

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 444

S.P. 196

In Senate, February 27, 1989

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

Reference to the Committee on Banking and Insurance suggested and ordered printed.

A handwritten signature in cursive script, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN
Secretary of the Senate

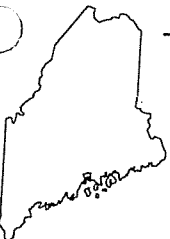
Presented by Senator GILL of Cumberland.

Cosponsored by Representative RYDELL of Brunswick, Representative ALLEN of Washington and Representative DONALD of Buxton.

STATE OF MAINE

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

An Act to Prohibit Discrimination Against Persons with the Human Immunodeficiency Virus for Purposes of Insurance Coverage.



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

3 **Sec. 1. 24 MRSA §2332-B** is enacted to read:

5 **§2332-B. Acquired Immune Deficiency Syndrome**

7 No individual or group hospital, medical or health care
9 service contract delivered or issued for delivery in this State,
11 other than a contract which provides benefits for specific
13 diseases or accidental injuries only, may provide more
15 restrictive coverage or may exclude coverage for Acquired Immune
17 Deficiency Syndrome or AIDS, and for related services, than for
19 any other sickness.

21 **Sec. 2. 24-A MRSA §2159, sub-§3** is enacted to read:

23 3. It shall be an unfair trade practice in the business of
25 insurance for any insurer to discriminate unfairly against any
27 person who has tested positive for the presence of an antibody to
29 the human immunodeficiency virus or the human immunodeficiency
31 antigen or who has Acquired Immune Deficiency Syndrome.

33 **Sec. 3. 24-A MRSA §2526-A** is enacted to read:

35 **§2526-A. Acquired Immune Deficiency Syndrome**

37 No individual policy of life insurance delivered or issued
39 for delivery in this State may provide more restrictive coverage
41 or exclude coverage for death resulting from Acquired Immune
43 Deficiency Syndrome. This section shall not apply to death by
45 accident or accidental means.

47 **Sec. 4. 24-A MRSA §2629** is enacted to read:

49 **§2629. Acquired Immune Deficiency Syndrome**

51 No group life insurance policy delivered or issued for
53 delivery in this State may provide more restrictive coverage or
55 exclude coverage for death resulting from Acquired Immune
57 Deficiency Syndrome. This section shall not apply to death by
59 accident or accidental means.

61 **Sec. 5. 24-A MRSA §2750** is enacted to read:

63 **§2750. Acquired Immune Deficiency Syndrome**

65 No individual or family health insurance policy delivered or
67 issued for delivery in this State may provide more restrictive
69 benefits or exclude benefits for sickness or disablement or the
71 related expenses resulting from Acquired Immune Deficiency
73 Syndrome than for any other sickness or disabling condition.

1 This section shall not apply to a policy providing benefits for
3 specific diseases or accidental injury only.

5 Sec. 6. 24-A MRSA §2846 is enacted to read:

7 §2846. Acquired Immune Deficiency Syndrome

9 No group health insurance policy delivered or issued for
11 delivery in this State may provide more restrictive benefits or
13 exclude benefits for sickness or disablement or the related
15 expenses resulting from Acquired Immune Deficiency Syndrome than
17 for any other sickness or disabling condition. This section
19 shall not apply to a policy providing benefits for specific
21 diseases or accidental injury only.

23 Sec. 7. 24-A MRSA §4120, sub-§2, as enacted by PL 1969, c.
25 132, §1, is amended to read:

27 2. No life benefit certificate shall be delivered or issued
29 for delivery in this State containing in substance any of the
31 following provisions:

33 A. Any provision limiting the time within which any action
35 at law or in equity may be commenced to less than 2 years
37 after the cause of action shall accrue;

39 B. Any provision by which the certificate shall purport to
41 be issued or to take effect more than 6 months before the
43 original application for the certificate was made, except in
45 case of transfer from one form of certificate to another in
47 connection with which the member is to receive credit for
49 any reserve accumulation under the form of certificate from
51 which the transfer is made; or

C. Any provision for forfeiture of the certificate for
failure to repay any loan thereon or to pay interest on such
loan while the total indebtedness, including interest, is
less than the load value of the certificate; or

D Any provision providing more restrictive coverage or
excluding coverage for death resulting from Acquired Immune
Deficiency Syndrome, except this provision shall not apply
to death by accident or accidental means.

