



Maine Hospital Association

July 2019

# Legislative Wrap Up



## First Session 129th Legislature

# FIRST SESSION SUMMARY

The First Session (the so-called “long” session) of the Legislature adjourned June 19, which was on time. The Legislature had not adjourned on the statutorily imposed date in years.

As you can see below, the 129<sup>th</sup> Legislature passed more new laws this session than had happened in over a decade.

Overall, hospitals had a good session. Medicaid expansion was implemented, no major cuts to hospitals were enacted and rural hospitals received some financial help. However, both the Labor Committee and the Judiciary Committee passed problematic bills.

## HISTORICAL RESULTS

	129 <sup>th</sup> (2019)	128 <sup>th</sup> (2017)	127 <sup>th</sup> (2015)	126 <sup>th</sup> (2013)	125 <sup>th</sup> (2011)	124 <sup>th</sup> (2009)
<b>Bills Filed</b>	<b>1,846</b>	1,646	1,455	1,577	1,588	1,496
<b>Bills Enacted</b>	<b>652</b>	350	442	524	595	629
<b>% Enacted</b>	<b>35%</b>	21%	30%	33%	37%	42%
<b>Bills Carried Over</b>	<b>411</b>	319	176	213	134	88
<b>Bills Rejected</b>	783	977	837	840	859	779

## BILLS MHA FOLLOWED

MHA followed 15% of all the bills filed this year; a higher rate than in any previous session.

	Number	Percentage
<b>Enacted</b>	85	31%
<b>Carried Over</b>	83	30%
<b>Rejected</b>	106	39%
<b>Total</b>	274	

*Thank You. As always, thank you for all your assistance during this long session.*

# State Government Leadership

**Governor:** Janet Mills

**DHHS Commissioner**—Jeanne Lambrew

**MaineCare Director**—Michelle Probert

## **House of Representatives:**

**Democrats**—89

**Republicans**—56

**Other**—6

**Speaker**—Sara Gideon (Freeport)

**Majority Leader**—Matt Moonen (Portland)

**Majority Whip**—Ryan Fecteau (Biddeford)

**Minority Leader**—Kathleen Dillingham (Oxford)

**Minority Whip**—Trey Stewart III (Presque Isle)

## **Senate:**

**Democrats**—24

**Republicans**—11

**Other**—0

**Senate President**—Troy Jackson (Aroostook Cty.)

**Majority Leader**—Nate Libby (Androscoggin Cty.)

**Majority Whip**—Eloise Vitelli (Sagadahoc Cty.)

**Minority Leader**—Dana Dow (Lincoln Cty.)

**Minority Whip**—Jeffrey Timberlake (Androscoggin Cty.)

# Budget

The state enacted its two-year biennial budget (for the period beginning July 1, 2019). It also adopted a very modest SFY 2019 supplemental budget.

	SFY 2019	SFY 2020	SFY 2021
Revenue	\$3.77 Billion	\$3.87 Billion	\$3.99 Billion
Expenditures	\$3.71 Billion	\$3.91 Billion	\$4.07 Billion
Current Year Surplus	\$65 Million	(\$44 Million)	(\$85 Million)
Existing Surplus	\$75 Million	\$140 Million	\$96 Million
Total Surplus	\$140 Million	\$96 Million	\$11 Million

As you can see, SFYs 2020 and 2021 have more expenditures than revenue; but the \$140M surplus from SFY 2019 covers the balance.

With respect to healthcare:

## Medicaid Expansion.

The budget funds MaineCare expansion. The budget allocates \$47M in state funding (\$331M total) and \$78M (\$595M total) over the two-year biennium.

The budget also establishes an expansion “contingency” fund with \$29M that would cover any shortfalls in the expansion program.

## Hospital Tax.

The budget re-bases the hospital tax from 2014 to 2016 revenues. It provides “match” at the 80% rate. Net loss to hospitals is approximately \$2.5M per year. The proposal to automatically re-base the tax going forward was rejected.

## Other.

- The budget restores a previous cut to the Drugs for the Elderly and Disabled program to cover an additional 1,800 Maine seniors.
- The budget adds 62 new Child and Family Services caseworkers.
- The budget provides \$5.5M to combat the opioid crisis from the Fund for a Healthy Maine (FHM) and elimination of the 24-month limit for medication-assisted treatment.
- The budget also allocates an additional \$10 million from the Fund for a Healthy Maine

# Other Spending Bills

for smoking prevention and cessation.

**There was not a lot of spending outside the biennial budget this session. However, rural hospitals did benefit from one of the more notable non-budget spending bills.**

[LD 440](#)—*An Act To Continue the Doctors for Maine's Future Scholarship Program*

This bill provides \$400,000 per year of ongoing funds to the Doctors for Maine's Future Scholarship Program.

**ENACTED** as PL 2019, [Ch. 510](#)

[LD 1028](#)—*An Act To Prevent and Reduce Tobacco Use with Adequate Funding and by Raising the Tax on Tobacco Products*

This law increases the tax on tobacco products, other than cigarettes, to 43% of the wholesale sales price, beginning January 2, 2020, and includes electronic smoking devices and liquids used in electronic smoking devices in the definition of "tobacco products."

The law provides ongoing funding for tobacco cessation. It increases ambulance rates as provided in LD 915.

It also provides Critical Access Hospital (CAH) and "rural" hospital-based physician rate increases and rural health center (RHC) rate increases and healthcare loan forgiveness tax credits (all as provided in LD 1350). The total amount of the benefit to hospitals is approximately \$10.8M per year.

With respect to CAHs and six rural hospitals, Medicaid will be required to provide reimbursement at 100% of cost for physician services.

With respect to RHCs, they will have their costs re-based to CYs 2016/17. Any RHC may decline the re-basing if it so chooses.

For loans, hospital-employed physicians and nurses who receive loan re-payment benefits from any hospital in Maine, that loan re-payment amount will not be considered taxable income for Maine income tax purposes. The loan re-payment will need to be paid directly to the loan issuer and not to the employee.

Ambulances will see their rates increase from 65% of Medicare to 100% of Medicare.

The rate changes are scheduled to go into effect on January 1, 2020. DHHS will need to file the necessary paperwork with CMS and amend its rules first.

The loan re-payment provision will be for loan payments made starting in 2020.

**ENACTED** as PL 2019, [Ch. 530](#)

# New Laws

Maine enacted 652 new laws this year, more than have been enacted in a first session in over a decade. The effective date for legislation is September 19, 2019 (which is 90 days post-adjournment).

Eighty-five bills MHA followed were enacted. The Bills of Interest document with all the bills we followed is still available on the MHA website.

The next 12 pages list all of these bills by Committee with a few highlighted. Bills enacted that require studies are listed separately (on pages 22-23).

## Insurance Committee

[LD 1](#)—*An Act To Protect Health Care Coverage for Maine Families*

This bill enacts many of the ACA's consumer protections in Maine law.

ENACTED as PL 2019, [Ch. 5](#).

[LD 100](#)—*Resolve, Regarding Legislative Review of Portions of Chapter 270: Uniform Reporting System for Quality Data Sets, a Major Substantive Rule of the Maine Health Data Organization*

This regular legislation updates the data reporting rule for hospitals.

ENACTED as Resolve 2019, [Ch. 9](#).

[LD 110](#)—*An Act Regarding Credit Ratings Related to Overdue Medical Expenses*

This bill regulates credit agency listing of medical debt on consumer credit reports.

ENACTED as PL 2019, [Ch. 77](#).

[LD 249](#)—*An Act To Ensure Protection of Patients in Medical Reviews by Health Insurance Carriers*

The law requires that appeals of a health insurance carrier's adverse health care treatment decision be conducted by a licensed health care practitioner who is board certified in the same or similar specialty as typically manages the medical condition, procedure or treatment under review.

ENACTED as PL 2019, [Ch. 171](#).

[LD 291](#)—*An Act Regarding Responsibility for the Duplicative or Incorrect Payment of Health Insurance Claims*

This law requires an insurer who overpays a claim to attempt to retroactively collect that overpayment directly from the provider, not the insured, unless the insured was directly paid by the insurer for the services identified in the claim and the insured did not forward payment to the provider.

ENACTED as PL 2019, [Ch. 30](#).

[LD 376](#)—*An Act To Expand Health Insurance Options for Town Academies*

ENACTED as PL 2019, [Ch. 424](#).

[LD 530](#)—*An Act To Amend the Laws Governing Subrogation Rights for Medical Payments Coverage*

This law, based on a New Hampshire law, seeks to give patients more say over whether to bill a health insurance policy or the medical coverage of a liability policy (e.g., auto insurance) but it does not supersede those policies.

ENACTED as PL 2019, [Ch. 182](#).



# New Laws

## [LD 659](#)—*An Act Regarding the Use of Interchangeable Biological Products*

This law provides for pharmacist substitution of interchangeable biological products for prescribed biological products in a manner similar to the current regulation of generic drug substitution.

ENACTED as PL 2019, [Ch. 34](#).

## [LD 705](#)—*An Act Regarding the Process for Obtaining Prior Authorization for Health Insurance Purposes*

This law makes changes favorable to providers regarding prior authorization.

- 1) It reduces the time frame for a carrier's response to a prior authorization request from 2 business days to 72 hours or 2 business days, whichever is less, and clarifies that the same time frame for a response applies in instances when a carrier requests additional information or requires outside consultation. It also provides that a request for prior authorization is granted if a carrier fails to respond within the required time frames.
- 2) It clarifies a provision in existing law to reflect the change in time frame.
- 3) It prohibits a carrier from requiring prior authorization for medication-assisted treatment for opioid use disorder for the prescription of at least one drug for each type of medication used in medication-assisted treatment, except that a carrier may not require prior authorization for medication-assisted treatment for opioid use disorder for a pregnant woman.
- 4) It requires a health insurance carrier to develop an electronic transmission system for prior authorization of prescription drug orders by January 1, 2020.
- 5) It requires health insurance carriers to report, no later than January 1, 2020, to the Insurance Committee on efforts to develop standards for secure electronic transmission of prior authorization requests.
6. It directs the Bureau of Insurance to amend its rules.

ENACTED as PL 2019, [Ch. 273](#).

## [LD 820](#)—*An Act To Prevent Discrimination in Public and Private Insurance Coverage for Pregnant Women in Maine*

This law requires DHHS to provide coverage to a MaineCare member for abortion services. It provides that abortion services that are not approved Medicaid services must be funded by the State.

ENACTED as PL 2019, [Ch. 274](#).

## [LD 1009](#)—*An Act To Provide Protections for Maine Patients Facing Step Therapy*

This bill requires health insurance carriers to establish a process for prescription drug step therapy exceptions.

ENACTED as PL 2019, [Ch. 295](#).

## [LD 1155](#)—*An Act To Protect Patients and the Prudent Layperson Standard*

This law circumscribes the ability of a carrier to deny payment for emergency room claims when the ultimate diagnoses reflects a lack of “emergency.” The bill is a response to potential changes by carriers.

ENACTED as PL 2019, [Ch. 238](#).

## [LD 1162](#)—*An Act To Further Expand Drug Price Transparency*

This law requires prescription drug manufacturers to report more data to MHDO.

ENACTED as PL 2019, [Ch. 470](#).

# New Laws

## [LD 1197](#)—*An Act To Amend the Law Prohibiting the Denial by Health Insurers of Referrals by Out-of-network Providers*

This law limits the existing law that prohibits carriers from denying payment for covered health care services solely on the basis that the referral for services was made by an out-of-network provider.

ENACTED as PL 2019, [Ch. 178](#).

## [LD 1261](#)—*An Act To Authorize Certain Health Care Professionals To Perform Abortions*

This law allows a physician assistant or an advanced practice registered nurse licensed as such in this State to perform abortions, in addition to a licensed allopathic or osteopathic physician.

ENACTED as PL 2019, [Ch. 262](#).

## [LD 1263](#)—*An Act Regarding Telehealth*

This law does the following:

- 1) It provides immunity from liability to health care practitioners who voluntarily provide health care services through telehealth in the same manner as immunity is provided to health care practitioners who voluntarily provide health care services in person.
- 2) It requires carriers that offer health plans in this State to provide coverage for health care services provided through telehealth services in the same manner as coverage is provided for services provided in person and sets forth certain standards for coverage of telehealth services.
- 3) It requires telemonitoring coverage where appropriate.
- 4) It does not allow carriers to restrict types of telehealth equipment or technology as long as they meet existing standards.
- 5) It clarifies that carriers may apply prior approval and credentialing requirements for providers for services provided through telehealth services only if the requirements are the same as are applied for services provided in person.
- 6) It makes the bill's provisions apply to health insurance policies issued or renewed on or after January 1, 2020.

ENACTED as PL 2019, [Ch. 289](#).

## [LD 1272](#)—*An Act To Increase Access to Low-cost Prescription Drugs*

This law establishes a wholesale importation program for prescription drugs from Canada by or on behalf of the State in order to provide cost savings to consumers.

ENACTED as PL 2019, [Ch. 472](#).

## [LD 1314](#)—*An Act To Extend Protections for Genetic Information*

This law requires that an insurer obtain the consent of an individual before using information from an entity providing direct-to-consumer genetic testing in connection with the underwriting of insurance.

ENACTED as PL 2019, [Ch. 208](#).

## [LD 1353](#)—*An Act To Establish Transparency in Primary Health Care Spending*

The law requires the Maine Quality Forum to submit an annual report, beginning January 15, 2020, to DHHS and the Legislature based on claims data reported to the Maine Health Data Organization and information on methods of reimbursement for primary care reported by insurers.

ENACTED as PL 2019, [Ch. 244](#).



# New Laws

## [LD 1499](#)—*An Act To Establish the Maine Prescription Drug Affordability Board*

This law establishes the Maine Prescription Drug Affordability Board. The board determines prescription drug spending targets for public entities.

Not included in the law was a provision that would have allowed rate setting by the board and require the board to determine excess prescription drug costs based upon certain thresholds for prescription drug prices and price increases.

ENACTED as PL 2019, [Ch. 471](#).

## [LD 1504](#)—*An Act To Protect Consumers from Unfair Practices Related to Pharmacy Benefits Management*

This law creates a licensing requirement for pharmacy benefits managers doing business in this State and imposes a number of new licensing requirements on a carrier that provides prescription drug benefits.

ENACTED as PL 2019, [Ch. 469](#).

## [LD 1580](#)—*An Act To Protect Licensing Information of Medical Professionals*

This law creates a process to allow licensees of the Board of Nursing, Osteopathic Licensure and Medicine Licensure to review their own licensing files before a board makes the file available for inspection.

ENACTED as PL 2019, [Ch. 499](#).

## [LD 1694](#)—*Resolve, To Determine Compliance with Federal and State Mental Health Parity Laws*

This law requires the Superintendent of Insurance to determine the compliance of health insurance carriers doing business in this State with federal and state mental health parity laws.

ENACTED as Resolve 2019, [Ch. 72](#).

## **Health and Human Services Committee**

### [LD 78](#)—*An Act To Facilitate Access to the MaineCare Family Planning Benefit*

This law establishes presumptive eligibility for individuals who are likely to qualify for the family planning benefit and requires the Department of Health and Human Services to provide for presumptive eligibility.

ENACTED as PL 2019, [Ch. 420](#).

### [LD 84](#)—*Resolve, Directing the Department of Health and Human Services To Allow Spouses To Provide Home and Community-based Services to Eligible MaineCare Members*

This resolve requires DHHS to submit a request to CMS to amend the current federal waiver so that eligible members receiving home and community-based services (Section 19) will be able to receive services provided by spouses who are employed as personal support specialists.

ENACTED as Resolve 2019, [Ch. 102](#).

### [LD 297](#)—*An Act To Strengthen Brain Injury Resources for Underserved Populations, Including Opioid Overdose Brain Injury Survivors*

This law authorizes DHHS to enter into contracts with organizations representing individuals with a brain injury to provide core brain injury support for underserved populations.

ENACTED as PL 2019, [Ch. 488](#).

# New Laws

[LD 303](#)—*An Act To Require Recovery Residences for Persons with Substance Use Disorder Be Equipped with Naloxone and To Exempt from Criminal Liability Persons Administering Naloxone*

This law requires organizations that provide ‘recovery residences’ to persons with substance use disorder to store two units of naloxone hydrochloride for each floor. It provides criminal immunity for providing naloxone. It directs DHHS to adopt rules to implement these requirements.

ENACTED as PL 2019, [Ch. 292](#).

[LD 364](#)—*An Act To Establish the Right To Practice Complementary and Alternative Health Care Act*

This law allows a person providing alternative or complementary health care services, as defined.

ENACTED as PL 2019, [Ch. 265](#).

[LD 392](#)—*An Act To Fund Maine's School-based Health Centers*

This law provides \$600,000 per year for school-based health centers from the Fund for a Healthy Maine within the Department of Health and Human Services.

ENACTED as PL 2019, [Ch. 425](#).

[LD 443](#)—*An Act To Prevent Vitamin K Deficiency Bleeding and Eye Damage in Infants*

Currently parents may object to prophylactic eye drops for religious reasons; this bill broadens the ability of parents to object for any reason and removes the civil penalties on providers for noncompliance.

ENACTED as PL 2019, [Ch. 426](#).

[LD 494](#)—*An Act To Update the Family Planning Statutes*

This law provides that the prevention or treatment of a sexually transmitted infection, or, family planning services does not require the consent of the minor’s parent or guardian.

ENACTED as PL 2019, [Ch. 236](#).

[LD 615](#)—*An Act To Protect the Integrity of the MaineCare Program*

This provides language describing the situations in which DHHS may not implement changes in the Medicaid program or the CHIP Program without proper authorization from the Legislature.

ENACTED as PL 2019, [Ch. 266](#).

[LD 699](#)—*Resolve, To Provide for Outreach Programs To Assist Women at Risk of Giving Birth to Substance-exposed Infants*

This resolve requires DHHS to enter into a \$160K contract with a nonprofit organization to develop outreach programs regarding reproductive and sexual health care for women at risk.

ENACTED as Resolve 2019, [Ch. 103](#).

[LD 761](#)—*An Act To Clarify and Affirm Medicaid Eligibility for Incarcerated Individuals*

This law establishes a mechanism to ensure that individuals who are uninsured and eligible for Medicaid coverage are able to apply for coverage, and where appropriate receive coverage, while incarcerated.

ENACTED as PL 2019, [Ch. 492](#).

[LD 976](#)—*An Act To Require Additional Lead Screening for Children*

This law tightens the existing lead screening rules.

