

MAINE STATE LEGISLATURE

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STATE OF MAINE
128TH LEGISLATURE
FIRST SPECIAL, SECOND REGULAR AND SECOND SPECIAL SESSIONS



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

**JOINT STANDING COMMITTEE ON INSURANCE AND
FINANCIAL SERVICES**

October 2018

STAFF:

COLLEEN MCCARTHY REID, LEGISLATIVE ANALYST
OFFICE OF POLICY AND LEGAL ANALYSIS
13 STATE HOUSE STATION
AUGUSTA, ME 04333
(207) 287-1670
<http://legislature.maine.gov/opla/>

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STATE OF MAINE

128TH LEGISLATURE

FIRST SPECIAL, SECOND REGULAR AND SECOND SPECIAL SESSIONS



LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contain summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Special, Second Regular and Second Special Sessions of the 128th 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. An appendix provides a summary of relevant session statistics.

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 dates for non-emergency legislation enacted in the First Special, Second Regular or Second Special Sessions of the 128th Legislature are: Monday, February 5, 2018; Wednesday, August 1, 2018; and Thursday, December 13, 2018, respectively. 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 Insurance and Financial Services

**LD 453 Resolve, Regarding Insurance Coverage for Alternative Therapies for
Addiction and Recovery**

**Died Between
Houses**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GRATWICK G BROOKS H	ONTP OTP-AM	

This resolve was carried over from the First Regular Session to the Second Regular Session of the 128th Legislature.

This resolve requires the Superintendent of Insurance to convene interested parties to evaluate commercial insurance coverage for addiction treatment and recovery alternative therapies and report findings and recommendations to the Joint Standing Committee on Insurance and Financial Services before January 15, 2018. The resolve authorizes the Joint Standing Committee on Insurance and Financial Services to submit a bill to the Second Regular Session of the 128th Legislature based upon the report.

Committee Amendment "A" (S-353)

This amendment is the minority report of the committee. The amendment clarifies that the alternative therapies to be evaluated must include physical therapy, acupuncture services, chiropractic services and other services provided by licensed complementary health care providers. The amendment also changes the date the report is required to be submitted and the reference to the appropriate session of the Legislature.

LD 660 An Act To Allow Credit and Debit Card Surcharges

**Accepted Majority
(ONTP) Report**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
WHITTEMORE R FOLEY R	ONTP OTP-AM	

This bill was carried over from the First Regular Session to the Second Regular Session of the 128th Legislature.

Current law prohibits the seller in a sales transaction from imposing a surcharge on a cardholder who pays using a credit card or debit card. This bill repeals that prohibition.

Committee Amendment "A" (S-403)

This amendment is the minority report of the committee and replaces the bill. The amendment authorizes a seller in a sales transaction to impose a surcharge on a cardholder who elects to use a credit card or debit card as long as the amount of the surcharge does not exceed the costs assessed by an authorized 3rd-party payment service provider for the credit card or debit card transaction and the amount of the surcharge is clearly disclosed to the consumer prior to payment.

**LD 696 An Act To Require Notification of Adverse Changes to Prescription
Drug Formularies in Health Plans**

PUBLIC 429

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LAWRENCE M	OTP-AM	H-772

Joint Standing Committee on Insurance and Financial Services

This bill was carried over from the First Regular Session of the 128th Legislature to the Second Regular Session. This bill was again carried over from the Second Regular Session to the next special session by joint order, S.P. 748.

This bill is a concept draft pursuant to Joint Rule 208.

This bill proposes to improve the laws regarding insurance and financial services.

Committee Amendment "A" (H-772)

This amendment replaces the bill and changes the title.

Part A does the following:

1. It requires a carrier to provide notice of an adverse change to an enrollee's prescription drug formulary. At least 60 days' notice is required, except in instances in which a prescription drug is removed from the formulary because of concerns about safety. The amendment defines "adverse change to a formulary" as a change that removes a drug currently prescribed for that enrollee from the formulary applicable to the enrollee's health plan or a change that moves the prescribed drug to a tier with a higher cost-sharing requirement if the carrier uses a formulary with tiers.
2. It requires a carrier to provide an enrollee with notice of the enrollee's right to request an exception to a formulary limitation when a prescription drug is removed from the formulary and to provide a form for an enrollee to use to make an exception request.
3. It requires a carrier to honor any prior authorization for a drug that has been removed from a formulary until the approval expires, as long as the enrollee retains coverage under the same plan.
4. It provides that when a drug is removed from a formulary and if an exception request is submitted prior to the effective date of the change, a carrier shall continue to provide coverage for that drug until the carrier has rendered a decision on an enrollee's request for an exception to the formulary limitation. This requirement does not apply to drugs removed from the formulary because of concerns about safety.
5. It provides that the requirements apply to all individual and group health insurance policies and contracts issued or renewed on or after January 1, 2019.

Part B of the amendment requires any carrier as determined by the Department of Professional and Financial Regulation, Bureau of Insurance to report on any prescription drug formulary changes made in calendar year 2019 to the Bureau of Insurance no later than 30 days following the end of each quarter. The report must include a list of formulary changes made by the carrier; the prescription drugs affected by each formulary change by name and manufacturer; the number of enrollees affected by each formulary change; the expected impact of each formulary change on the cost sharing for affected enrollees; the reasons for each formulary change; the number of exception requests made by enrollees with regard to each formulary change; and the number of exception requests granted, denied or withdrawn with regard to each formulary change. The Bureau of Insurance is required to compile this data for all carriers required by the bureau to report and submit a report to the Legislature no later than 60 days following the end of each quarter. The joint standing committee of the Legislature having jurisdiction over insurance and financial services matters is authorized to report out a bill to any regular or special session of the 129th Legislature. Part B also requires the state employee health insurance program to report the same information.

Enacted Law Summary

Part A of Public Law 2017, chapter 429 does the following:

1. It requires a carrier to provide notice of an adverse change to an enrollee's prescription drug formulary. At least 60 days' notice is required, except in instances in which a prescription drug is removed from the formulary because

Joint Standing Committee on Insurance and Financial Services

of concerns about safety. The law defines "adverse change to a formulary" as a change that removes a drug currently prescribed for that enrollee from the formulary applicable to the enrollee's health plan or a change that moves the prescribed drug to a tier with a higher cost-sharing requirement if the carrier uses a formulary with tiers.

2. It requires a carrier to provide an enrollee with notice of the enrollee's right to request an exception to a formulary limitation when a prescription drug is removed from the formulary and to provide a form for an enrollee to use to make an exception request.
3. It requires a carrier to honor any prior authorization for a drug that has been removed from a formulary until the approval expires, as long as the enrollee retains coverage under the same plan.
4. It provides that when a drug is removed from a formulary and if an exception request is submitted prior to the effective date of the change, a carrier shall continue to provide coverage for that drug until the carrier has rendered a decision on an enrollee's request for an exception to the formulary limitation. This requirement does not apply to drugs removed from the formulary because of concerns about safety.
5. It provides that the requirements apply to all individual and group health insurance policies and contracts issued or renewed on or after January 1, 2019.

Part B of the law requires any carrier as determined by the Department of Professional and Financial Regulation, Bureau of Insurance to report on any prescription drug formulary changes made in calendar year 2019 to the Bureau of Insurance no later than 30 days following the end of each quarter. The report must include a list of formulary changes made by the carrier; the prescription drugs affected by each formulary change by name and manufacturer; the number of enrollees affected by each formulary change; the expected impact of each formulary change on the cost sharing for affected enrollees; the reasons for each formulary change; the number of exception requests made by enrollees with regard to each formulary change; and the number of exception requests granted, denied or withdrawn with regard to each formulary change. The Bureau of Insurance is required to compile this data for all carriers required by the bureau to report and submit a report to the Legislature no later than 60 days following the end of each quarter. The joint standing committee of the Legislature having jurisdiction over insurance and financial services matters is authorized to report out a bill to any regular or special session of the 129th Legislature. Part B also requires the state employee health insurance program to report the same information.

LD 968 An Act To Help Prevent Financial Elder Abuse

PUBLIC 390

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LONGSTAFF T CARPENTER M	OTP-AM	H-599

This bill was carried over from the First Regular Session to the Second Regular Session of the 128th Legislature.

This bill requires the form for opening a joint account at a financial institution to have for each party to the account the question, "Do you intend for the sum remaining upon your death to belong to the surviving party or parties? Yes No." Each party to the joint account must answer the question in writing on the form prior to opening the account.

Committee Amendment "A" (H-599)

This amendment replaces the bill. The amendment retains the provisions of the bill. The amendment, however, moves the provisions to a more appropriate place in the Maine Revised Statutes, Title 9-B and adds language to clarify that answers provided on the form for opening a multiple-party account do not have any effect on any legal presumptions or inferences in any civil or criminal matter.

The amendment also clarifies that the provisions apply to multiple-party accounts established or to single-party