

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-ONE

S.P. 49 - L.D. 120

**An Act To Lower Health Care Costs through the Establishment of the Office  
of Affordable Health Care**

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

**Sec. 1. 5 MRSA §2041, sub-§1,** as repealed and replaced by PL 2021, c. 293, Pt. A, §5, is amended to read:

**1. Board established.** The Maine Prescription Drug Affordability Board, as established in section 12004-G, subsection 14-I and referred to in this chapter as "the board," shall carry out the purposes of this chapter. Administrative oversight of the board must be provided by the Office of Affordable Health Care.

**Sec. 2. 5 MRSA §2041, sub-§8,** as repealed and replaced by PL 2021, c. 293, Pt. A, §5, is amended to read:

**8. Staff.** The Office of Affordable Health Care shall provide staffing services to the board may employ an executive director, whose salary, to the extent feasible, must comport with state personnel rules and requirements.

**Sec. 3. 5 MRSA c. 310-A** is enacted to read:

**CHAPTER 310-A**

**OFFICE OF AFFORDABLE HEALTH CARE**

**§3121. Definitions**

**1. Advisory council.** "Advisory council" means the Advisory Council on Affordable Health Care established in section 12004-I, subsection 31-B.

**2. Executive director.** "Executive director" or "director" means the executive director of the office appointed pursuant to section 3122, subsection 2.

**3. Legislative oversight committee.** "Legislative oversight committee" means the joint standing committee of the Legislature having jurisdiction over health coverage matters.

**4. Office.** "Office" means the Office of Affordable Health Care established in section 3122, subsection 1.

**§3122. Office of Affordable Health Care**

**1. Office established.** The Office of Affordable Health Care is established as an independent executive agency for the purpose of analyzing health care costs in this State in accordance with the duties set forth in this chapter and as provided in this section.

**2. Director; appointment.** The Governor shall appoint the executive director, subject to review by the legislative oversight committee and to confirmation by the Legislature. The director shall serve for a 5-year term of office. The director may continue to serve beyond the end of the 5-year term until a successor is appointed and qualified. Any vacancy occurring must be filled by appointment for the unexpired portion of the term. Any willful violation of this chapter by the director constitutes sufficient cause for removal of the director by the Governor and on the address of both branches of the Legislature.

**3. Duties.** The office's duties must be performed independently under the general policy direction of the legislative oversight committee and the advisory council. The office shall report at least annually to the Governor and the legislative oversight committee pursuant to section 3125 and upon request of the legislative oversight committee on matters affecting the cost of health care in this State. The office shall, at a minimum, use data available from the Maine Health Data Organization, established pursuant to Title 22, chapter 1683, and the Maine Quality Forum, established in Title 24-A, section 6951, to:

- A. Analyze health care cost growth trends and correlation to the quality of health care;
- B. Analyze health care spending trends by consumer categories, payer type, provider categories or any other measurement that presents available data in a manner that may assist the legislative oversight committee in understanding health care cost drivers, health care quality and utilization trends, consumer experience with the health care system or any other aspect of the health care system;
- C. Monitor the adoption of alternative payment methods in this State and other states that foster innovative health care delivery and payment models to reduce health care cost growth and improve the quality of health care;
- D. Based upon the data obtained and the analysis pursuant to paragraphs A to C, develop proposals for consideration by the legislative oversight committee on potential methods to improve the cost-efficient provision of high-quality health care to the residents of this State;
- E. Based upon the data obtained and the analysis pursuant to paragraphs A to C, conduct a systemic review of the health care system and develop proposals to improve coordination, efficiency and quality of the health care system;
- F. Develop proposals for consideration by the legislative oversight committee on potential methods to improve consumer experience with the health care system, including the provision of a consumer advocacy function on health care matters not addressed by the Health Insurance Consumer Assistance Program established in Title 24-A, section 4326 or the Department of Professional and Financial Regulation, Bureau of Insurance, Consumer Health Care Division established in Title 24-A, section 4321; and

G. Provide staffing assistance to the Maine Prescription Drug Affordability Board established in chapter 167.

**4. Data; confidentiality.** Data provided to the office under subsection 3 is confidential to the same extent it is confidential while in the custody of the entity that provided the data to the office.

**5. Staffing.** The director shall appoint staff as needed to carry out the duties and responsibilities under this chapter. The appointment and compensation of the staff are subject to the Civil Service Law.

**6. Coordination with other entities.** The director may contract with individuals or entities and may seek assistance and coordinate efforts in accordance with this chapter with other agencies or divisions of State Government and with other entities as long as the contract, assistance or coordination does not present a conflict of interest. For the purposes of this subsection, "conflict of interest" means an association, including a financial or personal association, that has the potential to bias or have the appearance of biasing the office's decisions or the conduct of the office's activities.

**7. Budget.** The revenues and expenditures of the office are subject to legislative approval in the biennial budget process. The director shall prepare the budget for the administration and operation of the office in accordance with the provisions of law that apply to departments of State Government.

**8. Legal counsel.** The Attorney General, when requested, shall furnish any legal assistance, counsel or advice the office requires in the discharge of its duties.

**9. Grants.** The office may solicit, receive and accept grants, funds or anything of value from any public or private organization and receive and accept contributions of money, property, labor or any other thing of value from any legitimate source.

