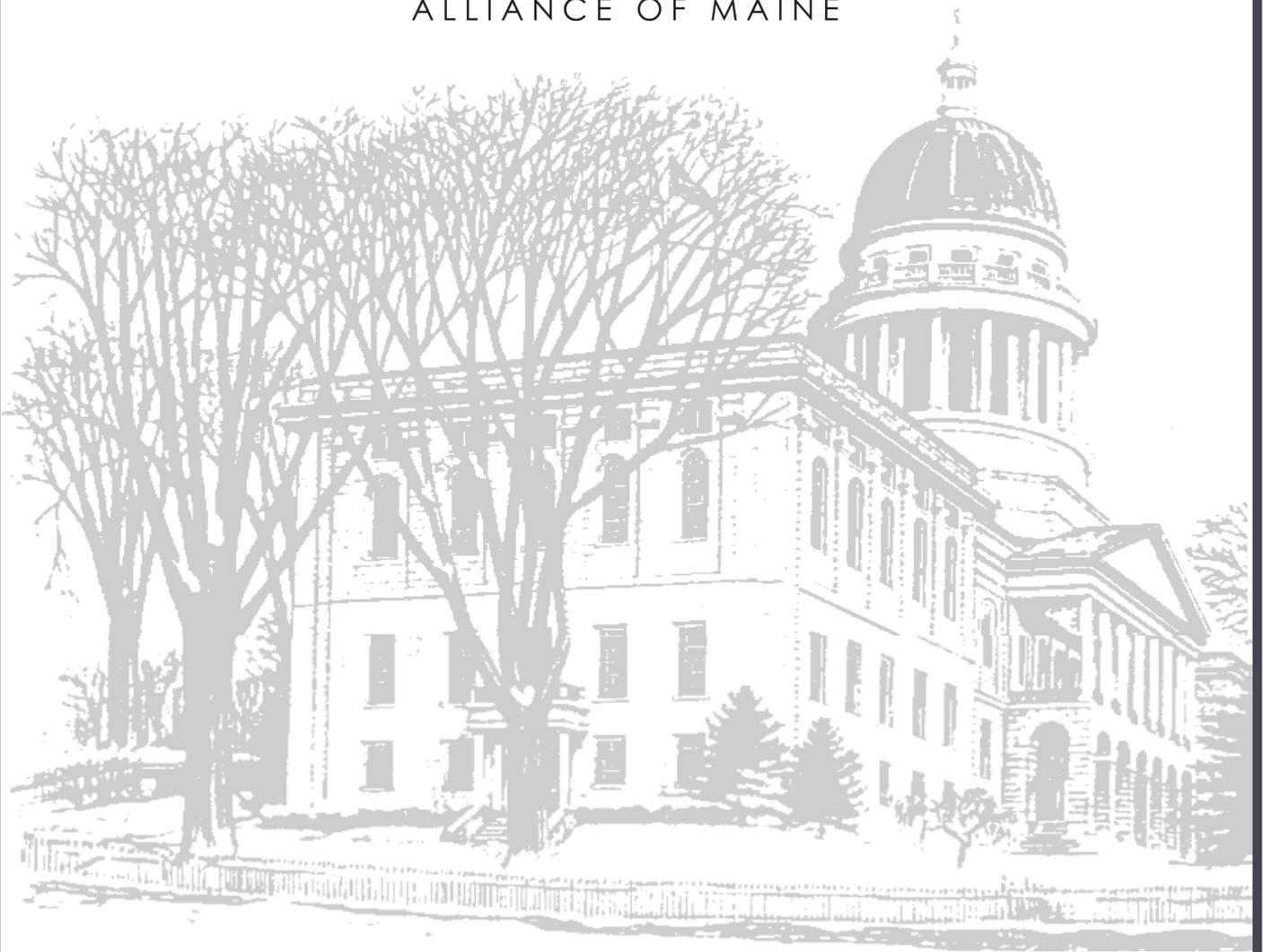


**Home Care
& Hospice**
ALLIANCE OF MAINE



2015

SUMMARY OF SELECTED LAWS

**Enacted During the First Regular Session
of the 127th Maine Legislature**

Introduction

The First Regular Session of the 127th Maine Legislature convened at the State House on December 3, 2014 and adjourned *sine die* (without assigning a day for a further meeting or hearing) on Thursday, July 16, 2015---just about a month after statutory (scheduled) adjournment. The Legislature considered nearly 1,600 bills during the session. The general effective date for non-emergency laws passed in this session is Thursday, October 15, 2015.

The following are the Alliance highlights from the session.

