

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Sixth Legislature
1ST SPECIAL SESSION
JANUARY 2, 1974 TO MARCH 29, 1974
AND BY THE
One Hundred and Seventh Legislature
REGULAR SESSION
JANUARY 1, 1975 TO JULY 2, 1975

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH IN
ACCORDANCE WITH THE REVISED STATUTES OF 1964, TITLE 3,
SECTION 164, SUBSECTION 6.

THE KNOWLTON AND MCLEARY COMPANY
FARMINGTON, MAINE
1975

PRIVATE AND SPECIAL LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
One Hundred and Seventh Legislature

1975

FISH AND GAME —

Total Current Services	\$7,239,183	\$7,242,560
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Amounting to \$7,239,183 for the fiscal year ending June 30, 1976 and \$7,242,560 for the fiscal year ending June 30, 1977.

Sec. 2. Reduction of revenue. In the event that actual revenue fails to equal estimates during either year of the biennium, the commissioner shall so report to the Governor and Council and they may temporarily curtail allotments so that expenditures will not exceed the anticipated income.

Sec. 3. Revenue in excess of estimates. Actual revenue, in excess of that estimated and approved by the Legislature, received in either year of the biennium, may be utilized by the department for current programs when recommended by the commissioner and the allotment of such funds is approved by the Governor and Council.

Sec. 4. Unencumbered allocated balances. At the end of each year of the biennium, all unencumbered allocated balances, including existing balances, representing Inland Fisheries and Game moneys shall be set aside in a separate account and may be used for other current programs when recommended by the commissioner and the allotment of such funds is approved by the Governor and Council.

Sec. 5. New programs established by the 107th Legislature. In the event that legislation concerning the department is enacted by the 107th Legislature which requires an expenditure in addition to that now shown in section 1, the department is authorized to carry out the intent of such legislation through the use of such funds as are available. The same procedure as to the allotment of such funds shall be followed as that outlined in sections 1 and 2.

Sec. 6. Additional federal funds. Federal funds received in excess of those shown in section 1 may be utilized by the department when properly allotted through the same procedure as outlined in sections 1 and 2.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect July 1, 1975.

Effective July 1, 1975

CHAPTER 73

AN ACT to Create a Commission to Revise the Laws Relating to Medical and Hospital Malpractice Insurance.

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, a national crisis is developing with regard to the availability and cost of hospital and medical malpractice insurance; and

Whereas, the effect of this situation is already being felt in the State of Maine; and

Whereas, it is vitally necessary that the Legislature immediately take action which will provide for a thorough and comprehensive review of the medical and hospital malpractice situation in Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. Commission, duties. A special commission shall be constituted and appointed to supervise the preparation, in final legislative draft form, of a proposal to insure the availability of medical and hospital malpractice insurance to physicians and hospitals throughout the State and to develop a more equitable system of relief for malpractice claims. Such proposal may, without limitation, incorporate such necessary repealers, amendments and modifications of existing laws as, in the judgment of such commission, are necessary and appropriate to accomplish such purposes. Such proposal may include such new or modified provisions as, in the judgment of the commission, will best serve the interests of the people of the State, and the commission shall give due consideration to the insurance laws of the other states; proposals before the Legislatures of other states and proposals before the Congress of the United States. Such proposal shall be submitted to the regular session of the 108th Maine Legislature or at such earlier time as the commission deems appropriate. Such commission shall employ a chief counsel, and, subject to said counsel's recommendation, such additional counsel as may be required, to perform the necessary research and drafting of such proposal, the chief counsel to meet the requirements as set forth. Such commission shall hold public hearings as may be necessary to gather factual data from interested persons and to acquaint persons interested with its proposals and recommendations, and the commission shall have full access to all of the records of the Maine Bureau of Insurance for the purpose of its investigation.

Sec. 2. Membership. The membership of the commission shall be constituted and appointed as follows: One member shall be a Member of the House of Representatives in the 107th Legislature to be appointed by the Speaker of the House; one member shall be a Member of the Senate in the 107th Legislature to be appointed by the President of the Senate; one member shall be a sitting or retired Justice of the Supreme Judicial Court of Maine and said justice shall serve as chairman of the commission upon his appointment by the Chief Justice; one member shall be a representative of the Maine Hospital Association to be appointed by the Governor upon recommendation of the Maine Hospital Association; one member shall be a representative of the Maine Medical Association to be appointed by the Governor upon recommendation of the Maine Medical Association; one member shall be a representative of the Maine Bar Association to be appointed by the Governor upon recommendation of the Maine Bar Association; one member shall be a representative of the Maine Osteopathic Association to be appointed by the Governor upon recommendation of the Maine Osteopathic Association; one member shall be a representative of an insurance company presently writing hospital and medical malpractice insurance in Maine to be appointed by the Governor; one member shall be a representative of Blue Cross and Blue Shield to be appointed by the Governor; and 4 additional members, none of whom shall, or immediate family members shall, derive a part or whole of their income from the health care or insurance field, shall be appointed by the Governor.

The Commissioner of Health and Welfare and the Superintendent of Insurance shall serve as voting members of the commission. Each member shall serve until the commission shall have completed its work, or until his prior death or resignation. In the event of the death or resignation of any member, his place shall be filled, upon written notice thereof from the commission, by the then President of the Senate, Speaker of the House, Governor or Chief Justice, as the case may be, in the same manner as with respect to the original appointment.

Sec. 3. Meetings. The said commission shall be appointed promptly upon enactment hereof, and the Governor shall notify all members of the time and place of the first meeting. At that time the commission shall organize, elect a vice-chairman and secretary-treasurer, adopt rules as to the administration of the commission and its affairs, which rules shall require a minimum of 30 days' notice of any public hearing to consider one or more aspects of the laws or prospective laws to be considered by the commission and which rules shall require that all proposals shall be transmitted to each person in the State who shall have recorded his desire to receive and willingness to pay for the costs of printing and mailing same, and thereafter shall meet as often as necessary until its work is completed. In all matters as to which there is disagreement, a majority vote shall prevail, and a quorum shall consist of at least 7 members. The commission shall maintain minutes of its meetings and such financial records as may be required by the State Auditor. The members of the commission shall serve without compensation, but they may be reimbursed for their reasonable expenses involved in attending meetings, procuring supplies, securing clerical services and handling correspondence and for other related and necessary expenditures.

Sec. 4. Chief counsel. The commission shall contract a chief counsel who shall have the responsibility for legal research and drafting required in connection with the preparation of the proposed legislative proposal under the direction and supervision of the commission. No person shall be employed as chief counsel who shall not, by virtue of prior training, experience, ability and reputation, have clearly demonstrated the ability to perform the tasks to be assigned to him by the commission.

Sec. 5. Clerical assistance. The commission may employ clerical assistance when justified as needed to carry out its duties.

Sec. 6. Financing of commission by the Board of Registration in Medicine and by the Board of Osteopathic Examination and Registration. The Board of Registration in Medicine is authorized and directed to expend an amount of money not to exceed \$24,000 for the partial financing of this commission and to disburse said funds to the commission upon the receipt of an appropriate voucher signed by the chairman of the commission.

The Board of Osteopathic Examination and Registration is authorized and directed to expend an amount of money not to exceed \$1,000 for the partial financing of this commission and to disburse these funds to the commission upon the receipt of an appropriate voucher signed by the chairman of the commission.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.