

# MAINE STATE LEGISLATURE

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Senate Legislative Record  
One Hundred and Twenty-Seventh Legislature

State of Maine

Daily Edition

First Regular Session  
beginning December 3, 2014

beginning at Page 1

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**ORDERS OF THE DAY**

The Chair laid before the Senate the following Tabled and Later Assigned (5/28/15) matter:

HOUSE REPORTS - from the Committee on **INSURANCE AND FINANCIAL SERVICES** on Bill "An Act Regarding Maximum Allowable Cost Pricing Lists Used by Pharmacy Benefit Managers"

H.P. 788 L.D. 1150

Majority - **Ought to Pass as Amended by Committee Amendment "A" (H-183)** (12 members)

Minority - **Ought Not to Pass** (1 member)

Tabled - May 28, 2015, by Senator **WHITTEMORE** of Somerset  
Pending - **ACCEPTANCE OF EITHER REPORT**

(In House, May 27, 2015, 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-183)**.)

(In Senate, May 28, 2015, Reports **READ**.)

On motion by Senator **WHITTEMORE** of Somerset, Bill and accompanying papers **COMMITTED** to the Committee on **INSURANCE AND FINANCIAL SERVICES**, in **NON-CONCURRENCE**.

Sent down for concurrence.

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The Chair laid before the Senate the following Tabled and Later Assigned (6/9/15) matter:

An Act To Amend the Health Plan Improvement Law Regarding Prescription Drug Step Therapy

S.P. 103 L.D. 289  
(C "A" S-104)

Tabled - June 9, 2015, by Senator **CUSHING** of Penobscot

Pending - **ENACTMENT**, in concurrence

(In Senate, May 21, 2015, **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-104)**.)

(In House, June 8, 2015, **PASSED TO BE ENACTED**.)

**PASSED TO BE ENACTED** and, having been signed by the President Pro Tempore, was presented by the Secretary to the Governor for his approval.

Ordered sent down forthwith.

The Chair laid before the Senate the following Tabled and Later Assigned (6/9/15) matter:

Bill "An Act Regarding Advanced Practice Registered Nurse Requirements"

S.P. 342 L.D. 970  
(S "A" S-211 to C "A" S-176)

Tabled - June 9, 2015, by Senator **ALFOND** of Cumberland

Pending - **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-176) AS AMENDED BY SENATE AMENDMENT "A" (S-211)** thereto

(In Senate, June 8, 2015, on motion by Senator **CUSHING** of Penobscot, the Minority **OUGHT TO PASS AS AMENDED** Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-176) AS AMENDED BY SENATE AMENDMENT "A" (S-211)** thereto.)

(In Senate, June 8, 2015, at the request of Senator **ALFOND** of Cumberland, **HELD**.)

(In Senate, June 9, 2015, on motion by Senator **ALFOND** of Cumberland, **RECONSIDERED PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-176) AS AMENDED BY SENATE AMENDMENT "A" (S-211)** thereto.)

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

**THE PRESIDENT PRO TEMPORE:** The Chair recognizes the Senator from Cumberland, Senator Volk.

Senator **VOLK**: Thank you, Mr. President. It came to my attention that there was some confusion, unfortunately, the second to the last time that we had a vote on this particular bill, L.D. 970, so I just want to clarify a few things. One of those things is that L.D. 970 not only expands the scope of practice of advance practice registered nurses to include all of what a primary care physician does but it also allows them to delegate and assign therapeutic measures to assistant personnel without defining the qualifications of those personnel. L.D. 970 would also allow certified registered nurse anesthetists to prescribe, order, administer, dispense, furnish schedule 2 through 5 drugs and all other prescription drugs, and perform highly sensitive invasive pain blocking procedures requiring years of subspecialized training. These include placing electrical wires in the back of the patient's head to treat severe migraines to injecting nerve destroying medication to permanently remove untreatable cancer pain. L.D. 970 would also allow all advance practice registered nurses to order and interpret diagnostic procedures. The ordering isn't as much of a concern to me, but the interpreting definitely is, given the scope of their education. Lastly, I just also want to point out one more time that anesthesiologists are physicians with nearly two times the education and ten times the clinical training of certified registered nurse anesthetists. For all of those reasons and more, I ask that you follow my light.

