OFFICE OF POLICY AND LEGAL ANALYSIS
Bill Analysis

To: Joint Standing Committee on Judiciary

From: Samuel Senft, Legislative Analyst

LD 1292 An Act Regarding the Parental Rights To Direct the Health Care of Children

Public Hearing Date: May 13, 2021

SUMMARY This bill requires the Department of Health and Human Services to obtain permission from a parent or guardian before placing an infected minor in isolation during a public health emergency. It also prohibits physical examinations, surgical procedures, vaccine administrations and drug prescriptions for a minor without parent or guardian permission, as well as a physician's orders not to resuscitate, to withhold an artificial life-sustaining procedure or to withhold artificial nutrition and hydration. An exception is provided for life-threatening situations or when the parent or guardian cannot be readily located or contacted.

TESTIMONY

Proponents

- Senator Keim (sponsor) – oral and written
- Alma, Elizabeth (Unity) - written
- Anderson, Julie (Limington) - written
- Atlee, Dick (Southwest Harbor) – oral and written
- Ballard, Mia (Gorham) - written
- Bartlett, Janet (Woodstock) - written
- Bashinsky, Toni (Topsham) - written
- Beal, Abigail (Cherryfield) – written
- Beal, Emmeline (Cherryfield) – written
- Beal, Hadassah (Cherryfield) – written
- Beal, Jonathan (Cherryfield) – written
- Beal, Lisa (Cherryfield) – written
- Bernier, Helene (Lewiston) - written
- Bodenski, Lauren (Cape Elizabeth) - written
- Bowie, Christopher (New Gloucester) - written
- Bragg, Alisha (Sidney) - written
- Breeden, Robert (Ellsworth) - written
- Brenner, Susan (Ellsworth) - written
- Bridges, Deborah (Brunswick) - written
- Burpee, Tessa (Brewer) - written
- Carmichael, Haley (Waldoboro) - written
- Caruso, Elizabeth (Caratunk) – oral and written

- Chasse, Mark (Auburn) - written
- Clark, Sherri (Raymond) - written
- Clarke, Melanie (Portland) - written
- Coffin, Wendy (Woodstock) – written
- Connor, Jessica (Searsport) -
- Cowles, Pamela (Bridgton) - written
- Crane, Charlene (Ellsworth) - written
- Crosier, Sheryl (no location provided) - written
- Davis, Karen (Trenton) - written
- Davis, Sherry (Bucksport) - written
- Desrosiers, Clare (Linneus) - written
- Duffy, Laura (Fairfield) - written
- Duffy, Steve (Fairfield) - written
- Dunn, Caleb (New Gloucester) - written
- Dunn, Heidi (New Gloucester) - written
- Dunning, Susan (Freeport) - written
- Embers, Thea (Southwest Harbor) - written
- Emerson, Randy (Rockland) - written
- Estes, Moriah (Old Orchard Beach) - written
- Frechette, Patricia (Standish) - written
- Frederick, Nancy (Owls Head) - written
- Gifford, Valerie (Yarmouth) - written
- Gombar, Laurie-Jean (old Orchard Beach) - written
- Grant-Widen, Becky (Wilton) - written
- Hallowell, Beth (Pittston) - written
- Hannon, Laura (Scarborough) - written
- Harrington, Karen (Clinton) - written
- Henry, Melissa (Oxford) - written
- Houghton, Penelope (Ellsworth) - written
- Howard, Marth (Auburn) - written
- Jean, Krystal (Topsham) - written
- Johnson, Destiny (Windham) – oral and written
- Jones, Beth (Dresden) - written
- Kenney, Sarah (Orono) - written
- LeMoine, Kathleen (Kittery) - written
- LeVasseaur, Ingrid (Windham) - written
- Libby, Dorene (New Gloucester) - written
- Libby, Joanne (Freeport) - written
- Littlefield, Holly (Winterport) - written
- Lozanov, Kiril (Belfast) - written
- MacDowell, Wendy Lee (Palermo) - written
- MacFawn, Virginia (Rangeley) - written
- Maguire, Danielle (Camden) - written
- Maguire, Matthew (Camden) - written
- Martin, Steve (Amity) - written
- McCallion, Claire (Lisbon) - written
- McClausland, Vanessa (Littleton) - written
- McClellan, Michael (Christian Civic League of Maine) - written
- McElwain, MacKenzie (Southwest Harbor) - written