ENACTED as PL 2019, [Ch. 201](#).

# New Laws

[LD 984](#)—*Resolve, To Develop Plans To Return to the State Children Housed in Residential Treatment Systems outside of the State*

This law requires DHHS to negotiate reimbursement rates with providers of services to children returning to the State, including deviating from reimbursement rates in order to access additional services.

ENACTED as Resolve 2019, [Ch.54](#).

[LD 1005](#)—*Resolve, To Establish a Pilot Project To Save Lives and Support People with Substance Use Disorder in Washington County*

This resolve establishes a pilot project in Washington Co. to provide services for people with substance use disorder.

ENACTED as Resolve 2019, [Ch. 98](#).

[LD 1007](#)—*Resolve, To Change the Educational Requirements of Certain Behavioral Health Professionals*

This Resolve changes the educational requirements for behavioral health professionals providing children's home and community-based treatment.

ENACTED as Resolve 2019, [Ch. 99](#).

[LD 1030](#)—*An Act To Amend the Laws Governing the Substance Use Disorder Services Commission*

This law revises the membership and duties of the Substance Use Disorder Services Commission.

ENACTED as PL 2019, [Ch. 432](#).

[LD 1125](#)—*Resolve, To Require Reimbursement for Bed-hold Days in Adult Family Care Homes*

This law requires DHHS to reimburse adult family care homes for up to 30 bed-hold days per year.

ENACTED as Resolve 2019, [Ch. 94](#).

[LD 1275](#)—*An Act To Support Access to Health Services for Homeless Youth in Maine*

This law allows a minor to provide consent to all medical, mental, dental and other health counseling and services by proving that the minor is living separately and is independent of parental support. This law also provides immunity to a health care practitioner who provides services to a minor if the minor consented to those services and provided proof of living separately and independently.

ENACTED as PL 2019, [Ch. 206](#).

[LD 1313](#)—*An Act To Enact the Maine Death with Dignity Act*

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.

ENACTED as PL 2019, [Ch. 271](#).

[LD 1337](#)—*Resolve, To Save Lives by Establishing a Homeless Opioid Users Service Engagement Pilot Project within the Department of Health and Human Services*

This Resolve establishes within DHHS a 24-month pilot program to provide rapid access to low-barrier treatment for substance use disorders and stable housing for 50 opioid users.

ENACTED as Resolve 2019, [Ch. 105](#).

# New Laws

## [LD 1523](#)—*An Act To Ensure the Quality of and Increase Access to Recovery Residences*

This law does a number of things including create a certification process for substance use disorder recovery residences.

ENACTED as PL 2019, [Ch. 524](#).

## [LD 1816](#)—*An Act To Ensure the Safety and Well-being of Infants Affected by Substance Exposure*

This law modifies DHHS reporting requirements imposed on hospitals caring for newborns to include infants affected by substance use regardless of whether the mother's substance use was legal or illegal.

ENACTED as PL 2019, [Ch. 342](#).

## [LD 1803](#)—*An Act To Update the Laws Regarding Death and Marriage Records*

Among other things, the law would allow a health care provider who certified a death certificate to correct or complete a death certificate by means of an electronic amendment.

ENACTED as PL 2019, [Ch. 340](#).

## **Labor Committee**

### [LD 75](#)—*An Act to Protect Earned Pay*

Under current law, a person who receives or is scheduled to receive remuneration in the form of vacation pay in excess of 4 weeks' wages or holiday pay is disqualified from receiving unemployment benefits for the week that remuneration is due. This law removes those disqualifications.

ENACTED as PL 2019, [Ch. 419](#).

### [LD 278](#)—*An Act Regarding Pay Equality*

This law prohibits an employer from inquiring about a prospective employee's compensation history until after an offer of employment that includes all terms of compensation has been negotiated and made to the prospective employee.

ENACTED as PL 2019, [Ch. 35](#).

### [LD 305](#)—*An Act To Protect Job Applicants from Identity Theft*

This law prohibits the request of a social security number from a prospective employee by an employer on an employment application or during the application process.

ENACTED as PL 2019, [Ch. 47](#).

### [LD 369](#)—*An Act To Support Healthy Workplaces and Healthy Families by Providing Earned Paid Sick Leave to Certain Employees*

This law creates a right to earned paid sick leave for employees in a workplace with more than 5 employees. Employees include per diems. This bill takes effect January 1, 2021.

ENACTED PL 2019, [Chapter 156](#)

### [LD 733](#)—*An Act To Promote Keeping Workers in Maine*

This law prohibits an employer from requiring or entering into a so-called noncompete agreement with an employee earning wages that are at or below 400% of the federal poverty level.

ENACTED as PL 2019, [Ch. 513](#).

# New Laws

## [LD 756](#)—*An Act To Improve the Maine Workers' Compensation Act of 1992*

This is the Workers Compensation law for 2019. It does several things:

It amends the definition of "average weekly wages, earnings or salary" to clarify that, for an injury occurring on or after January 1, 2020, any fringe or other benefit paid by the employer that does not continue during the disability must be included to the extent that the inclusion of the fringe or other benefit will not result in a weekly benefit amount that is greater than 2/3 of 125% of the state average weekly wage at the time of the injury.

It requires that the Workers' Compensation Board must vote with the support of 5 of the 7 members of the board to contract for the services of or to employ administrative law judges beginning January 1, 2020, except for the reappointment of administrative law judges appointed prior to January 1, 2020.

It allows an exception to the requirement that the first payment must be made by an employer within 14 days after notice of the injury or death if the payment cannot be made due to a factual mistake, an act of God or unavoidable circumstances.

It increases the maximum benefit level to 125% of the state average weekly wage for an injury occurring on or after January 1, 2020. It requires a cost-of-living adjustment to be applied in cases of total incapacity after 260 weeks of benefits.

It extends the cap of benefits for partial incapacity from 520 weeks to 624 weeks.

It eliminates the provision relating to the extension of benefits for partial incapacity if the whole person impairment resulting from the injury is in excess of 18% for an injury occurring after January 1, 2020.

It clarifies how payments for paid time off are coordinated with workers' compensation benefits.

It provides that, if a deceased employee has no dependents, the employer must pay benefits to the parents of the deceased employee for a period of 500 weeks.

It extends the notice of injury requirement from 30 days to 60 days.

