

Home Care & Hospice

ALLIANCE OF MAINE



2017

SUMMARY OF SELECTED LAWS

*Enacted During the First Regular Session
of the 128th Maine Legislature*

List of Public Laws 2017

This list below is in order of the L.D. (bill number).

P.L., Ch. 122 *An Act To Add an Exception to Prescription Monitoring Program*
(L.D. 273) *Requirements*

Summary: This law provides the following exceptions to the requirements to check prescription monitoring information:

- A. When a licensed or certified health care professional directly orders or administers a benzodiazepine or opioid medication to a person in an emergency room setting, an inpatient hospital setting, a long-term care facility or a residential care facility; or
 - B. When a licensed or certified health care professional directly orders, prescribes or administers a benzodiazepine or opioid medication to a person suffering from pain associated with end-of-life or hospice care.
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P.L., Ch. 284 *An Act Making Unified Appropriations and Allocations for the Expenditures of*
(L.D. 390) *State Government, General Fund and Other Funds and Changing Certain*
Emergency Enacted *Provisions of the Law Necessary to the Proper Operations of State Government*
July 4, 2017 *for the Fiscal Years Ending June 30, 2018 and June 30, 2019*

Summary: This is the FY 2018-2019 Biennial Budget Bill. The over 830-page proposal included several policy initiatives the Governor has advanced throughout his six years in office. Many of the measures found in the budget struck a discord with the members of the Legislature, causing a temporary state government shutdown and the unprecedented convention of four special legislative "Committees of Conference," whose six members were appointed by the presiding officers and were effectively delegated budget negotiation authority. The compromise budget was finally adopted by the Legislature and signed into law by the Governor on July 4. Key issues in the bill were cuts to the Fund for Healthy Maine, reductions in hospital payments and K-12 funding.

Of note for home care providers, the budget included funding for increased reimbursement rates for Home-based and Community-based Services (originally LD 643). The funding brings the total amount of increased revenue to nearly \$15M over the past 3 years. The Alliance will continue efforts to secure the \$18M that is consistent with the recommendations made by Burns & Associates, Inc. in its report "Rate Review for Personal Care and Related Services: Final Rate Models" dated February 1, 2016.

P.L., Ch. 290 *An Act To Promote Workforce Participation*
(L.D. 481)

Summary: This law increases the amount of income earned by recipients of benefits under the Temporary Assistance for Needy Families (TANF) program that is disregarded in determining the amount of benefits they receive. The amount of the disregard is lowered over time as recipients make the transition to stable employment.

P.L., Ch. 80
(L.D. 801)

Emergency Enacted
May 26, 2017

***An Act To Allow a Physical Therapist To Administer Certain
Coagulation Tests in a Patient's Home***

Summary: A bill initiated by the Alliance, is now a law that allows a person licensed as a physical therapist, as part of an evaluation of a person in preparation for treatment by the physical therapist, perform a finger stick blood test in the person's home to assess blood clotting levels of that person. If a person licensed as a physical therapist performs a finger stick blood test pursuant to this section, that person shall communicate the test results to the prescribing health care practitioner. Only the health care practitioner may interpret the test results, determine whether a change is needed in the person's plan of care and make decisions with respect to medication adjustments.

P.L., Ch. 213
(L.D. 1031)

Emergency Enacted
June 16, 2017

An Act To Clarify the Opioid Medication Prescribing Limits Laws

Summary: Public Law 2015, Chapter 488 requires that, beginning July 1, 2017, the aggregate amount of opioid medication prescribed to a patient may not be in excess of 100 morphine milligram equivalents per day and directs the Department of Health and Human Services to adopt rules establishing reasonable exceptions to those prescriber limits. This law makes the following changes to the laws relating to the Controlled Substances Prescription Monitoring Program and limits on opioid prescribing.

1. In the laws governing the Palliative Care and Quality of Life Interdisciplinary Advisory Council, it changes the definition of "palliative care" to clarify that palliative care does not always include a requirement for hospice care or attention to spiritual needs and includes chronic, unremitting or intractable pain such as neuropathic pain as an example of "serious illness."
2. It changes the definition of "dispenser" to remove healthcare professionals.
3. It removes the requirement to submit to the Department of Health and Human Services information regarding a controlled substance that is dispensed by a hospital emergency department for use during a period of 48 hours or less.
4. It adds to the list of individuals who can access the Controlled Substances Prescription Monitoring Program information the staff members of a group practice of prescribers who are authorized by a designated group practice leader, insofar as the information relates to a patient receiving care from that group practice.
5. It removes the requirement for a dispenser to notify the Controlled Substances Prescription Monitoring Program if the dispenser has reason to believe that a prescription is fraudulent or duplicative, maintaining the requirement that the dispenser contact the prescriber.
6. It clarifies that the requirement to check the Controlled Substances Prescription Monitoring Program does not apply for surgical procedures, rather than only inpatient surgery.
7. It clarifies that dispensing in connection with surgical procedures is exempt from the 100 morphine milligram equivalents limitation on opioids.

