



Laws of Interest Enacted by the 126th Legislature

1st & 2nd Regular Sessions

May 2014



Maine Medical Association

- Voluntary membership association of over 4,200 Maine physicians, residents, and medical students
- Formed in 1853
- Mission: to support Maine physicians, advance the quality of medicine in Maine, and promote the health of all Maine citizens



Maine Medical Association

- **Activities:**
 - Educational Programming/CME Credentialing
 - Peer Review Program
 - Medical Professionals Health Program
 - Manage specialty medical societies
 - Legal services
 - Legislative and regulatory advocacy



Legislative and Regulatory Advocacy

- Advocates the interests of Maine physicians and their patients before the legislative and executive branches of federal and state government
- Advocacy team includes:
 - Gordon H. Smith, Esq., Executive Vice President
 - Andrew B. MacLean, Esq., Deputy Executive Vice President
 - Jessa Barnard, Esq., Associate General Counsel



Legislative Advocacy - The Policy Makers

- 186 Legislators
 - 126th Legislature (2013-2014)
 - 19 D, 15 R, 1 U in Senate
 - 89 D, 58 R, 4 U in House
 - If 2/3 vote needed: 24 in Senate, 101 in House
- 151 members of the House of Representatives, each representing 8443 citizens
- 35 Senators, each representing 36,426 citizens
- All elected every 2 years for maximum of 4 consecutive terms
- Governor: elected every 4 years for maximum of 2 terms
- Find your legislators:
<http://www.maine.gov/legis/house/townlist.htm>



Physicians in 126th Legislature

- Rep. Linda Sanborn, M.D. (D), House District 130, parts of Buxton & Gorham
- Sen. Geoffrey Gratwick, M.D. (D), Senate District 32, Bangor & Hermon
- Rep. Ann Dorney, M.D. (D), House District 86, Madison, Norridgewock, & Solon
- Rep. Jane Pringle, M.D. (D), House District 111, part of Windham



126th Legislature's Senate Leadership

- Senate President: Sen. Justin Alfond (D-Cumberland)
- Senate Majority Leader: Sen. Troy Jackson (Aroostook)
- Assistant Senate Majority Leader: Sen. Anne Haskell (D-Cumberland)
- Senate Minority Leader: Sen. Michael Thibodeau (R-Waldo)
- Assistant Senate Minority Leader: Sen. Roger Katz (R-Kennebec)



126th Legislature's House Leadership

- Speaker of the House: Rep. Mark Eves (D-North Berwick)
- House Majority Leader: Rep. Seth Berry (D-Bowdoinham)
- Assistant House Majority Leader: Rep. Jeff McCabe (D-Skowhegan)
- House Minority Leader: Rep. Kenneth Fredette (R-Newport)
- Assistant House Minority Leader: Rep. Alexander Willette (R-Mapleton)



Maine's Path of Legislation

- Idea developed
- Bill drafted (Legislative Request or LR)
- Bill introduced (Legislative Document or LD)
- Committee reference
- Committee action (public hearing/work session(s)/vote)
- First Reading (committee amendments)
- Second Reading (floor amendments)
- Next chamber, same process (must pass in identical form)
- Governor's action (10 days to sign or veto)
- Law (effective 90 days after adjournment, unless emergency or other specified date; citation is "Public Law" or "Resolve")



Key Legislative Committees

- Joint Standing Committees on:
 - Appropriations & Financial Affairs
 - Taxation
 - Labor, Commerce, Research & Economic Development
 - Health & Human Services
 - Insurance & Financial Services
 - Judiciary
- Committee membership lists with contact info.:
<http://janus.state.me.us/house/jtcomlst.htm>



MMA Advocacy Activities

- MMA Legislative Committee
 - Monitor, Support, Oppose
- Committee Hearing & Work Session
 - Staff testifies, members testify, organize other specialty societies to testify, submit written comments, discuss with committee members, participate in work session
- Floor Action
 - Talk with members, draft floor materials, send action alerts to members



Opportunities for Member Advocacy

- MMA Legislative Committee
 - Amy Madden, MD, Chair
- Regular communications through meetings, conference calls, *Maine Medicine*, & *Maine Medicine Weekly Update*
- Testifying in person, submitting written testimony, contact legislators, submit op-eds or letters to the editor
- Doctor of the Day Program
- Physicians' Day at the Legislature



Tracking Maine Legislation

- Maine legislature's web site:
<http://www.maine.gov/legis>
 - Bill status: L.D. #
 - Session laws: P.L. or Resolves Chapter
 - Statutes: 24 M.R.S.A. sec. 2851
- State agency rules online:
<http://www.maine.gov/sos/cec/rules/rules.html>



Governor's Contact Info.

Office of the Governor
State House Station #1
Augusta, Maine 04333-0001
207-287-3531
207-287-1034 Fax
Governor@maine.gov



House Contact Info.

