



# ElderLaw Advisor



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## SENATOR KING BACKS THREE BILLS TO PROVIDE PRESCRIPTION DRUG PRICE RELIEF FOR MAINE PEOPLE

U.S. Senator Angus King announced his support for three bills that would reduce the cost of prescription drugs. The first bill, the End Taxpayer Subsidies for Drug Ads Act, would prohibit pharmaceutical drug manufacturers from claiming tax deductions for consumer advertising expenses. The Affordable and Safe Prescription Drug Importation Act would allow patients, pharmacists, and wholesalers to import safe, affordable medicine from Canada and other major countries. The Empowering Medicare Seniors to Negotiate Drug Prices Act would allow for Medicare to negotiate the best possible price of prescription drugs to cut costs for nearly 43 million seniors enrolled in Medicare Part D. Current law only allows for bargaining by pharmaceutical companies and prohibits Medicare from doing so. Senator King was a cosponsor of all three bills during the 115th Congress.

The United States is one of only two countries that allows “direct-to-consumer” pharmaceutical advertising, and advertising expenses by pharmaceutical drug manufacturers have more

## STRETCH IRA BASICS

A stretch IRA refers to an inherited IRA and the ability of a beneficiary to “stretch out” both the required distributions from the IRA and the corresponding tax bill. This simple concept generates huge tax savings.

In order to take advantage of the stretch IRA there must be a designated beneficiary. This means that there must be an individual (a living person) named as the beneficiary on the IRA beneficiary form. An animal, charity, the estate, and/or trust (other than a qualifying trust) do not have a life expectancy, and, therefore, do not qualify.

Inheriting through a will or trust will not work either. If an IRA owner fails to name a primary or contingent beneficiary on the beneficiary designation form, then the IRA custodial document will determine the beneficiary. If the default under the custodial document is the estate or some other non-living entity the IRA is lost. Don't let your IRA become an “IOU” to the IRS!

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## GOVERNOR MILLS IMPLEMENTS MEDICAID EXPANSION

One of Governor Mill's first acts as governor was to implement Medicaid expansion in Maine. Maine voters approved Medicaid expansion in 2017, but Governor LePage blocked implementation although supported by 59% of voters.

It's estimated that 70,000 additional people in Maine will qualify for Medicaid and eligibility is expanded to those with household income up to 138 percent of the federal poverty level.

Under Medicaid expansion, the federal government will pay 94% of the health care cost for these 70,000 individuals. Maine pays 6%. The federal share is expected to be \$500 million, Maine pays \$30 million. Without Medicaid expansion, 70,000 Mainers are uninsured and not receiving proper health care and maintenance and Maine loses \$500 million every year. Fighting Medicaid expansion is a good example of being "penny wise, pound foolish."

A healthy population is good for our work force, economy, and quality of life, not to mention the yearly \$500 million boost to our economy and health care system that would otherwise go to another state.

## THE NURSING HOME ADMISSION CONTRACT

The nursing home admission contract must be in compliance with Maine Law, Title 22 section 1826. In addition to contract provisions related to resident care and the nursing home standard of care, the contract must also contain provisions regarding the MaineCare long-term care benefit for nursing home and assisted living care.

No contract or agreement may contain any provisions which restrict or limit the ability of a resident to apply for and receive Medicaid or which require a specified period of residency prior to applying for Medicaid. The resident may be required to notify the facility when an application for Medicaid has been made. No contract or agreement may require a deposit or other prepayment from Medicaid recipients. No contract or agreement may refuse to accept retroactive Medicaid benefits.

No contract or agreement may contain a provision that provides for the payment of attorney's fees or any other cost of collection payments from the resident, except that attorney's fees and costs may be collected against any agent under a power of attorney who breaches the agent's duties as set forth in Title 18-A, section 5-914 or against a conservator appointed under Title 18-A, section 5-404 for breach of the conservator's duties.

## HOW LONG SHOULD YOU KEEP IMPORTANT DOCUMENTS?

As estate planning and elder law attorneys our clients often ask how long they should keep certain documents, records, and papers.

How long to keep "it" depends on what "it" is. Everyday receipts for purchases, bank deposits, credit card and monthly bills, etc. should be kept for 2 to 3 monthly billing and bank statement cycles.

Receipts and bills of sale for larger items purchased or sold, insurance and investment

statements, medical bills, and pay stubs should be kept for one full year, if not longer as needed. For example, if a MaineCare application is foreseeable, these types of documents should be kept for 5 years.