- McGovern, Abiegail (Madison) - written
- McKay, Erin (Auburn) - written
- Meehan, Susan (Sweden) - written
- Meservey, Casey (Carmel) - written
- Michaud, Jennifer (Oakland) - written
- Milite, Deborah (Freeport) - written
- Mills, Jodi (Glenburn) - written
- Moeller, Chadwick (Owls Head) - written
- Moore, Aura (Machias) - written
- Morrell, Penelope (Belgrade - written
- Murphy, Heidi (Massachusetts) - oral
- O'Connell, Jodi (Dover Foxcroft)
- Olsen, Jon (Jefferson) - written
- Ossanna, Gwendolyn (Franklin) - written
- Piechocki, Irene (Hope) - written
- Prout, Darian (Fairfield) - written
- Pusey, Paula (Sedgwick) - written
- Pusey, Scott (Sedgwisk) - written
- Rarrick, Jennifer (Saco) - written
- Rideout, Leah (Dover Foxcroft) - written
- Ripley, Eugene (Dover Foxcroft) - written
- Rivard, Sara (Gorham) - written
- Robinson, Andrea (Standish) - written
- Robinson, Holly (York) - written
- Rosati, Robert (Livermore Falls) - written
- Sarbanis, Anne (Phippsburg) – oral and written
- Saunders, Bradley (Hebron) - written
- Schaefer, Kitri (Kittery Point) - written
- Scott, Kendall (Durham) - written
- Shaver, Margaret (Lewiston) - written
- Shervanick, Pamela (no location provided) - written
- Spencer, Megan (Bucksport) – written
- Stanley, Ellen (Hancock) - written
- Szostek, Kathleen (Dixfield) – written
- Thacker, Justin (East Andover) - written
- Truman, Pat (Hallowell) - written
- Waleik, Danielle (Peru) - written
- Wallace, Shannon (Oakland) - written
- Weeks, Dorinda (Newport) - written
- Welt, Sarah (Portland) - written
- White, Jennifer (Gray) - written
- Winslow, Katherine (South Thomaston) - written

    - Parents have a fundamental right to direct the upbringing, education and care of their children
    - In the absence of clearly defined statute, we leave the possibility open to medical professionals, and the Department of Health and Human Services (HHS) to supersede parent's rights

- We should recognize that parents have the duty and the right to make the decisions they believe to be best for their child
- There have been situations in multiple states in which providers gave treatment without consent or withheld treatment without consent
- The fundamental rights of parents to direct the healthcare of their children is being eroded by a paternalistic and condescending approach of the state and healthcare providers
- Parents, not doctors or the state, are the best decision makers for their children's health. We should safeguard those rights, and not allow them to be undermined without an affirmative ruling of unfitness
- It is the parents who suffers the biggest impact of their child's disease, or illness, and it is they who will be hurt the most by their child's death or negative health outcomes that can affect them for life
- Parents are the greatest stakeholders in the lives of their minor children, and good parents will urgently seek the best health outcomes for their children through all available channels. It is for that reason, parents who naturally have their children's best interest at heart should be given the highest deference in medical decision-making
- It is commonplace for medical information to be absent or incomplete
- Parents fill in missing pieces and prevent errors
- Outcomes could be dangerous if parents not consulted
- Parents should be responsible for wellbeing of their children
- Bill is a common sense application of principle of informed consent as enshrined in the Nuremburg Code, the 1964 Helsinki Declaration, and the U.N.'s Universal Declaration on Bioethics and Human Rights.
- Only exception for parental consent should be a life threatening situation in which parent cannot be reached
- Children cannot wholly understand the ramifications of their decisions and this is why a person is not legally deemed an adult until age 18
- The State is overstepping on the constitutional rights of the parents as well as the child
- The maturation of the prefrontal cortex in the brain, which is responsible for executive functioning, executive functioning, impulse control, intense emotions, inappropriate vs. appropriate behavior, balancing short term rewards with long term goals, planning and strategizing, and considering complex information, doesn't take place until at least the mid twenties.
- Medical decisions are stressful
- As a nurse have seen minors consent to medical care because they fear objecting
- Have witnessed doctors abuse power over staff and patients and not informing patients of risks of treatment
- It is currently illegal to require anyone to be coerced or otherwise forced to take a vaccine that is experimental and not approved
- Parents understand their insurance policies, not children
- The government has been over reaching in the area of parental rights for far too long
- A parent should be able to decide whether a child should be quarantined
- COVID-19 tests are not accurate and vaccines have possible adverse outcomes
- If a child is quarantined, there is opportunity for medical treatment parent unaware of
- Isolating and quarantining a child who is suffering with any type of infection or illness only serves to create fear and terror.
- In Missouri there was a case in which a newborn diagnosed with Trisomy 18 died; the child had a do not resuscitate order placed in chart and had been receiving insufficient nutrition and been given sedatives at the hospital
- If vaccines are effective, then children not vaccinated are no threat to vaccinated children
- Vaccines could cause long term issues