The Honorable John/Jane Doe
Maine House of Representatives
State House Station #2
Augusta, Maine 04333-0002
1-800-423-2900 (session only)
207-287-1400



Senate Contact Info.

The Honorable John/Jane Doe
The Maine Senate
State House Station #3
Augusta, Maine 04333-0003
1-800-423-6900 (session only)
207-287-1540



Laws Enacted with Day to Day Impact on your Practice

*Went into effect Oct. 9, 2013 (1st session)
OR will go into effect Aug 1, 2014 (2nd session)
unless otherwise specified*

New laws or changes from 2nd Session flagged with an asterisk



Medical Records/ Confidentiality

- LD 23/LD 1500: Cost of Medical Records
 - Paper records: \$5 for first page and \$.45 per subsequent page with \$250 ceiling.
 - Electronic records: "Reasonable actual costs of staff time" to create or copy record plus supplies and postage. Cannot include retrieval fee, costs of new technology, maintenance, data access or storage fees. \$150 ceiling.



Medical Records/ Confidentiality

- LD 882, Law Enforcement
 - Makes Maine law more consistent with federal law, allowing disclosure of health care information if, in good faith, disclosure is made to avert a serious threat to health or safety and is made to someone able to avert or lessen the threat



Medical Records/ Confidentiality

- LD 534, Mental Health Services
 - Prior law: requires pt authorization for disclosure of health info outside of the office/facility if reflects mental health services provided by clinical nurse specialist, psychologist, social worker, LCPC or psychiatrist.
 - New law: allows disclosure without authorization to a health care practitioner, facility or payor for purposes of care management or coordination of care. Disclosure of psychotherapy notes remains governed by HIPAA. Shall make a reasonable effort to notify the individual of the disclosure.



Health Care Costs

- * LD 990, replaced by LD 1642, Price list
 - Requires health care practitioners to maintain, inform patients of, and a price list (as billed without insurance) of services and procedures that they provided at least 50 times in the past year. Must include codes listed by current standard medical code or CPT code.
 - Do not need to provide entire list
 - Can list by practitioner, group of practitioners or facility
 - If don't render services directly to patients in an office setting, can post info on website
 - Must make information available about cost data on MHDO website
 - LD 990 effective 1/1/14, LD 1642 effective 8/1/14



Health Care Costs

- * LD 1760, Cost Estimate for Encounter
 - On request of an uninsured patient, a health care entity, shall:
 - Provide within a reasonable time an estimate of the total price of medical services to be rendered directly by that health care entity during a single medical encounter
 - If unable to provide an accurate estimate because the amount of the medical service to be consumed is unknown in advance, the health care entity shall provide a brief description of the basis for determining the total price
 - If a single medical encounter will involve medical services to be rendered by one or more 3rd-party health care entities, the health care entity shall identify each 3rd-party health care entity
 - notify the uninsured patient of any charity care policy



Scope of Practice/Licensing

- LD 198, Physician Delegation
 - Physician may now delegate activities to support staff (not just employees) and delegate without being present on the premises at the time the activities are performed.
- LD 727, Practitioner Transparency
 - Law requires full disclosure in advertising the license held (MD, DO, NP, etc); requires name badge in any face-to-face patient encounter; requires display of license
 - Note: license requirement not currently being enforced by OFPR pending further discussion BUT physicians already have requirement to publically display under 32 MRSA 3274



Scope of Practice/Licensing

- LD 411, Drug and Alcohol Abuse Reporting
 - Updates language related to discipline for Dentists, Nurses, Osteopathic Physicians, Allopathic Physicians, Podiatrists from:
 - Habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients
 - TO
 - Misuse of alcohol, drugs or other substances that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of the licensee's patients



Scope of Practice/Licensing

- LD 1437, BOLIM Clean Up Bill
 - Allows for licensing of dual trained oral & maxillofacial surgeon/MD
 - Allows discipline for: failure to produce documents on request to Board, failure to timely respond to complaint notification
 - Requires PAs to report PAs & physicians to Board for unprof. conduct
 - Allows Board-ordered evaluations to be done by someone other than physician



Scope of Practice/Licensing

- LD 32, Pharmacist Vaccine Administration
 - A pharmacist may administer vaccines licensed by the FDA that are outside the guidelines recommended by the CDC/ACIP to an adult when stated on prescription (to allow shingles vaccine to those under 60)
- LD 1134, Pharmacist Collaborative Practice
 - Authorizes rulemaking allowing pharmacists to initiate, monitor & modify drug therapy under delegation of an "authorized practitioner." The pharmacist must be trained in the area of the collaboration and can only monitor for 3 months before allowing initiation, modification, discontinuation



Scope of Practice/Licensing

- LD 198, Nurse Practitioners as School Health Advisor
 - Family or pediatric nurse practitioners can fill the role of school physicians
- LD 556, Physician Assistant Licensing
 - The law adds a PA to both the medical and osteopathic Boards; requires joint PA rules by the Boards (expected June 2014); authorizes delegation by PAs; repeals the law disallowing PA owned practice; and calls for a single PA license.



