cause analysis to the reporting requirements but includes a provision to exclude protected professional competence review information from the root cause analysis submitted to the department's Division of Licensing and Regulatory Services. The law gives immunity to a person who in good faith reports a near miss, suspected sentinel events, actual sentinel events or root cause analysis. It requires the division to determine whether a suspected sentinel event constitutes a sentinel event, to complete an initial review and to take other action within the jurisdiction of the division. The law allows the division to conduct on-site visits. Personnel responsible for sentinel event oversight shall report only immediate jeopardy to the division's licensing personnel along with each condition of participation in the federal Medicare program related to the immediate jeopardy for which the provider is out of compliance. This law also authorizes the division to collect penalties without going to court, increases the penalty to no more than \$10,000 and gives the health care facility the right to request an administrative hearing to appeal the imposition of a penalty. In addition, it provides injunctive relief to require compliance with the sentinel events reporting law. The law also gives the Joint Standing Committee on Health and Human Services authority to submit a bill related to the recommendations of the CY 2008 Sentinel Events report dated April 28, 2009 to the Second Regular Session of the 124th Legislature.

**LD 1452      Resolve, Establishing the Committee To Study the Feasibility of  
Instituting Testing for Sports-related Head Injuries**

**ONTP**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HOBBS	ONTP	

This resolve establishes the Committee To Study the Feasibility of Instituting Testing for Sports-related Head Injuries.