

## **129th MAINE LEGISLATURE**

## FIRST REGULAR SESSION-2019

Legislative DocumentNo. 1591

H.P. 1150

House of Representatives, April 18, 2019

## An Act To Provide Access to Health Care for Maine Citizens

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

R(+ B. Hunt

ROBERT B. HUNT Clerk

Presented by Representative BRENNAN of Portland.

1 Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §1722, sub-§1, ¶¶A and B, as reallocated by RR 2007, c. 2,
 §9, are amended to read:

A. Each hospital may voluntarily hold its consolidated operating margin to no more than 3%. For purposes of this paragraph, a hospital's consolidated operating margin is calculated by dividing its consolidated operating income by its total consolidated operating revenue. <u>Annually, for each hospital, the department shall establish a</u> <u>recommended percentage that the hospital should hold its consolidated operating</u> <u>margin to and notify a hospital of the department's recommendation for that hospital.</u>

10 Β. Each hospital may voluntarily restrain its increase in its expense per casemix-adjusted inpatient and volume-adjusted outpatient discharge to no more than 11 110% of the forecasted increase in the hospital market basket index for the coming 12 federal fiscal year, as published in the Federal Register, when the federal Centers for 13 Medicare and Medicaid Services publishes the Medicare program's hospital inpatient 14 prospective payment system rates for the coming federal fiscal year. For purposes of 15 this paragraph, the measure of a hospital's expense per casemix-adjusted inpatient and 16 17 volume-adjusted outpatient discharge is calculated by:

(1) Calculating the hospital's total hospital-only expenses;

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- 19 (2) Subtracting from the hospital's total hospital-only expenses the amount of the20 hospital's bad debt;
- 21 (3) Subtracting from the amount reached in subparagraph (2) the hospital taxes
  22 paid to the State during the hospital's fiscal year; and
- 23 (4) Dividing the amount reached in subparagraph (3) by the product of:
- 24 (a) The number of inpatient discharges, adjusted by the all payer case mix25 index for the hospital; and
  - (b) The ratio of total gross patient service revenue to gross inpatient service revenue.

28 For the purposes of this paragraph, a hospital's total hospital-only expenses include any item that is listed on the hospital's Medicare cost report as a subprovider, such as 29 a psychiatric unit or rehabilitation unit, and does not include nonhospital cost centers 30 shown on the hospital's Medicare cost report, such as home health agencies, nursing 31 32 facilities, swing beds, skilled nursing facilities and hospital-owned physician practices. For purposes of this paragraph, a hospital's bad debt is as defined and 33 reported in the hospital's Medicare cost report and as submitted to the Maine Health 34 Data Organization pursuant to Title 22, chapter 1683. Annually, for each hospital, the 35 department shall establish a recommended limit on an increase in the hospital's 36 37 expenses under this paragraph and notify the hospital of the department's recommendation for that hospital. 38

39 Sec. 2. 36 MRSA §2892, as amended by PL 2017, c. 284, Pt. IIII, §1, is further 40 amended by adding at the end a new paragraph to read: For state fiscal years beginning on or after July 1, 2020, the hospital's taxable year is the hospital's fiscal year that ended during calendar year 2018.

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3 Sec. 3. Medicare Buy-in Program and Affordable Care Act subsidies; plan for increased funding. The Department of Health and Human Services shall 4 develop a plan to provide increased funding for the Medicare Buy-in Program and for 5 subsidies to individuals under the federal Patient Protection and Affordable Care Act 6 using revenue resulting from changing, from 2014 to 2018, the base year on which the 7 8 hospital tax is imposed under the Maine Revised Statutes, Title 36, section 2892. By December 4, 2019, the department shall submit a report on the plan to the Joint Standing 9 Committee on Health Coverage, Insurance and Financial Services and the committee may 10 report out a bill relating to the report to the Second Regular Session of the 129th 11 12 Legislature.

13 Sec. 4. Wholesale prescription drug importation program; design. The Department of Health and Human Services, in consultation with relevant other state 14 agencies, federal agencies and interested parties, shall design a wholesale prescription 15 drug importation program that complies with 21 United States Code, Section 384, 16 including requirements regarding safety and cost savings. By December 4, 2019, the 17 department shall submit the design for a wholesale prescription drug importation program 18 to the Joint Standing Committee on Health Coverage, Insurance and Financial Services 19 and the committee may report out a bill to the Second Regular Session of the 129th 20 21 Legislature. In designing the wholesale prescription drug importation program, the department must ensure that the program: 22

- Designates a state agency to oversee the program and become a licensed
   wholesaler for the purpose of seeking federal certification and approval to import safe
   prescription drugs that will provide savings to consumers in the State;
- Uses Canadian suppliers of prescription drugs regulated under the appropriate
   Canadian or provincial laws;
- Includes a process to sample the purity, chemical composition and potency of
   imported prescription drugs;
- 4. Ensures that only those prescription drugs expected to generate substantial savings
  for consumers in the State are imported into the State;
- 5. Ensures that imported prescription drugs will not be distributed, dispensed or sold
   outside of the State;
- 6. Ensures that consumers and health plans are charged only the actual acquisition
  cost of the imported, dispensed prescription drugs;
- 7. Ensures that the health plan payment of the prescription drug component of
   pharmacy and health care provider billing reimburses no more than the actual acquisition
   cost of the dispensed, imported prescription drug;

8. Ensures that participating health plans keep their formularies and claims payment 1 systems up to date with the prescription drugs provided through the program; 2 3 9. Ensures that participating health plans base consumer cost sharing on no more 4 than the actual acquisition cost of the dispensed, imported prescription drug; 10. Requires participating health plans to demonstrate to the state agency designated 5 to oversee the program how savings on imported drugs are reflected in premiums; 6 11. Limits the profit margin of any participating wholesaler or distributor of 7 imported prescription drugs to a specified amount established by the designated state 8 agency designated to oversee the program; 9 10 12. Does not permit the import of generic prescription drugs that would violate United States patent laws on United States branded products; 11 13. Complies with the transaction and tracing requirements of 21 United States 12 Code, Sections 360eee and 360eee-1 to the extent practical and feasible prior to imported 13 prescription drugs coming into the possession of the licensed wholesaler and that the 14 program complies fully with those federal requirements after imported prescription drugs 15 are in the possession of the licensed wholesaler; 16 17 14. Is adequately financed through a fee on each prescription or other appropriate approach, as long as the fee does not jeopardize significant consumer savings; and 18 15. Includes an audit function. 19 **SUMMARY** 20 21 This bill specifies that the base year for the hospital tax imposed under the Maine Revised Statutes, Title 36, section 2892 is 2018. It directs the Department of Health and 22 Human Services to submit a plan to the Joint Standing Committee on Health and Human 23 24 Services regarding how the additional state revenue resulting from that change can be used for the Medicare Buy-in Program and for subsidies under the federal Patient 25 Protection and Affordable Care Act. 26 27 Current law provides that each hospital may voluntarily hold its consolidated operating margin to no more than 3% and its increase in its expense per casemix-adjusted 28

inpatient and volume-adjusted outpatient discharge to no more than 110% of the
forecasted increase in the hospital market basket index for the coming federal fiscal year.
The bill does not change those percentages but requires the Department of Health and
Human Services to annually establish recommended percentages for each hospital.

The bill requires the Department of Health and Human Services, in consultation with relevant other state agencies, federal agencies and interested parties, to design a wholesale prescription drug importation program. It requires the department to submit the design for the wholesale prescription drug importation program to the Joint Standing Committee on Health Coverage, Insurance and Financial Services and authorizes the committee to report out a bill to the Second Regular Session of the 129th Legislature.