

# 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**

claimed as an itemized deduction pursuant to the Maine Revised Statutes, Title 36, section 5125.

See title page for effective date.

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## CHAPTER 522

H.P. 1255 - L.D. 1809

### An Act to Increase Access to Cub Care for Children

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

**Sec. 1. 22 MRSA §3174-T, sub-§11**, as enacted by PL 1999, c. 401, Pt. QQ, §2 and as affected by §5, is repealed and the following enacted in its place:

**11. Cub Care drug rebate program.** Effective October 1, 1999, the department shall enter into a drug rebate agreement with each manufacturer of prescription drugs that results in a rebate equal to that which would be achieved under the federal Social Security Act, Section 1927. These rebate agreements do not include the additional 6 percentage points required under section 3174-R.

See title page for effective date.

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## CHAPTER 523

S.P. 450 - L.D. 1325

### An Act to Provide Fairness to Victims of Medical Malpractice

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

**Sec. 1. 24 MRSA §2853, sub-§4**, as amended by PL 1995, c. 571, §1, is further 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 chair of the panel. The chair shall then establish a timetable for the filing of all relevant records and reasonable discovery, which must be filed at least 30 days before any hearing date. Depositions of persons other than the parties and the experts designated by the parties

may not be taken except as permitted by the chair upon the request of a party. The hearing may not be later than 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.

**Sec. 2. 24 MRSA §2854**, as amended by PL 1989, c. 361, §§7 and 10, is further amended to read:

#### §2854. Hearing

**1. Procedure.** The claimant or a representative of the claimant shall present the case before the panel. The person accused of professional negligence or ~~his~~ that person's representative shall make a responding presentation. Wide latitude ~~shall~~ must be afforded the parties by the panel in the conduct of the hearing including, but not limited to, the right of examination and cross-examination by attorneys. Depositions are admissible whether or not the person deposed is available at the hearing. The ~~chairman~~ chair shall make all procedural rulings and ~~his~~ those rulings ~~shall~~ be final. ~~A tape recorded record shall be maintained by the panel for its purpose only. The record shall be maintained until 30 days after its decision and then destroyed pursuant to section 2856. The record shall not be made public and the hearings are not to be public without the consent of both or all parties.~~ The Maine Rules of Evidence ~~shall~~ do not apply. Evidence ~~shall~~ must be admitted if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The panel shall make such findings upon such evidence as is presented at the hearing, the records and any expert opinions provided by or sought by the panel or the parties.

After presentation by the parties, as provided in this section, the panel may request from either party additional facts, records or other information to be submitted in writing or at a continued hearing, which continued hearing ~~shall~~ must be held as soon as possible. The continued hearings ~~shall~~ must be attended by the same members of the panel who have sat on all prior hearings in the same claim, unless otherwise agreed by all parties.

**1-A. Record; hearings.** The panel shall maintain a tape recorded record. Except as provided in section 2857, the record may not be made public and the hearings may not be public without the consent of both or all parties.

**2. Settlement; mediation.** The ~~chairman~~ chair of the panel shall attempt to mediate any differences of the parties before proceeding to findings.

**3. Failure to comply.** Failure of a party, without good cause, to attend a properly scheduled hearing to participate in authorized discovery, or to otherwise substantially comply with this subchapter, ~~shall~~ must