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Senate at Ease.

Senate called to order by President Pro Tempore  
**GARRETT P. MASON** of Androscoggin County.

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**THE PRESIDENT PRO TEMPORE:** The Chair recognizes the Senator from Penobscot, Senator Cushing.

Senator **CUSHING:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I rise today to encourage you to support the pending motion. I would just like to remind the Body that this is a matter that has great impact to those who are at rural hospitals. It will not, under this current amended proposal, make significant changes to practices that are already in place. It will just empower us to provide the level of service that many citizens in our districts need. Thank you very much.

**THE PRESIDENT PRO TEMPORE:** The Chair recognizes the Senator from Penobscot, Senator Gratwick.

Senator **GRATWICK:** Thank you very much again, Mr. President. I'd just remind my colleagues here in the Senate that the idea behind this is good, but this bill is too much too soon. There are too many details that need to be worked out. This is a bill that should be returned to the parties involved so they can work out the details. This should not be done this legislative session. I think I'd be happy to vote for this next session, but not now in its current status. I would urge people to vote against this current bill.

**THE PRESIDENT PRO TEMPORE:** I would remind the Body that we are addressing the question of Engrossment. Please keep your comments restrained to the motion on the Floor. The Chair recognizes the Senator from Lincoln, Senator Johnson.

Senator **JOHNSON:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I just wanted to speak briefly to remind you that there are 40 other states which have this. I would also remind you that what is currently happening today is that there are people who are signing off on what the nurse anesthetists are determining are appropriate treatments that may have no training whatsoever in anesthesiology simply because those nurse anesthetists today don't have prescriptive authority. A doctor, a dentist, a nurse practitioner may be signing off on them. This would change that and bring back some commonsense, resembling the process we have today in terms of what's making it work, which is the knowledge and the expertise of a nurse anesthetist in determining what's appropriate and remove the barrier of someone else, who doesn't know better than them, having to actually sign off on it because they do have prescriptive authority. Thank you, ladies and gentlemen.

**THE PRESIDENT PRO TEMPORE:** The Chair recognizes the Senator from Androscoggin, Senator Brakey.

Senator **BRAKEY:** Thank you, Mr. President. I'll speak very briefly. I think some of the fear on this is this fear that unqualified

persons might be performing this. I'll say, as a lay-person in the legislature representing my constituents, I don't feel particularly qualified to say what the right amount of training is one way or the other, but I do think what this bill essentially does is it leaves a space for other people operating in the marketplace to make that decision for themselves. For example, I can't imagine a major hospital would allow someone and incur the liabilities for themselves by taking on someone to do this without the proper degree of training. Also I can't imagine an insurance company would issue malpractice coverage to someone who doesn't have the proper degree of training. If safety really is an issue and a concern, certainly the hospitals and insurance companies that provide malpractice insurance would have something to say about that. Us making this decision here is just giving people the freedom to make the decision in the free marketplace. I don't see a problem with that. Thank you very much. Since we're speaking on Engrossment, I'd say let's Engross it.

