

# MAINE STATE LEGISLATURE

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



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

**JOINT STANDING COMMITTEE ON HEALTH COVERAGE,  
INSURANCE AND FINANCIAL SERVICES**

August 2019

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# STATE OF MAINE

129<sup>TH</sup> LEGISLATURE  
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## LEGISLATIVE DIGEST OF BILL SUMMARIES AND ENACTED LAWS

This *Legislative Digest of Bill Summaries and Enacted Laws* contains summaries of all LDs and adopted amendments and all laws enacted or finally passed during the First Regular Session of the 129<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. 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 date for non-emergency legislation enacted in the First Regular Session of the 129<sup>th</sup> Legislature is Thursday, September 19, 2019. 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 Coverage, Insurance and Financial Services*

neuropsychiatric syndrome. The treatments authorized include certain treatments described as the standard of care in a series of articles in the 2017 Journal of Child and Adolescent Psychopharmacology, Volume 27, Number 7. The requirements apply to all individual and group policies and contracts issued or renewed on or after January 1, 2020.

Pursuant to Maine Revised Statutes, Title 24-A, Section 2752, the committee referred this bill to the Bureau of Insurance for review and evaluation of the financial impact, social impact and medical efficacy of the mandated health benefit proposal. This bill was carried over to any special or regular session, or both, of the 129th Legislature by joint order, H.P. 1322.

### **LD 1155 An Act To Protect Patients and the Prudent Layperson Standard**

**PUBLIC 238**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
GIDEON S FOLEY R	OTP-AM	H-372

This bill establishes a definition of "emergency medical condition" in the law governing utilization review in the Maine Insurance Code and makes clear that the determination of an emergency medical condition relies on the prudent layperson standard regardless of the final diagnosis that is given. The bill also prohibits a carrier from requiring prior authorization for emergency services and requires that utilization review of benefit determinations for emergency services be conducted by a clinical peer, who is a licensed provider in the same or similar specialty as typically manages the medical condition, procedure or treatment under review.

#### **Committee Amendment "A" (H-372)**

This amendment makes several changes to the bill, as follows.

1. It removes the reference to inadequately controlled pain and uses the phrase "severe pain" to maintain consistency with the definition used in the federal Patient Protection and Affordable Care Act.
2. It clarifies the definition of "emergency service" so that it applies to services provided in an emergency setting or facility and makes other changes to maintain consistent language within the definition.
3. It removes the reference to prior authorization for emergency services in section 2 of the bill because it is redundant with changes made in section three.
4. It clarifies that before a carrier denies benefits or reduces payment for an emergency service based on a determination of the absence of an emergency medical condition or a determination that a lower level of care was needed, the carrier's utilization review must be done by a board-certified emergency physician who is licensed in this State and that the review must include a review of the enrollee's medical record related to the emergency medical condition subject to dispute.
5. It provides that any rules adopted by the Department of Professional and Financial Regulation, Bureau of Insurance to amend current rules to conform to changes made in this legislation are routine technical rules.

#### **Enacted Law Summary**

Public Law 2019, chapter 238 establishes a definition of "emergency medical condition" and "emergency service" in the law governing utilization review in the Maine Insurance Code and makes clear that the determination of an emergency medical condition relies on the prudent layperson standard regardless of the final diagnosis that is given. The law clarifies the definition of "emergency service" so that it applies to services provided in an emergency setting or facility and makes other changes to maintain consistent language within the definition.

## *Joint Standing Committee on Health Coverage, Insurance and Financial Services*

The law also prohibits a carrier from requiring prior authorization for emergency services and requires that, before a carrier denies benefits or reduces payment for an emergency service based on a determination of the absence of an emergency medical condition or a determination that a lower level of care was needed, the carrier's utilization review must be done by a board-certified emergency physician who is licensed in this State and that the review must include a review of the enrollee's medical record related to the emergency medical condition subject to dispute.

### **LD 1162     An Act To Further Expand Drug Price Transparency**

**PUBLIC 470**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
VITELLI E TEPLER D	OTP-AM	S-252

This bill requires that, if a prescription drug has a wholesale acquisition cost of more than \$40 for a course of therapy and there is an increase in the wholesale acquisition cost of that prescription drug of more than 16%, including the proposed increase and the cumulative increases that occurred within the previous two calendar years prior to the current year, the manufacturer of the prescription drug must provide notice to certain registered purchasers.

Under current law the Maine Health Data Organization, referred to as the "organization," is required to collect and report information with regard to the 25 prescription drugs that are the most frequently prescribed in the State, the 25 costliest as determined by the total amount spent on those drugs in the State and the 25 drugs that have the highest year-over-year cost increases in total spending in the State. This bill requires the organization to post online a list of the identified prescription drugs, along with the corresponding wholesale acquisition cost and the percentage of wholesale acquisition cost increase, if applicable, for each identified prescription drug.

The bill directs the organization to develop a plan to collect data from manufacturers that will help explain how prescription drug prices are established. The organization is required to work with other state and national agencies and organizations to determine how to conduct the data collection. The organization is required to submit the plan as well as any recommendations for legislation to the joint standing committee of the Legislature having jurisdiction over judiciary matters by April 1, 2020. That committee may report out legislation to the First or Second Regular Session of the 130th Legislature.

Using the plan developed and reported to the Legislature, starting in 2021 the organization must require the manufacturer of each drug on the list to disclose drug production, research and development costs, marketing and advertising costs and actual costs paid by purchasers. The manufacturer must certify the accuracy of the information and provide it within 60 days after the information is requested by the organization. The organization is authorized to request additional information related to the required information. The information that the manufacturers are directed to provide to the organization, unless the information is already publicly accessible or available or previously released in the public domain, must be held confidential at the request of the manufacturer. The organization may release information that was previously accessible or available or released in the public domain. The organization may release additional information as long as the information released is not a trade secret. The organization must treat the information as "Level II" information as required by rules that have already been adopted by the organization.

This amendment provides that the manufacturer may voluntarily provide any other information the manufacturer determines relevant to the increase in wholesale acquisition cost, including but not limited to information about all manufacturer-sponsored assistance programs for that drug in the previous year, including the terms of the programs, the total amount of financial assistance provided to residents of the State and the average amount of assistance per resident of the State for whom assistance was provided. This information is not considered confidential and the