- Worked to successfully kill a bill that would allow facilities licensed under Title 22, chapter 405 to provide a continuum of care and services to clients residing in facilities without requiring the creation of a licensed home health agency and without having to seek approval of area licensed home health agencies.
- Supported collaborative efforts to defeat a bill that would authorize municipalities to impose service charges on tax-exempt property owned by certain nonprofit organizations.
- Monitored a bill that would revise the requirements for an emergency medical services provider who conducts a community paramedicine pilot project. The bill, which passed into law, also removes a provision limiting the number of pilot projects.
- Advocated for a bill, now law, that establishes the Palliative Care and Quality of Life Interdisciplinary Advisory Council. The Council would establish an information and education program to maximize the effectiveness of palliative care initiatives by ensuring that comprehensive and accurate information and education are available. The first meeting of the advisory council will be by October 1, 2015.
- Mobilized Alliance members to advocate for increasing reimbursement rates for home-based and community-based services. The language, originally LD 886, was passed in the Governor's \$6.2 billion SFY 2016-2017 biennial budget.
- Granted a "carryover request" to address reimbursement rates for professional home care/home health staff.
- Successfully passed legislation that would allow for hiring nurses upon graduation, rather than the 1 year wait period now in effect.
- Lobbied for a bill that proposed to establish an interagency comprehensive background check program to protect Maine citizens vulnerable to abuse, neglect or exploitation. The bill, which passed into law, creates the Background Check Center.

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

For a complete listing and text (once finalized) of all the laws passed during the session, go to <http://www.maine.gov/legis/opla/legdig126th-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.

Fast Facts from the 127th Legislature

Primary Election Day - June 10, 2014

Election Day - November 4, 2014

Convene

127th First Regular Session - Wednesday, December 3, 2014

127th Second Regular Session - Wednesday, January 6, 2016

Adjourned

127th First Regular Session - Thursday, July 16, 2015 @ 5:58 p.m.

127th Second Regular Session - Statutory Adjournment is Wednesday, April 20, 2016

Cloture date - 127th First

Legislators (Complete Form) - Set by Joint Rule 202 - Friday, January 2, 2015 @ 4:00 p.m.

Departments/Agencies (Final Drafts) - Set by Joint Rule 204 - Same Governor - Wednesday, December 3, 2014 @ 4:00 p.m.

Cloture date - 127th Second

Legislators (Title & Summary) - Friday September 25, 2015 @ 4:00 p.m.

Departments/Agencies (Final Drafts) - Friday September 25, 2015 @ 4:00 p.m.

Effective date - non-emergency legislation

127th First Regular Session - Thursday, October 15, 2015 @ 12:01 a.m.

127th Second Regular Session - 90 days after adjournment.

House

77 Democrats

67 Republicans

4 Independents 2 Unenrolled

1 Vacancy

Senate

20 Republicans

15 Democrats



List of Public Laws 2015

[P.L., Ch. 92](#) (L.D. 629)

An Act Regarding Community Paramedicine Pilot Projects

Summary: The law amends current language by removing a provision limiting the number of pilot projects and the duration of them.

[P.L., Ch. 196](#) (L.D. 1426)

An Act Regarding the Maine Registry of Certified Nursing Assistants and Direct Care Workers

Summary: This law amends the Maine Registry of Certified Nursing Assistants and Direct Care Workers in the following ways.

1. It clarifies the circumstances under which a person employed as a direct care worker is listed on the registry.
2. It amends the requirements for listing certified nursing assistants and direct care workers.
3. It requires employers to verify that an individual listed on the registry is eligible for employment as a certified nursing assistant or direct care worker.
4. It consolidates information and aligns language used across programs based on federal and state laws related to background checks, disqualifying offenses, prohibited employment, criminal convictions and substantiated findings related to complaints of abuse, neglect or misappropriation of property.
5. It describes the process of identifying the disqualifying offenses that adversely affect an individual's eligibility for employment as a certified nursing assistant or direct care worker.
6. It establishes the department's authority to adopt eligibility for listing on the registry and other requirements by rule.
7. It establishes statutory background check requirements and employment restrictions based on disqualifying offenses, including criminal convictions.
8. It replaces current ambiguous statutory language that bases employment bans on the length of the sentence that may be imposed with a requirement that the department adopt by rule a table of named crimes that form the rational basis for employment bans based on convictions.
9. It requires the department to adopt rules that list nondisqualifying criminal convictions that do not ban employment leaving hiring decisions to employer discretion.
10. It provides that disqualifying criminal convictions result in 10-year or 30-year employment bans and that the length of an employment ban may be shortened by filing a petition with the department to lift an employment ban prior to its expiration.
11. It consolidates complaint investigation requirements.

