

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from electronic originals
(may include minor formatting differences from printed original)

LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1995

CHAPTER 570

S.P. 692 - L.D. 1762

**An Act to Further Streamline
Licensing Procedures at the Bureau
of Insurance**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Federal Social Security Act of 1994 requires amendments to the State's laws with respect to the sale of Medicare supplement policies; and

Whereas, the required amendments to the State's laws must be enacted prior to April 28, 1996; and

Whereas, failure to enact these provisions will result in the State's loss of regulatory authority over the sale of Medicare supplement policies; and

Whereas, if this legislation is not enacted as an emergency, Medicare supplement policies may not be sold in this State until the United States Secretary of Health and Human Services certifies that the policies meet federal standards; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 24-A MRSA §413, sub-§5-A, as enacted by PL 1985, c. 330, §4, is amended to read:

5-A. A copy of a current report of examination of the insurer certified by the public insurance supervisory official of the insurer's state of domicile, or of entry into the United States, if an alien insurer. For ~~purpose~~ purposes of this requirement, a report of examination ~~shall be~~ is deemed "current" only if its date of account is within ~~24~~ 36 months of filing of the application, except that the superintendent may, in ~~his~~ the superintendent's discretion, accept a report of examination within a period reasonably proximate to ~~24~~ 36 months from its date of account ~~which that~~ is filed by the applicant promptly upon its receipt ~~where~~ when issuance of the report by the domiciliary regulator has been delayed for reasons beyond the control of the applicant and ~~which that~~ are unrelated to the applicant's financial condition or its compliance with applicable laws;

Sec. 2. 24-A MRSA §419, sub-§1, as amended by PL 1983, c. 419, §5, is further amended to read:

1. The suspension of an insurer's certificate of authority ~~shall must~~ be for such period as the superintendent specifies in the order of suspension, ~~but not to exceed one year.~~ During the suspension period, the superintendent may rescind or shorten the suspension period by further order. The superintendent may reinstate the insurer's certificate of authority upon written request of the insurer if the superintendent finds that the causes of the suspension are no longer continuing and that the insurer is otherwise in compliance with the requirements of this Title.

Sec. 3. 24-A MRSA §1518, sub-§1-A is enacted to read:

1-A. Written application must be filed for reinstatement of an inactive license. The application must include an appointment form and the appropriate fee, a reinstatement application and application fee and, if applicable, a license issuance fee.

Sec. 4. 24-A MRSA §1521, sub-§1, as amended by PL 1993, c. 153, §11, is further amended to read:

1. An applicant for license covering the same kind or kinds of insurance for which the applicant was licensed under a similar license in this State, other than a temporary license issued pursuant to section 1536, within ~~one year~~ 2 years next preceding the date of application for the license, ~~provided that~~ if the licensee has met the applicable continuing education requirements during the period, unless the previous license was revoked, suspended or continuation of the license was refused by the superintendent, and if the superintendent considers the applicant to be fully qualified for the license. For the purposes of this subsection, an agent's license covering fire insurance and existing on January 1, 1970 is the equivalent of a license covering "property" insurance as defined in this Title;

Sec. 5. 24-A MRSA §1532-A, sub-§7, as amended by PL 1993, c. 153, §14, is further amended to read:

7. Resident agent and resident agent organization licenses are valid until 12:01 a.m. on October 1st of even-numbered years, unless prior to that date the license was suspended, revoked or otherwise terminated, while there is in effect as to the license, as shown by the superintendent's records, an appointment or appointments as agent of authorized insurers covering collectively all the kinds of insurance included in the agent's license. Nonresident agent and nonresident agent organization licenses are valid until 12:01 a.m. on February 1st of odd-

numbered years unless before that date the license was suspended, revoked or otherwise terminated, while there is in effect as to the license, as shown by the superintendent's records, an appointment or appointments of an agent or agents of authorized insurers that collectively cover all the kinds of insurance included in the agent's license. Upon termination of all the licensee's appointments, as to a particular kind of insurance, ~~and failure to replace those appointments within 60 days thereafter, the license terminates as to those kinds of insurance and the licensee shall promptly deliver the license to the superintendent for reissuance, without fee or charge, as to these kinds of insurance, if any, covered by the remaining appointments~~ the agent's authority to sell that kind of insurance terminates and the agent is prohibited from selling that kind of insurance until the appointment is replaced. The insurer must verify in its cancellation of an appointment filed with the superintendent pursuant to section 1535, subsection 2 that the agent has been notified of the loss of authority to represent the insurer. A new license for the kinds of insurance covered by the remaining authorities will be issued at the time of renewal. Upon termination of all the licensee's appointments, the license terminates and the agent is prohibited from selling any kind of insurance until the agent files an application for reinstatement pursuant to section 1518 and either:

A. A new license is issued; or

B. The agent receives notification from an insurer pursuant to section 1533 that a new appointment is in effect with the superintendent.

Insurers are prohibited from accepting business from an agent who does not have a valid appointment on file with the superintendent. The agent's license is considered inactive for a period of 2 years from the date of the loss of the last appointment.

Sec. 6. 24-A MRSA §1533, sub-§1, as amended by PL 1993, c. 637, §23, is further amended to read:

1. Each insurer appointing an agent in this State shall file with the superintendent the appointment in writing, specifying the kinds of insurance or annuity business to be transacted by the agent for the insurer, and pay the appointment fee at the rate specified in section 601. The insurer shall pay the full appointment fee without regard to the effective date of the appointment. An agent who qualifies to be licensed to sell variable annuity contracts pursuant to section 1520 must be separately appointed as to variable annuities and the insurer shall pay a separate appointment fee for the appointment. Once the superintendent has processed the appointment and notified the insurer that the appointment is in effect, the insurer must notify its agent of the effective date

of the appointment authorization. The superintendent is not required to send a confirmation of appointment to the agent.

Sec. 7. 24-A MRSA §2736-C, sub-§9 is enacted to read:

9. Exemption for certain associations. The superintendent may exempt a group health insurance policy or group nonprofit hospital or medical service corporation contract issued to an association group, organized pursuant to section 2805-A, from the requirements of subsection 3, paragraph A; subsection 6, paragraph A; and subsection 8 if:

A. Issuance and renewal of coverage under the policy or contract is guaranteed to all members of the association who are residents of this State and to their dependents;

B. Rates for the association comply with the premium rate requirements of subsection 2 or are established on a nationwide basis and substantially comply with the purposes of this section, except that exempted associations may be rated separately from the carrier's other individual health plans, if any;

C. The group's anticipated loss ratio, as defined in subsection 5, is at least 75%;

D. The association's membership criteria do not include age, health status, medical utilization history or any other factor with a similar purpose or effect;

E. The association's group health plan is not marketed to the general public;

F. The association does not allow insurance agents or brokers to market association memberships, accept applications for memberships or enroll members, except when the association is an association of insurance agents or brokers organized under section 2805-A;

G. Insurance is provided as an incidental benefit of association membership and the primary purposes of the association do not include group buying or mass marketing of insurance or other goods and services; and

H. Granting an exemption to the association does not conflict with the purposes of this section.

Sec. 8. 24-A MRSA §5013, as amended by PL 1993, c. 154, §4, is further amended to read:

§5013. Notice regarding policies that are not Medicare supplement policies

Any individual accident and sickness insurance policy or group insurance certificate, including the contract of a nonprofit hospital and medical service or health care plan issued for delivery in this State to persons eligible for Medicare ~~by reason of age~~, must notify insureds that the policy or certificate is not a Medicare supplement policy or certificate. The notice must be either printed on or attached to the first page of the outline of coverage delivered to insureds; or, if no outline of coverage is delivered, to the first page of the policy or certificate. The notice must be in no less than 12-point type and must contain the following language:

"THIS (POLICY OR CERTIFICATE) IS NOT A MEDICARE SUPPLEMENT (POLICY OR CERTIFICATE). If you are eligible for Medicare, review the Medicare Supplement Buyer's Guide available from the company. If you have a Medicare supplement policy or major medical policy, this coverage may be more than you need. For information call the Bureau of Insurance at (toll-free phone number)."

This section does not apply to a Medicare supplement policy; a policy issued pursuant to a contract under the Federal Social Security Act, 42 United States Code, Section 1395, et seq., Section ~~1833 or~~ 1876; a disability income policy; ~~a single premium nonrenewable policy~~; or a policy identified in section 5001-A, subsection 2.

Sec. 9. 24-A MRSA §5014 is enacted to read:

§5014. Additional penalties

1. Penalties. In addition to any other applicable penalties for violations of this Title or Title 24, the superintendent may order issuers violating any provision of this chapter or any rule adopted pursuant to this chapter to:

A. Comply with the provisions of this chapter; or

B. Cease marketing any Medicare supplement policy or certificate in this State that is directly or indirectly related to a violation.

2. Election of penalty options. The superintendent may exercise any of the penalty options provided by this section, in combination or in sequence, as the superintendent considers appropriate.

Sec. 10. 24-A MRSA §6305, sub-§2, as enacted by PL 1989, c. 931, §5, is amended to read:

2. Final evaluation of savings. The final evaluation of the savings in professional liability

insurance claims and claim settlement costs to insurers must be determined by the superintendent ~~in 1995 as part of the report filed on or before December 1, 2000 under Title 24, section 2978, subsection 2.~~ Insurers shall continue to assess policyholders after ~~1995~~ 2000 based on the final determination, but the total assessment may not be more than \$500,000 per year.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective March 26, 1996.

CHAPTER 571

S.P. 335 - L.D. 916

An Act to Improve the Function of the Maine Health Security Act

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

Sec. 1. 24 MRSA §2853, sub-§4, as enacted by PL 1985, c. 804, §§12 and 22, is amended to read:

4. Filing of records; time for hearing; extensions. Within 20 days of entry of appearance, the person or persons accused shall contact the claimant's counsel and by agreement shall designate a timetable for filing all the relevant medical and provider records necessary to a determination of the panel and for completing discovery. If the parties are unable to agree on a timetable within 60 days of the entry of appearance, the claimant shall notify the ~~chairman~~ chair of the panel. The ~~chairman~~ chair shall then establish a timetable for the filing of all relevant records and reasonable discovery, which ~~shall~~ must be filed at least 30 days before any hearing date. The hearing ~~shall~~ may not be later than ~~420 days~~ 6 months from the service of the notice of claim upon the clerk, except when the time period has been extended by the panel chair in accordance with this subchapter.

See title page for effective date.

CHAPTER 572

S.P. 528 - L.D. 1445

An Act to Limit the Liability of Property Owners in Cases of Nonnegligent Lead Poisoning

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and