

MAINE STATE LEGISLATURE

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Senate Legislative Record
One Hundred and Nineteenth Legislature
State of Maine

Volume 2

First Regular Session (Continued)
May 6, 1999 to June 18, 1999

Pages 747 - 1547

Representatives:

COWGER of Hallowell
VOLENIK of Brooklin
PIEH of Bremen
WATSON of Farmingdale
GAGNE of Buckfield

The Minority of the same Committee on the same subject reported that the same **Ought Not to Pass**.

Signed:

Senator:

KIEFFER of Aroostook

Representatives:

CARR of Lincoln
FOSTER of Gray
GOOLEY of Farmington
GILLIS of Danforth
CROSS of Dover-Foxcroft

Comes from the House with the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**.

Reports **READ**.

Senator **NUTTING** of Androscoggin moved the Senate **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

On further motion by same Senator, **TABLED** until Later in Today's Session, pending motion by same Senator to **ACCEPT** the Majority **OUGHT TO PASS AS AMENDED** Report, in **NON-CONCURRENCE**.

ORDERS OF THE DAY

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

SENATE REPORTS - from the Committee on **BANKING AND INSURANCE** on Bill "An Act Concerning Access to Obstetrical and Gynecological Services Provided Through Managed Care Plans"

S.P. 416 L.D. 1205

Majority - **Ought Not to Pass** (9 members)

Minority - **Ought to Pass as Amended by Committee Amendment "A" (S-334)** (4 members)

Tabled - May 24, 1999, by Senator **RAND** of Cumberland.

Pending - motion by Senator **LAFOUNTAIN** of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report

(In Senate, May 24, 1999, Reports **READ**.)

Senator **GOLDTHWAIT** of Hancock requested a Division.

THE PRESIDENT: The Chair recognizes the Senator from Penobscot, Senator Murray.

Senator **MURRAY:** Thank you Mr. President. Men and women of the Senate, I had hoped that you would oppose the pending motion to accept the Majority Ought Not To Pass Report so that we can go on to accept the Ought To Pass as Amended Report. I'm the Sponsor of this pending legislation and I wanted to just briefly explain to you why I thought it is worthy of our consideration and support today. Currently the statute limits the times and opportunities when a woman can go to see her OBGYN Physician by statute. What the Bill before you proposes to do is to amend those current restrictions in a way that I think more accurately reflects the reality of healthcare for most women, especially the women of childbearing years here in the state of Maine.

Let me explain, if I can briefly, the current configurations and limitations and how this Bill proposes to change those. Currently under State statute, for women covered under HMO Managed Care Plans, a woman is allowed one annual visit with her OBGYN Physician, assuming that OBGYN is in the network or within the HMO Plan. The only exception to that would be if the woman's OBGYN Doctor was also, coincidentally, a Primary Care Provider, or often referred to as the PCP. That is not the case in most circumstances and the Primary Care Provider for most of us, and most women is someone other than an OBGYN. So that presents a bit of a problem. When you look at the current reality, 70% of the healthcare systems services provided to women in their childbearing years relates to an OBGYN issue or treatment that is required. So what we have is that we have crafted a system that allows a woman to go to see an OBGYN once for an annual visit. If there is something discovered or determined at that one annual visit, the woman is not allowed to continue on with a protocol of care with that same doctor unless and until the woman then goes and sees, or has permission from the PCP, Primary Care Provider. And then assuming that permission is granted, the woman can go back to the same OBGYN provider and begin the treatment protocol, or whatever may be appropriate. So we have developed a system, in part by our statute, which allows for this seeming disconnect between treatment and what has been determined through an examination. I don't think that is particularly efficient as well as creating potential problems and restrictions that may, in fact, really decide whether or not the woman obtains the kind of care that is necessary in many respects.

So what this Bill proposes to do is to change that one year limitation in a way such that a woman will be allowed to see the OBGYN provider, assuming again that this OBGYN is somebody who has been approved within the network, not necessarily a Primary Care Provider, but been approved for certification within the network. The woman can see that provider and if there is the need for additional OBGYN care or treatment, that same doctor or Certified Nurse Practitioner can be seen for that purpose. It's a much more logical, in my opinion, system to develop. I think it is more efficient in that your not seeing somebody going to somebody else for approval, going back to the same person for treatment. It's much more fluent in the way that the system is designed, and it also recognizes that in order to maintain this continuing of care we are going to require that these OBGYNs provide written notice to the Primary Care Providers so that that physician is aware of what's going on and the management of that persons healthcare is going to still be maintained under the

umbrella of the Managed Care. The Committee requested that this be studied. That study has come back. I think it is a fairly modest proposal with regard to its fiscal implications, but it has much more significance as far as its reality in the way that women are going to be able to receive the kind of healthcare that I think most of the women in the state of Maine require. And for all of those reasons, I would urge you to reject the pending motion so that we can go on to accept this relatively modest, but very important improvement to our healthcare delivery system here.