P.L., Ch. 203 (L.D. 782)

An Act To Improve the Quality of Life of Persons with Serious Illnesses

Summary: This law establishes the Palliative Care and Quality of Life Interdisciplinary Advisory Council to advise the Department of Health and Human Services, Maine Center for Disease Control and Prevention and report to 3 legislative committees. It requires the Maine Hospice Council, if resources permit, to establish an information and education program to maximize the effectiveness of palliative care initiatives by ensuring that comprehensive and accurate information and education are available and allows the council to seek outside funding for the advisory council. Further, it requires the executive director of the Maine Hospice Council to convene the first meeting of the advisory council by October 1, 2015.

P.L., Ch. 260 (L.D. 636)

An Act To Provide Consumers of Health Care with Information Regarding Health Care Costs

Summary: This law requires all health insurance carriers offering individual and group health plans to provide certain information with respect to prescription drug coverage to prospective enrollees and enrollees on its publicly accessible website. As passed into law, it requires carriers to post each prescription drug formulary for each health plan in a manner that allows enrollees to determine whether a particular prescription drug is covered under a formulary. It also requires carriers to provide information about utilization review, prior authorization or step therapy, cost-sharing, exclusions from coverage and the amount of coverage for out-of-network providers or noncovered health care services.

P.L., Ch. 299 (L.D. 1439)

An Act To Establish a Secure Internet-based Background Check Center for Providers of Long-term Care, Child Care and In-home and Community-based Services

Summary: As passed into law, Maine will establish an interagency comprehensive background check program to protect Maine citizens vulnerable to abuse, neglect or exploitation by individuals in positions of trust who are charged with the physical and financial care of these individuals. Providers are required to perform background checks prior to hiring new direct care workers as well as current on direct access personnel.

The law creates the Background Check Center, which allows direct access care providers to secure background information from abuse and neglect databases, sex offender registries, the registry of certified nursing assistants and direct care workers, professional licensing authorities, Medicare and Medicaid exclusion databases and criminal history record repositories.

The law enables the Background Check Center to provide a report that identifies offenses that disqualify an individual from employment as a direct access worker.

The law authorizes a system of continued criminal record monitoring through a rap back program to ensure that employers are informed of any new disqualifying criminal offense that may occur after a direct access worker's initial background check.

The law provides for a conditional employment process that allows direct access workers to correct inaccurate background check report records and procedures to gradually implement background checks for current employees.

The law outlines compliance requirements including penalties and the impact of violations on provider licensing for noncompliance with the requirements.

The law amends existing background check and prohibited employment laws to use consistent language across all areas affected by the laws.

P.L., Ch. 340 (L.D. 787) **An Act To Provide Tax Credits for Adult Day Care and Respite and Hospice Care**

Summary: The new law expands the income tax credit for child and dependent care expenses to include expenses paid for adult day care, respite care and hospice care.

P.L., Ch. 348 (L.D. 1337) **An Act To Fully Fund the Family Caregiver Respite Program**

Summary: This law provides additional General Fund appropriations of \$182,000 in fiscal year 2015-16 and \$243,000 in fiscal year 2016-17 for the Department of Health and Human Services to fully fund the family caregiver support program within the department's office of aging and disability services. This appropriation is intended to eliminate the waiting list for the family caregiver support program in fiscal year 2015-16 and meet the growing demand for the program in fiscal year 2016-17.

P.L., Ch. 370 (L.D. 666) **An Act To Allow a Patient To Designate a Caregiver in the Patient's Medical Record**

Summary: This law allows a patient admitted to a hospital to designate a caregiver, who may provide aftercare for the patient and whose identifying information must be entered into the patient's medical records at the hospital. If the patient or patient's legal guardian provides written consent to release medical information to the designated caregiver, the hospital is required to notify the caregiver prior to the patient's being discharged or transferred, consult with the caregiver as to the patient's discharge plan and provide the caregiver any necessary instruction in providing aftercare to the patient if the patient is discharged to the patient's residence.

List of Resolves 2015

[Resolve, Ch. 18](#) (L.D. 525) **Resolve, To Direct the Department of Health and Human Services To Report on Efforts To Reach in Rural Areas Persons Who Are Elderly, Disabled or Mentally Ill**

Summary: This resolve requires the Department of Health and Human Services to report on department efforts to reach in rural areas persons who are elderly, disabled or mentally ill. This resolve requires the department, in developing its report, to have at least one public meeting in Piscataquis County and to particularly focus on elderly, disabled and mentally ill persons who are not able to use or who have no access to the Internet and other electronic forms of communication technology or who have limited contact with the department.