It caps the maximum percentage of attorney's fees that may be awarded at 10% in a lump-sum settlement in cases in which the injury occurred on or after January 1, 2020.

It authorizes the Workers' Compensation Board to consider adopting a rule to establish time frames for the filing of any petition related to a controversy with the board if a full agreement is not reached by the parties after conclusion of any mediation pursuant to the Maine Revised Statutes, Title 39-A, section 313.

It requires the Workers' Compensation Board to study the advocate program established pursuant to the section 153-A, including the salary paid to advocates, and make recommendations for any changes to improve the advocate program and its representation of injured workers to the Labor Committee no later than January 1, 2020.

It directs the Workers' Compensation Board to convene a working group of stakeholders to evaluate issues related to work search and vocational rehabilitation requirements for injured workers and protections for injured workers whose employers have wrongfully not secured workers' compensation payments.

**ENACTED** as PL 2019, [Ch. 344](#).

## [LD 1017](#)—*Resolve, To Direct the Department of Labor To Develop a Framework for Encouraging Employers To Identify Safer Alternatives to Hazardous Chemicals*

This Resolve requires the Department of Labor to develop a framework for identifying hazardous chemicals used in the workplace and identifying safer alternatives to those chemicals.

**ENACTED** as Resolve 2019, [Ch. 47](#).

# New Laws

## **Judiciary Committee**

### **LD 287**—*An Act To Impose on Mental Health Professionals a Duty To Warn and Protect*

This law imposes on certain mental health professionals a duty to warn and protect if a patient or client is likely to engage in physical violence that poses a serious risk of harm to self or others.

**ENACTED** as PL 2019, [Ch. 317](#).

### **LD 666**—*An Act To Protect Pregnant Workers*

This law provides that it is unlawful employment discrimination for an employer to fail to provide a reasonable accommodation for an employee's pregnancy-related condition.

**ENACTED** as PL 2019, [Ch. 490](#).

### **LD 673**—*An Act To Amend the Laws Governing the Circumstances of Death That Must Be Reported to the Office of Chief Medical Examiner*

This law amends the law governing the Office of Chief Medical Examiner, including the duty on providers to report information to the Office.

**ENACTED** as PL 2019, [Ch. 87](#).

### **LD 841**—*An Act To Amend the Laws Governing Damages Awarded for Wrongful Death*

This law increases the limit on damages for the loss of comfort, society and companionship and emotional distress from \$500,000 to \$750,000 in a case of wrongful death.

**ENACTED** as PL 2019, [Ch. 198](#).

### **LD 1133**—*An Act To Require That Hospital Liens Be Satisfied on a Just and Equitable Basis*

This law requires that a hospital's statutory lien be reduced by the patient's proportionate share of a patient's litigation or other recovery costs, including, but not limited to, reasonable attorney's fees.

**ENACTED** as PL 2019, [Ch. 270](#).

### **LD 1352**—*An Act To Provide for Consistency Regarding Persons Authorized To Conduct Examinations for Involuntary Hospitalization and Guardianship*

This law incorporates the Blue paper definition of who a “medical practitioner” is for purposes of conducting an evaluation pursuant to the Maine Probate Code’s adult guardianship provision.

**ENACTED** as PL 2019, [Ch. 276](#).

### **LD 1479**—*An Act To Clarify Guardianship over Detainees under 18 Years of Age Regarding Mental Health Care*

This law clarifies that the statutory guardianship power of the Commissioner of Corrections over detainees under 18 years of age extends to both necessary medical care as well as necessary mental healthcare.

**ENACTED** 2019, [Ch. 155](#).

### **LD 1701**—*An Act To Clarify Various Provisions of the Maine Human Rights Act*

This law makes changes to the Maine Human Rights Act. It clarifies the Act's coverage of claims based on association and based on the perception that an individual belongs to a protected class; and provides a definition of



# New Laws

"gender identity." It establishes that a leave of absence can be a reasonable accommodation for a disability in employment. It prohibits single-gender, single-occupancy restrooms.

ENACTED as PL 2019, [Ch. 464](#).

**[LD 1811](#)**—*An Act To Enhance Personal and Public Safety by Requiring Evaluations of and Judicial Hearings for Persons in Protective Custody Regarding Risk of Harm and Restricting Access to Dangerous Weapons*

This law provides an option for law enforcement to take a person into protective custody and have assessed a person who presents a likelihood of foreseeable harm to the person or to others.

"Likelihood of foreseeable harm" is defined as a substantial risk in the foreseeable future of serious physical harm to the person as manifested by recent behaviors or threats of, or attempts at, suicide or serious self-inflicted harm; or a substantial risk in the foreseeable future of serious physical harm to others as manifested by recent homicidal or violent behavior or by recent conduct or statements placing others in reasonable fear of serious physical harm.

The law enforcement officer is directed to have the person in protective custody assessed by a medical practitioner. If the assessment finds that the person presents a likelihood of foreseeable harm, the law enforcement officer must seek an endorsement from a judicial officer that the person presents a likelihood of foreseeable harm, which authorizes law enforcement to notify the person that the person is a restricted person and is prohibited from possessing, controlling, acquiring or attempting to possess, control or acquire a dangerous weapon pending the outcome of a judicial hearing. The restricted person must immediately and temporarily surrender any weapon possessed, controlled or acquired by the restricted person to a law enforcement officer.

A restricted person who makes all practical and immediate efforts to comply with a surrender notice is not subject to arrest or prosecution as a prohibited person. If a law enforcement agency has probable cause to believe the restricted person possesses or controls but has not surrendered a weapon, law enforcement may, prior to or as part of a judicial hearing, search for and seize such a weapon when authorized by a judicially issued warrant or other circumstances approved by law.

The district attorney is required to file a petition for judicial review of the initial restrictions. Within 14 days of the notice of restricted status given to the restricted person, the court is required to hold a hearing to determine whether to dissolve or extend the initial restrictions. The restricted person has the right to counsel. The district attorney has the burden of proving that the restricted person presents a likelihood of foreseeable harm. The court may dissolve the initial restrictions or extend them for up to one year.

This law directs the executive branch to work with medical practitioners and law enforcement to develop and release, by January 1, 2020, a request for proposals for the development and acquisition of the technology necessary to enable assessments at locations other than health care facilities.

