

MAINE STATE LEGISLATURE

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STATE OF MAINE
126TH LEGISLATURE
SECOND REGULAR SESSION



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

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

May 2014

STAFF:

JANE ORBETON, SENIOR ANALYST
ANNA BROOME, LEGISLATIVE ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670

&

CHRISTOPHER NOLAN, LEGISLATIVE ANALYST
OFFICE OF FISCAL AND PROGRAM REVIEW
5 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1635

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STATE OF MAINE
126TH LEGISLATURE
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LEGISLATIVE DIGEST OF BILL SUMMARIES AND
ENACTED LAWS

The *Digest* is arranged 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.

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 HOUSESHouse & 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
EMERGENCYenacted 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 Second Regular Session of the 126th Legislature is August 1, 2014. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for that legislation.

Joint Standing Committee on Health and Human Services

This resolve establishes the Blue Ribbon Commission on Independent Living and Disability.

Committee Amendment "A" (H-705)

This amendment, which is the majority report of the committee, changes the membership of the Blue Ribbon Commission on Independent Living and Disability. It removes four members of the public from the membership in the resolve and replaces them with a representative of a business that is a model work place for individuals with disabilities, a representative of a statewide association of providers of services for individuals with intellectual disabilities and autism, a representative of a program serving individuals with disabilities who are members of a federally recognized Indian tribe and a representative of a statewide association of adults with developmental disabilities and autism.

Joint Order, H.P. 1361 incorporates the substance of the LD 1757 resolve and amendment, removing appointing authority for the Governor and representatives of the Department of Health and Human Services and the Office of the Attorney General. Joint Order, H.P. 1361 was passed by the Legislature.

LD 1759 Resolve, Implementing the Recommendations of the Commission To Study the Incidence of and Mortality Related to Cancer ONTP

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

This resolve extends the Commission To Study the Incidence of and Mortality Related to Cancer and requires a report by December 15, 2014. The resolve also directs the Commissioner of Health and Human Services, in conjunction with the Director of the Maine Center for Disease Control and Prevention within the Department of Health and Human Services and the Commissioner of Education, to convene a working group to develop a long-term, evidenced-based strategy to prevent obesity as a significant risk factor for cancer.

LD 1776 An Act To Implement the Recommendations of the Commission To Study Long-term Care Facilities PUBLIC 594 EMERGENCY

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	S-497 S-559 HILL

This bill implements the recommendations of the Commission To Study Long-term Care Facilities. The bill requires the Department of Health and Human Services to amend its rules governing reimbursement for nursing facilities under the MaineCare program with regard to facility base year, peer group upper limits, administrative and management cost ceiling, personnel health insurance costs, cost-of-living adjustments, supplemental payments for nursing facilities whose MaineCare residents constitute more than 70% of their residents and increased acuity for dementia. The bill requires the Department of Health and Human Services to collect amounts overpaid to nursing facilities and private nonmedical institutions under the category of cost of care and to correct the computer problems that are leading to the overpayments. The bill requires the first \$10,000,000 of collected overpayments to be used to fund nursing facility reimbursement under the amended rules. The bill also establishes two study commissions: the Commission To Continue the Study of Long-term Care Facilities and the Blue Ribbon Commission on Long-term Care. No later than October 15, 2014, the Commission To Continue the Study of Long-term Care Facilities is required to submit a report that includes its findings and recommendations, including suggested legislation, to the Blue Ribbon Commission on Long-term Care and to the Joint Standing Committee on Health and Human Services. The joint standing committee may report out a bill regarding the subject matter of the report to the First Regular Session of the 127th Legislature. No later than November 5, 2014, the Blue Ribbon

Joint Standing Committee on Health and Human Services

Commission on Long-term Care is required to submit a report that includes its findings and recommendations, including suggested legislation, to the Joint Standing Committee on Health and Human Services. The joint standing committee may report out a bill regarding the subject matter of the report to the First Regular Session of the 127th Legislature. The bill also includes an appropriations and allocations section to provide funds for reimbursement under the MaineCare program for nursing facilities.

Committee Amendment "A" (S-497)

This amendment is the unanimous report of the committee. This amendment clarifies that the rules regarding the principles of reimbursement for nursing facilities must establish a nursing facility's base year every two years and increase the rate of reimbursement beginning July 1, 2014 and every year thereafter. The amendment also clarifies that the rate of reimbursement for nursing facilities that results from amending the rules to reflect rebasing the nursing facility's base year may not result for any nursing facility in a rate of reimbursement that is lower than the rate in effect on April 1, 2014. The amendment also clarifies that the rules regarding the principles of reimbursement for nursing facilities must be amended in Sections 91 and 91.1 to provide for ongoing, annual rate changes beginning July 1, 2014 to adjust for inflation and to set the inflation adjustment cost-of-living percentage change in nursing facility reimbursement each year in accordance with the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index medical care services index. This amendment replaces the appropriations and allocations section in the bill.