- In all but the most egregious cases of parental neglect, parents have their children's very best interests in mind when directing their children's health care
- Teens are notmature enough to make independent medical decisions that could affect the m the rest of their lives.
- Medical procedures do not need to happen within an educational setting and it is not the responsibility of the school nurse or educational institution to determine what is best for a child
- There are numerous situations in which parents being kept in the dark can result in inappropriate care, unnecessary injury, medical error, and in extreme cases, even death
- Birth control can have serious side effects such as blood clots, the risk of which may run in a family. Teens may not know this
- This is a slippery slope
- Coercion have no place in fully informed health care decisions.
- Son was vaccinated without knowledge of parent
- Parents are responsible for the safety and wellbeing of their children morally and legally until age of majority is achieved.
- There are reasons minor children can't get tattoos, drink, smoke or drive. They do not have the experience or the emotional intelligence to understand the consequences of those choices.
- Parents are morally, legally and monetarily responsible for the healthcare costs of their children.
- There should be no exclusions to parental consent requirements
- Child was administered medicine child had allergy to without parental consent
- Does not use medical doctors and practices homeopathy.
- Instead of vilifying and ostracizing parents from their children's health care, let us instead focus on forming healthy relationships between children, parents, and doctors and health care providers.
- Any medical intervention can be a scary experience and children should have the support of a parent at that time
- Allowing parents a say in child's healthcare is a fundamental right
- The idea that "the state" has sovereignty over our children is abhorrent to our sense of morality.
- Requiring experimental vaccines could violate Nuremburg Code
- These are teenagers with invisible disabilities, such as ADHD, Autism, Intellectual Disability, or even a Specific Learning Disability. These students make up at least 10% of schools
- Parents stand as the only bulwark between our children and the corporate and medical interests that seek to profit off of them.
- Kids given food six times at school that they were allergic to
- When a child is given a choice regarding their own safety, instead of feeling empowered, they experience an increase in anxiety because they innately understand that their ability to keep themselves safe is compromised by their under developed brains and lack of true understanding of the risks
- Kids need permission to go on a field trip; should need permission for medical care
- Medical mistakes are one of the leading causes of death here in the US
- Parents pay for medical care for their children, and must have the right to spend their money as they see fit
- For the small percentage of teens who are fearful of their parents, especially pertaining to an unplanned pregnancy, the school and medical field can be an advocate for the child and intervene if verbal or physical abuse is ongoing or possible.
- Parents feel pressured to comply with healthcare; imagine how teens feel
- Should be up to the boards of licensure to determine the standards of care

- At doctor's appt with 12 year old daughter, was asked to leave room for appt and daughter asked if she wanted to sign records release to allow part to access records.
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Opponents

