

MAINE STATE LEGISLATURE

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ONE HUNDRED AND SEVENTH LEGISLATURE

Legislative Document

No. 1159

H. P. 902

House of Representatives, March 18, 1975

Referred to Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Peterson of Caribou.

Cosponsors: Mr. Powell of Wallagrass Pl., Mr. LeBlanc of Van Buren, Mr. Perkins of Blue Hill.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FIVE

AN ACT Placing Nonprofit Hospital or Medical Service
Organizations under the Maine Insurance Code.

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

Sec. 1. 24 MRSA c. 19, as amended, is repealed.

Sec. 2. 24-A c. 67 is enacted to read:

CHAPTER 67

NONPROFIT OR MEDICAL SERVICE ORGANIZATIONS

§ 4781. Purposes

Any corporation organized under special Act of the Legislature or under Title 13, chapter 81, for the following purposes may be authorized by the superintendent on the terms and conditions provided for in this chapter.

1. Nonprofit hospital service plans. To establish, maintain and operate nonprofit hospital service plans, whereby hospital care may be provided by hospitals or groups of hospitals with which such corporation has a contract for such purpose, to such persons or groups of persons as become subscribers to such plan under a contract which entitles each subscriber to certain hospital care, and the hospital or hospitals so contracting with such corporation shall be governed by this chapter and shall be exempt from all other provisions of the insurance laws of this State, unless otherwise specifically provided in this chapter.

2. Nonprofit medical service plans. To establish, maintain and operate nonprofit medical service plans, whereby medical or surgical service is provided to such persons or groups of persons as shall become subscribers to such plan under contracts with such corporation, either in the capacity of principal or agent of other nonprofit medical service corporations, or insurers authorized to do business in the State, and the physician or physicians so contracting with such corporation, shall be governed by this chapter and shall be exempt from all other provisions of the insurance laws of this State, unless otherwise specifically provided in this chapter.

3. Nonprofit health care plans. To establish, maintain and operate nonprofit health care plans whereby health care services not covered under subsections 1 and 2 may be provided by institutions or persons licensed for such purpose by the State of Maine with which such corporation has a contract for such purpose, to such persons or groups of persons as become subscribers to such plan under a contract which entitles each subscriber to certain specific health care. The licensed institution or persons so contracting with such corporation shall be governed by this chapter and by such other provisions of this Title as may be specifically provided.

4. Principal or agent. In order to maintain and operate such plans, such corporation may act either in the capacity of principal or agent of other nonprofit hospital service corporations, or insurers authorized to do business in this State.

5. Contracts and agreements. To contract with any similar corporations in other states for the joint administration of their business, and to enter into reciprocal arrangements for the mutual benefit of their subscribers.

6. Services for governmental units. With the prior approval of the superintendent, such corporation shall have the right to utilize its organization and facilities to perform services for the United States or the State of Maine Governments or the units or agencies of either or any charitable or nonprofit organization involved in health care. Such utilization shall be on a cost basis resulting in no profit to the corporation.

7. Right to contract. The State, any county, city, town or other quasi-municipal corporation shall have the same right to contract with any corporation subject to this chapter as it may have under section 4501 with respect to insurers.

8. Organizations not authorized to enter into indemnity health care contracts. Nothing in this chapter shall authorize an organization operating under the provisions of this chapter to enter into indemnity health care contracts.

§ 4782. Incorporation

The articles of incorporation, and amendments thereto, of every corporation organized under this chapter shall be submitted to the superintendent, whose approval thereof shall be indorsed thereon before the same are filed with the Secretary of State.

§ 4783. Directors

There shall be not less than 7 directors of such a corporation and at least a majority of the directors must be at all times administrators, corporators, trustees or members of the clinical staff of the hospital or hospitals which have contracted with such corporation to render hospital service to the subscribers and the physicians and optometrists who have contracted with such corporation to render medical, surgical, obstetrical, optometric or related professional service to the subscribers.

§ 4784. Contracts

1. Power to enter into contracts. Such a corporation may enter into contracts for the rendering of health care to the subscribers only with institutions or persons licensed by the appropriate departments or boards of the several states. All contracts for the provision of health care issued by such a corporation shall constitute direct obligations of the provider of health care with which the corporation has contracted for such care.

2. Mandatory provisions. Contracts issued under the health care plan shall provide that the private provider-patient relationship shall exist between the patient and the provider of health care, and that the patient shall have a free choice of any provider of health care able and willing to provide such services, all of which shall be based upon definite agreements covering health care provided through duly licensed providers.

3. Refusal of service. Any such provider of health care shall be free to refuse service for appropriate professional reasons.

4. Reciprocal arrangements. Nothing in this section shall be construed to prohibit reciprocal arrangements for the exchange of health care between nonprofit hospital and medical service plans,

§ 4785. Application for authority to transact business

Application for the authority provided for in section 4786 must be made in the form required by the superintendent and must contain the information he deems necessary. The application must be accompanied by a copy of each of the following documents.

1. Certificate of incorporation. Certificate of incorporation.

2. Bylaws. Bylaws.

3. Proposed contracts. Proposed contracts between the corporation and participating providers of health care showing the terms under which the health care service is to be furnished to subscribers.

4. Rates and benefits. Contracts to be issued to subscribers, showing a table of the rates to be charged and the benefits to which they are entitled; and

5. Financial statement. Financial statement of the corporation, including the contributions paid or agreed to be paid to the corporation for working

capital, the name of each contributor, and the terms of each contribution. The contributions must total at least \$5,000.

§ 4786. Insurance, renewal of authority

1. Issuance. The superintendent shall issue a certificate of authority on payment of the fee as provided in section 601, if the applicant meets the following requirements.