**THE PRESIDENT PRO TEMPORE:** The Chair recognizes the Senator from Aroostook, Senator Willette.

Senator **WILLETTE:** Thank you, Mr. President. Ladies and gentlemen of the Senate, I just wanted to read to you a piece of testimony from a constituent of mine. He is a CRNA in Houlton, at the Houlton Regional Hospital. He's actually the only person at the Houlton Regional Hospital that, if you ever had to go in and have anything done, would be the fellow putting you under and taking you back into reality when you were done. His name is Monte Alexander. I'm just going to read you his testimony. "I'm a Certified Registered Nurse Anesthetist, a CRNA, and have been practicing anesthesia in all of its facets for the last 24 years. I practiced in multiple arenas from large medical centers, both civilian and military, to small community hospitals, and on ships at sea as the only anesthesia provider for over 6,000 to 8,000 military and civilian personnel while deployed. During all this time, and for most of my time in the military, I've worked as a solo practitioner, meaning I have practiced without the presence of an anesthesiologist. The only medical doctors present have been surgeons and other physicians that I work and consult with, who are not trained in anesthesiology and rely on my expertise in the provision of anesthetics. In the last 15 years of solo practice I've taken care of the people of Maine," I can't read his writing, "from rescuing airways of newborn infants just minutes from their mother's womb to patients of over 100 years of age, from routine cases to life and death emergencies. Surgeons and other physicians truly rely on the expertise of CRNAs and the work they do and provide excellent outcomes for their patients. It is because of this type of practice that I ask you to please support L.D. 970. As CRNAs we routinely order tests, studies, and medications, but this places additional burden on our already very busy physicians as they must come back and countersign all orders. Having the prescriptive authority to independently order diagnostic procedures and therapeutic measures would greatly decrease the workload on the physicians that we work with, improve the efficiency of our healthcare system, and decrease the potential for non-payment of procedures because someone missed a countersignature. L.D. 970 is a critical piece of legislation, as it will help to ensure that the people of Maine have continued access to both safe and cost effective healthcare. Not just CRNAs but all advance practice registered nurses are a critical component to the healthcare system. We are well-educated, well-trained, and with years of clinical experience to

back us up. Rest assured that the APRN is ready and able to meet the needs of the healthcare system. APRN prescriptive authority has also proven itself in many other states and, given the opportunity, will do so in Maine as well." Just a little side note, 80% of the rural hospitals have no physician anesthesiologist on site, so they rely on the CRNAs to carry quite a workload. I believe passing this L.D. 970 will only help them provide higher quality care for the people in the state of Maine. Thank you.

**THE PRESIDENT PRO TEMPORE:** The Chair recognizes the Senator from York, Senator Dutremble.

Senator **DUTREMBLE:** Thank you, Mr. President. Ladies and gentlemen of the Senate, in 1989, during my critical care EMT class, which is one step before becoming a paramedic, my class asked to participate in the advanced cardiac life support that was currently offered for just nurses and doctors. We were told as EMTs we could never pass the class for the following reasons: we were going way over our scope of practice, we could not do what they do as effectively in a controlled setting as ours is uncontrolled, we did not have the training like they did, and we only had one to two years of schooling while they had four years or more of schooling. This training was not over our scope of practice. It's exactly what we were trained to do and what we learned to do. Rather it was the State, through the Physician's Board, that prevented us from doing what we were trained to do. My instructor at that time challenged the hospital to say not only that we would pass the class but we would out score the nurses and physicians. A pretty bold statement for something that had never been done by an EMT class. My class lived up to the promise. Not only did all of us pass but the lowest score in the class was a 96%. We had both nurses and physicians that scored less than the 96%. It was this day that the relations between the emergency room doctors and nurses became greater working relations with EMTs and paramedics. These are the same exact arguments that we are hearing today about CRNAs not being able to do the work of an anesthesiologist. My argument is CRNAs are trained currently to the level of this bill and they are currently doing the work and it's not changing their scope of practice. As a paramedic, I do not believe for a minute that I'm a doctor or have the knowledge base or education of doctor, but I would challenge any doctor to step in the back of the rescue with me and go head on and see who provides the better care. Without a doubt it's going to be the paramedic. I can assure you. Don't take away the knowledge and the training of the CRNAs that they currently have. Let them do their jobs without delaying treatments because of a signature that the doctor's going to sign anyway. Don't discredit their work. I ask you to, please, vote in favor of this bill. Thank you.