- Representative Osher - written
- Austin, Jeff (Maine Hospital Association) oral and written
- Blair, Danielle (National Assn Social Workers - Maine)
- Castallo, Jodi (Arundel) - written
- Clegg, Nicole (Planned Parenthood of Northern New England) - written
- Gauthier, Lauren (Maine CDC) - written
- Harper, Laura (Maine Family Planning) – oral and written
- Harvey-McPherson, Lisa (Northern Light Health) – written
- Jakacky, Crista (Glenburn) - written
- Melnick, Alysia (Equality Maine; GLAD) - written
- Morin, Dan (Maine Medical Association) - oral and written
- Sway, Megan (ACLU of Maine) - written
- Wyatt, Colby (MaineHealth) – oral and written

  - Don't want young people to have barriers and delays to receiving health care.
  - Requiring parental consent for abortion, as is the law in Pennsylvania, does not help keep young people safe
  - Forced parental involvement laws also threaten the health, dignity and safety of Maine's youth who are seeking care but are in the unhappy situation of not having the support of their parents
  - This bill jeopardizes the health, safety, and rights of young women who do not live with or do not have safe, healthy relationships with their parents.
  - This bill imposes overly burdensome requirements that some parents might not be able to meet. The consenting parent or guardian would have to provide a government-issued ID and written proof that they are the legal parent or guardian of the minor seeking care. Even the most supportive of parents may not be able to physically go to the health center and/or provide all of the documentation required by this law.
  - This requirement would likely disproportionately impact low-income, immigrant, and lower literacy teens and parent
  - The physical/sexual abuse exception could actually be harmful to a young person who has experienced abuse because it requires disclosure. This requirement would open the young woman and her family to investigation by child protective services and/or law enforcement
  - The judicial bypass option imposes a very high standard of proof that would make the process very difficult.
  - If the current bill were to pass, signed consent from a biological parent or legal guardian would be required before a young person could obtain an abortion.
  - The general rule is that minors (defined in Maine as those "under age 18") may not consent to healthcare and that parents or legal guardians must provide consent.
  - Exceptions for minors living independently of parents, in the military, married or emancipated legally
  - There are also specific consent exceptions in Titles 22 and 32.
  - There is no statutory minimum age of consent for medical care as regards these exceptions to parental consent
  - Bill only applies to practitioners licensed by Board of Medicine

- To the extent section 3300-J impacts general medical services, the bill should be considered in the context of 22 MRSA §1503. For issues like x-rays, parental consent is required unless the §1503 exceptions are at play (military, married etc.). Proposed section 3300-J would upend that.
- There is no reason to remove the ability of minors to consent to services as laid out in the statutes today.
- Current exceptions allow for consent by minors regarding issues about which kids are not always honest with parents
- Bill is too broad
- Big difference between a 6 year old and a 16 year old
- Rights to bodily integrity and privacy are fundamental
- It has been show that minors are more likely to seek treatment for sensitive issues if they are not required to notify parents, especially for things like substance abuse, sexually transmitted diseases, mental health, and contraception
- Because there is no definitive line in the sand that is crossed when a minor becomes competent to make treatment decisions courts have recognized an exception to the common law rule of parental/guardian consent for medical treatment of a minor called the ‘‘Mature Minor Doctrine. A minor who is deemed able to understand short- and long-term consequences is considered to be ‘‘mature’’ and thus able to provide informed consent/refusal for medical treatment.
- Circumstances in which the mature minor doctrine permits minors to consent to treatment are the following: 1. The minor is an older adolescent (14 years or older). 2. The minor is capable of giving informed consent. 3. The treatment will benefit the minor. 4. The treatment does not present a great risk to the minor. 5. The treatment is within established medical protocols.
- As LD 1292 is written, it directly conflicts with longstanding statutes that provide protections for minors to be able to access certain types of healthcare on their own.
- If passed, this legislation would create confusion and strip minors of their right to make their own medical decisions, a break from more than three decades of established law and best medical practice
- Mandating parental involvement in private medical decisions presents real risk to the lives and health of young Mainers. Current Maine law allows minors to consent on their own for mental health, reproductive health, substance use, and following comprehensive options counseling, and abortion.
- There is broad medical consensus including national leaders the American Medical Association, the American Academy of Pediatrics, the American College of Obstetrics and Gynecologists, the Society for Adolescent Medicine, and the American Public Health Association, who all support laws similar to those in Maine and oppose blanket parental involvement laws
- If state’s quarantine laws were curtailed, there would be negative implications within the HIV/STD, tuberculosis, reproductive health, and family planning contexts. For example, the bill would restrict the Department’s ability to remove a minor testing positive with tuberculosis from the general public and place the minor in isolation without parental consent, greatly increasing the potential for the disease to spread.
- LD 1292 conflicts with Maine’s law permitting minors to consent to certain health services and will reduce access to important health services, including for substance use
- This bill limits the authority providers have for treating partners of those with gonorrhea and chlamydia codified under 10-144 CMR, chapter 720, Rules Governing The Implementation Of Expedited Partner Therapy, if any partners are under the age of 19
- Currently, according to Guttmacher Institute, all states and the District of Columbia allow minors to consent to sexually transmitted disease (STD), contraceptive, and prenatal services