THE PRESIDENT: The Chair recognizes the Senator from York, Senator LaFountain.

Senator **LAFOUNTAIN:** Thank you Mr. President. Men and women of the Senate, I rise and encourage you to support the Majority Ought Not To Pass Report. What this Bill does is it allows women enrolled in a Group Managed Care Plan to receive primary, preventative, and therapeutic OBGYN services from an OBGYN, Certified Nurse Practitioner, or Certified Nurse Midwife participating in the plan, without a referral from a Primary Care Physician, in other words, a PCP. The important words there are, without a referral. Current law, I disagree with the good Senator from Penobscot, the statute doesn't limit one visit, what the statute says is it allows one visit on self-referral. The statute is telling us how many times a woman can see her OBGYN. She can see an OBGYN as many times as she would like, provided that she does have that referral from her Primary Care Physician. It is my understanding, from the testimony that we heard in the public hearing, and at the work session is that most managed care companies allow a one year referral for any kind of chronic OBGYN condition being experienced by their patient. As I said, current law allows one self-referral for an OBGYN exam, and current law allows you to also select an OBGYN as your Primary Care Physician. It was our further understanding through the public hearing that most OBGYNs do not want to be Primary Care Physicians. The net effect of the passing of this Bill will be to unmanage managed care.

When you choose a Primary Care Physician, what happens there is the managed care company pays that physician on a capitated basis. In other words, they're going to pay them a fairly flat fee to see you as their patient. Now for every time, under this Bill, you self-refer, as many times as you want to the OBGYN, what we are going to see is a duplicate cost. The managed care company has already paid for you on a capitated basis, but now they will be paying for every visit that you see your OBGYN on a self-referral basis. What this will do to the State's health insurance plan is it will increase it by \$120,000 per year. And it will also cost the community out there .15% increase in their premium cost. As I indicated, the Bill will undermine managed care. We also had testimony from individuals who suggested to us that there is a reason why you have a Primary Care Physician. And that is to coordinate and manage your care. We had testimony from individuals who told us that when people do, even in a self-referral, go to an OBGYN, we have duplication in some of the services provided. Many times the OBGYN chooses to conduct examinations without coordinating with the PCP that have already been conducted by the PCP during the course of the previous year. In other words, it's a duplication and it's costly. And the persons and individuals who will be paying, will be the citizens of Maine and the business community. I was fairly supportive of this Bill up until the time we got our Report back, and also the Report back on L.D. 857, and if you recall 857 is a

Bill that we saw pass through this Chamber last week and is somewhere off now for signature. And what that Bill deals with is Certified Nurse Practitioners and Nurse Midwives. What we have done in the Committee and what we have done in this Chamber is we have given women an additional choice in their healthcare. Not just the OBGYN self-referral we see in this Bill, but also access to Certified Nurse Midwives and Nurse Practitioners. For those reasons I encourage you to support the Majority Ought Not To Pass Report. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Androscoggin, Senator Douglass.

Senator **DOUGLASS:** Thank you Mr. President. Women and men of the Senate, I am very supportive of a woman's right to see a Gynecologist whenever she needs too, or an Obstetrician. But this Bill, as drafted, basically changes the rules of the game. It allows for self-referrals by a consumer who's in a Group Managed Care without requiring the prior approval of the Primary Care Physician. Now I would like to have that possibility myself. I think it is important that we be able to see physicians as we deem fit, but until we have a better system of health insurance, I don't believe this is the correct Bill to enact at this time. The reason is that we are under heavy fire from various consumer groups with regard to varying needs. The Banking and Insurance Committee went through something like 28 mandates. We decided which ones were of priority interest to us, which one seemed to be the most important to consumers throughout the State. While this one has a lot of appeal, I think it's important to recognize that we can't do every good thing that we want to do. I wish we could. I wish our system of health insurance was better. But by enacting more mandates than we did through our Banking and Insurance Committee, you are adding to the cost of those who are insured. And adding to the cost of managed care in Maine. I'm reluctant to do that with this Bill because it's more open-ended than some of the others. I think it is important to put myself on record for that reason. Thank you.

THE PRESIDENT: The Chair recognizes the Senator from Hancock, Senator Goldthwait.