**THE PRESIDENT PRO TEMPORE:** The Chair recognizes the Senator from Cumberland, Senator Volk.

Senator **VOLK:** Thank you, Mr. President. At the risk of belaboring this subject further, and, trust me, I really, really, really wish it had been put to rest two weeks ago. I believe that what we just heard from the good Senator from Aroostook and the good Senator from York highlights one of the issues with this bill. The doctor from Penobscot actually referred to it. This bill goes way beyond simply allowing CRNAs to do what they are currently doing in hospitals, whether they have to get a signature, whether

that signature is from an anesthesiologist or from a surgeon who, by the way, has training in anesthesiology. Surgeons receive training in anesthesiology and are extremely knowledgeable about anesthesiology. They also have the entire experience of medical school, of residence training. You can't discount the hours and hours and hours of training that these folks go through. You just simply can't. This bill, what this bill does, and if you read it you would see, it is six or seven pages long. This bill goes beyond the scope of what CRNAs are trained to do. It makes them virtually capable, it gives them virtually the ability to become primary care providers, for which they are not trained. They are not trained to be primary care providers. Would you go to a CRNA for your well checkup? I don't think you would. Sure, they probably can take care of a woman in labor. That's something that is probably a very standard procedure that they do, that they could probably do blindfolded. I don't question that. However a person's health, and the big picture of a person's health, can be way more complicated than a simple procedure. They are trained for the simple procedures. They are not trained for the global picture in the same way that physicians are. What this bill would do, the thousands of words in this bill, is make them, give them the ability to do that, with no oversight, after they have finished their training. They could, essentially, hang a shingle and go to work. I wouldn't take my family to them. Thank you.

**THE PRESIDENT PRO TEMPORE:** The Chair recognizes the Senator from Oxford, Senator Patrick.

Senator **PATRICK:** Thank you, Mr. President. Ladies and gentlemen of the Senate, colleagues and friends, I really wasn't going to rise today on this issue because I think I said enough on it before, but listening to the debate again on both sides of the issue brings the fact that I have stated many times in the Labor, Commerce, Research and Economic Development Committee that the best legislation that we get is when both sides sit down and come up with a compromise. Unfortunately, a lot of times, dealing with medicine and dealing with scope of practice, that's not going to happen because what happens is I'm increasing my scope of practice, my education is better than your education, my skill is better than your skill, my training and hours on the job are more important than yours. We end up before the legislature and a lot of times the best decision isn't always made. The one thing that I always told the medical community when I was in the Labor, Commerce, Research and Economic Development Committee, getting ready to cast my vote, is that I'm going to cast my vote and I'm going to feel good about it because there's been ample time for both sides to come up with a compromise on this issue. When 40 states have this already and you listen to a lot of the quality of debate, especially from my colleague to my right, Senator Dutremble, and knowing what he went through and what they said he couldn't do and what he can do now, it's kind of disturbing that we have to make the decision. I wish the decision was made by those that could have the say from the standpoint of what the value actually is. Unfortunately, I think with this session, last session, coming in the future, I would almost have to think that the medical community is probably going to sit and work together with both sides of any issue to come up with a more compromised view because I don't believe these issues are going to stop coming before us until we can find some way that both sides of any issue are willing to sit down and discuss these issues. Thank you, Mr. President.

**THE PRESIDENT PRO TEMPORE:** The Chair recognizes the Senator from Lincoln, Senator Johnson.

Senator **JOHNSON:** Thank you, Mr. President. I just wanted to add, putting aside some of the suggestions about safety with some sound, factual information. In a study mandated by the U.S. Congress and performed by the National Academy of Sciences National Research Council report to Congress states, "There was no association of complications of anesthesia with the qualifications of the anesthetist or with the type of anesthesia." A study concerning anesthetic related deaths from 1969 to 1976 by Albert Bechtoldt Jr. and the Anesthesia Study Committee published in the North Carolina Medical Journal in April 1981 stated, "Therefore, when we calculated the incidents of anesthetic related deaths for each group which administered the anesthetic we found that the incidents among the three major groups, the CNRAs, the anesthesiologists, and the combination of CNRA and anesthesiologists, to be rather similar, although the CNRA working alone counted for about half of the anesthetic related deaths. CNRA working alone also counted for about half the anesthetics administered." The Stanford Center for Healthcare Research conducted a 17 hospital intensive study of institutional differences, concluding thus, "Using conservative statistical methods, we concluded that there were no significant differences in outcomes between the two groups of hospitals defined by type of anesthesia provider." Thank you, Mr. President.

