

MAINE STATE LEGISLATURE

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STATE OF MAINE
129TH LEGISLATURE
FIRST REGULAR SESSION



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

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

August 2019

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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 129th 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 129th 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 and Human Services

LD 1308 **An Act To Better Fund Nursing Homes in the State To Better Help the Elderly and Disabled** **ONTP**

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

This bill is a concept draft pursuant to Joint Rule 208. This bill proposes to enact measures designed to improve the funding of nursing homes in the State.

LD 1309 **An Act To Index MaineCare Reimbursement to Nursing Homes and Other Adult Care Facilities to Increases in the Minimum Wage** **ONTP**

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

This bill increases the reimbursement rates under the MaineCare program to nursing facilities, adult family care homes and residential care facilities by the amount of the minimum wage increase that occurs on January 1st of each year as outlined in the Maine Revised Statutes, Title 26, section 664, subsection 1. The increases in reimbursement rates must be retroactive to the date of the increase in the minimum wage.

LD 1313 **An Act To Enact the Maine Death with Dignity Act** **PUBLIC 271**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
HYMANSON P WOODSOME D	OTP-AM ONTP	H-305

This bill enacts the Maine Death with Dignity Act authorizing a person who is 18 years of age or older, who meets certain qualifications and who has been determined by the person's attending physician to be suffering from a terminal disease, as defined in the Act, to make a request for medication prescribed for the purpose of ending the person's life. The bill establishes the procedures for making these requests, including two waiting periods and one written and two oral requests and requires a second opinion by a consulting physician. The bill requires specified information to be documented in the person's medical record, including all oral and written requests for a medication to hasten death.

The bill requires the attending and consulting physicians to assess the patient for depression or other mental health condition that impairs judgment. If the attending or consulting physician, in the physician's professional opinion, believes such a condition exists, the patient must be evaluated and treated by a state-licensed psychiatrist, psychologist, clinical social worker or clinical professional counselor. Medication to end a patient's life in a humane and dignified manner may not be prescribed until the person performing the counseling determines that the patient is not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

The bill prohibits a provision in a contract, will or other agreement from being conditioned upon, or affected by, a person's making or rescinding a request for medication under the Act. The bill prohibits the sale, procurement or issuance of any life, health or accident insurance or annuity policy or the rate charged for any life, health or accident insurance or annuity policy from being conditioned upon or affected by the making or rescinding of such a request.

The bill authorizes a health care provider to prohibit its employees, independent contractors or other persons or

Joint Standing Committee on Health and Human Services

entities, including other health care providers, from participating in activities under the Act while on premises owned by or under the management or direct control of that prohibiting health care provider or while acting within the course and scope of any employment by, or contract with, the prohibiting health care provider.

The bill makes it a Class A crime to knowingly alter or forge a request for medication to end a person's life without that person's authorization or to conceal or destroy a withdrawal or rescission of a request for medication, if it is done with the intent or effect of causing the person's death. The bill makes it a Class A crime to knowingly coerce or exert undue influence on a person to request medication for the purpose of ending that person's life or to destroy a withdrawal or rescission of a request. The bill provides that the Act does not authorize ending a patient's life by lethal injection, mercy killing or active euthanasia and provides that action taken in accordance with the Act does not constitute, among other things, suicide or homicide.

The bill requires health care providers to submit specified information to the Department of Health and Human Services upon their writing a prescription for or dispensing medication under the Act and after the death of the qualified patient. The bill requires the department to generate and make available to the public an annual statistical report of information collected regarding compliance with the Act. The bill requires a copy of the report to be submitted to the joint standing committee of the Legislature having jurisdiction over health matters annually by March 1st.

Committee Amendment "A" (H-305)

This amendment is the majority report of the committee and makes the following changes to the bill.