Scope of Practice/Licensing

- * LD 1766, Delegating to Nurses
 - licensed nurse can now carry out tasks delegated by any legally authorized licensed professional acting within the scope of the licensed professional's authority to prescribe medications, substances or devices (not just physician, PA, podiatrists or dentist)
 - Effective Jan 1, 2015



Liability

- LD 744, Certain Negligence Suits
 - The bill extends the statute of limitations for professional negligence actions against certain health care providers to 6 years when the action is based on a sexual act or sexual contact. Applies to psychiatrists, psychologists, social workers, professional counselors, pastoral counselors, marriage and family therapists and clinical professional counselors



Liability

- LD 1388, False Claims
 - This bill clarifies liability for conduct associated with false claims made to the Department of Health and Human Services. It changes the description of the statements, documents and records the making or submission of which incurs liability and adds provisions governing so-called reverse false claims, submission of false information to the department in order to avoid or decrease an obligation to pay or transmit money or property to the department.



Prescription & Other Drugs

- * LD 1686, Access to Naloxone
 - Expands access to the anti-overdose drug, naloxone
 - May be prescribed to family members of an individual at risk of experiencing an opioid-related drug overdose
 - May be administered by law enforcement officers and municipal firefighters if they have received applicable medical training
 - Effective 4/29/14



Prescription & Other Drugs

- * LD 388/1840, PMP Enrollment
 - Directs & Funds DHHS/PMP program to create automatic enrollment in PMP at the time of licensing or renewal of a license; effective immediately
- LD 171, Drug Importation
 - A licensed retail pharmacy located in Canada, the UK, Ireland Australia or New Zealand that meets its country's statutory and regulatory requirements may export prescription drugs by mail or carrier to a resident of Maine for personal use
 - Currently being challenged by federal lawsuit



Prescription & Other Drugs

- LD 338, Atypical Antipsychotics in Children
 - Requires DHHS to adopt rules regarding use of atypical antipsychotic medications by children under age 17 (covered by MaineCare); rules must require that the prescriber of an atypical beyond the recommended period provide documented justification as to why the child should continue taking the medication and to require that the prescriber perform a timely assessment and ongoing monitoring
 - effective after rules promulgated and adopted



Prescription & Other Drugs

- LD. 716, Stimulant Medications
 - Created a work group to review and make recommendations on appropriate prescribing of medications for children with ADHD
 - Recommendations include:
 - Develop measures to increase practice scores on 2 ADAD HEDIS measures (regarding time to follow up visits after initiating meds)
 - Institute a prior authorization for MaineCare kids under 5 to receive ADHD meds
 - Increase support for consultation/education regarding ADHD meds



Prescription & Other Drugs

- Medical Marijuana
 - LD 1062: Adds to list of conditions for which patient may qualify:
 - Post-traumatic stress disorder
 - Inflammatory bowel disease
 - Dyskinetic and spastic movement disorders and other diseases causing severe and persistent muscle spasms
 - * LD 1739:
 - Adds nurse practitioners to list of those who can issue certificate
 - Clarifies certificate can be written for less than 1 year



Public Health

- LD 597, Lyme Disease
 - Every health care provider that orders a laboratory test for the presence of Lyme disease shall provide the patient with a copy of the results of the test
 - Requires CDC to include additional information on its website about Lyme disease, including treatment alternatives



Public Health

- LD 460, Screening for Heart Conditions
 - Requires hospitals, birthing centers and other birthing services to test newborn infants by means of appropriate technology for the presence of critical congenital heart disease; rulemaking may require reporting to DHHS; effective immediately



Public Health

- LD 253, Fetal Death Certificates
 - This bill allows a fetal death certificate to be filed with the State Registrar of Vital Statistics and requires a hospital or an institution to prepare a fetal death certificate with medical information provided by a physician or other person in attendance.