- Studies have shown that there is a reduction in an adolescent's health seeking behavior, including delays or lack of utilization in STD testing or treatment services, when parental consent is required. Any delays in HIV/STD or other medical treatment would increase the number of untreated infections and continue the spread of communicable diseases.
- Maine law currently empowers young people to take control of their sexual and reproductive health, allowing minors to obtain some important health care services -- including birth control prescriptions, abortion care, and testing and treatment for sexually transmitted infections and/or HIV -- without notifying or getting permission from a parent or guardian
- Pursuant to the statutory provision around family planning services for minors, physicians and nurse practitioners make confidential reproductive health services available to teens in health care settings across the state, from pediatricians' offices to family planning clinics to emergency rooms treating survivors of sexual assault
- Teens who can't talk to an adult about sexual and reproductive health care don't stop having sex in the face of parental consent requirements, but they do stop getting health care
- A 2019 survey of youth ages 14 to 24, published in the Journal of Pediatrics, found youth may lie about their risk behaviors or not seek health care when concerned about confidentiality.
- Bill would place minors at risk for unintended pregnancy, untreated STIs, and unhealthy relationships.
- The bill before you would destroy the carefully balanced rights that Maine law currently affords minors to direct their own critical health care needs by requiring parental permission in virtually every single health care scenario.
- What would happen if a parent refuses to allow their teenager to go on birth control?; an STI goes untreated because a teenager is afraid to tell their parents that they have been sexually active?; a parent refuses to allow a forensic examination on his teenage daughter because he is the one who assaulted her?; a parent forces her teenager to carry an unwanted pregnancy to term?; or a teenager doesn't seek help for alcohol or drug use, because they don't want to talk to a parent about it, and the situation gets worse?
- Want young people to have health care, information and resources, not barriers and delays
- This is particularly important for LGBTQ young people, who are often rejected by their parents due to their sexual orientation or gender identity
- Ideally, young people will feel free and safe to talk to their parents about sensitive health issues, and most young people do involve their parents in medical decisions, but it is not safe for all young people to do so
- Some parents may even discourage or oppose counseling or healthcare treatment because they do not want their own abuse or neglect revealed to an outside party
- In the face of these realities, state laws over the last several decades have expanded, not constricted, the legal rights of young people to consent to their own health care treatment
- MaineHealth is unaware of any issues that have arisen at any MaineHealth hospital or other care setting involving the withholding of treatment for minors without the knowledge and consent of a parent or guardian.
- Providers are already held to ethical and professional practices around these discussions and decisions
- When children have terminal diagnoses it is the standard of care to have regular end-of-life discussions with the parents of these children. While parents are told about all of the options, there is a component of advocacy for the wellbeing of the child that is central to the conversation. Sometimes an intervention that is maximally invasive has no real clinical benefit for a child other than prolonging pain and suffering

- unaware of any instance in which a parent or guardian did not have physical access to their minor child who was COVID-19 positive or presumed positive while being treated at a MaineHealth hospital
- Effect of amendment unclear
- LD 1292, in seeking to restrict the rights of youth to consent to healthcare treatment, is a step backward that will have a serious negative impact on the provision of critical healthcare services to Maine's youth
- Bill is dangerous
- Forced parental involvement laws threaten the dignity, health and safety of young people and their families
- Teenagers have little control over their lives, but reproductive healthcare is an area where they should have full decision making
- Ability to access reproductive care as a minor resulted in early detection of abnormal cervical cells and intervention that prevented the development of cancer
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INFORMATION REQUESTED

1) Clarification regarding quarantine authority was requested.