A. Plan. It is established to provide a bona fide nonprofit health care plan.

B. Contracts. The contracts between the applicant and the participating providers of health care obligate each participating party to render service to which each subscriber may be entitled under the terms of the contract issued to the subscribers.

C. Rates and benefits. The rates charged and benefits to be provided are reasonable.

D. Contributions. Contributions to the working funds of the applicant are repayable only out of earned premiums in excess of operating expenses, payments to participating providers and an adequate reserve required by the superintendent.

E. Money available. The money available for working capital must be sufficient to cover all acquisition costs and operating expenses for a reasonable time from the date of the issuance of the certificate of authority.

2. Validity, renewal. The certificate of authority shall be issued for a term of one year, and shall be subject to renewal for a like period.

§ 4787. Reports

Every corporation organized under this chapter shall annually on or before the first day of April file in the office of the superintendent a statement verified by at least 2 of its principal officers showing its condition on the 31st day of December then next preceding. The report shall be in such form and shall contain such matters as the superintendent shall prescribe.

§ 4788. Examination

1. Superintendent's powers. The superintendent, or any deputy or examiner or any other person whom he shall appoint for the purpose, shall have the power of visitation and examination into the affairs of any corporation described in section 4781, shall have free access to all of the books, papers and documents that relate to the business of the corporation, may summon and qualify witnesses under oath and examine its officers, agents or employees or other persons in relation to the affairs, transactions and conditions of the corporation.

2. Costs. The reasonable costs of such an examination shall be borne by the corporation examined.

§ 4789. Investments

Any corporation subject to this chapter shall be restricted in its investments in the same manner as are savings banks in this State.

§ 4790. Disputes

Any dispute arising between a corporation subject to this chapter and any provider of health care with which such corporation has a contract for health care may be submitted to the superintendent for his decision with respect thereto. Any decision and findings of the superintendent made under this chapter shall not be any bar to constituted legal procedure for the review of such proceedings in a court of competent jurisdiction.

§ 4791. Dissolution

Any dissolution or liquidation of a corporation subject to this chapter shall be conducted under the supervision of the superintendent, who shall have all power with respect thereto granted to him under the law with respect to the dissolution and liquidation of insurers.

§ 4792. Taxation

Every corporation subject to this chapter is declared to be a charitable and benevolent institution and its funds and property shall be exempt from taxation other than a tax as imposed by Title 36, section 2511.

§ 4793. Agents, license required

No person, for himself or in behalf of any individual, firm, association or corporation, shall sell or offer to sell any such health care as is provided for in this chapter without being licensed therefor by the superintendent.

§ 4794. Agents, licensing fees

1. Licensing of agents. The superintendent shall grant a license to sell such service as is provided for in this chapter in behalf of any individual, firm, association or corporation licensed therefor, to any applicant who shall furnish the superintendent with satisfactory evidence of his integrity and authority to sell the service offered. Such license, when granted, shall expire on January 1st thereafter, and annually thereafter may be renewed so long as the superintendent shall be satisfied of the licensee's integrity, authority and responsibility to provide the service stipulated.

2. Fee. The applicant shall pay a license fee to the superintendent as provided in section 601.

§ 4795. Revocation of authority, license

The superintendent may revoke a certificate of authority or license granted under this chapter for cause at any time after hearing.

§ 4796. Certificates or contracts; approval by superintendent

No nonprofit hospital and medical service organization shall issue or deliver in this State any certificate or other evidence of any contract unless and

until the form thereof, together with the form of application and all riders or endorsements for use in connection therewith, shall have been filed with the superintendent and approved by him as conforming to reasonable rules and regulations from time to time made by him and as not inconsistent with any other provisions of law applicable thereto. The superintendent shall, within a reasonable time after the filing of any such form, notify the organization filing the same either of his approval or of his disapproval of such form. The superintendent may approve any such form which in his opinion contains provisions on any one or more of the several requirements made by him which are more favorable to the subscribers than the one or ones so required. Any filing made hereunder shall be deemed approved unless disapproved within 60 days from the date of such filing.

§ 4797. Other provisions applicable

The following chapters and provisions of this Title, where and to the extent not inconsistent with the provisions of this chapter and the reasonable implications thereof, shall also apply as to the corporations which are subject to this chapter:

1. Chapter 1 (general definitions and provisions).
2. Chapter 3 (the Insurance Superintendent).
3. Chapter 7 (fees and taxes), except as otherwise expressly provided in this chapter.
4. Chapter 23 (trade practices and frauds).
5. Chapter 33 (health insurance contracts).
6. Chapter 35 (group and blanket health insurance).
7. Chapter 49 (continuity of management).
8. Chapter 57 (delinquent insurers).

Sec. 3. 36 MRSA § 2511, last sentence, as amended by PL 1973, c. 727, § 2, is further amended to read:

Every other insurance company or association organized under the laws of this State, except those mentioned in section 2517 and those regulated by Title 24-A, chapter 67, including surety companies and companies engaged in the business of credit insurance or title insurance shall pay a tax of 1% upon all gross direct premiums written whether in cash or in notes absolutely payable on contracts made in the State for fire, casualty and other risks, less return premiums thereon and less all dividends paid to policyholders and less all premiums and assessments on policies of insurance issued on farm property. Those insurers subject to Title 24-A, chapter 67 shall pay a tax of 1/2% of 1% of the rate charged and collected from subscribers.

FISCAL NOTE

The passage of this Act will generate \$250,000 annually.

STATEMENT OF FACT

The purposes of this Act are reflected in section 4781 of this Act.