**10. Rulemaking.** The office may adopt rules as necessary for the proper administration and enforcement of this chapter, pursuant to the Maine Administrative Procedure Act. Unless otherwise specified, rules adopted pursuant to this chapter are routine technical rules as defined in chapter 375, subchapter 2-A.

### **§3123. Advisory Council on Affordable Health Care**

The Advisory Council on Affordable Health Care, established in section 12004-I, subsection 31-B, is an advisory council to the office on matters affecting the cost of health care in this State.

**1. Duties of advisory council.** The advisory council shall advise the office on matters affecting the cost of health care in this State.

**2. Membership.** The advisory council consists of 13 members as follows:

A. Eleven members of the advisory council appointed as follows, subject to review by the legislative oversight committee and confirmation by the Senate:

(1) Six members appointed by the President of the Senate, including one member who represents hospital interests, one member who represents primary care provider interests, one member who represents behavioral health care provider interests, one member who represents the interests of older residents of this State,

one member who is a health care consumer advocate and one member with expertise in health economics and research; and

(2) Five members appointed by the Speaker of the House, including one member who represents health insurance interests, one member who represents purchasers of health care, one member with demonstrated expertise in health care delivery, health care management at a senior level or health care finance and administration, one member who represents the health care workforce and one member with expertise in health economics and research; and

B. Two ex officio nonvoting members:

(1) The Commissioner of Health and Human Services or the commissioner's designee; and

(2) The Commissioner of Administrative and Financial Services or the commissioner's designee.

3. Terms of office. Appointed members of the advisory council serve 5-year terms and may be reappointed. A vacancy for an unexpired term must be filled in accordance with subsection 2, paragraph A or B. A member may serve until a replacement is appointed and qualified.

4. Chair; vice-chair. The advisory council shall annually elect a chair and a vice-chair from among its members.

5. Quorum. Seven voting members of the advisory council constitute a quorum.

6. Affirmative vote. An affirmative vote of a majority of the voting members is required for any action taken by the advisory council.

7. Meetings. The advisory council shall meet at least once every 2 months and may also meet at other times at the call of the chair. Meetings may be cancelled or postponed at the discretion of the chair. All meetings of the advisory council are public proceedings within the meaning of Title 1, chapter 13, subchapter 1.

8. Recusal. A member of the advisory council with a conflict of interest shall elect to be recused. For purposes of this subsection, "conflict of interest" means any instance in which a member, staff member or contractor of the advisory council or an immediate family member of the member, staff member or contractor of the advisory council has received or could receive either of the following:

A. A direct financial benefit of any amount deriving from the results or findings of a study or determination by or for the advisory council; or

B. A financial benefit from individuals or companies that own or manufacture prescription drugs or health care services or items to be studied by the advisory council that in the aggregate exceeds \$5,000 per year. For purposes of this paragraph, "financial benefit" includes honoraria, fees, stock or other financial benefit and the current value of already existing stock holdings, in addition to any direct financial benefit deriving from the results or findings of a study or determination by or for the advisory council.

**§3124. Annual public hearing**

Beginning in 2022, the office shall convene an annual public hearing on cost trends no later than October 1st. The hearing must provide an opportunity for public comment on health care cost trends. The executive director shall preside over the hearing.

**§3125. Annual report**

No later than January 1, 2023 and annually thereafter, the office shall submit a report to the Governor, the legislative oversight committee and the advisory council of its findings in accordance with this chapter. The report must include a summary of comments received at the annual public hearing convened under section 3124.

**Sec. 4. 5 MRSA §12004-I, sub-§31-B** is enacted to read:

**31-B.**

<u>Health Care</u>	<u>Advisory Council on Affordable Health Care</u>	<u>Expenses Only</u>	<u>5 MRSA §3123</u>
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**Sec. 5. Annual reports for 2023 and 2024.** The annual reports due pursuant to the Maine Revised Statutes, Title 5, section 3125 for the calendar years 2023 and 2024 must include, in addition to the requirements contained in section 3125, recommendations to the joint standing committees of the Legislature having jurisdiction over health coverage, insurance and health and human services matters regarding how to ensure appropriate public health infrastructure throughout the State and how to develop the most effective consumer resource for health care issues that extend beyond access to health insurance coverage.

**Sec. 6. Staggered terms; Advisory Council on Affordable Health Care.** Notwithstanding the Maine Revised Statutes, Title 5, section 3123, subsection 3, of the members initially appointed to the Advisory Council on Affordable Health Care, 4 members must be appointed to serve initial terms of 2 years, 4 members must be appointed to serve initial terms of 3 years and 3 members must be appointed to serve initial terms of 4 years.

**Sec. 7. Transfer from Bureau of Insurance.** Notwithstanding any provision of law to the contrary, on or before June 30, 2022, the State Controller shall transfer \$291,382 from the Department of Professional and Financial Regulation, Bureau of Insurance Other Special Revenue Funds account to the unappropriated surplus of the General Fund.

**Sec. 8. Transfer from Medical Use of Marijuana Fund.** Notwithstanding any provision of law to the contrary, on or before June 30, 2023, the State Controller shall transfer \$403,831 from the Department of Administrative and Financial Services, Medical Use of Marijuana Fund Other Special Revenue Funds account to the unappropriated surplus of the General Fund.