8. It clarifies that an opioid product that is labeled by the federal Food and Drug Administration to be dispensed only in a stock bottle that exceeds a 7-day supply may be prescribed as long as the amount dispensed does not exceed a 14-day supply.

9. It makes all rules related to the Controlled Substances Prescription Monitoring Program major substantive rules except that the Department of Health and Human Services is directed to adopt routine technical rules to conform to the changes in the definition of "dispenser" and the removal of the requirement of a pharmacist to notify the program when a prescription appears fraudulent or duplicative.

P.L., Ch. 312 *An Act To Restore Public Health Nursing Services*
(L.D. 1108)

Summary: This law requires the Department of Health and Human Services to promptly fill all public health nurse positions within the Public Health Nursing Program for which funding is provided. It prohibits the transfer or otherwise repurposing of any funds appropriated or allocated for the salaries, benefits and other costs of public health nurses and the services they provide. It changes reporting deadlines for the Director of the Public Health Nursing Program under the Department of Health and Human Services to report to the Health and Human Services Committee on the progress of the department in achieving full staffing of the Public Health Nursing Program. The amendment also removes the appropriations and allocations section.

P.L., Ch. 145 *An Act To Amend the Laws Governing Nursing Facilities To Permit Nurse Practitioners, Clinical Nurse Specialists and Physician Assistants to Perform*
(L.D. 1134) *Certain Physician Tasks*
Emergency Enacted
June 8, 2017

Summary: As enacted, this law provides that, in accordance with federal regulations:

1. For nursing home residents receiving skilled nursing facility level services, a physician assistant, nurse practitioner or clinical nurse specialist may provide medically necessary visits, certifications and recertifications and required visits that alternate with those performed by a physician if delegated by a physician; and
 2. For nursing home residents receiving nursing facility level services, a physician assistant, nurse practitioner or clinical nurse specialist may perform any physician task.
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P.L., Ch. 258 *An Act To Adopt the Nurse Licensure Compact*
(L.D. 1410)

Summary: This law enacts the Interstate Medical Licensure Compact. The compact provides a mechanism by which a physician licensed in one member state may apply for and receive an expedited license in another member state.

P.L., Ch. 276 *An Act To Make Community Paramedicine Services Permanent*
(L.D. 1427)

Summary: This law allows Maine EMS board may establish community paramedicine services. "Community Paramedicine" is defined as the practice of an emergency medical services provider primarily in an out-of-hospital setting. That provider would be allowed to provide episodic patient evaluation, advice and treatment directed at preventing or improving a particular medical condition, within the scope of practice of the emergency medical services provider as specifically requested or directed by a physician.

P.L., Ch. 162
(L.D. 1477)

An Act To Coordinate and Enforce Existing Workplace Training Requirements

Summary: In addition to employer responsibilities set forth in rules adopted under Title 5, section 4572, this law requires all employers to ensure a workplace free of sexual harassment by implementing the minimum requirements, including workplace posting, employee notification and education and training.

P.L., Ch. 307
(L.D. 1485)

An Act Regarding MaineCare Coverage for Telehealth Services

Summary: This law establishes an advisory group, the Maine Telehealth and Telemonitoring Advisory Group, within the Department of Health and Human Services to study telehealth and telemonitoring.

List of Carry Over Bills 2017

[LD 442](#) [An Act To Create a Family Caregiver Income Tax Credit](#)

Summary: This bill provides an income tax credit for certain eligible expenditures incurred by a family caregiver for the care and support of an eligible family member 18 years of age or older. Eligible expenditures include the improvement of or alteration to the caregiver's primary residence to permit the eligible family member to remain mobile, safe and independent in the home and community; purchase or lease of equipment necessary to assist the eligible family member; and costs incurred to assist the caregiver to provide care to an eligible family member, such as expenditures related to hiring a home care aide, respite care, adult day care and transportation and for technology to assist the family caregiver to care for the eligible family member.

To be eligible for the tax credit, a family caregiver must have a federal adjusted gross income of less than \$75,000 (\$150,000 if head of household or is filing a married joint return).

The amount of the credit is equal to the eligible expenditures incurred by the eligible caregiver during the taxable year up to a maximum of \$2,500.

[LD 692](#) [Resolve, To Provide Meals to Homebound Individuals](#)

Summary: This resolve provides for the appropriation of funding to provide meals from the Meals on Wheels program to additional homebound individuals. This resolve also establishes a work group to research food access barriers and make recommendations about how to leverage resources to ensure regular, adequate nutrition for homebound individuals in the State and to forecast future demand and identify the appropriate level of funding in the future.

[LD 842](#) [Resolve, To Support Home Health Services](#)

Summary: This resolve directs the Department of Health and Human Services to increase the rates for home health services under the MaineCare Benefits Manual, Chapter II, Section 40 by 30%.

[LD 998](#) [An Act To Adequately Pay for Emergency Medical Services](#)

Summary: This bill requires the Department of Health and Human Services to work with emergency medical services providers in the State to define, and provide reimbursement under MaineCare for, community paramedicine services that do not involve transporting patients.