Sec. 8. 24-A MRSA §4121-A is enacted to read:

§4121-A. Acquired Immune Deficiency Syndrome

No certificate providing health insurance benefits delivered
or issued for delivery in this State, other than a certificate
providing benefits for specific diseases or accidental injuries

1 only, may provide more restrictive coverage or shall exclude
3 coverage for Acquired Immune Deficiency Syndrome.

5 Sec. 9. 24-A MRSA §4229 is enacted to read:

7 §4229. Acquired Immune Deficiency Syndrome

9 No policy, contract or certificate delivered or issued for
11 delivery in this State may provide more restrictive coverage or
13 exclude coverage for Acquired Immune Deficiency Syndrome.

15 STATEMENT OF FACT

17 This bill makes discrimination against a person with
19 Acquired Immune Deficiency Syndrome or who has tested positive
for the human immunodeficiency virus an unfair insurance trade
practice.

21 Additionally, group and individual life and health insurance
23 contracts and health maintenance organization contracts delivered
in this State are prohibited from excluding coverage for Acquired
25 Immune Deficiency Syndrome or from providing more restrictive
coverage for Acquired Immune Deficiency Syndrome than for any
other sickness.

27 Bureau of Insurance Rule Chapter 490, effective May 1, 1989,
29 will establish standards for: the written informed consent forms
required to be completed by persons required to take a test for
31 the presence of the antibody to the human immunodeficiency virus
or the human immunodeficiency antigen by an insurer; pretest and
33 post-test counseling required to be provided to persons subject
to testing as required by the Maine Revised Statutes, Title 5,
35 section 19203-A; and medical lifestyles application questions and
underwriting. Sections 1,3,4,5,6,7,8 and 9 of the bill do not
37 permit more restrictive benefit payments or exclusion of benefits
for Acquired Immune Deficiency Syndrome in life and health
39 insurance. Section 2 of the bill is designed to fill the gaps by
making it a trade practice violation to discriminate unfairly
41 against any person who has tested positive for the presence of
the antibody to the human immunodeficiency antigen or who has
43 AIDS. Title 24-A, section 2159 prohibits unfair discrimination
between persons of the same class in premium for life and health
45 insurance.

47 Examples of unfairly discriminatory practices might include:
49 attempting to require persons testing positive for the AIDS virus
to pay for tests performed in the underwriting process, but not
requiring others to pay for tests; taking 6 months to process the
51 application of a person testing positive for the presence of the
AIDS virus, but taking one month for applicants testing positive

1 for other medical conditions; taking 6 months to pay AIDS-related
2 claims but 3 weeks to pay other claims; and cancelling insurance
3 coverage on persons with AIDS on an individual basis.

5 Maine law continues to permit persons of different classes
6 and with different life expectations or of different hazards to
7 be underwritten in different manners. Persons may be declined as
8 insurance risks. However, no insurer may unfairly discriminate
9 against a person who has tested positive for the AIDS virus
10 antibody or the human immunodeficiency antigen or who has AIDS.

11
12 There are a number of ways in which discrimination in the
13 business of insurance could potentially occur. The Bureau of
14 Insurance has not received any complaints alleging unfair
15 discrimination at this time; however, a potential does exist that
16 these problems will increase as more people become afflicted with
17 AIDS and AIDS-related conditions. This bill provides that unfair
18 discrimination will not be tolerated in any part of the insurance
19 process, including claims payment and cancellation of insurance.
20 These are areas of the process not specifically addressed by
21 other legislation or rules specifically related to AIDS.