By Feb. 1, 2020, the Dept. of Public Safety must develop a plan to implement a database to support this legislation.

The provisions for assessments for likelihood of foreseeable harm and restricted person status take effect July 1, 2020.

ENACTED as PL 2019, [Ch. 411](#).

# New Laws

## Other Committees

### [LD 37](#)—*An Act To Allow for the Sale of Nonprescription Drugs through Vending Machines*

This law creates a limited exception to the prohibition against the sale of drugs by vending machines to allow for the sale of nonprescription drugs by vending machines.

ENACTED as PL 2019, [Ch. 454](#).

### [LD 264](#)—*An Act Regarding the Taking of a Blood Sample from an Operator of a Motor Vehicle Involved in a Fatal Accident*

This law makes changes to the law providing immunity from liability for collecting specimens of blood at the request of a law enforcement officer and extends that immunity EMS and law enforcement personnel.

ENACTED as PL 2019, [Ch. 189](#).

### [LD 289](#)—*An Act To Prohibit the Use of Certain Disposable Food Service Containers*

Beginning January 1, 2020, this bill prohibits the sale or distribution in the State of disposable food service containers composed in whole or in part of polystyrene foam, excluding hospitals.

ENACTED as PL 2019, [Ch. 62](#).

### [LD 329](#)—*An Act To Exempt from Criminal Liability Persons Reporting a Drug-related Medical Emergency*

This law immunizes a person who in good faith seeks medical assistance for another person experiencing a drug-related overdose and is in need of medical assistance.

ENACTED, PL 2019 [Ch. 137](#).

### [LD 396](#)—*An Act To Support Justice for Victims of Sexual Assault by Increasing the Time Sexual Assault Forensic Examination Kits Must Be Stored*

This law changes the period that a law enforcement agency must store a sexual assault forensic examination kit when the victim has not come forward from 90 days from receipt of the kit to 8 years.

ENACTED as PL 2019, [Ch. 94](#).

### [LD 798](#)—*An Act To Protect Maine Children and Students from Preventable Diseases by Repealing Certain Exemptions from the Laws Governing Immunization Requirements*

Current law allows exemptions from immunization requirements based on religious or philosophical beliefs for students in elementary and secondary schools and postsecondary schools and employees of nursery schools and health care facilities. This bill removes those exemptions.

ENACTED as PL 2019, [Ch. 154](#).

### [LD 1553](#)—*An Act Directing That the Towns Constituting Hospital Administrative District No. 4 Hold a Vote on the Proposed Merger with Northern Light Health*

This bill required that the towns comprising Hospital Administrative District No. 4 hold non-binding votes on the proposal to merge Mayo Regional Hospital with Northern Light Health.

ENACTED as P&S Law 2019, [Ch. 5](#).

# New Laws

[LD 1676](#)—*An Act To Enhance the Ability of the State To Prosecute the Crime of Operating Under the Influence*

This law amends the laws governing the testing of breath, blood and urine samples for the presence of alcohol.

ENACTED as PL 2019, [Ch. 368](#).

[LD 1708](#)—*An Act To Provide for the Merger of Hospital Administrative District No. 4 into MRH Corp., a Maine Nonprofit, Nonstock Private Corporation*

This law authorizes Mayo Regional Hospital to merge into a new entity known as MRH Corp., that has as its sole member EMHS and, upon the effective date of the merger, dissolve the district.

ENACTED as P&S Law 2019, [Ch. 14](#).

[LD 1724](#)—*An Act To Amend the Maine Emergency Medical Services Act of 1982 and Related Provisions*

This law amends the Maine Emergency Medical Services Act of 1982 and related provisions.

ENACTED as PL 2019, [Ch. 370](#).

[LD 1746](#)—*An Act To Amend the Licensing Laws of Certain Professions and Occupations*

This bill makes many changes to the licensing laws of certain professions and occupations including:

- It adds failure by a licensee to provide treatment records to a patient within a reasonable time when requested by the patient in writing as a new ground for discipline.
- It authorizes the issuance of licenses to speech-language pathology assistant applicants who have a degree higher than an associate degree and exempts temporary licensees, speech-language pathology assistants and trainee licensees from continuing education requirements at the time of license renewal.

ENACTED as PL 2019, [Ch. 503](#).

## **Enacted Bills Followed By MHA**

<b>Public Laws</b>	<b>72</b>
<b>Resolves</b>	<b>11</b>
<b>Private &amp; Special Laws</b>	<b>2</b>
<b>Total</b>	<b>85</b>

# Committee Carryovers

**There are two kinds of carryovers: Committee Carryovers (where the bill is still in committee) and Appropriations Carryovers (where the bill is on the Appropriations Table).**

## **Insurance Committee (13)**

[LD 30](#)—*An Act To Improve Health Care Data Analysis*

[LD 51](#)—*An Act To Implement the Recommendations of the Task Force on Health Care Coverage for All of Maine*

[LD 519](#)—*An Act To Expand Adult Dental Health Insurance Coverage*

[LD 1085](#)—*An Act To Ensure That Maine Residents Have Adequate and Affordable Access to Health Care*

[LD 1138](#)—*An Act To Ensure Health Insurance Coverage for Treatment for Childhood Postinfectious Neuroimmune Disorders Including Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections and Pediatric Acute-onset Neuropsychiatric Syndrome*

[LD 1387](#)—*An Act To Increase Access to Safe and Affordable Prescription Drugs*

[LD 1434](#)—*An Act To Allow Certified Registered Nurse Anesthetists To Bill for Their Services*

[LD 1591](#)—*An Act To Provide Access to Health Care for Maine Citizens*

[LD 1611](#)—*An Act To Support Universal Health Care*

[LD 1617](#)—*An Act To Create a Single-payer Health Care Program in Maine*

[LD 1650](#)—*An Act To Strengthen Consumer Protections in Health Care*

[LD 1660](#)—*An Act To Improve Access to Physician Assistant Care*

[LD 1755](#)—*An Act To Move Maine Toward Affordable Health Care for Everyone*

## **HHS Committee (15)**

[LD 227](#)—*An Act To Strengthen Maine's Public Health Infrastructure*

[LD 231](#)—*An Act To Improve Public Health by Maximizing Federal Funding Opportunities*