Public Health

- * LD 386, Tobacco Cessation Benefit
 - Restores & strengthens comprehensive tobacco cessation benefit in the MaineCare program
 - All pharmacotherapy that is approved by the FDA or recommended by USPHS; Group & individual counseling
 - No copayments, cost sharing, deductibles; no limits on numbers of attempts
 - Effective Aug 1, 2014



Public Health

- * LD 1729, Epinephrine in Schools
 - Authorizes physicians & school health nurse practitioners to enter collaborative practice agreement with school nurse to delegate administration of epinephrine to non-licensed personnel
- * LD 1699/1679, HIV Education
 - Funds peer and teacher trainings for HIV prevention education in schools



Mandatory Reporting

- LD 257, Prenatal Drug Exposure
 - Amends current law on reporting to DHHS by a health care provider involved in the delivery or care of an infant with prenatal exposure to drugs as follows:
 - changes "reports" to the department to "notifications" & repeals the requirement that the department investigate all reports
 - changes "suffering from withdrawal symptoms" to "demonstrating withdrawal symptoms that require medical monitoring or care beyond standard newborn care"
 - defines "fetal alcohol spectrum disorders" and adds it to the conditions of an infant that require notification to the department



Mandatory Reporting

- LD 1024, Report to Licensing Board
 - DHHS will be required to make a report to the licensing board of a professional who appears to have violated the mandatory reporting law
- LD 1523, Additional Reports Required
 - Requires mandated reporters to report the following in any infant under 6 months or otherwise non ambulatory: fracture of a bone; substantial bruising or multiple bruises; subdural hematoma; burns; poisoning; or injury resulting in substantial bleeding, soft tissue swelling or impairment of an organ



Insurance Coverage & Practices

- * LD 390, Ambulatory Surgical Centers
 - Restores MaineCare reimbursement for services provided in ambulatory surgical centers
 - Effective after emergency rules adopted
- * LD 627, Oral Chemotherapy
 - Requires carriers that cover intravenous chemotherapy to cover orally-administered
- * LD 347, Autism Spectrum Coverage
 - Expands coverage by private carriers for autism spectrum disorders to persons under 10



Insurance Coverage & Practices

- LD 1006, Insurance Profiling Programs
 - Requires that any cost metric used by insurance carriers in a provider profiling program be covered by existing transparency provisions in the health plan improvement laws. Also requires carriers to provide copies of the data and methodology used in the metric to affected providers.
- LD 1466, Preferred Provider Arrangements
 - Places certain requirements on contracts for preferred provider arrangements, such as requiring a carrier to include in the contract a fee schedule and any policies or procedures referred to in the contract to the provider



Budget

- LD 1509, 2013-2015 State Budget
 - 10% cut to outpatient hospital services
 - Cut in "crossover payments" that cover Medicare Part B deductibles and copayments (still being resolved)
 - Study of equalizing payments to hospital-based and non-hospital based physicians (Part MMMM)
 - Avoided last minute proposal to cut rates to all Medicaid providers
 - Avoided proposed cut to critical access hospitals
 - No increase in the cigarette tax or tax on other tobacco products was included
 - Proposed cuts to Drugs for the Elderly and the Medicare Savings Program were avoided.



Budget

- * 2013-2015 Supplemental Budgets
 - Adjustment in the timing of Medicaid payments to some providers (pushing 1 payment cycle into 2016)
 - Savings attributed to more intensive Medicaid RAC auditing



Hospital Debt

- LD 1555
 - Uses future liquor revenue to pay outstanding \$484M settlement debt
 - Attempt to tie to Medicaid coverage not successful



Other Fiscal

- * LD 440, Tax Credits
 - Allows tax credit for up to 5 eligible primary care professionals each year working in primary care in an underserved area
- LD 645, Rural Medical Access Program
 - authorizes the Superintendent of Insurance to lower assessment rate on liability insurance premiums to fund the Rural Medical Access Program (providing malpractice premium assistance to qualified physicians who provide prenatal care and delivery services and practice at least 50% in underserved areas of the state)



Medicaid Coverage & Reform

- MaineCare Expansion/Accepting Federal Funds
 - LD 1066 - failed to override veto in 2013
 - * LD 1487 - merged with Sen Katz managed care proposal - failed to override veto in 2014
 - * LD 1578 - amended to have private option like New Hampshire - failed to override veto in 2014



Health Care & Payment Reform

- HP 1136, Health Exchange Implementation
 - Creates the Maine Health Exchange Advisory Committee to evaluate the implementation and operation of any health insurance exchange.
MMA represented
- * LD 1345, Single Payer
 - Bill to study phasing in single payer system.
Passed by legislature, failed to override Governor's veto



Mental Health Services

- LD 1515, Availability of Services
 - Special session held in August 2013 passed bill on emergency basis
 - Authorizes transfer from a jail to a correctional facility of an adult inmate who the chief administrative officer of Riverview confirms is eligible for admission to a state mental health institute under Title 34-B, section 3863, but for whom no suitable bed is available, for the purpose of providing to the inmate mental health services in a mental health unit of a correctional facility



Mental Health

- * LD 1738, Involuntary Commitment Process
 - Chief Justice shall convene a work group to review the situation for both individuals and hospitals when individuals present emergency psychiatric needs in hospital emergency departments and to develop recommendations for addressing immediate and long-term needs of individuals, hospitals, psychiatric hospitals and health care providers
 - Report due to Judiciary Committee by Dec 15, 2014



Questions?

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