Senate Amendment "A" To Committee Amendment "A" (S-521)

This amendment removes the provisions that require the Department of Health and Human Services to amend rules governing principles of reimbursement for nursing facilities as they relate to the inclusion of the costs of health insurance for nursing facility personnel. It delays by one year the supplemental payment to nursing facilities with a high percentage of MaineCare residents. It requires the Commission To Continue the Study of Long-term Care Facilities to determine the extent that collections of cost-of-care overpayments and other savings initiatives of the department have resulted in savings in excess of amounts projected to be saved in developing and reporting budget information to the Legislature or the Governor. These savings must provide a minimum of \$8,000,000 in General Fund savings in fiscal year 2014-15. This amendment replaces the appropriations and allocations section in the committee amendment.

Senate Amendment "B" To Committee Amendment "A" (S-559)

This amendment strikes the committee amendment. It incorporates the substance of the bill as amended by Committee Amendment "A," but removes the provisions that require the Department of Health and Human Services to amend rules governing principles of reimbursement for nursing facilities as they relate to the inclusion of the costs of health insurance for nursing facility personnel. It provides funding for the first year of the rate provisions of the bill based on collections of cost-of-care overpayments in excess of amounts projected to be saved in developing and reporting budget information to the Legislature or the Governor. It caps the actual rate increases to be provided in each of the next three fiscal years based on the amount appropriated by the Legislature to fund those increases. These savings are expected to provide \$4,000,000 in General Fund savings in fiscal year 2014-15. This amendment removes the Blue Ribbon Commission on Long-term Care established in the bill. This amendment replaces the appropriations and allocations section in the committee amendment. It also requires the department to carry over any debts collected in fiscal year 2014-15 in excess of \$13,000,000 to fiscal year 2015-16 to provide additional funding. Finally, the amendment requires the department to report bimonthly to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs on the department's efforts to collect the debt arising from cost-of-care overpayments.

Enacted Law Summary

Public Law 2013, chapter 594 requires the Department of Health and Human Services to amend its rules governing reimbursement for nursing facilities under the MaineCare program beginning July 1, 2014 and every year thereafter with regard to facility base year to adjust the base year every two years, peer group upper limits, administrative and management cost ceiling, cost-of-living adjustments, supplemental payments for nursing facilities whose MaineCare

Joint Standing Committee on Health and Human Services

residents constitute more than 70% of their residents and increased acuity for dementia. The law states that the rate of reimbursement for nursing facilities that results from amending the rules to reflect rebasing the nursing facility's base year may not result for any nursing facility in a rate of reimbursement that is lower than the rate in effect on April 1, 2014. The law requires that the rules regarding the principles of reimbursement for nursing facilities must be amended in Sections 91 and 91.1 to provide for ongoing, annual rate changes beginning July 1, 2014 to adjust for inflation and to set the inflation adjustment cost-of-living percentage change in nursing facility reimbursement each year in accordance with the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index medical care services index. The law requires the Department of Health and Human Services to collect amounts overpaid to nursing facilities and private nonmedical institutions under the category of cost of care and to correct the computer problems that are leading to the overpayments. The law establishes the Commission To Continue the Study of Long-term Care Facilities. No later than October 15, 2014, the Commission To Continue the Study of Long-term Care Facilities is required to submit a report that includes its findings and recommendations, including suggested legislation, to the Joint Standing Committee on Health and Human Services. The joint standing committee may report out a bill regarding the subject matter of the report to the First Regular Session of the 127th Legislature.

The law provides funding for the first year of the rate provisions based on collections of cost-of-care overpayments in excess of amounts projected to be saved in developing and reporting budget information to the Legislature or the Governor. The law caps the actual rate increases to be provided in each of the next three fiscal years based on the amount appropriated by the Legislature to fund those increases. The law requires the department to carry over any debts collected in fiscal year 2014-15 in excess of \$13,000,000 to fiscal year 2015-16 to provide additional funding. The law requires the department to report bimonthly beginning in July 2014 and ending in June 2016 to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs on the department's efforts to collect the debt arising from cost-of-care overpayments.

Public Law 2013, chapter 594 was enacted as an emergency measure effective May 1, 2014.

LD 1779 An Act Relating to Nursing Facility and Inpatient Hospice Patients and Medical Marijuana Use

PUBLIC 520

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LACHOWICZ HICKMAN	OTP-AM	S-430

This bill allows a qualifying patient to use forms of marijuana or prepared marijuana that are not smoked, including, but not limited to, vaporized marijuana, edible marijuana and tinctures and salves of marijuana, in an inpatient hospice or nursing facility and to keep forms of marijuana or prepared marijuana that are not smoked in that qualifying patient's room. The qualifying patient is not required to obtain a registry identification card in order to use a form of marijuana or prepared marijuana that is not smoked in the inpatient hospice or nursing facility.

Committee Amendment "A" (S-430)

This amendment replaces the bill. It allows a hospice provider facility or nursing facility to allow a qualifying patient to use prepared marijuana for medical use without requiring the facility to be named as a primary caregiver or the qualifying patient to obtain a registry identification card as long as the prepared marijuana is used in a form that is not smoked. The amendment allows a hospice provider facility or nursing facility to adopt a policy that restricts or prevents the use or storage of marijuana by qualifying patients residing within the facility.

Enacted Law Summary

Public Law 2013, chapter 520 allows a hospice provider facility or nursing facility to allow a qualifying patient to use prepared marijuana for medical use without requiring the facility to be named as a primary caregiver or the qualifying patient to obtain a registry identification card as long as the prepared marijuana is used in a form that is