The Department of Health and Human Services has the authority to quarantine individuals in accordance with Title 22, section 802, subsection 2; Title 22, section 807, and Title 22, section 810 and Title 22, section 820. Additional requirements for commitment for public health reasons can be found at Title 22, sections 811 through 814. The Department's rules for control of notifiable disease and conditions can be found at 10-144 CME ch. 258.

Hospitals and other healthcare facilities may be designated by the Department as sites for quarantine.

22 MRSA §802

2. Health emergency. In the event of an actual or threatened epidemic or public health threat, the department may declare that a health emergency exists and may adopt emergency rules for the protection of the public health relating to:

A. Procedures for the isolation and placement of infected persons for purposes of care and treatment or infection control;
B. Procedures for the disinfection, seizure or destruction of contaminated property; and [
C. The establishment of temporary facilities for the care and treatment of infected or exposed persons, which are subject to the supervision and regulations of the department and to the limitations set forth in section 807.

§807. Control of communicable diseases

The department may establish procedures for agents of the department to use in the detection, contacting, education, counseling and treatment of individuals having or reasonably believed to have a communicable disease. The procedures shall be adopted in accordance with the requirements of this chapter and with the rules adopted under section 802.

For purposes of carrying out this chapter, the department may designate facilities and private homes for the confinement and treatment of infected persons posing a public health threat. The department may designate any such facility in any hospital or other public or private institution, other than a jail or correctional facility. Designated institutions must have necessary clinic, hospital or confinement facilities as may be required by the department. The department may enter into arrangements for the conduct of these facilities with public officials or persons, associations or corporations in charge of or maintaining and operating these institutions.

§810. Emergency temporary custody

Upon the department's submission of an affidavit showing by clear and convincing evidence that the person or property which is the subject of the petition requires immediate custody in order to avoid a clear and immediate public health threat, a judge of the District Court or justice of the Superior Court may grant temporary custody of the subject of the petition to the department and may order specific emergency care, treatment or evaluation.

1. Orders; ex parte proceedings. Orders under this section may be issued in an ex parte proceeding upon an affidavit which sets forth specific facts of the reasons that prior notice cannot or should not be given, upon which facts the order is sought. An ex parte order may not include orders for emergency care, treatment or evaluation unless the court finds by clear and convincing evidence that such care, treatment or evaluation is immediately necessary. An ex parte order must be served on the subject of the petition immediately upon apprehension.

2. Hearing within time certain. Unless waived in writing by the individual, after opportunity to consult with an attorney, a hearing shall be held within 72 hours of apprehension, exclusive of Saturdays, Sundays and legal holidays, to determine whether the individual shall remain in the department's custody.

3. Notice of hearing. Notice of the hearing must be served upon the individual held under this section at least 24 hours before the hearing and the notice must specify: the time, date and place of the hearing; the grounds and underlying fact upon which the emergency hold is sought; the individual's right to appear at the hearing and to present and cross-examine witnesses; and the individual's right to counsel pursuant to section 811.

4. Duration. In no event may the emergency hold continue longer than 5 days following the hearing, unless a petition for court ordered commitment is filed under section 812, subsection 1, paragraph F; if a petition is filed, the limitations imposed by the court under this subsection may continue until a hearing on the petition for commitment is held; that hearing must occur within 10 days of the filing of the petition, excluding Saturdays, Sundays and legal holidays.

§820. Extreme public health emergency

The provisions of this subchapter apply in the event of the declaration of an extreme public health emergency pursuant to section 802, subsection 2-A and Title 37-B, chapter 13, subchapter II.

1. Powers of the department. Upon the declaration of an extreme public health emergency, the department has the following powers.