1. It creates in the Maine Criminal Code affirmative defenses to prosecution for aggravated attempted murder, for murder and for aiding or soliciting suicide. A person may raise an affirmative defense to prosecution for these crimes if that person's conduct was expressly authorized by the Maine Revised Statutes, Title 22, chapter 418. The amendment also strikes from the bill language that creates new Class A crimes and other penalty language, as the prohibited conduct described is sufficiently covered by existing statute.
2. It changes the rule-making authority of the Department of Health and Human Services for rules for the collection of information from routine technical to major substantive.
3. It makes technical changes to the provisions regarding insurance in order to conform to current Maine law.
4. It allows the physician completing the patient's death certificate to determine the cause of the death recorded on the certificate.
5. It clarifies that an individual health care provider may choose not to participate in providing medication to end a qualified patient's life but, if the patient requests the medical records be provided to another health care provider, the records must be transferred.
6. It includes the Board of Osteopathic Licensure in the list of appropriate licensing boards.

Enacted Law Summary

Public Law 2019, chapter 271 enacts the Maine Death with Dignity Act authorizing a person who is 18 years of age or older, who meets certain qualifications and who has been determined by the person's attending physician to be suffering from a terminal disease, as defined in the Act, to make a request for medication prescribed for the purpose of ending the person's life. It establishes the procedures for making these requests, including two waiting periods and one written and two oral requests and requires a second opinion by a consulting physician. It requires specified information to be documented in the person's medical record, including all oral and written requests for a medication to hasten death.

The law requires the attending and consulting physicians to assess the patient for depression or other mental health

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condition that impairs judgment. If the attending or consulting physician, in the physician's professional opinion, believes such a condition exists, the patient must be evaluated and treated by a state-licensed psychiatrist, psychologist, clinical social worker or clinical professional counselor. Medication to end a patient's life in a humane and dignified manner may not be prescribed until the person performing the counseling determines that the patient is not suffering from a psychiatric or psychological disorder or depression causing impaired judgment.

The law prohibits a provision in a contract, will or other agreement from being conditioned upon, or affected by, a person's making or rescinding a request for medication under the Act. It prohibits the sale, procurement or issuance of any life, health or accident insurance or annuity policy or the rate charged for any life, health or accident insurance or annuity policy from being conditioned upon or affected by the making or rescinding of such a request.

The law authorizes a health care provider to prohibit its employees, independent contractors or other persons or entities, including other health care providers, from participating in activities under the Act while on premises owned by or under the management or direct control of that prohibiting health care provider or while acting within the course and scope of any employment by, or contract with, the prohibiting health care provider. An individual health care provider may choose not to participate in providing medication to end a qualified patient's life but, if the patient requests the medical records be provided to another health care provider, the records must be transferred.

The law creates in the Maine Criminal Code affirmative defenses to prosecution for aggravated attempted murder, for murder and for aiding or soliciting suicide. A person may raise an affirmative defense to prosecution for these crimes if that person's conduct was expressly authorized by the Maine Revised Statutes, Title 22, chapter 418.

The law requires health care providers to submit specified information to the Department of Health and Human Services upon their writing a prescription for or dispensing medication under the Act and after the death of the qualified patient. The department shall generate and make available to the public an annual statistical report of information collected regarding compliance with the Act. A copy of the report must be submitted to the joint standing committee of the Legislature having jurisdiction over health matters annually by March 1st.

LD 1315 An Act To Support Medically Monitored Crisis Support and Intervention

**HELD BY
GOVERNOR**

Sponsor(s)

GATTINE D

Committee Report

OTP-AM

Amendments Adopted

H-351

This bill directs the Department of Health and Human Services to provide for an enhanced crisis stabilization reimbursement rate under the MaineCare program for medically monitored crisis support and intervention provided to persons 18 years of age or older with mental health and co-occurring substance use disorders who voluntarily seek treatment.

Committee Amendment "A" (H-351)

This amendment clarifies that the Department of Health and Human Services must establish a rate under the MaineCare program that is sufficient to provide medically monitored crisis support and intervention to an adult. The rate must be established in rule by December 31, 2019.