Documents that should be kept indefinitely are the originals of any transaction such as tax returns, medical records, education records, retirement and life insurance documents, Medical and legal instruction, deeds and bills of sale, military discharges, business papers, and birth, death, and marriage certificates (for some). No need to "horde". Most documents are replaceable.

## LEGISLATIVE UPDATE

**A**t a press conference on January 15, 2019, in the Hall of Flags, Governor Mills authorized the release of the \$15 million senior housing bond that was approved by Maine voters and with bipartisan support in the House and Senate. The bond will provide \$14.5 million for new senior housing and \$500,000 for senior house repairs and weatherization. The bond effort was supported by AARP-Maine, Maine Council on Aging, and the Maine Housing Authority.

Following the press conference, a legislative caucus on aging was held at which legislators reviewed the details of bills they will be introducing as they relate to Maine seniors. Following are Maine Council on Aging initiated bills that we will be supporting as well on behalf of our clients and all Maine seniors:

**LR 1181** – An Act to Establish the Department on Aging and the Aging Advisory Council.

**LR 1146** – An Act to Ensure the Provision of Housing Navigation Services to Older Adults

**LR 748** – An Act to Expand Transportation for Seniors

**LR 474** – Resolve, To Ensure the Health and Wellness of Older Residents of the State. This bill will provide home-delivered meals to people 60 years or older and will provide funding to eliminate the waiting list for hand-delivered meals to homebound individuals who cannot prepare meals.

**LD 566** – An Act To Protect Vulnerable Adults from Financial Exploitation. This bill requires reporting of suspected elder financial abuse when a banker, investment advisor, or agent has reason to believe that financial abuse is taking place.

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There are a number of bills related to property tax relief for seniors, such as capping the property tax at the current amount paid at age 65 and subject to certain income limits; in property tax delinquent cases, allowing the town to sell the property for back taxes and often recovering all delinquent taxes, interest and cost, with the excess, if any paid to the elder.

Another bill calls for all municipal planning to include consideration of Maine's aging population. Such measures to include public transportation, pedestrian count as well as traffic counts, easy access to the downtown areas and zoning changes that allow for in-law apartments and senior housing.

We will continue to stay actively involved in all legislative affairs that relate to the health, safety, and best interest of our clients and all Maine seniors.

**“We must fight hate, we must teach tolerance, and we must seek justice.”**

**David C. Ezhaya 1948-2018**

### SENATOR KING BACKS THREE BILLS TO PROVIDE

### PRESCRIPTION DRUG PRICE RELIEF FOR MAINE PEOPLE

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than quadrupled over the past two decades, rising from \$1.3 billion in 1996 to \$6 billion in 2016. In that same time period advertising from drug companies has increased from 79,000 ads to 4.6 million ads, including 663,000 TV commercials. Economists have estimated nearly one third of the growth in drug companies' spending can be attributed to the increase in advertising for prescription drugs. Under current law, drug manufacturers are allowed to deduct the cost of advertising expenses from federal taxes. This aggressive advertising also increases demand and allows drug companies to increase prices. The End Taxpayer Subsidized for Drug Ads Act, would eliminate this tax deduction for drug advertising costs, ensuring that taxpayer dollars are not used to subsidize drug advertisements.

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**GOVERNOR MILL SIGNS  
\$15 MILLION SENIOR  
HOUSING BOND**

**A**t a press conference held in the Hall of Flags on Tuesday, January 15, 2019, newly elected Governor Mills authorized the \$15 Million for new senior housing and \$500,000 for senior house repairs and weatherization. It is estimated that approximately 70,000 Maine seniors are in need of either improved or more stable housing. Evidence shows that improved housing results in elders living a better quality of life. The bond was approved by 70% of Maine voters 3 years ago. The \$15 million investment will leverage \$50 million of new elderly housing. Authorizing the bond is an early indication of the Governor's belief that Maine seniors need and deserve safe housing.

**DID YOU KNOW THAT...**

**S**pectrum Generations, our central Maine Area Agency on Aging and disability resources center, serves the aging and disabled in the 6 counties of central Maine. During the last year, Spectrum Generations served 43,694 people throughout this area – these people are you, your friends, and your neighbors who desire to age in place! Spectrum Generations provided 1,603 people with 231,598 Meals on Wheels and provided 323 people and their families with caregiver support, training, counseling, and respite and also provided 13,786 Information and Assistance contacts to 7,899 people seeking resources to care for a loved one. The Bridges Home Service division provided 35,689 hours of care to adults with memory diagnoses or intellectually and/or developmentally disabled adults through the Adult Day program.