[LD 1188](#) [An Act To Facilitate MaineCare-Funded Assisted Living by Providing a Cost-of-living Adjustment to Private Nonmedical Institutions and Adult Family Care Homes](#)

Summary: This bill provides funds to the Department of Health and Human Services to give adult family care homes, residential care facilities and certain private nonmedical institutions a 4% cost-of-living rate increase for the state fiscal year ending June 30, 2018 and an additional cost-of-living increase for the state fiscal year ending June 30, 2019 based on a projected increase in the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index medical care services index. Annual cost-of-living adjustments are to be provided by rule for each fiscal year thereafter in accordance with the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index medical care services index.

An Act To Address Severe and Ongoing Shortfalls in the Funding of Direct Care Workers in Long-term Care Settings and To Establish the Commission To Study Long-term Care Workforce Issues

Summary: This bill directs the Department of Health and Human Services to increase MaineCare payment rates to the levels necessary to fully fund and implement the recommendations in "Rate Review for Personal Care and Related Services: Final Rate Models," the report prepared by Burns & Associates, Inc. dated February 1, 2016. For fiscal year 2018-19, these payment rates are increased by an additional 10%. The bill directs the department to increase MaineCare payment rates for certain adult family care services, adult day services and homemaker services, including those set forth in 10-144, Chapter 101: MaineCare Benefits Manual, Chapter III, Section 2, Adult Family Care Services; Chapter III, Section 26, Day Health Services; and in 10-149 Chapter 5: OADS Policy Manual, Section 61, Adult Day Services and Section 69, Independent Support Services Program. For fiscal year 2017-18, payment rates will be increased by 10%. For fiscal year 2018-19, these payment rates will be increased by an additional 10%.

The bill directs the department to increase MaineCare payment rates for nursing facilities set forth in 10-144, Chapter 101: MaineCare Benefits Manual, Chapter III, Section 67, Principles of Reimbursement for Nursing Facilities. For fiscal year 2017-18, an extraordinary circumstance supplemental allowance will be made that is equal to 10% of the portion of each facility's prospective and final prospective rate that is attributable to wages and wage-related benefits in both the direct care cost component and routine care cost component. For fiscal year 2018-19, an additional extraordinary circumstance supplemental allowance of 10% will be made. In each year, this supplemental allowance will be provided as part of each facility's prospective rate, notwithstanding any otherwise applicable caps or limits on reimbursement. This supplemental allowance will also be allowed and paid at final audit to the full extent that the facility has reported increased costs for wages and wage-related benefits, notwithstanding any otherwise applicable caps or limits on reimbursement, including without limitation the amount of the supplemental allowance added to prospective payment rates.

The bill directs the department to increase MaineCare payment rates for facilities set forth in 10-144, Chapter 101: MaineCare Benefits Manual, Chapter III, Section 97, Appendix C, Principles of Reimbursement for Medical and Remedial Service Facilities; and 10-144, Chapter 115: Principles of Reimbursement for Residential Care Facilities - Room and Board Costs. For fiscal year 2017-18, a supplemental payment will be provided equal to 10% of the portion of the facility's per diem rate that is attributable to wages, wage-related benefits and workers' compensation. For fiscal year 2018-19, an additional supplemental payment of 10% will be provided. In each year, this supplemental payment will be added to the per diem rate until the department adjusts the direct care pricer, the routine limit and the personal care services limit, as applicable, to incorporate this 10% increase going forward. In each year, this increase will be provided as part of each facility's per diem rate notwithstanding any otherwise applicable caps or limits on reimbursement. In each year, this supplemental payment will also be allowed and paid at final audit to the full extent that the facility has reported increased costs for wages, wage-related benefits and workers' compensation, notwithstanding any otherwise applicable caps or limits on reimbursement, including without limitation the amount of the supplemental payment added to prospective payment rates.

The bill also establishes the Commission To Study Long-term Care Workforce Issues.

Introduction

The First Regular Session of a Legislature is always the “long” session because it is scheduled to end in June, as opposed to the Second Regular Session, which is scheduled to end in April. This Session will likely be remembered for the bitter fight over the state’s biennial budget – a fight that culminated in a three-day shutdown before a compromise emerged.

Lawmakers also spent a significant amount of time working on the unusual task of trying to rewrite or repeal four different referendum questions that had been approved by voters last November.

During the session, legislators tackled some 1,600 bills submitted for consideration, but passed only 285 into law, or roughly 17 %. Most of those involved minor changes or additions to existing laws that likely won’t have much impact on the overwhelmingly majority of Mainers. But as is typically the case for legislative sessions, a small number of bills accounted for the lion’s share of debate.

Included with this packet, we have provided a list of the Public Laws and Carry Over Bills with a link to each of them.

The effective date for non-emergency legislation enacted in the First Regular Session of the 128th Legislature is Wednesday, November 1, 2017. The effective date for legislation enacted as an emergency measure may be found in the enacted law summary for the at legislation

For a complete listing and text (once finalized) of all the laws passed during the session, go to <http://www.maine.gov/legis/opla/legdig128th-1st.htm>.

Thank you to the members of the Alliance’s Government Affairs Committee, as well as all members who engaged in advocacy efforts on behalf of the Alliance during the past session.

advocacy
to change “what is”
into “what should be”