[LD 232](#)—*An Act To Change the Process by Which Designated Nonstate Mental Health Institutions Petition the District Court To Admit Certain Patients to a Progressive Treatment Program*

[LD 284](#)—*An Act To Improve Care Provided to Forensic Patients*

[LD 362](#)—*Resolve, To Require the Department of Health and Human Services To Submit a State Plan Amendment To Exempt Retirement and Educational Assets from Calculations for Medicaid Eligibility*

[LD 653](#)—*Resolve, To Establish the Task Force To Study Opportunities for Improving Home and Community-based Services*

[LD 697](#)—*Resolve, Directing the Department of Health and Human Services To Conduct a Review of Rules Governing In-home Personal Care Assistance Services*

[LD 803](#)—*An Act To Create 4 Regional Mental Health Receiving Centers*

[LD 1052](#)—*An Act To Require Regular and Transparent Review of MaineCare Reimbursement Rates*

# Committee Carryovers

[LD 1146](#)—*An Act To Ensure the Provision of Housing Navigation Services to Older Adults and Persons with Disabilities*

[LD 1418](#)—*An Act To Address Maine's Shortage of Behavioral Health Services for Minors*

[LD 1429](#)—*An Act To Fund Opioid Use Disorder Prevention and Treatment*

[LD 1630](#)—*Resolve, To Ensure Access to Opiate Addiction Treatment*

[LD 1662](#)—*An Act To Save Lives by Establishing the Low Barrier Opioid Treatment Response Program*

[LD 1822](#)—*An Act To Protect Access to Services for Adults with Serious and Persistent Mental Illness*

## **Appropriations Committee (6)**

LD 310—*An Act Making Certain Supplemental Appropriations and Allocations and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government*

LD 311—*An Act Making Certain Appropriations and Allocations and Changing Certain Provisions of the Law Necessary to the Proper Operations of State Government*

[LD 455](#)—*An Act To Authorize a General Fund Bond Issue To Expand Maine's Research, Development, Commercialization and Clinical Infrastructure Assets To Improve Outcomes for Maine Families with Members Suffering from Alzheimer's, Dementia and Other Diseases of Aging*

LD 968—*Supplemental Budget (Biennial SFY 2020-21)*

LD 969—*Supplemental Budget (SFY 2019)*

[LD 1563](#)—*An Act To Encourage the Development of Broadband Coverage in Rural Maine*

## **Labor Committee (3)**

[LD 402](#)—*An Act To Restore Overtime Protections for Maine Workers*

[LD 1410](#)—*An Act To Create Paid Family and Medical Leave Benefits*

[LD 1639](#)—*An Act To Require Comprehensive Responsible Contracting Practices for Public Construction Projects*

## **Judiciary Committee (2)**

[LD 433](#)—*RESOLUTION, Proposing an Amendment to the Constitution of Maine To Explicitly Prohibit Discrimination Based on the Sex of an Individual*

[LD 531](#)—*An Act To Provide Counsel for a Person Who Is the Subject of an Adult Guardianship, Conservatorship or Other Protective Arrangement Proceeding*

## **Other Committees (3)**

[LD 1295](#)—*An Act To Determine the Need To Increase the Number of Forensic Emergency and Crisis Beds*

[LD 1460](#)—*An Act To Support Collection and Proper Disposal of Unwanted Drugs*

[LD 1466](#)—*An Act To Allow Community-based Organizations To Participate in Diversion Projects for Persons with Substance Use Disorder*

# Appropriations Carryovers

**The Legislature carried over 37 bills we're watching that were on the Appropriations Table.**

[LD 46](#)—*An Act To Establish a Substance Use Disorder Clinic at the Cumberland County Jail*

[LD 73](#)—*An Act To Provide an Income Tax Credit for Certain Student Loan Repayments*

[LD 177](#)—*Resolve, To Improve Access to Bariatric Care*

[LD 181](#)—*An Act To Provide Funding to the Department of Health and Human Services To Support Free Health Clinics in the State*

[LD 215](#)—*An Act To Increase the Reimbursement Rate for Ambulance Service Paid by the Department of Corrections*

[LD 315](#)—*An Act To Promote Healthy Living in Maine*

[LD 493](#)—*An Act To Provide Lung Cancer Counseling and Screening for MaineCare Recipients*

[LD 498](#)—*Resolve, Regarding Reimbursement of Physical Medicine and Rehabilitation Codes under MaineCare*

[LD 511](#)—*An Act To Create an Alzheimer's Disease and Dementia Coordinator Position within the Department of Health and Human Services*

[LD 539](#)—*Resolve, To Ensure Appropriate Personal Needs Allowances for Persons Residing in Long-term Care Facilities*

[LD 593](#)—*Resolve, To Stabilize the Behavioral Health Workforce and Avert More Expensive Treatments*

[LD 606](#)—*Resolve, To Require the Department of Health and Human Services To Provide Cost-based Reimbursement to Maine Veterans' Homes*

[LD 611](#)—*An Act To Provide Supplemental Appropriations and Allocations for the Operations of State Government*

[LD 692](#)—*Resolve, To Address Reimbursement Rates for Licensed Clinical Social Workers under MaineCare*

[LD 706](#)—*An Act To Reduce the Incidence of Obesity and Chronic Disease in the State*

[LD 745](#)—*An Act To Support the Northern New England Poison Center*

[LD 763](#)—*An Act To Ensure the Availability of Community Integration Services*

[LD 799](#)—*An Act To Increase Faculty in Nursing Education Programs*

[LD 836](#)—*An Act To Expand Maine's School-based Health Centers*

[LD 880](#)—*An Act To Respond to Federal Changes to Social Programs*

[LD 915](#)—*An Act To Provide Adequate Reimbursement under MaineCare for Ambulance and Neonatal Transport Services*

[LD 931](#)—*An Act Concerning the Department of Health and Human Services*

[LD 972](#)—*Resolve, To Increase Access to Brain Injury Waiver Services*

[LD 1106](#)—*An Act To Improve the Health and Economic Security of Older Residents*



# Appropriations Carryovers

- [LD 1126](#)—Resolve, To Classify Employee Health Insurance as a Fixed Cost for MaineCare Reimbursement in Nursing Homes
- [LD 1135](#)—Resolve, To Increase Funding for Assertive Community Treatment
- [LD 1229](#)—Resolve, To Establish the Committee To Study and Develop Recommendations To Address Guardianship Challenges That Delay Patient Discharges from Hospitals
- [LD 1256](#)—An Act To Provide a Health Care Preceptor Tax Credit
- [LD 1350](#)—An Act To Improve Rural Health Care
- [LD 1362](#)—An Act To Fund Opioid Treatment by Establishing an Excise Tax on Manufacturers of Opioids
- [LD 1377](#)—An Act To Enhance and Improve the Maine Developmental Services Oversight and Advisory Board and To Establish an Independent Oversight Panel To Review Deaths of and Serious Injuries to Persons with Intellectual Disabilities or Autism
- [LD 1461](#)—An Act To Support Early Intervention and Treatment of Mental Health Disorders
- [LD 1539](#)—An Act To Provide Maine Children Access to Affordable Health Care
- [LD 1577](#)—An Act To Assist Nursing Homes in the Management of Facility Beds
- [LD 1655](#)—An Act To Improve and Modernize Home-based Care
- [LD 1661](#)—An Act To Create the Drug Donation and Redispensing Program
- [LD 1689](#)—An Act To Address the Opioid Crisis through Evidence-based Public Health Policy

**A few more bills actually made it off the Appropriations Table, were sent to the Governor, and then were subsequently held by the Governor. Once the Legislature re-convenes, the Governor will have three days to decide whether to sign or veto the bills. Among the bills held by the Governor are five MHA is following:**

- [LD 775](#)—Resolve, To Direct the Department of Health and Human Services To Amend Its Rules for Eligibility for Community Support Services
- [LD 1315](#)—An Act To Support Medically Monitored Crisis Support and Intervention
- [LD 1758](#)—An Act To Clarify and Amend MaineCare Reimbursement Provisions for Nursing and Residential Care Facilities
- [LD 1809](#)—Resolve, To Increase Funding for Evidence-based Therapies for Treating Emotional and Behavioral Problems in Children
- [LD 1838](#)—Resolve, Requiring the Department of Health and Human Services To Examine Options for Upper Payment Limit Adjustments for MaineCare Services

# Studies

## Several bills created studies to look at various issues during the interim between sessions.

[LD 40](#)—*Resolve, To Establish the Commission To Study Children's Mental Health*

This resolve establishes a Commission to study laws, regulations, rules and policies governing the diagnosis and treatment of children with mental health issues.

ENACTED as Resolve 2019, [Ch. 96](#).

[LD 239](#)—*Resolve, Directing the Department of Health and Human Services To Explore the Development of a Behavioral Health Unit at the Cumberland County Jail*

This resolve directs DHHS to explore the development of a behavioral health unit that at Cumberland Co. jail.

ENACTED as Resolve 2019, [Ch. 43](#).

[LD 408](#)—*Resolve, To Improve Access to Neurobehavioral Services*

This resolve requires DHHS to develop a plan to provide up to 16 new neurobehavioral beds in the State to serve people with brain injury and significant behavioral challenges who need short-term treatment.

ENACTED as Resolve 2019, [Ch. 88](#).

[LD 439](#)—*Resolve, Directing the Commissioner of Health and Human Services To Convene a Task Force To Study the Need for Long-term Acute Care Hospital*

This resolve requires DHHS to convene a task force to evaluate the need for long-term acute care beds in the State.

ENACTED as Resolve 2019, [Ch. 69](#).

[LD 892](#)—*Resolve, To Require the Examination of Alternatives to the Service Provider Tax*

This resolve directs DHHS in partnership with other state agencies to examine the service provider tax.

ENACTED as Resolve 2019, [Ch. 81](#).

[LD 934](#)—*Resolve, To Review the Implementation of the Maine Background Check Center Act*

This resolve directs the Commissioner of DHHS to convene a study group to assess the effects of the implementation of the system of background checks.

ENACTED as Resolve 2019, [Ch. 53](#).

[LD 1486](#)—*An Act To Strengthen Supports for Adults with Intellectual Disabilities or Autism in Crisis*

This law amends the current law regarding crisis and respite services for persons with intellectual disabilities or autism. It also requires the DHHS to study the existing services for persons with intellectual disabilities or autism and determine the adequacy of the MaineCare reimbursement methodology and rates paid to providers for meeting the needs of persons at risk for out-of-home placement due to challenging behavior that affects health and safety.

ENACTED as PL 2019, [Ch. 290](#).

[LD 1602](#)—*Resolve, Establishing the Working Group on Mental Health*

This resolve establishes the Working Group on Mental Health, including one hospital representative, to assess the State's capacity to serve people with behavioral health needs and propose a mental health plan for the State.

ENACTED as Resolve 2019, [Ch. 100](#).

# Studies

## **The budget also had two notable studies in the healthcare sector:**

### **Medicaid Expansion Review**

DHHS must study the following aspects of Medicaid expansion:

- the per capita cost of enrollees;
- changes in uncompensated care;
- reimbursement rates and revenue from Medicaid compared to other payers;
- value-based purchasing options;
- previous insurance status of new members;
- the impact of the expansion on private insurers and the economy; and
- any other element necessary to inform future policy decisions by the department.

### **Long-term Care Workforce Review**

An 18-member commission is created to review:

- A. Measuring current demand for direct-care workers and projecting future needs;
- B. Developing a campaign and statewide recruitment strategies to encourage more people to work in facility-based and home-based long-term care;
- C. Supporting career ladders throughout various long-term care settings;
- D. Identifying education needs and methods to fill education needs for direct care workers;
- E. Identifying barriers to hiring and methods to overcome barriers to hiring;
- F. Developing strategies to improve the quality of long-term care jobs; and
- G. Increasing opportunities for shared staffing among long-term care providers. The commission shall make policy recommendations for public and private funding mechanisms to implement the commission's recommendations.

### **Committees**

Many of the issues included in carryover legislation will also get some work. We anticipate some of the more significant topics to be reviewed between sessions will include:

- Insurance Committee: Single-payer or universal healthcare (LDs 1591, 1611 and 1617).
- HHS Committee: Medicaid rate setting and related UPL calculation questions particularly those looking at the issue of behavioral health (LDs 1052 and 1838).
- Labor Committee: Paid family leave (LD 1410).
- Judiciary Committee: Emergency Guardianship for patients stuck in hospitals (LD 1299).



Maine Hospital Association

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