A. Upon request of the department, a health care provider, pharmacist, medical laboratory or veterinarian shall provide to the department health information directly related to a declared extreme public health emergency.

B. The department may take a person into custody and order prescribed care of that person as provided in this subsection.

(1) The department may act without a court order if:

(a) The department has reasonable cause to believe that the person has been exposed to or is at significant medical risk of transmitting a communicable disease that poses a serious and imminent risk to public health and safety;

(b) There are no less restrictive alternatives available to protect the public health and safety; and

(c) The delay involved in securing a court order would pose an imminent risk to the person or a significant medical risk of transmission of the disease.

(2) The department may act pursuant to a court order obtained under subsection 2.

(3) A person is exempt from examination, vaccination, medical care or treatment if alternative public health measures are available, even if those measures are more restrictive, and if:

(a) The person demonstrates a sincere religious or conscientious objection to the examination, vaccination, medical care or treatment; or

(b) The person is at known risk of serious adverse medical reaction to the vaccination or medical care or treatment.

C. The department may implement rules to address the risk or potential risk of a shortage of health care workers. These rules are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

D. The department may implement rules to address the need for dispensing drugs in an emergency situation. These rules are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A

2) **Clarification regarding the types of healthcare providers that are covered under the bill was requested**

Section 2 of the bill and the proposed amendment places limitations on treatment and withholding of treatment of minors. In both the original bill and the amendment, the section 2 language is confined to Title 32, chapter 48. This is the chapter for the Board of Licensure in Medicine, which licenses medical doctors (MDs) and physician assistants who practice under an MD's license.

As drafted, neither the bill nor the amendment would cover other healthcare professionals, including doctors of osteopathy (DOs), physician assistants who practice under a DO's license, or nurse practitioners. Nor would it cover other healthcare professionals such as registered nurses, CNAs, psychologists, licensed social workers, counselors, physical therapist, occupational therapists, audiologists and others.

3) **It was asked if current law allows a provider to authorize a DNR or withhold nutrition for a minor without parental consent?**

Title 22, chapter 260 Chapter describes the general consent requirements for minors. Parental consent for all medical, dental, metal health, and other health counseling is required unless the minor is living separately from the parent, married, in the military, emancipated or if the care provided falls under a specific exception. There is no specific language regarding DNRs or withholding of nutrition and hydration, but these would presumably fall under the general requirement that a parent or guardian consent to medical care.

Medical providers also practice in accordance to licensing standards, medical standards of care and best practice guidelines that may cover these topics. For example, the Maine Board of Medicine has Informed Consent Guidelines and Communication with Patients Guidelines.

ADDITIONAL INFORMATION:

- Please see the attached chart describing the various minor consent laws in the State
- Please also see the attached information on Kansas's Simon's Law submitted by Dan Morin of the Maine Medical Association

AMENDMENT

The sponsor has proposed an amendment that does the following:

1) It adds language allowing the Department of Health and Human Services to, for the purposes of quarantine, remove a minor from the home of the parent or guardian, if the parent or guardian consents to removal of the minor or refuses to participate in a home

quarantine. The amendment requires that the department give the parent or guardian the right to self-quarantine the child in the home for the period of time required by the department. If the parent or guardian consents to quarantine of the minor outside of the home, the amendment requires that the department keep the parent or guardian apprised of the child's location at all times and provide the parent or guardian with access to safe and appropriate visitation and communication with the minor;

2) It exempts from the language in the original bill prohibiting individuals licensed by the Board of Medicine from withholding treatment without parental consent, licensed individuals who, in their reasonable medical judgment, determine that treatment would be futile or medically inappropriate; and

3) It exempts from the language in the original bill prohibiting individuals licensed by the Board of Medicine from providing treatment without parental consent, licensed individuals who determine that an emergency exists and that the treatment is necessary to save the life of the minor, when the parent or guardian cannot be located or contacted after a reasonably diligent effort and as authorized by current sections of law allowing for treatment of minors without parental consent.

FISCAL IMPACT: The Preliminary FN states:

Any additional costs to the Department of Health and Human Services to implement the provisions of this bill are expected to be minor and can be absorbed within existing budgeted resources.