[Resolve, Ch. 33](#) (L.D. 1129) **Resolve, To Support Home-based Care**

Summary: The resolve directs the Department of Health and Human Services to increase the rates in Section 40 of the MaineCare Benefits Manual, Home Health Services by 30%. This language was moved to L.D. 886 and the amendment to allow for hiring nursing upon graduation added.

[Resolve, Ch. 50](#) (L.D. 1350) **Resolve, To Increase the Reimbursement Rate for Direct-care Workers Serving Adults with Long-term Care Needs**

Summary: Prior to becoming language in the Biennial Budget, the bill proposed higher reimbursement rates for long term care/homecare services. This resolve directs the Department of Health and Human Services to increase reimbursement to consumer directed services under MaineCare.

[Resolve, Ch. 54](#) (L.D. 831) **Resolve, To Reduce MaineCare Spending through Targeted Prevention Services**

Summary: This resolve requires the Department of Health and Human Services to file an application with the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services to request that home-delivered meals be a reimbursable covered service under the State's home-based and community-based services waivers. The purpose of this resolve is to improve health and delay entry into facility-based care.

List of Carry Over Bills 2015

LD 180

An Act To Allow Terminally Ill Patients To Choose To Use Experimental Treatments

Sponsor: Representative Thomas Longstaff

Committee: Health and Human Services

Summary: This bill authorizes manufacturers of drugs, biological products and devices that have completed Phase I of a United States Food and Drug Administration-approved clinical trial but have not yet been approved for general use and remain under clinical investigation to make them available to eligible terminally ill patients. The bill does not require health insurers to provide coverage for the cost of such a drug, biological product or device but authorizes insurers to provide such coverage. The bill prohibits licensing boards from revoking, refusing to renew or suspending the license of or taking any other action against a health care practitioner based solely on the practitioner's recommendation to an eligible patient regarding access to or treatment with such a drug, biological product or device. It prohibits any official, employee or agent of the State from blocking or attempting to block access by an eligible patient to such a drug, biological product or device.

LD 249

An Act To Enable Seniors To Remain in Their Homes

Sponsor: Senator Thomas Saviello

Committee: Labor, Commerce, Research and Economic Development

Summary: This bill establishes the Home Weatherization and Repair for Seniors Program in the Department of Economic and Community Development to assist low-income seniors in remaining in their homes. It also establishes the Home Weatherization and Repair for Seniors Fund and appropriates money to the fund. The department is required to disburse money from the fund to a statewide network that provides weatherization and home repair services, including but not limited to repairs to meet the standards of the federal Americans with Disabilities Act of 1990, to replace substandard fixtures and hardware and to reduce ongoing maintenance and heating costs, to low-income residents of the State.

LD 552

An Act To Provide Funding for Home Visiting Services

Sponsor: Representative Maker

Committee: Health and Human Services

Summary: This bill appropriates funds to the Department of Health and Human Services for home visiting services to provide essential child development education and skill development for new parents, which have been shown to reduce child abuse and neglect and to identify and address domestic violence.

LD 726

An Act To Increase Patient Safety in Maine's Medical Marijuana Program

Sponsor: Senator Saviello

Committee: Health and Human Services

Summary: This bill amends the Maine Medical Use of Marijuana Act in the following ways:

1. It increases the amount of excess prepared marijuana a registered primary caregiver may transfer for reasonable compensation in a calendar year from 2 pounds to 5 pounds;
2. It specifies that, like registered dispensaries, a primary caregiver's cultivation facility is subject to reasonable inspection by the Department of Health and Human Services at any time, without prior notice;
3. It requires the Department of Health and Human Services to adopt routine technical rules governing the manner in which the department considers an application for and a renewal of a registry identification card for a primary caregiver;
4. It clarifies that the information provided by the Department of Health and Human Services to the Department of Administrative and Financial Services, Bureau of Revenue Services may be used by the bureau to determine whether an applicant for a license or renewal of a license as a registered dispensary has complied with the tax laws; and
5. It specifies that the Medical Use of Marijuana Fund may be used by the Department of Health and Human Services for enforcement purposes that are primarily for the protection of public health and safety and for investigations.

LD 886

Resolve, Directing the Department of Health and Human Services To Increase Reimbursement Rates for Home-based and Community-based Services

Sponsor: Representative Espling

Committee: Health and Human Services

Summary: This resolve directs the Department of Health and Human Services to increase the reimbursement rates for home-based and community-based services by January 15, 2016.