**THE PRESIDENT PRO TEMPORE:** The Chair recognizes the Senator from York, Senator Dutremble.

Senator **DUTREMBLE:** Thank you, Mr. President. Ladies and gentlemen of the Senate, just real quick. I'd just like to say I'm not sure how many women in this room would ask me to deliver their baby over an OBGYN, but currently, to this date, I have four successful deliveries in the back of the rescue. It's not the one that you do that everything goes right, it's the one where you pull up and you have a prolapsed cord coming out and you have to react to save that baby until you can get to the hospital. It's about the training. That's why we're here. These CRNAs have the training and I would just like you all to vote in support. Thank you.

**THE PRESIDENT PRO TEMPORE:** The Senator from Cumberland, Senator Volk, requests unanimous consent of the Senate to address the Senate a third time on this matter. Hearing no objection, the Senator may proceed.

Senator **VOLK:** Thank you, Mr. President. I apologize for rising a third time. I do not have the file in front of me and I'm not going to start. We don't have time. We need to vote on this. I'm not going to belabor this any further. It is my recollection that there have been three different studies. The two studies that found no difference or that the outcomes with CRNAs were safer were paid for by the association for the CRNAs. There was a third study that was a scientific study that was impartial. I think it was by the University of Pennsylvania, but that is completely out of memory. That actually found that one of the differences was that the anesthesiologist handled the more complicated cases but even then, I believe, they did find that the anesthesiologists are safer. Thank you.

**THE PRESIDENT PRO TEMPORE:** The pending question before the Senate is Passage to be Engrossed as Amended by Committee Amendment "A" (S-176) as Amended by Senate Amendment "A" (S-211) thereto. A Roll Call has been ordered. Is the Senate ready for the question?

The Doorkeepers secured the Chamber.

The Secretary opened the vote.

**ROLL CALL (#228)**

**YEAS:** Senators: BRAKEY, CUSHING, CYRWAY, DUTREMBLE, EDGEComb, HAMPER, JOHNSON, MILLETT, MIRAMANT, PATRICK, SAVIELLO, THIBODEAU, VALENTINO, WHITTEMORE, WILLETTE, WOODSOME, THE PRESIDENT PRO TEMPORE - GARRETT P. MASON

**NAYS:** Senators: ALFOND, BAKER, BREEN, BURNS, COLLINS, DAVIS, DIAMOND, DILL, GERZOFOSKY, GRATWICK, HASKELL, HILL, KATZ, LANGLEY, LIBBY, MCCORMICK, ROSEN, VOLK

17 Senators having voted in the affirmative and 18 Senators having voted in the negative, **PASSAGE TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (S-176) AS AMENDED BY SENATE AMENDMENT "A" (S-211) thereto, FAILED.**

Sent down for concurrence.

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

HOUSE REPORT - from the Committee on **HEALTH AND HUMAN SERVICES** on Bill "An Act To Require Child-resistant Packaging for Products Containing Liquid Nicotine"  
H.P. 290 L.D. 423

Report - **Ought to Pass as Amended by Committee Amendment "A" (H-405).**

Tabled - June 15, 2015, by Senator **BRAKEY** of Androscoggin

Pending - **ACCEPTANCE OF REPORT**, in concurrence

(In House, June 12, 2015, Report **READ** and **ACCEPTED** and the Bill **PASSED TO BE ENGROSSED AS AMENDED BY COMMITTEE AMENDMENT "A" (H-405).**)

(In Senate, June 15, 2015, Report **READ.**)

Report **ACCEPTED**, in concurrence.

**READ ONCE.**

Committee Amendment "A" (H-405) **READ** and **ADOPTED**, in concurrence.