

MAINE STATE LEGISLATURE

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PUBLIC DOCUMENTS OF MAINE:

1903

BEING THE

ANNUAL REPORTS

OF THE VARIOUS

DEPARTMENTS AND INSTITUTIONS

For the Year 1902.

VOLUME I.

AUGUSTA
KENNEBEC JOURNAL PRINT
1903

STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

November 30, 1902.

AUGUSTA
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1903

find any provision whereby he may pay himself from the funds of the States Prison.

To sum up in brief, all the provisions of the statutes go to this one point, that the warden of the States Prison, while he is treasurer of the States Prison, can employ the funds of the States Prison only and solely for the expenses, disbursements and affairs of the States Prison and nothing else, and, that when he makes application of the funds of the States Prison to any other purpose than to the affairs of the States Prison, to wit, to himself, or to other parties not connected with the States Prison, on loans or otherwise, his bond becomes liable for such funds so illegally disbursed.

Respectfully submitted,

GEO. M. SEIDERS, Attorney General.

HEALTH INSURANCE—NOTICE.

The notice required in chapter 46 of the Public Laws of 1895 relating to insurance is not applicable to companies doing what is known as health insurance.

August 15, 1902.

To Hon. Stephen W. Carr, Insurance Commissioner, Augusta, Me.:

My Dear Sir: I herewith submit to you my opinion in relation to the question whether or not health insurance companies so called, are controlled in the matter of giving notice of sickness by chapter 46 of the Public Laws of 1895.

The opinion which I have reached by a careful examination of chapter 46, Public Laws of 1895 and of other sections of the insurance law, is that said chapter 46 does not apply to health insurance companies in name, and since it does not then the time specified in the policy of a health insurance company as to notice, must be taken as binding upon the party insuring, and for the following reasons:

First. The question raised might turn on the meaning of the words "casualty and accident." What is meant in said chapter 46 by "casualty and accident insurance companies?" It might appear on first reading that these words could be enlarged in their meaning so as to cover health insurance companies and

thereby cover in health insurance policies. The words "casualty and accident," as used in the insurance laws, have a definite and distinct meaning. I will not endeavor to define the two terms because it is unnecessary. In brief, they refer to some adverse effect upon an individual unlooked for, unexpected ordinarily, but which, nevertheless, sometimes does not come wholly unexpected. In the legal dictionary the two words are used nearly synonymously and I have no doubt that they are so used in our insurance laws. And still sickness is unexpected and unlooked for and the effect is harmful, so that in case of sickness the definition would almost lap over into the domain of casualty or accident. However, this point I conceive is fully taken care of by referring to section 87, chapter 109, Public Laws of 1887 which provides in the seventh line as follows: "And no foreign life, casualty, health or livestock insurance company," etc. I mean to say that this section recognizes health insurance companies in a class by themselves and indicates that a health insurance company is not a casualty company. Therefore I have no question in saying that when the words "casualty and accident" are used in said chapter 46 they do not mean health insurance companies as such.

Second: The reasons given by Mr. LeGrand L. Atwood, secretary of the Union Casualty and Surety Company, in his letter under cover of July 2, why the law should not apply to health insurance companies, I do not consider as having any particular weight. The very reasons which he gives why the law should not apply to health insurance companies may also be given why such a law should not apply to casualty or accident insurance companies. I do not see why section 104 should not be enlarged to include health insurance companies.

Third. There is a view, however, in relation to said chapter 46 which may be taken and which should be considered. The company which Mr. LeGrand L. Atwood represents by his letter of July 2d, seems to be a casualty and surety company. The reading of said chapter 46 is somewhat peculiar in this respect. If said company issued policies for health insurance under the head of the Union Casualty and Surety Company, then I query whether such policy so issued would not be swept under and controlled by said chapter 46 for said section reads: "No con-

ditions, stipulations or agreements contained in any application for insurance in any foreign or domestic casualty or accident insurance company, or contained in any policy insured by such company, or in any way made by any such company." etc.

Hence, if this company carries on a health insurance under the name of the Casualty and Surety Company, then I am disposed to think that the section would apply to such health policy, because the section does not set out that no conditions, stipulations or agreements in the policies for casualty or accident insurance, or contained in any policy issued by any such company for casualty or accident insurance, or in any way made by such company for casualty or accident insurance, etc., but does provide that such conditions, stipulations or agreements contained in any application for insurance in any foreign or domestic casualty or accident insurance company shall be subject to said section.

The distinction which I wish to draw is, that under this section the law would seem to apply to all conditions, stipulations or agreements in all policies of insurance whether for casualty, accident or health, in case they were issued by a casualty or accident insurance company, and that such company because it is a casualty or accident company in name cannot insure health under the name of casualty or accident and thereby escape the provisions of the section.

On the other hand, as I have said, if the company is a health insurance company pure and simple, then my opinion is that said chapter 46 does not apply to such company.

Respectfully submitted,

GEO. M. SEIDERS, Attorney General.