

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 345

H.P. 262 House of Representatives, February 11, 1987  
Reference to the Committee on Banking and Insurance  
suggested and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative PINES of Limestone.  
Cosponsored by Representative BOTT of Orono.

STATE OF MAINE

IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-SEVEN

1. AN ACT to Impose Liability and Financing  
2 Responsibility for Injuries to  
3 Patients Consequent to Review  
4 Decisions by 3rd-party Payors.  
5

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

8 Sec. 1. 24 MRSA c. 19-A is enacted to read:

9 CHAPTER 19-A

10 NONPROFIT 3RD-PARTY PAYOR RESPONSIBILITY ACT

11 §2361. Short title

12 This chapter shall be known and may be cited as  
13 the "Nonprofit 3rd-party Payor Responsibility Act."

1       §2362. Liability

2           1. Liability imposed. When the contract between  
3 an insurer, nonprofit hospital service plan, health  
4 care service plan, health maintenance organization or  
5 self-insurer and the insured is issued or delivered  
6 in this State and contains a provision whereby in  
7 nonemergency cases the insured is required to be  
8 prospectively evaluated through a prehospital admis-  
9 sion certification, preinpatient service eligibility  
10 program or any similar preutilization review or  
11 screening procedure prior to the delivery of contem-  
12 plated hospitalization, inpatient or outpatient  
13 health care or medical services which are prescribed  
14 or ordered by a duly licensed physician who possesses  
15 admitting and clinical staff privileges at a health  
16 care facility, the insurer, nonprofit hospital ser-  
17 vice plan, health care service plan, health mainte-  
18 nance organization, 3rd-party administrator, independ-  
19 ent contractor, self-insurer or utilization review  
20 committee shall be held liable to any beneficiary  
21 covered by the contract for injury incurred or re-  
22 sulting from decisions which result in unreasonable  
23 delay, reduction or denial of medically necessary  
24 services or care as recommended by a duly licensed  
25 physician.

26           2. Limitation on damages. The damages shall be  
27 limited to the injuries which are the result of the  
28 unreasonable delay, reduction or denial, together  
29 with reasonable attorney fees and court costs.

30           3. Emergency. Any requirement that the insured  
31 be prospectively evaluated through a prehospital ad-  
32 mission certification, preinpatient service eligibil-  
33 ity program or any similar preutilization review or  
34 screening procedure is inapplicable to an emergency  
35 determined as such by the attending physician in his  
36 medical judgment.

37           4. Peer review organization; liability. Any en-  
38 tity designated as a "utilization and quality control  
39 peer review organization" pursuant to the United  
40 States Code, Title 42, Section 1320c-1, shall be held  
41 liable to any beneficiary whose care or treatment is  
42 required to be scrutinized or reviewed by the review  
43 organization, for injury incurred or resulting from

1 the review organization's unreasonable delay, reduc-  
2 tion or denial of medically necessary services or  
3 care as recommended by a duly licensed physician.

4 §2363. Insurance

5 1. Sufficiency. Any insurer, nonprofit hospital  
6 service plan, health care service plan or other enti-  
7 ty or person which provides coverage for medical or  
8 surgical services or expenses, which uses a utiliza-  
9 tion review committee, shall maintain or cause to be  
10 maintained sufficient insurance applicable to all ac-  
11 tions of that committee which may cause or contribute  
12 to injury sustained by any insured person or benefi-  
13 ciary on account of an action, decision or recommen-  
14 dation made by the committee.

15 2. Definitions. For the purposes of this sec-  
16 tion, the following terms have the following mean-  
17 ings.

18 A. "Sufficient insurance" means liability insur-  
19 ance covering the committee and any member of the  
20 committee acting on behalf of the committee for a  
21 policy limit of not less than \$1,000,000.

22 B. "Utilization review committee" means a person  
23 designated or entity established to review medi-  
24 cal or surgical services rendered to a covered  
25 person as to necessity for the purpose of recom-  
26 mending or determining whether the services  
27 should be covered or provided by the insurer,  
28 plan or other entity or person.

29 Sec. 2. 24-A MRSA c. 36 is enacted to read:

30 CHAPTER 36

31 3RD-PARTY PAYOR RESPONSIBILITY ACT

32 §2845. Title

33 This chapter may be cited as the "3rd-Party Payor  
34 Responsibility Act."

35 §2846. Liability

1           1. Liability imposed. When the contract between  
2 an insurer, nonprofit hospital service plan, health  
3 care service plan, health maintenance organization or  
4 self-insurer and the insured is issued or delivered  
5 in this State and contains a provision whereby in  
6 nonemergency cases the insured is required to be  
7 prospectively evaluated through a prehospital admis-  
8 sion certification, preinpatient service eligibility  
9 program or any similar preutilization review or  
10 screening procedure prior to the delivery of contem-  
11 plated hospitalization, inpatient or outpatient  
12 health care or medical services which are prescribed  
13 or ordered by a duly licensed physician who possesses  
14 admitting and clinical staff privileges at a health  
15 care facility, the insurer, nonprofit hospital ser-  
16 vice plan, health care service plan, health mainte-  
17 nance organization, 3rd-party administrator, indepen-  
18 dent contractor, self-insurer or utilization review  
19 committee shall be held liable to any beneficiary  
20 covered by the contract for injury incurred or re-  
21 sulting from decisions which result in unreasonable  
22 delay, reduction or denial of medically necessary  
23 services or care as recommended by a duly licensed  
24 physician.

25           2. Limitation on damages. The damages shall be  
26 limited to the injuries which are the result of the  
27 unreasonable delay, reduction or denial, together  
28 with reasonable attorney fees and court costs.

29           3. Emergency. Any requirement that the insured  
30 be prospectively evaluated through a prehospital ad-  
31 mission certification, preinpatient service eligibil-  
32 ity program or any similar preutilization review or  
33 screening procedure shall be inapplicable to an emer-  
34 gency determined as such by the attending physician  
35 in his medical judgment.

36           4. Peer review organization; liability. Any en-  
37 tity designated as a "utilization and quality control  
38 peer review organization" pursuant to the United  
39 States Code, Title 42, Section 1320c-1, shall be held  
40 liable to any beneficiary whose care or treatment is  
41 required to be scrutinized or reviewed by the review  
42 organization, for injury incurred or resulting from  
43 the review organization's unreasonable delay, reduc-  
44 tion or denial of medically necessary services or  
45 care as recommended by a duly licensed physician.

