

# MAINE STATE LEGISLATURE

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# 123rd MAINE LEGISLATURE

## FIRST REGULAR SESSION-2007

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Legislative Document

No. 1517

S.P. 540

March 20, 2007

### **An Act To Allow Maine Consumers To Purchase Health Insurance from Out-of-State Insurers**

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Reference to the Committee on Insurance and Financial Services suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator SMITH of Piscataquis.  
Cosponsored by Representatives: McKANE of Newcastle, SAVAGE of Falmouth,  
Representative VAUGHAN of Durham and Senators: PLOWMAN of Penobscot,  
SCHNEIDER of Penobscot, SNOWE-MELLO of Androscoggin, WESTON of Waldo,  
Representatives: AYOTTE of Caswell, CROCKETT of Augusta, MOORE of Standish,  
RICHARDSON of Warren.

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

2 **PART A**

3 **Sec. A-1. 24-A MRSA §405, sub-§7** is enacted to read:

4 7. Transactions pursuant to individual health insurance covering residents of this  
5 State written by a regional insurer or health maintenance organization duly authorized or  
6 qualified to transact such insurance in the state or country of its domicile if the  
7 superintendent certifies that the regional insurer or health maintenance organization meets  
8 the requirements of section 405-A.

9 **Sec. A-2. 24-A MRSA §405-A** is enacted to read:

10 **§405-A. Certification of regional insurers or health maintenance organizations to**  
11 **transact individual and group health insurance**

12 To qualify under this section and section 405, subsection 7, a regional insurer or  
13 health maintenance organization, as described in this section, may not transact individual  
14 or group health insurance in this State by mail, the Internet or otherwise unless the  
15 superintendent has issued a certification that the requirements of this section have been  
16 met. The superintendent shall issue a certification or deny certification within 30 days of  
17 a request. A regional insurer or health maintenance organization shall meet the following  
18 requirements.

19 **1. Regional insurer; authority to transact individual or group health insurance**  
20 **in certain states.** As used in this section, "regional insurer or health maintenance  
21 organization" means an insurer or health maintenance organization that holds a valid  
22 certificate of authority to transact individual or group health insurance in one of the  
23 following states or jurisdictions: Connecticut, Massachusetts, New Hampshire, Rhode  
24 Island, Vermont, Delaware, Maryland, New Jersey, New York, Pennsylvania or the  
25 District of Columbia.

26 **2. Compliance with laws of state.** Any policy, contract or certificate of individual  
27 or group health insurance offered for sale in this State by a regional insurer or health  
28 maintenance organization must comply with the applicable individual and group health  
29 insurance laws in the state of its domicile and the policy must be actively marketed in that  
30 state.

31 **3. Minimum surplus and reserve levels.** The regional insurer or health  
32 maintenance organization shall maintain minimum capital and surplus requirements and  
33 maintain reserves as required by section 410; sections 901 to 984; section 4204,  
34 subsection 2-A, paragraph D; and section 4204-A as applicable.

35 **4. Disclosure and reporting.** The regional insurer or health maintenance  
36 organization shall meet the requirements of section 4302 for reporting plan information  
37 with respect to individual health plans offered for sale in this State and disclose to  
38 prospective enrollees how the health plans differ from individual and group health plans  
39 offered by domestic insurers in a format approved by the superintendent within 90 days

1 of the effective date of this section. Health plan policies and applications for coverage  
2 must contain the following disclosure statement or a substantially similar statement:  
3 "This policy is issued by a regional insurer or health maintenance organization and is  
4 governed by the laws and regulations of [state of regional insurer or health maintenance  
5 organization's state of domicile]. This policy may not be subject to all the insurance laws  
6 and rules of the State of Maine, including coverage of certain health care services or  
7 benefits mandated by Maine law. Before purchasing this policy, you should carefully  
8 review the terms and conditions of coverage under this policy, including any exclusions  
9 or limitations of coverage."

10 **5. Grievance procedures.** The regional insurer or health maintenance organization  
11 shall meet the requirements of section 4303, subsection 4 for grievance procedures with  
12 respect to health plans offered for sale in this State.

13 **6. Unfair trade practices.** The provisions of chapter 23 apply to the regional  
14 insurer or health maintenance organization permitted to transact health insurance under  
15 this section or section 405.

16 **7. Taxes; assessments.** The regional insurer or health maintenance organization is  
17 subject to applicable taxes or assessments imposed on insurers transacting individual and  
18 group health insurance in this State pursuant to this Title and Title 36.

19 **8. Service of process.** The regional insurer or health maintenance organization shall  
20 designate an agent for receiving service of legal documents and process in the manner  
21 provided in this Title.

22 **9. Compliance with court orders.** The regional insurer or health maintenance  
23 organization shall comply with lawful orders from courts of competent jurisdiction issued  
24 on a voluntary dissolution proceeding or in response to a petition for an injunction by the  
25 superintendent asserting that the regional insurer or health maintenance organization is in  
26 a hazardous financial condition.

27 **10. Participation in guaranty association.** The regional insurer or health  
28 maintenance organization shall participate in an insurance insolvency guaranty  
29 association to which a domestic insurer or health maintenance organization that transacts  
30 individual and group health insurance is required to belong in accordance with this Title.

31 Except as expressly provided in this section, the requirements of this Title do not  
32 apply to a regional insurer or health maintenance organization permitted to transact health  
33 insurance under this section or section 405.

34 **Sec. A-3. 24-A MRSA §405-B** is enacted to read:  
35 **§405-B. Domestic insurers; individual and group health insurance approved in**  
36 **other states**

37 Notwithstanding any other provision of this Title except as expressly provided, a  
38 domestic insurer or health maintenance organization may offer for sale in this State an  
39 individual or group health plan duly authorized for sale in another state by a parent or  
40 subsidiary of the domestic insurer if the following requirements are met.

1 1. Certificate of authority from state of domicile. The parent or subsidiary of the  
2 domestic insurer or health maintenance organization must hold a valid certificate of  
3 authority to transact individual health insurance in one the following states or  
4 jurisdictions: Connecticut, Massachusetts, New Hampshire, Rhode Island, Vermont,  
5 Delaware, Maryland, New Jersey, New York, Pennsylvania or the District of Columbia.

6 2. Compliance with laws of state of domicile. Any policy, contract or certificate of  
7 individual or group health insurance offered for sale in this State by a domestic insurer or  
8 health maintenance organization must comply with the applicable individual and group  
9 health insurance laws in the state of domicile of the parent or subsidiary and the policy  
10 must be actively marketed in that state.

11 3. Disclosure and reporting. The domestic insurer or health maintenance  
12 organization shall meet the requirements of section 4302 for reporting plan information  
13 with respect to individual and group health plans offered for sale in this State and disclose  
14 to prospective enrollees how the individual and group health plans of the parent or  
15 subsidiary differ from individual and group health plans offered by domestic insurers in a  
16 format approved by the superintendent within 90 days of the effective date of this section.  
17 Health plan policies and applications for coverage must contain the following disclosure  
18 statement or a substantially similar statement: "This policy is issued by a domestic insurer  
19 or health maintenance organization but is governed by the laws and rules of [state of  
20 domicile of parent or subsidiary of domestic insurer], which is the state of domicile of the  
21 parent or subsidiary of the domestic insurer or health maintenance organization. This  
22 policy may not be subject to all the insurance laws and rules of the State of Maine,  
23 including coverage of certain health care services or benefits mandated by Maine law.  
24 Before purchasing this policy, you should carefully review the terms and conditions of  
25 coverage under this policy, including any exclusions or limitations of coverage."

26 4. Grievance procedures. The domestic insurer or health maintenance organization  
27 shall meet the requirements of section 4303, subsection 4 for grievance procedures with  
28 respect to health plans offered for sale in this State.

## 29 PART B

30 **Sec. B-1. 2 MRSA §101, sub-§1, ¶B,** as enacted by PL 2003, c. 469, Pt. B, §1, is  
31 amended to read:

32 B. Make an annual report to the public assessing the progress toward meeting goals  
33 of the plan and provide any needed updates to the plan; and

34 **Sec. B-2. 2 MRSA §101, sub-§1, ¶C,** as enacted by PL 2003, c. 469, Pt. B, §1, is  
35 amended to read:

36 C. Issue an annual statewide health expenditure budget report that must serve as the  
37 basis for establishing priorities within the plan; and

38 **Sec. B-3. 2 MRSA §101, sub-§1, ¶D,** as amended by PL 2005, c. 369, §1, is  
39 repealed.

40 **Sec. B-4. 2 MRSA §102,** as amended by PL 2005, c. 227, §1, is repealed.

1       **Sec. B-5. 2 MRSA §103, sub-§3, ¶D**, as enacted by PL 2003, c. 469, Pt. B, §1, is  
2 repealed.

3       **Sec. B-6. 2 MRSA §103, sub-§3, ¶E**, as amended by PL 2005, c. 369, §4, is  
4 further amended to read:

5       E. Outline strategies to:

6           (1) Promote health systems change;

7           (2) Address the factors influencing health care cost increases; and

8           (3) Address the major threats to public health and safety in the State, including,  
9 but not limited to, lung disease, diabetes, cancer and heart disease; and

10       **Sec. B-7. 2 MRSA §103, sub-§3, ¶F**, as amended by PL 2005, c. 369, §4, is  
11 further amended to read:

12       F. Provide recommendations to help purchasers and providers make decisions that  
13 improve public health and build an affordable, high-quality health care system; ~~and~~

14       **Sec. B-8. 2 MRSA §103, sub-§3, ¶G**, as enacted by PL 2005, c. 369, §5, is  
15 repealed.

16       **Sec. B-9. 2 MRSA §103, sub-§4**, as enacted by PL 2003, c. 469, Pt. B, §1, is  
17 repealed.

18       **Sec. B-10. 22 MRSA c. 103-A**, as amended, is repealed.

19       **Sec. B-11. 22 MRSA §1708, sub-§3, ¶D**, as corrected by RR 2001, c. 2, Pt. A,  
20 §33, is amended to read:

21       D. Ensure that any calculation of an occupancy percentage or other basis for  
22 adjusting the rate of reimbursement for nursing facility services to reduce the amount  
23 paid in response to a decrease in the number of residents in the facility or the  
24 percentage of the facility's occupied beds excludes all beds that the facility has  
25 removed from service for all or part of the relevant fiscal period ~~in accordance with~~  
26 ~~section 333~~. If the excluded beds are converted to residential care beds or another  
27 program for which the department provides reimbursement, nothing in this paragraph  
28 precludes the department from including those beds for purposes of any occupancy  
29 standard applicable to the residential care or other program pursuant to duly adopted  
30 rules of the department; and

31       **Sec. B-12. 22 MRSA §1715, sub-§1, ¶A**, as corrected by RR 2001, c. 2, Pt. A,  
32 §34, is amended to read:

33       A. Is either a direct provider of major ambulatory service, as defined in section 382,  
34 subsection 8-A, or is or has been required to obtain a certificate of need under former  
35 section 329 or former section 304 or 304-A;

36       **Sec. B-13. 22 MRSA §2061, sub-§2**, as corrected by RR 2003, c. 2, §71, is  
37 repealed.

1       **Sec. B-14. 24-A MRSA §4204, sub-§1, ¶A**, as amended by PL 2003, c. 510, Pt.  
2 A, §20, is repealed.

3       **Sec. B-15. 24-A MRSA §4204, sub-§2-A, ¶A**, as amended by PL 2003, c. 510,  
4 Pt. A, §21 and c. 689, Pt. B, §7, is repealed.

5       **Sec. B-16. 24-A MRSA §6203, sub-§1, ¶A**, as amended by PL 2003, c. 510, Pt.  
6 A, §22, is repealed.

7       **Sec. B-17. 24-A MRSA §6203, sub-§6**, as amended by PL 2003, c. 155, §1, is  
8 further amended to read:

9       **6. Provision of services to nonresidents.** The final certificate of authority must  
10 state whether any skilled nursing facility that is part of a life-care community or a  
11 continuing care retirement community may provide services to persons who have not  
12 been bona fide residents of the community prior to admission to the skilled nursing  
13 facility. If the life-care community or the continuing care retirement community admits  
14 to its skilled nursing facility only persons who have been bona fide residents of the  
15 community prior to admission to the skilled nursing facility, then the community is  
16 ~~exempt from the provisions of Title 22, chapter 103-A, but~~ is subject to the licensing  
17 provisions of Title 22, chapter 405, and is entitled to only one skilled nursing facility bed  
18 for every 4 residential units in the community. Any community exempted under former  
19 Title 22, chapter 103-A may admit nonresidents of the community to its skilled nursing  
20 facility only during the first 3 years of operation. For purposes of this subsection, a "bona  
21 fide resident" means a person who has been a resident of the community for a period of  
22 not less than 180 consecutive days immediately preceding admission to the nursing  
23 facility or has been a resident of the community for less than 180 consecutive days but  
24 who has been medically admitted to the nursing facility resulting from an illness or  
25 accident that occurred subsequent to residence in the community. Any community  
26 exempted under Title 22, former chapter 103-A is not entitled to and may not seek any  
27 reimbursement or financial assistance under the MaineCare program from any state or  
28 federal agency and, as a consequence, that community must continue to provide nursing  
29 facility services to any person who has been admitted to the facility.

30 Notwithstanding this subsection, a life-care community that holds a final certificate of  
31 authority from the superintendent and that was operational on November 18, 2002 and  
32 that is barred from seeking reimbursement or financial assistance under the MaineCare  
33 program from a state or federal agency may continue to admit nonresidents of the  
34 community to its skilled nursing facility after its first 3 years of operation with the  
35 approval of the superintendent. A life-care community that admits nonresidents to its  
36 skilled nursing facility as permitted under this subsection may continue to admit  
37 nonresidents after its first 3 years of operation only for such period as approved by the  
38 superintendent after the superintendent's consideration of the financial impact on the life-  
39 care community and the impact on the contractual rights of subscribers of the community.

40       **Sec. B-18. 24-A MRSA §6951, sub-§6**, as enacted by PL 2003, c. 469, Pt. A, §8,  
41 is amended to read:

