

MAINE STATE LEGISLATURE

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1 (New Draft of H.P. 1245, L.D. 1755)
2 SECOND REGULAR SESSION
3

4 ONE HUNDRED AND TWELFTH LEGISLATURE
5

6 Legislative Document

No. 2226

7
8 H.P. 1582

House of Representatives, March 19, 1986

9 Reported by Representative Rydell from the Committee on Business and
10 Commerce and printed under Joint Rule 2. Original bill sponsored by
Representative Brannigan of Portland. Cosponsored by Senator Clark of
Cumberland.

11 EDWIN H. PERT, Clerk

12
13 STATE OF MAINE
14

15 IN THE YEAR OF OUR LORD
16 NINETEEN HUNDRED AND EIGHTY-SIX
17

18 AN ACT to Insure Fair Practices in the Sale
19 of Health Insurance Policies to
20 Elderly Consumers.
21

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

24 Sec. 1. 24 MRSA §2321, sub-§1, as amended by PL
25 1979, c. 558, §1, is further amended to read:

26 1. Filing of rate information. Every nonprofit
27 hospital and medical service organization shall file
28 with the superintendent, except as to group subscrib-
29 er and membership contracts, other than group
30 Medicare supplement contracts as defined in Title
31 24-A, chapter 67 and group nursing home or long-term
32 care contracts as defined in Title 24-A, chapter 68,
33 every rate, rating formula and every modification of
34 any of the foregoing which it proposes to use. Every
35 such filing shall state the effective date thereof.
36 Every such filing shall be made not less than 60 days

1 in advance of the stated effective date unless such
2 60-day requirement is waived by the superintendent
3 and the effective date may be suspended by the super-
4 intendent for a period of time not to exceed 30 days.
5 In the case of nursing home and long-term contracts,
6 rates filed prior to August 1, 1986, shall be effec-
7 tive until no later than August 1, 1989. Rates filed
8 on or after August 1, 1986, for these types of con-
9 tracts shall be effective for no more than 3 years,
10 except that rates for contracts with guaranteed level
11 premiums shall be effective for the duration of the
12 contract.

13 Sec. 2. 24 MRSA §2327, as enacted by PL 1979, c.
14 558, §5, is amended to read:

15 §2327. Group rates

16 No group health care contract ~~shall~~ may be issued
17 by a nonprofit hospital or medical service organiza-
18 tion in this State until a copy of the group manual
19 rates to be used in calculating the rates for these
20 contracts ~~have~~ has been filed for informational pur-
21 poses with the superintendent. Notwithstanding this
22 section, rates for group Medicare supplement, nursing
23 home care or long-term care contracts must be filed
24 in accordance with section 2321.

25 Sec. 3. 24 MRSA §2328-A is enacted to read:

26 §2328-A. Nursing home and long-term care contracts;
27 compliance with Title 24-A, chapter 68

28 Every nonprofit hospital, medical service organi-
29 zation or nonprofit health care plan which issues
30 group or individual health care contracts which are
31 designed primarily to provide nursing home or long-
32 term care benefits to residents of this State shall
33 be subject to the requirements of Title 24-A, chapter
34 68 and any rule promulgated by the superintendent un-
35 der those sections. Any such requirements shall be
36 in addition to any requirements of this Title.

37 Sec. 4. 24-A MRSA §2151, as enacted by PL 1969,
38 c. 132, §1, is amended to read:

39 §2151. Purpose

1 The purpose of ~~sections 2151 to 2167~~ this chapter
2 is to regulate trade practices in the business of in-
3 surance in accordance with the intent of Congress as
4 expressed in the Act of Congress of March 9, 1945,
5 Public Law 15, 79th Congress, by defining or provid-
6 ing for the determination of all such practices in
7 this State which constitute unfair methods of compe-
8 tition or unfair or deceptive acts or practices, by
9 defining or providing for the determination of all
10 such practices in other states by residents of this
11 State which constitute unfair methods of competition
12 or unfair or deceptive acts or practices, and by pro-
13 hibiting the trade practices so defined or deter-
14 mined.

15 Sec. 5. 24-A MRSA §2151-B is enacted to read:

16 §2151-B. Rules

17 Subject to the applicable requirements and proce-
18 dures of the Maine Administrative Procedure Act, Ti-
19 tle 5, chapter 375, subchapter II, the superintendent
20 may promulgate rules defining, limiting or prescrib-
21 ing acts and practices which are deemed to be in vio-
22 lation of this chapter.

23 Sec. 6. 24-A MRSA §2165, sub-§1, as amended by
24 PL 1973, c. 585, §12, is further amended to read:

25 1. If, after a hearing thereon of which notice
26 of such hearing and of the charges against him were
27 given such person, the superintendent finds that any
28 person in this State has engaged or is engaging in
29 any act or practice defined in or prohibited under
30 this chapter or rules promulgated under this chapter,
31 or that a resident of this State has so engaged or is
32 so engaging in another state, the superintendent
33 shall order such person to desist from such acts or
34 practices.

35 Sec. 7. 24-A MRSA §2165, sub-§5, as enacted by
36 PL 1969, c. 132, §1, is amended to read:

37 5. Violation of any such desist order shall be
38 deemed to be and shall be punishable as a violation
39 of this Title. The Superior Court shall assess a
40 civil penalty, payable to the Bureau of Insurance to

1 be applied toward the administration of this Title,
2 against any person who violates a cease and desist
3 order issued by the superintendent or an injunction
4 issued by a court pursuant to this chapter. The
5 amount of the civil penalty shall not exceed \$10,000
6 for each violation.

7 Sec. 8. 24-A MRSA §2166, sub-§1, as amended by
8 PL 1973, c. 585, §12, is further amended to read:

9 1. If the superintendent believes that any per-
10 son engaged in the insurance business is engaging in
11 this State, or that any resident of this State en-
12 gaged in the insurance business is engaging in anothe-
13 er state, in any method of competition or in any act
14 or practice not defined in this chapter or in rules
15 promulgated under this chapter, in the conduct of
16 such business, which is unfair or deceptive and that
17 a proceeding by him in respect thereto would be in
18 the public interest, he shall, after a hearing of
19 which notice of the hearing and of the charges
20 against him are given such person, make a written re-
21 port of his findings of fact relative to such charges
22 and serve a copy thereof upon such person and any in-
23 tervenor at the hearing.

24 Sec. 9. 24-A MRSA §2701, sub-§2, as enacted by
25 PL 1969, c. 132, §1, is amended to read:

26 2. Any group or blanket policy, except that sec-
27 tions 2736, 2736-A and 2736-B shall apply to group
28 Medicare supplement policies as defined in chapter 67
29 and group nursing home and long-term care insurance
30 policies as defined in chapter 68;

31 Sec. 10. 24-A MRSA §2736, sub-§1, as amended by
32 PL 1979, c. 558, §6, is repealed and the following
33 enacted in its place:

34 1. Filing of rate information. Every insurer
35 shall file with the superintendent, except as to
36 group policy rates other than those for group
37 Medicare supplement policies as defined in chapter 67
38 and group nursing home care and long-term care insur-
39 ance as defined in chapter 68, every rate, rating
40 formula, classification of risks and every modifica-
41 tion of any formula or classification which it pro-

1 poses to use. Every such filing must state the ef-
2 fective date of the filing. Every such filing shall
3 be made not less than 60 days in advance of the
4 stated effective date, unless the 60-day requirement
5 is waived by the superintendent, and the effective
6 date may be suspended by the superintendent for a pe-
7 riod of time not to exceed 30 days. In the case of
8 nursing home care and long-term care insurance poli-
9 cies, rates filed prior to August 1, 1986, shall be
10 effective until no later than August 1, 1989. Rates
11 filed on or after August 1, 1986, for these types of
12 policies shall be effective for no more than 3 years,
13 except that rates for contracts with guaranteed level
14 premiums shall be effective for the duration of the
15 contract.

16 Sec. 11. 24-A M RSA §2839, as reallocated by PL
17 1979, c. 663, §149, is amended to read:

18 §2839. Rates filed

19 No policy of group ~~accident and sickness~~ health
20 insurance ~~shall~~ may be delivered in this State until
21 a copy of the group manual rates to be used in calcu-
22 lating the premium for these policies ~~have~~ has been
23 filed for informational purposes with the superin-
24 tendent. Notwithstanding this section, rates for
25 group Medicare supplement, nursing home care or long-
26 term care insurance contracts must be filed in ac-
27 cordance with section 2736.

28 Sec. 12. 24-A M RSA c. 68 is enacted to read:

29 CHAPTER 68

30 NURSING HOME CARE AND LONG-TERM CARE

31 INSURANCE POLICIES

32 §5051. Definitions

33 As used in this chapter, unless the context indi-
34 icates otherwise, the following terms have the follow-
35 ing meanings.

36 1. Long-term care policy. "Long-term care poli-
37 cy" means a group or individual policy of health in-

1 surance or a subscriber contract of a nonprofit hos-
2 pital or medical service organization or nonprofit
3 health care plan which is advertised, marketed or de-
4 signed primarily to provide coverage or services for
5 chronic or terminally ill care in either institution-
6 al or community based settings. That term does not
7 include:

8 A. A policy or contract defined as Medicare sup-
9 plement insurance pursuant to chapter 67;

10 B. A policy or contract issued to one or more
11 employers or labor organizations or of the trust-
12 ees of a fund established by one or more employ-
13 ers or labor organizations, or combination of
14 both, or for members or former members, or combi-
15 nation of both, of the labor organizations; and

16 C. A policy or contract issued to any profes-
17 sional, trade or occupational association for its
18 members, former members or retired members or
19 combination of all members, if the association:

20 (1) Is composed of individuals all of whom
21 are actively engaged in the same profession,
22 trade or occupation;

23 (2) Has been maintained in good faith for
24 purposes other than obtaining insurance; and

25 (3) Has been in existence for at least 2
26 years prior to the date of its initial of-
27 fering of the policy or plan to its members.

28 2. Nursing home. "Nursing home" means any fa-
29 ility located in this State which is licensed by the
30 Department of Human Services as a skilled nursing fa-
31 ility or intermediate care facility and any equiva-
32 lent facility located in another state or country and
33 licensed according to the laws of that jurisdiction.

34 3. Nursing home care policy. "Nursing home care
35 policy" means a group or individual policy of health
36 insurance or a subscriber contract of a nonprofit
37 hospital or medical service organization or nonprofit
38 health care plan which is advertised, marketed or de-
39 signed primarily to provide benefits on either an

1 expense-incurred or indemnity basis for confinements
2 or costs associated with confinements of a covered
3 person in a nursing home. For purposes of this defini-
4 tion, a policy is deemed to primarily provide nurs-
5 ing home benefits if 50% or more of benefits payable
6 or anticipated to be payable under the policy are re-
7 lated to nursing home confinements. The term does not
8 include:

9 A. A policy or contract defined as Medicare sup-
10 plement insurance pursuant to chapter 67;

11 B. A policy or contract issued to one or more
12 employers or labor organizations or of the trust-
13 ees of a fund established by one or more employ-
14 ers or labor organizations, or combination of
15 both, or for members or former members, or combi-
16 nation of both, of the labor organizations;

17 C. A policy or contract issued to any profes-
18 sional, trade or occupational association for its
19 members, former members or retired members, or
20 combination of members if, the association:

21 (1) Is composed of individuals all of whom
22 are actively engaged in the same profession,
23 trade or occupation;

24 (2) Has been maintained in good faith for
25 purposes other than obtaining insurance; and

26 (3) Has been in existence for at least 2
27 years prior to the date of its initial of-
28 fering of the policy or plan to its members;
29 or

30 D. Individual policies or contracts issued pur-
31 suant to a conversion privilege under a policy or
32 contract of group or individual insurance, when
33 such group or individual policy or contract in-
34 cludes provisions which are inconsistent with the
35 requirements of this chapter.

36 §5052. Specific standards

37 1. Standards for long-term and nursing home care
38 policies. The superintendent may promulgate rules to

1 establish specific standards for policy provisions of
2 long-term and nursing home care policies. The stan-
3 dards shall be in addition to and in accordance with
4 applicable laws of this State, including chapters 33
5 and 35, and may include, but are not limited to:

6 A. Terms of renewability;

7 B. Initial and subsequent conditions of eligi-
8 bility;

9 C. Nonduplication of coverage;

10 D. Probationary periods;

11 E. Benefit limitations, exceptions and reduc-
12 tions;

13 F. Elimination periods;

14 G. Requirements for replacement;

15 H. Recurrent confinements; and

16 I. Definition of terms.

17 2. Prohibited policy provision. The superin-
18 tendent may promulgate rules that specify prohibited
19 provisions not otherwise specifically authorized by
20 law which, in the opinion of the superintendent, are
21 unjust, unfair, inequitable or unfairly discrimina-
22 tory to any person insured or proposed for coverage un-
23 der a long-term nursing home care policy.

24 §5053. Disclosure standards

25 The superintendent may promulgate reasonable
26 rules to provide for the full and fair disclosure of
27 information in connection with the sale of long-term
28 and nursing home care policies, including, but not
29 limited to, outline of coverage requirements and re-
30 quirements relating to the replacement sale of the
31 policies.

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STATEMENT OF FACT

2 In past years, Medicare health insurance benefits
3 have steadily decreased while at the same time the
4 cost of medical and nursing home care has steadily
5 increased. This has placed increasing pressures on
6 Maine's elderly to purchase affordable health and
7 nursing home insurance.

8 While the State's Medicare supplemental insurance
9 laws do provide some protection from these abuses, it
10 is more and more common to find that the nursing home
11 insurance being sold does not fall within the
12 Medicare restrictions and therefore is free from the
13 Medicare disclosure laws. This new draft provides 2
14 approaches to combat this problem.

15 1. In order to insure that nursing home insur-
16 ance policies are meeting mandated loss-ratio re-
17 quirements, insurance companies will be required to
18 file new rate information every 3 years. This
19 periodic filing will enable the Bureau of Insurance
20 to judge whether the different insurance policies are
21 generally returning to Maine consumers the required
22 amount. Guaranteed level premium policies are exempt
23 from this provision.

24 2. The Superintendent of Insurance may issue
25 rules that require sellers of nursing home policies
26 to make the same disclosure currently required to be
27 made by sellers of Medicare policies.

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