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Public Law
124th Legislature
Second Regular Session

Chapter 556
H.P. 1129 - L.D. 1591

**An Act To Amend the Maine Certificate of Need Act
of 2002 Concerning Right of Entry and Investigation**

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, it is imperative for the Department of Health and Human Services to have authority to enter and inspect a health care facility or other entity to investigate if the facility or entity has violated the Maine Certificate of Need Act of 2002; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 22 MRSA §349-A is enacted to read:

§ 349-A. Compliance investigation

To ensure compliance with this chapter or rules adopted under this chapter, the department may investigate a health care facility or other entity subject to this chapter when the department has a reasonable basis to suspect that a violation has occurred. The health care facility or other entity subject to this chapter may not interfere with or impede the investigation.

1. Right of entry. The department may enter and inspect the premises of a health care facility or other entity subject to this chapter with the permission of the owner or person in charge, or with an administrative inspection warrant issued pursuant to the Maine Rules of Civil Procedure, Rule 80E by the District Court authorizing entry and inspection, when the department has a reasonable basis to suspect that a provision of this chapter or a rule adopted under this chapter has been violated. The right of entry extends to any premises that the department has reason to believe is operated and maintained in violation of this chapter or rules adopted under this chapter. A letter of intent or an application for a certificate of need made pursuant to this chapter and rules adopted under this chapter constitutes permission for entry or inspection of the premises for which the certificate of need is sought in order to facilitate verification of the information submitted on or in connection with a letter of intent or an application for a certificate of need.

2. Access to information. The department, at any reasonable time, upon demand, has the right to inspect and copy books, accounts, papers, records and other documents or information, whether stored electronically, on paper or in other forms, including, but not limited to, documents and information regarding total capital expenditures and operating costs for a project, ownership or control of a health care facility or other entity subject to this chapter or health services provided, when the department has a reasonable basis to suspect that a provision of this chapter or a rule adopted under this chapter has been violated.

3. Findings of fact. Upon completion of an investigation pursuant to this section, the department shall prepare findings of fact and make a recommendation to the commissioner as to whether a provision of this chapter or a rule adopted under this chapter has been violated. If the commissioner determines that a violation has occurred, the commissioner may pursue one or more of the remedies authorized under this Act.

4. Rules. The department may adopt rules to implement this section. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective March 26, 2010.