Senator **GOLDTHWAIT:** Thank you Mr. President. Ladies and gentlemen of the Senate, the reason that I am opposed to the Majority Report on this Bill is, if you visit your OBGYN and they say you have condition X and you need to start treatment Y, and I want to see you again in two months. You then have to call your Primary Care Provider and ask for permission to see that OBGYN. And the Primary Care Provider is either going to say yes, which doesn't make any more visits then if you self-referred yourself, or the Primary Care Provider is going to say, I better see you first to make sure you really need that next visit with the OBGYN. Which will create one more visit. So while this self-referring system is thought to be an increase in cost, I do not know. And I would urge you to oppose the Majority Report. Thank you.

On motion by Senator **RAND** of Cumberland, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

ROLL CALL (#157)

YEAS: Senators: ABROMSON, AMERO, BENNETT, BENOIT, CAREY, CASSIDY, DAGGETT, DAVIS, DOUGLASS, FERGUSON, HARRIMAN, KIEFFER, LAFOUNTAIN, MACKINNON, MICHAUD, MILLS, MITCHELL, O'GARA, RUHLIN, SMALL

NAYS: Senators: BERUBE, CATHCART, GOLDTHWAIT, KILKELLY, KONTOS, LIBBY, LONGLEY, MURRAY, NUTTING, PENDLETON, PINGREE, RAND, TREAT, THE PRESIDENT - MARK W. LAWRENCE

EXCUSED: Senator: PARADIS

20 Senators having voted in the affirmative and 14 Senators having voted in the negative, with 1 Senator being excused, the motion by Senator LAFOUNTAIN of York to **ACCEPT** the Majority **OUGHT NOT TO PASS** Report, **PREVAILED**.

Sent down for concurrence.

The Chair laid before the Senate the following Tabled and Later (5/14/99) Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Create a Sales Tax Exemption for Child Abuse and Neglect Councils"

H.P. 976 L.D. 1374

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-395)** (10 members)

Minority - **Ought Not to Pass** (3 members)

Tabled - May 14, 1999, by Senator **LONGLEY** of Waldo.

Pending - motion by same Senator to **RECONSIDER** whereby the Senate **ADHERED**

(In House, May 7, 1999, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-395).**)

(In Senate, May 11, 1999, the Minority **OUGHT NOT TO PASS** Report **READ** and **ACCEPTED**, in **NON-CONCURRENCE**.)

(In House, May 12, 1999, that Body **ADHERED**.)

(In Senate, May 14, 1999, on motion by Senator **RUHLIN** of Penobscot, **ADHERED**. Subsequently, Senator **LONGLEY** of Waldo moved to **RECONSIDER**.)

On motion by Senator **LONGLEY** of Waldo, the Senate **RECONSIDERED** whereby it **ADHERED**.

On further motion by same Senator, the Senate **RECEDED** from whereby it **ACCEPTED** the Minority **OUGHT NOT TO PASS** Report.

On further motion by same Senator, the Majority **OUGHT TO PASS AS AMENDED** Report **ACCEPTED**, in concurrence.

READ ONCE.

Committee Amendment "A" (H-395) **READ** and **ADOPTED**, in concurrence.

Senator **LONGLEY** of Waldo moved the **RULES BE SUSPENDED** for purpose of **SECOND READING**.

On motion by Senator **BENNETT** of Oxford, **TABLED** until Later in Today's Session, pending motion by Senator **LONGLEY** of Waldo to **SUSPEND THE RULES** for purpose of **SECOND READING**.

The Chair laid before the Senate the following Tabled and Later Today Assigned matter:

HOUSE REPORTS - from the Committee on **TAXATION** on Bill "An Act to Repeal the Snack Tax"

H.P. 42 L.D. 56

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-650)** (8 members)

Minority - **Ought Not to Pass** (5 members)

Tabled - May 24, 1999, by Senator **RUHLIN** of Penobscot.

Pending - motion by same Senator to **ACCEPT** the Minority **OUGHT NOT TO PASS** Report, in **NON-CONCURRENCE**

(In House, May 21, 1999, the Majority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-650).**)

(In Senate, May 21, 1999, Reports **READ**.)

On motion by Senator **AMERO** of Cumberland, supported by a Division of at least one-fifth of the members present and voting, a Roll Call was ordered.

THE PRESIDENT: The Chair recognizes the Senator from Cumberland, Senator Abromson.

Senator **ABROMSON:** Thank you Mr. President. Ladies and gentlemen of the Senate, I would urge that you vote against the pending motion so we can go on to Repeal the Snack Tax. I know its a big fiscal note. I think what brings me to this is sort of the frustration that I received on March 31. A note from a constituent who wrote, thought you would be interested to know that Shop N' Save is collecting sales tax on matzo this year, sales slip is enclosed. And he enclosed it. He says, I was