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S.P. 29

In Senate, January 13, 2021

An Act To Establish the COVID-19 Patient Bill of Rights

(EMERGENCY)

Received by the Secretary of the Senate on January 11, 2021. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by President JACKSON of Aroostook.
Cosponsored by Speaker FECTEAU of Biddeford.

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

3 **Whereas**, the spread of the novel coronavirus disease referred to as COVID-19 has
4 created a public health emergency; and

5 **Whereas**, in response to COVID-19, the World Health Organization has declared a
6 pandemic, the President of the United States has declared a national emergency and the
7 Governor of Maine has declared a civil state of emergency; and

8 **Whereas**, in response to COVID-19, the Governor of Maine has also proclaimed an
9 insurance emergency pursuant to the Maine Revised Statutes, Title 24-A, section 471 and,
10 pursuant to that proclamation, the Superintendent of Insurance has issued orders relating to
11 health insurance coverage for COVID-19 testing and immunization during the civil state
12 of emergency; and

13 **Whereas**, in response to COVID-19, the Governor of Maine has also issued executive
14 orders relating to the ability of Maine residents to ensure continued access to health care
15 services through telehealth and to necessary prescription drugs; and

16 **Whereas**, it is important to maintain these important consumer protections related to
17 health insurance coverage once the civil state of emergency expires; and

18 **Whereas**, the purpose of this legislation is to ensure that those consumer protections
19 are codified in state law; and

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

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

25 **PART A**

26 **Sec. A-1. 24-A MRSA §4320-P** is enacted to read:

27 **§4320-P. Coverage for health care services for COVID-19**

28 Notwithstanding any other requirements of this Title to the contrary, a carrier offering
29 a health plan in this State shall provide, at a minimum, coverage as required by this section
30 for health care services for coronavirus disease 2019, referred to in this section as
31 "COVID-19."

32 **1. Testing.** A carrier shall provide coverage for screening and testing for COVID-19
33 as follows.

34 **A.** A carrier shall provide coverage for screening and testing for COVID-19 that is:

35 (1) Medically necessary as determined by a health care provider;

36 (2) Performed in accordance with any written standing order issued by the state
37 epidemiologist within the Department of Health and Human Services, Maine
38 Center for Disease Control and Prevention; or

1 **§2600-G. Prescriptions during a state of emergency**

2 An individual licensed under this chapter whose scope of practice includes prescribing
3 medication may prescribe to a patient a supply of a prescription drug for an extended period
4 of time, not to exceed a 180-day supply, during a state of emergency declared by the
5 Governor in accordance with Title 37-B, section 742, except for a drug prescribed in
6 accordance with section 2600-C.

7 **Sec. B-3. 32 MRSA §3300-J** is enacted to read:

8 **§3300-J. Prescriptions during a state of emergency**

9 An individual licensed under this chapter whose scope of practice includes prescribing
10 medication may prescribe to a patient a supply of a prescription drug for an extended period
11 of time, not to exceed a 180-day supply, during a state of emergency declared by the
12 Governor in accordance with Title 37-B, section 742, except for a drug prescribed in
13 accordance with section 3300-F.

14 **Sec. B-4. 32 MRSA §3658** is enacted to read:

15 **§3658. Prescriptions during a state of emergency**

16 An individual licensed under this chapter whose scope of practice includes prescribing
17 medication may prescribe to a patient a supply of a prescription drug for an extended period
18 of time, not to exceed a 180-day supply, during a state of emergency declared by the
19 Governor in accordance with Title 37-B, section 742, except for a drug prescribed in
20 accordance with section 3657.

21 **Sec. B-5. 32 MRSA §13786-E** is enacted to read:

22 **§13786-E. Prescriptions during a state of emergency**

23 A pharmacist may dispense to a patient a supply of a prescription drug for an extended
24 period of time, not to exceed a 180-day supply, during a state of emergency declared by
25 the Governor in accordance with Title 37-B, section 742, unless the prescription drug order
26 is prescribed in accordance with section 2210, 2600-C, 3300-F, 3657 or 18308.

27 **Sec. B-6. 32 MRSA §13831, sub-§2-A** is enacted to read:

28 **2-A. Administration of COVID-19 vaccines.** A pharmacist licensed in this State
29 who meets the qualifications and requirements of section 13832 and rules adopted by the
30 board, in addition to influenza vaccines under subsection 1 and other vaccines under
31 subsection 2, may administer coronavirus disease 2019, or COVID-19, vaccines licensed
32 by the United States Food and Drug Administration that are recommended by the United
33 States Centers for Disease Control and Prevention Advisory Committee on Immunization
34 Practices, or successor organization, for administration to a person 16 years of age or older
35 according to a valid prescription when the person has an existing primary care physician or
36 other existing relationship with a nurse practitioner or an authorized practitioner in this
37 State. A pharmacist may administer COVID-19 vaccines licensed by the United States
38 Food and Drug Administration that are outside the guidelines recommended by the United
39 States Centers for Disease Control and Prevention Advisory Committee on Immunization
40 Practices, or successor organization, to a person 16 years of age or older according to a
41 valid prescription when the person has an existing primary care physician or other existing
42 relationship with a nurse practitioner or an authorized practitioner in this State if the

1 prescription specifically states that the vaccine is medically necessary. When the person
2 does not have an existing relationship with a primary care physician, nurse practitioner or
3 other practitioner in this State, the pharmacist may proceed to administer according to a
4 treatment protocol established by an authorized practitioner or a written standing order
5 from a practitioner authorized under the laws of this State to issue an order, a prescription
6 or a protocol to a person 16 years of age or older for COVID-19 vaccines licensed by the
7 United States Food and Drug Administration that are recommended by the United States
8 Centers for Disease Control and Prevention Advisory Committee on Immunization
9 Practices, or successor organization, for administration.

10 **Sec. B-7. 32 MRSA §18309** is enacted to read:

11 **§18309. Prescriptions during a state of emergency**

12 An individual licensed under this chapter whose scope of practice includes prescribing
13 medication may prescribe to a patient a supply of a prescription drug for an extended period
14 of time, not to exceed a 180-day supply, during a state of emergency declared by the
15 Governor in accordance with Title 37-B, section 742, except for a drug prescribed in
16 accordance with section 18308.

17 **PART C**

18 **Sec. C-1. 24 MRSA §2904, sub-§1, ¶A**, as amended by PL 2019, c. 289, §1, is
19 further amended to read:

20 A. A licensed health care practitioner who voluntarily, without the expectation or
21 receipt of monetary or other compensation either directly or indirectly, provides
22 professional services, including services provided through telehealth as defined in Title
23 24-A, section 4316, subsection 1, paragraph E C, within the scope of that health care
24 practitioner's licensure:

- 25 (1) To a nonprofit organization;
- 26 (2) To an agency of the State or any political subdivision of the State;
- 27 (3) To members or recipients of services of a nonprofit organization or state or
28 local agency;
- 29 (4) To support the State's response to a public health threat as defined in Title 22,
30 section 801, subsection 10;
- 31 (5) To support the State's response to an extreme public health emergency as
32 defined in Title 22, section 801, subsection 4-A; or
- 33 (6) To support the State's response to a disaster as defined in Title 37-B, section
34 703, subsection 2;

35 **Sec. C-2. 24-A MRSA §4316, sub-§1, ¶C**, as enacted by PL 2019, c. 289, §2, is
36 amended to read:

37 C. "Telehealth," as it pertains to the delivery of health care services, means the use of
38 interactive real-time visual and audio or other electronic media for the purpose of
39 consultation and education concerning and diagnosis, treatment, care management and
40 self-management of an enrollee's physical and mental health and includes real-time
41 interaction between the enrollee and the telehealth provider, synchronous encounters,

1 asynchronous encounters, store and forward transfers and telemonitoring. "Telehealth"
2 does not include the use of ~~audio-only telephone~~, facsimile machine, e-mail or texting.

3 **Sec. C-3. 24-A MRSA §4316, sub-§1, ¶E**, as enacted by PL 2019, c. 289, §2, is
4 repealed.

5 **Sec. C-4. 24-A MRSA §4316, sub-§5**, as enacted by PL 2019, c. 289, §2, is
6 repealed.

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

9 **SUMMARY**

10 This bill establishes certain requirements for the protection of health care consumers
11 with regard to testing, treatment and immunization for COVID-19. The bill also makes
12 changes to improve access to prescription drugs and to health care services through
13 telehealth.

14 Part A of the bill requires health insurance carriers to provide coverage for COVID-19
15 screening, testing and immunization services and prohibits a carrier from imposing any
16 cost-sharing requirements on consumers for those services.

17 Part B of the bill authorizes a pharmacist to administer COVID-19 vaccines licensed
18 by the United States Food and Drug Administration that are recommended by the United
19 States Centers for Disease Control and Prevention Advisory Committee on Immunization
20 Practices for administration to a person 16 years of age or older. Part B also provides that
21 registered nurses, providers of osteopathic medicine, providers of allopathic medicine,
22 podiatrists and dentists may prescribe to a patient a prescription drug for an extended period
23 of time, not to exceed a 180-day supply, during a state of emergency declared by the
24 Governor.

25 Part C of the bill authorizes the delivery of health care services through telehealth by
26 audio-only telephone.