

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 2, 1998 to June 19, 1999**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 18, 1999**

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

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1999**

**4. Use of fund.** The fund must be used to provide discounts to qualified libraries and qualified schools for the following:

- A. Telecommunications services;
- B. Internet access;
- C. Internal connections;
- D. Computers; and
- E. Training.

**5. Guidelines for funding.** The commission shall allocate money from the fund using the following guidelines:

- A. To ensure a basic level of connectivity for all of the qualified schools and qualified libraries in the State;
- B. To ensure all qualified schools and qualified libraries are capable of using the advanced technology equipment obtained through the fund;
- C. To ensure that more technologically sophisticated equipment is available to students in grades 9 to 12 and in larger qualified libraries in the State;
- D. To provide for necessary equipment to use the services obtained through the fund;
- E. To provide for internal connections necessary to use the services obtained through the fund;
- F. To provide training to teachers so that they may assist and educate their students in the use of the advanced technology equipment; and
- G. To provide for the establishment of computer technology training programs in schools to provide training to students in areas such as, but not limited to, electronic commerce, Internet proficiency and World Wide Web-enabled systems.

A minimum of 25% of each annual program budget must be devoted to targeted projects that are innovative and technologically advanced.

**6. Coordination with federal funds.** Qualified schools and qualified libraries shall apply for any federal discounts available pursuant to the federal Telecommunications Act of 1996. The level of discount, pursuant to subsection 4, is determined by the commission.

**7. Coordination with existing facilities.** Any existing facilities developed to provide services to qualified schools and qualified libraries, as directed by the commission under this section, must continue to provide services to qualified schools and qualified

libraries at rates that reflect the incremental costs to use those facilities.

**8. Review by commission.** The commission shall periodically examine the services provided and entities assessed a fee under this section. The purpose of the review is to ensure that the fees assessed under this section are competitively neutral by including services provided by any entity, including but not limited to cable television companies, Internet service providers or any other relevant business, to the extent that those entities offer services that provide a method of delivering 2-way interactive communications services comparable to those offered by telecommunications carriers. In accordance with subsection 2, the assessment of fees on entities that provide services other than 2-way interactive communications services comparable to those offered by telecommunications carriers must be based on the entities' retail charges for delivering 2-way interactive communications, excluding interstate toll and interstate private line services, and may not be related to other services provided by the entity.

See title page for effective date.

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## CHAPTER 410

S.P. 741 - L.D. 2100

### An Act to Allow Workers' Compensation Board Advocates to Prioritize and Decline Cases

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

**Sec. 1. 39-A MRSA §153-A, sub-§§6 and 7** are enacted to read:

**6. Case management authority of advocates.** An advocate has the authority to:

A. Manage and prioritize the advocate's caseload to efficiently move cases through the board mediation and hearing process and to achieve resolution;

B. With the written approval of the staff attorney, decline cases or cease assistance to an employee when the advocate after investigation finds:

(1) Timely notice of the injury was not given by the employee to the employer, pursuant to this Act;

(2) The statute of limitations has expired;

(3) The employee's case is based on an argument or issue adversely determined by the Supreme Judicial Court;

(4) The employee's case is based on a claim of discrimination governed by section 353;

(5) There is no record of medical assessment stating that the employee's injury was either caused by, aggravated by or precipitated by the employee's work or, when the issue is aggravation, there is no record of medical assessment stating that the employee's work aggravated a preexisting condition in a significant manner; or

(6) The employee has admitted to a fraudulent act, has been convicted of a fraudulent act by a court of competent jurisdiction or has been found to have committed a fraudulent act by the abuse investigation unit of the board; and

C. With the written approval of the staff attorney, present lump-sum settlements on cases pursuant to section 352.

A qualified employee whose case is declined or whose advocate assistance ceases pursuant to this subsection may appeal the action to the executive director of the board, within 30 days of the action. The executive director's ruling on the appeal is final and is not subject to judicial review. If the executive director finds assistance by an advocate should resume, the employee must be assigned to an advocate other than the advocate who declined the case or ceased assistance.

**7. Rulemaking.** In addition to the case management authority established in subsection 6, the board may establish by rule additional reasons for which the advocates may decline or cease assistance on cases. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**Sec. 2. 39-A MRSA §318,** as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended by enacting a new 2nd paragraph to read:

The hearing officer, upon motion by the petitioning party, may include a finding in the decree that the employer's refusal to pay the benefits at issue was not based on any rational grounds developed between the claim and formal hearing. Upon such a finding, the employer shall pay interest to the employee under section 205, subsection 6 at a rate of 25% per annum

from the date each payment was due, instead of 10% per annum.

See title page for effective date.

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## CHAPTER 411

### H.P. 797 - L.D. 1120

#### An Act to Amend the Uniform Health Care Decisions Act

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

**Sec. 1. 18-A MRSA §5-801, sub-§(q),** as enacted by PL 1995, c. 378, Pt. A, §1, is amended to read:

(q) "Surrogate" means an individual with capacity, other than a patient's agent or guardian, authorized under this Part to make a decision to withhold or withdraw life-sustaining treatment for a patient who does not have capacity and who is either in a terminal condition or in a persistent vegetative state health care decisions as provided in section 5-805.

**Sec. 2. 18-A MRSA §5-805, sub-§(a),** as enacted by PL 1995, c. 378, Pt. A, §1, is amended to read:

(a) A surrogate may make a decision to withhold or withdraw life-sustaining treatment for a patient who is an adult or emancipated minor if the patient has been determined by the primary physician to lack capacity, no agent or guardian has been appointed or the agent or guardian is not reasonably available and the patient is in a terminal condition or a persistent vegetative state as determined by the primary physician.

A surrogate also is authorized to make any other health care decision for a patient who is an adult or emancipated minor if the patient has been determined by the primary physician to lack capacity and no agent or guardian exists, except that a surrogate may not deny surgery, procedures or other interventions that are lifesaving and medically necessary.

A medically necessary procedure is one providing the most patient-appropriate intervention or procedure that can be safely and effectively given.

**Sec. 3. 18-A MRSA §5-805, sub-§(b), (1-A)** is enacted to read: