

MAINE STATE LEGISLATURE

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February 18, 1965

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Blood Donor Service Corporations Contracts as Insurance Contracts

FACTS:

Legislative Document #392, "An Act to Incorporate the Blood Donor Service Program of Maine", and Legislative Document #487, "An Act Relating to Non-Profit Blood Donor Service Corporations" pertain to the establishment of corporations whose purposes include the providing of blood service programs to subscribers.

QUESTION:

Would the Blood Donor Service Program, Inc. of Maine as contemplated by L. D. 392 and any blood donor service corporation that may be created pursuant to L. D. 487 be organizations that should be licensed and regulated by the Insurance Commissioner of the State of Maine?

ANSWER:

Yes.

OPINION:

24 M.R.S. § 501 provides:

"An organization of any type may not transact insurance business by issuing or delivering insurance contracts in this State without first obtaining a license or certificate of qualification from the commissioner as required by this Title."

Thus, if blood service corporations are issuing or delivering insurance contracts in this State, they must obtain a license or certificate of qualification from the Commissioner.

An insurance contract is defined by 24 M.R.S. § 1 as follows:

"A contract of insurance, life excepted, is an agreement by which one party for a consideration promises to pay money or its equivalent or to do some act of value to the assured upon the destruction or injury of something in which the other party has an interest. . . ."

Referring to L. D. #392, the contemplated body corporate to be known as the Blood Donor Service Program, Inc. of Maine would issue contracts to subscribers for the rendering of blood services to the subscribers and members of their families. A rate would be charged and certain specific benefits would be provided.

The contract to be issued falls within the definition of an insurance contract as defined by 24 M.R.S. § 1. There is an agreement (the contract between the Blood Donor Service Program, Inc. of Maine and the subscriber) by which one party (the Blood Donor Service Program, Inc. of Maine) for a consideration (the rate charged the subscriber) promises to pay money or its equivalent (blood and blood services) or to do some act of value (the furnishing of blood and blood services) to the assured (the subscriber) upon the destruction (loss of blood) or injury of something (injury to the subscribers requiring blood and blood services) in which the other party (the subscriber) has an interest. (The subscriber has an interest in his body and its well-being and health).

The contracts that may be issued by Blood Donor Service Corporations as contemplated by Legislative Document #487 also fit within the definition of contracts of insurance.

The Blood Donor Service corporations will be issuing insurance contracts within this State and they must comply with 24 M.R.S. § 501 which requires a license or certificate of qualification from the Insurance Commissioner.

It is also interesting to note that the Insurance Commissioner has authority to license non-profit hospital or medical service corporations. The authority is given to him by 24 M.R.S. § 2301 as follows:

"Any corporation organized under Special Act of the Legislature, or under Title 13 for the purpose of establishing, maintaining and operating a nonprofit hospital service plan whereby hospital care is to be provided by a hospital, or a group of hospitals, with which such corporation has a contract for such purpose, or such corporation as may establish, maintain and operate a nonprofit medical service plan whereby medical or surgical or optometric service or expense indemnity is provided to such persons or groups of persons as shall become subscribers to such plan under contracts with said corporation, may be licensed by the commissioner on the terms and conditions provided for in this chapter." (Emphasis supplied)

If a blood service plan is analogous to a medical service plan, it would appear there is further reason for regulation by the Insurance Department.

Also please note L.D. 809, "An Act to Incorporate the Maine Dental Service Corporation" wherein the Insurance Commissioner is given regulatory authority.

Amendments to the Legislative Documents are in order to reflect regulation by the Insurance Commissioner. A possible solution is joint control with the Department of Health and Welfare.

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