LD 949

An Act To Enact the Recommendations of the Commission on Independent Living and Disability

Sponsor: Representative McClellan

Committee: Health and Human Services

Summary: This bill includes the final recommendations of the Commission on Independent Living and Disability and does the following.

1. Part A replaces the requirement in current law for biennial plans for regional transit with a requirement for quinquennial plans, which is consistent with federal requirements. It eliminates the Interagency Transportation Coordinating Committee and replaces it with a new public transit advisory council. It also specifies the role of the council and requires reporting every 2 years. It requires the Department of Health and Human Services to convene a work group to develop a statewide transportation voucher program for persons with disabilities.

2. Part B adds new transition planning requirements for students with disabilities to include team meetings that must begin at 14 years of age with community partners, community service providers, the students and their families, the division of vocational rehabilitation within the Department of Labor, Bureau of Rehabilitation Services and the agency that is designated by the Governor to serve as the protection and advocacy agency for persons with disabilities. It requires that the transition planning include independent living assessments for the students. For students who receive services from the Department of Health and Human Services, Office of Child and Family Services, it requires the school administrative unit to work in consultation with the division of vocational rehabilitation within the Department of Labor, Bureau of Rehabilitation Services to include postsecondary preparation strategies for the students during transition planning.

3. Part C requires the Statewide Independent Living Council to provide an annual report to the Legislature on the State's strategic planning efforts to increase opportunities for persons with disabilities to live independently within the community. It also requires the Commissioner of Labor to provide an annual report to the Legislature on the State's efforts to improve vocational rehabilitation outcomes and reduce the length of time it takes the department to enter into an individualized plan of employment with individuals eligible to receive rehabilitation services.

4. Part D amends the Maine Human Rights Act to require an on-site inspection by a representative of the Office of the State Fire Marshal to ensure that new public buildings and certain buildings to which the public has access are constructed in compliance with the

Maine Human Rights Act. It also requires the Technical Building Codes and Standards Board to adopt the most recent federal Americans with Disabilities Act of 1990 accessibility guidelines as published by the International Code Council. It also authorizes the agency that is designated by the Governor to serve as the protection and advocacy agency for persons with disabilities in Maine to bring a civil action in Superior Court for violations of the Maine Human Rights Act regarding public accommodations and allows the agency to receive reasonable attorney's fees and costs.

5. Part E requires a housing authority to post all rental housing vacancies that are readily accessible to and usable by persons with disabilities on the Maine State Housing Authority's publicly accessible rental housing listing service website.

6. Part F requires the Department of Health and Human Services to amend the federally approved Medicaid state plan to include and broaden coverage for assistive technology without the restrictions currently applied to telehealth; cover assistive technology within

all Department of Health and Human Services waivers; include telemedicine; broaden telehealth use; and broaden telehealth home-based care.

LD 1384

An Act To Improve Workplace Safety by Simplifying and Improving Employers' Substance Abuse Policy Requirements

Sponsor: Representative Stetkis

Committee: Committee on Labor, Commerce, Research and Economic Development

Summary: This bill makes the following changes to the laws governing employment practices concerning substance abuse testing.

1. It specifies that employers may establish policies or rules related to the possession or use of substances of abuse by employees and for employee impairment by substances of abuse at the workplace.
2. It repeals a section of law that addresses nuclear power plants since there are no operating nuclear power plants in this State.
3. It authorizes an employer that has employees subject to a federally mandated substance abuse testing program to extend its federal drug testing activities to its entire workforce in order to maintain a single testing program and specifies that the employer must maintain the privacy protections that Maine statute affords all other Maine employees.
4. Current law prohibits a single work-related accident from forming the basis of probable cause to believe that an employee may be under the influence of a substance of abuse. This bill amends the law to provide that a single work-related accident that results in injury or significant property damage may be probable cause to suspect an employee is under the influence of a substance of abuse.
5. It eliminates the current requirement that, prior to establishing a substance abuse testing program, an employer with over 20 full-time employees have a functioning employee assistance program.
6. It directs the Commissioner of Labor to develop model policy templates with adequate flexibility so as to facilitate the ability of the employers' substance abuse testing programs and policies to meet the requirements of the Maine Revised Statutes, Title 26, chapter 7, subchapter 3-A to develop new policies or update existing policies.
7. It expands the number of establishments that can undertake companywide random substance abuse testing from those with 50 or more employees to those with 10 or more employees.
8. The bill eliminates the requirement that employers share an employee's rehabilitation costs not covered by group health insurance and clarifies that rehabilitation costs not covered by a group health insurance program are the responsibility of the employee.
9. It specifies that testing at the point of collection of saliva or urine is permissible for both applicants for employment and for employees.