

# MAINE STATE LEGISLATURE

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



Summaries of bills, adopted amendments and laws enacted or finally passed

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

July 2011

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LEGISLATIVE DIGEST OF BILL SUMMARIES AND  
ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* summarizes all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 125<sup>th</sup> Maine Legislature.

The *Digest* is arranged alphabetically by committee and within each committee by Legislative Document (LD) number. The committee report(s), prime sponsor and lead co-sponsor(s), if designated, are listed below each LD 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 LD is noted to the right of the LD title. The following describes the various final actions.

*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; legislation died  
*DIED BETWEEN HOUSES*..... House & Senate disagreed; legislation died  
*DIED IN CONCURRENCE*..... defeated in each house, but on different motions; legislation died  
*DIED ON ADJOURNMENT*..... action incomplete when session ended; legislation died  
*EMERGENCY*..... enacted law takes effect sooner than 90 days after session adjournment  
*FAILED, EMERGENCY ENACTMENT or FINAL PASSAGE* ..... emergency failed to receive required 2/3 vote  
*FAILED, ENACTMENT or FINAL PASSAGE*..... failed to receive final majority vote  
*FAILED, MANDATE ENACTMENT* ..... legislation proposing local mandate failed required 2/3 vote  
*HELD BY GOVERNOR*..... Governor has not signed; final disposition to be determined at subsequent session  
*LEAVE TO WITHDRAW*..... sponsor's request to withdraw legislation granted  
*NOT PROPERLY BEFORE THE BODY*..... ruled out of order by the presiding officer; legislation died  
*INDEF PP*..... indefinitely postponed; legislation died  
*ONTP, ACCEPTED, MAJORITY, MINORITY or REPORT X*... ought-not-to-pass report accepted; legislation died  
*P&S XXX*..... chapter # of enacted private & special law  
*PUBLIC XXX*..... chapter # of enacted public Law  
*RESOLVE XXX*..... chapter # of finally passed resolve  
*VETO SUSTAINED*..... Legislature failed to override Governor's veto

The effective date for non-emergency legislation enacted in the First Regular Session of the 125<sup>th</sup> Legislature is September 28, 2011. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

**LD 1337**

**An Act To Ensure Patient Privacy and Control with Regard to Health Information Exchanges**

**PUBLIC 373**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
KATZ	OTP-AM	S-261

This bill provides for the control and use of patient information available through a health information exchange. The bill requires a health information exchange to obtain the consent of a patient prior to collecting, storing or disclosing that patient's health care information and prohibits a health care practitioner from accessing that information without prior authorization, which may be waived by the patient in an emergency. The bill requires certain information about a health information exchange to be provided to a patient, including how to access the patient's records and other information regarding those records either electronically or through other means; a health information exchange is prohibited from charging the patient a fee for accessing those records. The bill establishes a protocol for notification if a breach of the health information exchange system occurs and patient information is illegally accessed. A patient may not be denied health care treatment, insurance coverage or insurance payment or reimbursement based on the failure of the patient or the health care practitioner to participate in a health information exchange system. Evidence of participation or nonparticipation in a health information exchange system may not be used as evidence in a professional negligence action against a health care practitioner. The bill exempts from the freedom of access laws information regarding a patient retained by a health information exchange.

**Committee Amendment "A" (S-261)**

This amendment replaces the bill and removes the language in the bill that requires a patient to opt in to the state-designated statewide health information exchange and instead makes it easier for patients to opt out of the exchange. The amendment retains provisions of the bill that prohibit a health care practitioner or health insurer from refusing to provide medical assistance or insurance coverage based on a patient's decision to participate or not to participate in a health information exchange. As in the bill, the amendment also prohibits reference to the participation or nonparticipation of a health care practitioner or health care facility in a health information exchange from being used as evidence in actions for negligence or other civil actions. The health information exchange is required to establish a secure website accessible to a patient that must allow the patient to determine who accessed the patient's records and must include a method to decline participation in the exchange. The amendment also requires the health information exchange to meet or exceed all federal laws related to privacy, security and breach notification regarding personally identifiable protected health information.

**Enacted Law Summary**

Public Law 2011, chapter 373 makes a number of changes to health information exchanges.

1. It makes it easier for a patient to opt out of the state-designated statewide health information exchange.
2. The law prohibits a health care practitioner or health insurer from refusing to provide medical assistance or insurance coverage based on a patient's decision to participate or not to participate in a state-designated statewide health information exchange.
3. It prohibits reference to the participation or nonparticipation of a health care practitioner or health care facility in the state-designated statewide health information exchange from being used as evidence in actions for negligence or other civil actions.
4. The state-designated statewide health information exchange is required to establish a secure website accessible to a patient that must allow the patient to determine who accessed the patient's records and must include a method to

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

decline participation in the exchange.

5. It requires the state-designated statewide health information exchange to meet or exceed all federal laws related to privacy, security and breach notification regarding personally identifiable protected health information.

6. It exempts from the freedom of access laws information regarding a patient retained by the state-designated statewide health information exchange.

**LD 1361      Resolve, To Ensure Patient Safety in the Use of Certain Imaging Equipment**

**MAJORITY  
(ONTP) REPORT**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT	ONTP MAJ OTP-AM MIN	

This resolve requires the Advisory Committee on Radiation and the Board of Dental Examiners to review the licensing, required operator training and continuing education requirements and state oversight of cone beam computed tomography scanners, as used in dental offices. This review must include an assessment of whether current rules and practices relating to these scanners are sufficient to protect the public, including both child and adult patients. This resolve requires the Department of Health and Human Services, Maine Center for Disease Control and Prevention, Division of Environmental Health, Radiation Control Program to collect demographic information from dentists about minor patients who receive a scan from October 1, 2011 to January 1, 2012 and report this information to the committee and the board. The committee and the board shall report their findings, including any recommended legislation, to the Joint Standing Committee on Health and Human Services and the Joint Standing Committee on Labor, Commerce, Research and Economic Development no later than February 1, 2012. The Joint Standing Committee on Health and Human Services or the Joint Standing Committee on Labor, Commerce, Research and Economic Development may submit a bill to the Second Regular Session of the 125th Legislature on the subject matter of the report of the committee and the board.

**Committee Amendment "A" (H-416)**

This amendment is the minority report of the committee. The amendment requires the report on cone beam computed tomography scanner use with children to include the ages of the children. The amendment also adds an appropriations and allocations section.

**LD 1364      An Act To Improve the Quality and Reduce the Cost of Health Care**

**Carried Over**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
FITTS RAYE		

This bill directs the Department of Health and Human Services to coordinate the purchase of prescription drugs for MaineCare members through certain organizations eligible for prescription drug discounts under the federal Public Health Service Act, referred to as "340B covered entities," in order for the MaineCare program to negotiate the lowest possible prices and avoid retail markup beginning January 1, 2012. The bill provides a mechanism to calculate savings from establishing the 340B program and distribute the savings among 340B covered entities. The bill provides for routine technical rulemaking as required to implement the provisions of the bill.